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Determination of a Witness to Be a Defendant in a Criminal Corruption Case

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ABSTRACT: The background for carrying out this research is that there is a rationale for legal claims in order to determine a legal subject of a Witness to be the legal subject of a Defendant directly by the Panel of Judges in an ongoing criminal justice process for criminal acts of corruption, in order to carry out justice or law enforcement more effectively and efficiently, so that substantive justice can be achieved in law enforcement.

The methods that have been used in this research are legal actions that allow a Witness legal subject to become a legal subject for the Defendant directly by the Panel of Judges in an ongoing judicial process, normative juridical approach legal research or research that examines legal rules according to library research, and the research specifications are analytical descriptive, and in this research secondary data was obtained. The data collection technique was carried out through literature study, and the data analysis used was qualitative and explained descriptively.

This research concludes that in the existing criminal justice system, the legal subject of the Witness can actually be the legal subject of the Defendant in an ongoing trial; it's just that such "determination" is not made explicitly. To determine a witness as a defendant, there are two parties who can take the initiative to determine the witness directly as a defendant in a trial process at a corruption criminal court. Namely the Public Prosecutor, especially the KPK Public Prosecutor. Carried out at the request of the Public Prosecutor to the Panel of Judges.

KEYWORDS: Witness, Defendant, Corruption Crime Trial

I. BACKGROUND

The idea that the legal subject status of a witness in a criminal corruption case can immediately obtain a "Determination" to become a person with the legal subject status of a Defendant has long been developed among practitioners, especially the Public Prosecutors of the Corruption Eradication Commission. This idea is interesting to study scientifically. This idea is motivated by the urgency of the importance of taking steps to eradicate criminal acts of corruption that are faster and more effective or more extraordinary (*extraordinary*) in overcoming crimes against humanity, but without ignoring the objectives of the law which can guarantee balance so that in these relationships there is no chaos in society.[1]

Such an idea is felt as an urgent need, considering that it is generally understood that corruption is a crime *serious crime* in Indonesia it has spread and spread in society, and needs to be eradicated effectively and efficiently. There has developed a belief that corruption in Indonesia is like a malignant cancer. The disease called corruption has the potential to kill the system and harmony of a body in the Unitary State of the Republic of Indonesia which is similar to a complete micro system, namely the human body. Currently, the Indonesian nation is faced with the development of criminal acts of corruption in Indonesia which continues to increase from year to year. The development and increase of corruption damages the system of society, nation and state, therefore it must be combated with the legal system.

As a form of crime *universal*, Corruption cannot be called a new problem in the legal and health problems of a nation and state. Development

Corruption in Indonesia has now reached its nadir, which is very dangerous for development and hinders prosperity in achieving the level of prosperity of Indonesian society. Corruption has touched all levels of society, including civil society, corruption has affected state servants and law enforcers.

In the broad scope of criminal law, both substantive criminal law (material) and criminal procedural law (formal law) are called criminal law. Criminal procedural law functions to implement substantive (material) criminal procedural law, so it is called

[1] C.S.T Kansil, *Introduction to Indonesian Law and Legal System*, Balai Pustaka, Jakarta, 1986, p. 40.

formal criminal law or criminal procedural law.[2] Therefore, the nature of the Criminal Procedure Law is that its provisions are coercive. The purpose of such a characteristic is to protect collective interests in maintaining a sense of security, peace and tranquility in social life. Apart from that, the nature of Criminal Procedure Law has the dimension of protecting Human Rights. This dimension requires that Indonesian criminal procedural law must protect the interests and rights of people who are being prosecuted as suspects or defendants.

The Criminal Procedure Law requires that people who are being processed and prosecuted by law receive fair treatment. This will aims to prevent people from making mistakes in judging someone (*error in person*). This will also aims to uphold the principle of presumption of innocence (*presumption of innocence*).[3] This will dictates that people be tried in accordance with applicable law, and be punished according to the evidence revealed at the trial, and so on.

