

Juridical Analysis of the Cassation Mechanism in acquittal Cases in Indonesia

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Abstrak: *Indonesia's criminal justice system, which includes cassation against acquittals, plays an important role in ensuring justice and legal certainty. However, the application of cassation against acquittal has raised debates related to Article 244 of the Criminal Procedure Code, which expressly prohibits the filing of cassation against acquittal. This study aims to analyze the juridical application of the cassation mechanism in the case of an acquittal verdict and its legal implications. The research method used is a normative juridical approach, by analyzing relevant laws and regulations, court decisions, and legal doctrines. The results show that although Article 244 of the Criminal Procedure Code prohibits cassation against acquittals, Supreme Court jurisprudence, such as in the Raden Sonson Natalegawa case, shows flexibility through contra legem interpretation. This has led to complex legal consequences, both positive and negative, which impact on the parties involved and the integrity of the justice system. Therefore, continuous evaluation and adjustment is required to ensure that the goals of justice and legal certainty can be effectively achieved.*

Keywords: Acquittal Cases, Cassation Mechanism, Juridical Analysis.

INTRODUCTION

The criminal justice system in Indonesia is a series of legal mechanisms that regulate the handling of criminal offenses, from the investigation stage to the execution of punishment.¹ The process begins with an investigation by the police, where evidence and information related to the alleged criminal offense are collected. This is followed by an investigation to corroborate existing evidence and determine whether a person can be named as a suspect. The results of the investigation are then submitted to the Public Prosecutor, who decides whether the case should be brought to court. At the trial stage, the court examines the case through the presentation of evidence and the defendant's defense before the judge. The judge then gives a verdict based on the evidence, which can be in the form of a prison sentence, a fine, or an acquittal. If any party is not satisfied with the verdict, they can file legal remedies such as appeal or cassation. After the verdict is legally binding, the Public Prosecutor will carry out the execution of the sentence, such as detention in a correctional institution.²

The system is based on legal principles such as legality, legal certainty, and justice, although it still faces challenges in its implementation, including issues of corruption and lengthy judicial processes.³

¹ S. Masribut Sardol, "Praktek-Praktek Penanganan Anak Berkonflik Dengan Hukum Dalam Kerangka Sistem Peradilan Pidana Anak (Juvenile Justice System) Dalam Tinjauan Hukum Pidana Di Indonesia" *Jurnal Judiciary*, Vol 1 No 1 (2017): 84

² Mahkamah Agung Republik Indonesia, "Proses Persidangan" <https://www.pn-nganjuk.go.id/index.php/kepaniteraan/kepaniteraan-pidana/proses-persidangan> diakses pada 10 Agustus 2024

³ Muchlas Rastra Samara Muksin, "Tujuan Pemidanaan dalam Pembaharuan Hukum Pidana Indonesia" *Jurnal Sapientia et Virtus*, Vol 8 No 1 (2023): 226

Nevertheless, one of the crucial aspects of the Indonesian judicial system is the mechanism of acquittal. This decision is a manifestation of the commitment to uphold the principles of justice and legal certainty amidst the existing challenges. An acquittal is a very important concept in the Indonesian judicial system, which is part of the effort to ensure justice and human rights for every individual being tried.⁴ In the Indonesian judicial system, acquittals reflect the principle that a person is presumed innocent until proven guilty (presumption of innocence) and that the court must prove the defendant's guilt by valid and convincing evidence.⁵ If the court cannot meet this standard of proof, the accused must be acquitted of all charges. This is in line with the goal of Indonesia's criminal justice system to ensure that no individual is convicted without a strong legal basis and without a fair trial.⁶

An acquittal also serves as an important reminder that the judicial process must be conducted objectively and independently, without pressure from any party.⁷ However, although acquittals provide protection to individuals who are not proven guilty, the Indonesian judicial system still provides a mechanism for legal remedies to maintain a balance in the administration of justice. Through various legal remedies, such as appeal and cassation, parties who feel aggrieved by a court decision can apply to have the decision reviewed. This ensures that all legal processes have been carried out in accordance with the principles of justice and applicable legal provisions. As such, the Indonesian justice system seeks to maintain integrity and fairness at all stages of the legal process, from the courts of first instance to the available legal remedies.

