

Settlement of *Santet* Crimes through Criminology in the Perspective of Criminal Law

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Abstract

Santet is an act of harming others by using magic. Indonesian people sometimes often commit criminal acts or take the law into their own hands against someone who is accused of being a perpetrator of Santet, either in the form of minor abuse, serious abuse, beatings, and even murder. The purpose of this study was to find out the settlement of Santet crimes from a criminological perspective and Santet crimes from a criminal law perspective. The type of research used is normative legal research using statutory and conceptual approaches. The results of the study show that from a normative legal perspective, Santet is a crime that can be accounted for by looking at the criminology and criminal law perspectives committed by people who deliberately announce themselves as having supernatural powers and can be used as criminal offenses as stipulated in the Criminal Code. (KUHP) of 2019 concerning the criminalization of Santet Article 252. Whereas the object of criminology is a person in conflict with social norms, while the object of criminal law is a violation of law and order. The formulation of the crime of Santet in the Criminal Code is a formal offense, which means that if all the elements have been fulfilled then criminal sanctions can be imposed regardless of the consequences of their actions. So, the process of proving the meaning of Santet that is proven is not the Santet but the relationship between the Santet and the person who hired her so that that relationship will be seen as a crime. Because our country is a country of law, there must be a law that protects its people even if the people are proven guilty and still carry out the punishment following what was violated.

Keywords

santet; crime; criminal code



I. Introduction

In Indonesia, various kinds of ancient traditions are still felt strongly. Both traditions in good form or bad impact. One of them is black magic. There is various black magic known in Indonesia. Starting from *Pelets*, *Santet*, implants, magic, and so on (Pundari, 2013). The existence of this black magic cannot be underestimated. Because this knowledge is developing in society and is often found in everyday life. Meanwhile in Indonesia, this phenomenon of *Santet* was familiar during the Kediri Kingdom. Masruri in his book entitled *The Secret of Santet* mentions that this method of *Santet* has a specific purpose (Masruri, 2021). Good for sending positive energy that is useful in martial arts, as well as for hurting others. "This is owned by almost all nations from various parts of the world, regardless of ethnic origin and belief or religion," he said. In line, the late Prof. Dr. Edi S. Ekadjati, a

historian, said that *Santet* is a legacy from the past. In the life of the Sundanese people, a document was found in the 6th century which was named Sanghyang Siksa Kandang Karesian. It contains a kind of encyclopedia of Sundanese customs which states that *Santet* is a feeling of hurt, depression, and displeasure that is transferred to other people (Masruri, 2021). In this case, the act of *Santet* cannot be taken lightly, there must be a change in the social order so that the act of *Santet* in Indonesia can decrease and there needs to be a deterrent effect for the perpetrators of *Santet* to limit their movements in carrying out the action. According to Daud Tony, *Santet* is the science of killing, destroying, and annihilating humans. *Santet* is also called *teluh* or *leak*. Causing harm to other people employing occult magic which is generally harmful, it can be in the form of illness or even death.” (Tony, 2002)

The newly ratified Criminal Code (KUHP) contains many controversial articles that can be used by the Indonesian state to criminalize its citizens, many people are pro and contra to the new Criminal Code, one of which is Article 252 which regulates *Santet*. as part of the offense. *Santet* is an act of harming others by using magic. In the Big Indonesian Dictionary, *Santet* is identified with black magic which is defined as "knowledge of kebatinan related to the actions of demons to harm people (such as driving people crazy, stealing with the help of spirits). Meanwhile, the English dictionary defines black magic as *any of the branches of magic that invoke the aid of demons or spirits, such as Santet or diabolism* (a branch of magical knowledge that involves the help of demons or spirits, such as magic or devil worship). the same as demons (KBBI, Kamus Besar Bahasa Inggris).

One of the things that become a consideration is why a criminal law policy against the crime of *Santet* offenses must exist because if it follows the principle of legality where an act can be punished if it has been regulated in laws and regulations, then *Santet* can be punished. After all, *Santet* is included in the regulations. Current legislation or Criminal Code. Because *Santet* itself is an act that is considered against the law and should be criminalized, under the current Criminal Code, acts of fortune-telling, dreams, and wearing amulets are punishable by punishment (Prasetyo, 2015).

