

Legal Certainty and Legal Protection in the Implementation of Disciplinary Punishments for State Civil Apparatus in Light of Statutory Norms

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Abstract: *The State Civil Apparatus (ASN) operates based on behavioral standards derived from statutory law and moral principles. Statutory law is reflected in formal regulations, while moral guidance is embodied in the ASN code of ethics. Issues arise when an ASN's conduct is considered compliant from a legal standpoint (i.e., not in violation of applicable norms), but is deemed problematic from a moral perspective and therefore subject to disciplinary measures. This dual framework creates uncertainty, making disciplinary actions difficult to assess objectively and prone to arbitrary implementation. In some cases, such actions may even be misused in ways that contradict their intended purpose, namely to uphold the dignity of the State Civil Apparatus. This study employs an empirical juridical method, with data collected from the Agency for Policy Strategy and Legal and Judicial Education and Training, as well as from several courts within the administrative jurisdiction of Bogor City. The purpose of this study is to determine the practice of enforcing the code of ethics and identify the legal norms that regulate the ASN code of ethics behavior, while also understanding how the enforcement mechanism is in accordance with the good and correct rule of law. This research finds that the norms governing disciplinary sanctions for civil servants in positive law create confusion in the development of civil servants. Several positive legal norms conflict with one another, thereby threatening three fundamental elements of the rule of law: the*

supremacy of law, equality before the law, and the protection of human rights.

Keywords: *Civil Servants, Morality, Code of Ethics, and Disciplinary Punishment.*

Introduction

Issues concerning the enforcement of civil servant or state civil servant disciplinary law often receive disproportionate attention and tend to be left to the civil servant/state civil servant's superiors (Mulyadi 2022). It is due to the motives of government bureaucracy, which are based on professionalism, the effective achievement of government goals, and the efficient use of resources (Saragih 2020). This motive aims to ensure that civil servants have good integrity, avoid corruption, collusion, and nepotism, and avoid state losses through accountable work. To ensure this, a code of ethics for civil servants was developed that operates based on morality and can be supplemented by disciplinary sanctions (Arnas, D. 2025).

Problems have begun to emerge in the enforcement of civil servant disciplinary law, the basis for testing which is the employee code of ethics, which operates within the corridors of morality and government administrative law. The dualism of legal and moral interests occurs simultaneously, but it is difficult to ensure that both operate in a direct proportion because law and morality essentially operate within different systems. Morality, of which ethics constitutes an essential component, concerns human behavior and is closely related to fundamental conceptions of right and wrong as guiding principles for conduct. Ethics provides normative standards regarding how individuals ought to act and behave appropriately. However, unlike legal norms, ethics does not inherently impose formal sanctions on those who fail to comply with its principles (Djoko 2018). In the realm of state civil service, a code of ethics embodies ethical principles, serves as a binding reference, and may be reinforced by disciplinary sanctions. The implementation of these sanctions is closely tied to the administrative law governing the administration of government (Agus Digdo Nugroho 2022). The state civil service is established under the Law of the Republic of Indonesia Number 20 of 2023, which serves as the legal framework for its existence. This law includes provisions regarding the obligations of civil servants and the rules related to disciplinary sanctions. The obligations of state civil servants are broader than just a code of ethics because they also regulate:

1. Loyal and obedient to Pancasila, the 1945 Constitution of the Republic of Indonesia, the Unitary State of the Republic of Indonesia, and the legitimate government;
2. Comply with laws and regulations;
3. Implement the core values of civil servants and the civil servant code of ethics and conduct;
4. Maintain neutrality;
5. Willing to be placed throughout the territory of the Unitary State of the Republic of Indonesia and at representative offices of the Unitary State of the Republic of Indonesia located outside of Indonesia.

The existence of these obligations for civil servants is then complemented by the imposition of disciplinary violations and the imposition of disciplinary penalties stipulated in Government Regulations.

