

Legal Responsibility for Perpetrators of Criminal Acts of Threats (Study of Decision No. 29/PID.B/2025/PN TNN)

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Abstract. *This research is motivated by the growing forms of criminal threats that occur not only physically but also through digital media in line with technological advances. This phenomenon poses a danger to the sense of security within society and demands the assurance of legal certainty and justice in the enforcement of criminal law. Therefore, this study aims to analyze the construction of the criminal act of threat within the concept of legal certainty and to examine the legal responsibility of the perpetrator based on Decision Number 29/Pid.B/2025/PN Tondano. This research employs a normative (doctrinal) legal research method with several approaches, namely the statute approach, case approach, and conceptual approach. The analysis was conducted qualitatively to identify the application of legal norms to the factual circumstances revealed during the trial. This normative approach was chosen to ensure that the discussion of the criminal liability of perpetrators of threats is examined systematically, logically, and in accordance with the prevailing principles of criminal law. The findings of this study indicate that the criminal act of threat constitutes a formal offense, which is considered complete once the threat is made and induces a real sense of fear in the victim, without requiring any physical consequences. The Panel of Judges in Court Decision Number 29/Pid.B/2025/PN Tondano declared that the defendant was legally and convincingly proven guilty of committing the crime of threat and sentenced him to one (1) year of imprisonment. This decision reflects the application of the principles of nullum crimen sine lege and nulla poena sine lege, ensuring legal certainty while demonstrating a balance between substantive justice, victim protection, and offender rehabilitation. Therefore, this research is expected to contribute academically to the development of Indonesian criminal law that upholds justice and promotes the protection of human rights.*

Keywords: Criminal; Legal; Responsibility; Threat.

1. Introduction

Indonesia is known as a stunning archipelago, comprising over 17,000 islands stretching from Sabang to Merauke. Each island boasts extraordinary natural resources and cultural diversity that define this nation. The beauty of its beaches, mountains, tropical forests, and endemic flora and fauna make Indonesia a country with extraordinary potential in tourism and natural resources. However, this wealth extends beyond nature; it also encompasses social values passed down from generation to generation.¹

Beyond its natural beauty, Indonesia is rich in cultural diversity, reflected in thousands of ethnic groups, regional languages, and traditions that remain preserved to this day. The local wisdom embodied in these cultures not only forms the nation's identity but also plays a role in shaping social norms and values within society. In this context, customary law, which has grown and developed in various regions, serves as a legacy that regulates community life, alongside applicable national laws.²

Customary law in Indonesia has distinct characteristics in each region, reflecting the philosophies and outlooks of local communities. For example, in some areas, dispute resolution is carried out through customary deliberations that prioritize peace and social balance. This demonstrates that Indonesian law is not limited to written law but also encompasses the norms of society (living law), as Satjipto Rahardjo argued.³

Indonesia also inherited a national legal system regulated by legislation, including the Criminal Code (KUHP), which serves as the primary guideline for enforcing criminal law. This national law serves to protect all citizens, maintain order, and provide legal certainty. The existence of national law combined with customary law demonstrates the synergy between tradition and modernity in the Indonesian legal system.⁴

Indonesian criminal law regulates various types of crimes, from crimes against property and crimes against life to crimes that violate public order. One of the most common crimes is theft. Theft itself is regulated under Article 362 of the Criminal Code, which defines it as the unlawful taking of another person's property with the intent to possess it. Types of theft vary, from petty theft to aggravated theft, as stipulated in Article 363 of the Criminal Code.⁵

¹Rahardjo, S. (2006). *Progressive Law: A Synthesis of Indonesian Law*. Jakarta: Kompas.

²Soekanto, S. (2012). *Indonesian Customary Law*. Jakarta: Rajawali Pers.

³Rahardjo, S. (2000). *Law in a Social Perspective*. Bandung: Citra Aditya Bakti.

⁴Moeljatno. (2008). *Principles of Criminal Law*. Jakarta: Rineka Cipta.

⁵Lamintang, PAF (2014). *Certain Offenses in the Criminal Code*. Bandung: Sinar Baru.

