

## **Analysis of Criminal Responsibility of Perpetrators of Assault Resulting in the Loss of Other Lives Based on Justice (Case Study of Decision Number 1055/Pid.B/2024/Pn Mdn)**

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**Abstract.** *This study discusses criminal liability for perpetrators of criminal acts of assault resulting in the loss of another person's life, focusing on decision number 1055/PID.B/2024/PN MDN. It aims to analyze the legal elements involved, the qualifications of the crime, and the principles of justice applied in the case. With a qualitative approach, data were collected through case studies and document analysis. This research uses a normative legal approach and is packaged in a systematic writing that describes the steps to be taken by a researcher in research techniques. This research collects data and analyzes the application of law from court decisions raised by the author. The results of the study indicate that criminal responsibility is determined by the perpetrator's intention, the causal relationship between the act of abuse and the victim's death, and the application of the principles of retributive and restorative justice. This study recommends strengthening the justice system, legal education, and rehabilitation for perpetrators to create more comprehensive justice.*

**Keywords :** Assault; Criminal; Law; Serious.

### **1. Introduction**

The Republic of Indonesia has established itself as a state of law. A state of law is a state concept that is based on the belief that state power must be exercised on the basis of fair and good law. A state of law requires that every action of the state must aim to uphold legal certainty, be carried out equally, be an element that legitimizes democracy, and fulfills the demands of reason.<sup>1</sup>

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<sup>1</sup> Nikodemus Thomas Martoredjo, 2020, Indonesia as a State of Law, <https://binus.ac.id/character-building/2020/12/indonesia-sebagai-negara-hukum/>

As a country based on law, Indonesia highly upholds the law which is manifested in regulations in the form of laws and systematically arranged in certain codifications or compilations.<sup>2</sup>Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (hereinafter abbreviated as the 1945 Constitution of the Republic of Indonesia) which reads: "The Republic of Indonesia is a State of Law". This means that every person in the territory of Indonesia must be subject to the laws in force in Indonesia and no one can be immune to the law, and all actions must be based on and have consequences in accordance with the laws and regulations in the Republic of Indonesia, which aims to realize an orderly, prosperous and just life for society, nation and state in order to achieve the goals of the State as mandated in the opening of the 1945 Constitution of the Republic of Indonesia.<sup>3</sup>

Human Rights (HAM) as stated in Law Number 39 of 1999 concerning Human Rights states that Human Rights are rights that are inherent in the nature and existence of humans as creatures of God Almighty. HAM is a gift that must be respected, upheld and protected by the state, law, government and every person.<sup>4</sup>

Human Rights are theoretically basic and natural rights that humans have as a gift from God that must be respected, protected, and maintained. Efforts to achieve a balance between private and public interests to maintain human existence as a whole are essential human rights. Likewise, efforts to respect, secure, and enforce human rights are a shared obligation and responsibility between individuals, the state, and the government (both civil and military officials).<sup>5</sup> Thus, in addition to having basic freedoms, there are also commitments that must be fulfilled for the implementation or maintenance of shared freedoms.

The development of the current era has not only brought a major influence on the State of Indonesia but also has an impact on the development of society, behavior, and cultural shifts in society. This problem has caused an increasing crime rate and the rampant occurrence of violations and criminal acts that occur both in the midst of society and in the family environment. One of the crimes that often occurs in the community is the crime of abuse.<sup>6</sup>

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<sup>2</sup>R. Abdoel Djamali, 1993, *Introduction to Indonesian Law (Revised Edition)*, PT. Raja Grafindo Persada, p. 69.

<sup>3</sup>Janpatar Simamora, 2014, *Interpretation of the Meaning of the Legal State in the Perspective of the 1945 Constitution of the Republic of Indonesia*, *Journal of Legal Dynamics*, Vol. 14 No. 3, p. 549.

<sup>4</sup><https://www.kemhan.go.id/2016/05/18/ham-adalah-hak-dasar-manusia-yang-harus-dilindungi-negara-dan-p.html>

<sup>5</sup>A.Bazar Harapan, Nawangsih Sutardi, 2006, *Human Rights and the Law*, CV. Yani's, Jakarta, pp. 33-34.

<sup>6</sup>Marlina, 2009, *Juvenile Criminal Justice in Indonesia*, Refika Aditama, Bandung, p. 1

The crime of abuse is one form of legal violation that often occurs in society. Cases of abuse often have very serious impacts on victims, both physically and psychologically. In handling cases of abuse, the criminal justice system is often the main choice to resolve the case. However, the traditional approach to resolving criminal cases often focuses on punishing the perpetrator, without considering the needs of the victim, the recovery process, and reconciliation between the perpetrator and the victim.<sup>7</sup>

This happens along with the development of technology and increasingly intensive interaction with the individualistic nature of humans, where humans as social beings always interact and need support as individuals. Everyone has a unique personality, such as different personalities, goals, and outlooks on life.

These differences can affect the interaction process and cause various conflicts and subsequent reactions, whether they are based on differences in interests (conflict of interest) or not. The form can be subtle, in the form of conflicting ideas, or it can be severe, in the form of coercion (violence).<sup>8</sup>

Various acts of abuse such as beatings and other physical violence often result in injuries to the victim's body or limbs, and often even cause the victim to suffer lifelong physical disabilities, including death. Acts of abuse also often cause psychological effects or impacts on the victim such as trauma, fear, threats, and sometimes there are victims of abuse who experience mental and psychological disorders.

