

Legal Responsibility for Perpetrators of Criminal Acts of Assault (Study of Decision Number 5/Pid.B/2025/Pn Tpg)

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Abstract. *This study analyzes the construction of the crime of assault from the perspective of legal certainty and the perpetrator's responsibility based on Decision No. 5/Pid.B/2025/PN Tpg. The method used is normative legal research with a statutory, conceptual, and case approach. The results of the study indicate that assault as regulated in Article 351 of the Criminal Code is an act that causes physical and psychological suffering and must be accounted for. In the decision, the defendant was found guilty after all elements of the crime were proven through witness testimony, a post-mortem, and evidence, without any justification or excuse. The panel of judges applied the principle of *geen straf zonder schuld*, so that this decision reflects legal certainty, protects the victim, and fulfills the public's sense of justice.*

Keywords: *Analyzes; Construction; Crime; Study.*

1. Introduction

The development of criminal law in Indonesia has been influenced by a long history encompassing customary law, colonial law, and the formation of national law after independence. Customary law emphasizes social harmony and social sanctions as instruments of law enforcement, while colonial criminal law adopted a principle of legality distinct from customary law.¹To this day, the influence of colonial law is still felt even though reforms have been made, including revisions to the Criminal Code to align with substantive justice values.²

The phenomenon of abuse is a serious problem in law enforcement because it is often triggered by emotional factors, personal conflicts, and socio-economic conditions.³Positive criminal law regulates assault in Article 351 of the Criminal Code with the principle of fault (*mens rea*) as the main pillar of criminal

¹Sudikno Mertokusumo, "Customary Law and Social Balance"

²Sri Endah Wahyuningsih, "Principles of Criminal Law"

³Aditya Krisdamara & Andri Winjaya Laksana, "Analysis of Persecution and Its Impact," Unissula Law Journal, Vol. X, accessed September 3, 2025

responsibility.⁴The Islamic legal perspective provides a different view through the concept of *al-mas'uliyah al-fardiyyah* which emphasizes individual responsibility and justice that favors the victim.⁵

Academic studies emphasize that the application of criminal theory must consider legal certainty, utility, and substantive justice.⁶Decision No. 5/Pid.B/2025/PN Tpg, which is the focus of this research, is relevant to be studied to understand how judges interpret the elements of the crime of assault, apply legal accountability, and realize substantive justice in judicial practice.⁷

The development of criminal law in Indonesia is inextricably linked to debates regarding the relevance of the current Criminal Code. The Criminal Code, which still adheres to the Dutch-era *Wetboek van Strafrecht*, is often considered inconsistent with the values of Pancasila and the social realities of modern society.⁸Therefore, criminal law reform is an important agenda to be able to accommodate the need for legal protection for individuals and society, including in cases of abuse which are increasingly diverse in form.⁹

Abuse is not simply a violation of the law, but an act that violates human dignity. From a victimological perspective, victims of abuse experience physical, psychological, and social impacts that require effective protection from the criminal justice system.¹⁰This requires consistency in the application of the law, so that the principle of legal certainty is not only limited to written norms, but must also be apparent in judicial practice.¹¹

On the other hand, theories of punishment provide a philosophical basis for judges in issuing decisions. Absolute theories emphasize retribution for actions, while relative theories emphasize prevention and community protection.¹²In the context of assault, judges are faced with the dilemma of deterring the perpetrator and compensating the victim for their losses proportionately. This demonstrates that criminal law is not merely repressive but must also contain restorative values.¹³

⁴Roeslan Saleh, "Principles of Criminal Responsibility"

⁵Ibrahim Ihksan Lubis, "Individual Accountability in Islamic Jurisprudence," *Journal of Islamic Law*, Vol. X, accessed September 3, 2025

⁶Ray Pratama Siadari, "Modern Criminal Theory in Practice," *Unissula Law Journal*, Vol. X, accessed September 3, 2025

⁷Decision of the Tanjung Pinang District Court, "Number 5/Pid.B/2025/PN Tpg."

⁸Mahfud MD, "Legal Politics in Indonesia"

⁹Barda Nawawi Arief, "Anthology of Criminal Law Policy"

¹⁰Muladi, "Selected Chapters on the Criminal Justice System"

¹¹Sri Endah Wahyuningsih, "Principles of Criminal Law"

¹²Roeslan Saleh, "Principles of Criminal Responsibility"

¹³Anis Mashdurohatun, "Restorative Justice in the Criminal Justice System," *Khaira Ummah Law Journal*, Vol. 4, accessed September 3, 2025

Decision No. 5/Pid.B/2025/PN Tpg is relevant because it demonstrates how the court interprets the elements of assault under Article 351 of the Criminal Code. The panel of judges upheld the principles of legality, culpability, and legal certainty in the decision. This legal enforcement is expected to provide clarity to the public that every act of assault has firm and measurable legal consequences.¹⁴

