

Criminal Liability of Correctional Officers for Crimes Based on the Code of Ethics of the Minister of Law and Human Rights Regulation M.HH-16.KP.05.02/2011

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ABSTRACT

Correctional officers hold a vital position within Indonesia's criminal justice system, responsible for ensuring rehabilitation, supervision, and the protection of inmates' rights. However, numerous cases of misconduct ranging from drug trafficking, corruption, to human rights violations have raised serious concerns about accountability and the effectiveness of ethical governance. This study aims to analyze the criminal liability of correctional officers involved in crimes, viewed through the framework of the Minister of Law and Human Rights Regulation No. M.HH-16.KP.05.02/2011 concerning the Code of Ethics for Correctional Officers. Using a normative juridical method with statutory and conceptual approaches, data were collected from legislation, legal literature, and relevant case studies. The findings reveal that the regulation only provides moral and administrative sanctions without direct criminal implications, meaning that criminal responsibility must rely on general and special criminal law provisions. The study concludes that a strong synergy between the ethical code and criminal law is urgently needed to create a more effective, fair, and accountable correctional system. This research contributes to strengthening the legal framework of correctional ethics and promoting institutional integrity within Indonesia's justice sector.

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1. INTRODUCTION

The correctional system constitutes an integral component of the criminal justice system in Indonesia. Its primary function is not only to enforce punishment but also to provide rehabilitation and social reintegration for inmates in accordance with the principles of restorative justice. The correctional philosophy, as articulated in Law No. 22 of 2022 concerning Corrections, emphasizes that imprisonment should aim to reform rather than to merely punish. Within this framework, correctional officers hold a

crucial role as the front-line executors of rehabilitation programs, ensuring that the rights and dignity of inmates are upheld. They are entrusted with multifaceted duties ranging from supervision and security to counseling and administrative management thus representing the moral and professional integrity of the state within correctional institutions. However, despite this noble mission, the reality in Indonesia often reveals a stark contrast between normative ideals and actual practices.

In recent years, numerous cases have emerged involving correctional officers engaged in criminal activities within correctional facilities, such as drug trafficking, corruption, extortion, and even acts of violence against inmates. These incidents not only undermine public trust in law enforcement institutions but also indicate systemic weaknesses in the internal supervision and ethical control mechanisms of the Ministry of Law and Human Rights. For instance, in 2024, a correctional officer at Jambi Prison was sentenced to death after being found guilty of trafficking 52 kilograms of methamphetamine. Similarly, in 2025, an officer from Sleman Class IIB Correctional Institution was convicted of corruption and extortion, receiving a seven-year prison sentence. These examples highlight the paradox between the expected role of correctional officers as guardians of justice and their actual involvement in serious criminal offenses. Consequently, questions arise regarding how criminal liability should be imposed on correctional officers who commit crimes and whether the existing Code of Ethics under the Ministerial Regulation No. M.HH-16.KP.05.02/2011 adequately addresses these transgressions.

The Regulation of the Minister of Law and Human Rights No. M.HH-16.KP.05.02/2011 provides a comprehensive Code of Ethics that outlines the expected behavior, moral standards, and professional responsibilities of correctional officers. The regulation establishes guidelines for maintaining integrity, discipline, and professionalism in carrying out correctional duties. It prescribes moral and administrative sanctions for those who violate ethical norms but does not explicitly regulate criminal sanctions. This raises a fundamental legal question about the extent to which violations of the Code of Ethics can intersect with criminal liability, especially when an officer's misconduct also constitutes a criminal act under general or special criminal laws. The absence of explicit provisions linking ethical violations to criminal accountability creates a regulatory gap that often results in inconsistent or insufficient legal responses toward offending officers.

Previous studies on correctional institutions in Indonesia have primarily focused on administrative accountability, disciplinary mechanisms, and institutional reform in correctional management. Many scholars have examined ethical issues in the context of bureaucratic performance, organizational culture, and employee behavior but have not comprehensively analyzed the nexus between ethical violations and criminal liability. For example, earlier research by Sukmana (2020) and Rahardjo (2021) concentrated on strengthening moral values and integrity training among correctional officers, while studies by Nasution (2022) discussed the effectiveness of disciplinary sanctions in improving professionalism. However, these studies often neglected to address how acts of ethical misconduct that also constitute criminal offenses such as corruption or drug abuse should be treated under both ethical and criminal frameworks. This research gap provides a strong rationale for exploring the dual dimension of accountability: the ethical and the criminal.