The phenomenon of acts of abuse is not a new thing in the social life of society in Indonesia, which can be found anywhere, both in the home or family environment, in public places, or other places, which can happen to anyone when dealing with other people. Acts of abuse do not just happen, but can occur from various factors such as the influence of socializing and crime, robbery, social jealousy, economic pressure and inequality, disharmony. Household relationships or with other people, competition, conflicts of interest and others.<sup>9</sup>

Abuse in the main or usual form is better known as ordinary abuse, as regulated in Article 351 of the Criminal Code which reads as follows;

Article 351 of the Criminal Code:

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<sup>7</sup>Aryani, Witasari and Muhammad Sholikul Arif, 2019. "Implementation of Diversion to Realize Restorative Justice in the Juvenile Criminal Justice System", *UNISSULA Faculty of Law Journal* Number 2 Edition, pp. 178-179.

<sup>8</sup>Warih Anjari, 2014. "The Phenomenon of Violence as a Form of Crime (Violence)", *E Journal Widya Yustisia*, Number 1, Volume, p. 42.

<sup>9</sup>Fikri, 2013, "Legal Analysis of the Crime of Premeditated Assault", *Legal Opinion Journal of Law*, Vol. I, No. 2, p. 1.

- (1) Abuse is punishable by a maximum prison sentence of two years and eight months or a maximum fine of four thousand five hundred rupiah.
- (2) If the act results in serious injury, the perpetrator is threatened with a maximum prison sentence of five years.
- (3) If it results in death, the penalty is seven years imprisonment.
- (4) With abuse is equated with intentionally damaging health.
- (5) Attempt to commit this crime is not punishable.<sup>10</sup>

Article 351 of the Criminal Code formulates that, a person can know that the Law only talks about abuse without mentioning the elements of the criminal act of abuse, except only explaining that intentionally harming the health (of others) is equated with abuse. Thus, to say that someone has committed abuse, the person must have the opzet or intention to cause pain to another person, cause injury to the body of another person or harm the health of another person.<sup>11</sup>

Article 352 paragraph (1) of the Criminal Code, "except for that mentioned in Article 353 and Article 356, then abuse that does not cause illness or obstacles to carrying out work or work, is punished as light abuse, with a maximum prison sentence of three months or a maximum fine of four thousand five hundred. The sentence can be increased by one third for a person who commits the crime against someone who works for him or is his subordinate."<sup>12</sup> Meanwhile, in Article 352 paragraph (2) of the Criminal Code, the provision is formulated, "attempts to commit this crime are not punishable."<sup>13</sup>

In resolving cases of criminal assault, the restorative justice approach is one interesting alternative to discuss. Restorative justice emphasizes recovery and reconciliation through dialogue between the perpetrator, victim, and related community. Not only the suspect or defendant whose rights are protected, but the victim and witness must also be protected. It is reasonable if there is a balance between the protection of the suspect/defendant and the protection of the victim and/or witness.<sup>14</sup>

Discussion of Human Rights in the 1945 Constitution of the Republic of Indonesia, Articles 28A to 28J of the 1945 Constitution. Human Rights (HAM) are rights that are protected internationally, such as the right to life, the right to freedom, the right to own property, and the right to express opinions.

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<sup>10</sup>Soesilo R, 1989. Criminal Code, Bandung, PT Karya Nusantara, p.119

<sup>11</sup>PAF Lamintang, 2010, Crimes Against Life, Body, and Health, Sinar Grafika, Jakarta, p.132

<sup>12</sup>Criminal Code, Article 352 paragraph (1)

<sup>13</sup>Criminal Code, Article 352 paragraph (2)

<sup>14</sup>Bambang Waluyo, 2022, Settlement of Criminal Cases Implementing Restorative and Transformative Justice, Sinar Grafika, Jakarta, p.46

Furthermore, in Article 1 number 1 of the Human Rights Law, human rights are a set of rights that are inherent in the nature and existence of humans as God's creatures and are His gifts that must be respected, upheld and protected by the state, law, government and every person for the sake of honor and protection of human dignity and honor.

The implementation of restorative justice in cases of abuse can raise questions regarding the role of the public prosecutor in the process.<sup>15</sup>In this case, the Prosecutor's Office has the right to determine whether a criminal case will be taken and forwarded to court or not. This principle gives full authority to the Prosecutor's Office to determine the direction of the prosecution, decide whether there is enough evidence to continue the case, and prepare arguments in court.<sup>16</sup>

That the Defendant MUHAMMAD YUDISTIRA alias DISTI on Thursday, March 21, 2024 at approximately 01.00 WIB or at least at another time in March 2024, or at least at a certain time in 2024, at Simpang Kampung Nelayan on Jalan KL Yos Sudarso, Pekan Labuhan Village, Medan Labuhan District, Medan City or at least in another place that is still included in the Jurisdiction of the Medan District Court which has the authority to examine and try this case, committed serious assault which was carried out with prior planning, which resulted in the death of the Victim WIRA ADRIAN alias ADRIAN, which was carried out by the Defendant MUHAMMAD YUDISTIRA alias DISTI.

