Redesign of Constitutional Ethics For State Administrator
Based on The Value of Pancasila

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Abstract

A constitution is a collective agreement as the foundation and goal to be achieved in the state. Therefore, the constitution not only regulates the fundamental rules of the state but also contains the ethical values that serve as the guiding of the state administrator. However, the spreading of violations of law such as corruption, abuse of authority that ends in the imposition of sanctions justifies the occurrence of incompatibility between the values of the constitutional principle as a reflection of the soul of the nation with the moral obligation of state administrator to implement the values. Using a doctrinal approach, data will be analyzed through the original intent of interpretation, grammatical and systematic law is expected to formulate a new model of constitutional ethics for state administrator based on the value of “Pancasila.” Based on the study of moral and constitutional philosophy with the law interpretation method can be concluded that the ethical values in the 1945 Constitution requires that state administrator base their deeds on the moral deity who respects the values of human civilization as Indonesian citizens, and humans in general with the priority of Indonesian unity above all interests and classes in order to achieve the ideals of social justice based on a deliberate-oriented on the great goal of Indonesian independence. To achieve this intention, the formation of ethical standards of the administrator in the constitutional
norms through the amendment of the 1945 Constitution which then set a further law which is general and contains normative sanctions.

Keywords: Redesign, Constitutional Ethics, State Administrator

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A. Introduction

The only qualification as a statesman which capable on the constitution and constitutional become absolute condition must be possessed by the candidates’ judge of the constitution. However, such regulation on Section 24C subsection (5) The 1945 Constitution has lost its spirit with Akil Mukhtar and Patrialis Akbar be under arrest, chairman and judge of constitutional court (MK). Oral punishment by the Courtesy Chamber of Constitutional Judges towards Arief Hidayat, which also the chief of MK insist degradation of noble purpose from statesman phrase.

Slate of behavior that covering such morale of constitution increasingly being length with dismissal of Indonesia Legislative Assembly (DPR) Chairman, Setya Novanto which notion involve in appealing shares of Freeport, shall reappoint in his former position and furthermore is involve in mega corruption of E-KTP, nor a variety of corruption which involves the administrators in three branches of states authorities, with the result that Montesqueu’s trias political also mean trias corruption.¹

The standard ethics formula of administrator in legal foundation, organic law even internal rules like code of ethics and guidance of behavior formerly expected able to fence the nobleness status of state administrator, but along with various of deviations of such ethics administrator become important to redesign the new model of constitutional ethics for state administrator based on the value of Pancasila.

B. Constitution, Morale, and Constitutional Morale

Constitution of Indonesia 1945 and UUD 1945 notwithstanding, between genus and species, but also two things which alternately point out a legal foundation of the state. Oxford Dictionary of Law mentions it as “the rules and practices that determine the composition and functions of the

organs of the central and local government in a state and regulate the relationship between the individual and the state.”

Thus also the grammatical meaning of Kamus Besar Bahasa Indonesia (KBBI).

The constitution is one of the sources from Legal Constitutional; there are various rules either in legislation form, customs (convention), or jurisprudence, which become sources and Legal Constitutional Rules. On that score, it is not sufficient to comprehend constitutional law if just hanging up or measure anything with the principles or the provisions specified in the Constitution (UUD), but more extensive with observing on the material, formal, administrative, or textual means, on collective minds, nor on civic behavior realities means. So the constitution pursuant by Herman Heller has sociological, political, and juridical means. Therefore, state and society Construe it as constitutional of politic along with constitutional of social, and as a source of constitution ethic.

