

The Paradigm of Applying Zero Verdict Based on Principles Legal Certainty, Justice, and Benefit

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Article	Abstract
<p>Keywords: Legal Principles; Paradigm; Zero Verdict</p> <p>Article History Received: Feb 12, 2023; Reviewed: Apr 07, 2023; Accepted: Apr 11, 2023; Published: Apr 11, 2023;</p>	<p>The null verdict is a criminal sentence against someone who has received the criminal sentence with the maximum limit but must be retried due to certain cases so that the criminal sentence given is nil or the maximum limit has been reached. Zero verdicts are given to criminals who have received the maximum limit in the principal sentence. Criminal terms for a certain time may not exceed 20 years as stated in Article 12 paragraph (4) of the Criminal Code. Life imprisonment is stated in Article 67 of Criminal Code that if the perpetrator of a crime has been sentenced to life imprisonment, then additional punishment may not be given. The legal gap in the zero verdict is its application, which does not provide any punishment, which in this case has the potential to cause misunderstanding, so that its application needs to be straightened out by reviewing several court decisions, and reviewed from the principles of legal certainty, justice and benefit.. The research method used is normative juridical by studying, viewing, and examining several theoretical matters concerning the Criminal Code and conceptual as the new paradigm. The results of the study show that the Judge's Consideration in imposing Zero verdict, when associated with principles of certainty, practicality, and fairness, has reached all three parameters, even though it is more inclined to principle justice because the imposition of criminal sanctions in all decisions solely refers to criminal acts along with criminal threats by applicable regulations without being contrived.</p>



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Introduction

A zero verdict constitutes criminal imposition without any associated penalties. This is in accordance with Article 67 of the Criminal Code, which states that the revocation of specific rights may only accompany the imposition of the death penalty or

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life sentence, the seizure of previously seized property, the announcement of a judge's decision, or all three. The definition of a Zero Verdict is not given in Law Number 1 Year 2023 on the Criminal Code (KUHPidana) or the Law of the Republic of Indonesia Number 8 of 1981 concerning Criminal Procedure Law (KUHAP) (Hamzah, 2008). In the criminal justice system, the phrase "Zero verdict" refers to the rule that if a defendant has already been given a death or life sentence for their crime, no further punishment can be imposed on them. A Zero verdict is applied to cumulative verdict with a set amount of time to prevent someone from receiving a sentence that exceeds the maximum allowed under Criminal Code Article 12 Paragraph 4, which is 20 years of imprisonment (Widnyana, 2010).

In determining a suitability of law, it is necessary to refer to the Criminal Code which says that for this type of crime there is a sentence of imprisonment with such a time that the minimum is 1 day and forever 20 years. This of course provides a limitation regarding criminals who need to be tried jointly or made separately with a sentence of not more than 20 years of confinement by sentence (Arief, 2016). In the event of a zero verdict, the goal of proof is to establish with certainty that an alleged event or fact happened to obtain a just and accurate judicial decision. Before it is evident to the judge that the event or fact occurred, that is, the truth is established so that there is a legal relationship between the parties, the judge cannot render a decision. Of course, the parameter must be considered when using the Zero verdict. Acting law in the event of a specific incident can lead to legal certainty for everyone (Kusworo & Fathonah, 2022).

Fiat justitia et pereat mundus, which translates as "the law must be upheld even as this world collapses," means that the applicable law cannot deviate. Legal certainty desires this. Legal certainty ensures that someone can obtain what is expected in specific situations and is a justifiable defense against arbitrary actions. The effectiveness of law enforcement in Indonesia can therefore not be separated from usefulness in Zero verdictverdictzero verdict. The Utilitarianism school of thought holds that law enforcement has a purpose based on certain benefits rather than just seeking retribution for criminal acts or providing compensation to those responsible. Here, the benefit is interpreted as happiness (Prodjodikoro, 2014). A good law makes many people happy. The hope that must be realized in law enforcement is justice. The law cannot function properly if law enforcement officers prioritize the value of justice while disregarding the value of efficiency and legal certainty, and the opposite. The law will not function if the value of expediency is prioritized over legal certainty and justice (Suyanto, 1982).

