



## BUILDING JUSTICE AND PUBLIC TRUST: IMPROVING THE QUALITY OF JUDGES DECISION IN CRIMINAL CONTEXT

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ARTICLE INFO	ABSTRACT
<p><b>Keywords:</b> Judges; Decision; Justice; Trust, Criminal Law</p> <p><b>How to cite:</b> Waruwu., R., ET., Al. (2024). BUILDING JUSTICE AND PUBLIC TRUST: IMPROVING THE QUALITY OF JUDGES DECISION IN CRIMINAL CONTEXT. <i>Veteran Law Review</i>. 7(2). 244-259.</p> <p>Received:2023-11-17 Revised:2024-11-16 Accepted:2024-11-19</p>	<p><i>In the process of adjudicating cases, the substantial values in judge decisions are often debated in the public sphere because of the disparity in several criminal decisions with similar events and light sentences (strafmaat) to law enforcement officers who commit corruption crimes, such as decisions at the appeals level. against a former prosecutor named Pinangki Sirna Malasari. Through conceptual approach, statute approach, and case approach, this paper attempts to answer two important questions, First, how to create quality decisions for the realization of justice and public trust? Second, how does the judiciary respond to public protests the court's decision which is considered to have imposed a low sentence on perpetrators of corruption? As a result of this paper, that quality decisions are made by judges by paying attention to legal justice, moral justice, and social justice with paying attention to the purpose of "preventive" sentencing to protect the community by placing criminals separately. from society and the purpose of "deterrence" sentencing is to create fear of committing crimes that can be distinguished for individuals, the public, and the long term. In addition, the judiciary should respond to public protests by establishing Special Guidelines in the Formulation of the Criminal Chamber of the Supreme Court which must be followed by judges.</i></p>

### 1. Introduction

Judicial power is the independent power to administer justice to uphold law and justice as intended in the provisions of Article 24 paragraph (1) of the Indonesia 1945 Constitution. In essence, an independent judiciary is related to the desire to obtain the fairest possible decision. through the judge's independent consideration and authority without the influence and interference of other parties (Ali, M. Hatta, 2012). The judge's neutral authority is aimed more at the service process so that justice seekers avoid negative excesses. Independence concerns substantial values, while impartiality concerns procedural values.

Regarding judicial independence, it is also mentioned in Article 10 of the "Declaration of Human Rights" which states "Everyone has the right, in full equality, to a fair and open hearing in public by an independent and impartial court,

*in determining their rights and obligations and all criminal charges against him"* which means that every person has the right to complete equality in obtaining a judicial process from a judicial institution that is free and impartial, in determining his rights and obligations and regarding all criminal charges against him (Muchsin, 2010).

The freedom of judges in adjudicating cases is accompanied by responsibility towards justice seekers (*Justiciabelen*) and the general public and in particular the responsibility of judges is attached to God Almighty as intended in the provisions of Article 2 paragraph (2) of Law Number 48 of 2009 concerning the Judiciary Power, namely trials conducted "FOR JUSTICE BASED ON GOD ALMIGHTY". Based on divinity, this means that every decision handed down by a judge must be implemented with full confidence because in the future every judge's decision will be accountable before God Almighty with all the consequences.

The Code of Ethics and Code of Conduct for Judges number 6 regulates the principles that must be fulfilled by a judge, namely responsibility. Responsibility means being willing to carry out as well as possible everything within your authority and duties, and having the courage to bear all the consequences of carrying out your authority and duties (Keputusan Bersama Ketua Mahkamah Agung RI Dan Ketua Komisi Yudisial RI 047/KMA/SKB/IV/2009 dan 02/SKB/P.KY/IV/2009 tentang Kode Etik dan Pedoman Perilaku Hakim). The formulation of this principle emphasizes the judge's compliance in carrying out the process of adjudicating cases as well as possible. Adjudicating is a series of actions by a judge to accept, examine and decide on a criminal case based on the principles of freedom, honesty and impartiality in a court hearing with the conditions and methods regulated in this law (Pasal 1 angka 9 Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana).

