

# VERDICT FOR ACQUITTAL IN CRIMINAL LAW PERSPECTIVE

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## *Abstract*

*The examination through a criminal process, the judge's decision must always be based on the case assignment letter that contains all indictment defendant's mistakes. Beside of that, the judge's decision must not be regardless of the result of evidence based as long as examination in court. Therefore based on these interests, before stating a position to assess the case on face, there must be an inspection to prove the truth of the indictment of the accusation of the prosecutor to the defendant. Thus, if we see from the function of indictment letters, this is the basis point for inspection. The court's decision that has legal force in criminal cases is carried out by the prosecutor. It can be said that the official who is given the authority to carry out court decisions is the prosecutor. The method of research is qualitative, because the qualitative method is easier to adapt in the field. This research aims to find out directly how the juridical review of acquittal verdict based on the Criminal Procedure Code is due to the lack of evidence in the Padangsidempuan District Court. The research object is to obtain clear data and this object can become a target for researchers so that the problems to be researched will not become widespread.*

**Keywords:** *Acquittal Verdict; Criminal Law.*

## I. INTRODUCTION

Every state institution, and community institution both at the center and in the regions that needs to be realized in and with the existence of this criminal procedure law.<sup>5</sup> A court decision in a criminal case based on the Criminal Procedure Code, the first is criminalization, if the court or judge argued that the defendant was legally and convincingly according to the law proven guilty of committing a criminal. The second is an acquittal verdict (*vrijspraak*), if the court or judge argued from the inspection that the defendant did not commit a crime. The third, escape from lawsuits (*onslag van alle rechtsvervolging*) if the court or judge argued the indictment to the defendant was proved, but it's not a committing a criminal.

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<sup>5</sup> P.A.F. Lamintang and Theo Lamintang, *Discussion of the Criminal Procedure Code According to the Science of Criminal Law & Jurisprudence*, Jakarta: Sinar Graphics, 2010, p. 8.

The court's decision that has legal force in criminal cases is carried out by the prosecutor. It can be said that the official who is given the authority to carry out court decisions is the prosecutor. Thus, the Prosecutor is responsible for the implementation of court decisions. Therefore, a prosecutor must know and understand the producer of a court decision. In court decisions, prosecutors must know and understand the producers on in order to expedite the implementation of these decisions. The function of criminal law in general is to regulate and organize community life in order to create and maintain public order. The function of criminal law in general is to regulate and organize people's lives so that public order can be created and maintained.

If the judge argues that inspection has completed, the judge invites the Public Prosecutor to read the criminal charge (*requisitoir*). After that, it is the turn of the defendant or legal advisor to read his defense, that can be answered by the public prosecutor, provided that the defendant or legal advisor gets the last turn (Article 182 paragraph (1) of the Criminal Procedure Code). In this provision, the criminal charge and the answers of defense are written and read. Then the file is immediately handed over to the presiding judge and the parties involved, and when the event has ended so the presiding judge would say the inspection closed. And at the end, the judge holds the last deliberation to make a decision and must be based on the indictment letter, and all of that has proven in court. After the examination is declared closed, the judge holds a final deliberation to make a decision and this must be based on the indictment and everything that was proved in the court trial.

Through his decision, the judge will determine the severity of the crime/punishment imposed, while on the other hand, the judge's decision will also confirm the law regarding a right or object, and the law also regarding an act or action.<sup>6</sup> Judicial power is the power of an independent state to administer justice to uphold law and justice based on Pancasila and the 1945 Constitution, for the sake of implementing the rule of law of the Republic of Indonesia (Article 1 number (1) of Law Number 48 of 2009 concerning Judicial Power) while Article 50 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power: all judge decisions must, in addition to containing the reasons and basis for the decision, also contain certain articles from the relevant statutory regulations or sources of unwritten law which are used as the basis for adjudicating.<sup>7</sup> Court decisions are considered valid and have legal force if they are pronounced in a hearing open to the public. Article 1 number 11 of the Criminal Procedure Code states that:

A court decision is a judge's statement made in an open court session, which can be in the form of punishment or acquittal or release from all legal charges in terms of and according to the method regulated in this law. Each judge's decision is one of three possibilities:

- 1) Punishment or imposition of criminal and/or disciplinary regulations;

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<sup>6</sup> Rudi Suparmono, *The Participation of Judges in Legal Learning*, *Varia Judicial Law Magazine Year XX No. 246* May 2006. p.50

<sup>7</sup> Strong Praise Prayitno, *Restorative Justice for the Criminal Justice System*, *Journal of Legal Dynamics Vol.12 No.3* September 2012. p. 416

- 2) Acquittal verdict;
- 3) Final verdict is free from all legal claims<sup>8</sup>

The Criminal Procedure Code also regulates district court decisions handed down in criminal cases, which can be in the form of:

- 1) Verdict for acquitting of defendant (Article 191 paragraph (1) KUHAP);
- 2) Final verdict from all legal claim charge (Article 191 paragraph (2) KUHAP);
- 3) Verdict criminalization (Article 193 paragraph (1) KUHAP).

An internal law perspective, there is nothing wrong when a judge passes a verdict of acquittal or acquittal of all legal charges or imposes a sentence. Likewise, the judge imposes light, moderate or heavy sanctions on the defendant.<sup>9</sup> The decision to acquit the defendant (*vrijspraak*) according to the Criminal Procedure Code is regulated in Article 191 paragraph (1) which states that if the court argued that the results of the trial inspection said that the defendant's guilt for the act of charged against not proven and not convincing, so the defendant is acquitted.

## II. DISCUSSION

### Verdict for Acquittal in Criminal Law Perspective

Judges in their duties based on the law, especially in adjudicating a criminal case, must be able to resolve the case with a sentence or acquittal, before a judge determines a decision in a trial he must first study the data about the case to be resolved or which he will decide. The data in question is the indictment letters that came from the public prosecutor, the presence of witnesses and the judge' beliefs and considerations.

If the evidence in the case turns out to be true then ultimately what the judge issues is a verdict based on the applicable law. If in reality it is not proven that the defendant is guilty, it is not a complicated problem for the judge to determine a verdict, but if the indictment addressed to the defendant cannot be proven to be true based on existing data, namely the testimony of witnesses from the defendant and the absence of evidence. A real thing that can corner the defendant in the district court and it turns out that the judge after conducting an examination in court turns out that the things accused against the defendant have not been legally and convincingly proven, then the defendant can be acquitted.

The judge can give an acquittal to the defendant if there is information from the defendant, witness statements, expert testimony, letters and other instructions which correctly state that the defendant has not been legally and convincingly proven, in connection with the requirements as mentioned in determining the judge's acquittal, based on data. This means that the procedure carried out by the judge in considering whether to hand down an acquittal decision is firstly the

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<sup>8</sup> Andi Hamzah, *Indonesian Criminal Procedure Law*, Jakarta: Sinar Graphics, 2008, p. 285.

<sup>9</sup> M. Syamsudin, *Judges' Meaning of Corruption and Its Implications for Decisions: A Study of Legal Hermeneutics Perspectives*, *Mimbar Hukum Journal* Volume 22 No.23 October 2010. p.500

existence of an indictment which is the basis for a person's examination, the presence of evidence which cannot prove with certainty that the defendant is guilty.

If the indictment submitted does not comply with Article 143 paragraph 2 letter b. KUHP then the indictment will be null and void. If the indictment is void, it means that the contents of the indictment do not fulfill a detailed description of the allegations or accusations submitted and do not clearly and completely indicate the criminal act charged and do not mention the time and place where the criminal act was committed. Apart from that, an acquittal decision is also made if only one person provides testimony or the testimony of the witnesses cannot be accepted according to the frame of mind of a judge who is trying a case.

Then, if the author analyzes the results of the interview with the prosecutor regarding the acquittal, it can be decided if the article indicted is not proven to be true or the elements of the article convicted or accused against the defendant cannot be truly proven that the defendant is guilty.

