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## **NETIZENS' OPINIONS ON LAW ENFORCEMENT AND SOCIAL RESPONSIBILITY**

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**Abstract:** Netizens/netizens in Indonesia have a role in the disclosure of several legal cases. Therefore, this study aims to capture how the opinions and aspirations (Opinions) of netizens related to the positive law enforcement process in the criminal case of theft of cocoa beans charged to Grandma Minah (Case No. 247/Pid.B/2009/PN. PWT). The case of Grandma Minah is considered a case that disturbs the community's sense of justice. Netizens assessed that dragging Grandma Minah into the legal process just because of the theft of 3 cocoa grains was an irony and contrary to conscience. Netizens contrast the disparity between the firmness of law enforcement in the Grandma Minah case and the firmness of law enforcement in corruption cases or cases involving the rulers and the powerful. The spirit of Law 40/2007 on the Company directs the existence of corporate social responsibility (CSR) which can also be used as a benchmark to view this case. In this study, the opinions of netizens are classified as positive because they hope that the law can be more just, humane and conscientious. However, in the future, the potential for the opinions of netizens, which is sometimes also based on minimal data/facts, has the potential to distort the independence of judges.

*Keywords:* law enforcement, criminal, netizens, Grandma Minah

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### **1. Introduction**

After the fall of the New Order, the people of Indonesia experienced a euphoria of freedom of opinion, not to mention chats in coffee shops that even openly dared to discuss criticism and disapproval of the ruler's policies. Now the presence of internet technology is pushing that freedom to a more massive level. A person does not need to be an academic, does not need to have the expertise and other requirements needed to publish his opinion in the mass media. In the internet era, a person only needs a *blog* account (Wordpress, Blogger, Kompasiana), an internet forum account (Kaskus, detikForum, Viva Forum), or a social media account (Facebook, Twitter) to

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voice their opinion on an issue that interests them. The internet makes it possible for everyone to talk about any problem on all occasions all the time.

Technological advances and the impact of *lockdowns* during the Covid-19 pandemic have encouraged individual internet users from Indonesia (Warganet) to transform into the power of opinion that affects the law. Although often this power is used negatively, such as spreading hoaxes to influence the political situation or in the context of power struggle (elections). However, in the author's observation, regarding matters that are not related to politics and elections, opinions from netizens on a matter tend to be sincere and honest.

The topic that attracted the attention of netizens was the case of Grandma Minah which is considered a manifestation of very sharp enforcement downwards. This case is also one of those mentioned by Commissioner General Listyo Sigit Prabowo when undergoing a *fit and proper test* as a Candidate for National Police Chief on January 20, 2021 in front of Commission III of the House of Representatives of the Republic of Indonesia. He stated that the Grandma Minah case is a case that disturbs the community's sense of justice and should not be repeated just to create legal certainty.<sup>1</sup>

The case of Grandma Minah occurred on August 2, 2009 in the jurisdiction of the Purwokerto District Court. At that time, Grandma Minah was in the cocoa plantation area owned by PT RSA Darmakradenan and saw cocoa fruits hanging from the tree. Furthermore, secretly without the owner's knowledge, Grandma Minah picked 3 (three) cocoa beans from the tree. This action was caught by a plantation foreman who was conducting a routine patrol. Furthermore, Grandma Minah was secured at the Ajibarang Police Station for processing and then charged with having committed a criminal act as regulated and threatened with criminal punishment according to

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<sup>1</sup> <https://tirto.id/bila-jadi-kapolri-listyo-sigit-enggan-kasus-nenek-minah-berulang-f9qa>, March 8, 2023

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Article 362 of the Criminal Code.<sup>2</sup> Article 362 of the Criminal Code) stipulates that:<sup>3</sup>  
*"Whoever takes goods, which wholly or partly belong to another person, with the intention of unlawfully possessing the goods, shall be punished for stealing with imprisonment for a maximum of five years"*

Regarding the indictment from the public prosecutor, the panel of judges decided that Grandma Minah was legally and convincingly proven to have committed the crime of theft and sentenced her to 1 (one) month and 15 (fifteen) days with a probation period of 3 (three) months. This verdict is lower than the public prosecutor's demand, which is a prison sentence of 6 (six) months.

