



## Book Review

# Understanding the Unlawful Acts (Problems and Challenges) A Book Review 'Perbuatan Melanggar Hukum', Prof. Dr. R. Wirjono Prodjodikoro, SH., CV Mandar Maju, Bandung, 108 Pages, ISBN 978-979- 538-470-0

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### DATA OF BOOK

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BOOK written by Prof. Dr. R. Wirjono Prodjodikoro, Wirjono was born in Surakarta, Dutch East Indies, on 15 June 1903. After completing his primary education, he attended the Rechtsschool in Batavia, graduating in 1922. He then became a judge, later taking time to study at Leiden University, Netherlands.

This book talks about acts that can violate laws which are viewed from the point of civil law. The term "unlawful acts" in general is very broad meaning that is if the word "law" is used in the

broadest sense and the matter of legal conduct viewed from all angles. Now the act of violating the law will be discussed simply because there are consequences and solutions that are regulated by the Civil Code in the broadest sense, which includes commercial law. This needs to be stated here, because Article 102 of the Provisional Constitution distinguishes Civil Law from Commercial Law.

However, in this book what is not discussed is the result and resolution of unlawful acts, which are regulated by Criminal Law and State Administrative Law, including Administrative Law. As for "law" which is violated, it is now used in the broadest sense, which is not only limited to Civil Law, but also includes Criminal Law and Constitutional Law. And it also needs to be stated at the outset, that the act of violating the law now, other than according to the *Burgerlijk Wetboek* system, is not included in the Agreement Law group (*Verbintenissenrecht*).

According to this book Law is a set of rules regarding the behavior of people as members of a society, while the sole purpose of the law is to establish safety, happiness, and order in that society. Each individual must have a variety of interests. The amount of interest is measured personally because it is part of our passions. This desire creates a desire to get satisfaction in his daily life, that is, so that all interests are maintained as well as possible. If the desire is so mature it can lead to various attempts to implement it, then from there begins a clash between the various interests of community members followed by people in the community which results in shocks. This shock must be avoided. And it is this avoidance of shaking that actually enters the purpose of the law, so the law creates certain relations in society.

In regulating relationships, the law aims to hold a balance between various interests. The balance doesn't only lie in birth but lies in the world of spiritual society. Do not let an interest neglected beside another interest that fulfills its overall purpose. The smooth operation of this matter can be carried out if the laws governing it are carried out respected, not violated. But human beings still have errors and errors in their behavior, so there is a need for legal regulations to regulate human behavior. So it is also appropriate if in the daily life of a community there are always members of the community who act out of line with legal regulations.

In this book the term "unlawful acts" is discussed that is considered rather narrow, which is meant by this term not only acts that violate the law, but also acts that directly violate other regulations than the law, but can be

said to indirectly violate anyhow law. What is meant by this other regulation is the regulation in the field of decency, religion, and manners.

In chapter II it is explained that the nature of what is meant by the term "unlawful acts" is that the actions result in a shock in the balance of the community. This shock does not only occur if the rules of law in a society are violated, but also if the rules of decency, religion, and courtesy in society are violated.

In this book discusses the imbalance of the community or called peculiarity. This peculiarity could be about various legal links in society. Legal relations that will achieve this peculiarity, can be about various human interests, such as property, body, soul, and human welfare. These interests can be enriched by something that challenges the law. All kinds of this important rape were immediately received bitterly by individuals who owned. Returning to the theory there is a rule of law that merely protects the interests of the community, not even the interests of individuals. But things like this rarely happen, and actually not known as an example of this kind of event. Individual people.

