

## Elements of Vandalism in Law Number 1 of 2023 Concerning the Criminal Code

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### ABSTRACT

The element of vandalism in Law Number 1 of 2023 concerning the Criminal Code, vandalism is included in the form of delinquency. Crimes related to delinquency are regulated in Article 331. In this article, it is explained that perpetrators of delinquency can be punished with category II fines or as much as IDR 10 million. "Any person who in a public place commits delinquency against people or goods that can cause harm, loss or distress, shall be punished with a maximum fine of category II," reads Article 331. In the explanation section, the example of delinquency in question is scribbling wall on a public street. The factors that cause vandalism are users, factors from the library, other factors including the environment, stress and communication blockages. The effort to deal with vandalism is the need for an intellectual mentality of users so they don't vandalize a collection of library materials. Attitudes and behavior of librarians/library officers who always control users both in the room and the exit. For certain types of collections, closed access services can be performed. Make written rules and clear sanctions for those who commit violations. Controlling the use of manual and automated membership cards so that they do not use other people's membership cards. The entrance is always closed, only users who have a card can enter the library.

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## INTRODUCTION

Vandalism is the intentional destruction of property that is carried out viciously and causes losses. Vandalism is the destruction of public property. The Big Indonesian Dictionary defines vandalism as acts of damaging and destroying works of art and other valuable items (damage to nature, etc.) or destruction and destruction in a rough and vicious way. According to Cohen quoted by Ajeng Triani, categorizing the types of Vandalism based on the motivations that encourage acts of Vandalism are as follows: First Aquistive Vandalism, namely Vandalism committed with the motivation to obtain money or property. For example: placing advertisements, banners, posters, billboards or other forms of marketing that damage the environment in which they are located. Second, tactical vandalism, namely vandalism carried out with the motivation of achieving certain goals such as introducing an ideology. An example is what Pong Harjianto did, who wrote the sentence "honest, fair, firm" in the roof of the DPR building (People's Representative Council) to notify members of the DPR that the performance of a DPR representative must be based on honesty, fairness and firmness. The third is Malicious vandalism, namely vandalism that is carried out because the perpetrator of vandalism gets pleasure by giving disturbance to other people, or feels amused when destroying other people's property. Fourth, play vandalism, namely vandalism that is carried out with the motivation to show or demonstrate the abilities he has, not for the purpose of to annoy other people.

AL Wilde also identified vandalism into 3 (three) main types as follows: First, Indiscriminate vandalism includes destructive actions that have no purpose and do not generate immediate profits. This is a common act of vandalism, "unclear" destruction by teenagers for fun. Both means of Predatoris vandalism include destructive acts for profit, such as "trashing" or destroying vending machines to steal their contents. The third is revenge vandalism, namely actions taken as an expression of hatred towards certain racial or ethnic groups. Concerning vandalism itself is regulated in the Criminal Code. As a whole there are efforts, but in fact cases of vandalism and scribbles are still commonly found in urban areas. Therefore, it is necessary to look at the efforts of law enforcement in dealing with criminal acts of graffiti vandalism (scribbling) and the legal policies that apply in regulating these actions. Then reveal how the effectiveness of these efforts, based on the facts that cases of vandalism are increasing.

Based on the description above, the formulation of the problem is:

1. What is the element of vandalism in Law Number 1 of 2023 concerning the Criminal Code?
2. What are the factors and efforts to deal with graffiti vandalism behaviour (doodle)?

## THEORETICAL REVIEW

### *1. Definition and Elements of a Criminal Act*

The term crime is a translation of the Dutch term "Strafbaar Feit" or "delict". In Indonesian, as a translation of strafbaar feit or delict, there are several terms such as:

- a. Criminal act

- b. Criminal act
- c. Criminal events
- d. Criminal offence
- e. Punishable act
- f. Punishable act

Among the six terms mentioned above, the most appropriate and appropriate term to use is the term "crime", on the grounds that this term, apart from containing a precise and clear meaning as a legal term, is also very easy to pronounce. Crime is a term that is often used to translate the term strafbaarfeit in Dutch language. Criminal acts are one of the important joints of criminal law besides mistakes and crimes. A criminal act is an act that is defined in criminal legislation as a prohibited act. If this act is committed by mistake, the person who committed the act can be subject to criminal sanctions. As for the definition of a crime according to scholars, one of them is Wirjono Prodjodikoro, that is a crime is an act whose perpetrators can be subject to criminal penalties. Muljatno is of the opinion that the criminal act is an act prohibited by a rule of law which prohibition is accompanied by a threat (sanction) in the form of a certain punishment, for whoever violates this prohibition.

