



Law Enforcement Against Violations of the State Civil Apparatus Code of Conduct in Implementing Public Services in Realizing Good Governance in Indonesia

Rodhi Agung Saputra; Agus Triono; Kasmawati; Dauri

Faculty of Law, Lampung University, Indonesia

<http://dx.doi.org/10.18415/ijmmu.v9i8.3957>

Abstract

The purpose of the study is to understand and analyze the professionalism of public services by State Civil Apparatus and law enforcement for violations of the code of ethics by State Civil Apparatus in carrying out public services, namely in order to provide understanding to the State Civil Apparatus and government agencies regarding the concept and application of the code of ethics of the State Civil Apparatus in realizing good governance. in Indonesia. The code of ethics for the State Civil Apparatus is a guideline for attitudes, behavior, and actions in carrying out their duties. The State Civil Apparatus is the entirety of human resources in charge of running the wheels of government, namely carrying out public services. The problem is the widespread violation of the code of ethics of the State Civil Apparatus. This requires law enforcement for violations in carrying out public services. The problems that will be discussed in this study are the professionalism of public services by state civil servants and law enforcement for violations of the code of ethics by state civil servants in carrying out public services. The method used in this research is normative research, using a statute approach.

Keywords: *Law Enforcement; Violation; Code of Ethics; Good Governance*

Introduction

According to Law Number 5 of 2014 concerning State Civil Apparatus, what is meant by State Civil Apparatus, hereinafter abbreviated as State Civil Apparatus, are civil servants and government employees with work agreements. who is appointed by the civil service supervisor and entrusted with other state duties and is paid according to the laws and regulations. State Civil Apparatus is expected to be able to provide the best service to the public, but in reality many State Civil Apparatus are more unprofessional in carrying out their duties. The State Civil Apparatus upholds loyalty to Pancasila, the 1945 Constitution of the Republic of Indonesia and the government. State Civil Apparatus in loyalty to the state, make it happen through improving services to the community. However, in its application, the attitude of discipline, honesty, fairness, transparency and accountability in carrying out their duties has not been carried out optimally.[1]

The reality is that even though the government has affirmed the State Civil Apparatus disciplinary regulations, it is still often seen that there are State Civil Apparatus who have not seriously carried out the obligations that have been set, and there are still non-compliance or violations of the prohibitions stipulated in the State Civil Apparatus disciplinary regulations. This reflects the poor bureaucracy in Indonesia. Various kinds of public issues regarding bureaucracy have a slanted smell.[2] As experts say that the bureaucracy in Indonesia "State Civil Apparatus" is a static bureaucracy, which is less sensitive to changes in its social environment and tends to be rigid in reform. So it has the potential to cause maladministration that leads to corruption, collusion and nepotism.[3]

The fact is that the bureaucracy that develops in Indonesia is a convoluted bureaucracy, inefficient in carrying out public services. The important role of State Civil Apparatus is very strategic in implementing public service policies and is the key to the success of sustainable development in Indonesia. This will be realized if the state has human resources who are professional and have high integrity in carrying out their duties and functions.[4]

The problem in forming the character of an State Civil Apparatus who has high integrity is a problem that must be resolved immediately, so that what is the desire of the people regarding the performance of State Civil Apparatus in carrying out public services is in accordance with what they expect, so that the goals of State Civil Apparatus who have independence, objectivity and transparency in implementing public services are as follows: public services can be achieved. In accordance with Article 2 of Law no. 5 of 2014 concerning State Civil Apparatus states that the implementation of State Civil Apparatus policies and management adheres to one of the principles, principles, basic values, as well as a code of ethics and code of conduct. The low quality of services provided by the apparatus becomes a bad image of the government in the community. For people who have dealt with the bureaucracy, they always complain and are disappointed with the inappropriateness of the apparatus in providing services. For example, the issue of State Civil Apparatus neutrality which is part of one of the legal issues that has become a public discussion.[5]