Why does this dichotomy between morality and law arise in how we view law and morality? Law is defined as one of the norms that apply in human life. The existence of legal norms will have legal impacts and firm consequences for those who fail to comply, thus being referred to as positive law (Meuwissen. 2013). Law serves to reconcile diverse human interests by fostering order and balancing rights and obligations, while simultaneously limiting authority and behavior to sustain this harmony over time. Meanwhile, morality, which discusses good and bad behavior, does not necessarily bind humans as law does. Human choices regarding good behavior according to morality depend heavily on numerous factors, the most dominant of which is a person's subjective choice (*optio*) regarding doctrine, outlook on life, experience, and the benefits it will bring. Humans, as subjects, choose what to do based on their needs. One person might consider something good, but another might deem it bad (Djoko 2018). These differing workings of law and morality create difficulties for enforcing disciplinary law among civil servants, as they also involve aspects of government administrative law. Issues often emerge when a public

official (employee) engages in wrongdoing that breaches not only the bureaucratic ethical standards but also intersects with criminal or civil laws governed by statutory law. The conflict often creates a legal gray area, where a single act can trigger two separate legal processes simultaneously: an internal investigation by a superior and a judicial process by the state. Multiple penalties arise for a single act committed by an official: the enforcement of disciplinary measures, positive legal sanctions, compensation, and administrative penalties within the framework of the autonomy of government administrative law.

In practice, particularly at the author's research location (the Agency for Policy Strategy, Legal and Judicial Education and Training), disciplinary sanctions are often considered additional penalties that precede a court verdict. Normatively, the Personnel Development Officer (PPK) has the authority to impose severe, moderate, and light disciplinary sanctions. Legal enforcement against civil servants whose conduct involves criminal elements is carried out through established procedural and case management mechanisms, encompassing investigation, prosecution, and adjudication in court. The next problem concerns employee discipline that occurs simultaneously and in a single act. These actions include, for example, manipulation of goods and services procurement, making and providing false information in procurement tenders, fraud, online gambling, and acts suspected of corruption (bribery) (Monintja, G. M. I. 2025). Regarding criminal acts, there are clear legal consequences, namely according to Article 51 Paragraph 9 of the Dismissal of the Republic of Indonesia Law Number 20 of 2023 concerning State Civil Apparatus, it is stated that State Civil Apparatus can be dismissed without their own request if they are sentenced to imprisonment based on a court decision that has permanent legal force for committing a crime with a minimum imprisonment of 2 (two) years and/or sentenced to imprisonment or confinement based on a court decision that has permanent legal force for committing a crime of office crime or a crime related to their position.

In addition to the consequences of criminal acts, the State Civil Apparatus can be dismissed without its own request if:

1. has violated Pancasila and the 1945 Constitution of the Republic of Indonesia;
2. has died;
3. has reached retirement age and/or has expired;
4. has been affected by organizational downsizing or government policy;
5. has become physically and/or mentally incapacitated and therefore unable to perform duties and obligations;
6. has failed to perform;
7. has committed a serious disciplinary violation;
8. has become a member and/or administrator of a political party.

Among the reasons for dismissal of civil servants mentioned above, those that can be categorized as ethical violations include: violating Pancasila and the 1945 Constitution of the Republic of Indonesia, being physically and/or mentally incapable of performing duties and obligations, failing to perform, committing serious disciplinary violations, and being a member and/or administrator of a political party. To reduce subjectivity, the study proposes the establishment of objective legal indicators based on measurable evidence and standardized assessment procedures. Failure to perform duties should be evaluated through documented performance records, achievement of institutional targets, and

repeated neglect of official obligations. Violations of Pancasila should be limited to actions that are clearly defined and proven through lawful disciplinary or judicial processes. Mental incapacity should be determined through professional medical or psychological assessments conducted by authorized institutions. These indicators would enhance consistency, accountability, and legal certainty in disciplinary enforcement while minimizing arbitrary interpretations.