The uniqueness of this study lies in its focus on the intersection between the ethical obligations of correctional officers and their criminal responsibility under Indonesian law. While the Code of Ethics serves as a moral compass for correctional conduct, it does not carry the force of criminal sanction. Therefore, this research seeks to bridge the gap between normative ethical standards and substantive criminal law enforcement. By analyzing the Ministerial Regulation alongside the Criminal Code (KUHP) and special criminal statutes, this study aims to construct a coherent understanding of how

ethical violations can escalate into criminal liability, and how regulatory mechanisms can be harmonized to ensure both moral and legal justice. This approach distinguishes the present research from prior administrative and behavioral studies by emphasizing the legal consequences and accountability mechanisms applicable to correctional officers as public officials.

Another distinctive feature of this research is its normative juridical method, employing statutory and conceptual approaches to examine the legal foundations of correctional officers' responsibilities. This method allows for a systematic analysis of legal norms, doctrines, and interpretations that define the limits of ethical and criminal accountability. Through this approach, the study not only identifies weaknesses in the current ethical framework but also proposes theoretical and practical solutions for aligning the Code of Ethics with criminal law principles. The integration of ethical and legal perspectives provides a holistic framework for understanding the complex nature of correctional misconduct, where professional ethics, administrative discipline, and criminal justice intersect.

The objectives of this study are threefold. First, it aims to analyze the substance of the Code of Ethics for correctional officers as stipulated in the Ministerial Regulation No. M.HH-16.KP.05.02/2011, particularly in relation to officers who commit criminal acts. Second, it seeks to examine how criminal liability is applied to correctional officers whose actions violate both ethical and criminal norms. Third, the study endeavors to formulate recommendations for strengthening the enforcement mechanisms of both the Code of Ethics and criminal law to prevent and address future misconduct. These objectives are directed toward enhancing institutional integrity within the correctional system, reinforcing legal certainty, and promoting justice that is both ethical and lawful. Ultimately, this article aspires to contribute to the broader discourse on law enforcement ethics and professional accountability within Indonesia's correctional system. By bridging the conceptual divide between moral responsibility and criminal liability, it provides a normative basis for policy reform and legal harmonization.

2. METHODS

This research employs a normative juridical method, which focuses on the examination and interpretation of legal norms, principles, and doctrines relevant to the issue of criminal liability for correctional officers under the Code of Ethics of the Minister of Law and Human Rights Regulation No. M.HH-16.KP.05.02/2011. The normative juridical approach is appropriate because this study seeks to analyze legal materials rather than empirical data, emphasizing the consistency and harmony between ethical regulations and criminal law. Two main approaches are used: the statutory approach and the conceptual approach. The statutory approach involves the examination of various legal instruments, including the Criminal Code (KUHP), Law No. 22 of 2022 on Corrections, and the Ministerial Regulation No. M.HH-16.KP.05.02/2011 itself, along with related administrative and disciplinary laws. Meanwhile, the conceptual approach is used to explore the theoretical underpinnings of criminal liability, ethics, and professional accountability as discussed in legal scholarship. Through these approaches, the research aims to establish a coherent framework linking normative ethical obligations with criminal law enforcement mechanisms.

The data sources used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include laws, regulations, and official government documents that serve as the basis for determining the legal norms governing correctional officers' conduct. Secondary materials are derived from legal literature, textbooks, journals, commentaries, and previous academic studies that analyze the concept of professional ethics, state responsibility, and criminal accountability. Tertiary materials, such as legal dictionaries and encyclopedias, are used to provide conceptual clarity and support the interpretation of legal terms. The data collection technique relies on documentary and

literature review methods, involving systematic reading, note-taking, and classification of legal sources and academic references. The selection of materials follows a purposive sampling method—meaning that only materials directly relevant to the research questions are analyzed. Additionally, relevant case studies of criminal acts committed by correctional officers (e.g., the Jambi and Sleman prison cases) are examined to provide a practical illustration of how normative rules are applied in real legal contexts.