In the practice of criminal proceedings in Indonesia, it is often found that case handling takes a long time, especially during the investigation stage. For level matters
the proof is difficult, as in cases of criminal acts of corruption, it may still be understood that there are obstacles such as collecting preliminary evidence or sufficient evidence so that further investigation can be carried out.[4] These obstacles have been the reason it took a long time to achieve the desired results. It is generally understood among investigators that there are difficulties in examining witnesses. This is due to the difficulty of finding the required witnesses or other technical obstacles.

In this case, it also shows that there are still obstacles due to the protracted investigation due to the many tasks,[5] namely when arresting a criminal act of corruption where the bright spots are clear. What is meant by these signs or bright spots, namely bright spots in handling corruption cases. What is needed more is progressive action to make the promises of the Constitution a reality.[6]

This needs to be explained further as follows. In this handling, at the investigation level, a person has been designated as a suspect by investigators. This person has also been handed over to the Public Prosecutor to be made a Defendant by the Panel of Judges before the court. Likewise with evidence. In fact, these items have been shown before the court. Likewise, evidence, such as witnesses, has been examined before the court trial. Furthermore, another bright spot is that there is support in the form of approval from the Judge and Legal Advisor regarding the status imposed on the Defendant. However, in reality, in the ongoing process at the court trial, new facts were discovered.

Likewise, during the trial it was realized that these facts had been explained by the Public Prosecutor in the Indictment Letter. The Public Prosecutor's indictment is that apart from the perpetrator who must be held criminally responsible as the Defendant, there are also witnesses who have a good role as those who order an action to be carried out (*docommit*) or who participated in an action (*complicate*).[7] In carrying out the Corruption Crime in question. According to the Public Prosecutor, this criminal act of corruption was carried out by legal subjects who had the status of witnesses in the trial together with legal subjects who were conceptualized with the Defendant.

Furthermore, even in the Indictment Letter, it is possible that a Corporation can also act as a place to receive and store the flow of money resulting from Corruption Crimes. However, all the signs are clear, especially legal subjects which are conceptualized with witnesses or corporations which have a role as *Doing* nor *Complicit* The investigation process has not yet been carried out by investigators.

If a re-investigation is carried out on the legal subjects of witnesses who participated in committing criminal acts together with the Defendant as stated in the description of the signs or bright spots above, it is certain that it will be protracted or take time to resolve the case in question. It is a norm that investigators will recall witnesses. The purpose of the summons is to carry out an inspection which will be stated in the inspection report (BAP). This resulted in these witnesses being summoned again by investigators. Summoning
then it happens like back and forth. Likewise, giving witness statements will also be done back and forth, repeating things (information) and even the same questions that have been asked to the witness and by the investigator. The occurrence of inefficiency, namely what constitutes a violation of the principles of fast, simple and low-cost justice, as stated above.

Apart from the investigation process, obstacles can also be seen in the prosecution process. What happens at the investigation level will be repeated at the prosecution level. There will be repetition at the prosecution level in the form of summoning witnesses. Again, such repetition clearly constitutes an inefficiency or violation of the law, namely a violation of the principles of justice stated above. If a case is developed against the legal subject of a witness who has a joint role with the legal subject of the Defendant in committing a criminal act of corruption if a legal process is not carried out, then fair law enforcement will not be

[2] Andi Hamzah, *Indonesian Criminal Procedure Law*, Second Edition Sinar Graphics, Jakarta, 2016, p. 4.
[3] *Ibid*
[4] Ruslan Renggong, *Special Criminal Law Understanding Offenses Outside the Criminal Code*, First Edition, Prenadamedia Group, Jakarta, 2016, p. 80.
[5] R. Abdoel Djamali, *Introduction to Indonesian Law*, Revised Edition, Raja Grafindo Persada, Jakarta, 2014, p. 200.
[6] NN, *Jihad Against Corruption*, Kompas, Jakarta, 2005, p.,4.
[7] E. Y. Kanter and S.R. Sianturi, *Principles of Criminal Law in Indonesia and Their Application*, Storia Graphic, Jakarta, 2012, p. 342-344.

achieved.