According to M. Yahya Harahap, an acquittal from a juridical perspective is a decision that is assessed by the Panel of Judges concerned as not fulfilling the principles of negative evidence according to the law and does not meet the principle of the minimum threshold of proof.<sup>10</sup>

From the author's explanation as above, thus an acquittal in a criminal case can be made if the judge has confidence based on data showing that the defendant is proven not to have fulfilled the provisions as intended in Article 143 paragraph (2) letter b of the Criminal Procedure Code, or a letter In the indictment leveled against the defendant there was no evidence of acts and events which, after being considered in relation to each other, did not indicate a criminal event and there was no testimony from witnesses which could incriminate the defendant, so the judges considered handing down an acquittal verdict. The stated in the decision.

### **Judge's Considerations in Handing Down an Acquittal Decision**

In the Criminal Procedure Code there is a decision that can acquit a person from accusations or accusations, namely because his soul is disabled in its development, his soul is disturbed by illness, he is not old enough, he commits an act because he is under the influence of mental and physical coercion, he defends himself because of an instant threat. It is also from actions to implement the provisions of the law. All of these things can be used by the judge in acquitting the defendant from the charges of the public prosecutor.

The acquittals given above are given to the perpetrators for reasons permitted by law, but the problem is what happens to defendants who do not comply with these provisions. In this case, the judge, before determining his decision, must consider the defendant's case from various angles that can give him confidence. Apart from the provisions as stipulated in Articles 44, 45, 48, 49 and 50, what is more, the basis for handing down an acquittal decision against a defendant, this decision is also called an acquittal decision.

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<sup>10</sup> M. Yahya Harahap, *Discussion of Problems and Application of the Criminal Procedure Code*, Jakarta: Sarana Bakti Semesta, 2005. p. 331.

From several legal provisions that can cause a defendant to be given an acquittal as above, there are other basic considerations for the judge to hand down an acquittal. The basis of consideration for a judge to drop a defendant into a first acquittal decision is based on the indictment submitted by the public prosecutor where the judge's interpretation and consideration is that the judge does not see any connection between the evidence either during the trial or before or clearly the indictment is not relevant to be used as a basis for evidence so that the defendant's trial becomes unclear.

What is meant by the judge's view is where the data that incriminates the defendant, such as confessions from witnesses, the defendant's confession and material evidence, cannot prove that the defendant actually violated the law. After the judge sees that the indictment is no longer relevant as a guide, the next step which is taken into consideration by the judge is evidence of a confession from the witness, if the witness is a witness as regulated in Article 185 of the Criminal Procedure Code, namely the witness does not sufficiently prove the defendant is guilty, there is fabrication. or just the results of the thoughts given by the witness and the testimony of the witnesses who were not first sworn in, it is very likely that the defendant will be given an acquittal, such as, so clearly the information is not enough or only one witness, the witness's statement is just a fabrication and the witness is According to law, giving testimony that is not sworn in beforehand cannot be used as valid evidence against a defendant who is deemed guilty.

Even though the indictment does not show any connection between the evidence and the testimony of the witnesses does not prove that the defendant is innocent, this does not mean that it can give the judge confidence to pronounce an acquittal on a defendant.

Another thing that also has an influence in determining whether a judge will accept an acquittal decision is the emergence of confidence based on data received from inside and outside the trial. So, belief or consideration is the basis or final thought for the judge to determine whether a person can be sentenced to acquittal or not. An acquittal can occur if the authentic evidence that reports the defendant is not accepted by the law or the judge and the judge's considerations and beliefs can result in an acquittal for the defendant or the evidence submitted by the public prosecutor cannot prove the accusation or accusation against the defendant. An innocent defendant can pass a verdict of acquittal.

Apart from other things that are of concern in the imposition of an acquittal sentence, is the period of detention status of the defendant who is in the process of being detained. This is in accordance with the provisions of Article 191 paragraph (1) of the Criminal Code, namely, "In the case as intended in Article 191 paragraph (1) the defendant who is in detention status is ordered to be released immediately because there is another legitimate reason the defendant needs to be detained."<sup>11</sup>

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<sup>11</sup> Indonesian Department of Justice, *Guidelines for Implementing the Criminal Procedure Code*, Jakarta : Penganyom Foundation, 2001 p. 86

## **Difficulties Encountered in Passing an Acquittal Verdict**

In carrying out their duties in resolving a case, especially criminal cases, it is not uncommon to find that resolving a case takes quite a long time. This can occur due to conflicts or obstacles in the process of completing the trial, so that every judge when considering data as material for determining a decision cannot be free from obstacles, both in the trial and outside the trial. According to the author's analysis, the obstacles or difficulties encountered by the judge in passing a decision are caused by several causal factors, such as the defense always hiding a case, the witnesses' statements being complicated and the existence of contradictions between one witness and another and incomplete material evidence required as evidence in a trial.