The data analysis is conducted using qualitative normative analysis, which involves descriptive, prescriptive, and evaluative techniques. In the descriptive phase, the researcher identifies and describes the applicable legal norms and ethical rules that govern correctional officers. In the prescriptive phase, the study interprets these norms in light of legal doctrines to determine their meaning, scope, and relationship to criminal liability. Finally, in the evaluative phase, the analysis assesses the adequacy and effectiveness of the Code of Ethics and related laws in addressing ethical and criminal violations within the correctional system. The results of this analysis are presented in a systematic manner, integrating legal interpretation and theoretical reasoning to formulate conclusions and recommendations. Through this method, the study not only provides an in-depth understanding of the legal issues involved but also proposes normative solutions for improving the alignment between ethical regulation and criminal justice enforcement.

3. FINDINGS AND DISCUSSION

3.1. Discussion on the Regulation of the Minister of Law and Human Rights No. M.HH-16.KP.05.02/2011 on the Code of Ethics for Correctional Officers

The findings of this study reveal that the Regulation of the Minister of Law and Human Rights No. M.HH-16.KP.05.02/2011 functions primarily as an ethical and moral compass for correctional officers, rather than as a legal instrument imposing criminal sanctions. The regulation provides a detailed framework governing the professional conduct, integrity, and discipline of correctional officers within the correctional system. It emphasizes the importance of ethical behavior in maintaining the dignity of public service and the credibility of law enforcement institutions. Based on the analysis of Articles 5 and 8, the regulation outlines several core ethical obligations, such as the prohibition against engaging in criminal acts, misusing authority, consuming narcotics or alcohol, and committing actions that could undermine the honor of the correctional profession. It also mandates officers to perform their duties with diligence, fairness, and accountability, especially when managing seized or confiscated property.

From a normative perspective, this regulation clearly delineates moral and administrative boundaries for correctional officers but lacks a direct linkage to criminal liability provisions. The research found that ethical violations under this regulation may result in moral reprimands, warnings, or administrative sanctions, such as suspension or dismissal, but not imprisonment or criminal punishment. Consequently, when a correctional officer commits a criminal act—such as corruption, narcotics trafficking, or extortion—the ethical code itself cannot serve as the legal basis for criminal prosecution. Instead, the officer must be prosecuted under the general criminal law (KUHP) or specific criminal statutes, such as the Narcotics Law or the Anti-Corruption Law. This finding underscores a regulatory gap between ethical enforcement and criminal accountability, suggesting the need for harmonization between the Code of Ethics and broader criminal justice mechanisms.

Further analysis of the regulation indicates that it aims to promote organizational discipline and professional integrity, but its enforcement remains largely administrative in nature. The decision-making process in ethical violations involves an internal Ethics Committee (Majelis Kode Etik) that evaluates reports, conducts examinations, and issues moral or administrative decisions. The committee's decisions are final in the administrative sense, meaning that no further ethical appeals can

be made beyond this stage. However, the ethical sanctions imposed often fail to deter severe violations, particularly those that also constitute criminal offenses. The study concludes that while the Code of Ethics effectively establishes a moral framework for conduct, its limited enforcement power and lack of coordination with criminal law institutions reduce its effectiveness in preventing serious misconduct within correctional facilities.

3.2. Forms of Legal Liability for Correctional Officers

The analysis of legal responsibility indicates that correctional officers are subject to multiple layers of accountability—ethical, administrative, and criminal—depending on the nature and gravity of the offense committed. Based on the doctrinal interpretation of criminal law, an officer who participates in or facilitates a criminal act within a correctional facility may fall under one of several categories of liability, such as the main perpetrator (*dader*), accomplice (*mededader* or *medepleger*), instigator (*uitlokker*), or the person who commands another to act (*doenpleger*). In practice, correctional officers involved in narcotics distribution or extortion schemes within prisons are most commonly categorized as *medepleger* (co-perpetrators), given their role in facilitating or enabling the criminal act without necessarily being its initiator.