Continuing the description of the handling of criminal corruption cases just presented above, Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP) does not regulate how to implement the principles of justice which is carried out simply, quickly and at low cost.

It was also stated that the status as a Defendant in the existing Decision should be the status of a Defendant based on Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP). It's just that researchers also need to point out that from the research carried out, in this case the Criminal Procedure Code itself is not expressly stated (*explicitly*) contains a clear formulation of who and how the authorities actually determine the status of a defendant in a criminal case.

If you follow the principle of presumption of innocence (*presumption of innocence*) then no other party other than the judge or panel of judges should be able to determine a person's status as a defendant, after a process has taken place. This is meant by the pre-adjudication process which takes place from the inquiry, inquiry and prosecution stages and stops when the Indictment has been registered in Court.

"The indictment is dated and signed and contains: a. Full name, place of birth, age or date of birth, gender, nationality, place of residence, religion and occupation of the suspect. b. A careful, clear and complete description of the criminal act charged, stating the time and place where the crime was committed."

From the formulation of Article 143 paragraph (2) above, it is clearly revealed that a person's status as a legal subject for the Defendant is not found in the Indictment Letter prepared and brought by the Public Prosecutor during the adjudication or trial process in Court. However, the impression among the public is as if the Defendant's status as a legal subject has started since the Indictment Letter against him was issued at the Prosecution stage.

Paying attention to the formulation of the provisions of the Criminal Procedure Code above, what is correct is that the status of the Defendant as a new legal subject is in the Trial Process (adjudication) in the Court led by a Judge/Panel of Judges. In the decisions observed, as described below, there is an impression, as has happened so far in legal practice, that the status of the Defendant as a legal subject in a criminal corruption case has begun to emerge through the Public Prosecutor's Indictment Letter at the Corruption Eradication Commission. The indictment was prepared by the Public Prosecutor of the Corruption Eradication Commission.

The status of a legal subject as a defendant only arises after the trial date is determined by the judge appointed by the Chief Justice to hear the case (Article 152 paragraph (1) of the Criminal Procedure Code). The status of the legal subject changed from Suspect, or even more extreme, namely Witness as stated in Article 143 paragraph (2) above, to Defendant because according to Article 152 paragraph (2) of the Criminal Procedure Code the judge appointed by the Chief Justice ordered the Public Prosecutor to to summon the Defendant and Witnesses to the court session. In reality, these witnesses are the Defendant, without having to be questioned through a special determination for that purpose.

The author then believes that a breakthrough needs to be made to overcome the obstacles above. The breakthrough which is in line with or in accordance with legal dictates is due to the adage that criminal cases of corruption bear the title of a crime. *serious crime* so the way the case is handled must also be *extra ordinary crime*.[8] Because it is an extraordinary matter, there is no harm in considering an extraordinary procedural law as well. Therefore, the procedural law must be consistent *lex specialist* specifically regulated in the Corruption Crime Law outside the provisions of the Criminal Procedure Code (KUHAP).

II. PROBLEM FORMULATION

Based on this explanation, the author is interested in writing a journal with a problem formulation. What is the mechanism for determining witnesses as defendants in corruption cases?

III. DISCUSSION

A. Factors in Determining a Witness to Become a Defendant in a Corruption Crime Case

Criminal procedural law requires that people who are being processed and prosecuted by law receive fair treatment. This will aims to prevent people from making mistakes in judging someone (e*rror in person*). This will also aims to uphold the principle of presumption of innocence (*presumption of innocence*). [9] This will dictates that people be tried in accordance with applicable law, and be punished according to the evidence revealed at the trial, and so on.