There are two views among practitioners and legal scholars regarding the regulation of the criteria for cassation appeal against acquittal in the Law on Criminal Procedure.⁸ The first view is that the provisions of Article 67 in conjunction with Article 244 of the Law on Criminal Procedure do not require further interpretation. According to this view, the formulation of norms in the two articles is complete, so that both the public prosecutor and the defendant are not allowed to file an appeal if an acquittal is decided at the court of first instance, and are also not allowed to file a cassation against an acquittal by the court of second instance.

On the other hand, the second view argues that acquittals can be divided into two categories: pure acquittals and impure acquittals. A pure acquittal occurs when the alleged act is not proven at all and there is no evidence to support the prosecution's charges. Meanwhile, impure acquittals occur due to three conditions: differences in legal interpretation, differences in assessment of the evidence presented, and differences in assessment in the interpretation of the application of the law to the evidence presented at trial. The origin of this difference of opinion stems from a corruption case with the defendant Raden Sonson

⁴ Harun M. Husein, *Kasasi Sebagai Upaya Hukum*, Edisi I, Cetakan I, Sinar Grafika Jakarta, 1992, h. 108.

⁵ Yuni Priskila Ginting, dkk. "Pembuktian Terbalik Dalam Pemeriksaan Tindak Pidana Korupsi" *Jurnal Pengabdian West Science*, Vol 2 No 10 (2023): 973-994

⁶ Mahsun Ismail, "Telaah Terhadap Konstruksi Proses Hukum Yang Adil Dalam Sistem Peradilan Pidana" *Jurnal Hukum Ekonomi Syariah*, Vol 1 No 1 (2018): 99-116

⁷ Alva Dio Rayfindratama, "Kebebasan Hakim Dalam Menjatuhkan Putusan Di Pengadilan" *Jurnal Ilmu Hukum dan Tata Negara*, Vol 1 No 2 (2023): 1-17

⁸ Angelina Christi Wattie, "Upaya Hukum Kasasi Terhadap Putusan Bebas Perkara Pidana" *Lex Privatum*, Vol 5 No 10 (2017):51

Natalegawa, who was acquitted by the Central Jakarta District Court in 1981.⁹ In response to this decision, the Minister of Justice at that time issued Decree of the Minister of Justice of the Republic of Indonesia Number M.14-PW.07.03 of 1983 concerning Additional Guidelines for the Implementation of the Criminal Procedure Code. In point 19 of the decree, it was stipulated that “An acquittal verdict cannot be appealed against, but based on the situation and conditions for the sake of justice and truth, an appeal may be filed for cassation against an acquittal verdict”.¹⁰

This decision of the Minister of Justice then became a recognized jurisprudence in Indonesia, as reflected in various subsequent decisions of the Supreme Court of the Republic of Indonesia that accepted and adjudicated cassation petitions on acquittals, both those decided by the District Court and by the Court of Appeal. This view shows that in certain situations, even though an acquittal has been granted, the Indonesian judicial system still allows for cassation to be filed in order to ensure the upholding of justice and legal truth. Based on the debates that have been described in relation to the regulation of cassation appeal against acquittals in the Law on Criminal Procedure, it is clear that there is significant legal uncertainty regarding the extent to which acquittals can be the object of cassation. The two views that have developed among practitioners and legal scholars between those who consider that the provisions of Article 67 juncto Article 244 are complete without requiring further interpretation, and those who see a division between pure and impure acquittals show that this topic still requires further study. The controversy that began with the Raden Sonson Natalegawa case and was later followed by the Decree of the Minister of Justice No. M.14-PW.07.03 of 1983 added to the legal complexity in the application of the cassation mechanism to acquittals. This decision, which has become jurisprudence, introduces flexibility in the application of cassation against acquittals, but also raises questions regarding its limits and proper application. Given the importance of legal certainty in upholding justice, as well as the need to clarify the legal mechanisms governing cassation against acquittals, research into this topic is highly relevant.

