

Legal analysis of civil law settlement in the perspective of criminal legal settlement (Case study of Military Court Decision I-05 Pontianak Number: 46K/PM.I-05/AD/IX/2021)

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Abstract

Purpose: This study aims to analyze the interaction between civil law settlements and criminal law settlements in the Indonesian military justice system, focusing on the implications of Military Court Decision I-05 Pontianak Number 46K/PM. I-05/AD/IX/2021. This study explores the complexity of overlapping jurisdictions and their effects on the rights and obligations of the parties involved.

Research Methodology: The research method used is a conceptual approach with a normative analysis of laws and regulations, relevant legal practices, and library research. The conceptual approach is intended to analyze legal materials so that the meaning contained in legal terms can be understood.

Results: The findings show that criminal proceedings significantly influence civil dispute resolution, particularly in determining liability and shaping civil court decisions. Conversely, the outcomes of civil cases may also affect criminal proceedings when overlapping elements exist. This case study demonstrates how fraud rooted in debt relations blurs the boundaries between civil and criminal domains, creating legal uncertainty.

Conclusions: There is a strong need for harmonization and coordination between civil and criminal legal systems to prevent overlapping jurisdictions and ensure fairness. Integrating compensation claims into criminal trials can provide more efficient and comprehensive justice.

Limitations: This study is limited to a single military court decision, which may restrict generalization to other jurisdictions and legal contexts.

Contribution: This research contributes to legal scholarship by clarifying the interaction between civil and criminal dispute resolution and offers practical recommendations for policymakers, military judges, and practitioners to strengthen legal certainty and justice in Indonesia's dual legal system.

Keywords: *Civil Legal Settlement, Coordination, Criminal Legal Settlement, Harmonization, Legal Interaction*

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1. Introduction

Human life is never free from social interaction activities to fulfill all the needs of life (Jabbar, Yusoff, & Shafie, 2022). Social interaction activities that are often carried out in society include buying and selling, renting, and debts (Supriyadi & Ravaşdeh, 2024). Providing debt or loans is a good deed

because it is an economic activity that contains elements of helping fellow humans as social beings (Padgett Walsh & Lewiston, 2022). Debt is one form of mutual assistance. Therefore, it should be done based on the provisions that have been mutually agreed upon. Debts are the activity of borrowing money or goods between people who need it (debtors) and people who have money or goods and lend it (creditors); later, the money or goods are returned with the same amount or goods. Debts are the social life of every person who does something in relation to other people, which will later give rise to rights and obligations (Lea, 2021).

However, with the development of the era and the increasing complexity of human problems in meeting their needs, there is often a mismatch between norms and human behavior (Nunn, 2022). Along with changes in society, the practice of debts and receivables has also changed, leading to the emergence of new problems. In this study, the author reveals the case of decision Number 46-K / PM.I-05 / AD / IX / 2021 of the Military Court I-05 Pontianak, a case of fraud that originated from debts committed by a member of the Indonesian Army named Kopda Mulyono, NRP 310900779062687, Position Ta Provost 2 Urdal Tepbek II-44-4 / Ptk, Bekangdam Unit XII / Tanjungpura (hereinafter the name is given the initials Kopda X) serving in the Kodam XII / Tanjungpura Area against Mr. Jumat (a civilian hereinafter referred to as Witness-1), this case occurred in the Pontianak City area, Pontianak Province. In West Kalimantan, lender Witness-1 provided loan assistance in the form of money with a business cooperation agreement for the sale and purchase of BBM (fuel oil), which ended in a criminal act of fraud. In 2014, Kopda X became acquainted with Witness-1 because the suspect was the husband of Witness-1's cousin, then in August 2017 Kopda X began to offer a business cooperation for the sale and purchase of Solar type BBM by borrowing funds from Witness-1 as capital, but Witness-1 did not provide it on the grounds that there were no funds until January 2018 Kopda X received the first loan of Rp. The loan amount was 200,000,000 (two hundred million rupiah), with an agreement to receive a 4.5% return every month.

However, since the birth of Law Number 8 of 1981 concerning Criminal Procedure Law, which is stated in the State Gazette of the Republic of Indonesia Year 1981 No. 76, Supplement to the State Gazette of the Republic of Indonesia Year 1981 Number 3209, hereinafter known as the Criminal Procedure Code. Several new things are listed in the Criminal Procedure Code, one of which is the possibility of combining criminal cases with lawsuits for damages, as regulated in Articles 98–101 of the Criminal Procedure Code. Based on the description above, the author is interested in conducting further research on this proposal entitled "legal analysis of civil law settlement from the perspective of criminal legal settlement" which can be used as input by the public in general, especially for military law enforcement officers in handling the legal process.

2. Literature Review

2.1. Theory of Legal Certainty

The Theory of Certainty referred to in this theory is the theory of legal certainty, meaning that every legal act must guarantee legal certainty. For this purpose, it is necessary to interpret the norms of unclear laws. However, in interpreting the law against a provision of legislation that is considered incomplete or unclear, a legal expert cannot act arbitrarily (Aryani, 2024). The principle of legal certainty is a principle in a state of law that prioritizes the basis of laws and regulations, compliance, and justice in every policy of state administration (Shcherbanyuk, Gordieiev, & Bzova, 2023). The principle of legal certainty in a state of law according to Radbruch is very necessary to be maintained in order to achieve order or regularity (Arifin, Wulandari, Utari, & Munandar, 2023).

2.2. Theory of Authority

Authority or authority has a position in the study of Constitutional Law and Administrative Law; this authority is considered very important so that F.A.M. Stronik and J.G Steenbeek stated: "Het Begrip bevoegdheid is da nook een kembegrip in he staats-en administratief recht". From this statement, it can be inferred that authority is a core concept in constitutional and administrative law. Authority, as a public law concept, consists of at least three components: influence, legal basis, and legal conformity.

