



## Analysis of Ethical Hearings at the Indonesian Child Protection Commission (KPAI) Without a Code of Ethics

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### ABSTRACT

This article explores and analyzes ethical standards in public institutions, with a primary focus on the Indonesian Child Protection Commission (KPAI). Using a normative legal research approach, the article compares KPAI's ethical standards with other public institutions in Indonesia, as well as with applicable international standards. The results indicate that the absence of an explicit code of ethics in KPAI not only creates legal uncertainty but also weakens the enforcement of disciplinary mechanisms within the institution. Based on an analysis framed by ethical theory and moral philosophy, this article emphasizes the need for comprehensive reforms in KPAI's ethical standards. The recommendations aim to increase accountability, transparency, and public trust in KPAI while strengthening the institution's role in protecting children's rights in Indonesia.

**Keywords:** *Public Institution Ethics, KPAI, Law Enforcement, Moral Philosophy*

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## INTRODUCTION

Public institutions play a crucial role in maintaining public trust and ensuring that every action taken aligns with ethical principles (Gastinger & Schmidtke, 2022; Guterman & Detochenko, 2021; Head et al., 2020; Nasir & Rijal, 2021; PINHEIRO et al., 2021). The Indonesian Child Protection Commission (KPAI) is a state institution specifically established to protect children's rights, based on strong laws and regulations (Mufid et al., 2022; Rahmawati et al., 2021; Zur Raffar et al., 2021). KPAI operates independently, meaning it is not bound by executive power and has clear procedures for

appointing and dismissing its members, as regulated by Presidential Regulation No. 61 of 2016 and KPAI Regulation No. 1 of 2017.

This independence provides KPAI with the necessary flexibility to work effectively and objectively in protecting children from various forms of violence and rights violations (Clotworthy et al., 2021; Domínguez-Lucio et al., 2023; Li et al., 2022; Mjøsund et al., 2020; Ziganshina et al., 2021). However, the absence of an explicit code of ethics in KPAI until 2020 has posed significant challenges in enforcing discipline and applying ethical principles. Although some existing regulations have covered basic ethical principles for KPAI members, the lack of a specific written code creates legal uncertainty and weakens efforts to enforce ethical standards within the institution.

Ethics, understood as a way of life, a system of norms, or a discipline that studies these norms, is essential in the context of public institutions like KPAI (Alharbi, 2023; Donthu & Gustafsson, 2020; Ho & Chan, 2023; Hu et al., 2022; Jun et al., 2022; Mjøsund et al., 2020; Sani et al., 2023; Yaddaden et al., 2022). Institutional ethics should function as a moral guide, a set of specific behavioral standards applicable within a social group, and as a rational foundation for moral actions. In the case of KPAI, the fundamental principle of "the best interests of the child," as mandated by the 1990 Convention on the Rights of the Child, serves as the primary guideline for every action and decision taken by commissioners. However, the lack of a clear code of ethics can hinder KPAI's efforts to fully adhere to this principle, especially in situations where commissioners' actions are questioned from an ethical standpoint.

This article aims to analyze KPAI's ethical standards and compare them with the ethical standards of other public institutions in both Indonesia and internationally (Aditya & Mayasari, 2022; Arnellis et al., 2020; bayın Ümit, 2021; Domínguez-Lucio et al., 2023; Huang et al., 2020; Ipandang et al., 2022; Joseph et al., 2021; Nightingale et al., 2022; Pinto et al., 2021; Putri et al., 2021). Using a normative legal research approach, this article will examine the laws and regulations governing KPAI's core tasks and functions, as well as the authority for enforcing its code of ethics. This research will also explore the implications of the absence of a written code of ethics on law enforcement and discipline at KPAI, while offering recommendations for ethical reforms that could enhance accountability and public trust in the institution.

## **THEORETICAL FRAMEWORK**

This article uses a theoretical framework grounded in moral philosophy and normative ethics to evaluate ethical standards in public institutions, with a particular focus on KPAI. Normative ethics, which focuses on moral principles and universal values, provides a theoretical basis for assessing how ethical standards should be applied in institutional contexts. This approach considers not only what is morally right or good but also how these principles can be practically applied in decision-making within public institutions.

This theoretical framework integrates several key concepts from various ethical traditions to provide a comprehensive analysis. First, Aristotle's concept of virtue emphasizes the importance of individual character and morality in shaping ethical actions. In the context of public institutions, this theory of virtue can be applied to understand how the integrity and personal morality of KPAI members contribute to ethical and responsible decision-making.

Second, John Rawls' theory of contractualism provides a foundation for the principle of justice as fairness in social and institutional structures (Azar et al., 2020; Guterman & Detochenko, 2021; Han et al., 2022; Keshav et al., 2022; König et al., 2020; Lauret & Bayram-Jacobs, 2021; Nightingale et al., 2022; Nurkhodri & Dafit, 2022; Wang & Jiang, 2022; Zubair et al., 2022). Rawls argues that principles of justice should be chosen under a "veil of ignorance," a condition where individuals do not know their position in society, leading them to choose the fairest principles for all. This theory is relevant in analyzing KPAI's ethical standards, as it highlights the importance of fairness and equality in treating all parties, especially in protecting children's rights.