## 2. Method

This type of research is reviewed in terms of sources is normative research with analytical descriptive characteristics.<sup>4</sup> ; then use secondary data sources as the main data, namely data from literature studies.<sup>5</sup> According to Soerjono Soekanto & Sri Mamuji, secondary data has a very wide scope including personal letters, diaries, books and official government documents.<sup>6</sup> The collected data is then systematically arranged, studied, and then a conclusion is drawn in relation to the formulation of the problem mentioned above.

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<sup>2</sup> Haryanto Dwiatmodjo, "Conditional Sentence in the Case of Cocoa Theft", *Judicial Journal* 5 No. 1 of the Judicial Commission of the Republic of Indonesia, Jakarta, (2012), 108, <https://doi.org/10.29123/jy.v5i1.178>

<sup>3</sup> R. Sugandhi, *The Criminal Code and Its Explanation*, (National Business Publisher, Surabaya, 1980), 376

<sup>4</sup> Hartanto and Cut Wilda Meutia Syafiina, "The Effectiveness of Consumer Protection Against Cosmetic Products That Do Not Have a Distribution Permit from the DIY Food and Drug Supervisory Center (in the Perspective of Criminal Law)", *Meta-Juridical Journal* 4, No.1 (2021), 57, <https://doi.org/10.26877/m-y.v4i1.6765>

<sup>5</sup> Muhammad Abas, et al., "Juridical Review of the Legal Consequences of the Placement of Outsourced Workers in the Company's Main Business Processes in Connection with Law No. 13 of 2003 concerning Manpower," *Journal of Legal Justification* 7, No. 2, (2022), 133, <https://doi.org/10.36805/jjih.v7i2.3058>

<sup>6</sup> Soerjono Soekanto & Sri Mamuji. *Normative Law Research*, (Rajawali Pers, Depok, 2019), 13



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### 3. Analysis or Discussion

Based on the description in the Introduction section above, the author formulates the main problem as follows: What are the opinions of netizens on law enforcement in the case of Grandma Minah and corporate social responsibility.

#### 1. Law Enforcement in the Case of Grandma Minah

The verdict of the case of Grandma Minah was read out by a panel of judges in a hearing open to the public at the Purwokerto District Court on November 19, 2009. Previously, Grandma Minah had undergone an examination at the Ajibarang Police Station at the end of August 2009 and an examination at the Purwokerto District Prosecutor's Office from October 19, 2009 to November 1, 2009. During this period, Grandma Minah was under house arrest at the Purwokerto District Attorney's Office. The legal facts obtained in the trial are: Legal facts:

- a. Defendant Mnh (Mrs. S binti S), an elderly woman, 55 years old, born in Banyumas, residing in Darmakradenan Village RT 04/RW 09, Ajibarang District, Banyumas Regency;
- b. Defendant Mnh who is a farmer took 3 (three) cocoa pods because he was forced to need seedlings in his field on August 2, 2009, Sunday at 13.00 WIB;
- c. 3 (three) cocoa pods grew on trees in the Plantation of PT RSA IV Darmakradenan in Darmakradenan village, Ajibarang District, Banyumas Regency;
- d. PT RSA IV Darmakradenan suffered a loss of IDR 30,000 (thirty thousand rupiah);

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e. The arrest of the defendant Mnh is intended to have a deterrent effect.