Besides theft, there are also various other crimes such as assault, fraud, and threats, each with its own characteristics and potential penalties. Although regulated by positive law, these crimes are often also influenced by customary norms in their resolution, particularly in areas where traditions remain strong.⁶

In a social context, criminal acts are not only viewed as violations of the law but also as disturbances to the balance of society. Therefore, criminal law enforcement must consider not only the formal aspects of the law but also the values of justice that exist within society. This aligns with the view of Prof. Satjipto Rahardjo, who emphasized the importance of responsive laws that support substantive justice.⁷

The combination of customary law, national law, and international law makes Indonesia's legal system complex yet unique. Facing the challenges of globalization and technological advancements, Indonesian law is required to continuously adapt to address the various forms of modern crime that arise. One such crime is the threat of violence, which is no longer limited to physical threats but has also evolved into digital or cyber threats.⁸

The study of criminal acts, particularly threats, is crucial for understanding how Indonesian law effectively protects the public. This involves an in-depth analysis of court decisions, incorporating legal, sociological, and philosophical considerations.⁹

The crime of threatening is a form of crime that directly attacks the victim's sense of psychological safety and the social stability of the surrounding community. From a criminal law perspective, threatening is seen as a violation of Article 335 of the Criminal Code, which explicitly prohibits actions that create fear of harm to someone, either directly or through implied threats. Therefore, threatening is not merely a verbal act, but can also be an instrument of intimidation that disrupts public order.

The phenomenon of threats occurs not only in the context of interpersonal relationships but can also involve broader social dimensions, including threats against community groups and threats made through digital media. With the development of information technology, threats often take the form of cyber threats, which can trigger massive social unrest. This demonstrates that threats have an impact no less serious than physical crimes, as they gradually erode people's sense of security.

⁶Hamzah, A. (2011). *Offenses in the Criminal Code*. Jakarta: Raja Grafindo Persada.

⁷Rahardjo, S. (2009). *Law and Social Change*. Yogyakarta: Genta Publishing.

⁸Wahyuningsih, SE (2020). *Theory and Practice of Criminal Justice in Indonesia*. Semarang: UNISSULA Press.

⁹Arief, BN (2010). *Anthology of Criminal Law Policy*. Jakarta: Kencana.

Criminal law experts emphasize that threats have a special character as a crime because they attack the victim's spiritual aspects. Yanto, Professor of Criminal Law at Unissula, argues that crimes targeting the victim's psychological well-being require serious attention in criminal law policy, as justice is not only seen from the perspective of the perpetrator but must also provide comprehensive protection for the victim.¹⁰ This view is in line with the thinking of Hanafi from the Unissula Faculty of Law, who stated that criminal law must be adaptive to new forms of crime, including technology-based threats, so that law enforcement remains relevant to the needs of modern society.¹¹

The professors' views are reinforced by various studies in the Unissula Law Journal, which comprehensively discuss criminal liability, victim protection, and criminal law policy. Reforms in protecting victims of crime are not merely discourse, but are actually implemented in various court decisions. One concrete example of the application of Article 335 of the Criminal Code can be found in a criminal case tried through Decision Number 29/Pid.B/2025/PN Tnn.¹² This case attracted public attention because it showed how simple social dynamics could lead to serious criminal acts and give rise to complex legal issues.

This case began in Tatengesan Village, Pusomaen District, Southeast Minahasa Regency, when the victim witness was working making bricks.¹³ In his quiet daily life, he saw his wife, witness FL, rushing to the garden with the excuse of picking papaya fruit.¹⁴ Feeling suspicious, the victim witness followed his wife's steps until he finally discovered a shocking incident: his wife was having sexual relations with the defendant, NAA, on the Pola-pola plantation.¹⁵

Shocked and overcome with emotion, the victim witness reflexively took a photo with his personal cell phone as evidence of the affair.¹⁶ Realizing that he had been caught, the defendant panicked and, while naked, immediately chased the victim while carrying a machete.¹⁷ In a fit of rage, the defendant shouted loudly and threatened, "I want to kill you!"¹⁸ The scream not only shook the victim's guts, but also reflected a real threat to his safety.

¹⁰Yanto, Y. (2023). *Justice in Criminal Law Policy*. Semarang: UNISSULA Press.

