

ANALYSIS OF DIFFERENCES IN EVIDENCE IN DISTRICT COURT DECISIONS AND SUPREME COURT DECISIONS: A CASE STUDY ON THE JUDICIAL REVIEW PROCESS

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ABSTRACT

A judicial review (PK) is a legal mechanism given to parties who are dissatisfied with a decision that has permanent legal force, either in the District Court or the Supreme Court. In Indonesia, a PK application can only be submitted once, as regulated in Article 268 paragraph (3) of the Criminal Procedure Code, and often involves new evidence (novum) as a basis for requesting a judicial review. The objective to be achieved in this study is to analyze the differences related to the evidence in the District Court decision and the Supreme Court decision in the review process. The method used in this study is juridical normative where the legal material used covers the theory, concept, legal principles and some regulations in accordance with the discussion of research. The method of data collection used is literature study where secondary data are used such as books, laws and related journals. The results of this study indicate that the difference in evidence in conducting judicial review becomes one of the considerations for the acceptance or rejection of PK by the Supreme Court. However, in fact, the specification of the quality of evidence is still not clearly explained where it will only create a blur of norms. Therefore, it is not surprising when the Supreme Court rejected many of the judicial review considering that there was no eligibility for the quality of the evidence received.

KEYWORDS

Differences In Evidence, District Court Decision, Supreme Court Decision, Judicial Review



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INTRODUCTION

Jurisdiction contained in the state of Indonesia arrangements related to the review of decisions that have the force of law can still be done with a frequency of one-time submission (Halafah, 2022). This mechanism is contained in Article 268 paragraph (3) of the Criminal Procedure Code. Reconsideration is seen as a

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fulfillment of principles in realizing human rights where it is further strengthened by the Constitutional Court's decision that reconsideration can be carried out once with conditional provisions (Loa, 2024).

This phenomenon was responded by the Supreme Court with the issuance of Circular No. 7 of 2014 which has a foundation in Article 24 paragraph (2) of Law No. 48 of 2009 on judicial power explaining that judicial review is only valid once. So it can be a legal norm debate involving two different rules so that in this mechanism there is legal uncertainty (Khasanati, 2022).

Moreover, the judicial review conducted to the Supreme Court is very difficult to qualify so that when the judicial review may be carried out more than once will only create an oversight Judge (Hidayat, 2023a). This mechanism can be seen based on data that has been released by the Supreme Court on the percentage of winning cases in judicial review with a period of five years as follows :

Table 1. Data Granted A Review Of The Last Five Years

Year	Percentage Of Cases
2017	15,01%
2018	15,37%
2019	15,14%
2020	15,33%
2021	18,82%

Source : Supreme Court Clerk

Based on the data that has been put forward, it can be said that the review granted over the past five years is relatively small. It certainly emphasizes on the requirement of irrelevant judicial review when many opportunities are given so that the subject of law can flex the judicial process (Kaikobad, 2021).

The mechanism for reviewing when there is new evidence can be done in several stages where by applying for review again to the Clerk of the District Court who decides the case (Prayogo, 2024). After receiving a review application that has been stamped with a stamp and various letters of evidence, the District Court sends the case to the Supreme Court (Saputro, 2017) .Upon receipt of the application for review that has been affixed with a stamp and various letters of evidence, the District Court sends the case to the Supreme (Pelu et al., 2021). Once it reaches the Supreme Court then the case is examined in accordance with the eligibility of judicial review (Suharno & Khaerudin, 2017). After all that has been done, the implementation of judicial review does not involve a judge who decides in the first instance (Sumakul, 2022).

Based on the phenomena that have been raised, it can be said that there are differences in the role of the review mechanism conducted by the District Court and the Supreme Court. However, both of them work together to carry out their respective roles in order to provide legal certainty to the community.