In the process of adjudicating a case, the substantial values in a judge's decision are often debated in the public sphere or discussed scientifically among the academic community because of the disparity in a number of criminal decisions with similar incidents and light criminal sentences (*strafmaat*) according to the law. law enforcement officers who commit criminal acts. corruption, such as the appeal level decision against a former prosecutor named Pinangki Sirna Malasari which some parties considered too light compared to the crime he committed.

At the first instance court, Pinangki's was legally and convincingly found guilty of committing the crime of "corruption" as charged in the first indictment subsidiary and "money laundering" as charged in the second indictment and "criminal conspiracy to commit corruption" as a criminal offense" charged in the thrid indictment subsidiair, a maximum prison sentence of 10 (ten) years and a fine of IDR 600,000,000.00 (six hundred million rupiah), with the provision that if the fine is not paid it will be replaced by a maximum prison sentence of 6 (six) months .

At the appeal court, the judge's decision sentenced Pinangki's to imprisonment for 4 years and a fine of IDR 600,000,000.00 (six hundred million rupiah), with the provision that if the fine is not paid it will be replaced by 6 (six) in prison month. This decision is 6 (years) lighter than the first instance decision but is the same as the Public Prosecutor's demand, namely 4 (four) years in prison, giving rise to protests from a number of parties, including by submitting an application.

A total of 15,866 people signed an online petition urging that the light sentence of Prosecutor Pinangki's be made heavier by the DKI Jakarta High Court (CNN Indonesia). The petition was created by Indonesia Corruption Watch (ICW). In its explanation, ICW considered that the sentence against Prosecutor Pinangki's at the appeal level was outrageous. This is because Pinangki's is a public prosecutor and was proven to have committed three criminal acts. According to ICW, the decision handed down by the DKI Jakarta High Court shows that the judiciary is not on the side of the agenda of eradicating corruption.

Meanwhile, criminal law expert at Jenderal Soedirman University, Hibnu Nugroho also criticized the contents of Pinangki's appeal decision. He considered the judge's reasons unreasonable considering the woman's considerations or regret. Hibnu reminded that Pinangki's actions as a case broker had tarnished the name of the Attorney General's Office as a law enforcer. High penalties were given so that fellow law enforcers would not carry out actions like Pinangki's. This is in line with one of the essences of sentencing, namely preventing other people from committing criminal acts. Therefore, said Hibnu, decisions cannot be seen from the level of sentencing, but must look at the essence of prevention and deterrence. Pinangki's position as a law enforcer when committing criminal acts needs to be given weight. He does not agree if he sees the decision only based on feminine aspects (Taher, Andrian Pratama, 2021).

This decision can also affect the image of the judiciary in society in relation to increasing public trust which has long been built through various just services. One of the missions of realizing the Great Indonesian Judicial Body is to provide fair legal services to justice seekers. Justice for justice seekers is basically a subjective value, because what is fair according to one party is not necessarily fair for another party (Cetak Biru Pembaruan Peradilan 2010-2035). The administration of justice or law enforcement must be understood as a means of ensuring a fair process, in order to produce decisions that take into account the interests (fairness of) both parties.

Based on the background above, this article actually wants to provide an analysis of two important things, including: First, how to create quality decisions in order to achieve justice and public trust? Second, how do judicial institutions respond to public protests against court decisions which are

considered to give light sentences to perpetrators of criminal acts of corruption?

## **2. Method**

This article constitutes legal research (Istanto, F.S, 2007). As legal research, this research is a process to discover legal rules, legal principles and legal doctrine to answer the legal problems faced (Marzuki, Peter Mahmud, 2005). The type of research used in this paper is library research. This means that the research uses written documents as data, and the data sources used in this research include primary legal materials and secondary legal materials. Primary legal materials are legal materials that are binding or make people obey the law, including legal products that are material for study and legal products that function as a means of criticism. Secondary legal materials include explanations of primary legal materials in the form of expert doctrine contained in books, journals and websites. The approach used is a conceptual approach or doctrinal approach which is used to explore the meaning of justice and public trust through the judge's decision. Apart from that, a statutory approach and a case approach are also used.