Thus, it is necessary to have a criminal law policy against the crime of *Santet* and according to the authors of the criminal law policy, it has an important role because, *Santet* itself is a crime with a formulation of offense which contains elements of taking lives, destroying health and so on in difficult supernatural ways. legal proof. The rise of similar crimes committed by many people as well as forms of criminal acts that have begun to be carried out openly either through social media offers or from one person to another.

Increasingly sophisticated technology makes it easier for these actors to offer their services to those in need. Social media is a place for perpetrators of *Santet* to market their services, because, in a matter of seconds, one can easily find news from one area to another, not only recently supernatural things can also be done through intermediaries. social media, such as gender, online *Santet*, zodiac predictions, palm predictions, etc. These perpetrators take advantage of social media because social media is one of the fastest and most efficient means for them to carry out their crimes. Therefore, an umbrella of criminal law is needed which is felt to be stronger in following up on this type of crime related to black magic so that it can provide a deterrent effect on the perpetrators of this crime. This is what then prompted the government to include a criminalization article related to the crime of *Santet* in the new Criminal Code, of course, to minimize the act of *Santet*. In addition, it is also to prevent the public from taking the law into their own hands against someone accused of being a perpetrator of *Santet*. Because in several cases in Indonesia, our society sometimes takes vigilante actions against someone accused of being a perpetrator of

Santet, whether in the form of minor abuse, serious abuse, beatings, and even murder. So before the occurrence of this incident, it is better to prevent it first so that the habit of taking the law by the masses is not massive.

According to Anwar (2021), criminalize acts of *Santet* generally aim to:

- a. Preventing public fraud in general can be carried out by people who claim to have supernatural powers to help commit crimes (false shamans).
- b. Prevent the public from seeking parties who claim to have supernatural powers to help commit crimes.
- c. Preventing people from taking the law into their own hands (*eigenrichting*) against people who are considered to have supernatural powers, and
- d. Encouraging the public to always think rationally, objectively, and scientifically for the progress of the nation and state.

As stated in the objectives, the new Criminal Code focuses on activities to prevent the practice of *Santet* by *Santet* service providers. What will be prevented or eradicated is the profession of a witch doctor who offers *Santet* services to harm or make people die. So what is criminalized is the act of offering, announcing, or providing *Santet* services to other people with the intent to harm or kill another person with the help of *Santet* or occult/magical knowledge.

II. Research Method

The method used in this writing is the normative legal research method, which is a process of finding a rule of law, legal principles, and legal doctrines to answer the legal issues at hand, using a statutory and conceptual approach (Peter Mahmud Marzuki; 2008). Analysis of the statutory approach is an approach that is taken by examining all laws and regulations that are related to the legal issues being handled, while the conceptual approach is an approach that departs from the views and doctrines that have developed in the science of law.

III. Discussion

3.1 Settlement of *Santet* Crimes in the Perspective of Criminology

The term Criminology (*Criminology*) or the science of crime as a social science discipline or non-normative discipline that studies crime from a social perspective (Abintoro, 2017). Criminology is referred to as a science that studies humans in conflict with certain social norms so criminology is also referred to as the sociology of criminals (Adang, 2013). The crime itself according to criminology is a human action that is contrary to some norms determined by the society in which humans live. In this case, criminology focuses more on the factors that cause crimes that harm other people and reveals the motives of the perpetrators of these crimes. So that the perpetrators of crimes can be punished according to the articles that have been in force in Indonesia. Meanwhile, to reveal the factors that cause the occurrence of these crimes can be seen and traced with evidence that strengthens the intention to commit these crimes.

Some opinions regarding Criminology according to Nainggolan (2022):

1. According to Wilhem Sauer: "criminology is the science of crimes committed by cultured individuals and nations so that the objects in criminological research are individual actions, as well as criminal acts".
2. According to J.M.van Bemmelen: "criminology is a science that seeks the causes of immoral behavior".
3. According to Wolfgang-Johnston: "Criminology is a collection of knowledge about the crime which aims to gain knowledge and understanding of the symptoms of crime by

studying and analyzing scientifically the statements, uniformities, causal factors related to crime, perpetrators of crime. as well as the reaction of society to both.

