

THE NATURE OF THE AUTHORITY OF THE HONORARY COURT OF THE HOUSE OF REPRESENTATIVES IN INCREASING THE RESPECT AND DEGREE OF THE COUNCIL OF PEOPLE'S REPRESENTATIVES

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Abstract: *Monitoring the behavior of members of parliament can come from outside the parliamentary institution or through the internal parliament. External oversight can be carried out by constituents directly or by political parties. An institution formed by the parliament can carry out administration from within. Explained that the MKD is an institution formed by the DPR and is a permanent accessory to the DPR, which aims to maintain and uphold the code of ethics and the honor and nobility of the DPR (DPR). What is the nature of the Authority of the Honorary Council of the Council in Enhancing the Honor and Dignity of the House of Representatives? The type of research used in this research is normative legal research. The Honorary Council of the Council is a permanent instrument of the DPR RI and aims to maintain the image and honor of the DPR in the eyes of the public. Therefore the position and authority of the MKD in handling this case are clear as contained in Article 119 paragraphs (1) and (2) of the Law of the Republic of Indonesia Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD or the MD3 Law which states that the DPR forms the Court The Honorary Council and is a permanent accessory.*

Keywords: *Council Honorary Court; the People's Representative Council;*

INTRODUCTION

The People's Representative Council (from now on, the DPR) is a fundamental high-state institution and other state apparatuses that implement a democratic system. ¹The position of the DPR in the system of administering state power underwent significant changes since the fourth amendment to the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) was enacted.²

Based on the first amendment to the 1945 Constitution of the Republic of Indonesia, the presence of the People's Representative Council (DPR) is also in Article 20, which was adopted in the text of the 1945 Constitution of the Republic of Indonesia where the DPR is a people's representative institution that has legislative functions, budgetary functions and supervisory functions. The 1945 Constitution of the Republic of Indonesia clearly illustrates that in the framework of the legislative and oversight functions, the main institution is the DPR.³ The DPR consists of members of political parties participating in general elections who are elected through general elections. ⁴There are 550 members of the DPR. The term of office for members of the DPR is 5 years, and the period of office ends after the new members take their oaths and promises. As an institution or institution, its existence is fundamental and strategic in carrying out its role in realizing good and clean governance. It must

¹ Bima, Muhammad Rinaldy, Muhammad Kamal, and Hardianto Djanggih. "Legitimization of the House of Representatives' Right to Inquire Against the Corruption Eradication Commission." *Journal of Kertha Patrika* vol 41. No 1. (2019), p . 27-39. <https://ojs.unud.ac.id/index.php/kerthapatrika/article/view/46933>

²Jimly Asshiddiqie, *Strengthening the Government and Judicial System*. Graphics Light. (2022),

³Jimly Asshiddiqie, *The Idea of Amending the 1945 Constitution and Direct Presidential Election*, Jakarta: Secretariat General of the Registrar's Office of the Constitutional Court of the Republic of Indonesia, (2006), p. 20.

⁴Nur Habibi, *Practice of Oversight of Ethics of the House of Representatives of the Republic of Indonesia* , *Journal of Cita Hukum*, vol.1, no 1. 2014, p. 41



always prioritize moral commitment and professionalism in carrying out its functions. This commitment is crucial to creating a productive, reliable, and authoritative DPR.⁵

Discussions about the functions, duties, and powers of the DPR cannot be separated from the character and existence of the DPR in the Indonesian constitutional system. DPR is a representative institution whose members are directly elected and therefore trusted by the people. Thus, in addition to the DPR having the legitimacy to represent the interests of the people and being open to control throughout its functions, duties, and authorities.

