

**THE IMPLEMENTATION OF LAW ENFORCEMENT AGAINST  
CRIMINAL ACTS OF MOBING AGAINST PERSONS IS REVIEWED  
BY ARTICLE 170 PARAGRAPH (2) OF THE CRIMINAL CODE**

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**Abstract (Indonesia)**

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**Latar Belakang:** Indonesia merupakan suatu negara hukum, pernyataan tersebut termuat dalam Penjelasan Undang-Undang Dasar 1945 menyatakan bahwa “Negara Indonesia berdasarkan atas hukum (*rechtstaat*) tidak berdasarkan atas kekuasaan belaka (*machtstaat*)”.

**Tujuan:** Penelitian ini bertujuan untuk mengetahui serta menganalisis tentang implementasi pasal 170 ayat (2) ke-1 kuhp tentang tindak pidana dengan tenaga bersama melakukan kekerasan terhadap orang. Serta mengetahui serta menganalisis tentang pertanggungjawaban tindak pidana pengeroyokan dalam hukum pidana.

**Metode:** Penelitian ini termasuk jenis penelitian normatif. Sehingga dapat diketahui bahwa pertanggungjawaban tindak pidana pengeroyokan menurut hukum pidana tergantung pada kategori pengeroyokan itu sendiri (Pasal 170 KUHP).

**Hasil:** Jika perbuatan itu dilakukan secara terang-terangan dan dengan tenaga bersama menggunakan kekerasan terhadap orang atau barang diancam dengan pidana penjara paling lama lima tahun enam bulan, dan jika mengakibatkan luka-luka dikenakan pidana paling lama tujuh tahun. Pengeroyokan jika kekerasan mengakibatkan luka berat dikenakan pidana penjara paling lama sembilan tahun. Jika kekerasan mengakibatkan kematian dikenakan pidana paling lama dua belas tahun.

**Kesimpulan:** Berdasarkan pemaparan di atas, maka dapat disimpulkan bahwa pertanggungjawaban tindak pidana pengeroyokan menurut hukum pidana tergantung pada kategori pengeroyokan itu sendiri (Pasal 170 KUHP).

**Kata kunci:** *Penegakan Hukum, Pengeroyokan, Kitab Undang-undang Hukum Pidana*

### **Abstract (English)**

**Background:** Indonesia is a country of law, the statement contained in the Explanation of the 1945 Constitution states that "The State of Indonesia is based on the law (*rechtstaat*) not based on mere power (*machtstaat*)".

**Objective:** This study aims to find out and analyze the implementation of article 170 paragraph (2) 1 of the Criminal Code concerning criminal acts with joint energy committing violence against people. As well as knowing and analyzing the liability of criminal acts of mobbing in criminal law

**Methods:** This research belongs to the normative type of research. So that it can be known that the liability of the criminal act of mobbing according to criminal law depends on the category of mobbing itself (Article 170 of the Criminal Code).

**Result:** If the act is committed overtly and with concerted force using force against persons or goods is punished with imprisonment for not more than five years and six months, and if it results in injuries is subject to a maximum sentence of seven years. Burglary if violence results in serious injury are punishable by a maximum of nine years imprisonment. If violence results in death are subject to a maximum of twelve years.

**Conclusion:** Based on the above explanation, it can be concluded that the liability of the criminal act of mobbing according to criminal law depends on the category of mobbing itself (Article 170 of the Criminal Code).

**Keywords:** Law Enforcement, Mobbing, Criminal Code

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## **INTRODUCTION**

Indonesia is a country of law, the statement contained in the Explanation of the 1945 Constitution states that "The Indonesian state is based on the law (*rechtstaat*) not based on mere power (*machtstaat*)", As a country of law, Indonesia has a series of regulations or laws so that the interests of the community can be protected (1945 Constitution in Article 1 Paragraph (3) of the Third Amendment). Therefore, all actions to be taken by the Indonesian state must be based on the law.

Law is the whole rule or rules in common life, the whole regulation of behavior that applies in common life, the implementation of which can be imposed with sanctions.

