

Law Review a Doctor's Certificate in the Judicial System of Indonesia on the Criminal Acts of Corruption

Redyanto Sidi¹, Samuel Gunawan², Muhammad Yoga Dwi Anggara Sopiyan³,
Elvida Sulistiana Sinaga⁴

¹Lecturer Master of Laws Postgraduate Universitas Pembangunan Panca Budi

^{2,3,4}Students of the Master of Laws Postgraduate Universitas Pembangunan Panca Budi

Corresponding Author: Redyanto Sidi

ABSTRACT

Phenomenon by providing a Doctor's certificate in the criminal justice system involving a witness, a suspect, accused in corruption cases start of the examination in the Police, the Prosecutor's office, Corruption Eradication Commission, the Court, as well as in Correctional Institutions, stating that the person concerned should be treated and treated specifically and also nothing should be referred to the hospital with complete amenities, this phenomenon has been carried out since long. The utilization of a doctor's certificate is against the law in criminal cases of corruption, according to the dynamics of law enforcement in Indonesia is certainly not going to stop. If this issue continues to be adversely affects the process of law enforcement in Indonesia. The research method used in this research is normative juridical. The source of the data obtained in this research is sourced from the material library and descriptive analytics which is intended to reveal a problem or situation or event as it is so that it can uncover the actual facts. The results in this study show that Fraud and irregularities a Doctor's certificate will easily occur. There is a strong tendency among law enforcement, that a doctor's certificate is evidence that the strong, and can not be contested. In the history of law enforcement corruption in Indonesia, law enforcement has yet to cultivate the examination and make a doctor's certificate is genuine or fake and can be justified scientifically and professionally. In addition, it is also never ask for another opinion from another doctor to check the health of a

person declared sick and was unable to be present in the judicial process, from the previous doctor.

Keywords: *A Doctor's Certificate, Criminal Justice, Corruption*

INTRODUCTION

Phenomenon by providing a Doctor's certificate in the criminal justice system involving a witness, a suspect, accused in corruption cases start of the examination in the Police, the Prosecutor's office, Corruption Eradication Commission, the Court, as well as in Correctional Institutions, stating that the person concerned should be treated and treated specifically and also nothing should be referred to the hospital with complete amenities, this phenomenon has been carried out since long.

The first case, in the Reign of President H.M Suharto, the Indonesian people were struck by a blurring of the corruptor Edy tansil has given permission for treatment of Correctional Institutions Cipinang to the Police Hospital. Escorted by standard procedures remain in LP Cipinang, when finished is checked in the Hospital the Police, it turns out that Edi tansil has run away to a foreign country until now.

The second case, termination of the trial H.M Suharto, the former Second President of the Republic of Indonesia

period 1968-1998, with the alleged corruption of trillions of dollars. This case raises the pros and cons in the community, there is a refuse termination of the trial and there are those who approved the decision of the judge. Hakmi weigh based on a Doctor's certificate stating H.M. Suharto suffer from permanent pain because of advanced age and disruption of the power of his memory, in the end the judge in the case to stop the trial and re-opened after the former President of the to-2 RI is declared cured by the doctor.

The third case, a case that became the attention of the anti-corruption activists as well as the observer of the law that is the case, Bambang W. Soeharto. The owner of PT Beach Aan such his case file has been delegated in Court. The trial was held in the year 2015. However, legal counsel, Bambang W. Suharto memintak to the Judges that his client did not deserve to stand trial because of severe pain and could not follow the trial is running. Bambang W. Suharto often do not attend the trial. However, eventually, Bambang W. Suharto present at the hearing with the condition of lying in the bed of the patient. The Judges finally believe if Bambang W. Suharto really sick and unfit to attend the trial. Then, the indictment terhadap Bambang W. Suharto's not acceptable (niet ontvankelijke verklaard) due to the concerned severe pain. But the public was startled Bambang W. Suharto was seen attending the event Hanura Party at the Sentul International Convention Center Bogor on February 22, 2017. The surprise Bambang W. Soeharto in the event was sworn in as Vice Chairman of the Board of Trustees of the Hanura.

