

LEGAL ANALYSIS OF THE RELATIONSHIP BETWEEN EVIL CONSPIRACY, TRIAL AND SETTLEMENT OF THE CRIMINAL ACTS OF TREASURE

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ABSTRACT

The crime of treason against state security includes crimes against the President/Vice President, government/government agencies, and rebellion. Based on the research results, it is known that the judge's legal considerations in criminal acts evil conspiracy against state security based on the decision Number 183/Pid.B/2024/PN Amb is The defendant's actions fulfill the elements of Article 110 paragraph (2) 3 of the Criminal Code and the Judge in the trial did not find any evidence that the defendant was a person who was not capable of being responsible for his actions and also did not find any reason, either justification or forgiveness as a reason to eliminate the defendant's criminal penalty so that the defendant was declared guilty and deserved to be given a punishment commensurate with his actions which had been proven and declared guilty

1. Introduction

Every country certainly requires legal regulations that regulate, limit, and protect the human rights of its citizens, as well as guarantee the continued balance of social members, established by the will of each citizen. One measure of a country's progress is the obedience of its citizens and state administrators to the law. The state is defined as the highest organization among a group of people who share the ideal of unity and a sovereign government. The state's goal, as stated in the preamble to the 1945 Constitution of the Republic of Indonesia, is to protect the entire nation and all of Indonesia's territory, which is the formal goal of the state.

Promoting the general welfare and improving the nation's life are the material goals of the state, while the specific goals are the overall goals. The general goal is to contribute to the establishment of a world order based on freedom, lasting peace, and social justice. These goals are not easy to achieve; achieving them

requires all elements within the state to unite and, of course, to support each other.

The word "crime" is a term that applies to a wide variety of behaviors that are certainly disapproved by society. Crime is a subset of criminal activity, and in this case, crime occurs not only between individuals as citizens; sometimes it is directed against those in power or the government, who possess legitimate authority. The forms of crimes against national security and safety are increasingly varied, therefore a clear understanding of the law regarding these types of crimes is necessary. As the times become more advanced and modern, the problems facing a country become increasingly complex. This is not limited to tangible actions, but also through intangible actions that can potentially become problems for both the general public and the government.

Crimes or criminal acts against state security include criminal acts that violate the rule of law and are directly aimed at the state. These crimes are committed by citizens who target the system of power or government within a country. One such crime directed against the state is treason.

Makar comes from the word aanslag, which is Dutch for attack, makar is also defined as a dirty trick, trickery, an act with the intention of attacking people or overthrowing a legitimate government. The crime of treason is a crime that has been stated in Article 106 of the Criminal Code, namely "Treason with the intention of causing all or part of the territory of the State to fall into enemy hands or separating part of the territory of the State, is threatened with a maximum imprisonment of twenty years.

The Criminal Code (KUHP) in Book Two Chapter I discusses crimes against state security in several articles, namely starting with Article 104 to Article 129 of the Criminal Code and several other legal regulations such as Law Number 27 of 1999 concerning Amendments to the Criminal Code relating to crimes against state security, one of which is the crime of treason. According to the perspective of criminal law, separatist acts are classified as crimes against state security as stated in Article 104 which regulates the crime of treason against the President and/or Vice President, Article 106 which regulates treason against the security and integrity of the state's territory and Article 107 regulates treason to overthrow the legitimate government

2. Research Method

This research is descriptive analysis, that is, research that describes, examines, explains, and analyzes laws and regulations related to the objectives of this research. The purpose of descriptive research is to accurately describe the

characteristics of individuals, conditions, symptoms, or certain groups, or to determine the frequency or distribution of a symptom or the frequency of certain relationships between symptoms and other symptoms in society. The main purpose of analyzing legal materials is to understand the meaning contained in the terms used in the statutory regulations conceptually, as well as to understand their application in practice.

