

## **When Victims Become Suspects: Legal Aspect of Criminalization on Amaq Sinta Case of Spoliation**

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### **Abstract**

In recent months, a controversial incident has stirred public discourse, wherein a victim of a "begal" crime found themselves implicated as a suspect and detained by law enforcement. This development raises concerns about the discernment exercised by authorities in rendering decisions without meticulous consideration and logical evaluation. The victim faces charges under Article 338 of the Criminal Code, pertaining to the unlawful taking of a person's life, and Article 351, paragraph 3, concerning assault leading to the loss of life. The employed research methodology adopts a descriptive approach, facilitating a problem-solving investigation by delineating the conditions of the subject or object under study, which may encompass individuals, institutions, or communities based on observable facts. This study adheres to a qualitative research approach, prioritizing an in-depth

understanding of the problem over generalization. The secondary research involves data derived from secondary sources, not obtained directly from the primary source. The dual focus addresses two primary inquiries: first, why can a victim facing a charge of taking someone's life be subjected to imprisonment? Second, does victimology maintain relevance within the criminal justice system in Indonesia? The discerned conclusion underscores the imperative for law enforcement officials to exercise heightened prudence when handling cases involving victims turned suspects. It advocates for a judicious approach, combining firmness and logical analysis in decision-making processes and the apprehension of individuals involved in criminal incidents. This scrutiny is pivotal to ensure the equitable and just treatment of all parties within the criminal justice system.

## Keywords

*Spoliation, Amaq Sinta Case, Justice, Law Enforcement, Victim Protection*

## I. Introduction

The rule of law is a State that upholds the rule of law to uphold truth and justice, and there is no unaccountable power.<sup>1</sup> The creation of a comfortable and safe atmosphere is an ideal that is desired by all people. Equality before the law in Article 27 paragraph 1 of the 1945 Constitution states that "All citizens have

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<sup>1</sup> Explanation of Article 1 Paragraph (3) of the Constitution of the Republic of Indonesia Year 1945

equal standing in law and government and are obliged to uphold the law and government with no exception.<sup>2</sup> But in its implementation, plus the changing times, evil always goes hand in hand with our lives. Starting from small to big crimes always envelop our daily lives. Cases of corruption, robbery, even beheading to the loss of one's life due to one's actions. Thus, the need for law enforcement is in the form of firm rules.

But in its implementation, there are always deviations and even contrary to these principles. When in criminal justice, of course, there are authorities such as judges, defendants, legal counsel, general guides, and witnesses. But in its implication, there are still many law enforcers who only obey their own will without considering the case that occurred. Departing from this emerged a science of Victimology is an English term Victimology which comes from Latin, namely "*Victima*" which means victim and "*logos*" which means study or science.<sup>3</sup> Terminologically, victimology means a study that studies the causes of victimhood and the consequences of victimization which are human problems as a social reality<sup>4</sup>. The history of victimology emerged when Hans von Hentig wrote in the journal *Criminology* entitled "*remarks on the interaction of perpetrator and victim*" (1941 was the first journal in which he described the relationship between the interaction

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<sup>2</sup> Correctional Guidelines for the 1945 Constitution of the Republic of Indonesia and Decrees of the People's Consultative Assembly of the Republic of Indonesia, 2014, Secretariat General of the People's Consultative Assembly of the Republic of Indonesia, Thirteenth Printing, Jakarta, p. 68

<sup>3</sup> Arif Gosita, *Masalah Korban Kejahatan: Kumpulan Karangan*, Akademika Pressindo, Jakarta, 1993, p. 228

<sup>4</sup> Rena Yulia, 2010, *Victimology of Legal Protection for Crime Victims*, Graha Ilmu, Yogyakarta, p. 43

between treatment (criminological studies) and victims (victimology studies).<sup>5</sup>

In Han von Halgg's work entitled *The Criminal and His Victim* focuses more on victims of crime. The victim-offender relationship is studied not only in terms of victim suffering, but also in terms of how victims often trigger and cause health work. In a criminal event, it should be considered that there is an interaction that is not only caused by the perpetrator, but there is an interrelationship or dual relationship between the perpetrator and the victim. In line with the above opinion, the need for victimology side by side with criminology so that the rights and interests of victims are not neglected.

