

Urgency of Criminal Functionality on the Perpetrators of *Santet*

Dedi Kurniawan¹, Saiful Anwar^{*2}

¹(Universitas Muhammadiyah Ponorogo, Jl. Budi Utomo No.10, Ponorogo, East Java, Indonesia)

²(Sekolah Tinggi Ilmu Tarbiyah (STIT) Muhammadiyah Bangil, Jl. Alun-Alun Tim. No.2, Pasuruan, East Java, Indonesia)

*saipulanwar090@gmail.com

Received: 2021-November-10

Rev. Req: 2022-January-07

Accepted: 2022-January-30



10.59683/ijls.v1i1.10

How to cite this paper: Kurniawan, D. & Anwar, S. (2022). Urgency of Criminal Functionality on the Perpetrators of *Santet*. *International Journal of Law and Society (IJLS)*, 1(1), 48-59. <https://doi.org/10.59683/ijls.v1i1.10>

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ABSTRACT: *The belief in the existence of supernatural crimes is inherent in the lives of Indonesian people. The view of people who think that santet is something that can cause harm to others makes santet seen as a crime. Santet is an act of harming others using magic. This study also aims to explore criminal law for users of santet crimes. The method used in this research is normative legal research, data obtained through a literature study. The study results show that in criminal understanding, santet can be legally accounted for by reviewing articles that substantially imply regulation not only on general issues but also on uncommon issues such as santet. Sorting and clustering the substance of the santet becomes the central point so that the arguments issued can be legally accounted for; caution in understanding the sides of the importance of the santet will lead to ideas that can be justified. In the understanding of the criminal law of santet which is still difficult to accept by many people, in fact theoretically capable of being legally responsible, an open view of legal issues is the key to how the law can be fully enforced on everything that violates the rights of others, as well as on problems santet by the discussion that has been explained that in understanding the law must be open but not out of the rules of the substance of the existing article.*

Kepercayaan akan keberadaan kejahatan supranatural sudah melekat pada kehidupan masyarakat Indonesia, pandangan masyarakat yang menganggap bahwa *santet* merupakan hal yang mampu menimbulkan celaka terhadap orang lain membuat *santet* dipandang sebagai sebuah kejahatan. *Santet* merupakan tindakan mencelakai orang lain dengan perantara magis. Berangkat dari hal tersebut penelitian ini bertujuan mengupas hukum pidana bagi pengguna tindak kejahatan *santet*. Metode yang digunakan dalam penelitian ini adalah penelitian hukum normatif, data diperoleh melalui studi kepustakaan. Hasil penelitian menunjukkan dalam pemahaman pidana, *santet* mampu di pertanggung jawabkan secara hukum dengan mengkaji

pasal-pasal yang secara substansi menyiratkan pengaturan bukan hanya pada masalah umum namun juga pada masalah yang tidak umum seperti *santet*. Pemilahan dan klasterisasi substansi *santet* menjadi satu poin pokok agar argumentasi yang di keluarkan mampu di pertanggungjawabkan secara hukum, kehati-hatian dalam memahami sisi-sisi substansi *santet* akan mengantarkan pada argumentasi yang bisa dipertanggungjawabkan. Dalam pemahaman hukum pidana *santet* yang masih sukar diterima oleh banyak orang nyatanya secara teoritis mampu di pertanggungjawabkan secara hukum, pandangan yang terbuka akan permasalahan hukum menjadi satu kunci bagaimana hukum bisa di berlakukan secara penuh pada tiap hal yang melanggar hak orang lain, begitu pula pada permasalahan *santet* sesuai dengan pembahasan yang sudah dijelaskan bahwasanya dalam pemahaman hukum harus terbuka tapi tidak keluar dari kaidah substansi pasal yang ada.