Some research related to the review has been done by several scientists. First, Pravidjayanto who focused on novum qualifications in the review (Pravidjayanto & Candra, 2024). The resulting scientific contribution emphasizes that novum's qualifications in judicial review must have a standard that convinces of a change in the verdict because the evidence submitted is weighted. The secon research by Maurizkha that focuses on judicial review as a form of legal protection (Maurizkha, 2022). The resulting scientific contribution emphasizes that judicial

review in civil cases can be a mechanism that can be taken in order to obtain legal protection where it is necessary for various requirements that must be met in the implementation of judicial review submissions. Third, lalamentik research that focuses on judicial review conducted by prosecutors (Einstein E. Lalamentik, 2018). The scientific contribution of this research emphasizes on judicial review to be one of the efforts that can be raised from the injustice of the verdict given by the judge.

Various studies that have been put forward above become a foothold for researchers in determining the academic gap so that researchers in conducting novelty and contribute scientifically related to differences in evidence in judicial review at the District Court and the Supreme Court.

This study aims to analyze the differences in evidence used in District Court and Supreme Court decisions in the Judicial Review (PK) process. More specifically, this study attempts to identify factors that influence the acceptance or rejection of PK by the Supreme Court based on the quality and appropriateness of the evidence submitted. By analyzing these differences, this study is expected to provide a clearer picture of the role of new evidence (novum) in the legal process in Indonesia.

The theoretical benefits of this study are to contribute to the development of legal science, especially related to the PK process and the importance of new evidence in ensuring legal justice. This study is also expected to enrich the literature related to PK procedures, so that it can be a reference for academics and legal practitioners in understanding more deeply the role of evidence in influencing court decisions.

RESEARCH METHOD

In this study, the method used is a normative legal approach. This method aims to analyze legal regulations related to differences in evidence in decisions of the District Court and the Supreme Court in the Judicial Review (PK) process.

Data Collection Techniques

Data collection in this study was carried out through literature studies. The data used are secondary data, which include sources such as books, laws and regulations, court decisions, scientific journals, and related legal articles.

Data Analysis

After the data was collected, the data was analyzed using a qualitative approach. This data analysis was carried out by examining the relationship between legal theory, legal concepts, and existing regulations related to evidence in the Judicial Review process.

Data Reduction

In this study, data that has been obtained through literature studies is selected and filtered to take important points that are directly related to differences in evidence in the Judicial Review process. Data that is irrelevant, not directly related to the legal issues discussed, or is redundant will be eliminated.

Conclusion Drawing

Conclusions are drawn after the data has been analyzed in depth. The conclusion in this study is obtained by identifying patterns, relationships, and differences between evidence in the District Court and the Supreme Court in the Judicial

Review process. The conclusion is drawn based on the findings that emerge from the data analysis and is associated with relevant legal theories.

RESULT AND DISCUSSION

Review Mechanism

Reconsideration can be interpreted as a judge's decision that has been completed but still has the possibility to file a resistance then it can be reconsidered. This application mechanism is carried out if the decision is considered unfair so that there is a need for review with various eligibility requirements in filing.

Judicial review is not one of the mechanisms that can eliminate legal certainty. But more than that, it is intended to maintain steadfastness and provide legal certainty for fair actions (Hariansah & Suganda, 2023). Judicial review can be said to be incidental, continuous and always found in the judge's decision even though it has permanent legal force which gives rise to the reason for the need for judicial review.

The application for reconsideration can be revoked as long as the eel is severed and can only be submitted once. Furthermore, the review mechanism is regulated in Paragraph (1) of Law No. 4 of 2004 which reads :

"if there are matters or circumstances determined by law against the court decision that has gained legal force can still be requested a review to the Supreme Court"

Based on the provisions of the article above, it can be said that the review can be submitted to the Supreme Court. Some reasons for the need for reconsideration are contained in Law No. 14 of 1985 article 67 where the various underlying reasons are :

1. When the truth is revealed, it is a lie.
2. If a case that has been decided found various evidence that is not contained in the examination time
3. If there is something that is not in the prosecution was granted
4. If the judgment given there is a mistake or error judge who is considered real

Based on these reasons, it can be said that reconsideration becomes a right as a form of achieving a legal certainty in which it has also been guaranteed by the relevant regulations.

