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Original Research Article

Analysis of Review of the Principles of Law and Justice Principles in Indonesia (Study on the Constitutional Court's Decision Number 66 / PU-XIII / 2015)

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Abstract

This study aims to find out how the basic idea of the existence of a Reviewing Institution in criminal proceedings in realizing legal certainty and justice; Implications of the decision of the Constitutional Court Number 66/PU-XIII / 2015 and the formulation policy on future review of the Criminal Procedure Code. This research is normative legal research. The approach used is the law approach; conceptual approach and comparative approach. The results of this study are: In accordance with the nature of the final and binding decision of the constitutional court, the Constitutional Court Decision Number 66 / PU-XIII / 2015 refers to the fundamental principle that justice is the highest legal objective. Citizens' rights as guaranteed by the constitution must not be restricted because they are guaranteed by the constitution. Based on a comparative formulation study in several countries such as in the Chinese Criminal Procedure Code and the Dutch Criminal Procedure Code, the regulatory norms regarding the number of times the Submission of Judicial Review may be submitted are not formulated but the KUHAP of the two countries further regulates in detail the mechanisms and procedures for the Judicial Review. Then the policy formulation of norms for reviewing the KUHAP in the future in addition to referring to the comparison but also must be constitutional in accordance with the decision of the Constitutional Court Number 66 / PUU-XIII / 2015.

Keywords: Judgment, Legal Certainty, Justice.

INTRODUCTION

The realization of the rule of law as stated in Article 1 paragraph 3 which is an ideal in the 1945 Constitution of the Republic of Indonesia as the constitution of the Republic of Indonesia will be realized if the entire process of government administration is based on the norms stated in the constitution. The concept of the rule of law itself is intended to avoid the state or government acting and acting arbitrarily [1], as is known as the concept of the rule of law proposed by Soemantri Martosoewignjo, namely the government in carrying out its duties and obligations based on laws or regulations, guarantees of rights human rights (citizens), the division of power within the state, the supervision of judicial institution [2].

The Criminal Procedure Code (hereinafter referred to as KUHAP) aims to implement or enforce material criminal law while upholding human rights, this is one feature that reflects the concept of the rule of law. The Criminal Procedure Code that currently exists and applies in practice has undergone various developments and changes, one of which is the existence of several provisions or Article in the Criminal Procedure Code that have been tested by judicial review by the Constitutional Court and there are no binding legal powers. also the request was rejected [3].

One of the norms tested by the Constitutional Court is provisions relating to the right to file a legal action against a court decision. This right was given because after a series of hearings in the court session were completed and the judge's verdict was read out, there was still a possibility that the judge's decision was not satisfactory for either party or both parties. The verdict was assessed by either party or both were detrimental, so an effort was needed to change the decision.

In the context of criminal procedural law there are two types of legal remedies that can be used, namely ordinary remedies and extraordinary legal

remedies [4].Ordinary remedies consist of appeal and cassation [5]. Meanwhile, extraordinary legal remedies consist of cassation for legal purposes and reconsideration [6].

One of the extraordinary legal remedies in criminal procedural law, namely Judicial Review, became the focus of writing this law. Basically the review is a legal effort provided for the Edara Letter of the Supreme Court - the eyes of protecting the interests of the convicted person, not the interests of the state or the victim [7].Various regulations governing the possibility of reopening cases that have permanent legal force after Indonesian independence indicate the Supreme Court's Edara Letter of protection against the interests of convicts seeking justice [8].

In the event that there is an objection to a court decision that has permanent legal force, the convict or his heir can make an effort by submitting a request for a Judicial Review to the Supreme Court [9]. According to Article 268 paragraph (3) the Criminal Procedure Code filing for the Review is limited only to be submitted once for the same case that has been terminated [10]. So that the case that has come out of the Judicial Review decision must not be re-examined.

In practice, there have indeed been several cases where a review can occur more than once because the public prosecutor also uses a judicial review [11]. This is a deviation because basically the Review can only be submitted once and can only be submitted by the convict or heir as specified in Article 263 paragraph (1) of the Criminal Procedure Code and Article 268 paragraph (3) of the Criminal Procedure Code, not submitted by the public prosecutor.

But in addition to these practices, the Constitutional Court then conducted a judicial review of Article 268 paragraph (3) of the Criminal Procedure Code against the 1945 Constitution of the Republic of Indonesia.The review can be done more than once after the request for a judicial review submitted to the Constitutional Court by Antasari Azhar and Ida Laksmiwaty and Ajeng Oktarifka Antasariputri. The test application was submitted to the Constitutional Court and registered with the register number 66 / PU-XIII / 2015. On March 6, 2014, the request was granted by the Constitutional Court [12].