When viewed from a criminological point of view, *Santet* itself can be considered deviant behavior, because criminology not only examines things that are prohibited by the state and law but criminology also examines people's behavior that is considered inappropriate even though it is not regulated in criminal law. According to Pratiwi (2020) in social life, law and society are two interrelated things that can never be separated. Through instruments, unlawful behavior is prevented and repressive measures are pursued (Tumanggor, 2019). From the aforementioned provisions, it proves the existence of new developments regulated in this Law (Purba, 2019). Because most of the people themselves do not like the presence of *Santet*, and it is evident that the social reaction is strong against *Santet* and treat them as criminals and it is not uncommon for criminal acts to occur between the community and *Santet*. According to Labeling Theory in criminology which states that crime is not a unique quality of behavior, but rather is determined by the reaction of society that is generated (Rizal, 2022). The theory states that someone who is branded as a criminal causes that person to be treated as a criminal. Due to the absence of evidence, *Santet* practitioners cannot be punished, whereas according to criminology they can be categorized as (*unpunished criminals*).

The function of criminology itself concerning criminal law is that criminology seeks to obtain information about social crimes that exist in society, while criminal law seeks to link these criminal acts with the results of proving that it is right to commit these crimes to place *criminal responsibility*. (Bening, 2021). Alternatively, to examine and make recommendations for the amendment of the new or future Criminal Code. In resolving the crime of *Santet*, criminology looks at components of logic that can be raised and accounted for. So that *Santet* is no longer a frightening conduct, particularly for Indonesians, and the crime may be adequately probed by law enforcement.

3.2 Settlement of *Santet* Crimes in the Perspective of Criminal Law

The thing that is currently being discussed among the public is crimes related to things that are invisible to the eye but have a negative impact on society. The evil that has existed for centuries, or matters related to supernatural and supernatural powers. The crime of *Santet* which is related to supernatural and supernatural powers is rife in Indonesian society including acts of offering things related to supernatural/magical powers, both objects and offering expertise in supernatural matters, acts of black magic, and acts of *Santet* or *Santet*. pellets. *Santet* itself is often a factor in the emergence of criminal acts. This is interesting because there is a contradiction between the law which must guarantee that individual rights are not violated and the law which must have a basis for carrying out such guarantees. Therefore, in the crime of *Santet*, it is very necessary to regulate the crime of *Santet* in the Criminal Code (KUHP). Thus, to prevent news and discourse about the act of *Santet*, the House of Representatives (DPR) finally made a policy of laws and regulations against the criminalization of *Santet* contained in the Criminal Code (KUHP). Besides that, criminalization also contains the actualization of existing Criminal Code articles.

In connection with the old Criminal Code articles, it turns out that these articles are infertile. In Article 545 which prohibits a person from working as a fortune-teller or explaining dreams or interpreting dreams, it turns out that the practice of fortune-tellers is still common everywhere, whether it is done openly or secretly. In the center of the market or at certain events there are still many fortune-tellers who predict a person's mate, luck, and fate, not infrequently some even claim to be great fortune-tellers but in reality, they are just ordinary people. Article 546 of the old Criminal Code prohibits the sale of supernatural objects such as amulets, antidotes, or other objects on the pretext that these objects have

supernatural powers and contain supernatural figures in them. The sellers of these goods usually take advantage of the opportunities that exist because of the easy trust of the community, and to benefit themselves by selling worthless goods at inappropriate prices by saying that these goods have supernatural powers, for example, they can heal sick people, can make rich, can save people from all dangers, etc. Whereas Article 547 prohibits someone from influencing the course of court proceedings by using amulets and spells. In practice, a lot of things happen. In this case, there is a belief among the people who take an oath to be a witness that the oath is powerless if they wear or keep an amulet or an antidote on their body so that they feel more courageous to say things that are not true. And usually, the amulet is kept in a pocket or under the belt in the form of a piece of paper with Arabic writing, therefore usually before their oath they are searched first. This crime of *Santet* has problems in proving it, the crime of *Santet* in the old Criminal Code that is punished is not the essence of maltreatment or covert murder committed by *Santet* workers, but their actions that disturb public order (Ali, 2021).