1. Basis of Error in judging (*Error In Person*)

Understanding the terms wrongful arrest or *error in person* not contained in the Criminal Procedure Code or other statutory regulations. However, theoretically the meaning of wrongful arrest or *error in person* This can be found in the doctrine of legal

[8] Ruslan Renggong, *Op.Cit*, hlm. 60.

[9] Fitria, *The existence of the Corruption Eradication Commission (KPK) as a supporting state institution in the Indonesian constitutional system*, hlm. 12.

experts' opinions. Literally the meaning of wrongful arrest (*error in person*) is mistaken about the person in question or mistaken about the person.[10]

Confusion in the arrest about his person is termed with *disqualification in person* which means that the person arrested or detained was mistaken,

while the person who was arrested has explained that he is not the one who is intended to be arrested or detained.[11]

Capture error or *Error In Person* This is an investigator's negligence in the criminal process, where the criminal process in question is in the case of the arrest process carried out by the investigator. So that this problem can be resolved through pre-trial institutions. Investigators sometimes handle cases where the description of the identity of the perpetrator is unclear when carrying out their duties, for this reason the National Police as investigators sometimes have difficulty finding solutions in the investigation process.[12]

2. Basis of Presumption of Innocence (*Presumption of innocence*)

This principle is mentioned in Article 8 of Law Number 4 of 2004 concerning Judicial Power and also in the general explanation of point 3c of the Criminal Procedure Code which reads: "Every person who is suspected, arrested, detained, prosecuted and/or brought before a court must be considered innocent. until there is a court decision stating the error and obtaining permanent legal force."

In special criminal legislation, especially the Corruption Eradication Law, Articles 17 and 18 have provisions that seem to emphasize this principle. Article 17 especially needs to pay attention to the following paragraphs (1) and (4):

"The judge may allow the defendant for examination purposes to provide information proving that he is not guilty of committing a criminal act of corruption" paragraph (1).

"If the defendant does not provide information about the evidence as intended in paragraph (1), then this information is seen as something that is at least detrimental to him. In such cases the public prosecutor is still required to provide proof that the defendant is guilty of committing a criminal act of corruption" paragraph (4).

In line with that, Article 18 paragraphs (1) and (2) reads:

"Each defendant is obliged to testify about all the property of his/her spouse, children and every person, as well as bodies suspected of having a relationship with the matter in question when requested by the judge" paragraph (1).

"If the defendant cannot provide information that satisfies the court regarding the source of his wealth which is disproportionate to his income or the source of additional wealth, then this information can be used to strengthen the testimony of each witness that the defendant has committed a criminal act of corruption" paragraph (2).

It is clear that the two articles above do not show us the adoption of a reversal of the burden of proof, because the public prosecutor is still obliged to prove that the defendant was corrupt. Still adhered to in this regard *presumption of innocence.* It's just that this provision emphasizes this principle, because it can only strengthen the testimony of other witnesses that the defendant is corrupt.

3. The principle of fast, simple and low-cost justice

Actually, this is not something new with the birth of the Criminal Procedure Code. From the beginning, since the existence of HIR, this principle has been implied in more concrete words than those used in the Criminal Procedure Code. To indicate a fast justice system, many provisions in the Criminal Procedure Code use the term "immediately". In HIR, for example Article 71 says, that if *assistant magistrate* carry out detention, then within twenty-four hours notify the prosecutor.

Of course the term "one time in twenty-four hours" is more definite than the term "immediately". Thus, this excellent provision needs to be implemented in practice by law enforcers.

Inclusion of speedy justice (*cash justice*; *speedy trial*) in the Criminal Procedure Code quite a lot is realized by the term "immediately". The principle of fast, simple and low-cost justice adopted in the Criminal Procedure Code is actually an elaboration of the Law on the Basic Provisions of Judicial Power.

Speedy trials (especially to avoid lengthy detention before a judge's decision) are part of human rights. Likewise, the free, honest and impartial judiciary is highlighted in the law.