METHOD

The method used in writing this research is the normative juridical approach,¹¹ The normative juridical approach is a legal research method that focuses on the study of existing legal materials, such as laws and regulations, court decisions, legal literature, and doctrines developed in legal practice. This normative juridical approach is a legal research method that focuses on the study of existing legal materials, such as laws and regulations, court decisions, legal literature, and doctrines that develop in legal practice. By using the normative juridical method, researchers can deeply examine the legal provisions governing cassation in cases of acquittal. Library research in this context involves the collection and analysis of relevant legal materials, including laws and regulations, law books, journal articles, and court decisions relating to cassation and acquittal. Through desk research, the researcher can understand the legal developments and debates surrounding the cassation mechanism, as well as how these legal norms have been applied in judicial practice. As such, this research will provide a comprehensive understanding of how

⁹ Farids Dhestarastra Musa, dkk. “Efektivitas Upaya Hukum Kasasi Jaksa Penuntut Umum Terhadap Putus Bebas Pada Tindak Pidana Korupsi” *Journal of Lex Generalis (JLS)*, Vol 2 No 2 (2021): 291

¹⁰ Erwin Rompas, “Pengawasan Dalam Proses Penyidikan Tindak Pidana Menurut Kuhap” *Lex Crimen*, Vol 1 No 2 (2013): 65

¹¹ Soejono Soejankanto dan Sri Mamudji, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, RajaGrafindo, Jakarta, 2001, hal. 13-14

these legal rules are interpreted and applied in the context of real cases, and how this impacts on the principles of justice and legal certainty in Indonesia.

RESULTS AND DISCUSSION

Juridical Analysis of the Cassation Mechanism in the Case of an Acquittal Decision

Cassation in the Indonesian judicial system is an extraordinary legal remedy filed by a party who is dissatisfied with the decision of a higher court to the Supreme Court as a last resort to seek justice. In the context of criminal law, cassation is a request to re-examine a court decision that has permanent legal force, because it is considered that there is an error in the application of law, not in the assessment of facts.¹² The main purpose of kasasi is to ensure that the law is applied correctly and consistently throughout Indonesia's jurisdiction.¹³ The legal basis for cassation is regulated in several laws, including Law Number 14 of 1985 concerning the Supreme Court, which has been amended by Law Number 3 of 2009, as well as in the Criminal Procedure Code (KUHAP) which includes Article 244 to Article 258 regarding the requirements, procedures, and time period for filing a cassation in a criminal case. In addition, Law No. 48/2009 on Judicial Power also provides a legal basis for cassation as a legal remedy in the Indonesian judicial system.

Cassation serves as a mechanism to ensure that the courts of first instance and appellate courts have applied the law correctly. The Supreme Court, as the highest judicial body, has the authority to overturn or modify lower court decisions where errors in the application of the law are found. This is particularly important in criminal matters, where cassation plays a crucial role in preserving justice, particularly when there is doubt or error in the interpretation of the law by lower courts. In the case of acquittals, cassation can be filed against decisions that are deemed erroneous in their application of the law. Article 244 of the Criminal Procedure Code stipulates that cassation against acquittal can only be filed if there is a reason that the court in making its decision did not apply the rule of law or applied it improperly.

This shows that an appeal against an acquittal must be based on an error in the application of the law by the judge.¹⁴ In this process, the Supreme Court does not examine the facts that have already been examined by the court of first instance or appeal, but instead focuses on the court's application of the law. If the Supreme Court finds that there was an error in the application of the law, the acquittal may be overturned and the case returned to the trial court for re-examination. Through cassation, the Supreme Court exercises final control over the consistency of the application of the law across courts in Indonesia, so that no misapplication of the law is allowed to continue without correction. Cassation, therefore, is an important instrument in the Indonesian judicial system to ensure that justice is done correctly and equitably.

Acquittal verdicts, which are crucial in this study, have a categorical classification, namely pure acquittals and impure acquittals.¹⁵ Understanding the differences between these two types of decisions is

¹² Rio Christiawan, "Penetapan Pengadilan Sebagai Bentuk Upaya Hukum Pada Proses Eksekusi" *Jurnal Yudisial*, Vol 11 No 3 (2018): 367-384

¹³ Yohanes Pattinasarany, "Kepastian Hukum Kasasi Perkara Tata Usaha Negara Yang Dikeluarkan Oleh Pejabat Daerah" *Refleksi Hukum*, Vol 6 No 2 (2022):204

