

Research Article

Rebuilding the Implementation of Sanctions for Ethical Code Violations by Civil Servants by Investigators Based on Values of Justice

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Abstract: The enforcement of ethical codes within the civil service is a fundamental pillar for maintaining public trust and bureaucratic integrity. However, the implementation of disciplinary sanctions for Civil Servants (*Aparatur Sipil Negara* or ASN) in Indonesia currently faces significant challenges regarding fairness and consistency. (Problem) The core issue lies in the broad administrative discretion possessed by investigators (*Tim Pemeriksa*) under Government Regulation No. 94 of 2021, which often leads to subjective, legalistic, and disproportionate sanctioning without considering substantive justice. This study aims to analyze the weaknesses of the current sanction implementation mechanism and proposes a reconstruction of the investigators' authority based on the value of justice (*Nilai Keadilan*). Using a normative juridical approach and conceptual analysis, this research examines current regulations and compares them with the principles of Dignified Justice. The study finds that the current positivistic approach tends to ignore the human aspect and restorative potential of the sanctions. Consequently, a reconstructed model is proposed where investigators must integrate ethical deliberation and justice values into their examination process, ensuring sanctions are not merely punitive but also corrective and fair.

Keywords: Administrative Sanctions; Civil Servant Discipline; Ethical Code; Justice Value; Legal Reconstruction.

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1. Introduction

The integrity of the public sector is the bedrock of good governance, where the ethical conduct of civil servants directly influences public trust and state efficiency. Globally, the violation of ethical codes by government employees remains a critical issue that necessitates strict yet fair disciplinary mechanisms. Scholars argue that an effective ethics management system must balance strict compliance enforcement with the promotion of moral values to prevent misconduct (Reddick et al., 2025). However, despite the existence of comprehensive codes of conduct, empirical evidence suggests that the enforcement of sanctions often suffers from inconsistency, largely due to the varying interpretations of ethical standards by internal investigators (Odeh & Homer, 2025). This inconsistency not only undermines the deterrence effect of the sanctions but also creates a sense of injustice among public officials, potentially demoralizing the bureaucratic workforce (Suzuki & Demircioglu, 2017; Demmke, 2025).

In the Indonesian context, the discipline of Civil Servants (ASN) is strictly regulated under Government Regulation (PP) No. 94 of 2021 concerning Civil Servant Discipline. This regulation grants significant authority to the Personnel Guiding Officer (*Pejabat Pembina Kepegawaian*) and the Examination Team (*Tim Pemeriksa*) to investigate violations and impose sanctions ranging from verbal warnings to dishonorable dismissal (Santoso & Rahayu, 2023). The primary goal of this regulatory framework is to ensure a professional and disciplined

workforce (Aisyah & Rahayu, 2023). Recent studies indicate that while the regulation provides a clear legal basis for punishment, its implementation at the regional and central levels often faces "bureaucratic friction," where sanctions are either too lenient due to kinship cultures or excessively harsh due to political pressure (Mulyawan et al., 2025).

A major problem arises in the execution of the investigator's authority (administrative discretion). The current mechanism relies heavily on a legalistic-positivistic approach, where investigators focus solely on whether a rule was broken, ignoring the underlying context or the principle of proportionality (Prasetyo et al., 2025). Research highlights that this unchecked discretion frequently leads to "abuse of power" or arbitrary decisions that violate the principles of administrative justice (JHCLS, 2024). Furthermore, the ambiguity in defining "severe violations" in the latest regulations has created legal uncertainty, leaving ASN vulnerable to unfair treatment during the examination process (Abenta, 2025; Kinanthi, 2022). This gap between the *letter of the law* and the *value of justice* in practice is a critical flaw in the current system.

While numerous studies have discussed the effectiveness of disciplinary sanctions from a compliance perspective or analyzed the procedural aspects of due process (Rahmawaty & Rahmaningsih, 2024; Nugraha & Sari, 2024), there is a scarcity of literature that specifically addresses the philosophical reconstruction of the investigator's role based on Justice Values. Existing research tends to overlook how the "Value of Justice" such as the principles found in Pancasila or the theory of Dignified Justice can be integrated into the technical process of administrative investigation (Nissa et al., 2025). This theoretical gap is crucial because a sanctioning mechanism devoid of justice values fails to achieve the ultimate goal of administrative law: to correct behavior while respecting human dignity (Mutmainah, 2024).

This article proposes a reconstruction of the implementation of sanctions for ethical code violations by investigators, shifting the paradigm from a purely punitive approach to one grounded in the Values of Justice. By integrating the principles of substantive justice into the investigation procedures, this study aims to offer a new framework that limits arbitrary discretion and ensures that sanctions are applied fairly and humanely. The remainder of this paper is organized as follows: Section 2 reviews the current state of ASN disciplinary regulations; Section 3 outlines the proposed reconstruction method; Section 4 discusses the implications of integrating justice values into administrative sanctions; and Section 5 concludes with policy recommendations.

