



Deciphering the Causes of Dispute Settlement of the Crime of Threatening

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Abstract: The purpose of this study was to find out what factors hindered the role of the police in solving criminal threats in the Bone Bolango Regency. The type of research used is empirical research, using data types consisting of primary data and secondary data. Data collection techniques were carried out using interviews, observation, and documentation techniques. The results showed that the factors that hindered the police in disclosing the criminal act of threatening were internal factors consisting of the loss of evidence, then the absence of witnesses, and the difficulty in determining the suspect because the suspect had run away, then there were also external factors, namely the lack of public awareness. However,

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1. Introduction

Indonesia is the highest agreement of the state's formers, even though it has experienced a constitutional test when the 1945 Constitution was amended into the Constitution of the United Republic of Indonesia in 1949, even so, the recognition of the regions under the auspices of the State of Indonesia is still recognized.¹An absolute requirement for state sovereignty is the existence of a society that obeys the Constitution and its government.²Because the essence of the constitution is the conception of the state which is the basis and limitation of the constellation of the state administration system.³Therefore, in legal politics, legal discovery and new law-making that is under the goals of the State is a value that must be implemented to achieve legal supremacy and justice.⁴

In our daily lives, even in society, to make ends meet, there are often crimes and violations committed by certain people and people who threaten some members of society, which in law is known as criminal acts.⁵At present, not only the crime rate or quantity of crime is increasing but also the type of crime or quality has developed rapidly in Indonesia. Criminal sanctions are seen as an effective solution to tackling this problem. Criminal sanctions are a manifestation of the state's responsibility to maintain security and order as well as efforts to protect the law for its citizens. This is a logical consequence of the concept of forming a state which, according to JJ Rosseau, is based on community agreements. Furthermore, the people agreed to enter into a noble agreement (*modus vivendi*) which was outlined in a basic law in the form of the state constitution.⁶Legal protection is needed because of efforts to integrate various needs in associations so that there are no conflicts between needs and can enjoy all the rights granted by law.⁷The state is firmly obliged to try to fulfill the rights of every citizen.⁸

¹Novendri M. Nggilu, "Tinjauan Yuridis Pengaturan Sanksi Pidana Dalam Peraturan Daerah Provinsi Gorontalo," *Lambung Mangkurat Law Journal*. 5, No. 2 (2020): 109-121., 110

²Mellisa Towadi and Nur Mohamad Kasim, "An Indication of China ' s Policy towards Uighurs and Its Implications by International Law Aspects." *Jambura Law Review*. 3, No. 01 (2021): 55-71., 69

³Ahmad dan Novendri M. Nggilu Fakultas, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution of the Constitution Through the the Principle of the Guardian of the Constitution." *Jurnal Konstitusi*. 16, No. 4 (2019): 785-808., 791

⁴Mohamad Hidayat Muhtar, "Model Politik Hukum Pemberantasan Korupsi Di Indonesia Dalam Rangka Harmonisasi Lembaga Penegak Hukum." *Jambura Law Review*. 1, No. 1 (2019): 68-93., 73

⁵Dian Ekawaty Ismail and Mohamad Taufiq Zulfikar Sarson, "Criminology Analysis of Women's as Perpetrators of Domestic Violence Crimes," *Jambura Law Review* 3, no. 1 (2021): 57-76., 58

⁶Ramdan Kasim, "Dehumanisasi Pada Penerapan Hukum Pidana Secara Berlebihan (Overspanning van Het Strafrecht)," *Jambura Law Review*. 2, No. 1 (2020): 1-29., 3

⁷Jufryanto Puluhulawa, Mellisa Towadi, and Vifi Swarianata, "Perlindungan Hukum Situs Bawah Air Leato / Japanese Cargo Wreck The Legal Protection of The Leato Underwater Site" *Jurnal Reformasi Hukum* 24. No. 2 (2020): 189-208., 197

⁸Julius Mandjo, "The Right to Obtain Free Assistance and Legal Protection for The Indigent People Through Legal Assistance Organizations." *Jambura Law Review*. 3, No. 02 (2021): 365-77., 375

