

Criminological Analysis of the Crime of Fraud with Supernatural Modes of Treatment in the Perspective of Positive Law and Islamic Law

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Abstract: The purpose of this study is to find out the factors causing the occurrence of fraud crimes with supernatural treatment modes, to find out how to overcome fraud with supernatural treatment modes and to see islamic law views on the crime of fraud with supernatural treatment modes. It is the term that will be used in this study as normative juridical and empirical juridical. The results showed that the factors causing fraud crimes with supernatural treatment modes are lifestyle, economy, environment, socio-culture, education, ease of committing fraud crimes, desires, society and family from some of these factors, these factors economic factors are quite dominant causing perpetrators to commit crimes. Efforts to overcome fraud with supernatural treatment mode are penal efforts by cracking down by providing imprisonment for 1 (one) year 3 (three) months and countermeasures through non-penal by means of pre-emptive efforts, preventive efforts and pre-emptive efforts. The suggestions in this study are as follows, among others: 1) Conducting legal counseling to the community. (2) The public should always be aware of all forms and forms of treatment commonly carried out by psychics and law enforcement officials in order to provide an appeal to all members of the community. In Islamic law, it can be seen that perpetrators of fraud crimes in supernatural mode can be subject to ta'zir punishment in the form of imprisonment, volume, exile, reprimand, warning, murder and other sanctions according to the circumstances, time and place of the perpetrator.

Keywords: Criminologist; Supranatural; Perspective Law

1. Introduction

Criminal law is one of the forms of law that exists in the Indonesian state, it is because the criminal law is regulated in the Criminal Code or better known as the Criminal Code, the Criminal Code has existed since the Dutch era, therefore the contents of the Criminal Code are still widely adopted from Dutch relics. However, the principles contained in the Criminal Code have been adapted to the circumstances of Indonesian society ranging from social, cultural, economic and political, therefore in the principles that are contained in the Criminal Code become the benchmark of all criminal provisions outside the Criminal Code, one of which is criminology. Criminology is a science that explains crime with the object of the perpetrator who commits the crime, criminology is a science that comes out first and then followed by victimology and sociology. Fraud is a behavior or seizure that is carried out intentionally by providing dishonest or false information with the aim of getting as much profit as possible personally or in groups. [1]

The mode of deception carried out by individuals has many variants, one of which is to commit fraud with supernatural treatment mode. This mode is still relatively new and quite easy to do by people because the perpetrator is quite capitalized with good communication and convincing even though it contains lies and false hoaxes. The increase in fraud cases with various modes is due to the increasing ability of a person to carry out various modes of fraud, so that fraudulent crime activities are increasingly pervasive as if they will not run out and do not bring a deterrent effect to the perpetrator even though criminal sanctions have been given. This happens because of the ease with which they get benefits quickly, the lack of jobs and excessive lifestyle, causing someone to be desperate to commit fraud crimes in various modes.

Article 378 of the Criminal Code explains that objective elements such as fraud include whoever, exposing others to hand over objects, entering into an engagement and negating a receivable by using a false name, false nature, deception and words that invoke elements of lies. Meanwhile, the subjective element in Article 3768 of the Criminal Code is his actions that are self-beneficial by unlawful means. However, the elements in Article 378 of the Criminal Code are relatively difficult to apply in the prosecution of fraud with a person claiming to be a supernatural practitioner with a mode of treatment, this makes law enforcement must be very careful and wise in establishing sanctions for the crime.

In Islam, it also strictly prohibits and prohibits all forms of criminal behavior because it is a crime of fraud, it is because fraudulent activity is a crime committed by an individual by behaving to lie to others for his own benefit, and his actions are a way that is against the right in order to obtain greater personal guidance both in kind and money, Therefore, imitation is part of the way to make a profit in a pre-trial manner with a way of lying so as to cause other people to experience losses. [2] Therefore, Allah SWT strongly opposes and prohibits the crime of fraud, it is because Islam sanat opposes all bents that harm others plus the strengthening is carried out in a supernatural mode where Islam also strongly prohibits destruction and shirking because slavery is the same as confirming Allah SWT So that what is done by someone who commits a crime of fraud in supernatural mode will get considerable sanctions from Allah SWT because his actions not only harm others because they have destroyed the property and rights of others in the world but are also very hated by Allah SWT because he is willing to obey Allah SWT. Surah Al-Baqarah verse 188 means:

And let not some of you eat the treasures of some of the yaanglaain among you on the path of yaangbathil and (do not) kaamu take (the affairs of) the haarta to the judge, that kaamu may eat some of the other person's property by (the way of) sin, Even though you know (QS. Al-Baqarah [2]: 188).

