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Review of Court Decision after the Constitutional Court of Indonesia Decision in Legal Certainty and Justice Perspectives

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Abstract

The practice of the criminal justice system and in particular criminal procedure law has several problems which is a debate among jurists as well as legal practitioners. This issue refers to the exercise of the convicted person rights in making a review of court decision. A review of court decision is a tremendous remedy that can be done after the decision has acquired the force of the law. The establishment of a review of court decision institution in a criminal case rests on the principle of a review of court decision which is included in Article 263 paragraph (1) of the Criminal Procedure Code (KUHAP). In the filing of the review of court decision must be eligible if there are new circumstances (novum) and where a verdict clearly indicates a judge's oversight or a tangible mistake in accordance with Article 263 paragraph (2) of KUHAP. A review of court decision under Article 268 paragraph (3) of KUHAP can only be filed once, but in practice a review of court decision may be made several times. This is contained in the Constitutional Court Decision Number 34/PUU-XI/2013. Therefore it is important to do an analysis to be reviewed from legal certainty *vis a vis* justice. In addition, by allowing the review of court decision of more than one time, there must be juridical implications for the release of the decision.

Keywords: review of court decision, legal certainty, justice.

I. Introduction

In the Criminal Procedure Code (KUHAP), the review of court decision is regulated in Article 263 paragraph (1) which states that against a decision of a court which has had a permanent legal force, except the free (bebas) or released (lepas) verdict of any lawsuit, the convict or his heir may file a request of review of court decision to the Supreme Court.

Since the enactment of KUHAP which regulates the a review of court decision institution, seen case after case requested a review of court decision and resolved by the Supreme Court has shown a common thread in relation to the interests of justice seekers.[1] As well as Sengkon and Karta cases punished by the Bekasi District Court on October 20, 1977 and the case of Devid Eko Priyanto and Imam Chambali, who were convicted by the Jombang District Court on May 20, 2008 and April 17, 2008 were cases they had after verdict proved by a district court judge, then they filed a review of court decision to the Supreme Court on the grounds of new evidence indicating that they were not criminals as has been alleged and finally they were released from detention.

According to Adami Chazawi if the reviewing of court decision institution of a building, then the building was erected on the foundation, namely the provisions of Article 263 paragraph (1) of KUHAP. If the foundation reviewing of court decision institution is dug up and dismantled, it must be a collapse review and useless.[2]

In the context of review of court decision, with the decision of the Constitutional Court of the Republic of Indonesia Number 34/PUU-XI/2013 which states Article 268 paragraph (3) contradictory to the 1945 Constitution of the Republic of Indonesia. The legal consequence of the verdict is allowing the review of court decision effort more than once. Because of the ruling, the debate among jurists and fierce legal practitioners is to contradict whether the decision of the Constitutional Court creates a legal incompetence *vis a vis* of justice on the other side.

[1] Parman Soeparman, 2009, Pengaturan Hak Mengajukan Upaya Hukum Peninjauan Kembali Dalam Perkara Pidana Bagi Korban Kejahatan, Bandung: Refika Aditama, p. 6.

[2] Adami Chazawi, 2010, Lembaga Peninjauan Kembali (PK) Perkara Pidana, Sinar Grafika, Jakarta, p. 1

Based on the description of the above background facts, the authors will provide a demarcation of the problem that became the central issue to be discussed in the results and discussion, how is the legal implications of institutionalization reviewing of court decision after the Constitutional Court of the Republic of Indonesia from the perspective of legal certainty versus justice?

II. Research Method

The type of legal research to be conducted in this research is normative legal research, namely research that is focused to examine the rules or norms in positive law.[1] The approach used in this research is statue approach. To strengthen in the study, the author also uses a case approach[2]. Legal material is obtained by searching legal documents of legislation, literature study and archive. The legal materials in this study include Primary and Secondary Legal Material.[3] The discussion in this research will be done analytically descriptive.