Departing from the statement above, is victimology still in a judicial law in Indonesia, because recently there was a case that was widely discussed by the public because according to the public this was a setback for law enforcement. Various media, the surrounding community, all wonder why a victim can become a suspect coupled with the entry of the victim's prison. The chronology begins when in the month of Ramadan a man named Murtede (34) or Amaq Sinta who was bringing suhoor food to his friend at one of the hospitals in the city of Lombok because he was waiting for his mother who was being treated. The US used its red automatic motorcycle through Jalan Raya Dusun Babila, Ganti

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<sup>5</sup> Annas Sakanti, 2013, *Sejarah Viktimologi*, Universitas Islam Negeri Sunan Kali Jaga, Yogyakarta, pp. 1-5. *See also* Fattah, Ezzat A. "The evolution of a young, promising discipline: Sixty years of victimology, a retrospective and prospective look." *International Handbook of Victimology*. (London: Routledge, 2010), pp. 69-120; Von Hentig, Hans. "Remarks on the interaction of perpetrator and victim." *Journal of Criminal Law and Criminology (1931-1951)* 31, no. 3 (1940): 303-309.

Village, Central Lombok, at 00.30 WITA. Not aware that the US is being followed by 2 motorcycles with 4 people riding each other.

According to the victim's statement when interviewed, 1 motorcycle was squeezed on the right and 1 motorcycle behind the victim. When the perpetrator asked the victim, AS replied "want to deliver food", the perpetrator immediately slashed the sickle at the victim, then quickly AS reflexed to dodge, and when for the second time the perpetrator swung the sickle at the victim, the US shook off with his hands until the US desperate jumped off his motorcycle, that's where the victim took out a small knife from his waist to fight the 4 perpetrators. When the victim had time to ask for help, none of the residents dared to help, finally the knife plunged into the chest of the perpetrator named Oki (21).

Seeing his friend fight one man, who he did not know that a small knife had plunged into Oki's chest, Pendi (30) tried to carry the victim's motorcycle as AS and Oki fought. Seeing that the motorcycle was about to be carried by Pendi, the US ran after Pendi. But when Pendi started to win his sickle, he was also helped by his colleague, Wahid Naas, a young man from Beleka Village, East Lombok named Pendi was stabbed with a knife in the back.<sup>6</sup> Thus seeing two of his colleagues died on the spot, Wahid ran

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<sup>6</sup> <https://kabarwonosobo.pikiran-rakyat.com/viral/pr-1564266669/kronologi-kasus-amaq-sinta-selamatkan-diri-dari-begal-tapi-justru-jadi-tersangka-pembunuhan>. See also Yosbenhard, Andreas, and Khilmatin Maulida. "Pembebasan Tersangka Dugaan Pembunuhan oleh Korban Begal Karena Membela Diri." *Jurnal Kewarganegaraan* 6, no. 3 (2022): 6539-6544; Alfiansyah, Naufaldi. *Analisis Tentang Korban Yang Menjadi Pelaku dalam Tindak Pidana Penganiayaan Dikaitkan Dengan Pasal 49 Kitab Undang-Undang Hukum Pidana*. Diss. Fakultas Hukum Universitas Pasundan, 2023; Dumudou, Zahra Jauza Lazuardi. *Penerapan Ajaran Pembelaan Terpaksa (Noodweer) Sebagai Alasan Pembenaar dalam Perkara Pidana*. Diss. Universitas Muhammadiyah Malang, 2022.

away with his colleague who was on a motorcycle named Holidi. The US did not have time to deliver the food that was supposed to be delivered to the place of his colleague in the hospital, but the US returned home and before returning home the US informed the local hamlet chief that he had just survived a beheading carried out by 4 people.

Not long after, the East Praya Regional Police responded to reports from residents of the crime scene area who found 2 men who died at around 1:30 a.m. Also found was a Honda Scoopy automatic motor unit, a sickle and a 35cm dagger knife. Thus, the police took the two perpetrators to Bhayangkara Hospital, NTB, for an autopsy. From the hospital's account, it was said that there was a stab wound on the right chest to penetrate into the lungs. While the other perpetrator, Pendi, suffered a stab wound in the back on the right which also penetrated into the lungs.<sup>7</sup>

With the available evidence and information, the Central Lombok Police investigation team on Monday (11/4) picked up the US and determined him as a suspect in the murder case. The man who was the victim of the beheading was charged with Article 338 of the Penal Code "Whoever intentionally deprives another person of his life shall be threatened, for murder, with imprisonment for not more than fifteen years. Then article 351 paragraph 3 of the Criminal Code "If it results in death, imprisonment for a maximum of seven years is imposed". News of the case was heard from the surrounding community, causing polemics and big question marks against law enforcement. From the case and the chronology presented by the victim, questions

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<sup>7</sup> <https://www.merdeka.com/khas/membedah-kasus-amaq-sinta-korban-begal-jadi-tersangka-hingga-dibebaskan.html>

arise that actually should not happen, the article can be said that law enforcement did not firmly and not think logically in the case that killed two men perpetrators of crime.