Based on the explanation of the above verse, it can be known that his actions that deliberately control the property of the ain in an improper way, Islam is strictly prohibited and his deeds are included in the grave sin, in Islamic law the punishment of criminal sanctions will be given to the perpetrators of criminal acts of fraud with a supranatural mode and not in the form of sanctions because so that in Islam for perpetrators who commit criminal fraud will be subject to ta'zir punishment, Ta'zir is part of the punishment for violations that have been regulated in the hadd law because in determining the punishment of sema is spread to human itdihad or handed over to Ulil Amri who has the authority to give punishment to the perpetrator of the criminal act of fraud in supernatural mode but in imposing sanctions for the perpetrator must also pay attention to the perpetrator's guilt, time and place. It is called taa'zir because the punishment actually prevents the convicted person from returning to the finger or with the word lain making the perpetrator deterrent. [3]

Fraud with the supernatural mode of treatment akhr-lately marateradi in areas that are still far from progress, as an example of a case that occurred in the jurisdiction of the Great City of Tanggamus Regency, where this mode of supranatura treatment still occurs due to the high number of people in the Great City of Tanggamus Regency who still believe in mystical things in the process of curing diseases rather than having to go to the medical or see a doctor. The following are examples of cases of fraud with supernatural treatment mode:

The defendant committed fraud with the supernatural treatment mode, the defendant committed fraud with the total loss suffered by the victim was Rp.216,000,000 to trick the victim and make the defendant ask to pay for treatment in installments 7 times every time he came for treatment. Nammun because he did not recover and his bail was lost, making the victim feel deceived by the defendant plus many people explained that the defendant was not a supernatural practitioner but only a housewife, therefore the victim reported this incident to law enforcement

From the case above, it shows that supernatural existence as someone who is considered capable of providing healing for some people is still in demand, therefore supernatural practices are still thriving and developing quite with pesar. This happens because of the need to get a decent job and the increasing cost of living and for people who use supernatural services in medical activities due to the high cost of health if they want to goto the hospital or kinik, so that many people choose alternative medicine that is cheaper, has no side effects and so on.

The enthusiasm of the public to use supernatural treatment services turned out to be used by a group of people to get personal benefits by committing fraud that involves supranatura practitioners who are able to respond to various diseases. To facilitate the mode, usually the perpetrator also advertises on various sites or websites that can be accessed by the wider community, this practice is usually the perpetrator disguised as a ustad, spritual teacher and so on the purpose is to better convince the victim. [4]

The problem approach used to solve this problem is a normative juridical approach. The normative legal approach is a challenge by carrying out legal studies as the main focus that is considered relevant to the research

to be studied, therefore in the normative legal approach it is better known as written law. Done by seeing, reviewing various sources of law, legal principles, legal history and comparing various sources of law.

2. Research Methods

The research method used in this study is a normative method using fraud crime approach by way of Supernatural treatment in the perspective of positive law and Islamic law and will be analyzed in description.

3. Results and Discussion

1. Factors Causing Fraud Crimes with Supernatural Treatment Mode

Based on the results of the study, it is known that there are several factors that cause perpetrators to commit criminal acts of fraud through supernatural mode, including:

a. Lifestyle factors

This factor is the main factor that influences a person to commit a crime of fraud, lifestyle is the main causal factor because usually the perpetrator does not want to be rivaled by his friends wanting to look rich and more modern compared to other people. A person who will not be satisfied with his lifestyle will continuously make various efforts to fulfill his lifestyle even in ways that violate the provisions of the law, with this motivation makes the perpetrator not hesitate to make fraudulent attempts, because by committing fraud it will very quickly get profits. [5]