1. The influence component is that the use of authority is intended to control the behavior of the legal subjects.

2. The legal basis component is that the authority can always be shown its legal basis.
3. The conformity component contains the meaning of the existence of authority standards, namely, general standards (all types of authority) and special standards (for certain types of authority).

2.3. Criminal act

The definition of a criminal act according to the opinions of experts is very diverse, and there are differences of opinion due to different points of view and the diversity of existing legal schools/teachings. These differences of opinion do not cause misinterpretation of the meaning and significance of a criminal act (Solanke, 2022). There are terms that come from foreign terms (in foreign languages) that have no changes in writing, while others have changes in both writing and pronunciation, but their meanings remain the same as in the foreign language (Jin, Dewaele, & MacIntyre, 2021).

According to Simons, quoted by S.R. Sianturi, in his book *Principles of Criminal Law in Indonesia and Its Application*, formulated that: *een strafbaar feit* is a *handeling* (action or deed) that is threatened with criminal law, contrary to the law (*onrechtmatige*) carried out with error (*schuld*) by a person who is able to be responsible. He then divided it into two groups of elements: objective and subjective elements. What is meant by Objective elements are in the form of actions that are prohibited or required due to certain circumstances or problems, and subjective elements are in the form of errors (*schuld*) and the ability to be responsible (*teo akuntans vatbaar*) of the perpetrator. Van Hamel, in formulating *strafbaar feit*, is the same as that formulated by Simons, only he added the sentence "which action is criminal in nature". E. Mezger defines *strafbaar feit* as "*die straffat ist der inbegriff der voraussetzungen der strafe*" (a criminal act is the totality of the conditions for the existence of a criminal act).

2.4. Elements of a Criminal Act

There is no consensus among scholars regarding the content of the definition of a criminal act. According to Moeljatno, a criminal act must be separated from its criminal responsibility; therefore, Moeljatno's view is often said to be a dualistic view because several legal scholars do not separate criminal acts from criminal responsibility, which is often referred to as a monistic view (Wilenmann, 2023). Following the principles that apply in criminal law, a person cannot be blamed for committing a crime if the crime has not been formulated in the law (Hussain, Khan, Chandio, & Oad, 2023).

Although recent developments in criminal law show that this legal principle is no longer applied rigidly, it has been maintained as a very fundamental principle in criminal law, even with various modifications and developments (Antai, 2024). Thus, a person can only be blamed for committing a crime if the person commits an act that has been formulated in the provisions of the law. The elements of the crime itself consist of the subject, error, unlawful nature, punishable acts, and time, place, and circumstances. Thus, the definition of a crime can be formulated as an action at a certain place, time, and circumstances, which is prohibited (or required) and is threatened with punishment by law, is unlawful, and the error is committed by a person (who is able to take responsibility) (Apriyani, Susanti, Erwinta, Sanata, & Sakur, 2024).

2.5. Criminal Liability

Criminal liability is a mechanism established by criminal law to respond to violations of the "agreement to reject" a particular act (Ali, 2006, p.68). Punishing a person is not enough if the person has committed an act that is against the law or is against the law (Guo, Hao, & Kennedy, 2024). Therefore, even though the act fulfills the formulation of a crime in the law and is not justified, it does not yet fulfill the requirements for imposing a sentence (Estiningtyas, Hasanah, & Windari, 2024). For punishment, a requirement is still needed to impose a sentence, namely that the person who committed the act has made a mistake or is guilty. A person must be held accountable for their actions, or if viewed from the perspective of their actions, only then can the person be held accountable (Wirba, 2024).

Criminal liability leads to the punishment of the perpetrator if they have committed a crime and fulfill the elements that have been determined by law (Diyani, Hidayat, & Saraswati, 2021). Viewed from the perspective of the occurrence of a prohibited (required) act, a person will be held criminally responsible

if their act is against the law or rechtsvaardigingsgrond or (justification) (Jamaludin, 2024). Viewed from the perspective of the ability to be responsible, only those who are "capable of being responsible" can be held criminally responsible. According to E.Y. Kanter and S.R. According to Sianturi, someone can be said to be capable of being responsible (toerekeningsvatbaar) in general.

2.6. Fraud

Fraud is a crime that has an object of property. In the Criminal Code (KUHP), this crime is regulated in Chapter XXV, BOOK II. All articles in Chapter XXV are known as bedrog or fraudulent. Article 378 of the Criminal Code is formulated as follows (Moeljatno, 2007, p.133):

"Anyone who with the intention of benefiting himself or another person unlawfully, whether by using a false name, either by means of artifice and trickery or by fabricating falsehoods, persuades someone to give him something, make a debt or write off a debt, shall be punished for fraud, with a maximum imprisonment of four years."

Based on the elements of the crime of fraud contained in the formulation of Article 378 of the Criminal Code above, then: Fraud is an act of a person with trickery, a series of lies, a false name, and a false state with the intention of benefiting oneself without rights. A series of lies is a series of false sentences arranged in such a way that they tell a story of something that seems true (Sugandhi, 1980). Fraud committed by the military is a special concern in this study, considering that the military profession plays an important role in maintaining the security, order, and sovereignty of the state. Criminal acts of fraud committed by military personnel can significantly negatively impact the image of the military institution and public trust in it. A criminological review is the approach used in this study because criminology is a science that studies criminal acts, perpetrators, and the prevention of criminal acts.

