

LEGAL ANALYSIS OF THE CRIMINAL ACT OF EMBASSY IN OFFICE COMMITTED BY THE SALES SUPERVISOR OF PT. MITRA CIPTA JAYA MEDAN (Analysis of Medan District Court Decision No. 30/Pid.B/2022/PN Mdn)

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ABSTRACT

The crime of embezzlement which is a crime often occurs in various fields and even the perpetrators are in various layers of society. The formulation of the problem in this thesis is how the legal arrangements for the crime of office embezzlement continue, what is the criminal responsibility for the perpetrators of the crime of embezzlement in office in decision Number 30/Pid.B/2022/PN Mdn, what are the considerations of judges in deciding cases of embezzlement in position on an ongoing basis according to decision Number 30/Pid.B/2022/PN Mdn. Legal arrangements for the crime of embezzlement of office are regulated in Article 374 of the Criminal Code. The occurrence of criminal acts of embezzlement in positions related to assets and objects, there is a crime known as embezzlement where abuse of trust dominates as the main element in the occurrence of this crime. The criminal responsibility for the perpetrators of the crime of embezzlement in office is that the defendant is sentenced to a prison sentence of 2 (two) years. The conclusion from the discussion is that the judge's legal considerations in the application of criminal sanctions for the crime of embezzlement in office in decision Number 30/Pid.B/2022/PN Mdn against the perpetrators of the crime of embezzlement in office can be held accountable for the actions committed with the consideration that at the time of committing the act the defendant aware of the consequences, the perpetrator in carrying out his actions is in a healthy condition and is capable of considering his actions.

1. Introduction

A state based on law is characterized by several principles, including that all actions or deeds of individuals, whether individuals or groups, the people or the government, must be based on legal provisions and existing statutory regulations before the act or deed is committed or based on applicable regulations.

Law enforcement is an inseparable part of the law itself; in fact, law enforcement is a reflection of the law in a country. Law enforcement can also be defined as the enforcement or upholding of the law by law enforcers when a violation of the law has occurred, is about to occur, or is likely to occur.

Indonesia, as a state based on law, always upholds human rights. The state guarantees all citizens equal status before the law and government and is obliged



to uphold the law and government without exception. Ideally, as a state based on law, Indonesia adheres to a system of legal sovereignty or the supremacy of law, which holds the highest authority within the state. The imposition of criminal penalties and punishments does not simply arise but rather proceeds through the judicial process.

Law, as a configuration of human civilization, goes hand in hand with the growth and development of society as a community in which humans grow and develop. However, recently, various distortions and changes have occurred in Indonesian society, which have become known as a moral crisis. The rise in unemployment and crime rates reflects the impact of this phenomenon.

Criminal law functions to regulate and organize social life to create and maintain public order. Human life is filled with various interests and needs, which are not only different from one another but sometimes even conflicting. In order to fulfill these needs and interests, people behave and act differently.

Numerous criminal phenomena have emerged in various regions of Indonesia, creating controversy among all levels of society. Every day, the mass media reports on various criminal acts occurring in this country. These crimes are undoubtedly influenced by the modernization occurring within a country.

Crime, as a social phenomenon occurring throughout the world, will likely never end in line with the developments and social dynamics within society. This problem of crime appears to continue to grow and never recede, both in terms of quality and quantity. This development has caused concern for both society and the government.

The development of criminal acts has become increasingly prevalent with the times. This is inseparable from increasingly sophisticated developments, which inevitably leads to increasingly sophisticated criminal methods, both in terms of thought (modal) and technology. These developments significantly influence various parties/individuals to employ various methods to fulfill their desires, namely by justifying any means that will ultimately result in losses for individuals.

The form of loss experienced by a victim of a crime is the loss of property. To protect a person's property, the Criminal Code (KUHP) classifies acts that can cause loss of property as crimes against property, regulated in Book II of the KUHP. Several crimes related to property and objects include a crime known as embezzlement, where abuse of trust is a dominant element in this crime. The crime of embezzlement is regulated in the Criminal Code under Article 372 (ordinary embezzlement), Article 373 (minor embezzlement), Articles 374 and 375 (aggravated embezzlement), and Article 376 (embezzlement within the family). Article 372 of the Criminal Code in conjunction with Article 55 paragraph (1)





point 1 of the Criminal Code is the article charged by the public prosecutor under this title because this crime of embezzlement was committed together.

The crime of embezzlement is a crime that stems from trust in another person, and that trust is lost due to a lack of honesty. In fact, many cases of embezzlement, using various methods, are currently occurring, indicating an increasing crime rate.

2. Research Method

This research is descriptive and analytical in nature, meaning it describes, examines, explains, and analyzes the problem of embezzlement in office, as it relates to laws and regulations, which are then analyzed. This research is a scientific activity based on specific methods, systems, and thinking, aimed at studying a specific law through analysis.

