



## Criminal Acts of Persecution That Resulted in The Death of The Victim

Ruth Febriani Hia<sup>1</sup>, Ojak Nainggolan

Universitas HKBP Nommensen<sup>1,2</sup>

Email: ruthfebriani.hia@student.uhn.ac.id<sup>1</sup>

ojaknainggolan62@gmail.com<sup>2</sup>

**Abstract** - This study discusses the criminal act of assault that resulted in death, focusing on the case study of Decision Number 467/Pid.B/2022/PN Stb. The purpose of this research is to explore the importance of applying the principle of "equality before the law" in upholding justice and to assess whether the punishment imposed is appropriate given the consequences of the defendant's actions. This research uses a normative legal method with a statute-based approach, examining relevant regulations and laws related to cases of assault resulting in death. In this case, assault is defined as an act that causes pain or injury to the body, leading to the victim's death. The defendant was sentenced to 1 year and 7 months in prison under Article 351 paragraph (3) jo. Article 55 paragraph (1) point 1 of the Criminal Code. However, the analysis shows that the sentence is considered too lenient given the impact of the defendant's actions. Therefore, this study recommends that stricter law enforcement be applied to provide a deterrent effect and better justice for society.

**Keywords:** Crime, Persecution, Death

### I. INTRODUCTION

As a rule-of-law state, Indonesia must uphold the principle of justice, as reflected in Article 1, Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that Indonesia is a state based on law. This means that the law must serve as the foundation for all aspects of national and social life, and any act that violates human rights, such as persecution, must be subject to appropriate legal sanctions (Winarno, 2007). Persecution has broad social implications, as it not only violates individual rights but can also lead to social tension, societal polarization, and exacerbate social inequality. Procedurally, cases of persecution also face significant challenges within the judicial system, including in evidence collection and the application of fair punishment.

Indonesian criminal law provides a basis for addressing violence and criminal acts, including persecution, with the aim of protecting society and ensuring justice for the victims. Abuse that causes physical injury or even death is a serious crime that requires strict law enforcement. Acts of abuse are often linked to social and psychological factors, such as a culture of violence, social inequality, and mental disorders in the perpetrators (al., 2024). For example, in the case of abuse resulting in death that was tried in the Stabat District Court, two defendants were charged under Article 170 (2) ke-3 of the Criminal Code and Article 351 (3) of the Criminal Code. This case illustrates the importance of a proper legal process to deliver justice for both the victim and the perpetrator, ensuring that violent acts leading to death are met with appropriate penalties (Marpaung, 2002).

Through this research, the author aims to examine in-depth the criminal act of abuse resulting in death, identify the factors influencing such crimes, and analyze how Indonesia's

legal system addresses such cases. Based on the explanation above, the author is interested in conducting a study entitled Criminal Acts of Persecution That Cause Victims to Die.

## **II. METHOD**

Legal research is the process of discovering legal rules, principles, and doctrines that can be used to address or resolve existing legal issues. In the context of this research, the scope used is a case study of Decision Number: 467/Pid.B/2022/PN Stb. However, to make this research clearer and more relevant, it is important to identify why this case was chosen and whether it holds significant value. This case needs to be evaluated for its impact on the legal landscape in Indonesia. Does the decision made in this case bring about a significant change or reinforcement in the application of criminal law, particularly concerning abuse that leads to death? If so, this will highlight the importance of this case as the subject of the research. Does this decision open up room for new interpretations of the law that have not been discussed in similar cases before? There may be legal considerations or factors that were not given much attention by the court in other cases, which could contribute new insights to the development of the law.

This research uses a normative legal method, which means that the research focuses on the norms or principles of law that apply within the legal system. The main goal of this approach is to understand how law is applied in society by referring to various legal sources, such as statutes and legal doctrines. In this study, the approach used is the statute approach. This approach examines all laws and regulations related to the legal issue being studied. The statute approach provides an opportunity to study whether there is consistency and alignment between one law and another. The researcher will look at how the regulations relate to each other and whether there is potential overlap or inconsistencies that need to be addressed (Marzuki, 2007). The legal sources used in this research are primary legal materials and secondary legal materials. Primary legal materials include statutes, court decisions, and other legal documents that are direct and authoritative. Secondary legal materials include literature, books, articles, and analyses conducted by legal experts that support the understanding of certain legal rules or doctrines. Overall, the purpose of this research is to explore the consistency of the existing law through the statute approach, analyze the relationships between regulations, and examine the application of the law in the context of the issues being addressed.