Therefore, the government uses its authority to make a limitation on State Civil Apparatus activities (neutrality). This is intended to provide a form of legal certainty, in order to limit power to the possibility of the movement of power over instincts or personal interests that lead to an abuse of power. As said by S.F. Marbun and Mahfud MD that one of the major problems of this nation in the life of the state is the issue of the neutrality of civil servants, because theoretically it is difficult to find a basis that can provide justification for the possibility of civil servants to be involved in practical political activities.[6] Based on the description of the background above, the problem in this research is the problem of professionalism of public services by State Civil Apparatus and law enforcement for violations of the code of ethics by State Civil Apparatus in carrying out public services.[7]

Methods

The research method used is a normative research method.[9] By using a statute approach related to the problem of professionalism of public services by State Civil Apparatus and enforcement of the code of ethics and law for violations of the code of ethics by State Civil Apparatus in carrying out public services.[10] The statute approach is to examine matters relating to legal principles, legal views and doctrines, and laws and regulations related to the environment, and data that is accurate and can be accounted for.[11] In addition, an in-depth examination of the legal facts is also carried out to then seek solutions to the problems that arise in the symptoms in question.[12]

Results and Discussion

1. Public Service Professionalism Problems by State Civil Apparatus

State Civil Apparatus has the task of implementing public policies in accordance with the provisions of the legislation to provide professional and quality public services and to strengthen the unity and integrity of the Unitary State of the Republic of Indonesia. State Civil Apparatus also plays a role as planners, implementers, and supervisors for the implementation of general government tasks and national development through the implementation of policies and public services that are professional, free from political intervention, and free from practices of corruption, collusion, and nepotism. This aims to realize a clean and authoritative government system (good governance), as well as to realize good, efficient, effective and quality public services, of course it needs to be supported by professional, responsible, fair, honest, and competent State Civil Apparatus in their fields.[13]

State Civil Apparatus and as a profession that has the knowledge, skills and behavior required by a State Civil Apparatus in carrying out office duties, namely upholding the integrity and expertise in carrying out official duties in the form of public service tasks, government duties and development tasks.[14] The code of ethics is the basis for the State Civil Apparatus, in which the code of ethics includes several prerequisites that need to be used as guidelines for attitude and behavior, among others, in carrying out public service duties in the context of ethics should provide services to the community that are oriented to the needs and satisfaction of service recipients, so that can increase competitiveness in the provision of goods and services. In professional ethics, the implementation of the service duties of the State Civil Apparatus professionally must behave and uphold the principles of service, namely transparency, accountability, conditionality, participation, equality of rights in the sense of non-discrimination, distinguishing ethnicity, race, religion, class, gender and economic status, balance of rights and obligation.[15]

In other words, State Civil Apparatus in carrying out their duties must of course be based on professionalism and competence, according to their qualifications in the field of science they have and subject to principles, principles, basic values, as well as codes of ethics and codes of behavior. In accordance with Articles 2 to 5 of Law No. 5 years. 2014 concerning State Civil Apparatus which should be in carrying out the profession in public services must be professional, neutral, non-discriminatory, based on principles (basic values, code of ethics and code of conduct, commitment, moral integrity, and responsibility for public services), accountable for their actions and performance to the public and maintain the dignity and honor of State Civil Apparatus (carry out their duties honestly, responsibly, and with high integrity, carry out their duties carefully and with discipline, serve with respect, courtesy, and without pressure, carry out their duties in accordance with the provisions of laws and regulations).[16]

Sofian Effendi (1996) mentions several factors that cause the low quality of public services in Indonesia, among others, is the existence of a monopolistic context, in this case because there is no competition from non-government public service providers, there is no strong incentive to increase the number, quality and equity of services. by the government, pressure from the environment, where environmental factors greatly affect the performance of service organizations in their transactions and interactions between the environment and public organizations, where the organizational culture of public service providers in Indonesia is still largely bound by political and cultural traditions of the local community which are often not conducive and violate the rules that have been determined.[17]

The situation above makes people as users of public services dissatisfied, so that people are reluctant to take care of everything related to the government bureaucracy. Furthermore, people are looking for shortcuts by violating existing regulations, this is where the process of Corruption, Collusion, and Nepotism started. One of the supporting factors in increasing the professionalism of State Civil Apparatus employees in public services is stricter supervision. This needs to be encouraged with a culture

of discipline. That is by building respectful communication, increasing employee discipline, enforcing rules, and applying rewards and punishments as a form of improvement. work motivation.

