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PROSIDING

KONFERENSI NASIONAL HUKUM PIDANA 2019

TELAAH KRITIS KEBIJAKAN DAN PENEGAKAN HUKUM PIDANA TERHADAP PELAKU PIDANA DI BIDANG PEREKONOMIAN

PALEMBANG, 30 - 31 OKTOBER 2019

Penerbit :
UNIVERISTAS SRIWIJAYA

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"Telaah Kritiis Kebijakan dan Penegakan Hukum Pidana Terhadap Pelaku Pidana di Bidang Perekonomian"

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KATA PENGANTAR

Puji dan syukur kehadirat Allah SWT, Tuhan Yang Maha Esa yang terus mencurahkan rahmat dan karunia-Nya kepada kita semua, serta dengan ijinNya Konferensi Nasional Hukum Pidana dan *Call for Papers* dengan tema "Telaah kritis kebijakan dan penegakan hukum pidana terhadap pelaku tindak pidana di bidang perekonomian", dapat terlaksana dengan baik dan Prosiding ini dapat diterbitkan.

Tema tersebut dipilih dengan alasan untuk memberikan perhatian dunia akademik tentang tindak pidana di bidang perekonomian .

Para akademisi nasional telah banyak menghasilkan penelitian tentang kebijakan dan penegakan hukum pidana terhadap pelaku tindak pidana di bidang perekonomian. Atas dasar tersebut Konferensi Nasional ini menjadi salah satu ajang bagi para Akademisi nasional untuk mempresentasikan penelitiannya, sekaligus bertukar informasi dan memperdalam masalah penelitian, serta mengembangkan kerjasama yang berkelanjutan.

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Palembang, 30 Oktober 2019

Ketua Panitia

Dr. Hj. Nashriana, SH,M.Hum

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RESTORING THE INDEPENDECE OF JUDGES FROM JUDICIAL CORRUPTION CRIME

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Abstract
The practice of bribery corruption in court or judicial corruption cognitively has become part of the activities of the prosecutors, judges, and advocates in carrying out their duties and functions as law enforcement. Judicial corruption is a major problem of weak law enforcement in Indonesia and a heavy burden on eradicating corruption in Indonesia. The independence of judges is questioned in deterring judicial corruption.
The socio legal approach in this study is used to explore the nature of the judge's subjectivity, the method of reflection and interpretation function to manage understanding in relation to research findings.
Judicial corruption has changed the attitudes and views of judges, partly carrying out its duties and functions in carrying out the law, partly in search of material gain personally. Therefore, law enforcement is not authentic. The judge loses his sense of justice and certainty in enforcing the law. Low integrity and poor reputation are due to extraordinary judicial corruption in the form of bribery crime.
The independence and freedom of judges is at the core of the rule of law. Therefore, restoring judicial immunity must be maintained and enforced, not only by judges and state institutions, but also by justice seekers. Personal and substantive independence is an important factor in restoring the independence of judges to avoid influences both internal and external, especially judicial corruption. Judges are obliged to carry out their functions based only on professional ethics and legal rules and belief in Almighty God. Additionally, the model of discipline and supervision by MKH at the High Court level also strongly supports the restoration of the independence of judges along with judicial independence.
Key words: Judicial Corruption, Independence of Judges, Law Enforcemen

INTRODUCTION

Background

Judges in the general court environment are important human resources in order to realize the main principle of the implementation of a free and independent justice system without interference from all forms of power, politics, economy, time and others. Thus, the goal of law enforcement, as Gustaf Radbruch[1] said, provides a sense of justice and legal certainty and benefits to justice seekers, will be well achieved.

An independent judge is a judge who is self-determined and independent, strong and steadfast in facing various interventions even though pressure and intimidation are still faced with gratitude as a consequence of a noble and honorable choice of profession both in the eyes of humans and on the side of God the Just.[2]

The fact that the administration of justice is free and independent without the intervention of various parties is not easily manifested. Judges in conducting trials today can be categorized as weak in maintaining their independence. Judges associated with various actors involved in the administration of justice such as, the public prosecutor, advocate, and parties concerned in the court including justice seekers involved in various corrupt bribery practices.[3]

[1] Nur Agus Susanto, Dimensi Aksiologis Dari Putusan Kasus "ST" Kajian Putusan Peninjauan Kembali Nomor 97 PK/Pid.Sus/2012, Jurnal Yudisial Vol. 7 No. 3 Desember 2014.
[2] Salle, 2018, Urgensi Kemandirian Kekuasaan Kehakiman, Makasar:SIGn. www.penerbit.sign.com. hlm.7
[3] Teddy Asmara, 2011, Budaya Ekonomi Hukum Hakim, Semarang:Fasindo, hlm.40.

