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Debt Bondage: An Analysis of Decision Number 612/Pid.B/2023/PN Rhl Concerning Crimes against Personal Freedom

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ABSTRACT

This research aims to analyze Decision Number 612/Pid.B/2023/PN Rhl concerning the crime of kidnapping as a crime against personal freedom motivated by debt issues. This normative legal research employs a statute approach and a case study. Data analysis uses a qualitative content analysis to describe the issues and answer the research objectives. The research results indicate that Decision Number 612/Pid.B/2023/PN Rhl explicitly criminalizes acts of deprivation of liberty committed to resolving debt problems. The Panel of Judges' considerations highlight the psychological impact of trauma on the victim as an aggravating factor, while the Defendants' remorse and attempts at reconciliation serve as mitigating factors. Nevertheless, this act of kidnapping remains an ordinary offence whose legal process cannot be overridden by agreements between the parties. The implications of this decision provide a comprehensive understanding of the boundaries that must not be violated in debt collection. Thus, Decision Number 612/Pid.B/2023/PN Rhl contributes to creating a just and equitable legal climate and provides guaranteed protection of human rights in the context of debt collection.

Keywords: Debt Collection; Human Rights; Kidnapping; Liberty; Ordinary Offense.

INTRODUCTION

Within the framework of social and economic interaction, the phenomenon of debt is a common practice (Gonzalez-Redin et al., 2020). These transactions are typically founded on good faith for mutual assistance, wherein a party with surplus funds (the creditor) provides a loan to a party in need (the debtor) to solve financial challenges. In this context, extending debt can be seen as an important instrument in economic circulation, enabling individuals and entities to fulfil consumption, investment, and business development needs (Musari, 2022). The essence of a debt agreement lies in the obligation to return a sum of borrowed funds or assets within a predetermined period (Agung et al., 2022). Nevertheless, the complexities of economic and social dynamics frequently give rise to situations where these obligations cannot be met promptly, opening the potential for disputes with implications in the legal sphere.

The debtor's failure to fulfil debt payment obligations, commonly known as default, entitles the creditor to pursue legal remedies as a dispute resolution mechanism (Zein et al., 2024). The civil law system provides a clear framework for creditors to seek the restoration of their rights, including through filing civil lawsuits in court (Prasetyo & Barthos, 2024). This civil procedure is designed to achieve a just and equitable resolution for both parties. However, it is important to emphasize that debt collection efforts have clear limitations and must not exceed the applicable legal boundaries. Actions outside the legal channels, particularly those involving the deprivation of personal freedom, such as kidnapping, confinement, or threats of violence under any pretext, including compelling debt repayment, will subject the creditor to criminal legal consequences. In other words, the law protects debtors from arbitrary and human rights-violating collection practices (Anggrayni et al., 2024).

Through criminal legal instruments, the state provides strong protection for human rights, particularly the right to personal freedom (Suartana & Darma, 2020). Article 328 of the Penal Code explicitly regulates and criminalizes actions that deprive a person of their freedom through the crime of kidnapping. This article defines kidnapping as the act of removing a person from their residence or temporary domicile with the intent to unlawfully place them under the control of the perpetrator or another person or to place the victim in a state of distress. The categorization of kidnapping as a crime against personal freedom reflects the state's commitment to guarantee every individual's right to be free from all forms of illegal deprivation of liberty. The severe criminal penalties against kidnappers also serve as preventive and repressive measures to deter the occurrence of this fundamental human rights violation (Chandrawaty, 2020).

Within the context of law enforcement concerning crimes against personal freedom, Decision Number 612/Pid.B/2023/PN Rhl presents a relevant and important case study. This decision details an event where a debt collection attempt resulted in the deprivation of liberty perpetrated by the creditor against a member of the debtor's family. This case highlights the complexities of debt issues that can escalate into serious criminal law violations. Therefore, Decision Number 612/Pid.B/2023/PN Rhl offers a valuable opportunity to analyze the application of criminal law in the context of debt disputes and its implications for protecting human rights.

Based on the background of the issues described, this research aims to comprehensively analyze Decision Number 612/Pid.B/2023/PN Rhl. This research focuses mainly on the juridical analysis of criminal acts categorized as crimes against personal freedom, which, in this case, were motivated by debt issues. This analysis will include identifying the elements of the crime proven in the decision, applying Article 328 juncto Article 55 section (1) of the Penal Code within the context of the case, and the legal and justice implications arising from the court's decision. Through this in-depth analysis, it is expected that a more comprehensive understanding can be gained regarding the legal boundaries of debt collection and the importance of protecting human rights, particularly the right to personal freedom.