Third, John Stuart Mill's utilitarianism approach will be used to evaluate the consequences of actions and policies undertaken by KPAI (Abidin, 2019; Ipandang et al., 2022; Nopiana et al., 2022; Rafique et al., 2022). Utilitarianism emphasizes that the right action is the one that produces the greatest happiness or well-being for the greatest number of people. In the context of KPAI, this approach can be used to measure the extent to which the institution's policies and actions maximize benefits for the children it protects.

By combining these three approaches—Aristotle's virtue ethics, Rawls' contractualism, and Mill's utilitarianism—this theoretical framework provides a thorough analytical tool to assess and recommend optimal ethical standards for KPAI. These theories will serve as the basis for evaluating the effectiveness and fairness of KPAI's ethical actions, as well as how the institution can improve its ethical standards to better protect children's rights.

## **RESEARCH METHODOLOGY**

This study uses a normative legal research method that focuses on analyzing legislation, legal doctrines, and ethical principles relevant to ethical standards in public institutions, particularly KPAI (Dodemaide et al., 2022; Donthu & Gustafsson, 2020; Puspita Dewi et al., 2023). This normative approach allows the research to explore how law and ethics are integrated into institutional governance and how they should be applied in practice.

The primary data sources in this study consist of three categories:

### *Legislation*

This study analyzes various laws and regulations governing KPAI's tasks, functions, and authority, including but not limited to the Child Protection Law, Presidential Regulations, and KPAI internal regulations. The analysis aims to assess the

extent to which these regulations cover and implement the necessary ethical principles for public institution operations.

#### *Institutional Documents*

This study also uses KPAI's institutional documents, such as annual reports, operational guidelines, and records of hearings and decisions related to disciplinary enforcement. These documents are essential for understanding how ethical principles are applied in practice and for identifying weaknesses or gaps in the enforcement of ethical standards within KPAI.

#### *Academic Literature*

Additionally, the study uses academic literature relevant to public institution ethics, ethical theory, and moral philosophy. This literature provides the theoretical foundation needed to interpret and evaluate ethical standards in the institutional context, and to compare KPAI's ethical standards with other public institutions at the national and international levels.

This normative legal research method is conducted through a qualitative approach, where data is analyzed in-depth to identify the legal and ethical implications of the applicable regulations and practices (Alotaibi, 2020; Basuliman et al., 2023; Guess et al., 2020; Hariyanta et al., 2022; Head et al., 2020; Hernawan et al., 2021; Jun et al., 2022; Mirete et al., 2022; Nightingale et al., 2022; Oladrostam et al., 2022; Rahmawati et al., 2021). The results of this analysis are expected to provide comprehensive insights into the need for ethical reform in KPAI and its contribution to increasing accountability and public trust in the institution.

## **RESULT AND DISCUSSION**

### **Ethical Standards in KPAI**

The Indonesian Child Protection Commission (KPAI), as an independent institution tasked with protecting children's rights in Indonesia, has a significant responsibility in fulfilling its mission with integrity and high ethical standards. However, despite having a strong mandate, KPAI does not have a written and clear code of ethics. This absence of a code of ethics creates serious challenges in enforcing discipline and performing other ethical duties. Without clear guidelines, the decisions and actions taken by KPAI can become inconsistent and vulnerable to subjective interpretation, ultimately damaging the institution's credibility and reducing its accountability. The lack of explicit ethical standards also negatively impacts public trust, which is a key element for KPAI's effectiveness in carrying out its functions.

### **Comparison with Other Public Institutions**

To further understand the weaknesses in KPAI's ethical standards, this article compares KPAI with other public institutions in Indonesia, such as the Ombudsman, the Judicial Commission, and the National Human Rights Commission (Komnas HAM). These institutions have established clear and structured codes of ethics, which play an important role in maintaining their integrity and accountability. For example, Komnas

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HAM has an enforcement mechanism involving an Ethics Council that handles alleged violations in a professional and transparent manner. In the case of KPAI, the absence of a code of ethics and strong enforcement mechanisms means that unethical actions, such as those in the controversial statement made by one of its commissioners in 2020, cannot be appropriately addressed. This analysis suggests that KPAI can learn from the models implemented by these institutions to strengthen its ethical structure and enhance its ability to enforce discipline.

### **Learning from International Standards**

At the international level, many child protection institutions in developed countries have implemented strict and transparent ethical standards. This article reviews the ethical standards in institutions such as the Children's Ombudsman in Scandinavian countries and Child Protection Agencies in North America and Western Europe. These standards not only include comprehensive codes of ethics but also enforce effective monitoring and enforcement procedures. In KPAI's case, the controversial statement by one of its commissioners regarding the risk of pregnancy without sexual penetration caused widespread public controversy. This case highlights the need for clear ethical standards and strong formal procedures to handle alleged violations. For example, in countries such as Sweden or Norway, ethical standards require that every action or statement made by public officials be based on scientific evidence and accompanied by clear moral justification. These best practices could be adopted by KPAI to establish a better and more transparent code of ethics, and to improve public trust and the institution's effectiveness.

