



Received: 01 September 2021
Revised: 20 September 2021
Accepted: 26 September 2021

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LAW AND SOCIAL POLICY | RESEARCH ARTICLE

JUDGE'S LEGAL ANALYSIS OF MURDER OFFICES*

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Abstract: This study aims to describe the basis for the application of criminal law to the crime of murder that occurred in Wajo Regency and to find out the judge's considerations in making a decision on case Number 156/Pid.B/2020/PN.Sengkang through legal principles and legal norms that were taken into consideration. The research method that uses this case approach shows in the results of the study that the application of material punishment for the offense of murder is in accordance with applicable legal norms, all elements of criminal acts regulated in the applicable regulations in Indonesia have been met in which the defendant was sentenced to imprisonment for 14 (fourteen) years. twelve) years. The judge's legal considerations for the murder offense in the case were in accordance with the elements proven in the trial, so that the panel of judges based on the facts at trial judged that the defendant could be held accountable for his actions with the consideration that at the time he committed his actions the defendant was aware of the consequences and did not prevent him from doing so. the intention is that the perpetrator in carrying out his actions is in good health and capable of considering elements against the law, and there is no reason for the abolition of the crime.

Keywords: Judge Analysis, Public Legal Analysis, Murder Offices,

1. INTRODUCTION

The problem of crime is a human problem in the form of social reality, the reasons for which are often poorly understood, because they do not see the problem according to the actual dimensional proportions.(Waskita & Widiyanti, 2007) The crime of taking a person's life is an act that deviates from religious norms and legal norms, besides that this behaviour is very disturbing to the community and law enforcement officials.(Lilik Mulyadi, 2012) Sometimes murders occur as a result of a dispute between humans with one another which tends to lead to crime. This is due to differences in individual interests that cannot be avoided, and the consequences can be detrimental to others, for example, crimes against someone's life.

In terms of action, murder can be categorized as a public problem because it is an act that threatens the safety and security of the general public. As contained in modern law, crimes that endanger the general public are the authority of the government to handle them through the role of law enforcement, by which the victim only has the right to report and sue those who have legal authority. The state, which is represented by legal institutions, becomes the authority to handle and determine the punishment.(Sodiqin, 2015)

The authority of law enforcement officers is required to be more professional in carrying out their duties, including their capacity as community protectors who can provide legal protection and legal counselling to increase legal awareness of every member of the community. This is a consequence of the existence of the State of Indonesia as a country based on the law where all aspects of the lives of its citizens in society, nation and state are regulated in a system of law enforcement processes, so that the purpose of the law is to protect the interests of the community, or the law is expected to protect the interests of each individual, even protect society as a whole.(Miharja, 2019)

Efforts to eradicate a crime is difficult thing, even impossible to eliminate, but efforts are still being made to overcome it and eradicate the problem of crime, namely actions aimed at suppressing



the growth rate of the crime itself. Any crime that occurs in society is essentially a disgraceful act, in addition to being a problem for disturbing public order and security.

A case of murder as a crime against the lives of others is strictly enforced by criminal law, the threat of punishment in addition to the perpetrator being aware of his actions can also create an atmosphere of law and order that is obeyed by the community consciously and responsibly. It is regulated in the Criminal Code (KUHP) including serious crimes, the provisions of which are regulated in articles 338 to 350 of the Criminal Code. So that the principle of crime is a human behaviour that cannot be accepted by conscience because it is contrary to the norms that apply in social life, which always crave a harmonious and peaceful life both physically and mentally. (Hasaziduhu Moho, 2019), (Nawi et al., 2019)

The selfish nature of a person who is more concerned with himself without regard to the suffering of others due to actions caused by acts of violence so that one party becomes a victim. But sometimes in reality the sentence handed down by the Court in a murder case is judged not to be under the actions of the perpetrator, the victim's family asks law enforcement officials to make a decision that is commensurate with the perpetrator's actions. (Rochaeti & Dwi Sutanti, 2018) Besides that, public opinion at large also wants this.