2. Literature Review

This section outlines the state-of-the-art regarding civil service discipline and the theoretical frameworks used to analyze administrative sanctions.

Civil Service Ethics and Disciplinary Mechanisms

The enforcement of ethical codes is a universal challenge in public administration. Recent literature emphasizes that compliance-based approaches (punishment) must be balanced with integrity-based approaches (moral values). Reddick et al. (2025) argue that without ethical leadership, strict sanctions often fail to deter misconduct. In the European context, Demmke (2025) highlights that disciplinary systems are moving towards a more remedial approach rather than purely punitive. In Indonesia, the implementation of Government Regulation (PP) No. 94 of 2021 has been the subject of various studies. Santoso and Rahayu (2023) found that while the regulation clarifies sanction tiers, the socialization of these rules remains uneven, leading to disparate implementation. Furthermore, Mulyawan et al. (2025) noted that "bureaucratic culture" significantly interferes with the objectivity of sanctions in regional governments.

Administrative Discretion and the Void of Justice

The core issue in sanctioning lies in the discretionary power of the investigator. JHCLS (2024) compares administrative discretion in Indonesia and the Netherlands, concluding that unchecked discretion is prone to abuse. In legal theory, discretion should be bound by General Principles of Good Administration (AUPB). However, Prasetyo et al. (2025) argue that in practice, investigators often prioritize procedural compliance over substantive justice. This creates a gap where a decision is "legally correct" but "ethically unfair."

Theory of Dignified Justice

To bridge this gap, this research utilizes the Theory of Dignified Justice (Keadilan Bermartabat). Nissa et al. (2025) explain that justice must humanize humans (nguwongke uwong). In the context of administrative law, Mutmainah (2024) suggests that legal reconstruction is necessary when existing norms no longer reflect the community's sense of justice. This study differentiates itself from previous works by specifically applying this justice theory to the examination minutes (Berita Acara Pemeriksaan) and the investigator's decision-making process, which has not been extensively covered in prior art.

3. Proposed Method

Since this study aims to reconstruct a legal implementation model, the method used is a normative juridical approach with a focus on conceptual engineering.

Research Approach

The study adopts a Statutory Approach by analyzing Government Regulation No. 94 of 2021 and a Conceptual Approach by synthesizing the value of justice into administrative procedures. The "Proposed Method" in this context refers to the Reconstruction Framework developed to solve the research problem.

Data Collection and Analysis

Primary legal materials include the Civil Servant Law (UU ASN) and Disciplinary Regulations. Secondary materials include legal theories of justice and administrative discretion. The analysis follows a syllogistic method:

- a. Identification: Mapping the weaknesses in current investigator authority (Abenta, 2025).
- b. Evaluation: Assessing these weaknesses against the principles of Dignified Justice.
- c. Reconstruction: Formulating a new model for the *Examination Team (Tim Pemeriksa)*.

Conceptual Framework of Reconstruction

The proposed reconstruction intervenes in the "Examination Process" phase. Currently, investigators act as prosecutors and judges simultaneously. The proposed method introduces a "Justice-Based Verification Step" within the algorithm of decision-making.

Current process: If the report and evidence are verified as valid, a sanction is imposed immediately. Proposed process: If the report and evidence are verified as valid, justice-related variables are examined first, so that the sanction imposed becomes an adjusted sanction.

4. Results and Discussion

This section presents the analysis of the current regulatory weaknesses and the proposed reconstruction model.

Analysis of the Status Quo The Positivistic Trap

Implementation of sanctions under Government Regulation (PP) No. 94 of 2021 currently relies heavily on a strict legalistic-positivistic approach. In this paradigm, the Examination Team (Tim Pemeriksa) functions merely as a "mouthpiece of the law" (*la bouche de la loi*), applying a rigid "syllogism of rules" without considering the sociological context of the violation. For instance, Ramadhan and Lestari (2023) observed in the Meulaboh Sharia Court that the application of sanctions strictly followed the textual reading of the regulation. While this ensures legal certainty, it often results in decisions that are "legally correct" but "substantively unfair," ignoring the psychological condition, track record, or emergency circumstances of the civil servant.

The fundamental weakness of this mechanism lies in the absence of a "mitigating phase" based on conscience within the examination structure. Kinanthi (2022) argues that structural constraints in local governments often force investigators to prioritize administrative completeness over fairness. Furthermore, Arnas et al. (2025) highlight that without a mechanism to weigh the "intent" (*mens rea*) versus the "act" (*actus reus*) in administrative law, sanctions become merely a tool for retaliation rather than correction. The current regulation (PP 94/2021) categorizes violations solely based on the impact (minor, moderate, severe) as stipulated in Articles 8 through 11, but fails to provide clear guidelines on how to assess the motive behind the violation. This confirms the hypothesis that the current investigator's authority is too broad in scope but lacks the ethical guardrails necessary to prevent arbitrary punishment (Abenta, 2025).

