

LEGAL ANALYSIS OF THE CRIMINAL ACTION OF MURDER OF A NEWBORN CHILD BY ITS BIOLOGICAL MOTHER (Padangsidimpuan District Court Study Number 285/Pid.B/2021/PN PSP)

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ABSTRACT

Based on the problems presented, it is known that the causes of the crime of murder of newborns are caused by various factors such as economic factors, psychological factors, domestic violence factors, social environmental factors, educational factors. Infanticide is a unique form of crime. Unique in the sense that the perpetrator of the murder must be the biological mother herself, and the reason or motivation for committing the crime is because the perpetrator (mother) is afraid of being found out that she has given birth to a child. The responsibility of the perpetrator of the crime of murder of a newborn child committed by a mother who intentionally kills her own biological child when the child is born or some time after the child is born. The mother's actions are based on a reason (motive) namely being driven by fear of being found out about the birth of her child and can be held accountable in accordance with the provisions of Article 342 of the Criminal Code. The application of the judge in handing down the verdict of the Medan District Court Register Perk. Padangsidimpuan No. 285/Pid.B/2021/PN PSP. namely against the defendant Putri Ani Sari Asih proven and convincingly guilty of committing the crime of premeditated child murder with a prison sentence of 3 (three) years. Because the defendant's actions have fulfilled the elements of Article 342 of the Criminal Code, namely carried out by a mother and carried out intentionally to take the life of her child and carried out with planning.

1. Introduction

In the Republic of Indonesia, the appreciation, practice, and implementation of human rights, as well as the rights and obligations of citizens to uphold justice, must be firmly established. If a person's human rights are violated by another, that person will always demand and fight for their implementation by any means necessary. This is because human rights are fundamental rights that are inherent in a person from the moment they are born and live within society.

Throughout human history, there are numerous recorded instances of individuals or groups fighting for what they consider their rights. This is

evidenced by the creation of universal and fundamental texts on several rights, which share the same core principle: that humans do not want their human rights violated. However, the human rights of the Indonesian people, as recognized in society, not only emphasize individual rights but also include obligations that must be fulfilled. In fact, Indonesian society has long recognized human rights, rooted in Pancasila and the 1945 Constitution. Therefore, it can be said that Indonesian society also places great emphasis on human rights, which are fundamentally aimed at protecting individual rights.

Children are the most precious gifts to every family, the heirs and successors of their parents. A mother, on the other hand, is a loving figure, willing to sacrifice anything for her child. However, news stories of stillborn babies found in plastic bags frequently appear in the media.

Infanticide is a general term for any act of taking the life of an infant outside the womb, while infanticide (known in Common Law countries) is a specific term for the taking of the life of a baby under one year old by its own mother. The distinction between infanticide and a crime with a lighter penalty is based on the consideration that the mental state during pregnancy, childbirth, and breastfeeding is highly unstable and easily affected by hormonal imbalances. This explains why the penalty for infanticide/child murder is lighter than for other murder cases. As a key pillar in ensuring public order, the law is expected to anticipate all challenges, needs, obstacles related to facilities and infrastructure, and opportunities arising from the development achievements.

2. Research Method

This paper employs normative legal research. Normative legal research refers to legal norms that are in accordance with or related to legislation, court decisions, and existing legal norms related to the crime of infanticide.

This research is descriptive and analytical, meaning it merely describes the circumstances of an object or event without the intention of drawing general conclusions. In this case, it will describe the crime of infanticide. This descriptive research begins with collecting data related to the discussion, then compiling, classifying, analyzing, and interpreting the data to obtain a clear picture of the phenomenon under study.

The author used library research as the data collection technique. In this study, the author consulted several scientific books, laws, and other documentation such as magazines, newspapers, and other theoretical sources related to the crime of infanticide.

3. RESULTS AND DISCUSSION

Results

Initially, these young people were just casually dating, but after a while, they became engaged in sexual relations. When their relationship resulted in a fetus, problems arose because they were not yet married and most still had to finish school or college. Coupled with the fear of being discovered and the shame of the pregnancy being discovered by their parents and others, various methods were used to address the potential human embryo in their womb. Some married, known as MBA (Married By Accident), or married after the girl's belly had become slightly enlarged due to pregnancy. However, others took shortcuts by terminating the pregnancy, even killing the child at birth.