Parliamentary institutions allow the establishment of ethics enforcement agencies for parliament. This is based on the premise that a parliament that evolves to become better allows it to be monitored for every behavior in its institutional tasks. Monitoring the behavior of members of parliament can come from outside the parliamentary institution or through the internal parliament. External oversight can be carried out by constituents directly or by political parties. Monitoring from within can be carried out by an institution formed by the parliament itself.⁶

Ethics enforcement agencies are commonly formed in the modern parliamentary institutional system. The formation of an ethics enforcement agency is based on the background that a parliament developing and getting better makes it possible to monitor every behavior it does in carrying out its duties as a member of parliament. Supervision can be carried out by internal or external parliament. The people or their political parties can carry out external oversight, but the internal parliament itself carries out internal oversight. This internal parliamentary oversight resulted in the formation of the Honorary Board, which later changed its name to the Council of Honor Council (from now on abbreviated as MKD).

Based on the provisions in Article 119 paragraph (1) and paragraph (2) of Law number 17 of 2014 concerning the MPR, DPR, DPD and DPRD (from now on referred to as the MD3 Law), it explains that this MKD is an institution formed by the DPR and is permanent apparatus of the DPR, which aims to maintain and uphold the code of ethics and the honor and dignity of the People's Representative Council (DPR).⁷

The purpose of the existence of the MKD is to maintain and uphold the honor and dignity of the DPR (Article 119 of Law No. 17 of 2014 concerning the MPR, DPR, DPD and DPRD). Although in practice, MKD's work only focuses on protecting and upholding the personal honor of DPR members. This can be seen in Law Number 17 of 2014 and Regulation Number 1 of 2015 concerning the DPR's Code of Ethics. The existence of the MKD aims to maintain and uphold the honor and nobility of the DPR. The aspect of the honor and nobility of the DPR originates from two sides at the same time, namely the members of the DPR and the DPR institutions. Every act and behavior of DPR members will impact the DPR institution. Likewise, every decision related to the function of the DPR also has an impact on the DPR. Both have a concrete contribution to the honor and nobility of the DPR.

Specifically, Article 245 paragraph (1) of Law Number 2 of 2018 concerning the Second Amendment to the unconstitutional MD3 Law is conditional that it does not have binding legal force as long as it is not interpreted in the context of summons and inquiries of members of the DPR who are suspected of committing a crime. Meanwhile, the phrase "after receiving consideration from the Honorary Council of the Council." declared contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force. Implicitly the Constitutional Court did not question the existence of deliberations, it became a problem when the MKD, which incidentally was an instrument of the

⁵Marulak Pardede, *Effectiveness of the Decisions of the Honorary Board of the DPR/DPRD*, Jakarta: National Legal Development Agency of the Ministry of Law and Human Rights, 2011, p. 18

⁶ Suyadi, Asia. "The Authority of the Council Honorary Court Against Termination of the Office of the Chairman of the Council in the State Administration System." *Pamulang Law Review* vol. 1, no. 2. 2020, p. 129-136. <https://www.neliti.com/publications/322309/kejuangan-mahkamah-kehormatan-dewan-terhadap-penghentian-juangan-ketua-dewan-da>

⁷ Putra, Pamungkas Satya, And MH SH. "The Authority of the Council of Honorary Courts Against Alleged Violations of the Code of Ethics of Members of the People's Representative Council of the Republic of Indonesia." *DE JURE Scientific Journal of Law: Scientific Study of Law* vol. 1, No. 1. 2016. Pg. 93-120. <https://journal.unsika.ac.id/index.php/jurnalilmiah Hukumdejure/article/view/414>



council, was given the authority to give considerations, which were *condition sine qua non*, issuing the President's approval.⁸

Apart from the development of legal products for the regulation of the MKD Institution, at least it stipulates that every member of the DPR must comply with the applicable code of ethics while carrying out their duties as representatives of the people to maintain the dignity, honor, image, and credibility of the members of the DPR. demeaning the image and honor of the DPR both inside and outside the DPR building according to the ethics and norms prevailing in society.⁹

In terms of institutions, the DPR is demanded to be an institution with high credibility as a bearer of the people's mandate. The professionalism of members of the DPR is needed to increase the credibility of the DPR. Suppose the functions of the DPR are carried out proportionally by always adhering to the nation's interests. In that case, it is certain that this will be a major contribution to accelerating national development, which leads to the progress and prosperity of the nation.¹⁰

It must be noted that the urgency of the existence of a parliamentary ethics enforcement agency, which is so important in building a modern parliament, is still facing serious problems that have caused public trust in the parliamentary ethics enforcement institution to be poor and flawed juridically and politically.¹¹ There is still a public assumption that the existence of an ethics enforcement agency is nothing but an institution that is not independent and non-imperial because it tends to act as a shield for DPR members who violate the code of ethics in terms of representative membership, wide authority, and procedural law that hinders the principle of *equality before the law*.

