THE RULES ON CRIMINAL CASE REVIEW IN INDONESIA BASED ON JUSTICE

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ABSTRACT

The purpose of this study is to find rules regarding the review of criminal cases based on justice. The existing rules in the Criminal Procedure Code are currently experiencing problems in its application, which include the rules regarding the parties entitled to submit a review along with their objects, and the rules regarding the frequency of submission for review. The regulation is now inadequate because it does not clearly mention the public prosecutor as the party entitled to submit a review, other than the convict or heir. Then related to the frequency of submission for review there are currently two conflicting rules. From the results of the discussion it was found that law and justice have a close relationship, including also the rules regarding the review of criminal cases. Justice used here refers to the second principle of Pancasila which is interpreted as a balance of interests. Following the second principle of Pancasila, the review rules must be formed based on the idea of protecting interests in a balanced manner. In this context, the right of the public prosecutor to submit a review must also be clearly stated. Related to the rules regarding the frequency of submission for review, there must be synchronization between two conflicting rules and rights must be given twice. Submitting a second review must meet certain conditions.

Keywords: Review, Criminal Cases, Justice.


1. INTRODUCTION

The review is one of the means provided by criminal law to fight court decisions that are considered unfair or have not given satisfaction to those involved in the criminal justice process. In Indonesia, the rules regarding the review of criminal cases are contained in the
Law of the Republic of Indonesia Number 8 of 1981 concerning Criminal Procedure Law or commonly called the Criminal Procedure Code. In the law, the review is categorized as an extraordinary remedy. That is because a review is provided against the final court decision, which cannot be contested or is often called a court decision which has obtained permanent legal force (in Kracht van gewijsde). In addition to the Criminal Procedure Code, the regulation regarding review also contains a special law, namely the Law of the Republic of Indonesia Number 12 of 2011 concerning the Criminal Justice System for Children.

In the Criminal Procedure Code, the rules regarding review are included in Chapter XVII, starting from Article 263 to Article 269. Along with its development, the regulation has experienced problems in its application. These problems include rules about the party entitled to submit a review and its object and the frequency of submissions for review. In connection with the rules regarding the parties entitled to submit a review and their objects, it has been determined in Article 263 paragraph (1) of the Criminal Code. In that provision, it is determined that those who are entitled to submit a request for a review are the convict or heir, and the object is the court decision that has obtained permanent legal power in the form of a conviction.

On a practical level, it turns out that the provisions of Article 263 paragraph (1) of the Criminal Procedure Code have been distorted because the review can also be submitted by the public prosecutor for a court decision that has obtained permanent legal force in the form of a release. This practice first occurred in Indonesia in 1996 in the case of Muchtar Pakpahan, which was accepted by the Supreme Court as stated in its decision number 55 PK/Pid/1996. The decision was then followed by subsequent judges to receive a review submitted by the public prosecutor, such as decision number 03 PK/Pid/2001, decision number 15 PK/Pid/2006, decision number 109 PK/Pid/2007, decision number 07 PK/Pid/2009, decision number 12 PK/Pid.Sus/2009.[1] Some of the decisions indicated that there had been a gap regarding the submission of a criminal case review between the rules that were supposed to be under their requirements.

Concerning the practice of review submitted by the public prosecutor, there is still no unity of views or there are still differences in the legal community. In this case, some agree (pro) and some disagree (contra) with the review submitted by the public prosecutor.[2] According to the writer, differences of opinion are a warrior because, as stated by Marwan Effendy, between them there are differences regarding the sense of justice between certain community groups and other community groups[3].

The legal gap that occurs about the party entitled to submit a review of criminal cases and their objects are actually caused by the rules themselves that contain the problem. Article 263 paragraph (1) of the Criminal Procedure Code has clearly stipulated that the person entitled to file a review is the convict or heir and the object is the court’s decision which has obtained permanent legal force in the form of a conviction. Although the provisions are clear, some provisions provide opportunities for other parties to submit a review of court decisions that have obtained permanent legal force other than a criminal conviction. This is stated in Article 263 paragraph (3) of the Criminal Procedure Code, which states that a review can be submitted against a court decision that has obtained permanent legal force, in which states the defendant is proven to have committed an act which was indicted but was not followed by a conviction.