It started on Thursday, March 21, 2024 at around 01.00 WIB, the Defendant together with Witness VERI APANDI alias TEMON, Mr. JEFRI alias UJEK, Mr. ENJO (DPO), and other members of the Anak Gudang Kapur were on the side of the road in front of an empty land in front of an unused warehouse located at Simpang Kampung Nelayan, on Jalan KL Yos Sudarso, Pekan Labuhan Village, Medan Labuhan District. Not long after, the Victim WIRA ADRIAN alias ADRIAN, Witness IMAM SETIAWAN alias IMAM, who were members of the Anak Kampung Nelayan group of around 30 (thirty) people left Simpang Kampung Nelayan on foot and then threw stones at the Defendant along with Mr. ENJOS (DPO), Mr. UJEK, Mr. BUJAR, Mr. TEMON and other Anak Gudang Kapur using stones. Seeing this, Mr. ENJOS (DPO) then went to the front yard of the unused warehouse, and then Mr. ENJOS (DPO) took several sharp weapons that had been previously stored behind the grass beside the warehouse wall, because the Kapur Warehouse Children had often been involved in brawls, then Mr. ENJOS (DPO) distributed the sharp weapons to members of the Kapur Warehouse Children,

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<sup>15</sup>Hermawan and Hendra Setyawan Theja, 2020, "Analysis of the Principle of Domitus Litis and Termination of Prosecution Based on Restorative Justice in the Perspective of Law Number 15 of 2020", *AlQanun: Journal of Islamic Legal Thought and Reform* Number 1 Edition, January, p. 129.

<sup>16</sup>Johannes Pasaribu, 2017, "The Role of Prosecutors Regarding the Principle of Dominus Litis Based on the Criminal Justice System in Indonesia", *Postgraduate Program in Law, University of North Sumatra, Medan*, p. 57

where the Defendant received 1 (One) sharp weapon, a sickle type with a black-taped handle. After getting the sharp weapons, the Defendant along with Mr. UJEK (DPO) who was holding a Long Klewang Weapon, Mr. UJAR who was holding a Klewang weapon, and 6 (six) other Kapur Warehouse Children who were holding sharp weapons then approached the Fishermen's Village Children, where the Defendant took the front position and the Defendant immediately chased the Fishermen's Village Children and when they were at the Fishermen's Village Intersection, the victim WIRA ADRIAN alias ADRIAN and Mr. RIO who was running then collided and fell to the asphalt so that the Defendant approached the Victim WIRA ADRIAN alias ADRIAN and Mr. RIO who fell then swung 1 (One) sharp weapon type machete with a black-taped handle towards the left side of the stomach of Victim WIRA ADRIAN 1 (One) time causing the Victim to bleed. That after the Defendant slashed the Victim WIRA ADRIAN alias ADRIAN, the Defendant then left the Victim WIRA ADRIAN alias ADRIAN and headed to the hut where the Kapur Warehouse Children usually gathered and upon arriving at the place then the Defendant returned 1 (One) sharp weapon type machete with a black-taped handle to Mr. ENJOS (DPO) and Mr. ENJOS (DPO) said "the machete is bleeding, just bury it", so that the Defendant was afraid and then went home to the Defendant's house.

Because the victim WIRA ADRIAN alias ADRIAN ran while covered in blood, Witness IMAM SETIAWAN alias IMAM and his friends stopped a passing motorcycle taxi driver and took the victim WIRA ADRIAN alias ADRIAN to the house of Witness Bachtian Djafar, but upon arrival at the hospital, the victim WIRA ADRIAN alias ADRIAN was declared dead before being given assistance by the hospital, as evidenced by the Death Certificate No.: 33/III/RSBM/2024 dated March 21, 2024 which was made and signed by Dr. H. Mistar Ritonga M.HKes, Sp.F (K) Doctor at the Bhayangkara Hospital Class II Medan;

That when the Defendant woke up during sahur, Mr. TEMON sent a Whatsapp photo to the Defendant showing a photo of the Victim WIRA ADRIAN alias ADRIAN in a condition of severe injuries to his stomach and when the Defendant asked his friend about the condition of the Victim WIRA ADRIAN alias ADRIAN, the Victim WIRA ADRIAN alias ADRIAN had died. That on Saturday, March 23, 2024 at around 10:00 WIB, the Defendant and the Defendant's biological parents surrendered themselves to the Medan Labuhan Police to be held legally responsible for the Defendant's actions. Abuse can also occur unintentionally due to disagreements, fights or quarrels.<sup>17</sup>

Criminal liability establishes the importance of the relationship between freedom and responsibility. Every individual has the free will to determine his own actions, but must also be prepared to face the consequences of those choices.

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<sup>17</sup>Lenti, GM 2018. Crimes Against the Body in the Form of Abuse According to Article 351 Paragraphs 1–5 of the Criminal Code. Lex Crimen, 7(4). Pg. 55

Thus, understanding freedom and responsibility becomes crucial in the context of criminal law, where every perpetrator of a crime must be held accountable for his actions in accordance with applicable legal provisions.