Ethics as knowledge about good and bad and about rights and moral duties (akhlak). Abdulkadir Muhammad wrote down that ethics in Sanskrit have a parable with decency, which means good, attractive, beauty and courtesy, deed, proper behavior (Sopan santun), akhlak, and morals. Therefor, decency means that proper behavior, good deed, which parable with existed principles, norms, or rules. Ethics usually mean as a philosophical reflection about morale. So ethics is more than normative description, but not always imperative, cause it also hypothetical, which speaks about the contradiction between good and bad, which deemed as a relative value. Ethics have a function as a guidance of human behaviour in

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5 Ibid.
order to manage life to prevent tragic nature. Magnis Suseno mentioned to help human seek orientation in a critical manner against with disoriented morality. In that case, The Liang Gie insists that there is no contradiction between ethics and morale. The reality is, the nature of morale is universal, applicable to everyone, whenever and wherever without limited by place and time. Despite must be recognized, science is objective nature while morality is the subjective one. The universal term of philosophical ethics discusses principles, values, idealism, or in other word discuss standards (norms) that must comply with human behavior.

Relations between morale and law is similar to opinion between separating or unified religion and state, even in Old Greek contain different of morality object. Thus also in classical legal positivism by John Austin have differences with Hart, Dworkin, Fuller, Raz, and Peczenik descriptions which are modern positivistic with different legal systems backgrounds. It is also different between Thomas Aquinas, Immanuel Kant, and Luijpen, even though, they are set out from natural law, irrational, rational and modern.

Easier differences were found between west morality which utterly lean on rationality and individualism with Islamic morality which based upon God Transcendental law and rationality of human nature. West at one specific time lean on the will of God, but in other condition, it mixed, and other time separating of the will of God in the purpose relation of morals and laws. Right here then become interesting by the answer from J.J. Rousseau, that developments of art and science do not confer to human morality correction, or in phenomenological By Richard Tarnas which is quoted by

15 The Liang Gie, *Etika Administrasi Pemerintahan*, Jakarta: Universitas Terbuka, (1986), p...
Herman Soewardi, an error of west secularity science effect upon world depraved, whether it is physical or mental.24

Before the positivist scientist Auguste Comte (1798-1857), morale and laws even with religion do not have any partition one of another. In one system and more than one systems, some parts of law likely have a deep relation with religious moral, and the others as a source of legal material.25 Thus, the example of the highest source of moral value and ethics of America and the European States derives from the Bible.26 Hence on nature law cogitation, between law and morale have a tight relation,27 impartially one to another. Morals form laws, and laws keeping certainty of moral performance.

In morale ethic perspective, the substantive of the constitution has authority as a moral binder, which constitutes morale of national life that must be performed in state governance administration. Moral organizes human act consider from the good and the bad side gave and in connection with the final purpose of human life according to the natural law. But yet, morals are never being compelled, but morals demand absolute pursuance without offers. According to Paul Scholten, Morals order is autonomous and it if relates to the natural law doctrine, then moral is an immortal law which is the will of God. In such case, the authority of moral constitution is logic consistency from the existence of legal authority. Jimly writes down that ethics as a field of study which endeavor to find and formulate the principles and the rules about the values in common life.28

Moral view mentions that law ideally strives for the universal ceremony, the manifesto of perfection, good, and beauty, reflect the will Of God, that final, with substantive and moral of God and also normative characteristic which completely should be taught and obeyed. But in its development, substantive moral of God from character issue shift and metamorphosis to the prescriptive norm, regulate physical behavior, and in the end transform as substantive of law which manifest in the inner person of

26 O.C. Kaligis, Morality and Ethics of Law Enforcement in Indonesia’s Integrated Criminal Justice System, dalam Sinta Dewi, Irawati Handayani dan Prita Amalia (Editor), Op.,Cit, p. 458.
the human, with the result that “Ought” to be in effect the perspective of “laws contains morals.”

August Comte mention three level of human thought developments, from theological, metaphysics and peak upon positivist that give huge contribution outwardly of legal positivism which released itself from the influence of ethics, and thought which comes from the religious concept is the lowest level of such human thought. Because of it, a human with his capability to take care and lead himself become prominent matters, in order in scientific view or positive individual rights become more important than rules from anyone.