III. Results and Discussion

A. Legal Implications for the Institutionalization of the Court Decision Review

In the context of law in the modern era according to Roberto M. Unger[4] the exponent of the Critical Theory of Law explains that the legal position in modern or liberal society in terms of Unger is to attempt to rule of law trying to overcome the problems of liberal society by ensuring impersonal power. The use of governmental power must take place within the limits of the rules that apply to quite a lot of categories of people and actions. All these regulations, regardless of their form, shall be applied uniformly. Thus, it is understood that the rule of law has nothing to do with the content of legal norms.

Thus, the legal position in modern society is inseparable from the notion of legal positivism as the dominant exponent of legal thought exists today, see that the law is a means of casting a formal justice, through the law that justice is made to be formal, justice is a definite value and is reflected in the text of the law.[5] That is, that the implications of the legal positivism thinking that the ending is on the fulfillment of legal certainty as the goal of the law itself.

In contrast to the idea of Gustav Radbruch, a German legal philosopher teaches three basic legal ideas, which some scholars have identified as three legal objectives.[6] In other words, the purpose of law is Justice, Utilization, and Legal Certainty.

Radbruch argues that the three elements are the joint legal goals, namely justice, utilization and legal certainty. However, the question arises whether this does not pose a problem in reality? As is well known, in reality there is often a great deal between legal certainty and collision with expediency, or between justice and expediency. Radbuch realized that. For example, in certain legal cases, if the judge wants his decision to be "fair" (according to the justice perceptions held by the judge) of course for the plaintiff or the defendant or for the defendant, then the consequences are often detrimental to the benefit of the wider community, on the other hand if the benefit of the wider community is satisfied, then the sense of justice for a certain person is forced in the "victim".[7]

Initially, Gustav Radbruch's "standard priority" teachings were much more advanced and wise than "extreme teachings" is ethical, utilitarian and normative-dogmatic. But over time, as the complexity of human life in the multi-modern era, standardized priority choices such as Radbruch's teachings, sometimes contradict

[1] Jhonny Ibrahim, 2006, Teori dan Metodologi Penelitian Hukum Normatif, Bayumedia, Malang, p. 295.
[2] Peter Mahmud Marzuki, 2009, Penelitian Hukum Normatif, Kencana, Jakarta, p. 96-104.
[3] Sunaryati Hartono, 1994, Penelitian Hukum di Indonesia Pada Akhir Abad Ke-20, Alumni, Bandung, p. 134.
[4] Roberto M. Unger, 1976, Law and Modern Society: Toward a Criticism of Social Theory, The Free Press, 1976, translated into Indonesian by Dariyatno and Derta Sri Widowatie, 2011, Teori Hukum Kritis: Posisi Hukum dalam Masyarakat Modern, Nusamedia: Bandung, p. 234.
[5] Anthon F. Susanto, Keraguan & Keadilan dalam Hukum, (Sebuah Pembacaan Dekonstruktif), Jurnal Keadilan Sosial (Volume I / 2010), p. 24.
[6] With these three conventional teachings that we know very extreme and assume the purpose of law is only one of justice, benefit and certainty, then two modern teachings are more moderate, by accepting all three to be a legal objective, but with a particular priority. It is this priority issue that then distinguishes between standard priority teaching and priority teaching of casuistry. See Achmad Ali, 2012, Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicialprudence), Termasuk Interpretasi Undang-Undang (Legisprudence), Kencana, Jakarta, p. 289.
[7] Ibid., p. 84.

the legal needs in certain cases. Sometimes, for a case, the right thing is "priority" which is prioritized rather than "benefit" and "certainty", but there are times when it should not be. Perhaps for other cases it is precisely the need to demand "benefit" that is prioritized rather than "justice" and "certainty". At last comes the most advanced teaching we can call "casuistic priorities"[1].