It was also explained that if a subject violates the law when he knows well, that his actions will result in the contamination of certain interests, then it can be said, that in general a subject can be justified. The requirement to be said, that a person is aware of the consequences, is that a person knows of the existence of certain conditions around his actions, namely the conditions which cause the possibility of the effect to occur. It needs to be stated here, that article 1365 BW does not distinguish intentionality from inadvertent matters but only says, that there must be a mistake (shuld) on the part of the maker of unlawful acts, so that the maker can be required to pay compensation. So according to the Civil Law according to BW, it does not need to be ignored, is there any deliberate or inadvertent behavior. That there are two meanings that can and must be separated, namely the act of violating the law and the error of the subject of the act.

In each chapter it has been explained, that each act violates the law resulting in a peculiarity in society in the absence of a balance in the body of society (evenwichtsverstoring). The shock in the balance sheet automatically raises the desire and sense of necessity, so that the shock is corrected, meaning that the balance sheet in society is made straight again.

Back straightness can most easily be achieved, if an act violates the law in the form of establishing something, which can easily be eliminated. For example, there are restrictions on planting trees on a field, and there are

people who violate the ban by planting trees that are still small. So the way to improve the situation is to pull the tree violently from the ground and throw it off the field.

According to this book, if someone steals but then returns it back to the victims of theft, then the slaughter of rebellion in society is straight back, if we look at it from an individual perspective. If seen from the social point of view, the hunter will still get a criminal law.

If the amount of loss suffered by the victim has been determined, the question arises whether always all the losses must be replaced by the offender. For example, in the case of a bicycle being hit by a car, and then it turns out, that this collision cannot be blamed solely on the driver of the car, but partly also because of carelessness riding a bicycle. So it is appropriate if only a portion of the loss of the bicycle rider is replaced by the driver of the car.

Then, in Chapter III, regarding the definition of an act against the law, the author explains that what constitutes an act violating the law, is not only an act that directly violates the law, but also an act that directly violates the rules of morality, religion or courtesy, but which shakes the balance of balance in society is so great, that in the end it must be determined that the sense of justice in society can only be satisfied, if such actions are also considered prohibited by law.

He explained about things that eliminate the unlawful nature of a certain act. The first is Personal Rights Once established there is the right of a person to take an action, this also has a limit, namely that there should be no "misbruik va recht" which means to use a certain right to achieve a goal that is not intended by the granting of that right. Now the element of decency has only a role. The second is self-defense (noodweer) Similar to the existence of a personal right to do an act that is generally against the law, is a matter of self-defense. It can be said that everyone who is attacked by others, is entitled to defend himself. The third is the state of coercion (overmacht). This forceful state can be absolute or relative. A coercive state is not absolute, if in the case of someone committing an act that violates the law, the situation is such that the person can actually throw himself away from the act, but only with a sacrifice of his own self-interest that is so great, that it is proper, that the person avoid sacrifice and then commit acts that violate the law. With this the obligation of a person not to do that action, can be considered lost.

And this book also explains various things about how we respond to unlawful acts in a civil angle. But not only civil, it is also explained briefly how the criminal attitude responds.

### **Advantages**

This book has several advantages. When viewed in terms of the appearance of the book cover, this book gives a firm impression with the color of the book red. The title of this book also explains well what material the reader will read. This book is packaged simply and has the right thickness that makes people want to read it. This book is more suitable for a good guidebook for students or people who work in the field of law, especially criminal law. This booklet is explained in detail about legal violations that are judged according to the criminal angle. That makes students and workers understand. This book is made simply and makes it easy for us to read it. So a lot of new knowledge provided by this book to readers. This book also describes and explains all the material in each chapter and provides a variety of examples so that readers will better understand the topic presented.

### **Deficiency**

I don't think this book is suitable for ordinary people who don't know what a Criminal Law is. And this book should be read after reading a book “*azas-azas Hukum Perdata*” and “*azas-azas Hukum Perjanjian*”. The language used in this book is very complex and uses many difficult words and is not equipped with foot notes to explain meanings that are difficult to understand. This book gives a lot of aliases alias foreign languages but does not provide an explanation of these meanings. This book also does not explore all the problems regarding the act of breaking the law by ending. And this book is not equipped with a bibliography.