That the panel of judges concluded that these facts after being linked to Article 362 charged against Grandma Minah turned out to be fulfilled, as follows:

- a. The element of "Who's Goods", is fulfilled in Grandma Minah (the defendant);
- b. The element of "Take", is fulfilled in Grandma Minah's act of taking 3 cocoa;
- c. The element of "Which wholly or partially belongs to others", is fulfilled in the ownership of 3 cocoa beans in PT RSA IV Darmakradenan; and the element of "With the intention of owning goods against the law", was fulfilled in Grandma Minah's intention of taking 3 cocoa pods for seedlings in her field.

The hakin assembly found that with the fulfillment of these elements, Grandma Minah's act had been proven to be an unlawful act and no justification was found.

According to Moeljatno, the justifying reason is the reason that removes the unlawful nature of the act, so that what the defendant does becomes a proper and correct act. In the Criminal Code, which is considered a justifying reason is Article 49 Paragraph (1) regarding the defense of the accused (noodweer), Article 50 regarding the implementation of the provisions of the law and Article 51 Paragraph (1) regarding the implementation of orders of superiors.<sup>7</sup> According to the panel of judges, there was no excuse for forgiveness because in the observation of the panel of judges during the trial:<sup>8</sup>

- a. the defendant is in good physical and spiritual health, able to follow the course of the trial well;

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<sup>7</sup> Moeljatno, *Asas-Asas Hukum Pidana*, (Rineka Cipta, Jakarta, 2000):137-138

<sup>8</sup> *Ibid*

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- b. the act committed by the defendant of his own volition, not due to an invalid order of office, is considered valid;
- c. No reason for emergency defense was found.

The excuse of forgiveness, which is the reason that abolishes the guilt of the defendant. The act committed is still considered an unlawful act, but because there is no wrongdoing, the act is not punished. In the Criminal Code, the reasons for forgiveness are Article 49 Paragraph (2) concerning defense that exceeds the limit and Article 51 Paragraph (2) concerning the reason for criminal expungement due to an invalid office order. Article 48 on overmacht can also be categorized as excuses.<sup>13</sup> According to the panel of judges, Grandma Minah did not fulfill all of these things so that she could be held accountable for what she did. Then about the defendant, the panel of judges did not find anything incriminating. Meanwhile, some mitigating factors according to the panel of judges are: the elderly, farmers who are classified as poor, stolen cocoa beans can be replanted because there are very few, the defendant is cooperative in attending the trial even though he is elderly and limping, the defendant has received punishment with an uneasy soul.

The mitigating consideration in letter e is in accordance with the purpose of criminal law according to JB Daliyo, which is to repressively educate criminal offenders to return to becoming good individuals and accepted by the community. Moreover, in her plea Grandma Minah stated:<sup>9</sup>

- a. regret his actions and promise not to repeat them again;
- b. it is the first time to commit such an act;

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<sup>9</sup> J.B Daliyo, *Introduction to Indonesia Law*, (PT Prenhallindo, Jakarta, 2019), 91



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- c. apologize for his actions;
- d. Please punish as lightly and fairly as possible.

Based on the consideration of the fulfillment of all elements of the offense, the Panel of Judges decided as follows: Declaring the defendant Mnh alias Mrs. S who is complete with being legally and convincingly proven guilty of committing the crime of theft; Imposing a penalty, therefore, on the defendant is sentenced to imprisonment for 1 (one) month and 15 (fifteen) days with the provision that the defendant does not have to undergo it unless later there is a judge's decision that sentences the defendant because the defendant committed a criminal act before the expiration of the probation period for 3 (three) months.