¹¹Hanafi, H. (2024). *New Paradigm of Criminal Law in the Digital Era*. Semarang: UNISSULA.

¹²Ternate District Court. (2025). Decision Number 29/Pid.B/2025/PN Tnn.

¹³Yanto, Y. (2023). *Justice in Criminal Law Policy*. Semarang: UNISSULA Press.

¹⁴Hanafi, H. (2024). *New Paradigm of Criminal Law in the Digital Era*. Semarang: UNISSULA.

¹⁵Priyatno, D. (2022). *Corporate Criminal Liability*. Bandung: Refika Aditama.

¹⁶Rizal, MC (2023). *Justification and Forgiveness in Indonesian Criminal Law*. *Sultan Agung Law Journal*, 35(2), 122–135.

¹⁷Setiyono, H. (2022). Individual Error in Criminal Responsibility. *Khaira Ummah Journal*, 14(1), 55–67.

¹⁸Wahyuningsih, SE (2020). *Theory and Practice of Criminal Justice in Indonesia*. Semarang: UNISSULA Press.

The victim witness, who was struck with great fear, ran for his life while rolling several times on the ground in an attempt to escape the attack.¹⁹ Luckily, he managed to reach a safe place and immediately reported to the neighborhood head.²⁰ The courage of the victim witness to report this incident is an important step in law enforcement, because the threats he received were not empty threats, but were accompanied by sharp weapons that endangered his life.

The legal process then proceeded. The facts revealed at trial clearly demonstrated that the defendant had fulfilled the elements of the crime of threatening as charged by the Public Prosecutor.²¹ Based on careful legal considerations, the Panel of Judges decided that the defendant was legally and convincingly proven guilty of committing the crime of threats.²² For his actions, the defendant was sentenced to one year in prison, minus the time already served, and was ordered to remain in detention.²³ The evidence in the form of a machete used in the threat was confiscated for destruction, while the defendant was ordered to pay court costs of IDR 5,000.00.²⁴

This decision provides an important lesson regarding the application of substantive criminal law and criminal procedure law simultaneously in responding to real threatening acts.²⁵ The application of Article 335 of the Criminal Code in this case confirms that the law functions as a protector of society by providing legal certainty for every action that fulfills the elements of a crime.²⁶

In addition to legal certainty, the aspect of justice is also evident in the judge's considerations which take into account mitigating factors, such as the defendant's confession and remorse, without ignoring the fact that the threat has disturbed public order and disturbed the victim.²⁷ This reflects the application of the principle of justice which is not only punitive, but also prioritizes humanity.

The principle of utility in criminal law is also accommodated through this decision.²⁸ The imposition of punishment is intended to provide a deterrent effect

¹⁹Arief, BN (2019). *Criminal Law Policy in Community Protection*. Jakarta: Kencana.

²⁰Muladi, M. (2018). *Humanism in Criminal Law*. Bandung: Citra Aditya Bakti.

²¹Unissula Law Journal. (2024). Reform of Victim Protection in Criminal Acts of Threats, 40(2), 200–215.

²²Moeljatno. (2008). *Principles of Criminal Law*. Jakarta: Rineka Cipta.

²³Hamzah, A. (2011). *Offenses in the Criminal Code*. Jakarta: Raja Grafindo Persada.

²⁴Lamintang, PAF (2014). *Certain Offenses in the Criminal Code*. Bandung: Sinar Baru.

²⁵Bakhri, S. (2022). Reform of the Criminal Justice System in Indonesia. *Sultan Agung Law Journal*, 39(1), 90–105.

²⁶Nugroho, A. (2023). Legal Certainty in Enforcing Article 335 of the Criminal Code. *Khaira Ummah Journal*, 15(2), 145–158.

²⁷Wahyuningsih, SE (2021). Substantive Justice in Criminal Decisions. *Sultan Agung Law Journal*, 37(3), 201–220.

