EXTERNAL SUPERVISION OF THE JUDICIAL COMMISSION OF JUDGES IN INDONESIA

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Abstract

Writing this made for knowing effectiveness Commission Judicial in supervision against judges in Indonesia and the causes Thing that. Case-case prosecution of judges who violate code judge ethics and violate law already Becomes phenomenon moment this. Method research used in this article is "research" law normative/juridical normative, data which obtained analyzed by descriptive qualitative. Analysis descriptive qualitative that is method data analysis grouping and selecting data primary in the form of law, then connected with theory - theory, principles, and rules law which obtained from studies related literature with object study that is Commission judicial, so that obtained answer on formulated problem. From result study meant found answer that role Commission Judicial in skeleton supervision against the judges yet effective. This thing caused by because among them no have authority for drop punishment administration alone to judge and no have authority investigation to para judge which proven in in inspection violate rule criminal.

Keywords: surveillance, investigation, recommendation, punishment.
INTRODUCTION

Independence judiciary in Indonesia is guaranteed by the Constitution 1945. On Article 24 paragraph (1) mentioned that:

Power Justice is is power which independent for organize Justice To use enforce law and justice.

Likewise in Constitution Number 48 of 2009 concerning Power Justice, chapter 1 paragraph (1) declared that:

Power Justice is power country which independent for organize Justice To use enforce law and justice based on Pancasila and Constitution Base Country Republic Indonesia Year 1945 for the sake of implementation Country Republic Law Indonesia.

This contain something meaning that power justice is something institution which must free and free from influence power legislature, executive nor power other.

The independence of judges is very related close with attitude no siding or attitude impartial judge, good in inspection nor in taking decision. Judges who don't independent no could expected behave neutral or impartial in operate his job. Likewise institution judiciary that depends on other organs in field certain and no capable arrange herself by independent too cause attitude who don't neutral in operate his job. Independence that too have different aspects. Independence functional, contains ban for branch another power for stage intervention against the judge in doing Duty justification.

Implementation independence of judges and judiciary actually restricted especially by the rules law that alone. Terms law, good side procedural nor substantial or material is limitation for power justice so that in To do independence and no violate law as well as Act arbitrarily. Judge is “ subordinate ” on Law and no could Act “ cons “ lemme “. Next must realized that freedom and independence the tied also with accountability or accountability. Where are the two at basic is two side coin eye the same money. Not there is freedom absolute without not quite enough answer. With
other words can understood that in context the freedom of the judge must be balanced with partner that is accountability judiciary (judicial accountability).¹

And honest judge is needed corrupt. Need the supervision objective for control his job. Institution that has there is that is Commission Judicial on the side institution functional that is Supreme Court. However reality many case deviant behavior of judges from what should a number of example, that is case Judge Syarifudin that is Judge Supervisor at the District Court in Central Jakarta who was arrested by the Commission Eradication Corruption because accept bribe from Curator strong Iriawan. Case the has becomes case Follow Criminal Corruption and Judge Syarifudin has sentenced to 4 years prison whereas strong Iriawan sentenced to 3 year 8 months prison. In Step effort law. Also Judge Imas Dianasari i.e. Ad Hoc Court Judges Connection Industry in Court Country Bandung, arrested Commission Eradication Corruption because accept bribe. the thing has decided in court Follow Criminal Bandung Corruption and Judge Imas sentenced with punishment prison During 6 year.

Next in Semarang case Judge Kartini Juliana Mandalena Marpaung and Hakim Heri Kusbandono investigated by the Commission Eradication Corruption, because suspected has To do act criminal corruption and the thing currently tried. Case It also involves judges and parties other, Chairman Board Representative People Area (non active ) Grobogan JavaMiddle Muhammad Yaeni, in Court Follow Criminal Semarang Corruption. parties involved in the above among others Sutjahjo Padmo Wasono, Chairman Court Country Semarang concurrently Chairman Court Corruption in Semarang who distributed case Yaeni to team Kartini and once meet with Henu Kusbandono for discuss assembly case Yaeni, as well as reject remodel team Kartini which handle case Yaeni.

Pragsono Career judge Certified Semarang District Court Corruption Judge, Chief Assembly case Yaeni replace Lilik Nuraini, who moved to Tondano, North Sulawesi, allegedly active related with Hero for arrange case Yaeni as well as suspected active ask money to Heru.