This infanticide is also often committed by women who are victims of rape. A common excuse given by raped women is that carrying a child from rape will only exacerbate their emotional suffering, as seeing the child will constantly remind them of the terrible event. Furthermore, if the child is born, the problem becomes even more complex. The mother, a rape victim, must care for the child alone. If the child is born into a poor family, she will not receive a decent living. Furthermore, the emotional stress of being born without a father will lead to the scorn of society, leading to a lifetime of shame.

This is because, in Eastern Indonesian culture, children born out of wedlock are unacceptable. This reasoning sometimes drives women who become pregnant out of wedlock or rape victims to resort to child murder.

However, triggering circumstances such as having too many children, an out-of-wedlock pregnancy, and being a rape victim do not always lead a woman to choose to take her child's life. Some women retain their pregnancies and care for their unborn children, arguing that child murder, regardless of the cause, is sinful and unlawful.

4. Discussion

The murder of a child who is a victim of rape, whether still in the womb or immediately after birth, does not help the woman overcome the trauma of rape. The act of taking the child's life itself can cause mental trauma that only adds to the victim's suffering.

Furthermore, the murder of a child immediately after birth, which is motivated by domestic violence, forced marriage, polygamy, unilateral divorce without consideration for justice for the wife and children, and other forms of abuse against women, demonstrates that the mother or perpetrator of the murder immediately after birth is also a victim.

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

Fault as part of mens rea is also defined as a mistake resulting from a violation of a rule or a violation of statutory regulations. Anyone who violates the law is held accountable for their actions. Fault, as an element of responsibility, in this view provides a guarantee for an individual and provides a 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 Criminal Code (KUHP) does not explicitly define the system of criminal responsibility adopted. Several articles in the KUHP frequently mention fault, whether intentional or negligent, but unfortunately, the law does not clearly define the definition of intentional or negligent fault. There is no further explanation regarding intentional or negligent misconduct. However, based on the doctrine and opinions of legal experts regarding the articles of the Criminal Code, it can be concluded that these articles contain elements of intentional or negligent misconduct that must be proven by the court in order to convict the perpetrator of the crime.

In addition to being proven guilty of the crime, the elements of intentional or negligent misconduct must also be proven. This means that in criminal liability, the judge's role is inseparable from proving the elements of criminal liability. If these elements cannot be proven, the person cannot be held accountable.

Accountability is a form of determining whether a person will be acquitted or convicted for a crime. In this case, to say that someone has aspects of criminal liability, several elements must be met to declare that person accountable.

This matter of knowing and intending must be viewed from the perspective of normative error, namely, based on concrete events, people will judge whether the act was indeed intended and known by the perpetrator. Mistakes involving intention as the perpetrator's intent can be justified, and this intention as the intent is easily understood by the public.

If this intention with intent is present in a crime and no one denies it, the perpetrator deserves a heavier criminal penalty if it can be proven that the act was truly intentional with intent. It can be said that the perpetrator truly

intended and intended to achieve the consequences that constitute the primary reason for the threat of criminal law.

The capacity to take responsibility is also related to a certain age for the perpetrator of a crime. This means that only perpetrators who meet a certain age limit have the capacity to take responsibility and have the obligation to be accountable for their actions. This is because certain ages can psychologically influence a person to commit an act.

Essentially, children of a certain age are not yet fully aware of their actions. This means they are also unable to distinguish between right and wrong, which also affects their ability to repent for their actions. If a child commits a crime and is subject to criminal proceedings, the child's psychological well-being will be affected in adulthood.

To declare someone guilty of a crime, their actions must meet the elements of the crime charged. The Public Prosecutor has charged the defendant with alternative charges: the primary charge as stipulated in Article 342 of the Criminal Code and the subsidiary charge under Article 341 of the Criminal Code.

Considering that the primary charge as stipulated in Article 342 of the Criminal Code, one of the elements of the aforementioned article has not been proven, namely the element of carrying out the determined intention due to fear of being discovered that she will give birth to a child at the time of the child's birth or shortly thereafter taking the life of her child, the Defendant is acquitted of the primary charge. The Public Prosecutor and the Panel of Judges consider the Subsidiary charge, namely violating Article 341 of the Criminal Code.

Intentional or intentionally is an inner attitude that lies in the heart of the Defendant that cannot be seen by others with the naked eye, however, the element of intention can be studied, analyzed and concluded, from a series of actions carried out by the Defendant, because a person always carries out an act with the intention, will or intention of his heart unless there is coercion or pressure from others or in other words, the inner attitude is reflected in the outward attitude or behavior of a person which is a reflection of his intention.

The element of intent must be interpreted broadly, not only as intent as the primary goal, but also as intent based on awareness of certainty and possibility. In this case, the defendant had the prior intention, or at least was aware and knew that his actions would result in certain consequences.

