



Criminal Liability of Perpetrators of Extortion Crimes Using Escort and Security Services as a Mode for Container Trailer Truck Transport Fleets (Study of Decision No. 952/PID.B/2021/PN.JKT.UTR)

Johansen E.H.Hasugian¹, Martono Anggusti^{2*}, Lesson Sihotang³
Fakultas Hukum, Universitas HKBP Nommensen, Medan

Corresponding Author: Martono Anggusti martono.anggusti@uhn.ac.id

ARTICLE INFO

Keywords: Criminal Phenomena, Extortion, Street Crime, Judge's Decision, Article 368 of the Criminal Code

Received : 29 December 2024

Revised : 15 January 2025

Accepted: 20 February 2025

©2025 Hasugian, Anggusti, Sihotang:
This is an open-access article distributed under the terms of the [Creative Commons Atribusi 4.0 Internasional](https://creativecommons.org/licenses/by/4.0/).



ABSTRACT

The phenomenon of crime occurs every day and is experienced by Indonesian society, such as mugging, armed robbery, theft, robbery, assault, rape, murder, and youth brawls, which are known as street crimes. One of the cases that often occurs is extortion. The crime of extortion can occur anywhere and anytime, harming the victim and society. Therefore, extortion perpetrators are given severe sentences to provide a deterrent effect. Extortion is an act that aims to benefit oneself by using violence or threats so that the victim gives something. This crime violates legal norms and has a detrimental impact on the victim, so it requires legal resolution. This study uses a normative legal method with a statute approach, a fact approach, and a case approach. Based on Decision No. 952/Pid.B/2021/PN Jkt.Utr, the judge determined extortion as a crime that meets the objective and subjective elements in Article 368 of the Criminal Code. Further analysis is needed to understand the judge's considerations and the application of the principle of justice in the decision.

INTRODUCTION

The Unitary State of the Republic of Indonesia is a state of law, namely a state concept that is based on the belief that state power must be exercised on the basis of fair and good law. A state of law requires that every action of the state must aim to uphold legal certainty, be carried out equally, be an element that validates democracy, and fulfill the demands of reason. The State of Indonesia is a state of law as regulated in the 1945 Law of the Unitary State of the Republic of Indonesia, especially in Article 1 paragraph 3 which reads "The State of Indonesia is a state of law". Everyone has the right to feel safe and comfortable without any interference. Thus, a person will be able to feel peace, free from all forms of threats and fears that always haunt. This is in line with Article 4 of Law No. 39 of 1999 concerning Human Rights which states that: "The right to life, the right not to be tortured, the right to freedom of the person, mind and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person and equality before the law, and the right not to be prosecuted on the basis of retroactive law are human rights that cannot be reduced under any circumstances and by anyone.

The law must be implemented, this means that what has become a guideline and is considered appropriate by society in general must not be violated, that if there is a violation, the law that has been violated must be restored, enforced or maintained. If in general we all implement the law, then in the event of a violation of the law, its implementation or enforcement is carried out by the courts. The courts are one of the implementations of the law in terms of concrete rights demands as a result of the violation of the law, both in criminal law and civil law (Mertokusumo, 2010).

And the phenomenon of criminal cases often occurs every day and is experienced by the Indonesian people, for example, mugging, armed robbery, theft, robbery, assault, rape, murder, teenage brawls, or better known as street crime is a challenge for the law enforcement process. Crime will not disappear by itself, on the contrary, criminal cases are increasingly common in the daily life activities of a society and the most dominant is the type of crime against property, especially those included in it are extortion crimes. One example of a city in Indonesia where extortion often occurs is in the Medan City area. Extortion crimes are often carried out by certain elements of community organizations in the city of Medan, the perpetrators or individuals force their victims to be asked for money with various modes to make it easier to carry out their actions. And one example of an extortion case that has occurred in the city of Medan is extortion carried out by youth organizations, where the perpetrators carry out their actions almost every day by continuously asking for money from business owners in the Medan city area with the mode of maintaining security. Extortion can occur anywhere and anytime which has a bad effect on the victim and also the community, so that the extortionist is given a severe punishment to create a deterrent effect for the extortionist and think not to repeat his actions. Extortion is an act that is intended to benefit oneself by using violence or threats to others so that they give or do something. Extortion is a crime against legal norms that must be interpreted or considered as an act that is very detrimental to the victim.

This should not be allowed without a legal resolution of the crime. Therefore, every crime committed by anyone must be dealt with firmly regardless of status, even though the perpetrator is a law enforcement officer himself (Yamin, 2015). And what often happens when someone commits an extortion crime is also inseparable from the crime of threats. Where the crime of threats can help a perpetrator to expedite and facilitate his actions in carrying out the crime of extortion, because when the victim is threatened, he will feel afraid so that he will hesitate to carry out the extortion.

