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The Construction of the Authority of the DPRD Honorary Body in Ethics Enforcement (A Case Study of the Makassar City DPRD)

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Abstract: The main issue of this research is how the Ethics Committee in the Regional House of Representative (DPRD) of Makassar City constructs the enforcement of the code of ethics. This study is a field research employing an empirical juridical approach and normative theological approach (syar'i). The primary data was obtained from the legislation while the secondary ones were from other sources. Data collection methods included interviews and documentation. Data analysis was conducted through stages of data presentation, reduction, editing, data analysis and drawing conclusions. The results of this study indicate that: 1) The Ethics Committee of the DPRD of Makassar City was established based on the legislation and functions as an enforcer of the code of ethics; 2) The Ethics Committee of the DPRD of Makassar City performs its duties based on the autonomous regional agreement under the DPRD Regulation No. 1 of 2018 concerning Rules of Procedure; 3) The issue of code of ethics enforcement in the DPRD of Makassar City is the formal enforcement factor, which can only be reported by the leadership, resulting in an ineffective check and balance. It is recommended that the DPRD of Makassar City grants freedom to the public and involves community elements in monitoring the code of ethics for members of the DPRD of Makassar City.

Keywords: Authority, Honorary Body, Regional People's Representative Council (DPRD), Code of Ethics.



Abstrak: Pokok masalah penelitian ini adalah bagaimana konstruksi penegakan kode etik oleh Badan Kehormatan di DPRD Kota Makassar. Jenis penelitian ini adalah field research yang menggunakan pendekatan yuridis empiris dan teologi normativ syar'i. Data diperoleh dari data primer seperti perundang-undangan dan sumber sekunder lainnya. Metode pengumpulan data melalui wawancara dan dokumentasi. Analisis data melalui tahap penyajian data, reduksi, editing, analisis data dan penarikan kesimpulan. Hasil penelitian ini menunjukan bahwa: 1) Badan Kehormatan Dewan DPRD Kota Makassar dibentuk berdasarkan peraturan perundang-undangan yang berperan sebagai penegakmkode etik; 2) Badan Kehormatan DPRD Kota Makassar menjalankan fungsinya berdasarkan instruksi kesepakatan sebagai wilayah otonom yakni Peraturan DPRD Kota Makassar Nomor 1 Tahun 2018 tentang Tata Tertib; 3) Permasalahan penegakan kode etik di DPRD Kota Makassar adalah faktor formil penegakan yang hanya bisa diadukan oleh pimpinan, sehingga check and balances tidak berjalan secara baik. Sebaiknya DPRD Kota Makassar memberikan kebebasan kepada masyarakat dan melibatkan unsur masyarakat dalam pengawasan kode etik bagi Anggota DPRD Kota Makassar.

Kata Kunci: Kewenangan, Badan Kehormatan, DPRD, Kode Etik.

A. Introduction

This study examines the functions of power in classical legal and political theory, focusing on three main branches: legislative, executive, and judicial. These ideas are rooted in the work of Baron de Montesquieu, a French philosopher known for his theory of the separation of powers. Montesquieu argued that in order to maintain liberty and justice, these functions must be held by separate institutions with different powers, in order to prevent abuse of power by any one entity. The separation of powers is an essential foundation for preserving individual liberty and ensuring a balanced government.¹

In a country that upholds popular sovereignty, representative institutions are very important. In a democratic system, institutions

¹ Jimly Asshiddiqie, *Perkembangan Dan Konsulidasi Lembaga Negara Pasca* Reformasi (Jakarta: Konstitusi Perss, 2006).

such as parliaments or councils have a crucial role in allowing citizens to participate in political decision-making. Together with the electoral system, equality before the law, and freedom of expression and assembly, these institutions are the main foundations of democracy.² The main principle is that citizens, either directly or through elected representatives, should be involved in political decision-making.³