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By law, the practice of bribery corruption (judicial corruption) is invisible, even the number is small compared to the number of judges and with the court, and the truth requires proof of the presence or absence of witnesses and evidence of corrupt practices in the court. Judicial corruption does not work within the normative reality of law, but rather is embedded in the logic of the behavior of judges, advocates, prosecutors and the police, and even Penitentiary Institutions.[4] Since 2012 until now, 20 Judges have been proven to be involved in corruption cases.[5] The rest, like the black market (black market), many are not revealed.

The cognitive reality of judicial corruption has become part of carrying out the duties and functions of law enforcement. Therefore, the efforts to eradicate corruption can go wrong, because law enforcement which is the upstream eradication of corruption is involved in judicial corruption.

The issue of corruption within the judiciary is a basic problem in eradicating corruption. Law enforcement cannot be achieved when a judge who is supposed to provide a good example of punishment, instead shows a poor practice of law enforcement by bribery corruption. This condition significantly weakens efforts to eradicate corruption and rule of law.

Problems

Judicial corruption is a source of bribery corruption that grows and develops within the judiciary and is carried out by investigators, public prosecutors, judges, and advocates to reduce the defendant's mistakes by reducing or releasing the defendant from the sentence handed down. Judges who have duties and obligations in administering justice should strongly reject bribery corruption by preventing and eradicating it, not becoming involved.

The reality and relation of the independence of judges and judicial corruption is important to be examined, because if the problem can be found, it can facilitate the eradication of corruption within the judiciary.

The research question of how the independence of judges in preventing bribery corruption in courts in the Tanjungkarang High Court jurisdiction is a way of research to answer these problems.

METHOD

Approach

To get an empirical explanation of the problem of this study, cognitive approach model of Jean Piaget[6] according to the researcher is suitable to understand the research problem and answer the main problem, the independence of judges related to judicial corruption. In this study, knowledge of judicial corruption practices experienced as a custom (habit) requires the meaning as unkindness, damage, and or crime that must be raised in the ratio awareness. Judicial corruption as a habit that is cognitively accepted and carried out in the lives of judges and other legal and social actors requires improvement and revision through the antithesis of good knowledge derived from legal philosophy, legal science, legal theory, and the ethics of the legal profession.

Therefore, the cognitive approach focuses more on expressions, chatter, and the way of judges, prosecutors, advocates and actors related to their thoughts, knowledge, interpretations,

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[4]Institusi Peradilan diragukan KPK dapat mengawasi dan membina Hakim, termasuk kepolisian dan kejaksaan. KPK Tangkap Hakim PN Balik Papan terima suap dan 2 orang lainnya seasta dan satunya Advokat pemberi suap.Kompas.com KPK Tahan 3 Tersangka Suap PN Balik Papan. Http//Nasional.kompas.news.nasional. https://nasional.kompas.com/read/2019/05/05/12195021/hakim-kembali-ditangkap-kpk-ma-bantah-tak-serius-lakukan-pengawasan

[5]Kompas.com, 7 Mei 2019.https://nasional.kompas.com/read/2019/05/07/10483411/sejak-2012-ada-20-hakim-tersangkut-kasus-korupsi?page=all

[6]Jean Piaget membagi ada 4 tahap perkembangan kognisi manusia 1) tahap sensorimotor 2) tahap praoperasi, 3) tahap operasi konkrit, dan 4) tahap operasi formal. Sutarjo Adisusilo, JR, *Pembelajaran Nilai-Nilai Karakter, Konstruktivisme dan VCT sebagai Inovasi Pendekatan Pembelajaran Afektif* (Jakarta:Raja Grafindo Persada,2014), hlm.9.