The above problems arise when the existence or presence of this parliamentary ethics enforcement agency is juxtaposed with several ethical institutions that exist within other state institutions, such as the Honorary Council of Judges (MKH), which is at the Supreme Court (MA), the Honorary Council of the Constitutional Court (MKMK) and the Honorary Council of the Constitutional Court. Ethics in the Constitutional Court and the Election Organizer Ethics Council (DKPP), which were formed according to the mandate of Law No. 15 of 2015 concerning election organizers.¹²

The MKD has the duty and authority to maintain and uphold the honor and dignity of the DPR as a people's representative institution through monitoring the DPR's code of ethics. Codes of ethics are norms or rules that form a unified ethical or philosophical foundation with rules of conduct and speech regarding things that are required, prohibited, or inappropriate for members of an institution or person with a particular profession.¹³ The DPR's code of ethics aims to maintain the dignity, honor, image, and credibility of the DPR. In addition, the DPR's code of ethics also aims to assist members of the DPR by supervising the implementation of their duties, functions, powers, obligations and responsibilities to the state, society and constituents.¹⁴ It must be understood first that the MKD is

⁸ Son, Satria Rangga. "Juridical Analysis of Constitutional Court Decision Number 16/Puu-Xvi/2018 Regarding the Expansion of the Authority of the Honorary Council of the Council and the Right to Call the House of Representatives forcibly." *Novum: Journal of Law* vol. 7, no. 3. 2020.

⁹ Syarifuddin, And Pack Gerby Novario. "Honorary Council and the Enforcement of the Code of Ethics." *Study* vol. 22, no. 1. 2019. pp. 1-14. <https://jurnal.dpr.go.id/index.php/kajian/article/view/1494>

¹⁰ Dirlanudin, Dirlanudin. "Democracy for Clean and Trustful Governance." *Journal of Public Administration* vol. 4, No. 1. 2013. <https://jurnal.untirta.ac.id/index.php/jap/article/view/2354>

¹¹ Hutagalung, Siti Merida. "Law Enforcement in Indonesia: Is Indonesia a Country of Law?" *Social Polites*. 2017. pp. 109-126. <http://ejournal.uki.ac.id/index.php/sp/article/view/465>

¹² Patawari, Patawari, And Isnanto Bidja. "Legal Provisions on Comparative Monitoring Systems for Members of Parliament in Several Countries." *Kalabbirang Law Journal* vol. 1, No. 2. 2019. pp. 44-66. <https://jurnal.ahmar.id/index.php/kalabbirang/article/view/19>

¹³ Imania, Diah, Retno Saraswati, And Hasyim Asy'ari. "Enforcement of the Code of Ethics for Members of the People's Legislative Assembly through the Honorary Council of the House." *Diponegoro Law Journal* vol. 5, No. 3. 2016. pp. 1-16. <https://ejournal3.undip.ac.id/index.php/dlr/article/view/12456>

¹⁴ Ardi, R. Alif, Hasyim Asy'ari, and Untung Sri Hardjanto. "The Implementation of Duties and Authorities of the Honorary Council of the Council in Upholding the Code of Ethics of the House of



an internal body of the DPR. MKD is an ethics and conduct court. The case examined by the MKD is not a criminal case that must be resolved using a criminal procedural law approach.¹⁵

In relation to the duties and authorities of the MKD in maintaining and upholding the honor and dignity of the DPR RI as a people's representative institution. There was a case related to Setyo Novanto as chairman of the Republic of Indonesia DPR for the 2014-2019 period in a case of alleged violation of the code of ethics because he allegedly asked for a number of shares from a foreign company in Indonesia by profiteering the names of the President and Vice President of the Republic of Indonesia. This was followed by political lobbying and an offer of money to several MKD members allegedly to secure the case. Even President Jokowi emphasized that he fully supports the process of this case at the MKD regarding the profiteering of the names of the president and vice president to ask for share allocations. In this case, the MKD received sharp criticism from the public because in resolving the alleged violation of the code of ethics, it could not prove that there was a violation of the code of ethics related to this case.

