



## The Urgency of Judge Integrity in Implementation of Law Enforcement and Justice in Indonesia

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### **Abstract**

Integrity is one of the most important attributes that a judge must have. A judge with integrity means a judge who has an honest and a strong personality, a firm attitude in defending principles, does not want corruption and becomes an inherent basis for oneself as a moral value. In addition, the integrity of judges is also a quality, nature or condition that shows a unified whole, so that it has the potential and ability to exude authority for judges and judicial institutions. In addition to the integrity aspect that must be inherent in a judge, aspect of legislation is also very important. The integrity of judges and legislation are two closely related aspects, so that if one of these aspects is not good, then enforcing the law as one of the judges' duties to provide justice to the community will not be achieved.

**Keywords:** *Integrity; Judge; Law Enforcement; Justice*

### **Introduction**

Judges are a state official authorized by the law to carry out judiciary duties namely to receive, examine, hear, and settle cases submitted to him. Judges are the most important icons in court institutions. Therefore, Judges have always been a central point of public attention in law enforcement and justice, as mandated in the provision of Article 31 of Law Number 48 of 2009 concerning Judicial Power.

In carrying out their duties, Judges are influenced by at least two aspects, namely integrity and legislation. The integrity aspect is expected to play an important and influential role in the application of decisions. Article 5 paragraph (2) of Law Number 48 of 2009 states that judges must have integrity and personality that are not blameworthy, honest, fair, professional, and experienced in the field of law (Sekretariat Negara [Setneg], 2009). This provision is a condition for every person who holds a judicial position. The legislative aspect also plays an important role in the determination of judges' decisions; therefore, every court decision must be accompanied by a referral basis that is sourced from the applicable laws and regulations.

Aspects of integrity of judges and laws as well as regulations are two things that are interrelated and influence each other. In reality, however, the laws and regulations play a far more important role in

resulting in decisions than the integrity of judges. In fact, not all laws and regulations applied today are in accordance with the sense of justice of the community.

Moral integrity and determination are the most important soft competencies required by Judges. Therefore, it can be said that integrity is one of the characteristics that must be attached to the judge.

Integrity is often used as an ideal benchmark for judges. Moreover, this word is used as one of basic principles of the code of ethics in the judge's code of conduct that must be possessed beside the other codes of ethics such as justice, honesty, dignity, professional, independent, and so forth.

Judges as central figures in the judicial process are required to hone conscience, maintain moral intelligence, and increase professionalism in enforcing law and justice. Judges are required to have high professional ability and integrity in carrying out their duties and obligations as enforcers of justice.

### ***Concept of Judge Integrity in the Code of Ethics and Code of Conduct for Judges***

Integrity comes from the Latin "*integrate*" which means giving place in a whole. According to the Great Dictionary of Indonesian Language, integrity is a quality, trait, or condition that shows a unified whole so that it has the potential and ability to radiate authority, honesty (Indonesian General Dictionary, 1999).

Stephen L. Charter (as cited in Ali, 2005), said that integrity is related to dignity and honesty. The definition of integrity here is more nuanced of freedom and sovereignty, it appears that integrity is a moral issue related to honesty and example. Stephen L. Carter then argued: "*When I'm mentioning integrity, I have something very simple and very clear in mind. Integrity, as I will use it as a term, requires three steps: 1) differentiate what is right from what is wrong, 2) carry out what you have studied, even if you suffer losses, 3) say openly that you are doing based on your understanding regarding what is right and wrong*" (as cited in Ali, 2002).

Based on the above definition, a simple understanding can be taken that integrity is an intact attitude between moral principles and actions that are born or, even simpler, is a union between attitude and moral values that are held.

A person with integrity is a person who maintains a high level of honesty and ethics in his daily words and actions. They are people who are competent, conscientious, and capable in behaving, trustworthy by their colleagues, subordinates, superiors, and outsiders. They also treat others fairly.