## II. Method

The method used is a descriptive method which means as a problem-solving procedure that is investigated by describing the condition of the subject or object in the study can be people, institutions, or people based on visible facts. According to Darmadi (2013: 153), the research method is a scientific way to obtain data with the purpose of certain uses. The scientific way means that research activities are based on scientific characteristics, namely rational, empirical, and systematic. Based on the explanation above, it can be concluded that the research method is a scientific way to obtain data with certain purposes and uses.

According to Sugiyono (2005: 21) states that the descriptive method is a method used to describe or analyze a research result but is not used to make broader conclusions. According to Whitney (1960: 160) the descriptive method is fact-finding with proper interpretation. It can be said that descriptive research is research that seeks to describe a symptom, an event that occurs at the present moment or an actual problem.

The qualitative research approach is an approach that emphasizes more on aspects of in-depth understanding of a problem rather than looking at the problem for generalization research. This research method prefers to use in-depth analysis techniques, which examine problems on a case-by-case basis because qualitative methodology believes that the nature of one

problem will be different from the nature of other problems.<sup>8</sup> The purpose of this qualitative research approach is not a generalization but a deep understanding of a problem. Qualitative research serves to provide substantive categories and hypotheses of qualitative research.

### Approach

In qualitative research using case studies where researchers explore in depth the programs, events, processes, activities, of one or more. A case is bound by time and activity and researchers collect data in detail using various data collection procedures and in a continuous time.

### Object of Research

Objects in secondary research are data obtained from objects that are secondary sources or secondary sources. The data obtained is from the second source, which is not obtained directly from the source. The credibility of the data remains guaranteed as long as these secondary data sources are also credible. The opinion conveyed by Suharsimi Arikunto explained that the object of research is something that is the core of research problems.<sup>9</sup>

Suharsimi also mentioned that objects in research can be called research variables. As for the purpose of this problem, basically the object in research is the center of the problem studied by a researcher. Without objects, research problems or problems will not exist. Likewise, research activities become something that

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<sup>8</sup> Salma, 2021, *Research Approach: Definition, Types, and Full Examples*, Deepublish, 2021, p 3

<sup>9</sup> Arikunto, Suharsimi. *Metode Penelitian*. (Jakarta: Rineka Cipta, 2010).



is not needed, because there are no problems that can be researched. Based on the understanding of objects in the research delivered by the experts above. So, it can be concluded that the object of research is a scientific target aimed at obtaining data and knowing what, who, when and where the research is carried out.

### Data Collection Techniques

Data collection techniques use document techniques, which take research sources or objects from documents or records of past events, whether in the form of images, writings, or individual works from someone. Can be taken from diaries, history, regulations, biographies and so on. The purpose of research is to obtain data, so the data collection method is the most vital step in a study. Researchers who conduct research will not get the desired data if they do not know the methods in collecting data. According to Sugiyono data collection can be done in various settings, various sources, and various ways.<sup>10</sup>

## III. Eliminating one's life in the form of self-defense

In criminal law there is criminology which is very helpful in dealing with crime problems. Criminology is often called "*signal-watenschap*"<sup>11</sup>, because criminology can be used in assisting criminal law making (criminalization) or repeal of laws (decriminalization). Crime is a human act that can be punished by

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<sup>10</sup> Sugiyono, Sugiyono. *Memahami Penelitian Kualitatif*. (Bandung: Alfabeta, 2010).

<sup>11</sup> Herman Manhein, *Comparative Criminology*, Houghton Milfflin, 1965

criminal law. If we refer to the event of a crime in the case of *begal* experienced by the US, in a criminological perspective then we can see that the perpetrator's actions were indeed done deliberately or planned, namely beheading or robbing a motorcycle that can take someone's life.