## **3. Analysis and Results**

### **3.1. Justice, Public Trust, and Judges Decision**

Justice basically means that decisions and actions are based on objective norms. Justice is basically a relative concept, everyone is not the same, fair for one person is not necessarily fair for another, when someone asserts that he or she is doing justice, this must of course be relevant to public order which is recognized by the scale of justice. The scales of justice vary greatly from one place to another, each scale is determined and determined entirely by society in accordance with the general order of that society (Santoso, Agus, 2014).

Aristoteles defines justice as everything that is based on the law or in accordance with the lawful and everything that is fair, wise and honest, so that people who are said to be fair are people who act based on and obey the law and act fairly, wise, and honest (Aristoteles, eds., 2009). The theory of justice is related to the judge's decision because every decision must be able to realize legal justice for the litigants and the general public based on legal rules and moral justice which ultimately is able to realize social justice.

In a more sociological view, the realization of justice cannot be separated from the influence of law on society with a legal approach to society (Cotterrel, Roger, 2018). In fact, in understanding the nature of law, the sociological jurisprudence school views law solely as a normative phenomenon, but rather a normative and sociological phenomenon (Cotterrel, Roger, 2018). Therefore, in this view, good law must be law that is in accordance with existing laws in society. This school of thought strictly separates positive law (living law) (Leiboff, Marett and Mark Thomas, 2004). The leading expert who first

introduced this school of thought was Eugen Ehrlich 1862-1922. Subsequently, this idea was realized again by Roscoe Pound (1870-1964). Like the contribution of sociological legal science in general, the contribution of Pound's thinking also lies in his study of the interaction between law and its social environment (its social milieu). Pound emphasized the dynamic function of law in society. He is very consistent in his opinion that social values are stated in the law itself. In this case, Pound also differentiates between sociological jurisprudence and legal sociology. The first term refers to practical matters, namely related to how the law is implemented, while the second term relates to theoretical issues.

This school emerged from a dialectical process between the thesis of legal positivism and the antithesis of the historical school. Legal positivism views law as existing because of orders from the authorities, while the historical school views law as actually being born from experience, while the sociological jurisprudence school views both as equally important. School sociology jurisprudence can be understood by knowing what the school's challenges are (Nalbandian, Elise, 2011).

The main challenge is the rigidity of the law within a positivism framework which makes the law protected from social reality. Therefore, the sociological school of law will be understood as an effort so that law is not only limited to formalistic, mechanistic approaches and "rigid" legal analysis so that it is unable to accommodate the changes needed so that law remains relevant to society's needs. Therefore, as an entity that cannot be separated from community development, according to this school of thought, it gives birth to three main objectives of law, including (Thilly, Frank. (1923): First, the axis of legal development lies in the dynamic conditions of society to achieve these objectives. achieving a common will. Second, law is part of a social need to fulfill the interests of society (social interest) so as to create justice. Third, law works through human and community experience regarding what can and cannot be done in administering justice.

The society has the right to receive fair treatment through a judicial process that must follow applicable legal regulations (Schoenbaum, Edward J, 2001). It is stated more fully that:

*"The public deserves fair treatment by the judicial branch and by those of us who adjudicate in the executive branch. Both must follow the law as passed by the legislative branch, the regulations properly adopted by the executive branch agencies, and the evidence that comes before us."*

The judicial process and public trust are an inseparable unit. The existence of public trust in the law and law enforcement is an important aspect in the law enforcement process in Indonesia. This trust must be visible in every ongoing judicial process, including the content of the judge's decision (Mudzakir, 2003). Public trust is basically an important element in democracy. Its existence provides benefits to the country in various ways.