Criminal liability is essentially a mechanism created by criminal law to respond to violations of agreements and to reject certain acts.<sup>18</sup>

Based on the function of law as an instrument of social engineering and as an instrument of social control, regulations regarding retaliation are created to be implemented in accordance with the intent and meaning contained therein. Members of the regulated society (individuals) must have an open mind and a comprehensive understanding of the law. The existence of regulations and legal institutions with the necessary facilities and infrastructure, as well as law enforcement officers, without being supported by the awareness of the local community as individual members of society.

Law is developing rapidly in society. Law is a means to uphold order and peace for the sake of tranquility in the lives of fellow citizens. Law grows and develops when society itself realizes the importance of law in its life. On the other hand, the purpose of law itself is to achieve social peace. Therefore, law protects human interests, such as freedom and transactions between humans in a market society. It also aims to prevent further dispute resolution that can foster divisions between communities and between communities and organizations.

## **2. Research Methods**

Method comes from the Greek word "Methodus" which means way or path.<sup>19</sup> So, the method can be interpreted as a path related to the way of working in achieving a target needed by its users, so that they can understand the target object or the purpose of solving the problem. While research means re-search. The search in question is the search for true (scientific) knowledge, because the results of this search will be used to answer certain problems. In other words, research is an effort to search that has educational value; it trains us to always be aware that in this world there is much that we do not know and what we are trying to find, find and know is still not absolute truth, therefore, it still needs to be re-tested. Thus, every research starts from ignorance and ends in doubt and the next stage starts from doubt and ends in a hypothesis (an answer that can be temporarily considered true before being proven otherwise).<sup>20</sup>

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<sup>18</sup>Teguh Prasetyo, 2008, Criminal Law revised edition, Depok catalog in publication, p. 83.

<sup>19</sup>P. Joko Subagyo, 2004. Research Methodology in Theory and Practice, Jakarta, Rineka Cipta. p. 1.

<sup>20</sup>Amiruddin and H. Zainal Asikin, 2014. Introduction to Legal Research Methods, Jakarta, Rajawali Pers, p. 19



### 3. Results and Discussion

#### 3.1. Criminal Liability for Perpetrators of Criminal Acts of Assault Resulting in the Loss of Life of Another Person in Case Decision Number 1055/Pid.B/2024/Pn Mdn?

##### 1) Case Description Decision Number 1055/Pid.B/2024/Pn Mdn

In this discussion, the author will describe the crime of abuse regulated in the Indonesian Criminal Code (KUHP). According to Articles 351 and 355 of the Criminal Code, abuse is an act that causes injury or pain to another person. If the abuse results in loss of life, then this crime can be qualified as more serious, such as murder or serious abuse. Articles 351 and 355 of the Criminal Code are in line with the verdict decided by the court. Quoted from the verdict, the chronology of the case that the author raised is:

That the Defendant MUHAMMAD YUDISTIRA alias DISTI on Thursday, March 21, 2024 at approximately 01.00 WIB or at least at another time in March 2024, or at least at a certain time in 2024, at Simpang Kampung Nelayan on Jalan KL Yos Sudarso, Pekan Labuhan Village, Medan Labuhan District, Medan City or at least at another place that is still included in the Jurisdiction of the Medan District Court which has the authority to examine and try this case, committed violence against the Victim WIRA ADRIAN alias ADRIAN which resulted in the death of the victim, which was carried out by the Defendant in the following manner:

That it started on Thursday, March 21, 2024 at approximately 01:00WIB The Defendant together with Witness VERI APANDI alias TEMON, Mr. JEFRI alias UJEK, Mr. ENJO (DPO), and other members of the Anak Gudang Kapur were on the side of the road in front of an empty land in front of a warehouse that was no longer used which was located at Simpang Kampung Nelayan, on Jalan KL Yos Sudarso, Pekan Labuhan Village, Medan Labuhan District. That not long after the Victim WIRA ADRIAN alias ADRIAN, Witness IMAM SETIAWAN alias IMAM, who were members of the Anak Kampung Nelayan group of around 30 (thirty) people left Simpang Kampung Nelayan on foot and then threw stones at the Defendant along with Mr. ENJOS (DPO), Mr. UJEK, Mr. BUJAR, Mr. TEMON and other Anak Gudang Kapur using stones.

Seeing this, Mr. ENJOS (DPO) then went to the front yard of the warehouse that was no longer in use, and then Mr. ENJOS (DPO) took several sharp weapons that had been previously stored behind the grass next to the warehouse wall, because the Anak Gudang Kapur had often been involved in brawls, then Mr. ENJOS (DPO) distributed the sharp weapons to members of the Anak Gudang Kapur, where the Defendant received 1 (one) sharp weapon, a sickle with a black-soled handle. After getting the sharp weapons, the Defendant along with Mr. UJEK (DPO) who was holding the Long Klewang



Weapon, Mr. UJAR who was holding the Klewang weapon, and 6 (six) Anak GudangAnother chalk holding a sharp weapon then approached the Fisherman's Village Children, where the Defendant took the front position and the Defendant immediately chased the Fisherman's Village Children and when they were at the Fisherman's Village Intersection,

