

## **DOCTRINE OF CAUSALITY AND PROOF OF CRIMINAL ACTIONS IN THE JESSICA WONGSO CYANIDE COFFEE CASE**

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### **Keywords**

Causality doctrine,  
proof of criminal acts,  
cyanide coffee case

### **Abstract**

Criminal law is a sub-section of law that creates peace and order in society, because the existence of criminal law in society cannot be separated from the state's efforts to create order. To determine the penalty for a criminal act, it is necessary to pay attention to the doctrine of cause and effect and evidence of the occurrence of the criminal act. For this reason, the aim of this research is to analyze the teachings of causality and evidence of the crime in the cyanide coffee case committed by the defendant Jessica Wongso against the victim Wayan Mirna Salihin in 2016. This research uses qualitative research methods. The data collection technique in this research uses the literature study method. The data that has been collected is then analyzed through three stages, namely data reduction, data presentation, and drawing conclusions. The research results show that the doctrine of causality is very important because it relates to which actions should be considered as the cause of prohibited effects. The judge assessed that Jessica's actions, namely putting cyanide poison in the coffee that Mirna drank, were the direct cause of Mirna's death. This decision was based on several considerations, namely the discovery of cyanide poison in Mirna's coffee, no one else had put cyanide poison in Mirna's coffee, and the defendant had a motive to kill the victim. In this case, the judge relied on witness testimony, expert testimony and evidence to prove Jessica's crime. Based on the teachings of causality and evidence, the judge sentenced Jessica as the defendant to 20 years in prison. This circumstantial evidence has given rise to much controversy. However, despite the controversy, the coffee cyanide case shows the importance of the teachings of causality and evidence of criminal acts in criminal law.

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## **INTRODUCTION**

The Indonesian state is a legal state, which is confirmed in the Republic of Indonesia Law of 1945 article 1 paragraph 3, which means that all aspects of life in the territory of the Unitary State of the Republic of Indonesia must be based on law and all actions carried out by citizens and the government must be in accordance with the law. Law is the basis for actions and decisions taken by individuals, groups, institutions, and governments. This shows that the Indonesian people themselves view how vital the concept of the rule of law is in regulating national and state life (Siallagan, 2016). The law works by regulating a person's actions or relationships between people in society. For erection purposes, the law describes its work in various functions. Thus, the function of law is to order and regulate relationships in society and resolve problems that arise (Orlando, 2022)

Criminal law is a branch of law other than civil law. Civil law deals with relationships between individuals or legal entities. In contrast, criminal law regulates actions that are prohibited and punishable by criminal law. The aim is to maintain public order and security, protect the rights and interests of the community, and uphold justice. In reality, criminal law has more than one meaning; legal experts recognize that criminal law is difficult to define because each law has a different view. However, the author quotes from Moeljatno (Ruba'i,

2021) that criminal law is part of the total law that applies in a country, which provides the basics and rules for, firstly, determining which actions cannot be carried out, which are prohibited, by accompanied by threats or sanctions in the form of specific criminal penalties for anyone who violates these prohibitions, secondly determining when and in what cases those who have violated these prohibitions can be subject to or sentenced to the criminal penalties as threatened, thirdly determining in what manner the criminal sanctions can be imposed and carried out if someone is suspected of having violated the prohibition.

One of the criminal acts is murder. The crime of murder is a criminal act that takes the life of another person. Not all causes of a person's death can be identified directly. In some cases, there is a gap or a chain that connects one act to another act, which is the cause of death. For this reason, the doctrine of causality is essential as a guide in judging decision-making. The doctrine of causality is interpreted as a teaching that examines and determines in what cases a person can be asked to attribute criminal responsibility in connection with a series of events that occurred as a result of a series of actions accompanying a criminal event (Weinreb, 2019).