2.7. Fraud in Civil Law

Fraud is an act of deception. Article 1328 of the Civil Code clearly states that fraud is a reason for canceling an agreement. In the case of fraud, the party who is deceived does indeed make a statement that is in accordance with his will, but his will, due to the power of deception, is deliberately directed to something that is contrary to his true will, which, if there was no fraud, would be a correct action. In the case of fraud, a false image is deliberately planted by one party to the other. Thus, the element of fraud is not only a false statement, but there must be a series of lies (samen weefsel van ver dichtselen), a series of untrue stories, and every action/attitude that is deceptive. A contract that contains elements of fraud does not make the contract null and void; rather, the contract can only be cancelled (voidable). This means that as long as the injured party does not sue the competent court, the contract remains valid (Ibid, p. 32). Fraud (bedrog, fraud, misrepresentation) in a contract is a trick used by one party to cause the other party to sign the contract, even though without the trick, the other party would not have signed the contract in question.

3. Research Methodology

The method used in this study is the normative legal research method, which is based on secondary data. The selection of methods in this study was based on data obtained from library research using the legal approach method, namely, analyzing problems from the perspective of applicable legal/legislation provisions.

3.1. Type of Research

1. Research on legal principles, such as legal rules that exist in society.
2. Research on legal systematics examines the basic understanding of the law contained in the legislation.
3. Research on legal synchronization aims to reveal the extent to which a particular legislation is harmonious vertically and horizontally.
4. Comparative legal research seeks to identify and analyze differences among various legal systems.
5. Legal history research attempts to identify the stages of legal development that are narrowed in scope.
6. Related to this research, the focus of normative legal research is on legal principles, namely, by studying and analyzing legal principles related to criminal acts of fraud in the criminology aspect.

3.2. Data Types and Sources

The data required in this research is a secondary data source in accordance with the problems and objectives of the research, namely data obtained from library research in the form of legal materials, divided into two types of data, namely:

a) Primary Legal Materials:

1. The 1945 Constitution of the Republic of Indonesia
2. Article 378 of the Criminal Code
3. Article 1754 of the Civil Code
4. Law No. 31 of 1997 concerning Military Justice
5. Article 1 Number 40 of Law No. 31 of 1997
6. Law No. 8 of 1981 concerning the Criminal Procedure Code

b) Secondary Legal Materials

As for secondary legal materials, they are legal materials that are closely related to primary legal materials and can help analyze and understand the primary legal materials, for example the research results of related experts, the work of legal experts, relevant books and so on.

c) Tertiary Legal Materials

Tertiary legal materials provide guidance and explanations for primary and secondary legal materials and consist of a general Indonesian dictionary, a legal term dictionary, and an encyclopedia.

3.3. Data Collection Methods

1) Descriptive Analysis

Research that is of an expository nature provides a detailed, systematic, and comprehensive description of everything related to the object to be researched, applicable in a certain place and at a certain time, or regarding existing legal phenomena or legal events that occur in society, in this case directly related to TNI personnel as the object.

2) Prescriptive Analytics

Research that aims to provide an overview or formulate a problem according to the existing conditions or facts accompanied by an analysis with the aim of finding a solution, in this case the problem of law enforcement to resolve debt cases in the civil law realm of TNI soldiers and provide recommendations and suggestions for improving case resolution in the existing legal system.

3.4. Data Processing and Analysis

The data processing in this study used a qualitative method. Data analysis used a descriptive analysis method, namely an explanation to provide a detailed, systematic, and comprehensive description of everything related to cases carried out by TNI soldiers. In addition, researchers have used a prescriptive analysis method to obtain suggestions on what should be done to overcome cases involving TNI members, specifically the settlement of debt cases in the existing legal system (Natamiharja, 2024). The data analysis system is known for adjusting and describing the real situation regarding the perpetrators of fraud committed with money loans by TNI members. The results of the interviews or literature studies were then processed and analyzed qualitatively to produce descriptive data to be used as a basis for drawing conclusions.

4. Result and Discussion

4.1. Description of the Criminal Case of Fraud in the Decision of the Military Court Number 46-K/PM.I-05/AD/IX/2021

To gain an understanding of the occurrence of a criminal act, in this case, a criminal act of fraud by TNI soldiers (Nuzulianto & Sukalumba, 2024), the author will provide an overview of how this case was handled by dissecting the decision part by part.

4.1.1. Case Position of Criminal Act of Fraud in Decision Number 46-K/PM.I-05/AD/IX/2021

In this case, the Author will describe the chronology of legal events that occurred in the decision Number 46-K / PM.I-05 / AD / IX / 2021 of the I-05 Pontianak Military Court in a criminal case of fraud that began with debts committed by a member of the Indonesian Army named Kopda Mulyono, NRP 310900779062687, Position Ta Provost 2 Urdal Tepbek II-44-4 / Ptk, Bekangdam XII / Tanjungpura Unit serving in the XII / Tanjungpura Military Command Area against Mr. Jumat (a civilian hereinafter referred to as Witness-1), this case occurred in the Pontianak City area, West Kalimantan Province, as follows:

- a) Kopda Mulyono is on trial for a THTI offense and is represented by Major Chk (K) Cok Morina Agung, S.H., with the team, and accompanied during the fraud case examination by 2nd Lt. Chk Waldiawan Hakim, S.H.
- b) He joined the Army in 2008, trained in 2009, served in Bekangdam VI/Tpr Balikpapan, and since 2011 has been at Bekangdam XII/Tpr in the Army. He is the youngest of five siblings, married to Nur Aini, and has a seven-year-old daughter aged 7.
- c) In June 2017, at a coffee shop in Parit Mayor, he asked Witness-1 about money for a diesel business loan, and Witness-1 said he did not have it yet.
- d) In August 2017, at his house, he again pressed Witness-1 for the money; Witness-1 admitted having funds but could not give them at that time.