The Code of Ethics for Judges' Code of Conduct is a guide to the moral provisions of every judge, both inside and outside the office. Content of the code of ethics principally contains basic principles of the code of ethics and code of conduct implemented in 10 (ten) rules of behavior, namely fair, behaving honestly, behaving wisely, being independent, having high integrity, being responsible, upholding self-esteem, highly disciplined, behaving modestly, and behaving professionally as formulated in Joint Decree of Supreme Court Chairperson of Republic of Indonesia and the Chairperson of Indonesian Judicial Commission Number 047 / KMA / SKB / IV / 2009 - 02 / SKB / P.KY / IV / 2009 concerning Code of Ethics and Code of Conduct for Judges.

In the Code of Ethics and Code of Conduct for Judges, it is explained that integrity means a whole, authoritative, honest, and unwavering attitude and personality. High integrity is essentially

manifested in a loyal and tough attitude, holding fast to the values or norms prevailing in carrying out the duty.

The judges' duty in the court is to maintain the rule of law, decide what is determined by law in a case. Therefore, the main duty is to receive, examine, and try and settle the case submitted to him as the adage of *Ius Curia Novit / Curia Novit Jus* which means that the Judge is considered to know all the laws so that the Court may not refuse to examine and try the case.

In carrying out his profession, the responsibility of a Judge is to have to make the best decisions that meet the scientific principles of a product of professional judges and integrity. Judges' decisions, or what is commonly referred to as court decisions, are highly desirable by the parties who are litigants to resolve disputes. With the decision of the judge, parties who litigate in the court will get legal certainty and justice in the case they are facing.

Judges as executors of duties in the field of law have a central position in the application of law. A judge is not only required to be fair but he must also be able to interpret the law in accordance with actual development needs that occur in the midst of the life of justice seekers by considering aspects of justice (Manan, 2008). Through his decisions, a judge does not only apply the law contained in the text of law (the judge as the mouthpiece of law) but in fact he also makes legal reforms when faced with problems that are presented to him and not yet regulated in the law or there are rules but they are considered irrelevant to the existing conditions (Manan, 2007).

Integrity in a judge is one of the judges' codes of ethics and behavior worldwide agreed in the Bangalore Principles of Judicial Conduct (International Judicial Conference in Bangalore, India in 2001). This is absolutely owned by a judge as the main key to open the doors of justice for the community as mandated in the 1945 Constitution of Republic of Indonesia. The application of judges' integrity in general if related to their duties and obligations as enforcers of justice includes:

1. Judges may not try a case if it has a conflict of interest, either because of personal and family relationships, or other reasonable relationships that are supposed to contain conflicts of interest.
2. Judges must avoid contact, directly or indirectly, with lawyers, prosecutors, and parties in a case being examined by the concerned judge.
3. Judges must limit their close relationship, both directly and indirectly with lawyers who are often litigants in jurisdiction of the Court where the Judge serves.
4. The court leader is allowed to establish a reasonable relationship with the executive and legislative institutions and can provide information, considerations, and legal advice as long as it does not relate to a case that is being tried or that is alleged to be brought to court.
5. Judges must be open and provide information about personal interests that indicate there is no conflict of interest in handling a case.
6. Judges are prohibited from bargaining over decisions, delaying hearings, delaying execution, or appointing certain advocates in handling a case in court, unless otherwise determined by law.

The conflict of interest referred to above consists of personal and family relationships, employment relationships, financial relationships, and relations with the Regional Government.

Judges who have a conflict of interest as explained above must resign from examining and adjudicating the case in question. The decision to resign must be made as early as possible to reduce the negative impact that may arise on the judiciary or allegation that the judiciary is not conducted honestly and impartially. If the judge is in doubt regarding the obligation to resign from examining and adjudicating a case, it is obligatory to ask for consideration from the head of court.

