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Original Research Article

Reconstruction of Regulation of Giving False Testimony at Pretrial Sessions in Corruption Cases in Indonesia Based on Pancasila Justice

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Abstract

Based on the Constitutional Court Decision Number 21/PUU-XII/2014 Determination of the suspect as one of the objects of pretrial which in practice the trial process presents fact witnesses which has an impact on giving false information as referred to in Article 22 Jo Article 35 of Law Number 31 of 1999 concerning Eradication of Acts Corruption Crime. This study aims to analyze and find a reconstruction of the determination of the suspect in giving false testimony at the pretrial hearing in Article 22 of the Corruption Crime Law in Indonesia based on Pancasila justice. This research is a qualitative descriptive research. The approach used in this research is social legal research. In this study it was found that the Regulation of giving false testimony at the Pretrial hearing in Article 22 of the Corruption Crime Law in Indonesia after the Constitutional Court decision Number 21/PUU-XII/2014 has not been based on Pancasila values of justice, because law enforcement is against witnesses who give false statements in pretrial hearings. Corruption has not been regulated clearly and unequivocally in Article 22 of Law 31/1999, so that in practice there are differences in perceptions between investigators who are given the authority to determine suspects and judges who examine the principal case. Reconstruction of Regulations The regulation for the determination of suspects for giving false testimony at the Pretrial hearing in Article 22 of the Corruption Law becomes Paragraph (1). Everyone as referred to in Article 28, Article 29, Article 35, or Article 36 who intentionally does not provide information or provides information that is not true, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 12 (twelve) years and/or a fine of at least Rp. 150,000,000.00 (one hundred fifty million rupiahs) and a maximum of Rp. 600,000,000.00 (six hundred million rupiahs). Paragraph (2). Punished with the same punishment as paragraph 1 (one) if the act is committed at a pretrial hearing.

Keywords: Pre-trial, Corruption, False Testimony.

A. INTRODUCTION

Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption, stipulates that corruption is classified as an extraordinary crime. Corruption can directly harm state finances or the country's economy so that state finances become reduced and disrupted and result in quite extensive negative impacts and can bring the country to the brink of collapse [1].

Based on the Transparency International Corruption Perceptions Index in 2022, Indonesia is ranked 96 out of 180 countries where this position is still below neighboring countries such as Malaysia and Singapore [2]. With the massive coverage of corruption cases, the role of law enforcement agencies such as the Corruption Eradication Commission, the Attorney General's Office and the Police have carried out eradication of corruption in synergy and of course have seriousness in carrying out their duties so it needs to be appreciated.

Regarding the prosecution of corruption cases carried out by the Corruption Eradication Commission,

[1] Edi Yunara, *Korupsi dan Pertanggungjawaban Pidana Korupsi Berikut Studi Kasus*, (Bandung: PT. Citra Aditya Bakti, 2012),p. 1

[2]Indeks Persepsi Korupsi Indonesia 2021 Peringkat 96 dari 180 Negara - Nasional Tempo.co, diakses pada tanggal 9 Oktober 2022

the Prosecutor's Office, and the Police, of course, strong evidence is needed so that no procedural errors occur in handling it. Related to proving a crime, it has been regulated in Article 184 paragraph (1) of the Criminal Procedure Code as which reads Legal evidence is: Witness Statement; Expert Statement; Letter; Instruction; and Statement of the Defendant.

In connection with the conditions for the determination of suspects as stipulated in the Criminal Procedure Code, it was further refined with the issuance of the Constitutional Court decision No.21/PUU-XII/2014. Where in the decision it is explained that the determination of the suspect must be based on at least 2 pieces of evidence as contained in Article 184 of the Criminal Procedure Code and accompanied by an examination of the potential suspect.

As is well known, the investigator's decision to designate someone as a suspect is a follow-up to an investigative legal process carried out by the Police, Prosecutor's Office and the Corruption Eradication Committee (Corruption Crime Case). Based on the provisions of Article 1 point 5 of the Criminal Procedure Code, it states that an investigation is a series of investigative actions to search for and find an event that is suspected of being a crime in order to determine whether or not an investigation can be carried out according to the method stipulated in the law.