4.1.2. Evidence

The evidence submitted by the Military Auditor during the trial was as follows:

1) Witness Statement

Witness Statement 1

Name: Friday, Age: 47 years, Place and date of birth: Durian, October 12, 1974, Tribe/Nation: Madura/Indonesia, Religion: Islam, Private Occupation: Farmer/planter, Address: Durian Village RT 004 RW 001, Durian Sub-district, Sungai Ambawang District, Kubu Raya Regency, West Kalimantan.

- a) Witness-1, Mr. Jumat, testified that he was in good health, swore under Islam, and understood that he was being examined in a fraud case involving IDR 700,000,000 allegedly by Kopda Mulyono, whom he had known since 2014 as the husband of his cousin, Nuraini.
- b) He first met the suspect in 2014 and became closer to him. In 2017, at a coffee shop, the suspect offered to borrow and invest in Witness-1's funds in a diesel oil business, but Witness-1 declined.
- c) Witness-1 received varying monthly payments from the suspect (IDR 2.5–9 million depending on loan size), but since January 2021, payments stopped.
- d) The Suspect said that the payments were out of gratitude. Witness-1 insisted that he never agreed to profit sharing or installments and only wanted his money fully returned.
- e) In January 2021, the suspect gave Witness-1 a black Suzuki Latio as partial repayment, which was later sold for IDR 50 million.

Witness Statement 2

Name: Saideh; Age: 45 years; Place and date of birth: Durian, January 02, 1976; Tribe/Nation: Madura/Indonesia; Religion: Islam; Occupation: Taking care of the household; Address: Durian Village RT 004 RW 001, Durian Sub-district, Sungai Ambawang District, Kubu Raya Regency, West Kalimantan.

- a) Witness-2, Ms. Saideh, testified in good health, swore under Islam, and confirmed that she was examined as a witness in a fraud case involving IDR 700,000,000 allegedly committed by Kopda Mulyono against her husband, Mr. Jumat (Witness-1), whom the suspect had known since 2015.
- b) Witness-2 stated that IDR 300,000,000 of her money was used by her husband to help the suspect's diesel oil business. She did not see the handover but was told by Witness-1 that the suspect promised to repay it within one year, which never happened.
- c) Witness-2 admitted she did not know if the Suspect actually had a diesel oil business or whether her money was truly used for it.
 - The Suspect confirmed that he had known Witness-1 since 2014 and had borrowed money from him several times.
 - Jan 20, 2018: IDR 200,000,000 at a coffee shop.

- Feb 10, 2018: IDR 100,000,000 at a coffee shop.
- Mar 10, 2018: IDR 100,000,000 at a coffee shop.
- March 23, 2018,: IDR 200,000,000 was withdrawn by Witness-2 at Bank Kalbar and handed to him.

In total, the suspect admitted borrowing IDR 700,000,000 between 2018 and 2019, supported by receipts he made himself, but claimed the money was not used for a diesel oil business.

4.2. Criminal Offenses in Civil Cases

The reason for the emergence of criminal offenses that are processed is that the elements of criminal acts are found that do occur in civil cases that are being prosecuted. Civil law and criminal law are basically two different laws (Silaban, Idham, & Erniyanti, 2023). Civil law focuses on private matters, whereas criminal law focuses on public matters. Private matters should not be public consumption; however, in many cases, civil cases turn into criminal cases because there are criminal elements that can be charged (Fauzia & Hamdani, 2021).

If a civil case turns into a criminal act, it must meet several criteria. In a criminal act, there must be an element of an act against the perpetrator, which act meets the provisions of a violation of the law. The act must be proven to be wrong and can be accounted for. The act is also contrary to the law, and there are already legal regulations that regulate it as a form of legal certainty (Zulfa, Raharjo, & Shafira, 2024). In this case, the dispute between two parties who have entered into an agreement is a case in the realm of civil law. However, in many cases, the suspect is ultimately brought to the realm of criminal law because there is an element of fraud committed by one of the parties.

Based on this, civil cases based on unlawful acts often end up as criminal cases. In such cases, investigators usually use criminal articles to put more pressure on the suspect, where criminal articles should be the last weapon and applied only if the case is not resolved. The general public must have extensive legal knowledge to avoid such incidents. At the very least, the public needs to know the difference between criminal and civil cases. Asking for legal considerations from legal practitioners can also help so that the public is not confused when faced with such situations.

4.3. Discussion

4.3.1. Analysis of the investigation process of debt cases based on fraudulent actions up to the trial stage by separating the case for the sake of military or command interests to the point of ignoring the civil case

In the case of decision number 46-K/PM. I-05/AD/IX/2021 of the Military Court I-05 Pontianak, a criminal case of fraud that originated from debts committed by a member of the Indonesian Army named Kopda Mulyono, NRP 310900779062687, Position Ta Provost 2 Urdal Tepbek II-44-4/Ptk, Bekangdam XII/Tanjungpura Unit serving in the Kodam XII/Tanjungpura Area against Mr. Jumat (a civilian hereinafter referred to as Witness-1, this case occurred in the Pontianak City area, West Kalimantan Province, the act was carried out with the following description:

- a) The Suspect joined the army in 2008, trained in 2009, served in Bekangdam VI/Tpr Balikpapan, and since 2011 has been in Bekangdam XII/Tpr. He is the youngest of five siblings, married to Nur Aini, and has a 7-year-old daughter, Aishakira Kanza Azkia.
- b) In 2014, the suspect met Witness-1, his wife's cousin. In 2017, at a coffee shop, he asked to borrow and invest Witness-1's money in a diesel oil business, but Witness-1 declined the offer.
- c) In June 2017, the suspect again asked Witness-1 for money at a coffee shop, but Witness-1 said he did not have it yet.
- d) In July 2017, the suspect repeated the request, and Witness-1 again said that the money was not available.
- e) In August 2017, at the suspect's house, he asked again. Feeling pressured, Witness-1 said he had money but could not give it yet due to family events
- f) The Suspect gave Witness-1 a black Nissan Latio, which was later sold for IDR 50 million, leaving IDR 650 million unpaid.