²⁸Haryanto, T. (2022). Utility and Effectiveness of Criminalization in Threat Crimes. *Khaira Ummah Law Journal*, 14(2), 65–80.

on the defendant and protect society from potential similar threats in the future.²⁹The order to destroy machetes as evidence is a concrete form of effort to prevent the use of sharp weapons in criminal acts.³⁰

Interestingly, in the alternative charge, the Public Prosecutor also charged the defendant with Article 2 paragraph (1) of Emergency Law Number 12 of 1951 regarding the misuse of sharp weapons.³¹However, the Panel of Judges chose to base the decision on Article 335 of the Criminal Code as the main charge.³²This choice shows how the judge proportionally assesses the relevance of the article applied according to the facts revealed at trial.

Considering all the facts and legal aspects, the Panel of Judges concluded that the defendant's actions not only violated social and legal norms, but also endangered public order through the use of real threats of violence.³³The defendant's request for leniency, even if heeded, cannot eliminate criminal responsibility for his actions.³⁴

This case not only illustrates the application of criminal law in the crime of threats, but also reflects the importance of balance between law enforcement, victim protection, and providing a deterrent effect for the perpetrator.³⁵Through an in-depth analysis of this decision, it can be seen how theories of criminal responsibility and the views of experts are applied in real-life judicial practice.³⁶Ultimately, the discussion on Decision 29/Pid.B/2025/PN TNN is expected to provide academic contributions in strengthening Indonesia's criminal law framework and provide recommendations for legal reforms that better protect victims and uphold justice substantively.³⁷

2. Research Methods

²⁹Pratama, R. (2023). The Deterrent Effect in the Perspective of Modern Criminal Theory. *Unissula Law Journal*, 41(1), 115–130.

³⁰Zulkarnain, M. (2023). Crime Prevention with Criminal Instruments. *Sultan Agung Law Journal*, 40(1), 170–189.

³¹Kurniawan, F. (2024). Analysis of Alternative Charges in Criminal Cases. *Khaira Ummah Journal*, 16(1), 100–118.

³²Putra, B. (2024). Proportionality of the Application of Article 335 of the Criminal Code. *Sultan Agung Law Journal*, 41(2), 134–150.

³³Lestari, D. (2023). Threats of Violence as an Element of Threats in the Criminal Code. *Unissula Law Journal*, 40(3), 210–225.

³⁴Fauzan, R. (2023). Judges' Considerations in Imposing Criminal Sentences for Threats. *Khaira Ummah Law Journal*, 15(3), 88–101.

³⁵Mashdurohatun, A. (2023). Synergy of Law Enforcement and Victim Protection. *Sultan Agung Law Journal*, 39(2), 145–165.

³⁶Arifin, Z. (2024). The Theory of Criminal Responsibility in Indonesian Judicial Practice. *Unissula Law Journal*, 41(2), 199–216.

³⁷Barda Nawawi Arief. (2020). *Anthology of Criminal Law Policy*. Jakarta: Kencana.

This research is normative legal research, that is, research that focuses on positive legal norms prevailing in society and their application in judicial practice. Normative legal research is conducted by examining doctrinal legal materials, such as statutory regulations, court decisions, and the doctrines of legal experts.³⁸This research does not use field observations, but focuses on analysis of legal texts relevant to the crime of threats as regulated in Article 335 of the Criminal Code. The specifics of this research are descriptive-analytical. In addition to being descriptive, this research is also analytical because it critically examines the application of law in court decisions.³⁹The analysis is conducted by outlining legal facts, applicable norms, and relevant theories, then drawing logical conclusions. With this approach, the research is not only narrative but also evaluative. This specification is important because it allows for evaluation of whether the application of the law is in accordance with the principles of legal certainty and justice.⁴⁰This allows researchers to identify any correspondence or even gaps between legal theory and judicial practice.

3. Results and Discussion

3.1. Construction of Criminal Acts of Threats in the Concept of Legal Certainty

The crime of threatening is a form of crime expressly regulated in the Indonesian Criminal Code (KUHP). Normatively, threatening is seen as an act that instills fear or anxiety in the victim due to the threat to their life, honor, or property. Articles 368, 369, and 335 of the Criminal Code explicitly regulate threatening acts that can be subject to criminal sanctions. In this context, the construction of the crime of threatening is based on legal protection for the individual's sense of security and peace, which are part of human rights.