Moeljatno uses the term criminal act. Moeljatno defines criminal acts as "acts that are prohibited by a rule of law, which prohibitions are accompanied by threats (sanctions) in the form of certain crimes, for anyone who violates the prohibition". In short, a criminal act can also be defined, namely an act which is prohibited by a rule of law and is punishable by punishment. According to Moeljatno, "the prohibition is aimed at an act, namely a situation or event caused by a person's actions, while the criminal threat is aimed at the person who caused the incident".⁹

According to R Tresna, "consideration or measurement of prohibited acts, which determine which should be determined as a criminal event and which are not considered as criminal events, can change and depend on circumstances, place and time or atmosphere and are closely related to the development of thought and public opinion". What at one time in that place was considered an act to be condemned but did not endanger the interests of society, could at one-time change and be considered a crime. On the other hand, what was considered a crime at another time, because the situation changed, is considered not a dangerous thing.

Prof. Mulyono, SH translated the term *strafbaar feit* into criminal acts. In his opinion, the term "criminal act refers to the meaning of a human behavior that causes certain consequences that are prohibited by law where the perpetrator can be subject to criminal sanctions"

It can be interpreted that way because the word "action" cannot be in the form of natural behavior, because only humans can act and the results are called actions. Criminal acts, criminal events, criminal acts, and acts that can be punished are some terms that at least describe that there has been an event that violates the criminal law regulations (KUHP) or outside the KUHP.¹⁰

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Criminal acts, criminal events, criminal acts, and acts that can be punished are some terms that at least describe that there has been an event that violates the Criminal Code (KUHP) or outside the Criminal Code.¹²

⁹ Sudaryono Natangsa Surbakti, *Hukum Pidana Dasar-Dasar Hukum Pidana Berdasarkan KUHP Dan RUU KUHP* (Jawa Tengah: Muhammadiyah University Press, 2017).

¹⁰ R. Tresna dalam Mohammad Ekaputra, *Dasar-Dasar Hukum Pidana Edisi 2* (Medan: USU PRESS, 2015).

¹¹ Teguh Prasetyo, *Criminal Law* (Jakarta; PT RajaGrafindo Persada, 2011).

¹²Edi Setiadi, *Perkembangan Hukum Pidana di Indonesia*, Graha Ilmu, Yogyakarta, 2013, Hal. 59..

One form of an example of a crime that is commonly heard in society is the crime of threatening. As a rule of law state, it is explicitly stated in the elucidation of the 1945 Constitution "after the amendment", namely article 1 paragraph (3) explaining that Indonesia is a state based on the law (*rechtsstaat*). An indication that Indonesia adheres to the concept of a welfare state is found in the government's obligation to realize state objectives as contained in the fourth paragraph of the opening of the 1945 Constitution, namely to protect the entire Indonesian nation and all of Indonesia's bloodshed, promote public welfare, educate the nation and implement world order.

The rights and obligations of every citizen are the same. This is expressly expressed in the 1945 Constitution Article 27 Paragraph (1) which states that: "every citizen has the same position before law and government, and is obliged to uphold law and government without exception.

Indonesia is currently one of the countries that are developing and experiencing change, trying to continuously improve development in various fields by the development direction of national development towards a developed country. Besides these changes, there were also various kinds of problems or incidents that the government itself had to pay attention to, one of the cases that occurred was the case of the threat itself.

Living in society, everyone will not be separated from the interaction between one individual and another. As social beings, humans will not live if they do not interact with other humans. With frequent human interaction with each other. So it can cause a relationship between two or more individuals that is negative and can cause harm to one party. This is now often referred to as a crime. In the occurrence of a crime, there are two parties involved, namely the perpetrator and the victim.¹³

A car mechanic has finished repairing a car from someone, but the old car was not taken by the owner, while there was a car that took up a lot of space: so that the car could be taken immediately, the mechanic forced the owner by threatening to damage the car again. The mechanic can be subject to this article

Another example is a father who forces his child who is not yet an adult not to go to certain places, this article cannot be imposed, because that coercion does not violate rights.¹⁴

According to Article 1 Paragraph (6 and 8) of the Law of the Republic of Indonesia No. 31 of 2014 concerning changes to Law No. 13 of 2006 concerning the protection of witnesses and victims which reads: 1. Threats are any form of action that causes consequences, either directly or indirectly, so that witnesses and/or victims feel afraid or forced to do or not do something related to giving their testimony in the form of a criminal justice process. 2. Protection is all efforts to fulfill rights and provide assistance to provide

¹³ Admin SMP, "Mengapa Interaksi Sosial Itu Penting?," kemdikbud, 2021.