## **III. RESULT AND DISCUSSION**

### **1. Accountability of Perpetrators of Persecution Causing Death (Case Study of Decision No: 467/Pid.B/2022/PN Stb)**

In general, the criminal act against the body in the Criminal Code is called "persecution". The establishment of this regulation on crimes against the human body is aimed at protecting the legal interests of the body from acts in the form of attacks on the body or parts of the body that cause pain or injury, even because such injuries to the body can cause death (Marlina, 2014). The relevant regulation of the crime of joint persecution resulting in death is regulated in Article 351 paragraph (3) Jo. Article 55 paragraph (1) 1 of the Criminal Code.

The crime of persecution itself is a crime against the body and all its actions so that it causes upstream or pain to the body and even causes death (Soesilo, 2014). Forms of unlawful acts that are criminal acts of persecution in the Criminal Code Book are regulated in book II (two) CHAPTER XX (twenty) starting from Article 351 to Article 355 with the following description:

- 1) Ordinary persecution (Article 351 of the Criminal Code)
- 2) Misdemeanor Persecution (Article 352 of the Criminal Code)
- 3) Premeditated persecution (Article 353 of the Criminal Code)
- 4) Severe persecution (Article 354 of the Criminal Code)
- 5) Premeditated serious persecution (Article 355 of the Criminal Code)
- 6) Persecution of certain people by using objects (Article 356 of the Criminal Code)
- 7) Assault or fight (Article 358 of the Criminal Code).

Criminal liability is a fundamental issue in criminal law, mistakes, accountability and criminal punishment are expressions and everyday conversations in moral, religious and legal matters. These three elements are related to each other and are rooted in the same situation, i.e. they both include a set of rules about behavior followed by a group of the same thing, rules about behavior followed by a group of similarities, giving birth to the conception of error, accountability and crime. This shows that conception was born based on a normative system (Ilyas, 2014) Criminal liability is a form of determining whether a suspect or defendant is responsible for a criminal act that has occurred. In other words, criminal liability is a form that determines whether a person is acquitted or convicted (Saleh, 1998).

Accountability is a method of deciding whether a person will be found guilty or acquitted of a crime that has been committed. In this case, a number of requirements must be met to state that a person is capable of being held accountable. These elements are as follows:

1. Faults (Intentionality and Omission)

The element of error itself is divided into two forms, namely:

a. Intentionally (dolus)

The division of intentional types is traditionally divided into three types, including: Intentional as intent (opzet als oogmark). Deliberately as an intention in this form of crime, the perpetrator really wants (willens) and knows (wetens) the deeds and consequences of the deeds that the perpetrators commit. Deliberate with the awareness of certainty (opzet met bewustheid van zakerheid of noodzakelijkheid). This kind of intentionality occurs when the perpetrator with his actions does not aim to achieve the result of his actions, but he performs the act as a necessity to achieve other goals. This means that intentionality in this form, the perpetrator is aware of the act he wants but the perpetrator does not want the consequences of the act he has done (Rusianto, 2016). Deliberately with the awareness of the possibility of happening once (opzet met waarschijnheidbewustzijn). In intentionality as a possibility, the perpetrator actually does not want the consequences of his actions, but the perpetrators have previously known that the consequences may also occur, but the perpetrators still carry out their actions by taking the risk.

b. Negligence (culpa)

Leden Marpaung also explained that in general, negligence (culpa) is divided into 2, namely:

- 1) Negligence with consciousness (bewuste schuld). In this case, the perpetrator has imagined or predicted the occurrence of an effect, but even though he tries to prevent it from arising, it still arises.
- 2) Unconscious negligence (onbewuste schuld). In this case, the perpetrator does not imagine or suspect the occurrence of a consequence that is prohibited and threatened by the law. Meanwhile, he should take into account the occurrence of an effect.

