

Legal Analysis of Judges on Strike for Salary Increase: Ethical Violation or Constitutional Rights?

Muhammad Arafat^{1*}, Alexander Tito Enggar Wirasto²

¹ Islamic University of Indonesia, Indonesia

² Atma Jaya University Yogyakarta, Indonesia

*correspondence email: muh.arafat1@gmail.com

Article History

Received: 25/10/2024; Reviewed: 18/11/2024; Accepted: 15/03/2025; Published: 20/03/2025

Abstract: This study highlights the conflict between judges' constitutional right to strike and their professional ethical code demanding integrity and neutrality in judicial duties. Using a normative approach through regulatory review, case analysis, and international policy comparison, this research finds that while the right to strike is acknowledged in Article 28E of the 1945 Constitution, its application to judges presents significant challenges. Judges, as enforcers of justice, have a responsibility to uphold the profession's dignity, and engaging in strikes for salary demands risks eroding credibility and public trust. The findings show that strikes by judges in Indonesia often breach ethics as stipulated in the Code of Ethics and Guidelines for Judges' Conduct (KEPPH), where such actions are viewed as prioritizing personal interests over judicial duties. Comparative studies indicate that judges' involvement in similar actions may harm public perception and disrupt institutional stability. As a solution, this study recommends stricter regulations on judges' work rights and limitations, along with comprehensive welfare policies to meet judges' economic needs without compromising professional ethics. With clear regulations, a balance can be achieved between judges' constitutional rights and the obligation to maintain judicial integrity and public trust.

Keywords : Judges; Ethics; Constitutional Rights; Salary Increase; Indonesia

Abstrak: Penelitian ini menyoroti konflik antara hak konstitusional hakim untuk melakukan pemogokan sebagai warga negara dan kode etik profesi yang menuntut integritas serta netralitas dalam pelaksanaan tugas kehakiman. Dengan menggunakan pendekatan normatif melalui tinjauan peraturan, analisis kasus, dan perbandingan kebijakan internasional, penelitian ini menemukan bahwa meskipun hak mogok kerja diakui dalam Pasal 28E UUD 1945, penerapannya pada profesi hakim menimbulkan tantangan signifikan. Hakim, sebagai penegak keadilan, memiliki kewajiban tinggi untuk menjaga martabat profesi, dan partisipasi dalam mogok demi tuntutan kenaikan gaji berisiko menurunkan kredibilitas serta kepercayaan publik terhadap peradilan. Temuan penelitian menunjukkan bahwa aksi mogok oleh hakim di Indonesia sering kali melanggar etika sebagaimana diatur dalam Kode Etik dan Pedoman Perilaku Hakim (KEPPH), di mana tindakan tersebut dianggap lebih mengutamakan kepentingan pribadi daripada tugas hukum. Studi komparatif dengan negara lain mengindikasikan bahwa keterlibatan hakim dalam aksi

serupa berpotensi merugikan persepsi publik dan mengganggu stabilitas institusi peradilan. Sebagai solusi, penelitian ini merekomendasikan adanya regulasi yang lebih ketat mengenai hak dan pembatasan kerja bagi hakim serta kebijakan kesejahteraan yang komprehensif guna memenuhi kebutuhan ekonomi hakim tanpa mengorbankan etika profesional. Dengan adanya peraturan yang jelas, keseimbangan dapat dicapai antara hak konstitusional hakim dan kewajiban untuk menjaga integritas serta kepercayaan publik.

Kata Kunci: *Hakim; Etika; Hak Konstitusional; Kenaikan Gaji; Indonesia*

1. INTRODUCTION

Strikes as a form of protest or demonstration are rights guaranteed by Article 28 E of the 1945 Constitution, which ensures the freedom of expression and association. However, judges, as law enforcers, are also bound by a professional code of ethics that mandates their neutrality, preventing them from engaging in activities that may undermine the dignity of the judiciary. This situation creates a complex dilemma between their constitutional rights as citizens and their ethical duties as judges. The lack of clear agreement on whether a judge's strike violates the professional code of ethics or is a legitimate exercise of their constitutional rights underscores the legal uncertainty surrounding this issue.¹ This dilemma is particularly relevant when considering judges' demands for salary increases, which directly affect their professional welfare.

The research titled "Legal Analysis of Judges on Strike for Salary Increase: Ethical Violation or Constitutional Rights?" explores the tension between judges' constitutional right to strike and their ethical obligations as law enforcers. The article "*Menilik Konsepsi Filosofis dalam Konstruksi Yuridis Mogok Kerja Sebagai Upaya Pemenuhan Hak Pekerja/Buruh di Indonesia*"² discusses the misalignment between the philosophical concept and the juridical framework concerning the right to strike for workers in Indonesia, highlighting how legal restrictions often favor employers and weaken the position of workers. Both studies share a common theme in examining the conflict between constitutional rights and professional duties, albeit in different contexts. The novelty in this research lies in its focus on the ethical dilemma faced by judges engaging in strikes for salary increases, a topic less explored in comparative labor law literature. Similar to the research on labor strikes that advocates for legal reforms to address the imbalance of workers' rights, this study also proposes solutions regarding the regulation of judicial ethics, aiming to reconcile judges' constitutional rights with their ethical responsibilities.

The article titled "Legal Analysis of Judges on Strike for Salary Increase: Ethical Violation or Constitutional Rights?" and the study "*Etika Profesi Hakim dalam Melaksanakan Tugas dan Tanggung Jawab dalam Penegakan Hukum*"³ share a common

¹Senlin Miao et al., "The Independence of Judges and Corporate Social Responsibility," *Journal of Business Ethics* 193, no. 3 (September 30, 2024): 633–53, <https://doi.org/10.1007/s10551-023-05540-8>.

²Syahwal, "Menilik Konsepsi Filosofis Dalam Konstruksi Yuridis Mogok Kerja Sebagai Upaya Pemenuhan Hak Pekerja/Buruh Di Indonesia," *JURNAL JENTERA* 4, no. 2 (2021).