A court's decision in a case must be made following according to the law, which frequently presents courts and courts with various legal meanings. The law already governs a person's actions that have repercussions (Fadlian, 2020). The ontological and epistemological aspects of legal reasoning activities must be considered. According to Gustav Radbruch, the purpose of the law is to divide that purpose into three categories: justice (*Gerechtigkeit*), legal certainty (*Rechtssicherheit*), and benefit (*Zweckmäßigkeit*). In addition, there is a link between legal objectives and the axiological aspects of legal reasoning models (Wijayanta, 2014).

The legal gap with the nil verdict is its application, which does not provide any punishment, which in this case has the potential to cause misunderstanding that there is an effort to free the defendant from legal charges. Whereas a zero verdict is given because the criminal threat has been maximized, namely the death penalty, so that it can no longer impose punishment above it. Zero verdict in its application needs to be straightened out by reviewing several court decisions, as well as reviewed from the principles of legal certainty, justice, and expediency.

Based on the background above, the author will examine in more depth the Policy on Law Enforcement of Zero verdict in Indonesia and the application of Zero verdict with the parameters of the principles of legal certainty, justice, and expediency in the current criminal law system, because there is very little discussion of Zero verdict. Imposed by the defendant who previously obtained the maximum verdict and a Zero verdict has not been regulated in the Criminal Code.

Method

The normative juridical approach is carried out by studying, viewing, and examining some theoretical matters relating to legal principles, conceptions, views, legal doctrines, legal regulations, and the legal system relating to zero verdict research issues, namely referring to the Statute. Indonesia Criminal Code and the Criminal Procedure Code. The goal of the normative juridical approach to the problem is to develop a thorough understanding of the material with the phenomena and objects under study, which are theoretical based on the literature relating to the topics to be discussed. This study is a subjective interpretation that develops theories within the context of scientific discoveries rather than producing results that can be statistically tested (Sonata, 2015).

Data were analyzed in a qualitative descriptive manner, which meant that explanations and sentence summaries that were simple to read, comprehend, and draw

conclusions from were used to describe the study's findings. Inductive reasoning is the process of deducing general conclusions from specific ones. These general conclusions can then be used to deduce suggestions (Z. Ali, 2021).

Discussion

1. Zero Verdict Law Enforcement Policy in Indonesia

The issue was then resolved with Circular Letter Number 1 of 2022 regarding the Enforcement of the Formulation of the Results of the 2022 Supreme Court Plenary Chamber Meeting as a Guideline for the Implementation of Tasks for Court, which is solely intended to avoid disparities in judges' decisions against Zero Vouchers as part of maintaining unity in the application of law and Consistency of decisions formulation of the Criminal Chamber (Circular Letter Number 1 of 2022 Regarding Enforcement of the Formulation of Results of the 2022 Supreme Court Chamber Plenary Meeting). It states that if there are any discrepancies in the judges' decisions against Zero Vouchers, If there is an aggravation such as concursus (concursum), whether submitted in a combined (cumulative) or not combined manner, or because it is determined by Article 52 of the Criminal Code, the maximum sentence applies. The maximum penalty for the principal sentence is added, in cases of specific crimes such as corruption, money laundering, drugs, and other crimes with a maximum penalty of 20 years (Keintjem, 2021).

To avoid a sentence that surpasses the maximum permitted under Criminal Code Article 12 Paragraph 4, which is 20 years in jail, a Zero verdict is used in cumulative verdicts with a predetermined period of time. The word "punishment" in that sentence specifically relates to paragraph (1) of the same article, which describes the major form of punishment – imprisonment, the length of which can range from one day to fifteen years consecutively. The option of trying many criminals concurrently or separately for a cumulative sentence of more than 20 years in prison is constrained by these guidelines.

The judge gave the defendant a Zero Verdict case of the Zero Verdict, specifically in the Heru Hidayat cases in the case trial held at the Jakarta Corruption Court (Maulana et al., 2022). The judges found Heru Hidayat guilty despite returning a zero criminal verdict. Heru Hidayat had previously received a life sentence; additionally, under Article 67 of the Criminal Code, if the defendant had already received a life sentence, no other punishment could be applied beyond the suspension of certain rights and the publication of the judge's ruling (Tongat, 2022).