General explanations outlined in many articles in the Criminal Procedure Code include the following:

a. Articles 24 paragraph (4), 25 paragraph (4), 26 paragraph (4), 27 paragraph (4), 28 paragraph (4). Generally, these articles contain provisions that if the detention period as stated in the previous paragraph has passed, then investigators, public prosecutors and judges must have released the suspect or accused from detention for the sake of law. In itself, this encourages investigators, public prosecutors and judges to speed up the resolution of the case.

[10] Muhammad Fajrul Falah, Fanny Tanuwijaya, Samuel SM Samosir *Online Gambling: Criminal Study of Decision Number 1033/PID.B/2014/PN.BDG*, Lentera Hukum e-Journal, Volume 4, Issue 1 (2017), pp. 31- 45, Jember University, 2017, p. 6.

[11] http://www.negara Hukum.com/ Hukum/besar-dan-wewang-praperadilan.html, accessed on 02 February 23.15 WIB

[12] Yessi Kurnia Arjani Manik, Analysis of the Responsibility of Police Investigators in Relation to Wrongful Arrests or Errors in Persona, 2013, p. 21

b. Article 50 regulates the right of suspects and defendants to immediately be informed clearly in a language they understand about what is suspected of them at the time the examination begins, paragraph (1), immediately submit the case to the court by the public prosecutor, paragraph (2) immediately try it by the court , paragraph (3).

c. Article 102 paragraph (1) states that investigators who receive a report or complaint regarding the occurrence of an incident that is reasonably suspected to constitute a criminal offense are obliged to immediately carry out the necessary investigative actions.

d. Article 106 says the same thing above for investigators.

e. Article 107 paragraph (3) states that in the event that a criminal act has been investigated by the investigator in Article 6 paragraph (1) letter b, immediately submit the results of the investigation to the public prosecutor through the investigator in Article 6 paragraph (1) letter a.

f. Article 110 regulates the relationship between public prosecutors and investigators, all of which are accompanied by the word immediately. Likewise Article 138.

g. Article 140 paragraph (1) states: "In the event that the public prosecutor is of the opinion that from the results of the investigation a prosecution can be carried out, he shall prepare an indictment as soon as possible."

B. Mechanism for determining witnesses as defendants in corruption cases

Seeing and searching and finding the law is only mainly in two main sources. The first source, namely statutory regulations and then the second source, namely court decisions that apply in a country, in this case in the Indonesian legal system or jurisdiction.

Therefore, as part of the problems in the formal criminal law system that applies in the Pancasila legal system or the Indonesian legal system, the handling of corruption cases committed by the Police and Prosecutor's Office must primarily refer to Law Number 8 of 1981 concerning Criminal Procedure Law. (Criminal Code). Meanwhile, the material criminal law system refers to Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes.

The status of a legal subject as a Defendant only emerges after the date of trial is determined by the judge appointed by the Chief Justice to hear the trial.

case (Article 152 paragraph (1) KUHAP). The status of the legal subject changed from Suspect, or even more extreme, namely Witness as stated in Article 143 paragraph (2) of the Criminal Procedure Code above, to Defendant because according to Article 152 paragraph (2) of the Criminal Procedure Code the judge appointed by the Chief Justice ordered the Prosecutor to General to summon the Defendant and Witness to appear at the Court hearing

Bagan 1.

Case Handling Mechanisms According to Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP)

The witnesses in the Decisions described below, in reality, are the Defendants, without having to be stated through a special Determination for that purpose.

In other words, the status of a defendant as a legal subject is an automatic status, which in the decisions observed in this research is automatic from the witness without being determined at the trial stage. So it can be stated here a general legal principle of the findings of this research, namely that generally the status of a Defendant is a change from his status as a Suspect or Witness at the adjudication stage of every criminal case in Court.