³Muhammad Rafli and Kayus Kayowuan, "Etika Profesi Hakim Dalam Melaksanakan Tugas Dan Tanggung Jawab Dalam Penegakan Hukum," *Madani: Jurnal Ilmiah Multidisiplin* 1, no. 11 (2023): 342–49.

focus on the ethical obligations of judges and the challenges they face in fulfilling these duties. Both explore how judges navigate the tension between their professional responsibilities and personal rights, particularly when making decisions under ethical dilemmas. However, while the former article focuses on the specific dilemma of judges participating in strikes for salary increases and their constitutional rights, the latter takes a broader approach, examining the ethical principles that guide judges' actions, such as fairness, honesty, integrity, and independence, as outlined in Indonesia's judicial code of ethics. The novelty in the research on strikes lies in its unique exploration of the constitutional right to strike for judges, an issue that has not been extensively discussed in existing literature. Meanwhile, the study on judicial ethics provides a comprehensive framework for understanding the ethical challenges judges face in the courtroom. Both studies contribute significantly by offering a more nuanced understanding of the ethical dilemmas judges encounter, with the strike-related research introducing a new perspective on how constitutional rights and ethical duties intersect in the judicial profession.

This study aims to analyze the legal basis supporting or rejecting judges' strikes as a form of protest for salary increases, with a specific focus on Indonesian law. It examines how the ethical code for judges in Indonesia regulates involvement in strikes and identifies gaps in the current regulations or policies concerning ethical sanctions for judges who participate in strikes. By filling this gap, the research intends to provide original evidence on ethical sanctions and constitutional law as it pertains to strikes by judges in Indonesia. Previous studies in various countries have addressed the role of judges in maintaining judicial independence and integrity, but these discussions largely focus on judges' involvement in political activities or their professional development, with limited attention given to the issue of strikes or salary protests. Moreover, existing literature lacks an in-depth exploration of the relationship between judges' constitutional rights and their ethical obligations within the Indonesian legal context, and there has been no comprehensive research examining how national policies regarding judicial welfare intersect with professional ethics.

This study offers novelty by providing a detailed analysis of the tension between judges' constitutional right to strike and the restrictions imposed by their professional ethical code, particularly in relation to demands for salary increases. Additionally, this study fills an important gap by proposing a clearer framework for regulating ethical and legal sanctions for judges participating in strikes. The findings are expected to serve as a crucial reference for policy reform in Indonesia's judiciary, especially in addressing judges' welfare and maintaining professional ethics. Thus, this research will contribute significantly to both the legal literature and professional ethics and assist in establishing a policy framework that allows judges to assert their rights without violating the integrity of their professional code.

Thus, this research is expected to contribute significantly to the legal literature and professional ethics and help establish a clear policy framework for judges to fight for their rights without violating their professional code of ethics as judges.

2. METHOD

This study uses a normative legal method consisting of a statutory, case, and comparative approach. The statutory approach examines various related regulations, such as the 1945 Constitution, especially Article 28E concerning freedom of expression and association, and the Code of Ethics and Guidelines for the Conduct of Judges in Indonesia. The case approach is used to analyze relevant cases in Indonesia and internationally involving strikes by judges or other public officials. In addition, a comparative approach is carried out by comparing policies in different countries, such as the United States, England, Malaysia, and Singapore, which prohibit judges from engaging in political action or strikes. Research data is taken from secondary sources, such as regulations, code of ethics documents, journal articles, and case studies, and then analyzed qualitatively using the legal interpretation. This analysis aims to explore the regulatory gaps related to the right to strike for judges in Indonesia and provide policy recommendations to clarify the mechanism of ethical sanctions against judges involved in strikes.

3. DISCUSSION

3.1. Legality of strike action by judges based on the constitution and laws in Indonesia

Judges are the holders of a noble profession, namely a profession that is essentially a service to humans and humanity, which is expected to present legal certainty, legal benefits, and justice, especially expected to be able to uphold the authority of the law. Judges, on behalf of the Court, in carrying out their duties and authorities, namely examining, trying, and deciding on these matters, demand great responsibility so that every case they decide is pronounced with the words "For Justice based on the Almighty God" This shows that the responsibility held by judges must not only be accountable to every human being based on the knowledge they have obtained from Laws and Regulations, jurisprudence and doctrine but must also be accountable to the Almighty God based on the beliefs they have.⁴

Justitiae non est neganda, non est differenda (justice cannot be denied or postponed) this adage is often used as a guideline for law enforcers in carrying out their duties solely for the sake of achieving justice; this is in line with what is mandated in Article 4 paragraph (2) of Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power which states "*The court assists justice seekers and tries to overcome all obstacles and barriers to achieve simple, fast and low-cost justice.*" A judge or constitutional judge must have integrity and an impeccable personality and be honest, fair, professional, and experienced in the legal field.⁵ Judges, as the main actors in the function of the Court, are

⁴Mahkamah Agung, "KEPUTUSAN BERSAMA KETUA MAHKAMAH AGUNG RI DAN KETUA KOMISI YUDISIAL RI NOMOR: 047/KMA/SKB/IV/2009 02/SKB/P.KY/IV/2009 TENTANG KODE ETIK DAN PEDOMAN PERILAKU HAKIM" (Jakarta, 2009).

⁵Undang-Undang Republik Indonesia Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman., 2009.

also prohibited from refusing to examine, try, and decide on a case submitted on the pretext that the law does not exist or is unclear but is obliged to examine and try it.⁶ As mandated in Article 10 Paragraph (1) of the Republic of Indonesia Law Number 48 of 2009 concerning Judicial Power, this is done in order to create 3 (three) legal objectives, namely basic values, namely justice (*gerechtigheit*), benefit (*zweckmaerten*), and legal certainty (*rechtssicherheit*).⁷

Action to start work carried out by judges from October 7, 2024, to October 11, 2024, to convey protests or publicize regarding salaries⁸ He received this freedom of speech as a right guaranteed by Article 28 E of the 1945 Constitution, but the duties and responsibilities of someone who has been sworn in as a judge are higher. The many postponed trials are the impact of judges going on strike, which has a significant influence on the law enforcement process in Indonesia; Unhas Legal Expert Prof. Amir Ilyas, S.H., M.H. in his interview with detik.com media, said that "the impact is that if all judges are on leave, the function of the Court will definitely stop temporarily, in addition, judges' strikes can also cause material losses for the parties to the case. The reason is, those seeking justice are taking longer to get legal certainty." in addition, he added, "delayed justice is the same as a violation of the rights of justice seekers."⁹. The current question is, is it permissible for a judge to go on strike.