The accused of fraud with supranatural mode of treatment explained that I was affected to carry out this fraudulent activity because I had high needs of life and did not match my income and desire to live well in a quick way I wanted to look like a rich man like my friends when gathering considering that my friends were average people who were quite located.

b. Economics

The economy is also one of the triggers for someone to commit fraud crimes such as what happened in Kota Agung, where the people there are still sultanates in meeting the needs of daily life, therefore some people decide to be desperate to do unlawful acts by committing fraud with supernatural treatment mode. In a sociological theory, it is explained that a person is desperate to violate legal norms because of differences of opinion. [6]

Thus, economic factors have a fairly close relationship with the income of individuals, the more they meet their daily needs due to their low income or daily income, the potential for fraud will be greater. Considering that in the Great City, most of the criminal activities of fraud are carried out by orang who do not have the employment of tetap or unemployment things are called to encourage the peilaku to carry out welfare in various modes, one of which is the suapranatural mode of treatment.

c. Environment

The accused of supranatural treatment explained that the community environment here is an environment that is still thick with paranormal or supernatural practices so that everything is connected with supernatural things.

Based on this, the defendant's environment (residence) is a driving force to commit fraud crimes with supernatural treatment mode, so that thus a person's environment turns out to be quite influential on the formation of the character concerned, if the environment is good, it is likely that his behavior will be good, but if he associates with a person is not good, it is likely to be affected so that many criminals use the method of this is to the detriment of others. [7]

d. Socio-cultural

Socio-culture is an important part of people's habits, meaning that someone commits fraud using supernatural mode because of the habit of people who still believe in klenic or mystical things. Always use things that blend in the occult in every activity including in carrying out medicine Where the people in Agung City still preserve shamanism or supernatural in medicine or others. The culture is still strong enough for perpetrators to launch their mode by committing fraud.

e. Education

Education also has an influence on committing the crime of fraud, because the lower the level of understanding related to hukm, the lower the awareness to obey the law. A person gains an understanding of the law from formal education as well as non-formal education that exists in the family environment. This means that if the family also does not have a good education or is prosecuting, the offender of someone committing an

offense will also be even greater. Education is very important to provide understanding to the community to be able to obey the law the more obedient the law, the crime of fraud will also be easy to prevent because the public has a high awareness of obeying the law and knowing the behavior committed is a violation of the law that will get criminal sanctions.

Based on the results of the study, it is shown that the defendant has a low education only completing elementary school education, so the defendant has no knowledge of the legal consequences that will be borne, besides that by only completing elementary school education the defendant also has difficulty getting a decent job so that it is difficult to meet the needs of daily life so that the perpetrator is desperate to commit fraud.

f. The ease of committing the crime of fraud

The accused of deception with supernatural mode of treatment explained that I used supernatural mode because this method is more effective to use considering that the people here still strongly believe in the ability of shamans in everything including curing diseases besides that my background often performs occult rituals as well as other hindu societies so many people believe that I am a supernatural person. In addition, the items I need for ritual activities are also easy to find and cheap in price, making it easier for me to find and buy and smoothing the mode of fraud that I do. [8]

g. Desire factor

Based on the results of the investigation, it is known that it is clear that the defendant Umidahbinti Tasimin told the victim to sell various assets, namely property owned for the recovery of the disease suffered by the victim during and left the money from the sale of these assets in the victim's house but this did not have an impact on the recovery of the victim here it is very clear that the perpetrator has a desire to commit a criminal act of fraud in supernatural mode, where the perpetrator gives directions to the victim that the proceeds of the sale must be lived in the perpetrator's house with the aim that the money from the sale can be easily owned, with this the perpetrator easily gets hundreds of millions of money just by capitalizing on gimmicks and supernatural tools owned. [9]

h. Family factors

Based on the results of the study, the perpetrators of criminal fraud with the mode of treatment, most did not know that one of their family committed a crime, namely arresting someone and even the victim of the suspect was his own neighbor. The lack of control from the family is one of the causes of the criminal act of fraud with this supernatural mode of treatment. The family is indifferent to the behavior or activities of the perpetrator, resulting in the perpetrator committing his crime. Families who know that one of their members is not criminal in the mode of treatment are not as strict as forbidding or preventing such acts, they just think that the most important thing is that their daily needs or needs can be met. [10]