The study also identifies that the principle of full responsibility (*penanggung jawab penuh*) applies when an officer deliberately commits a criminal act using his or her authority, while the principle of partial responsibility (*penanggung jawab sebagian*) applies to cases involving attempted or assisted offenses. This distinction is essential in determining the severity of punishment and ensuring proportional justice. In several documented cases, such as the 2024 Jambi Prison case and the 2025 Sleman Class IIB Prison case, the courts imposed criminal penalties on correctional officers not only for violating administrative and ethical duties but also for committing substantive crimes under national law. These cases demonstrate that while the Code of Ethics can serve as supporting evidence of professional misconduct, criminal liability must ultimately be established through the criminal justice process, following the procedural and substantive provisions of the KUHP.

Furthermore, the findings reveal that there is a structural tension between ethical norms and criminal enforcement. The ethical code focuses on moral correction and organizational discipline, whereas criminal law seeks punitive justice and deterrence. This duality often leads to overlapping procedures or delayed accountability. For example, an officer might first undergo an internal ethics hearing and only later face criminal prosecution, creating inconsistencies in timing and punishment. The research highlights the necessity of establishing an integrated mechanism that ensures simultaneous coordination between the Ethics Committee and law enforcement agencies, thereby preventing ethical violations from being handled merely as administrative infractions when they in fact constitute crimes.

3.3. Forms of Accountability under the Ministerial Regulation

Based on the analysis of Articles 1 and 26 of the Ministerial Regulation No. M.HH-16.KP.05.02/2011, correctional officers who violate the Code of Ethics are subject to moral and administrative sanctions, including verbal or written reprimands, demotion, or termination of employment. The ethical adjudication process begins with an internal investigation initiated by reports, complaints, or findings of misconduct. The Ethics Committee (*Majelis Kode Etik*) conducts an inquiry within fourteen days, which can be extended for another fourteen days, after which a final decision is issued. However, the study finds that the scope of accountability under this mechanism remains limited to administrative consequences, as the Ethics Committee has no jurisdiction to impose criminal sanctions or refer cases directly to criminal courts. This limitation often leads to situations where severe misconduct is handled internally, potentially hindering transparency and public trust.

The study further notes that the differentiation between administrative sanctions and criminal sanctions is significant in determining the legal trajectory of a case. According to the theory of Philipus M. Hadjon, administrative sanctions are reparatory in nature they aim to restore order and correct institutional integrity—whereas criminal sanctions are punitive, designed to inflict suffering as retribution for wrongdoing. This conceptual distinction explains why ethical and administrative enforcement alone cannot substitute for criminal prosecution when a correctional officer commits a serious offense. Therefore, in the spirit of legal certainty and justice, ethical violations that amount to criminal acts must be escalated to formal criminal proceedings while retaining internal disciplinary measures as complementary sanctions.

The findings conclude that the current ethical regulatory framework lacks sufficient synergy with the criminal justice system, resulting in fragmented enforcement and limited deterrence. To strengthen accountability, there must be procedural integration between the Ministry of Law and Human Rights, the Ethics Committee, and criminal justice authorities. This integration would allow ethical investigations to serve as preliminary assessments for potential criminal prosecution, ensuring that no serious misconduct is treated as a mere ethical breach. The study recommends that future policy reforms should aim to incorporate explicit provisions within the Code of Ethics mandating the referral of grave violations to law enforcement bodies. In doing so, the regulation would evolve from a purely moral instrument into a comprehensive accountability framework that harmonizes ethical integrity with criminal responsibility, thereby fostering a culture of justice and transparency within Indonesia's correctional institutions.

The analysis of the research findings demonstrates that the Regulation of the Minister of Law and Human Rights No. M.HH-16.KP.05.02/2011 provides a normative and ethical foundation for correctional officers, yet it has not been sufficiently effective in ensuring full legal accountability. When these findings are compared to previous studies, a consistent pattern emerges: ethical regulations within Indonesia's correctional institutions are more disciplinary than judicial in nature. For instance, a study by Situmorang (2021) found that internal codes of ethics in government institutions generally focus on maintaining institutional order rather than ensuring criminal accountability. Similarly, Wahyudi and Yuliana (2022) revealed that most cases of misconduct among correctional staff were resolved administratively without criminal escalation, leading to repeated ethical violations. These studies support the present research's finding that the ethical regulatory framework, while essential for professional discipline, lacks legal strength in addressing acts that violate criminal law.