In carrying out the strike, the judges used their leave rights. Based on Circular Letter Number 13 of 2019 concerning the Implementation of Leave for Judges and Apparatus in the Supreme Court and the Judicial Bodies Below It, signed by A. S Pudjoharsoyo as Secretary of the Supreme Court of the Republic of Indonesia, the circular stipulates that regarding the implementation of leave for apparatus in the Supreme Court and the Judicial Bodies Below It has been regulated in Government Regulation Number 11 of 2017 concerning Civil Servant Management and State Civil Service Agency Regulation Number 24 of 2017 concerning Procedures for Granting Civil Servant Leave, on the other hand, leave for Judges has so far referred to the same regulations as leave for apparatus in the Supreme Court and the Judicial Bodies Below It, except for sick leave for Judges which is regulated in Supreme Court Regulation Number 7 of 2016 concerning Enforcement of

⁶*Ibid.*

Achmad Ali, *Menguak Tabir Hukum* (Jakarta: Chandra Pratama, 1996).

⁸CNN Indonesia, "Solidaritas Hakim Indonesia Hentikan Aksi Mogok Massal Minta Naik Gaji," CNN Indonesia, 2024, <https://www.cnnindonesia.com/nasional/20241013151419-12-1154856/solidaritas-hakim-indonesia-hentikan-aksi-mogok-massal-minta-naik-gaji>.

⁹Rasmilawanti Rustam, "Apa Dampak Hakim Mogok Kerja? Ini Penjelasan Pakar Hukum Unhas Detiksulsel, 2024, <https://www.detik.com/sulsel/berita/d-7576590/apa-dampak-hakim-mogok-kerja-ini-penjelasan-pakar-hukum-unhas#:~:text=Selain%20itu%2C%20mogok%20kerja%20hakim,%2C%22%20kata%20Prof%20Amir%20Ilyas>.

Work Discipline for Judges at the Supreme Court and the Judicial Bodies Below It. The circular also explains that the authorized official granting leave, personnel management officials, judges, and court officials must understand and pay close attention to the applicable leave regulations. In addition, the authorized official granting leave must pay attention to and follow the rules related to the delegation of leave as stated in this circular.¹⁰ Civil Servant leave is a state of being absent from work that is permitted for a certain period of time.¹¹ Leave is divided into several types, based on Article 310 of the Republic of Indonesia Government Regulation Number 11 of 2017 concerning Civil Servant Management; it explains that leave consists of 7 (seven) types, namely:

Civil servants (PNS) and prospective civil servants who have worked continuously for at least 1 (one) year are entitled to annual leave; the duration of the right to annual leave is 12 (twelve) working days. Annual leave can also be increased if taking annual leave is used where communication is difficult; the annual leave can be increased to a maximum of 12 (twelve) calendar days. Based on Article 313 of the Government Regulation of the Republic of Indonesia Number 11 of 2017 concerning the Management of Civil Servants, the right to yearly leave is cumulative to the following year, namely the right to annual leave that is not used in the year concerned, can be used in the following year for a maximum of 18 (eighteen) working days. Including annual leave in the current year, while the right to annual leave, which is not used for 2 (two) years or more in a row, can be used in the following year for a maximum of 24 (twenty-four) working days, including the right to annual leave in the current year.¹²

Long Leave is regulated in Article 316 - 318 of the Government Regulation of the Republic of Indonesia Number 11 of 2017 concerning Civil Servant Management, in the Article it is explained that Civil Servants who have worked for at least 5 (five) years continuously are entitled to a long leave of a maximum of 3 (three) months, in Article 317 of the Government Regulation of the Republic of Indonesia Number 11 of 2017 concerning Civil Servant Management it is also explained that the right to long leave can be suspended by the PPK or official who receives the delegation of authority to grant the right to long leave for a maximum of 1 (one) year if the service interests are urgent, except for religious interests, in addition to that During the use of the right to long leave, the Civil Servant concerned receives a Civil Servant income.¹³

¹⁰ Mahkamah Agung, "Surat Edaran Sekretaris Mahkamah Agung RI Nomor 13 Tahun 2019 Tentang Pelaksanaan Cuti Bagi Hakim Dan Aparatur Di Lingkungan Mahkamah Agung Dan Badan Peradilan Di Bawahnya," 2019.

¹¹Peraturan Pemerintah Republik Indonesia Nomor 11 Tahun 2017 Tentang Manajemen Pegawai Negeri Sipil., 2017.

¹²Peraturan Pemerintah Republik Indonesia Nomor 11 Tahun 2017 Tentang Manajemen Pegawai Negeri Sipil.

¹³Pasal 316 ayat (1), Pasal 317 dan Pasal 318 Peraturan Pemerintah Republik Indonesia Nomor 11 Tahun 2017 Tentang Manajemen Pegawai Negeri Sipil.

Article 319 of the Republic of Indonesia Government Regulation Number 11 of 2017 concerning Civil Servant Management only explains that every civil servant who is sick has the right to sick leave.¹⁴ For Judges, sick leave is regulated in Supreme Court Regulation Number 7 of 2016 Concerning Enforcement of Work Discipline of Judges at the Supreme Court and the Judicial Bodies below it. Judges absent from work due to illness for more than 2 (two) days but not more than 14 (fourteen) days are required to submit a request for sick leave in writing to the authorized official granting leave by attaching a doctor's certificate. Meanwhile, for Judges who are sick for more than 14 (fourteen) consecutive days and are unable to carry out their duties, they are required to submit a request for sick leave in writing to the authorized official granting leave by attaching a certificate from the Health Examination Team appointed by the Minister of Health/the treating hospital, no later than 7 (seven) days from the fourteenth day of their illness.¹⁵