The victims WIRA ADRIAN alias ADRIAN and Mr. RIO who were running then collided and fell to the asphalt so that the Defendant approached the Victims WIRA ADRIAN alias ADRIAN and Mr. RIO who fell then swung 1 (One) sharp weapon type machete with a black-taped handle towards the left side of the stomach of Victim WIRA ADRIAN 1 (One) time causing the Victim to bleed. That after the Defendant slashed Victim WIRA ADRIAN alias ADRIAN, the Defendant then left Victim WIRA ADRIAN alias ADRIAN and headed to the hut where the Kapur Warehouse Children usually gathered and upon arriving at the place then the Defendant returned 1 (One) sharp weapon type machete with a black-taped handle to Mr. ENJOS (DPO) and Mr. ENJOS (DPO) said "the machete is bleeding, just bury it", so that the Defendant was afraid and then went home to the Defendant's house;

That because the victim WIRA ADRIAN alias ADRIAN was running in a bloodied condition, the witness IMAM SETIAWAN alias IMAM and his friends stopped a passing motorcycle taxi driver and took the victim WIRA ADRIAN alias ADRIAN to the house of witness Bachtian Djafar, but upon arrival at the hospital, the victim WIRA ADRIAN alias ADRIAN was declared dead before being given assistance by the hospital, as evidenced by the Death Certificate No.: 33/III/RSBM/2024 dated March 21, 2024 which was made and signed by Dr. H. Mistar Ritonga M.HKes, Sp.F (K) Doctor at the Bhayangkara Hospital Class II Medan

That when the Defendant woke up during sahur, Mr. TEMON sent a Whatsapp photo to the Defendant showing a photo of the Victim WIRA ADRIAN alias ADRIAN in a condition of severe injuries to his stomach and when the Defendant asked his friend about the condition of the Victim WIRA ADRIAN alias ADRIAN, the Victim WIRA ADRIAN alias ADRIAN had died. That on Saturday, March 23, 2024 at around 10.00 WIB, the Defendant and the Defendant's biological parents surrendered themselves to the Medan Labuhan Police to be held legally responsible for the Defendant's actions;

That based on the External and Internal Visum et Repertum by Wira Adrian from the Bhayangkara Hospital Class II, Medan City Number: 20/IV/2024/RS.Bhayangkara dated March 24, 2024 by Dr. H. Mistar Ritonga M.HKes, Sp.F (K) Doctor at the Bhayangkara Hospital Class II, Medan, the following examination results were found:

- a. The results of the external examination found a slash wound on the left back, a torn wound on the left lower leg, abrasions on the right upper arm, right elbow, right shoulder blade, right knee, left back;
- b. The results of the internal examination found blood seepage in the left chest muscle, a stab wound was found between the eighth and ninth ribs of the left chest, the lower left lung, the lower left side of the heart;

From the results of external and internal examinations it was concluded:

- a. The estimated time of death of the victim is twelve hours to twenty-four hours from the time of examination;
- b. The nature of the victim's death was unnatural;
- c. The cause of the victim's death was suffocation due to heavy bleeding due to a slash wound to the back that penetrated the lower left lung and lower heart;

The Defendant's actions are regulated and subject to criminal penalties in Article 355 Paragraph (2) of the Criminal Code, Article 351 Paragraph (3) of the Criminal Code, and Article 170 Paragraph (2) 3 of the Criminal Code.

The above description greatly influences the sanctions given. Intentional murder that causes loss of life can be subject to a heavier prison sentence compared to ordinary assault. Criminal liability also includes considerations of ethics and social justice for the perpetrator and victim. The Judge's Decision expects that the sentence imposed will not only punish the perpetrator, but also provide justice for the victim and his family.

The results of the judge's decision and his considerations are:

That regarding the Public Prosecutor's charges, the Defendant did not file any objections and requested that the trial be continued to the next event, namely proving the charges. The Public Prosecutor has presented witnesses who provided statements, namely:

- a. Witness Zainal Juhri
- b. Witness Imam Setiawan alias Imam

That it is true that the Defendant committed assault against the victim by slashing or swinging 1 (one) sharp weapon of the type of machete with a handle covered in black tape towards the left side of the victim's stomach 1 (one) time, at which time the Defendant and his friends were brawling with the victim;

That it is true that initially on Thursday, March 21, 2024 at around 01.00 WIB, the Defendant together with the Defendant's friends Veri Apandi alias Temon, Mr. Jefri alias Ujek, Mr. Enjos (DPO), and other members of Anak Gudang Kapur were

on the side of the road in front of an empty land in front of a warehouse that was no longer used which was located at Simpang Kampung Nelayan on Jalan KL. Yos. Sudarso, Pekan Labuhan Village, Medan Labuhan District;

That it is true that not long after the victim Wira Adrian alias Wira, witness Imam Setiawan alias Imam, and his friends who were members of the Anak Kampung Nelayan gang, around 30 (thirty) people, came out of Simpang Kampung Nelayan on foot and threw stones at the Defendant along with Mr. Enjos (DPO), Mr. Ujek, Mr. Bujar, Mr. Temon and other Anak Gudang Kapur, seeing this, Mr. Enjos (DPO) went to the front yard of the warehouse that was no longer in use to take several sharp weapons that had been previously stored behind the grass beside the warehouse wall, because the Anak Gudang Kapur had often been involved in brawls;