In the Criminal Code, extortion and threats are regulated in Article 368 paragraph 1 which reads:

"Anyone who with the intention of unlawfully benefiting himself or another person, forces someone with violence or threats of violence to give something, all or part of which belongs to that person or another person, or to make a debt or write off a receivable, is threatened for extortion with a maximum imprisonment of nine years.

And about threats is contained in Article 369 paragraph 1 which regulates the crime of extortion with threats. This article states that anyone who commits extortion with threats can be threatened with a maximum imprisonment of four years. One of the criminal phenomena that causes many criminal acts of extortion and threats is the practice of thuggery which often occurs in Indonesian society. Thuggery and street crime behavior are social problems that originate from the mental attitude of society who are not ready to accept jobs that are considered less prestigious. Thuggery in Indonesia has existed since the colonial era, the Dutch colonial, in addition to acting alone, the perpetrators of thuggery have also utilized several local champions to carry out low-level thuggery which generally commits street crimes (Anam, 2018).

And the phenomenon of thuggery crimes that occur in the North Jakarta area is very common in every corner of North Jakarta which has various modes in carrying out its actions. One example of a case in the title of my thesis is the mode of securing a container truck fleet while threatening with sharp weapons. Where the perpetrators of thuggery carry out their actions by extorting truck drivers while threatening and frightening the victims in order to smooth the extortion that is carried out so that it is detrimental to the victims or truck drivers.

Law enforcement against extortion cases carried out by these thugs needs to be addressed seriously and handled seriously, the impact of this extortion will become a culture in the life of the nation and state, especially in the city of Medan. Based on the background above, the author is interested in conducting further research under the title "Criminal Liability of Perpetrators for Extortion with the Mode of Escort and Security Services for Container Truck Transport Fleets" (Study of Decision No. 952 Pid.B/2021/PN.Jkt.Utr).

LITERATURE REVIEW

A. Criminal Act of Extortion

Extortion is an act that provides benefits to the perpetrator by harming another party who is the victim. In the legal context, extortion has a criminal formulation that has been regulated in positive Indonesian law. Etymologically, the word "extortion" comes from the root word "peras," which means asking for

something, such as money or goods, by means of threats or coercion. In international legal literature, as explained in Black's Law Dictionary, extortion or blackmail is defined as a demand that contains threats without legitimate justification (Feka et al, 2024). This term is also often synonymous with extortion, which is the act of obtaining something by unlawful means, such as pressure or intimidation.

In Indonesia, the crime of extortion has been regulated in the Criminal Code (KUHP) and several other laws and regulations. The Criminal Code regulates various forms of extortion and threats, both in the main form and in the aggravated form. For example, Article 368 paragraph (1) of the Criminal Code stipulates the main elements in the crime of extortion, which include acts of coercion, the presence of a party who is coerced, the method of coercion carried out with violence or threats, and the purpose of the coercion, such as obtaining property or profit from the victim. Coercion in the legal context refers to the act of putting pressure on someone so that the person does something against their will. In some cases, this pressure can cause the victim to voluntarily hand over their belongings because they have no other choice. This concept of coercion is also explained in Article 89 of the Criminal Code, which states that violence includes actions that cause someone to become unconscious or helpless. In other words, the violence referred to in the law is not only direct physical attacks, but also actions that cause someone to lose their ability to act freely.

In the context of criminal law, violence used to coerce someone is not always in the form of light physical force, but includes more intense actions such as hitting, kicking, or other forms of physical attack (Prasetya, 2024). This element of violence is an important element in the crime of extortion and threats, where the perpetrator aims to use the pressure so that the victim hands over their goods. The violence or threat of violence carried out must have a specific purpose, namely to gain profit, either for oneself or others. Therefore, the element of intention or purpose in this act of coercion is an important factor in determining whether an act can be categorized as a crime of extortion.

From a legal perspective, an act is considered unlawful if it is contrary to applicable regulations or attacks interests protected by law (Huda & Huda, 2021). Several legal experts, such as Simons, argue that the unlawful nature must be understood as an act that is contrary to applicable law. This opinion emphasizes that acts that are not in accordance with applicable positive law can be considered unlawful acts. Thus, coercion carried out through violence or threats of violence is not only contrary to social norms, but can also be categorized as a criminal act that has legal consequences. Meanwhile, Article 368 paragraph (2) of the Criminal Code discusses aggravated extortion, while Article 369 of the Criminal Code regulates threats in general form and Article 370 of the Criminal Code regulates threats within the family environment.