## ***Benchmark Integrity of Judges in the Practice of Law Enforcement and Justice Enforcement in Indonesia***

Integrity is a fundamental thing that must be owned by Judges and Judicial Officers. Law enforcement efforts will only be achieved if Judges and Judicial Officers are competent and have integrity. In order to improve the integrity of judges, the Judicial Commission of Republic of Indonesia has implemented various programs, ranging from Training of the Code of Ethics and Code of Conduct for Judges, Court Monitoring, Court Profiling, outreaching to measuring the results of the activity implementation (Supreme Court, 2009).

Since 2015, Judicial Commission of Republic of Indonesia has conducted a Judicial Integrity Measurement Survey. This survey is conducted at the end of each year. In 2018, the survey was conducted for the third time. Integrity measurement is carried out to determine the effect of judges' integrity improvement programs conducted by Judicial Commission of Republic of Indonesia on Judges.

The activity of measuring integrity of judges was carried out by survey method conducted in 3 (three) regions, namely Makassar-South Sulawesi, Surabaya-East Java, and Mataram-West Nusa Tenggara. The total number of judges who became respondents in this study were 99 people. There were 70 male respondents (71%), 28 female respondents (28%), and 1 respondent (1%) did not give information about their gender. In this integrity measurement, there are 2 (two) components that are measured, namely confidence in the value of integrity adhered to and the consistency between values of integrity (Komisi Yudisial Republik Indonesia, 2018).

Indexing value of integrity of Judges throughout Indonesia and by region is grouped in the range 1-10. Interpretation of the index according to Komisi Yudisial Republik Indonesia (2018) is as follows:

**Table 1: Interpretation Table of Index**

<b>Score</b>	<b>Description</b>
1-4	No Integrity (confidence in the values contained in judge's integrity criteria is very low or those values are not believed)
4,1-5,5	Lack of Integrity (confidence in the values contained in judges' integrity criteria is low or only a small portion of those values are believed)
5,6-6,5	Quite Have Integrity (confidence in the values contained in judges' integrity criteria is not sufficient or there are still values that are not believed)
6,6-7,5	Have Enough Integrity (confidence in the values contained in judges' integrity criteria has been formed but is not yet stable and can still change)
7,6-8,5	Have Integrity (confidence in the values contained in judges' integrity criteria has been established even though it can still change if there are extraordinary events that can fluctuate it)
8,6-10	High Integrity (confidence in the values contained in judges' integrity criteria has been established and has not changed)

Based on the survey results, it is stated that the integrity of judges in 2018 was 6.4 which was classified as "quite have integrity" which means that the confidence in the values contained in judges' integrity criteria is not sufficient or there are still values that are not believed. However, the integrity index of judges tends to increase from year to year. In 2015, the judge integrity index reached a score of 5.9, then 2016 reached a score of 6.15, and 2017 at a score of 6.17 to 6.4 in 2018. This indicates an increase in the effectiveness of efforts to improve the integrity of judges, including what conducted by Judicial Commission in 2015, 2016, and 2017, but this increase is still relatively low. It is difficult to determine which programs / activities contribute significantly to the small increase.

## **Conclusion**

Integrity in the Code of Ethics and Code of Conduct for Judges means attitudes and personalities that are whole, authoritative, honest, and unwavering. High integrity is essentially manifested in a loyal and tough attitude, holding fast to moral values or norms that apply in carrying out duties.

Applying the integrity of judges in carrying out their duties and responsibilities, namely by not adjudicating cases if they have a conflict of interest, limiting close or indirect close relations with lawyers and litigants, and are prohibited from bargaining over decisions, slowing hearings, delaying the execution or appointing certain Advocates in handling a case in court, unless otherwise determined by law. In connection with this, it is required to outreach by the Head of Religious Court regarding the Code of Ethics and Code of Conduct for Judges on a regular basis as an effort to strengthen the integrity of Judges in Indonesia and the Declaration of Integrity Zone not only in documents, but also required to be instilled and implemented in daily work.

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