This paper employs normative juridical legal research, referring to legal norms, specifically library or secondary sources. This research is descriptive and analytical, revealing laws and regulations related to the legal theories that are the object of the study. Descriptive analysis is a method used to describe a current or ongoing condition or situation. The goal is to provide as accurate data as possible regarding the research object, allowing for the exploration of ideal aspects, which are then analyzed based on legal theory or applicable laws and regulations. This paper outlines the criminal act of embezzlement in office in a comprehensive manner.

Data collection is a crucial stage in the research process, as data serves as the source of the research. Data collection focuses on the underlying problem to avoid any deviations or ambiguities in the discussion. This study utilized primary and secondary data.

To obtain objective, verifiable, and accountable results, the data in this study was obtained using library research, a method used to collect data through a review of library materials or secondary data, including primary, secondary, and tertiary legal materials.

3. Research Results And Discussion

Moeljatno stated that a crime is an act prohibited by criminal law and punishable by anyone who violates this prohibition. Furthermore, Mulyatno stated that, based on their form or nature, these criminal acts are unlawful and detrimental to society, meaning they contradict or hinder the implementation of social order that is considered good and just.



Ensuring that an act is a crime means that it is prohibited by criminal law and the perpetrator is subject to punishment. While being unlawful and detrimental to society indicates the nature of the act. An act that is unlawful and detrimental to society is not necessarily a crime until it is established that there is a prohibition or criminal regulation (Article 1 of the Criminal Code) that imposes a penalty on the perpetrator. There are numerous unlawful and detrimental acts that only fall under the purview of criminal law when there is a prohibition by criminal law and the perpetrator is subject to punishment.

Whether an act is a crime or not must be examined in light of the applicable criminal law provisions (positive criminal law). In the current Criminal Code, these crimes are divided into two groups: crimes regulated in Book Two and violations regulated in Book Three. The Criminal Code itself does not provide any explanation of the criteria used to classify these two forms of crime, so people assume that crimes are serious acts or criminal acts, and violations are minor acts or criminal acts. This is also based on the fact that in general, the criminal sanctions threatened for crimes are heavier than the criminal threats that exist for violations.

The legal definition of embezzlement is regulated in Chapter XXIV (Book II) of the Criminal Code, consisting of 5 Articles (372 to 376). One of them is Article 372 of the Criminal Code, which is the crime of embezzlement in its basic form, which is formulated as follows: "Anyone who intentionally and unlawfully takes possession of an object that should or partly belongs to another person and is in his possession not by crime, is guilty of embezzlement, shall be punished by imprisonment for a maximum of 4 (four) years or a maximum fine of 900 (nine hundred) rupiah."

This crime is called "Ordinary Embezzlement." In the crime of embezzlement, the object taken for possession is already in the hands of the perpetrator through crime or has been entrusted to him. For example, in ordinary embezzlement, a person is entrusted with a bicycle by a friend, but because he needs money, the bicycle is sold and the proceeds are spent. This approach to the understanding that this act abuses the person's right as the person in control of the object, a right that must not exceed the person's right as the person entrusted with the control or possession of the bicycle.

Each person has a different personality and behavioral characteristics. A person's personality can be seen from their behavior in society. Someone who behaves Good behavior will earn a person respect from society. Conversely, if someone behaves badly, they will cause chaos in society. This behavior is also closely related to needs. Fulfilling needs that are not balanced with a person's desires will



make them prone to committing evil acts because they are not balanced with strong faith.

Humans possess varying talents and interests. Talents are present from birth and serve as a measure by society in determining whether a person is capable of mastering a field. If someone possesses talent in a field, it is easier for them to master that field. Talent is good if it involves positive things. Innate or talent that is difficult to direct or control properly will lead to bad behavior in that person, who tends to commit crimes that disturb society due to their negative characteristics.

Factors causing crime include economic factors, which are the main factor causing these crimes. Not only acts of vandalism, but economic factors, when examined and examined closely, are the main factors causing someone to commit a crime or crime. Lifestyle pressures and the pressures of living expenses can make someone do anything. to achieve their desires.

Economic factors play a crucial role in human life. This is because humans have needs (clothing, food, and shelter) that must be met daily. Fulfilling these needs requires costs. If daily needs are numerous, the costs also increase. This excuse is often used by criminals because it can mitigate their sentences.

Due to the difficult economic situation, there is a lack of good employment opportunities for those who should be working, making it extremely difficult to meet their needs. This leads to individuals not being able to think clearly, compounded by social jealousy that affects their families, especially within the perpetrators themselves, leading to unlawful acts.

The connection with the crime of embezzlement committed by prisoners is that the individual is unable to use their intelligence to correctly assess the merits of their behavior. This low mental and emotional state results in an inability to control themselves, leading many to fall into the crime of embezzlement.

