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## Expediency-based search for justice in cases of disparity in judicial decisions for the crime of murder

Dian Alifya<sup>1</sup>, Dahlan Ali<sup>2</sup>, M Saleh Sjafei<sup>3</sup>

<sup>1</sup> Student, Faculty of Law, Syiah Kuala University, Banda Aceh, Indonesia

<sup>2</sup> Lecturer, Faculty of Law, Syiah Kuala University, Banda Aceh, Indonesia

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### Abstract

This study examines court decisions related to premeditated murder cases using Gustav Radbruch's theory to analyze judges' considerations, whether the judges' considerations fulfill the elements of justice, legal certainty and expediency. The results of the study show that in court decisions there are elements, justice, legal certainty and expediency.

**Keywords:** expediency-based, disparity, judicial decisions

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### Introduction

Law aims to create justice, but on the other hand the law also aims to bring up legalism and bureaucratic formalism. Therefore, the law is then legalism, focuses on the rules, and tends to narrow the scope and facts that have legal relevance. As a consequence of this legalism, the decision is considered correct in abstracto if the formal procedures are fulfilled regardless of substantive justice.

Justice seekers inevitably have to accept the verdict handed down by the panel of judges because they have no choice not to believe that justice is attached to the law that has been established by the state through the judiciary. The law can be the fairest reference because basically the law can reach unlimited realms to find the truth. But what exactly is called justice? In the judge's decision for one case at different levels of the judiciary, it can be different. If one looks at the verdicts on these sentences, various questions arise as to why they could have been different.

Juridically, Article 2 paragraph (2) of Law no. 48 of 2009 concerning Judicial Power states that "State courts apply and enforce law and justice based on Pancasila". Furthermore, in Article 5 paragraph (2) of Law 48 of 2009 concerning Judicial Power it is also stated that "Judges and constitutional judges must have integrity and personality that is not blameworthy, honest, fair, professional, and experienced in the field of law". Based on the two articles, it can be said that judges are required to show integrity as the last place for justice seekers to find formal and material protection.

This study seeks to obtain an understanding of the meaning of legal certainty, expediency and justice the Radbruch model for parties who accept the execution of criminal justice decisions at various levels of criminal justice in Indonesia. By understanding the meaning of these three basic value dimensions, it can be seen that there is a gap in the judgments of judges in a case with the decisions of other judges at different levels in terms of justice.

Grammatically the word disparity can be understood as a difference or distance. In the Merriam Webster dictionary, disparity is defined as "a noticeable and usually significant difference or dissimilarity". Disparity (disparity) is basically a denial of the concept of parity, which means to be dissimilar or dissimilar in value. The term parity in terms of sentencing, including the equality of punishments is seen both in terms of crime and in terms of conditions.

Harkrisnowo said that disparity is a universal issue because it is often found in various criminal justice systems. Prejudice against the disparity of sentencing will arise if a comparison of the imposition of criminal sanctions is carried out between the decisions of one judge and the decisions of other judges.

There are several cases that will be explored why there is a disparity in the judge's decisions regarding the murder cases that occurred, including the cases of Zuraida Hanum, M. Jefri Pratama and Reza Fahlevi who were sentenced to different crimes and were both described as acts of "premeditated murder". And in the view of killing of his own wife, Romi Sepriawan was sentencing to a life sentence by the supreme court whilst in first level court he was sentencing only 15 (fifteen years).

Based on the description above, this research seeks to gain an understanding of the reasons why there are disparities in the decisions of the first instance courts, appeals <sup>[1]</sup> and cassation? How are the legal decisions and considerations used as the philosophical basis by the panel of judges in relation to the dimensions: justice, expediency, and legal certainty based on Radbruch's legal philosophy. Whether the decisions of judges'

considerations at various levels of the court that cause disparity in punishments each place more emphasis on the dimensions of expediency, justice, or only legal certainty.

### Identification of Problems

The following are some statements that have been compiled in the form of identified problems, and for further research what are the causes that occur, and why various possible causes are the way they are.

