



Legal Protection Against Perpetrators of Murder Begal on The Basis of Forced Defense

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Abstract. This research was conducted with the aim of revealing how an act can be categorized as a defense and how is the legal protection for the perpetrator of murder on the basis of defense. A criminal act is an act that is prohibited by law and is subject to sanctions. Not all acts that violate the provisions of the law can be convicted, as contained in article 49 of the Criminal Code which was once called a criminal penalty. A person who is a victim of a criminal act of ransom in an affected situation which threatens his life who commits the act shall not be punished. The research used is normative legal research. The results of this study indicated that an act which states that it cannot be charged in accordance with Article 49 of the Criminal Code, is that a criminal act is committed in a threatening situation or an immediate attack, such as a victim of tampering with self-defense. Judges as law enforcers who examine and decide on evidence that can see evidence of the perpetrator's actions of self-defense that meet the elements of the defense. The judge also considered the reasons for the offender that could make it easier, especially since the perpetrator who did self-defense was still classified as a child. To law enforcement officials, judges in defending offenders who pay more attention to someone who is doing it so that justice can be created.

Keywords: Legal Protection, Perpetrators, Murder Begal, Forced Defense

1. Introduction

Human beings are endowed by God Almighty with a mind and conscience that give them the ability to distinguish between what is good and what is not good, and to be able to guide and focus their behavior and attitudes in the course of their lives. With the mind and

conscience, humans have the freedom to be able to address their own attitudes or behavior. On the other hand, it is also useful to be able to equalize freedom related to humans having the expertise to be responsible for all actions they take[1].

Murder itself, which is an action to eliminate the life of a person with an unlawful or unlawful purpose[2]. Murder can be carried out in various ways, the most common of which is with firearms or sharp weapons. Murder itself is divided into 3 types, namely: intentional killing, intentional killing, and unintentional killing. The legal study of murder itself is in accordance with the Criminal Code (which is then abbreviated as the Criminal Code). Criminal law is the ultimum remedium, which is the last step aimed at restoring human behavior, especially evil actions, and providing psychological pressure on other people who commit crimes [3].

Crimes are generally based on various plans and motives, ranging from harm, revenge, jealousy, debt, etc. especially in the case of intentional murder. Regarding pre-planning, the perpetrator had a well-thought-out plan, the perpetrator chose the right moment, and the suspect was able to calmly carry out his intentions. There is no forced towing or forced conditions. The word "crime" is a translation from Dutch as a translation with the designation (*misdrijf*) or "crime" means something that is reprehensible and related to the law, meaning nothing other than "unlawful acts" [4].

A crime is a premeditated act or omission in violation of the criminal law, the law established in legislation and jurisprudence, committed not only in self-defense and without justification, and formalized by the State into a felony or misdemeanor. Felony usually refers to an offense punishable by a year or more of imprisonment, whereas misdemeanor is a misdemeanor crime punishable by less than one year of imprisonment. As explained above, there is the issue of involuntary self-protection of oneself or others or to protect one's property[5]. others or to protect other people's property and defend their property rights. Assault with forced defense is carried out by the victim himself in order to save others or himself so that the perpetrator faces death and the victim only faces injuries. Until this matter is listed in the type of forced defense in Article 49 of the Criminal Code. In Indonesian Criminal Law it is known as "Noodweer". For more details, Noodweer itself is regulated in article 49 paragraph (1) which reads: "Not punishable shall be the person who commits an act of involuntary defense for himself or for another person, the honor of morality or the property of himself or of another person, because of an attack or threat of attack which is very close at the time which is against the law". Article 49 paragraph (2) reads: "Excessive forced defense, which is directly caused by great mental shock due to the attack or threat of attack, shall not be punished".

In Indonesia, which consists of approximately 265 million people who need the necessities of daily life, it is not uncommon for someone to commit a criminal offense to obtain or seize property belonging to another person quickly (instantaneously). This is done by a person to fulfill their daily needs. Many criminal offenses occur in Indonesian. The crime of begal is one of them. The crime of begal is when one or more criminals take the victim's possessions at night and threaten to harm them with sharp objects so they are

unable to defend themselves. The criminals typically prepare the crime ahead of time. The perpetrator typically targets a single driver, particularly a woman. Perpetrators frequently murder their victims to remove any evidence of their misdeeds. Article 365 of Book II of the Criminal Code lists property crimes, which includes the crime of begal[6].