Kartini Juliana Mandalena Marpaung Judge Ad Hoc Court Corruption Semarang

¹ Mukhlas, *Integrity and Professionality Corps enforcer Law in Indonesian*, papers, Bandung, without date and year, p. 1.
from track Arrested lawyer Commission Eradication Corruption, active meet with Hero for arrange verdict Yaeni, assigned Pragsono accept money from Yaeni through Heru, will accept ration bribe from Yaeni, together Lilik and Asmadinata Becomes assembly judge which often liberate corruptor in Semarang and since 9 August then should already move to Gorontalo District Court because proven violate code ethics judge.

Asmadinata Judge Ad Hoc Court Corruption Semarang from track lawyer meet with Hero for arrange verdict Yaeni, then suspected will accept ration bribe from Yaeni and together Lilik and Kartini Becomes The panel of judges who often convict free corruption in Semarang, since August 9 then should already move to Ambon District Court because proven violate code judge ethics.

Lilik Nuraini before moved to Court Country Tondano and replaced Pragsono, he Chairman Assembly case Yaeni, suspected involved arrange case Yaeni since early and related with Hero past kartini, then mutated because proven breaking the code Judge Ethics.

Hero Kusbandono Ad Hoc Court Judge Pontianak Corruption from track lawyer, suspect arrested Commission Eradication Corruption which Becomes broker Yaeni to the Court Judge Corruption in Semarang often come to Court Semarang Corruption for arrange case Yaeni who plays a role deliver money bribe Yaeni to Kartini.

Muhammad Yaeni Chairman DPRD non-active Grobogan which Becomes defendant in court Corruption in Semarang, who requested Hero lobby judge Court Corruption in Semarang who handled the case and suspected ordered Sri Dartuti, his sister, provided money bribe.

Sri Dartuti An entrepreneur in Semarang who is also a sister Yaeni suspected that provide fund bribe.

Judges and parties above suspected involved case bribery by Sri Dartuti to the Acting Judge Criminal Semarang Corruption. The thing investigated by the Commission Eradication Corruption and being processed in court Country Semarang.

Last but not lease case of abusive judge narcotics that is with wear and party narcotics. This thing done by a judge The Bekasi District Court with the initials PW who was arrested by the Agency National Narcotics (BNN) on October 16, 2012 in a the place entertainment Hayam Street area Moderate Wuruk Jakarta party drugs
together with three woman accompanying the judge. together with arrest that confiscated too goods proof in the form of ecstasy and methamphetamine.

The above cases involving judges as suspect case corruption and abuse drugs, just part small from so much many case corruption and action criminal other as well as violation code judge's ethics made by the judge. Whereas Constitution Number 22 of 2004 about Commission Judicial has there is since year 2004.

From description above appear necessary questions and problems conducted assessment namely:

*How effectiveness from institution Commission Judicial in in skeleton supervision to judge behavior and tackling behavior judge which negative as well as what reason from not enough effective institution Commission Judicial inside supervision to behavior judges and countermeasures behavior the judge who negativ.*

For parse above question and answer the problem that has formulated, used method research, that is study law normative/juridical normative, data which obtained analyzed by descriptive qualitative. Analysis descriptive qualitative that is method analysis data which group and selecting data primary in the form of law, then connected with theories, principles, and rules law which obtained from studies literature so that obtained answer on problem which formulated.

As for the use of this article is Hopefully useful for the world of science knowledge law in particular and knowledge knowledge on generally.

**METHOD**

Writing this based on by thought, that destination law for reach justice in society is destination main law. Besides for achievement certainty law as meant by flow *Rechts Positivism* pioneered by Hans Kelsen. Destination law for reach justice is destination the oldest law that has arrived moment this permanent maintained. However with condition that in Public must more formerly creation order.