The crime of extortion has objective and subjective elements that form the basis for law enforcement. Objective elements include real actions carried out by the perpetrator, such as coercion with violence or threats, and the consequences that arise, for example the victim surrendering property or writing off receivables. Meanwhile, subjective elements are related to the perpetrator's

intentions, namely the intention to benefit oneself or others in an unlawful manner (Gunawan, 2023). In practice, coercion in extortion can take the form of physical or psychological pressure, which aims to suppress the victim's will to do something that is not in accordance with his or her own wishes.

Extortion and threats have almost similar characteristics, because both aim to pressure the other party through threats or coercion. Therefore, these two crimes are placed in Chapter XXIII of the Criminal Code. In law enforcement, a deep understanding of the elements of extortion is essential so that each case can be categorized appropriately in accordance with applicable legal provisions. Thus, every act of extortion that is carried out consciously and unlawfully can be subject to appropriate criminal sanctions, thus providing legal protection for the community from this detrimental act (Butar, 2024).

B. Criminal Acts and Criminal Responsibility

The term "criminal" has a more specific meaning in the legal realm, namely referring to sanctions imposed on someone who violates criminal law. Criminal law itself is a concept that requires a deep understanding of its meaning and nature. According to Roeslan Saleh, criminal law is a form of reaction to a criminal act (delict), in which the state deliberately imposes suffering on the perpetrator as a form of accountability for his actions.

A criminal act or criminal act can be interpreted as an action that is prohibited by the rule of law and is accompanied by the threat of certain sanctions for anyone who violates it. Moeljatno defines a criminal act as an act that is prohibited and threatened with criminal punishment, with the note that the act must be felt by society as something that disrupts social order and values that are upheld in community life (Kusuma, 2016). Thus, a new action can be categorized as a criminal act if it meets the elements stipulated in the applicable legal regulations.

However, not all acts referred to in the formulation of a crime can be directly subject to criminal sanctions. To impose a criminal penalty on an act, two main requirements are required, namely that the act is against the law and can be reprimanded morally and socially. In other words, an act cannot be punished simply because it is stated in the criminal regulations, but must fulfill the elements of a violation of legal norms and contain negative impacts that are worthy of being sanctioned (Sianturi, 2019). In criminal law, there is a fundamental principle that is the basis for determining whether an act can be categorized as a crime, namely the principle of legality. This principle states that no act can be punished unless it has been regulated in previous laws and regulations. This principle is often expressed in Latin as *Nullum delictum nulla poena sine praevia lege*, which means "no crime, no crime without prior regulation." This principle of legality is a protection for the community so that they are not subject to sanctions for actions that were not previously regulated as criminal acts.

More broadly, criminal law itself is a collection of rules that govern the relationship between individuals and the state in the context of accountability for violations of the law. The main purpose of criminal law is to create order in

society by guaranteeing the rights and interests of each individual, protecting the public interest, and preventing abuse of authority by law enforcers in dealing with crime (Sunarso, 2022). Therefore, criminal law has a very important role in maintaining a balance between individual interests and the interests of society as a whole, while ensuring that justice is upheld in a fair and proportional manner.

Criminal liability in law is not only related to the imposition of sanctions on perpetrators of criminal acts, but also reflects the belief that a person deserves to be held accountable for his actions. Roeslan Saleh emphasized that in discussing criminal liability, it cannot be separated from the philosophical aspect, especially justice. This shows that criminal liability is not only a legal concept, but is also closely related to moral values and legal philosophy. Therefore, in enforcing criminal liability, it must be ensured that the imposition of sanctions truly reflects justice, both for victims, perpetrators, and society as a whole.

In the criminal law system in various countries, both those that adopt the common law system and the civil law system, the principle of criminal responsibility is basically no fundamental difference. English criminal law, for example, states that anyone who commits a crime can be held accountable, unless there are reasons that exempt him from criminal responsibility (exemptions from liability) (Agus, 2016). In essence, criminal responsibility is the process of imposing blame or punishment on the perpetrator for his unlawful actions. This blame shifts from the criminal act itself to the perpetrator, so that the law can enforce fair and proportional sanctions for the actions taken.

The concept of criminal responsibility also includes the conditions that must be met in order for someone to be subject to criminal penalties. In a monodualistic perspective (*daad en dader strafrecht*), the process of determining criminal responsibility must consider the interests of society as well as the rights of the perpetrator. This process not only ensures that the actions taken do meet the elements of a crime, but also that the perpetrator can be legally blamed for his actions (Hidayatullah, 2022). In the development of modern criminal law, there is a clearer separation between criminal acts (*actus reus*) and criminal responsibility (*mens rea*). A person is not only punished for committing an unlawful act, but also because there is an element of error in his intention or mind that makes him worthy of punishment.