That it is true that after getting the sharp weapon, the Defendant together with Mr. Ujek (DPO) who was holding a long lewang weapon, Mr. Ujar who was holding a klewang weapon, and 6 (six) other Gudang Kapur Children who were holding sharp weapons then approached the Fishermen's Village Children, where the Defendant took the front position and the Defendant immediately chased the Fishermen's Village Children and when they were at the Fishermen's Village Intersection, the Defendant saw the victims Wira Adrian Alias Wira and Mr. Rio running then collided and fell onto the asphalt so that the Defendant approached the victims Wira Adrian Alias Wira and Mr. Rio who had fallen then swung 1 (one) sharp weapon in the form of a sickle with a handle that was taped black towards the left side of the stomach of the victim Wira Adrian Alias Wira 1 (one) time causing the victim Wira Adrian Alias Wira to bleed, then the Defendant left the victim, and the victim did not put up any resistance;

That it is true that the victim Wira Adrian alias Wira was then taken to the hospital, but upon arrival at the hospital, the victim Wira Adrian alias Wira was declared dead before being given any assistance by the hospital, based on the Death Certificate No.: 33/III/RSBM/2024 dated March 21, 2024 which was made and signed by Dr. H. Mistar Ritonga M.HKes, Sp.F (K) Doctor at the Bhayangkara Hospital Class II Medan;

1) Criminal Liability of the Perpetrator in Case Decision Number 1055/Pid.B/2024/Pn. Mdn

Based on Decision Number 1055/Pid.B/2024/PN Mdn, the defendant named Risky Fadillah was proven to have committed aggravated theft as regulated in Article 363 paragraph (1) 4th and 5th of the Criminal Code. In this case, the defendant took a motorbike belonging to the victim which was parked in the yard by damaging the ignition. The defendant carried out the act at night with a colleague who was still on the DPO (Wanted List), thus fulfilling the

elements of "carried out by two or more people in collusion" and "carried out at night in a closed yard".

a. Elements of Criminal Responsibility

1) Act against the law

The defendant's actions clearly violate criminal law norms because he took someone else's property without permission and with the intention of possessing it unlawfully. This is categorized as an unlawful act as referred to in Article 363 of the Criminal Code.

2) Error (Dolus)

The defendant's mistake was deliberate (dolus) proven by the planning and cooperation with a colleague who is still a fugitive. The defendant consciously damaged the motorcycle lock and took it away. This shows that his actions were carried out with evil intentions (mens rea) and not due to negligence (culpa).

3) Personal Accountability

In criminal law, responsibility is personal. Although the act was committed together, each perpetrator is responsible for his contribution and intent. In this decision, the panel of judges decided that the defendant was fully responsible for his actions.

4) There is No Excuse or JustificationIn the trial facts,

In the trial process, no justification or defense of the defendant or excuse was found. Therefore, the defendant deserves to be held criminally responsible.

2) Criminal Law Perspective Analysis ofCase Decision Number 1055/Pid.B/2024/Pn. Mdn

The author in terms of analyzing the perspective of criminal law, the actions committed by the defendant fulfill the elements of a formal crime in Article 363 of the Criminal Code. The judge also considered the aggravating elements in the crime, namely that it was committed at night and was committed together. This criminal decision confirms that:

- a. Criminal responsibility is determined by the fulfillment of subjective and objective elements of a crime.
- b. The absence of any reason that could eliminate the defendant's guilt was the basis for the judge to sentence him to 1 year and 6 months in prison.
- c. The panel of judges took into account mitigating and aggravating factors, such as the defendant's young age as a mitigating factor, and the fact that

the act was committed repeatedly or in an organized manner as an aggravating factor.

Criminal liability for perpetrators of criminal acts of assault resulting in loss of life has been in accordance with the fulfillment of existing legal elements. Analysis of the intent, consequences, and context of the incident that has been described above and is the basis for the judge's decision is very important in determining the right and fair punishment for the victim and for the defendant.

### **3.2. Criminal Responsibility for Perpetrators of Criminal Acts of Abuse Resulting in the Loss of Life of Another Person Based on Justice in Case Decision Number 1055/Pid.B/2024/Pn Mdn**

The case that the author raised with Decision Number 1055/Pid.B/2024/PN Mdn is a concrete example of the application of criminal responsibility to the perpetrator of a serious assault resulting in death. In this case, the defendant Muhammad Yudistira alias Disti, who was 18 years old at the time of the incident, was sentenced to 10 years and 6 months in prison because it was legally and convincingly proven to have violated Article 355 paragraph (2) of the Criminal Code, namely committing serious assault carried out with prior planning and resulting in death. The panel of judges considered the formal and material elements of the criminal act, as well as paying attention to the defendant's personal condition and the impact of his actions on the victim and society.

This punishment reflects the absolute theory approach which holds that punishment is imposed solely as retribution for the evil deeds committed by the perpetrator. This theory emphasizes that punishment is the right of society and the obligation of the state to impose on the perpetrator because he deserves to be punished, because punishment is imposed as a form of retribution for actions that result in the loss of another person's life. However, on the other hand, the judge also uses a relative and combined approach, as seen from the consideration of the defendant's young age, cooperative attitude during the trial, and the hope that the defendant can still be improved and developed as a productive member of society.