Criminal Case Number 30/Pid.Sus/Tpk/2020/PN Jkt, Heru Hidayat's initial instance. At PT. Jiwasraya Insurance, Pst. Heru Hidayat committed the crimes of corruption and money laundering. Since the state suffered a loss of 16.8 trillion, the Public Prosecutor demanded that Heru Hidayat be given the death penalty. Heru was given a life sentence by the judges in this case (Fahrurrozi & Paris, 2019).

Heru Hidayat and the additional punishment of paying the state Rp. 10,728,783,375,000.00 in replacement funds. In the Criminal Case Number 04/Pid.Sus-TPK/2021/PT Dki, additionally. Heru Hidayat was found guilty of corruption and money laundering against PT. Assbri caused damages to state finances totaling 22.78 trillion (Supriadi, 2019). On January 18, 2022, the panel of judges issued a Zero Verdict and imposed an additional penalty of Rp. 12,643,400,946,226 for Heru Hidayat's failure to make replacement payments to the state. Heru Hidayat's case is still under appeal as of January 20, 2022, and the appeal was notified on January 24, 2022. In addition to Article 55 paragraph (1) of the Criminal Code and Article 3 of RI Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, Heru Hidayat's indictment makes use of Article 2 paragraph (1) Jo Article 18 of Law No. 31 of 1999 as amended by Law No. 20 of 2001 concerning Corruption Crimes. Heru Hidayat had previously received a life sentence, and Article 67 of the Criminal Code stipulated that if the defendant had already received a life sentence, there could be no punishment other than the revocation of certain rights and the announcement of the judge's ruling.

Criminal Case Number 65/Pid.B/2017/PN Krs, Dimas Kanjeng's first case also contained jurisprudence. Two of Dimas Kanjeng's former employees were murdered as part of a plan. When added up, some of Dimas Kanjeng's cases total twenty-four (24) years. Because Article 12 paragraph (4) of the Criminal Code in conjunction with Article 66 paragraph (1) of the Criminal Code, expressly state that the maximum sentence for concursus realis is twenty (20) years in prison, this must be strictly followed. This clause served as the panel of judges guide, and they sentenced Dimas Kanjeng to imprisonment for a verdict of zero (Telaumbanua et al., 2022).

In his first case, Criminal Case Number 226/Pid.Sus/2019/Pn Kla, Muhammad Nasir was found guilty of a drug crime and given the death penalty. Muhammad Nasir was found legally responsible for distributing drugs of class 1 of the methamphetamine variety weighing 16 kilograms in this case. In addition, Muhammad Nasir, who had been given a death sentence, was awaiting execution in Criminal Case Number

511/Pid.Sus/2021/PN Ksr Tjk, resumed committing drug crimes and was ultimately given a zero-year sentence (Siregar & Sitorus, 2022).

The fundamental principles, jurisprudence, and statutory provisions that form the basis of criminal law policies in traditional legal sources are then used by judges to make decisions that have already been optimized. Although the definition of a Zero verdict has not been explicitly stated, it can only be described as a concurrent crime. The renewal of the Zero verdict law is based on the Criminal Code's Article 12 Paragraph 4 and Article 67. Additionally, there was the Supreme Court Circular Letter Number One Year 2022, which filled the legal void left by a Zero verdict for a particular crime. The judge may have considered the precedent set in the cases of Muhammad Natsir, Heru Hidayat, and Dimas Kanjeng in reaching the null verdict (M. Ali, 2022).

Based on these three cases, the author can conclude that Muhammad Nasir received a death sentence, Dimas Kanjeng received a 20-year prison term, and Heru Hidayat received a life sentence. Concerning the three cases, Heru Hidayat's Zero verdict could be increased to the death penalty, and Dimas Kanjeng's Zero verdict could no longer be increased to a maximum sentence of 20 years due to a lack of evidence and other factors that supported the charge (Anwar, 2018).

Although the recently disclosed act has been found guilty, Muhammad Natsir is no longer subject to a criminal sentence because it has accrued from prior crimes. After all, the imposition of the death penalty is the harshest criminal sanction and there is no longer any criminal threat to compete with it. The paradigm of a good Zero Verdict then achieves these three parameters without a doubt, according to the analysis of the three cases mentioned above, which are then connected to the Principles of Legal Certainty, Justice, and Benefit (Wirawan & Komuna, 2021).

