

THE CONCEPT OF A NATIONAL COURT OF ETHICS IN JIMLY ASSHIDDIQIE'S THOUGHT AND ITS RELEVANCE TO STRENGTHENING THE RULE OF LAW: A SIYASAH DUSTURIYAH PERSPECTIVE

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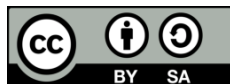
*National Ethics Court;
Jimly Asshiddiqie;
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Abstract

This study examines the idea of a National Ethics Court in Jimly Asshiddiqie's thought and its relevance to strengthening the rule of law in Indonesia from the perspective of Siyasah Dusturiyah. The study is motivated by the sectoral nature of the ethical enforcement system for state officials, resulting in the supervision of integrity, propriety, and moral responsibility of public officials not yet being fully integrated. This research employs a normative juridical method using statutory, conceptual, and Siyasah Dusturiyah approaches. Legal materials were obtained through library research and analyzed descriptively and analytically. The results show that the idea of a National Ethics Court represents an effort to institutionalize the principle of rule of ethics as a complement to the rule of law. In contrast to Hans Kelsen, who separates law from ethics in his Pure Theory of Law, Jimly Asshiddiqie places ethics as an important element in the administration of a democratic state based on the rule of law. From the perspective of Siyasah Dusturiyah, this idea is consistent with the principles of trust (amanah), justice ('adl), and public interest (maslahah). A National Ethics Court can serve as an instrument to strengthen integrity, accountability, and supervision over the exercise of state power, ensuring that governance is based not only on legality but also on propriety and public welfare.

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1. INTRODUCTION

Indonesia is constitutionally affirmed as a state governed by law, as stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This provision places law at the core of the exercise of state power, the limitation of governmental authority, and the protection of citizens' rights. In contemporary constitutional practice, however, strengthening the rule of law cannot rely solely on compliance with formal legal norms. The exercise of public authority also requires ethical conduct, integrity, propriety, and moral responsibility so that the actions of public officials are not only legally valid but also ethically accountable and oriented toward the public interest. Accordingly, the rule of law should be understood not merely as a system of legality, but also as a framework for the exercise of public power that demands honesty, trustworthiness, and public accountability (Republik Indonesia, 1945; Wahyudinsyah et al., 2024).

Ethical misconduct among state officials remains a significant concern in Indonesia, particularly because enforcement mechanisms operate sectorally within individual institutions. The Election Organizer Ethics Council (Dewan Kehormatan Penyelenggara Pemilu), the House Ethics Council



(Mahkamah Kehormatan Dewan), the Judicial Commission, and various other ethics bodies each apply different codes of ethics, procedures, and investigative powers. This institutional arrangement indicates that Indonesia has yet to develop a fully integrated national ethical framework capable of ensuring consistent standards of integrity, propriety, and moral accountability among public officials. The problem extends beyond the mere existence of ethical codes and encompasses the effectiveness of oversight, the authority of ethics institutions, organizational culture, and the consistency of ethical enforcement across state institutions. Consequently, the fragmentation of the ethical governance system may weaken oversight of abuses of power and undermine public trust in state institutions (Warsyim & Harmoko, 2023; Wahyudinsyah et al., 2024).

Within this context, Jimly Asshiddiqie's idea of establishing a National Ethics Court becomes particularly relevant as an institutional strategy for strengthening the rule of law through the institutionalization of ethics. Asshiddiqie argues that "a democratic state governed by law in the contemporary era cannot rely solely on the principle of the rule of law, but must also be complemented by the principle of the rule of ethics" (Asshiddiqie, 2022). This perspective suggests that the governance of the state cannot be assessed solely on the basis of formal legality; it must also encompass propriety, the dignity of public office, integrity, and the moral responsibility of state officials. From this perspective, the National Ethics Court may be understood as an institutional mechanism designed to strengthen ethical oversight of public officials, ensuring that public power is exercised not merely according to what is legally permissible but also according to what is proper, just, and beneficial to society.