Regarding handling cases of alleged violations of the code of ethics, there is hope that the MKD will be more open in processing violations committed by members of the DPR. In this way, the public will be sure that the MKD has done its oversight function. Although, in general, the public cannot expect much from DPR politicians because their views are now very pragmatic for position and power.¹⁶ Some circles stated that within the MKD, political intrigues can occur; instead of carrying out the oversight function for members of the DPR, even those who sit as members of the Honorary Council can experience conflicts. The only way to reduce conflict in the internal MKD is by evaluating the performance that has been carried out.

Juridical problems arise when no regulation positions the MKD as an independent and accountable ethical court where this is not in line with the spirit of establishing a Council Honorary Court.¹⁷ In fact, the MD3 Law stipulates that the MKD is filled by several party faction representatives within its membership so that there is an opportunity for conflicts of interest between the Council's Honorary Court and the council members. Meanwhile, sociological problems arise when the ethics trial conducted by the Council's Honorary Court is closed, so it is not transparent, and the Council's Honorary Court is passive in carrying out its duties and authorities even though cases of ethical violations by members of the legislature are increasing.

Based on the description above, it is interesting to be used as an object of study so that researchers are interested in raising the title that is being studied in this study, namely, What is the essence of the Authority of the Council of Honorary Courts in Enhancing the Honor and Dignity of the House of Representatives

RESEARCH METHODS

The type of research used in this research is normative legal research. The approach method used in this study is the *Statute Approach* and the *Conceptual Approach*, using primary and secondary legal materials. Primary legal materials are *authoritative* legal materials in the form of laws and regulations.¹⁸ Secondary legal materials are in the form of legal income or theories obtained from legal literature, research results of scientific articles, and websites. After the legal material has been

Representatives of the Republic of Indonesia." Diponegoro Law Journal vol. 6, No. 2, 2017. pp. 1-13. <https://ejournal3.undip.ac.id/index.php/dlr/article/view/19633>

¹⁵ Werdiningsih, Mega Ayu. "Checks And Balances In The Ethical Justice System." Journal of Constitution and Democracy vol. 1, No. 1. 2021. page 4. <https://scholarhub.ui.ac.id/jurnalkonsdem/vol1/iss1/4/>

¹⁶ Novita, Nur Qamariah. " Settlement of Violations of the Code of Ethics of Members of the People's Legislative Assembly of the Republic of Indonesia by the Honorary Council of the Republic of Indonesia ." Catalog vol. 4, No. 12. 2019

¹⁷ Choose, Sekar Anggun Gading. " Strengthening the Position of the Honorary Council as an Ethics Court ." Legal Issues. Vol. 50, no. 3. 2021. p. 244-253.

¹⁸ Qamar, Nurul, Muhammad Syarif, Dachran S. Busthami, M. Kamal Hidjaz, Aan Aswari, Hardianto Djanggih, and Farah Syah Rezah. *Legal Research Methods (Legal Research Methods)* . CV. Social Political Genius (Sign), 2017.



collected, the researcher identifies and selects the material relevant to the problem under study. After the legal material and data were analyzed descriptively qualitatively, conclusions were drawn using the deductive method, namely concluding general matters to specific matters.