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understandings, and ideas related to perceptions, memories and information processed and so on used by individuals to get information, design, and solve problems.[7]

To get an understanding of the problem to be examined, the researcher tries to describe the social situation of the judge and related social actors that can be observed. Legal research like this can be interpreted as socio legal research, namely research on law and legal science that is interdisciplinary from a social perspective so that legal issues can be explained more meaningfully about the operation of the law in the daily life of society.[8]

To explore the nature of the subjectivity of judges and other legal and social actors, reflection is done, interpretation of the findings obtained through dialogue, conversations with respondents and informants at the research location, as well as findings obtained from the search for legal texts (regulations laws, court rulings, and other legal documents).[9]

Subject and Object of the Research

Subject of the Research

The selection and determination of research subjects and informants were determined based on purposive sampling technique. Some requirements considered by researchers are: a) the subject of research is the chairman of the judges or members, advocates or social actors who have experience in handling cases in the District Court who are accustomed to and experienced handling criminal or civil cases in the District Court, b) Researchers know the research subject, c) Research subjects have enough time to be asked for information.

The research subjects and actors to be interviewed and information collected were obtained from judges, substitute registrars, criminal young clerks, advocates, justice seeker communities, and former convicts. Each actor consists of three people from Kotabumi, Tanjungkarang, and Kalianda Courts.

Object of the Research

The object of the research is determined based on the social situation which includes three elements, namely the place of research (District Court in the area of the Tanjungkarang High Court), perpetrators / actors, and social activities and interactions within the district court. Determination of the place or location of research was carried out on the basis of consideration of objectives, funding, and research benefits.

Data Collection and Analysis

Primary data collection in the form of findings derived from judicial activities and social interaction judges and other social actors conducted through interviews, while secondary data collection is done through findings derived from legal documents, court decisions, research reports, media news, and so forth.

Efforts to find these important words use inductive analysis, which is an analysis carried out continuously without waiting for complete data to search for / find categories, themes, and models.[10]

Data analysis used are reflective and interpretation techniques. Data analysis activities are carried out interactively and take place continuously until it is complete and the data does not change again. The data analysis process begins by examining all available data from various sources, interviews, observations, and documentation. An analysis was carried out with three

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[7] Moh.Azhar Abdul Hamid, *Meningkatkan Daya Pikir* (Selangor:PTSPublishing, 2007), hlm.3

[8] Sulistyowatidan Shidarta. 2011.*Metode Penelitian Hukum Konstelasi dan Refleksi*. Jakarta:Yayasan Obor. Hlm.1.

[9] Syaifur Rohman. 2013. *Hermeneutik Panduan ke Arah Desain Penelitian dan Analisis*.Yogyakarta: Graha Ilmu. Hlm.24.

[10] Endaswara, Suwardi. 2011. *Metode, Teori, dan Teknik Penelitian Kekulturan (Ideologi, Epistemologi, aplikasi)*. Yogyakarta. Pustaka Wedyatama. Hlm.44.

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components including data reduction, namely the selection process, centralization of data on simplification of new data from field notes through summary activities or short notes, classification, and so forth. Furthermore, the data is presented in the form of arranged information that gives the possibility of drawing conclusions. Everything is designed to combine information that is arranged interactively.

ANALYSIS AND DISCUSSION

The Independence of Judges and Judicial Corruption

The term *independen* or *independensi* is an uptake of the word independence which means the state of quality of being independent; a country freedom to manage all its affairs, whether external or internal without countrol by other countries.[11] The phrase of the word independent or independence if it is attached to the authority of the judiciary, it will mean a condition that shows a free will towards the independent judicial power institution.[12]

The meaning of independence is to stand alone, free from inhibition, colonialism and so on, not subject to demands, free, not bound, not dependent on certain parties or freedom of independence judiciary that is not limited in structural and functional organs. An independent or free-will judicial power is universal.

Contextually, the independence of judges can be interpreted as all the situations or conditions that underpin the inner attitudes of independent and free judges in exploring and then manifesting their conscience about justice in a judicial process. Freedom in imposing decisions must really be shown as freedom based on conscience, and truth, not decisions with consideration of personal interests or tendencies that deal with the interests of getting money, awards, or promises of certain positions.[13] Independence is bound by responsibility or accountability, both of which are two sides of an inherent coin.