Efforts menhinder the inspection process even arrests carried out against suspected of corruption, often equipped with a letter of sakti, i.e. medical certificate. The case of the most dramatic that the operationalization of the commission to capture Setya Novanto, who pretend to be the victim of a car accident, then ask to be hospitalized. In the case of Setya Novanto, the doctor at the hospital who took care of

Setya Novanto ironically violating professional ethics, the oath of the doctor, and the laws and regulations of other health because it has helped the criminal act. In addition, Setya Novanto has been processed at the trial, the doctor who helps Setya Novanto in making the letter must also undergo a criminal.

In the perspective of law, corruption is categorized as a crime of extraordinary committed by perpetrators who are educated, professional, who have positions and authority or which is also known by the term white-collar crime (white collar group). Corruption has several characteristics as follows:

1. Corruption usually involves confidentiality, unless already rampant and radical so that individuals who are in power do not be tempted to hide their deeds;
2. Corruption involves many actors;
3. The perpetrators of corruption are usually sought to cloak his actions with the sheltering behind the justification of the law;
4. Those who are involved in corruption are those who want the decisions firmly and those who are able to influence the decision;
5. Every act of corruption contains fraud;
6. An act of corruption against the norms of duty and responsibility in society;
7. Corruption involves the element of obligation and gain feedback;
8. Every form of corruption involves a dual function that is contradictory of them committing the act;

The utilization of a doctor's certificate is against the law in criminal cases of corruption, according to the dynamics of law enforcement in Indonesia is certainly not going to stop. If this issue continues to be adversely affected the process of law enforcement in Indonesia.

The criminal justice system therein contained motion systemic of subsystems his supporters, namely the Police, the Prosecutor's office, Correctional Institutions and Advocate as a whole and is one that

seeks to transform inputs into outputs that into the criminal justice system.

MATERIAL AND METHOD

The research method used in this research is normative juridical. Normative juridical research method is a research method that menilite against the principles, theories of law, the systematics of the law, the standard of synchronization vertical and horizontal, comparative law and legal history. The source of the data obtained in this research is sourced from the material library consisting of laws and regulations, scientific journals, articles related to the issue of utilization of a doctor's certificate. This research is a descriptive analytic intended to reveal a problem or situation or event as it is so that it can uncover the actual facts.

RESULTS AND DISCUSSION

The Strength Of Evidence A Doctor's Certificate In The Judicial System Indonesia

Law enforcement in combating corruption in Indonesia in the development of a wave in the ocean, arise and sink follow the political development of the law on corruption eradication. Equalize the relationship between law enforcement agencies in combating corruption following the laws and regulations that apply not forever work in accordance with which it aspired. Justice, certainty, and the expediency of the law to be the purpose of the eradication of corruption that must be realized.

The doctor is one of the oldest professions in the world that has long been widely known to the public that his duty to do the treatment against the disease and the various functions of other health care including providing services preventive to prevent the onset of certain diseases. In addition, the doctor also authorized to give certificate of Pain, health certificate, as well as a certificate of Death of the patient.

That the medical profession always cling to and behave according to the honor

of his profession, then before the practice of his profession doctors are required to take an oath, as a pledge of the profession better to the public (humanity), to patients, colleagues, and for yourself. The oath and/or promise the profession of the doctor has been formulated carefully. Here is the pronunciation of the contents of the oath or doctor's appointments:

1. I will dedicate my life to the interests of humanity;
2. I will maintain the utmost dignity and tradition of the sublime position of medicine;
3. I will perform my duties with how respectable and dignity, in accordance with the dignity of my job as a doctor;
4. I will perform my duties with emphasis on the interests of the community;
5. I will keep everything that I know because of my work and because of the knowledge I as a doctor;
6. I will not use the knowledge of medicine me to something that conflicts with humanity, though threatened;
7. I will always put the health of the patients;
8. I will endeavor in earnest so that I am not affected by the consideration of religious, ethnic, sex differences, political party or social standing in fulfilling obligations to the patients;
9. I will respect any life members of the start time of conception;
10. I will provide to teachers and co-teachers-my teachers the respect and the statement of thanks should;
11. I will treat my colleagues and I as I would wish to be treated;
12. I will obey and practice the Code of Medical Ethics Indonesia;
13. I swear this oath solemnly and with risking the honor of myself.