If cruel, sadistic and brutal and inhumane acts receive less attention and receive proper and fair punishment, it can lead to a perception in society that life is no longer valuable in Indonesia. (Suardana, 2014) People will easily play with and take lives, oppress the rights of others which in the end cause public unrest, of course, this condition implies a situation that does not heed the principle of the rule of law. (Asshiddiqie, 2015) Public unrest will cause emotional instability in various aspects, especially security. (Simatupang & Faisal, 2017) If national stability is disturbed, the development will be hindered so that a just and prosperous society that is the aspiration of the Indonesian nation will long be achieved.

Law enforcement through the due process of law with the nuances of equality initiated by law enforcers should produce a decision that provides a sense of justice for the community. (Fernando, 2001) This effort made the turmoil in the community about a state of chaos balanced again. People's expectations for the law must be implemented immediately and can be felt by the community by exercising the rule of law. (Arief, 2018) Therefore, it is necessary to understand through this article so that a narrative of decisions that are under the law can be seen by the public to suppress the notion that the rule of law is not implemented as mandated by the Indonesian constitution.

2. Research Method and Materials

This study uses a case approach to choose a murder case which is a case that has permanent legal force, in 2020. This case has been tried in the Sengkang District Court which is interesting to study because murder still occurs in various eras with solutions in solving problems. The legal material of this article comes from a copy of the judge's decision which was studied to see a criminal case of murder that is still rife and the judge's steps in deciding the case before him.

3. Results and Discussion

Researchers feel the need for attention first when the judge makes a decision at the trial, the judge first considers juridical and non-juridical considerations, judges' juridical considerations, namely the public prosecutor's indictment, criminal charges, witness statements, defendant's statements, evidence, and the provisions of the law that regulates. While non-juridical considerations are the background of the defendant's actions, the value of the losses caused by the defendant, the consequences caused by the defendant to the victim and the surrounding community, if the crime committed opens the possibility to make peace with the victim. Some of these factors influence judges in considering decisions.

Taking into account the considerations of the Sengkang District Court Judges who examined and tried this case, after hearing the statements of the witnesses, the defendants' statements, and the evidence, the following legal facts were obtained:

There is a consideration that the defendant has been indicted by the Public Prosecutor with an indictment in the form of a subsidiary, the Panel of Judges will first consider the primary charge of

the Public Prosecutor, namely violating Article 340 of the Criminal Code, the elements of which are as follows:(Marentek, 2019)

1. Whose Element:

The panel considered that what is meant by "anyone" is anyone including Adnan Alias Andeng Bin Beddu can be the subject or perpetrator of a criminal act as stated in the indictment of the public prosecutor as long as the person concerned fulfils the requirements for the elements of the criminal act intended and can be held accountable according to criminal law and there is no forgiving reason that can eliminate the unlawful nature of the criminal act committed by the defendant and there is no justification that can free the defendant from criminal responsibility for the criminal act he has committed. The consideration is that thus the element of "whoever" has been fulfilled in the defendant.

2. Elements intentionally and premeditated taking the lives of others;

The panel considered that based on the considerations above, it was known that the result of the defendant's actions, the victim H. Ambo Era suffered injuries to several parts of the body, body, arms, and head due to sharp objects, and for these injuries the victim H. Ambo Era died shortly after that event. Furthermore, whether the defendant's actions were carried out with a prior plan, the panel of judges will consider the following:

The Tribunal considered that the premeditated act between the emergence of the intent to kill and its execution there was still time for the maker to calmly think about, for example, how the murder would be carried out.(Pieter & Silambi, 2019) A plan is deemed to exist in advance if the defendant has considered and considered it for a sufficient amount of time and then determines the time, place, method or means, etc., which will be used for the murder.