Regarding the determination of suspect status for someone who is suspected of being the perpetrator of a crime committed by the police, based on the provisions stipulated in Law no. 8 of 1981 concerning Criminal Procedure Code. Broadly speaking, the Law only regulates conditions that are considered to have multiple interpretations that must be met in order to assign suspect status to someone suspected of being the perpetrator. If a person is named a suspect but the conditions referred to are not met, then suspects can apply for pretrial, according to the Constitutional Court's decision No.21/PUU-XII/2014. In this decision, the Constitutional Court also adds to the determination of the suspect as the object of pretrial in Article 77 of the Criminal Procedure Code.

In theory, the pretrial examination process only includes administrative/procedural completeness carried out by investigators in exercising their authority during the process of investigating a case, in other words, it does not touch the subject matter of the case. However, after the Constitutional Court's decision number 21, the pretrial examination, especially regarding the legitimacy of the suspect's determination, will be tested by the pretrial judge regarding the minimum evidence held by investigators as the basis for determining a person as a suspect (especially suspected corruption). In this case, the pretrial applicant (suspect) will present evidence in the form of a witness where the witness is also a person who has been examined by investigators as a witness (evidence) during the investigation process.

Referring to the provisions of Article 22 of Law 31/1999 concerning Corruption Crimes, a person can be subject to imprisonment for a minimum of 3 years and a maximum of 12 years if he gives incorrect information.

Based on this, if a person who is presented as a witness in a pretrial hearing gives a statement that is different from other statements he has given during the investigation process (before the investigator), then he can be subject to criminal threats under Article 22 of Law 31/1999 as a perpetrator of a crime. giving false statements, but the procedures for handling them are not subject to the provisions of Article 174 of the Criminal Procedure Code regarding the determination of a suspect in a person suspected of providing false statements, because the provisions of Article 174 of the Criminal Procedure Code are related to the examination procedure at the trial of the main case of incassu article 242 of the Criminal Code, so this become the absolute domain of investigators.

In Law no. 31 year 1999 jo. UU no. 20 of 2001 concerning the Eradication of Corruption Crimes apart from regulating material prohibited acts and criminal sanctions, it also regulates several formal matters of fide chapter IV procedural law, however, according to the author, this has not been able to answer the question of determining the suspect for giving false information given during the pretrial hearing. after the Constitutional Court's decision No. 21/PUU-XII/2014 so there is concern that this could lead to abuse of authority by investigators in determining suspects.

Providing false statements by witnesses in cases of corruption during trial, normatively imposed on Article 22 of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, that "Anyone who intentionally does not giving information or providing untrue information, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 12 (twelve) years and or a fine of a minimum of Rp. 150,000,000.00 (one hundred and fifty million rupiah) and a maximum of Rp. 600,000,000.00 (six hundred million rupiah)".

Examples of cases giving false statements at pretrial hearings that already have incrach decisions, such as those handled by the NTT High Prosecutors Office in 2020 based on Supreme Court Decision No: 3807 K/Pid.Sus/2022 on behalf of the defendant Zulkarnaen Djuje, in a corruption case did not provide information/provided incorrect information at the pretrial hearing at the Kupang District Court with a verdict of acquittal. As for the panel's consideration, the defendant could not be blamed simply for his ignorance of a fact. The consideration of the panel of judges was without considering the existence of the defendant's statement which had been given before investigators under oath as stated in the BAP which basically "He knew the legal facts because he was also present at the time of the criminal incident which became the substance of the subject matter of the case". The Panel also did not consider further the motive for giving the statement given by the defendant Zulkarnaen Djuje when he was a witness at the pretrial hearing who said that his ignorance of a legal fact was because he was directed by the attorney of the pretrial petitioner with the aim of winning the pretrial petition or in other words the act of obstructing the process. investigation of obstruction of justice in a legal way (pretrial determination of the suspect). In the author's opinion, this will set a bad precedent for law enforcement in Indonesia, especially in cases of criminal acts of corruption where in fact there is always cooperation between the suspect and other parties who are used as witnesses, so it is very important to regulate further regulations related to the determination of suspects. provision of false information in pretrial hearings on corruption cases. This arrangement is of course not solely about the existence of obstruction of justice acts but rather the promotion of human rights.