Talking about the independence of judges means talking about the realm of mentality and capabilities (scientific skills and competencies) of judges as subjects who maintain and carry out justice.

International Transparency (TI) defines corruption as an abuse of power entrusted for personal gain.[14] This means financial or material benefits and non-material benefits, such as advancing political or professional ambitions, whereas judicial corruption by IT is interpreted to include all undue influence on the impartiality of the judicial process by any actor (judge, etc.) in the court system.[15] Which includes the most influential judicial corruption is a) political interference in the judicial process by the executive or legislative, and b) bribery.[16]

The attention of researchers in research problems refers to the category b) bribery as a form of judicial corruption. *Suap*, bribery in English, and *rasywah* in Arabic in Law Number 31 of 1999 which has been amended by Law Number 20 of 2001 concerning Amendment of Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption is regulated in Article 5 paragraph (1) letters a, b and paragraph (2), Article 12 letters a, b, c and Article 13.

Bribery referred to in the corruption act is basically giving something (goods or money) to the state administrator (investigator, public prosecutor, registrar or judge, advocate who will, or is handling a case, so that the case will be handled or is being processed in the criminal justice system and the acts of the corruptor by law enforcement officials can be made or compiled in a decision as

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[11] Bryan A Garner. 1999. *Black Law Dictionary*, Seventh Edition, West Group: United States of America. P.773.
[12] Sudarsono.1992. *Kamus Hukum*, Jakarta: Penerbit Rineka Cipta, hlm.274.
[13] Farid Wajdi, Meluruskan Makna Independensi Hakim, Waspada, Rabu 9 Mei 2019.
[14] Transparency International, Executive Summary, *Global Corruption Report 2007. Corruption in Judicial System*, (Canbride:Canbridge Press,2007) hlm.xxi.
[15] Transparency Internasional, *Ibid*.
[16] Transparansi Internasional, *Ibid*. hlm,xxii.

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if not guilty, or even if guilty of committing a criminal act of corruption, at least, acts, mistakes, and criminal liability that must be imposed on the perpetrators are small and light.

Bribery in the field of judicial (law enforcement) is the most heinous and dangerous crime, able to obscure and overturn the truth. Decisions on a case are not based on truth based on shariah, but based on the passions of people involved in *risywah*.[17]

The Fatwa of the Indonesian Ulema Council (MUI) expressly stated "Giving *risywah* and accepting the law is haram."[18] Therefore, it is the judge's duty to decide the case based on truth.

Understanding bribery from a legal point of view basically implies an act of corruption, namely:

1) Acts of corruption are illegal (illegitimate), in the sense that there is a violation of the values that apply in a democratic society, thus is the basis for sanctions;
2) The act of power, i.e. the abuse of power in favor of certain interests in the exchange of gifts, promises or abuse of public functions;
3) All referred to actions are actions and omissions;
4) Involves a conflict of interest. Corruption violates the public / public or private sector interests and implies benefits (economic, status, honor, awards, gifts or favors) for yourself or others (family, friends, groups or organizations);
5) Implies violations of basic principles, values and rights in a democratic society, such as the principles of legality, good faith, transparency, accountability and human rights. The types of sanctions range from civil to criminal, including administrative, disciplinary regulations, in various legal instruments.

The Implementation of the Independence of Judges in District Court

There are 11 District Courts in the jurisdiction of the Tanjungkarang High Court, including the Kotabumi District Court, the Kalianda District Court, the Tanjungkarang District Court, and the Metro District Court. Generally, all of the District Courts in the Tanjungkarang High Court jurisdiction are currently actively working on bureaucratic reform and carrying out the Construction of a Corruption-Free Zone (WBK) and Clean Serving Bureaucracy Region (WBBM). The implementation of the construction of this integrity zone is structurally controlled and supervised by the Directorate of the General Judiciary Body in its guidance carried out by the Tanjungkarang High Court. Visiting the District Court today, you will feel the difference when you come to the District Court 5 years before.