Concerning the relation between such law and morale, Jimly Asshiddiqie writes down as two last views in seeking them, that is ethic must be viewed as the more extensive scope and range than laws, and ethics is like a wide ocean, place of law as a ship of justice which can be shipped out freely. Therefore, J.J. H. Brugink in an explicit manner mentions that incisive different between spiritual and physical in modern jurisprudence are out of date so that positive law which regulates and evaluate physical act become nothing when regulation cannot reach valuation toward such act motive.

Thus, the constitution is not only covered up by the written documented document, in the same manner, that shall be intended to UUD, or other written document (like Magna Carta) but also covered unwritten, or undocumented and constitutional convention. So that, even though UUD placed as the highest law, it’s normative rules may be reduced by ethics rules which developed by the convention and the jurisprudence. In consequence, the substantive of the constitution is not only regulating fundamental state rules that are intended by Sri Soemantri, but it also contains the norm

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31 Ibid., pp. 66-71
35 Ibid.
foundation for administrative law, criminal law, etc.\textsuperscript{37} As a whole constitutional system, it constitutes and regulates or directs its governance.\textsuperscript{38} Until, constitution anyway contains a statement of faith, principles, purposes that formerly discussed.\textsuperscript{39} Therefore, understanding UUD is not enough to fetch up upon sections reading, or concerning about contents of UUD, but also observing terms, concepts (doctrine) that used and facts lived in when \textit{the fathers of the Constitution} constitute UUD 1945.\textsuperscript{40} Meaning to conclude the constitution into perusal in a \textit{moral} manner,\textsuperscript{41} or \textit{moral and philosophical reading of the constitution},\textsuperscript{42} from textual perusal into contextual. So that the enforcement of constitution is not only based on the \textit{rule of law} but also \textit{morality based paradigm or rule of ethics}\textsuperscript{43} with three prominent values of laws as integrity, that is \textit{Justice}, \textit{fairness} and \textit{procedural due process},\textsuperscript{44} which emphasize moral philosophy perspective and \textit{constitutional law}\textsuperscript{45} principles used to find \textit{the spirit of the constitution}.\textsuperscript{46}

C. Ideal Design of Administrator Ethics Based on The Value of Pancasila

UUD 1945 at the time of formation makes an effort to negate from the present of west thought which deemed by Soekarno is secular, individualism and does not appropriate with the nations spirit intend to form. But, it is undeniable that some of the members of Agency for Investigating Efforts for the Preparation of Indonesian Independence and Preparatory Committee for Indonesian Independence are from west education, and also religionist, so that contain enrichment of material substantive of such constitution. The preamble that formerly is the formulation result of Committee Nine and becomes \textit{Jakarta Agreement} is the highest crown of the constitution and becomes the spirit for every section, thus section reflecting the spirit and its will and desire from such Preamble to be the standard of the moral of the constitution.

\textsuperscript{38} K.C. Wheare, \textit{Modern Constitutions}, London : Oxford Univeristy, (1975), p. 1
\textsuperscript{42} Jimly Asshiddiqie, \textit{Op.,Cit.}, p. 233
\textsuperscript{43} \textit{Ibid.}
\textsuperscript{45} Jimly Asshiddiqie, \textit{Op.,Cit.}, p. 233
\textsuperscript{46} \textit{Ibid.}
The qualification and the standard of state administrator ethics on normative formulation of UUD 1945 except the President of Indonesia must be indigenous people of Indonesia, and President and Vice President express oath and promise in accordance to Section 6 Subsection (1) and Section 9, branches of the other state authorities do not regulate in *expressis verbis*, but in organical Act, like political package Act and judicial authority and employee Act. Thereby, using the definition of the constitution is not limited upon UUD, then legislation that rules state institution and admission office automatically have been mean as a constitution in wade terms.