The benefits that can be obtained are generally related to the country's opportunities to educate its citizens. At the same time, the country also benefits from community participation in terms of building public trust and legitimacy for the policies taken (Mubangizi , et.al., 2014). Therefore, community participation cannot be completely separated from state policy or decision-making processes. In this case the process referred to is the issuance of a decision in the judicial process.

### **3.2. Building Justice and Public Trust in Judges Decision: Criminal Context**

Sentencing is an important part of criminal law. It is said that because sentencing is the culmination of the entire process of holding someone accountable for committing a criminal act. *"Criminal law without sentencing is more of a declarative system that declares a person guilty without any formal consequences following the error."* Criminal law without sentencing means declaring someone guilty without any definite consequences for their guilty. Thus, the conception of error has a significant influence on criminal imposition and the implementation process. If a guilty is understood as "reprehensible", then sentencing here is "a manifestation of that guilty" (Huda, Chairul, 2006).

Muladi, divided sentencing theories into three part namely (Muladi, 2002):

- (a) The Absolute Theory views sentencing as retaliation for guilty that have been committed so that it is action-oriented and lies in the occurrence of the crime itself. This theory states that sanctions in criminal law are imposed solely because someone has committed a criminal act which is an absolute consequence that must exist as a response to the person who committed the criminal act, so that the sanctions aim to fulfill the demands of justice.
- (b) Teleological (goal) theory views sentencing not as retribution for the perpetrator's guilty, but as a means to achieve goals that are useful for protecting society towards social welfare. Sanctions emphasize their purpose, namely to prevent people from committing crimes. So it is not aimed at absolute satisfaction of justice. From this theory emerges the aim of sentencing as a preventive measure, both specific prevention aimed at the perpetrator and special prevention aimed at the community. This theory is relatively based on three main objectives of sentencing, namely preventive, deterrence and reformative. The preventive goal is to protect society by placing criminals separately from society. The aim of prevention is to create a fear of committing a crime that can be differentiated for individual, general and long-term goals.
- (c) Teleological Retributive Theory, this theory views that the purpose of sentencing is plural, because it combines teleological and retributive principles into one unit. This theory has a dual character, where sentencing is seen as moral criticism as a response to wrong actions.

Meanwhile, its teleological nature lies in the idea that the aim of moral criticism is to reform or change the behavior of the convict in the future.

The theory of sentencing is related to the judge's decision because every criminal case decision contains considerations regarding the reasons for imposing a crime on a defendant who is found guilty. The meaning of the purpose of sentencing in a judge's decision varies depending on the legal incident, the way the criminal act was committed, and the impact of the criminal act on the victim and society in general.

In the criminal justice system which involves law enforcement officials from the police, prosecutor's office, courts and correctional institutions, the judge is a central figure because he determines the final outcome of a criminal case processed by the police and prosecutor's office. The efforts made by the judge in the trial process are to explore the material truth through evidence that is released through a public summons and the defendant/legal advisor then imposes a sentence. A court decision is a judge's statement announced in an open court session, which can be in the form of a sentence or acquittal or acquittal from all legal charges in that case and in the manner regulated in this law (Pasal 1 angka 11 Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana).

Lilik Mulyadi is of the opinion that the judge's decision is the "crown" as well as the "culmination" of reflecting the values of justice; ultimate truth; human rights; mastery of the law or facts in an established, competent and factual manner, and reflects the ethics, mentality and morality of the judge concerned (Mulyadi, Lilik, 2010). The definition of a court decision in the Criminal Procedure Code (KUHAP) is formal in the trial process, while the definition of a judge's decision according to Lilik Mulyadi is substantive which is inherent in the judge. This means that judges are required to have superior qualifications in handling cases submitted by referring to knowledge, experience and good analytical skills in making quality decisions.