However, in practice, the application of criminal responsibility often faces various complex challenges. In the criminal justice system, judges not only act as law enforcers, but must also be able to present substantial justice. Therefore, judges are required to be creative in applying legal norms and considering various relevant aspects in a case. If judges only adhere to legal provisions rigidly without considering broader values of justice, then true justice is difficult to realize. Thus, criminal responsibility is not only the application of legal rules, but also an effort to balance the interests of law, morality, and justice for all parties involved.

In holding someone who has committed a crime accountable, there are several elements that must be met so that someone can be legally subject to criminal sanctions. The first element is the ability to be responsible. This ability is determined by a person's mental state, where a person is considered incapable

of being responsible if he or she experiences a permanent or temporary mental disorder, such as a disability in cognitive development (such as idiot, autism, or madness), or in a mental condition that is disturbed due to external factors such as hypnotism, uncontrolled anger, or latak. In addition, mental ability also includes a person's awareness in understanding the nature of his or her actions, determining his or her will to do or not to do an action, and realizing that his or her actions contain elements of blameworthiness. Thus, a person who does not have this ability cannot be subject to criminal responsibility.

The second element in criminal liability is the existence of an inner connection between the perpetrator and his actions, which can be in the form of intent (*dolus*) or negligence (*culpa*). In criminal law, intent refers to an action carried out with full awareness and will. According to legal doctrine, there are two main theories that explain the concept of intent, namely the Will Theory (*Willstheorie*) and the Knowledge Theory (*Voorstellingstheorie*).

The Will Theory (*Willstheorie*), developed by Von Hippel in Germany, explains that intent means the will of the perpetrator to carry out an act and the will to cause the consequences of the act. In other words, both the action and its consequences are consciously desired by the perpetrator, so that criminal liability can be imposed in full. In this perspective, the element of intent includes actions carried out consciously and with a specific intention to achieve the desired result.

Meanwhile, the Theory of Knowledge (*Voorstellingstheorie*), taught by Frank, states that intention does not always mean there is a will towards the consequences that arise. According to this theory, an actor may indeed intend his actions, but does not always want or anticipate the consequences that arise from the action. In this context, intention refers more to the awareness of the possibility of certain consequences as a consequence of the action taken. Thus, a person can be considered to have intention even though he does not fully intend the consequences of his actions, as long as he is aware that his actions can lead to detrimental consequences.

In the application of criminal law, an understanding of the elements of intention and negligence is very important in determining the level of someone's guilt and the type of punishment that is appropriate. Intention is generally subject to a heavier penalty than negligence, because actions that are carried out consciously and with a certain intention are considered more dangerous and more reprehensible. Therefore, in the criminal justice system, judges must be able to analyze in depth whether an action was carried out with full intent, or was merely a form of unintentional negligence, so that the decision taken truly reflects justice for all parties involved.

METHODOLOGY

The method used in this study is a normative legal research approach. The normative legal research approach is a library research method by reviewing library materials that are relevant to the object of study. This study uses a statute approach, a fact approach and a case approach. The method used in this study is to use objects in the form of legal norms to answer legal problems faced through the process of discovering legal rules, legal principles, and legal doctrines. The source of legal materials for library legal research is legal research conducted by

consulting library materials. With the focus of library research or library studies, the legal materials used in this study can be primary legal materials and secondary legal materials. Legal materials are used to study existing problems

RESEARCH RESULT AND DISCUSSION

A. Decision on Case No. 952/Pid. B/2021/PNJKT.UTR

The judge tried and decided on the crime of extortion based on the decision on case No. 952/Pid. B/2021/PNJkt.utr. The judge's decision on Defendant I, Rasian, and Defendant II, Dian Rastiawan, stated that the two defendants had been legally and convincingly proven to have committed the crime of extortion in collaboration. The criminal acts committed by the two defendants were proven with sufficient evidence and in accordance with applicable legal provisions, namely extortion carried out together, which harmed the victim and created fear and material loss. As a consequence of the criminal acts they committed, the judge sentenced each defendant to one year in prison. This sentence was given by considering the nature and impact of the crime committed, although there were mitigating factors such as the defendant's frank admission of his actions and the defendants' absence of a previous criminal record.