¹⁴ R. Soesilo, *Kitab Undang-Undang Hukum Pidana (KUHP)* (Bogor: Politeia, 1995).

a sense of security to witnesses and/or victims that must be carried out by the LPSK or other institutions under the provisions of this law.¹⁵

Regarding crimes that disturb the peace and comfort of this community, in the opinion of the author, if the community wants peace, justice, and prosperity, then the main requirement is to comply with legal principles in addition to other supportive attitudes, however, compliance with the law will not It can happen by itself without any motivation. Apart from the community, other parties are obliged and have full responsibility for the order, comfort, and protection of the community itself. These parties include the police, the police are law enforcement organizations whose main duties are to serve, protect and protect the community.

The main tasks of the Republic of Indonesia National Police according to Article 13 of Law Number 2 of 2002 are:

- a. Maintain public order and security;
- b. Upholding the Law; And
- c. Provide protection, shelter, and service to the community.

Meanwhile, article 14 (1) states that in carrying out the main tasks referred to in article 13, the Indonesian National Police are in charge of:

- a. Carry out arrangements, safeguards, escorts, and patrols of community and government activities as needed;
- b. Carry out all activities in ensuring security, order, and smooth traffic on the road;
- c. Fostering the community to increase community participation and adherence of community members to laws and regulations;
- d. Participate in the legal development of national legal development
- e. Maintaining order and guaranteeing public security;
- f. Coordinating, supervising, and coaching the special police, civil servant investigators, and other forms of self-defense;
- g. Carry out investigations and investigations into criminal acts under criminal procedural law and statutory regulations;
- h. Organizing police identification, police medicine, forensic laboratories, and police psychology for the benefit of police duties.

¹⁵Law of the Republic of Indonesia Number 31 of 2014

- i. Protecting the safety of body and soul, property, society, and the environment from order and or disaster including providing aid and aid by upholding human rights;
- j. Serving the interests of the community members is temporarily handled by the competent authority and/or party;¹⁶

Based on the data I got at the Bone Bolango Police Station. As the results of the data obtained by the researchers, namely, there were 15 cases recorded, among others, can be shown in Table 1.1 below

Table 1.1 Comparison of Data on Threats Cases for the Last 3 Years in the Legal Area of the Bone Bolango Police

NO. DESCRIPTION	2020 2021 2022		
	L	S	S
1. THREATENING	6	5	2
arrears	2	1	0

Source: Bone Bolango Resort Police

Description: L = Report S = Done

In 2020 there were 6 cases, in 2021 there were 2 cases, and in 2022 there was 1 case of threatening crimes in the last 3 years. The forms of threats that occur are in writing such as messages, electronic media such as social media, and there are also verbal threats or direct threats using sharp weapons. However, there is a gap, especially in terms of resolving threatening cases in Article 335 of the Criminal Code, which is in the process of fulfilling evidence in the investigation, investigation is the action of the police to find facts or reveal crimes by asking who, what, where, how and why the crime was committed. it's done.¹⁷

Based on the description and data above, prospective researchers focus on studying what causes cases and criminal acts of neglect which are entitled "**The Role of the Police in Completion of Criminal Acts of Threatening in the Bone Bolango Regency Area**".

