

LEGAL REVIEW OF MURDER THROUGH 'SANTET' IN THE LEGAL PERSPECTIVE OF INDONESIA (A STUDY OF LAW NO. 1 OF 2023 REGARDING 'SANTET')

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Abstract: "Santet" is one of Indonesia's cultural legacies that draws the attention of many communities due to its invisible movements, yet its impacts can inflict suffering on an individual's mental and physical well-being. Typically, the perpetrator sends "santet" to someone fueled by resentment, which subsequently fosters hatred, ultimately leading them to consult a shaman to cast a curse on the disliked individual. It is not uncommon for a person to lose their life as a result of being cursed. "Santet" is generally believed to be an act capable of causing harm to an individual through mystical means. The harm caused by "santet" can be directly observed on the victim but is challenging to explain medically. In various cases, it is common for the victim to experience unexplained pain or wounds due to foreign objects inside their body, although the origin of these foreign objects cannot be medically accounted for. These foreign objects can be nails, iron, needles, hair, or other sharp items. In extreme cases, "santet" can even lead to death, causing public concern over deaths that are difficult to legally attribute to curses. Murder through "santet" is considered difficult to prove materially, rationally, and logically, despite numerous cases of such instances occurring in various communities. Murder is inherently illegal; however, the use of "santet" as a means of committing murder cannot be substantiated as a concrete basis for legal proof. Law No. 1 of 2023 only regulates individuals or shamans who admit to possessing knowledge of "santet" and must meet specific criteria outlined in Article 252 of the Indonesian Penal Code (KUHP) in their practice of casting curses. The Indonesian legal system, based on formal and rational principles, processes actions that are concrete in nature, possess distinct characteristics, and can establish cause and effect relationships. The act of performing "santet" is far removed from human comprehension and is challenging to accept within the formal legal framework and prove concretely. "Santet" itself is a facet of black magic that is believed to persist. From ancient times to the present, the intent and purpose behind those who practice "santet" are usually negative, aiming to harm, destroy, or cause damage. This is achieved by inserting objects into the victim's body with the assistance of supernatural beings such as spirits and demons. Article 252, Paragraph (1) of the Indonesian Penal Code, stipulated in Law No. 1 of 2022, imposes criminal penalties for those who engage in "santet," with a potential sentence of up to 1.5 years. Philosophically, "santet" can be classified as a criminal act due to its recognition and belief in its existence within society, leading to distress and harm. However, it cannot be prevented or eradicated through legal means, as "santet" is abstract and its legal proof presents challenges within the Indonesian legal system.

Keywords: Murder, Santet, Legal Perspective in Indonesia

I. INTRODUCTION

Indonesia is a country rich in living cultural heritage within its communities. The diverse cultures in Indonesia have given rise to various traditions with strong beliefs in mystical elements. Society's belief in mystical phenomena remains deeply rooted, creating its own myths amidst the population. The community's perspective on "ilmu santet" (curses or black magic) has led to its integration as a cultural norm. The spiritual aspect of Indonesian society is profound, with various religions serving as sources of morality and spirituality deeply ingrained as part of traditions that have never been abandoned. This high spiritual value has solidified the Indonesian people's belief in a higher power and spirits existing around humans, a belief that is prevalent in every region. These convictions are expressed through diverse rituals and practices that encompass matters of worship, devotion, and even actions that extend beyond matters of faith, such as healing or causing harm to others. While some regard these rituals as offerings to beings other than God, often unseen entities, with the aid of shamans or individuals believed to possess such abilities. Thus, certain individuals have the power to inflict harm, including death, from a distance without physical contact. "Santet" is an intangible phenomenon, thus classified as mystical. In criminal law, "santet" is also addressed as an object within legal provisions. The definition of "santet" involves supernatural acts performed through spells, incantations, talismans, and

involving demons, which can influence the body, heart, or mind of the bewitched without physical contact (Fitrah, 2021). The harm caused by "santet" can be directly observed on the victim, but it is difficult to explain logically or medically. The consequences of "santet" can lead to prolonged physical and mental suffering, even resulting in the victim's death (Anwar, 2021). "Santet" is an attempt to harm others from a distance using dark arts (Mubarak, Imam, 2019), whether performed by individuals themselves or by shamans believed to possess supernatural abilities in collaboration with spirits or unseen entities. Both "santet" and these unseen entities carry negative energy (-). Interestingly, Earth also carries a negative charge (-). According to Coulomb's law, like charges repel while unlike charges attract (Ening Herniti, 2012).