The fact is that the low performance of the State Civil Apparatus bureaucracy results in the low quality of public services, even causing service users to have to pay high costs or high cost economies and the practice of is still mushrooming in the government, both central and regional. by the lack or even incompetence of some structural officials and staff within the state apparatus as well as the lack of basic legal awareness by State Civil Apparatus in carrying out their duties and professions. work performance and career system. For this reason, it is necessary to carry out supervision that upholds the value of integrity and firmness in taking action if any State Civil Apparatus violates the principles, principles, basic values, as well as the code of ethics and code of conduct in order to provide public services. ng prime.[18]

In conditions like today, the government is required to make a total change in attitudes, behavior, actions towards an efficient, economical and unpretentious work culture of State Civil Apparatus in carrying out public services so that people are satisfied with the performance carried out by upholding the code of ethics and high integrity. With the changes made, it is expected to be able to realize the community's expectations of a more fair, professional, efficient, effective and transparent public service. In general, the factors that cause the non-optimal implementation of the code of ethics and professionalism of State Civil Apparatus in carrying out their duties and responsibilities as public servants, both central and local governments are the bureaucracy that is still not optimal in carrying out public service functions, poor leadership in public service delivery, State Civil Apparatus professionalism in providing services. still not good and lack of supervision and law enforcement for State Civil Apparatus who violate the code of ethics and laws and regulations. Thus, State Civil Apparatus is basically a media or instrument of government administration that works for the benefit of the community as a whole or is a bridge between the interests of the community and the interests of the government. The state apparatus must be professional in serving the community because professionalism is the direction and goal of good governance.[19]

The solution to the rampant violations related to the implementation of the State Civil Apparatus code of ethics in carrying out their duties is to carry out bureaucratic reform in a comprehensive or comprehensive manner with the aim of realizing a professional State Civil Apparatus, free from political intervention, free from practices of corruption, collusion, and nepotism, and able to organize public services for the community and able to carry out the role of guarding the unity and integrity of the nation based on Pancasila and the 1945 Constitution of the Republic of Indonesia and realizing State Civil Apparatus as a profession that has moral values of high integrity in line with good governance. Therefore, the government issued Law Number 5 of 2014 concerning the State Civil Apparatus which is a milestone in the stage of bureaucratic reform in Indonesia. The State Civil Apparatus Law is considered the basis for ongoing bureaucratic reform in Indonesia. Complete amendment of Law Number 8 Year 1974 concerning the Basics of Personnel is evidence that there has been a fundamental change in the employment system in Indonesia. In this case, the State Civil Apparatus Law has become a stimulus for the realization of State Civil Apparatus bureaucratic reform. Bureaucratic reform is expected to improve the performance of the bureaucracy itself.

2.Law Enforcement for Violations of the Code of Ethics by State Civil Apparatus in Implementing Public Services

a. Enforcement of the Code of Ethics

The position of Civil Servants is based on Law Number 47 of 1999 Article 13 Paragraph (1), namely Civil Servants as elements of the state apparatus whose duty is to provide services to the community in a professional, honest, fair, and equitable manner in carrying out the duties of the state,

government, and development. For this reason, civil servants have a very important role because civil servants are elements of the state apparatus to carry out government and development in order to achieve state goals. In order to achieve the goals of the state, the State Civil Apparatus must not violate or violate the rules of the code of ethics that will hinder the implementation of good governance.[20]

Not all State Civil Apparatus try to empower themselves and are willing to use these very good ethical provisions in carrying out their functions, duties and responsibilities as state apparatus. Not a few deny that the code of ethics is actually inherent when the oath/promise as a state civil servant is pronounced, even in the name of Allah. Several recent phenomena and events that have involved not a few civil servants, for example related to the code of ethics in the state, show how ethical norms are ignored, not considered and therefore must be violated. The notion of radicalism that has been exposed while State Civil Apparatus includes massive hate speech through social media, insults to state symbols, is an example of betrayal of the oath/promise that has been uttered. This of course will damage the image of the State Civil Apparatus itself because it has violated the code of ethics that they should instill in themselves. Ethics is more understood as a philosophical flexion about morals, on good/bad, right/wrong things to do or how to do what is good or right. So in the context of State Civil Apparatus, the ethics referred to are more reflections on standards/norms that determine good/bad, right/wrong behavior, actions and decisions to direct public policy in the context of carrying out public service responsibilities.[21]