The decision of the panel of judges turned out to be not in accordance with the views of netizens, while according to F. Jadidah based on humanitarian reasons, law should be seen as a set of rules that humanize humans, must be logically and constitutionally, when there are no excuses and justifications, judges can pay attention to the developing public opinion.<sup>10</sup> Although the prison sentence imposed by the judge does not need to be served by Grandma Minah because it is a probationary sentence, the verdict is still seen as unfair by the majority of netizens. For them, the case that befell Grandma Minah is a form of injustice against the poor. Examples of netizens' opinions are as follows:

- a. *"Justice is still very expensive and unaffordable for the poor."*

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<sup>10</sup> Fikrotul Jadidah, "The Case of Grandma Minah Reviewed from the Perspective of Legal Theory of Positivism", *IBLAM Law Review* 2 No. 03 (2022), 140, <https://doi.org/10.52249/ilr.v2i3.98>

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- b. *"the case of "3 cocoa beans" of Minah's grandmother, to the case of the "watermelon disaster" of Basar and Kholil, became a contrasting scene of how easily the goddess of justice cut down the rights of the plebeius"*<sup>11</sup>

The case of Grandma Minah is also considered an irony and something tragic and further strengthens public opinion that the law is indeed not on the side of the poor, this is obtained from the quote:

- a. *"This is the reality of the world of law and justice in the motherland of Indonesia. Whose heart is not sad to see the reality of the law that Grandma Minah is living."*<sup>12</sup>
- b. *"Law enforcement in Indonesia is now controlled by officials and those who "make money" and ensnare the poor as victims."*<sup>13</sup>

The law must be based on conscience, not limited to justice as in the case of Grandma Minah, quote:

- a. *"The law that is supposed to protect the community, by upholding justice, for Minah's grandmother, turns out to have no conscience."*<sup>14</sup>
- b. *"We are again facing a bitter fact. Law enforcement officials who are obliged to protect the community by upholding justice have no conscience."*  
(Netizen No. 5)<sup>15</sup>

<sup>11</sup> Pan Mohamad Faiz, 2009. Opinion Column: "Scavenging for Legal Conscience", <https://panmohamadfaiz.com/category/nurani-hukum/>, accessed 12 September 2022

<sup>12</sup> <http://ceritasumi.blogspot.com/2010/01/3-buah-kakao-menyeretnya-ke-meja-hijau.html>, accessed September 12, 2022

<sup>13</sup> <http://kemeroh.blogspot.com/2011/04/negara-hukum-dan-demokrasi.html>, accessed September 12, 2022

<sup>14</sup> <https://nasional.kompas.com/read/2009/11/20/08094942/elegi.minah.dan.tiga.buah.kakao.di.meja.hijau>, accessed September 12, 2022

<sup>15</sup> <http://www.dionbata.com/2009/12/geram.html>, diakses 12 September 2022

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Netizens contrasted the disparity between the firmness of law enforcement in the case of Grandma Minah and the firmness of law enforcement in corruption cases or cases involving the rulers and the powerful, quoted:

- a. *"Many corruptors who eat billions of people's money have escaped the law. But Minah's grandmother from Sidoharjo Hamlet, Darmakradenan Village, Ajibarang District, Banyumas Regency had to face legal problems just because of three cocoa beans worth Rp 2,000."*<sup>16</sup>
- b. *"Ordinary people like Grandma Minah and friends, who only commit petty theft are immediately arrested and thrown in jail. Meanwhile, a state official who commits corruption of billions of rupiah of state money can roam freely."*<sup>17</sup>

Even netizens who can understand that Grandma Minah is indeed guilty still implies that there is injustice in the criminal process. *"Stealing 3 cocoa pieces for only Rp 30,000 is it worth compared to 1.5 months of imprisonment<sup>29</sup> which if we convert it into a fine may reach 2 billion. So here we are not looking for right and wrong, because it is clear that Minah's grandmother is guilty, but from this case we must seek justice in the law, justice in the law."*<sup>18</sup>

Netizens questioned why in processing the case of Grandma Minah, they only focused on the enforcement of legal certainty whose results were insignificant, unequal and did not choose progressive legal settlement and restorative justice.