Keywords: *Urgency of Criminal Functionality, Criminal Law, Perpetrators of Santet.*

I. INTRODUCTION

The law on the most critical characteristics concerns object and content. In the pretensions in the law itself, the law seeks to achieve a goal or dedication to a specific purpose (Seniasti, 2022). The very formal meaning of law in this goal refers to the importance of goals as legal ideas (Nugroho, 2016; Yuniarto et al., 2022). In the legal philosophy of understanding the content of legal opinions, there are differences in meaning that broadly define the contents of legal ideas (Rahmawaty, 2020). Because as the goal of the law is often appointed legal certainty, peace, order, harmony, predictability, things can be exchanged. Then by others, equality and justice are seen as necessary (Hasan, 2022).

Then the discussion on how the formation of law begins with the hope to guarantee justice. Law must always be rooted in existing principles (Made, 2022; Wahyuni, 2021). Although legal principles are abstract, and most are not outlined in favourable concrete regulations, legal principles are essential because it is a fundamental basis (Paramita, 2022). But there are also legal principles outlined or realized in good rules such as several examples in the criminal law article 1 paragraph 1 of the Criminal Code, article 8 paragraph 1 of Law no. 48 of 2009. The legal principle remains the basis, and only for the direction that is not positive as an article. It is still abstract and cannot be directly applied to concrete problems or events (Mulyadi, 2016).

In general, legal principles have a dynamic nature that develops following the rules of the law, while in contrast to legal regulations that grow and change following the development of society. Or it can be said that time and place (*historisch bestimmt*) affect the rule of law (Wisnu W, 2018).

According to Scholten, universally, there are 4 (four) legal principles, namely the principle of personality, fellowship, equality, and direction of authority. personality principle, this principle means that humans, as legal subjects who have rights and obligations, always want individual freedom and also want to always fight for their interests. The principle of fellowship, the hope or desire for a life that is carried out with every human being is manifested in peace, unity, unity, order. Principle of equality, equality of justice which is

realized by the equality of rights received by everyone without any difference, and equality of treatment received by each person. In positive law, it means Equality before the law or equality before the law. Authority principle, the need for leaders in society as problem solvers regarding differences or inequalities (Manullang, 2019).

The four principles above are contained in every legal system of the four principles, and there are also legal rules that regulate what should be done or not. It means the separation of good and evil (Mertokusumo, 2014).

Crime Legal and Social Perspective

Sutherland means that crime as deviant behaviour that exists in community social activities, in which the deviation of the behaviour deviates from existing social rules and values. Strange behaviour that occurs is one thing that determines the violation of existing provisions in criminal law. From there, someone who commits a crime must be punished according to the social conditions that apply in society (Messina & Esparza, 2022).

Munawar, (2019) state that crime is a human action that is legally contrary to existing rules or regulations, or it can be interpreted that this action is contrary to what has been regulated in applicable law and also against the orders that have been stipulated and carried out in the direction. legal rules that apply in the community where the person concerned lives.

According to R. Susilo, in a sociological view, crime is defined as an act or behaviour which, in addition to harming the sufferer or victim, is also very detrimental to society, namely its influence, which can cause the loss of peace, balance and order (Fahririr & Yuherman, 2022). Whatever actions are harmful to society, disturb the peace, create fear and a sense of security, then it is also included in the meaning of crime so that not only general crimes such as theft robbery but also magical things can be included in the category of crime. According to the theory mentioned, magical things also disturb the public a lot from a social point of view (Fauzan, 2020).

The Crime of Santet

The belief in the existence of supernatural crimes is inherent in the lives of Indonesian people. The view of people who think that *santet* can cause harm to others makes *santet* seen as a crime (Prasetyo et al., 2019). *Santet* is an act of harming other people through magical intermediaries (Satriadi, 2020).

The existence of humans and beliefs in the occult are basically like two sides of a coin, always side by side and inseparable. This relationship is a primitive concept or has been going on since ancient times (Kasmana, 2019). Based on the history of the journey of human life, it is believed that humans and the supernatural have developed themselves together, even now (Permatasari & Prianto, 2018).

According to Prof. Dr Th. Ronny Nitibaskara, *santet* is included in sorcery or *santet*. Both of these things are included in black magic or black magic. Abdillah explained the process of *santet*. There are two possibilities in doing *santet* (Jamilah & Wahyuningrum, 2022).