In this case, the author also describes the analysis to understand the facts that occurred from the background of the incident, as well as the conditions that led to the abuse, in deciding this verdict, the judge has considered the principles of justice, both for the perpetrator and the victim.

#### **1) The facts that occurred**

In this case, the Defendant Muhammad Yudistira alias Disti mentioned above has been proven legally and convincingly guilty of committing the crime of "Assault resulting in death" as in the first charge, the facts that occurred that made the judge confidently decide the defendant was guilty:

- a. That it is true that on Thursday, March 21, 2024 at approximately 01.00 WIB on Jln. KL. Yos Sudarso, Pekan Labuhan Village, Medan Labuhan District, precisely on the side of the highway, the Defendant had committed assault on the victim Wira Adrian alias Wira to death;
- b. That the victim Wira Adrian alias Wira was a member ofjoined the Fishermen's Village Children group while the Defendant was a member of the Kapur Warehouse Children group;
- c. That it is true that on Thursday, March 21, 2024 at around 01.00 WIB on Jln. KL. Yos Sudarso, Pekan Labuhan Village, Medan Labuhan District, there was a brawl between the Children of Kampung Nelayang and the Children of Gudang Kapur;
- d. That it is true that the Defendant committed assault against the victim by slashing or swinging 1 (one) sharp weapon of the type of machete with a handle covered in black tape towards the left side of the victim's stomach 1 (one) time, at which time the Defendant and his friends were brawling with the victim;
- e. That it is true that initially on Thursday, March 21, 2024 at around 01.00 WIB, the Defendant together with the Defendant's friends Veri Apandi alias Temon, Mr. Jefri alias Ujek, Mr. Enjos (DPO), and other members of Anak Gudang Kapur were on the side of the road in front of an empty land in front of an unused warehouse located at Simpang Kampung Nelayan on Jalan KL. Yos. Sudarso, Pekan Labuhan Village, Medan Labuhan District.
- f. That it is true that not long after the victim Wira Adrian alias Wira, witness Imam Setiawan alias Imam, and his friends who were members of the Anak Kampung Nelayan gang, around 30 (thirty) people, came out of Simpang Kampung Nelayan on foot and threw stones at the Defendant along with Mr. Enjos (DPO), Mr. Ujek, Mr. Bujar, Mr. Temon and other Anak Gudang Kapur, seeing this, Mr. Enjos (DPO) went to the front yard of the warehouse that was no longer in use to take several sharp weapons that had been previously stored behind the grass beside the wall.warehouse, because the Kapur Warehouse Kids have often been involved in brawls;
- g. That it is true that Mr. Enjos (DPO) then distributed the sharp weapons to members of Anak Gudang Kapur, where the Defendant received 1 (one) sharp weapon of the sickle type with a black-soled handle;
- h. That it is true that after getting the sharp weapon, the Defendant together with Mr. Ujek (DPO) who was holding a long lewang weapon, Mr. Ujar who was holding a klewang weapon, and 6 (six) other Gudang Kapur Children who were holding sharp weapons then approached the Fishermen's Village Children, where the Defendant took the front position and the

Defendant immediately chased the Fishermen's Village Children and when they were at the Fishermen's Village Intersection, the Defendant saw the victims Wira Adrian Alias Wira and Mr. Rio running then collided and fell onto the asphalt so that the Defendant approached the victims Wira Adrian Alias Wira and Mr. Rio who had fallen then swung 1 (one) sharp weapon in the form of a sickle with a handle that was taped black towards the left side of the stomach of the victim Wira Adrian Alias Wira 1 (one) time causing the victim Wira Adrian Alias Wira to bleed, then the Defendant left the victim, and the victim did not put up any resistance;

i. That it is true that the victim Wira Adrian alias Wira was then taken to the hospital, but upon arrival at the hospital, the victim Wira Adrian alias Wira was declared dead before being given any assistance by the hospital, based on the Death Certificate No.: 33/III/RSBM/2024 dated March 21, 2024 which was made and signed by Dr. H. Mistar Ritonga M.HKes, Sp.F (K) Doctor at the Bhayangkara Hospital Class II Medan;

j. That it is true that due to the Defendant's actions, the victim suffered a torn wound on the left side of the abdomen/left rib which was quite deep and wide, based on the results of the External and Internal Visum et Repertum by Wira Adrian from the Bhayangkara Hospital Class II Medan City Number: 20/IV/2024/RS.Bhayangkara dated March 24, 2024 by dr. H. Mistar Ritonga M.HKes, Sp.F (K) Doctor at the Bhayangkara Hospital Class II Medan found the following examination results: The results of the external examination found a slash wound on the left back, a torn wound was found on the left lower leg, abrasions were found on the right upper arm, right elbow, right shoulder peak, right knee, left back; The results of the internal examination found blood seepage in the left chest muscle, a slash wound was found between the eighth and ninth ribs of the left chest, lower left lung, lower left side of the heart; From the results of the external and internal examinations, it was concluded: The estimated duration of the victim's death was twelve hours to twenty-four hours from the time of the examination, The nature of the victim's death was unnatural, The cause of the victim's death was suffocation due to heavy bleeding due to a slash wound to the back that penetrated the lower left lung and the lower heart.