### **Public Understanding of Ethics and Ethical Philosophy**

This research found that public understanding of ethics in institutional contexts such as KPAI is often varied and inconsistent. Ethics is generally understood as a value system that distinguishes between right and wrong or as a set of norms governing human behavior. In the context of KPAI, differences in the interpretation of ethics can lead to inconsistency in carrying out duties and making decisions. This is especially evident in situations where there is no explicit written code of ethics, resulting in variations in the ethical standards applied by the institution's members. From the perspective of ethical philosophy, this research shows that both normative and descriptive ethics play an important role in understanding institutional behavior. Normative ethics provides judgments on the norms in place, while descriptive ethics focuses more on describing those norms without offering evaluation. In KPAI's case, the absence of a clear code of ethics has created room for subjective interpretation, potentially harming the integrity of the institution.

### **Implementation and Challenges in Ethical Hearings at KPAI**

This research also identified challenges faced by KPAI in conducting ethical hearings, particularly in cases involving controversial statements made by commissioners. A relevant example is the statement made by one of KPAI's commissioners in February 2020, which sparked public controversy and raised questions about ethical violations. In this case, KPAI's Ethics Council was formed to assess the alleged ethical violations, but

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the lack of written guidelines or an explicit code of ethics led to uncertainty in the hearing process and its outcome. The research found that KPAI's ethical hearings lacked clarity in procedures and enforcement mechanisms, making the decision-making process less transparent. The Ethics Council, which was appointed on an ad hoc basis without written guidelines, worsened the situation, as there were no clear standards to follow in assessing ethical violation cases.

### **Comparison with Other Public Institutions**

This research also shows that other public institutions in Indonesia, such as the Ombudsman, Judicial Commission, and Komnas HAM, have better structures and enforcement mechanisms for their codes of ethics. For example, the Ombudsman and Komnas HAM have Ethics Assemblies or Ethics Councils that operate on a permanent basis and have clear authority to enforce their codes of ethics. The internal regulations governing ethical hearings in these institutions are also more comprehensive, allowing for more structured and fair enforcement of ethical standards. In this regard, KPAI can learn from these institutions to strengthen its internal ethical structure. This research recommends that KPAI develop a comprehensive written code of ethics and establish an Ethics Council with clear authority and procedures to handle cases of ethical violations.

### **Learning from International Standards**

In the international context, this research found that many child protection institutions in developed countries have developed stricter and more transparent ethical standards. For example, the Children's Ombudsman in Scandinavian countries and Child Protection Agencies in North America implement codes of ethics that are not only clear and comprehensive but also equipped with strict oversight mechanisms. These standards emphasize the importance of transparency, accountability, and public participation in enforcing ethics. This research recommends that KPAI adopt best practices from these international standards to improve the integrity and effectiveness of its institution. One important step is to ensure that every statement or action made by KPAI commissioners is based on strong scientific evidence and clear moral justification, as is practiced in those countries.

## **CONCLUSION**

This research highlights the importance of establishing and implementing a clear and written code of ethics within the Indonesian Child Protection Commission (KPAI). The absence of an explicit code of ethics has created legal uncertainty in the process of enforcing disciplinary measures against members, resulting in an inability to definitively determine whether a member has committed a violation. This not only hinders KPAI in carrying out its duties and responsibilities effectively but also affects the legitimacy of actions such as Dismissal Without Honor (PTDH), which lacks a strong legal basis.

The dismissal of a KPAI Commissioner decided without a clear ethical foundation demonstrates a serious legal flaw. The absence of a code of ethics as a legal foundation means that the decision failed to meet the necessary legal requirements, making it

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vulnerable to being overturned through legal avenues. The Ethics Council report, which stated that KPAI had not yet drafted a written code of ethics, confirms that disciplinary enforcement has been based only on subjective interpretation rather than definite and written rules. This contradicts the principle of legality, which requires that penalties be imposed based on clear and precise legal provisions.

Based on these findings, this article recommends institutional reforms involving several key steps: first, the creation of a comprehensive written code of ethics to regulate the behavior of KPAI members; second, ongoing ethics training for KPAI members to ensure consistent understanding and application of the code of ethics; and third, the establishment of a strong internal oversight mechanism to ensure that disciplinary enforcement is carried out transparently and fairly.

These reforms are expected to not only enhance the accountability and credibility of KPAI but also strengthen public trust in the institution. With a clear code of ethics, KPAI will have a solid legal foundation to carry out its duties and take the necessary actions to safeguard its integrity and reputation as an institution that protects children's rights in Indonesia.

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