First is *santet*, which utilizes the power of supernatural beings such as jinn and demons. In implementing *santet*, the perpetrator of *santet* (*dukun santet*) cooperates with the

supernatural (Falikhah, 2012; Firmansyah et al., 2022; Fitrah, 2021; Thabrani, 2014). Magical creatures, in this case, are used as a medium or means in the delivery of *santet*. The existence of an invitation to supernatural beings in *santet* is also a reciprocal relationship between the witch doctor and the supernatural being. The rewards obtained by these unearthly beings can be in the form of unique offerings or everything that has been agreed upon between the witch doctor and the supernatural being (Subekti & Kusairi, 2019).

The *second* way of using inner strength is the source of doing *santet*. *Santet* like this requires inner strength as a means (Hidayat Jati & Endri, 2021). This inner strength is obtained from performing spiritual actions (spiritual practices) (Thabrani, 2014). However, in implementing this *santet*, it must be assisted or supplemented by a strong visualization (imagining) power of the perpetrator. Chanting spells on particular objects, then the perpetrators of *santet* concentrate (Fitrah, 2021; Pakpahan, 2022).

II. METHOD

The research specifications used by the author in dissecting the problems in this study used qualitative research specifications. Qualitative research is research that analyzes the data using qualitative analysis methods. The data used in this study is not data in the form of numbers but spoken words resulting from research in the field. Data analysis is the process of describing and compiling interview transcripts and other materials that have been collected (Ikhwan, 2021). This research is normative legal research that seeks to analyze and describe the criminal law of *santet*. Therefore, this research is an analytical descriptive study that aims to provide comprehensive information to the public regarding the formulation of *santet*. The research method that the author applies is a literature study that relies on primary and secondary legal materials such as the Criminal Code, the Draft Criminal Code, research reports, the internet, newspapers and scientific books or articles (Haryadi et al., 2019; Sonata, 2015).

III. RESULT AND DISCUSSION

Understanding how criminal law is applied concretely in every legal case means that the application of criminal law to the whole essence of an action that is contrary to the law is part of legal certainty. So in the argument that states that the same article can be applied with the same substance, it is the validity of the meaning of the law. A deeper explanation regarding the application of the same article above applies to each action by looking at the substance of the legal deviation as a whole to the results of the crime. According to Halper, a legal issue and decision should not be limited to literal meanings and logical propositions by ignoring the context and purpose of the law (Weruin, 2017).

In legal issues related to magical crimes such as *santet* which is seen from a normative legal point of view, *santet* can also be included as a part that must be viewed as a crime that can be legally accounted for because *santet* is seen as a substance, which has detrimental consequences.

A clearer understanding of how criminal law can regulate every problem is due to the nature of the law itself, namely the rules to handle so that whatever is in the state of the law is already covered by the regulations that have been made with considerations by legal politics.

Criminal Law on *Santet*

Criminal is a more specific term that indicates sanctions in criminal law. In the substance of the philosophy of punishment which is the philosophical basis for formulating the measure or basis of justice, how the law provides fairness in the event of violations in criminal law (Wibowo et al., 2021). In this context, sentencing is closely related to criminal law enforcement. As a review system, the review of sentencing can be viewed from 2 (two) angles, namely the available angle and the substantive norm angle.

From a functional point of view, the universal punishment system can be interpreted as the whole system (laws and regulations) for the functionalization / operationalization / concretion of criminals and the entire system (rules and regulations) which regulates how criminal law is implemented, enforced or operationalized. in total (concrete) so that a person can be sentenced to illegal or legal sanctions for his actions. Seen from this point of view (functional point of view), the criminal system is identical to the criminal law enforcement system, consisting of the Material/Substantive Criminal Law subsystem, the Formal Criminal Law subsystem, and the Criminal Implementation Law subsystem.

From the point of view of substantive norms (the substance of understanding only looks at substantive criminal law norms), in this case, the criminal law system can be interpreted as the entire system of material criminal law rules/norms for sentencing, or the entire system of material criminal law rules/norms for punishment. We are granting/imposing, and implementing a criminal offence.