The panel further considered that based on all of the above considerations, it was previously known that the defendant did not intend or plan his actions, but at that time, after the defendant cleared his garden and was about to go home, suddenly the victim and his wife passed by where the defendant saw that they were carrying banana seeds. the defendant at that time the victim would return to replanting his wife's land as had been done by the previous victim, this caused the defendant to get emotional and attack the victim immediately;

Based on the above considerations, the element of intentionally and with a plan in advance of taking another person's life according to the panel of judges was not fulfilled in the defendant. A further consideration is that because one of the elements of the primary indictment of the public prosecutor is not fulfilled, the defendant must be acquitted in the primary indictment,(Rogahang, 2012) and the panel of judges will consider a subsidiary charge of violating Article 338 of the Criminal Code whose elements are as follows:

1. Whose element;

Whoever's the element in the element of the article in this subsidiary indictment is the same as before in the primary indictment above, where the element has been considered and has been fulfilled in the defendant, therefore to shorten the decision of the panel of judges will take over the consideration of the primary indictment and state the elements of each person in the subsidiary indictment has also been fulfilled against the defendant.

2. The element deliberately takes the life of another person;

Based on the description of the considerations above, it is known that as a result of the defendant's actions, the victim H. Ambo Era suffered injuries to several parts of the body, body, arms, and head due to sharp objects, and against these injuries, the victim H. Ambo Era died shortly after the incident. , the entire description of the considerations above, the panel of judges believes that the element of deliberately taking the lives of others has been fulfilled in the defendant, that based on the entire description of the considerations above, the panel of judges believes that the element of deliberately taking the lives of others has been fulfilled in the defendant.(Agustini & Purwanti, 2016), (Hajairin, 2017)

Several other considerations based on these considerations turned out to be the actions of the defendant after fulfilling all the elements of the subsidiary indictment of the public prosecutor so that

the panel of judges concluded that the defendant had been convincingly proven to have committed the crime of murder. Including considering that in the trial it was not found that there were things that could erase the guilt of the defendant, whether, for excuses or justifications, the defendant must be declared guilty of the crime he committed and sentenced to a punishment commensurate with his guilt. Therefore, the defendant is found guilty of committing a crime, the defendant must be sentenced to a punishment commensurate with his actions.

There is also the period of arrest and detention that has been served by the defendant will be deducted entirely from the prison sentence that will be imposed. It is considered that because the defendant has sufficient reason to be sentenced and the defendant is still in custody, he is ordered to remain in detention.

Considering that there is evidence in the form of one (1) long Parang that is not equipped with a Parang sheath with a size of 90 cm wide 4 cm the handle/upper is made of bamboo wrapped with a black iron plate at the end of the mouth there is a black iron nylon rope, 1 Parang complete with scabbard, iron length 34 cm wide 5 cm upstream/handle is made of brown wood wrapped around a black iron plate which has been carved. Parang sheath is made of brown wood. it is known that the evidence was confiscated from the defendant and is a tool used by the defendant in committing a crime, by him it should have been destroyed, and 1 piece of long-sleeved green shirt with scanning brand, 1 sheet of black shorts, brand wat white, confiscated from the witness Hj.Malayang bin Tuntu which is known to be the victim's clothes at the time of the incident, where is the condition of the clothes? If it is full of traces of blood and can no longer be used, so as not to remind the victim of the incident that happened to the victim and to relieve the trauma and sadness from the victim's family, according to the panel of judges, the evidence should also be destroyed. Then the defendant will be sentenced, then the cost of the case will be charged to the defendant.

Considerations before imposing a sentence on the defendant, the panel of judges will consider aggravating and mitigating factors for the defendant, namely the defendant's actions were carried out in a sadistic manner, and there are also mitigating things, including: (Hananta, 2018) (1) the defendant admits and regrets his actions, (2) the defendant has never been convicted, (3) the defendant behaves politely at trial, (4) the defendant is the backbone of the family, then based on this the panel of judges considers making a decision which will be described in the next paragraph.