RESEARCH RESULTS & DISCUSSION

Interpreting the Authority of the Honorary Council of the Council in Enhancing the Honor and Overall Dignity of the House of Representatives, the thing that needs to be understood first is honor to institutional ethics. Frans Magnis Suseno mentions that philosophy which directly questions human praxis is ethics. Ethics questions human responsibilities and obligations. Magnis then continued his explanation by dividing ethics into two types, namely general ethics and special ethics. General ethics questions the basic principles that apply to all human actions.¹⁹ Meanwhile, special ethics discusses these principles to human obligations in various spheres of life. Magnis then explains individual ethical differences that question human obligations as individuals, especially towards oneself. As for social ethics, it goes further than that, namely that almost all human obligations are coupled with the fact that he is a social being. Social ethics discusses moral norms that should determine attitudes and actions between humans.

To improve the performance of DPR members who are already public figures, DPR members should emphasize social ethics. Discussing the ethics of the DPR as a representative institution must start from the awareness that members of the DPR are representatives of the community itself. In essence, anyone who sits in a representative body is a mirror of the electorate. Therefore, the determination and enforcement of ethical standards should start from the pendulum that the DPR is a group of people who realistically have to be protected by norms that originate from the society in which they carry out their representative functions.

The sharp scrutiny from the public on the DPR's performance so far has made the DPR continuously strive to improve its image. Image improvement is carried out in internal and external stages. The external stages of the DPR strive to produce good regulations and performance widely accepted by the public. Apart from this, improvements from the internal side were also carried out by the DPR. This can be seen from the earnest efforts to change the Ethics Council into the Honorary Council of the Council. This change is a sign of *the political will* of the DPR to uphold the institutional ethics of the DPR. These changes are not only changes in name but also changes in the substance of the arrangements. The presence of the Council Honorary Court (MKD), which was formerly known as the Honorary Board (BK), is actually one of the permanent council fittings. This court has a noble function to protect and uphold the honor and nobility of the DPR as a people's representative institution. The name change also implies that the process of enforcing the code of ethics is a judicial process, thus changing the name from "Body" to "Court." With this innovation and recognition, the principles of a modern court or judiciary should be properly applied in the working mechanism for enforcing the DPR's code of ethics.

In the perspective of the urgency of upholding the ethics of legislators/legislators, Dennis F. Thompson, in his book *Political Ethics and Public Office* (1987), explains there are at least three approaches to looking at the issue of legislative ethics of legislators. First is minimalist ethics.²⁰ Second, functionalist ethics, and third, rationalist ethics. The rational foundation places the councils/legislators on the essential principles of politics, such as justice, freedom and the *common good (bonum commune)*. Based on this ethic, legislators are prohibited from acting to enrich themselves against the law, either on behalf of themselves or their party. Legislators must be well aware that when they sit in parliament, their master is no longer the party or party officials but the people and constituents.

¹⁹ Firmantoro, ZA *Considering the Position of the Honorary Council of the Constitutional Court of the Republic of Indonesia After the Enactment of Law Number 7 of 2020 = Considering The Position Of Assembly Court In The Republic Of Indonesia After The Establishment Of Law Number 7 In 2020* . Journal of the Constitution , vol. 17, no. 4. 2020. p. 899-918.

²⁰ Thompson, Dennis Frank. *Political Ethics And Public Office* . Harvard University Press, 1987.



On the basis of the three approaches above, all policies that provide easy space for members of the council to commit violations should be reviewed. This is important to do to maintain the ethical attitude of board members. Minimizing all behaviors and policies that are not familiar to the public. Legislative ethics can also be carried out if the demands are interpreted in the context of the legislative process. These demands limit legislators' behavior, but not in a way that prevents them from carrying out their role as representatives of the people. It means demands that provide guidance so that members of parliament can behave honorably as representatives of the people in parliament. Enforcement of the code of ethics is one of the efforts to realize the honor of a representative institution. A number of laws and regulations were issued as instruments in carrying out the functions, duties, and powers that placed the Honorary Court of the DPR RI as the front guard. Along with that, MKD experienced strengthening, considering that the dynamics of representative institutions showed quite high intensity. MKD is at the forefront of upholding the ethics of board members. MKD is a moral guard so that people's representatives think and act in accordance with the council's code of ethics that has been set.