<sup>16</sup> <https://news.kompas.com/read/2009/11/19/07410723/duh-tiga-buah-kakao-menyeret-minah-ke-meja-hijau>, accessed September 12, 2022

<sup>17</sup> <https://news.kompas.com/read/2009/11/19/07410723/duh-tiga-buah-kakao-menyeret-minah-ke-meja-hijau>, accessed 12 September 2022

<sup>18</sup> <https://chandrasilaen.wordpress.com/2010/01/19/adilkah-apa-yang-dialami-oleh-nenek-minah/>, accessed 12 September 2022

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*"What's wrong with the investigators and prosecutors of the Minah case? Didn't the idea of progressive law and restorative justice reach them? Don't they understand the basic value of the law? trapped in legal certainty?"<sup>19</sup>*

From the description above, it can be seen that netizens and the panel of judges are of the same opinion that Grandma Minah's actions have met the elements of deliberation in Article 362 of the Criminal Code. However, netizens did not agree with the panel of judges that Grandma Minah was guilty so that she should be punished. The application of criminal law has the principle of *geen straf zonder schuld* or no crime without fault, which means that people can commit a criminal act but are innocent, have no *criminal responsibility* or criminal responsibility.

The panel of judges has implemented that principle, that to convict Grandma Minah, the accountability must be found on her. *"To convict a person, it must be proven that there is a criminal act and the defendant must be responsible for the criminal act. Regarding the existence of a criminal act, it must be proven by the fulfillment of all elements of the articles of the laws and regulations charged against him and no justifying reason is found, while regarding the responsibility for the occurrence of the criminal act and an excuse is found that can remove criminal liability."*

Criminal law also recognizes the term *vis compulsiva*, which is coercion that arises from a person's mind (psychic). Further, *vis compulsiva* is divided into *overmacht in enge zin* and *noodtoestand*. *Overmacht in enge zin* is coercion in a narrow sense, that is, coercion caused by the coercion of others, for example, people are forced to surrender their wallets. While *noodtoestand* is coercive force due to emergency, which is coercive force arising from certain circumstances or situations or conditions.

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<sup>19</sup> <http://www.ferryfatur.com/2009/11/diunduh-dari-kompas.html>, accessed September 12, 2022

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According to Simons, *noodtoestand* is the excuse for forgiveness that removes the unlawful nature of an act. Further about coercion, in order to interpret the *noodtoestand* (emergency) experienced by a person so that it becomes a reason for forgiveness to remove unlawful nature, it must be examined from each case. And as described above, the panel of judges did not find a reason for forgiveness that could remove Grandma Minah's criminal responsibility, on the other hand, the judge agreed that the theft committed by Grandma Minah was a phenomenon of social inequality, but the panel of judges considered that Grandma Minah's poor condition, which forced her to steal, was not a reason for forgiveness but only a mitigating matter. Minah's grandmother's actions are a symptom of PT. RSA IV Darmakradenan does not empower the local community, thus causing inequality and social jealousy.<sup>20</sup> On the other hand, there is a study that contains a more surprising aspect: in New York City, the relatively high poverty rate of Asians is accompanied by a very low crime rate. This undermines the common belief that poverty and crime go linearly (unidirectional).<sup>21</sup> Other research in the utilitarianist view, however, would say what a poor thief has done for medical expenses is morally correct. For utilitarians, stealing itself is not considered bad or good, but what makes it bad or good is the consequence produced, the event is that Peter steals from one person who has enough, and spends it on three people who need more money, this justification is because the calculation of the benefits of theft is greater than the losses caused by theft.<sup>22</sup>

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<sup>20</sup> Haryanto Dwiartmodjo, "Conditional Sentence in the Case of Cocoa Theft", *Judicial Journal* 5 No. 1, April (2012), 111, <https://doi.org/10.29123/jy.v5i1.178>

<sup>21</sup> Barry Latzer, Poverty and Violent Crime Don't Go Hand in Hand, Poverty and Violent Crime Don't Go Hand in Hand, <https://www.city-journal.org/poverty-and-violent-crime-dont-go-hand-in-hand>, diakses 11 Januari 2023

<sup>22</sup> Ibid



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The author caught that this is where it seems that netizens disagree with the panel of judges that according to netizens, this condition should be enough to be considered a *noodtoestand*. The author himself assesses that the panel of judges is indeed lacking in exploring if PT. RSA IV Darmakradenan played the role of a *victim* who caused inequality and social jealousy, which became a situation and condition that resulted in (psychological) Grandma Minah being forced to steal.