Contains the verdicts to try the defendants including:

1. To declare that the defendant Adnan Alias Andeng Bin Beddu has not been legally and convincingly proven guilty of committing a crime as stated in the primary indictment;
2. Exonerated the defendant from the primary charge
3. To declare that the defendant Adnan Alias Andeng Bin Beddu has been legally and convincingly proven guilty of committing the crime of murder as stated in the subsidiary indictment;
4. Sentencing the defendant with imprisonment for 14 (fourteen) years;
5. Determine the period of arrest and detention that has been served by the defendant to be deducted entirely from the sentence imposed;
6. Order the accused to remain in custody;
7. Determine evidence in the form of:
 - a) 1 (one) long machete that is not equipped with a machete scabbard with a length of 90 (ninety) cm, a width of 4 (four) cm, the handle/upper is made of bamboo wrapped with a black iron plate, the upper end has an iron nylon rope black;
 - b) 1 (one) machete complete with scabbard, length of iron 34 (thirty-four) cm, width of iron 5 (five) cm, upstream/handle made of slightly brown wood which is wrapped around a black iron plate that has been carved, machete scabbard is made of from brown wood the ends have been carved in the sheath of a machete there is a rope made of black cloth;
 - c) 1 (one) spanning green long sleeve shirt;
 - d) 1 (one) wide black wat white brand shorts; Destroyed;
8. Charged the defendant to pay court fees in the amount of Rp. 2,000.00 (two thousand rupiahs);

A judicial process ends with a final decision (Vondict) in which there is a criminal sanction (punishment) against the defendant, (Farahwati, 2018) and in that decision the judge expresses his opinion on what has been considered and what the verdict is. Before arriving at this stage, some stages must be carried out beforehand, namely the stage of proof in imposing criminal sanctions against the defendant. The indictment submitted by the Public Prosecutor is one of the important tools used by the Panel of Judges in considering a decision. The Panel of Judges made the indictment as a guide in the examination at trial and used it as a basic reference in making decisions.

Regarding the evidence from the results of the evidence presented by the Public Prosecutor at the trial, it can be categorized as 3 valid pieces of evidence, namely witness statements, indictments, and defendants' statements, arguing that there is sufficient evidence to be submitted to trial. (Rusyadi, 2016) The content of Article 183 of the Criminal Procedure Code stipulates that to determine a criminal offence against a defendant, his guilt must be proven by two valid pieces of evidence and by two valid pieces of evidence, (Rusyadi, 2016) The judge was convinced that the criminal act had occurred and that the guilty defendant had committed it.

Before the judge imposes a sentence, the judge will first consider things that can be aggravating, namely, the defendant's actions were carried out in a sadistic manner, and things that relieve the defendant, namely the defendant admits and regrets his actions, the defendant has never been convicted, the defendant behaves politely in court, the defendant is the backbone family. The judge considers these matters to apply a punishment commensurate with the act.

Based on the description above and researching the facts revealed, the writer believes that deciding a case requires the accuracy of the judge because if there is no accuracy, it will exceed the authority of a judge. (Ridwan, 2020) The decision of the case in this study under the judge's consideration is under Article 338 of the Criminal Code and the Judge has been careful in considering the elements contained in Article 338 of the Criminal Code and has also considered valid evidence, both from witness statements, indictments, and the defendant's statement under the judge's conviction as specified in Article 183 of the Criminal Procedure Code. This is under the minimum limit of valid evidence and the judge's conviction that must be fulfilled by proof. The judges of the Sengkang District Court have also been careful in deciding the case, so the defendant should have been sentenced to 14 years in prison.

4. Conclusion

The application of a material criminal offence against the murder case in this study is under the applicable legal norms, all elements of a criminal offence regulated in the related article have all been fulfilled in which the defendant was sentenced to prison for 14 (fourteen) years. The judge's consideration of the murder offence in the case was under the elements proven in the trial. The Panel of Judges based on the facts at trial considered that the defendant could be held accountable for his actions with the consideration that at the time of committing his actions the defendant was aware of the consequences and did not discourage his intentions, the perpetrator in carrying out his actions was in good health and capable of considering elements against the law, and the absence of the reason for the abolition of the crime, even though the judge's considerations are aggravating and some are mitigating the defendant in the verdict of this criminal case. Judges in making decisions take into account non-judicial matters or local wisdom so that the sense of justice is truly felt by the community as the essence of a form of justice expected by the community, and is proven to be able to bring the situation back into balance in society. Although the pattern of finding laws that pay attention to the sense of justice according to the law that lives in the community, it is still necessary to hold legal counselling to increase public legal awareness to avoid criminal behaviour.

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