Black magic has been present in society since the time of the Prophet. Black magic, known as "ilmu hitam," refers to occult knowledge that can control events, objects, people, or other phenomena through mystical or supernatural means, often facilitated by experts in the field (black magic). This knowledge is inherently negative as it poses harm to others. Nonetheless, with the passage of time, skepticism towards such knowledge has grown, even though cases involving "santet" persist. "Santet" or black magic has long been believed by society as a means to explain unclear origins of certain illnesses. In some cases, "santet" is likened to a 'transmitted' illness. In Indonesian society, the existence of "ilmu santet/tenung/guna-guna" is strongly believed, yet some individuals regard it as mere fabrication, especially in a developing country where some still hold primitive beliefs. Various sources describe "santet" as an attempt to harm others using dark arts, employing mediums such as hair, photographs, dolls, incense, flowers, nails, and so forth. "Santet" is also often associated with seeking revenge against others. "Santet" (formerly known as witchcraft) is a facet of dark arts practiced by shamans with the assistance of supernatural beings such as jinn as intermediaries to harm their targets (Safitri, Ikha, 2013). The term "santet" itself is derived from a foreign language, an acronym for the phrase "mesisan kanthet" (to be pulled in) or "mesisan benthet" (to crack). "Mesisan kanthet" refers to yellow magic, while "mesisan benthet" refers to red magic. In various cases, it is common for victims of "santet" to exhibit physical discomfort due to foreign objects inside their bodies, which defy medical explanation. These foreign objects can be nails, iron, needles, hair, or other sharp items. In extreme cases, besides causing prolonged physical and mental suffering, "santet" can lead to the victim's death (Prasetyo, Teguh, and Abdul Halim Barakatullah, 2005).

Santet is categorized into three types (Muhammad Wahid Cahyana and Febry Chrisdanty, 2022), namely:

1. Physical Santet: Sports Miracles, where the technique of this type of santet is pre-santet or a warming-up phase before the actual santet. However, later on, this complementary technique has taken on its own identity as a 'santet,' often considered more dangerous than the genuine santet.
2. Spiritual Santet: Emotional Miracles, a technique of santet involving the power of autosuggestion, where the strength of this santet technique is based on the human's own power, as fundamentally every human possesses the potential to perform actions known as supernatural abilities.
3. Spiritual Entity Santet: Supernatural Miracles, this type of santet involves the balance between oneself and the metaphysical realm. This santet is not attained through the modern human's engineered thinking, but through the disciplined knowledge inherited from ancient civilizations.

"Santet" itself is a series of activities performed by individuals who are considered to possess mystical knowledge by some members of society, and "santet" tends to be defined as a negative action carried out by a shaman. The term "shaman" is then used broadly to describe various similar terms that have developed in society, such as fortune-tellers, healers, sorcerers, magicians, and similar terms (Nurdin, 2015:44). The practice of shamanism has deep historical roots in human civilization. In Indonesia, black magic has been passed down through generations, and to this day, shamans remain popular not only among traditional communities but also within modern society. The presence of shamans, often associated with supernatural power, is a social phenomenon that is sometimes viewed as black magic, considered deviant from societal norms by some. Nevertheless, the practice of shamanism still plays a significant role within certain segments of society. Indonesian society still believes in magical elements that are believed to bring benefits, even if they may lead to suffering such as illness or even death. The practice of "santet" carried out by shamans is often done upon the request of someone who wishes to harm another person, whether it be a business rival, disliked individual, or someone who has caused emotional pain. Shamans can perform "santet" in exchange for a reciprocal reward or fee, known as "mahar," which depends on the agreement between the shaman and the client. This "mahar" could be in the form of money or other items prepared by the client to achieve their desired outcome. When discussing "santet" and shamans, there is a functional connection between the two, as the phenomenon of "santet" is a social occurrence within the community. "Santet" is an attempt made by an individual to harm someone else mystically, often driven by feelings of resentment. Discussing "santet" cannot be separated from the topic of shamans. Shamans are individuals believed to possess special abilities in the mystical realm that

can assist the community in times of hardship, such as healing the sick or finding lost items. However, there are also shamans who can harm others, known as practitioners of dark arts. They harm others based on the requests of others, often fueled by grudges. In Indonesia, shamans are respected and revered by many. Among both the lower and educated classes, many turn to shamans to help solve their problems or achieve their desired goals. People from various walks of life and with diverse interests seek the services of shamans. This includes individuals from lower socioeconomic backgrounds to the elite and educated classes, such as merchants (to improve their business), aspiring village chiefs, aspiring district heads, aspiring governors, and even aspiring presidents (to gain support during elections). There are also those who approach a shaman with negative intentions, such as seeking to harm someone due to personal resentment, aiming to mystically afflict the disliked person (with "santet" or "teluh").