The evidence examined by the perpetrator is charged with the criminal offense of theft with aggravation stipulated in Article 363 "*Threatened with imprisonment for a maximum of seven years*"<sup>12</sup> and Article 365 "*Threatened with a maximum penalty imprisonment of nine years, theft preceded, accompanied or followed by violence or threats of violence, against persons, with the intent to prepare or facilitate theft, or in the event of being caught, to allow escape of himself or any other participant, or to remain in possession of the goods stolen by him.*"<sup>13</sup>

This is very true given to perpetrators of "*begal*" crimes because it consists of four people, using sharp weapons, and intent to commit crimes without any theories that look for the cause of crime from psychological and psychiatric factors. Please note that the first form of mental disorders here is psychoses, neuroses, and mental disabilities.<sup>14</sup>

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<sup>12</sup> Explanation of Article 363 of the Criminal Code

<sup>13</sup> Explanation of Article 365 of the Criminal Code

<sup>14</sup> Rizkyta, Amelia Putri, and Amarru Muftie Holish. "Victims of Robbery with the Forced Defence (Noodweer): A Legal and Victimological Aspects." *Law Research Review Quarterly* 9, no. 1 (2023): 53-70; Lasnita, Fiany Alifia, and Muhamad Adji Rahardian Utama. "Juvenile Delinquency and Theft: How Law and Criminology Said?." *Law Research Review Quarterly* 6, no. 4 (2020): 343-348; Herman, Herman, et al. "Community Legal Education about Criminal Policies in the Context of Post-Covid 19 Pandemic Economic Recovery in Mokoau Village, Kendari City." *Jurnal Pengabdian Hukum Indonesia (Indonesian Journal of Legal Community Engagement)* JPHI 6, no. 1 (2023): 49-68.

1) Psychoses

Psychoses can be divided into two parts, namely between organic psychoses and functional psychoses. If you look at the data and information and evidence obtained, law enforcement did not find it.

2) Neuroses

There are three groups of neuroses, namely anxiety neuroses and phobias, hysterical, obsessional and compulsive neuroses.

3) Mental disability

Understanding mental disability is a lack of intellect rather than character or personality, which can be seen from a person's high and low IQ and maturity level.

Seeing the absence of theories that prove the above indications, it is clear that the perpetrators should be severely punished. If analyzed one by one, everyone who commits theft is a criminal offense that can be threatened with imprisonment without exception even in the eyes of the law. Perpetrators of crimes from the US case are charged with layered articles, namely 363 and 365 of the Criminal Code.

## IV. Analysis of the Case

1. The perpetrator is charged with Article 363 of the Criminal Code<sup>15</sup> :

1) Sentenced to imprisonment for up to seven years:

The 4 thefts committed by two or more persons in alliance;

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<sup>15</sup> Explanation of Article 363 of the Criminal Code

The perpetrator is charged with article 363 because it fulfills the contents of the article above, namely the perpetrator committed motorcycle theft by force by 4 people who were allied so that he was charged with article 363 of the Criminal Code.

2. The perpetrator is charged with Article 365 of the Criminal Code <sup>16</sup>:
  - 1) Shall be punished with imprisonment for not more than nine years, theft preceded, accompanied or followed by violence or threat of violence, against any person, with intent to prepare for or facilitate theft, or in the event of being caught, to enable escape by himself or any other participant, or to remain in possession of the property stolen by him.
  - 2) Sentenced to imprisonment for a maximum of twelve years:
    - a. if the act is done at night in a house or enclosed yard in which there is a house, on a public road, or in a running train or tram;
    - b. if the deed is done by two or more persons in alliance;
    - c. if the act results in heavy wounds.
  - 3) If the act results in death, it is punishable by imprisonment for a maximum of fifteen years.
  - 4) Shall be punished with death or imprisonment for life or for a specified period of not more than twenty years, if the act results in serious injury or death and is committed by

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<sup>16</sup> Explanation of Article 365 of the Criminal Code

two or more persons in alliance, also accompanied by one of the matters described in nos. 1 and 3.

The perpetrator deserves to be charged with multiple articles because he did the same as the contents of articles 363 and 365. But this incident happened the other way around, which killed two victims of the perpetrator on the spot by the victim who defended himself. The US victims were also charged under 338 and 351 of the Criminal Code.

1. The victim is charged with Article 338<sup>17</sup>:

"Whoever wilfully deprives another of his life shall be punished, for murder, with imprisonment for not more than fifteen years". The victim was charged with the article because while defending his motorcycle, the US carried out self-defense, causing two people to be killed directly at the scene.

2. The victim is charged with Article 351 paragraph (3):<sup>18</sup>

"If it results in death, imprisonment for a maximum of seven years is imposed".