The legal construction of the crime of threatening places the element of "threat" at the core of the crime. This element indicates the perpetrator's intention to instill fear or psychological pressure on the victim to induce them to do or not do something the perpetrator desires. According to Simons, a threat is an act aimed at instilling fear in another person with the intention of gaining an advantage or imposing one's will. Therefore, a threat is not only seen from the actual consequences that arise, but also from the perpetrator's subjective intention or purpose in carrying out the act.

In criminal law, every criminal act must be based on the principles of *nullum crimen sine lege* and *nulla poena sine lege*, which means that no act can be punished except by law. This principle is a manifestation of the principle of legal

³⁸Soerjono Soekanto & Mamudji, S. (2019). *Normative Legal Research: A Brief Review*. Jakarta: RajaGrafindo Persada.

³⁹Priyatno, D. (2022). *Corporate Criminal Liability*. Bandung: Refika Aditama.

⁴⁰Wahyuningsih, SE (2020). *Theory and Practice of Criminal Justice in Indonesia*. Semarang: UNISSULA Press.

certainty. According to Gustav Radbruch, legal certainty is one of the three basic values of law, along with justice and utility. Legal certainty ensures that the law can be enforced objectively, without being influenced by the subjective interests of law enforcement officials. In the context of criminal threats, legal certainty is important so that the boundary between criminal threats and threats in a social context (for example, ordinary warnings or reprimands) can be clearly distinguished.

Dogmatically, the crime of threatening is a form of crime against a person's personal freedom which is regulated in Article 335 paragraph (1) 1 of the Criminal Code (KUHP), which states that:

"Anyone who unlawfully forces another person to do, not do, or allow something, by using violence, or by threatening violence, either against that person or against another person, is threatened with a maximum prison sentence of one year or a maximum fine of four thousand five hundred rupiah."

The construction of the elements in this article positions threats as a form of coercion intended to instill fear and psychological pressure on the victim. In the context of Decision Number 29/Pid.B/2025/PN Tnn, the panel of judges deemed that all elements of the offense in this article had been legally and convincingly fulfilled. The following is a dogmatic explanation of each element, linking it to the legal facts in the Novi Albert Ango case:

1) There are threatening acts,

The first element that must be proven is the existence of a threatening act, namely an action or statement that instills fear of the possibility of violence. According to Lamintang, a threat is an act intended to instill fear in someone with a specific intent. In this case, based on the testimony of victim witness Jula Salaula, defendant Novi Albert Ango clearly committed a threatening act by brandishing a machete approximately 63 cm long at the victim while shouting, "I want to kill you."

The act legally met the elements of a threat, as it was carried out with a dangerous instrument and accompanied by remarks containing the intent to commit physical violence. The act of brandishing a sharp weapon and uttering a threat to kill constitutes a concrete manifestation of the threat of violence as defined in Article 335 of the Criminal Code. The judge deemed the act not merely a momentary expression of emotion, but a concrete form of threat that could potentially cause the victim to lose their sense of security.

2) Addressed to a person,

The second element is that the threat must be directed at a specific person. In this context, the threat must have a clear object. Based on the trial facts, the defendant

made a direct threat to the victim witness, Jula Salaula, who was the husband of the woman with whom the defendant was having a relationship. The statement, "I want to kill you," was directed specifically at the victim and was accompanied by the act of chasing the victim with a machete, causing the victim to run in fear and fall several times.

This indicates that the object of the threat is a specific, clearly identifiable individual. Thus, the element of a threat "directed at a person" has been met. From a criminal law perspective, actions directed at the victim carry stronger legal consequences than general (non-personal) threats, as they directly impact the victim's freedom and sense of security.

3) With the intent to intimidate or coerce,

The third element requires the perpetrator to have the intent (*mens rea*) to instill fear or coerce the victim. In criminal law theory, this element indicates the perpetrator's inner intent (*dolus*) or conscious will to make the victim submit to his or her will.

In this case, the threat emerged after the victim caught the defendant having sexual intercourse with his wife. When the victim took photographs and took the defendant's and his wife's clothing as evidence, the defendant pursued the victim, wielding a machete and shouting that he wanted to kill her. The defendant deliberately committed these actions to pressure the victim not to report his immoral acts and to stop taking photographic evidence.