In addition to Radbruch's views, Philippe Nonet and Philip Selznick in the perspective of responsive law theory argue that good law should offer something more than procedural justice. Good law must be competent and fair. Such a law should be able to recognize the public will and be committed to the achievement of substantive justice.[2]

In the context of justice *an sich*, according to Jacques Derrida who called the revolutionary moment of the establishment of the legal order was the moment of differance or suspension. In those moments, Derrida refers to the moment of doubt. Furthermore, the moment of doubt referred to by Jacques Derrrida, is as follows:

a. The moment proves that justice in law obtains its true power not from sources within the legal order, but from something beyond the law itself. An understanding of justice as being in conformity with the law can not always be convincing;
b. This moment indicates that the law can be deconstructed. From the fact that the establishment of an unfounded legal order, it is evident that Ur-text simply does not exist, whether it is named principles, criteria or similar things that can play as a metadata to justify that moment. In this sense, the law does not move on any pedestal, stands above the emptiness, therefore the law can be changed, corrected and interpreted unceasingly.

In structuralism, the emphasis on structure has ignored the potential of the mark in creating the unthinkable possibilities of the text. In fact, the structure that looks coherent and stable is also constructed through the sign (*jeu*) yang tidak mungkin difiksasi kedalam satu pusat atau makna tunggal.[3] In that context, Gadamer also criticized the flow of positivism in obtaining the truth by offering an ontological hermeneutical assessment solution by stating that the hermeneutic experience structure is totally opposed to the idea of the scientific methodology itself depending on the true character of the language we have described at length. Not only the use and development of language is a process that has no awareness of knowing and choosing which is different from itself. (So it's literally more appropriate to say that language tells us, than we talk about it, so that, for example, when the text is written more precisely than its linguistic use than its author).

The fact that in knowing involves in it the 'being' of the person who knows signifies, of course, the limitations of the method, but not the science. In fact, what the method tool does not accomplish and can effectively be achieved by a discipline of questions and research, a discipline that guarantees the truth.[4] The use of hermeneutical methods in legal studies, such as Drucilla Cornell in his magnum opus entitled Lighthouse on the promise of salvation and possible interpretation of the law, says that interpretation is transformation. We can not let go of our responsibilities contained in every act of interpretation. The limitations of ontology remind us of the positivism mistake that states that the world of law is conveyed to us as a mechanism of self-enforcement. We are confronted with something that reminds us that we can not escape the responsibility of *nomos* as long as the *nomos* holds and undergoes a transformation.[5]

In addition, the concept of hermeneutics with the ratio of the communicative action of Jurgen Habermas, which says that the concept of law as the expression of the will involves the claim as its element, which is passed through a series of dominations and on the one hand the law as expression of the ratio, retains other older elements rooted in the birth of public opinion. According to Habermas, based on the original purpose, the rule of law wants to break any dominance. The Modern State makes the sovereignty of the people as the principle of justification, which in turn carries public opinion, without this attribute, without the substitution of opinion as the origin of all authority for overall binding decisions. Modern democracy loses its substance of truth. Furthermore, legislation is not the result of political will, but rather of a rational agreement. Public opinion in principle opposes arbitrariness and exalts immanent laws in a public that are combined with private individuals who argue

[1] Ibid., p. 85.
[2] Philippe Nonet and Philip Selznick, 1978, Law and Society in Transition: Toward responsive Law, Harper & Row. translated into Indonesian by Raisul Muttaqien, 2008, Hukum Responsif, Nusa Media, Bandung, p. 84.
[3] Muhammad Al-Fayadl, 2012, Derrida, LkiS: Yogyakarta, 2012, p. 77.
[4] Ibid., p. 592.
[5] See Gregory Leyh, 1992, Legal Hermeneutik, University of California Press, translated into Indonesian by M. Khozim, 2011, Hermeneutika Hukum; Sejarah, Teori dan Praktrik Bandung: Penerbit Nusa Media, p. 238.

critically in a way that the property of the supreme will of man, in its rigid meaning, which exceeds all laws, and we call power can not be attached to it. From that point, Habermas wants the law as a liaison between interests and through critical debates to find common agreements for mutual interest purposes.[1]

Regardless of the use of hermeneutics in interpreting and discovering the true intentions of a text, it is specifically about the text-reading model that is, as archived by Stuart Hall[2], that there are three forms of reading/relationship between the author and the reader and how the message is read between the two. First, the dominant hegemonic position. This position occurs if the author uses commonly accepted codes, so the reader will interpret and read the message with that commonly received message. Here the hypothesis can be said there is no difference in interpretation or reading the same sign. What the author signifies is interpreted by a general reading by the reader audience.