It can be explained more than punishment talks about how the implementation or implementation of the criminal law itself. The concept of punishment in Indonesia is only carried out by existing rules. The Criminal Code does not mention the purpose or guidelines for sentencing so that the process in it tends to be by the meaning of law enforcement, judges with their respective interpretations, it is possible for differences in the sense of the substance of the article which exists.

In dealing with problems related to *santet* legally, the existing legislation has already been regulated, especially in the Criminal Code. It's just that it's not directly mentioned but substantially already contained in the Criminal Code itself. Many arguments say that *santet* cannot be regulated by law, but as a state, the rule of law, the supremacy of the law, is an absolute thing that must be done. In the Criminal Code, many articles substantially imply how the Criminal Code applies fully to every crime, even to the crime of *santet*. In the legal meaning, it should not be narrowed down to assumptions that have the opportunity to create a space in the law.

In this problem, *santet* is in one area of meaning relating to crimes against others through magical media. *Santet* is defined as an act capable of causing harm to other people and even making a person's life disappear. As in the information given by Sudarminto (45 years old), one of the practitioners of Ponorogo magic, *santet* or sorcery is an act carried out as

an attempt to harm other people, starting to injure or even To kill, in the world of *santet* or sorcery itself, there are two essential terms for the division of species, namely Preng Sepur and Weir Segoro, where Preng Sepur is interpreted as an attempt to harm other people in the same family ultimately. While Segoro Dam only targeted certain people and could not be killed but only harmed to torture the intended person, it was also conveyed that *santet* was indeed a terrible act. Still, it returned to good and evil again to the person concerned. Media in implementing various kinds of *santet* may be between different shamans according to the purpose. Still, they always use objects capable of harming the intended person. Therefore, it is clear that affect that is capable of breaking the rights of others, *santet* is a part that must be considered, and the law must protect society from such harmful things. In this direction, the arguments that arise must be accounted for so that the disputes that arise must be legally logical. In this case, the effect is one of the things that are the main focus of the discussion. As explained above, *santet* is the act of harming or even killing other people. In the context of harming, injuring, injuring, killing, it is regulated, so that is what is raised as a problem.

To legally explain the problem of *santet*, it is necessary to divide and limit the territory into two, namely logical and magical, which tends to be non-logical. This limitation and separation are essential because these two things are contained in the crime of *santet*. Then in the perspective of normative law, only logical areas legally may be raised and accounted for. There are many misunderstandings when discussing *santet* from a legal perspective, but mixing the two logical and magical things in one argumentation structure makes it very difficult to accept it in legal logic.

Logical and non-Logical

In the context of logical law is a reasonable thing that is accepted by law valid in a normative context. Understanding logic in a narrow sense can be interpreted as a science that deals with valid conclusions drawn from various data, facts, problems, and existing legal propositions (Weruin, 2017).

So that is the problem of *santet*. The parts legally accepted by law are the genuine, valid parts, data. In this case, a logical part of *santet* is that *santet* is recognized as a problem that causes detrimental effects, such as hurting, injuring, killing. So the beginning of the logic comes from this. Then things that are still included in the logical side of the problem of *santet* are the perpetrators, the people who participated, the media, to the result in the form of victims.

In this section, according to a logical understanding in a legal context, the non-logical part is the inverse of the rational function, such as how *santet* is transferred, how nails (examples) move, how jinn or devils can work with shamans. The sides that cannot be explained with current knowledge or can be interpreted as things that do not make sense are part of the non-logical side of *santet*, and this side cannot be raised as an argument in a legal context. But this is an essential side because the context of the discussion is closely related to the non-logical side. This is nothing but knowledge.

In simple terms, this division of the problem into two sides can be expected to make the arguments raised more acceptable about how criminals respond to legal issues related to

santet. In law, logical or reasonable things by existing legal rules that are by normative regulations that can be accepted and can be accounted for, so that in the problem of the crime of *santet*, it is not the mystical substance that is discussed but the logical sides that are closely related to *santet*. In the discussion, as described, it will direct legal arguments not only to focus as if blaming the shaman, but it could be by the legal principle of equality before the law (equality before the law). So that in some instances, the shaman will become a victim who is protected by law.