¹⁴ Ni Wayan Lisna Dewi, dkk, "Upaya Hukum Kasasi Terhadap Putusan Bebas (Prijspraak)" *Majalah Ilmiah Untab*, Vol 15 No 1 (2018): 86

¹⁵ Janpatar Simamora, "Kepastian Hukum Pengajuan Kasasi Oleh Jaksa Penuntut Umum Terhadap Vonis Bebas" *Jurnal Yudisial*, Vol 7 No 1 (2017): 1-17

very important, especially in the context of filing a cassation, because these differences affect whether a decision can be the subject of a cassation or not. A pure acquittal verdict is a verdict issued by the court when the defendant is found not guilty of the charges against him or her because the court does not find sufficient or convincing evidence that the defendant committed the crime charged.¹⁶ In a pure acquittal decision, the court concludes that the elements of the criminal offense charged have not been proven legally and convincingly. Therefore, in this decision, the defendant is completely free from all legal charges. A pure acquittal verdict is final and cannot be appealed by the public prosecutor because it is based on an assessment of the facts that have been examined by the court, except in cases where the application of the law is deemed incorrect.

On the other hand, an impartial acquittal occurs when the court decides to acquit the defendant on a legal technicality, such as an error in the court's application of the law or an error in the judicial procedure. In this case, although the court may have found the existence of facts indicating the defendant's involvement in the criminal offense, the court still decides to acquit the defendant due to legal or procedural errors. Acquittals can be the subject of cassation, as the grounds for cassation are often based on errors in the application of the law, which the Supreme Court deems necessary to review.¹⁷ This classification is important in the context of cassation because only non-unanimous acquittals can be submitted for cassation by the public prosecutor. Pure acquittals, which are based on an assessment of the facts, cannot be filed for cassation because cassation is not intended to re-examine the facts, but only to examine the application of the law.¹⁸ This understanding ensures that the judicial process in Indonesia runs on the principles of justice, where every decision taken by courts at all levels must be based on the correct and consistent application of the law.

Cassation is one of the most important legal mechanisms in the Indonesian judicial system. As an extraordinary legal remedy, cassation is presented to ensure that the application of the law in court decisions is correct and fair.¹⁹ However, when talking about cassation against acquittals, there are several provisions that raise interesting discussions, especially in relation to Article 244 of the Criminal Procedure Code. According to Article 244 of the Criminal Procedure Code, it is expressly stated that no cassation petition can be filed against an acquittal verdict. This article explicitly prohibits the filing of a cassation against an acquittal verdict that has been issued by a district court or high court. The basic principle behind this rule is to respect the assessment of facts by the courts of first and second instance, where the judge at that level has directly assessed the evidence and decided that the defendant is not guilty. However, in reality, this prohibition is often ignored by the Supreme Court through an approach known as *contra legem*, which is a

¹⁶ Yayang Susila Sakti, "Peninjauan Kembali Oleh Jaksa Penuntut Umum: Antara Kepastian Dan Keadilan" *Arena Hukum*, (2014): 1-27

¹⁷ Heru Drajat Sulisty, "Kajian Yuridis Dasar Hukum Jaksa Penuntut Umum Melakukan Upaya Hukum Kasasi Terhadap Putusan Bebas (Vrijspraak) Dalam Sistem Peradilan Pidana Indonesia" *Yutitia Merdeka: Jurnal Ilmiah Hukum*, Vol 5 No 2 (2019): 65

¹⁸ Muhammad Okky Arista, Putra Bagus Setya Dewanto, "Argumentasi Jaksa Penuntut Umum Mengajukan Kasasi Atas Dasar *Judex Factie* Keliru Menafsirkan Sebutan Tindak Pidana Korupsi Dalam Pasal 3 Undang-Undang Nomor 31 Tahun 1999 Tentang Tindak Pidana Korupsi Sesuai Ketentuan Pasal 253 Kuhap (Studi Putusan Mahkamahagung Nomor :395 K/Pid/2007)" *Jurnal Verstek*, Vol 3 No 2 (2015): 110

¹⁹ Aldi Rizki Khoiruddin, Muhammad Rustamaji, "Mengadili Perkara *Ne Bis In Idem* Kajian Putusan Nomor 957 K/Pid.Sus/2018" *Jurnal Yudisial*, Vol 16 No 1 (2023): 49-64

legal interpretation that goes against or distorts the text of the law. The Supreme Court, in the interest of justice, continues to accept and examine cassation petitions against acquittals. This step is taken by the Supreme Court in order to ensure that the law is consistently and correctly applied throughout Indonesia, even if it means going against the letter of the law.