There is a disparity in punishments in the decisions of murder cases at the first level, the appeal level and the cassation level, the different legal considerations of the panel of judges appear in the decisions between the court levels; Meanwhile, there is a perspective in Radbruch's legal philosophy that offers a choice of the dimensions of legal certainty, expediency, and justice to enable him to be made a judge as a consideration in giving a fair decision on murder cases in court.

Based on some of the problems identified above, it can be rearranged in the form of research questions as follows;

Can court decisions in murder cases from various levels: District, High Court, and Supreme fulfill one or more dimensions of legal certainty, expediency, and justice? How is the perspective and workings of law in terms of Radbruch's legal theoretical framework.

### Theoretical Framework

Judges through laws and their reasoning can create justice. Justice in this case is real justice. This means that the parties who win or lose and everyone who hears or reads the contents of the judge's decision feels that justice has been served, not only that A feels that the decision is fair, while Person B feels that he has been wronged. Because even though justice is considered abstract, the value of justice should be measured socio-culturally and felt based on the internalization of everyone who has an impact on the law. Because basically the existence of justice cannot be separated from the existence of law. The judge's obligation, among others, is to find and determine the law in a case. Therefore, these decisions will show what and how judges use up-to-date legal perspectives and paradigms so that the development of the value of justice is in line with the pace of socio-cultural change.

From a philosophical point of view, *law may be unjust (summum jus-summa injuria)*, but it is law only because its meaning is to be just. In this regard, there are 3 (three) legal dimensional reviews, namely: (1) the legal dimension as a cultural fact that marks the essence (essence) of legal science or law; (2) the dimension of evaluation of views as cultural values that characterize or characterize the character of legal philosophy or the idea of law; (3) the element of conquest of value (value conquering) which sees essence or its nonessentiality, which is the duty of religious philosophy or purposes of law.

### Information

Radbruch's legal philosophy framework presents 3 (three) dimensions of basic values in order to construct normative justice values. The three interrelated dimensions in this case are treated as factors that should be contained in various court decisions at the first, second and cassation levels. In other words, 3 (three) dimensional factors are treated as independent variables and judicial decisions are treated as dependent variables. Justice in Radbruch's legal philosophy leads to an understanding of justice as part of the idea of law. Justice according to Radbruch is formed from the good morals of a person. That it is true that justice can be associated with the qualities of a human being. However, subjective feelings cannot be used as a basis for objective justice, but are clearly a sentiment towards objective justice. In another view, according to him, justice is the application of the law, or is the law itself.

*Expediency* for Radbruch is the goal towards absolute value. This surfaced in his thoughts on the imposition of punishment in criminal cases. In contrast to punishments that provide a deterrent effect and retaliation for the actions taken, but look at a case from the point of view that the perpetrator is also a human being whose faults should be judged based on expediency, such as the age of the defendant (is he still a child or an adult), the behaviour of the defendant (whether he always behaved in a bad manner or made a mistake), the role and function of the defendant when committing a crime (what was the motive, was it because of the victim's crime or because the perpetrator really wanted to hurt him to take advantage), and whether this behaviour could be corrected, or not.

Furthermore, legal certainty demands the applicability of positive law: 'if what is fair cannot be resolved, then what should be determined and done by an institution is that which is able to carry out what is determined in accordance with what should be determined'.

Legal certainty is something new, since the law was written, positivized and objectified to become public. There are four things related to the meaning of legal certainty<sup>[2]</sup>. The four things are as follows. For Radbruch, the idea of law is a cultural idea, it cannot be treated as a formal idea. Instead, it focuses on *rechtsidee*, namely the value of justice. Justice as an image, as shown by Aristotle, cannot say otherwise except that the equals are treated equally and the unequals are treated unequally. To fill this ideal of justice with concrete, it must be directed to the side of finality.

### **Expediency in the Decision of Reza Fahlevi and Romi Sepriawan**

Expediency in this study follows the concept of expediency in Radbruch's philosophy of law which is defined by Robert Alexy as *purpose to absolute value* or final destination to absolute value. This is concluded by Alexy armed with Radbruch's theory of virtue that comes from individual's value which produces transcendent justice and brings change to the collective good which ultimately leads to goodness at the cultural level. The concept of expediency can also be applied in giving punishment to criminals.