II. METODE

In the framework of this research, a normative legal research method is employed, often referred to as doctrinal legal research. This method relies on legal literature or what is commonly known as secondary legal sources. The approach applied in this study is a document analysis, with a focus on the analysis of relevant legislation. This research adopts a qualitative descriptive approach that enables an in-depth exploration of phenomena and events. The reflective logic model is chosen as a guide for analyzing various aspects within this study. This approach allows researchers to delve into the underlying thought processes of the observed phenomena. In the process, the elaboration of relevant concepts takes place rapidly. The thought process in analyzing these social occurrences or phenomena enables researchers to create better abstractions, resulting in more comprehensive and profound research outcomes.

III. RESULT AND DISCUSSION

Basically, murder is a criminal offense; however, murder using "santet" methods still falls within a gray area and sparks various debates on whether it can be classified as a criminal act or not due to the difficulties in proving it. Just as Articles 545-547 of the Indonesian Criminal Code (KUHP) regulate the criminal act of fortune-telling or dream interpretation and the use of mystical talismans, which can lead to prosecution in court, it is even more appropriate for murder through "santet" methods to be criminalized. This is due to the difficulty in proving such cases, as an act should be criminalized if it can be identified and proven according to the applicable legal procedures. For the majority of Indonesian society, "santet" is considered a social fact with consequences felt by the affected individuals. "Santet" involves metaphysical knowledge that is irrational and beyond logical comprehension, while the current criminal law is based on modern legal principles rooted in rationality. Integrating the rational world with the metaphysical realm is something that is unlikely and challenging to accomplish.

1. The History of "Santet" in Indonesia

Some Indonesian communities are familiar with terms related to the supernatural, such as "santet" (black magic), "pelet" (love charm), "pengasihian" (attraction), "dukun" (shaman), and "sihir" (witchcraft). In fact, in several regions of Indonesia, there are cities known for their mystical aspects, like Banten, which is recognized as a region where powerful warriors or mystical experts reside in Indonesia. This westernmost area of Java has long been known for its distinctive branches of mystical knowledge, including invulnerability and "santet," with strong magical and black magic practices being a characteristic of Banten, as indicated by sources from the Baduy people. The Baduy tribe is renowned as an indigenous group in Indonesia that has maintained their ancestral traditions. Hence, they are deeply connected to mystical elements. Another example is the city of Banyuwangi, known for its association with "santet." The history of Banyuwangi earned it the reputation as the "city of black magic," stemming from a tragic mass killing of the community from February to September in 1998. During this tragedy, around 1,000 people were found dead under mysterious circumstances. Some accounts attribute these killings to a shaman practicing black magic. The presence of black magic cannot be underestimated, as it has developed within society and is frequently encountered in various cases. For instance, "santet," a subset of black magic, has even caused significant events in Banyuwangi, East Java, in 1998. In Indonesia, the phenomenon of "santet" has been familiar since the time of the Kediri Kingdom. A. Masruri, in his book titled "The Secret of Santet," explains that the method of "santet" serves specific purposes, both for channeling positive energy useful for self-defense and for harming others. Prof. Dr. Edi S. Ekadjati, a history expert, reveals that "santet" knowledge is a legacy from the past. In Sundanese society, a document dating back to the 6th century called

"Sanghyang Siksa Kandang Karesian" is found. It serves as an encyclopedia of Sundanese customs and mentions that "santet" is the transfer of feelings of resentment, sadness, and displeasure onto others.

Apart from Sunda, East Java is also known for its community of "santet" practitioners. Especially during the downfall of the Majapahit Kingdom, when Majapahit was attacked by the Demak Kingdom. As a result, Majapahit forces retreated to the east, specifically to the Bromo area of Mount Tengger Semeru. Some also moved around Mount Lawu. Long after these events, one of the advisors to King Brawijaya V (Majapahit), named Abdi Palon Noyo Genggong, vowed to seek revenge. During its golden era, Majapahit had specific regulations concerning "santet." They didn't hesitate to impose penalties on practitioners of "santet" who violated the laws. In the author's opinion, "santet" itself is a negative endeavor involving the transmission of disease or causing the death of someone from a distance without physical contact. It is carried out by individuals believed to possess expertise in supernatural and magical knowledge, often involving communication with spirits, to achieve their negative or malicious intentions. The purpose of "santet" is to inflict pain, illness, and even death upon the targeted individual, which cannot be proven through medical diagnosis or using conventional methods required by shamans.

According to Koetjaraningrat (1980), the beings that inhabit the spirit world are:

- a. Good and evil deities.
- b. Other supernatural beings such as ancestral spirits, other spirits both good and evil, ghosts, etc.
- c. Powerful forces that can be beneficial or can cause disasters.