As a compromise to Article 244, Article 259 paragraph (1) of KUHAP authorizes the Attorney General to file a cassation in the interest of the law against all decisions that have obtained permanent legal force from courts other than the Supreme Court. This cassation request is not intended to change the legal status of the defendant, but rather to correct errors in the application of the law that may have occurred in the previous decision. Furthermore, Article 259 paragraph (2) of the Criminal Procedure Code confirms that cassation decisions in the interest of the law must not harm interested parties, meaning that the status of a defendant who has been acquitted cannot change to guilty just because of this cassation in the interest of the law.

The process of filing a cassation in the interest of the law by the Attorney General is carried out in writing to the Supreme Court through the Registrar of the District Court that decided the case at the first level, in accordance with the provisions of Article 260 paragraph (1) of KUHAP. The minutes of the cassation request must then be immediately submitted by the Registrar to the parties concerned, and the President of the District Court must immediately forward it to the Supreme Court as stipulated in Article 260 paragraphs (2) and (3) of the Criminal Procedure Code. After the Supreme Court decides on the request for cassation in the interest of the law, a copy of the decision will be sent back to the Attorney General and the District Court concerned, along with the case file in accordance with Article 261 paragraph (1) of KUHAP.

Over time, the jurisprudence of the Supreme Court has further clarified the position regarding appeals against acquittals. Landmark cases, such as the one involving Raden Sonson Natalegawa, have marked how the Supreme Court has interpreted statutory provisions in the context of efforts to uphold substantive justice. In that case, the Supreme Court ruled that although Article 244 of KUHAP expressly prohibits cassation against acquittals, they still have the authority to accept and examine cassation requests where there is a significant misapplication of the law, ultimately correcting the error. This jurisprudence provides a foundation for Indonesian courts in dealing with similar cases, where legal principles are often confronted with practical juridical realities that require flexibility in law enforcement. The Supreme Court, through its jurisprudence, has provided guidance that in the interests of law and justice, the application of Article 244 of KUHAP can be reviewed if necessary. However, the application of the cassation mechanism against acquittals is not free from criticism and evaluation. One of the issues that arise is whether this mechanism truly provides the legal certainty and justice expected, or instead creates uncertainty for the parties involved. The cassation process, especially in the context of acquittals, often prolongs the resolution of cases, which in turn can create uncertainty for defendants who have been acquitted by the court of first instance.

In addition, although the Supreme Court has the authority to review the application of the law, often the high workload and large number of cases pose a risk of reducing the quality of decisions. This can affect the effectiveness of cassation as a legal control tool. On the other hand, cassation remains an important mechanism to ensure that the law is applied correctly and consistently throughout Indonesia, ultimately maintaining the integrity of the justice system. In terms of the articles of KUHAP that regulate cassation in

the interest of the law, this practice demonstrates an attempt to maintain a balance between the public interest and the individual rights of the accused. Although not detrimental to interested parties, cassation in the interest of the law still serves to correct legal errors that may occur, which is part of the Supreme Court's responsibility in safeguarding justice in Indonesia. Thus, the application of the cassation mechanism against acquittals, although based on strict rules, still leaves room for flexibility and contextual interpretation of the law, which is expected to create a fair, consistent and reliable justice system. Continuous evaluation of this practice is necessary to ensure that the main objectives of cassation, namely justice and legal certainty, can be effectively achieved.

Legal consequences of cassation against acquittal

In the Indonesian judicial system, every legal event, including the filing of an appeal against an acquittal, is part of the dynamics of legal relations involving the parties involved. Legal events can be defined as events or actions that cause legal consequences between parties who have legal relationships.²⁰ Legal consequences are the consequences arising from the relationship, which can have both positive and negative impacts. In the context of an appeal against an acquittal, the legal relationship formed is between the defendant and the state, represented by the public prosecutor.²¹ This legal relationship is public in nature, where the state through the public prosecutor acts on behalf of the public interest to enforce the law. A cassation appeal against an acquittal brings with it a range of complex legal consequences, which not only affect the parties directly involved, but also have a wider impact on society, judges, applicants and respondents to the cassation, as well as the development of the legal world as a whole.²² These legal consequences can be positive or negative, depending on the perspective and position of the party who perceives them.