In contrast to the Constitutional Court, the Supreme Court after the Decision of the Constitutional Court Number 66 / PU-XIII / 2015 actually still applies a Supreme Court Circular which limits the application for Judicial Review. The Supreme Court issued a Circular Letter of the Supreme Court Number 7 of 2014 concerning Submission of Requests for Judicial Review in Criminal Cases in December 2014 which precisely reaffirmed the request for a Judicial Review that could only be submitted once [13].The emergence of the Supreme Court Circular Letter Number 7 of 2014 clearly contradicts what is mandated by the Decision of the Constitutional Court Number 34 / PUU-XI / 2013 and 66 / PU-XIII / 2015 so as to create a disgrace for the implementation of judicial review efforts.

This situation also raises discourse regarding legal certainty and justice. In the consideration section of the Decision of the Constitutional Court Number 34 / PUU-XI / 2013 and 66 / PU-XIII / 2015, the Constitutional Court seemed to prioritize justice for the convicted person so as to grant the petition of the applicants. Therefore, the Decision of the Constitutional Court Number 34 / PUU-XI / 2013 and the Decision of the Constitutional Court No.66/PU-XIII/2015 received support because it further guarantees justice for convicts.

However, a review that is allowed to be done more than once also gets criticism. Such practices are feared to actually make a case drag on so that it disturbs legal certainty. In addition, in the world of law, it is also known that the principle of litis finiri oportet, which requires a case to exist, finally becomes a debate in this case. If the case is allowed to drag on, then it violates the principle of *litis finiri oportet*.

Research Methods

This research is normative legal research [14], which examines the provisions of positive law and legal principles. Research on important legal principles as the basis of material [15], joints and directions for the formation of legal rules dynamically. Approach to the problem in this study is the statute approach, conceptual approach and comparative approach according to Rene David with a comparative approach or comparative legal studies [16], is needed because it is useful to be able to better understand and develop national law. In this study, legal materials obtained through literature review and supporting legal materials obtained in the field were then classified, in conjunction with each other using deductive and inductive reasoning to produce propositions, concepts in particular the concept of judicial review which can be implemented into legal instruments national criminal program specifically the perspective of the Judicial arrangement. The analysis used is descriptive-analytical. The analytical tool used is the interpretation of the law, both historical interpretation, authentic, grammatical, teleological and futuristic interpretations. This means that existing problems are analyzed and solved based on existing theories and regulations, as well as equipped with empirical, historical, and comparative analysis.

RESULTS AND DISCUSSION

Basic Ideas for Institutions Judicial Review in Indonesian Criminal Procedure Code

a basic idea is always constitutive. This means that the basic idea determines the problem, method, and explanation that is considered relevant for review. Or follow Gustav Radbruch's line of thought regarding recommendations which he thinks serves as a regulative and constitutive benchmark. Without legal ideals, the legal product produced will lose its meaning [17]. Thus, every process of formation and enforcement as well as changes to be made to the law must not conflict with the agreed legal ideals [18].

Therefore, discussing the basic idea of an institutional review in Indonesian criminal procedural law, is meaningful about the basic idea of its legal source. In this case there are some basic ideas or background regarding the existence of a Judicial Review in the Indonesian criminal procedural law system.

The Law of the Pancasila for the Development of National Law

The community sees itself as possible and sustainable, thanks to a set of values agreed upon by all its citizens. The content of this set of values, in principle, is the ideal concept of shared life between a number of people and the goals to be realized. In the case of Indonesian society, this set of values is Pancasila [19]. Therefore, Pancasila contains humanitarian views that live in Indonesian society, which are ideals to improve the fate of life with various possibilities and capital they have [20].

In the national legal system, Pancasila is placed as a source of legal order or a source of the Indonesian legal system. Pancasila is also a state ideology, state ideals (staatsidee) and legal ideals (rechtsidee). The ideals of the law are part of the ideals of the state, which means that in the ideals of the state, there are not only legal ideals, but also economic, cultural, political and so on.