2. Applying Zero Verdict Based on Principles of Legal Certainty, Justice, and Benefit

The law cannot function properly if law enforcement officers prioritize the value of justice while disregarding the value of efficiency and legal certainty. Conversely, if legal certainty and justice are neglected in favor of expediency, then the law will not be effective. The law cannot function properly if law enforcement officers prioritize the value of justice while disregarding the value of efficiency and legal certainty. Conversely, if legal certainty and justice are neglected in favor of expediency, then the law will not be effective (Moho, 2019). Gustav Radbruch asserts that the theory of legal certainty is one of the goals of law and that efforts to achieve justice include achieving legal certainty

(Radbruch, 2006b). Implementing and enforcing a law that does not consider what the individual is doing is a simple form of legal certainty (Radbruch, 2006a). Everyone is able to foresee what will happen if they take a particular legal action thanks to legal certainty. Everyone can enjoy legal certainty by passing laws in response to a specific event. The community anticipates legal certainty because it will lead to greater order. The principle of certainty examines from a legal perspective, normatively, i.e., when a statutory regulation is made and promulgated with certainty and regulates plainly and logically (Baidlowi, 2017). So that it won't lead to confusion due to differing interpretations, conflict, or create legal ambiguity. Justice is defined as equal rights for all parties before the court, and the principle of justice is examined from a philosophical perspective. In the opinion of L.J. Van Apeldoorn, justice should not be viewed as equalizing; justice does not imply that everyone receives the same amount (Wijayanta, 2014).

The principles of justice and legal certainty go hand in hand with the principle of legal expediency. This means that in order to achieve justice, each situation must be considered separately, and being fair to one person may not necessarily be fair to another. The principle of expediency must be taken into account when applying the principles of legal certainty and justice so that outcomes of legal proceedings can be advantageous for criminal offenders, society, and the state. The imposition of the death penalty or life in prison may only be accompanied by the revocation of certain rights and/or deprivation items previously seized and/or the announcement of a judge's decision, according to Article 67 of the Criminal Code, even though neither the Criminal Procedure Code nor the Criminal Code provides any explanation of the application of the Zero verdict in this case (Kusworo et al., 2022).

Although Circular Letter Number 1 of 2022 concerning the Enforcement of the Formulation of the Results of the 2022 Supreme Court Chamber Plenary Meeting as a Guideline for the Implementation of Duties for the court, one of which aims to maintain unity in the application of law and consistency of judges' judgments in several Supreme Court chambers, one of which is the criminal law in the Zero Verdict, was issued, legal certainty was nonetheless attained (Artadi, 2016).

The content's one encouraging passage states that a person currently serving a 20-year prison term in a case with ongoing legal implications may also face additional prison time for crimes committed while incarcerated. The maximum prison term in special criminal cases, such as crimes involving corruption, money laundering, drugs,

and other offenses, is 20 years. According to the author's analysis, the passage of Circular Letter Number 1 of 2022, which allows judges to impose additional prison verdict even though the defendant has already been given a 20-year sentence, actually strengthens the recidivism of criminal acts. According to the SEMA Criminal Chamber's formulation, a defendant currently serving a 20-year prison term in a case with ongoing legal ramifications may be held accountable for additional crimes committed while serving the original sentence (Kusworo et al., 2022).

Then article 67 of the Criminal Code strengthens the intent of the Zero Verdict which explains that if a person is sentenced to death or life imprisonment, no other punishment may be imposed except for the revocation of certain rights and the announcement of the judge's decision. Article 65 of the Criminal Code states that if several acts are concurrent, they must be seen as separate acts so that they constitute several crimes, which are subject to the same basic punishment, then only one sentence is imposed. Article 193 (1) of the Criminal Procedure Code also states something else: if the court finds the defendant guilty of committing the crime for which he was charged, the court will then impose a sentence (Asshidiqi & Irawan, 2021).

According to Samsung Hidayat, the Supreme Court believed that a retrial could proceed even though the defendant in this case was already serving a 20-year prison term after it was later discovered that he had committed another crime. However, the issue is that the judge's decision to impose a Zero verdict before the SEMA was in place raises a polemic, where in the new paradigm regarding parties who are opposed to a Zero verdict, the maximum sentence can no longer be imposed because there is no other crime with a threat above that or more than that has been added to the accumulation of prior criminal threats unless there is an additional sentence and has permanent legal force.