Proving criminal acts is an essential element in the criminal justice process. Proving a criminal act aims to convince the judge that the defendant has committed the criminal act he is charged with. According to (Ipakit, 2015), The essence of proof in criminal law is very urgent because proof is a process to determine and state a person's guilt and can be sentenced to a crime because the results of the trial are legally and convincingly proven to have committed a criminal act or can be acquitted of the charge because they are not proven to have committed it. A criminal act or being released from all legal charges because what was charged was proven, but the act did not constitute a criminal act. One of the murder cases that will be examined in this research is the cyanide coffee case committed by Jessica Kumala Wongso on the victim Wayan Mirna Salihin, who reportedly died shortly after he drank 3 grams of cyanide poison contained in a glass of Vietnamese iced coffee when Mirna, Jessica, and Hani held a meeting at Olivier Caffé Jakarta on 9 January 2016.

Previous research conducted by (Mawardi, 2020) with the title Validity of Evidence in the Wayan Mirna Salihin murder case ( Case Study of the Decision of the Central Jakarta District Court: 777/Pid.B/2016/PN.JKT.PST) explained that the judge's legal basis in deciding and assessing official letters through the Central Jakarta District Court Decision: 777/Pid.B/2016/PN.JKT.PST. Based on the decision, it was explained that Jessika was guilty of fulfilling the elements of legal Evidence, namely that CCTV evidence (microfilm or microfiche) could be used as legal Evidence in criminal cases in court. Meanwhile, previous research with the title Analysis of the Mirna Salihin cyanide coffee legal case: implications of criminal law and legal procedures in Indonesia resulted in this case, the defendant Jessica Wongso was very depressed, and this trial, according to the author, there was no evidence that concrete and clear because no autopsy was carried out (Farrell, 2017). Because what is clear is that there must be an autopsy, not just a sampling of stomach organs. Therefore, this case feels extraordinary, and there is no clarity or clear Evidence at all. The family refused to carry out an autopsy because they were afraid it would cause damage to Mirna Salihin's body.

The novelty of this research is that there has been no research that analyzes the teachings of causality and proof of criminal acts in the coffee cyanide case by Jessica Kumala Wongso. The doctrine of causality and proof of criminal acts are two crucial things in criminal law. The doctrine of causality is used to determine whether an act can be criminally responsible or not, while proof of a criminal act aims to convince the judge that the defendant has committed the criminal act for which he is charged. So, this research aims to analyze the teachings of causality and proof of criminal acts in the cyanide coffee case committed by the defendant Jessica Kumala Wongso against the victim Wayan Mirna Salihin in 2019.

## RESEARCH METHODS

This research uses descriptive qualitative research. Qualitative research is a type of research that produces discoveries that cannot be achieved using statistical procedures or

other quantitative methods. This research uses a literature review method (library research), where researchers collect materials related to research originating from books, journals, scientific articles, literature, mass media reports, and legislation by describing and explaining the data. Then, they analyzed using data reduction presented in descriptive form, and conclusions can be drawn regarding the teachings of causality and proof of criminal acts in the Jessica Wongso cyanide coffee case.

## RESULTS AND DISCUSSION

Criminal law is a sub-section of law that is an embodiment of peace and order in society because the existence of criminal law in society cannot be separated from the state's efforts to create order. According to Marpaung, this is guaranteed by a paradigm where criminal law exists with the aim of protecting and maintaining legal order in order to maintain security and public order (CDM et al., 2020). However, in real life there are always incidents that disturb security and order. It is not impossible for a human being to make mistakes, whether intentionally or unintentionally, which can result in harm to other people and violate the law.

The right to life is the most basic human right, meaning that everyone has the right to live free from the threat of death. This right is guaranteed in the 1945 Constitution in Article 28 A, which states that "every person has the right to live and the right to defend his life and existence". The right to life is a non-negotiable right because it is a right that everyone has, regardless of race, religion, ethnicity, gender, or social status. The regulations prohibiting someone from committing a crime against the life of another person are contained in Article 338 of the Criminal Code, which states that anyone who intentionally takes the life of another person is threatened with murder with a maximum imprisonment of fifteen years, secondly, Article 340 of the Criminal Code. Whoever deliberately and with premeditation takes the life of another person is threatened with premeditated murder, with the death penalty or life imprisonment or, for a certain period, a maximum of twenty years. Thirdly, Article 340 of the Criminal Code explains that murder committed with premeditation obtains punishment or sanctions that are more severe than unplanned murder.