According to the Kamus Besar Bahasa Indonesia (Indonesian Dictionary), "santet" means sorcery or witchcraft. In West Java, "santet" is referred to as "teluh ganggaong" or "sogra," in Bali, it is known as "desti," "leak," or "teluh terangiana," in Maluku and Papua, it is called "suangi," in North Sumatra, it is called "begu ganjang," and in West Sumatra, it is referred to as "puntianak." "Santet" falls under the category of sorcery (ilmu tenung) or witchcraft (ilmu sihir). Both of these practices are considered forms of black magic or ilmu hitam (Baharudin, Erwan, 2007). Shamans engage in practices of sorcery by proclaiming their ability to cause harm, provide blessings, and perform magic on someone they dislike, under specific conditions that must be fulfilled by the person seeking their services.

2. "Santet" According to Law No. 1 of 2023

The enactment of Law No. 1 of 2023 is expected by all segments of society to address various issues in criminal law that were not accommodated in the old Indonesian Criminal Code (KUHP) and have consistently led to injustice in society and judicial practices. In addition to that, the substance of Law No. 1 of 2023 is also seen as capable of anticipating various developments in new offenses within the changing societal landscape of the reform era, such as legal issues related to "santet" (black magic). The existence of Law No. 1 of 2023 serves as a criminal legal framework that can function as a protector of human interests. Law has a purpose. It has goals to achieve, and its fundamental aim is to create an orderly societal structure, establish order, and maintain balance. The achievement of order within society is expected to ensure the protection of human interests. In pursuing these objectives, Law No. 1 of 2023 is tasked with distributing rights and obligations among individuals in society, allocating authority, regulating legal problem-solving methods, and upholding legal certainty. The utilization of legal measures, including criminal law, is one approach to address social issues and aligns with law enforcement policies aimed at rationalizing the pursuit of societal well-being. Regarding penalties for those involved in "santet," it is recognized as a classic issue that arises along with human tendencies such as greed, jealousy, envy, a desire for power, and seeking revenge. This relationship has persisted since ancient times, from the earliest days of human existence on Earth up to the present, in accordance with the prevailing conditions and beliefs (Teguh Prasetyo, 2010). The enactment of Law No. 1 of 2023 is expected to provide a legal framework to address such issues and ensure justice and legal protection for all members of society.

With the enactment of Law No. 1 of 2023 concerning the article on "santet" (black magic), the legal landscape in Indonesia has undergone a positive change in addressing societal issues. This law is expected to create justice and legal certainty. Furthermore, an enhancement in legal infrastructure is needed, encompassing law enforcement agencies and institutions to ensure justice and legal certainty in Indonesia. The Indonesian Criminal Code (KUHP) governs acts of taking a life, which we know as murder. The crime of taking a life encompasses various actions. The criminal act of murder or crimes against life (misdrijven tegen het leven) within the KUHP. The intent to take another person's life by the KUHP, which is in effect today, is referred to as a murder. To take another person's life, a perpetrator must carry out specific actions or a series of actions resulting in the death of another person, provided that the perpetrator's intent is directed

towards the consequence of causing the death of that person. Regarding murder through "santet," the process categorically falls under premeditated murder, although, according to the author's analysis, it is difficult to concretely prove the cause and process of death by "santet." Even though "santet" constitutes premeditated murder, the principle of legality is not satisfied, as the activities and preparations for "santet" are often undertaken well in advance to achieve the intended goal. The process of "santet" needs to be proven based on the motive, as it involves a malicious plan to take another person's life. Murder through "santet" is an act of taking someone's life through mystical means with the assistance of supernatural beings or specific black magic practices believed by an individual to cause the death of the target. Premeditated murder, defined in Article 340 of the KUHP, involves intentionally and premeditatedly taking another person's life, and the penalty is either death, life imprisonment, or temporary imprisonment for a maximum of twenty years. Based on the offense used in murder cases, it can be a reported offense or an ordinary offense. However, in the case of "santet," a report from someone who feels victimized either in terms of health due to "santet" or from the family of a deceased victim is necessary.

