

JUDGMENT FREEDOM MODEL IN JUDGING CORRUPTION CRIMINAL CASES

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ABSTRACT

The independence of judges is based on independence, therefore it is guaranteed in law. Judges adjudicating corruption cases must be professional, clean, honest, courageous and free from intra-judicial and extra-judicial influences. The problem in this research is how the model of freedom of judges in judging cases of corruption in the Corruption Court, especially in the Corruption Court at the Kls I A District Court in Bandung. This research was carried out with a normative and empirical juridical approach, namely studying legal materials systematically to discuss problems obtained from literature studies, by analyzing a legal problem through the concept of legal philosophy associated with the freedom of Judgment in adjudicating corruption cases and The data obtained were obtained from field research and interviews. The purpose of this research is to examine the model of Judgment freedom in examining, adjudicating and deciding cases of Corruption Crime, while the benefits of this research are expected to produce scientific work that is beneficial for the development of legal science as well as material for scientific work that will be published in the National Journal, as well as teaching material for students of the Faculty of Law in particular who take courses in Criminal Law, Criminal Procedure Law and Legal Philosophy. From this research, it is found that judges in deciding cases of corruption can apply existential freedom and social freedom to produce a just decision based on the one and only Godhead.

Keywords: Independence, Judicial Power, Existential Freedom and Social Freedom.

INTRODUCTION

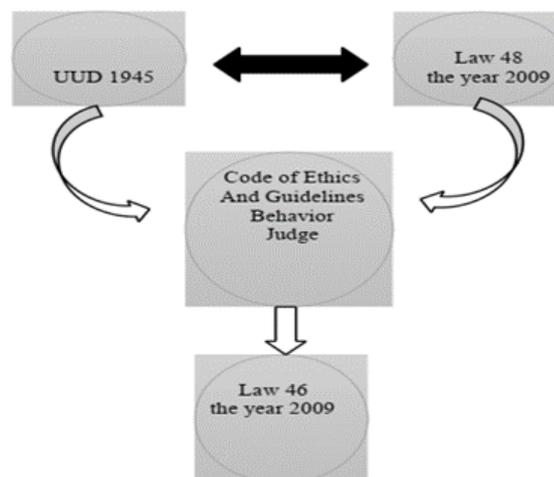
Indonesia is a rule of law, not a state of power alone, therefore the consequence of a rule of law is that there is an independent judicial power. The judicial power in all countries has an independent and free character so that it always functions as one of the main supports for the administration of a rule of law. This can be seen from several provisions of international law, including those stipulated in the Universal Declaration of Human Rights (Article 10), International Covenant on Civil and Political Rights (Article 14 Viena Declaration Covenant and program for action 1993 (Paragraph 27). International Bar association Code of Minimum Standards of Judicial Independence (New Delhi 1982), Universal Declaration on The Independence of Justice (Montreal 1983), and Beijing Statement of Principles of Independence of Judiciary in the Law Asia Region.

In essence, judicial power is one of the important elements in the constitutional structure that is part of the legal system of a country. In the concept of a rule of law, the power of the judiciary becomes a pillar of support in a rule of law, in a state of law, the judicial power is demanded to be free or independent from any influence. In western countries, the awareness of the importance of separation of state powers as stated above gained momentum through the idea of John Locke, the British philosopher. According to Locke, state power is divided into (1) Executive Power, (2) Legislative Power, (3) Federative Power. The legal teaching of this opinion seems to have the support of or in line with the

opinion of the chairman and Supreme Court judge of the Republic of Indonesia. Bagir Manan argues that conceptually judicial power is a power that is easily subject to other powers, in full, Bagir Manan's opinion is as follows:

The power of the judiciary is indeed very weak compared to the legislative and executive powers. In reality the judicial power is always powerless to face political pressure to keep the independent judicial power intact and the administrative system, for example the expenditure budget, as long as the budget system depends on the generosity of the government as the holder of the state treasury, then various efforts to strengthen judicial power run into obstacles. In connection with this strategic position of judicial power, Indonesia has a legal basis, namely Article 24 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which regulates independent judicial power to administer judiciary to uphold law and justice. Independence judiciary is free from all forms of pressure, both physical and physical, in order to uphold law and justice based on Pancasila and the 1945 Constitution.