This started in 2014 until Saturday, June 12, 2021, at around 19.30 WIB, Defendant 1, Rasian, and Defendant 2, Dian Rastiawan, together with witnesses Suhendri alias Badik, Aswan alias Iwan Tato, Rachmat Rizki alias Rizki alias Akay, and Fauzi Prastyo alias Jipau, who were tried separately, carried out a series of actions with the aim of obtaining unlawful profits. These incidents took place at the office of PT. Tanjung Raya Kemilau (PT. TRK) located at Jalan Arteri Marunda No. 28, Cilincing, North Jakarta, and along the road to the entrance to Tanjung Priok Port. Defendant 1, Rasian, founded a company called CV. Tanjung Raya Kemilau (later changed to PT. Tanjung Raya Kemilau in 2019) which is engaged in trade, security, labor, freight, and parking services. As Director and owner, Rasian controls all company operations. Since its inception, the company has recruited thugs such as Aswan alias Iwan Tato, who was appointed as field coordinator, to harass and extort container truck drivers passing along the road to Tanjung Priok Port. The drivers were forced to hand over money ranging from Rp2,000 to Rp100,000 with threats of violence. If they refused, they would be threatened with sharp weapons such as knives, machetes, or cutters, and even their valuables such as their cellphones and wallets would be confiscated. To give the impression that the company was offering protection services, Rasian ordered the confiscated items to be returned to their owners, or if they were not found, the company would replace them with money. Defendant 2, Dian Rastiawan, was assigned to hold the company's complaint telephone number and record every problem experienced by drivers, such as harassment by thugs or lost goods. Meanwhile, other witnesses such as Fauzi Prastyo alias Jipau and other groups of thugs were assigned to continue extorting truck drivers with a similar modus operandi. Rasian also actively visited trucking companies with proposals for cooperation in security services. Transportation companies were forced to agree to pay a monthly fee to keep their trucks safe from thugs. As proof of cooperation, their trucks were affixed with TRK logo stickers. In this way,

Rasian expanded his business network while strengthening the grip of thugs around Tanjung Priok Port. Over the years, this method has continued to develop. In 2021, Rasian recruited new members such as Rachmat Rizki alias Rizki alias Akay to ask for parking fees at the entrance to the Jakarta International Container Terminal (JICT). With different rates for trucks with TRK stickers and those without, this extortion method has become increasingly entrenched. Drivers who do not pay will continue to be harassed by thugs from the Asmoro, Bajilo, and Lengbet groups. This practice creates fear among truck drivers and forces transportation companies to join PT. TRK. Through various systematic methods, Defendant 1, Rasian, together with Defendant 2, Dian Rastiawan, and other witnesses, managed to gain huge profits by exploiting threats, violence, and manipulation in the Tanjung Priok Port area.

B. Analysis of Criminal Acts of Extortion with Escort and Security Services Mode

Extortion is an act that provides benefits to the perpetrator by harming the victim through threats or coercion. Legally, extortion has been clearly regulated in positive Indonesian law. Etymologically, the word extortion comes from the root word *peras*, which means asking for money or other things through threats (Rahayu, 2023). In Indonesian law, regulations regarding extortion and threats are contained in the Criminal Code (KUHP) and several other laws. Article 368 paragraph (1) of the Criminal Code regulates extortion in its basic form, while Article 368 paragraph (2) explains aggravated extortion. In addition, threats in its basic form are regulated in Article 369, and threats within the family scope are contained in Article 370 of the Criminal Code. These two crimes have similar characteristics, namely the aim of threatening or coercing others, so both are placed in Chapter XXIII of the Criminal Code. Extortion in its basic form, as formulated in Article 368 paragraph (1), has objective and subjective elements. The objective element includes the act of forcing someone by using violence or threats of violence. The goal is for the victim to hand over an object, give a debt, or write off a debt. Meanwhile, the subjective element is the perpetrator's intention to benefit themselves or others in an unlawful manner.

Coercive acts, although not explained in detail in the Criminal Code, can be interpreted as active actions in the form of using violence or threats of violence to suppress someone's will. This action makes the victim do something that is contrary to his or her own wishes. Thus, extortion is a crime that combines real actions with the perpetrator's intention to gain unlawful benefits. This provision shows the importance of legal protection for individuals from pressure or threats that are detrimental.