From a criminal law perspective, "santet" is similar to premeditated murder, defamation, fraud, defamation of character, or threats of murder, depending on which offense most closely matches the circumstances during the investigation and prosecution stages. Addressing murders through "santet" requires a different approach, and in terms of upholding the law against shamans or individuals suspected to be involved in the process of murder through black magic, criminal law seeks material truth in an action, necessitating concrete, certain, and clear evidence. Similarly, the evidentiary tools used in the Indonesian Criminal Procedure Code (KUHP) Article 184 do not specifically cover evidence related to the "santet" offense. The theory, concept, and cases of "sihir" (magic) and "tenung" (witchcraft) in Indonesia, according to Prof. Nitibaskara, elaborate that "santet" falls within the realm of black magic. The term "tukang santet" (black magic practitioner) can be used as justification for eliminating disliked individuals perceived as threats to public peace or for other concealed reasons. Murder falls under the category of crimes against the life of another person. Murder is the deliberate act of taking another person's life. To commit murder, a perpetrator must perform actions or a series of actions resulting in the death of another person, with the intent of causing the death of that person (P.A.F Lamintang, 2012). Law No. 1 of 2023, Article 458 (1), states that any person who takes another person's life shall be sentenced for murder, with a maximum prison term of 15 (fifteen) years. In the Kamus Besar Bahasa Indonesia (KBBI) dictionary, the term "membunuh" means causing someone's death, while "pembunuhan" refers to the act of killing or the act of murder. In criminal law, murder is referred to as a crime against a person's life, regulated under Chapter XIX of Book II of the Indonesian Criminal Code (KUHP). The fundamental form of this crime is murder ("doodslag"), which involves taking a person's life.

Santet, which can be classified as a criminal act, is acknowledged and believed to exist in society, causing disturbance; however, it cannot be prevented and eradicated through the law due to difficulties in its proof (Rachmad Alif Al Buchori Ali, I Made Sepud, and I Made Minggu Widyantara, 2021). There are five types of crimes directed towards taking a life, namely:

1. Crime involving intentionally taking the life of another person in the general sense, manslaughter and murder as regulated in Article 338 and 340;
2. Crime involving intentionally taking the life of a newly born child by its own mother, infanticide and child murder as regulated in Article 341 and 342;
3. Crime involving intentionally taking the life of another person upon a clear and definite request from that person, as regulated in Article 344 of the Criminal Code;
4. Crime involving intentionally instigating another person to commit suicide or assisting another person in committing suicide, as stipulated in Article 345 of the Criminal Code;
5. Crime involving intentionally causing the miscarriage of a woman's pregnancy or causing the death of a fetus, as regulated in Article 346, 347, 348, 349. These crimes against life are referred to as material offenses, meaning offenses that only mention a resulting consequence without specifying the methods that lead to that consequence. The loss of life as the deliberate objective must occur. In fact, there is a material element of abuse in the sense of harming a person's health; the offense occurs if a life is lost. Here, causality (cause and effect) between the intentional act and death takes place."

Rationally, this practice of "santet" (black magic) is indeed difficult for common sense to accept, but it is believed by some segments of Indonesian society, leading to unrest within a community. In various cases, it is common for individuals who become victims of "santet" to experience physical pain as a result of the presence of foreign objects within their bodies. However, the origin of these foreign objects cannot be explained medically. The referred foreign objects can be nails, metal, needles, hair, and other sharp items. Even in cases

where "santet" murder is processed through the criminal justice system, it is challenging to prove conclusively. The process of proving "santet" murder in court is extremely difficult, even though Law No. 1 of 2023 addresses certain provisions related to "santet". According to this law, the principle of legality requires that evidence of "santet" murder must be proven based on how objects like nails, metal, needles, hair, etc., which serve as mediums for "santet", can cause real harm from a distance, taking someone's life. However, as tools for supernatural assistance cannot be presented in court to prove that a supernatural being or spirit sent by someone caused a death from a distance without physical contact, the material evidence is difficult to establish. This difficulty arises even though there are physical objects like nails, hair, needles, dolls, etc., used as instruments for murder. This contradicts criminal law, which emphasizes the material truth of an action, where proof should be visible and demonstrable in court as material truth. Cases brought before the court tend to emphasize premeditated murder rather than "santet", even though the background and assumptions might involve beliefs in "santet". Premeditated murder involves subjective elements, such as intent and preplanning, as well as objective elements: the act of taking a life and the object – another person's life. Murder is considered a violation of human rights as it denies an individual the fundamental right to life, both before and after birth. However, prosecutors and judges often treat these cases as premeditated murder or planned assault, as seen in Supreme Court Decision No. 2296K/Pid/1989. Deliberate murder and assault take precedence over "santet" issues.