The Council of Honor Court (MKD) is one of the tools of the House of Representatives of the Republic of Indonesia. As stipulated in the MD3 Law, which regulates the position of the MKD in Chapter III of the DPR Part Eight, Article 83 and Paragraph 9 of Article 119 to Article 149 as amended by Law Number 42 of 2014 concerning Amendments to Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council.

Council Honorary Court, formed by DPR, is a tool completeness DPR RI which is still characteristic. The objective formation tool completeness is to guard as well as enforce the honor and dignity of the DPR as a people's representative institution. MKD has the duties written in Article 2 paragraph (2) DPR regulation Number 2 Year 2015 about system method event MKD which mention tasks MKD between other:

- a. carry out monitoring within the framework of the prevention function against Member behavior so as not to commit a violation of the obligations of Members as referred to in the law, which arranges Assembly deliberative People, Board People's Representatives, Regional Representative Councils, and the Council Regional People's Representatives and DPR regulations governing about System Order and Code ethics;
- b. do investigation and verification on complaint to Member because:
 - 1) does not carry out the obligations referred to in Constitution, which arranges for Assembly People's Consultative Assembly, People's Representative Council, Council Representative Area, and Council Representative People Area;
 - 2) unable to carry out duties on an ongoing basis or permanently absent as a Member for 3 (three) consecutive months without valid information;
 - 3) no longer fulfills the requirements as a Member as stipulated in the provisions regarding the requirements for candidate Members stipulated in the law regarding the general election of Members of the People's Representative Council, Regional Representative Council, and Regional People's Representative Council; and/or
 - 4) violates the provisions of the prohibition as stipulated in the law governing the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council
- c. convene a hearing to accept the actions and/or events that should be suspected of being committed by a Member as a violation of the Constitution which arrange about Assembly deliberative People, the People's Representative Council, the Regional Representative Council, and Board Representative People Area, as well as regulation DPR which arrange regarding Tata Orderly and Code ethics;
- d. accept letter from party enforcer law about announcement and/or calling and/or investigation to Member on guess commit a criminal act;
- e. request information from law enforcement authorities regarding notifications and/or calling and/or investigation to Member on guess commit a criminal act;



- f. request information from Member Which suspected do follow criminal;
- g. give agreement or No give agreement in a manner in writing regarding the summons and request for information from the party enforcer law to Member Which suspected do follow criminal; And
- h. assist law enforcement in carrying out searches and foreclosure in place Member Which suspected do follow criminal.

The DPR RI apparatus, which is tasked with overseeing the compliance of each member of the DPR RI regarding the code of ethics, has been institutionalized internally and has existed before, where it is better known as the DPR RI "Honorary Body" as part of the fittings as stipulated for the first time in the Law -Law Number 22 of 2003 concerning the Composition and Position of the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council and the Regional People's Representative Council Chapter XVII Complementary Instruments, Protocols, Finance and Rules of Procedure Part One Complementary Instrument Article 98 paragraph (2) . The Ethics Council at that time had the function of receiving, examining and reporting the results of the examination to the Leadership of the DPR RI and submitted to the President to be inaugurated on the basis of alleged violations of the code of ethics committed by the Leaders of the DPR RI, alleged violations of oaths/pledges, the DPR RI code of ethics and/or does not carry out his obligations as a member of the DPR RI as a result of complaints from the leadership of the DPR RI, the public and/or voters.²¹ The matter regarding use of the term "Mahkamah" from a language perspective is a translation from Arabic (□□□□ -Mahama), which means the body to decide the law on a case or violation or also known as a court. ²²The term "Mahkamah" itself was first used in Indonesia as a result of the formulation of the 1945 Constitution of the Republic of Indonesia, which emphasized that the Supreme Judicial Body in the Republic of Indonesia is referred to as the Supreme Court as the Judicial Body that decides at the last level. The more appropriate use of the term is Council, Agency, Commission, Committee, Assembly, Authority, or others, which tend to be a unit of the main institution and are supporting and complementary (*auxiliary organs*). This is because the use of the term "Court" is more directed to a judicial institution, while the function of the MKD is not a judicial institution but a permanent institution to receive, examine and decide on alleged violations of the code of conduct of members of the DPR RI. The paradigm shift in the use of the term "Body" to "Court" has become less relevant to the functions it carries out. The use of the term institution, whose function is to receive, examine and decide disputes on alleged violations of ethics, is distinguished from the actual judicial institution.