Juridically as regulated in the 1945 Constitution, laws and other legal provisions, judges and judges of the Constitution have free and independent powers. Judges and Constitutional Justices only obey the 1945 Constitution, and do not submit to the command of the judicial institution or other non-judicial institutions. In carrying out their duties and functions, judges and judges of the constitution are obliged to maintain the independence of the judiciary. As Figure 1 below:



The supervision and authority of the Supreme Court and the Judicial Commission must not reduce the freedom of judges in examining and deciding cases. As a logical consequence, in examining and deciding cases, the judge is responsible for the decisions and decisions he makes, therefore the decisions and decisions must contain legal considerations based on just and right legal grounds and grounds. In order for judges to carry out their duties and functions in a professional manner, they must be given adequate legal protection, including security guarantees by law enforcement officials. Judges as the core executor of judicial

power are obliged to maintain their independence to improve the quality of decisions. However, it must be remembered that there is no absolute freedom without responsibility, judges are not in a vacuum, but there are still many signposts regulating their behavior and behavior, even what is done must be accounted for in the world and the hereafter. Based on the description above, it can be understood in the context of judge freedom that it must be balanced with the element of its partner, namely judicial accountability, meaning that every Court decision must be accounted for by the panel of judges who decide cases vertically and horizontally. The definition of moral accountability of a judge is the obligations of a judge in behaving in the process of examining, hearing and deciding cases.

This accountability exists as a logical condition of the state's trust to carry out and account for judicial power, both to God and to humans. Many cases in several Tipikor courts were influenced by both political and material interests. Call it the Judge at the Semarang Corruption Court, the Bandung Corruption Eradication Commission judge who was caught by the Corruption Eradication Commission because he allegedly received something when examining and judging and deciding cases of corruption committed by regional officials. From these facts, it can be seen that there are judges who can be intervened by extra-judicial and in-tra-judicial powers, even though the judge is God's representative on earth, he must work in accordance with the code of ethics and judge behavior, the fact is that there are some judges who are not based on the code. ethical behavior of judges, such as judges examining and adjudicating criminal cases of corruption in Bandung city social assistance funds in 2010. Based on the description above, these problems can be formulated in problem identification as follows:

1. Why should judges have the freedom to try a corruption crime case?
2. How is the model of freedom of judges in adjudicating corruption cases reviewed from the point of view of legal philosophy?

CONCEPTUAL FRAMEWORK

Rule of Law Theory

The basic theories that will be used as a framework of thought in this study are the rule of law theory and the theory of judicial power in the Indonesian rule of law. In rule of law theory contains the principle of a rule of law. This is contained in Article 1 paragraph (3) of the 1945 Constitution, which implies that the state must guarantee law enforcement and the achievement of legal objectives.

To achieve law enforcement and the creation of legal objectives, there are consequences, namely:

1. Government intervention in people's lives is very extensive, to cover almost all aspects of people's lives;
2. In carrying out its functions the government uses the *Frei Ermessen* principle or discretion.

According to B. Arief Sidharta, that law is formed in society to create a just order in order to enable every human being to live his life naturally and with dignity. Therefore, in general, the function of law is to discipline society, realize fundamental human values,

resolve disputes in an orderly and fair manner, maintain and maintain order, as well as regulations by using violence in an organized manner if necessary (applying legal sanctions). by going through certain implementation procedures that must be carried out strictly, regulating the way of regulating and maintaining order, changing rules and regulations. Regarding the principles of a rule of law which is the main foundation of the Indo-nesian legal state which is based on Pancasila, as a rule of law it must have the main elements, namely:

1. There is protection of human rights.
2. There is a separation of powers within the state.
3. Every act of the state must be based on a law that is made in advance.
4. Administrative court to resolve the dispute, the court must meet two require-ments, namely:
 - a) Not taking sides or partiality even though the government is one of the parties
 - b) Its people or officers must consist of experts in that field.