Notwithstanding with the original UUD 1945 that limited adopting rules of state administrator standard qualification, four packages amended result of UUD 1945 extract and laid down the standard ethics from organical norm into the fundamental norm. The condition of President and Vice President is no more indigenous people of Indonesia but has been expanded its scope to administrative qualification and normative condition.\(^{47}\) High standard is seen from the qualification of judicial authority. High Judge have integrity and personality which unblemished, fair, professional, and experience in the legal sector,\(^{48}\) and Constitutional Judge with the nature of his statesmanship.\(^{49}\) Thus also for commissioner of Judicial Commission, the condition must have knowledge and experience in the legal sector along with integrity and unblemished personality.\(^{50}\) Differ with rules of standard ethics that strict for executive and judicial authorities, UUD 1945 does not regulate the qualification of ethics for legislative authority, except just the recruitment mechanism through the election, that shall be in further regulate with organical Act.\(^{51}\) Whereas some organs of the constitution are qualified as an independent institution or be autonomous like General Elections Committee (KPU),\(^{52}\) Central Bank,\(^{53}\) Financial Inspector Body (BPK),\(^{54}\) Judicial Authority,\(^{55}\) and Judicial Commision (KY).\(^{56}\)

Qualification rules of states apparatus nor institutions of organ’s constitution in constitution moral makes compulsory of each act from state administrator placed in such offices that reflect high standard of such constitutional norm, but also the annual report from Commision of Corruption Eradication (KPK), MA and MK showed that inconsistency from

\(^{47}\) Section 6 UUD 1945.

\(^{48}\) Section 24A subsection (2) UUD 1945.

\(^{49}\) Section 24C subsection (5) UUD 1945.

\(^{50}\) Section 24B subsection (2) UUD 1945.

\(^{51}\) Section 2, Section 19, dan Section 22C UUD 1945.

\(^{52}\) Section 22E subsection 5 UUD 1945.

\(^{53}\) Section 23D UUD 1945.

\(^{54}\) Section 23E subsection (1) UUD 1945.

\(^{55}\) Section 24 subsection (1) UUD 1945.

\(^{56}\) Section 24B subsection (1) UUD 1945.
will of moral constitution and moral behaviour of states apparatus. These following table confirmed the behaviour covering such constitution.

Table 1.
Discipline Punishment of Supreme Court Apparatus in years 2015

<table>
<thead>
<tr>
<th>No.</th>
<th>Position</th>
<th>Genre</th>
<th>Total</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Heavy</td>
<td>Normal</td>
<td>Light</td>
</tr>
<tr>
<td>1</td>
<td>Judge</td>
<td>18</td>
<td>11</td>
<td>89</td>
</tr>
<tr>
<td></td>
<td>Judge Ad Hoc Tipikor</td>
<td>2</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>Registrar/Secretary</td>
<td>7</td>
<td>1</td>
<td>18</td>
</tr>
<tr>
<td>3</td>
<td>Vice Registrar</td>
<td>3</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>4</td>
<td>Vice Secretary</td>
<td>2</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>5</td>
<td>Deputy Registrar</td>
<td>5</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>6</td>
<td>Registrar Successor</td>
<td>6</td>
<td>3</td>
<td>15</td>
</tr>
<tr>
<td>7</td>
<td>Bailiff</td>
<td>2</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td>8</td>
<td>Bailiff Successor</td>
<td>1</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>9</td>
<td>Structural Officers</td>
<td>1</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>10</td>
<td>Staff</td>
<td>12</td>
<td>12</td>
<td>8</td>
</tr>
<tr>
<td>1</td>
<td>Judges Candidate</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
</tbody>
</table>

Source: Annual Report of Mahkamah Agung RI in years 2015

Table 2.
Total Types of Discipline Punishment to Judges by Judges Honorary Assembly
In Years 2011 – 2015