Netizens hope that the case of Grandma Minah will be a starting point for learning so that the law will become more conscientious in justice and humanity. And so that law enforcement officials exercise their authority appropriately, and not get caught up in positivism but realize substantial justice.

### 2. Corporate Social Responsibility

Initially, the regulation of Limited Liability Companies in Indonesia was governed by the Commercial Law Code (*Wetboek van Kophandel* or abbreviated as the Criminal Code) of the Netherlands heritage and then replaced by Law No. 1 of 1995 concerning Limited Liability Companies, then replaced by Law No. 40 of 2007 concerning Limited Liability Companies which is in force until now. When compared to Law 1/1995 and the Criminal Code, Law 40/2007 has a peculiarity, namely the regulation of Social and Environmental Responsibility, hereinafter referred to as TJSL, or more popularly known as *Corporate Social Responsibility* (CSR). If the value of losses in the case of Grandma MNH is related, then although it is not directly related, it is very contradictory to the spirit contained in CSR.

According to M. Yahya Harahap, the existence of CSR in Law 40/2007 is based on the view that has developed recently which directs the Company as a company that conducts business activities in the midst of people's lives, must be responsible for

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social problems faced by the local community/in the company's environment.<sup>23</sup> This teaching opposes *neo-capitalism* which holds that the responsibility of the Company is only to seek maximum profits for shareholders, while social problems, people's welfare and environmental problems are not the responsibility of the Company but the responsibility of the government. Law 40/2007 goes more decisively by stipulating that CSR is a legal responsibility, so it is not just a moral and ethical responsibility whose implementation is very subjective.

The General Explanation of Law 40/2007 explains that TJSL aims to realize sustainable economic development, in order to improve the quality of life and environment that is beneficial to the Company itself, the local community, and the community in general. It is also explained that the purpose of TJSL is to support the establishment of the Company's relationship that is harmonious, balanced, and in accordance with the environment, values, norms, and culture of the local community.<sup>24</sup> Therefore, TJSL is an obligation of the Company to the quality of life of the community and the environment around the Company's business activities, also referring to Article 74 paragraph (1) regulating when:<sup>44</sup> *"The Company that carries out its business activities in the field and/or related to natural resources is obliged to carry out Social and Environmental Responsibility."* PT RSA IV Darmakradenan cultivates cocoa plants in a plantation area, which means that its business activities in the field or at least related to or have an impact on the function of natural resources so that it meets the qualifications as a company that bears TJSL obligations. Furthermore, according to Law No. 18 of 2004 concerning Plantations, which was in

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<sup>23</sup> M. Yahya Harahap, *Limited Liability Company Law* (1st Edition 8th Edition), (Sinar Grafika, Jakarta, 2021), 298

<sup>24</sup> Rudi Pisteo, Fajar Sugianto, "Able Leonard Agustian, Reinterpretation of Corporate Social and Environmental Responsibility", *Magnum Opus Law Journal* 3, No.1, Feb (2020), 3, <https://doi.org/10.30996/jhmo.v3i1.2630>

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effect at the time of the Grandma Minah Case, a plantation company has an obligation to establish partnerships with the surrounding community to further improve the welfare of the surrounding community in addition to maintaining the security, sustainability, and integrity of the plantation business; Article 22 Paragraph (1)<sup>45</sup> *"Plantation companies carry out partnerships that are mutually beneficial, mutually respectful, mutually responsible, mutually reinforcing and interdependent with planters, employees, and the community around the plantation."*

PT RSA IV Darmakradenan can be summarized as having 2 (two) types of legal responsibilities, namely:

- a. carrying out Social and Environmental Responsibility; and
- b. establish partnerships with the surrounding community. which aims to improve the quality of life and welfare of the surrounding community.