Within Indonesia's criminal law provisions, the criminalization of mystical practices can be observed in the Criminal Code (Kitab Undang-Undang Hukum Pidana), specifically Articles 545 to 547. Article 545 prohibits practicing "santet", and Article 546 prohibits the sale and offering of mystical items. Article 547 prohibits attempts to influence court proceedings using charms or mantras. However, the implementation of these articles is challenging. Many people claim to possess supernatural abilities, such as divination, and advertise these abilities in the mass media. As per Article 1 paragraph (1) of the Criminal Code, the principle of legality states that no act can be punished without a pre-existing law that regulates it – "nullum delictum nulla poena sine praevia lege poenali". This principle implies that an act must first be classified as a criminal offense according to existing laws before punishment can be imposed. Even though "santet" is perceived as a malevolent act, proving such practices is difficult. The process of proof in criminal law aims to establish material truth, and it is unlikely that judges would accept testimony from paranormal experts as it lacks academic and legal recognition. According to M. Yahya Harahap in the book "Discussion of Issues and Application of Criminal Procedure Law" (Pembahasan Permasalahan dan Penerapan KUHAP), valid expert testimony (Article 184 of the Criminal Procedure Code) should come from someone with specialized knowledge related to the case at hand. Expert witnesses provide expert opinions in court. According to Article 1 number 28 of the Criminal Procedure Code, expert testimony is provided by individuals with specialized knowledge necessary to clarify criminal cases for investigative purposes. Furthermore, Article 186 of the Criminal Procedure Code states that expert testimony is what an expert states in a court session.

In criminal law, an individual can be implicated under articles in the criminal code and can face penalties if they fulfill two elements of criminal liability: the presence of Actus reus and mens rea. Actus reus pertains to a person's actions in carrying out a deed, in this case, the act of offering services to cast a "santet" (black magic spell) on another person. Law Number 1 of 2023 concerning the Criminal Code regulates various aspects of human life, including matters related to "santet". The controversy surrounding "santet" began with the enactment of Law No. 1 of 2023, which criminalizes individuals who claim to possess supernatural powers and can commit criminal acts through them. This controversy arises because "santet" is an abstract, illogical, and irrational concept, making it difficult to classify it as a crime, as it involves supernatural phenomena that are challenging to prove within the realm of criminal law. "Santet" practices do occur frequently and are found within society, but proving the perpetrator or victim is challenging. Law enforcement officials cannot use the confession of a supernatural practitioner (shaman), stating that person B is ill and has a needle in their stomach due to "santet" or witchcraft by person A, as evidence. Furthermore, the testimony of a supernatural practitioner cannot be used as evidence to prosecute someone, for example, if person A commits a criminal act to be brought before a court of law. The difficulty lies in establishing a causal link between "santet" and the resulting effects of "santet".

Here are two aspects related to the analysis of criminal provisions regarding "santet":

1. This criminal offense is a formal offense, so there is no need for any resulting consequences from the criminal act. The act that is criminalized is when someone declares that they possess the power to cause illness, etc.
2. This criminal offense needs to be criminalized because of its highly criminogenic nature (can lead to other criminal acts) and viktimgenic nature (potentially causing harm to various interests), protecting individual

interests (such as preventing fraudulent practices), as well as safeguarding religiosity and the tranquility of religious life which is demeaned by acts of shirk.

Law No. 1 of 2023 Article 252 (1) Anyone who declares themselves to possess supernatural powers, communicates, offers hope, provides, or offers assistance or services to others, claiming that their actions can cause illness, death, or mental or physical suffering to an individual, shall be punished with imprisonment for a maximum of 1 (one) year and 6 (six) months or a fine of up to category IV. In concrete terms, this article seems to portray the act of offering "santet" services similarly to someone offering assassination services (a contract killer), even though whether the person who will be subjected to "santet" will die or not is uncertain. However, according to Law No. 1 of 2023 Article 252, it requires that someone be the perpetrator of murder, based on the intention to kill the potential "santet" victim by means of casting a "santet" spell through a planned series of activities. The process of "santet" can be interpreted as premeditated murder. Although the legality of proving whether someone dies or not cannot be established, the method of proof is relatively simple: it's not whether the "santet" itself is proven, but whether the defendant truly confessed or offered to cast a "santet" spell on someone. If such an offer is made in writing (such as an advertisement), then the advertisement becomes the evidence. In the latest Criminal Code (KUHP), one provision states that a person who claims to be a "dukun" (shaman) for "santet" or believes they possess dark magic powers that can harm others is regulated under Article 252 of the new KUHP. In this context, the key point of discussion is a person who claims to be a "dukun santet" and spreads such claims, which can be subject to a maximum imprisonment of 1.5 years. Thus, the act of being a "dukun santet" can be legally processed if the actions can be proven in court and demonstrated in a real and concrete manner. The act of being a "dukun santet" itself encompasses individuals who, based on the point from Article 252 related to claiming to have supernatural powers. The offense applicable to murder can also be applied to attempted murder, even though the actual death caused by "santet" cannot be proven. However, when someone offers murder through "santet" and provides murder services, this offense can serve as a benchmark.