About Thing the in on put forward also by Muchtar Kusumaatmadja which give definition law, namely:

*Law is whole principles and rules that govern association life man in purposeful society for maintain order and achieve justice, also includes institution and*
process which realize take effect rule the as reality in Public.²

From the definition put forward above, please explain that according to Muchtar Kusumaatmadja destination law which essential is maintenance order and achievement justice. Thinking from Muchtar Kusumaatmadja this in line with thinking Roscoe Pound ⁴ More far again Roscoe Pound⁵ put forward about law as tool update community: Law as a tool of social engineering, law as tool update society. Draft this reported by Muchtar Kusumaatmadja customized with condition Indonesia Becomes law as means update society. Update it means is update method think Public from method think traditional to method think modern. Law must can made means for solve all problem which there is in in society. The concrete in context writing this, that problem law must also can answer problem deviation judge's behavior inside implementation Duty enforcement law, cause many judges do act criminal corruption at time doing his job. For parse the problem is one things to do updated is system law as contained in Constitution about commission judicial, specifically about supervision to judge. Where no arrange about authority Commission Judicial which have authority for drop punishment to judge, Commission Judicial only can give recommendation to Court great or Court.

RESULT AND DISCUSSION

Judge and Court

Judge is state officials who do power justice which set in Constitution.⁴ As office country which To do power judiciary, he must have integrity and personality that doesn't despicable, honest, fair, professional and experienced in the field law. In operate duties and functions, the judge is obliged guard independence judiciary.

From the terms the could detailed that elements good judge that is a judge who has: integrity, personality, honest, fair, professional, experienced and guard independence judiciary.

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² P. Cytorus , "Introduction Knowledge Law (Equipped Ask Answer)", Pasundan Law Faculty, (Bandung: Alumni Press, 1998), thing. 94.
⁴ Chapter 31 Laws Number 4 years 2004 about Power Justice.
regarding with hope and effort get a judge who good, who has integrity and professional that required commitment institution related which have authority for recruit and selecting judge, that is with put forward principles transparency, participation, accountability, right man on the right place and objective.

Integrity could mean with "a" nature, quality on state which shows unified whole so that have potential and ability which emit authority and honesty". In view Commission judicial, principle integrity that as attitude and complete personality, authoritative, honest and not swayed. In context position of judge as assigned state official enforce law and justice, elements integrity the judge candidate could obtained through strict and good recruitment and selection. However thus, integrity that must cultivated and developed by sustainable through education and training. If a judge has integrity, with alone he have potential, and ability which on finally will give birth to authority and honesty.

In Indonesia, the position of judge as something profession, have code ethics namely the joint decision of the chairman Supreme Court of the Republic of Indonesia and Chairman Commission Judicial Republic Indonesia Number 047/KMA/SKB/IV/2009 and 02/SKB/P.KY/IV.2009 about Code Ethics and Guidelines Judge's behavior should be made base behavior and action judge profession. Code of Conduct the formulated with meaning for To do construction and formation character as well as for supervise Act in demand judge. With thereby if character has formed and judges behavior is based on benchmarks, it is expected will grow trust community in the judiciary. In effort control enforcement law which clean and fair, Commission Judicial has succeed make design and push realization Code of Ethics for Judges Conduct, which is based on The Bangalore Principle of Judicial Conduct.

Guidelines Judge behavior designed Commission Judicial the is donation big to Supreme Court. Development principle the integrity of the judge as one of the element from Guidelines Behavior Judge that need conducted by Keep going continuously and sustainable. Development principle the judge's integrity among others reads: judge behave no despicable; avoid conflict interests; withdraw self if occur conflict interests;

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and avoid gift present from government area although gift the no influence tasks judicial.

Supreme Court as institution Justice highest in Indonesia has appreciate principle the integrity of this judge and develop it Becomes 17 ( seven twelve ) item behavior judge. Principle main from development that so that judge have personality for no shaken, brave reject temptation and intervention. and always attempted doing Duty with ways best for reach destination good. Items that then Becomes signs for behavior judge, that is as following.⁶

**Have Flavor Justice**

Fair contains meaning of "place" something in its place " and give something to be rights, which are based on on something principle, that all person same position in front law. Claims which most fundamental from justice is give treat and give equal opportunity ( equality and fairness ) to everyone. Therefore, someone who carries out Duty or profession in field Justice which carry not quite enough answer enforce fair and true law must always apply fair with no discriminate against people. In environment judiciary, necessity treatment fair that more many charged to the figure of a judge, because in the trial process, the judges is cast main for examine and judge case para party.