The actual problem encountered in the process of testing compliance with the requirements for violating Pancasila and the 1945 Constitution of the Republic of Indonesia, being physically and/or mentally incapable of performing duties and obligations, and failing to perform, lacks clear and measurable parameters. Meanwhile, in cases of serious disciplinary violations, including membership in and/or holding office within a political party, the enforcement process often merely fulfills internal administrative controls conducted by the Inspectorate or Supervisory Agency, without a clear, standardized, and comprehensive ethics hearing. It is indicated by the results of the examination, which result in recommendations to the Personnel Development Officer (PPK) regarding disciplinary sanctions for the civil servants concerned.

For example, the announcement from the Supervisory Body of the Supreme Court of the Republic of Indonesia Number Number: 1602 / BP / Peng.KP.8.2 / III / 2026 Concerning Disciplinary Sanctions / Punishments for January-March 2026, which includes the imposition of sanctions on the Substitute Clerk of the Medan High Court (formerly the Special Junior Clerk of Commerce at the Medan District Court), based on the results of the examination conducted by the Supervisory Body of the Supreme Court concerned was given a light disciplinary penalty in the form of a written warning with the legal consequence of a 75% (seventy-five percent) reduction in performance allowances every month for 3 (three) months. The form of violation violated is Article 6 paragraph (4) of the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 122 / KMA / SK / VII / 2013 concerning the Code of Ethics and Guidelines for the Conduct of Clerks and Bailiffs in conjunction with Article 3 letter e of Government Regulation Number 94 of 2021 concerning Civil Servant Discipline in conjunction to Article 9 paragraph (1) letter c of Government Regulation Number 94 of 2021 concerning Civil Servant Discipline.

In the imposition of disciplinary sanctions as contained in the announcement, there is an ambiguous and potentially unlawful aspect, namely that the convicted person (the Substitute Clerk) is given a light disciplinary penalty in the form of a written warning with a 75% performance reduction for 3 months. Written warnings are regulated under Government Regulation Number 94 of 2021 concerning Civil Servant Discipline. In cases of minor disciplinary violations, sanctions may take the form of a verbal warning, a written warning, or a written statement of dissatisfaction. There is no provision for additional disciplinary sanctions in the form of a reduction in performance allowances. Deductions in performance allowances are found in moderate disciplinary sanctions, which take various levels as follows:

1. a 25% (twenty-five percent) reduction in performance allowance for 6 (six) months;
2. a 25% (twenty-five percent) reduction in performance allowance for 9 (nine) months; or

3. a 25% (twenty-five percent) reduction in performance allowance for 12 (twelve) months.

The 75% figure for performance allowance deductions in light disciplinary sanctions was not found, especially in cases where light disciplinary sanctions are imposed, where the form of punishment is very limited, such as verbal warnings, written warnings, or written statements of dissatisfaction. Meanwhile, the forms of punishment for heavy disciplinary sanctions are explicitly stated as follows:

1. demotion to a lower level for 12 (twelve) months;
2. dismissal from office to an acting position for 12 (twelve) months; and
3. honorable dismissal from civil service without their own request.

Naturally, the mechanism for imposing these disciplinary sanctions raises questions, particularly regarding the form of punishment imposed. This is important because the legislation that serves as the legal framework, namely Government Regulation Number 94 of 2021 concerning Civil Servant Discipline, does not regulate this. Therefore, any deviation from these provisions cannot be justified and constitutes an unlawful act by the authorities (onrechtmatige overheid daad).