Finally, this research is crucial for its academic and practical contributions to the development of criminal law in Indonesia. By analyzing the construction of the crime of assault and the perpetrator's accountability through court decisions, it is hoped that it will provide a comprehensive understanding of the implementation of criminal law principles in practice, while also serving as a reference for future reforms in criminal law policy.¹⁵

2. Research Methods

This research uses a normative legal method or doctrinal research, which positions law as a norm or rule that applies in society. This approach was chosen to examine the application of legal norms to the case of assault in Decision Number 5/Pid.B/2025/PN Tpg and to assess its compliance with the principle of legal certainty and the theory of criminal responsibility. According to Peter Mahmud Marzuki, normative legal research is prescriptive because it not only explains the applicable law but also provides arguments regarding how the law should be applied.

The type of data used is secondary data consisting of three categories, namely primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution, the Criminal Code, especially Article 351 concerning assault, Decision Number 5/Pid.B/2025/PN Tpg, and relevant laws and regulations. Secondary legal materials include criminal law literature, expert opinions such as Prof. Dr. Sri Endah Wahyuningsih and Prof. Dr. Ibrahim Ihksan Lubis, and scientific articles from the *Khaira Ummah Law Journal*. Meanwhile, tertiary legal materials include legal dictionaries, encyclopedias, and online sources that support the understanding of legal concepts.

The research approaches used include a statute approach to analyze applicable legal norms, a case approach to examine the judge's considerations in the decisions studied, and a conceptual approach to examine the theory of legal certainty and the theory of criminal responsibility.

The data collection technique was conducted through library research. This method was chosen because it aligns with the nature of normative legal research, which relies on secondary data. Library research involves exploring relevant laws and regulations, court decisions, academic literature, and legal journals. This step

¹⁴Decision of the Tanjung Pinang District Court, "Number 5/Pid.B/2025/PN Tpg."

¹⁵Barda Nawawi Arief, "Law Enforcement Issues and Criminal Law Policy"

provides researchers with a normative and doctrinal basis to support their analysis.

The data analysis technique used was qualitative analysis with a descriptive-analytical approach. The analysis was conducted without statistical methods, but through legal reasoning. The analysis stage began by describing the legal facts in Decision Number 5/Pid.B/2025/PN Tpg, then assessing their compliance with the theory of legal certainty, the principle of criminal responsibility, and the principle of substantive justice. This normative approach allows researchers to provide an in-depth evaluation of the application of the law in cases of assault and ensure that the judge's decision aligns with the objectives of criminal law.

3. Results and Discussion

3.1. Construction of the Criminal Act of Assault in the Concept of Legal Certainty

The application of criminal sanctions for aggravated theft in Decision Number 47/Pid.B/2022/PN Lbo demonstrates that the judge considered both the formal and material aspects of criminal law. The judge deemed the defendant's actions to have fulfilled the elements of Article 363 of the Criminal Code and therefore could be held criminally liable. This aligns with the principle that every unlawful act that meets the elements of a crime must be subject to proportionate sanctions.¹⁶

In handing down the verdict, the panel of judges also considered mitigating and aggravating factors. An aggravating factor was that the defendant's actions significantly harmed the victim, while a mitigating factor was that the defendant admitted his actions and regretted them. These considerations demonstrate the judge's attempt to balance legal certainty, expediency, and justice in the sentencing process.¹⁷

Overall, the application of criminal sanctions in this case reflects the goal of criminal law, which is to provide a deterrent effect and protect the public from similar crimes in the future. This decision can serve as an academic reference for examining the consistency of the application of Article 363 of the Criminal Code and strengthen the understanding that criminal punishment is not only repressive but also has educational and preventive value.¹⁸

Decision Number 5/Pid.B/2025/PN Tanjung Pinang is a concrete example of how the principle of legal certainty is applied in criminal justice practice. This case involved the defendant Muhamad Jailani, also known as Mamat Bin Suhaili, a 31-year-old casual laborer residing in Kijang Kota, Bintan Regency. The defendant's

¹⁶Muladi & Arief, BN "Criminal Theories and Policies."

¹⁷Rahardjo, S. "Progressive Law: A Synthesis of Indonesian Law."

¹⁸Marpaung, L. "Principles and Foundations of Criminal Law."

identity is crucial in the trial process because it provides insight into his socio-economic circumstances and personal background, which judges often consider when determining criminal sanctions.¹⁹The defendant was arrested on November 9, 2024, after reports and evidence corroborated his involvement in the crime of assault. He was then detained from the investigation stage until the trial.