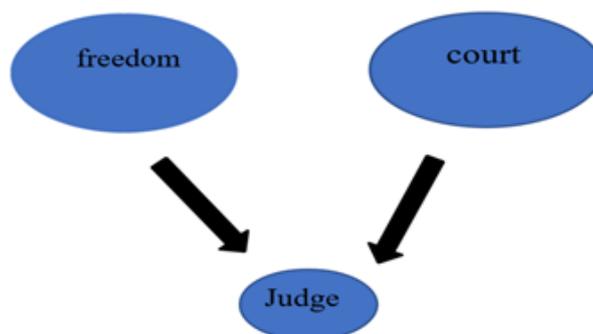
The second theory in this study is the theory of justice in the legal state of Indone-sia, namely the existence of a rule of law that rules society and the state based on law. In it there is a balance between the interests of individuals as citizens and the interests of individuals as rulers and all components of the nation are subject to ap-plicable law. the equality of everyone before the law. In every rule of law, an independent legal power has a strategic position in law enforcement. In essence, the rule of law is based on the belief that state power must be exercised on the basis of law. One of the important requirements for the establishment and strength of a rule of law wherever it is is an independent judicial power. This is also in accordance with Sri Soemantri Mertosoewignjo's opinion that there are 4 characteristics of a rule of law, namely: (a) the law is used as the basis for the government in carrying out its duties and obligations, (b) human rights are guaranteed by law, (c) there are distribu-tion of power in the administration of the state, (d) an independent judiciary and supervision of the judiciary bodies (Rechtterlijke Controle) by the competent author-ities.

The important role of the judicial power in the constitutional state of Indonesia is as the holder of the power to judge cases, and the holder of the power to materially examine the laws and regulations. With regard to the relationship between Rule Of Law and judicial power, Paulus Effendi Lotulung argued that the judiciary or judi-cial body / judiciary is one of the bases for the implementation of a domocratic gov-ernment under the rule of law as the idea of a modern rule of law has been triggered in a conference by the international commission of jurist in Bangkok in 1965. The independence of the judiciary is part of the principles of a democratic rule of law. This principle is needed to protect the judicial power from intervention, persua-sion, seduction, coercion or influence from institutions, colleagues, superiors or other parties, so that judges in deciding cases are only truly for the sake of justice based on law. , a sense of justice and conscience, as well as their decision can be accounted for vertically (to God) and horizontally (to humans). The principle of independence of judicial power has been recognized internationally, so that several international legal instruments recognize the importance of judicial independence.

The Theory of Freedom from The Aspect of Philosophy

Independent behavior can be distinguished from deterministic behavior because humans exist in themselves. The presence of oneself is also an absolute prerequisite for free action. It is precisely because man is self-centered, he does not intentionally follow tendencies that also attract left or right. Humans traverse open possibilities, weigh the pros and cons then decide. Judges as part of the judicial power must have an independent character and have a very strategic position in law enforcement, the understanding of the rule of law is based on the belief that state power must be exercised on the basis of law.

One of the important conditions for the establishment and strength of a rule of law wherever it is is a free judicial power. Freedom is an important element in moral norms, this is very essential considering that moral norms are autonomous norms called by Kelsen with regulations of internal behavior. So there is always a choice for humans to behave and behave based on the values they believe in. Although it is believed that humans are free creatures, there are doubts about this, the question arises, is it true that humans have the freedom to behave and behave. First there is an opinion that says that freedom as stated does not actually exist. This thought comes from the flow of determinism, both materialist and. The second opinion that is opposite to determinism is the school of antinomism which argues that humans are free creatures. As long as it does not prejudice the same rights of other individuals. Social freedom is freedom received from others, which means it is heteronomous, while existential freedom is the ability of humans to determine their own attitudes and behavior, which means they are autonomous. In relation to the profession of judges who exercise judicial power in Indonesia, freedom as described in the above-mentioned philosophical view can be exercised, both freedom seen from social and freedom seen from existential, as in Figure 2 below:



The Theory of Independence of Judges in Judicial Power

In essence, the legal principle or principle called freedom or independence of the powers of the judiciary and judges does not only apply in Indonesia. The reference source states that this principle is also known internationally, and thus it can be said that the principle is a universal principle, because universally the principle is embraced by countries in the world. This can be seen in the Basic Principles on Independence of judiciary, proposed by

the UN General Assembly (Resolution 40/146 of 29 November 1985 and resolution 40/146 of 13 December 1985). The same principle is also regulated in the Beijing Statement of Principles of the independence of The Law Asia Region of the judiciary in Manila on August 28, 1997. The Beijing Statement states that:

1. Justice is an institution of the highest value in every society;
2. The judge's independence requires that the judge decide that the case is entirely based on the understanding of the law and is free from influence from anywhere, either directly or indirectly, the judge has jurisdiction over all issues that require justice.