R. Tresna stated that a criminal event is an act or series of human actions, which is contrary to laws or other regulations, for which acts of punishment are carried out, and then Simons in Mustafa Abdullah, Ruben Achmad argues, that: "Criminal events is "Een Strafbaargestelde, onrechtmatige, met schuld in verband staande handeling van een toerekeningsva baar person". The free translation is: wrongdoing and resistance law, which is punishable by crime and carried out by someone who is capable of being responsible.

According to the definition of the National Criminal Code are:

- a. Formal elements:
  - 1) The act of something
  - 2) The act was done or not done
  - 3) The act is stated by law as a prohibited act
  - 4) This regulation is threatened by statutory regulations criminal.
- b. Material elements:

The act must be contrary to the law, that is, it must be truly perceived by society as an act that should not be done. The elements of a crime can be viewed from two aspects, namely the subjective and objective aspects.

  - 1) From a subjective point of view, a criminal event is an act that someone did wrong. It is the elements of the perpetrator's fault that result in a criminal event. This element of error arises from the intention or will of the perpetrator. So, as a result of the act it is known that it is prohibited by law and is threatened with punishment. So, there is indeed an element of intentionality.
  - 2) From an objective point of view, people's actions, the visible consequences of those actions, there may be certain circumstances that accompany the action.

Judging from these criminal elements, an act committed by a person must meet the requirements so that it can be declared a criminal event. The conditions that must be met as a criminal event are as follows:

- a) There must be an action. That is, there really is an activity carried out by a person or several people. The activity is seen as a certain action that can be understood by others as an event.
- b) The act must be in accordance with what is described in the legal provisions. It means action as thing legal events comply with the contents of the legal provisions in effect at the time. The culprit really did do as it happened. Mandatory doer take responsibility. Actions that cannot be blamed can be committed by someone or some people in carrying out their duties, defend themselves from the threats of other people who interfere with their safety and emergencies.
- c) It must be proven that there was a mistake that can be accounted for. It means that the actions committed by a person or several persons can be proven as an act that is condemned by legal provisions
- d) Must be against the law. That is, an action that is against the law is meant if the action is clearly contrary to the rules law. There must be a legal threat. This means that if there are provisions that regulate prohibitions or obligations in certain actions, those provisions contain sanctions and threats of punishment. The threat of punishment was clearly stated the maximum punishment that must be carried out by the perpetrators. If in a provision there is no threat of punishment for a particular act, in an event/crime, the perpetrator does not need to carry out a specific sentence.

## 2. *Violation*

Violations are actioning whose character is against the law, which can only be known after there is a decisive decree thus. 25 Violation is a statute delict, namely an act whose nature is against the law can only be known after there is a law that regulates it. Violation in English is called misdemeanour. The penalty is usually a fine. The difference between crimes and violations is no longer used as a criterion to determine which court has the authority to try them, as before, because now all are tried by district courts. Nonetheless, there are differences in the adjudication.

## 3. *Definition of Vandalism*

The Big Indonesian Dictionary defines vandalism as acts of damaging and destroying works of art and other valuable items (damage to nature, etc.) or destroying and destroying things violently and viciously. Vandalism is an act of destroying objects or items that are public property or needed by the public. Vandalism comes from the word vandal or vandalus, which refers to the name of an ancient Germanic tribe that inhabited the area south of the Baltic between the Vistula and the Oder. In the fourth and fifth centuries AD the vandals expanded their territory to reach Spain and South Africa. In 455 AD the vandals entered the city of Rome and destroyed works of Roman art and literature that existed at that time.

From the behaviour of the vandal tribe, vandal is then given the meaning of someone who deliberately destroys or destroy something beautiful. another definition of vandalism is an action or act that disturbs or damages physical and man-made objects, both private property and public facilities. Commonly encountered vandalism is scribbling on school walls, tables, chairs, bridges, bus stops, damaging public facilities such as public telephones, buses, public toilets, and plants.