Asshiddiqie's conception represents a paradigmatic contrast to Hans Kelsen's approach in Pure Theory of Law. Kelsen sought to separate law from elements external to the legal system, including politics, ethics, sociology, and psychology. From his perspective, legal science should confine itself to law as an autonomous system of norms, meaning that the validity of law is not determined by moral or ethical considerations (Kelsen, 1967). Asshiddiqie, by contrast, does not negate the importance of law as the foundation of legality. Rather, he maintains that, within the practice of a democratic constitutional state, ethics must operate alongside law. This distinction is important because it demonstrates that the proposed National Ethics Court is not intended to replace the law, but rather to complement the rule of law with a rule of ethics. Law therefore remains the basis of the legality of public authority, while ethics serves as an instrument for assessing the propriety and integrity with which that authority is exercised.

From the perspective of *Siyasah Dusturiyah*, or Islamic constitutional governance, the idea of a National Ethics Court also has a strong normative foundation because public authority is regarded as a trust (*amanah*) that must be exercised justly and responsibly. This principle is consistent with Qur'an, Surah An-Nisa' [4]:58:

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا

Meaning: "Indeed, Allah commands you to return trusts to their rightful owners, and when you judge between people, to judge with justice. Excellent indeed is what Allah instructs you. Indeed, Allah is All-Hearing, All-Seeing" (Kementerian Agama Republik Indonesia, 2019).

This verse emphasizes that the exercise of public authority cannot be separated from the principles of trustworthiness and justice. In the context of a National Ethics Court, the principle of *amanah* requires public officials to exercise their authority responsibly, while the principle of justice demands the existence of an effective oversight mechanism to prevent abuses of power and ensure that public authority remains directed toward the welfare and public good (*maslahah*) of the people (Akmal et al., 2025; Syamsuddini, 2022).

Previous studies have examined ethical enforcement within specific institutions and professions, including the implementation of ethical codes for state officials, the strengthening of ethics as a means of corruption prevention, the ethical accountability of election administrators, and the professional code of ethics of the police from the perspective of *Siyasah Dusturiyah*. Nevertheless, studies that specifically connect Jimly Asshiddiqie's conception of a National Ethics Court with the strengthening of Indonesia's rule-of-law system through the perspective of *Siyasah Dusturiyah* remain limited. This study offers a novel contribution by integrating Asshiddiqie's concept of the rule of ethics, a critical engagement with Kelsen's separation of law and ethics, and the principles of *amanah*, justice, and *maslahah* within *Siyasah Dusturiyah*. Against this background, the study aims to analyze the concept of a National Ethics Court in Jimly Asshiddiqie's thought and to examine its relevance to strengthening the rule of law in Indonesia from the perspective of *Siyasah Dusturiyah*. In doing so, this study is expected to contribute to the development of constitutional law, constitutional ethics, and Islamic

political thought by proposing a more integrated, integrity-based, and public-interest-oriented model of ethical oversight for state officials..

2. RESEARCH METHOD

This study employs a normative juridical legal research method, focusing on the examination of legal norms, doctrines, principles, concepts, and legal thought relevant to Jimly Asshiddiqie's idea of a National Ethics Court and its relevance to strengthening the rule of law in Indonesia. The normative juridical method was selected because the primary object of this study is not the empirical behavior of society, but rather institutional ideas, principles of the rule of law, ethics of state officials, and the concept of *Siyasah Dusturiyah* as a normative framework for analyzing the ethical oversight of public power. Normative legal research is used to examine legal materials through legal reasoning, conceptual interpretation, and analysis of the principles underlying the formation of legal norms and state institutions (Sukiati, 2016; Yanova et al., 2023). Accordingly, this study is positioned as a conceptual-normative inquiry that seeks to explain the position of the National Ethics Court as an institutional idea for strengthening the rule of ethics within a state governed by law.