2) Principle of Justice in Court Decisions in Case Decision Number 1055/Pid.B/2024/Pn Mdn

This case has also taken into account the principles of justice, both for the perpetrator and the victim in accordance with the facts revealed in the trial. Considering, that the Panel of Judges will then consider whether based on the legal facts above, the Defendant can be declared to have committed the crime with which he was charged, that the Defendant has been charged by the Public Prosecutor with an alternative charge, so that the Panel of Judges, by taking into



account the legal facts above, directly chooses the first alternative charge as regulated in Article 355 paragraph (2) of the Criminal Code, the elements of which are as follows:

- a. GoodsWho;
- b. Committing abuse if the act results in death;

Regarding these elements, the Panel of Judges considered and assessed that the element of "jointly committing violence against people or property" was proven because the Defendant's actions were carried out together with several other people, with a collective awareness to attack the opposing group.

The judge also considered aggravating and mitigating circumstances. Aggravating circumstances include:

- a. The defendant's actions disturbed the community,
- b. Resulting in the loss of other people's lives, and
- c. Carried out in the context of youth gangs disrupting public order.

Meanwhile, mitigating factors are:

- a. The defendant admitted his actions and regretted them, and
- b. The defendant is still young so he has the opportunity to improve himself in the future.

Based on these considerations, the Panel of Judges sentenced the Defendant to 10 (ten) years and 6 (six) months in prison, stating that the Defendant had been proven legally and convincingly guilty of committing a crime as stated in the primary indictment of the Public Prosecutor.

In the context of justice, namely by ensuring that the perpetrator receives a punishment that is commensurate with the actions taken, in line with applicable law, the concept in the justice system that emphasizes the provision of punishment that is commensurate with the criminal acts committed. The main principle of this justice is that the perpetrator of the crime must receive consequences that are in accordance with the mistakes he has made, by:

- a. Proportionality

The principle of proportionality in criminal justice emphasizes that the punishment given must be proportional to the level of guilt or crime committed by the defendant. In the case of Decision Number 1055/Pid.B/2024/Pn Mdn, the court has ensured that the punishment imposed on the defendant is in

accordance with the severity of the crime committed, considering factors such as intent, motive, and impact of the act. Proportionality also takes into account the type and amount of loss experienced by the victim as well as the broader level of loss to society.

This means that the crime committed causes great damage or trauma, the sentence imposed will be heavier. Conversely, if the crime is lighter or does not cause significant harm, then the sentence can be lighter. The court also considers whether there are factors that can reduce the level of guilt of the defendant, such as confession or remorse, or factors that can be aggravating, such as the presence of evil intent or repetition of the crime.

#### b. Legal Norms

The court decision is described above the results of the decision have considered the legal norms used according to the description of the chronology and witnesses who provided information. The principle of legal norms in the context of criminal justice refers to the application of the law appropriately and consistently, in accordance with the provisions of applicable laws. In this case, the court complies with the legal norms that have been regulated in the Criminal Code (KUHP) and related laws and regulations, as described in the description of the decision. The trial process and the results of the decision have also considered valid evidence, witness statements, and regulations in force at the time the crime occurred.

Legal norms also ensure that every individual, both perpetrators and victims, are treated fairly before the law. In this case, the judge has upheld the principle of "law is supreme" which means that all parties must comply with applicable laws. By considering the available evidence, both from witnesses and the facts revealed during the trial, the court decided that the decision taken based on existing norms was appropriate and legally valid.

#### c. Deterrent effect

It is expected that in the decision that has been described above in the discussion, the defendant has received a deterrent effect for what has been done. The principle of deterrent effect aims to provide a lesson to the defendant and also to the wider community so that they do not commit the same act. In this decision, it is hoped that the sentence imposed will not only provide justice for the victim, but also provide psychological and social impacts that can reduce the potential for the perpetrator to repeat similar acts. The deterrent effect is also important to provide a warning to the public that violations of the law, especially criminal acts, will be punished strictly and in accordance with applicable regulations.

#### 4. Conclusion

Criminal responsibility for Muhammad Yudistira alias Disti (the Defendant) in this case was carried out based on the elements of Article 351 paragraph (3) of the Criminal Code, Article 355 paragraph (2) of the Criminal Code, and Article 170 paragraph (2) 3 of the Criminal Code, all of which relate to the crime of serious assault resulting in death, both individually and collectively. The defendant is fully criminally responsible for his actions, because the criminal elements in Article 351 paragraph (3), 355 paragraph (2), and 170 paragraph (2) 3 of the Criminal Code have been proven. The judge stated that the act of serious assault resulting in death was carried out consciously in the context of joint violence (brawl). The judge in his decision also believed that the elements of the crime of serious assault resulting in death (Article 351 paragraph 3 of the Criminal Code) and joint violence resulting in death (Article 170 paragraph (2) 3 of the Criminal Code) had been proven legally and convincingly, so that the defendant was punished according to the level of his guilt.

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