In any case, in reality not all casualties fair stand by to be denied of their property. There are a few casualties who battle back to protect themselves or battle the culprits of the begal. Casualties who feel undermined with their security don't falter to counterattack the culprits of the begal, so that the culprits of the begal endure wounds due to resistance or self-defense, indeed to dead [7].

Proof of a person who commits forced defense can only be proven based on the results of the examination and decision by the court, in the examination in court must be based on evidence found at the scene of the crime (TKP), then listen to testimony from witnesses, so that the judge can consider the sentencing of the perpetrator of forced defense, where the perpetrator gets leniency or reasons for the elimination of punishment.

Based on the explanation of the background as such, this research is expected to make a significant contribution to this research was conducted with the aim of revealing how a criminal act can be categorized as a forced defense and how legal protection for perpetrators of murder on the basis of forced defense.

2. Method

This study employs normative legal research methods, and a conceptual approach was taken [8]. The 1945 Constitution of the Republic of Indonesia, the Criminal Code (Law Number 1 of 1946), the Criminal Procedure Code (Law Number 8 of 1981), and literature such as books, articles, and documents pertaining to the issue are the sources of primary legal materials. Tertiary legal materials are those that provide support for primary and secondary legal materials [9]. The process of gathering legal materials involves reading literature books to find secondary legal resources, which are achieved by cataloging, examining, and quoting relevant laws and regulations as well as books[8].

3. Result And Discussion

In the legal state of Indonesia, one must base whatever one does on the relevant legislation [9]. A criminal act is more than just an action that carries consequences. Criminal activity may be motivated by self-defense, urgent needs, or commands from others. Since some activities have legal repercussions and people might be held accountable, in actuality, all justifications for committing a criminal conduct must be approved.

Within the scope of society, every day there is a relationship or interaction between members of society with one another. These relationships or interactions lead to various events or occurrences that can lead to legal events. This also influences the increasingly

diverse motives of crimes and criminal offenses that occur today. For example, the crime of begal, begal is one form of crime and criminal acts that occur in Indonesia. Several factors lead to the occurrence of criminal acts, ranging from factors of low education, morals, religion, and environmental factors.

However, the factor that greatly influences the emergence of criminal acts is the economic factor. High economic needs while employment is not available for all Indonesian people, and obtaining a fixed income, so that in meeting their needs there are many ways to meet their needs. This has resulted in an increase in the number of crimes, such as fraud, extortion and theft. All efforts are made to save themselves, their property from crimes committed by a person or group. Such as the crime of theft accompanied by violence (begal). Someone fights back to protect themselves, this compelling situation is a form of defense effort to save their property, honor, and lives of themselves and others. This results in the loss of life of the perpetrator of the robbery.

In criminal law, there are several reasons that can be used as a basis for judges not to impose punishment on perpetrators or defendants who are brought to court for committing a criminal offense. These reasons are called reasons for criminal expungement. The reasons for the elimination of punishment are regulations that are primarily addressed to judges. This regulation determines under what circumstances an offender, who has fulfilled the formulation of the offense, should be punished or not punished. The basis or reason for the elimination of punishment is generally divided into two types, namely justification and excuse. If the non-punishment of a person who has committed an act that is classified in the formulation of the offense is due to matters that result in the absence of the unlawfulness of the act, then these matters are said to be justification reasons.

In short, an act that is generally seen as a wrongful act, in that particular incident is seen as a justified act and not a wrongful act. Conversely, if the non-punishment of a person who has committed an act classified in the formulation of the offense is due to the fact that he should not be reproached, he should not be blamed, then the things that cause him not to be reproached or blamed are referred to as things that can forgive him. These are referred to as exculpatory reasons. A criminal act is an act that is prohibited and punishable by a criminal penalty. Not everyone who commits a criminal offense will be subject to criminal punishment, because whether or not a person is subject to criminal punishment based on his actions depends on the situation when he did it. Whether he did this he had a mistake or not. Because the principle of criminal law is "no punishment if there is no fault," criminal offense or commonly referred to as crime is a phenomenon of society because it cannot be separated from space and time.