The type of legal research used is normative juridical, namely research that places norms as the object of research, both legal norms in statutory regulations, legal norms that originate from a law

3. Results And Discussion

The Criminal Code itself does not contain an article that specifically defines treason. It only outlines acts that can be classified as treason. Based on the description of the relevant articles concerning treason in the Criminal Code, it can be seen that the regulation of treason crimes has several types, distinguished by the act and its subject and object.

Article 104 of the Criminal Code is intended to be ethical when someone commits an act with the intention of killing, or depriving the freedom, or eliminating the ability of the President or Vice President to govern. In this article there are 3 types of actions, namely killing, depriving the freedom, and eliminating the ability. Killing the president or in other words, taking life, depriving freedom is when someone kidnaps and ties so that he cannot move at all, while eliminating the ability can be done by using violence or giving drugs so that he becomes paralyzed or cannot think as he should, threatened with the death penalty or life imprisonment or a maximum temporary prison sentence of twenty years.

Article 106 of the Criminal Code is intended when all or part of the territory of a country falls into the hands of the enemy or separates part of the territory of the country, all or part of the territory of the country falls into the hands of the enemy is interpreted as handing over the territory of the country to the power of a foreign country, while separating part of the territory of the country is making one of the regions in a country separate itself and become a new country or can be said to be a new independent or sovereign country, threatened with life imprisonment or a temporary prison sentence of twenty years.

In Article 107 of the Criminal Code, treason is intended with the intention of overthrowing the government, in the Criminal Code itself the meaning of overthrowing the government can be found in Article 88 bis, namely overthrowing the government, namely abolishing or illegally changing the form of government according to the Constitution, is threatened with a maximum

prison sentence of fifteen years while the leaders and organizers of treason are threatened with life imprisonment or a maximum temporary prison sentence of twenty years.

Article 110 of the Criminal Code refers to conspiracy to commit crimes as outlined in Articles 104, 106, and 107. Conspiracy itself is defined as two or more people agreeing to commit a crime. Article 110 of the Criminal Code is crucial evidence of the crime in question, enabling it to be eradicated or prevented while it is still being planned and before it is committed.

Article 139a of the Criminal Code is intended to release the territory or other areas of a friendly country in whole or in part from the power of the government in power there. Article 139a has a similar meaning to Article 106 of the Criminal Code, only there is a difference in that Article 139a of the Criminal Code specifically applies to friendly countries, which are subject to a maximum prison sentence of five years.

In Article 139b of the Criminal Code, it is intended to abolish or change illegally the form of government of a friendly country or other region, Article 139b of the Criminal Code has the same meaning as Article 107 but the difference is in Article 139b of the Criminal Code which is meant is a friendly country, threatened with a maximum sentence of four years. In Article 140 of the Criminal Code, it is intended to be treason against the life or freedom of the reigning king or head of a friendly state, in Article 140 of the Criminal Code if treason against life is carried out with prior planning or results in death, it is threatened with a maximum prison sentence of twenty years, if treason against life is carried out with prior planning and results in death, it is threatened with the death penalty or life imprisonment or imprisonment for a certain period of time of a maximum of twenty years.

Specifically, in the Criminal Code, regarding the commencement of treason, it is stated that an act of treason can be said to have occurred if the intention to do so is evident from the commencement of the act, as stated in Article 53 of the Criminal Code. Treason can only occur and be punished if the perpetrator has commenced the act.

The crime of treason certainly also includes the crime of conspiracy, namely treason which is carried out with prior planning and together, in the Criminal Code itself the term evil conspiracy is two or more people who have agreed to commit a crime in accordance with Article 88 of the Criminal Code.

If an act of treason is carried out together, then the perpetrators who participate have their respective roles and are different in classifying the roles of the perpetrators, which are regulated in Article 55 of the Criminal Code, namely

those who carry out the act, those who order it to be carried out, and those who participate in carrying it out.

Treason accompanied by incitement as regulated in Article 160 of the Criminal Code where incitement must be carried out in public or in a public space so that it can be heard and seen, for example, as we know, of course, the purpose of the act of treason itself is to incite others to commit treason with the intention of overthrowing the legitimate government, which can be subject to Article 160 of the Criminal Code.