- g) During further questioning, Witness-1 realized from notes that he had received more than the loan amount but accepted it due to family ties with the suspect.

What is meant by The phrase "With intent" is a substitute for the word "Intentionally" which is one form of error from the perpetrator. According to Memori van Toelichting (MvT), "Intentionally " (intentionally) means being willing and realizing the occurrence of an action and its consequences. What is meant by "against the law" according to jurisprudence (arrest Hoge Raad dated December 31, 1919) is as follows: damaging a person's subjective rights according to law; or doing something that is contrary to the perpetrator's legal obligations according to law or doing something that is contrary to propriety in society. That what is meant A "Fake name" is a name that is not the name of the perpetrator, but when asked to people who actually know the perpetrator, they do not know the name. Regarding the addition of a nickname or other name to be more complete, which actually makes it easier to recognize the perpetrator by that name, it does not include a false name.

1. Fraud in its basic form.

The crime regulated in Article 37 of the Criminal Code is called the crime of fraud in another basic form called "oplichting." The provisions of Article 378 of the Criminal Code state: "Anyone who intends to benefit himself or another person unlawfully by using a false name or false dignity, by trickery, or a series of lies, moves another person to hand over something to him, or to give a loan or write off a debt, is threatened because of fraud, with a maximum imprisonment of four years. " Meanwhile, for the act of moving another person according to Article 378 of the Criminal Code, it is not required to use the above efforts, but by using actions, either in the form of actions or words that are deceptive (Lamintang & Samosir, 2010).

Indeed, the essential nature of the crime of fraud is the intention to benefit oneself or others unlawfully, to move others to hand over or do something, with limitations as stated in Article 378 of the Criminal Code. Regarding the element of "moving others" in Article 378 of the Criminal Code, it is necessary to state that the meaning of "moving others" in this article is different from the meaning of "moving others" or uitlokking in the context of Article 55 paragraph (1) of the Criminal Code. The context of "moving others" in Article 378 of the Criminal Code does not require the use of the above efforts. The act of "moving" in the context of Article 378 of the Criminal Code is an action. In this case, because of the element of "intention," this means that the element of "surrender" must be a direct result of the efforts made by the fraudster. Thus, there must be a causal relationship between the act of "surrendering" by the deceived person and the efforts made by the fraudster.

2. Minor fraud.

This minor fraud crime is regulated by the provisions of Article 379 of the Criminal Code, which states: "The acts regulated in Article 378 if the goods handed over are not livestock and the price of the goods handed over, the debt given or the receivables written off is not more than twenty-five rupiah, are subject to, as minor fraud, a maximum imprisonment of three months or a maximum fine of sixty rupiah." Based on the formulation of Article 379 of the Criminal Code, the elements of minor fraud are:

- a) Elements of the crime of fraud in its basic form.
- b) The goods submitted (as the object of the crime of fraud) must not be livestock, and their value must not exceed twenty-five rupiah.
- c) The debt given or the receivables written off must not exceed twenty-five rupiah. Thus, there are three requirements for a fraudulent crime to be categorized as a minor crime.

Fraud in both civil and criminal law shares elements of unlawfulness and harm. Civil law governs private disputes, whereas criminal law addresses public interests. Civil disputes may shift to criminal cases if fraud elements are proven, as often happens in buying–selling or debt disputes, where deception occurs.

4.3.2. Analysis of case consolidation in the settlement of criminal cases based on debt in military courts to obtain compensation

Loss is generally understood as harm suffered by a person, measured in money, whether material or moral. Compensation is the victim's right to demand payment for such a loss, although the Civil Code does not limit its form. Under Articles 1365–1380 of the Civil Code, compensation arises from unlawful acts or breaches of contract. Losses may include costs, damages, and lost profits, and liability can extend not only to one's own actions but also to those of dependents or controlled goods. Compensation is primarily a civil matter that is handled by civil courts. However, Article 98 of Law No. 8/1981 and Article 183 of Law No. 31/1997 allow civil compensation claims to be merged with criminal proceedings if (1) the defendant's act forms the indictment, (2) it causes loss, and (3) the victim requests it to be merged. This enables victims to seek compensation more efficiently during criminal trials. The merged process applies both criminal (negative) and civil (positive) evidentiary systems.

4.4. Compensation System

Compensation is described in the book "Compensation of the Victim of Crime" which is then explained in a guideline book for the implementation of Law Number 8 of 1981, which differentiates the compensation system into five categories:

- a) Compensation that is civil in nature and is given in civil procedures. Through civil procedures, all types of losses suffered by victims, both material and immaterial, can be claimed for their fulfillment. Victims of criminal acts can also use civil procedures to claim compensation for their losses. However, there is one thing with this civil procedure that will be a consideration for the plaintiff to be reluctant and lazy because the settlement usually takes a long time, so that it will automatically take a lot of time and money. Long durations and increasing costs cannot fulfill the principles of fast, simple, and low-cost justice. A civil lawsuit caused by a civil claim is not only a legal act that is carried out by oneself but can also be a lawsuit for an unlawful act. The unlawful act in question is an unlawful act related to a criminal case, the result of which causes harm to others. Based on the provisions of Article 1365 of the Civil Code, the perpetrator of the loss can be sued to compensate for the loss he caused. "Every unlawful act, which causes loss to another person, requires the person whose fault causes the loss to compensate for the loss." Everyone is responsible not only for the loss caused by their actions but also for actions committed due to negligence or carelessness. In addition, everyone is not only responsible for the loss caused by their own actions but also for the actions of other people under their care or responsibility or caused by goods under their supervision. This responsibility can only be declared to have ended if the loss caused could not be prevented by the person responsible for it. In this system, a separation is made between compensation and criminal cases. Criminal acts are viewed solely as crimes against public interest, while the interests of the victim as an individual are resolved through civil law.
- b) Compensation that is civil in nature and is given in criminal procedures, but the payment is the responsibility of the state, which can request reimbursement from the convict.
- c) Compensation that is neutral in nature and is given through criminal procedures. The fifth system does not include civil or criminal procedures. This procedure is applied because the victim is a person who is in great need, while the convict is also a person who is unable to pay; therefore, the State takes over the responsibility by replacing the losses that are the burden of the convict. This system has been implemented in Switzerland.

In the Military Court, the consolidation of compensation claims is regulated in Articles 183 to 187 of Law Number 31 of 1997 concerning Military Justice, which only regulates one system related to compensation, namely civil compensation, but given a criminal procedure, the same as in Law Number 8 of 1981 concerning the Criminal Procedure Code, in Chapter XIII Articles 98 to 101. The Military Court has only one system regarding compensation because it only regulates matters related to criminal matters. This consolidation procedure, Law Number 31 of 1997, involves two simultaneous examination processes. The first is the criminal process, followed by the civil process for the examination of compensation. Of the various compensation systems that exist, in Indonesia, the first system is more adhered to, namely civil compensation is given in the civil procedure, as well as the second system, where the compensation claim from the victim, which is civil in nature, is combined in

the criminal case, while the compensation is accounted for to the perpetrator of the crime. Meanwhile, losses of an "immaterial" nature cannot be claimed using this procedure.

4.4.1. How to claim compensation if you are a victim of a crime and the process of implementing a claim for compensation

a) Consolidation of Claims for Damages in Criminal Cases.

Claims for compensation in criminal cases are regulated in Law Number 8 of 1981, namely Articles 95 and 96, related to being arrested, detained, charged, and tried or subjected to other actions without a reason based on the law or due to an error regarding the person or the sentence determined, the claim for which is through a pre-trial hearing, while Law Number 31 of 1997 does not regulate it. Meanwhile, regarding the consolidation of cases for claims for compensation, it is regulated in Law Number 8 of 1981, Articles 98 to 101, and also regulated in Law Number 31 of 1997, Articles 183 to 187.

Article 183 Paragraph (1) of Law Number 31 of 1997 states, "If an act that is the basis for an indictment in a criminal case examination by a Military Court/High Military Court causes harm to another person, the Chief Judge at the request of that person may determine to combine the claim for compensation with the criminal case. From the explanation of the Article, it can be seen that the purpose of combining cases is so that the lawsuit case is examined and decided at the same time as the criminal case in question, while what is meant by losses for other people includes losses for the victim. The claim for compensation referred to in Article 183 (1) of Law Number 31 of 1997 is a claim for compensation arising from the commission of a criminal act.

Here, attention is paid to victims of criminal acts in the form of accelerating the process of obtaining compensation for losses suffered as a result of the defendant's actions by combining their criminal case with a lawsuit for compensation, which is essentially a civil case. The demands submitted are limited to demands for compensation for material losses or real losses, namely, as stated by Harahap, '... the separation between compensation for material and immaterial losses is perhaps based on the idea that material losses are so easy to examine and prove. In contrast, the examination and proof of immaterial losses are very difficult, and it is estimated that they will hinder the smooth examination of the lawsuit for compensation combined with his criminal case.

b) Process of Merging Criminal Cases with Compensation Lawsuits.

If the case file has been entered into the Military Court, the victim can file a request for a Compensation Claim. The request can only be filed no later than before the Military Prosecutor files a criminal charge. Furthermore, based on Article 183 Paragraph (1) of Law Number 31 of 1997, the Chief Judge can combine the compensation claim case with the criminal case. To examine compensation by referring to the provisions of civil procedural law, the provisions of civil procedural law rules apply to the examination of compensation claims. In civil procedural law, the parties referred to in a compensation claim are the Plaintiff and Defendant. The Plaintiff is the person or party who files a lawsuit because they feel that their rights have been violated by someone, while the defendant is the person or party who is sued and brought to court because they are suspected of violating someone's rights. The judge's decision only contains the determination of the penalty for compensation for the costs incurred by the victim.

Regarding the implementation of this compensation, it is first closely related to how the judge's decision or the actions taken by the defendant are stated, of course, against the Decision where the Defendant is clearly proven to have committed a crime so that the defendant must be punished, because here it is clearly proven that the defendant's actions violate criminal law and cause losses to other parties. The right to claim compensation is given to sufferers or victims who directly suffer losses, but it does not rule out the possibility of their heirs claiming compensation. Heirs are not only responsible for the debt or consequences of criminal acts caused by their heirs but also have the right to receive all the benefits left by their heirs. Meanwhile, against the Decision of acquittal or release, the claim for compensation is not granted.