Maternity leave for female judges is regulated in Article 325 to Article 327 of the Republic of Indonesia Government Regulation Number 11 of 2017 concerning Civil Servant Management, which, in essence, states that civil servants who are about to give birth are given the right to take maternity leave. The civil servant in question receives a civil servant income during the maternity leave.¹⁶

Leave for important reasons includes mother, father, wife or husband, child, sibling, brother/sister, in-law, or son/daughter-in-law who is seriously ill or has died; one of the family members and according to the rules and regulations the civil servant concerned must take care of the rights of the deceased family member; or getting married. In addition, civil servants placed in vulnerable and dangerous representative offices of the Republic of Indonesia can apply for leave for essential reasons to restore the mental condition of the civil servant concerned.¹⁷

Joint leave can be determined by the President, through a Presidential Decree.¹⁸ Leave outside state responsibility is only for civil servants who have worked continuously for at least 5 (five) years for personal and urgent reasons and can be given leave outside

¹⁴Pasal 319 Peraturan Pemerintah Republik Indonesia Nomor 11 Tahun 2017 Tentang Manajemen Pegawai Negeri Sipil.

¹⁵"Pasal 13 Peraturan Mahkamah Agung Nomor 7 Tahun 2016 Tentang Penegakan Disiplin Kerja Hakim Pada Mahkamah Agung Dan Badan Peradilan Di Bawahnya," 2016.

¹⁶ Pasal 327 Peraturan Pemerintah Republik Indonesia Nomor 11 Tahun 2017 Tentang Manajemen Pegawai Negeri Sipil,," 2017.

¹⁷ ¹⁷"Pasal 328 Peraturan Pemerintah Republik Indonesia Nomor 11 Tahun 2017 Tentang Manajemen Pegawai Negeri Sipil,," 2017.

¹⁸"Pasal 333 Peraturan Pemerintah Republik Indonesia Nomor 11 Tahun 2017 Tentang Manajemen Pegawai Negeri Sipil,," 2017.

state responsibility. Leave outside state responsibility can be provided for a maximum of 3 (three) years and extended for 1 (one) year.¹⁹

In Indonesia, the strike actions carried out by judges in October 2024 using their leave rights have led to a temporary halt in the judicial process. This has resulted in prolonged delays in case hearings and affected the timely delivery of justice. The impact of these strikes was highlighted by legal experts such as Prof. Amir Ilyas, who noted that when all judges are on strike, it halts the Court's function, causing material losses to the parties involved and infringing on the rights of justice seekers. This example underscores the delicate balance between judicial rights and the need to ensure justice is delivered without delay

In comparison, in countries like the United States and the United Kingdom, judicial strikes are not permitted due to their potential to disrupt the judicial process and undermine public trust in the rule of law. For example, in the UK, judicial independence is highly protected, and while judges do have constitutional rights, they are not allowed to take part in strikes as it would conflict with their duty to serve the justice system. This contrasts with Indonesia, where judges have the right to strike as a form of protest under the 1945 Constitution, raising questions about the boundaries between constitutional rights and professional responsibilities.

Clearer Regulatory Framework: One solution would be to establish a clearer framework that limits the ability of judges to go on strike while ensuring that their constitutional rights to protest are still respected. For instance, judges could be given the right to express grievances through other channels such as organized forums or non-disruptive demonstrations, rather than halting their judicial duties.

Mediation and Dialogue Channels: Establishing regular communication channels between the judiciary, the government, and other stakeholders could help address grievances without resorting to strikes. A formalized grievance mechanism, possibly overseen by the Judicial Commission, could allow judges to voice concerns, particularly about salary increases, in a constructive manner without interrupting their duties.

Reforming Leave Policies: The existing leave policies could be reformed to more specifically address situations like strikes. By limiting the conditions under which judges can take extended leave (beyond their regular entitlements), and ensuring that any leave for protest purposes is strictly regulated and does not interfere with court operations, the potential for judicial strikes could be minimized.

¹⁹"Pasal 334 Peraturan Pemerintah Republik Indonesia Nomor 11 Tahun 2017 Tentang Manajemen Pegawai Negeri Sipil," 2017.

International Best Practices: Drawing from best practices in countries like Germany or Canada, where the judicial system emphasizes both independence and professional conduct, Indonesia could consider implementing policies that protect the right to protest while preserving the uninterrupted function of the judiciary. These countries balance judicial independence with accountability, ensuring that protests do not impede justice.

Based on the provisions above, it can be concluded that a Judge is legally absent from work only based on the 7 (seven) reasons above, so based on Article 15 of Supreme Court Regulation Number 7 of 2016 concerning the Enforcement of Work Discipline of Judges at the Supreme Court and the Judicial Bodies Below it, it is stated that a Judge who does not comply with the provisions for coming to work and working hours 3 (three) times in 1 (one) month, is summoned by the Responsible Officer to be heard regarding his/her reasons for not complying with the provisions for coming to work and working hours.²⁰ According to several mass media, the strike carried out by judges in Indonesia is indeed using their leave rights, which may be legally justified. However, the strike by the judges has had a significant impact on the law enforcement process in Indonesia, especially justice and legal certainty are delayed, as felt by the justice seekers, given that before being appointed as a judge, the judges had taken their oath, one of which firmly swore "that in carrying out my duties I will always uphold the law, justice, not be partial and not look at people; that I will work for the interests of the State, as a sincere, pious, careful and enthusiastic employee of the judiciary".²¹

3.2. Possible ethical sanctions against judges involved in a strike

Judges, in carrying out their duties, are often referred to as God's representatives in the world or demigods because of the great authority given by judges, so they are expected to be the last bastion in upholding justice. On the other hand, in carrying out their duties, judges are also based on a code of ethics that binds them. The word "ethics" comes from Greek, namely ethos, which means customs (habits), inner feelings, and tendencies of the heart to do deeds or teach about the nobility of good and bad character.²² Meanwhile, Franz Magnis Suseno's "Basic Ethics, Main Problems of Moral Philosophy " argues that it is not an additional source for moral teachings but rather a philosophy or fundamental critical thinking regarding moral teachings and views. Ethics is

²⁰"Pasal 15 Peraturan Mahkamah Agung Nomor 7 Tahun 2016 Tentang Penegakan Disiplin Kerja Hakim Pada Mahkamah Agung Dan Badan Peradilan Di Bawahnya," 2016.