Some of the aforementioned District Courts have made fundamental changes in aspects of governance management, human resources, and improvement of the supervision system as well as strengthening the system of performance accountability and improving the quality of public services.

At present, justice seekers or anyone with an interest in the District Court, when they first enter the door of the courthouse will be seen by the One Door Integrated Services (PTSP) officer who will greet and greet guests cheerfully and politely, invite them to sit, ask questions, fill in the guest book, and provide a guest identity card as a sign of entry in accordance with the purpose of their needs.

In addition, when in the PTSP room, such as in the PN Tanjungkarang District Court, the Kotabumi District Court, the Metro District Court, and the Kalianda District Court, guests will find banners on the left and right side of the PTSP desk with the words "Stop Gratification and Bribery," "Giving gifts or bribes subject to Legal Sanctions," and many versions in each District Court. The picture is to show the current conditions that the District Court has tried to create a

[17] Abu Fida'i Abdur Rafi', 2006 *Terapi Penyakit Korupsi dengan Tazkiyatun Nafs* Jakarta:Republika. Hlm.2
[18] Amien, Ma'ruf, *Ichwan Syam, dkk, Ed.* 2011, *Himpunan Fatwa MUI,Sejak Tahun 1975,* Jakarta: Erlangga. hlm.364-369.

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bureaucracy that is free of corruption, clean, and serves effectively and efficiently. Inside there are achievements to realize work areas that are free of corruption, clean and serving work areas.

The predicate of the District Court as a bureaucracy area free of corruption and clean serving will be given by the community as a form of trust because it fulfills most of the management of change, structuring management, structuring HR management systems, strengthening accountability, performance, strengthening supervision, and strengthening the quality of public services.

In the District Court, the management of bureaucratic changes includes improving judicial governance, including related to standard operating procedures, strengthening job descriptions, public services, supervision, cleanliness, and administration of justice. In general, structural changes refer to the Bureaucracy Reform 8 areas of change, namely:

Table: Eight (8) Change Areas of Bureaucracy Reform

1. Organization	The organization's right function and size
2. Governance System	System, clear work processes and procedures, effective and efficient, measureable, and in accordance with the principles of good governance.
3. Regulation	More well-arranged and not overlapping regulations.
4. Human Resources	Human Resources with integrity, neutrality, competence, capability, and professional.
5. Supervision	Increased implementation of justice that is free of KKN
6. Accountabilty	Increased capability and performance capacity.
7. Public Services	Excellent service according to public needs.
8. Mindset and Culturset ASN	Bureaucracy with high integrity of performance.

In the concept of the Integrity Zone Free of Corruption Areas (WBK) and the Clean Serving Bureaucracy Region (WBBM) District Court, the direciont of change leads to six areas, namely:

Table: Six (6) Change Areas of Integrity Zone Development

Area I	Change Management
Area II	Management Arrangement
Area III	HR Management Structuring
Area IV	Strengthening Performance Accountability
Area V	Strengthening Supervision
Area VI	Improving the Quality of Public Services

Institutionally, efforts to restore judicial independence have been exemplified by the Supreme Court. This was proven by gaining appreciation and appreciation for the implementation of the integrity zone towards a corruption free area (WBK) on December 11th, 2018. This achievement was achieved after 7 (seven) court work units were declared to have passed based on the results of a survey conducted by the Ministry of Empowerment of the State Civil Apparatus in collaboration with the Central Statistics Agency (BPS).[19]

At present, every District Court within the Tanjungkarang High Court area seeks to implement the construction of WBK and WBBM integrity zones because it has become an institutional policy. Normatively, the legal basis is as follows:

[19]https://www.mahkamahagung.go.id/id/berita/3339/mahkamah-agung-raih-penghargaan-zona-integritas-wilayah-bebas-korupsi. Diakses tgl.1 Mei 2019.