One example of a criminal murder case that will be discussed in this research is the case experienced by victim Wayan Mirna Salihin wh, who is often called Mirna by the defendant Jessica Kumala Wongso or Jessica, which occurred in 2019. The chronology of this case, as reported in the news (KompasTV, 2023), is as follows: On 6 January 2016 at 15.30 WIB, Jessica first arrived at Café Olivier. Jessica, who was carrying a brown bag, ordered a table in a room without smoking, and a receptionist served her with Aprilia Cindy Cornelia. Two minutes after entering the room, 15.32 WIB, Jessica left Caffé Olivier. Jessica re-entered the Olivier with shopping bags at 16.14 WIB, then at 16.17 WIB, Jessica left table 54 for the cocktail room, still carrying her brown bag. Arriving at the cocktail room, Jessica was seen chatting with the male bartender, then stood for a while in front of the bar table. While standing in the cocktail serving room, Jessica was seen several times looking to the right, left, and back. He then asked the waiter for help to take a photo of him. Then, at 16.20 WIB, Jessica left the cocktail room and went to the cashier's room; she appeared to be chatting with the waiter before paying for her order. After paying, he returned to 54 and sat on the edge of the sofa in the same position as when he first sat down. At around 16.24 WIB, the waiter brought Jessica's order of 2 cocktails and Vietnamese iced coffee. The waiter was at table 54 from 16.24 to 16.26 WIB. The cocktail position was at the end of the table, far from Jessica's position, while the Vietnamese iced coffee was nearby. At around 16.28, Jessica was seen moving the menu holder to the end of the table and moving the paper bag into a parallel position so that CCTV could not clearly monitor table no. 54 also has Vietnamese iced coffee. Not long after, Jessica's hand moved, but it was not known precisely what she did. At 17.17 WIB, Hani and Mirna came and hugged each other for a moment with Jessica in front of table 54. Mirna then sat in the middle between Jessica on the left and Hani on the right. 17.18 WIB Shortly after sitting down, Mirna immediately grabbed the coffee, stirred it, and drank it through a straw. After drinking the coffee, Mirna covered her nose and mouth and then waved her hand in front of her mouth. Hani seemed confused by

Mirna's reaction and tried to check the coffee that Mirna had previously drunk by bringing it closer to her mouth and nose. 17.19 WIB Mirna lay her head back and became unconscious. Mirna experienced convulsions, and foam was also coming out of her mouth. Next there was panic at Cafe Olivier. Hani and the cafe staff began to help Mirna, who was having a seizure. 17.27 WIB Mirna, who was unconscious, was taken to the clinic in the mall with the help of a wheelchair provided by Cafe Olivier's staff. Mirna's husband, Arief Soemarmo, received a call from Hani saying that his wife was having convulsions and was emitting foam. When they arrived there, Arif, Hani, and Jessica took Mirna, who was already unconscious, to Abdi Waluyo Hospital. Unfortunately, Mirna's life could not be saved, and she was declared dead. Victim Mirna was declared dead at 18.30 WIB according to the Abdi Waluyo Hospital Letter number 004/DIR/RSBW/I/2016 dated 11 January 2016, which contains a Medical Resume in the name of Wayan Mirna Salihin.

On Saturday, 9 January 2016, the Police asked for approval to autopsy Mirna's body; the aim was to determine Mirna's death, which was considered unnatural. However, approval was not immediately given. After the family gave permission for an autopsy to be carried out at Sukanto Hospital, Kramat Jati, East Jakarta. After examining Mirna's stomach and liver, the Police found corrosive substances in these two organs. This means that the most likely cause of Mirna's sudden death was poisoning. On Friday, 29 January 2016, after conducting a case investigation, investigators finally named Jessica as a suspect in Mirna's murder. She was suspected of putting cyanide poison in Mirna's coffee. After going through various trials, on 27 October 2016, the Panel of Judges at the Central Jakarta District Court in Decision Number 777/Pid.B/2016/PN.JKT.PST stated that the Defendant JESSICA KUMALA alias JESSICA KUMALA WONGSO alias JESS had been legally and convincingly proven guilty committed the crime: "PLANNING MURDER" and sentenced the defendant to imprisonment for 20 (twenty) years.