In this case, the judge's decision to sentence the defendants to one year in prison was based on several legal considerations that took into account mitigating circumstances. The defendants admitted their actions openly, which showed a sense of responsibility and regret for the crime that had been committed. This confession is one of the mitigating factors, because it shows cooperation with the authorities and can be considered an effort to correct their mistakes. In addition, the fact that the defendants have never been convicted before is also considered a mitigating factor, indicating that they have no

previous criminal records and may not have fully understood the consequences of their actions. However, despite these mitigating factors, the defendants' actions still fall into the category of extortion with threats of violence, which is regulated in Article 368 of the Criminal Code. This crime involves coercion or threats against the victim to hand over money or goods with threats of violence, which of course still harms other parties and creates fear and material loss. Therefore, despite these mitigating factors, a one-year prison sentence is considered a fairly proportional form of sanction, while still considering the broader element of justice, namely law enforcement against criminal acts. This shows that even though the defendants acted in good faith by admitting their actions and had no previous criminal records, extortion involving threats of violence must still be punished as an effort to provide a deterrent effect and protect society from similar practices in the future.

A person can only be held criminally responsible if there is a causal relationship between the act committed and the consequences, as well as the fault (*culpa*) associated with the act. In this case, the defendants consciously committed extortion, with threats of violence against the victim which clearly violated the law and created a negative impact on both the victim and society as a whole. Therefore, even though the defendants admitted their actions and had never been convicted before, they were still considered to have legitimate evil intentions (*mens rea*) and could be held criminally responsible. Thus, the application of Article 368 of the Criminal Code in imposing punishment is legitimate, because it has fulfilled the elements of error and the consequences of their actions. In this case, the theory of restorative justice can be used as a reference to see how the criminal justice system tries to restore the damaged relationship between the defendant and society, and provide an opportunity for the defendant to repent and improve his actions. The confession given by the defendants is one of the mitigating factors, because the confession can be seen as a form of accountability for their actions. Under the perspective of restorative justice, the confession of the defendants can be interpreted as an effort to restore order and public trust in the legal system. In addition, the fact that the defendants had never been convicted before indicates the potential for rehabilitation, which is one of the judge's considerations in imposing a relatively lighter sentence.

The theory of proportionality states that the sentence imposed must be proportional to the severity of the crime committed and the purpose of the sentence itself, namely to provide a deterrent effect and prevent the recurrence of similar crimes. In this case, even though the extortion carried out by the defendants with threats of violence harmed the victim and violated the victim's rights, the judge decided to sentence them to one year in prison. This can be justified by considering that the defendants' actions, although carried out with threats of violence, have not caused serious physical harm or death to the victim, and also because they admitted their actions and have never been convicted before. The sentence, although lighter than the maximum sentence of up to 12 years in prison, still serves as a sufficient warning to the defendant, taking into account the mitigating factors.

Based on existing legal theories, the judge's decision to sentence the defendant to one year in prison can be understood as a proportional and fair step. Despite mitigating circumstances, such as the defendant's confession and the fact that they had never been convicted before, the act of extortion with threats of violence committed by the defendant is still an act that is detrimental to society and violates the law. Therefore, the punishment serves to provide a deterrent effect, as well as remind the defendants and the public about the importance of respecting the law and the rights of others.

C. Criminal Liability of Perpetrators of Extortion

Criminal liability in the context of Indonesian law is closely related to the repressive function of criminal law, which focuses on imposing sanctions on perpetrators of criminal acts. In this case, criminal liability means that a person can be sentenced for their actions that violate the law (Gultom, 2022). This concept is based on the idea of Monodualistic (*daad en dader strafrecht*) and the principle of due process, which ensures that every individual involved in a crime receives a fair legal process. Determining criminal liability not only focuses on the interests of society, but also considers the circumstances of the perpetrator, by seeing whether the terms and conditions that cause the perpetrator to be blamed have been met (Budoyo, 2008). In the Indonesian criminal law system, which is rooted in the Civil Law tradition, criminal liability is generally formulated negatively, meaning that the law regulates more circumstances that can exempt the perpetrator from liability. Thus, criminal liability is not only about imposing a penalty, but also ensuring that the demand for liability for the crime committed is appropriate and proper (Danil, 2021).

The crime of extortion can be subject to a heavier criminal threat in certain conditions, as regulated in Article 368 paragraph (2) of the Criminal Code (KUHPidana).

1. Extortion is carried out at night in a house or closed yard, or in a public place such as a highway or a moving train, the perpetrator can be sentenced to up to twelve years in prison.
2. If the crime of extortion is carried out by two or more people together, in accordance with the provisions of Article 368 paragraph (2) in conjunction with Article 365 paragraph (2) of the Criminal Code, the perpetrator is also threatened with a prison sentence of twelve years.
3. If extortion is carried out by breaking into, damaging, or climbing into a place using a fake key, fake orders, or fake uniforms, then the criminal threat remains twelve years in prison.
4. Furthermore, if the crime of extortion results in serious injury to the victim, according to Article 368 paragraph (2) in conjunction with Article 365 paragraph (2) 4 of the Criminal Code, the perpetrator is also threatened with the same sentence, namely twelve years in prison.
5. If the extortion results in death, then according to the provisions of Article 368 paragraph (2) in conjunction with Article 365 paragraph (3) of the Criminal Code, the criminal threat increases to fifteen years in prison.