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1. Law Number 14 of 1985 concerning the Supreme Court as amended several times, most recently Act Number 3 of 2009 concerning the Second Amendment to Law Number 14 of 1985 concerning Supreme Court;
2. Law Number 28 of 1999 concerning Administration of a Country that is Clean and Free of Corruption, Collusion, and Nepotism;
3. Law Number 31 of 1999 concerning Corruption Eradication as amended, with Law Number 20 of 2001 concerning Amendment to Law Number 31 of 1999 concerning Eradication of Corrupt Criminal Acts;
4. Law Number 30 of 2002 concerning the Corruption Eradication Commission;
5. Law Number 14 of 2008 concerning Openness of Public Information;
6. Law Number 48 of 2009 concerning Judicial Power;
7. Presidential Regulation Number 81 of 2010 concerning the Grand Design of the 2010-2025 Bureaucracy Reform;
8. Presidential Regulation Number 55 of 2012 concerning National Strategy for the Prevention and Eradication of Long-Term Corrections for 2012-2025 and Medium-Term 2012-2014;
9. Presidential Instruction No. 55/2012 concerning Actions to Prevent and Eradicate Corruption;
10. Supreme Court Regulation Number 7 Year 2016 concerning Enforcement of Judicial Work Discipline at the Supreme Court and the Judiciary Bodies underneath;
11. Supreme Court Regulation No. 8 of 2016 concerning Supervision and Guidance of Direct Supervisors within the Supreme Court and its lower Judicial Bodies;
12. Supreme Court Regulation No. 9 of 2016 concerning the Guidelines for Handling Complaints (Whistle-blowing System) in the Supreme Court and the Judiciary Bodies underneath;
13. Regulation of the Minister of Administrative Reform and Bureaucratic Reform No. 14 of 2014 concerning Guidelines for Evaluating Bureaucratic Reform of Government Agencies;
14. Regulation of the Minister of Administrative Reform and Bureaucratic Reform Number 52 of 2014 concerning Guidelines for the Development of Integrity Zones Towards Areas Free of Corruption and Bureaucracy Areas Clean and Serve within Government Agencies;
15. Decree of the Chairperson of the Supreme Court of the Republic of Indonesia Number 1-144 / KMA / SK / I / 2011 concerning Guidelines for Information Services in the Court;
16. Decree of the Chairperson of the Supreme Court of the Republic of Indonesia Number 58 / KMA / SK / III / 2019 Concerning the Guidelines for the Development of Integrity Zones Towards a Region Free of Corruption (WBK) and the Clean and Serving Bureaucracy Region (WBBM) at the Supreme Court and the Lower Judicial Bodies.

The internal integrity zone will be assessed internally by the Supreme Court of the Supreme Court, and externally by the Indonesian Ministry of Administrative Reform (*Kemenpan*). Therefore, for District Courts that do not implement policies on the construction of WBK and WBBM integrity zones, they will get a bad evaluation in the administration of justice in each area reported, because they get a small number or value, and that is known by all District Courts throughout Indonesia. On the other hand, if the District Court carries out WBK and WBBM, it will be rewarded by the Supreme Court for obtaining good judgment and is known by all District Courts.

This situation shows the strong desire of each district court work unit, competing to obtain the title of superior court (excellent). Empirically, it appears that the efforts of the Supreme Court and the Judiciary Body under the District Court to reform are all aimed at giving a positive perception to the community of judicial independence.

Changes in the institutional bureaucracy of the district court have now empirically changed, but these institutional changes do not necessarily change the attitudes, values, and views of judges in implementing the law enforcement process. Judges should conduct judicial proceedings to enforce criminal law and justice in the criminal justice system as well as being independent. In

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other words, returning the independence of the court can not only be on the structural aspects of the bureaucracy, but also culturally changes the attitudes and views and values adopted by the judge in carrying out law enforcement. Judicial independence will succeed if district court judges have a strong commitment to implement WBK and WBBM in enforcing law and justice.

WBK and WBBM in their implementation by judges in the District Court have indirectly formed two groups of types of judges, first, the responsive judges group, and second, the static judges group. The first group of judges tends to utilize institutional changes positively to limit attitudes and views that are not personally appropriate to follow and maintain institutional changes. In other words, all changes that are happening in the District Court are good moments for changes in behavior that are in line with the supervision system and the accountability system that is implemented. Judges try to synergize in making personal changes from attitudes, views, and behaviors towards improving and restoring the independence of judges through restoring public confidence in the district court in administering justice.