Legislative bodies such as House of Representatives (DPR) and Regional House of Representatives (DPRD) in Indonesia are responsible for making laws and regional regulations (*Perda*). This law is passed through cooperation with the president or regional head, functioning in a system of checks and balances to prevent abuse of power. In Indonesia, representative institutions reflect the concept of popular sovereignty, which serves as the basis for making public policies and legislation.⁵

The Indonesian House of Representatives (DPR RI), which was founded on 18 May 1918 as the Volksraad during the Dutch colonial period, is a key institution in Indonesian legislative history.⁶ Over time, the Indonesian House of Representatives (DPR RI) has developed structurally and functionally, remaining a pillar in the Indonesian democratic system.

² Sam Pitroda, *The Idea of Democracy* (Penguin Random House India Private Limited, 2024).

³ Muhammad Rezky Pahlawan, *Hukum Tata Negara* (Pamulang: UNPAM Press, 2020).

⁴ Fauzi Syam et al., "Why Should the Role of the House of Representatives in Monitoring and Review Local Regulations Be Strengthened?," *Journal of Indonesian Legal Studies* 9, no. 1 (2024).

⁵ Andi Pangerang Moenta dan Syafa'at Pradana, *Pokok-Pokok Hukum Pemerintahan Daerah* (Depok: Rajagrafindo Persada, 2018).

⁶ Todung Mulya Lubis, *War on Corruption: An Indonesian Experience* (Melbourne Univ. Publishing, 2023).

Beside the central government, Indonesia implements regional autonomy, where local governments manage their affairs within a legal framework. Governors, Regents, or Mayors, together with regional apparatus, manage local government. In this context, the Regional House of Representative plays an important role in local governance, sharing responsibility with local governments to carry out functions in accordance with the principles of autonomy and assignment tasks.⁷

The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) regulates the structure of regional government. Article 1 paragraph (1) of the 1945 UUD NRI states that Indonesia is a Unitary State in the form of a Republic, while Article 18 paragraph (1) divides the country into regions with provincial and district/city levels, each of which has a government structure. Article 18 paragraph (3) stipulates that each region must have a DPRD, with members elected through general elections.⁸

This constitutional provision ensures that both central and regional governments operate through deliberative or representative bodies such as DPRD.⁹ The DPRD, guided by the principles of autonomy, carries out regional governance within the broader framework of the Republic of Indonesia (NKRI), as regulated in the 1945 NRI Constitution.

The DPRD is a key element in regional government, with members elected by the people, reflecting the principles of democracy. The DPRD and the regional head are equal partners in

⁷ Dahlan Thaib, *DPR Dalam Sistem Ketatanegaraan Indonesia* (Yogyakarta: Liberty, 2000).

⁸ Ahmad Ainun Najib and Indarja Indarja, "Special Autonomy Dilemma In The 1945 Constitution Of The Republic Of Indonesia," *Syiah Kuala Law Journal* 7, no. 1 (2023).

⁹ Firman Freaddy Busroh, "Functions and Roles of Representative Bodies in the State Administration System (Critical Analysis of the Journey of Democracy in Indonesia)," *JPPI (Jurnal Penelitian Penelitian Indonesia)* 9, no. 4 (2023): 409–14.

creating an efficient, effective and transparent government, with the aim of improving public services and the welfare of the local community. The role of the DPRD at the provincial and district/city levels is very important for democratic governance. Article 20A paragraph (1) of the 1945 NRI Constitution, as amended by Law MD 3, stipulates three main functions of DPRD: legislation, budgeting and supervision. These functions ensure that there is representation of the people in the regions, which is facilitated by public participation, transparency, and accountability of the DPRD's performance.

To carry out its duties, the DPRD is equipped with complementary organs through DPRD decisions, including the Leadership, the Steering Committee, Commissions, Legislation Committee (Bapemperda), Budget Committee, and Ethics Committee (BK-DPRD) and others. Some of these complementary organs are permanent, such as the BK-DPRD, which is tasked with enforcing the code of ethics for council members.