6. If the extortion results in serious injury or death and is carried out by two or more people with other aggravating elements, the perpetrator can be subject to a heavier sentence. Based on Article 368 paragraph (2) in conjunction with Article 365 paragraph (4) of the Criminal Code, the perpetrator can be sentenced to death, life imprisonment, or a maximum of twenty years in prison, depending on the severity and existing conditions.

CONCLUSIONS AND RECOMMENDATIONS

The crime of extortion based on the Decision on Case No. 952/Pid. B/2021/PNJkt.utr has been determined by the judge to the defendant as a crime that meets the objective and unobjective elements and subjective elements of Article 368 of the Criminal Code.

The defendant was found guilty as a perpetrator of the crime of extortion in association and was sentenced to imprisonment for 1 (one) year each. The defendant admitted his actions and had never been convicted before, which was a mitigating factor. On the other hand, the act of extortion with the threat of violence in the chronology of the case still had a negative impact on the victim and violated public order. The theory of proportionality in sentencing underlies the judge's decision to give a relatively light sentence, but still has a deterrent effect. This decision shows legal efforts to uphold justice, protect the rights of victims, and provide an opportunity for the defendant to improve himself. However, based on the theory of criminal responsibility, the actions of the defendants meet the elements that can be criminally accounted for, although there are mitigating factors.

The judge's decision on this case needs to be analyzed regarding the consideration of various things. A more in-depth explanation is needed regarding the application of fair legal principles. This includes clearer consideration of the legal process, how the rights of the accused are considered during the trial, and how the judge's decision reflects justice for all parties involved, including the victim. So that this has implications for similar cases in the future. This study has several limitations that need to be considered. The scope of the study only focuses on one specific case, namely Decision No. 952 / Pid.B / 2021 / PN Jkt.Utr, so that the results of the analysis cannot be generalized to similar cases in other regions. In addition, the approach used is normative with an analysis of court decisions, so it has not explored the practical perspectives of law enforcement officers, victims, or perpetrators. Another limitation is the lack of empirical data, because this study did not involve interviews or surveys of related parties, such as truck drivers, transportation companies, or organizations engaged in transportation and security. In addition, this study focuses more on criminal liability in the context of positive law without delving deeper into the social and economic factors behind the emergence of this extortion mode. To overcome these limitations, further research can expand the scope by analyzing several court decisions related to similar crimes in various regions in order to gain a broader understanding. In addition, the use of a multidisciplinary approach that combines aspects of law, criminology, sociology, and economics

will provide a more comprehensive analysis. The use of empirical data through interviews with truck drivers, transportation company owners, law enforcement officers, and perpetrators of crimes will also provide a deeper perspective on this phenomenon. In addition, legal policy analysis needs to be conducted to examine the effectiveness of existing regulations in preventing extortion in the transportation sector and formulating more effective solutions in providing legal protection for victims. With these improvements, research is expected to provide a broader contribution in understanding and handling extortion crimes using the mode of escort and security services for container trailer truck transportation fleets.

ADVANCED RESEARCH

In this study there are still many shortcomings due to limited sources for this journal. So based on the results of the researcher's analysis, this study can provide recommendations regarding improvements in terms of the application of criminal sanctions, as well as a deeper understanding for judges and law enforcement officers in handling extortion cases with similar modes. And in order for the research to be more relevant and better, this study can compare the application of material criminal sanctions against extortion perpetrators in Indonesia with other countries, such as the United States, Australia, or Singapore. And the study can continue with a comparison between the restorative justice approach (restorative justice) which can focus on restoring victim losses with the retributive justice approach (retributive justice) which focuses more on punishing the perpetrator.