2. method

This type of research is this empirical research whereas legal research serves to see the law in a real sense and examine how the law works in society. Because this research

¹⁶Law of the Republic of Indonesia Number 2 of 2002

¹⁷ Johan Yasin Iriyanto Tiranda, Fenty Pulu Hulawa, "Konsep Ideal Penanganan Perkara Tindak Pidana Korupsi Pungutan Liar Berdasarkan Asas Peradilan," *Jurnal Jambura Law Review* 1, no. 2 (2019): 123.

examines people in law living in society, empirical legal research can be said to be sociological legal research. It can be said that legal research is taken from facts that exist in a society, legal entity, or government agency. Data Types, Prime Data, and secondary data. Data analysis used is a qualitative approach to primary data and secondary data. This description includes the content and structure of positive law, namely an activity carried out by the author to determine the content or meaning of legal rules which are used as references in resolving legal issues which are the object of study.¹⁸

3. Analysis And Discussion

Factors that Obstacle the Process of Completion of Threatening Crimes in Bone Bolanga Regency

The discussion specifically or separately is related to problems that often arise in the investigation process, namely on the results of interviews, it was found that there were factors that hindered the process of completing the criminal act of threatening in Bone Bolango Regency, this is as stated by Bripka Alfadh, that the obstacle is the loss of goods evidence, there were no witnesses and the suspect was not in place or fled. While other investigators who were interviewed also stated the same thing, that so far the factors that have become obstacles in the process of resolving criminal threats in Bone Bolango Regency are the loss of evidence and witnesses or suspects running away.¹⁹

Thus the researcher can conclude that the factors that become obstacles in the process of resolving the criminal act of threatening in Bone Bolango Regency lie in the loss of evidence, the lack of witnesses, and the perpetrators who have fled. While the efforts made by investigators in uncovering the incident are still being carried out optimally based on the procedures and legal norms in force.

Other investigators who were also interviewed by researchers, namely First Brigadier Franki related that there were still several cases of threats by the Bone Bolango Police because this was due to the fulfillment of evidence that did not meet the requirements or in other words the evidence was not fulfilled, so the case file was returned.²⁰

Regarding the warrant for termination of investigation (SP3) regarding the alleged criminal act of threatening in Bone Bolango Regency, the investigator also acknowledged

¹⁸ Hamdan Tuna, "Peran Penyidik Dalam Mengungkap Peristiwa Tindak Pidana Pencemaran Nama Baik Ditinjau Dari Penegakan Hukum Pidana" (Universitas Negeri Gorontalo, 2015).

¹⁹Interview with Mr. Bripka Alfadh as the Staff of the General Crimes Section, Bone Bolango Police. Monday, February 6, 2023

²⁰Interview with Mr. First Brigadier Franki as Staff of the General Crimes Section, Bone Bolango Police. Monday, February 6, 2023

that this applies to all types of criminal acts, if there is insufficient evidence, or the reported event is not part of a crime or the perpetrator has died, the case file must also be stopped by the investigation process.

Based on the results of these interviews, the researcher can conclude that what hindered the process of resolving the criminal act of threatening in Bone Bolango Regency was due to several reasons, including the absence of witnesses, loss of evidence, or the perpetrator fled, the threat of punishment contained in Article 221 of the Criminal Code which had been investigated by researchers. explain in the explanation above.²¹

To overcome this obstacle, it is necessary to increase legal understanding and legal awareness for the community correctly and broadly. Once again there is an increase in legal awareness, not just an increase in awareness of the law broadly, as well as the existence of space for community participation properly and properly.

The journey of enforcing criminal law in Indonesia started over a very long time, at least that can be measured from the enactment of Law Number 08 of 1981 concerning the Criminal Procedure Code. During that period, the practice of criminal law enforcement in Indonesia has always experienced dynamics. Society no longer considers the state apparatus of law enforcement as a scourge to be feared, with this transparency the public understands more and more what parameters are used by law enforcement officials in carrying out their duties, especially in the case of investigating and prosecuting criminal cases because the public perceives apparatus as just workers as ordinary workers, not as "angel of death". What's more, the facts show that the community is still at the forefront in the field of understanding the law rather than the police.

This is possible because police education emphasizes completing the program in the time needed, and we can see for ourselves that police education only comes from a high school-level educational background to become a police officer. Although now the situation has begun to change where police education prioritizes from the undergraduate level. In the case of investigations or law enforcement of criminal cases in Indonesia, the community always takes on the role of "monitoring" the performance of the police as investigators, and the prosecutor's apparatus as public prosecutors.