Santet is a criminal act that must be constructed into the category of formal offenses whose proof does not have to be absolute and leads to the presence or absence of a supernatural power that is owned by the perpetrator or individual. However, what can be used as an offense is a criminal act committed by a person who deliberately announces that he has supernatural powers as in the criminal law reform system in Indonesia, which is regulated in the 2019 Criminal Code (KUHP) concerning the criminalization of *Santet* Article 252 which reads as follows :

(1) *"Anyone who declares himself to have supernatural powers, informs, gives hope, offers, or provides service assistance to other people that because of his actions can cause illness, death, or mental or physical suffering of a person shall be punished with imprisonment for a maximum of one year and six months or maximum fine of category IV."*

(2) *"If everyone as referred to in paragraph (1) commits the act to seek profit or make it a livelihood or habit, the sentence can be added 1/3 (one third)."*

So anyone who offers assistance in the form of the occult or magical, which in this case is very concerned about making his actions a place to make a living, then the person concerned can be subject to punishment following Article 252 of the Criminal Code which is already in force in Indonesia. The rise of *Santet* in Indonesia, which can be detrimental to society, makes the law stand firm as a protector and understanding of the dimensions of *Santet* that lead to aspects other than the supernatural because, from a supernatural point of view, it tends to be unacceptable to law. So what can be legally accounted for and can be accepted by society and the law leads to matters that have been regulated by law and articles that already exist in the Criminal Code and do not mean directly to *Santet* but to aspects related to the crime of *Santet*.

In terms of the crime of *Santet* by law, by reviewing the existing articles, in essence, they contain meanings that regulate general and uncommon matters such as *Santet*. So that from a normative legal perspective, *Santet* is a crime that can be legally justified. Looking at the side of substance and criminology that can fulfill the logical part of honesty but again, in this case, the arguments that have been built by the positive legal theory that there is full evidence and others go back to law enforcement from investigators to judges, want to get out of the rule box that always done or not. because Responding to this problem requires the will of law enforcers to realize the rule of law equality before the law in all criminal acts.

IV. Conclusion

Based on the description above, it can be concluded that the object of criminology is a person in conflict with social norms, while the object of criminal law is a violation of law and

order. Several matters such as *Santet* offenses related to supernatural powers in the Criminal Code focus more on efforts to prevent the practice of *Santet*. because of the widespread practice of shamanism or divination which is carried out openly, which is one of the things that is misleading and detrimental to the believing population, because it can be used as a crime of fraud, and also the increasing number of offers made both directly and through the digital world. Of course, this is part of an effort to fill the legal vacuum and as a form of state response to the social conditions of the people in Indonesia, where some still believe and believe in supernatural things in preparing to commit crimes and after committing crimes, so it is not uncommon for the social reactions that have arisen so far to occur. vigilante action against someone accused of *Santet*. However, someone deliberately conveys, informs, and complies with people's requests to practice *Santet*. So there must be regulations governing to limit this. Indeed, in some areas, it is a hereditary cultural heritage, but some things from this culture can be used as acts that violate the law or violate the norms that live in society.

The formulation of the offense of *Santet* in the Criminal Code is a formal offense. The formulation of the formal offense means that if all the elements of the formulation of the offense have been fulfilled then criminal sanctions can be imposed regardless of the consequences of their actions. The offense of *Santet* does not formulate evidence related to the existence of supernatural powers because it is in another dimension. The proving process is not based on *Santet* but rather on the offer or acknowledgment that one can practice *Santet*, so the Existence of the Meaning of *Santet* in the Renewal of the Criminal Law that is proven is not the *Santet* but the relationship between the witch doctor and the person who hired her so that this relationship will be seen as a crime. If proven, then that person can be subject to criminal sanctions following Article 252 paragraph (1) and paragraph (2) of the 2019 Criminal Code (KUHP). With the new regulations regarding *Santet*, it is hoped that this will reduce and eliminate acts of vigilante or criminal action under the pretext of the issue of *Santet*. Because our country is a country of law, there must be a law that protects its people even if the people are proven guilty and still carry out the punishment following what was violated. In connection with supernatural powers, due to the globalization era with increasingly advanced and rapid technological sophistication, the criminalization of *Santet* cases must be formulated in a way that combines (integrality) the existing reality, namely how the crime can occur with these crimes in the future using ways that can be accompanied by using existing technology.

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