B. RESEARCH METHOD

By using the constructivism paradigm and social legal research approach methods [3] to solve research problems by examining secondary data and primary data by finding legal realities experienced in the field and qualitative descriptive methods, namely where the data obtained is then arranged systematically so that a comprehensive picture will be obtained. where later the data will be presented descriptively [4].

C. DISCUSSION

1. Eradication of Corruption in Indonesia

The concept of progressive law is considered necessary and important in the development of law in Indonesia, progressive law is expected to be able to prevent crimes in society and legal courts from occurring early. Especially the most contemporary crimes today, namely crimes that are detrimental to state finances or commonly called corruption crimes. Corruption is classified as an extraordinary crime, this is because the impact it has is very broad on all elements in the country.

Law cannot be seen as something final (finite scheme), but law must continue to move, change according to the dynamics of human life. Therefore, the law must continue to be dissected and explored through progressive efforts to reach the light of truth in achieving a noble goal, namely justice. Humans as important and main actors behind legal life are not only required to be able to create and implement laws (making the law), but also to have the courage to break and tear down (breaking the law) when the law is unable to present the spirit and substance of its existence, namely creating harmony, peace., order, and social welfare [5].

In various parts of the world, corruption always gets more attention than other crimes. This phenomenon is understandable to feel the negative impact that can touch various areas of life. Corruption can endanger the stability and security of society, endanger socio-economic development, as well as politics, and can undermine democratic values and morality because this act seems to have become a culture. Corruption is a threat to the ideals of a just and prosperous society.

Cases of corruption are difficult to disclose because the perpetrators use sophisticated equipment and are usually carried out by more than one person in covert and organized circumstances. Therefore, this crime is often called while collar crime or white collar crime [6]. Recognizing the complexity of the problem of corruption in the midst of a multidimensional crisis and the real threat that is certain to occur, corruption can be

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[3] Bambang Setyabudi , Anis Mashdurohatun, Reconstruction of Legal Protection Regulations for Debtors and Third Parties in Credit Agreements with the Object of Fiduciary Based Guarantee, Sch Int J Law Crime Justice, Dec, 2022; 5(12): 520-526.

[4] Hioe, J.K., Mashdurohatun, A., Gunarto, Tarigan, I.J.Reconstruction of pretrial institution function in supervising investigator authorization based on justice value with moderating role of supply chain management, International Journal of Supply Chain Management, 2020, 9(3), pp. 613–61, Julizar Bimo Perdana Suka , Bambang Tri Bawono , and Andri Winjaya Laksana, The Implementation of Code of Conduct for Members of Police as Accurators of Murder, Law Development Journal, Vol 4 No 2, June 2022, Page 197-204. see too Anis Mashdurohatun, Kamaliya, N. Legal protection of consumer reviews in social media based on local wisdom values, International Journal of Advanced Science and Technology, 2020, 29(6), pp. 1511–1519, see too Gusti Ayu Ketut Rachmi Handayani, I.,Gunarto, G.,Mashdurohatun, A.,Gusti Putu Diva Awatara, I.,Najicha, F.U, Politic of legislation in Indonesia about forestry and the mining activity permit in the forest area of environmental justice Journal of Engineering and Applied Sciences, Volume 13, issue, 6, 2018, pp.1430-1435.

[5] Satjipto Rahardjo, *Sisi-sisi lain dari Hukum di Indonesia* Jakarta: Kompas, 2003, p. 13

[6] Evi Hartanti. Tindak Pidana Korupsi, Edisi kedua, Sinar Grafika, 2012.p.73

categorized as a national problem that must be faced seriously through firm and clear steps by involving all the potential that exists in society, especially the government and law enforcement officers.

Like the legal principles contained in various legal theories or schools of law, the progressive law initiated by Prof. Satjipto Rahardjo also has main principles, namely:

> "The law is for humans and not vice versa, and the law does not exist for itself, but for something wider, namely for human dignity, happiness, welfare, and human glory" [7].