Professionalism and unprofessionalism in handling criminal law enforcement problems in Indonesia can usually be measured by whether the case file is often stated as P.18 or not as P.18 by the public prosecutor. However, we also have to honestly admit that it does

²¹Interview with Mr. First Brigadier Franki as Staff of the General Crimes Section, Bone Bolango Police. Monday, February 6, 2023

not mean that the case files go back and forth to investigators for reasons P.18 or P.19, namely because the case files are indeed incomplete or do not meet the requirements. Various are understood through one particular point of view, which includes the meaning, scope, and sanctions that need to be known in the Criminal Code.²²

Based on this, the researcher concluded that the factors that hindered the process of resolving the criminal act of threatening in Bone Bolango Regency were due to several reasons, the gap in the case was because the perpetrator had disappeared or had fled, the loss of evidence, the absence of witnesses who saw the incident made the investigative process was hampered. So that it can take a relatively long time, and the investigator must find information and uncover who is the perpetrator of the crime of threatening.

Under the articles previously determined in the threat case, namely Article 335 paragraph (1) and paragraph (2) of the Criminal Code, what must be proven in this article is that there is a person who violates his right to be forced to do something, or not to do something. or allowing something, coercion is carried out by using force, some other action or an unpleasant action, or threats of violence, threats of other actions, or it can be said to be an unpleasant act, either towards that person or other people. This act can be said to be a complaint offense, whereas in Indonesian law a complaint offense is an offense that can only be processed if it is complained of by a person who feels aggrieved or what we usually call a victim.

Violence can also make a person depressed, crazy, or called a psychological health problem in the victim's mind, in the end, a person's soul is disrupted because of danger. This causes a person to feel that his soul is broken which will be very uncontrollable in his life, not only weak if it is too severe it can cause frenzy, harm, and death. The effects caused by the danger may last quite a long time, not only that, the wound will continue to exist and turn into a fantasy in the victim's brain. The result of an unpleasant act which more precisely states:

1. Feeling uncomfortable is something that creates a feeling of discomfort. Over time, if something is often discussed, it will cause fear, in other words, someone will feel uncomfortable and feel anxious.
2. Worries about his life problems or personal problems or problems with other people.

²²Interview with Mr. First Brigadier Franki as Staff of the General Crimes Section, Bone Bolango Police. Monday, February 6, 2023

3. Annoyed by someone doing unwanted things.
4. Fear, like a threat from someone, causes people to feel excessive fear.

This crime of threats is very detrimental to society. Lack of socialization, even though socialization has been carried out by the police, there are still people who due to economic necessity are forced to commit criminal acts of threats without thinking that other parties feel disadvantaged by the incident.²³

Public legal awareness is still very low causing perpetrators without thinking long to commit crimes without thinking about whether other parties feel disadvantaged. Therefore, even though socialization is carried out, this does not receive a positive response from the community itself, especially the perpetrators, so this will harm the perpetrators themselves with the threat of punishment contained in the laws and regulations. Besides that, victims often report these incidents after a long time or several days after the incident occurred.²⁴

4. Conclusion

Based on the results of the analysis and discussion that have been described above, it can be concluded that the factors hindering the role of the police in the process of resolving criminal threats in Bone Bolango Regency lie in the loss of evidence, the lack of witnesses and the perpetrators who have fled. By the threat of sanctions in Article 221 of the Criminal Code which provides punishment for the perpetrator who has deliberately committed an act that is contrary to applicable law. Maintaining the unity between the legal structure (structure), legal substance, and culture (culture), then from this unity the road to equality for each region and individual for each Indonesian society and maintaining unity. In the Criminal Code, the danger of cruelty which is the legal basis for the criminal act of threatening is directed at Article 335 paragraph (1) of the Criminal Code.

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²³Interview with Mr. Bripka Alfadh as the Staff of the General Crimes Section, Bone Bolango Police. Tuesday, 7 February 2023

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