Causality relates to which actions should be considered as the cause of a result that is prohibited by law. Once it is known that a particular action is the cause of the effect, then this is useful for determining who should be responsible for something that is known to be the cause of the result that is prohibited by law ("Criticism of Proving Causality in Court Decisions Regarding Article 93 Health Quarantine Law," 2022). In Jessica Wongso's cyanide coffee case above, the doctrine of causality was the basis for the judge's consideration in sentencing Jessica to 20 years in prison. The judge was of the opinion that Jessica's actions, namely putting cyanide poison in the coffee that Mirna drank, were the direct cause of Mirna's death. This decision is based on several considerations, namely ( Panel of Judges at the Central Jakarta District Court in Decision Number: 777/Pid.B/2016/PN.JKT.PST ):

### **1. Findings of cyanide poison in Mirna coffee.**

According to the Evidence examined at the Police Criminalistics Laboratory, it consists of:

BB I is one glass of leftover Ice Vietnamese Coffee drink containing  $\pm 150$  ml, BB II 1 bottle of leftover Ice Vietnamese Coffee drink containing  $\pm 200$  ml, BB III 1 (one) bottle of comparison drink containing  $\pm 350$  ml made by Olivier and BB cafes IV, 1 (one) pipette containing remaining liquid  $\pm 0.1$  ml. Meanwhile, Evidence was received from the results of the victim's autopsy BB V 1 (one) jar containing stomach samples, BB VI 1 (one) jar containing bile and liver samples, and BB VII 2 (two) syringes containing urine. The results of the examination of Evidence based on the Minutes of Criminalistics Laboratory Examination of Evidence in the form of Drink Remains and Body Fluid Organs LAB Number: 086.A/KTA/2016 on Thursday, 21 January 2016 can be described as follows in the form of BB I, BB 2, and BB 5 contain Sodium Cyanide, while BB III, BB IV, BB VI and BB VII do not contain Sodium Cyanide.

Based on the results of the examination above, Toxicologist Dr. Nursamran Subandi, M.Si concluded that cyanide (NaCN) is corrosive to materials exposed to it where the amount of cyanide (NaCN) contained in the VIC (Vietnamese iced coffee) drunk by Victim Mirna was  $\pm 298$  mg. This amount was much more significant. The lethal dose (LD<sub>50</sub>) of cyanide (NaCN) for humans weighing 60 kg is only 171.42 mg. On that basis, dr. Arief Wahyono, Sp.F and dr. Slamet Poernomo, Sp. F, DFM, as a Forensic Medicine Expert who conducted a Ver examination on Victim Mirna, concluded that the cause of Victim Mirna's death was cyanide

(NaCN), which was much greater than the lethal dose (LD<sub>50</sub>), causing erosion of her stomach.

## **2. No one else had the chance to put cyanide poison in Mirna's coffee.**

The Supreme Court's decision still mentions the fact that the defendant ordered victim Wayan Mirna Salihin's favorite drink first, namely Vietnamese Iced Coffee (VIC), while victim Wayan Mirna Salihin actually wanted to order his drink when the victim arrived at Restaurant Olivier. Secondly, unlike the usual VIC drink, the VIC drink that the defendant ordered from Cafe Oliver was originally brown and had a strong aroma. Then, when it was in the defendant's possession for approximately 53 (fifty-three) minutes, the color of the coffee changed to yellow with a strong aroma, not like coffee aroma. Thirdly, the VIC drink that the defendant ordered for Victim Wayan Mirna Salihin had a straw when it was served. The tip of the straw was wrapped in paper. However, after it was in the defendant's possession before it was drunk by Victim Wayan Mirna Salihin, the straw was already in the glass. VIC drinks, according to the testimony of Witness Marlon Alex Napitupulu and Witness Agus Triono.