The vows of the above stipulated in Government Regulation No. 26 Year 1960 on the Vows of a Doctor. This Government regulation is a legal product that should be imbued, adhered to and carried out by a doctor. Violation of the vows doctor threatened with sanctions according to the

applicable law. According to Bambang Poernomo, action against the Code of Ethics can be a variety of actions, either in the form of coaching/monitoring or form of action is administrative sanctions, either directly or through the authority of the Minister of Health. Medical ethics and law administration can set the accountability of medical in order to violations of ethics and professional activity. On the other hand, the behavior of the doctors who do not meet the standards of the profession can be extended into responsibility by omission or negligence in accordance with the provisions of law applicable in the field of civil and criminal law.

In criminal cases, there is no hierarchy of evidence. In Law Number 8 of 1981 on Criminal Law in Article 184 paragraph (1) of the criminal procedure code valid evidence is: a) witness statements; b) the testimony of experts; c) the; d) instructions; and e) the defendant.

The type of letter that can be accepted as evidence is a letter that meets all the provisions in the Pasa criminal procedure code 187 of the criminal procedure code. The letter is made on the oath of office or corroborated by an oath. Type the letter in question is, in the first news of the event and another letter in the form of official made by a public official who has the authority or that made before it that contains information about events or circumstances that are heard, seen or experienced on your own, accompanied by a reason that is clear and unequivocal about the description.

In a criminal case, there is not a proof that bind judges related to the strength of evidence. Criminal court judge must always think of what the judges are convinced of the guilt of the accused. If there is an authentic deed is filed in the criminal case, the judge in order to have beliefs about the innocence of the accused, does not require proof of the opposite, as is the case with the judge of the civil code.

Second, the letter which was made based on the laws and regulations or a letter

made by officials about the things that are included in governance responsibilities and are intended for proof of something or something circumstances.

Third, a letter from an expert that contain opinions based on their expertise on a matter or a situation that prompted officially. Examples are the results of visum et repertum issued by a doctor. Visum can be made based on the request of the victim or law enforcement official requests to the interests of the investigation, prosecution or trial.

Fourth, other letters that can only be true if there is a relation to the contents of the evidence with the other. A letter of this type only contains the value of the evidence if the contents of the letter have anything to do with the evidence of the other.

Based on the description of the letters that do not meet the provisions of Article 187 of the criminal procedure code to be declared as evidence, these letters can be used as a guide. However, on may whether or not the letter as evidence, clues all submitted to the consideration of the judges. Thus, a doctor's certificate as evidence in the judicial system criminal acts, especially in criminal cases of corruption should pay attention to the provisions set forth in Article 187 of the criminal procedure code.

Although the 1945 constitution has changed, but the understanding of the law and how to apply the law, especially academics, legislators, law enforcement, have not undergone many changes. Therefore, the law in Indonesia still has the character of a conservative. The conditions of law and law enforcement of the above has given birth to a way of the adoption of the law who lost soul, morality, and justice. Law turned into a purely formal-procedural. Values, ethics, morals, and justice is often times overlooked. If drawn to the issues that are fundamental, there is still ambiguity conception of the state law adopted, rechtsstaat that promote legal certainty and the conception of the rule of law that emphasizes the sense of justice.

Accountability ethics on doctors who abuse the making of a doctor's certificate is the initial step that should be done by a professional organization or MKEK. The preparation of the code of ethics is an effort to prevent the occurrence of violations of the law and criminal acts committed by its members. Where the code of conduct contains the pattern of a rule, ordinance, signs of guidelines of conduct when doing an activity or job.