Ethics Committee plays an important role in maintaining the integrity and image of the DPRD. Consisting of five members selected from the DPRD based on faction proposals and determined in a plenary meeting, Ethics Committee enforces the code of ethics and maintains the authority and image of the DPRD members. Since the 2004-2009 period, Ethics Committee has become a permanent institution in parliament, which must exist at all levels of parliament in Indonesia.¹¹

¹¹ Imam Sofwan and Suparnyo Suparnyo, "Optimalizing Regional People's Representative Council's Honorary Board's Duties-Authorities in Upholding Rules and Ethic Codes," *Interdisciplinary Social Studies* 2, no. 10 (2023): 2427–44.

¹⁰ H M Yasin and Nurmi Sari, "To Build the Supervisory Capacity of the Regional Representative Council (DPRD) in Order to Realize the Implementation of Good Governance," *Jurnal Smart Hukum (JSH)* 1, no. 2 (2023): 353–58.

As a supervisory entity, the Ethics Committee is tasked with minimizing ethical violations in the DPRD, such as members involved in online gambling, watching inappropriate videos or taking nap during meetings. This kind of behavior has a negative impact on the DPRD's public image. As representatives of the people, DPRD members must prioritize public interests and avoid actions that damage public trust.

To enforce ethics in the hearing, DPR RI Regulation No. 1 of 2015, especially Article 16, regulates rules such as compliance with meeting procedures, the use of the title "The Honorable" in Ethics hearings (MKD hearings) and the obligation to wear complete civilian clothing during the hearing. The gap between normative legal aspects and their empirical implementation is often a challenge in empirical legal studies.

The researcher aims to explore further the authority of the DPRD Ethics Committee in enforcing legislative hearing ethics, focusing on Article 16 of DPR RI Regulation No. 1 of 2015, through a case study of the Makassar City DPRD. This study aims to contribute to the understanding and improvement of the implementation of ethics in legislative institutions in Indonesia, especially at the regional level. By addressing this issue, this study hopes to improve the effectiveness and credibility of DPRD ethics governance.

B. Method

This empirical legal research focuses on the implementation of normative legal provisions in the DPRD in Makassar City, especially its Ethics Committee. This research uses two approaches: a legislative approach, which examines the relevant laws, and a political approach, which analyzes elite considerations and public participation in law enforcement. Data were collected from primary sources, such as interviews with the DPRD stakeholders, and secondary sources including legal documents and literature.

Interviews were conducted with selected informants, including DPRD leaders and academics. Data were analyzed qualitatively using deductive methods which move from general observations to specific conclusions with the aim of comprehensively understanding the legal and political dynamics within the Ethics Committee.

C. The Role of the DPRD Honorary Body in Upholding Ethics in the Makassar City DPRD

Government, as a social structure, is built on interrelated norms that shape roles and statuses, creating social situations through functional interactions. Role allocation ensures that tasks are matched to available human resources, although power and politics also influence this process. Roles in formal organizations are defined by binding rules, while in informal settings, roles depend on individual skills. According to the Big Indonesian Dictionary (KBBI), a role is the behavior expected of a person in society which guides the actions of the DPRD Ethics Committee (BK). The establishment of the BK reflects a commitment to morality and ethics which makes a significant contribution to the legislative process. Although ethics are less tangible than written laws, they are essential in maintaining the integrity of institutions such as the DPRD in Makassar City. The

The DPRD code of ethics, which is formed by regional autonomy, is determined by each region as stipulated in Indonesian Government Regulation No. 12 of 2018. This regulation requires the establishment of a code of ethics to maintain the dignity, honor and credibility of the DPRD. Ethics, as a philosophical value, are very important in regulating behavior as highlighted by H.