METHOD

This research employs a normative legal methodology utilizing a statute approach and a case study approach (Qamar & Rezah, 2020). This methodological framework is relevant to the research objective, which is to analyze the crime of kidnapping, categorized as a crime against personal freedom, arising from debt issues. The statute approach will focus on Article 328 juncto Article 55 section (1) of the Penal Code. The case study is conducted through an in-depth examination of the court decision to provide a comprehensive understanding of legal norms' practical application and

interpretation. In addition to primary legal sources comprising statutory regulations and court decisions, this research utilizes secondary legal materials, including legal doctrines, scholarly journals, and other relevant literature obtained through library research. Data analysis employs a qualitative content analysis approach to systematically examine and interpret non-numerical data, such as legal texts and court decisions. This technique allows for identifying, classifying, and interpreting key themes, patterns, and arguments contained within the data. Through this rigorous methodological approach, this research endeavours to produce a comprehensive and systematic analysis to describe the issues and answer the research objectives (Sampara & Husen, 2016).

RESULTS AND DISCUSSION

A. Chronology of Criminal Acts in the Category of Crimes against Personal Freedom Motivated by Debt Issues

The events underlying the criminal case in [Decision Number 612/Pid.B/2023/PN Rhl](#) commenced on October 17, 2023, at approximately 7:00 PM Western Indonesian Time. At that time, Defendant I (Parida Hefni) initiated a debt collection effort against Sumilan. This collection action was not conducted individually but involved coordination with several parties. Defendant I brought along three other Defendants: Defendant II (Maspardi), Defendant III (Robi Kelana), and Defendant IV (Hendra Trijaya Ritonga). Additionally, three individuals who were subsequently designated as fugitives (DPO), namely DPO I (Nurainun), DPO II (Irma Dani), and DPO III (Deny Harahap), also joined. Thus, a group of seven individuals proceeded to Sumilan's residence. The primary purpose of this visit was to demand the return of funds previously borrowed by Sumilan. However, upon arriving at the intended location, the group discovered that Sumilan was not present. This situation necessitated a change in their pre-planned collection strategy.

Following the unsuccessful attempt to locate Sumilan at his residence, Defendant I initiated a planned meeting at a fruit store. This meeting was arranged for approximately 8:00 PM Western Indonesian Time as an alternative collection strategy. To facilitate this meeting, Defendant I instructed DPO I to order food in the form of chicken noodle soup and fried snacks. This order was directed to Sumilan's wife, an online food vendor. The instruction was explicit: the order must be delivered to the fruit store where the group was located. Therefore, this food order transaction was not a coincidence or an incidental encounter but rather an integral part of a scenario carefully prepared by Defendant I and his group to lure Sumilan's wife to the predetermined location.

At 8:30 PM Western Indonesian Time, Sumilan's wife arrived at the fruit store with her child to deliver the previously ordered chicken noodle soup and fried snacks ordered by DPO I at the behest of Defendant I. Upon the arrival of Sumilan's wife at the location, Defendant I promptly exited the store and abruptly performed the action that forms the crux of the indictment. Defendant I forcibly pulled Sumilan's wife's (the Victim's) arm, accompanied by verbal coercion, to enter a waiting vehicle. Defendant I asserted that this action was taken to discuss the debt issue further. This repressive and non-consensual action triggered a spontaneous reaction of panic and shock in the Victim, who instinctively attempted to break free from Defendant I's forceful grip. However, these resistance attempts were unsuccessful, as Defendant I persisted and forcibly placed the Victim into the vehicle.

Following the act of coercion and deprivation of liberty at the fruit store, Defendant I, along with Defendant II, immediately transported the Victim to Defendant I's residence. Meanwhile, Defendant III and Defendant IV followed behind on motorcycles, escorting the vehicle carrying the Victim. Upon their arrival at the house, Defendant I then provided an explanation to the Victim regarding the background of the forced abduction. Defendant, I stated that this action was the only method he deemed adequate to resolve the debt issue between himself and the Victim's husband, Sumilan. From this explanation, the primary motive behind this deprivation of liberty was revealed, namely, to force the Victim to work at Defendant I's restaurant as compensation or repayment for her husband's debt.

Based on the series of actions detailed above, the four defendants to be indicted violated the provisions stipulated in Article 328 juncto Article 55 section (1) of the [Penal Code](#). Article 328 of the [Penal Code](#) explicitly regulates the crime of kidnapping or deprivation of liberty, which includes the act of removing a person from their place of residence or domicile with the unlawful intent to place that person under the control of the perpetrator or another party or to place the victim in a state of distress. Meanwhile, Article 55 section (1) of the [Penal Code](#) regulates complicity or participation in committing a crime, which clearly defines the roles and responsibilities of each perpetrator in a crime committed jointly or by a group. This indictment explicitly indicates that the actions committed by the Defendants are viewed by law enforcement as a serious violation of the law with implications for substantial criminal sanctions.