By analyzing the judge's consideration of sentencing in these two cases, it is found which decision is more ideal with the aim of absolute value. Radbruch's view of criminal cases closely follows Fierbach's theory from the nineteenth century. The provision of punishment is not only based on the theory of retaliation and deterrent effect but also considers corrective theory in the form of the basis of expediency-based justice which is the basis of the concept of expediency in criminal law. This is what underlies Radbruch's thoughts on expediency in criminal law. This expediency in criminal law separates the perpetrators of crimes and humans as perpetrators of these crimes. In this case, Radbruch distinguishes it from the following elements: the age of the perpetrator (adult or underage), the crime committed is a habit or only done once (the perpetrator always acts evil or only at the time of the incident).

Based on the indicators mentioned above, in the decision of the murder crime case studied, the expediency is observed in the legal considerations that gave birth to the verdict. Where the verdict is justice that is born from the wisdom of the judge.

In Legal Idea, which is one component of Radbruch's Philosophy of Law, expediency along with legal certainty and justice are variables that make up legal ideas. Furthermore, what underlies this expediency is distributive justice and commutative justice which is the idea of Aristotle's theory of justice. Even though the judges said they used distributive justice in considering decisions on criminal cases, they did not realize that when calculating the amount of punishment only based on appropriate actions and punishments as stated in the Criminal Code, the decisions tended towards commutative justice.

From the judges interviewed they said that the punishment for the perpetrators of the crime of murder was to follow the legal provisions in force in Articles 338 or 340 of the Criminal Code. The terms of the sentence have been listed and the sentence period is calculated based on mitigating and aggravating matters.

Article 338 of the Criminal Code: Anyone who intentionally takes the life of another person is threatened with murder with a maximum imprisonment of 15 (fifteen) years. Article 340 of the Criminal Code: Whoever deliberately and premeditatedly kills another person is sentenced to premeditated murder, with a death penalty or life imprisonment or a maximum imprisonment of 20 (twenty) years.

There are several considerations that become the background of the panel of judges in determining the size of the sentence against the defendant. In simple terms, one can see aggravating and mitigating legal facts in criminal cases.

However, not all things that are actually considered by the judge in determining the severity of the defendant's sentence are written down by the judge in his decision. Although these considerations include aggravating or mitigating. Including the decisions of Reza Fahlevi and Romi Sepriawan. There are humanitarian elements (expediency) as well as aggravating elements which were not written down because they were considered insignificant in determining the severity of the punishment.

Below are aggravating things in the case of the defendant Reza Fahlevi.

Whereas the defendant's actions were carried out against a state official who served as a judge at the Special Class IA Medan District Court;

Whereas the actions of the Defendant together with witness M. Jefri Pratama and witness Zuraida Hanum were committed against the victim Jamaluddin who was sleeping in the bedroom of his house, where the bed should have been the safest place for a person;

Whereas the Defendant committed the act because of a promise or giving of a certain amount of money and witness Zuraida Hanum, the wife of the victim Jamaluddin who was also the perpetrator in the crime;

In this case there was no consideration of mitigating factors, however in his interview one of the panel of judges said that based on the testimony of the Defendant Jefri Pratama, the Defendant Reza Fahlevi had time to give up his intention to kill the victim Jamaluddin, but because of their position at that time in the 3rd (third) floor of the victim's house and at that time Jefri persuaded the defendant Reza so that they would stick to the plan.

Other mitigating considerations are the extraordinary regret when Reza became the Defendant at trial, and that the Defendant had abandoned his intention before committing the murder and the Defendant's motive for wanting to take his mother on Umrah and see his brother marry the woman he loves. Furthermore, based on the testimony of family and neighbours, he is a good child and has never been involved in legal problems before.

Some of these considerations are actually part of the expediency<sup>[3]</sup> which is a judge's perspective in seeing the goodness in a human being. These virtues show that Reza Fahlevi is not a bad person in everyday life. This daily behavior is one of the variables in the Radbruch criminal law expediency. This means that the judge has considered Reza as an ordinary human being, not just as a criminal.