Progressive law also departs from the basic assumption that law is not an absolute institution in the end, because law is always in the process of continuing to be (law as a process, law in the making). To illustrate that law is always in process, Satjipto Rahadjo, describes it very interestingly as follows:

> "Law is an institution that continuously builds and transforms itself towards a better level of perfection" [8].

The quality of perfection here can be verified into the factors of justice, welfare, concern for the people and others. This is the essence of law which is always in the process of becoming (law as a process, law in the making). The law does not exist for the law itself, but for human beings. Law enforcement is needed that is more progressive, namely law enforcement that requires courage, is pro-people and achieves substantive justice in its application where true law enforcement is fair and just law enforcement, fair law enforcement is law enforcement that provides great protection and benefits for everyone and the seeker of justice himself. The extent to which the understanding of the meaning and implementation of law enforcement will really determine the real image of law in society [9].

Thus many things are related to law enforcement issues and if we observe the elements in the system we will find a number of influencing factors, such as the substance of laws and regulations, structure and legal culture. Observations that are more academic in nature are needed, but practice in the field shows this problem is very complex. In principle, the meaning of supervision and observation is very different. So it is better if these meanings are separated between supervisors and observers so that a wrong interpretation does not occur [10]. Even though we should hope, for example, to make laws and regulations that are perfect, satisfactory income for judges and a culture that supports the political climate, in reality law enforcement by the courts is very dependent on the extent to which the decisions determined by judges have truly implemented the principle of justice. The application of the principle of justice and other legal attributes used by judges as a basis for applying the law can be realized by determining a legal basis that is in accordance with the values of justice held by society [11].

Progressive law enforcement in efforts to eradicate corruption lies in the activity of harmonizing the values contained in society and then manifesting these values into reality, which in its application is influenced by several factors including legal substance, legal structure, legal culture, professionalism, and leadership [12]. The criminal act of corruption is a crime that is categorized as an extraordinary crime because the impact of corruption is very broad, namely concerning the welfare of the people, so the Judge of the Corruption Court as a law enforcer must also be able to make efforts to prevent and take action that is more progressive and massive so that it can minimize or even eradicate to the end the problem of this nation, namely corruption.

Progressive law departs from the basic assumption that law is for humans, not vice versa. Law is not an absolute and final institution, but rather a moral, conscientious institution and therefore is determined by its ability to serve humans. Law is an institution that aims to deliver humans to a just, prosperous life and make people happy. Humanity and justice are the goals of everything in our legal life. So the phrase "law for humans" also means "law for justice". This means, that humanity and justice are in on the law, the essence of which is an emphasis on just law enforcement.

2. Reconstruction of the Regulations for Providing False Testimony at Pretrial Sessions of Corruption Crime Cases in Indonesia Based on Pancasila Justice

The problem of corruption is part of the problem of legal politics. Because through legal politics, corruption is expected to be eradicated. Legal politics itself can simply be formulated as a legal policy that will be or has been implemented nationally by the government, including the understanding of how politics influences law by looking at the configuration

[7] Satjipto Rahardjo. *Hukum dan Perilaku Hidup Baik adalah Dasar Hukum yang Baik* Jakarta: Penerbit Buku Kompas, 2009.

[8] *Ibid*

[9] Muhammad Irwan, Slamet Sampurno Soewondo, Julianto Jover Jotam Kalalo, *Hukum Progresif Sebagai Paradigma Hukum Dalam Pemberantasan Tindak Pidana Korupsi Di Indonesia*, Volume 7 No 1 Tahun 2018,p. 41

[10] Julianto Jover Jotam Kalalo.*Pengawasan terhadap Pelaksanaan Putusan Pengadilan dalam Perkara Pidana.* Skripsi: Fakultas Hukum Universitas Samratulangi.2011,p. 63

[11] Mardjono Reksodiputro, dkk. *Reformasi Hukum di Indonesia*. Jakarta: Cyber Consult, 1999,p. 41

[12] *Ibid*.p. 45

of forces behind and law enforcement. Andi Hamzah further stated that the formal understanding of legal politics only includes one stage, namely pouring government policies in the form of legal products or called "legislative drafting", while in the material sense of legal politics includes legislative drafting, legal executing, and legal review [13].