Provisions in Article 263 paragraph (3) of the Criminal Procedure Code may not be used by the convicted or heirs because they have benefited the convicted person. A convicted person can’t come to court and ask for punishment. That provision, if it is related to the provisions in Article 263 paragraph (1) of the Criminal Procedure Code, then there are unclear rules regarding the party entitled to submit a review along with the object. Practically, Article
263 paragraph (3) of the Criminal Procedure Code is used as a basis by the public prosecutor to submit a review of court decisions that have obtained permanent legal force in the form of acquittal. This is based on the view that Article 263 paragraph (3) of the Criminal Procedure Code may not be used by the convicted or his heir, so that it becomes the right of the public prosecutor to submit a review of court decisions that have obtained permanent legal power which states the defendant is guilty but is not followed by conviction.

Thus, there is a legal vacuum regarding the review that is included in the Criminal Procedure Code as a positive law at this time. The legal vacuum occurs because the rules are unclear, especially regarding the party entitled to submit a review along with the object. Implicitly (clearly) the Criminal Procedure Code does not mention the public prosecutor as the party entitled to submit a review, even though there are explicit rules stipulated in Article 263 paragraph (3) of the Criminal Procedure Code. The court’s decision in this provision is interpreted as a decision containing an exemption. The lack of clarity creates legal gaps because the rules contained in the Criminal Procedure Code are still multiple interpretations. The legal gap will continue to occur if the rules regarding the parties entitled to submit a review and their objects in the Criminal Procedure Code as a positive law are currently left unchecked. As a result, there is no legal certainty related to the party entitled to submit a review and its object, which in turn will create injustice in criminal justice practices in Indonesia.

Then another problem, which is related to the rules about the frequency of filing a review of criminal cases. Currently, this regulation is contained in the Constitutional Court ruling number 34/PUU-XI/2013 which states that a review can be submitted more than once/repeatedly. The decision revoked Article 268 paragraph (3) of the Criminal Procedure Code which determines the review can only be submitted once. Article 268 paragraph (3) of the Criminal Procedure Code is canceled by the Constitutional Court because it contradicts the 1945 Constitution of the Republic of Indonesia. The reason for the review was more than once outlined by the Constitutional Court ruling number 34/PUU-XI/2013, namely the existence of a novum with conditions accompanied by data and evidence supported by science and technology.

Before the Constitutional Court’s decision, in fact, there had been a submission of judicial review more than once/twice. The practice of reviewing more than once can be seen in the case of Djoko S. Tjandra, who filed a review of the review decision submitted by the public prosecutor. Besides, more than once review has also been recognized at the juridical level as outlined in the Supreme Court Circular Letter Number 10 of 2009 concerning Submission of Requests for Review (SEMA No. 10 of 2009). In essence, the SEMA states that reviewing can be submitted twice on the grounds of a conflict between two or more review decisions.

The decision of the Constitutional Court no. 34/PUU-XI/2013 can be stated as an attempt by the state to resolve the issue of rules regarding the frequency of submissions for a legal vacuum. The rules stated in the Criminal Procedure Code are outdated so that they are no longer sufficient. That effort deserves to be appreciated, but it must be recognized that the Constitutional Court’s decision number 34/PUU-XI/2013 is still too abstract because it has no limits, thus eliminating aspects of legal certainty. To provide legal certainty, in 2014 the chairman of the Supreme Court Circular Letter Number 07 of 2014 concerning Submission of Requests for Review in Criminal Cases (SEMA No. 07 of 2014).

SEMA No. 07 of 2014 stated that to realize legal certainty, the request for a review of criminal cases is limited to only one time, except for the reasons stated in SEMA No. 10 of 2009. SEMA if it is associated with the decision of the Constitutional Court number 34/PUU-XI/2014, then both are conflicting with each other. SEMA No. 07 of 2014 requires that a review of criminal cases can only be submitted once, while the Constitutional Court's decision
requires that a review of criminal cases can be submitted more than once/repeatedly. The contradiction creates legal uncertainty related to the rules regarding the frequency of criminal case review, which in turn can lead to injustice.

Starting from the situation above, the writer is interested in reviewing the rules regarding the review of criminal cases in Indonesia, especially related to the rules regarding the party entitled to submit a review along with their objects, and the rules regarding the frequency of submitting requests for review. This study aims to find the ideal rules based on Pancasila justice.

2. RESEARCH METHODS
This type of research used in this paper is doctrinal law research, namely research on the law that is conceptualized and developed based on the doctrine adhered to by the conception and/or the developer[4]. In literature, this research is also called normative research,[5] normative legal research,[6] dogmatic legal research,[7] and doctrinal law research or library research[8] In accordance with the type of research, the research material is included in the type of secondary data, which is sourced from primary, secondary and tertiary legal materials.(6) Techniques used to collect research material, namely document studies, so that research is carried out on library materials that have already taken place. The research material collected was then processed and analyzed qualitatively. The end of the research process is drawing conclusions that are used in deductive thinking logic, which is drawing conclusions that start from the major premise (general matters) to the minor premise (specific matters).