Unlike the case in other countries, where the honorary body uses terms such as the Ethics Committee in the United States (*The Committee on Ethics* or also called *the Ethics Committee of the United States*) . The Committee is an instrument of the United States House of Representatives, which has the function of regulating the ethics of members and Leaders of the House, conducting investigations regarding alleged violations of the code of ethics committed by the council, and deciding whether or not the alleged violation has been proven. proven guilty of violating the code of ethics, providing advice and considerations on board behavior to avoid ethical violations, for example, regarding the first case of the committee on 30 January 1789 between Rep. Matthew Lyon of Vermont v. Rep. Roger Griswold of Connecticut, Tom DeLay and Jack Abramoff, Jim McDermott and Charles Rangel.²³

²¹Indonesia, Law Concerning the Composition of the Positions of the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council and the Regional People's Representative Council, Law no. 22 of 2003, LN Number 92 of 2003, TLN Number 4310. See also Article 23 Paragraph (1) Letter D, Article 85 Paragraph (2). See also Indonesia, Regulation of the People's Legislative Assembly of the Republic of Indonesia Concerning Procedures for the Honorary Court of the Council of the Republic of Indonesia, DPR RI Regulation No. 2 of 2015, BN RI Number 548 of 2015. Chapter II Functions, Duties, and Authorities Article 2

²² Sudarsono, *Legal Dictionary (New Edition)*, Jakarta: PT Rineka Cipta, cet. 5, 2007, p. 256

²³ Putra, PS, & SH, M. *Authority of the House of Representatives Honorary Court Against Alleged Violation of the Code of Ethics for Members of the People's Legislative Assembly of the*



Then the MKD as a permanent instrument of the DPR RI should be projected to be more independent and transparent in upholding the honor and nobility of the authority of the DPR RI so that it becomes an independent, free and independent body and free from intervention or tendencies of political equipment from some of the majority interests of the parliament. The MKD, which aims to protect and uphold the honor and dignity of the DPR RI as a people's representative institution, should represent the will of the people and not act as an arbiter of political interests. Meanwhile, the DPR RI determines the composition and membership of the MKD, which consists of all factions, by taking into account the balance and equal distribution of the number of members for each faction at the beginning of the DPR's membership period and at the beginning of the session year. The MKD has the authority to receive, examine and decide on reports of alleged violations of the code of ethics by members of the DPR RI. MKD is tasked with investigating and verifying complaints against members because:

- a. Does not carry out the obligations as referred to in Article 81;
- b. Unable to perform duties on an ongoing basis or permanently absent as a member of the DPR for 3 (three) consecutive months without valid information ;
- c. No longer fulfilling the requirements as a member of the DPR in accordance with the provisions regarding the requirements for candidates for members of the DPR, which are regulated in the law regarding the general election of members of the DPR, DPD, and DPRD; and/or
- d. Violating the provisions of the prohibition as stipulated in the Law on the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council.
- e. The MKD is tasked with evaluating and perfecting the DPR's regulations regarding the DPR's code of ethics.
- f. The Council's Honorary Court has the authority to summon relevant parties and cooperate with other institutions.

There are violations that do not require complaints, where violations committed by DPR members are in the form of:

- a. Absence at DPR meetings which is his obligation;
- b. Caught in the act of committing a crime; or
- c. Proven to have committed a crime punishable by imprisonment for a minimum of 5 (five) years and has obtained a decision that has permanent legal force.

