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CRIMINAL LIABILITY OF PERPETRATORS OF EXTORTION USING SHARP WEAPONS

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ABSTRACT

Extortion involving the use of sharp weapons is a form of crime that threatens public safety. This crime not only causes financial loss to victims but also instills deep psychological fear. In Indonesia's criminal law system, extortion is regulated under Article 368 of the Criminal Code (KUHP), which punishes perpetrators with imprisonment. However, if the perpetrator uses a sharp weapon in their crime, the penalty may be more severe as stipulated in Emergency Law No. 12 of 1951. This article aims to analyze the criminal liability of perpetrators of extortion with sharp weapons under Indonesia's legal framework. The research method used is a normative juridical approach, focusing on legislation and case law studies. The findings indicate that law enforcement in cases of extortion involving sharp weapons still faces challenges, particularly in proving criminal intent and applying aggravated penalties to offenders. Therefore, optimizing criminal law enforcement is crucial to ensure deterrence for perpetrators and maximum protection for victims.

Keywords*: Extortion, Sharp Weapons, Criminal Liability, KUHP, Criminal Law*

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INTRODUCTION

Extortion involving the use of a sharp weapon is a phenomenon occurring with increasing frequency in society. This crime not only causes material loss to the victim but also threatens their physical safety. In some instances, perpetrators do not merely use sharp weapons to intimidate victims but actually employ them to inflict injury if their demands are not met. This demonstrates that extortion involving a sharp weapon carries a higher level of danger compared to ordinary extortion.

Under the Indonesian criminal justice system, extortion is regulated by Article 368 of the Criminal Code (KUHP). This article stipulates that anyone who, with the aim of unlawfully enriching themselves or another, compels a person—through the threat of violence—to surrender something, may be sentenced to a maximum of nine years in prison. However, if the perpetrator uses a sharp weapon during the commission of the crime, there is a possibility that penalties under Emergency Law Number 12 of 1951 may also apply.An

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examination of the criminal liability of perpetrators of extortion involving sharp weapons is crucial, given the ongoing ambiguity regarding the legal application in such cases. A recurring issue is determining the perpetrator's intent regarding the use of the sharp weapon—specifically, whether it was intended merely for intimidation or if there was a genuine intent to inflict injury. Divergent interpretations of this intent can influence the severity of the sanctions imposed by the court.

Court rulings in several cases indicate that the use of a sharp weapon during extortion is often treated as an aggravating factor for sentencing. However, not all cases result in such an enhancement; the outcome depends on the specific manner in which the weapon was utilized during the incident. Therefore, it is essential to conduct an in-depth analysis of the factors influencing the criminal liability of the perpetrator.

Formulation Of The Problem

Based on the background above, this study will address two main issues:

1. What is the form of criminal liability for perpetrators of extortion involving the use of a sharp weapon under Indonesian criminal law?
2. What factors influence the judicial process for perpetrators of extortion involving a sharp weapon?

Research Methodology

This study employs a normative-juridical method, utilizing statutory and case study approaches. The data sources include applicable laws and regulations, relevant court rulings, and academic literature on criminal law.

DISCUSSION

a. Forms of Criminal Liability for Perpetrators of Extortion Using Sharp Weapons

The crime of extortion involving the use of a sharp weapon is regulated under Article 368 of the Indonesian Criminal Code (KUHP). This article stipulates that any person who commits extortion or makes threats with the intent of obtaining an unlawful gain is subject to a maximum prison sentence of nine years. If the perpetrator uses a sharp weapon while committing extortion, the act may be categorized as an offense with aggravating circumstances, potentially resulting in a harsher penalty.

In criminal law, liability for perpetrators of extortion involving sharp weapons can be distinguished into two types: criminal liability based on individual culpability (individual liability) and criminal liability involving sentence aggravation (aggravated liability). This aggravation of the penalty is based on the use of a sharp weapon, which heightens the threat to the victim; consequently, criminal law views the perpetrator as having a greater degree of criminal intent.

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According to the theory of criminal liability, a person may be criminally punished if the elements of the offense are met: the commission of an unlawful act, the presence of culpability (*mens rea*), and the absence of any justification. In cases of extortion involving sharp weapons, the element of culpability is crucial, as it must be proven that the perpetrator intended to intimidate or injure the victim in order to secure a gain.

In Indonesia, legal regulations concerning the use of sharp weapons in criminal offenses are set forth in Emergency Law Number 12 of 1951. This law prohibits any person from carrying, possessing, or using a sharp weapon without valid authorization, carrying a maximum penalty of 10 years in prison. Consequently, perpetrators of extortion involving a sharp weapon may face multiple charges, specifically under Article 368 of the Criminal Code and Article 2 of the Emergency Law.

In judicial practice, prosecutors often charge perpetrators of extortion involving sharp weapons based on a combination of these provisions. However, in some instances, judges tend to place greater weight on the element of violence committed rather than the mere possession of the sharp weapon itself. This creates challenges in imposing fair and consistent sentences.

Cases of extortion involving sharp weapons tried in Indonesia demonstrate that not all perpetrators receive the maximum penalty. Factors such as the perpetrator's intent, the level of threat posed, and the availability of evidence often serve as primary considerations in sentencing. In some cases, perpetrators who merely intimidated the victim without inflicting injury received lighter sentences compared to those who actually used the sharp weapon to cause harm.

One case that garnered public attention was heard at the South Jakarta District Court, involving an extortionist who used a knife to threaten a victim. The presiding judge found the defendant guilty under Article 368 of the Criminal Code and applied a sentence enhancement based on the Emergency Law.