3. RESULTS AND DISCUSSION
3.1. Relationship of Law and Justice
In legal science literature, one of the objectives of law is justice or in other words, justice is the goal to be achieved by law. According to Budiono Kusumohamidjojo, justice is the goal of law in addition to order.[9] Theo Huijbers believes that law is closely related to justice. There are even people who argue that law must be combined with justice to truly mean it as law. This statement has something to do with the response that law is part of human efforts to create ethical co-existence in this world. Only through a fair rule of law can people live peacefully towards physical or spiritual well-being.[10]

A positive legal system which means it cannot but must be based on justice. Although the meaning or meaning of justice can vary from one value system to another value system, but a legal system cannot last long if it is not perceived as fair by the people governed by the law. In other words, injustice will disturb order which is precisely the goal of the legal order. Disturbed order means that order and therefore certainty is no longer guaranteed. So a legal order cannot be separated from justice. Or in other words, looking at law or legal system formally is not a realistic way of looking at the law and only gives satisfaction to mere logical thought processes.[11]

The same thing was also stated by Lili Rasjidi that the law is very fiber related to justice, even there is an opinion that the law must be combined with justice so that it really means as a law because the purpose of the law is the achievement of a sense of justice in society. Every law that is implemented there is a demand for justice, then law without justice will be in vain so that the law is no longer valuable before the community, objective law applies to all people, whereas justice is subjective, then combining law and justice is not a matter the easy one. However difficult this must be done for the sake of the authority of the state and the judiciary because these basic legal rights are rights recognized by the judiciary.[12]

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According to Satjipto Rahardjo, the idea of justice is never out of connection with the law, because talking about the law clearly or vaguely always talking about justice. Moral strength is also an element of the nature of the law because without morality it will lose its supremacy and independent characteristics. Justice and injustice according to the law will be measured and judged by a morality that refers to human dignity and dignity.[13] In natural law theory, morality is an important part of the law as it is. Some references to morality (that is, for a critical, objective, natural morality, not only for conventional morality that occurs to win in one place or another) must be made as part of an analysis of what human law is and what substantive rules it contains.[14] The typical doctrine of natural law theory is that unjust laws are not laws at all. Unfair laws are like fake currencies, which cause problems because they are very similar and might be taken for the real thing. Unfair laws are not genuine laws and do not deserve respect. For natural law theory, the law must be subject to moral judgment. The law is not always right or morally neutral, but it can be good or bad, just or unjust. No one has a legitimate and binding obligation to obey unjust laws.[15]

Referring to some of the opinions above, then law and justice have a close relationship, the two cannot be separated. In this context, the law must contain justice in order to be called the true law. A law that does not contain justice cannot be called a true law, so it should be ignored or disobeyed. The relationship between law and justice is a result of a legal and moral relationship. That is because one of the things discussed in the moral discussion is justice. Justice is the spirit of the law, so the law is impossible to live (effective) if it does not contain justice.

3.2. Rules on Criminal Case Review in Indonesia Based on Justice

In the previous sub-discussion, it has been explained that law and justice have a close relationship so that the law must contain justice. In this context, the rules regarding the review of criminal cases that apply in Indonesia must also contain justice. Concerning the concept of justice, it is relative in nature, different from one place to another. The experts do not yet have unity of opinion regarding the single meaning of justice that is generally accepted, so each expert gives a different meaning. That means the meaning of justice has a broad scope or dimension, so it can be seen from several points of view. In Indonesia, the meaning of justice is seen from the Pancasila which has been agreed upon as the nation’s way of life/philosophical grundslag. In the context of legal formation, Pancasila is used as a basic norm or grundnorm, a term used by Hans Kelsen.

Concerning justice, many meanings have been given by experts, but each expert gives different meanings. From some meanings of justice, it seems that there is no unity of opinion from experts to provide a single meaning that applies generally. That means the meaning of justice has a broad scope or dimension, so it can be seen from several points of view. In Indonesia, the meaning of justice is seen from the Pancasila which has been agreed upon as the nation’s way of life/philosophical grundslag. In the context of legal formation, Pancasila is used as a basic norm or grundnorm, a term used by Hans Kelsen.