The formulation of Article 252 is aligned with offenses related to "offering assistance to commit a criminal act" (similar to Article 162 and Article 163 of the KUHP, reformulated as Article 250 and Article 252). R. Soesilo (R. Soesilo, 1991) also explains that in everyday language, an attempt is understood as moving towards a certain goal but not reaching it, or intending to do something but not completing it. For example, intending to kill someone, but the person does not die. Therefore, for an attempt in a crime to be punishable, it must fulfill the following criteria:

1. The intention to commit the crime is present (*voornemen*);
2. The person has initiated the commission of the crime (*begin van uitvoering*); and
3. The criminal act is not completed due to subsequent hindrances, not arising solely from the criminal's own will.

Law No. 1 of 2023, Article 459: Anyone who premeditatedly takes the life of another person is punishable for premeditated murder, with the death penalty, life imprisonment, or imprisonment for a maximum of 20 (twenty) years. The elements of attempted premeditated murder carried out by a "dukun" (shaman) according to Article 340 in conjunction with Article 53 (1) of the Criminal Code are as follows:

1. Whoever: "dukun" is the legal subject in the case of murder through "santet".
2. Intentionally: Intentionally or commonly referred to as "opzet" means intending and being aware of what is done. Among various forms of intention, in our opinion, the act of the "dukun" falls under intentional intent (*oogmerk*).
3. With premeditation.
4. Taking the life of another person.
5. The non-completion of the act is not solely due to their own will: The action taken by A is not completed (not successful) because B evades.

"Santet" itself, according to prevailing norms in society, is an act that is condemned both in religious and social aspects of community life. This is because "santet" involves inflicting illness, causing death, or inducing mental or physical suffering to a person through visible means without physical contact and escaping medical detection of its cause. When compared with the hierarchical norms within society, it is clearly prohibited and disallowed under Law No. 1 of 2023, Chapter XXXIV, Criminal Offenses Based on Living Laws in Society, Article 597 (1) Anyone who engages in an act that, according to the living laws in society, is declared prohibited shall be subject to punishment. (2) The punishment as referred to in paragraph (1) shall be in the form of fulfilling customary obligations as stipulated in Article 66 (1) letter f. In the realm of criminal law policy, as described

by Moeljatno, it revolves around three main ideas: firstly, prohibited actions; secondly, individuals who violate these prohibitions; and thirdly, the penalties imposed on offenders. Regarding the act of "santet", whether carried out as a threat or not, it is difficult to prove its legality during the process of proving such actions in court. This is because proving "santet" involves concrete evidence that is visible to the eye. The only situation where a legal process can be initiated, such as for threats of murder via "santet", is when there is a direct threat. Threats become a focal point when applying offenses related to the threat of murder. According to Article 17 of Law No. 1 of 2023:

- (1) Attempted commission of a criminal offense occurs when the perpetrator's intention is clear from the beginning of the execution of the intended criminal act, but the execution is not completed, does not yield results, or does not result in a prohibited consequence, not solely at the perpetrator's will.
- (2) The beginning of execution as referred to in paragraph (1) occurs if: a. the act carried out is intended for the occurrence of the criminal offense; and b. the act carried out directly has the potential to lead to the intended criminal offense.
- (3) The penalty for attempted commission of a criminal offense is a maximum of 2/3 (two-thirds) of the maximum principal penalty for the relevant criminal offense.
- (4) Attempted commission of a criminal offense that is punishable by death or life imprisonment is punishable by imprisonment for a maximum of 15 (fifteen) years.
- (5) Additional penalties for attempted commission of a criminal offense are the same as additional penalties for the relevant criminal offense, as further stipulated in Article 18.

Article 18

- (1) Attempted commission of a criminal offense is not punishable if, after initiating the execution as referred to in Article 17 paragraph (1): a. the perpetrator voluntarily decides not to complete the act; or b. the perpetrator voluntarily prevents the intended goal or consequence of the act.
- (2) In cases where attempted commission as referred to in paragraph (1) has caused losses or, according to laws and regulations, constitutes a separate criminal offense, the perpetrator may be held accountable for that criminal offense.

Article 19

Attempted commission of a criminal offense that is only punishable by a maximum fine of category II is not punishable.

Several actions or deeds by "dukun" (shaman) that can be subject to prosecution due to their perceived illegality and harm to society (Rizki Tarias, 2023) are as follows:

1. Individuals who claim to be a "dukun santet" or possess supernatural knowledge that can cause illness, as regulated in the latest Article 252 of the Criminal Code (KUHP). This article states that anyone who declares themselves to possess supernatural powers, communicates, offers hope, provides, or offers assistance or services to others, claiming that their actions can cause illness, death, or mental or physical suffering to an individual, can be penalized as stipulated in Law No. 1 of 2023.
2. Individuals who claim to be a "dukun" and offer their services, either directly or indirectly.
3. Actions of "dukun santet" that can be subject to prosecution include broadcasting, presenting, or affixing writings or images.