State Civil Apparatus who violates the code of ethics stipulated by the regulations made by the institution regarding the code of ethics may be subject to moral sanctions, both in writing and in private and declared by the staffing officer, moral sanctions in the form of a closed statement or an open statement. State Civil Apparatus in the context of enforcing the code of ethics, apart from being subject to moral sanctions, may also be subject to administrative actions in accordance with the laws and regulations on the recommendation of the Code of Ethics Council. In order to revitalize law to support democratization, moral and ethical issues urgently need to be improved in their function and existence, because currently the moral and ethical aspects have disappeared from the legal system in Indonesia. Indonesia. need proper settings comprehensive knowledge of professional ethics among State Civil Apparatus.

Therefore, in enforcing the State Civil Apparatus code of ethics in an institution, including local government institutions, it is necessary to form a code of ethics assembly. The code of ethics assembly can carry out the following tasks: (1). Take a decision after examining state civil servants who violate the code of ethics. (2). Take a decision after the State Civil Apparatus concerned is given the opportunity to defend themselves. (3). The decision of the code of ethics board is taken by consensus. (4). In the event that consensus is not reached, decisions are taken by majority vote. (5). The decision of the code of ethics board is final. The code of ethics assembly is obliged to convey the decision of the assembly meeting to the authorized official as a material in giving moral sanctions and other sanctions to the State Civil Apparatus.[22]

Sanctions that can be given regarding violations of the State Civil Apparatus code of ethics are sanctions for violating the code of ethics including: (a). Apologies, set forth in a statement of apology (b). A statement of regret is stated in a statement of regret (c). The statement of attitude is willing to be disciplined based on the provisions of the applicable laws and regulations, if repeat actions or commit other violations of the code of ethics as outlined in the statement of attitude (d). Sanctions are submitted in writing and stamped to the authorized official.[23]

b. Law Enforcement

The reality of State Civil Apparatus which plays a very important role in the administration of state government, but in fact there are still many and very rampant ethical violations committed by State

Civil Apparatus, where the work environment and control/supervision factors are very determining factors in the success of the realization of ethics in organizations, then enforcement State Civil Apparatus ethics should be done. State civil servants who, in carrying out their official duties, whether in public service tasks, government duties or development tasks, commit ethical violations or suspected violations of the code of ethics, usually obtained from written complaints or findings by superiors of the State Civil Apparatus. Written complaints of alleged violations of the code of ethics submitted by the public or findings of the leadership require a clarification by the code of ethics assembly and are required to research to obtain data and information whose validity can be accounted for before providing recommendations on moral sanctions to state civil servants, results of clarification and results of research on suspected violations of the code of ethics can be used as the basis for imposing moral sanctions, State Civil Apparatus suspected of violating the code of ethics in a hierarchical manner must formulate it to higher officials.[24]

State Civil Apparatuses who violate the code of ethics can actually be imposed with penalties such as discipline for State Civil Apparatus who do not come to work and comply with the provisions of working hours through the Personnel and Human Resources Development Agency, implementation or implementation of disciplinary penalties for State Civil Apparatus who do not come to work, then this will have the potential not serving public services properly. Based on the data that the author got, the number of State Civil Apparatus who were sentenced to discipline who did not come to work and did not comply with the provisions of working hours in the government environment was very large. The types of punishment for State Civil Apparatus who violate the rules or code of ethics in terms of public services are:

- 1) The most disciplinary punishment is severe disciplinary punishment in the form of demotion to a lower level for 3 years.
- 2) Then the disciplinary punishment is in the form of a postponement of promotion for 1 year.
- 3) Finally, the disciplinary punishment is light, but the application of light legal discipline is very rarely imposed.

Government Regulation Number 94 of 2021 concerning Government Regulations concerning Discipline of Civil Servants, states that a disciplinary violation is any speech, writing, or act of a civil servant who does not comply with the obligations and/or violates the prohibition of disciplinary provisions for civil servants, both inside and outside hours. work. Based on this, law enforcement for State Civil Apparatus who violates the code of ethics can be done by giving administrative sanctions and criminal sanctions. Law enforcement for state civil servants who violate the code of ethics can be carried out by giving sanctions and can also be carried out through 3 (three) stages:[25]

1) Preventive Strategy

Prevent fraud, abuse of authority, inefficiency, ineffectiveness, ineffectiveness and Corruption, Collusion, Nepotism, and Preparation of Government Agency Performance Accounting Reports.