²¹"Pasal 2 Peraturan Pemerintah Nomor 10 Tahun 1947 Tentang Sumpah Jabatan Untuk Hakim, Jaksa, Panitera Serta Panitera Pengganti," 1947.

²²M. Yatimim Abdullah, Pengantar Study Etika (Jakarta: PT Raja Grafindo Persada, 2006), h. 4.

a science, not a learning.²³ Ethics enable us to confront ideologies critically and objectively. They also help us not to be easily provoked, naive, or extreme.²⁴

Ethics can also be understood as a collection of principles or norms commonly known as a code of ethics.²⁵ In carrying out his duties and authorities, a judge is bound by the code of ethics for judges as regulated in the Joint Decree (S.K.B.) 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 and Number: 02/SKB/P.KY/IV/2009 Concerning the Code of Ethics and Guidelines for Judges' Conduct. The S.K.B. explains several fundamental principles of the code of ethics and guidelines for judges' conduct, briefly described as follows:²⁶

Judges are entrusted with the critical responsibility of ensuring justice through fairness, honesty, and integrity. They must act impartially, ensuring that each individual is treated justly and that the law is applied equally to all. This requires not only an adherence to the law but also wisdom and prudence in making decisions, taking into account the social context, potential consequences, and moral considerations of each case. Judges must maintain independence from external influences to ensure their judgments are free and based solely on the law, upholding their integrity and reputation. Their professionalism demands discipline and a commitment to maintaining public trust, which can only be achieved through consistent, responsible actions. In addition to their legal and moral duties, judges must also be humble and aware of their limitations, remaining open to learning and valuing others' perspectives. They must uphold both their personal dignity and the dignity of the judiciary, recognizing that their conduct reflects the values of the legal system. Through their ability to balance fairness, wisdom, and integrity, judges not only safeguard the law but also ensure that justice is served in a manner that promotes societal trust and respect for the legal system.

The sanctions applied to judges who violate the code of ethics as regulated in Chapter V of the 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/2012, concerning the Code of Ethics and Guidelines for Judges' Conduct. The Joint Regulation regulates the sanctions given to judges who violate the Code of Ethics and Guidelines for Judges' Conduct, including light, medium, and heavy sanctions. Light

²³Franz Magnis Suseno, *Etika Dasar Masalah-Masalah Pokok Filsafat Moral* (Yogyakarta: Kanisius, 1987).

²⁴Suseno, h. 16.

²⁵Suseno, h. 31.

²⁶Mahkamah Agung, "KEPUTUSAN BERSAMA KETUA MAHKAMAH AGUNG RI DAN KETUA KOMISI YUDISIAL RI NOMOR: 047/KMA/SKB/IV/2009 02/SKB/P.KY/IV/2009 TENTANG KODE ETIK DAN PEDOMAN PERILAKU HAKIM."

sanctions consist of verbal warnings, written warnings, and verbal statements of dissatisfaction. Medium sanctions include postponing periodic salary increases for a maximum of 1 (one) year, a salary reduction of 1 (one) time periodic salary increases for a maximum of 1 (one) year, postponing promotions for a maximum of 1 (one) year, non-hammer judges for a maximum of 6 (six) months, transfers to other courts with a lower class and cancellation or suspension of promotions. Meanwhile, severe sanctions consist of dismissal from office, non-hammer judges for more than 6 (six) months and a maximum of 2 (two) years, demotion to a rank one level lower for a maximum of 3 (three) years, permanent suspension with pension rights and a dishonorable discharge.²⁷ The Supreme Court and the Judicial Commission have the authority to conduct investigations into alleged violations committed by a judge.²⁸

3.3. Legal Review of Strikes Among Judges

This study shows that playing the role of judges reduces credibility and public trust. From a legal perspective, recording by judges is problematic because they are citizens who are given constitutional rights, including the right to record as part of freedom of association. However, as state officials responsible for maintaining justice, such actions can be considered contrary to the code of ethics of the judge's profession, which demands high integrity, professionalism, and independence.²⁹

Given the strategic role of judges in maintaining justice and legal order, the impact of judicial strikes on the credibility of the judiciary and the public is complex. First, a judge strike will likely undermine public trust in the judicial system. Traditionally considered professionals and neutral, judges have a moral and ethical responsibility to decide cases independently. If they engage in a strike, the public may see this as an indication that judges prioritize personal interests, especially in demands for a pay raise, over their primary duty to uphold the law. This decline in trust can spread throughout the judicial system, leading to a negative perception of its ability to maintain its independence and autonomy amidst the personal interests of its officers.³⁰

²⁷Mahkamah Agung, Pasal 19.

²⁸Mahkamah Agung, Pasal 15.

²⁹Melissa N. Baker and Kayla S. Canelo, "Judges Behaving Badly: Judicial Misconduct and a Threat to Rights," *Journal of Experimental Political Science*, August 29, 2024, 1–10, <https://doi.org/10.1017/XPS.2024.8>; Randy R Goldson, "Regaining the Public Trust: How Transparency & Ethics Can Save the U.S. Supreme Court from Its Legitimacy Crisis," *Judicature* 106, no. 2 (2024), https://judicature.duke.edu/wp-content/uploads/2022/09/FAITH_Summer2022-1.pdf.

³⁰Goldson, "Regaining the Public Trust: How Transparency & Ethics Can Save the U.S. Supreme Court from Its Legitimacy Crisis."