Research Objectives

The research conducted in this journal aims to:

- a. Identify and analyze the practice of implementing disciplinary sanctions for civil servants, particularly at the Supreme Court of the Republic of Indonesia and its subordinate work units;
- b. Identify and analyze the legal basis for imposing disciplinary sanctions for civil servants, particularly at the Supreme Court of the Republic of Indonesia and its subordinate work units;

Methodology

The research approach employed in this study is both empirical juridical (Suganda 2022) and normative juridical (Mughtar 2015). It means that this research is viewed through direct observation, document tracing, identification of laws and policies, and identification of norms at the Supreme Court and its subordinate work units. The collected data were then processed using qualitative descriptive analysis (Nuha, S. S. 2017). The method was selected because it aligns with the objective of developing policy recommendations. It enables a comprehensive and concrete understanding of the problem, which is essential for analyzing the enforcement of disciplinary law on state civil servants within the Judicial Body under the Supreme Court. This approach also supports the formulation of the most appropriate strategies and policy recommendations.

Result and Discussion

Legal Certainty in the Implementation of Disciplinary Punishment for Civil Servants Against Statutory Norms

Disciplinary punishment derived from ethics must be distinguished from positive law enforcement derived from statutory regulations, as the two operate within different systems: ethics functions at the level of morality, while law enforcement is purely legal. This

dichotomy persists because, in practice, moral considerations may underlie a regulation but do not necessarily require compliance (Ananda 2006). In the legal context, the ethical life of society can and should inform the conception of law in realizing obligations through legal institutions, despite their inherent complexities. In simple terms, law and morality ideally operate in the same direction, but they are not always directly proportional or aligned in practice. Simply put, ideally, law and morality operate in one direction, but they are not necessarily always directly proportional and moving in the same direction. For example, a person can be law-abiding at one time while simultaneously possessing poor morals. A person may be obedient in paying taxes and obeying traffic laws, yet also have a bad temper and be rude to their wife and children.

After understanding the nature of morality and law, the code of ethics for civil servants can be understood as a regulation of moral aspects that are then outlined in legislation and apply as positive law. This concept theoretically deviates from the essence of morality, which is closely related to natural law. The inclusion of a code of ethics in legislation reflects the transformation of natural law into positive law. Once moral principles are codified in this way, a phenomenon known as legal positivism emerges. Legal positivism refers to a condition in which natural law (morality), originally unwritten, is formalized into written law and observed in all its aspects, for example, through formal recognition, promulgation, and ratification by authorized government institutions responsible for issuing legislation. Legal positivism also rejects the view that recognizes natural law, calling it abstract, hypothetical, and rooted in divine thought or human reason (Assauri, S. 2024). Returning to the morality of civil servants, it is linked to a code of ethics, which is then outlined in legislation and has become positive law. Violations of the code of ethics can result in disciplinary sanctions, which necessitate law enforcement. From a law enforcement perspective, its implementation has been established as a regulatory reference, and its enforcement mechanisms and procedures have been established (Goesniadhie 2010).

The procedure for enforcing disciplinary sanctions is carried out based on regulations that clearly and firmly define the types of ethical violations and have definite parameters. Violations of these ethical norms can then be subject to disciplinary action. Disciplinary action refers to efforts in the form of a series of verbal warnings and/or other administrative actions of a constructive nature, directly imposed on civil servants found to have violated their obligations or the civil servant code of ethics. These disciplinary actions are a manifestation of the implementation of disciplinary sanctions imposed by superiors or personnel development officials on civil servants through a Disciplinary Hearing (Rabbani, N. 2023). Disciplinary hearings are crucial because they involve the disclosure of facts and evidence, and allow officials suspected of violating their obligations or the code of ethics to provide an opportunity to explain and defend themselves.

A civil servant disciplinary hearing refers to an internal hearing (usually conducted by the inspectorate responsible for employee supervision and development) designed to examine individuals suspected of committing disciplinary violations as civil servants. Article 18 of Government Regulation Number 94 of 2021 concerning Civil Servant Discipline stipulates that the Central Agency Personnel Development Officer and the Provincial

Agency Personnel Development Officer shall impose disciplinary sanctions in stages according to the official's hierarchy, classified as Head of the Republic of Indonesia Representative Office, Middle-Level High-Level Official or other equivalent official, Primary-Level High-Level Official or other equivalent official, Administrator or other equivalent official, Supervisory Officer or other equivalent official, and Executive-Level Civil Servants.