Indeed, there is no mechanism for proceeding either in the Criminal Procedure Code (KUHAP) or in the Corruption Crime Law itself which regulates what happens if a witness who is giving a statement at trial turns out to be based on evidence and evidence that have a common role. -together with the defendant in carrying out a criminal act of corruption, so that upon the Judge's order to the Public Prosecutor or at the request of the Public Prosecutor to the Judge to determine the witness directly to be the Defendant in the same case.

Investigation is exactly the same as the essence of evidence at trial, even at trials that are open to the public with the presence of several parties such as a panel of Corruption Judges consisting of 5 (five) people or 3 (three) people who lead the trial, there is a team of Prosecutors The general tasked with proving the charges and the existence of a team of legal advisors who defended the interests of the defendant were also attended by court visitors from various levels of society, so that the facts were extracted to find out whether the defendant was true or not.

guilty or not guilty is more accurate and if the public participates in monitoring then there is no reproach for law enforcers such as judges, public prosecutors and legal advisors to carry out case engineering, abuse of authority and manipulation of evidence rather than collecting evidence at the investigation stage because at the investigations tend to be more closed and confidential, the investigator's techniques in collecting evidence and evidence cannot be known to the public, so there tends to be fabrication of cases, abuse of authority by investigators and manipulation of evidence and many other things.

Thus, changes should be made to the procedures for procedural mechanisms in handling cases, especially in Corruption Crime cases, because the real essence of the investigative function is in court hearings which are held openly to the public and carried out by several parties. Therefore, a witness should be proven in a court trial open to the public before the panel of judges, public prosecutor and legal advisor as well as the defendant who has the role as in articles 55 and 56 of the Criminal Code to realize the occurrence of a criminal act of corruption together with the defendant, then on the orders of the panel judge to the public prosecutor

or at the request of the public prosecutor to the panel of judges, the witness is immediately designated as a defendant.

In determining a witness as a defendant in a criminal corruption case, the following conditions must be met, namely:

1. Has entered the trial process throughout the evidentiary process in court. 2. The position of the witness at the time of the trial was presented as a witness, not yet presented as a defendant.
3. A witness is determined to be a defendant when the witness is examined as a witness in court and before being examined as a witness, there must first be evidence and evidence that strengthens whether the witness also had a role in bringing about the occurrence of a criminal act, if necessary, confrontation with the witness is carried out. -other witnesses also for the defendant.
4. In the prosecution of the main matter of the Prosecutor, the position of the witness has already been explained as ***docommit*** or ***complicate*** together with the defendant in carrying out the criminal act.
5. During the evidentiary proceedings, the fact was discovered that the witness also had a role in committing a criminal act of corruption together with the defendant based on 2 (two) or more pieces of evidence that were in agreement with each other, including in accordance with the evidence presented at the trial.
6. Not in the process of investigation by investigators in the same case or ***spiltzing*** with the defendant who is currently on trial or in other words the legal subject whose status as a witness during the trial does not yet have the status of a suspect in the case development process. If the legal subject is in the process of investigation and has the status of a suspect in the development of a case that has been tried, then the SPDP is attached to the case file and the prosecutor's indictment explains that the legal subject has the status of a suspect as stated in the SPDP.

Procedure for determining a witness as a defendant in a Corruption Crime proceeding:

1. At the request of the Public Prosecutor to the Panel of Judges or on orders through the determination of the Panel of Judges to the Public Prosecutor, then the Panel of Judges assesses and issue a determination that a witness in a trial is found to be based on 2 (two) or more pieces of evidence and evidence presented at trial, that witness is worthy of being used as a defendant to be tried together with the defendant who is being tried in the same case.
2. After the determination of the defendant's status is issued by the Panel of Judges, the Public Prosecutor is given two weeks to add the identity of the witness who was determined to be the defendant by the panel of judges in the original indictment or the indictment that has been read to the defendant currently on trial.
3. The witness who was accused was given two weeks by the Panel of Judges to find legal counsel.
4. If the judge is of the view that a witness who has been named as a defendant needs to be immediately detained, then he must be detained immediately.
5. Once the witness has the status of a defendant, the trial continues at the same time as the first defendant who has previously been tried with no need to repeat presenting evidence in court if the evidence has already been presented at trial, unless it is deemed necessary at the request of the witness who was made the defendant. For his defense, the evidence and exhibits were presented again before the court.