Nevertheless, in cases involving "santet," the presumption of innocence principle, as stipulated in Article 9 (1) of Law No. 14/1970, remains in the process. This principle encompasses fundamental judicial provisions and the Criminal Procedure Code (KUHP). Within the presumption of innocence principle, it is declared that acts of vigilante justice, which often occur in society against those perceived as "dukun santet" causing disturbance, are not justified in the legal context. Such matters can be resolved without resorting to violence that may have fatal consequences. In the legal framework, these cases can be processed and justice can be sought. If there is an individual suspected of being a "dukun santet" and causing harm to someone, according to the presumption of innocence principle, that person cannot be considered guilty since there is no court verdict stating that they have committed a crime and are thus guilty.

IV. CONCLUSION

"Santet" is the process of harming, causing damage to, or acting maliciously towards an individual or target. This is achieved through remote black magic techniques that utilize various mediums. These mediums are "sent" by practitioners or "wise individuals" hired by the person performing "santet." "Santet" is a mystical act that is difficult to prove within the realm of the law. Formal and rational legal systems aim to capture tangible actions that can empirically be identified and prove their causal relationships. Therefore, acts that are mystical,

supernatural, or metaphysical are challenging to incorporate within a formal and rational legal framework. Various cases within Indonesian society involving "dukun santet" reveal that victims often experience strange illnesses, such as the presence of foreign objects within their bodies. However, medical examinations fail to detect any anomalies or identify the illnesses. These foreign objects can include nails, iron, needles, or sharp items that are not typically found within the human body.

There are four prohibited acts when connected to the subject of criminal offenses, and the formulation of these criminal acts can be categorized into four types:

1. A criminal act in which someone claims to possess supernatural powers over others, as their actions can result in the illness, death, mental or physical suffering of an individual.
2. A criminal act where someone conveys expectations to others that their actions can lead to illness, death, mental or physical suffering of an individual.
3. A criminal act involving offering services to others, where their actions can result in illness, death, mental or physical suffering of an individual.
4. A criminal act involving providing assistance or services to others, where their actions can result in illness, death, mental or physical suffering of an individual.

In both the new and old Criminal Codes, it is explained that the act of practicing "santet" (a type of black magic) refers to actions that create disturbance within society through practices of black magic. Legally, proving such actions can be challenging due to their abstract nature. In this context, prosecuting cases related to "santet" under the law can be difficult due to the abstract nature of the act, making it hard to provide evidence of the process. However, in specific cases where a "santet" practitioner's actions are concrete and can be directly proven, they fall under the realm of concrete legal cases, which are governed by tangible legal rules or norms that assess a person's actions in a real manner. Thus, the focus of the new Criminal Code No. 1 of 2023 primarily centers on prevention measures against "santet" practices performed by "dukun santet" (sorcerers). The main target of these efforts is to eradicate the profession of those offering "santet" services to harm or cause the death of others. The central point of criminalization involves the act of offering, spreading, or providing "santet" services to others with the intention of committing crimes against them through magical means. These individuals claim to possess supernatural powers capable of harming others. The practice of "dukun santet" involves magic that can have harmful effects on humans, often leading to death or severe illness in the targeted individuals. While the legal framework might not be able to establish the causal relationship between the "santet" process and the resulting harm or death, the act of offering such services with the intent to cause harm or commit murder becomes a punishable offense.

"Santet" is undoubtedly considered a type of criminal act, yet its prosecution is challenging due to its supernatural nature, which can lead people to be skeptical. Even if it can be proven, a qualified expert in the field, equivalent to a "penyantet" (a practitioner of "santet"), would need to serve as a witness. Nevertheless, instilling belief within the community about the existence of "santet" and its effects is a difficult task. Criminal Law assesses an individual's culpability based on their actions, and the principle of legality states that an action must be explicitly prohibited by law to be considered a criminal offense. Clearly, formulating "santet" as a criminal offense is challenging due to its intangible nature. The Criminal Code No. 1 of 2023 now constitutes the legal framework for criminal sanctions related to "santet." However, from an evidentiary perspective, the principles of legality and causality in Criminal Law are difficult to establish in court. In essence, the Criminal Code No. 1 of 2023 specifies that every criminal act must consist of tangible elements, encompassing actions and resulting consequences. Yet, "santet" is not tangible since it is abstract and metaphysical, requiring the fulfillment of both objective and subjective elements of the offense.

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