In the author's research, the institution has not yet further regulated the rules regarding civil service ethics hearings at the Supreme Court. To date, the basis for enforcing disciplinary sanctions at the Supreme Court still refers to the following legal basis:

1. Government Regulation Number 94 of 2021 concerning Civil Servant Discipline;
2. Joint Decree of the Chief Justice of the Republic of Indonesia and the Chairman of the Judicial Commission of the Republic of Indonesia Number 047/KMA/SKB/IV/2009-02/SKB/P.KY/IV/2009 concerning the Code of Ethics and Code of Conduct for Judges;
3. Joint Regulation of the Supreme Court of the Republic of Indonesia and the Judicial Commission of the Republic of Indonesia Number 02/PB/MA/IX/2012-02/PB/P.KY/09/2012 concerning Guidelines for Enforcing the Code of Ethics and Code of Conduct for Judges;
4. Decree of the Chief Justice of the Republic of Indonesia Number 122/KMA/SK/VII/2013 concerning the Code of Ethics and Code of Conduct for Court Clerks and Bailiffs;
5. Decision of the Secretary of the Supreme Court of the Republic of Indonesia and the Chairman of the Judicial Commission of the Republic of Indonesia Number 008-A/SEK/SK/I/2012 concerning the Rules of Conduct for Employees of the Supreme Court of the Republic of Indonesia.

These regulations constitute material provisions concerning the code of ethics, while procedures for conducting disciplinary hearings remain unregulated. This lack of clarity regarding ethics hearing procedures poses a problem for the legal certainty of enforcing disciplinary sanctions. State institutions with specific duties and functions tend to pay less attention to addressing ethical violations at all levels of work units and across various positions and professions, not just the judiciary (e.g., the Supreme Court). Regulations regarding the institution of ethics councils, their implementation procedures, and procedures provide civil servants suspected of ethical violations and threatened with ethical sanctions with the opportunity to defend themselves, provide explanations, and undergo ethics hearings without bureaucratic pressure. When ethics hearings and their instruments are clearly defined, the status of individual civil servants will be clear, and they can participate in trials in accordance with the appropriate rule of law (Shidiq, R. M. 2024).

Legal certainty regarding the implementation of civil servant discipline is crucially determined by a clear rule of law. The accepted concept of the rule of law is one that applies to a state based on the rule of law, where the law holds the highest position in the implementation of a state based on the rule of law (Hukumonline. 2026).

AV. Dicey outlined three main elements that must be present in a state based on the rule of law to be considered a state based on the rule of law (Zaid 2018). The first aspect is the Supremacy of Law. The supremacy of law ensures that the law protects all citizens without interference from any party by enforcing and placing the law at the highest level. In this context, every individual can only be subject to legal sanctions when they commit a violation. This means that before a person is subject to disciplinary action, the rules regarding the disciplinary action violated must first be clearly and firmly established and effectively enforced. For example, to impose disciplinary sanctions on civil servants in the Supreme Court, clear and unambiguous regulations must first be in place regarding the types of disciplinary/ethical violations, such as Decree of the Chief Justice of the Republic of Indonesia Number 122/KMA/SK/VII/2013 concerning the Code of Ethics and Guidelines for Court Clerks and Bailiffs, and Decree of the Secretary of the Supreme Court and the Chair of the Judicial Commission of the Republic of Indonesia Number 008-A/SEK/SK/I/2012 concerning the Rules of Conduct for Employees of the Supreme Court of the Republic of Indonesia.