Freedom of judicial power is part of the principles of a democratic rule of law, this principle is needed to protect the judicial power from intervention, seduction, coercion or influence from institutions, peers, superiors or other parties, so that the judge in deciding case is only really for the sake of justice based on law, a sense of justice and a conscience, and the verdict can be accounted for vertically (to God) and horizontally (to humans). The principle of independence of judicial power has been recognized internationally, so that several international legal instruments recognize the importance of judicial independence. In order to improve the independence of the judiciary, the Beijing Statement of Principles of the independence of the law Asia Region of The Judiciary which was put forward in Manila, On August 28, 1997, was determined as follows:

1. Justice is the highest value institution in every society.
2. The independence of judges requires that the judge in deciding a case is fully based on the understanding of the law and is free from any influence, either directly or indirectly, the judge has direct or indirect jurisdiction over all issues that treat justice.
3. Maintaining the independence of the judicial power is essential for achieving its goals and carrying out its proper function in a society that is free and respects the law, this independence must be guaranteed by the state through the constitution and laws.

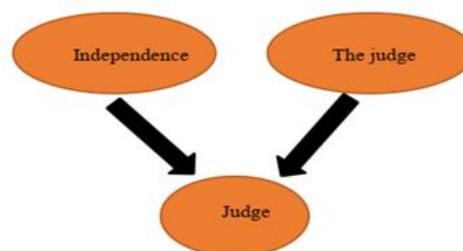
Judicial power in which there is a Court decision making up individual norms made based on general norms of law or custom is the same way that general norms are made based on the constitution. The making of individual legal norms by law enforcement organs, in particular the court, must always be determined by one or more general norms that exist beforehand, normally the court is concerned by the general norm which determines the procedure as well as the content of the decision. Legal norms that delegate judicial power to the courts. Without this norm, it is im-possible to recognize individuals as judges who decide concrete cases, as organs of the legal community and their decisions as law which are binding norms in the legal system that forms the legal community. Based on the provisions in the 1945 Constitution, judicial power is an independent power. The Supreme Court as the pinnacle of judicial power in Indonesia has been co-opted by politics. This co-optation began shortly after Indonesian independence. But within the framework of the administration of justice, judicial powers are under the control of the Minister of Justice, the Ministry of Defense and Security, and Department Agarna. The Supreme Court is in charge of 4 judicial environments, namely the General Court, the Religious Court, the Military Court, and the State Administrative Court, while the Constitutional Court does not

oversee the judicial environment. In a global context, the independence of the judicial power is the spirit of the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, because it regulates the independence of judicial power and the impartiality of the judicial power. This is explicitly stated in the following 2 articles.

1. Article 10 Universal Declaration of Human Rights "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him".
2. Article 14 International Covenant on Civil and Political Rights, " ... in the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law".

Based on the two articles above, it can be seen that the international community wants a tribunal that remains based on statutory regulations, with the nature of being independent (independent), impartial (impartial) and competent (competent). The trial was conducted honestly and through an open examination. All of these elements have been listed in the 1945 Constitution, and Law no. 38 of 2009 concerning Judicial Authority. Based on the description above it can be understood that although judicial power in Indonesia, in the context of judicial power held by the Supreme Court and the judiciary under it, is an independent and free power, this freedom is limited by law, both in the 1945 Constitution, and laws and regulations that are hierarchically subordinate to laws, including internal provisions in the Supreme Court and the Judicial Commission. In addition, the performance of judges as executors of judicial power in investigating, adjudicating and deciding corruption cases, the verdicts must be accounted for vertically and horizontally. Thus, moral accountability (moral accountability) and legal provisions are the two pillars that limit (limitation) judicial power in Indonesia. Judges actually have a code of conduct that becomes a reference for judges in work, the code of conduct explains about behavior. judges both in presiding over the trial and outside when he is a society in general.

Specifically regarding the duties carried out by judges when presiding over the trial in the code of conduct for judges number: 047 / KMA / SKB / IV / 2009/02 / SKB / P.KY / IV / 2009 regarding code of ethics and code of conduct for judges states that judges are obliged not to taking sides, both inside and outside the court, and maintaining and fostering the trust of the justice-seeking community, this means that when a judge carries out his duties it must be carried out freely, independently, and there is no conflict of interest in examining a case, such as Figure 3 below:



The research method used in this research is normative legal research. This study examines legal materials systematically to discuss problems as described in chapter 1 obtained from literature studies, by analyzing a legal problem through the concept of legal philosophy associated with the freedom of judges in adjudicating corruption cases. In order to achieve the stated research objectives, a juridical-dogmatic approach is used. This approach is complemented by a conceptual approach, a statutory approach, a comparative approach and a philosophical approach. Several of these approaches are used collectively in order to address each problem. Then conducted an interview with one of the ad hoc judges on Corruption at the Kls. I A Bandung District Court. The location of this research will be focused within the Corruption Court at the Kls. IA Bandung District Court, although it should be noted that corruption cases are also the jurisdiction of other judicial institutions, namely the Corruption Court at the Kls IA District Court in Surabaya, the Corruption Court in Kls District Court. IA Semarang, the Corruption Court in all State Courts throughout Indonesia, and the Corruption Court in the High Court and the Supreme Court. The sample taken was a panel of judges adjudicating the Bandung social assistance (Bansos) case with case number 22 / Pid.Sus / TPK / 2012 / PN.BDG, 23 / Pid.Sus / TPK / 2012 / PN.BDG, 24 / Pid .Sus / TPK / 2012 / PN.BDG, 25 / Pid.Sus / TPK / 2012 / PN.BDG, 26 / Pid.Sus / TPK / 2012 / PN.BDG chaired by Judge Setiabudi Tedjocahyono, consisting of Judge Jojo Jauhari and Hakim Rahmat Comel. The concept of freedom of judges offered by the author is freedom based on existential philosophy, which means that every human being has the essential freedom regardless of the predicates attached to him, including the profession of judge who must be able to determine himself in making court decisions.

DISCUSSION

Freedom of Judges in Adjudicating a Corruption Case

Judges as the core executor of judicial power are obliged to maintain their independence to improve the quality of decisions. However, it must be remembered that there is no absolute freedom without responsibility, judges are not in a vacuum, but there are still many signposts regulating their behavior and behavior, even what is done must be accounted for in the world and the hereafter. However, in practice in the field there is based on the description above, it can be understood in the context of the freedom of the judge, it must be balanced with the element of its partner, namely judicial accountability, meaning that every decision of the Court must be accounted for by the panel of judges who decide cases vertically and horizontally. The definition of a judge's moral accountability is the obligations of a judge to behave in the process of examining, adjudicating and deciding cases. This accountability exists as a logical condition of the state's trust to carry out and account for judicial power, both to God and to humans.

Judicial power means the freedom of a judge to decide a case he is handling regardless of where the person comes from, based on conscience, the facts of the trial or the evidence available during the trial process. The freedom of a judge is based on the rules stipulated in the judicial power law as well as the code of ethics and code of conduct for judges. In general and basic terms, the meaning of free (the root word for freedom), does not have a clear meaning because the word free depends on its additional information from different

real contexts. Because there are different meanings according to the context, it also gives an understanding of broader freedom, even its ideological nature. This is shown for example in the Marxist approach, when freedom is associated with emancipation. Freedom in the liberal sense is simply understood as the absence of influence, although it is a bit of a coercive power, this varies in the perspective of marks and followers of the ideology. When the meaning of freedom is defined as removing obstacles to human emancipation. Freedom or free-dom means no barrier or barrier, coercion or obstruction, burden or obligation. But the general meaning of freedom here cannot be equated to arbitrarily, because in its essence, this freedom means being unstressed, not compelled, not arbitrary and not worried.

Especially for judges who try corruption cases, apart from having to be free from political, material and power interests, they must also have the belief that the work they are doing is to prosecute ordinary perpetrators of crimes, so that to become judges of corruption, they must be correct. having integrity, being moral, being a statesman, mastering formal and material laws, controlling state finances and having a nationalist spirit. One of the mandates of reform in 1998 is an effort to eradicate corruption and judicial mafia within the jurisdiction of the judiciary. Courts as the last bastion for justice seekers must be properly guarded to independence. The public places high trust in the judiciary in Indonesia in carrying out the reform mandate. The government and the DPR have taken strategic policies in efforts to eradicate corruption as outlined in various laws and regulations such as TAP MPR Number XI/MPR/1998, Law Number 28 of 1998, Law Number 31 of 1999 as amended and added by Law Number 20 of 2001 concerning the eradication of criminal acts of corruption, Law No-mor 20 of 2002 concerning the Corruption Eradication Commission and Law no. 46 of 2009 concerning the Corruption Crime Court.