#### 4. *Forms of Vandalism*

According to Cohen quoted by Ajeng Triani, categorizing the types of vandalism based on the motivations that encourage acts of vandalism are as follows:

- a. Aquistive Vandalism is vandalism that is carried out with the motivation to obtain money or property. Example: ad placement, banners, posters, billboards or other forms of marketing that damage the environment in which they exist.
- b. Tactical Vandalism is vandalism done with motivation to achieve certain goals such as introducing an ideology. An example is what Pong Harjiatno did who wrote the sentence "honest, fair, firm" on the roof of the DPR People's Representative Council) building to notify members of the DPR that the performance of a DPR representatives must be based on honesty, fairness and firmness.
- c. Malicious Vandalism is vandalism that is carried out because the perpetrators of vandalism get pleasure from disturbing other people, or feel entertained when destroying other people's property. Play Vandalism is vandalism that is done with the motivation to show or demonstrate abilities possessed, not old to disturb others.

AL Wilde also identified vandalism into 3 mains (types), namely:

- 1) Indiscriminate vandalism includes destructive acts that have no purpose and produce no monetary gain. Scientific acts of vandalism that are commonly carried out, "obscure" destruction that teenagers do for fun.
- 2) Predatory vandalism includes destructive acts for profit, such as "rubbing up" or destroying vending machines to steal their contents.
- 3) Revenge vandalism is an act committed as an expression of hatred against a certain racial or ethnic group.

According to the Big Indonesian Dictionary (KBBI) graffiti is an ancient painting on a wall or rock (derived from Italian). Scratches on cave walls in the past were used as graffiti or graffiti on city walls in various forms and the like as graffiti. Graffiti is a branch of art that can be enjoyed visually. Graffiti is graffiti containing writing, symbols or sentences in which there is a combination of elements of line, colour, shape and volume. Not all scribbles or pictures on the wall can be categorized as graffiti that contains artistic value. A Graffiti contains artistic value if it can give a decorative and ornamental impression. But there are times when a graffiti is expressions of disappointment, anger, frustration, and hatred. The disclosure of negative

feelings gives the impression of being vulgar so that it is considered as vandalism.

The graffiti referred to in this study is illegal graffiti that does not have legality in its licensing and carried out by teenagers who do not have the aim of seeking profit from something that is used by the perpetrator as a place strike out but solely to emphasize how the existence of a gang or a group to control an area certain. Gangs that usually become perpetrators of graffiti vandalism are unorganized gangs or just teenage gangs that have the intention of defending their territory from other gangs, unlike mafia syndicates or organized gangs.

The behaviour of graffiti vandalism is very disturbing to residents because the action that started as a fad developed into anarchic behaviour. For example, destroying public facilities, big or small, light or heavy, in the end causing disturbance and loss to the orderliness of the surrounding environment. The previously clean city was littered with scribbles and random pictures made by pranksters.

## **METHODOLOGY**

The research method is analytical descriptive in nature, namely describing the problems and facts that occur based on positive legal norms, namely the laws related to this research.

Approach method with normative juridical namely using positive legal norms related to the element of vandalism in Law Number 1 of 2023 concerning the Criminal Code.

Data analysis was carried out qualitatively, meaning without using numbers and statistical formulas.

## **RESULTS AND DISCUSSION**

### ***Discussion of the Element of Vandalism in Law Number 1 of 2023 Concerning the KUHP***

The new Criminal Code regulates punishment for people who are considered to have committed vandalism by scribbling on walls. In the new Criminal Code, vandalism is included in the form of delinquency. Crimes related to delinquency are regulated in Article 331. In this article, it is explained that perpetrators of delinquency can be punished with category II fines or as much as IDR 10 million. "Any person who in a public place commits delinquency against people or goods that can cause harm, loss or distress, shall be punished with a maximum fine of category II," reads Article 331. In the explanation section, the example of delinquency in question is scribbling wall on a public street.

Vandalism behaviours in the library can occur due to several factors, both originating from the users themselves and those from the library. The factors that led to the act of vandalism were:

#### **1. Factors From Users**

- a. Lack of user awareness Lack of user awareness of the importance of information in library materials that actually belongs together where the collections they vandalize can cause other people to be unable to access them anymore, they are not aware of the possibility that the information

needed has also been vandalized by other users. If library users realize that the vandalism, they are doing can harm themselves, then the collection of library materials in the library will be sustainable.

- b. Disappointment with library services. This disappointment factor can also cause users to vandalize library collections. Disappointment can occur because the information they are looking for is not met, so they feel disappointed and commit vandalism. Disappointment of users can also occur due to librarians who are less friendly to users, ignorant, and do not want to help with their difficulties. This factor usually occurs because librarians are too rigid with existing rules and there is no tolerance. For example, users who are late in returning books for a long time are subject to quite a lot of fines where the amount of the fine exceeds the price of the book, they borrowed but the officer has no discretion. Enforcement of rules like this can actually cause users to get angry and can vandalize other collections.
- c. There is an opportunity "Opportunity" is also a factor for users to commit acts of vandalism. Actually, the user has no intention to commit vandalism, but due to lack of or there is no supervision so they just fad do vandals. If the opportunity first they feel safe not being known by the officers, then next they will look for another opportunity, even after a long time they will look for opportunities.