According to Darji Dimodiharjo and Sidharta, the position of the Pancasila as a legal ideal has two functions at once, namely constitutive and regulative functions, which are explained as follows [21]:

> *Pancasila values as the ideals of the law are basic values, which are also related to objective, positive, intrinsic, and transcendent values. Even so, considering the value is closely related to the interests of the subject that gives value, it means that at that value there is always an interest. In other words, each of the Pancasila values thus, besides being objective as stated above, is also subjective because it arises from and is believed by the Indonesian people.*

Legal status as defined in the MPRS Decree No. XX/MPRS/1966 (revoked by MPR Decree No. III / MPR /2000) is the source of all legal sources or legal order resources for the Indonesian people in the life of the community, nation and state. The source of all legal sources or sources of legal order is interpreted the same as the source of the legal system. The law (Pancasila in the form of values) is not in the system of legal norms, but it remains an inseparable part of the Indonesian legal system. Therefore all legal products must be inspired by and based on the Pancasila [22].

The legal nature contained in the Preamble of the 1945 Constitution must be implemented in the formation of a national legal system, specifically the national criminal procedural law system. This is in line with the opinion of Barda Nawawi Arief who stated, "if what is intended as a national legal system is the Pancasila legal system, then the national criminal procedural law system which should be studied and developed is a criminal procedural law system (which contains values) Pancasila" [23].

The establishment of a national criminal procedural law must be based on Pancasila as a legal ideal which is inherently contained in the values of humanity and divine truth and justice which are based on the first principle, the One Godhead. This means that criminal procedural law as one of the tools in realizing the ideals of the Indonesian nation should always be a source of political ethics in building laws that are truth-based. In summary, according to Hartono Mardjono, in the legal state of the Republic of Indonesia which is based on Pancasila, the law must be seen as a tool to uphold truth, justice and order [24]. With the establishment of a national criminal procedural law that is oriented towards Pancasila values, it is expected that national goals will be achieved, namely the realization of a just and prosperous society, both material and spiritual.

Based on all the descriptions above, it is clear that Pancasila is the basis of Indonesian law. Thus, all laws include written law (statutory regulations and the 1945 Constitution) and unwritten law (customary law), must be established and based on its validity from Pancasila [25]. Although it must be admitted, it has not yet succeeded in fully establishing a unified and unified legal system that grows and has strong roots in the ideals of the laws and basic norms of the Pancasila state [26].

Value of Justice and Legal Certainty as the Basics of Institution Review in the Criminal Procedure Code

The basis of the institutional review in Indonesian criminal procedural law departs from the basic philosophy of how to realize a just law oriented to the philosophical values that exist in Pancasila as the ideals of law (rechtsidee) in the renewal of Indonesian criminal procedure law.

Gustav Radburch argues that, "the ideals of the law will guide people in their legal life. The legal aspirations are supported by the presence of three basic values (grunwerten), namely justice (Gerechtigkeit), benefit (Zweckmaeszikgeit) and legal certainty (Rechts-sicherkeit) [27]. These three values are not always in harmonious relations with one another, but face to face, contradictory, tension (Spannungsverhaeltnisi) with each other.

Often in positive legal formulations, the values and principles are in pairs and arguments and each demands its validity. Justice sometimes conflicts and argues with legal certainty and expediency. The pairs of values are philosophically argued in order to find harmony or balance. Ideally, the conception is that values that are in conflict with one another can be accommodated in a legal regulation.

The tension includes the nature of the law itself and will reappear in the conflict between natural law theory and legal positivism. But the tension does not need to frustrate the legal ideal. Law must be certain. Certainty is the legal basis. Without certainty justice is not implemented. But certainty must not be eliminated. For the law to remain fair, it needs flexibility [28].

In the context of renewal of criminal procedure law the balance of antinomic values must be the basis for renewal of criminal procedural law. And if this is attributed to the adoption of the principle of material unlawfulness, it can be concluded that the basic idea of applying the principle of nature against material law is a conscious effort to balance the objectives of the law in an effort to realize a law that has justice. To be clearer, the author outlines the basic legal values, especially legal certainty and justice.

In addition to balancing these basic legal values, the preparation of the national KUHAP is oriented towards the balance of interests. The interests are the interests of the state, the interests of the community, the interests of individuals oriented to national and international situations. The KUHAP formulators in particular, such as Andi Hamzah, the idea of balance is more described as a basic idea in the renewal of criminal procedural law (drafting the national Criminal Code). In short, it can be said that the various interests according to Muladi relate to efforts to create state order and public order and individual rights in a balance, harmony and harmony. In this context, orientation cannot be separated from national ideology, human conditions, nature and national traditions or from international developments recognized by civilized societies. This is what is called the principle of balance of interests that has the Pancasila insight as an embodiment of the principle of National Criminal Procedure Law (AHPN).