i. Community factors

Community factors also have a hand in the formation of fraud crimes, the attitude of people who are indifferent to not knowing about environmental conditions is a trigger for someone to commit a fraud crime. From the results of the study, it shows that the community in the defendant's area is a society that does not care about the state of the environment, there is no concern with neighbors and the high number of behaviors that deviate from legal norms such as the community in the defendant's environment is a society that often commits gambling, drugs, theft and so on. [11]

2. Efforts to Overcome Fraud Crimes with Supernatural Treatment Mode

In the process of law enforcement in Indonesia or positive law, law enforcement efforts carried out by law enforcement officials based on positive law are through how many things, including:

a. Non-penal efforts

Non-penal efforts are efforts through prevention carried out by law enforcement officials with the aim of tackling crimes committed by law enforcement officers in non-penal activities are as follows:

- 1) Conducting counseling to all levels of society
- 2) Disseminating various information through the media
- 3) Conducting counseling and socialization by involving agama figures, adat figures and community tokoh
- 4) Synergize with the community to prevent the occurrence of criminal acts of fraud, with synergy with the community perpetrators who want to commit fraud will not dare so that this can minimize the occurrence of criminal fraud.

b. Penal effort

Penal efforts are repressive law enforcement efforts carried out by law enforcement officials with the aim of providing criminal sanctions to criminals by imposing prison sentences and other legal sanctions. This sanction is given to perpetrators of fraud crimes in order to provide a deterrent effect for the perpetrators so as not to cash in their actions again in the future.

3. Islamic Law's View of the Crime of Fraud with Supernatural Treatment Mode

Islam has made a rule that is clearly related to Islamic law, this Islamic law is made as an effort to sanction acts committed by a person, but this sanction is only Ulil Amri, who is willing to give or impose through various provisions of laws and regulations namely the sanctions provisions contained in the law are inseparable from the Quran and As-sunnah in other words, the sanctions given really come from the original source, yatu Allah. his has been explained in Q.S Al-Muthafifin verses 1 to 6 which clearly explains that there is a reason to cheat and harm others in any way from reducing the scales, reducing the dose of the verse is very clear Allah Almighty made up his pests to do steals and harm others including how to deceive. Prophet Muhammad SAW said that uma muslik is prohibited from buying and selling by deceiving the Messenger of Allah to aim for an item whether it is defective, clear or un in good condition and fraud is prohibited by Allah Almighty.

Based on this, it is very clear that the criminal act of fraud is very much charred by the Quran because the act is a dzalim act because it has harmed others by taking away the rights of others and is included in a major sin. In Islam, the provisions of Islamic law have been explained in full and detailed sanat in the Quran and As-Sunnah including violations for the crime of fraud although the verses of the Quran do not clearly mention sanctions or rules that are not criminal fraud or tafsilī but are more ijmalī in nature. The provisions in this case the legal provisions clearly and unequivocally of the Quran and As-Sunnah allow the application of rayu to determine the punishment for perpetrators of criminal acts of fraud because rayu is directly derived from the Quran and As-Sunnah. Thus, the object of law or deed that belum has the certainty of hukuūm as far as the paasti baaik in the Quran and As-Sunnah, because there is a daliilnya teer, then it is open to the jaalan to do ijtiihad in daalam upaaya seeking the certainty of the law.