## **3. Jessica Wongso had a motive to kill Mirna.**

Motive is what drives someone to do an action or the reason someone does an action. The motive in relation to crime means the drive contained in the perpetrator's inner attitude to commit the crime. From a criminological perspective, criminals committing their evil acts are always accompanied by a motive. There is always a reason why the perpetrator commits the crime (Gultom, 2018).

According to the Supreme Court's decision, Jessica's motive was that the defendant was friends with Victim Wayan Mirna Salihin (Victim Mirna), Witness Boon Juwita alias Hani (Witness Hani), and Witness Vera Rusli (Witness Vera) at the Billy Blue College of Design Campus in Sidney, Australia. Around mid-2015, Victim Mirna became aware of problems in the romantic relationship between the defendant and her boyfriend. Hence, Victim Mirna advised the defendant to just break up with her boyfriend, who was abusive and used drugs, stating why she was dating someone who was not good and had no capital. Victim Mirna's words apparently made the defendant angry and hurt, so the defendant cut off communication with Victim Mirna. After the defendant's anger at Victim Mirna, the defendant finally broke up with his girlfriend and experienced several legal incidents involving the Australian Police, which made the defendant even more offended and hurtful towards Victim Mirna, so to avenge his hurt, the defendant planned to take her life—Mirna's victim. Other research stated that the court accepted that Wongso's motive was jealousy and revenge. He was jealous of Salihin's happy marriage and wanted revenge after Salihin told him to break up with his Australian girlfriend (Butt, 2021).

Legal issues are a matter of proving in court who is guilty. Therefore, the role of Evidence in a legal process in court is vital. Proving a criminal act aims to convince the judge that the defendant has committed the criminal act he is charged with in Article 183 of the Criminal Procedure Code, the essence of the judge's sentence is based on a minimum of two valid pieces of Evidence (Kadish et al., 2016). It is convinced that the defendant did it. Article 184, paragraph (1) states five types of valid Evidence, namely witness statements, expert statements, letters, instructions, and defendant statements. Meanwhile, proof of the criminal act in the Jessica Wongso cyanide coffee case was carried out using indirect Evidence, "in the event that there is not a single eye witness who saw the murder being committed, then to prove it, the public prosecutor and judge can use circumstantial evidence or indirect evidence" (Mardhatillah & Mahyani, 2019). In this case, the judge relied on witness statements, expert statements, and Evidence to prove Jessica's criminal actions, which can be concluded as follows ( Panel of Judges at the Central Jakarta District Court in Decision Number: 777/Pid.B/2016/PN.JKT.PST ):

### **1. Witness statements**

Witness statements submitted by the public prosecutor (JPU) included statements from cafe employees Olivier, Mirna's friends, and Jessica's family (Butt, 2021). Witness statements that can be concluded are as follows: Jessica's family and Mirna's friends admit that the late Mirna and Jessica were friends when they studied at BILLY BLUE COLLEGE of

DESIGN in 2007 in Sidney, Australia. Meanwhile, several Olivier Cafe employees testified that they had made and served Vietnamese iced coffee according to the SOP for making and serving. In its presentation, the position of the straw, when se

rved, is next to the tumbler glass. The tip of the straw is wrapped in paper. Several witnesses also said that the color change of Vietnamese Ice Coffee made it become like turmeric herbal medicine.

## **2. Expert testimony**

The expert testimony submitted by the prosecutor included testimony from forensic doctors, toxicologists, and psychologists. The forensic expert concluded that the victim's Visum Et Repertum found abnormalities in the stomach in the form of bleeding in the gastric mucosa accompanied by erosion, which, according to the anatomical pathologist, could be caused by corrosive materials. The corrosion that occurs in the stomach is very heavy because almost the entire surface of the stomach wall is corrosive. According to toxicology experts, based on Evidence from beverage remains that tested positive for cyanide, it can be concluded that the amount of cyanide poison (CN-) that entered the victim's body, namely 298 mg, could speed up the death process in the victim's death. Meanwhile, according to psychologists, Jessica's behavior is suspicious. The suspect's behavior after Mirna died showed signs of anxiety, fear, and an attempt to hide something.