Not only are the reference rules for disciplinary violations regulated, but also how to enforce them, the procedures, the institutional framework of the ethics hearing panel, the timing of the hearing, and the rights and obligations of civil servants who are tried ethically must be carefully considered. Law enforcement must not become a mere fulfillment of government administration, which tends to be carried out arbitrarily and disrespects human dignity (Nugroho. 2025). The next element is equality before the law. In simple terms, disciplinary sanctions must apply to all civil servants who violate the law. There should be no exceptions for officials who breach disciplinary rules, and enforcement must be carried out consistently and without discrimination. Moreover, the principle of Fair and Impartial Legal Process (Due Process of Law) must ensure that the human rights of officers are upheld during the enforcement of disciplinary actions. The conduct of ethics hearings should adhere to established procedures, ensuring a fair and impartial legal process that is both proper and accurate. When all aspects of the rule of law are met, it can be concluded that the enforcement of disciplinary measures in both the Supreme Court and subordinate work units has achieved the standard of legal certainty.

Protection of the Implementation of Disciplinary Sanctions for State Civil Servants Against Statutory Norms

As outlined in the previous sub-discussion, the enforcement of disciplinary sanctions must comply with the rule of law to avoid harming state civil servants. Ethics hearings, which represent the enforcement of morality, are conducted differently from legal proceedings in criminal, civil, or administrative matters, which require accountability and compensation. Normatively, the basis for enforcing ethical violations has been regulated, particularly by the Supreme Court, through:

1. Government Regulation Number 94 of 2021 concerning Civil Servant Discipline;
2. Joint Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia and the Chairman of the Judicial Commission of the Republic of Indonesia Number

- 047/KMA/SKB/IV/2009-02/SKB/P.KY/IV/2009 concerning the Code of Ethics and Guidelines for Judges' Conduct;
3. Joint Regulation of the Supreme Court of the Republic of Indonesia and the Judicial Commission of the Republic of Indonesia. Number 02/PB/MA/IX/2012-02/PB/P.KY/09/2012 concerning Guidelines for Enforcing the Code of Ethics and Code of Conduct for Judges;
 4. Decree of the Chief Justice of the Republic of Indonesia Number 122/KMA/SK/VII/2013 concerning the Code of Ethics and Code of Conduct for Court Clerks and Bailiffs;
 5. Decree of the Secretary of the Supreme Court and the Chairman of the Judicial Commission of the Republic of Indonesia Number 008-A/SEK/SK/I/2012 concerning the Code of Conduct for Employees of the Supreme Court of the Republic of Indonesia.

Furthermore, regarding the formal stages of law enforcement, such as examinations and the conduct of ethics hearings, the Supreme Court has not yet regulated them comprehensively or in detail. As a result, the implementation of disciplinary sanctions tends to become an administrative process that lacks transparency, risks violating the rights of civil servants, and may be carried out arbitrarily and unlawfully.

An example is the imposition of disciplinary sanctions/punishments between January and March 2026 against J.A., a Substitute Clerk of the Medan High Court. Based on the investigation, he was subsequently given a light disciplinary sanction, which should have taken the form of a verbal or written warning, or a written statement of dissatisfaction, without a reduction in performance allowance. Performance allowance deductions only apply to civil servants receiving moderate disciplinary sanctions, with a fixed amount of 25% for varying periods of 6, 9, and 12 months. No provision was found for imposing a 75% reduction in performance allowance.

Of course, in enforcing disciplinary sanctions, the Supreme Court cannot deviate from the higher regulations, namely the provisions of Government Regulation Number 94 of 2021 concerning Civil Servant Discipline. Similarly, the imposition of more severe disciplinary sanctions, such as honorable or dishonorable discharge, must be based on internal evidence. If the action is carried out for criminal conduct, it must await a final and binding court decision. The mechanism for temporary and permanent dismissal of Judges or Judicial Apparatus involved in criminal cases often creates a dilemma when an ethics hearing has not yet been conducted. However, postponing such action can lead to potential state losses, as salaries and performance allowances for Supreme Court Justices, judges, or civil servants involved in criminal acts continue to be paid (Ivan, H. B. 2023). This situation often creates a dilemma in enforcing disciplinary law. On the one hand, the principle of the presumption of innocence cannot be ignored. On the other hand, disciplinary sanctions need to be imposed promptly to maintain the integrity and public image of the legal institution. This dilemma is further complicated by positive law, which requires legal certainty regarding a person's status before their basic rights as an employee can be revoked.