The incitement is carried out to oppose the legitimate ruler by means of violence or other criminal acts. The state is a large organization, has the task of implementing efforts to achieve national goals in order to maintain and improve the sustainability of the life of the nation and state. The Criminal Code has several articles that regulate or relate to the crime of treason, but the definition of treason itself is not specifically there, but only describes when treason is said to occur and the types of treason, the author believes that the definition of treason should be more clearly so that there can be no mistakes in determining an act is considered treason.

The imposition of criminal penalties on perpetrators of criminal conspiracy to commit treason is based on theories and research results which are of course interrelated so as to obtain maximum results in terms of theory and practice. The judge in determining the criteria for the criminal act of conspiracy to commit treason which is the main basis is to look at the charges or what is charged by the Public Prosecutor by analyzing and also considering all matters as well as Article 184 of the Criminal Procedure Code regarding the evidence used in the trial. The indictment must meet the formal and material requirements stipulated in Article 143 paragraph (2) of the Criminal Procedure Code.

The judge in his consideration of the perpetrators who had committed a criminal act of conspiracy to commit treason, as in the form of a criminal act in Article 110 paragraph (1) of the Criminal Code, namely the element of intent to conspire to commit one of the crimes of treason, namely against the President or Vice President (Article 104 of the Criminal Code), conquering a country's territory in whole or in part (Article 106 of the Criminal Code), overthrowing the government (Article 107 of the Criminal Code), armed rebellion (Article 108 of the Criminal Code).

A person can be accused of committing treason not only because the perpetrator has actually committed a crime because the crime of treason itself does not need to be completed because it is based on Article 87 of the Criminal Code states that treason is considered to have occurred immediately after the perpetrators' intent or intention has become apparent in a form of initial implementation as referred



to in Article 53 of the Criminal Code. In proving the crime of conspiracy to commit treason, the judge sees that the perpetrators have had an agreement to commit treason as in the case of individuals from the Free Papua Organization (OPM), the Republic of South Maluku (RMS) and so on who aim for their own independence in their region. Treason is an attack where the object of the attack is sovereignty over the territory of the state.

In relation to the theory of punishment, punishment is an action taken against perpetrators of criminal acts so that they no longer commit the same crime, not as an attempt at revenge but as an effort to provide guidance for the perpetrators and as an effort to prevent the crime from happening again, in addition to creating security in the community.

The penalty for those convicted of conspiracy to commit treason is the same as for those convicted of treason under Articles 104, 106, 107, and 108, namely the death penalty, life imprisonment, or a maximum of 20 years' imprisonment. Not only are those who commit conspiracy to commit treason subject to the same penalty, but those who provide, prepare, or facilitate any form of treason are also subject to the same penalty.

Participation in the criminal act of conspiracy to commit treason committed by the perpetrators will meet the requirements if the cooperation is realized between the perpetrators as a manifestation of a common will when they commit the crime and the perpetrators together carry out all or part of the elements of the crime without questioning who carried out the final act so that a crime is created which is important for the perpetrators to have carried out the act of implementation.

Regarding the theory of criminal responsibility in this study, a person can only be held responsible for the actions of the defendants, which constitute an unlawful act. An unlawful act is any act that is prohibited by law or prevailing norms or rules in society, whether it is an act that violates the rights of others or is not based on any rights.

According to Chairul Huda, the basis for a criminal act is legality, while the perpetrator can be punished based on fault. This means that a person will have criminal responsibility if they have committed an act that is wrong and contrary to the law. In essence, criminal responsibility is a form of mechanism created to react to violations of a certain act that has been agreed upon.

Criminal liability requires the perpetrator to be capable of taking responsibility. It is impossible to hold someone accountable if they are incapable of taking responsibility. The crime of embezzlement, when viewed from the perspective of positive Indonesian criminal law, can be categorized as a crime.