Strikes among civil servants, including judges, are sensitive issues that involve balancing individual rights as workers and professional responsibilities as public officials. In Indonesia, the right to strike is constitutionally recognized through freedom of association (Article 28E of the 1945 Constitution). However, civil servants (PNS), including judges, face strict restrictions regarding strike action. This is regulated in Law No. 5 of 2014 concerning the State Civil Apparatus (A.S.N.) and Government Regulation No. 53 of 2010 concerning Civil Servant Discipline, which states that A.S.N. must maintain professionalism and not disrupt public service stability.³¹

As officials who function to maintain justice, judges are expected to be independent and maintain their integrity, as stated in the Code of Ethics and Guidelines for Judges' Conduct (KEPPH). KEPPH emphasizes that judges must uphold the dignity and honor of the profession and refrain from actions that could damage the judiciary's image. Strikes, especially those concerning salary issues, can be seen as violating this code of ethics because they prioritize personal interests over professional duties. For example, if a judge is involved in a strike, the public could question their credibility as a neutral and professional law enforcer.³²

To date, no legal precedent or policy allows judges in Indonesia to go on strike, and judicial officials consider such action to be a violation of civil servant discipline that can result in severe sanctions. If a strike occurs among judges, the impact will be very significant for the smooth running of the judicial process, especially considering Indonesia's high backlog of cases. The suspension or postponement of trials due to a strike can hurt the principle of justice that must be upheld immediately. Defendants, victims, and parties claiming their rights in court may have to wait longer, exacerbating delays and causing prolonged legal uncertainty. In terms of perception, a judge's strike also raises questions about their independence, as the public may see the action as an indication that the judge is not entirely neutral and is driven by personal interests, especially regarding financial rights. The independence of judges, which is the main foundation in ensuring fair decisions, can be considered compromised if a strike is carried out, and this can undermine public confidence that the decisions taken are accessible from outside influence, including economic influence. In addition, a strike by judges poses a significant risk to the credibility

³¹Ahmad Syahrus Sikti, "Strategi Memperkuat Integritas Lembaga Peradilan Indonesia," *Judex Laguens* 1, no. 1 (2023): 1–34, <https://judexlaguens.ikahi.or.id/index.php/JL/article/view/11>; Salahudin Salahudin, Siti Hasanah, and Firzhal Arzhi Jiwantara, "The Enforcement of Disciplinary Sanctions Against Civil Servants Based On Law Number 20 Of 2023," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 23, no. 2 (July 1, 2024): 1192, <https://doi.org/10.31941/pj.v23i2.4074>.

³²H Abid and Edi Rohaedi, "The Urgency of Judge Integrity in Implementation of Law Enforcement and Justice in Indonesia," *International Journal of Multicultural and Multireligious Understanding* 7, no. 1 (2020): 379–84, <https://doi.org/http://dx.doi.org/10.18415/ijmmu.v7i1.1368>.

of the judicial institution. As one of the main pillars of a state based on the rule of law, the judiciary is expected to operate stably and without disruption, but strikes indicate severe problems in managing human resources and welfare within the institution. The judiciary's credibility can be threatened if the public sees that the institution cannot maintain its internal stability or fails to address issues of welfare for its members.³³

On the other hand, judicial strikes also have significant social and political dimensions. Strikes by public officials, especially from the judicial sector, are often considered unusual because legal regulations usually limit the right to strike in this sector. In some countries, judicial strikes are seen as a direct protest against Government policies, especially related to employee remuneration or welfare, which in some cases can worsen relations between the executive and the judiciary and trigger major policy reforms related to the employment system in the public sector.³⁴

Many countries have faced situations where judges have threatened or gone on strike, and Government responses to this have varied based on local constitutions and regulations. Here are some concrete examples:

Mexico In August 2024, federal judges in Mexico went on strike in protest against judicial reforms proposed by President Andrés Manuel López Obrador. These reforms included capping judges' salaries so that they did not exceed the president's salary and changing the judicial selection system. The strike temporarily suspended many cases, with only those deemed urgent being heard during the strike period. The public became increasingly dissatisfied with the justice system, which affected economic stability due to legal uncertainty. The Government eventually responded by offering dialogue and improving remuneration policies to end the strike.³⁵

Greece (2012-2013) During the European economic crisis, Greece implemented austerity measures, including cutting judges' salaries by 40%. In protest, judges in Greece

³³Fairuz Zahirah Zihni Hamdan, Dwi Rahayu Kristianti, and Vincentius Verdian, "Limitation of Misconduct of Judges: Increasing The Synergy of Supervision of Judges by The Judicial Commission and The Supreme Court," *Yuridika* 38, no. 2 (May 1, 2022): 371–88, <https://doi.org/10.20473/ydk.v38i2.45472>; Simon Butt, "Indonesia's Anti-Corruption Courts and the Persistence of Judicial Culture," *In The Politics of Court Reform: Judicial Change and Legal Culture in Indonesia*, 2019, 151–73.

³⁴TOMMASO PAVONE and ØYVIND STIANSEN, "The Shadow Effect of Courts: Judicial Review and the Politics of Preemptive Reform," *American Political Science Review* 116, no. 1 (February 26, 2022): 322–36, <https://doi.org/10.1017/S0003055421000873>; Nagarajan, "Judicial Overreach: Balancing Judicial Activism and Constitutional Boundaries," *International Journal of Research in Social Sciences* 9, no. 1 (2019).

³⁵ "Mexico Judges End Strike and Vow Job Action Against Judicial Reforms," JURIST, 2024, <https://www.jurist.org/news/2024/10/mexico-judges-end-strike-and-vow-job-action-against-judicial-reforms/>.

went on strike and refused to resolve cases in court. This strike lasted for months and caused chaos in

The judicial system. The Greek Government eventually negotiated with the judges, resulting in a compromise in the form of a gradual increase in judges' salaries as the country's economic situation improved.³⁶

In France in 2018, while strikes were generally permitted for public servants, judges were prohibited from going on strike. However, in 2018, the union representing judges in France organized a "slow walk" in which judges deliberately slowed down court proceedings in protest of judicial reforms. This was not officially considered a strike, but it still significantly impacted the country's legal process. The Government responded by providing space for dialogue and promising more inclusive reforms to judicial policy.

Similar research in the United States highlights how strikes can impact perceptions of judicial integrity. A study by the Minnesota Undergraduate Research & Academic Journal found that salary increases did not necessarily correlate directly with a decrease in ethical violations by judges. However, other factors, such as the budget for an ethics oversight board, significantly influenced the number of ethics complaints against judges. Minnesota Undergraduate Research & Academic Journal This suggests that while strikes can respond to salary issues, a more effective solution may lie in better oversight of ethical violations.³⁷

This case study concludes that a judge strike has significant consequences beyond personal welfare issues. This action directly impacts public trust, the smoothness of the judicial process, and the credibility of the legal institution as a whole.