The criteria for a judge's decision in Law Number 48 of 2009 concerning Judiciary Power, one of which is regulated in the provisions of Article 50 paragraph (1), namely "The court decision does not only contain the reasons and basis for the decision, but also contains the reasons and basis for the decision". contains certain articles from the relevant statutory regulations or sources of unwritten law which are used as the basis for adjudicating." The legal reasons for the judge's decision include the judge's consideration of whether or not the Public Prosecutor's indictment is proven, determining the length of time the defendant will commit the crime and other determinations relating to evidence, all of which is explained logically, rationally and carefully paying attention to the values live and developing in society.

In particular, the provisions of Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judiciary Power stipulate that "Judges and constitutional justices are obliged to explore, follow and understand the legal values and

sense of justice that exist in society". The court's decision is for the sake of justice based on faith in God Almighty, not for the sake of truth based on faith in God Almighty. Justice is always fought for by humans, even wars occur because of violations of justice. Justice has many definitions so that a person's perspective on the definition of justice is often not the same. According to Aristotle, justice is a condition of morally ideal truth regarding something, both regarding objects and people.

In making a decision, each judge has the same rights in carrying out the three stages that must be carried out by the judge to obtain a good and correct decision. First, the controller stage. Consolidating the legal events submitted by the parties to him by paying attention to, acknowledging or confirming the occurrence of the events that have been submitted. So, consolidation means that the judge sees, knows, confirms that an event has occurred, certainly not an assumption, based on evidence.

The evidentiary process begins by placing the appropriate burden of proof, on whom the burden of proof falls. Assess the evidence submitted, whether the evidence meets formal requirements, material requirements, meets the minimum threshold of evidence and has evidentiary value. Determine whether the proposed event is proven or not. For judges, what is important is the facts of the incident, not the law. Evidence is the soul of the judge's decision. Next, the qualification stage. Qualification of legal events submitted by the parties to him. Events that are considered to be events that actually occurred must meet the requirements. Qualification means assessing events that are considered to have actually occurred, including what the legal relationship is and what the law is, in other words, a legal relationship must be found for the event that has been determined. So, qualification means looking for/determining the legal relationship to arguments/events that have been proven. The judge assesses arguments/events that have been proven or assesses arguments/events that are not proven by statutory regulations which constitute material law or can be said to look for the appropriate application of law to the arguments/events that have been determined.

Then is the constituent stage. It is the constituents who uphold the law or provide justice to the parties involved in a case (Manan, Abdul, 2008). In determining the law (*judex facti*) level judges are obliged to pay attention to the general guidelines for the content of decisions which are specifically regulated in the provisions of Article 197 of Law Number 8 of 1981 concerning Criminal Procedure Law, the sentence of the decision letter contains:

- a. the principal of the written decision reads: "FOR JUSTICE BASED ON GOD ALMIGHTY";
- b. full name, place of birth, age or date, gender, nationality, place of residence, religion and occupation of the defendant;
- c. indictment, as contained in the indictment;



- d. brief consideration of the facts and circumstances as well as evidence obtained from the examination at trial which is the basis for determining the defendant's guilt;
- e. criminal charges, as stated in the demand letter;
- f. articles of statutory regulations which form the basis of the crime or action and articles of statutory regulations which form the legal basis of the decision, accompanied by matters which aggravate and mitigate the defendant;
- g. the day and date of the panel of judges' deliberations, unless the case is examined by a single judge;
- h. statement of the defendant's guilt, a statement that all elements of the criminal offense formula have been fulfilled, accompanied by the qualifications and the sentencing or action imposed;
- i. provisions regarding who will collect the court costs by stating the exact amount and provisions regarding evidence;
- j. a statement that all the documents are fake or a statement about where the fake letters are, if there are genuine letters it is considered fake;
- k. order that the defendant be detained or remain detained or be released; and
- l. the day and date of the decision, the name of the public prosecutor, the name of the judge who decided, and the name of the clerk.