The study employs statutory, conceptual, and *Siyasah Dusturiyah* approaches. The statutory approach is used to examine the constitutional foundations of Indonesia as a state governed by law, particularly Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, as well as laws, regulations, and ethical mechanisms governing state officials. The conceptual approach is used to analyze the concepts of the rule of law, the rule of ethics, the ethics of state officials, and Jimly Asshiddiqie's conception of a National Ethics Court, including its comparison with Hans Kelsen's theory, which separates law from ethics within the Pure Theory of Law. Meanwhile, the *Siyasah Dusturiyah* approach is employed to assess the relevance of this idea through the principles of *amanah* (trustworthiness), justice, responsibility, and *maslahah* (public welfare) in Islamic constitutional governance. The combination of these three approaches enables the analysis to move beyond formal-legal considerations and encompass both ethical and Islamic normative dimensions in the exercise of state power (Disemadi, 2022; Akmal et al., 2025).

The legal materials used in this study consist of primary, secondary, and tertiary legal materials collected through library research. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, laws and regulations concerning the rule of law and the ethical conduct of state officials, as well as the Qur'an and Hadith as normative foundations within the framework of *Siyasah Dusturiyah*. Secondary legal materials include books, scholarly journal articles, research findings, and other literature addressing Jimly Asshiddiqie's thought, the rule of ethics, constitutional ethics, the rule of law, and *Siyasah Dusturiyah*. Tertiary legal materials consist of legal dictionaries, encyclopedias, and other supporting sources used to clarify relevant terminology and concepts. All legal materials were analyzed qualitatively using a descriptive-analytical method. The analysis involved identifying the concept of the National Ethics Court, elaborating its conceptual foundations, and examining its relevance to strengthening the rule of law in Indonesia based on the principles of the rule of ethics, *amanah*, justice, and *maslahah*. Conclusions were drawn deductively, moving from general principles and concepts concerning the rule of law, ethics, and *Siyasah Dusturiyah* toward a specific analysis of the urgency of a National Ethics Court as an institutional model for the ethical oversight of state officials (Sukiati, 2016; Disemadi, 2022).

3. RESULT AND ANALYSIS

The Concept of a National Ethics Court in Jimly Asshiddiqie's Thought

The findings indicate that Jimly Asshiddiqie's idea of a National Ethics Court originates from the need to strengthen the rule of law through the institutionalization of ethical standards for state officials. In the Indonesian context, the rule of law cannot be understood merely as a system that places law at the foundation of the legality of state power; it must also be viewed as a system that demands integrity, propriety, the dignity of public office, and the moral responsibility of public officials. The normative findings of this study demonstrate that the principal problem in the ethical oversight of state officials lies not merely in the absence of ethical codes, but in the lack of an integrated mechanism for ethical supervision across state institutions. The National Ethics Court may therefore be understood as a

conceptual effort to establish a more coherent, authoritative, and effective ethical framework for strengthening a democratic state governed by law.

Jimly Asshiddiqie argues that “a democratic state governed by law in the contemporary era cannot rely solely on the principle of the rule of law, but must also be complemented by the principle of the rule of ethics” (Asshiddiqie, 2022). This statement provides an important foundation for understanding that a modern constitutional state requires a balance between legal certainty and ethical propriety. The rule of law provides the legal basis for the actions of state officials, whereas the rule of ethics establishes the moral standards governing how public authority should be exercised. Accordingly, the conduct of public officials should not be evaluated solely on the basis of whether it constitutes a legal violation, but also according to whether it is proper, just, consistent with integrity, and compatible with the dignity of public office.