B. Juridical Analysis of the Crime of Deprivation of Personal Freedom from the Perspective of Article 328 juncto Article 55 section (1) of the Penal Code

A thorough examination of [Decision Number 612/Pid.B/2023/PN Rhl](#) provides a crucial avenue for analysis of the application of Article 328 juncto

Article 55 section (1) of the [Penal Code](#), which specifically regulates the crime of deprivation of liberty. This decision offers an important perspective in understanding the criminal law response to violations of a fundamental individual right: freedom of movement. Therefore, a comprehensive juridical review is necessary to meticulously dissect the legal considerations underlying the decision while connecting them with theoretical discourse within criminal law. Through this approach, a more complete and in-depth understanding of the application of legal norms in this concrete case can be achieved, along with its implications for criminal law enforcement in general. Regarding the alternative charges proposed by the Public Prosecutor, the Panel of Judges, having carefully examined the legal facts revealed in court, selected the primary charges, namely Article 328 juncto Article 55 section (1) of the [Penal Code](#), as the juridical basis for the decision.

The juridical analysis begins with examining the first element, the element of “whoever.” The legal considerations of the Panel of Judges are based on the testimony of witnesses presented in court and the explicit confessions of the Defendants. These testimonies and confessions unequivocally identify Defendant I (Parida Hefni), Defendant II (Maspardi), Defendant III (Robi Kelana), and Defendant IV (Hendra Trijaya Ritonga) as the legal subjects who were to be indicted for committing the crime. This careful identification implements the *nulla poena sine lege certa* principle, which requires legal certainty in determining the subjects who can be criminally liable ([Nur et al., 2021](#)). This precise determination of legal subjects prevents an error in persona in the decision. Furthermore, the Panel of Judges’ assessment of the Defendants’ physical and mental condition as sound and their ability to be held accountable for their actions implicitly applies the principle of criminal culpability (*schuld*), which requires the capacity for responsibility (*toerekeningsvatbaarheid*) of the perpetrator ([Harefa et al., 2020](#)). With the fulfilment of these two crucial aspects—namely, the correct identification of the legal subjects and the capacity for responsibility—the “whoever” element has been legally and convincingly fulfilled.

Subsequently, the analysis focuses on the second element: “taking away a person from their residence or temporary domicile.” In its considerations, the Panel of Judges systematically details the series of actions taken by Defendant I, from the forced pulling of the victim’s arm and verbal coercion to enter a vehicle to the transportation of the victim from her residence with the assistance of the other Defendants. This factual description is relevant to the doctrine of deprivation of liberty, which emphasizes the unlawful restriction of a person’s freedom of movement ([Saparadi, 2022](#)). The coercive actions carried out by Defendant I, reinforced by the victim’s removal from her residence, clearly fulfil the element of physical deprivation of liberty. The participation of Defendant II as the driver

and Defendants III and IV as escorts strengthens the “taking away” element in the context of participation (*deelneming*). Thus, this second element has been lawfully and convincingly fulfilled based on legal facts and relevant doctrine.

The analysis of the third element, which stipulates “with the intent to unlawfully place that person under their control or the control of another person, or to place them in a state of distress,” essentially reveals the existence of mens rea or criminal intent inherent in the Defendants’ actions. The legal considerations presented by the Panel of Judges, which explicitly detail the motive behind the actions—namely, forcing the victim to work as a means of repaying her husband’s debt—provide a solid basis for determining the existence of unlawful intent. Furthermore, the victim’s detention for two days at Defendant I’s residence, accompanied by restrictions on her freedom of movement and social interaction, is a clear manifestation of an attempt to place the victim under the Defendants’ arbitrary control. This action also contravenes the principles of human rights guaranteeing individual liberty, as enshrined in Article 28D section (1) of the [1945 Constitution](#), which states, “every person has the right of recognition, securities, protection, and fair legal certainty, and equal treatment before the law.” This detention, in addition to violating the victim’s physical freedom, also had the potential to cause profound psychological distress, thus fulfilling the alternative formulation of the third element: placing the victim in a state of distress. Based on this analysis, the third element has been proven lawfully and convincingly.