The concept of criminal responsibility is not solely a legal issue but also concerns moral values or general decency embraced by a society or groups within society. This is done to ensure that criminal responsibility is achieved by fulfilling justice. Criminal responsibility is a form of determining whether a suspect or defendant is held accountable for a crime that has occurred. In other words, criminal responsibility is a form of determining whether an individual is acquitted or convicted.

According to Chairul Huda, the basis for a criminal act is the principle of legality, while the perpetrator can be punished based on fault. This means that a person will be criminally responsible if they have committed a wrongful act that violates the law. In essence, criminal responsibility is a mechanism created to respond to violations of a specific, agreed-upon act.



The existence of criminal responsibility requires the perpetrator to be capable of responsibility. It is impossible for someone to be held accountable if they are unable to do so. When viewed from the perspective of Indonesian positive criminal law, embezzlement in office can be categorized as a crime.

Not every person who commits a crime can be punished; it depends on whether the person, or the defendant, was at fault in committing the crime. For a person to be punished for committing a crime, it is not enough to simply have committed the crime; there must also be an element of fault.

Regarding the definition of fault or criminal responsibility, it is independent of the criminal act. In the case of a criminal act, the object is the act, while in the case of criminal responsibility, the object is the person who committed the crime.

The basis of criminal acts is the principle of legality (Article 1 paragraph (1) of the Criminal Code), which states that "no act can be punished except under pre-existing laws and regulations," while the basis for punishing the perpetrator is the principle of no punishment without fault (*geen straf zonder schuld*).

To determine whether or not the perpetrator is at fault, it must first be determined whether the defendant has the capacity to be responsible for the crime he or she committed. The defendant's capacity to be responsible relates to the defendant's mental/mental health when committing the crime. The perpetrator is considered capable of being responsible for his or her actions if several conditions are met.

Furthermore, criminal responsibility in the common law system is related to *mens rea*, which states that criminal responsibility is based on a mental state, namely a guilty mind. Guilty mind means subjective error, namely a person is found guilty because the perpetrator is deemed to have a guilty mind, so that person must be held responsible. Criminal responsibility is imposed on the perpetrator, so the perpetrator of the crime must be punished. The absence of a guilty mind A guilty mind means there is no criminal responsibility and results in the perpetrator not being punished.

Guilt as part of *mens rea* is also defined as a mistake due to a violation of a rule or a violation of statutory regulations. Anyone who violates the law is held accountable for their actions. Guilt as an element of responsibility, in this view, provides a guarantee for an individual and provides control over their freedom over others. This guarantee protects an individual from the actions of others who violate the law and serves as a control, as anyone who violates criminal law is subject to criminal responsibility.

The basis for a crime is legality, while the basis for punishing the perpetrator is fault. This means that the perpetrator of a crime will only be punished if they are at fault in committing the crime. This means that the perpetrator of a crime will only be punished if they are at fault in committing the crime. Based on this, it is



not sufficient to punish a person if they have committed an act that is contrary to the law or is unlawful. Therefore, even if the act meets the definition of a crime in law and is not justified (an objective breach of a panel provision), it does not yet meet the requirements for criminal punishment.

Accountability in the concept of criminal law is central to what is known as the doctrine of fault. In Latin, the doctrine of fault is known as *mens rea* (the mental state of the perpetrator who, through an act, violates a predetermined prohibition or obligation). The doctrine of *mens rea* is based on the assumption that an act does not render a person guilty unless the person's mind is evil.

The perpetrator's punishment requires that the crime they committed fulfill the elements specified in the law. Viewed from the perspective of the occurrence of a prohibited act, a person will be held responsible for those actions if the act is unlawful and there is no justification or negation of the unlawful nature of the crime.

Viewed from the perspective of capacity to be responsible, only a person capable of being responsible can be held accountable for their actions. A criminal act without fault is the principle of criminal responsibility. Therefore, if a person is convicted of a threatened act, this depends on whether they were at fault in committing the act.

4. Conclusion

The legal provisions for the crime of embezzlement in office are regulated by Article 374 of the Criminal Code. The occurrence of the crime of embezzlement in office related to assets and property is a crime known as embezzlement, where abuse of trust is the dominant element in this crime.

The criminal liability for the perpetrator of the crime of embezzlement in office, committed by the Sales Supervisor at PT. Mitra Cipta Jaya Medan, is that the defendant is sentenced to two years in prison. The defendant's actions clearly violated the provisions stipulated in Article 374 of the Criminal Code, including its elements. The criminal sanction imposed was lighter than the Public Prosecutor's demand of two years and six months' imprisonment.

The judge's legal considerations in imposing criminal sanctions for embezzlement in office, as stated in Decision Number 30/Pid.B/2022/PN Mdn, held that the perpetrator of embezzlement in office could be held accountable for his actions, considering that at the time of the act, the defendant was aware of the consequences, was in good health, and was competent to consider his actions. The panel of judges during the trial found no justification or excuse to eliminate criminal liability.



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