2. The Ability to Be Responsible

The ability to be responsible can be seen from the mental state of the person who commits a criminal act to determine the existence of a mistake, where the mental state of the person who commits a criminal act must be such that it can be said to be normal, healthy, this can regulate his behavior according to the measures that are considered good by society (Matalatta, 2001)

3. The Absence of Justification and Excuse

One of the things to be held criminally accountable for a person is whether or not there is a reason for criminal expungement to that person. In the Criminal Code contained in Chapter I Book III, the first part of the general book contained in the first book (about general regulations) as a whole discusses the reasons for the abolition of criminal offenses, which are as follows:

- a) Justification Reasons regarding the justification reasons for this are contained in Articles 164 to 166 of the Criminal Code, Article 186 of the Criminal Code, Article 314 of the Criminal Code.
- b) The reason for forgiveness regarding the reason for forgiveness is contained in Article 44, Article 48 to Article 51 of the Criminal Code, because Articles 45 to 47 of the Criminal Code have been revoked based on Law No. 11 of 2012 concerning the Juvenile Criminal Justice System.

Based on Decision Number 467/Pid.b/2022/PN Stb and also based on the facts revealed at the trial that the criminal act of persecution jointly committed by the perpetrators resulted in death as mandated in the laws and regulations. The form of criminal liability for the perpetrators of the crime of persecution together that results in death must first be seen from various aspects. So that it can be known to what extent the perpetrator is involved in committing the violation. If it is already known about this, then it can be determined regarding the appropriate criminal liability to be imposed on the perpetrators. If viewed from the nature and losses that cause losses in the form of unrest for the wider community and the loss of one of their families, the violation of joint persecution that results in death can generally be said to be a criminal act. Determining whether the perpetrator of the crime can be held accountable for his actions, it is first proven that there is an element of error. Based on the concept of criminal liability, this element of error adheres to the doctrine of mens rea. In addition, the concept of criminal liability refers to the mental state of the perpetrators in committing their acts so that the act can be reprehensible. Thus, the concept of criminal liability "is always related to mistakes both in the form of mistakes and intentionality" (Anshar, 2010)

Criminal liability must have the ability to be responsible. The ability to be responsible must be able to prove that the perpetrators are able to take responsibility as evidenced by the mental state of the perpetrators. Furthermore, to be accountable for an act, the perpetrators must also meet other elements, namely the absence of excuses and justifications. The absence of an element of forgiveness that can eliminate criminal liability is often associated with compelling circumstances in committing a criminal act. In this case, the coercive situation includes 3 things, namely people are trapped between two interests, people are trapped between interests and obligations, there is a conflict between two obligations. A person who commits a legal act and an unlawful nature can be forgiven if it meets some of the criteria above. If referring to Decision Number 467/Pid.b/2022/PN Stb, the author analyzes the existence of an element of coercion for the perpetrators in committing persecution because the victim does not want to answer honestly to the questions from the perpetrators.

In court decision number 467/Pid.b/2022/PN Stb, the defendants were charged with subsidiary charges consisting of the first indictment of Article 170 paragraph (2) 3 with a threat of a maximum prison sentence of 12 (twelve years) years and the second indictment is article 351 paragraph 3 Jo. Article 55 paragraph (1) 1 of the Criminal Code with a threat of imprisonment of 7 (seven) years. From the Public Prosecutor's indictment, which is in the form of a subsidiary indictment, the Panel of Judges determined that the defendant was subject to criminal sanctions in accordance with the second indictment, namely Article 351 paragraph 3 Jo. Article 55 paragraph (1) 1 of the Criminal Code. Thus, the author is of the opinion that the second indictment, namely article 351 paragraph 3 of the Criminal Code decided by the Panel of Judges, is appropriate, and the addition of restitution to the defendants. However, the sentence with imprisonment for 1 (one) year and 7 (seven) months decided by the Panel of Judges to the defendants was too light. Although there is an additional request for restitution, it is not a benchmark to reduce the threat of imprisonment.

#### **IV. CONCLUSION**

The crime of persecution in the Criminal Code aims to protect the human body from unlawful acts that cause injury, pain, or death. Related articles (351-355 of the Criminal Code) regulate various forms of persecution, ranging from light, severe, to planned. Criminal liability is based on elements of fault (intentional or negligent), the ability to be responsible, and the absence of justification and forgiveness. In the case of Decision Number 467/Pid.b/2022/PN Stb, the Panel of Judges sentenced the defendants to 1 year and 7 months in prison in accordance with Article 351 paragraph (3) Jo. Article 55 paragraph (1) 1 of the Criminal Code. However, the sentence was considered too light considering the impact of the defendants' actions that caused death.

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