From a theoretical perspective, this gap aligns with Hans Kelsen's Pure Theory of Law, which emphasizes that the validity of a legal norm must be derived from a higher norm (*grundnorm*). In this context, the Code of Ethics, being an administrative regulation, derives its authority from ministerial discretion and thus does not have the coercive force of criminal law. As such, it cannot function as an instrument of criminal punishment. The analysis further confirms that when correctional officers commit crimes such as corruption, narcotics trafficking, or abuse of power, the legal accountability should be based on the principle of legality (*nullum crimen sine lege*) that no act can be punished except by virtue of a law. This theoretical framework clarifies why the ethical code, despite its moral importance, cannot be used as the basis for criminal prosecution, but rather as a supporting instrument that guides behavior and supports internal discipline.

Another critical finding, when juxtaposed with empirical research by Pratama (2020) and Rahman (2021), is that ethical enforcement in correctional institutions remains weakly institutionalized. Pratama found that in several Class I correctional facilities, ethical hearings were often delayed, and sanctions were inconsistently applied due to internal administrative bias. Rahman's study highlighted the lack of

coordination between the Ethics Committee and the police or prosecutor's office, leading to instances where criminally punishable conduct was treated as a mere ethical infraction. This aligns closely with the current study's findings, which identify a procedural disconnection between ethical adjudication and criminal prosecution. Such a gap leads to diminished public trust and allows systemic misconduct to persist within the correctional environment. From a theoretical standpoint, these findings resonate with Roscoe Pound's Sociological Jurisprudence, which posits that the law must respond to social realities to achieve justice. The disconnection between ethical and criminal accountability indicates that Indonesia's correctional legal framework has yet to align its normative aspirations with practical enforcement realities.

Furthermore, the findings of this study can be interpreted through the lens of legal accountability theory proposed by Muladi (2002), which distinguishes between moral, administrative, and criminal responsibilities. According to this theory, every public official is bound not only by administrative obligations but also by broader moral and legal duties to society. The research findings suggest that the existing Code of Ethics adequately covers moral and administrative duties but falls short in providing a legal pathway for criminal responsibility. This observation is reinforced by Saragih (2023), who argues that ethical governance in law enforcement agencies must be integrated with penal mechanisms to ensure deterrence and restore institutional credibility. The lack of such integration, as identified in both Saragih's and this study's findings, results in an accountability system that is fragmented and ineffective, particularly when dealing with severe violations such as corruption or narcotics smuggling by correctional staff.

When examined using the concept of layered accountability within the theory of legal responsibility (*pertanggungjawaban hukum*), this study finds that correctional officers' actions are subject to ethical, administrative, and criminal layers of responsibility. However, in practice, these layers often overlap without clear procedural linkage. Previous research by Hardiansyah (2019) suggested that most correctional institutions prioritize internal ethical measures over criminal reporting to protect institutional reputation. This practice not only undermines justice but also contradicts the principle of transparency and accountability enshrined in public service ethics. The current study's findings reinforce this conclusion by demonstrating that the ethical process often concludes without any criminal follow-up, particularly when the misconduct involves high-ranking officers. Theoretically, this violates Durkheim's Functionalist Theory of Law, which views legal sanctions as essential mechanisms to maintain moral cohesion within society. When law enforcement officers themselves evade criminal responsibility, it weakens the moral authority of the legal system as a whole.

The integration of previous research and legal theory also reveals that the enforcement of ethical codes in Indonesia's correctional institutions reflects a broader structural challenge in public sector governance. Studies by Fauzan and Siregar (2022) on bureaucratic integrity found that institutional accountability mechanisms in Indonesia tend to be hierarchical and bureaucratic, prioritizing internal discipline over external justice. This mirrors the current study's finding that ethical enforcement is treated as an end in itself rather than a preliminary step toward criminal accountability. In light of the Conceptual Approach applied in this research, it becomes clear that an effective accountability system should not only uphold ethical values but also facilitate legal processes when ethical breaches constitute crimes. This suggests the necessity for reformulating the Code of Ethics to include explicit procedural mandates for case referrals to law enforcement agencies.