Criminal Dimension of *Santet* Seen from the Side of the Murder

In this view, the problem of *santet* is seen as a criminal dimension related to murder.

Article 338

Anyone who intentionally takes another person's life is threatened with murder with a maximum imprisonment of 15 years.

Article 340

Any person who deliberately and premeditated takes life is threatened with premeditated murder, with a death penalty or imprisonment for life or a certain period, a maximum of 20 years.

In the case of taking a person's life, according to article 338 of the Criminal Code, anyone who violates the article must be held responsible. Because *santet* can kill a person's life, he breaks that article. Still, it is not clear that the argument is accepted, so it is further explained by the division and separation of the parts of *santet* between the sides. Logistically and non-logistically (magical) in terms of logistics, it is clear that there are people who commit murder using *santet*. There are victims. There are real media, such as nails in the victim's body. This becomes the logistical side of the problem of *santet*.

But then the question inevitably arises regarding how can a person know that he is being cursed and who is *santet*. This is what the other side is for in separating the sides of *santet*, and this non-logical side must be done to make light of problems such as with the media assisted by psychics to find out who practice *santet*. It is interesting that in magical matters, however many shamans or psychic practitioners are questioned will lead to the same name. So this is a step that must be taken to clarify the problem further. However, it must be remembered that the non-logical side is not accepted in law, so the non-logical processes were at the investigation stage, and then what emerged was only the non-logical part of the process. So that when it is known who the perpetrators are, legal steps according to regulations can be carried out. Like with an interrogation with a psychologist to make the perpetrator confess his crime.

In law, as long as it does not conflict with existing rules, it is not prohibited. It is allowed, there is no prohibition against using paranormal assistance or shamans to help make light of a legal problem, or it can be said that any process carried out is allowed as long as it does not violate, but the results must always be remembered. The process is realized as a real thing that is legally logical that can be accounted for.

Criminal Dimension of *Santet* Seen from the Side of Fraud

In this case, the dimension of the crime of *santet* is seen in the fraud that is likely to occur, but those who have the potential to become perpetrators are those who claim to be shamans.

Article 378

Anyone who with the intent to unlawfully benefit himself or another person, by using a false name or false dignity, by deceit or a series of lies, moves another person to hand over something to him or to give a debt or write off a debt, is threatened with fraud by imprisonment for a maximum of 4 years.

So that in problems related to *santet*, in particular, fraud is very likely to occur, anyone in this context could be a shaman, intending to benefit himself or others with a series of lies such as by promising to kill or hurt other people with certain conditions of payment but in fact cannot, then it is clear that this violates article 378. Or the efforts made to gain an advantage by deceiving others may not be in the context of *santet* in the sense of killing but in a context that is still related to the practice of shamans.

Criminal Dimension of *Santet* Seen from the Threat Side

In developing the current era of technology media, it is felt to be a basic need. Every line of life is almost inseparable from the use of technology. So that in a country that has a tremendous plurality value like Indonesia, it is possible to acculturate culture with technology. So it is possible that someone's problem related to the discussion of the theme of this journal, namely the dimensions of the crime of *santet*, will probably be related to technology, especially a threat through technology media. Where someone threatens to do things related to *santet* against other people so that in this context.

Article 29 UU ITE

Every person intentionally and without rights sends Electronic Information and Electronic Documents that contain threats of violence or intimidation that are intended personally.

Article 45 paragraph (3) of the ITE Law

Everyone who fulfils the elements as referred to in Article 29 shall be sentenced to a maximum imprisonment of 12 (twelve) years and a maximum fine of Rp. 2,000,000,000.00 (two billion rupiah).

So that if there is a threat related to *santet* that is carried out with cyber activities even though it is virtual, it can be categorized as actual legal actions and actions (Sarah, 2015).