Second, the negotiated reading (negociated code/position). In this second position, there is no dominant reading. What happens is what the code conveyed by the author interpreted continuously between the two sides. The author here also uses the codes or political beliefs that the audience has not read in the general sense, but the reader will use their beliefs and beliefs and be compromised with the code provided by the author.

Third, the opposition readings (oppotional code/position). This position is the opposite of the first position. In the first reading position, there is a general interpretation available, and live in general and hypothetically the same as what the author wishes to convey. Meanwhile, in this third position, the reader will signify differently or read in contrast to what the audience wants to say. This opposition reading appears if the author does not use the frame of reference of his culture or the political beliefs of his audience audience, so that the reader will use his own cultural or political framework.

The relation of the text reading model above is when it relates the text reading model used by the Supreme Court and the Constitutional Court of the Republic of Indonesia in a decision which, according to the author, goes beyond an order which reads with an oppotential position model to exit the prison text by emancipating the text to find a substantial justice as the logical consequences of the rule of law and as the interpreter of legal norms. For example, the Supreme Court of the Republic of Indonesia Decision Number 183 PK/PID/2010 (review of court decision in second time) and Decision Number 41 PK/PID/2009 (first to review of court decision) and the decision of the Constitutional Court of the Republic of Indonesia Decision Number 34/PUU-XI/2013.

To understand this further described as follows:

The Supreme Court of the Republic of Indonesia Decision Number 183 PK/PID/2010 (Review of Court Decision in Second Time)

Essentially according to Article 263 paragraph (1) of KUHAP, the review of court decision shall be the right of the Inmate or the heir. The granting of a review of court decision right to the Convict or his heirs is based on the idea that the parties involved in a criminal case are citizens who, when viewed legally and politically, are weak parties in the presence of State parties who have a very strong position because they are supported by institutions state law and its apparatus. Because of this imbalance of power, the right of review of court decision is given to the convicted or his heirs to defend his rights and interests and at the same time to keep the State through its institutions and apparatus from harming the interests of the citizen. Although in practice the Public Prosecutor may file a review of court decision, but in accordance with the essence of the review of court decision which is the right of the convicted person or his heir, the latter right of judgment shall be granted to the convicted or his heir. This means that if the Public Prosecutor submits a review of court decision, the Accused or his/her heirs are entitled to file a review of court decision of the decision filed by the Public Prosecutor.

Verdict of review of court decision in civil case number 803 PK/Pdt/2008, which granted the review of court decision request Mrs. Nyayu Saodah (convicted review of court decision in criminal case number 41 PK/PID/2009) can be qualified as novum because of the consideration of the Panel of Judges in the criminal case number 41 PK/PID/2009, to grant a request for a review of court decision of the Public Prosecutor is the decision of West Java Court of Appeal Number 1434 K/Pdt/2005, which has been canceled by a civil case of Supreme

[1] See, Jurgen Habermas, 1990, The Structural Transformation of the Public Sphere: An Inquiry into a Categori of Bourgeois Society, Polity Press, 1990. translated into Indonesian by Yudi Santoso, 2012, Ruang Publik: Sebuah Kajin tentang Kategori Masyarakat Borjuis, Bantul: Kreasi Wacana, p. 117.
[2] See Eriyanto, 2012, Analisis Wacana (Pengantar Analisis Teks Media), LKiS Yogyakarta, p. 94.

Court of the Republic of Indonesia Decision Number 803 PK/Pdt/2008. It is a novum because it has never been revealed or revealed in a criminal case investigation with Defendant Mrs. Nyayu Saodah, whether during the first judicial hearing, appellate or review of court decision.