The final analysis examines the fourth element, the element of participation (*deelneming*) regulated in Article 55 section (1) point 1 of the [Penal Code](#), which stipulates “those who commit, those who order the commission, and those who participate in committing the criminal act.” The Panel of Judges’ considerations accurately describe the forms of participation, namely *pleger* (principal perpetrator), *doen pleger* (indirect perpetrator), and *medepleger* (co-perpetrator). In the context of this case, the legal facts demonstrate that the deprivation of liberty was carried out in a coordinated and joint manner by the Defendants, indicating close cooperation among them. The role of each Defendant—both as the principal perpetrator who carried out the coercive action and as participants who provided assistance and support—clearly demonstrates a shared awareness and intent to commit the crime. It is consistent with the theory of *medeplegen*, which emphasizes the conscious and planned cooperation between several perpetrators to achieve a common goal, where each perpetrator makes a significant contribution to the execution of the crime ([Prasetya et al., 2023](#)). Therefore, the element of participation has been fulfilled.

Based on a comprehensive analysis of the Panel of Judges’ legal considerations and their connection to relevant criminal law theories and legal norms, it can be

concluded that all elements of Article 328 juncto Article 55 section (1) of the [Penal Code](#) have been lawfully and convincingly fulfilled in [Decision Number 612/Pid.B/2023/PN Rhl](#). Thus, the Panel of Judges' decision, which declares the Defendants lawfully and convincingly proven guilty of committing the crime of kidnapping within the category of crimes against personal freedom, has a firm legal basis, solid argumentation, and aligns with universally applicable principles of criminal law.

C. Juridical Analysis of the Court Decision Concerning the Crime of Deprivation of Liberty in the Context of Debt: A Study of Decision Number 612/Pid.B/2023/PN Rhl

This juridical analysis of [Decision Number 612/Pid.B/2023/PN Rhl](#) thoroughly examines the legal considerations and the operative provisions of the judge's decision regarding the crime of deprivation of liberty motivated by debt issues. The primary focus of this study is to investigate how criminal law is applied in the context of civil disputes, highlighting the crucial boundaries that differentiate the criminal and civil domains. Applying Article 328 juncto Article 55 section (1) of the [Penal Code](#) in this decision firmly underscores the *ultimum remedium* principle in criminal law. This principle emphasizes that criminal law, as a last resort, should not be used as a coercive tool in debt resolution ([Riyaadhotunnisa et al., 2022](#)). Established legal doctrine supports resolving civil disputes through civil law mechanisms, such as negotiation, mediation, or civil lawsuits, before committing criminal instruments.

After examining the general context of criminal law application in debt disputes, the analysis shifts to the process of evidence and assessing the Defendants' culpability in this decision. During the trial, the Panel of Judges meticulously examined the facts and concluded that no justifications (*rechtvaardigingsgronden*) or excuses (*schulduitsluitingsgronden*) could eliminate the Defendants' criminal liability were found. This conclusion is based on the fundamental principle *nulla poena sine culpa*, which affirms no punishment without fault ([Parindo et al., 2024](#)). In other words, a person can only be convicted if it is lawfully and convincingly proven that they committed an act prohibited by law and can be held responsible for their actions. The rejection of the defence's arguments further reinforces the conviction that the Panel of Judges conducted a meticulous and comprehensive evidentiary process, using the standard of beyond a reasonable doubt ([Susanto & Purwanto, 2023](#)), thereby legally fulfilling the judges' conviction regarding the Defendants' guilt.

Moving on from the evidentiary process, the analysis now focuses on the Panel of Judges' considerations in determining a proportionate sentence.

Consistent with the charges made by the Public Prosecutor concerning the formulation of the articles of indictment, the Judges did not simply adhere to these charges but conducted an in-depth and objective review of the sentence length to be imposed. This consideration is based on proportionality and justice, two important pillars of the modern criminal justice system. The determination of the length of the sentence is closely linked to the facts revealed during the trial and the broader objectives of sentencing. These objectives are not only retributive (retaliation), which tends to be in line with the principle of *lex talionis* but also include preventive (preventing criminal acts), repressive (strict law enforcement), and rehabilitative (efforts to restore and socially reintegrate offenders) (Nasrullah, 2023). Thus, this decision reflects a paradigm shift in sentencing, from mere eye-for-an-eye retribution towards efforts to reintegrate offenders into society as law-abiding citizens (Darmawan et al., 2024). Considerations regarding aggravating and mitigating factors, evaluated based on the applicable sentencing guidelines (*strafmaat*) and the Defendants' level of consciousness at the time of committing the act (within the realm of *mens rea* or *dolus*), form the basis for the judges to impose a commensurate and just sentence (Ihsan & Ifrani, 2020).