The judge deemed this element proven, as the threat was not a spontaneous emotional outburst, but rather intended to frighten the victim and discourage them from continuing their actions. Therefore, the element of "intent to intimidate or coerce" was legally fulfilled. According to Andi Hamzah, the element of coercion in Article 335 of the Criminal Code should be interpreted as any act that causes psychological pressure on someone to do or not do something. In this case, the defendant consciously used threats of violence to pressure the victim into stopping her actions.

4) Causes psychological effects on the victim.

The fourth element that must be met is that the threat caused fear or psychological distress to the victim. This element is objective and can be proven through the victim's mental state after the incident.

In the legal facts of the trial, victim witness Jula Salaula testified that she felt extremely afraid and traumatized by the defendant's threats. The victim even fled in panic, falling repeatedly, and immediately reported the incident to the local neighborhood head, FM. This behavior indicated significant psychological distress caused by the defendant's threats.

In its deliberations, the panel of judges stated that the psychological effects were sufficient to prove that the defendant's actions caused real fear in the victim, thus fulfilling this element. According to Soesilo, the crime of threatening is a formal crime that is considered complete when the threat causes fear, without needing to wait for physical consequences. Therefore, from a criminal law perspective, this element has been legally and convincingly proven.

These four elements must be proven legally through valid evidence as regulated in Article 184 of the Criminal Procedure Code. This is a concrete application of the principle of legal certainty, namely ensuring that every act qualified as a threat must fulfill the elements of the crime cumulatively and cannot be interpreted subjectively. The Decision of the Tondano District Court Number 29/Pid.B/2025/PN Tnn reflects the application of the law that is consistent with the norms of Article 335 paragraph (1) 1 of the Criminal Code. The judge systematically assessed each element of the crime based on evidence from witness statements, evidence in the form of a machete, and the defendant's confession at trial.

3.2. Legal Responsibility for Perpetrators of ViolenceCriminal Threats (Study of Decision No. 29/Pid.B/2025/PN TNN)

This case began on Wednesday, December 18, 2024, at approximately 2:00 PM WITA at the Pola-pola Plantation, Tatengesan Village, Pusomaen District, Southeast Minahasa Regency. The defendant NA, a 51-year-old fisherman, is suspected of committing the crime of threatening the victim witness Julia Salaula, who is the husband of Ferawati Lantapon, a woman known to have had an illicit relationship with the defendant.

Witness Julia Salaula provided testimony that served as key evidence in this case. The witness explained that on the day of the incident, she witnessed the defendant having sexual intercourse with his wife in his own home. The incident occurred suddenly and shocked the victim. Upon witnessing the incident, the witness became angry and screamed, which shocked the defendant, who attempted to flee the scene.

However, not long afterward, the defendant chased the victim, wielding a machete and brandishing it at the victim, threatening her with the words, "I want to kill you." The threat terrified and panicked the victim, as she felt her life was in danger. The witness attempted to escape by running away from the scene.

The witness explained that the threat caused deep fear and psychological trauma. Since the incident, he has felt uneasy and constantly on guard, fearing the defendant would actually carry out his threat. This fear was further heightened by the fact that the defendant brandished a machete aggressively and appeared furious.

After successfully escaping, the victim immediately reported the incident to the local neighborhood chief for legal protection and follow-up. In her report, the witness also presented evidence in the form of clothing taken from the scene, as additional proof of the adultery she witnessed.

The defendant did not deny the victim's witness's statement. He even confirmed that he had chased and brandished a machete at the victim, although he claimed he had acted in an uncontrolled emotional state due to the embarrassing and tense situation. This statement strengthens the evidence for the element of "threat of violence" as referred to in Article 335 paragraph (1) 1 of the Criminal Code. The evidence is in the form of a machete with the following physical description:

- 1) Color: black-silver
- 2) Overall length: 63 cm
- 3) Blade width: 4 cm
- 4) Handle length: 12 cm
- 5) Length of machete blade: 47 cm
- 6) The handle is made of wood in good condition and is still strong enough to be used.

The evidence was confiscated from the defendant shortly after the incident by officers who received a report from the neighborhood head. The defendant used the machete to threaten the victim, brandishing it and uttering death threats. The evidence was later presented in court and admitted by the defendant to be his.