Judge's Decision on the review of court decision of Supreme Court of the Republic of Indonesia Decision Number 41 PK/PID/2009, contains a mistake because the verdict in granting the request for review of court decision of the Public Prosecutor is based solely on the decision of the West Java Court of Appeal in civil case number 32/Pdt/2004/PT.Bdg and Supreme Court of the Republic of Indonesia Decision Number 1434 K/Pdt/2005, whose verification value is based on formal truth, while the value of evidence of criminal case based on material truth of the Panel of Judges review ignores the material truth contained in the criminal case number 96 /PID/B/2006/PN.Bdg and Supreme Court of the Republic of Indonesia Decision Number 1956 K/PID/2007.

A conflicting verdict of judgment between the decision of criminal case review and civil case is the reason for the review of court decision according to the Form Letter of Supreme Court of the Republic of Indonesia Number 10 Year 2009, therefore:

1. There was a mistake in the review of court decision of the Supreme Court of the Republic of Indonesia Decision Number 41 PK/PID/2009, because it does not include a false letter element in the act of Convict Mrs. Nyayu Saodah.
2. In accordance with the Supreme Court of the Republic of Indonesia Decision Number 803 PK/Pdt/2008, stated to grant the request for review from the applicant Mrs. Nyayu Saodah; because the applicant as the grantee is the owner of the disputed land;

The Deed of Grant is decisive, because the deed is not proven that the applicant has committed a false letter.

Constitutional Court Decision Number 34/PUU-XI/2013

That the remarkable legal remedy of the review of court decision is historically-philosophical is a legal effort born to protect the interests of the convicted. According to the Court, the legal remedy of the review of court decision is different from the appeal or cassation as an ordinary legal remedy. Ordinary legal efforts must be associated with the principle of legal certainty because without legal certainty, ie by determining the time limitation in filing a regular legal effort, it will lead to legal uncertainty that would lead to unfair and unfinished legal process. Thus, the provisions that become a condition can be pursued ordinary legal efforts in addition to related to the material truth to be achieved, also related to the formal requirements that are related to a certain time period after the knowing of a judge decision by the parties also formally. The extraordinary legal effort aims to find justice and material truth. Justice can not be limited by the time or the provisions of the restrictive formalities that extraordinary remedies (review of court decision) can only be filed once, because it may be after the review of court decision filed and severed, there is substantially new (novum) state discovered at the time the previous review of court decision has not been found. The assessment of something is novum or not, is the authority of the Supreme Court of the Republic of Indonesia which has the authority to hear at the level of review of court decision. Therefore, the requirement for extraordinary legal remedies is very material or substantial and the very basic requirement is related to the truth and justice in the criminal justice process as set forth in Article 263 paragraph (2) of KUHAP, which states "Request for review of court decision done on the basis:

a. if there is a new circumstance that raises strong allegations, that if the circumstances are known at the time the trial is still in progress, the result shall be a free verdict or a freedom of decision from any lawsuit or the claim of the public prosecutor is unacceptable or the case is applied to a less severe penal provision;
b. .... etc."

The truth character of the event on which criminal proceedings are based is a material truth based on evidence with which the evidence convinces a judge, a rational truth there is no doubt in it because it is based on valid and convincing evidence. Therefore, in a criminal case the proofs that can be filed are only prescribed the minimum threshold, not maximally. Therefore, to obtain the aforementioned belief the law shall provide the possibility for the judge to open up the opportunity for the submission of other evidence, until the attainment of such confidence. In line with the character of the truth mentioned above, because in general, KUHAP aims to protect human rights from the arbitrariness of the state, especially those related to the right to life and freedom as fundamental rights for human beings as provided in the 1945 Constitution of the Republic of Indonesia in

considering the review of court decision as a legal effort which is regulated in the KUHAP must be within such a framework, namely to achieve and enforce law and justice.