<table>
<thead>
<tr>
<th>No.</th>
<th>Types of Punishment</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ceased in disrespect manner</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>2</td>
<td>Ceased in respect upon self</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>-</td>
<td>-</td>
<td>6</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>No.</th>
<th>Proposer Institutions</th>
<th>Recommendation</th>
<th>Total</th>
<th>MKH Award</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Mahkama h Agung (16 Recommendation)</td>
<td>Ceased in disrespect manner</td>
<td>5</td>
<td>Ceased in disrespect manner</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Ceased in respect</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Non-Hammer, and Mutated</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ceased in respect</td>
<td>11</td>
<td>Ceased in respect</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ceased in disrespect</td>
<td></td>
<td></td>
<td>2</td>
</tr>
</tbody>
</table>

Source: Annual Report by MARI in the years 2015[^58]

[^58]: Ibid., pp. 132-133.
<table>
<thead>
<tr>
<th>No.</th>
<th>Profession</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Members of DPR/DPRD</td>
<td>19</td>
</tr>
<tr>
<td>2</td>
<td>Private</td>
<td>18</td>
</tr>
<tr>
<td>3</td>
<td>Eselon I, II dan III</td>
<td>7</td>
</tr>
<tr>
<td>4</td>
<td>Etc.</td>
<td>5</td>
</tr>
<tr>
<td>5</td>
<td>Mayor/Regent and its Vice</td>
<td>4</td>
</tr>
<tr>
<td>6</td>
<td>Governor</td>
<td>4</td>
</tr>
<tr>
<td>7</td>
<td>Judges</td>
<td>3</td>
</tr>
<tr>
<td>8</td>
<td>Head chief of institution/Ministry</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>63</td>
</tr>
</tbody>
</table>

Source: Annual Report of KPK 2015\(^{60}\)

Table 5.
The institution from Subject of Corruption Criminal Act 2015

<table>
<thead>
<tr>
<th>No.</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td></td>
</tr>
</tbody>
</table>

Source: Annual Report by MARI in the years 2015\(^{59}\)

Table 4.
Profession Subject of Corruption Criminal Act 2015

\(^{59}\)Ibid., p. 133.

1 DPR RI 3
2 Institution/Ministry 21
3 BUMN/BUMD 5
4 Province Government 18
5 City/Regency Government 10
Total 57

Source: Annual Report of KPK 2015

Table 6.
Ceasing of Constitutional Judges and Employee of Constitutional Court

<table>
<thead>
<tr>
<th>No.</th>
<th>Position</th>
<th>Total</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Constitutional Judges</td>
<td>3</td>
<td>- Self-retiring; - Ceased in disrespect manner (Award No. 1/MKMK/X/2013); - Oral Sanction</td>
</tr>
<tr>
<td>2</td>
<td>Registrar Successor</td>
<td>1</td>
<td>Ceased in disrespect manner</td>
</tr>
<tr>
<td>3</td>
<td>Spokesman of MK</td>
<td>1</td>
<td>Ceased in disrespect manner</td>
</tr>
</tbody>
</table>

Source: tabulated from primary data

Thus, the norm of UUD 1945 along with legislation which becomes performance rules from enforcement of ethics power and behavior such state administrator is not sufficient to be guide and divider of behavior by standard rules of the constitution, covering and leave fundamental values contains in *Staatsfondamentalnorm* behind. In other approaches, Bagir Manan writes down

“.... in order foundations of Pancasila, UUD 1945 can remain alive (*the living philosophy, the living constitution*), must always living up to dynamics and age requirement. But between ‘living up’ with ‘leave behind’ are two different things. Living up related with applied ways without cast *staatsidee* which contain in it. Leave behind, means substitute with the new one....”