While the judge's considerations that contain justice and legal certainty can be seen in the verdict. Where justice is in the period of punishment given. Zuraida Hanum who was the mastermind behind her husband's murder was sentenced to death, Jefri Paratama, who is Zuraida Hanum's lover, received a life sentence and Reza Fahlevi who assisted in the execution of Jamaluddin's murder was sentenced to 20 (twenty) years in prison.

The 20 (twenty) year sentence in the first instance decision is the lightest sentence in Article 340 of the Criminal Code (KUHP) which is based on expediency-based justice considerations. Meanwhile, Article 340 and Article 55 of the Criminal Code which are contained in the order are Legal Certainty in Decisions.

If you look at the composition of each of Radbruch's legal philosophies in the decision of the first instance, the element of expediency is contained in the sentencing period by the panel of judges, while the element of legal certainty is in the form of articles on premeditated murder and determination of the sentence period which remains within the limits contained in the Criminal Code which is used as a legal basis by the panel of judges.

Next justice or justice in Radbruch's legal philosophy in this study are all the decisions of the panel of judges which contain expediency-based justice and legal certainty-based justice. Both of these justices have fulfilled the elements of justice as a Radbruch legal concept and justice as a Radbruch legal idea. Because it has fulfilled the elements of legal certainty, expediency and justice.

Based on the description above, the elements of justice, expediency, and legal certainty have been contained in the Medan District Court Judge's Decision on the criminal act of murdering Judge Jamaluddin committed by Reza Fahlevi (the defendant).

Although the considerations at the first level decision (district court level) are not much different from the decision at the appeal level, in reality the sentencing in the verdict differs from one another.

Observing the decision of the Reza Fahlevi case at the first court level, namely the Medan District Court, the Panel of Judges consisting of Erintuah Damanik (chairman of the assembly), Immanuel and Dahlia Panjaitan (member of the assembly) applied corrective theory apart from the theory of retaliation. Therefore, the justice contained in the decision is more directed to expediency-based justice rather than justice based on legal certainty. Meanwhile, at the appeal level, the panel of judges consisting of: member judge Purwono Edi Santoso and Krosbin Lumban Gaol, chief judge Ronius, gave a severe sentence on the basis of aggravating factors without any mitigating factors. If you look at the aggravating things in Reza Fahlevi's decision, the panel of judges considers that Reza Fahlevi, Jefri Pratama and Zuraida Hanum are categorized as sadistic and inhumane acts and at the same time as aggravating things, then the sentences imposed on the defendants Reza Fahlevi, Jefri Pratama and Zuraida Hanum must be treated equally and fairly. So that the panel of judges considers that the punishment given will have a deterrent effect and be afraid of others not to do the same act in the future.

The mitigating factors for Reza Fahlevi that could be used as an excuse for not being sentenced to a sentence as described below, were not found in the defendant.

The panel of judges at the level of appeal and cassation is more guided by the theory of retaliation. This can be seen from the statement by the panel of judges that the death penalty was imposed so that this punishment would provide a deterrent effect and scare others from committing the same act in the future. what he did was kill.

To measure which justice is more significant between one panel of judges and another decision, by observing the calculation of the magnitude of the element of expediency contained in the legal considerations of the panel of judges and the theory used, justice in the decision of the panel of judges in the case of Reza Fahlevi more fulfilled the element of justice based on Radbruch's philosophy of law. Where the expediency based on corrective theory framed by law as an element of the enactment of legal certainty that represents the theory of retaliation is also part of the determinants of justice born by the panel of judges.

Meanwhile, in the Romi Sepriawan case, the disparity that occurs at various levels of the court is in the determination of the sentence period. At the first level, the panel of judges sentenced the defendant to a sentence of 15 (fifteen) years based on Article 338 of the Criminal Code on murder. Meanwhile, at the appeal and cassation level, the defendant was sentenced to life in prison under Article 340 of the Criminal Code concerning premeditated murder.