¹² Abid Nurhuda, TESBE Ab, and I H Ansori, "The Role of the Pancasila Student Profile in Building the Civilization of the Indonesian Nation," *Journal of Learning and Educational Policy (JLEP) ISSN*, 2023, 1121–2799.

¹³ Nurhuda, Ab, and Ansori.

Burhanuddin Salam. In the Makassar City DPRD, the BK is responsible for enforcing these ethical standards, including rules prohibiting behavior such as napping, playing games or watching videos during meetings.¹⁴

The role of the BK is very important in maintaining the image and credibility of the DPRD as emphasized by the DPRD leaders. The Chairman of the DPRD, Rudinto Lallo, S.H., M.H., and the Chairman of the BK emphasized the importance of the BK in ensuring that members comply with ethical standards and attend meetings on time. This supervision ensures that the DPRD operates effectively and maintains public trust. The BK's efforts are very important in maintaining the dignity of the institution and ensuring the smooth implementation of the DPRD's responsibilities.¹⁵

D. Implementation of the Authority of the DPRD Honorary Body in Enforcing Legislative Session Ethics under Article 16 of DPR RI Regulation No. 1 of 2015 in Makassar City

The implementation of regulations is inherently related to enforcement procedures, which vary across institutions to ensure that rules are enforced effectively, fairly and beneficially. This applies to the Ethics Committee both in the Indonesian House of Representatives (DPR RI) and the Regional House of Representatives (DPRD) at the regional level. As a country with a decentralized system of government, Indonesia provides autonomy

¹⁴ Rahma Chairun Nisa et al., "Analisis Yuridis Tentang Peran Badan Kehormatan DPRD Labuhan Batu Utara Terkait Anggota DPRD Yang Melanggar Peraturan," *Jurnal Pendidikan Tambusai* 7, no. 1 (2023): 552–64.

¹⁵ Rudianto Lallo, Ketua DPRD Kota Makassar, *Interview* (Thursday, 6 June 2024).

¹⁶ Nasrullah Nasrullah, "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," *Russian Law Journal* 11, no. 3 (2023): 2474–2848.

to local governments including legislative bodies at the provincial and district/city levels so then they can determine policies based on local interests.

This autonomy is regulated in Law No. 24 of 2005 concerning Regional Government which aims to optimize governance for the welfare and empowerment of the community. Regional autonomy covers the executive and legislative branches, allowing local governments to set their own regulations including rules of procedure to maintain the dignity and honor of the DPRD.¹⁷ Article 46 of Law No. 24 of 2005 defines the Honorary Council as an important part of the DPRD, which is responsible for enforcing the code of ethics and ensuring discipline among members.

According to Article 47, the composition of the Ethics Committee varies based on the total number of DPRD members. For example, a DPRD with 35 members will have three Ethics Committee members, while one with 45 members will have five Ethics Committee members. At the provincial level, the number of Ethics Committee members ranges from five to seven members depending on the total number of DPRD members. The duties of the Ethics Committee, as stipulated in Article 48, include monitoring discipline and morality, investigating violations of the code of ethics, conducting investigations and submitting recommendations for further action.

The enforcement of the code of ethics in the DPRD is guided by the Rules of Procedure, which are based on existing laws and regulations. The DPRD's internal rules regulate the procedures for enforcing ethical standards during sessions, which are established

¹⁷ Mirza Satria Buana et al., "The Nusantara Capital City Project: Why Development and Human Rights Do Not Always Mix," Law and Development Review 16, no. 1 (2023): 185–223.

through mutual agreement among members. ¹⁸ Article 16 of DPR RI Regulation No. 1 of 2015 requires members to comply with the meeting procedures set out in the Rules of Procedure. The Makassar City DPRD Ethics Committee operates under the framework established by Makassar DPRD Regulation No. 1 of 2018 concerning Rules of Procedure. This regulation details the complaint handling process, including verification, hearings and issuance of recommendations, which can be forwarded to the Minister of Home Affairs in the event of serious violations, which can lead to dismissal.