Failure of implementation moral constitution it could because incompletely norm, intentionally made incomplete, or more constitute as intentional behavior disorder which intentionally to the lethal constitution

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and makes it as an artifact. On the other side, written constitution or more extend from its crystallization and law reflection, whereas one of the sources is moral, and because of it, it is right the expression from Earl Warren that Law floats in a sea of ethics.\textsuperscript{63} Whereas constitution as a legal manifestation and moral have some limitation, whether cause of making by a human that limited nor of circumstance change. It means, to find the intention of regulation from constitutional norm, values, views, and idea which develops upon such norm formation adapted to be the gate to find the will of creator of the constitution, as moral constitution approach intended by Dworkin, and UUD 1945 is designed in emergency situation so that it becomes limited as we found in original UUD 1945, and four periods amendments of UUD 1945 (1999-2002) in Reformation era, while the objective condition is unable to open the tap of democracy in wide range and run parallel with democracy nation that has been advanced along with influence of individualism concept, and the capitalist that influence huge part of modern states.

Comprehensive text of amended UUD 1945 toward book which regulate chapters of parley representation instance,\textsuperscript{64} state governance authority,\textsuperscript{65} general election,\textsuperscript{66} and judicial authority,\textsuperscript{67} show that intention of embedding particular qualification for state administrator apparatus as standard ethics constitution demand high moral standard behavior, which is not only in recruitment process that must be fulfilled by the candidates but more than that as long as being occupied as such office, state administrator shall be volunteer with no exemption to hold its principle ethics measured by constitutional norm. However, considering that there is no provision of norm which makes state administrator to always hold up norm principle of moral ethics constitution in his office periods, then, the way out which can be made is to put up the provisions in exvrebiss verbis manner duty to perform standard ethics moral constitution in the same manner as it was made as proper candidate upon the recruitment process.

\textsuperscript{63} Jimly Asshiddiqie, Op.Cit., p. xii
Regulating standard ethics of state administrator in constitutional norm binding upon such person as long as occupy its office, and adhere also as behavior border outside of state business operation in social association societies which becomes general standard deemed as the best qualification from moral that should be acted by state apparatus, and when the time comes to the objective measure of societies in the valuation of state apparatus moral in general.

Application of moral constitution upon state administrator in norm foundation lean on fundamental state values which existence being admitted on the preamble of UUD 1945. Moral constitution of state administrator apparatus. Based on the vision of divinity, along with human proper behavior, that give priority to unity and federation from national state which plural, in above of parley/representation in ordering each act that effect upon human relation, along with efforts to maintain for achieving the vision of social justice in whole Indonesian societies without limitation cause from ethnic, religion and race.

To give value and admittance from society toward the application of the moral constitution. Organical Act particularly regulates standard ethics of state administrator, it is time to form a special way through national legislation, which contain, besides interpreting qualification ethics of state administrator all at once insist moral duties for stating to ceased from office, or at least retiring temporary to the end of inquiry process upon notion of offences toward the code of ethical behaviour, or the notion involve in any criminal act, to make easy on investigating officer and far from ewuh pakewud nature (reluctant to approach). That could make investigating officer is subordinate in office or class. Meanwhile, organical Act which regulates ceased of state administrator from his office, generally recent bounding upon pre-condition if set up to be defendant upon legal offenses with the liability of some punishment, or even possesses from the award that permanently has legal power, while protecting it behind the presumption of innocence principle. It is should, with the occurrence of principles internalization of moral constitution spirited by the vision of Pancasila with such five character, each state administrator already knows and realizes words form nor contradiction behaviour with the standard moral constitution, with the result that itself have the consciousness to self-retiring or ceased from his office as a moral liability.

D. Conclusion
The ethical values in the 1945 Constitution requires that state administrator base their deeds on the moral deity who respects the values of human civilization as Indonesian citizens, and humans in general with the priority of Indonesian unity above all interests and classes in order to
achieve the ideals of social justice based on a deliberate-oriented on the great goal of Indonesian independence. To achieve this intention, the formation of ethical standards of the administrator in the constitutional norms through the amendment of the 1945 Constitution which then set a further law which is general and contains normative sanctions.

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