## 2. Factors from Libraries

### a. Weak Oversight.

Factors that cause acts of vandalism and book theft include the result of weak supervision of officers both towards users and against the collection. Loose supervision of users and collections that will be taken out of the library or collections that are returned is the cause of many missing books. Likewise, the weak supervision of users on collection shelves or on tables reading and places can cause the user to freely tear up some of the pages of the book.

### b. Unprofessional Officers

Service to users who are too bureaucratic can cause service to be slow so users feel difficult and impatient which can eventually result in users taking shortcuts by taking books out without going through legal procedures. In addition, due to colliding with the applicable rules/rules of the library, such as for example not being able to photocopy, certain collections may not be borrowed, and the provision for the maximum number of books borrowed also causes users to commit acts of vandalism. Officers who are less professional in providing services such as unsympathetic, low quality of service, officers cannot help users with difficulties so they are dissatisfied. The dissatisfaction of the users is that they can destroy library materials.

3. Other Factors

a. Environmental factor

Environmental factors include the economic conditions of users, social factors society, the library layout environment is not quite right.

b. Stress

People who are stressed, frustrated, confused and angry and disappointed can be taken out by destroying collections. Acts of vandalism caused by these factors are usually not because of the information needed but actually to damage it by not thinking about the consequences.

c. Blockage of Communication

Disharmony in the relationship between librarians and users can cause the a priori attitude of the user towards the library which in the end the user does not have a sense of ownership of the collection. The librarian in a library is a mediator who connects the library as a communicator to the user as a communicant. For this reason, librarians must be able to help the interests of users so that communication between users and the library is not blocked. Efforts to Prevent Vandalism of library material collections can occur in all types and forms of libraries, whether the library is small or large. To overcome various forms of vandalism which are very detrimental to the library and other library users, prevention and security measures need to be taken. Things that need to be done for prevention (preventive) can be in the form of actions as follows:

- 1) Physical Security: First, it prohibits users from wearing jackets and bringing bags, stop maps or the like into the collection room. Second, provide special officers to check when users leave the library.
- 2) Security Against the System: First, provide control tools in the system. Second installing security systems such as matrix sensors and alarm sensors at the exit of the library.

Prevention and security against vandalism in the library can be in the form of actions as follows:

1. There needs to be an intellectual mentality of users so as not to vandalize the collection of library materials.
2. Attitudes and behaviour of librarians/ library officers who always hold control towards users both indoors and out.
3. For certain types of collections, closed access services can be performed.
4. Make written rules and clear sanctions for those who commit violations.
5. Control the use of membership cards, both manual and automated so that they do not use other people's membership cards.
6. The entrance is always closed, only users who have a card can enter the library.
7. Provide a representative reading room that is separate from collection shelves.
8. Installation of convex mirrors (cannex mirrors) in certain places.
9. Installation of CCTV cameras in the collection room.

## CONCLUSIONS AND RECOMMENDATIONS

### *Conclusions*

1. The element of vandalism in Law Number 1 of 2023 concerning the Criminal Code, vandalism is included in the form of delinquency. Crimes related to delinquency are regulated in Article 331. In this article, it is explained that perpetrators of delinquency can be punished with category II fines or as much as IDR 10 million. "Any person who in a public place commits delinquency against people or goods that can cause harm, loss or distress, shall be punished with a maximum fine of category II," reads Article 331. In the explanation section, the example of delinquency in question is scribbling wall on a public street.
2. The factors that cause vandalism are users, factors from the library, other factors including the environment, stress and communication blockages. The effort to deal with vandalism is the need for an intellectual mentality of users so they don't vandalize a collection of library materials. Attitudes and behaviour of librarians /library officers who always control users both in the room and the exit. For certain types of collections, closed access services can be performed. Make written rules and clear sanctions for those who commit violations. Controlling the use of manual and automated membership cards so that they do not use other people's membership cards. The entrance is always closed, only users who have a card can enter the library.

### *Recommendations*

1. The effort to deal with vandalism is to provide a representative reading room which is separate from collection shelves.
2. Installation of convex mirrors (cannex mirrors) in certain places. Installation of CCTV cameras in the collection room to control the perpetrators of vandalism.