The enforcement process in the Makassar City DPRD involves several stages:

- 1. Complaint Stage: Complaints must be submitted through the DPRD leadership, unlike the DPR RI, where voters can directly submit complaints.
- 2. Summons Stage: The member concerned is summoned to attend a hearing.
- 3. Hearing Stage: The Ethics Committee holds a hearing to determine the validity of the complaint.
- 4. Decision-Making Stage: The Ethics Committee issues a decision, which may include recommendations for disciplinary action.

Despite these procedures, challenges arise particularly at the complaint stage, where the requirement to channel complaints through the DPRD leadership can limit accountability. Erick Horas, Chairman of Commission B of the Makassar DPRD, emphasized that the Ethics Committee has enforced the rule against members who are absent from six consecutive meetings, in accordance with

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¹⁸ Ward Berenschot et al., "Forest Politics in Indonesia" (Anderen: Forest People Programme, 2023).

the regulations.¹⁹ However, enforcement against members who are absent from fewer meetings is less stringent, indicating the need for more proactive disciplinary action by the Ethics Committee. The problem of repeated tardiness among DPRD members is often caused by scheduling conflicts, especially with party activities, which are prioritized by members over legislative duties. Therefore, the Ethics Committee must play an active role in enforcing discipline to ensure the effective functioning of the DPRD.²⁰ This requires a balance between the demands of party obligations and the responsibility to attend legislative sessions, to ensure the integrity and efficiency of the DPRD is maintained.

The Chairman of the Makassar City DPRD Ethics Committee emphasized that when schedules clash, members often prioritize party activities, which can have a negative impact on their attendance at DPRD sessions.²¹ This reflects the broader challenge of maintaining discipline within the legislature as members may be torn between their duties in the legislature and their political obligations.

The active role of the Ethics Committee is crucial in facing these challenges, ensuring that DPRD members adhere to ethical standards and carry out their responsibilities effectively. By enforcing the code of ethics and rules of procedure, the Ethics Committee maintains the reputation of the DPRD, maintains public

¹⁹ Eric Horas, Ketua Komisi B DPRD Kota Makassar, *Interview* (Thursday, 6 June 2024).

²⁰ Sofwan and Suparnyo, "Optimalizing Regional People's Representative Council's Honorary Board's Duties-Authorities in Upholding Rules and Ethic Codes."

²¹ Eric Horas, Ketua Komisi B DPRD Kota Makassar, *Interview* (Thursday, 6 June 2024).

trust and upholds the dignity of the institution. ²² Effective enforcement not only ensures compliance but also improves the overall performance of the DPRD which contributes to achieving the goals of regional autonomy and good governance.

E. Challenges in the Implementation of the Duties and Authority of the Makassar City DPRD Honorary Body in Enforcing Legislative Session Ethics

The implementation of the duties and authority of the DPRD Ethics Committee in enforcing the ethics of legislative sessions faces several challenges, as expressed by Lawrence Meir Friedman's legal system theory. ²³ Effective law enforcement involves three main components: legal structure, legal substance and legal culture. In the context of the Makassar City DPRD, the role of the Ethics Committee in enforcing the code of ethics is guided by regulations agreed upon in a plenary meeting. However, this enforcement is limited by formal limitations where the Ethics Committee can only act based on reports from the DPRD leadership, in contrast to the national level, where complaints can be filed by the public.

The autonomy granted to local governments in Indonesia, as stipulated in Law No. 24 of 2005 concerning Regional Government, allows regions to set their own regulations, which can pose challenges in enforcing ethics at the local level. The Makassar City DPRD Ethics Committee faces difficulties in enforcing the code of ethics due to these formal limitations and the reliance on moral responsibility among DPRD members.²⁴

²² Eric Horas, Ketua Komisi B DPRD Kota Makassar, *Interview* (Thursday, 6 June 2024).