Before deciding a criminal case, a judge must consider every important aspect of the trial. The judge examines the criminal act by considering subjective requirements, namely, the existence of fault, the individual's capacity for responsibility, and the absence of any excuses. Furthermore, the judge must also

demonstrate objective requirements, namely, that the criminal act complies with the definition of the crime, is unlawful, and has no justification. If these conditions are met, the judge then considers mitigating and aggravating factors for the defendant.

The impact of the judge's considerations in sentencing regarding aggravating and mitigating factors against the perpetrator is that the judge's considerations consist of two factors: aggravating factors and mitigating factors. Aggravating factors are factors that serve as a reason for imposing a deterrent sanction or increase the sentence demanded by the public prosecutor against the defendant due to the defendant's lack of mitigating factors. Mitigating factors are any factors that the judge may use to reduce the sentence imposed by the panel of judges due to the defendant's numerous mitigating factors.

The judge's considerations regarding aggravating and mitigating factors against the perpetrator influence the judge's decision. If the judge imposes a sentence that is more severe than the public prosecutor's demand, the judge deems it unnecessary to consider mitigating factors for the defendant. Conversely, if the judge imposes a sentence that is less severe than the public prosecutor's demand, the judge deems it unnecessary to consider aggravating factors for the defendant.

The judge's decision regarding aggravating factors is intended to serve as a lesson to the defendant so that he will not reoffend and also so that the defendant will realize and be aware of the crime or act he has committed. The impact of mitigating the sentence imposed by the judge is solely to educate, guide, and foster the defendant so that the defendant can return to society after completing his sentence and be accepted by society.

The impact of aggravating and mitigating factors on the perpetrator, namely regarding the length of the sentence to be imposed on the defendant, the panel of judges is guided by the purpose of sentencing, which is not merely for revenge, but to create a deterrent effect. In imposing the sentence on the defendant, the panel of judges pays attention to the principle of proportionality (or imposing a sentence according to the level of the defendant's culpability) and considers the good and bad character of the defendant as outlined in Article 8 paragraph (2) of Law Number 48 of 2009 concerning Judicial Power, so that the sentence is perceived as fair for the defendant, the victim, and the community. Before issuing a decision, the judge is obliged to consider the aggravating and mitigating factors for the defendant.

The judge considered both aggravating and mitigating factors. In this case, the author believes the judge's decision was appropriate, considering the apology as

a mitigating factor for the defendant, but not an elimination of the defendant's criminal record. The defendant's actions have been legally and convincingly proven guilty of committing the crime as charged by the Public Prosecutor, violating Article 339 of the Criminal Code. Therefore, the defendant must be sentenced.

Based on the above description, it is clear that the judge's sentencing of a person who commits the crime of murdering a newborn child is a crucial aspect. In issuing a criminal sentence, a judge has the freedom to determine the severity of the sentence. However, this freedom is not absolute and unlimited; it must take into account the nature and seriousness of the crime committed and the circumstances surrounding the actions expected of him.

Decisional considerations, such as the perpetrator's personality, actions, age, education level, gender, environment, and national identity, require attention. In other words, considerations of interests must be aligned with the legal norms, principles, and beliefs that also apply in the society in which the person lives. The judge's decision is essentially based on the accusations against the defendant and the results of the trial. If the accusations are proven and the defendant is liable to be convicted, the judge can determine the severity of the sentence based on the criminal law theory used.

5. Conclusion

The causes of the crime of murder against newborns are caused by various factors, such as economic factors, psychological factors, domestic violence, social environmental factors, and educational factors. Infanticide is a unique form of crime. It is unique in that the perpetrator must be the biological mother, and the reason or motivation for committing the crime is the perpetrator's fear of being discovered that she has given birth.

The perpetrator of the crime of murder against newborns, committed by a mother who intentionally kills her own biological child at birth or some time after, is held accountable for her actions, driven by a fear of being discovered. The mother's actions are motivated by a reason (motive), namely, fear of being discovered, and she can be held accountable under Article 342 of the Criminal Code.

The judge, in handing down the verdict of the Medan District Court, Register Perk. Number 285/Pid.B/2021/PN PSP, found the defendant Seri Marlina Siregar, also known as Nanna, guilty of premeditated infant murder and sentenced her to three years in prison. Because the defendant's actions have fulfilled the elements of Article 341 of the Criminal Code, namely that they were

carried out by a mother and were carried out intentionally to take the life of her child and were carried out with planning.

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