The effort to attain legal certainty is very feasible for restrictions, but the efforts to achieve legal justice are not so, because justice is a very basic human need, more fundamental than the human need for legal certainty. Material truth contains the spirit of justice while the norm of procedural law contains the nature of legal certainty that sometimes ignores the principle of justice. Therefore, the legal effort to find material truth with the aim of fulfilling the legal certainty has been completed with a court decision that has obtained permanent legal force and put the legal status of the defendant into a convict. This is confirmed by the provision of Article 268 paragraph (1) of KUHAP which states, "The request for review of court decision does not suspend or stop the implementation of the decision"

In the science of law there is the *Principle of Litis Finiri Oportet* that every case must exist finally, but according to the Court, it is related to legal certainty, while for justice in the criminal case the principle is not rigidly applicable because it allows only one-time review, especially when new circumstances (novum). It is contrary to the principle of justice so upheld by the judicial power of Indonesia to uphold the law and justice [vide Article 24 paragraph (1) of the 1945 Constitution of the Republic of Indonesia] and as a consequence of the principle of the rule of law;

Article 28J Paragraph (2) of the 1945 Constitution of the Republic of Indonesia states: "In exercising their rights and freedoms, each person shall be subject to the restrictions laid down by law with the sole purpose of ensuring the recognition and respect of the rights and freedoms of others and to fulfill fair demands accordingly with moral considerations, religious values, security, and public order in a democratic society", according to the Court, the limitations referred to in Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia can not be applied to restrict the application of the review of court decision only once because the petition of the review of court decision in a criminal case is closely related to the most basic human rights concerning the freedom and human life. Moreover, the petition of the review of court decision is not related to the guarantee of recognition, as well as respect for the rights and freedoms of others and not related to the fulfillment of fair demands in accordance with moral judgment, religious values, security and public order in a democratic society. More specifically related to the decision of the Constitutional Court of the Republic of Indonesia as mentioned above, as Donald Horowitz has said that through the authority to adjudicate issues relating to the constitution, as well as the authority to "impose" the compliance of the Constitution, The Constitutional Court of the Republic of Indonesia has made the constitution truly a living document that gives the form and direction of political power within a country, rather than simply a collection of symbolic or aspirational sentences. In this way, the Constitutional Court of the Republic of Indonesia contributes greatly not only to the creation of a state based on law but also to democracy.[1]

Furthermore, regarding the decision of the Supreme Court and the Constitutional Court of the Republic of Indonesia above if correlated with John Rawls's theory of justice, which says that procedures for determining fair outcomes must be fully implemented. Because in this case there is no independent criteria that can be used as a reference for real results can be fair. Further mentioned John Rawls, we can not say that certain conditions are fair because he can be achieved by following a fair procedure. This will be too much to allow and will absurdly lead to unfair consequences.[2] To ensure the achievement of justice of the above procedure, according to John Rawls, everyone should have equal rights. This equality is supported by general natural facts, not just a rule of procedure without substantive truth.

In addition, According to D.H.M. Meuwissen that indeed the purpose of the law lies in realizing "justice".[3] Theoretically, the existence of the court is an institution that serves to coordinate the disputes that occur in society, and is a 'home protector' for the justice seekers, who trust the litigation path; and considered a 'justice company' capable of managing disputes and issuing justice products that are acceptable to all societies. So actually the duties and functions of the courts are not just resolving disputes, but more than that also guarantee a form of public order in society. It is on this basis that some experts give honorable places to the courts. R. Dworkin states the courts are the capital of law's empire. According to J.P. Dawson, the judge is a

[1] Donald L. Horowitz, "Constitutional Courts: A Primer for Decision Makers" in Journal of Democracy, Volume 17, Number 4, October 2006, p.126
[2] John Rawls, 1995, A Theory of Justice, Harvard University Press, Cambridge, Massachusetts. translated into Indonesian by Uzair Fauzan and Heru Prasetyo, 2011, Teori Keadilan: Dasar-Dasar Filsafat Politik untuk Mewujudkan Kesejahteraan Sosial dalam Negara, Yogyakarta: Pustaka Pelajar, p. 102-102
[3] D.H.M. Meuwissen, Teori Hukum, in Pro Justitia, Year XII, Nomor: 2, April, 1994, p. 14.