The authenticity of the medical certificate to be very important, because that can happen a doctor's certificate is forged, or doctor who makes letter hospital, in a state of being bullied by the other party, either the immediate supervisor or other parties; so that objectivity is extremely doubtful by law enforcement.

On the contrary, if a doctor's certificate is made on the cooperation between the doctor with the people concerned to avoid in the process of law enforcement, of course, criminal liability should be made to the concerned doctor. Jurisprudence has existed in Indonesia, with dipidananya doctor who makes Setya Novanto to avoid the arrest of the KPK in 2018 ago. The state is to apply the rule of law and justice.

Criminal Liability Against The Doctor Who Issued The Letter

Description Fake Doctor In Criminal Acts Of Corruption One of the areas that often make the work of doctors come into contact with the law is when the doctor must issue a description of the patient are examined. The certificate can be used to:

1. Interest to criminal cases when the patients as defendants;
2. The interests of the court when the patients become victims of criminal acts;
3. The interests of civil:
 - a) Among patients with a place to work;
 - b) Among patients with a place in school;

- c) Among patients with the insurance company.

Such certificate may state whether the patient is healthy enough to meet the things that are required or are not healthy enough for such things.

In a doctor's certificate there are some things that need to be considered, namely:

1. Letter of the description that is essentially a portrait of a moment that describe the health conditions on the day he checked. This applies especially to the letter of a "Healthy" or "Sick" made in brief (summary). Things the day it was found as healthy can be just the next day turned out to be not healthy.
2. Definition of "healthy" or "qualified" in that description is specific in accordance with the interests of the maker of the letter. Letter "healthy" for the benefit of working in a particular field of work must be adapted to the requirements specified in the field of the job.

The doctor is obliged to perform the inspection which really carefully before making a statement or description that kind of follow the code of ethics of the doctor stating that the doctor only to give the information or an opinion that can be proven to be true. In dealing with various cases of injuries allegedly due to the events of a criminal, a doctor will have a dual role.

The first role is as a professional clinical tasked with taking care of the victim. Here, the victim has the status of patients with all their rights and obligations. The purpose of the practice of medicine here is to restore the health of patients through the practice of medicine.

The second role is as a forensic expert that support the process of the law. Here, victims of the worth of the evidence and upheld by the law. A medical procedure is a forensic examination and the goal is to support justice. In general, a dual role is not recognized by the majority of the doctor because most of their energy and thoughts dedicated to the treatment of medical problems. In addition, doctors hesitate to

deal with various aspects of the problem such as *visum et repertum* as well as judicial matters. A doctor's certificate to the interests of the judiciary with regard to:

1. *Visum et repertum*;
2. A doctor's certificate about the feasibility of detained;
3. A doctor's certificate about the feasibility of the questioning; and
4. A doctor's certificate about the advisability of prosecuting in the courts.

In the middle of the chaotic corruption eradication in Indonesia, a doctor's certificate from the parties who are involved in corruption is of course not an exclusive right of a physician as a health certificate. This can occur in the environment of a doctor in the running of his work, in his own house, and the position of essentially being under pressure/intimidation her superiors to issue a health certificate, from the parties involved in the business of corruption. If this happens, the signature and the certificate of pain will be falsified by the other party. Up to now, in the criminal justice system special handling of corruption cases, the existence of the letter hospital doctor checked their authenticity by order of the judge in the Laboratory of the Criminal Puslabor Police Headquarters.

Trust the investigator, public prosecutor, and the judge in dealing with corruption which is only based on a doctor's certificate, in certain things should be checked at the scene or seek a second opinion from another doctor or, to answer the doubts of the people, can require the formation of a team of medical examiner independent. The issue of justice, legal certainty, and legal equality to be very fundamental, because law enforcement officers have to run basic tasks and functions, especially in dealing with crime/corruption of the famous, and attracted the attention of the wider community. and society, even the international community.