Factors that cause difficulties for judges in handing down decisions, especially acquittal decisions, originate from the defense being open about things he knows, this is based on the defense's desire that the person he is defending can win in the case at hand. So the author's analysis in this case does not fulfill the essence of the law and is not in accordance with the existence and function of judges. So the nature of the defense attorney who always covers up problems and lacks support causes the case process to take a long time. Another influencing factor is the convoluted explanations from witnesses during the trial process which creates difficulties for the judge in drawing conclusions and explanations from these witnesses which ultimately hinders the trial process in seeking truth and justice.

According to the author's observations, in this case the witnesses are afraid to give truthful information because the witness does not mitigate the effects in the future and the witness is less aware of the function of the testimony, meaning that without help from the witnesses the problem or case that is being processed will experience difficulties. Apart from the factors mentioned above, there are also other factors, namely witness statements that are different from the information in the minutes. Where during the process of examining witnesses, the court gives information that it knows is true, but after it is carried out in court the witnesses often give different statements. Apart from this, there are contradictory statements from one witness to another.

## **Legal Remedies That Arise from the Execution of an Acquittal**

In every resolution of a case which ultimately results in a decision being handed down by the judges, there are several parties who feel dissatisfied with the form of decision given by the judge, especially when it comes to the judge's decision to determine a sentence, the person who feels dissatisfied is the defendant, So this evidence of dissatisfaction with the judge's sentence decision caused the defendant to file an appeal. An appeal can indeed be submitted by the defendant to a higher court via the local district court. Where in essence this appeal is capable and has the aim of testing the appropriateness of the decision of the court of first instance and can vary.

All cases for holding new examinations. Where the appeal can not only be submitted by the defendant but also by the public prosecutor, this is in accordance with the meaning of Article 57 of the Criminal Procedure Code. However, please note that an appeal can only be submitted by the defendant and the public prosecutor if the decision is not an acquittal, where the basis for this acquittal cannot be appealed

is because it is for the sake of justice and to realize a fast, simple and low-cost trial considering the backlog of cases who requested an appeal to the district court. So, if the appeal submitted by the prosecutor cannot be accepted by the judge against an absolute acquittal or pure acquittal, then the possible legal remedy that can be taken is through cassation. A cassation can be filed by the public prosecutor but it is only in the public interest, and the prosecutor referred to here is not the public prosecutor but the attorney general, where the reasons for this cassation cannot be submitted by the public prosecutor where this is in accordance with the provisions of Article 244 of the Criminal Procedure Code and Article 259 Criminal Procedure Code. In this case, the right of cassation only rests with the Supreme Court where the Supreme Court can cancel the decision of the first court or even the Supreme Court can reject the cassation request.

### III. CONCLUSION

Having legal action through cassation does not mean that the judge can accept every cassation request, because the result of the cassation judge's decision could be that the legal claim cannot be accepted, acquits the defendant from all legal charges, punishes the defendant and it is possible that the cassation request can also be rejected due to from the specified time, or because the cassation applicant has not exercised his right to advance an objection or the right to appeal or because the objection raised by the cassation applicant to the judge's decision is solely regarding the incident or circumstances alone, is in no way included in the judge's consideration cassation.

Thus, the opportunity to appeal remains, but whether or not the cassation is accepted depends on the attorney general or supreme the court. Based on the author's research and analysis in the field, accompanied by data provided by the author, both through interviews, to support the existing data, it shows that the author's first hypothesis, namely the judge's consideration in handing down an acquittal decision, is the evidence submitted by the prosecutor and the judge's belief can be accepted as true. The attempt of law that can be taken by parties that disagree with the acquittal is through cassation also be accepted as correct.

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