## REFERENCES

- Abdullah Marlang and Irwansyah and Emperoruiddin Kamaruddin, Introduction to Indonesian Law, Aspublishing, Makassar, 2011.
- Nature, Introduction to Criminology, Reflections, Makassar, 2010.
- Andi Sofyan and Nur Azisa, Criminal Law, Pustaka Pena Press, Makassar, 2016
- Bambang Poernomo, Principles of Indonesian Criminal Law. Ghalia, Yogyakarta, 2015.
- Barda Nawawi Arief, Theories and Criminal Policy. Alumni, Bandung, 2018.
- Bentiga Naraotama, " Graffiti Doodles Done by Teenagers On Public Facilities and Infrastructure in the Study of Criminal Law and Criminology ", Thesis, Bachelor of Law, Faculty of Law, Indonesian Islamic University, Yogyakarta, 2016.
- Difta Wahyu Aji, "Law Enforcement of Vandalism Crimes in Klaten Regency", Thesis, Bachelor of Law, Faculty of Law, Indonesian Islamic University, Yogyakarta, 2018.
- Doni Koesoeman and Evy Anggraeny, Inspiration for Good Practices of School Culture-Based Character Education, PT Kanisius, Yogyakarta, 2020

- Endang Sholihatin and Erwin Kusumastuti and Kinanti Official Hayati, "Prevention of Vandalism in High School Students in the City of Surabaya Through Digital Literacy", *Journal of Communication Studies*, Vol. 2, Number 1 2019
- Fitri Lestiara Sani, "Communication Phenomenon of Members of the Graffiti Community", *Jom FISIP Journal*, Faculty of Social and Cultural Sciences, University of Riau, Vol.2, Number 1 February 2015.
- H. Faisal Ismail, *Islam; Qur'anic Ideality Human Reality*, IRCiSoD, Yogyakarta, 2018.
- H. Ishaq and H. Efendi, *Introduction to Indonesian Law (PHI)*, PT Rajagrafindo Persada, Jakarta, 2014
- I Ketut Mertha, et al, *Textbook of Criminal Law*, Udayana Faculty of Law, Denpasar, 2016
- Ida Yeni R and Safrina Arifiani F and Diyan Fatimatuz Zahra, "Wall Art as an Educational Media to Prevent Vandalism in SMA Negeri 5 Yogyakarta, Pelita Journal, Faculty of Languages and Arts, Yogyakarta State University, Vol. IV, Number 1 April 2009
- Ismu Gunadi and Jonaedi Efendi, *Understanding Criminal Law Quickly & Easily*, Prenadamedia Group, Jakarta, 2014
- Isran Elnadi, "Vandalism of Collections at the Technical Service Unit (UPT) of the Bengkulu University Library", *Journal of Library and Information Science*, Librarian of the Bengkulu University Library, Vol 2, Number 1 2018
- Khairunnisa Lutfi, "Vandalism in the Perspective of Islamic Criminal Law", Thesis, Bachelor of Law, Faculty of Sharia and Law, State Islamic University of North Sumatra, Medan, 2020.
- Kushartanti and Untung Yuwono and Multamia RMT Lauder, *The Enchantment of Language is the First Step to Understanding Linguistics*, PT Gramedia Pustaka Utama, Jakarta, 2017
- Moeljatno. *Principles of Criminal Law*. Rineka Cipta, Jakarta, 2013.
- Muladi and Barda Nawawi Arief. *Criminal and Punishment*. UNDIP Faculty of Law Lecture Material Provision Agency, Semarang, 2013.
- Muhammad Musafir and Sudarmi Suud Binasar and Aspin, "Group Counseling Services in Reducing Vandalism Behavior of Baubau 7 Public Middle School Students", *Bening Journal*, Vol. 2, Number 2 June 2018
- Ragil Muhammad Asywiem Syah Aulia, "Surabaya Polrestabes Efforts in Overcoming Traffic Violations", *Journal of Moral and Citizenship Studies*, Faculty of Social Sciences, Surabaya State University, Vol. 2, Number 1 2013
- Sudarto. *Capita Selecta Criminal Law*. Alumni, Bandung, 2013
- Wirjono Prodjodikoro, *Principles of Indonesian Criminal Law*. Eresco, Jakarta, 2015.
- Yulies Tiena Masriani, *Introduction to Indonesian Law*, Sinar Graphic, Jakarta, 2011