For society at large, appeals against acquittals can have a significant impact in terms of perceptions of justice and legal certainty. When the Supreme Court decides to grant an appeal against an acquittal, the public may see this as an attempt to uphold justice and ensure that the law is applied correctly. However, if the appeal is perceived as undermining legal certainty, especially if the appeal process is lengthy or does not produce the expected results, the public may lose confidence in the justice system. This raises concerns of legal uncertainty, where the legal status of a person who has been acquitted by the courts of first and second instance could be called into question.

For judges, both those deciding in the courts of first instance and in the Supreme Court, appeals against acquittals can be a challenge that requires discretion and a deep understanding of the law. Judges in the courts of first instance may feel that their decisions are being questioned, while judges in the Supreme Court are faced with the huge responsibility of ensuring that any cassation decisions they make are strictly in accordance with the principles of justice and the law.

²⁰ Moch. Fahrur Risqy, "Implikasi Yuridis Putusan Mk Nomor 46/Puuvi/2010 Terkait Perlindungan Hak Anak" *Yuridika*, Vol 30 No 2 (2015): 279

²¹ Heru Susetyo, *Percikan Pemikiran Makara Merah*, Jakarta: Badan Penerbit Fakultas Hukum Universitas Indonesia, h.39

²² Asmarani Lamsu, "Upaya Hukum Pada Tingkat Kasasi Terhadap Putusan Bebas (Verkapte Vijspraak) Dalam Perkara Pidana" *Lex Crimen*, Vol 3 No 4 (2014): 37

This may affect the independence of judges and increase their workload, especially if more cases of cassation against acquittals are filed.

For the appellant, who is usually the public prosecutor, filing a cassation against an acquittal is an important step to ensure that the law is applied correctly. If the cassation is accepted, it can reinforce their belief that the legal error at the lower level has been corrected, and the previously acquitted defendant can be retried. However, if the cassation is rejected, it could be a defeat that weakens the public prosecutor's position in trying to uphold the law.

For the respondents to the cassation, i.e. defendants who have been acquitted, the prosecutor's request for cassation can be a source of uncertainty and inconvenience. Having been acquitted by the courts of first and second instance, defendants may feel that they have received justice. However, with a cassation, their acquittal status may be called into question, causing them psychological distress and legal uncertainty. If the cassation is accepted, they may have to face a new legal process, which may disrupt their personal and professional lives.

More broadly, appeals against acquittals also have a significant impact on the development of the legal landscape in Indonesia. They can create new legal precedents that affect the interpretation and application of the law in similar cases in the future. The Supreme Court's decisions in cassation cases against acquittals can become jurisprudence used by other courts as a reference in handling similar cases. This is important to create consistency in the application of the law, but must also be done carefully so as not to create legal uncertainty or undermine public confidence in the justice system. Overall, the legal consequences of an appeal against an acquittal are complex and involve various legal, social and psychological aspects. While cassation can serve as a tool to uphold justice and ensure the correct application of the law, its consequences must be carefully considered so as not to create negative impacts that are detrimental to the interests of law and justice as a whole. Therefore, continuous evaluation and adjustment to the practice of cassation is necessary to maintain the balance between legal certainty and justice in Indonesia.

CONCLUSIONS

The cassation mechanism for acquittals in the Indonesian judicial system is a complex legal event with far-reaching legal, social and psychological implications. While cassation aims to ensure the correct and consistent application of the law, its application to acquittals presents a range of challenges, including potential legal uncertainty, psychological impact on defendants, and additional burdens for judges. The debate over the validity of cassation against acquittals demonstrates the existence of legal uncertainty that needs to be resolved through in-depth review and continuous evaluation. Thus, to maintain the balance between justice and legal certainty, there needs to be adjustments and clarifications in the rules and practices of cassation, so that the integrity and public confidence in the judicial system is maintained.

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