In decision Number 328/Pid.B/2019/PN Bgl, the Bengkulu District Court panel of judges also applied corrective theory in addition to the theory of retaliation. However, whether the corrective theory is in accordance with its application to the crime of murder which is classified as sadistic, needs to be seen in the legal considerations of the decision.

### **In legal considerations, the panel of judges wrote down the aggravating and mitigating circumstances in this case, as follows**

#### **Aggravating circumstances**

- The Defendant's actions were committed against his own wife, someone he should have loved and protected;
- Whereas the Defendant's actions were carried out against his wife who was pregnant and soon gave birth;

#### **Mitigating circumstances**

- The defendant has never been convicted;
- The defendant behaved politely during the trial;

In addition to the aggravating and mitigating factors, the panel of judges also considered the children of the defendant Romi Sepriawan who were still small, namely Loni and Vino, who at the time of trial were 3 (three) years and 8 (eight) months old. The panel of judges was of the opinion that because these children needed to be raised with love, Romi Sepriawan continued to stay in touch with Erni Susanti's extended family in raising the two children.



In an interview with the panel of judges, the testimony of witnesses A de charge Niko Antoni and Adi Nopiansyah stated under oath that they saw that the defendant loved his wife and children everyday and the defendant was also a man who was responsible to his family. However, a few days before the incident the defendant did things that they thought were strange and the defendant had never done before.

Furthermore, the panel of judges also conveyed that although the defendant was declared healthy, there were indications that the defendant used narcotics or illegal drugs that might affect his behavior.

Based on the aggravating and mitigating factors as well as the statements of the witnesses, several considerations were made in the Criminal Decision Number 328/Pid.B/2019/PN. Bgl which contains elements of expediency-based justice are:

mitigating circumstances

1. Consideration of witness A de charge's statement regarding the defendant's daily behavior as a good and responsible husband
2. Considerations regarding the condition of the defendant's children who are still small
3. Consideration regarding the defendant's strange looking condition for the past few days
4. Considering that there was not enough time for the defendant to plan the murder of his wife, the panel of judges determined that the defendant's sentence was based on Article 338 of the Criminal Code on murder and not with Article 340 of the Criminal Code on premeditated murder.

While justice is based on legal certainty, based on the description in point 5 (five) above, the panel of judges refers to article 338 which is a subsidiary indictment instead of following article 340 as the primary indictment is the result of an expediency charge in the judge's judgment.

However, at the level of appeal court and Supreme Court, the charge of this expediency was not considered at all because the panel of judges at the Bengkulu High Court and the Supreme Court considered the murder as a premeditated sadistic murder. Therefore, as demanded by the prosecutor in the primary indictment, the panel of judges at the appeal and Supreme Court level sentenced the defendant to life imprisonment with reference to Article 340 of the Criminal Code concerning premeditated murder.

The panel of appellate judges consisting of Adi Dachrowi SA, SH, MH, Achmad Dimiyati RS, SH, MH, and Lince Anna Purba, SH, MH, considered that the defendant was in good health and could be held accountable for his actions.

Several considerations in the decision at the first instance which were included in the expediency component were annulled by the panel of judges, such as regarding the condition of the defendant's children who were still small, which was ruled out by the panel of judges. Meanwhile, the ad e charge witness statement that mitigated was not considered at all.

Assessing the expediency of Romi Sepriawan's decision is somewhat different from Reza Fahlevi's decision. Especially assessing the perspective of the judge in determining the sentence period. Where in the Reza Fahlevi case, the perpetrator did not know the victim closely and the perpetrator had time to cancel his intention to commit murder. Meanwhile, in the case of Romi Sepriawan, the perpetrator killed his own wife, who at that time was pregnant with their second child. The murder committed by Romi using a sharp weapon while his wife was sleeping is considered an extraordinarily sadistic murder.

From several interviews conducted with other judges, several perspectives emerged and differed from the perspective of the panel of judges on the subject matter in question.

A high court judge was of the opinion that the murder of his own wife is a sadistic act, especially when the wife is pregnant and not in a state of resistance. Wife is a person who should be protected not to be hurt. Murder by using a sharp weapon to slit the victim's throat and remove the baby from the victim's stomach with a machete is considered a cruel and sadistic act.