**Honest**

This contain meaning, can and dare state that which Correct is right and wrong is wrong. Honesty push formation personal which strong and awaken awareness will the truth of the right and the false. With so, will come true attitude personal which no siding to every person good in the judge and outside trial.

**Arif and Wise**

The truth is capable Act in accordance with norms the living in society, ok norms law, norms religious, habits nor decency with notice situation and condition on moment it, as well as capable take into account consequence from his actions it. Behavior the wise and wise push formation personal which insightful broad,

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⁶ Look Wilderness Suyuthi, "Code Ethics Judge, in Guidelines Behavior Judge ( Code of Conduct )", (Jakarta: Court great Republic Indonesia, 2003), thing. 33.
have grace flavor which high, behave be careful, patient and polite. Therefore, in context certain Judge's behavior is limited, namely: in thing

**Independent**

Existence capable independence Act alone without help party other, free from mix hand anyone (executive and legislative) and free from influence what even. Attitude independent push formation tough judge behavior, hold on stick to principle and confidence on truth in accordance demands moral and provision applicable law. Provision that show that the judge must operate function Justice by independent and free from influence, pressure, threat or persuasion, good which character direct nor no direct from party any.

**Integrity Tall**

This contain meaning have personality whole, no unshakable, manifested in attitude loyal and tough hold on to values or applicable norms in doing task. Integrity tall will push formation personal which brave reject temptation and everything form intervention, with precipitate demands heart conscience for enforce truth and justice. and always attempted To do Duty with ways best for reach destination which more good.

**Responsible**

Meaning from not quite enough answer is willingness and courage for doing all duties and authorities as good as possible as well as ready bear all consequence on implementation duties and authorities it. Sense of responsibility answer will push formation capable person enforce truth and justice, full devotion, as well as no abuse profession which mandated.

**Uphold Tall Price Self**

Itself from uphold tall price self is that on self man attached the dignity and honor that must be maintained and upheld high. Principle respect tall price themselves, especially Judges, will push and shape personal which strong and tough, so that formed personal which always guard honor and his dignity as apparatus judiciary.
Disciplined Tall

This contain meaning adherent to norms or rules believed as calling sublime for carry trust as well as trust Public seeker justice. Discipline tall will push formation personal which orderly in in doing task, sincere in devotion, and attempted for Becomes example in environment, as well as no abuse trust which entrusted to him.

Low Heart

The truth that is in the form of awareness will limitations ability self, far from perfection and avoid from every form arrogance. Low heart will push formation attitude realistic, want to open self for Keep going learn, appreciate other people's opinion, grow develop attitude grace flavor, as well as realize simplicity, full gratitude and sincere in in carry task.

Professional

Itself professional that is attitude moral which based on by determination for doing profession which chosen with earnestness, supported by expertise on base knowledge. skills and outlook wide. Attitude professional will push formation personal which always guard and maintain quality job, as well as attempted for increase knowledge and performance, so that achieved as high quality results job, effective and efficient.

Professionality Judge

Development the professionalism of the judge at least influenced by two thing, namely: (a) model education and practice and (b) system judge education general. Higher education Indonesian law which adhere to civil law, produce product which have gap with qualification in level practical. Although from side regulation, institutions education law that has experience many progress, that is with improvement curriculum as well as entry spy studying supporter, but Thing that not yet could ensure output which professional and ready wear.

In in reality what which unraveled in on which by general is Thing which written and loaded in Code Ethics and Guidelines Where is the Judge 's Behavior the ideal
judge in fact not yet formed, achieved and fulfilled. This indicated with a lot cases irregularities committed by judges such as described at the beginning this writing.

However cases deviation judge profession like it is in on no isJudge 's Day this in general, because still many the goodness that exists, in the form of high performance of judges, where still many good and dedicated judges good as well as idealistic. Likewise performance Commission Judicials who have reached in supervision to judge and guard honor as well as dignity degrees judge, Thing this already many have succeeded, including increase Judge's salary and allowances more tall from now. This thing will add the welfare of the judges which will support rise image judge in front justice and society. This is success Commission Judicial in skeleton Duty strive enhancement capacity and welfare of judges

Existence Commission Judicial

Commission Judicial is institution country which character independent where in implementation his authority free from mix hand or influence power executive, legislature and power other. domiciled in the Capital of the Republic of Indonesia, namely Jakarta. In rotate wheel the organization moved by leader and member, consist on a Chairman and a concurrently Vice-Chairman members, number seven member people status as state officials. Membership Commission Judicial consist on ex-judge, practitioner law, academics law and member society.