Corruption is an extraordinary crime (extra ordinary crime) that damages and threatens the joints of the nation's life. Various laws and regulations, namely Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 are believed to be no longer able and effective to be enforced. to eradicate corruption. However, the practice of corruption is still repeated and increasingly complex in its realization. Regarding the eradication of corruption, Mahfud MD said that Indonesia was destroyed because of corruption, corruption flourished because the judiciary was corrupt, and the world of justice was difficult to clean up without extraordinary means [14].

Furthermore, there are several things that cause corruption cases in Indonesia, namely:

a) The widespread practice of corruption is due to ignoring the conflict of interest. There is no clear separation between the executive and the judiciary, especially in the sense of appointing judicial officers. In a certain sense, the prerogative of the president in appointing prosecutors is the accumulation of power and that has implications for conflicts of interest;
b) Concentration of power and ineffective control. This concentration of power is strongest at the top of the power hierarchy;
c) Making decisions that are apparently not only carried out by authorized officials. What actually happened was that many decisions were made through negotiation procedures with parties related to the socio-economic field; And
d) The need for political parties to fund elections.

The birth of various laws that regulate the eradication of criminal acts of corruption is influenced by the political conditions when each of these laws was born. As has been stated that the political configuration greatly influences the birth of legal products. The function and role of law is greatly influenced and often intervened by political forces.

In Indonesia, the political configuration develops through a tug-of-war between the democratic and the authoritarian, while the character of legal products follows in a tug-of-war between the responsive and the conservative. Meanwhile, in order to build an orderly rule of law and minimize political influence, "judicial review" can actually be used as a good control tool. Legal autonomy in Indonesia tends to be weak, especially when dealing with the political subsystem. Legal structures can develop in all political configurations marked by the success of codification and unification of various fields of law but the implementation of functions or law enforcement tends to be weaker. The unsynchronized growth between legal functions and structures is caused by disturbances by political actions against efforts to enforce these legal functions [15].

In reality law is born as a reflection of the political configuration that lies behind it. The sentences contained in the rule of law are nothing but the crystallization of competing political wills. In fact, it can be seen that politics largely determines the operation of law. Satjipto Rahardjo argued that if we look at the relationship between legal subsystems, it appears that politics has a greater concentration of energy so that law is always in a weak position. In addition, law is an embodiment of public policy that influenced by political issues, and the conditions of political change greatly influence public policy actions and law is a political product that views law as the formalization or crystallization of political wills that interact and compete with each other [16].

Related to the relationship between political configuration and eradicating corruption, one can look for the character of the government that occurred in that period. Many officials were arrested on charges of corrupt practices, although not a few law enforcement officials were involved in practices that put Indonesia in the ranks of one of the the most corrupt in this world.

The success of eradicating corruption is largely determined by the presence or absence of political support from the authorities. Political support can be manifested in various forms of policy, all of which boil down to space, circumstances and situations that support corruption eradication programs to work more effectively. On the other hand, the existence of political support from the authorities can encourage community participation to jointly eradicate corruption.

Therefore placing a political position in the corruption eradication program means seeing corruption as a common enemy because the negative impacts and losses incurred have endangered the life of the country, because it is impossible to separate efforts to eradicate corruption from the arrangement of the political system related to legal politics.