In determining a witness to be a defendant, based on Law No. 8 of 1981 concerning the Criminal Procedure Code from articles 50 to article 68 regulates the rights of a suspect, therefore the rights referred to in the researcher's opinion also clearly apply to the rights of a suspect. a defendant, because the status of a suspect will automatically change to the status of a defendant, these rights are:

1. Has the right to immediately receive an examination by an Investigator and can then submit it to the Public Prosecutor and has the right to have the case immediately brought to Court by the Public Prosecutor and immediately tried by the Court (Article 50).
2. Has the right to be informed clearly in a language he understands about what he is accused of and/or charged with in order to prepare his defense (Article 151).
3. Has the right to provide information freely to investigators or judges during examinations at the investigative and court levels (Article 52).
4. Have the right at all times to receive assistance from an interpreter or in the case of deafness and/or deafness (Article 53).
5. Has the right to receive legal assistance from one or more legal advisors during any time and at every level of examination for the purposes of his defense (Article 54).
6. Has the right to contact his legal advisor in accordance with the provisions of the invitation law (Article 57).
7. Has the right to have a Legal Advisor appointed for him, at all levels of examination if the criminal offense he has committed is punishable by the Death Penalty or a penalty of 15 years or more or for those who are incapacitated who are threatened with a sentence of 5 years or more who do not have their own legal advisor, who is obligation for the official concerned to appoint a legal advisor for him free of charge. (Article 56).
8. For foreign nationals who are subject to detention, they have the right to contact and speak with representatives of their country in facing the process of their case (Article

57).

9. The suspect has the right to contact and receive visits from his personal doctor for health purposes (Article 58).
10. Has the right to be notified of his detention by authorized officials, at all levels of examination in the judicial process, to his

family or other people in the same household as to obtain legal assistance or guarantees for his suspension (Article 59).

11. Has the right to contact and receive visits from parties who have family or other relationships in order to obtain guarantees for suspension of detention or efforts to obtain legal assistance (Article 60).
12. Has the right directly or as an intermediary legal advisor to contact and receive visits from his relatives in matters that have nothing to do with the case or work interests or for the interests of his family (Article 61).
13. Has the right to send letters to his Legal Advisor and receive letters from his Legal Advisor and relatives whenever necessary and to have stationery prepared (Article 62).
14. Has the right to contact and receive visits from clergy (Article 63). 15. Has the right to seek and nominate witnesses and/or someone who represents his expertise (expert) to provide information that is favorable to himself (Article 65).
16. Has the right to demand compensation and rehabilitation (Article 68)

IV. CLOSING

The mechanism for determining a witness as a defendant is at the request of the Public Prosecutor to the Panel of Judges, based on 2 (two) pieces of evidence or more and the evidence shown at trial, the witness is worthy of being made a defendant to be tried together with the defendant who is being tried in the same case. The trial continues at the same time as the first defendant who has already been tried before and there is no need to repeat presenting evidence in court if the evidence has already been presented at trial.

The panel considered the role of each in causing the criminal event to not be of the same degree, one being *perpetrator*, others just opt-in (*co-perpetrator*) just. Article 55 of the Criminal Code, OK *accomplice* nor *co-perpetrator* convicted as *perpetrator*. The Panel of Judges argued based on the provisions of Article 65 paragraph (1) of the Criminal Code. Thus, the element of "committing several acts which must be viewed as independent acts so that they constitute several crimes" has been fulfilled and legally proven according to law.

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