There are additional reasons why the imposition of a Zero Verdict cannot be carried out, including the fact that the accused may obtain a reduction or amnesty of his sentence at any time, making it obvious that less than the full 20 years of his sentence has already passed. According to Samsung Hidayat, this idea might result in a new law that other judges could use as a guide when deciding similar cases. In other words, the judge's role in this case goes beyond simply establishing and interpreting the law.

The benefit is interpreted as happiness. A good law makes many people happy. The use of the Zero verdict serves the purpose of benefiting the accused by allowing them to receive counseling and resocialization later while serving their sentence. The

goal of prison verdict is to foster, not punish, by forcing offenders to change their ways. Such perceptions and comprehensions are consistent with the nation's perspective on life as expressed in Pancasila, which upholds human values (Hazmi, 2021). Penitentiaries are therefore helpful for developing the character of prisoners in various types of crimes that these prisoners have committed. Regarding the advantages and usefulness, the death penalty, which was also given a zero-sentence ruling, will have a deterrent effect on those who have committed and will commit crimes, as well as help to keep the government and law enforcement in power (Julyano & Sulistyawan, 2019).

Where the imposition of criminal sanctions has solely referred to criminal acts and threats following applicable regulations, the application of the Zero verdict has unquestionably achieved the value of justice. The judge only considers the maximum crime assigned to be following the legal details presented at trial when deciding whether to impose a Zero Verdict (Supriyono, 2017). The principles of certainty, practicality, and fairness, the judge's considerations in imposing a Zero Verdict have met these three criteria. Judges' decisions regarding legal certainty are based on Circular Letter No. 1 of 2022, Article 67, and Article 12 Paragraph (4) of the Criminal Code. Next, let's talk about the expediency principle, which states that the goal of prison verdict is to force offenders to change their ways rather than exact revenge (Sulardi & Wardoyo, 2015).

The death penalty, which was also given a zero-sentence ruling, will have a deterrent effect on those who have committed and will commit crimes. It can also help to uphold the legitimacy of the government and law enforcement. For the sake of justice, it is important to note that the imposition of criminal sanctions has only ever been in response to criminal threats or acts that have been committed following the laws in force. To better ensure justice and benefits for the community adjusted, of course, to the legal facts discovered during the trial, the judge must interpret the fundamental justifications for imposing a Zero Verdict associated with SEMA No. 1 of 2022 in more detail (Prayogo, 2016).

According to Gustav Radbruch, applying the legal objectives theory has three aspects certainty, justice, and benefit. These three aspects become the basis for the judge's consideration in carrying out the judiciary and handing down a verdict so that the verdict is by the purpose of the law.

It can be said that the Zero Verdict application has met these three criteria, but it leans more toward the idea of legal certainty. Due to the explicit nature of Article 67 and Article 12 Paragraph 4 of the Criminal Code, as well as the existence of Circular Letter

Number 1 of 2022 Concerning the Enforcement of the Formulation of Results of Plenary Meeting of Supreme Court Chambers of 2022 as a Guideline for Implementation Tasks for court, one of which aims to maintain unity in the application of the law and the consistency of judges, judges are based on the legal certainty of these provisions. The law cannot function properly if law enforcement officers prioritize the value of justice while disregarding the value of efficiency and legal certainty. Conversely, if legal certainty and justice are neglected in favor of practicality, the law will not be effective. Perfect for upholding the law.

Conclusion

The principles of certainty, practicality, and fairness, the judge's considerations in imposing a Zero Verdict have met these three criteria. Judges' decisions regarding legal certainty are based on Circular Letter No. 1 of 2022, Article 67, and Article 12 Paragraph (4) of the Criminal Code. Next, let's talk about the expediency principle, which states that the goal of prison verdict is to force offenders to change their ways rather than exact revenge. The death penalty, which was also given a zero-sentence ruling, will have a deterrent effect on those who have committed and will commit crimes. It can also help to uphold the legitimacy of the government and law enforcement. For the sake of justice, it is important to note that the imposition of criminal sanctions has only ever been in response to criminal threats or acts that have been committed following the laws in force. To better ensure justice and benefits for the community adjusted, of course, to the legal facts discovered during the trial, the judge must interpret the fundamental justifications for imposing a Zero Verdict associated with SEMA No. 1 of 2022 in more detail.

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