From a broader theoretical lens, this study reinforces the argument of H.L.A. Hart's theory of legal systems, which distinguishes between primary rules (obligations) and secondary rules (rules about the creation and enforcement of obligations). The ethical code serves as a primary rule governing the

behavior of correctional officers but lacks sufficient secondary rules to ensure enforcement through legal mechanisms. This theoretical insight helps explain why ethical norms in correctional institutions often fail to produce legally binding consequences. Previous research has largely overlooked this structural deficiency, focusing instead on moral compliance without examining the legal procedural void that follows ethical breaches. The present research, therefore, contributes a novel perspective by identifying the absence of normative connectivity between ethical norms and criminal law as a fundamental weakness in Indonesia's correctional accountability framework.

In conclusion, when analyzed through the combination of empirical evidence and relevant legal theories, the findings of this study reveal a consistent pattern: the Code of Ethics of correctional officers in Indonesia functions as a moral and disciplinary instrument but remains inadequate as a tool for ensuring full criminal accountability. This gap between normative ideals and practical enforcement is both theoretical and institutional in nature. The analysis highlights the urgent need for a systemic integration between ethical enforcement and criminal law, ensuring that serious violations by correctional officers are treated not merely as administrative matters but as criminal offenses that demand judicial resolution. By grounding this integration in both Kelsenian legal hierarchy and Pound's sociological jurisprudence, this research provides a comprehensive theoretical foundation for reforming the ethical and legal accountability system within Indonesia's correctional framework.

4. CONCLUSION

The findings of this research reveal that the Regulation of the Minister of Law and Human Rights No. M.HH-16.KP.05.02/2011 on the Code of Ethics for Correctional Officers serves primarily as a moral and administrative framework rather than a legal instrument with enforceable criminal consequences. This has been the central concern or intellectual unease of the researcher: that ethical governance in Indonesia's correctional institutions, while normatively sound, remains legally fragmented and practically ineffective in ensuring full accountability. The gap between ethical norms and criminal enforcement illustrates a disjunction between the ideals of justice and the realities of bureaucratic protectionism. The Code of Ethics, in its current form, has succeeded in defining professional values and behavioral standards but has failed to bridge the normative link to criminal law, leaving serious violations inadequately addressed. This condition sustains a culture of impunity that threatens both institutional integrity and public trust in the correctional system.

Despite these findings, the study acknowledges several limitations. First, as a normative juridical study, it relies primarily on secondary legal materials statutes, literature, and case analyses without empirical verification from direct interviews or field observation. Consequently, the analysis may not fully capture the informal practices, power dynamics, and bureaucratic constraints that shape ethical enforcement in correctional institutions. Second, the research is limited in scope to the legal and conceptual dimensions of accountability within the correctional context; it does not extend to comparative or cross-jurisdictional studies that could offer broader insights into best practices in other legal systems. Third, the temporal aspect of data—largely drawn from cases up to 2025—means that any subsequent regulatory reforms or institutional changes might alter the relevance of certain findings in the near future.

Building on these insights, future research should pursue a more integrated and empirical approach. It should involve direct engagement with correctional officers, ethics committees, and legal practitioners to better understand how ethical and criminal accountability interact in practice. Comparative studies between Indonesia and other jurisdictions such as Malaysia or the Philippines could also shed light on alternative models of institutional ethics enforcement within Southeast Asian

correctional systems. Furthermore, interdisciplinary approaches combining legal analysis with sociological, administrative, and ethical perspectives would enrich understanding of how law operates as a living system within correctional institutions. Ultimately, this study hopes to encourage policymakers to reform the Code of Ethics into a hybrid normative-legal framework that not only guides moral conduct but also ensures transparent, enforceable, and just accountability mechanisms—aligning ethical ideals with the rule of law in Indonesia’s correctional governance.

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