## **3. Evidence**

Evidence-based on the Minutes of Criminalistics Laboratory Examination of Evidence in the form of Remaining Drinks and Body Fluids LAB Number: 086.A/KTA/2016 on Thursday, 21 January 2016 can be described as follows in the form of BB I, BB 2, and BB 5 contains sodium cyanide. Apart from that, the Evidence is in the form of 1 unit of Toshiba 32 GB flash disk, gray S/N: 1430A7A412CAT, which contains CCTV footage from 6 January 2016 at Cafe Olivier West Mall Fl. Ground Grand Indonesia, Central Jakarta, that after viewing CCTV, experts were of the opinion that the defendant was the one who had the potential to put something in the Vietnamese iced coffee glass.

This indirect Evidence creates a hole in the Evidence because there were no eyewitnesses who saw Jessica Wongso put cyanide poison into Mirna's coffee (Leonetti, 2021). However, the Panel of Judges was of the opinion that the existing Evidence was sufficient to prove Jessica Wongso's criminal actions. So, the judge's decision in the Jessica Wongso cyanide coffee case sparked much controversy. One of the criticisms raised was that there were evidentiary holes in this case.

In practice, the teaching of causality and proving criminal acts is often tricky. This is because to determine a causal relationship between human actions and consequences that are not intended by law or to prove that someone has committed a criminal act, Evidence is often required that is challenging to obtain. Based on this case, the panel of judges' decision caused controversy because there were differences of opinion regarding the proof of criminal acts committed by the panel of judges. However, despite the controversy, the cyanide coffee case shows the importance of the doctrine of causality and proof of criminal acts in criminal law.

## **CONCLUSION**

The Indonesian state is a legal state, which is confirmed in the Republic of Indonesia Law of 1945 article 1 paragraph 3, which means that all aspects of life in the territory of the Unitary State of the Republic of Indonesia must be based on law and all actions carried out by citizens and the government must be in accordance with the law. Criminal law is a branch of law other than civil law. Suppose civil law deals with relationships between people or legal entities. In contrast, criminal law regulates acts that are prohibited and punishable by crime, the aim is to maintain public order and security, protect the rights and interests of society, and uphold justice. One of the criminal acts is murder. The crime of murder is a criminal act that takes the life of another person so that it conflicts with the right to life as the most basic human right, which means that everyone has the right to live free from the threat of death.

One of the murder cases that will be examined in this research is the cyanide coffee case committed by Jessica Kumala Wongso on the victim Wayan Mirna Salihin, who

reportedly died shortly after he drank 3 grams of cyanide poison contained in a glass of Vietnamese iced coffee when Mirna, Jessica, and Hani held a meeting at Olivier Caffé Jakarta on 9 January 2016. The doctrine of causality is essential because it relates to which actions should be considered as the cause of a result that is prohibited by law. The judge was of the opinion that Jessica's actions, namely putting cyanide poison in the coffee that Mirna drank, were the direct cause of Mirna's death. This decision was based on several considerations, namely the finding of cyanide poison in Mirna's coffee, no other person had the opportunity to put cyanide poison in Mirna's coffee, and the defendant had a motive to kill the victim. Proving a criminal act aims to convince the judge that the defendant has committed the crime he is charged with. In this case, the judge relied on witness statements, expert testimony, and Evidence to prove Jessica's criminal act. Based on the teachings of causality and Evidence, the judge sentenced Jessica as a defendant to 20 years in prison. However, this indirect Evidence creates a hole in the Evidence because there were no eyewitnesses who saw Jessica Wongso put cyanide poison into Mirna's coffee. However, the Panel of Judges was of the opinion that the existing Evidence was sufficient to prove Jessica Wongso's criminal actions. So, the judge's decision in the Jessica Wongso cyanide coffee case sparked a lot of controversy. However, apart from this controversy, the cyanide coffee case shows the importance of the teachings of causality and proof of criminal acts in criminal law.

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