2) Detective Strategy

Efforts to be able to find out early in the shortest possible time and as accurately as possible so that deviations can be followed up quickly and accurately to prevent state losses on irregularities.

3) Repressive Strategy

Efforts to legally resolve as well as possible the deviations that have occurred.

Criminal law enforcement aims to create peace in social life. Conceptually, law enforcement according to Soerjono Soekanto is an activity to harmonize the relationship of values that are outlined in solid rules and attitudes of action as a series of final value translations, to create, maintain and maintain peaceful social life.

The implementation of the government system of the Republic of Indonesia, in this case the State Civil Apparatus has a very important role. Where the State Civil Apparatus is the one who executes the daily administration of government through the implementation of the function of implementing public policies, public services, and adhesives and unifies the nation. In order for the implementation of these main functions to be carried out properly, there is a code of ethics that must be adhered to by every State Civil Apparatus. However, the attitude of denying or not caring about ethics in the implementation of these functions tends to then crash into ethical signs which means that there is a violation of the State Civil Apparatus code of ethics, there are still quite a lot of violations of the code of ethics which are influenced by both existing internal factors. within the individual State Civil Apparatus, such as the nature, character, personal backwardness, beliefs and perspectives, as well as external factors that include criminality around the individual as an ecosystem, such as the social environment, community culture, family life circumstances, level of economic life, ideology or state politics, security, order, and legal justice.[26]

However, in applying these sanctions, of course there are obstacles in the application of disciplinary penalties for State Civil Apparatus who do not come to work or have violated the code of ethics such as the legal factor itself, in this case such as the law that regulates the lack of strict sanctions for State Civil Apparatus who violate the code. ethics and factors of law enforcement / apparatus and cultural factors that lack legal awareness. So there are still many who ignore the sanctions that have been set.[27]

Conclusion

Based on the results of research related to Law Enforcement Against Violations of the Code of Ethics of State Civil Apparatus in Implementing Public Services in Realizing Good Governance in Indonesia, the following conclusions can be drawn:

1. The professionalism of public services by State Civil Apparatus is less than optimal and there are still many convoluted, inefficient bureaucracies in carrying out public services and in carrying out many tasks that are not based on professionalism and competence, according to the qualifications of the field of science they have and are subject to the principle of, principles, basic values, as well as a code of ethics and code of conduct.
2. Law enforcement for violations of the code of ethics by State Civil Apparatus in carrying out public services can be carried out by giving administrative sanctions and criminal sanctions. Law enforcement for state civil servants who violate the code of ethics can be carried out by giving sanctions and can also be carried out through 3 (three) stages:

a. Preventive Strategy

Namely preventing the emergence of fraud, abuse of authority, inefficiency.

b. Detective Strategy

That is an effort to be able to find out early in the shortest possible time and as accurately as possible so that deviations can be followed up quickly and precisely to prevent state losses on irregularities.

c. Repressive Strategy

That is an effort to legally resolve the deviations that have occurred in the best possible way