The Role Of The District Court And The Supreme Court In The Stages In Judicial Review

In the perspective of legal history, the limitation of the norm "application for reconsideration (PK) can only be submitted 1 (one) time" in civil cases, is not a policy born from legislative initiatives (policy formulation), but rather a norm formulated and derived from the provisions of Article 7 of Supreme Court Regulation (PERMA) Number 1 year 1969 which states that an application for reconsideration (PK) can only be submitted once. The Supreme Court held that if the PK could be filed many times, it was feared that the legal instrument would be used to avoid execution.

Judicial review conducted through the District Court and then proceed to the Supreme Court is carried out by several processes in which this mechanism refers to Article 2 of Law No. 1 of 1980 on judicial review. Some step include :

First, the party of the re-review applicant who already has legal force is still submitted by the interested party or the authorized representative. *Second*, all forms of application can be made in writing Where in explaining the application must be clearly described and indicated in the Clerk of the District Court concerned in the case. *Third*, the option that can be chosen when it cannot be described in writing is to do it orally before the chairman of the District Court or a judge who has been appointed to record the application. *Finally*, after everything is done, the District Court sends all forms of application letters and case files to the Chief Justice.

In the process of the stages in the review carried out to the district court with the rapid submission of files to the Supreme Court has a clear purpose where when the review requires a reason then the party who filed can provide an answer where it has been contained in Article 67 of law no. 14 of 1985.

The opposing party in the review also gets a copy of the application which is in Article 67 of law no. 14 of 1985 must submit an answer within 30 days of receipt of the letter. after that, the answer letter is sent to the District Court and seasoned with a stamp and then sent to the Supreme Court to be registered in the case register book and checked for compliance with the terms of review. The head of the Supreme Court further determines the judge who decides the case and conducts the decision-making.

The relation of the Supreme Court to the application for judicial review can be distinguished on :

1. Reconsideration is unacceptable
2. Rejected verdict
3. A ruling granting an application for reconsideration

Further, it can be classified as non-acceptance of the review decision based on several reasons including :

1. The petition was not filed with the Supreme Court
2. The application is directed to persons who are not parties
3. The application is not based on the reasons referred to in Article 67 of Law No. 14 of 1985
4. Filed against a decision that has not received permanent legal force
5. Submitted by a representative without a power of attorney

Based on the various points that have been raised, it can be said that the acceptance of judicial review by the Supreme Court is carried out because the Supreme Court considers the application in accordance with eligibility. When the Supreme Court rejects a claim, it can be said that the application is unreasonable.

However, if the Supreme Court rejects the application, the application is not supported by the facts or circumstances that are the reasons for the application for review. By because still initial verdict applied.

Differences In Evidence In Judicial Review

The decision given by the judge either on the Cassation decision or the decision with permanent legal force but does not achieve satisfaction and justice can be done by reviewing the Supreme Court through the clerk of the District Court (W & Ginting, 2021).

The judicial review mechanism can be carried out when new evidence is found that is obtained after a verdict (Syahrial, 2022). So it can be said that there is

a difference in evidence from the initial decision so that it can change the decision that has been made by the judge (Ahmad, 2023). Therefore, the implementation of judicial review is one of the efforts in achieving community justice where this is really needed.

The existence of new evidence in the review becomes one of the considerations in the acceptance or rejection of judicial review by the Supreme Court (Widiastuti & Wibowo, 2021). Therefore, the new item must be able to provide strength and confidence in giving an acquittal or release from charges and lighter crimes (Pratomo, 2016). When there is a suitability of new evidence as a reference in judicial review then it can be said that the review is accepted by the Supreme Court (Hidayat, 2023b).

The applicant's review of the court decision (PK) is based on new evidence, the new evidence is stated under oath and approved by the Competent Authority where this mechanism is contained in Article 69 of Law Number 14 of 1985 as amended by Law Number 5 of 2004. The law that restricts the submission of applications for judicial review of court decisions (PK) can only be done if it can damage the sense of Justice of the justice seekers (Prasetyoningsih, 2023). Justice seekers expect that cases filed in court can be decided by judges who are professional and have high moral integrity, so as to produce decisions that not only contain aspects of legal certainty, but also dimensions of legal justice, moral justice, and social justice, considering that justice is the main goal to be achieved from the dispute resolution process in court (Rohim Yunus et al., 2020).