From an interpretative perspective, Asshiddiqie’s idea broadens the concept of the rule of law from government merely governed by legal rules to government that is also constrained by ethical standards. In the administration of the state, certain acts committed by public officials may not directly satisfy the elements of criminal, administrative, or civil wrongdoing, yet may still undermine public trust, diminish the dignity of public office, or reveal conflicts of interest. It is precisely within this sphere that the rule of ethics becomes particularly important. Ethics functions as a mechanism for controlling the exercise of power by requiring state officials to act not merely according to what is formally permissible, but also according to what is morally appropriate and institutionally responsible (Asshiddiqie, 2022).

The findings further demonstrate that the idea of a National Ethics Court is relevant to Indonesia’s current ethical governance system, which remains largely sectoral and fragmented. Various state institutions already possess their own ethical mechanisms, including the Election Organizer Ethics Council (Dewan Kehormatan Penyelenggara Pemilu), the House Ethics Council (Mahkamah Kehormatan Dewan), the Judicial Commission, and other internal ethics bodies within particular institutions. However, differences in authority, examination procedures, evidentiary standards, forms of sanctions, and institutional culture have prevented ethical enforcement from operating within a unified national framework. Warsyim and Harmoko (2023) demonstrate that the implementation of ethical codes for state officials continues to face challenges related to oversight, the authority of ethics institutions, and organizational culture. The idea of a National Ethics Court may therefore be interpreted as a response to such fragmentation in Indonesia’s ethical governance architecture.

From an institutional perspective, the experience of the Election Organizer Ethics Council demonstrates that ethical enforcement can be administered through a mechanism resembling an ethics tribunal. Rosnawati (2022) explains that the DKPP performs a quasi-judicial function in safeguarding the independence, credibility, and integrity of election administrators through transparent and accountable examination procedures. This finding is significant because it demonstrates that an ethics adjudication mechanism is not merely an abstract concept but already has an institutional precedent within Indonesia’s constitutional system. Nevertheless, the jurisdiction of the DKPP is limited to election administrators. Jimly Asshiddiqie’s conception of a National Ethics Court, by contrast, has a considerably broader scope, as it envisages a more comprehensive ethical framework applicable to state officials across institutions.

Furthermore, the National Ethics Court can be understood as a preventive, corrective, and integrity-building mechanism for state officials. Wahyudinsyah et al. (2024) emphasize that weak ethical standards and insufficient integrity among public officials can create opportunities for the abuse of authority and corrupt practices. Ethical codes, therefore, cannot function effectively when they exist merely as normative documents; they must be supported by oversight mechanisms capable of preventing, examining, and correcting improper conduct in public office. Within this framework, the National Ethics Court would not merely serve a punitive function in responding to ethical violations, but would also contribute to cultivating a culture of integrity and accountability by reinforcing the principle that the exercise of public authority is inseparable from moral responsibility.

Asshiddiqie’s argument becomes even clearer when contrasted with Hans Kelsen’s Pure Theory of Law. Kelsen states, “The Pure Theory of Law seeks to free the science of law from all foreign elements. Its aim is to confine cognition of the law to the law and to exclude from this cognition everything which does not strictly belong to the subject-matter of law” (Kelsen, 1967). He further emphasizes that “A theory of law must be distinguished from politics, ethics, sociology, and psychology” (Kelsen, 1967). These statements illustrate Kelsen’s effort to preserve the purity of legal science by separating law from ethics, politics, sociology, and psychology. Whereas Kelsen conceives of law as an autonomous system of norms, Asshiddiqie views ethics as an element that must operate alongside law in the practical exercise of state power.

Accordingly, Jimly Asshiddiqie's conception of a National Ethics Court should not be understood merely as a proposal to establish a new institution, but rather as a conceptual framework for strengthening the rule of law through the institutionalization of the rule of ethics. Law remains the primary basis for the legality of public authority, while ethics serves as an instrument for ensuring that such authority is exercised properly, with integrity, and with a sense of responsibility. The distinction between Asshiddiqie and Kelsen does not lie in a rejection of law as a normative system, but rather in Asshiddiqie's attempt to broaden the orientation of the rule of law beyond formal legality. From an analytical perspective, the National Ethics Court is therefore relevant because it offers a model of ethical oversight capable of complementing the rule of law, addressing the fragmentation of ethical institutions, and strengthening the integrity of state officials within a democratic constitutional state.