If the losing party is unwilling or neglects to implement the judge's decision, the winning party may submit an application to the Chief of the Military Court, who decides the case either verbally or in writing so that the decision is implemented. For this purpose, the Chief of Court orders the losing party to be summoned and warns them to implement the decision no later than within eight days (Article 196 HIR, 207 Rbg). If within 8 days the Judge's decision is not implemented within eight days or the losing party does not appear after being properly summoned, the Chief of the Military Court, because of his position, orders in writing to confiscate the movable goods belonging to the losing party, in the amount of the price that must be paid plus the costs of implementing the decision. If movable goods are not available or insufficient, the immovable goods are confiscated (Article 197 Paragraphs 1-208 Rbg).

If the defendant is already in detention, the defendant's family is also responsible for compensation. If this compensation is fulfilled, it will be in accordance with the objectives of the Law, which provides guarantees and protection for human dignity and honor. (Abdurrahman and Ridwan Syabrani: 1997). This is not the case if the socio-economic conditions of the defendant and his family are weak, so that they are unable to fulfill this decision, which will result in disappointment for the person seeking justice or for the victim, because it is only a victory on paper. Therefore, the victim who will file a claim for compensation through this case consolidation procedure must consider and pay attention to both the positive and negative aspects. The temporary conclusion regarding the implementation of this compensation is, in principle, the same as the provisions in the HIR, because, specifically for the Civil Procedure Law, the provisions in the HIR (for Java and Madura) and Rbg. for outside Java and Madura still applies.

However, it turns out that there are several shortcomings of Law Number 31 of 1997 concerning Military Justice concerning the provision of this compensation. First, the submission procedure is not simple because compensation can only be submitted through a claim for compensation that is combined with the examination of the main criminal case. In addition, the victim of the crime must be active in the process. He must often communicate with law enforcement officers to ensure that the Military Prosecutor accommodates the process of submitting his claim for compensation. This will certainly take time and money from the victim of the crime. Second, the form of compensation provided is apparently only for material losses. The judge's decision is limited to granting compensation for costs incurred by the injured party. This means that the amount of compensation is only the amount of real or material losses. Outside real losses, such as immaterial losses, cannot be submitted in the consolidation of cases. If immaterial compensation is submitted by the injured party, the judge must declare the lawsuit inadmissible (*niet onvankelijk*) (Harahap, 1985). Submissions for immaterial compensation can only be made through civil lawsuit procedures.

5. Conclusions

5.1. Conclusion

Fraud in civil law differs from that in criminal law. Criminal fraud involves deception to obtain goods, whereas civil fraud involves deceit or trickery that induces someone to agree to a contract. Such agreements may be canceled because they are based on a flawed will. Fraud in agreements is considered an unlawful act, and the principles of good faith and accuracy are key to proving it. Compensation claims fall under civil law and are usually examined by civil courts in Japan. However, Article 183 of Law No. 31/1997 allows compensation claims to be merged with criminal cases under military criminal procedure law, provided that three conditions are met: (1) the act forms the basis of the indictment, (2) the loss arises from that act, and (3) the aggrieved party requests it. This procedure enables the simultaneous examination of both criminal and civil aspects.

5.2. Suggestions

To maintain a balance between the rights of the defendant and the victim, it would be better if Law Number 31 of 1997 did not include Article 185 Paragraph (2). Even though the Defendant has received a criminal or civil verdict, the victim's right to appeal or cassation should still be respected, as it is in the trial process through a pure initial lawsuit. Whether the victim's appeal or cassation is granted should be submitted to a higher level of justice, with the condition that it should not be linked to the criminal case. To be regulated more clearly regarding the merger of compensation claims in both Law Number

8 of 1981 and Law Number 31 of 1997 so that its implementation can run well. In addition, a new mechanism is needed for victims of criminal acts to fight for their rights to obtain restitution. The new mechanism must be regulated in formal law (Criminal Procedure Code and Law Number 31 of 1997 as a reference for the criminal justice system in carrying out its duties. This is also to fill the gaps and ambiguities in procedural law.