Furthermore, an in-depth analysis of this decision's aggravating and mitigating factors can be seen through the lens of victimology and criminology. The significant psychological impact of trauma on the victim is considered a substantial aggravating factor. It implicitly underscores the importance of adequate legal protection for victims of debt collection practices violating human rights (Nabila et al., 2020). This protection is a realization of a rule of law state (*rechtsstaat*) that guarantees the fundamental rights of its citizens. Conversely, the remorse shown by the Defendants, their promise not to repeat similar actions, and the attempted reconciliation contained in the settlement agreement are considered mitigating factors. Nevertheless, the Panel of Judges adhered to the principle that the crime of deprivation of liberty is an ordinary offence whose legal process cannot be waived even if reconciliation has occurred between the perpetrator and the victim or even if the victim withdraws their report. This firmness is consistent with the criminal law doctrine that clearly distinguishes between complaint offences and ordinary offences and affirms that in ordinary offences, the prosecution continues in the public interest and for law enforcement.

As the culmination of all the legal considerations that have been described, the Panel of Judges then handed down a decision that has binding legal force. *First*, the Panel of Judges declared Defendant I (Parida Hefni), Defendant II (Masparadi), Defendant III (Robi Kelana), and Defendant IV (Hendra Trijaya Ritonga) lawfully and convincingly proven guilty of committing the crime of kidnapping by the primary indictment proposed by the Public Prosecutor. *Second*, as a logical

consequence of establishing guilt and achieving the ideal sentencing objectives, the Panel of Judges sentenced each Defendant to six months' imprisonment. *Third*, to provide legal certainty and justice, the Panel of Judges stipulated that the period of arrest and detention already served by the Defendants be deducted in full from the imposed sentence. *Fourth*, based on careful consideration and by applicable law, the Panel of Judges ordered that the Defendants remain in detention. *Fifth*, for evidence in legal proceedings, the Panel of Judges designated evidence as a white flash drive containing CCTV recordings. *Sixth*, as a form of liability for the costs incurred during the legal proceedings, the Panel of Judges ordered the Defendants to pay court fees of IDR 5,000 (five thousand rupiah) each, by applicable statutory regulations.

In conclusion, this decision conveys a strong and important message to the public, especially to parties involved in debt transactions. This decision provides an in-depth understanding that the *lex specialis derogat legi generali* principle should primarily pursue debt dispute resolution through civil channels, which prioritizes more specific laws in regulating an issue. Furthermore, this decision clearly affirms the legal boundaries applicable in debt collection practices and emphasizes the importance of protecting human rights, especially the right to liberty, as a foundation of a rule of law state (*rechtsstaat*). An important implication of this decision is strengthening the supremacy of law in resolving civil disputes and providing a deterrent effect for perpetrators who use violence or deprivation of liberty in collecting debts. Thus, this decision significantly contributes to creating social order and enforcing justice in society.

CONCLUSIONS AND SUGGESTIONS

Based on the results and discussion, it can be concluded that [Decision Number 612/Pid.B/2023/PN Rhl](#) fundamentally affirms the boundary between the civil and criminal domains in the context of debt dispute resolution. This case, rooted in coercive actions by the Defendants motivated by using the victim as a means of debt repayment, explicitly rejects the use of violence and deprivation of liberty as methods of debt collection. This decision reinforces the *ultimum remedium* principle in criminal law, prioritising civil mechanisms as the primary avenue for resolving debt disputes before resorting to criminal instruments. This affirmation is crucial to prevent the misuse of criminal law as a tool of coercion in civil relations.

Furthermore, this decision strengthens legal protection for victims in the context of debt collection. The Panel of Judges' considerations, which explicitly recognize the psychological impact of trauma as an aggravating factor, demonstrate sensitivity to the victimological dimension of this crime. The emphasis on protecting

human rights, particularly the right to liberty, in the context of lawful debt collection, significantly contributes to protecting the fundamental rights of citizens. The Panel of Judges' consistency in applying the law, regardless of mitigating factors such as the Defendants' remorse and attempted reconciliation, reinforces that the crime of deprivation of liberty, as an ordinary offence, is still processed according to applicable law.

Finally, [Decision Number 612/Pid.B/2023/PN Rhl](#) sends a strong and impactful message to the public, particularly in debt transactions and collection. Through the imposition of six months imprisonment for each Defendant, this decision not only provides a deterrent effect for perpetrators but also strengthens legal certainty. An important implication of this decision is reaffirming the supremacy of law in resolving debt disputes and providing clear guidance regarding the boundaries that must not be violated in debt collection. Thus, [Decision Number 612/Pid.B/2023/PN Rhl](#) contributes to creating a just and equitable legal climate and guarantees human rights protection in dispute resolution.

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