The static judge group type tendentiously follows the changes that are taking place and implements them half-heartedly. Some of these judges have not shown attitudes and views and behavior that are in line with the declaration of the construction of WBK and WBBM integrity zones. In practice, there are still judges whose cognition carries out their functions, but also tries to benefit from their work. In other words, the habit of bribery, the practice of gratification or bribery has not been abandoned, it still continues to be carried out in handling criminal and pardata cases. Structural changes taken place at the District Court did not necessarily improve the mental attitude and values adopted by the Judge. Judges in reality still often accept bribes and the decisions they make are not based on a sense of justice whose decisions should prioritize the formal legal aspects to fortify the abuse of authority that has been committed.

The independence of judges is still considered weak by many people due to the implementation of law enforcement, because judges are still involved in seeking additional money through bribery, gifts, and so forth. The chairman of the panel of judges and member judges still covertly and secretly carry out bribery practices. Therefore, these types of judges are not in line with the concept of WBK and WBBM being implemented at the District Court.

Restoring the Independence of Judges from Judicial Corruption

To restore the independence of judges in the jurisdiction of the Tanjungkarang High Court, especially to some static judges, the basic principles of judicial independence of The Bangalore Principles of Judicial Conduct are important as parameters. In The Bangalore Principles, there are six (6) important principles that must be used as a guide for judges in the world, namely the principles of independence, impartiality, integrity, propriety, equality and skills, and togetherness (competence and diligence) and contained within the meaning of the integrity of the judge.[20]

Referring to these parameters, the relevance of the independence of judges can be seen practically in the high or low public confidence in the judge. While the weak or strong independence of judges can be seen from the judge's treatment of justice seekers, discriminatory or not to justice seekers, poor people who are socially and economically vulnerable to get access to justice. While the basic aspects needed by the independence of judges include salaries that have risen and judges who do not get official housing receive contract assistance money. This aspect is considered adequate and has improved better.

The judicial process carried out by judges at all stages requires personal independence that is structured with institutions that are based on legal knowledge so that the legal actions undertaken are not in conflict with each other and cause problems that hinder the truth and justice at trial. For judges, the judicial process cannot only be seen as a mechanical and procedural legal process, but

[20] Nikmatul Huda, Anang Zubaidi,SH, Allan Fatchan BW, 2018, Laporan Penelitian: Rekonstruksi Kedudukan dan Kewenangan Dewan Etik Hakim Konstitusi Sebagai Upaya Memperkuat Integritas Hakim Konstitusi. Yogyakarta, hlm.15.

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must be seen in the stages of the work process that truly operates in the arena of humanitarian values and problems.

Judges with their duties and functions have responsibilities, (a) to uphold truth and justice; (b) to maintain honor and independence; (c) to maintain the authority of the institution; and (d) to maintain public trust. These responsibilities if implemented will be a positive indication that judges have built and created judicial independence, so that justice seekers who want to distort the law by bribing do not have an entrance, even through the Chair / Deputy Chief Justice or whoever. Obedient and law-abiding judges have high legal awareness and are not easily swayed by anyone. Conversely, if a judge shows behavior and actions that are not in accordance with the law, then the community will imitate and behave more courageously to violate the law, such as giving bribes.

Judges in their function as judicial organizers are in direct contact with the public, both in administrative services and in the trial process. Therefore, its very existence determines the existence of the court as an institution that has the public's trust in running the court.

The efforts of judges to perform themselves optimally in exercising independence must be evident in handling criminal cases through decisions that reflect the values and principles of law and justice and accountability. According to a number of judges in the above types, it is not easy even though age, experience, socio-economic background are quite adequate, but in reality it cannot be said to be better in producing decisions that reflect a sense of substantive justice. Most of the law is generally applied formally, pragmatically, and routinely, in the sense that it is only based on the law and sees the advantages and disadvantages, without mastery and deepening of the cases handled, so that there is no legal reasoning in the consideration of facts and laws.

As in the examination of witnesses, the judge ultimately relies heavily on the efforts of the public prosecutor to be able or not to present witnesses to be brought forward. If the prosecutor considers that the witnesses presented are sufficient, the judge tends to accept and approve them. Judges are based more on prosecutors' demands and are not based on the results of their deliberations. In fact, the examination of facts and laws that should have been obtained is obtained in examining and trying the defendant. It seems that this was allegedly because the judge had been trapped in a procedural mechanism that was made to facilitate the hearing in the trial.