Member Commission Judicial have forum privilege, where member Commission Judicial could arrested or detained only on order prosecutor great after get agreement President, except in thing: caught hand To do act criminal crime, or based on proof start which enough denied has To do act criminal crime which threatened with criminal dead or act criminal crime to security. Implementation arrest or detention as meant in paragraph (1) in maximum time twice twenty four hours must reported to prosecutor Great.
As for authority Commission Judicial are: propose appointment of Supreme Court Justices to the DPR and upholding honor and nobility dignity as well as guard behavior judge. In doing authority meant Commission Judicial have task: To do registration candidates for Supreme Court Justices, do selection to Judge candidate Great, set candidates for Supreme Court Justices and submit Supreme Court nominee to DPR.

Commission Judicial also have authority and Duty for doing supervision against Judges of the Supreme Court, for that can: accept report Public about judge behavior, asking report by periodically to the judiciary related with judge behavior, do inspection to guess violation behavior judge, call and ask description from the judge suspected violate code ethics behavior judge, and make report results examination in the form of recommendations and be delivered to Supreme Court and/or Court Constitution, as well as the oppression be delivered to President and DPR, for that have obligations: obey norm, law, and provision regulation legislation - invitation; and guard secrecy description which because nature is confidential Commission Judicial Acquired based on position as member.

The judiciary and judges must give description or data that requested Commission Judicial in skeleton supervision to judge behavior in period no later than 14 (four twelve) days counted since date Request Commission Judicial accepted. All information and data as meant on paragraph (4) character secret. For could lifted Becomes Member Commission Judicial must Fulfill Requirements: Indonesian citizen, pious to Almighty God one, lowest age four twenty year and the highest six twenty eight year at the time of the election process, has experience in the field law at least fifteen year, have integrity and personality that is not despicable, healthy physical and spiritual, no once sentenced criminal because To do act criminal crime, and report wealth list.

Member Commission Judicial which selected lifted by President and with DPR approval, Commission Judicial responsible answer to public through the DPR. Authority Commission Judicial are: propose rapture Judge great and Judge ad hoc in Court great to DPR for get approval, maintain and enforce honor, nobility dignity, as well as behavior judge, set Code Ethics and/ or Guidelines Judge behavior together
with Supreme Court, and keep and enforce implementation Code Ethics and/ or Guidelines Judge's Behavior.

In skeleton guard and enforce honor, nobility dignity, as well as behavior Judge in on Commission Judicial have task: To do monitoring and supervision to Judge behavior, accept report from Public related with violation Code Ethics and/ or Guidelines Judge's behavior, do verification, clarification, and investigation to report guess violation of the Code of Ethics and/ or Guidelines Behavior Judge by closed, decide Correct whether or not report guess violation of the Code of Ethics and/ or Guidelines Judge's behavior, and take step law and/or other steps against individuals, groups person, or body law which humble honor and nobility dignity Judge.

Besides that Commission Judicial also have Duty strive enhancement capacity and welfare of Judges.

In To do supervision Judge, Commission Judicial accept report community and/ or information about guess behavior violation Code Ethics and/or Guidelines Behavior Judge. For doing supervision that Commission Judicial could ask description or data to Body Judiciary and/or Judge.

Leader Body Justice and/or Judge Required give description or data which requested by Commission Judicial as meant.

In implementation Duty meant in on Commission Judicial could: To do verification to report, do inspection on guess offense, To do summoning and ask description from Judge which suspected violate guidelines honor, nobility dignity, as well as Judge's behavior for interest inspection, do summoning and ask description from witness, and conclude results inspection.

Inspection by Commission Judicial cover : inspection to guess violation Code Ethics and/or Guidelines Behavior Judge and Request clarification against the alleged Judge To do violation as meant above.

In every inspection as meant made news program examination which is legalized and signed by the examiner and the examiner. Clarification as meant, submitted by judge which suspected To do violation in period time most long 14 (four twelve) day since received summoning which mention existence guess violation Code Ethics and/or Guidelines Behavior Judge by deserve by Commission Judicial.
Examination results on guess violation of the Code of Ethics and/or Guidelines Judge's behavior contains: guess violation declared proven, or guess violation declared no proven.