To support and streamline the efforts to eradicate corruption in Indonesia, a corruption court (Tipikor) was established. The establishment of a corruption crime court was based on Law Number 20 of 2002 concerning the Corruption Eradication Commission (KPK) and Law No. 46 of 2009 concerning the Corruption Crime Court which aims to facilitate the trial process of corruption criminal cases. On December 19, 2006, the Constitutional Court (MK) issued a decision regarding the dissolution of the court for criminal acts of corruption and asked the Government and the DPR to draft a law on corruption court no later than 3 years since the enactment of the verdict of the Constitutional Court. This decision resulted in a polemic against efforts to eradicate corruption. Responding to the polemic that occurred, the Constitutional Court considered that the corruption court was a special court so it was necessary to form a separate law to strengthen the existence of the corruption court in eradicating corruption and preventing dualism in the process of investigation, investigation and prosecution between the Corruption Eradication Commission (KPK) and the Attorney General's Office of the Republic of Indonesia. On that basis, the Supreme Court issued a Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number: 191 / KMA / SK / XII / 2010 dated December 1, 2010, regarding the Operation of the Corruption Crime Court at the Bandung District Court, Semarang District Court and Surabaya District Court, so that it is also the obligation

of the Supreme Court of the Republic of Indonesia to prepare prospective judges for corruption, both career judges and ad hoc judges to investigate, try and decide corruption cases that are prosecuted by the public prosecutor both from the Corruption Eradication Commission and the general prosecutor from the Attorney General's Office RI. Based on Article 53 of Law Number 30 Year 2002, the one authorized to adjudicate corruption cases is the Corruption Crime Court, whose prosecution was filed by the Corruption Eradication Commission. The authority granted by law to the Corruption Eradication Commission and the Corruption Crime Court creates a sense of optimism in terms of eradicating corruption, therefore judges examining and hearing cases must be protected.

The Corruption Court is part of the judicial power within the General Court. The first one that was formed was the Corruption Crime Court at the Central Jakarta District Court, whose jurisdiction covers the entire territory of the Republic of Indonesia. In its journey, the existence of the Corruption Crime Court has been questioned, one of which is a lawsuit against the Constitutional Court. The Constitutional Court ruled that the establishment of the Corruption Crime Court is contrary to the 1945 Constitution, because the basis for its formation lies in one law, namely in Law Number 30 of 2002 concerning the Corruption Eradication Commission. The Constitutional Court is of the opinion that the establishment of a Court must be by law. The Constitutional Court has given time to the Government and the People's Representative Council to prepare a replacement law and it is given with a time limit of three years until the end of 2009. On this basis, the Government and the DPR have made Law Number 46 Year 2009 regarding Corruption Crime Court.

The establishment of the Corruption Crime Court is a historic moment for efforts to tackle and prevent corruption, because Law Number 46 of 2009 has provided a very strong position for the existence of the Corruption Crime Court with all its duties and powers. Things that need to be known about Law Number 46 Year 2009 Regarding the Corruption Crime Court, include:

1. The Corruption Crime Court is a special court within the General Court.
2. The Corruption Court is located in each capital city of the Regency / City whose jurisdiction covers the jurisdiction of the District Court concerned.
3. The Corruption Crime Court is the only court that has the authority to examine, try and decide cases, corruption, money laundering, the origin of which is corruption and / or criminal acts that are expressly stipulated in other laws. It can be a criminal act of corruption.

Corruption crime courts were formed not only to achieve the goals of the criminal justice system but also to change the corruption case resolution system from a «double track system» through general courts and corruption court to become a single track or «single track system» through the single track court. This system change makes it easier for the Corruption Eradication Commission to resolve corruption cases and realize a fast and simple corruption court process free of any interest. This dissatisfaction was evidenced by the increasing number of crimes in the United States in the 1960s. In order to overcome this public discontent, Remington introduced the engineering of criminal justice

administration through a systems approach and the idea of this system was found in the 1958 project election report. The Criminal Justice System also contains a value transformation which is defined as a value transformation in the meaning of the justice system. In criminal operations, its work in each of its components must include values in every action and policy undertaken, such as the value of justice, the value of truth, and the value of conscience and honesty. The criminal justice system also contains a control mechanism, in this case carrying out supervision in response to crime prevention. The criminal justice system becomes a legal instrument, which can be used in over-coming various forms of crime as part of public protection efforts.