The disharmony between disciplinary regulations and positive law is also evident in the interpretation of violations. Interpretation and parameters of what is meant by being completely loyal and obedient to Pancasila, the 1945 Constitution of the Republic of Indonesia, the Unitary State of the Republic of Indonesia, and the Government, carrying out official duties with full devotion, honesty, awareness, and responsibility, demonstrating integrity and exemplary behavior in attitudes, behavior, speech, and actions to everyone, both inside and outside of official duties. The substance of these norm violations needs to be regulated concretely and limitatively with definite standards of proof. As a result, an official may be found guilty by an investigator due to a lack of an ethics hearing mechanism or due to a lack of material evidence. However, based on sentimental complaints, the official may be subjected to severe disciplinary sanctions and then dishonorably discharged administratively for allegedly damaging the dignity and image of the institution. This contradiction demonstrates that administrative law tends to be subjective-organizational, while positive law is objective-universal.

Furthermore, the protection of human rights for civil servants is often squeezed amidst sectoral egos, resulting from unlawful and arbitrary enforcement by the inspectorate. In many cases, civil servants undergoing positive legal proceedings lose their administrative rights, such as salaries and performance allowances, through temporary suspension. If coordination between relevant units, such as the inspectorate and the secretariat responsible for personnel and employee finances, is weak, the restoration of these rights after an employee is declared innocent often involves a prolonged and complex bureaucratic process. It, in turn, may exacerbate the sense of injustice experienced by the officials concerned. As a factual finding in this research, harmonization of disciplinary sanctions and positive law requires clearer regulatory synchronization to prevent detrimental overlapping authority. Disciplinary enforcement should not become an instrument of premature judgment for civil servants, preempting formal legal proceedings. A particularly alarming aspect is that ethics hearings are never held, remaining merely administrative hearings. Legal protection for disciplinary sanctions against civil servants must go hand in hand with prioritizing the principles of justice, legal certainty, and fairness. Without synergy, this conflict will continue to create legal loopholes that weaken legal protection for civil servants and hinder the creation of clean and accountable governance.

Conclusion

Based on the discussion above, several conclusions can be drawn as follows:

1. Disciplinary law enforcement is a matter of morality, but over time, ethics, which serve as a guideline for civil servant behavior, have transformed into written regulations that apply positively as statutory regulations.
2. Enforcement of ethics through disciplinary punishment must fulfill the aspects of the rule of law for which material law and formal law are available, namely substantive rules, methods of enforcement, procedures for ethical examinations and trials, and how to provide protection for the rights of state civil servants to be able

- to defend themselves, provide explanations, and protect their rights and dignity until a legally binding decision is made;
3. The existing regulations are still predominantly substantive, while their formal enforcement is weak.

Recommendations

Based on the conclusions above, several suggestions are proposed to address this issue, as follows:

1. The Supreme Court must immediately formulate clear, concise, and firm procedural rules regarding the examination and implementation of disciplinary hearings for civil servants to complement the material references for violations of its code of ethics.
2. Harmonize internal regulations that are not yet in accordance with the provisions of Government Regulation Number 94 of 2021 concerning Civil Servant Discipline;
3. Develop technical guidelines for addressing salary and performance allowance deductions for civil servants facing criminal litigation, thereby suspending ethics hearings pending a final and binding court decision.