In the case of guess violation of the Code of Ethics and/or Guidelines Behavior Judge declared proven, commission Judicial propose dropping penalty to Judge which suspected To do violation to Court great the penalty in the form of: Penalty light consist above: warning oral, warning written, or statement no satisfied by written. Penalty currently consist above: delay increase wages periodically for a maximum of 1 (one) year, decreasing wages as big as 1 (one) time increase wages periodically most long 1 (one) year, delay increase a maximum rank of 1 (one) year, or a non-hammer judge maximum of 6 (six) months. Penalty heavy consist above: liberation from position structural, non-hammer judge more than 6 (six) months until with 2 (two) year, stop while, stop permanent with right retirement, or stop permanent no with respect.

The Supreme Court handed down penalty against the judge who committed violation of the Code of Ethics and/or Guidelines Judge's Behavior proposed by Commission Judicial in a maximum of 60 (six twenty) days counted since date proposal accepted.

**Fact Concrete**

Inside Article 21 of the Law Number 22 of 2004 concerning Commission Judicial mentioned that:

*For interest implementation authority as meant Chapter 13 letter b” Commission Judicial on duty submit suggestion drop penalty against the judge to leader Supreme Court and/or Court Constitution.*

From sound Chapter the in on can drawn definition that Commission Judicial only can propose / recommend for give sanction / punish (administration/discipline) a judge to leader Supreme Court and/or Court Constitution. So Commission Judicial no can drop punishment alone to the judge. Commission Judicial only could check cases

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involving a judge, even that is limited to unlawful behavior of judges code judge ethics, outside pro justice, the norm set in Code Ethics and Guidelines Judge's Behavior.

Whereas if found and proven existence actions that violate law criminal, then Commission Judicial no could take step more carry on like authority for investigation. This is weakness which there is on the body Commission Judicial.

To proposal allotment punishment administration by Commission Judicial to leader Court great and/or Court Constitution, attitude Supreme Court and Court Constitution to proposal Commission Judicial that no automatic must run by Supreme Court and/or Court Constitution. However can just Court great and Court Constitution no doing recommendation like which recommended by Commission Judicial that. Although in practice many also proposal allotment punishment against the judge of Commission Judicial accommodated by leader Supreme Court.

So also to results inspection Commission Judicial which find existence element criminal from deed judge, not yet there is standard patron for action next one can done by Commission Judicial.

See reality above, then for it's in the future come so that role Commission Judicial more bite, then Commission Judicial must given authority addition that is authority for drop punishment administration / discipline in accordance with code ethics judge. Beside that Commission Judicial must given authority pro justitia that is authority for To do investigation to para alleged judge or indicated To do act criminal. For authority that of course must supported by device legislation - invitation that is with change Constitution Number 22 of 2004 about Commission Judicial, with insert articles authority investigation by Commission Judicial to para judge which suspected To do act criminal.

Consequence from lack of authority from Commission Judicial for drop punishment alone to para judge which To do violation code ethics as well as lack of authority from Commission Judicial for To do investigation against the judges who allegedly To do act criminal, Thing this cause role Commission Judicial to supervision para judge Becomes not enough bite, as a result then the judges don't have a sense of deterrence inside To do deed negative deviation, good that violation to code ethics and guidelines behavior judge nor violation to law criminal.
(CONCLUSION)

Role Commission Judicial in skeleton supervision to para judge yet effective, this indicated with still the number of judges who did offense, ok to code judge ethics and violation to provision criminal.

This thing caused by because among them there is weakness in regulation that is no have authority for drop punishment administration alone to judge which To do violation Code Ethics and Guidelines Behavior Judge, also Commission Judicial no have authority investigation against the judges which proven inside inspection violate rule criminal.

SUGGESTION

So that to Commission Judicial besides given authority for check and prove existence violation code ethics and actions crime, as well as the Commission Judicial given authority for punish based on code ethics and behavior of judges and given authority for To do investigation against the judge which

REFERENCE

BOOKS


**CONSTITUTION**

Constitution Number 31 of 1999, concerning Eradication Follow Criminal Corruption.

Constitution Number 21 Year 2011, about Authority Service Finance