The Relevance of Jimly Asshiddiqie's Concept of a National Ethics Court to Strengthening the Rule of Law in Indonesia from the Perspective of *Siyasah Dusturiyah*

The findings demonstrate that Jimly Asshiddiqie's conception of a National Ethics Court has substantive relevance to strengthening the rule of law in Indonesia because it offers an ethical oversight mechanism that complements the principle of the rule of law. In a state governed by law, legality constitutes the primary basis for limiting public power. However, formal compliance with legal rules does not necessarily ensure that public authority is exercised properly, responsibly, justly, or in a manner oriented toward the public interest. The National Ethics Court may therefore be understood as an attempt to broaden the orientation of the rule of law from mere compliance with legal norms toward strengthening the integrity of state officials through the principle of the rule of ethics. In this context, the National Ethics Court is not intended to replace existing legal institutions, but rather to serve as an institutional model for strengthening oversight of the moral and ethical dimensions involved in the exercise of public authority (Asshiddiqie, 2022).

This relevance becomes more evident when considered in relation to the current ethical governance system for state officials in Indonesia, which remains largely sectoral. In principle, individual state institutions have their own ethical mechanisms. Nevertheless, differences in institutional authority, examination procedures, ethical standards, forms of sanctions, and accountability mechanisms have prevented ethical enforcement from operating within a fully integrated system. This finding indicates that the problem of ethical accountability among state officials does not concern merely the existence of codes of ethics, but also the effectiveness of oversight and the consistency of their enforcement. Warsyim and Harmoko (2023) explain that the implementation of ethical codes for state officials continues to face challenges related to supervision, the authority of ethics institutions, and organizational culture. The National Ethics Court is therefore relevant as a conceptual model for developing more integrated ethical standards through which the integrity of state officials could be supervised in a more systematic manner.

From the perspective of *Siyasah Dusturiyah*, public authority is not understood as the personal entitlement of those who govern, but as a trust (*amanah*) for which rulers and public officials are accountable both to the people and to Allah. *Siyasah Dusturiyah* concerns the regulation of public authority, the relationship between rulers and citizens, and the administration of government according to the principles of *amanah*, justice, consultation (*shura*), responsibility, and *maslahah* (public welfare) (Akmal et al., 2025). Within this framework, the idea of a National Ethics Court corresponds closely with the principles of Islamic constitutional governance because both place the oversight of public power as a fundamental requirement of good governance. From an interpretative perspective, ethical oversight within a state governed by law does not merely function to punish violations; it also serves to ensure that public power does not deviate from its moral purposes, namely protecting the public interest and preventing social harm resulting from the abuse of office.

The principles of *amanah* and justice are normatively grounded in Qur'an, Surah An-Nisa' [4]:58:

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا

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This verse affirms that public authority must be exercised on the basis of trustworthiness and justice. In the context of a National Ethics Court, the principle of *amanah* requires public officials to refrain from abusing their authority, while the principle of justice requires that the conduct of state

officials be subject to objective, proportionate, and accountable assessment in a manner that protects society from harm.

The *Siyasah Dusturiyah* analysis further demonstrates that ethical oversight is closely connected to the objective of *maslahah* (public welfare). In Islamic legal thought, *maslahah* refers to the realization of benefit and the prevention of harm in social life. Al-Ghazali places *maslahah* within the framework of protecting the objectives of Islamic law, implying that every public policy should be directed toward safeguarding societal interests and preventing *mafsadah* (harm) (Syamsuddini, 2022). In the context of the modern rule of law, abuse of power, conflicts of interest, improper conduct by public officials, and weak institutional integrity may be regarded as forms of *mafsadah* because they undermine public trust. Therefore, the National Ethics Court may be understood as an institutional mechanism with both preventive and corrective functions designed to ensure that the exercise of public power remains within the framework of *maslahah*.