From the perspective of criminal law theory, determining criminal liability for extortionists using sharp weapons must also take into account the principle of proportionality. This principle dictates that the punishment imposed on the perpetrator must be commensurate with the severity of the crime committed. Thus, a proper understanding of criminal liability is crucial to ensuring justice within the criminal justice system.

b. Factors Influencing the Judicial Process for Perpetrators of Extortion Involving Sharp Weapons

Various factors influence the judicial process for perpetrators of extortion involving sharp weapons. One primary factor is the evidence presented during the trial. Under the Indonesian criminal justice system, admissible evidence includes witness testimony, expert testimony, documents, circumstantial evidence (*petunjuk*), and the defendant's statement. The presence of physical evidence—specifically the sharp weapon—often serves as a decisive factor in proving the elements of the crime.

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A second factor is the perpetrator's intent, or *mens rea*. In some cases, defendants attempt to defend themselves by claiming the sharp weapon was used merely to intimidate the victim rather than to inflict injury. This often becomes a consideration for judges when determining the severity of the sentence.

Another factor is the role of law enforcement officials, including the police, prosecutors, and judges. The police have the authority to conduct preliminary inquiries and formal investigations to gather sufficient evidence before a case is brought to court. Prosecutors then play a role in drafting the indictment and seeking a penalty based on the established legal facts.

In some instances, the application of sentence-aggravating provisions presents a challenge. Article 368 of the Criminal Code (KUHP) does not explicitly stipulate an aggravated penalty for extortion involving sharp weapons; consequently, prosecutors must file additional charges based on Emergency Law No. 12 of 1951.

Judicial policy also influences trial outcomes. Judges often consider factors such as the defendant's criminal history, the victim's circumstances, and the psychological impact suffered by the victim. Perpetrators who are recidivists or have prior criminal records often receive harsher sentences.

Furthermore, public support or pressure can influence court rulings. Cases that attract media attention tend to undergo more rigorous judicial scrutiny, with judges exercising greater caution in handing down verdicts to avoid public criticism. Another factor involves challenges within the evidentiary process. In some instances, victims are unable to provide compelling testimony or lack sufficient evidence to substantiate that a threat involving a sharp weapon occurred. This can result in the defendant receiving a lighter sentence or even being acquitted. The effectiveness of existing laws also plays a crucial role in the success of judicial proceedings. Emergency Law No. 12 of 1951 remains in effect today, despite widespread criticism suggesting that the regulation requires updating to better align with modern legal developments.

In the context of prosecuting extortion cases involving sharp weapons, a major challenge is the inconsistent application of the law by law enforcement agencies and the courts. Research by Sukmareni (2018) indicates that differing interpretations of applicable legal provisions often lead to disparities in the sentences handed down to offenders. In some cases, extortion involving a sharp weapon is prosecuted solely under Article 368 of the Criminal Code, disregarding Emergency Law No. 12 of 1951, which should otherwise increase the potential penalty for the perpetrator.

Furthermore, difficulties in proving the perpetrator's criminal intent (*mens rea*) hinder the delivery of justice for victims. As highlighted in research by Sukmareni, Ujuh Juhana, and Muhammad Basri (2020), establishing the perpetrator's intent regarding the use of a sharp weapon is often difficult, particularly in the absence of eyewitnesses. Perpetrators frequently attempt to defend themselves by claiming they carried the weapon for self-defense rather than to commit an act of violence. Consequently, courts often struggle to

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prove the element of threatened violence—a key component of the crime of extortion. Furthermore, the role of the Corruption Eradication Commission (KPK) in investigating criminal acts involving violence and extortion is also a compelling subject for study. According to research by Sukmareni (2020), although the KPK primarily focuses on corruption, its wiretapping authority can serve as an effective tool for gathering evidence regarding crimes linked to extortion committed by law enforcement officials. In some instances, extortion has been found to be perpetrated by individuals holding positions of power—such as in corruption cases involving the extortion of businesspeople or government officials.

From a legal theory perspective, the deterrence theory within criminal law needs to be applied more effectively to reduce cases of extortion involving sharp weapons. Sukmareni (2018) argues that imposing harsher penalties on perpetrators of violent crimes can create a deterrent effect and prevent potential.

CONCLUSION

Based on the preceding discussion, it can be concluded that criminal liability for perpetrators of extortion involving a sharp weapon rests on a clear legal foundation within the Criminal Code (KUHP) and Emergency Law Number 12 of 1951. The use of a sharp weapon during the commission of extortion can serve as an aggravating factor in court rulings, although inconsistencies in the application of sanctions persist in practice. Law enforcement regarding these cases requires a more systematic and consistent approach to ensure that every perpetrator receives a punishment commensurate with the severity of the offense.

Furthermore, various factors influence the judicial process for perpetrators of extortion involving sharp weapons, including evidence, the perpetrator's intent, the role of law enforcement officials, and applied judicial policies. Key challenges in law enforcement for these cases include proving the perpetrator's criminal intent and navigating obstacles within the evidentiary system during trial proceedings. Consequently, improvements to the criminal justice system—including regulatory reform and capacity building for law enforcement personnel—are essential steps toward enhancing judicial effectiveness.

Thus, optimizing the criminal justice system's handling of extortion cases involving sharp weapons necessitates improvements in evidentiary procedures, more consistent application of aggravating provisions, and the alignment of comprehensive legal policies. Additionally, public awareness and the role of the media in monitoring trial proceedings are crucial factors in ensuring that justice is fully upheld.

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