Following this incident, the defendant was arrested by police and detained from December 20, 2024, until trial. The detention process was carried out in stages by investigators, the public prosecutor, and the district court judge. The Tondano District Attorney's Office has filed an alternative indictment against defendant NA. The purpose of filing an alternative indictment is to ensure that if one charge is not proven, the other can still be used as evidence and sentencing by the panel of judges. Thus, the alternative indictment provides legal flexibility for the public prosecutor to adjust their assessment of the evidence presented at trial.

- a. Charge -1 Article 335 paragraph (1) point 1 of the Criminal Code (KUHP)
- b. Charge -2 Article 2 paragraph (1) of Emergency Law Number 12 of 1951 concerning Sharp Weapons

In conclusion, the case began when the defendant threatened someone with a machete, driven by personal offense. This action caused fear and a serious threat to the victim. The trial examination revealed that the threat was not merely a

spontaneous statement, but was accompanied by concrete actions that raised concerns for the victim's safety.

The Panel of Judges in Decision Number 29/Pid.B/2025/PN Tondano stated that the defendant was legally and convincingly proven guilty of committing the crime of threatening as regulated in Article 335 paragraph (1) 1 of the Criminal Code, and sentenced him to 1 (one) year in prison. In his considerations, the judge assessed that the elements of the crime had been fulfilled, including the existence of intent (*mens rea*), real actions (*actus reus*), and the absence of any excuses or justifications that could erase the defendant's guilt.

From a justice perspective, the judge's decision can be considered fair. First, from a legal perspective, the decision aligns with Article 335 of the Criminal Code, which stipulates that any unlawful act that threatens another person must be subject to criminal sanctions. Second, from a moral perspective, the sentence is proportionate to the defendant's level of culpability and the resulting consequences, namely, fear and discomfort for the victim.

The judge also considered the defendant's psychological and social factors as mitigating factors, namely that the act was committed under uncontrolled emotional conditions, but this did not eliminate criminal responsibility. Therefore, the one-year prison sentence was deemed to reflect the principles of proportionality and individualization of punishment, as it balanced the aspects of retribution, deterrence, and behavioral improvement of the defendant.

From a substantive justice perspective, this decision reflects law enforcement that supports the protection of human rights, especially the victim's right to a sense of security as guaranteed by Article 28G paragraph (1) of the 1945 Constitution. By imposing criminal penalties on the perpetrator, the state shows that any form of threat to human security and dignity cannot be tolerated.

The judge has enforced criminal norms appropriately, but from a critical perspective there are several aspects that need attention in this kind of decision.

c. The level of exploration into the elements of provocation and the defendant's emotional state was relatively brief. In many decisions involving threats triggered by infidelity or serious insults, provocation can influence the degree of intent and proportionality of punishment; therefore, a comparative analysis or reference to jurisprudence related to provocation would enrich the justification for sentencing.

d. The judge's reasoning for rejecting the charge of unauthorized possession of a sharp weapon needs to be clarified with more detailed legal reasoning. If the machete is recognized as belonging to the defendant and used in the threat, the test for the "unauthorized" element must be based on objective parameters—e.g., the habitual use of a machete in a profession, the intent to keep it for malicious

use, or evidence of long-term possession—so that the decision to reject the alternative charge does not appear merely administrative.

e. The aspect of victim recovery is insufficiently incorporated into the verdict. Legal support for victims requires not only criminal punishment for the perpetrator, but also attention to the victim's psychological recovery (access to counseling services, temporary security, or a no-touch order). Including provisions for victim recovery as part of the verdict would strengthen the restorative function of justice and demonstrate the law's benefits for social recovery.

f. Given that the defendant admitted his actions and demonstrated remorse, and has family responsibilities, the panel of judges should consider non-custodial alternatives (e.g., probation, community service, mediation/restorative justice programs) as part of the individualization of the sentence—especially if the primary goal of sentencing is social reintegration and deterrence. These alternatives can be viewed as a more humane approach without compromising legal certainty.

g. From a legal certainty and preventive perspective, the ruling ordering the destruction of machetes and imposing court costs is an important deterrent. However, for its deterrent effect to be more effective, the ruling should be combined with local public education efforts regarding the prohibition of the use of sharp weapons for intimidation, as well as a community-based prevention approach.