The handling of violations that do not require complaints is carried out based on the results of verification and suggestions from MKD members. The MKD meeting decided on the follow-up on the handling of violations. MKD notifies the leadership of the DPR RI of the decision to follow up on the handling of violations. Everyone has the right to become a complainant if he has evidence that can be used as the basis for the complaint. Then the provisions of Article 125 paragraph (6) state "Complaints of violations as referred to in paragraph (1) are read out to the complainant and signed or given the complainant's thumbprint". At first glance, there seems to be no oddity in this provision. More clearly, in the "read to the complainant" section, it looks more like a misplacement of the subject in the written norm, which is indicated with the intention "read to the MKD and/or read to the complainant and signed or given the complainant's thumbprint." Errors like this should be corrected in Law Number 42 of 2014 concerning Amendments to Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council Juncto DPR RI Regulation Number 2 of 2015 concerning Procedure of the Honorary Court of the People's Representative Council of the Republic of Indonesia Chapter IV Complaint Cases Article 6 paragraph (6). Then complaints to the MKD can be submitted by:

- a. Leaders of the DPR RI on complaints from members of the DPR RI against members of the DPR RI;



- b. Members of the DPR RI against the Leaders of the DPR RI or other Leaders of the Completeness of the DPR RI; And
- c. The public, individually or in groups, against members of the DPR, the leadership of the DPR, or the heads of other DPR auxiliary organs

Based on the provisions in the law, the MKD session is closed, in which the MKD is required to maintain the confidentiality of information obtained in the MKD session. The application of Article 15 of DPR RI Regulation Number 2 of 2015 concerning Procedures for the Honorary Council of the Republic of Indonesia, which states that "MKD Sessions are closed unless otherwise declared open by the MKD Session," is a deviation from the provisions of Article 132 which stipulates that the procedures or mechanism of hearings are conducted in an open manner. closed. This has contradicted *the lex superior* or the basis for the formation of the MKD itself, so the provisions in the DPR RI Regulation mandated in Article 149 are not provisions to set aside but provisions to regulate the procedures for forming MKD, imposing sanctions, forming panels and procedures trial for violations of the DPR RI code of ethics which are mandatory in accordance with the statutory provisions above it. Coupled with the uncertainty of the concept through the arrangement of the MKD procedure, the absence of criteria for matters of extraordinary circumstances can form the basis for the MKD to declare an open trial. It can be stated that the DPR RI Regulation has actually made a mistake in applying the MKD procedure, which on the basis of this interpretation, could result in not providing guarantees for the principle of legal certainty for the MK procedural law .

In the event that the defendant is not proven to have violated, the decision is accompanied by rehabilitation for the defendant. The MKD conveys the rehabilitation decision to the Leaders of the DPR RI with a copy to the faction leaders of the members concerned no later than five (5) days from the date the decision takes effect. The rehabilitation decision was announced at the DPR RI plenary meeting, which was the first since the MKD decision was received by the DPR RI leadership and distributed to all members of the DPR RI. In the event that the defendant is proven to have violated, the decision is accompanied by sanctions against the defendant in the form of:

- a. Light sanction with verbal warning or written warning;
- b. Moderate sanction with the transfer of membership in the apparatus of the DPR RI or dismissal from the position of the leadership of the DPR RI or the leadership of the apparatus of the DPR RI; or
- c. Severe sanctions with temporary dismissal for a minimum of three (3) months or permanent dismissal as a member of the DPR.

In the event that the MKD handles a case of violation of the code of ethics that is serious and has an impact on the sanction of dismissal, the MKD must form a panel for hearing violations of the code of ethics for members of the DPR. The panel consists of three (3) members of the MKD and four (4) members of the community. The panel decision is submitted to the plenary meeting to obtain approval for the permanent dismissal of members of the DPR.

CONCLUSION

The Honorary Council of the Council is a permanent instrument of the DPR RI and aims to maintain the image and honor of the DPR in the eyes of the public. Therefore the position and authority of the MKD in handling this case is clear as contained in Article 119 paragraphs (1) and (2) of the Law of the Republic of Indonesia Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD or the MD3 Law which states that the Court The Honorary Council is formed by the DPR and is a permanent accessory.

SUGGESTION

The MKD must independently optimize its functions and powers based on the DPR RI Regulation Number 2 of 2015 concerning the Procedures for the MKD DPR RI in maintaining the honor of the DPR RI .

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