In letter f, the article above regulates the obligation for decisions to contain articles of statutory regulations which form the basis of sentences or actions and articles of statutory regulations which form the legal basis of the decision, accompanied by aggravating and mitigating matters of the decision. the defendant. In considering the severity of the crime, the judge must also pay attention to the good and evil characteristics of the defendant (Pasal 8 ayat (2) Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman). The nature of good and evil can be seen from the motivation for committing a criminal act, for example the crime of theft is committed to meet the basic needs of life, so it is necessary to examine the question of proportionality, namely proportionality. between the degree of guilt of the perpetrator and the severity or number of sentencing imposed (Pasal 1 angka 5 Peraturan Mahkamah Agung Nomor 1 Tahun 2020 tentang Pedoman Pemidanaan Pasal 2 dan Pasal 3 Undang-Undang Pemberantasan Tindak Pidana Korupsi).

Apart from that, you can also pay attention to several ongoing acts carried out in a manner that is considered very heinous, for example the crime of murder which was preceded by a number of abuses over a certain period of time so that in the end the victim died. The severity of sentencing can be related to the impact of the action. For example, large amounts of criminal acts of corruption are related to state financial losses, including criminal acts of corruption committed by law enforcement officials. In determining the severity of the crime under Article 2 and Article 3 of the Corruption Eradication Law, the judge must consider the following stages in sequence:

- a. categories of state financial or state economic losses;

- b. error rates, impacts and benefits;
- c. range of criminal sentences;
- d. aggravating and mitigating circumstances;
- e. criminal imposition; and
- f. other provisions relating to criminal imposition.

Determination of error aspects is divided into three criteria, namely high error aspects, medium error aspects and light error aspects. The high error aspects are:

- a. The defendant has the greatest role in the occurrence of criminal acts of corruption, whether committed individually or jointly.
- b. The defendant acted as an advocate or person who ordered the commission of a criminal act of corruption.
- c. The defendant carried out his actions using a modus operandi or sophisticated means/technology; and/or
- d. The defendant committed his actions during a disaster or economic crisis

In the decision at the appeal level, in the case involving the defendant Pinangki's, it was deemed that the length of prison sentence imposed on the defendant by the Panel of Judges at the First Level, according to the Panel of Judges at the Appellate Level, was too severe and it was considered reasonable if the defendant was sentenced to prison as intended in the decision in below, with the following considerations (Putusan Nomor 10/PID.TPK/2021/PT DKI):

- That the Defendant admits guilt and states that he regrets his actions and is willing to be dismissed from his profession as a Prosecutor, so that he can still be expected to behave as a good member of society;
- That the Defendant is a mother whose child is still a toddler (4 years old) and should be given the opportunity to care for and give love to her child until he grows up;
- That the Defendant as a woman is obliged to receive attention, protection and be treated fairly;
- That the Defendant's actions cannot be separated from the involvement of other parties who are also responsible, so that the level of his fault affects this decision;
- That the criminal prosecution of the Prosecutor/Public Prosecutor as the holder of the Dominus Litus principle who represents the state and government is considered to have reflected society's sense of justice.

Several criminal provisions that have been proven to have been committed by Pinangki's are as follows:

- The provisions of Article 11 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, "Every person who commits a criminal act as intended in Article 418 of the Criminal Code, shall be

punished with imprisonment for a minimum of 1 (one) year. years and a maximum of 5 (five) years and a fine of at least IDR 50,000,000.00 (fifty million rupiah) and a maximum of 250,000,000.00 (two hundred and fifty million rupiah).