Hans Kelsen states that grundnorm is used to determine the validity of a legal norm.[16] Law, if understood as a norm, several norms that form a unity, system, group. The validity of these norms can be traced back to a single norm which is the basis of the final validity.[17] A legal norm applies (valid) if it is made following basic norms (grundnorm).[18] Grundnorm occupies the highest position in legal norms, and outside the basic norms, there are no other norms.[19]

From this then Hans Kelsen gave birth to a theory about the level of norms (stufenbau theorie). The theory states that any lower legal norms must be based on higher legal norms. And so on, until it reaches the highest norm, upon which there is no norm anymore. In other
words, higher legal norms must be the basis for the substance of lower legal norms. The highest norm is what Hans Kelsen called grundnorm.

Aside from being a grundnorm, Pancasila can also be categorized as a staatsfundamental norm because it is included in the opening of the 1945 Constitution of the Republic of Indonesia, fourth paragraph. Shidarta[20] stated that in the format of values and/or principles, Pancasila was still a leistern star for the entirely legal system. The position of the Pancasila as such is not a fundamental norm, but this position is outside the system of positive legal norms. It does not even need to be positive because it has been presumed to exist from the pre-positive period. To be able to become fundamental norms, there is a need for such norms to be excluded, so that they need a certain format or form. This format can be in the form of a written legal document and/or in the form of a historical moment in which a new precedent is created which inspires the birth of an Indonesian legal norm system.

Thus, Pancasila can be categorized as a grundnorm because it lies outside the legal norms and as a fundamental norm because it is included in the preamble to the 1945 Constitution of the Republic of Indonesia. Pancasila as a view of the life of the Indonesian nation (philosophical grondslag) must be seen as a legal ideal (rechts idee),[21] namely ideas, intentions, inventions and thoughts regarding law or perceptions about law or perceptions about the meaning of law, which in essence consists of three elements, namely justice, usefulness, and legal certainty[22]. Then in its position as a legal ideal, Pancasila is used as a source of all sources of law as affirmed in Article 3 of the Law of the Republic of Indonesia Number 12 of 2011 concerning Formation of Laws and Regulations as amended by Law of the Republic of Indonesia Number 15 of 2019.

Thus, the formation of law (=legislation) in Indonesia must be based on Pancasila. That is, the legal substance formed must be able to reflect the values contained in Pancasila. Related to this discussion, the rules on reconsideration in Indonesia must be based on the value of Pancasila justice. In this case, the value of Pancasila justice which is used as a reference in forming the rules on reconsideration is referred to in the second principle of “Just and Civilized Humanity (Kemanusiaan yang adil dan Beradab)”. The second principle of Pancasila in it contains human values that are associated with fair and civilized actions.

According to Kaelan, the value of humanity in the second principle of Pancasila comes from the anthropological philosophical basis that the nature of human beings as monopluralism, namely the composition of Rohani (soul) and body, the nature of individual nature and social beings, the position of the nature of personal beings consists of themselves and as creatures of God Almighty. Therefore, in upholding human rights cannot be separated from human nature as a social being, which is an element of human nature. Consequently, if every nation in the world wants to uphold human rights, it is obligatory to respect other human rights, so that there arises a human right.[23]

The fair value of Humanity implies that human nature as a civilized and civilized creature must be fair in nature. This implies that human nature must be fair in relation to oneself, other human beings, society, nation and state, the environment, and to God Almighty[24]. It can be categorized as fair treatment as one of the human values contained in the second principle of Pancasila.[25]

Referring to the second principle of Pancasila, the concept of justice in Indonesia starts from the nature of human beings as monopluralism. Judging from its nature, humans are essentially committed as individual and social beings (monodualism). The manifestation of the second principle of Pancasila is one of which upholds human rights by stemming from the idea of harmony between individuals and society. That is, every human being must be upheld equally as human rights, both as individual beings and social beings (society). Such an attitude can also be categorized as a form of fair treatment of fellow human beings.
In the context of protecting human rights, justice in accordance with the second principle of Pancasila must be interpreted as a balance. This means that the protection of human rights must be carried out within the framework of a balance between humans as individual beings and social beings (society). The balance here is related to the issue of the number of human rights protected must be equal, not to be biased. Based on the Pancasila justice concept, the rules regarding the review of criminal cases are built on the basic idea of balanced protection of human rights, between the parties involved in the criminal justice process.