REFERENCES

- Agus Rusianto, S. H. (2016). *Tindak Pidana dan Pertanggungjawaban Pidana: Tinjauan Kritis Melalui Konsistensi Antara Asas, Teori, dan Penerapannya*. Prenada Media.
- Butar, R. A. (2024). Sanksi Pidana Untuk Pemerasan dan Ancaman Online Cybersex: Analisis Putusan Nomor: 229/Pid. Sus/2021/PN. Prp Dalam Perspektif Hukum Islam. *Indonesian Journal of Humanities and Social Sciences*, 5(3), 1107-1120.
- Danil, E. (2021). *Korupsi: Konsep, Tindak Pidana Dan Pemberantasannya-Rajawali Pers*. PT. RajaGrafindo Persada.
- Feka, M., Masturi, R., Citranu, C., Yase, I. K. K., Nur'aini, L., Ramadhansyah, D., ... & Rifai, A. (2024). *Buku Ajar Hukum Pidana Korupsi*. PT. Sonpedia Publishing Indonesia.
- Gultom, P. (2022). Analisis Sosiologi Hukum Terhadap Kemungkinan Dapat Diterapkannya Restorative Justice Dalam Perkara Tindak Pidana Korupsi Di Indonesia (Sociological Analysis of Law on the Possibility of Implementing Restorative Justice in Corruption Crime Cases in Indonesia). *Jurnal Hukum dan Masyarakat Al-Hikmah*, 3(1).
- Gunawan, S. (2023). *Tindak Pidana Pemerasan Secara Berlanjut Kepada Usaha Mikro Kecil Dan Menengah Di Kecamatan Bontoala* (Doctoral dissertation, Universitas Bosowa).

- Hidayatullah, M. (2022). *Pertanggungjawaban Pidana Para Pihak Yang Terlibat Dalam Perjudian Online (Studi kasus putusan Nomor: 96/Pid. Sus/2019/PT MDN)* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).
- Huda, K., & Huda, M. K. (2021). Legal Protection for Nurses Regarding the Delegation of Authority from Doctors in Performing Wound Suturing Medical Actions in Hospital Emergency Rooms. *Jurnal Hukum dan Etika Kesehatan*, 98-121.
- Khoriul Anam *Tindak Pidana Dilakukan Oleh Premanism*, Volume 4 , No 1 Tahun 2018, hlm. 3
- Kitab Undang – Undang Hukum Pidana (KUHP) .
- Kusuma, G. I. (2016). *Tinjauan Yuridis Kriminologis Terhadap Komunitas Lesbi Gay Biseksual dan Transgender (LGBT) Delik-Delik Kesusilaan di Dalam Kitab Undang-Undang Hukum Pidana* (Doctoral dissertation, Fakultas Hukum Unpas).
- Pasal 1 ayat 3 Perubahan ketiga Tentang Negara Hukum (1945).
- Peter Mahmud Marzuki. (2016). *Penelitian Hukum*. Jakarta: Kencana Prenada Media Group.
- Prasetya, M. F. (2024). *Perlindungan Hukum Pelaku Tindak Pidana Pembunuhan Karena Pembelaan Terpaksa Melampaui Batas Sebagai Korban Pengeroyokan (Studi Putusan Nomor 648/Pid. B/2021/PN. Bks.)* (Bachelor's thesis, Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta).
- Premanisme di Indonesia: Studi Kasus di Jakarta* oleh R. Mohammad Ikhsan, diterbitkan oleh Rajawali Press (2009)
- Premanisme: Tinjauan Kriminologi* oleh Bambang Sunggono, Pustaka Pelajar (2004)
- Putusan Mahkamah Agung Republik Indonesia Nomor 952/Pid.B/2021/PN Jkt.Utr*
- Rahayu, M. T. (2023). *Penegakan Hukum Tindak Pidana Sekstorsi Oleh Kepolisian Daerah Riau Di Kota Pekanbaru* (Doctoral dissertation, Universitas Islam Negeri Sultan Syarif Kasim Riau).
- Ronald P. Loui. (2017). *Metode Penelitian Hukum*. Yogyakarta: Pustaka Pelajar.
- Sianturi, B. R. (2019). *Pertanggungjawaban Pidana Pelaku Yang Dengan Sengaja Membuat Pencatatan Palsu Dalam Pembukuan Dokumen Bank (Studi Putusan PN Medan No. 95/PID. B/2018/PN. MDN)*.
- Sudikno Mertokusumo, *Bunga Rampai Ilmu Hukum*, (Yogyakarta: Liberty, 2010, hlm. 3-4UD RI.
- Sunarso, H. S., Sh, M. H., & Kn, M. (2022). *Viktimologi dalam sistem peradilan pidana*. Sinar Grafika.
- Tindak Pidana Pemerasan dalam KUHP"* oleh Prof. Dr. H. M. Yamin, S.H., M.H. (*Jurnal Ilmu Hukum*, Vol. 10, No. 1, 2015)
- Undang-undang No. 39 Tahun 1999 Tentang Hak-hak Asasi Manusia.
- Undang-Undang Nomor 1 Tahun 1946 Tentang Peraturan Hukum Pidana