It is true that the decision to give a decision is to ensnare the US for committing a criminal act that is to eliminate which is a violation of criminal law, but the action is carried out by the US there is a certain reason namely the "*element of self-defense*" where the act of self-defense is protected by law and cannot be punished even to the point of taking someone's life.<sup>19</sup>

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<sup>17</sup> Explanation of Article 338 of the Criminal Code

<sup>18</sup> Explanation of Article 351 of the Criminal Code

<sup>19</sup> Ihwan, Miftakhul. "Providing Legal Assistance to the Rights of the Defendant in the Case of Murder in Self-Defense." *The Indonesian Journal of International Clinical Legal Education* 3, no. 4 (2021): 569-584.

## V. Abolition of the Criminal Law in Criminal Acts

It is true that taking someone's life can be threatened with the articles mentioned. A person who commits a crime cannot always be punished. Committing crimes can be based on urgent needs, one's orders, and protecting oneself. This depends on whether the person who committed the crime has any fault or not. Because to be able to convict someone, it is not enough just to commit a criminal act, but in addition, there must also be mistakes or according to Moeljatno, a despicable mental attitude. Whoever makes a mistake is responsible, in this case known as the principle of "no evil without fault" (*geen straf zonder schuld*). By referring to the principle of criminal law, namely *geen straf zonder schuld, actus non facit reum mens sine rea*, it means that if there is no crime, the definition of crime is separate from what is meant by crime is meant by criminal responsibility.

This can happen because as law enforcers with integrity do not determine carefully and hastily so that they do not look logically in the perspective of victimology but arbitrarily determine a case. It is clear that law enforcement has regressed and if this case does not become a polemic in the community, then this case will continue until the victim of the crime is determined as a suspect. Law enforcement only looks at existing data and evidence without looking from the perspective of victimology why victims of crime can take someone's life. Victimology here is very necessary because the cause and effect of the victim can be found in the perspective of victimology.

Central Lombok Police's decision to make Amaq Sinta a murder suspect received a rejection reaction. A day after the determination of suspect Amaq Sinta, residents flocked to the police headquarters and urged his release. On Saturday (16/4), NTB Police Chief Irjen Djoko Poerwanto officially announced the termination of legal proceedings against Amaq Sinta after a case process attended by NTB Regional Police and legal experts. The status of suspect Amaq Sinta was dropped.

It was explained that the incident experienced by Amaq Sinta was an attempt to defend himself because of pressure and threats as explained by Article 49 Paragraph 1 of the Criminal Code "Whoever is forced to do an act for defense, because there is an attack or threat of attack when it is against the law, against himself or others; against the honor of decency (*eerbaarheid*) or property of oneself or others, is not criminal. (2) An overreaching involuntary defense, directly caused by the great shock of soul due to the attack or the threat of the attack, is not punishable.

In his explanation, SP3 was issued based on the regulation of the Chief of National Police Number 6 of 2019 Article 30 concerning criminal investigation that the termination of investigations can be carried out for the sake of legal certainty, expediency, and justice. Thus, victimology still exists, of course, departing from the determination of the death of the verdict in ensnaring victims of crime cases.

This can cause fear of the community in fighting crime together. The result of the case was concluded that the incident was an act of forced defense so that no elements of unlawful acts were found both formally and materially. But whether it is appropriate for a victim of crime, in a precarious state and desperate against four beheading perpetrators coupled with a sharp

weapon that is a sickle, of course the logical mind says it is very distorted.

## VI. Conclusion

Finally, this study concluded and highlighted that the ongoing polemics surrounding cases where victims are implicated for causing the loss of a perpetrator's life highlight the necessity of adopting a victimological perspective to address incidents involving self-defense. It becomes evident that the framework of victimology plays a crucial role beyond the purview of criminology in criminal law, challenging the conventional notions of who may be ensnared as a victim. To prevent the recurrence of such problems, law enforcement authorities must approach these cases with both logic and firmness.

While it is undeniable that taking someone's life can result in legal consequences for an unlawful act, the potential implications extend beyond the legal sphere, impacting societal perceptions and fostering reluctance in combating crime. The existence of victimology remains pronounced in our country, exemplified by cases such as Amaq Sinta's, where self-defense is invoked under Article 49, Paragraph (1) of the Criminal Code. The legal system must tread carefully to strike a balance between upholding justice and ensuring that individuals are not unfairly ensnared in the aftermath of life-threatening situations. This calls for a nuanced approach, considering the circumstances and preserving the principles of justice within the context of self-defense.



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