- Provisions in Article 418 of the Criminal Code, "An official who accepts a gift or promise, even though he knows or reasonably suspects that the gift or promise was given because of the power or authority related to his position, or whose intention is that whoever gives the gift or promise is related to his position, is threatened with imprisonment for a maximum of six years or a fine of a maximum of four thousand five hundred rupiah."
- The provisions of Article 3 of Law of the Republic of Indonesia Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering, "Every person who places, transfers, diverts, spends, pays, gives, entrusts, takes abroad, changes form, exchanges currency money or securities or other actions regarding assets which he knows or reasonably suspects are the proceeds of a criminal act as intended in Article 2 paragraph (1) with the aim of concealing or disguising the origin of the assets shall be punished. for the crime of Money Laundering with a maximum imprisonment of 20 (twenty) years and a maximum fine of IDR 10,000,000,000.00 (ten billion rupiah).
- The provisions of Article 15 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, "Every person who makes an effort, assistance or evil conspiracy to commit a criminal act of corruption, shall be punished with the same crime as intended in Article 2, Article 3, Article 5 to Article 14."
- The provisions of Article 13 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, "Every person who gives gifts or promises to civil servants taking into account the power or authority attached to their position or position, or by giving gifts or promises that are considered attached to his position, 6 shall be sentenced to a maximum imprisonment of 3 (three) years and/or a maximum fine of 150,000,000.00 (one hundred and fifty million rupiah).

In principle, when exercising judicial power, judges are given the authority to determine the reasons for the severity of the sentence imposed on the defendant, but judges are required to have sensitivity to moral justice and social justice. Moral justice implies that the judge's decision is not only taken on the basis of his independence, but also on awareness of being accountable for his decision to God Almighty, to justice seekers (*justitiabelen*) and to society in general. Decisions that do not meet moral justice will harm the sense of social justice because when a person confirms that he is carrying out justice, this must of course be related to public order which is recognized by the scale of justice.

Recognition of the scale of justice is a debate in itself because it really depends on the opinion formed by society, but to avoid interference from public

opinion, judges need to reflect by listening to the words they hear for the first time, such as Satcipto Raharjo's expression about justice. In addition, it is necessary to study the concept of error which has a significant influence on the application of criminal law and its implementation process. If guilty re understood as "reprehensible", then sentencing here is a "manifestation of guilty".

Referring to the three articles proven for Pinangki's actions, the actual limit of sentencing that can be imposed is a minimum of 1 (one) year and a maximum of 20 (twenty years) taking into account the purpose of the sentence given.

Teleological Retributive Theory can be applied to sentences imposed by judges because the sentence responds to moral criticism in wrongdoing with the aim of preventing similar acts from being carried out by other law enforcement officials and also hopes for a change in the convict's behavior in the future. Future (Muladi, 2002).

Regarding the purpose of sentencing in the judge's decision against Pinangki's, that is, if the sentencing is imposed to prevent the recurrence of criminal acts, then the perpetrators who are law enforcement officers should be given a deterrent effect with heavy sentences. The severity of criminal acts (*strafmaat*) of criminal acts of corruption committed by law enforcement officials should be standardized in judges' decisions in order to create consistency in the application of the law. In particular, by implementing the chamber system, the criminal chamber can establish the legal principle criminal acts of corruption committed by law enforcement officials must be used as an aggravating reason for sentencing whose existence cannot be defeated by mitigating reasons in general.

#### **4. Conclusion**

Based on the discussion above, there are at least two main conclusions. First, quality decisions are produced by judges by paying attention to legal justice, moral justice and social justice as well as paying attention to the objectives of the sentence "preventive" to protect society by placing criminals separately from society and the aim of sentencing is "deterrence" (scare) to create fear of committing crimes which can be distinguished for individual, general and long-term interests. Second, the judiciary must respond to public protests by establishing specific guidelines in formulating the Supreme Court's criminal chambers that judges must follow.

Apart from that, there are two suggestions that the author proposes, including: First, the Supreme Court needs to make corrections to the (*judex facti*) decision which has not been able to realize legal justice, moral justice and social justice. justice) and Judges in general are obliged to apply the principle of responsibility in the Code of Ethics and Code of Conduct for Judges when handing down criminal decisions so as to be able to produce quality decisions and ultimately increase public confidence in credible judicial institutions.

institution. Second, the Supreme Court should establish special rules regarding the reasons for criminal aggravation carried out by law enforcement officials with the main idea "criminal acts of corruption committed by law enforcement officials must be used as an aggravating reason for sentencing whose existence cannot be defeated by mitigating reasons in general".

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