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13 Andi Hamzah, *Politik Hukum Pidana*, Jakarta, RajaGrafindo Persada, 1991,p. 24

14 Moh. Mahfud MD, *Hukum Tak Kunjung Tegak*, PT. Citra Aditya Bakti, Bandung, 2007,p. 157

15 Moh. Mahfud MD, *Pergulatan Politik dan Hukum di Indonesia*, Yogyakarta, Gama Media, 1999, p.1-3

16 *Ibid*

In Indonesia, the function of external oversight of the ethics of judges is carried out by a Judicial Commission. This is done in the context of implementing a check and balances mechanism. It is a pity that the ideality of a democratic constitutional system does not allow these institutions to relate harmoniously. This can be seen from the refusal of the Supreme Court Justices to be supervised by the Judicial Commission and they seek a judicial review. The material for Law 22 of 2004 concerning the Judicial Commission at the Constitutional Court. They asked for a review of the constitutionality of the powers belonging to the Judicial Commission, with reference to Article 24B of the 1945 Constitution. In essence, the supreme justices did not feel they were part of what was supervised by the Judicial Commission, because Article 24B did not directly written mentions the words of the supreme court judge, but only the words of the judge, meaning that judges under the Supreme Court can also be included in that article. bearing in mind the importance of an independent justice system running well, all judges without exception must comply with the established code of ethics (rules) of behavior.

Judges are state court officials who are authorized by law to try. Trial is a series of judges' actions to receive, examine and decide cases. According to A. Ridwan Halim, court functionaries as organizers or executors of judicial functions have the main mission of seeking and ensuring that the judiciary can achieve and reflect:

a) Justice c.q is the harmony of, (i) legal certainty and legal comparability or legal equality, (ii) legal protection/protection, and legal restrictions or restrictions, and (iii) the use of rights and implementation of obligations.
b) Legal authority which is a harmony between legal strictness and legal flexibility.
c) Legal development c.q is a harmony between legal modernization/renewal and legal restoration/renovation.
d) Efficiency and effectiveness of law c.q. is harmony between legal unification and legal differentiation/pluralism.
e) Community welfare which is harmony between material things and morality [17].

The judge as a court functionary, in resolving or ending a case or legal dispute as accurately as possible, must first know objectively about the actual case, namely as a basis for making a decision [18]. Thus, before giving a decision on a legal issue or dispute between the parties, the judge conducts a series of examinations, because the decision or verdict on a case or legal dispute is the closing or ending of an examination that has been carried out by the court or judge [19]. Apart from having to contain the reasons and basis for the decision, the court's decision must also contain certain articles and the relevant regulations or unwritten sources of law which are used as the basis for adjudicating.

According to Sudikno Mertokusumo and A. Pitlo, when examining a case, judges are more concerned with facts or events, and not the law, because legal regulations are tools, while what determines is the truth of events or facts. That is, to find or prove the truth of events or facts, the judge conducts a test or assessment of, and regarding the validity of the evidence revealed or revealed before the court hearing. In this case, Andi Hamzah mentioned that there is an assessment or examination of evidence, and to assess or test the strength of evidence, there are several systems or theories of proof that are known, namely:

a) The system or theory of proof is based on positive law (positief wettelijk beweijstheorie or formele beweijstheorie), which means that if an act has been proven in accordance with the evidence referred to by law, then the judge's conviction is not needed at all.
b) The system or theory of proof is based solely on the conviction of the judge (conviction intime), which means that proof is only based on or solely according to the conviction of the judge.
c) The system or theory of proof is based on the conviction of the judge for logical reasons (La conviction raisonnee or vrije beweijstheorie). The system or theory of middle ground proof or based on the judge's belief to a certain extent is divided into two directions, namely (i) proof based on the judge's belief on logical reasons (conviction raisonnee), and (ii) negative proof based on law (negatief wettelijk). beweijstheorie). The similarity is that both are based on the conviction of the judge. The difference lies in the starting point; The first is the emphasis on the conviction of the judge, and the second is the starting point on statutory provisions [20].

Reviewing positive law in the Republic of Indonesia, it turns out that the system or theory of proof follows the theory of proof based on the conviction of judges for logical reasons. Furthermore, according to

[17] A. Ridwan Halim, *Pokok-Pokok Peradilan Umum di Indonesia dalam Tanya Jawab*, Jakarta: Pradnya Paramita, 1987,p. 5-6

[18] Sudikno Mertokusumo, A. Pitlo, *Bab-bab tentang Penemuan Hukum, Kerja Sama antara Konsoriurn llmu Hukum Departemen Pendidikan dan Kebudayaan, dan The Asia Foundation*, Bandung: Citra Aditya Bakti, 1993, p. 32-34