To find out the basic idea of the revocation of the restriction on review, it is better that we need to pay attention to a number of consideration points which are the basis for consideration of the judges of the constitutional court in deciding the a quo case. That the Petitioners argued Article 268 paragraph (3) of the Criminal Procedure Code contradicts Article 1 paragraph (3), Article 24 paragraph (1), Article 28C paragraph (1) and Article 28D paragraph (1) of the 1945 Constitution. that Article 268 paragraph (3) of the Criminal Procedure Code states, "Requests for Review Of a decision can only be made once" in contradiction with the 1945 Constitution.

That extraordinary historical-philosophical Review is a legal effort that was born to protect the interests of convicts. According to the Court, legal remedies differ from appeals or appeals as ordinary legal remedies.

Ordinary legal efforts must be linked to the principle of legal certainty because without legal certainty, namely by determining the time limitation in filing ordinary legal efforts, it will actually lead to legal uncertainty which will certainly give rise to unfinished legal process.

The extraordinary remedies aim to find material justice and truth. Justice cannot be limited by time or the provisions of formalities which limit that extraordinary legal remedies can only be submitted once, because it is possible that after the Review has been submitted and disconnected, there is a new (novum) condition that is substantially discovered which at Review Back has not been found before. The assessment of something that is novum or not novum, is the authority of the Supreme Court which has the authority to judge at review level. Therefore, the conditions for extraordinary legal efforts to be taken are very material or substantial and the very basic conditions are related to truth and justice in the criminal justice process as determined in Article 263 paragraph (2) of the Criminal Procedure Code.

In legal science there is an aslitis finirioportet, that is, every case must end, it is related to legal certainty, whereas for justice in the criminal case the principle is not rigid, it can be applied because by only allowing review once, especially when new conditions are found (novum). This is contrary to the principle of justice which is so highly upheld by the Indonesian judicial authority to uphold law and justice (vide Article 24 paragraph (1) of the 1945 Constitution) and as a consequence of the rule of law principle. Finally, the court is of the opinion that all the considerations above, according to the Court, the Petitioners' petition regarding the constitutionality of Article 268 paragraph (3) of the Criminal Procedure Code is grounded according to law.

Regulations on Legal Efforts Review in Criminal Procedure Law

Regarding legal remedies the review is regulated in Article 263 up to Article 269 of the Criminal Procedure Code. Before the Criminal Procedure Code came into force in Indonesia in 1981, there was no law that regulated the implementation of a court decision that had obtained permanent legal force. However, the Supreme Court has issued a Supreme Court Regulation Number 1 of 1980 which regulates the possibility of submitting a request for a judicial review that has obtained permanent legal force both for civil cases and for criminal cases. After the Criminal Procedure Code applied in Indonesia in 1981, legal remedies were carried out based on the provisions stipulated in Article 263-269 of the Criminal Procedure Code.

For information, even after the Criminal Procedure Code came into effect, the Supreme Court Regulation Number 1 Year 1980 also regulated the review of the Court Decision that Has Obtained Permanent Legal Strength. The Supreme Court Regulation describes the review institution as a legal effort that is indispensable in the life of the law, even though extraordinary legal remedies. The Supreme Court Regulation is the implementation of Article 21 of Law Number 14 of 1970 concerning the basic provisions of judicial power. This Supreme Court Regulation is also an adjustment of the Supreme Court's regulation number 1 of 1969 regarding the same matter. In the Supreme Court regulations it is regulated about the matters of how the review is possible and the event (procedure) that must be fulfilled.

In its development, the Supreme Court issued Circular Number 7 of 2014 concerning Submission in the Criminal Case. This Supreme Court Circular was issued for the realization of legal certainty related to the Request for Judicial Review after the issuance of the Constitutional Court Decision Number: 34 / PUU-XI / 2013 dated March 6, 2014. As is known, the Constitutional Court stated that article 268 paragraph (3) KUHAP does not have binding legal force. In number 3 (three) of the Supreme Court Circular Letter Number 7 of 2014 addressed to the heads of the first and appeal courts throughout Indonesia, the Supreme Court expressly states that a Judicial Review on the basis of the discovery of new evidence can only be submitted once, while the request for a Judgment on the basis of a conflict of decision can be submitted more than once.