This relevance is further reinforced by the Islamic legal maxim:

تَصَرُّفُ الْإِمَامِ عَلَى الرِّعْيَةِ مَنُوطٌ بِالْمَصْلَحَةِ

Meaning: “The policy of a ruler toward the people must be based on public welfare” (Idrus, 2021).

This maxim embodies the principle that every exercise of public authority must be directed toward the interests of the people rather than toward personal, group, or purely political interests. Within this framework, public officials who exercise authority improperly, engage in conflicts of interest, disregard the ethics of public office, or undermine the dignity of state institutions may be considered to have departed from the orientation of *maslahah*. Accordingly, the National Ethics Court may be understood as an institutional proposal intended to ensure that both the policies and conduct of state officials remain consistent with the public interest and the principle of *maslahah* within *Siyasah Dusturiyah*.

From the perspective of strengthening the rule of law, the concept of a National Ethics Court is relevant in three principal respects. First, it strengthens the integrity of public power because ethical oversight mechanisms can prevent state officials from exercising authority improperly even when such conduct does not necessarily constitute a formal legal violation. Second, it reinforces accountability because public officials are responsible not only under legal norms but also according to ethical standards of office, propriety, and institutional dignity. Third, it promotes public welfare because ethical oversight is directed toward preventing harm to society and maintaining public trust in state institutions. These three dimensions are consistent with the principles of *Siyasah Dusturiyah*, which regard public authority as an *amanah* that must be exercised justly, responsibly, and in the interests of the people (Sagara et al., 2024; Rosyidi & Mahmuji, 2024).

Accordingly, Jimly Asshiddiqie’s conception of a National Ethics Court is relevant to strengthening the rule of law in Indonesia because it introduces the principle of the rule of ethics as a complement to the rule of law. Analytically, this idea addresses the weaknesses of Indonesia’s currently fragmented ethical governance system by proposing a more integrated model for supervising the integrity of state officials. From the perspective of *Siyasah Dusturiyah*, the concept is consistent with the principles of *amanah*, justice, responsibility, and *maslahah*, because the exercise of public power should not be assessed solely on the basis of formal legality, but also in terms of moral propriety and its benefits for society. The National Ethics Court may therefore be viewed as an institutional concept that bridges the modern rule-of-law framework with Islamic constitutional ethics, thereby promoting a system of governance that is not only legally legitimate, but also trustworthy, just, integrity-based, and oriented toward the welfare of the people.

4. CONCLUSION

This study concludes that Jimly Asshiddiqie’s conception of a National Ethics Court has significant relevance to strengthening the rule of law in Indonesia because it proposes the institutionalization of the rule of ethics as a complement to the rule of law. Within a state governed by law, formal legality is not always sufficient to ensure that public authority is exercised properly, with integrity, and with accountability. An ethical mechanism capable of overseeing the conduct of state officials in a more integrated manner is therefore necessary. The significance of the National Ethics Court

lies in the fact that ethical enforcement in Indonesia remains largely sectoral, dispersed across individual institutions, and has yet to operate under fully consistent standards of oversight.

From the perspective of *Siyasah Dusturiyah*, the concept is consistent with the principles of *amanah*, justice, responsibility, and *maslahah*, as public authority in Islam is understood as a trust that must be exercised in the interests of the people and subjected to oversight to prevent its abuse. Accordingly, the National Ethics Court should not be understood merely as a proposal to establish a new ethics institution, but also as a conceptual design for strengthening integrity, accountability, and propriety in the exercise of state power. This study therefore suggests that strengthening the rule of law in Indonesia should not be directed solely toward ensuring legal certainty, but should also be supported by an ethical culture capable of making the exercise of public authority more trustworthy, just, integrity-based, and oriented toward the public good.

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