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The 4th paragraph of the Preamble to the 1945 Constitution, which is the constitutional foundation of the country, states that one of the objectives of the state is to create the general welfare. So all the efforts and development that this country is doing must lead to this goal to create the welfare of the people. The law is a reflection of the social life of the society in which the law is formed.

It can be said that law is a function of the social history of a society, but law is not a static social building, rather it can change and this change occurs because of its function to serve society (Abidin, 1986).

Law in society does not always act as an obstacle to social change. The existence of a caring attitude towards the law can serve as a tremendous source of strength for the peace of the society itself.

The lack of legal awareness in today's society causes distrust between members of the community itself and distrust between law enforcement officials and the government.

Conditions that occur every day and are experienced by the community such as snatching, poking, theft, robbery, molestation, rape, murder, and juvenile brawling, or better known as "street crime" or "*street crime*" are challenges for the law enforcement process.

Along with the development of crime as described above, the law occupies an important position to overcome the existence of this crime problem.

Legal devices are necessary to resolve conflicts or crimes that exist in society. One of the efforts to prevent and control crime is to use criminal law with criminal sanctions (Muladi & Arief, 1998).

Physical violence can be called persecution committed by a person either together or alone against people or goods increasing and troubling the community and law enforcement officials.

The crime of persecution is one of the crimes that has grown over time, one of which can be seen from the perpetrators who are no longer only adults, but also children.

One of the causes can be the influence of a poor social environment. Crime can also be said to be a criminal act, and a criminal act is a basic understanding of criminal law. The term act is used in place of "*strafbaar feit*".

In the legislation of our country can be found other terms that also mean "*strafbaar feit*". The definition of criminal acts in criminal law between scholars who are one with another has nothing in common.

The Criminal Code Book II Chapter V regulates crimes against public order contained in Articles 153-181 of the Criminal Code (KUHP). In Article 170 Paragraph (1) of the Criminal Code, it is stated that:

"Whoever in public, jointly commits violence against persons or goods, shall be punished with imprisonment for not more than five years and six months".

It can be seen in the article that it has elements that provide limits to be able to ensnare someone who commits a violent crime.

Compared to other violent crimes contained in the Criminal Code, Article 170 of the Criminal Code has a more severe criminal threat than articles regulating other forms of violence in the Criminal Code. Article 170 Paragraph (2) 1 of the Criminal Code further confirms that:

"The guilty person shall be punished with imprisonment for a term of seven years, if he intentionally damages goods or if the violence he commits causes a person to be injured".

In this article, it is not only an element of violence but an element of causing people to get hurt including it.

Judging from the elements, Article 170 of the Criminal Code has difference from Article 55 Paragraph (1) of the Criminal Code regarding criminal acts committed by more than one person.

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A person who commits a criminal act classified as Article 170 Paragraph (1) or Paragraph (2) of the Criminal Code must be processed based on applicable legal regulations.

This will be the responsibility of the judge in determining the criminal conviction of the perpetrator of the crime on the elements contained in the article.

## **RESEARCH METHODS**

The research method used in this study is a normative legal research method. Normative legal research is legal research carried out by examining library materials or secondary data (Soekanto, 2007).

According to Peter Mahmud Marzuki (Marzuki, 2017), normative legal research is a process to find a rule of law, legal principles, and legal doctrines to answer the legal issues faced.

In this type of legal research, often the law is conceptualized as what is written in legislation or law is conceptualized as a rule or norm that is a benchmark for human behavior that is considered appropriate (Asikin, 2004).

## **RESULTS AND DISCUSSION**

### **Implementation of Article 170 paragraph (2) 1 of the Criminal Code concerning Criminal Acts with Joint Labor Committing Violence Against Persons**

In Article 1 paragraph (11) of the Criminal Procedure Code, a court decision is a judge's statement pronounced in an open court session, which can be in the form of a conviction or free or free from all legal claims in terms of and in the manner provided for in the criminal procedure law.