In the Supreme Court Circular No.7 of 2014, based its logic on the consideration that the provisions concerning the limitation of re-submission that can only be done once is still valid under Article 24 paragraph (2) of Law Number 48 of 2009 concerning Judicial Power and Article 66 paragraph (1) Law of the Republic of Indonesia Number 14 of 1985 concerning the Supreme Court as amended by Act Number 5 of 2004 and the second amendment to Law Number 3 of 2009.

The Supreme Court said that the decision of the Constitutional Court did not immediately abolish the legal norms of limiting the review more than once in Article 24 paragraph (2) of the Judicial Power Law and Article 66 paragraph (1) of the Supreme Court Law. So that the Supreme Court is of the opinion that there can still be restrictions on the Judicial Review, namely a Review can only be done once. On the other hand, the Supreme Court does not fully prohibit multiple judgments more than once, the Supreme Court opens opportunities for more than one review as long as according to the reasons regulated by the Supreme Court Circular Letter Number 10 of 2009 concerning Judicial Review, ie if there is an object cases there are 2 (two) or more Judicial Review decisions that contradict one another, both in civil and criminal cases.

After the issuance of Circular Letter of the Supreme Court Number 7 of 2014, the Constitutional Court has at least received 2 (two) requests for judicial review related to provisions that limit the Review more than once. The first test is submitted with a decision Number 66/PUU-XIII/2015 whose verdict was pronounced on 7 December 2015. Whereas the Second Decision was Decision No.45/PUU-XIII/2015 which was read on December 10, 2015. In both of these decisions, the Constitutional Court ruled that both of them could not be accepted, because the material for the application as referred to by the two applications had been decided by the Constitutional Court in decision No.34/PUU- XI/2013. The Constitutional Court stated that the Constitutional Court's decision mutatis mutandis also applies to the object of the petition for these two decisions, namely Article 66 paragraph (1) of the Supreme Court Law and Article 24 paragraph (2) of the Judicial Power Act.

On the basis of the two decisions of the Constitutional Court, the consequence immediately breaks the arguments, logic and basis of consideration established by the Supreme Court in the Circular of the Supreme Court Number 7 of 2014, which once again, bases restrictions on judicial review more than once to be allowed only once in Article 66 paragraph (1) of the Supreme Court Law and Article 24 paragraph (2) of the Judicial Power Act. According to the Decision, the Constitutional Court, the Supreme Court should no longer be able to base the provisions in Article 66 paragraph (1) of the Supreme Court Law and Article 24 paragraph (2) of the Judicial Power Act as a limitation of more than one review request. In other words, the circular of the Supreme Court for the review must be dropped.

A review is a legal effort that is submitted against a verdict that has permanent legal force but does not mean that the submission of a judicial review by the convicted person violates the presumption of innocence. Because even though there has been a decision that has a permanent legal force, but as long as there are legal remedies that can be carried out to defend him, so long as a convict is entitled to the principle of presumption of innocence. In addition to the reason for upholding the presumption of innocence, according to Martiman Prodjohamidjojo in his book "comments on the Criminal Procedure Code", the legal effort to review the convicts is a way taken to avoid the judge's mistake in implementing the law, because the judge is only an ordinary person who is not guilty of mistakes [29].

Basics of Submitting Judicial Review Efforts

Based on the provisions of Article 263 paragraph (2) the Criminal Procedure Code Criminal Procedure for Judicial Review can be submitted because of the following reasons: If there is a new situation that raises a strong suspicion, that if the situation is known at the time the trial is still ongoing, the result will be a free decision or the decision is free from all legal claims or the demands of the public prosecutor are unacceptable or the case is applied a lighter criminal provision; If in various decisions there is a statement that something has been proven, but the thing or situation as the basis and the reason for the verdict that has been proven has turned out to be contrary to one another. If the verdict clearly shows an oversight of a judge or a real mistake. According to Leden Marpaung, the above is a material requirement for filing a judicial review. For this reason only a legal review can be made [30].

The Committee for the Renewal of Criminal Procedure Laws considers that the Judicial Review needs to be considered especially in the draft KUHAP in the future, because there are several things that must be ensured.