If PT. RSA IV Darmakradenan did not carry out its two legal responsibilities, so PT. RSA IV Darmakradenan actually plays a role in causing inequality and social jealousy in the surrounding community and if it has a direct causality that creates situations and conditions that force Grandma Minah to commit theft, then the author agrees that there is a *noodtoestand* as a type of *overmacht* that does not occur not due to human actions, but because of other things.

So far, *noodtoestand* has always been interpreted as a dangerous situation related to life and death, such as the classic example of the Carneades Board or the proverb about a person who is forced to steal bread because he has not eaten for several days. However, the panel of judges can make legal discoveries (*rechtsvinding*), for example by conducting sociological interpretation, namely interpreting laws based on societal objectives.

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Judges make legal discoveries and extensify the meaning of a legal provision as permissible by law, this has been a subject of consideration in various jurisprudences, as well as in the Arrest Hoge Raad of January 31, 1919 in the case of *Lindenbaum vs. Cohen* which expanded the meaning of *onrechtmatige daad* (unlawful acts). Also, the Arrest of Hoge Raad on May 23, 1921 about the case of electricity theft in Gravenhage which gave a new meaning to objects not only limited to *roerend goed* (movable objects) and *stoffelijk goed* (tangible objects) but also included something part of human wealth.<sup>25</sup> The latest related community objectives demand that a company must be responsible for the social problems faced by the local community where the company carries out its business activities. This kind of social situation had not existed in this case before. So that the narrow meaning of *noodtoestand* is no longer in accordance with this new social situation; In the perspective of judges, they can also refer to Law Number 48 of 2009 concerning Judicial Power, namely Article 5 paragraph (1) which reads: "*Judges and constitutional judges are obliged to explore, follow, and understand the values of law and the sense of justice that live in society*". Further research needs to be studied whether the meaning of a sense of justice that lives in society including the opinions/opinions of netizens/netizens, if interpreted further, can be associated with the emergence of *buzzer behavior*, this is a more complicated study when returned to the phrase sense of justice of the community.

### 3. Conclusion

1. *Ubi societas ibi ius*, Cicero said; law is a necessity in social life. However, the relationship between law and society is not like a puzzle between chicken and egg. Logically, it is very clear that the existence of society is before the law. The

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<sup>25</sup> I Ketut Mertha, *Criminal Law Textbook*, (Faculty of Law, Udayana University, Bali, 2016), 48

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law does not exist without society. Thus, the existence of the law is to serve the needs of the community. In the case of Grandma Minah, the law that applies and is practiced in its interpretation no longer serves the needs of the community, especially regarding the aspect of justice for the poor. The situation of Grandma Minah, who is one of the elements because she is poor, then commits theft should be considered as *a noodtoestand* of PT. RSA IV Darmakradenan which did not fulfill its legal obligations. As a suggestion, researchers should in the future return to using moral instruments in legal studies, and not based on the dichotomy of poor or rich, but consider *mens rea* or the process of a crime and its consequences/losses.

2. Netizens/netizens have the power to influence the law in the technological era, but this contains 2 (two) opinions, namely positive and negative influences associated with the independence of judges.

## References

### Book:

Sugandhi, R., *The Criminal Code and its Explanation*, Surabaya: National Business Publisher, 1980.

Soekanto, S & Mamuji, S. *Normative Legal Research*, Depok: Rajawali Pers, 2019.

Moeljatno, 2000. *Principles of Criminal Law*, Jakarta: Rineka Cipta Publishers, 2000.

J.B Daliyo. *Introduction to Indonesia Law*, Jakarta: PT Prenhallindo, 2019.