The concept of justice in the second precepts of the Pancasila was also spelled out in the body of the 1945 Constitution of the Republic of Indonesia. In the constitution, every human being is guaranteed human rights and balanced with human rights. That is, every Indonesian human being who wants to fulfill their human rights must pay attention to other human rights. Then related to the fulfillment of human rights, Indonesia also carried out restrictions. It was intended to prevent clashes between one human and another when fulfilling their human rights. Restrictions on human rights can only be done by law as affirmed in Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia.

Based on the description above, the rules regarding the review of criminal cases in Indonesia based on Pancasila justice must provide balanced protection of interests. In the concept of the balance of interests, the interests in the form of human rights of those involved in the criminal justice process should be equally protected. Restrictions on interests or human rights can only be done according to the law. That is, restrictions on interests or human rights that are not carried out under the law, are not justified. The idea of protecting interests in a balanced manner is actually also the basis for the establishment of the Criminal Procedure Code, but the rules regarding the review prioritize the protection of the interests of one of the parties involved in the criminal justice process, namely the convicted person. It was based on the sociological basis at the time that there was a convicted murderer who needed a regulation regarding a review to fight a court decision which had obtained permanent legal force in the form of a conviction.

Referring to the Pancasila justice and several problems in the current positive law, the rules regarding the review of criminal cases must be built on the idea of protecting interests in a balanced manner. In this context, the rules regarding the party entitled to file a review must also be given to the public prosecutor, in addition to the convicted or heir. As a consequence of these rules, the object of review is not only that the court's decision has obtained permanent legal force in the form of conviction, but also in the form of a decision of acquittal, both free and free from all lawsuits. With such rules, the rules regarding the parties entitled to submit a review and their objects reflect the justice as desired by Pancasila. It must be emphasized here that the right of the public prosecutor to submit a review only in his capacity represents the public interest.

Regarding the right of the public prosecutor to submit a review it is also regulated in several countries and international criminal justice, which can be seen in the following table:

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<tr>
<th>No</th>
<th>Name of Country</th>
<th>Criminal Procedure Name</th>
<th>Regulation</th>
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<tbody>
<tr>
<td>1</td>
<td>Nethrelands</td>
<td>Wetboek van Strafvordering</td>
<td>Article 457</td>
</tr>
</tbody>
</table>

“On application of the procurator general or of the former suspect in regard of whom a judgment or appeal judgment has become irrevocable, the Supreme Court may, for the benefit of the former suspect, review a judgment or appeal judgment of conviction rendered by the court in the Netherlands….”
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<tr>
<th>No</th>
<th>Name of Judiciary</th>
<th>Regulation</th>
<th>Article</th>
<th>Paragraph (1) sub a</th>
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<tr>
<td>2</td>
<td>France</td>
<td>Code de Procédure Pénale</td>
<td>Article 622</td>
<td>The revision of a final penal decision may be requested for the benefit of any person found guilty of a crime or offense when, after a conviction, a new fact or an unknown element of the jurisdiction occurs, on the day of the trial likely to establish the innocence of the convicted person or to give rise to doubt about his guilt.</td>
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</tr>
<tr>
<td>3</td>
<td>Moldova</td>
<td>The Criminal Procedure Code of The Republic of Moldova No. 122-XV dated 14.03.2003</td>
<td>Article 460 ayat (1) angka (1)</td>
<td>A review request may be filed by: 1)Any party in the proceeding within the limits of their procedural capacity;</td>
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<tr>
<td>4</td>
<td>Serbia</td>
<td>The Criminal Procedure Code of The Republic of Serbia</td>
<td>Article 47 angka (7)</td>
<td>The basic right and the basic duty of the public prosecutor is to prosecute the perpetrators of criminal offences. In the case of criminal offences prosecutable ex officio, the public prosecutor is authorised to: File appeals against court decisions which are not final and submit extraordinary legal remedies against final court decisions;</td>
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<tr>
<td>5</td>
<td>Kosovo</td>
<td>The Criminal Procedure Code Assembly of Republic of Kosovo</td>
<td>Article 424 ayat (1)</td>
<td>The reopening of criminal proceedings may be requested by the parties and defence counsel. After the death of the convicted person, the reopening may be requested by the state prosecutor……</td>
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<td>6</td>
<td>China</td>
<td>Criminal Procedure Law of The People's Republic of China (2012)</td>
<td>Article 241</td>
<td>A party or his legal representative or his close relative may present a petition to a People's Court or a People's Procuratorate regarding a legally effective judgment or order, however, execution of the judgment or order shall not be suspended.[26]</td>
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**Rights of Public Prosecutors in International Criminal Justice**