Criminal responsibility contains the principle of fault (the principle of culpability), which is based on monodualistic balance (a concept which assumes that the essence of something is two elements which are bound into one whole) that the principle of fault which is based on the value of justice must be paired with the principle of legality which is based on the value of certainty.

The principle of criminal responsibility is based on the principle of culpability, which explicitly states that there is no crime without fault. This means that a person can only be held accountable under criminal law for committing an unlawful act if there is fault on their part.

Criminal responsibility is implemented through punishment, which aims to prevent criminal acts from being committed by enforcing legal norms for the protection of society, resolving conflicts that arise, restoring balance, bringing a sense of peace to society, socializing convicts by providing guidance so that they become good people and freeing convicts from guilt.

The element of intent with the intention to benefit oneself or others by means of breaking the law. The conditions of breaking the law must always be connected with the means of driving or persuasion used. Unlawful acts due to negligence (culpa) lie between intentional and accidental, however, culpa is seen as lighter than intentional, therefore the crime of culpa, is a pseudo-crime (quasideliet) so that a reduction in punishment is made. The crime of culpa contains two types, namely the crime of negligence that causes consequences and those that do not cause consequences, but what is threatened with punishment is the act of carelessness itself, the difference between the two is very easy to understand, namely negligence that causes consequences with the occurrence of those consequences, the crime of negligence is created, for those who do not need to cause consequences with negligence itself is threatened with punishment.

Viewed from the perspective of the occurrence of prohibited acts, a person will be held responsible for these actions, if the action is against the law and there is no justification or elimination of the unlawful nature of the crime he committed. Viewed from the perspective of the ability to be responsible, then only a person who is capable of being responsible can be held responsible for his actions. A criminal act if there is no fault is the principle of criminal responsibility, therefore in terms of being punished for someone who commits an act as has been threatened, this depends on the question of whether in committing this act he has fault.

Based on the facts revealed in the trial, the defendant's actions involved in the activities of the FKM RMS organization have shown the defendant's intention/will to commit treason with the intention that part of the State's territory in Maluku Province from the territory of the Unitary State of the

Republic of Indonesia, by preparing or facilitating the crime of having a supply of goods that he knows are useful for committing crimes, namely by storing, controlling and actually possessing the RMS flag and attributes, then the element of having a supply of goods that he knows are useful for committing crimes has been fulfilled.

All elements of Article 110 paragraph (2) 3 of the Criminal Code have been fulfilled, so the Defendant must be declared to have been legally and convincingly proven to have committed the crime of conspiracy to commit treason, so the panel of judges sentenced the Defendant Josephien Tanasale alias Nona to 2 (two) years and 6 (six) months in prison

4. Conclusion

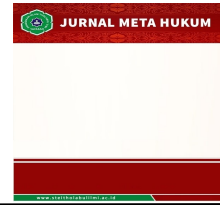
Arrangement lawThe criminal act of conspiracy against state security is regulated in Article 10 of the Criminal Code, which states that conspiracy to commit certain crimes (such as treason) is punished the same as the act itself. Articles 104, 106, 107, and 108 of the Criminal Code explain various forms of crimes against state security, such as treason with the intent to endanger the President or Vice President, treason to overthrow the government, and rebellion.

Criminal liability for perpetrators of crimes evil conspiracy,The trial and settlement of the crime of treason is the Defendant Josephien Tanasale alias Nona with a prison sentence of 2 (two) years and 6 (six) months because he was legally and convincingly proven guilty of committing the crime of conspiracy to commit treason.

Legal considerations of judges in criminal acts evil conspiracyagainst state security based on the decisionNumber 183/Pid.B/2024/PN Amb isThe defendant's actions fulfill the elements of Article 110 paragraph (2) 3 of the Criminal Code and the Judge in the trial did not find any evidence that the defendant was a person who was not capable of being responsible for his actions and also did not find any reason, either justification or forgiveness as a reason to eliminate the defendant's criminal penalty so that the defendant was declared guilty and deserved to be given a punishment commensurate with his actions which had been proven and declared guilty

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