Items that become findings after the decision becomes one form of effort so that legal subjects are able to obtain legal certainty. However, in fact, the new goods are not always able to strengthen the subject of law so that it is necessary to explain specifically the various characteristics that can be mapped so that the new goods as evidence can be said to be feasible.

Provisions regarding novum are stipulated in Article 263 Paragraph (2) of the Criminal Procedure Code which provides the definition of novum as "new circumstances" that are known after the trial ends, or are known when the trial takes place, the results of which will relieve the convict. So it can be concluded that the elements that can be proposed by novum in the PK legal effort are evidence based on new circumstances that have the power to change the judge's decision and are found when the trial has ended.

In the Criminal Procedure procedure, New Evidence Found has various forms obtained from witness statements, expert statements, letters, instructions and information of the defendant (Ali et al., 2023). However, regulations related to evidence are not specifically explained in the Criminal Procedure Code so that the feasibility of new evidence becomes a question that can create a blur of norms.

In the doctrine of proof Yahya Harahap argues that the evidence as a clue can not stand alone in proving the guilt of the defendant, the evidence remains bound to the principle of minimum proof, so that the evidence has the power of proof it must be supported by at least one piece of evidence (Fatoni, 2019).

If the new circumstances are found in the form of evidence, then the evidence must be converted into the form of evidence in order to have valid evidentiary force. The application for reconsideration under the pretext that there is a novum, which is not a category of evidence as specified in Article 184 of the code of criminal

procedure, but in the phrase “new circumstances”, the limitation will be even more subjective since there is no legislation that regulates it.

Meanwhile, from the quality of the evidence, it can be said that there is confidence in new evidence that can free the defendant from lawsuits (Dani Karolustiawan Daulay, 2023). Therefore, differences in evidence should specifically strengthen the defendant's position in obtaining justice (Pratama & Ruslie, 2024). Therefore, it can be concluded that the eligibility requirements and the quality of the evidence must be able to lead to an acquittal which meets all the elements and is proven legally and convincingly in the previous trial. The second quality that can determine the quality of the evidence is to direct the verdict regardless of the lawsuit. This emphasizes the special circumstances in which the defendant is properly proven to have committed the act that naun was accused of not being in the period of the incident. The third quality can lead to unacceptable demands of Umm claimants. Furthermore, the fourth quality leads to a lighter verdict obtained by the defendant in the presence of new goods.

These qualities are still quite ambiguous as a condition for reconsideration considering that all judgments are limited to the power of the Supreme Court. Therefore, it is not surprising when the Supreme Court rejected many of the judicial review considering that there was no eligibility for the quality of the evidence received.

CONCLUSION

The mechanism of review when there is new evidence can be done in several stages where by making a request for review back to the Clerk of the District Court who decided the case. After receiving the application for review that has been stamped and various letters of evidence, the District Court sends the case to the Supreme Court. Once it reaches the Supreme Court then the case is examined in accordance with the eligibility of judicial review. After all that has been done, the implementation of judicial review does not involve a judge who decides in the first instance.

New items that become findings after the decision becomes one form of effort so that legal subjects are able to obtain legal certainty. However, in fact, the new goods are not always able to strengthen the subject of law so that it is necessary to explain specifically the various characteristics that can be mapped so that the new goods as evidence can be said to be feasible. from the quality of the evidence, it can be said that there is a conviction on new evidence that can free the defendant from lawsuits. Therefore, differences in evidence must specifically strengthen the defendant's position in obtaining justice. Therefore, it can be concluded that the eligibility requirements and the quality of the evidence must be able to lead to an acquittal which meets all the elements and is proven legally and convincingly in the previous trial. The second quality that can determine the quality of evidence is to direct the verdict regardless of the demands of huku,. This emphasizes the special circumstances in which the defendant is properly proven to have committed the act that naun was accused of not being in the period of the incident. The third quality can lead to unacceptable demands of Umm claimants. Furthermore, the fourth quality leads to a lighter verdict obtained by the defendant in the presence of new goods.

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