- First, the KUHAP Committee considers that the application for a Review more than once has been correct and in line with the objectives of the Judicial Review regulated, namely for reasons of justice. In addition, the period of request for a Judicial Review should also not be limited, this means that as long as there is a Novum or the reason for submitting a Judgment, then the request for a Review can submit a Judicial Review to the Supreme Court.
- Second, other than on the basis of new circumstances and the contradiction of judges' decisions, another reason for submitting a Judicial Review is that if a criminal act is discovered in the future which results in the loss of independence and integrity of law enforcers who examine cases.
- Third, the Judicial Review Applicant stated as listed in the People's Search List or having a bad intention by not carrying out a sentence that has been imposed previously cannot submit a Judicial Review. But the arrangement that convicts must be present at the Judicial Review must be reviewed
- Fourth, if the convict has undergone a verdict submitted for Judicial Review and it turns out that the Judicial Review releases, releases from all lawsuits, the decision cannot accept the demands of the public prosecutor or the decision by applying lighter criminal provisions, then the Petitioner or his heir must be compensated and rehabilitated.

Policy for Formulation of the Review of the Draft Law on Criminal Procedure Code

One of the important issues related to the draft KUHAP Law in the future is the decision of the Constitutional Court Number 66 / PUU-XI / 2015, regarding Judicial Review and can be submitted more than once. According to the Constitutional Court, the material truth contains the Edara Letter of the Supreme Court of justice while the procedural legal norms contain the nature of legal certainty which sometimes ignores the principle of justice. The Constitutional Court said that for reasons of justice in criminal cases, when a new situation was discovered (novum), then the limitation of the Review was contrary to the principle of justice which was so highly upheld by the Indonesian judicial authorities to uphold law and justice.

This decision of the Constitutional Court was previously responded differently by the Supreme Court through the Supreme Court Circular Letter Number 7 of 2014 concerning Submission of Requests for Rethinking in Criminal Cases. The Supreme Court then limits the submission of a Return Application which can only be done once on the basis of the discovery of new evidence or novum. This Circular Letter of the Supreme Court number 7 of 2014 finally caused new problems in the KUHAP regulation because then there are two provisions that regulate different matters regarding Judicial Review, namely the decision of the Constitutional Court and the Criminal Procedure Code and Circular Letter of the Supreme Court number 7 Year 2014. Re-investigation must change in the KUHAP in the future because it is adjusted to the Supreme Court Edara Letter containing new constitutionalism.

Regulations for Judicial Review must be reassembled on the basis of the establishment, namely because of the existence of "heretical justice" or a real mistake in the criminal justice process. Especially in Indonesian criminal justice which has a high potential for "heretical justice" because of the lack of supervision in the criminal justice system in Indonesia, this is actually one of the roots of the emergence of the novum which appears precisely at the end of criminal cases.

The crime control approach model is too prominent in criminal law enforcement so supervision

of measures of forced effort is inadequate. One implication is that there are many problems in gathering evidence. During this time, according to the KUHAP Committee, actions by law enforcement officials, especially investigators and prosecutors, were indeed lacking in supervision due to too large discretion of investigators and prosecutors. Because the institution of horizontal supervision and control of the actions of investigators and public prosecutors such as pre-marriage was totally failed in the Criminal Procedure Code. As a result, the potential novum will often appear at the end of the trial.

On this basis, the government needs to concentrate and be serious in conducting future discussions regarding the issue of Judicial Review. Reviewing cannot be seen merely as a formal legal procedure, but it is necessary to look at the importance of a Review mechanism for justice seekers in Indonesia. Therefore, several comparative reviews are needed relating to the Judicial Review in the criminal procedures of several other countries, especially the mechanism for submitting a review in several countries.

CONCLUSION

The basic idea of a Review Institution in criminal proceedings is to realize the ideals of the Pancasila law, in order to realize legal certainty and justice and to promote and guarantee the protection of human rights as stated in the constitution, the 1945 Constitution.

In accordance with the nature of the final and binding decision of the constitutional court, the Constitutional Court Decision Number 66 / PU-XIII / 2015 refers to certainty for citizens to obtain justice as the highest legal objective. Citizens' rights as guaranteed by the constitution must not be restricted because they are guaranteed by the constitution, therefore policies for regulating the terms and procedures for submitting a Review must be tightened as part of the open legal policy.

SUGGESTION

The legal basis for the Restriction of the Supreme Court Circular Letter Number 7 of 2014 which essentially confirms that a request for a Judicial Review based on the discovery of new evidence can only be submitted once it is not correct. This Circular Letter of the 7th 2014 Constitutional Court must be revoked by the Supreme Court because it can be considered as a form of disobedience to the Constitution, besides the Supreme Court has also used considerations with Article in Laws which have been declared not valid. Restrictions on Judicial Review in the Draft Law on KUHAP which states that a Review can only be submitted once must be adjusted to the spirit of new constitutionalism.

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