References

- Antai, G. O. (2024). Methods of judicial cooperation and the procedure for enforcement under international law; Identifying the nexus between theory and practice. *Newport International Journal of Current Research in Humanities and Social Sciences*, 4(3), 80-88. doi:<https://doi.org/10.59298/NIJCRHSS/2024/4.3.8088>
- Apriyani, R., Susanti, E., Erwinta, P., Sanata, K., & Sakur, M. (2024). Criminal Liability Arising from Medical Malpractice on Patients: A Review from the Perspective of Positive Law And Islamic Law. *KRTHA BHAYANGKARA*, 18(1), 85-106. doi:<https://doi.org/10.31599/krtha.v18i1.2919>
- Arifin, R., Wulandari, C., Utari, I. S., & Munandar, T. I. (2023). A Discourse of Justice and Legal Certainty in Stolen Assets Recovery in Indonesia: Analysis of Radbruch's Formula and Friedman's Theory. *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi*, 6(2). doi:<https://10.24090/volksgeist.v6i2.9596>
- Aryani, F. D. (2024). The Judicial Policy of Ratio Decidendi regarding Corporate Criminal Liability towards Just Judgments. *Indonesia Law Review*, 14, 137. doi:[https://doi.org/10.4335/21.2.441-469\(2023\)](https://doi.org/10.4335/21.2.441-469(2023))
- Diyani, A. F., Hidayat, A., & Saraswati, R. (2021). Application of Strict Liability Concept to Companies that Commit Crimes of Environmental Destruction. *International Journal of Pharmaceutical Research*, 13(1). doi:<http://dx.doi.org/10.30641/dejure.2021.V21.311-320>
- Estiningtyas, A. R., Hasanah, U., & Windari, R. (2024). Comparison of the Legal Regulation of the Rechterlijk Pardon in Indonesia and the Netherlands. *Jurnal Suara Hukum*, 6(1), 162-186. doi:<https://doi.org/10.26740/jsh.v6n1.p162-186>
- Fauzia, A., & Hamdani, F. (2021). *Legal Development Through the Implementation of Non-Conviction Based Concepts in Money Laundering Asset Recovery Practices in Indonesia*. Paper presented at the 2nd International Conference on Law and Human Rights 2021 (ICLHR 2021).
- Guo, Z., Hao, J., & Kennedy, L. (2024). Protection path of personal data and privacy in China: Moving from monism to dualism in civil law and then in criminal law. *Computer Law & Security Review*, 52, 105928. doi:<https://doi.org/10.1016/j.clsr.2023.105928>
- Harahap, M. Y. (1985). *Pembahasan Permasalahan dan Penerapan KUHAP Jilid I*. Pustaka Kartini: Jakarta.
- Hussain, N., Khan, A., Chandio, L. A., & Oad, S. (2023). Individual criminal responsibility for the crime of aggression: the role of the ICC's Leadership Clause. *Pakistan journal of humanities and social sciences*, 11(1), 223-232. doi:<http://dx.doi.org/10.6007/IJARBS/v14-i2/20718>
- Jabbar, M., Yusoff, M. M., & Shafie, A. (2022). Assessing the role of urban green spaces for human well-being: a systematic review. *GeoJournal*, 87(5), 4405-4423. doi:<https://doi.org/10.1007/s10708-021-10474-7>
- Jamaludin, A. (2024). Problems of Determining Suspect Against a Deceased Person In The Investigation Process. *Journal of Law, Politic and Humanities*, 4(4), 810-819. doi:<https://doi.org/10.38035/jlph.v4i4.464>
- Jin, Y., Dewaele, J.-M., & MacIntyre, P. D. (2021). Reducing Anxiety in the Foreign Language Classroom: A Positive Psychology Approach. *System*, 101, 102604. doi:<https://doi.org/10.1016/j.system.2021.102604>
- Lamintang, P., & Samosir, C. D. (2010). *Delik-Delik Khusus Kejahatan yang Ditujukan Terhadap Hak Milik dan Lain-lain Hak yang Timbul Clari Hak Milik*. Bandung: CV. Nuansa Aulia.
- Lea, S. E. (2021). Debt and Overindebtedness: Psychological Evidence and its Policy Implications. *Social Issues and Policy Review*, 15(1), 146-179. doi:<https://doi.org/10.1111/sipr.12074>
- Natamiharja, R. (2024). Peran Negara dalam Menjamin Kebebasan Berekspresi Menurut Konstitusi dan Hukum HAM. *Kajian Ilmiah Hukum dan Kenegaraan*, 4(1), 1-10. doi:<https://doi.org/10.35912/kihan.v4i1.4574>

- Nunn, N. (2022). *On the Dynamics of Human Behavior: The Past, Present, and Future of Culture, Conflict, and Cooperation*. Paper presented at the AEA Papers and Proceedings.
- Nuzulianto, F. M., & Sukalumba, I. S. (2024). Analisis Dampak UU TNI 2025 Terhadap Potensi Terbentuknya Junta Militer. *Jurnal Studi Ilmu Sosial dan Politik*, 5(1), 43-54. doi:<https://doi.org/10.35912/jasipol.v5i1.4481>
- Padgett Walsh, K., & Lewiston, J. (2022). Human Capabilities and the Ethics of Debt. *The Journal of Value Inquiry*, 56(2), 179-199. doi:<https://doi.org/10.1007/s10790-020-09770-1>
- Shcherbanyuk, O., Gordieiev, V., & Bzova, L. (2023). Legal nature of the principle of legal certainty as a component element of the rule of law. *Juridical Tribune-Review of Comparative and International Law*, 13(1), 21-31. doi:<https://doi.org/10.1017/S1876404510100037>
- Silaban, M. B. S., Idham, I., & Erniyanti, E. (2023). Analisis Yuridis Proses Penyidikan Tindak Pidana Kekerasan Seksual Menurut Hukum di Indonesia: Analisis Teori Hukum Positif dan Teori Hukum Responsif. *Kajian Ilmiah Hukum dan Kenegaraan*, 1(2), 71-77. doi:<https://doi.org/10.35912/kihan.v1i2.1912>
- Solanke, A. A. (2022). Explainable digital forensics AI: Towards mitigating distrust in AI-based digital forensics analysis using interpretable models. *Forensic Science International: Digital Investigation*, 42, 301403. doi:<https://doi.org/10.1016/j.fsidi.2022.301403>
- Sugandhi, R. (1980). *Kitab Undang-Undang Hukum Pidana. Usaha Nasional, Surabaya*.
- Supriyadi, A., & Ravaşdeh, A. (2024). Strengthening Muamalah Maliyah's Literacy Understanding of Online Transactions in Indonesia. *Journal of Lslamic Economics and Bussines Ethics*, 1(2), 108-124. doi:<https://doi.org/10.24235/jiesbi.v1i2.130>
- Wilenmann, J. (2023). It is the Interaction, not a Specific Feature! A Pluralistic Theory of the Distinctiveness of Criminal Law. *Criminal Law and Philosophy*, 17(1), 61-70. doi:<https://doi.org/10.1007/s11572-021-09616-2>
- Wirba, A. V. (2024). Corporate Social Responsibility (CSR): The Role of Government in promoting CSR. *Journal of the Knowledge Economy*, 15(2), 7428-7454. doi:<https://doi.org/10.1007/s13132-023-01185-0>
- Zulfa, M. D., Raharjo, E., & Shafira, M. (2024). Policy formulation crime contempt of court based on the national criminal code. *Dynamics of Politics and Democracy*, 2(1), 37-48. doi:<https://doi.org/10.35912/dpd.v2i1.1969>