Problems of law enforcement with a view and basing on the parties related to the

crime of corruption that have a Doctor's certificate (hospital) in-process inspection to the trial, it becomes more complex if the parties are related, especially a witness against, then the suspect, the accused, and the accused suddenly suffered a severe stroke, and mental disorders.

According to Article 71 Of the Law of 18 Years 2014 about mental Health in the interests of law enforcement, a person suspected of ODGJ crime should get the mental health examination. Examination of the soul performed to determine the ability of a person in the account for the criminal acts committed and/or determine the prowess of the law a to undergo a judicial process.

Article 72 of the Law on mental Health, for the benefit of law enforcement, someone allegedly ODGJ that do tindakpidana should get a mental health examination. The mental Health examination conducted to: a) determine the ability of a person in accountable for the criminal act which has been done; and/or determine the prowess of the law a person to undergo the process of peradilan.

Article 73 of the Law on mental Health for the benefit of civil, someone who allegedly lost the ability to perform legal acts get the mental health examination. The team is chaired by the specialist doctor of medicine of the soul and can involve specialist general and/or psychological clinical.

In the perspective of criminal law, doctors who make the false certificate, can be based on Article 267 of the criminal code can be accounted for in the criminal with the following conditions:

- 1) a Person is a doctor who deliberately provide a letter of false information about the presence or absence of disease, weakness, or disability, shall be punished by a maximum imprisonment of four years;
- 2) If the description given with the intent to put people in asylums or hold it in situ, sentenced to imprisonment of eight years and six months;

3) shall be Punishable with imprisonment same, whoever deliberately wear the false certificate as if the contents were in accordance with the truth.

So, that became the subject or the maker of the offense in Paragraph (1) and (2) is a doctor, it is unlikely that do not a doctor. Thus, in the indictment: "that he as the doctor" and so on. As for wearing a fake letter is made by a doctor it can only be done by a person who is not a doctor, aka anyone.

The offense listed in Article 267 this is the offense intentionally. Doctor who makes the false certificate for the purpose of entering a person to a mental hospital shall be punished more severe, i.e. a maximum of eight years and six months in prison, while the offense in Paragraph (1) to four years in prison. Of course so, how cruel if a sane person put into a mental hospital.

It seems, in order to eradicate corruption which contains, many suspects who pretended to be sick and got a doctor's certificate that he was sick, when I don't. Sometimes expressed, that the person (the suspect) had to seek treatment abroad, then abroad and blurred. Actually, the doctor it can be based on 267 of the criminal code this. Similarly, a lawyer who use the letter was facing the investigator, he was wearing a doctor's certificate that is false, can be punished under Article 267, Paragraph (3) of the criminal code.

The application of criminal liability on parties who abuse the manufacture of the medical certificate, is absolutely necessary. According to the expert of criminal law Roeslan Saleh, three reasons are quite long for is still the need for criminal and criminal law. The core reason is as follows:

1. As to whether the criminal law is not located on the issues of the goals to be achieved, but lies in the question of how far to achieve that goal may use coercion. The problem is not located on the result to be achieved, but in the balance between the value of the result and the value of the limits of personal freedom, respectively.

2. No improvement or treatment has no meaning at all for the condemned man; and it must remain a reaction to the violations of the norms that he has done it and can not be left alone.

3. The influence of the criminal or the criminal law is not solely aimed at the criminals, but also to influence the people who are not evil that citizens obey the norms of society.

CONCLUSION

Fraud and irregularities a Doctor's certificate will easily occur. There is a strong tendency among law enforcement, that a doctor's certificate is evidence that the strong, and can not be contested. In the history of law enforcement corruption in Indonesia, law enforcement has yet to cultivate the examination and make a doctor's certificate is genuine or fake and can be justified scientifically and professionally. In addition, it is also never ask for another opinion from another doctor to check the health of a person declared sick and was unable to be present in the judicial process, from the previous doctor.