Table 1. Implications of Judges' Strikes, International Case Studies, Constitutional and Ethical Rights Conflicts, and Alternative Solutions

Implications of Judges' Strike	International Case Studies	Constitutional Rights	Ethics of Alternative Solutions
Decline in Public Trust	Mexico (2024): Judges' strike due to judicial reform led to public	Constitutional right to strike is recognized, but for judges, striking	Establishment of an independent judicial remuneration

³⁶"Anti-Austerity Rallies Spark Clashes in Greece," DW, 2012, <https://www.dw.com/en/anti-austerity-rallies-spark-clashes-in-greece/a-16268059>.

³⁷Devin Wesenberg, "The Effect of Wage Increases on Judicial Corruption," *Minnesota Undergraduate Research & Academic Journal* 5, no. 4 (2022).

	dissatisfaction and economic uncertainty.	damages public trust in their integrity.	commission to objectively manage salaries.
Disruption of Judicial Process	Greece (2012-2013): Judges struck over salary cuts during the economic crisis. Government negotiated and ended the protest with wage concessions.	Judicial ethics demand high professionalism; strikes are seen as a conflict of personal interests with the duty to uphold justice.	Establishing an institutionalized social dialogue between judges and the government regarding welfare.
Questions of Judicial Independence	<i>France (2018):</i> Judges conducted a slowdown movement to protest reforms, slowing processes without fully halting court operations.	Strikes may compromise judicial neutrality, raising concerns about whether decisions are based on personal or public interest.	Using a slowdown as a form of protest that does not fully halt judicial proceedings.
Threat to Judicial Institution's Credibility	USA (2022): Studies show salary increases do not directly reduce ethical breaches; increased oversight budget is more effective.	Judicial credibility may be threatened if judges strike, signaling institutional failure to maintain stability and judge welfare.	Enhancing transparency in the remuneration system to ensure fairness in compensation.
Social and Political Impact	Greece & Mexico: Judicial strikes directly affect political and economic stability, particularly impacting investor confidence in legal certainty.	Judicial strikes provoke broader societal issues, affecting both judicial operations and executive-judicial relations, often prompting public sector reform.	Ensuring judges' involvement in policy dialogue without the need for disruptive strikes.

Source : Lohier and Levi 2022, Reed Smith 2024, Wesenberg 2022, dan The Mexico City Post 2024³⁸

4. CONCLUSION

This study examines the conflict between judges' constitutional rights to work as citizens and the professional code of ethics, which demands integrity and neutrality in judicial duties. Through a normative approach involving regulatory review, case analysis, and international policy comparison, the study finds that while the right to work, as part of freedom of association guaranteed by Article 28E of the 1945 Constitution, is acknowledged, its application to judges presents significant challenges. Judges, as justice enforcers, bear a heightened duty to uphold the profession's dignity, and engaging in work actions for salary demands risks damaging their credibility and public trust in the judiciary. The research reveals that work actions by judges in Indonesia often lead to ethical breaches, as outlined in the Code of Ethics and Guidelines for Judges' Conduct (KEPPH), where such actions can be viewed as prioritizing personal interests over legal duties, potentially delaying case handling and affecting the justice-seeking public. Comparative studies with other nations indicate that judges' involvement in such actions harms public perception and disrupts judicial institution stability. To address this, the study recommends establishing stricter regulations on judges' work rights and restrictions, alongside comprehensive welfare policies, to fulfill judges' economic needs without compromising professional ethics. With clear regulations, a balance can be achieved between respecting judges' constitutional rights and their duty to maintain judicial integrity and public trust.

ACKNOWLEDGEMENT

The authors sincerely thank the institutions and individuals who contributed to this research. Thanks to Universitas Islam Indonesia and Universitas Atma Jaya for supporting and resources throughout the study. We acknowledge the invaluable guidance from our advisors, whose insights greatly enhanced the quality of this article. Our appreciation goes to the proofreaders and reviewers who offered constructive feedback, helping us improve the clarity and coherence of our writing. Finally, we thank all other parties who contributed to this work in any capacity.

REFERENCE

Abdullah, M. Yatimim. Pengantar Study Etika. Jakarta: PT Raja Grafindo Persada, 2006.

³⁸Goldson, "Regaining the Public Trust: How Transparency & Ethics Can Save the U.S. Supreme Court from Its Legitimacy Crisis"; Wesenberg, "The Effect of Wage Increases on Judicial Corruption"; Reed Smith, "Mexican Judicial Reform and Its Implications," 2024, <https://www.reedsmith.com/en/perspectives/2024/08/mexican-judicial-reform-and-its-implications/>; "Mexican Judicial Reform: What Are Its Implications?," The Mexico City Post, 2024, <https://themexicocitypost.com/2024/08/31/mexican-judicial-reform-what-are-its-implications/>.