Based on the actions of the perpetrators, the humanitarian element contained in the philosophy of expediency does not apply unless there are other facts which state that the perpetrator is under other influences, such as an unstable mental condition. In the trial, it was proven that the perpetrator was physically and mentally healthy. Further, referring to the evidence at the trial, it can be concluded that in the Romi Sepriawan case, expediency-based justice which is full of human values cannot be highlighted because the actions taken do not reflect human values.

Observing Romi Sepriawan's decision at the first instance, it is not entirely possible to say that justice is based on expediency, even though the panel of judges considered the condition of the accused's children and the testimony of mitigating witnesses. The selection of the legal basis in Article 338 concerning murder with a maximum sentence of 15 (fifteen) years is considered by some other judges to be too light. Therefore, justice in first-degree decisions tends to justice based on legal certainty.

Meanwhile, at the level of appeal and cassation in general, justice based on legal certainty is more prominent. According to the judges interviewed, this happened because of several reasons, including the examination carried out based on case files without presenting the parties, so that the panel of judges at the high court level did not witness the atmosphere of the trial, which often involved regret and deep sadness from the defendants.

At the appeal level, the panel of judges referred to Article 340 regarding premeditated murder in accordance with the primary indictment, where the lightest sentence is 20 (twenty) years and the maximum sentence is the death penalty. In the case of Romi Sepriawan, who killed his own wife, he was sentenced to life imprisonment.

Some of the differences in the views of the judges of the high court and the Bengkulu district court are as follows:

There is sufficient time for the defendant to carry out his intention. Because the defendant had borrowed the machete that had been returned and then pretended to sleep so that the machete as a sharp weapon used was not seen by the victim.

The act of killing the defendant in the manner considered by the Bengkulu district court and the frowning by the victim is an unbalanced act. The murder committed by the defendant was not an ordinary murder which was only a sullen reaction of the victim, but rather a murder that had been thought of beforehand.

The elements of "deliberately premeditated" in Article 340 of the Criminal Code on the primary indictment have all been fulfilled.

In fact, justice based on these expediencies can be calculated in each decision, so that justice seekers can see which justice is more objective between one another. However, in the case of the murder of Judge Jamaluddin by Reza Fahlevi and the murder of Erni Susanti by Romi Sepriawan, the mitigating and aggravating factors under consideration were not entirely written down, so the calculation of the number of expediency elements that influenced the amount of the sentence could not be calculated.

In the case of Reza Fahlevi, the testimony of the Witness which should have been able to alleviate the defendant's sentence was not considered at all by the panel of judges, as was the case in Romi's case, where Romi Septiawan's actions were purely considered a sadistic act and the mitigating considerations in the first instance court decision were annulled by the panel of judges at the appeals level.

Observing the perspective on a case through imposing an appropriate sentence for the perpetrator, the panel of judges at the appeals and Supreme Court tended to use the theory of retaliation and deterrence rather than expediency. Where with the victim who has died, the perpetrator who took the life of that person deserves the same punishment regardless of the motive, role and behaviour of the defendant.

In regard of expediency as a purpose to absolute value, in the case of Reza Fahlevi, the most prominent expediency was the consideration of witness Jefri's testimony at the trial which stated that Reza had given up his intention to kill the victim when they were on the 3rd floor of the victim's house. Furthermore, the statement of Reza's neighbour witness who gave information that Reza was a good child on a daily basis, where this statement was also corroborated by the testimony of the witness's mother, Reza's mother, who said that Reza often helped her.

Observing the testimony of the witnesses, the panel of judges argued that Reza was a good child, and this was clearly seen during the trial where Reza deeply regretted his actions. Even though the act was pre-planned, Reza's naive motive for committing the crime was because he wanted to see his brother happy and his mother able to go on Umrah to be considered by the judge.

In this case, the expediencies aspect that influenced the judge's perspective in determining Reza Fahlevi's sentence for 20 (twenty) years was that Reza should be given a second chance considering he is not a bad person on a daily basis and he is still young.