To respect and uphold the institutions of the judiciary, keep the dignity of the eradication of corruption, as well as maintain the legal profession is a noble, as well as the independence of the doctor, a Doctor's certificate must be created based on professional ethics, the oath of the doctor, the general state of truth, and free from intimidation, as well as based on the legislation in Indonesia. In accordance with the practice of the principle of equality law on all citizens (equality before the law), in which case it is proved that a Doctor's certificate that you created, meet the elements of the criminal, the criminal liability is one of the options which can not be excluded.

Acknowledgement: None

Conflict of Interest: None

Source of Funding: None

REFERENCES

1. Andi Hamzah, *Delik-Delik Tertentu (Speciale Delicten) di dalam KUHP* (Jakarta: Penerbit Pusat Studi Hukum Pidana Fakultas Huuk Universitas Trisakti, 2010).
2. Kasus Bambang W. Suharto,” <https://www.gresnews.com/berita/hukum/113066-ulah-nakal-bambang-w-soeharto-bikin-geram-kpk/>, Sabtu, 19 September 2021.
3. Rinanto Suryadhimirta, *Hukum Malpraktek Kedokteran Disertasi Kasus Dan Penyelesaiannya*, Yogyakarta: Penerbit Total Media, 2011.
4. Sidik Sunaryo, *Kapita Selekta Sistem Peradilan Pidana* Malang: Penerbit UMM Press, 2004.
5. Sitompul, A., & Sitompul, M. N. (2020, February). The Combination Of Money Laundering Crime With The Origin Of Narcotics Crime To Islamic Law. In Proceeding International Seminar of Islamic Studies (Vol. 1, No. 1, pp. 671-681).
6. Soekidjo Notoatmodjo, *Etika Dan Hukum Kesehatan*, Jakarta: Penerbit Rineka Cipta, 2010.
7. Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penagakan Hukum*, Jakarta: Penertin CV Rajawali Press, 2002.
8. Suharyo, *Penegakan Keamanan Maritim Dalam NKRI Dan Problematikanya*, Jurnal Penelitian Hukum De Jure, Volume 19, Nomor 3, 2019.
9. Syed Husein Alatas, *Sosiologi Korupsi Sebuah Penjelajahan Dengan Data Kontemporer* Jakarta: LP3ES, 2002.
10. Teguh Prasetyo, *Kriminalisasi Dalam Hukum Pidana*, Bandung: Penerbit Nusa Media, 2010.
11. Tim Penelitian Hukum, *Aspek Hukum Surat Keterangan Dokter Dalam Sistem Peradilan Pidana*, BPHN Kementerian Kehakiman, Jakarta, 2002.
12. Undang-undang Nomor 18 Tahun 2014 Tentang Kesehatan Jiwa. (LN Tahun 2014 Nomor 185, TLB Nomor 5571).
13. Undang-undang Nomor 36 Tahun 2009 Tentang Kesehatan (LN Tahun 2009 Nomor 1441 TLN Nomor 5063).
14. Undang-undang Nomor 8 Tahun 1981 Tentang Hukum Acara Pidana (LN Tahun 1981 Nomor 76, TLN Nomor 3209).
15. Widyo Pramono, *Pemberantasan Korupsi Dan Pidana Lainnya: Sebuah Perspektif Jaksa Dan Guru Besar*, Jakarta: Penerbit Buku Kompas, 2016.
16. Zainal Arifin Hoessein, *Mahkamah Agung Dan Perubahan Hukum Dalam Akuntabilitas Mahkamah Agung*, ed. Theo Yunus dan Hermansyah, Jakarta: Penerbit APPTHI & Rajawali Press, 2016.

How to cite this article: Redyanto Sidi, Samuel Gunawan, Muhammad Yoga Dwi Anggara Sopiyan et.al. Law review a doctor's certificate in the judicial system of Indonesia on the criminal acts of corruption. *International Journal of Research and Review*. 2021; 8(12): 273-280. DOI: <https://doi.org/10.52403/ijrr.20211234>