Dimensions of the Crime of *Santet* Seen from the Side of Defamation

Article 310

Whoever intentionally attacks someone's honour or reputation by accusing someone of something, the intention of which is clear so that it is known to the public, is threatened with pollution with a maximum imprisonment of 9 months or a maximum fine of Rp. 4,500.

In this problem, the criminal dimension that can be explained is the possibility of defaming someone with the accusation of being a person who commits an act of *santet*. He only based on prejudice without further action with evidence. In this case, legal protection remains in each community relatively. It could be that this problem is a shaman who is a victim of defamation so that the shaman still gets legal protection.

With a legal understanding of the problem of *santet* above, in addition to trying to explain *santet* in a legal context that focuses on protecting the community, but the above is also part of legal certainty or equality before the law, the potential for vigilante accusations of irresponsibility that could be directed at shamans can be handled properly so that the law adequately protects each of its citizens. It provides justice and certainty because it is possible to become a shaman who becomes a victim.

Some of the articles above are examples of how to deal with the problem of *santet* so that it can be legally accounted for. Still, it must be underlined that in each instance, there is no direct regulation of the supernatural side of *santet* because it is the attitude towards the criminal dimensions of *santet* that is the substance of the discussion. So, in this case, the writer tries to explain the urgency of the functionality of the criminal law on issues related to *santet* by creating a discussion scheme that divides the sides connected to the subject matter. The discussion above also explains that the non-logical sides are also critical factors in addressing this problem, in achieving clarity of the case. Still, in areas not shown in legal arguments, the non-logical side is used in specific regions, as already explained. However, the above is at the theoretical level, which then returns to law enforcement whether it is in line with this theory or not and whether it is possible to confirm the theoretical scheme compiled in this journal's argumentative idea. In the world of positive law, all problems must be protected by law so that the hope of the rule of law that places the law in the highest position can really be realized and not just a slogan. So if you look back at how urgent the application of law to each legal issue is even related to things that are considered challenging to accept, such as *santet* with its magical connotation, it is a logical consequence of the rule of law, how is the normative legal attitude that exists.

However, it will be more complex and straightforward if there is an explicit regulation regulating *santet*, such as in the Draft Criminal Code, which includes *santet* (in a general sense) as the substance of one of its articles. Still, it cannot be said that if the article is implemented, it will be by expectations. a society where it is only at the level that says it can, not on the natural substance of *santet*.

The law reforms are expected to provide universal certainty in every problem so that with adaptable confidence, people will feel safe about their rights and obligations as citizens living in a state of law.

IV. CONCLUSION

The arguments described above are part of the legal meaning or can also be referred to as a theory about understanding criminal law in the case of *santet* or other magical crimes that occur in people's lives. Starting from *santet* which has a detrimental effect on society, the law should stand upright as a protector. Understanding the criminal dimensions of *santet* leads to aspects outside the supernatural because the supernatural side tends to be unacceptable by law. So that in this understanding, the logical side of the law that can be legally accounted for that can be accepted is raised. In the argument in the discussion, the normative direction leads to legally regulated things, so the author says that the existing articles already imply the arrangement. This does not mean directly to *santet* but aspects related to *santet*. In a criminal understanding, *santet* can be legally held accountable by reviewing articles that substantially imply regulation on general issues and uncommon issues such as *santet*. For example, in Article 338 of the Criminal Code, which regulates killing/taking the lives of others, in understanding all forms of crime related to murder, this article is one of the articles that implies regulation of *santet*, why is that because one of the effects of *santet* is usually killing other people's lives, so that in the case of *santet* theoretically the criminal can be subject to this article.

So that the author, in the normative legal perspective, *santet* is a crime that can be legally accounted for. See the sides of the substance that can fulfil the logical parts honestly. But back again, in this case, the arguments that have been built by the existing positive legal theory, fully evidentiary and others return to law enforcement from investigators to judges, want to get out of the rule box that has always been done or not, because Addressing this problem requires the will of law enforcement to realize the rule of law, equality before the law in all crimes. With the totality of law enforcement, these problems that are not yet common will be open and become good problems.

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