As a legal implication for criminal justice practice, this ruling confirms that threats, even if they do not result in physical violence, can meet the elements of a crime if they create real fear and are supported by concrete evidence. Therefore, other judges are encouraged to consistently assess the combination of verbal threats, physical actions, and the psychological impact on the victim when determining the elements of a crime and the severity of the sentence.

In the context of criminal law enforcement in Indonesia, this decision also illustrates the effort to balance legal certainty and substantive justice. Judges are not only bound by the text of the law but are also obliged to consider the values of justice that exist within society. In cases of threats, this balance is crucial because threats often arise from specific emotional and social situations, which, if not carefully examined, can result in the imposition of harsh sanctions without considering the moral context of the act.

On the other hand, the imposition of a one-year prison sentence demonstrates that judges still place greater emphasis on retributive principles than restorative ones. However, in the modern criminal justice system, the sentencing paradigm has shifted toward restorative justice, which not only punishes the perpetrator but also restores the social balance disturbed by the crime. Applying a restorative approach can provide dual benefits: victims gain a sense of security and

recognition for their suffering, while perpetrators can improve themselves without losing their social rights.

Furthermore, from the perspective of social justice according to Pancasila, criminal punishment should be oriented towards just and civilized humanity (the second principle) and social justice for all Indonesian people (the fifth principle). Criminal punishment that focuses solely on retribution is not fully aligned with these values. Therefore, criminal punishment for perpetrators of threats should be directed towards educating and improving their behavior, not simply punishing them. In this regard, the application of conditional sentences or mandatory social development could be a more holistic form of justice and in line with national legal philosophy.

As emphasized by Barda Nawawi Arief, Indonesia's criminal law policy emphasizes a balance between legal certainty, justice, and expediency. The judge's decision in this case can be seen as a manifestation of legal certainty, but going forward, the justice system needs to emphasize social benefits through the application of restorative justice, particularly in cases that do not result in direct physical victims.

In accordance with the principle of *ultimum remedium*, imprisonment should be a last resort after non-imprisonment efforts are deemed inadequate. In cases of emotional and personal threats like this, penal mediation can be a compromise to achieve substantive justice without sacrificing legal protection. This aligns with the spirit of restorative justice as stipulated in National Police Chief Regulation Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice.

From a philosophical perspective, this decision demonstrates how positive law operates within the boundaries of normative texts, yet still confronts the demands of social justice. As Roscoe Pound (1959) argued, law should not only be a tool of power but also a means of social engineering (law as a tool of social engineering). In this context, the judge's decision serves a dual purpose: upholding legal norms while simultaneously conveying a moral message that threatening others constitutes a violation of human dignity, as upheld by Pancasila.

Viewed from the perspective of Islamic law, the act of threatening (*al-tahdīd* or *al-wa'īd*) is included in the category of *jarimah ta'zīr*, namely criminal acts for which sanctions are not explicitly determined in the text of the Qur'an or hadith, but are left to the discretion of the ruler or judge (*ulil amri*) to determine the appropriate punishment according to the level of error and the benefit (*maslahah*) to be achieved. According to Abdul Qadir Audah (1992: I/381), *ta'zīr* aims to educate (*ta'dīb*) and improve (*islāh*) the perpetrator, not merely to retaliate for his actions. Therefore, in cases of threats like this, Islamic judges will look at the intention, motive, and consequences before determining the form of sanction.

4. Conclusion

Based on the results of research and analysis of Decision Number 29/Pid.B/2025/PN Tondano regarding the criminal act of threats committed by the defendant NA, several important conclusions can be drawn that illustrate how the application of criminal law, particularly regarding the legal responsibility of the perpetrator, has been carried out by law enforcement officials and the Panel of Judges. These conclusions include aspects of proving the elements of the crime, criminal responsibility, and the basis for the judge's considerations in issuing a just decision. Through this analysis, it can be understood to what extent Indonesian positive law upholds justice for perpetrators of criminal acts of threats while still paying attention to the protection of victims and humanitarian values in enforcing criminal law.

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