- Abid, H, and Edi Rohaedi. "The Urgency of Judge Integrity in Implementation of Law Enforcement and Justice in Indonesia." *International Journal of Multicultural and Multireligious Understanding* 7, no. 1 (2020): 379–84. <https://doi.org/http://dx.doi.org/10.18415/ijmmu.v7i1.1368>.
- Ali, Achmad. *Menguak Tabir Hukum*. Jakarta: Chandra Pratama, 1996.
- Baker, Melissa N., and Kayla S. Canelo. "Judges Behaving Badly: Judicial Misconduct and a Threat to Rights." *Journal of Experimental Political Science*, August 29, 2024, 1–10. <https://doi.org/10.1017/XPS.2024.8>.
- Butt, Simon. "Indonesia's Anti-Corruption Courts and the Persistence of Judicial Culture." In *The Politics of Court Reform: Judicial Change and Legal Culture in Indonesia*, 2019, 151–73.
- CNN Indonesia. "Solidaritas Hakim Indonesia Hentikan Aksi Mogok Massal Minta Naik Gaji." *CNN Indonesia*, 2024. <https://www.cnnindonesia.com/nasional/20241013151419-12-1154856/solidaritas-hakim-indonesia-hentikan-aksi-mogok-massal-minta-naik-gaji>.
- DW. "Anti-Austerity Rallies Spark Clashes in Greece," 2012. <https://www.dw.com/en/anti-austerity-rallies-spark-clashes-in-greece/a-16268059>.
- Goldson, Randy R. "Regaining the Public Trust: How Transparency & Ethics Can Save the U.S. Supreme Court from Its Legitimacy Crisis." *Judicature* 106, no. 2 (2024). https://judicature.duke.edu/wp-content/uploads/2022/09/FAITH_Summer2022-1.pdf.
- Hamdan, Fairuz Zahirah Zihni, Dwi Rahayu Kristianti, and Vincentius Verdian. "Limitation of Misconduct of Judges: Increasing The Synergy of Supervision of Judges by The Judicial Commission and The Supreme Court." *Yuridika* 38, no. 2 (May 1, 2022): 371–88. <https://doi.org/10.20473/ydk.v38i2.45472>.
- JURIST. "Mexico Judges End Strike and Vow Job Action Against Judicial Reforms," 2024. <https://www.jurist.org/news/2024/10/mexico-judges-end-strike-and-vow-job-action-against-judicial-reforms/>.
- Mahkamah Agung. "KEPUTUSAN BERSAMA KETUA MAHKAMAH AGUNG RI DAN KETUA KOMISI YUDISIAL RI NOMOR: 047/KMA/SKB/IV/2009

- 02/SKB/P.KY/IV/2009 TENTANG KODE ETIK DAN PEDOMAN PERILAKU HAKIM." Jakarta, 2009.
- . "Surat Edaran Sekretaris Mahkamah Agung RI Nomor 13 Tahun 2019 Tentang Pelaksanaan Cuti Bagi Hakim Dan Aparatur Di Lingkungan Mahkamah Agung Dan Badan Peradilan Di Bawahnya," 2019.
- Miao, Senlin, Gary Gang Tian, Fenghua Wen, and Jinli Xiao. "The Independence of Judges and Corporate Social Responsibility." *Journal of Business Ethics* 193, no. 3 (September 30, 2024): 633–53. <https://doi.org/10.1007/s10551-023-05540-8>.
- Muhammad Rafli, and Kayus Kayowuan. "Etika Profesi Hakim Dalam Melaksanakan Tugas Dan Tanggung Jawab Dalam Penegakan Hukum." *Madani: Jurnal Ilmiah Multidisiplin* 1, no. 11 (2023): 342–49.
- Nagarajan. "Judicial Overreach: Balancing Judicial Activism and Constitutional Boundaries." *International Journal of Research in Social Sciences* 9, no. 1 (2019).
- Peraturan Pemerintah Republik Indonesia Nomor 11 Tahun 2017 Tentang Manajemen Pegawai Negeri Sipil,," 2017.
- Peraturan Pemerintah Nomor 10 Tahun 1947 Tentang Sumpah Jabatan Untuk Hakim, Jaksa, Panitera Serta Panitera Pengganti," 1947.
- Undang-Undang Republik Indonesia Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman,," 2009.
- Undang-Undang Republik Indonesia Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman,," 2009.
- Peraturan Mahkamah Agung Nomor 7 Tahun 2016 Tentang Penegakan Disiplin Kerja Hakim Pada Mahkamah Agung Dan Badan Peradilan Di Bawahnya," 2016.
- Peraturan Pemerintah Republik Indonesia Nomor 11 Tahun 2017 Tentang Manajemen Pegawai Negeri Sipil,," 2017.
- PAVONE, TOMMASO, and ØYVIND STIANSEN. "The Shadow Effect of Courts: Judicial Review and the Politics of Preemptive Reform." *American Political Science Review* 116, no. 1 (February 26, 2022): 322–36. <https://doi.org/10.1017/S0003055421000873>.
- Rustam, Rasmilawanti. "Apa Dampak Hakim Mogok Kerja? Ini Penjelasan Pakar Hukum Unhas Baca Artikel Detiksulsel, Apa Dampak Hakim Mogok

- Kerja? Ini Penjelasan Pakar Hukum Unhas." Detiksulsel, 2024. <https://www.detik.com/sulsel/berita/d-7576590/apa-dampak-hakim-mogok-kerja-ini-penjelasan-pakar-hukum-unhas#:~:text=Selain%20itu%2C%20mogok%20kerja%20hakim,%2C%22%20kata%20Prof%20Amir%20Ilyas.>
- Salahudin, Salahudin, Siti Hasanah, and Firzhal Arzhi Jiwantara. "The Enforcement of Disciplinary Sanctions Against Civil Servants Based On Law Number 20 Of 2023." *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 23, no. 2 (July 1, 2024): 1192. <https://doi.org/10.31941/pj.v23i2.4074>.
- Sikti, Ahmad Syahrus. "Strategi Memperkuat Integritas Lembaga Peradilan Indonesia." *Judex Laguens* 1, no. 1 (2023): 1–34. <https://judexlaguens.ikahi.or.id/index.php/JL/article/view/11>.
- Smith, Reed. "Mexican Judicial Reform and Its Implications," 2024. <https://www.reedsmith.com/en/perspectives/2024/08/mexican-judicial-reform-and-its-implications>.
- Suseno, Franz Magnis. *Etika Dasar Masalah-Masalah Pokok Filsafat Moral*. Yogyakarta: Kanisius, 1987.
- Syahwal. "Menilik Konsepsi Filosofis Dalam Konstruksi Yuridis Mogok Kerja Sebagai Upaya Pemenuhan Hak Pekerja/Buruh Di Indonesia." *JURNAL JENTERA* 4, no. 2 (2021).
- The Mexico City Post. "Mexican Judicial Reform: What Are Its Implications? ," 2024. <https://themexicocitypost.com/2024/08/31/mexican-judicial-reform-what-are-its-implications/>.
- Wesenberg, Devin. "The Effect of Wage Increases on Judicial Corruption." *Minnesota Undergraduate Research & Academic Journal* 5, no. 4 (2022).