Judges who examine, try and decide cases of criminal acts of corruption must be based on error as a measure of criminal imposition, in essence the judgment of the verdict is the determination of the judge who carries out his duties independently who places mistakes as the limits of the imposition of a criminal. Mistakes are thus placed as the most decisive measure for an independent judge in deciding the appropriate form and duration of punishment for a criminal offender. According to Article 1 number 11 of the Criminal Procedure Code, what is meant by a judge's decision or a judicial decision is a judge's statement uttered in an open trial, which can be in the form of conviction or acquittal or acquittal of all lawsuits in matters and according to procedures regulated in law. this.

The Model of Freedom of Judges in Adjudicating Corruption Cases is Reviewed from The Perspective of Legal Philosophy

Many cases in several Tipikor courts were influenced by both political and material interests. Call it the Judge at the Semarang Corruption Court, the Judge at the Bandung Corruption Court who was caught by the Corruption Eradication Commission for allegedly receiving something when examining and trying and deciding cases of corruption committed by regional officials. Especially for the judge who examined the case of the Bandung city social assistance, whose case currently has permanent legal force (Inkracht Van Gewisde), the inception of the case is as follows:

The West Java High Prosecutor's Office conducted an investigation, investigated the social assistance funds of the city of Bandung in 2010, and has named 8 suspects. The eight defendants have been tried and have been decided by the judge who examined and tried the case at the Corruption Court, Kls I A Bandung district court, where the contents of Aquo's decision stated that the 8 defendants had been proven to have misused the city's social assistance funds in 2010. Whereas then based on the results of the arrest operation carried out by the Corruption Eradication Commission against the chairman of the panel of judges Setiabudi Tedjoyuwono, the 8 defendants have been sentenced in which the contents of the verdict stated that they were guilty of misusing the Bandung city social assistance funds in 2010. That after further investigation was carried out. It turns out that the contents of the decision had been intervened by the executive, namely the superior of the 8 defendants, namely the Mayor and Secretary of the City of Bandung. Then from the results of the case development, finally all those involved in handling the Bandung City Social Assistance case in 2010 were in legal proceedings in accordance with applicable legal provisions.

From these legal facts, it can be seen that in fact a judge can be interfered with by political forces using material force, the question arises why the judge's freedom can be intervened. The freedom of judges must be based on the independence of power in Indonesia as guaranteed in our constitution. However, freedom in this case is the freedom of a judge in deciding a decision which must involve a human element in it so that there are rational considerations in it. There are several freedoms that can be exercised by judges, especially judges of corruption who try and decide cases of corruption. These are existential freedoms which mean the essential freedoms that every human being, including judges, have regardless of the predicate attached to them. Therefore, a judge by profession must be able to determine himself in making court decisions. Courts that are independent, neutral, competent, transparent, accountable and authoritative, capable of upholding legal authority, legal protection, legal certainty and justice are *conditio sine qua non* or absolute requirements in a law-based country. Upholding law and justice and respecting the nobility of human values are prerequisites for upholding the dignity and integrity of the State. Judges as the main actor in the judicial process are always required to hone the sensitivity of the conscience, maintain integrity, have moral intelligence and always improve professionalism in upholding law and justice. Therefore, all powers and duties possessed by judges must be exercised in the framework of enforcing law, truth and justice indiscriminately without discriminating against people as stipulated in a judge's oath pronouncement. Based on their authority and duties as the main actor of the court's function, the judge's attitude which is symbolized in *kartika*, *chakra*, *candra*, *sari* and *tirta* is a reflection of the judge's behavior which must be implemented and realized by all judges. All judges' behavior must be based on the principle of One Godhead, fair, wise and dignified, virtuous and honest. Devotion to God Almighty, is based on the principles of a code of ethics and a code of conduct for judges.

The respect of judges is particularly evident in the decisions they make, and the considerations that underlie, or in the whole decision-making process, which is not only based on laws and regulations, but also a sense of justice and wisdom in society. Like honor, dignity is a level of human dignity or a noble self-respect that should not only be owned, but must be maintained and maintained by the judge through the attitude or behavior of noble character. Behavior can be interpreted as a response to individual reactions manifested in movements and speech in accordance with what is considered appropriate by the rules of law in effect. Behavioral ethics are attitudes and behaviors based on the death of the soul that are harmonized with the norms prevailing in society. The profession of judges has an ethical system that is able to create discipline in work procedures and provide a line of values that can be used as guidelines for judges to complete their duties in carrying out their functions and carrying out their profession. Judges as human beings have a moral obligation to interact with their social community, are also bound by ethical norms and adaptation of habits that apply in the social system. For this reason, it is the duty and responsibility of the community and the State to provide security guarantees for judges, including adequate welfare, appropriateness of facilities and budget.