²³ Shani Friedman, Global Governance and the International Law of the Sea: The Evolution and Practice of the Continental Shelf Regime (Taylor & Francis, 2024).

²⁴ Nurul Hidayat, Chairperson of the Honorary Body of the Makassar City DPRD, *Interview*.

Ethics, which are inherently moral and internalized, should ideally guide the behavior of DPRD members. However, when members fail to uphold these ethical standards, it impacts the image and dignity of the institution. The Ethics Committee often has difficulty in enforcing discipline due to internal pressures and reluctance to impose sanctions on fellow members. This challenge is further compounded by the need for a persuasive approach to encourage compliance, rather than relying solely on formal enforcement mechanisms.

In addition, the Ethics Committee must deal with complex interpersonal dynamics where enforcing rules among members can be difficult. Reliance on persuasion rather than strict discipline often limits the Ethics Committee's effectiveness in maintaining ethical standards. Members such as Al-Hidayat Syamsu suggested that the Ethics Committee adopts a merit-based system rather than relying on personal relationships to ensure a more disciplined approach to member attendance and participation in meetings.²⁶

Andi Hadi, ²⁷ another DPRD members emphasized the important role of the Ethics Committee in maintaining the integrity of the DPRD. The Ethics Committee is crucial in addressing violations of rules and codes of ethics by DPRD members thus ensuring that the institution functions effectively. However, the challenges in enforcing these standards highlight the need for

²⁵ Richard L Lippke, *Theorizing Legal Punishment* (Taylor & Francis, 2024).

 $^{^{26}}$ Al-Hidayat Syamsu, Member of the Makassar City DPRD, $\it Interview$ (Thursday, 6 June 2024)

²⁷ Andi Hadi Ibrahim Baso, Member of the Makassar City DPRD, *Interview* (Thursday, 6 June 2024)

stronger mechanisms and a more assertive approach to maintaining the DPRD's ethical standards.²⁸

Therefore, although the Makassar City DPRD's Ethics Committee plays an important role in enforcing ethics, its effectiveness is hampered by formal limitations, interpersonal challenges and reliance on moral persuasion. Strengthening the capacity of the Ethics Committee to enforce the code of ethics is essential to maintaining the credibility and dignity of the DPRD.

F. Conclusion

The Makassar City DPRD Ethics Committee is an independent institution established by law to enforce the code of ethics for members of the Regional House of Representatives in Makassar City. This body carries out its supervisory and enforcement roles based on Article 16 of DPR RI Regulation No. 25 of 2015, operating both materially and formally in accordance with the regulations agreed upon by the Regional House of Representatives in Makassar City, in line with the principle of regional autonomy in Indonesia. However, a significant challenge in enforcing the code of ethics in the Regional House of Representatives in Makassar City is the formal requirement that complaints can only be filed by the DPRD leadership, in contrast to the DPR-RI, where voters or the general public can also file complaints.

The Regional House of Representatives in Makassar City should conduct formal complaints and supervision from all members of the community, as they are represented by DPRD members, and involve external institutions such as academics. law enforcement. cultural figures and community leaders in the monitoring process. Tο

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²⁸ Nurul Qamar et al., "The Enforcement of the Regional House of Representatives in Indonesia: A Normative Review," *Cogent Social Sciences* 9, no. 1 (2023): 2220235.

strengthen the Ethics Committee, several key steps should be implemented: increasing its capacity through regular training on ethics and disciplinary procedures, ensuring transparency and public participation by creating an easily accessible complaint mechanism, enforcing clear consistent sanctions for ethical violations, strengthening the independence of the Ethics Committee to prevent political and increasing public awareness importance of the code of ethics and the role of the Ethics through educational campaigns. Implementing steps comprehensively will improve the integrity, accountability and credibility of the Regional House of Representatives but requires a strong commitment from all stakeholders, including DPRD members, leaders and the wider community.

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