If the acts charged against the defendant are proven valid and convinced that the defendant is guilty of committing the criminal act charged by the Public Prosecutor, then the court imposes a criminal offense (Article 193 paragraph (1) of the Criminal Procedure Code).

Regulated and threatened with criminal punishment in Article 170 paragraph (2) 1 of the Criminal Code. We can know this because the elements in Article 170 paragraph (2) 1 of the Criminal Code have been fulfilled. The elements are as follows:

1. Whose element is whoever.
2. Elements blatantly with shared energy.
3. The element of committing violence against people or goods.
4. The element causes others harm.

The provision of criminal sanctions cannot be separated from the purpose of punishment. A criminal is essentially the imposition of suffering or unpleasant harm on a person who has committed a criminal act according to applicable regulations.

The criminal award is not only intended to provide suffering for the accused, but also to realize the legal order of society in a country.

Criminal acts with joint labor committing violence against people or goods (mobbing) as in Article 170 paragraph (2) 1 of the Criminal Code.

### **Liability for Criminal Acts of Burglary in Criminal Law**

A criminal act is a violation of norms in three other areas of law, namely civil law, constitutional law, and administrative law, which the framers of the law respond to with a criminal law (Wirjono, 2003).

The Criminal Code it is contained in book II on types of crimes and book III on offenses. Formulated criminal acts both crimes and offenses are aimed at persons (subjects of criminal law).

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Only a small number of criminal acts are also directed at the subject of legal entities, namely criminal acts that are also directed at the subject of criminal law, namely special crimes outside the Criminal Code, for example, legal entities, namely special crimes outside the Criminal Code, for example, banking crimes or corruption crimes.

The subject of the law mentioned and referred to in the non-criminal formulation is only one person, not several people. This can be seen in Article 338 of the Criminal Code on crimes against life and Article 362 of the Criminal Code on theft which states.

Whoever deliberately deprives another of his life is threatened with murder with imprisonment as high as fifteen years.

Whoever takes an item wholly or partly belonging to another person, with intent to be unlawfully possessed, is threatened with theft, with imprisonment for a maximum of five years or a fine of not more than Rp. 900. Obviously what is meant by whoever, is a person, and this person is only one person, not many people or several people.

If based on the formulation of Article 338 earlier. Accompanying or inclusion, which in Dutch terms is known as *deelnemen or deelneming*.

*Deelneming* is blamed in criminal law because based on reality often a delink is carried out jointly by several people.

If only one person performs a delik, the culprit is called a pledge According to Satochid Kartanegara means *deelneming* when in one like there are several people or more than one person (Kartanegara, n.d.).

*Deelneming* in the Criminal Code is regulated in Article 170 of the Criminal Code which reads:

- (1) Whoever blatantly and with concerted force uses force against persons or goods, shall be punished with imprisonment for not more than five years and six months.
- (2) The guilty are threatened:
  1. With imprisonment for not more than seven years, if he intentionally destroyed goods or if the violence used resulted in injuries;
  2. With imprisonment for a maximum of nine years, if the violence results in serious injury;
  3. With imprisonment for a maximum of twelve years, if violence results in death.
- (3) Article 89 is not applied.

The classification of inclusion according to Articles 55 and 56 of the Criminal Code is 1. Maker (*dader*), Article 55 which consists of:

- a. Perpetrator (*pleger*);
  - b. Who told to do (*doenpleger*);
- The participating (*medepleger*);

## CONCLUSION

Based on the explanation above, it can be concluded that the liability of the criminal act of mobbing according to criminal law depends on the category of mobbing itself (Article 170 of the Criminal Code).

If the act is committed overtly and with concerted force using force against persons or goods is punishable by imprisonment for a maximum of five years and six months, and if it results in injuries is subject to a maximum penalty of seven years.

Burglary if violence results in serious injury are punishable by a maximum of nine years imprisonment. If violence results in death are subject to a maximum of twelve years.

### Suggestion

The public should realize that the act of mobbing is a crime, so it is hoped that the community should take better care of emotions and not judge the perpetrators of criminal acts or commit acts that can harm others.

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