Yahya, M. Harahap, *Law of Limited Liability Companies* (1st Edition 8th Edition), Jakarta: Sinar Grafika, 2021

I Ketut Mertha, *Criminal Law Textbook*, Bali: Faculty of Law, Udayana University, 2016

### Journal Article:



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Abas, Muhammad et al., "Juridical Review of the Legal Consequences of the Placement of Outsourced Workers in the Company's Main Business Processes in Connection with Law No. 13 of 2003 concerning Manpower", *Journal of Legal Justification* 7, No. 2, (September 2022), 133, <https://doi.org/10.36805/jjih.v7i2.3058>

Dwiatmodjo, Haryanto. "Conditional Sentence in the Case of Cocoa Theft", *Judicial Journal* 5 No. 1, (2012), 108, <https://doi.org/10.29123/jy.v5i1.178>

Hartanto and CWM Syafiina, "The Effectiveness of Consumer Protection Against Cosmetic Products That Do Not Have a Distribution Permit from the DIY Food and Drug Supervisory Center (in the Perspective of Criminal Law)", *Meta-Juridical Journal* 4 No.1 (March 2021), 57, <https://doi.org/10.26877/m-y.v4i1.6765>

Jadidah, F., "The Case of Grandma Minah Reviewed from the Perspective of Positivism Legal Theory", *IBLAM Law Review* 2 No. 03 (2022), 140, <https://doi.org/10.52249/ilr.v2i3.98>

Pisteo, Rudi, et al., "Reinterpreting Corporate Social and Environmental Responsibility", *Magnum Opus Law Journal* No.1, (February 2020), 3, <https://doi.org/10.30996/jhmo.v3i1.2630>

### Legislation:

Commercial Code (KUHD)

Law No. 40 of 2007 concerning Limited Liability Companies

Law Number 48 of 2009 concerning Judicial Power

### Other Resources:

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3 cocoa Fruits Drag it to the Green shirt. <http://ceritasumi.blogspot.com/2010/01/3-buah-kakao-menyeretnya-ke-meja-hijau.html>, accessed September 12, 2022

What's wrong with Our Law Enforcers?.  
<http://www.ferryfatur.com/2009/11/diunduh-dari-kompas.html>, accessed 12 September 2022

Is it fair what Grandma Minah experienced?  
<https://chandrasilaen.wordpress.com/2010/01/19/adilkah-apa-yang-dialami-oleh-nenek-minah/>, accessed September 12, 2022

If he becomes the National Police Chief, Listyo Sigit is reluctant to repeat the case of Mnh's grandmother. <https://tirto.id/bila-jadi-kapolri-listyo-sigit-enggan-kasus-nenek-minah-berulang-f9qa>, 8 March 2023

Elegi Minah and Three Cocoa Pods at the Green Table.  
<https://nasional.kompas.com/read/2009/11/20/08094942/elegi.minah.dan.tiga.buah.kakao.di.meja.hijau>., accessed 12 September 2022

Opinion Column: Scavenging for Legal Conscience,  
<https://panmohamadfaiz.com/category/nurani-hukum/>, accessed 12 September 2022

Geram. <http://www.dionbata.com/2009/12/geram.html>, diakses 12 September 2022

The State of Law and Democracy. <http://kemeroh.blogspot.com/2011/04/negara-hukum-dan-demokrasi.html>, accessed 12 September 2022

Poverty and Violent Crime Don't Go Hand in Hand, Poverty and Violent Crime Don't Go Hand in Hand, <https://www.city-journal.org/poverty-and-violent-crime-dont-go-hand-in-hand>, diakses 11 Januari 2023

Three Cocoa Pods Drag Minah to the Green Table..., Click to read:  
<https://news.kompas.com/read/2009/11/19/07410723/duh-tiga-buah-kakao-menyeret-minah-ke-meja-hijau>, accessed 12 September 2022