CONCLUSION

Some conclusions that can be obtained from this research activity are:

1. Judges of criminal acts of corruption must adhere to the law of judicial authority and the code of ethics of judges in adjudicating and deciding cases of criminal acts of corruption because these regulations are very clear about the freedom of judges in adjudicating a case.
2. Corruption judges can apply the theory of existential freedom and social freedom in adjudicating corruption cases because in existential freedom judges can decide for themselves when making case decisions without any intervention from anyone.

REFERENCES

Book

- Ahmad Kamil, *Philosophy of Judge's Freedom*, Kencana Prenada Media, Jakarta, 2012.
- Atmasasmita, Romli, *Corruption, Good Governance and the Anti-Corruption Commission in Indonesia*, National Law Development Agency of the Ministry of Justice and Human Rights of the Republic of Indonesia, Jakarta, 2002.
- Bakhry, Syaiful, *Development of the Indonesian Criminal System*, Total Media, Yogyakarta, 2009.
- Chazawi, Adam, *Material and Formal Criminal Law of Corruption in Indonesia*, Bayumedia Publishing, Malang, 2003
- Dahlan Sinaga, *Independence and freedom of judges in deciding criminal cases in the constitutional state of Pancasila*, Nusa Media, Bandung, 2015
- Hamzah, Andi, *Corruption in Indonesia, Problems and Prevention*, PT Gramedia, Jakarta, 1991.
- Kesuma, J. (2020). The Duties and Liability of Notary as Public Official in Criminal Law Perspective. *International Journal of Latin Notary*, 1(1), 1-5.
- Lilik Mulyadi, *Judge's decision in criminal procedural law*, Citra aditya bakti, Bandung, 2007.
- Maskanah, U., & Oktavia, D. M. (2020). The Power of Authentication of Notary Deed in Justice in Indonesia. *International Journal of Latin Notary*, 1(1), 5-9.
- Nasrudin, U. (2020). The Concept of Statement of Heirs to Support Legal Certainty in Indonesia. *International Journal of Latin Notary*, 1(1), 9-16.
- Jean-Paul Sartre, *Philosophy of Existence*, Kanisius, Yogyakarta, 2011.
- Romli Atmasasmita, *Indonesian Criminal Justice System*, Putra Bardin, Jakarta, 1996.
- Ruslina, E., & Sekarsari, R. (2020). Legal Protection of Medical Staff in Hospitals during The Covid-19 Pandemic Era. *International Journal of Latin Notary*, 1(1), 29-35.
- Sri Sutatiek, *Questioning the Moral Accountability of Criminal Judges in examining, hearing, and deciding cases*, Aswaja Pressindo, Yogyakarta, 2013.
- Sidarta, *Morality of the Legal Profession*, Refika Aditama, Bandung, 2006.
- Sumartoputra, M. I., & Endipradja, F. T. (2020). Liability of Land Deed Official (The PPAT) on Falsifying Document Under Indonesian Land Regulations. *International Journal of Latin Notary*, 1(1), 17-28.
- Yesmil Anwar and Adang, *Criminal Justice System, the concept of components, and their implementation in law enforcement in Indonesia*, Widya Padjajara, Bandung, 2009.

Other Sources

1945 Constitution

Law Number 04 of 2004 concerning judicial power

Law Number 31 of 1999 concerning Eradication of Corruption Crime, dated August 16, 1999, LN 1999 number 140.

Law Number 20 Year 2001, Concerning Amendments to Law Number 31 Year 1999 Concerning the Eradication of Corruption Crime.

Law Number 30 of 2002 concerning the Corruption Eradication Commission.

Law Number 46 of 2009 concerning Corruption Crime Court.

Decree of the Chairman of the Supreme Court of the Republic of Indonesia Number: 191 / KMA / SK / XII / 2010.

Joint decision of the chairman of the Supreme Court of the Republic of Indonesia and the chairman of the Indonesian Judicial Commission number: 047 / KMA / SKB / IV / 2009/02 / SKB / P.KY / IV / 2009 concerning code of ethics and guidelines for judges' behavior.