In certain circumstances, the perpetrator cannot do otherwise which leads to the occurrence of a criminal offense, even though he actually does not want it. In other words, the occurrence of a criminal offense is sometimes unavoidable by the perpetrator, because of something that comes from outside him. The crime of theft with violence (Begal) is defined as a robber, while membegal is robbing on the road. Then robbery is the process,

method, act of robbing or seizure on the road. So begal is an act of robbing, robbing by force using motorized vehicles and sharp weapons.

This responsibility needs to be tailored to the capacity of the responsible individual. While not all criminals can be punished and imprisoned, it is important to consider the motivations behind the offender's actions. To ensure that everyone feels protected by the law, the state recognizes and provides legal protection to all individuals. The legal protection in question is a regulation that protects the human rights of those who are affected, including members of other groups. In a robbery, the begal's perpetrators want to take all of their victims' belongings, and in order to conceal or enable their behavior, they also use violence against their. According to Soesilo's opinion, self-defense is: In emergency defense or noodweer means "emergency defense" so that people say that they are in "emergency defense" cannot be punished[9].

A criminal act that satisfies the requirements for being a criminal act includes the victim's self-defense. The victim, in this situation the person who injured or killed the victim in self-defense, cannot be prosecuted for an act. Victims of illegal activities who defend themselves are legally protected for their conduct. According to the Criminal Code, a crime that is done in self-defense or as a form of forced defense is not punishable [10]. Forced defense is carried out by someone who is in an urgent situation or threatened with the safety of himself or others. Not only self-defense for safety but defense can be done against other people as well, if the situation is threatened and goods or objects that are property.

In contrast to the sentencing of children as perpetrators of criminal acts, a child is someone who is not yet 18 years old or still in the womb. Children who commit criminal offenses receive legal protection because children are considered not to know the legal consequences that occur if they commit criminal acts. Child protection in the explanation of Law Number 23 of 2002 is all activities to ensure and protect children and their rights so that they can live, grow, develop, and participate, optimally in accordance with the dignity of humanity, and receive protection from violence and discrimination[11].

The judge's consideration of sentencing cannot be separated from all examinations in the judicial process. Starting from the beginning of the trial until the judge makes a decision. Starting from the examination of the evidence used by the perpetrator in a criminal offense, the evidence can be taken into consideration by the judge in sentencing the severity or lightness of the verdict. Judges in examining, adjudicating and deciding a case, first the judge can look in the legislation that regulates or is related to the actions of the perpetrator committed, if the legislation is insufficient to obtain the governing regulations, then the judge can search for the law governing the act by looking for sources of law such as jurisprudence, doctrine, treaties, custom or unwritten law. Judges in sentencing based on evidence in court, the types of evidence contained in Article 184 of the Criminal Procedure Code, namely: (1).Witness testimony, (2).Expert testimony, (3).Letters, (4).Clues, (5)Statement of the defendant. In addition to the judge looking at the evidence, the judge also considers the reasons for the perpetrator, namely: (1).Mistake of the criminal,

(2).Motive and purpose of committing a criminal offense, (3).Method of committing a criminal offense. (4) The inner attitude of the perpetrator, (5) The life history and socio-economic situation of the perpetrator, (6) The effect of the criminal act on the future of the perpetrator, (7) The attitude and actions of the perpetrator after committing the criminal act, (8) The view of the community towards the criminal act committed, (9) The responsibility of the perpetrator towards the victim, (10) Whether the criminal act was committed with a plan[12].

4. Conclusion

Based on the description and discussion above, it can be concluded that in terms of criminal liability, the victim of the crime of begal who defends himself against the attack of the perpetrator of begal can not be subject to criminal liability if the actions taken do not meet the elements of criminal liability. In the case of forced defense carried out by the victim of the crime of begal can be justified and not subject to criminal liability as long as it meets the requirements and limitations according to applicable legal provisions. The self-defense that is carried out occurs after a previous attack that forces the action to occur. In other words, as long as the self-defense carried out by the victim of the crime of begal is carried out only to protect the self, property and honor concerned which is carried out immediately and is not a deliberate and excessive act and not with the aim of harming others.

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