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<thead>
<tr>
<th>No</th>
<th>Name of Judiciary</th>
<th>Regulation</th>
<th>Article</th>
<th>Statute</th>
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<tbody>
<tr>
<td>1</td>
<td>The Internasional Criminal Court (ICC)</td>
<td>The convicted person, or after his death, spouse, children, parents or one person alive at the time of the accused’s death who has given express written instructions from the accused to brings such claim, or the prosecutor on the person’s behalf, may submit to the level of appeals to revise the legal judgment of conviction or sentence….</td>
<td>Article 84 angka (1) Rome Statue</td>
<td>Rome Statue</td>
</tr>
<tr>
<td>2</td>
<td>International Criminal Tribunal for the Former Yugoslavia (ICTY)</td>
<td>The convict or prosecutor can submit a review of the decision at any time.</td>
<td>Article 26 Statute ICTY[28]</td>
<td>ICTY[28]</td>
</tr>
<tr>
<td>3</td>
<td>International Criminal Tribunal For Rwanda (ICTR)</td>
<td></td>
<td>Article 25 Statute ICTR[29]</td>
<td>ICTR[29]</td>
</tr>
</tbody>
</table>

Referring to the above table, the writer can conclude that the prosecutor is given the right to submit a review both in the criminal procedure law of several other countries and international criminal justice. The right to submit a review was given by the prosecutor in the
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interests of the convicted person. That is, the review submitted by the public prosecutor, the results must provide benefits for the convicted person. It should be stated here that in the ICTY and ICTR system, the convicted person can apply for a review, while the prosecutor has a “one-year” deadline after the verdict has been pronounced final.[29] The ICTR allows the prosecutor to apply about the release.[30]

Furthermore, related to the rules regarding the frequency of criminal case reviews in Indonesia, it must remain limited because repeated reviews of more than one time do not provide legal certainty as stated by Sudjito and Nyoman Serikat Putra Jaya[31]. This is related to the legal certainty of the implementation (execution) of the perpetrators of criminal acts who are sanctioned in the form of capital punishment. Besides, the limitation is also related to the benefits of the law so that cases do not occur in the Supreme Court. Review that can be done repeatedly/more than once is likely to be used as a game by parties who are not responsible. As a result, the accumulation of reconsideration cases will occur in the Supreme Court.

The author suggests that the frequency of reviewing criminal cases be given twice. The limitation of the submission for review twice did not prevent the convict or his heir from obtaining a fair court ruling, which would certainly benefit him. The limitation of submitting the review is also so that the convict or his/her heir makes the best use of the available opportunity so that it is not arbitrary in submitting the review. Here, the submission for a second review must also be given a certain time, for example, two years, for the sake of certainty related to the implementation (execution) of capital punishment. The right to submit a review rests with the convict or his heir if the review is submitted first by the public prosecutor. Comparatively, the author does not find rules about the frequency of submissions for review in criminal procedural law that applies in some countries and international criminal justice. However, this does not mean that in some countries there is no practice in filing requests for a review of criminal cases. Jimly Asshiddiqie,[32] for example said that the review in the Netherlands may be submitted many times and there is no controversy about it.

4. CONCLUSION

Law and justice have a close relationship, so the law must contain the value of justice. That also applies to the rules regarding the case review, which means that the rules must contain fair values. In connection with this discussion, the value of justice which is used as the basis for the regulation of review in Indonesia is referred to in the second principle of the Pancasila. In the second principle of Pancasila contained human values derived from the anthropological philosophical basis that human nature as a monoplurasim, one of which, namely the nature of nature as individual beings and social beings (monodualism). Following the nature of it, then humans must do justice to themselves, other human beings, society, nation, state, environment, and God Almighty. In this context, the value of Pancasila justice requires a balance associated with the protection of human interests. Every human being is given human rights and is balanced with human rights. That is, the interests of humans protected by the state through a rule of law are balanced. These interests or human rights may only be limited by law. Referring to the value of Pancasila justice, the rules regarding the review of criminal cases must be able to provide balanced protection of human interests, between individual interests and the public, nation and state interests. In this case, the rules regarding the party entitled to file a review and their object must be formulated expressly by giving the public prosecutor the right to file a review of the court’s decision which has obtained permanent legal force in the form of acquittal. The review submitted by the public prosecutor is only in the capacity of representing the public interest, not individual interests. Concerning the rules regarding the frequency of submissions for judgments that correspond to the value of justice,
it should only be given twice with certain conditions, which include the second period of
submission, reasons, and the final right of review.

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