[19] Henry P. Panggabean Henry P. Panggabean, Penyalahgunaan Keadaan (Misbruik Van Omstandigheden) Sebagai Alasan (Baru) Untuk Pembatalan Perjanjian (Berbagai Perkembangan Hukum di Belanda), Liberty ,Yogyakarta:1992 p. 82

[20] Andi Hamzah, *Hukurn Acara Pidana Indonesia*, Jakarta: Sapta Artha Jaya, 1996, p. 257-265.

the provisions of the law in force in the Republic of Indonesia, a judge's or court's decision is declared valid and has legal force if pronounced in a session open to the public. The important principles in administering justice in Indonesia include the following [[21]]:

a) The principle of equality before the law. This principle is a general principle adopted by countries based on law. The provisions of Article 1 Paragraph (3) of the Third Amendment to the 1945 Constitution emphasize that Indonesia is a country based on law. The logical consequence of this provision is that every Indonesian citizen must be treated equally before the law (court) and the government.
b) The principle of trial is open to the public. In essence, it determines that court hearings are open to the public and have legal force if said in an open public session.
c) The principle of justice is carried out simply, quickly and at low cost, as well as being free, fair and impartial. This principle means that in administering justice, the state through its law enforcement apparatus recognizes and guarantees the protection of human rights. As a concrete manifestation of this acknowledgment, this principle includes the main substance which is part of the contents of the oath/pledge of office of legal or court functionaries.
d) The principle of public interest. This principle essentially confirms that the court c.q. The chairman of the court has the authority to determine cases involving the public interest to be examined first.
e) The principle of presumption of innocence or presumption of innocent. This principle means that everyone must be presumed innocent until a judge's decision has permanent legal force. This principle is closely related to the principle of Nulla poena sine culpa (no crime without fault), which means that one's actions must be accountable. This principle can be found in Article 28 D Paragraph (1) of the Second Amendment to the 1945 Constitution and Article 18 Paragraph (1) of Law Number 39 of 1999 concerning Human Rights.
f) The principle of legality or legal certainty. This principle is actually closely related to the teachings of Legism which views written regulations (laws) as the only source of law. The desired goal of this principle is the achievement of legal certainty that can be understood by everyone and guarantees personal interests from possible arbitrariness of judges, namely through the limitations regulated in the law. The MI principle can be interchanged in Article 28 I Paragraph (1) of the Second Amendment to the 1945 Constitution. Apart from that, this principle is also contained in the oath/pledge of office of legal or court functionaries.
g) The principle of freedom of judges. This principle is an elaboration of one of the principles of a rule of law state which requires a judicial power (judiciary) that is independent and free from pressure or influence from any party. The guarantee for the freedom of judges is regulated in the basic law of the country, namely in the provisions of Article 24 of the 1945 Constitution.
h) The principle of Ne bis in idem which means that there is no trial of the same person and the formulation regarding this principle can be found for example in Article 60 that matter.

The pretrial institution contained in the Criminal Procedure Code is identical to the pretrial institution in the United States which applies the Habeas Corpus principle which basically explains that in a civilized society the government must guarantee a person's right to independence [[22]]. In reality, the pretrial institution has not been effective as a means of horizontal oversight in protecting the human rights of suspects and defendants. interested third parties.

The purpose of pretrial is as stated in the elucidation of Article 80 of the Criminal Procedure Code which reads: "This article intends to uphold law, justice and truth through horizontal monitoring facilities." It is not meant to patronize, if there is legal uncertainty and injustice for victims of corruption throughout the people of the Republic of Indonesia with the protracted handling of century bank corruption cases, then on the basis of their authority, judges in giving pretrial decisions are not solely based on formality and legal certainty, but the judge must decide the aquo pretrial for the sake of upholding the law.