References

1. Agus Pramusinto and Erwan Agus Purwanto. *Bureaucratic Reform, Leadership and Public Service: A study on the implementation of regional autonomy in Indonesia*. Yogyakarta: Media Style. 2009 p. 81-82
2. Jeddawi, Murtir. *Civil Servant Careers at Crossroads: A Reflection on Personnel Policy in the Era of Regional Autonomy*. Yogyakarta. Science Gallery, 2010 p. 80.
3. Abdul Rahman and Riani Bakri, *Structuring the Management of the State Civil Apparatus (ASN) through Dynamic Governance*, *Constituent Journal*, January 2019, Vol. 1 No. 1, page 17
4. Abdul Hamid Tome, *Bureaucratic Reform to Realize Good Governance Judging from the Regulation of the Minister of State Apparatus Empowerment and Bureaucratic Reform Number 20 of 2010*, *Journal of Unsrat Law*, Vol. 20, No. 3, April-June 2012, p. 143.
5. Gema Perdana, *Maintaining ASN Neutrality from Bureaucratic Politicization*, *Journal of the State of Law*, June 2019, Vol. 10, No. 1. page 111
6. Marbun, S.F and M. Mahfud MD, *Principles of State Administrative Law*, Yogyakarta: Liberty, 1987, p. 69.
7. Soetrisno, *Research Methodology*, UGM, Yogyakarta, 1978, p. 49.
8. Peter Mahmud Marzuki, *Legal Research*, Kencana Prenada Media Group, Jakarta, 2011, page 35
9. Sekar Anggun GP, *Implementation of Duties and Authorities of the Semarang City Environment Agency in Enforcement of Law in the Environmental Sector*, *Notarius Journal*, Edition 08 No. 2, September 2015, p.238
10. Mukti Fajar and Yulianto Achmad, *Normative & Empirical Legal Research Dualism*, Yogyakarta, Student Library, 2010, p. 342
11. Abdulkadir Muhammad, *Law and Legal research*, Bandung: Image of Aditya Bakti, 2004, p. 32
12. Syukhadak, Mukhamad, *State Civil Service Administration Theory and Practice of Its Implementation in Indonesia*. PT. Gunung Agung Store, Jakarta, 1996, p. 4
13. Nawawi, Handari, *Strategic Management of Non-Profit Organizations in Government Sector with Illustrations in Education*, Gajah Mada University Press, Yogyakarta, 2003, p. 281
14. Juanda Nawawi, Muhammad Tamar, Indrayani, *Code of Ethics for State Civil Apparatus*, *CRITICAL Journal*, Vol 5 No. 1, 2019, page 2
15. Rahman M and Dede M, *Apparatus Professionalism and Institutional Capacity in Public Services in West Java Province*, *Journal of Government Science*, October 2016, Vol 2 No. 2. page 2.
16. Endang Komara, *Professional Competence of ASN (State Civil Apparatus) Employees in Indonesia*, *Indonesian Journal for Educational Studies*, March 2019, Vol 4. pp 7
17. Pramusinto, Agus and Kumorotomo, Wahyudi, *Governance Reform in Indonesia: Finding Directions for Democratic Political Institutions and Professional Bureaucracy*. Gava Media, Yogyakarta, 2009, p.130
18. Oentarto in Pramusinto, Agus and Kumorotomo, Wahyudi, *Governance Reform*, *ibid* p.166

19. Gerald E. Caiden, *Administrative Reform*, Aldine Transaction, USA, 2009, p. 8.
20. Gene A. Brewer, "Does Administrative Reform Improve Bureaucratic Performance A Cross-Country Empirical Analysis:", *Public Finance and Management*, 4(3), 2004, p. 399-42
21. K. Bertens, *Ethics*, Jakarta: Gramedia Pustaka Utama, 2011), p. 7
22. M. Natsir D & TB Massa D. 2016. Public Ethics of State Officials in the Implementation of Clean Government. *Journal of Political Science Studies and Development Problems*, Vol.12 No. 1 (2016), p. 1758
23. Nuraida Mokhsen, Septiana Dwiputrianti, Rifki Juniarto, Importance of Code of Ethics and Code of Conduct to Build ASN Professionalism, *Journal of Policy Brief*, Vol 1 No. 2, 2018, page
24. Supriadi, *Ethics and Responsibilities of the Legal Profession in Indonesia*, (Jakarta: Sinar Graphic, 2006), p. 38
25. Munir Fuady, *Modern Theory of the State of Law (Rechtsstaat)*, Bandung: PT Refika Aditama, 2009, p. 124
26. Agung Wijaya, Iza Rumesten, and Dan Zen Zanibar, Disciplinary Legal Sanctions for State Civil Apparatus through the Palembang City Personnel and Human Resources Development Agency, *Lex LATA*, vol. 1, July 7, 2020, <http://journal.fh.unsri.ac.id/index.php/LexS/article/view/502>. p. 116.
27. Vivi Ariyanti, Law Enforcement Policy in the Indonesian Criminal Justice System. *Juridical Journal* Vol. 6 No. 2, December 2020, pp. 33-54.

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).