prominent and respected member of the local community. In fact, JR. Spencer said the court ruling was like a "the judgment was that of god".[1]

The judge also in the *ratio decidendi* to consider the basic foundations of philosophy, which relate to the basis of legislation relevant to the subject matter, and the self-motivated judge to enforce the law and to provide justice for the parties concerned with the principal issue of the case.[2]

Therefore, every nation or community group has a moral obligation to incise the treatise of its civilization. A nation capable of writing the treatise of civilization has and will be a witness to the history of human existence and journey. The applicable law in a social community or nation becomes a teacher that teaches about interaction between human beings and at the same time gives direction of social dynamics for the nation.[3]

Based on the explanation of the above verdict, that the decision of the Supreme Court and the Constitutional Court of the Republic of Indonesia, according to the authors that in deciding the case submitted to him by deconstructing and emancipating the text and releasing the shackles of justice in the aphorism that has been determined by the criminal procedural law the elaboration of the article on the application of the review of court decision to the criminal procedural law specifies a procedural justice that the review can only be submitted once is limitative. From these explanations, that justice can only be found in the context of law in action, not in law in books. The argument, in Article 268 paragraph (3), can not be interpreted singly but must be interpreted continuously ie in a dialogical manner with concrete reality and the decision is *in casu* verdict The Supreme Court and Constitutional Court of the Republic of Indonesia have conducted a reading on the text of Article 268 paragraph (3) Criminal Procedure Code with opposition reading model (oppotional code/position) as well as positioning itself as legislature in the negative sense as well as legislators other than the legislative institutionalization in the positive sense.

With this decision allowing more than one legal review effort and been practiced by the Supreme Court of the Republic of Indonesia, its legal implications for the institutionalization of the review of court decision indicate that the legal paradigm undergoes a transformation of procedural justice (legal certainty) to substantial justice. Therefore, with the allowance of a review of court decision petition more than once is a logical consequence of the principle of a modern law state that upholds justice which leads to the protection of human rights and not legal certainty (procedural justice) and no immunity in a country, even though the state itself who made mistakes and sins through state institutions due to his own products (Supreme Court of the Republic of Indonesia decision) against the citizens can be tested and corrected from the consequences of his mistakes and the sins he committed that is the nature of justice in applying the law. The atonement of these faults and sins is that there is no legal remedy but by making legal remedies against their mistakes and sins (mistakes in the application of law or the existence of new evidence) to the judiciary itself to uphold justice and human rights, again not legal certainty solely justice *per se*.

IV. Conclusion

With a verdict that permits more than one legal review and has been practiced by the Supreme Court, its legal implications for the institutionalization of the review of court decision indicate that the legal paradigm undergoes a transformation of procedural justice (legal certainty) to substantial justice. Therefore, with the allowance review of court decision submissions more than once is a logical consequence of the principle of a modern legal state that upholds justice which leads to the protection of human rights and not legal certainty (procedural justice) and no immunity in a country, even if the state itself is guilty of wrongdoing and sin through state institutions due to its own products (Supreme Court of the Republic of Indonesia decision) against the citizens can be tested and corrected from the consequences of his mistakes and his sins which are the nature of justice in applying the law.

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[2] Jurnal Yudisial, Peranan Putusan Pengadilan Dalam Program Deradikalisasi Terorisme di Indonesia, Vol. III No. 02, August 2010, Jakarta Pusat, Judicial Commission of the Republic of Indonesia, p. 117-118.
[3] Artijo Alkostar, "Fenomena-fenomena Paradigmatik Dunia Pengadilan di Indonesia: Telaah Kritis terhadap Putusan Sengketa Konsumen", Jurnal Hukum Ius Quia Iustum, Vol. 11 No. 26, 2004, p. 1.

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