Against the Pretrial Application the burden of proof lies with the Competent Officer, except for the Pretrial Application regarding demands for compensation for rehabilitation for acts of coercion and the main case was not submitted to court, the burden of proof lies with the Pretrial Petitioner. Specifically relating to whether or not detention is legal, the Pretrial Judge must consider the evidence submitted by the competent authority regarding:

a. Sufficient preliminary evidence insofar as it concerns the request for illegal arrest;
b. Sufficient evidence insofar as it concerns the request for unlawful detention;
c. The material truth of the arrest warrant and detention warrant issued by the competent authority;
d. The material truth of the notification letter to the family issued by the authorized official;

[21] Didit Hariadi Estiko dan Suhartono (ED), Mahkamah Konstitusi: Lembaga Negara Baru Pengawal Konstitusi, Jakarta: P31 Sekretariat Jenderal DPR RI, Agarino Abadi, 2003,p. 52- 53

[22] Luhut M. Pangaribuan, *Hukum Acara Pidana*, Jakarta, Djambatan, 2008,p. 1.

e. Evidence that supports the need for detention by conducting an objective assessment of the circumstances surrounding and present in the suspect which raises a strong allegation that the suspect will run away and/or destroy evidence and/or influence witnesses, and/or repeat criminal act.

Table: Reconstruction of Regulations Giving False Testimony at Pretrial Sessions of Corruption Cases in Indonesia Based on Pancasila Justice

BEFORE RECONSTRUCTION	WEAKNESS	AFTER RECONSTRUCTION
Article 22 of the Corruption Law Everyone as referred to in Article 28, Article 29, Article 35, or Article 36 who intentionally does not provide information or provides information that is not true, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 12 (twelve) years and/or a fine of at least Rp. 150,000,000.00 (one hundred fifty million rupiahs) and a maximum of Rp. 600,000,000.00 (six hundred million rupiahs).	• There is still a lack of firmness and clarity regarding the category of giving false information regulated in Article 22 of the Corruption Law, there should be a category that can be included in the elements of that article, • ambiguity in the meaning of the words in the law which results in confusion in its interpretation and application. • The new Criminal Code regarding giving false testimony in relation to corruption cases is not regulated. where in the new Criminal Code in Article Article 612 Everyone who hides or disguises the origin, source, location, designation, transfer of rights, or actual ownership of Assets that he knows or should suspect is the result of a Criminal Act is punished for the Crime of laundering money with a maximum imprisonment of 15 (fifteen) years and a maximum fine of category VI.	Article 22 of the Corruption Law Paragraph (1). Everyone as referred to in Article 28, Article 29, Article 35, or Article 36 who intentionally does not provide information or provides information that is not true, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 12 (twelve) years and/or a fine of at least Rp. 150,000,000.00 (one hundred fifty million rupiahs) and a maximum of Rp. 600,000,000.00 (six hundred million rupiahs). Paragraph (2). Punished with the same punishment as paragraph 1 (one) if the act is committed at a pretrial hearing.

D. CONCLUSION

Law enforcement against giving false testimony at pretrial hearings in Article 22 of the Corruption Crime Law in Indonesia as a juridical consequence of the Constitutional Court decision Number 21/PUU-XII/2014 which expands the object of pretrial in the form of determining suspects is not yet based on Pancasila values of justice. Where law enforcement against witnesses who give false statements in the corruption pretrial hearings has not been regulated clearly and unequivocally in Article 22 Law 31/1999, so that in practice there are differences in perceptions between investigators who are authorized to determine suspects and judges who examine the main case because usually In corruption cases, witnesses and suspects in corruption cases have a working relationship with each other. So that he often said dishonestly in order to protect his coworkers, there is even a high possibility that the witness was also involved in committing the corruption crime, and his actions were included as actions that hindered the process of law enforcement/obstruction of justice. The witness who gave testimony Falsehood in court can also be under threat or coercion by someone who asks him to speak dishonestly in court for that person's personal interests. Thus it is necessary to reconstruct the regulation on the determination of suspects for giving false testimony at the Pretrial hearing in Article 22 of the Corruption Crime Law in Indonesia based on Pancasila justice. Where amending Article 22 of the Corruption Law due to the lack of elements regulated in Article 22 of the Corruption Law, as a result of the expansion of pretrial objects in the Constitutional Court decision Number 21/PUU-XII/2014 resulting in confusion in its interpretation and application.

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