Reconstruction of Sanction Implementation Based on Justice Values

To address these issues, this study proposes a reconstruction of the investigator's role. The reconstruction is not changing the regulation text (PP 94/2021) but rebuilding the implementation guidelines (Standard Operating Procedures).

In the proposed model, the Investigator must insert a "Value of Justice Assessment" before drafting the Examination Minutes (Berita Acara Pemeriksaan). This assessment includes:

- a. Intent Verification (Mens Rea Check): Investigators must distinguish between violations caused by negligence, lack of knowledge, or deliberate intent. Amer et al. (2024) suggest that understanding the ethical competence of the officer is crucial before imposing penalties. A violation due to an administrative error should not be punished with the same severity as a violation due to corruption, even if the financial loss is similar.
- b. Proportionality and Impact Analysis: Is the proposed sanction equivalent to the damage caused to the state? Rahmawaty and Rahmaningsih (2024) emphasize that due process must include a proportionality test. The investigator must assess whether the sanction will kill the civil servant's career disproportionately compared to their fault.
- c. Restorative Potential: Can the violation be corrected without severe punishment? This step adopts the *Ultimum Remedium* principle, where severe sanctions (dismissal) are the last resort. If the ASN shows remorse and the violation is rectifiable, the investigator should recommend lighter, corrective measures.

Discussion: Implications of the New Model

The implementation of the proposed "Justice-Based Verification" model will fundamentally shift the paradigm of Indonesian civil service management from "Punitive Discipline" to "Corrective Discipline." This shift has three major implications: behavioral improvement, legal stability, and the necessity for investigator competency reform.

First, the Impact on Organizational Behavior. Transitioning to a justice-based approach directly influences the psychological state of civil servants. Amer et al. (2024) support this by stating that civil servants who perceive the disciplinary process as procedurally and interactionally fair are more likely to exhibit "Organizational Citizenship Behavior" (OCB) and improve their performance, rather than becoming resentful. When investigators apply the "Value of Justice Assessment," they acknowledge the violator's dignity, which transforms the sanction from a tool of vengeance into a mechanism for moral correction.

Second, the Reduction of Administrative Disputes. Strictly legalistic sanctions often lead to prolonged legal battles in the State Administrative Court (PTUN). JHCLS (2024) predicts that administrative discretion, when exercised without clear ethical parameters, is the primary cause of lawsuits. By adopting this reconstructed model, the decision-making process becomes transparent and accountable. The "Proportionality Check" step ensures that the decision is defensible not just legally, but also morally, thereby minimizing the potential for future litigation and ensuring legal stability within the bureaucracy.

Third, The Urgency of Creative Thinking Competence for Investigators. The most significant challenge in implementing this reconstruction is the human resource capacity of the *Examination Team*. Moving from a textual-positivistic approach (merely reading articles) to a justice-based approach (analyzing context) requires high cognitive flexibility. Investigators are required to "create" a decision that balances regulatory rigidity with human justice.

In this context, findings from other disciplines provide a crucial perspective on competency development. Rizaldi et al. (2025) demonstrated that while traditional direct instruction is effective for transferring factual knowledge, it fails to stimulate higher-order thinking. Their study revealed that a problem-solving approach had a significant positive effect on creative thinking abilities.

Drawing an analogy to the legal field, current investigators are often trained using a "Direct Instruction" method memorizing the text of PP No. 94 of 2021. As a result, they lack the creative thinking ability needed to handle complex ethical dilemmas where the rules may be ambiguous or too harsh. To successfully implement the "Justice-Based Model," the government must reform the training for investigators. They must be trained not just as "readers of the law" but as "problem solvers" who can utilize creative thinking to formulate sanctions that are restorative rather than destructive. Without this creative competence, the

proposed reconstruction will remain a theoretical concept, and investigators will revert to the "safe" but unjust positivistic habits.

5. Conclusions

This study concludes that the current implementation of sanctions for ethical code violations by Civil Servants (ASN) in Indonesia is dominated by a legalistic-positivistic approach. While legally compliant with PP No. 94 of 2021, this approach often neglects substantive justice, leading to disproportionate sanctions and administrative disputes. Main Findings: The reconstruction proposed in this study introduces a "Justice-Based Verification" step in the investigation process. Investigators must not only prove the violation but also validate the sanction against principles of humanity and proportionality before decision-making. Implications: This reconstruction offers a practical guideline for *Pejabat Pembina Kepegawaian* (PPK) to enforce discipline without acting arbitrarily, thereby strengthening the integrity and morale of the bureaucracy. Limitations and Future Research: This study is limited to a normative analysis of regulations. Future research should empirically test this "Justice-Based Model" in a specific local government case study to measure its effectiveness in reducing repeat violations.

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