Based on the provisions in Islamic law regarding the criminal act of fraud, if you look at the acts and elements of fraud, the criminal act of fraud in Islam is the same as other criminal acts that have been regulated in Islam, where the criminal acts have their respective sanctions, the criminal act of fraud in Islam is equated with several types of crimes such as:

a. Ghulul or culas

Ghulul or cuas is an act that deliberately hides acts into an item or daily activity by committing treason, deceiving and behaving ignorantly to everyone including the closest people such as family and friends. The goods that sring get the behavior of culas are booty goods, in the case of the doomsday all forms of deception on the goods will be carried on their shoulders, this is done as a form of doom given by Allah Almighty to the person with the culaas. Stealing or betraying the treasures of war rampsana (ganimah) is an act that is forbidden in Islam. This is not said to be because ganimah is an act that can cause the breakup of unity, as long as it can encourage muslims to busy themselves with the theft of this property, from that, it will turn the muslimiin against the enemy, therefore the act of ganimah is one of the great sins according to the ijma' of the muslims. [12]

b. Ghasaba or taking someone else's property by molestation

Literally ghasab is the way in which a person possesses another person's property in a way that is senagajja and done by coercion. Or in other words Ghasab can also be interpreted as the fig of a person taking someone else's property without the permission of his property with elements of coercion and violence. Therefore, in the definition of blatant argument, makaaghasab is different from the fact that one of the usurs is a clandest-stealth, paraaulama has agreed thataghasab is a forbidden and forbidden act. Ulamaamazhab Shafi'iadan mazhabaHambali defines dghasab as the ruler of another's property arbitrarily or unlawfully.dThis definition is more general than the previous definition1, because according to themaghasab it is only taking material1harta but also taking advantage of an object.[13]

c. Sariqah

Sariqah is linguistically derived from arabic which means theft. Al-Sariqah is taking other people's property from their proper storage secretly and secretly. According to Abda al-Qadir Awdah, what is meant by theft is the act of taking other people's property in a hidden manner. While according to. Quraish Shihab,

stealing is to secretly take away other people's valuables that are kept by the owner in a reasonable place, and the thief is not allowed to enter the place.

d. Khianat

The word khianat comes from the Arabic word *yag* is a form of verbal noun or *masdardati* verb *khanaayakhainu* which means the attitude of non-existence of a person when given trust. Thus the expression treason is also used for a person who violates or takes away the rights of another person and can also be in the form of unilateral cancellation of the agreement he made, especially in matters of accounts receivable or *muamalah* problems in general. Treason is the attitude of not fulfilling a promise or a mandate entrusted to it. While hypocrisy is an attitude of *mbivalen*, outside he has faith but in his heart remains infidel, saying something that does not correspond to that in his heart. The expression treason is also used for a person who violates or takes away the rights of others, can be in the form of unilateral cancellation of the agreement he made, especially in the matter of *muamalah*. While in hypocrisy, the problem at hand concerns the issue of treasonous beliefs and behaviors is also used for a person who violates or takes away the rights of others, can be in the form of unilateral cancellation of the agreement he made, especially in the matter of *muamalah*. While in hypocrite, the problem faced concerns the problem of belief and behavior. [14] According to *fugaha* a person can be sentenced to death, such as the death penalty imposed on an apostate person, if he betrays religion and the state. An apostate Muslim is considered to have betrayed his country and community. In one of the hadiths of the Prophet Muhammad SAW it is stated that it is not *halal* the blood of a Muslim except: apostate, accusing a person (both male and female) who has been married of committing adultery, a person who exiles himself from his worshippers, (HR. Al-Bukhari). [15]

4. Conclusion

Based on the description of the discussion and study that the author has done, the following conclusions can be given:

1. The factors causing the realization of the existence of fraud with the modus of supernatural medicine are *hidupgaaya*, economics, community environment, socio-cultural, and education, youth to carry out welfare, there are desires, family and community
2. Efforts to overcome addiction with supernatural treatment modus are carried out in penal and non-penal ways
3. In Islamic law if a crime for which the penalty has not been determined then the punishment given is *ta'zir*. In this case, the punishment that can be given to the crime of fraud in Islamic law is *ta'zir* where this punishment can be in the form of imprisonment, volume, exile, reprimand, commemoration, murder, and so on.

From the conclusions drawn, researchers can provide advice for perfection in the enforcement of fraud laws in supernatural mode:

1. Conducting *hukuum* counseling to all levels of society to prevent the occurrence of criminal acts of fraud by functioning religious figures, intensifying religious and community guidance activities
2. The public should also always be wary of all forms of crimes committed by irresponsible persons, especially beware of those who offer treatment through the supernatural.

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