The independence of judges is a representation of judges in carrying out their integrity and accountability. Restoring the independence of judges means testing the professionalism and integrity of judges in enforcing the law and justice so as not to be shaken to anyone, especially to the people as follows: a. who have influence because of the material (strong in material matters), and b. have a position. These two types of people usually weaken the independence of judges.

Referring to the Bangalore principle which is used and has been applied by the Supreme Court justices in various countries, the six core values that have been established must guide the implementation of justice, namely: independence, impartiality, integrity, equality, propriety, and competence and perseverance. The values of each of these principles illustrate the specific considerations and situations that judges must be aware of to ensure public maintenance and trust in their integrity. In the code of ethics and behavior of judges it is stated that the judge is the main actor or central figure in the judicial process. Therefore, judges are always required to hone conscience, maintain integrity, moral intelligence, and increase professionalism in enforcing law and justice for peoples.

Therefore, all of its responsibilities in carrying out its duties and functions of justice must be carried out in order to enforce the law, the truth, and justice without any prejudice. In accordance with the judgment pronounced, "For the Righteousness of the Most High God." The fundamental meaning of this title is that the obligation to enforce the law, the truth, and justice must be held horizontally to all humanity and vertically accountable to the Almighty God.

Therefore, the Chief Justice of the Supreme Court and the heads of the judiciary below can be a good practice for judges to carry out inherent supervision consistently, for example there are

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parties who will carry out gratuities or bribery, reject it and take responsibility for it in coaching meetings.

Coaching meetings or coordination meetings and the like need to be used as a means of supervision that is oriented to keep all judges as the main executors of the court's function in order to be willing to cooperate and have a shared awareness of rejecting judicial corruption. The principle of impartiality must not be strengthened by the presence of judges with high integrity, honesty and professionalism.

In fact, the position of a judge is a position that bears enormous responsibility and weight. Therefore, a judge must accept the reality to decide the law and justice based on the right and fair considerations based on his legal competence and beliefs without the need for a public prosecutor to meet, or a family of justice seekers come to the judge to ask for help and give money or object. The judge must be able to reject anyone who wants to personally deal with the case he is handling, or not allow family members to appear before the judge as a party or advocate because both cause perceptions and undermine trust in the administration of justice. Judges are expected to be able to make the best decisions regarding the existence of criminal acts by individuals, governments, and companies, not judges who commit crimes due to bribery cases. There needs to be a monitoring and evaluation mechanism to ensure that judicial corruption by judges can be detected, which is then examined and punished for violating the code of ethics.

The Chairperson and Deputy Chairperson of the District Court must have a clear and firm attitude to discipline the judge. Judges must be independent in making decisions about criminal acts carried out by ordinary people, government officials, and company leaders. For this reason, there needs to be a monitoring mechanism in terms of who is the accused who will be decided by the judge. The court must discipline disciplines as far as possible, especially those belonging to a group of static judges who tend to accept bribes.

The district court requires a model of the Court of Honor Judge (MKH) at the level of the High Court that treats it equally, on the one hand to protect the independence of judges, and on the other hand to take responsibility for the judge's actions. The model must have sufficient transparency space to gain public trust. The Honorary Panel of Judges in the Supreme Court is not enough to detect violations of Indonesian judges' discipline. If the High Court has the MKH, then the actual problem of the independence of judges will be maintained, because the public along with the MKH will always control the behavior of judges who tend to be involved in bribery, even the Judicial Commission will no longer need to exist.

CONCLUSION

Judges are the main implementers of the administration of justice and judicial independence is very dependent on the independence of judges. The construction of an integrity zone carried out by the Supreme Court and its lower judicial body towards a corruption-free area and a clean bureaucratic area to serve requires the involvement of judges to implement it, not only in the bureaucratic area, but also in the area of law enforcement through joint commitment and awareness in preventing judicial corruption. The model of discipline and supervision by MKH at the High Court level strongly supports the restoration of the independence of judges along with judicial independence.

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