References

- Agus Digo Nugroho, et al. 2022. "Hukum Administrasi Kependudukan Elektronik. Jakarta: Nasmedia Pustaka, Hlm. 9."
- Ananda, S. 2006. "Hukum Dan Moralitas. Jurnal Hukum Pro Justisia, 24(3)."
- Arnas, D., et al. 2025. "Penerapan Hukuman Disiplin Terhadap Aparatur Sipil Negara Pada Pemerintah Daerah Kabupaten Agam. Sakato Ekasakti Law Review, 4(2), Hlm. 113."
- Assauri, S., et al. 2024. "Teori Keadilan Dan Moralitas. Jurnal Pendas: Jurnal Ilmiah Pendidikan Dasar, 9(4)."
- Djoko, F. X. W. 2018. "Etika Moral Berjalan, Hukum Jadi Sehat. Binamulia Hukum, 7(1), Hlm. 27-28."
- Goesniadhie, K. 2010. "Perspektif Moral Penegakan Hukum Yang Baik. Jurnal Hukum, 17(2)."
- Hukumonline. 2026. "Konsep Rule Of Law Dan Penerapannya Di Indonesia. Accessed on 12 April 2026, Retrieved from <https://www.hukumonline.com/klinik/a/konsep-irule-of-law-i-dan-penerapannya-di-indonesia-lt624ebfa5a3b7e/>."
- Ivan, H. B., et al. 2023. "Rancangan Surat Edaran Mahkamah Agung Tentang Pemberhentian Sementara Dan Pemberhentian Tetap Hakim Agung, Hakim, Dan PHN Di Lingkungan Mahkamah Agung Yang Terlibat Tindak Pidana. Jakarta: Litera."
- Meuwissen. 2013. "Tentang Pengembangan Hukum. Bandung: Refika Aditama."
- Monintja, G. M. I., et al. 2025. "Penegakan Hukum Terhadap Pegawai Komisi Pemberantasan Korupsi Yang Terlibat Judi Dalam Jaringan. Lex Crimen, 13(2)."
- Muchtar, H. 2015. "Analisis Yuridis Normatif Sinkronisasi Peraturan Daerah Dengan Hak Asasi Manusia. Jurnal Humanis, 14(1)."

- Mulyadi, A. 2022. "Birokrasi Dan Tata Kelola Pemerintahan Di Indonesia. Yogyakarta: Gadjah Mada University Press, Hlm. 38."
- Nugroho., Agus Digdo. 2025. "Dualisme Kelembagaan Kekuasaan Kehakiman Penyelesaian Sengketa Pajak/Penerimaan Negara Pada Pengadilan Pajak. Prosiding KNAPHATN, 3(1). <https://doi.org/10.55292/Eceapg46>."
- Nuha, S. S., et al. 2017. "Implementasi Peraturan Daerah Nomor 11 Tahun 2014 Tentang Pengelolaan Keuangan Dan Aset Desa Dalam Mewujudkan Pembangunan Desa Pada Desa Punjulharjo Kecamatan Rembang Kabupaten Rembang. Diponegoro Law Journal, 6(1). <http://www.ejournal-s1.undip.ac.id/index.php/indonesia>."
- Rabbani, N., et al. 2023. "Penegakan Hukum Peraturan Kedinasan Kepolisian Dalam Menangani Pelanggaran Etika Kepolisian. Widya Yuridika, 4(1)."
- Saragih, B. 2020. "Reformasi Birokrasi Dan Profesionalisme ASN Di Indonesia. Jakarta: Sinar Grafika, Hlm. 45."
- Shidiq, R. M., et al. 2024. "Rule Of Law Dan Perubahan Hukum Menurut Aristoteles. Praxis: Jurnal Filsafat Terapan, 1(2)."
- Suganda, R. 2022. "Metode Pendekatan Yuridis Dalam Memahami Sistem Penyelesaian Sengketa Ekonomi Syariah. Jurnal Ilmiah Ekonomi Islam, 8(3). <https://jurnal.stie-aas.ac.id/index.php/jie>."
- Zaid, A. 2018. "Konsep Negara Hukum Rule of Law Dalam Sistem Ketatanegaraan Indonesia. Jurnal Pionir LPPM Universitas Asahan, 2(5)."