By being given a 20 (twenty) year sentence, the panel of judges in the Reza case hopes that Reza can live as a good citizen after his sentence is over. It is hoped that the sentence of 20 (twenty) years will be able to forge him into a better person. This is one of the decisive components of absolute goodness.

Meanwhile, in the Romy Sepriawan's case, the expediency in the judge's consideration at the first court was the consideration of mitigating witness testimony, which stated that Romi was a good and responsible man on a daily basis. The witness even saw Romi cut his wife's nails. In addition, the judge was of the opinion that Romi did not have sufficient time to plan his murder and that the person Romi saw at that time was not his wife. Romi's murder was carried out spontaneously after his wife pouted because she didn't bring him a young coconut.

In addition to Romi's daily life, the panel of judges also considered that Romi's perpetrators also had small children and needed parental love.

In this case, the panel of judges had a favourable opinion of Romi, by trusting Romi's testimony and the testimony of mitigating witnesses. The Bengkulu district court judges' trust in Romi was based on the facts at the trial where Romi regretted his actions. Meanwhile, at the level of appeal and cassation, the witness testimony was not considered and the panel of judges focused more on Romi's actions against the victim, which were actually sadistic acts.

Assessing justice based on expediency in Romy's case is a little different. Where the humanitarian element considered by the panel of judges at the first instance did not stand out when the panel of judges at the appellate level put forward the facts that Romi was a healthy young man and was able to take responsibility for his actions, as stated by the expert witness, Dr. Ermiaati Sp.KJ, in the Visum Letter et Repertum Psychiatrium Number 237/800/RSKJ/1.2/VI/2019.

The consideration regarding Romi's young children was also denied by the panel of judges at the appellate level who argued that by the time the defendant's sentence was over, the children had also grown up.

Comparing the sentence for Romi Sepriawan given by the panel of judges at the first instance and on appeal, namely 15 (fifteen) years and for life, then the panel of judges at the first instance failed to consider that Erni (victim) frowning is a common thing for wives, so there is no reason for the perpetrator to kill the victim. Here it can be seen that the victim is a very emotional person and does not provide a sense of security for those closest

to him and his environment. Therefore a life sentence is able to keep Romi away from his family and environment, so this is also an absolute good.

Absolute value in a decision is when the judge is able to see far into the future through transcendent inspiration so that it can influence the judge's perspective in determining wise sanctions. According to Radbruch, this individual's value is closely related to religious values or conquering values. Therefore, inspiration can only be obtained by individuals who are guided by good morals. Inspiration in this case is a sharp intuition about what is the best decision and which brings absolute value.

### Conclusions

In the decision on the crime of murder at the first court, appellate and supreme courts, it contains philosophical dimensions which are presented in the Radbruch framework. The court of first instance on behalf of Romi Sepriawan contains the dimensions of legal certainty and expediency. Basically, every decision at the first instance and at the appeal level takes into account the philosophical aspects of expediency and legal certainty. Where the elements of humanity which are the determinants of the magnitude of the expediency, in a decision and the fullest aspect of the elements in certain articles are part of the expediency indicators. Expediency-based justice in the case of a murder crime, directs the perspective of the judge in considering whether or not the indicators of justice based on legal certainty are met, in this case it can determine the severity or not of a sentence.

The significance of justice contained in the decision, for the cases of Reza Fahlevi and Romi Sepriawan, at the first level the judge's consideration of the elements of humanity which is an indicator of justice based on expediency is more dominant, but not necessarily the purpose of the expediency, namely absolute value, can be fulfilled, this is because clash between the absolute value of the actor and his environment. There are long-term impacts that the panel of judges may not be able to predict.

The legal working mechanism on normative-based decisions meets the descriptive criteria. It is difficult to meet the scientific criteria because not all things that are actually considered by the judge are listed in the decision. Another shortcoming, hermeneutics also cannot be explained because the correlation between witness statements or evidence at trial is not described in the opinion of the panel of judges. Although the understanding that is the basis for judges in making decisions is not necessarily written in the decision, the verdict reflects how the judge's perspective actually is in assessing a case. For example, in the Romi Sepriawan case from an expediency point of view, the judge's mindset focused on the goodness of the defendant and his children.

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