This case began with a domestic dispute between the defendant and his wife, Astuti Melani, which occurred on November 7-8, 2024. After consuming an alcoholic beverage, the defendant returned home on November 9, 2024, at around 03.00 WIB, drunk. He broke down the door and frightened his wife and child, causing them to flee. Suspecting that his wife was hiding in a neighbor's house, the defendant then went to the victim's house, Hepriyan Zeri, carrying a knife. Inside the victim's house, the defendant committed an act of violence by strangling the victim's neck and pointing the knife at the victim's chest. This attempt was successfully thwarted by the victim's wife and another neighbor, who then disarmed the knife from the defendant's hand. As a result of the incident, the victim suffered abrasions on several parts of his body, as evidenced by the *Visum et Repertum* RSUD Bintan.²⁰

The Public Prosecutor charged the defendant with Article 351 paragraph (1) of the Criminal Code which regulates assault with a maximum prison sentence of two years and eight months. Based on the trial facts and evidence presented, the Prosecutor demanded that the panel of judges sentence the defendant to one year in prison, minus the time already served. In addition, the Prosecutor also demanded that the evidence in the form of a knife be destroyed and the defendant be burdened with court costs of Rp. 5,000.

From a legal construction perspective, the panel of judges assessed that the elements of the crime of assault as referred to in Article 351 paragraph (1) of the Criminal Code had been fulfilled. The first element is "whoever" which refers to the subject of the perpetrator, namely anyone who can be held criminally responsible. In this case, the defendant clearly fulfilled this element.²¹The second element is "intentionally," which means there was awareness and will to carry out an act that resulted in a specific consequence. The judge found that the defendant consciously carried out the act, as demonstrated by his planned series of actions, such as taking a knife and attacking the victim.²²The third element is "causing pain or injury", which is proven through a post-mortem examination and witness statements stating that the victim suffered physical injuries due to the defendant's actions.

All elements of Article 351 paragraph (1) of the Criminal Code were legally and

¹⁹Decision of the Tanjung Pinang District Court, "Number 5/Pid.B/2025/PN Tpg"

²⁰*Visum et Repertum* RSUD Bintan, in the case file of Decision "Number 5/Pid.B/2025/PN Tpg"

²¹Barda Nawawi Arief, "Anthology of Criminal Law Policy"

²²Moeljatno, "Principles of Criminal Law"

convincingly proven, so that the judge declared the defendant guilty of committing the crime of assault. This decision reflects the application of the principle of legal certainty because the judge systematically outlined his legal considerations based on applicable norms, namely by basing the decision on the formulation of the article, valid evidence according to Article 184 of the Criminal Procedure Code, and the facts revealed in court. Thus, this decision fulfills the principles of *nullum crimen sine lege* (no act can be punished without rules) and *nulla poena sine lege* (no crime without statutory provisions), thus emphasizing the importance of legal clarity in the judicial process.²³

The legal certainty reflected in this decision benefits all parties: victims receive legal protection and justice, defendants receive assurance that the sanctions imposed are in accordance with the law, and the public sees that the law is being consistently enforced. Thus, this decision serves not only as a means of law enforcement but also as a way of strengthening public trust in Indonesia's criminal justice system.²⁴

3.2. Legal Responsibility of Perpetrators of Criminal Acts of Assault (Study of Decision No. 5/Pid.B/2025/Pn. Tpg)

Legal responsibility in criminal law is the consequence of an unlawful act committed by an individual. This principle is based not only on the existence of a criminal act (*actus reus*) but also on the existence of fault (*schuld*) on the part of the perpetrator. This aligns with the fundamental principle of criminal law: *geen straf zonder schuld* (no crime without fault), which requires intent or negligence for a person to be punished.²⁵

In Decision No. 5/Pid.B/2025/PN Tpg, the defendant Muhamad Jailani alias Mamat was charged with violating Article 351 paragraph (1) of the Criminal Code concerning the crime of assault. This article threatens the perpetrator with a maximum prison sentence of two years and eight months or a maximum fine of four thousand five hundred rupiah. The main elements of this article include: (1) the act of attacking another person's body, (2) done intentionally, and (3) causing pain or injury to the victim.

The panel of judges determined that all elements were met. First, the defendant was proven to have assaulted the victim by strangling and stabbing her with a knife. Second, the act was committed intentionally, as evidenced by the defendant's awareness of using the knife as a means of injury. Third, as a result of the act, the victim suffered abrasions to her neck, back, hands, and knees, as

²³Andi Hamzah, "Principles of Indonesian Criminal Law"

²⁴Barda Nawawi Arief, "Anthology of Criminal Law Policy"

²⁵Andi Hamzah, "Principles of Indonesian Criminal Law"

documented in the post-mortem report.²⁶

Proving the elements of guilt and criminal responsibility is done through valid evidence according to Article 184 of the Criminal Procedure Code, namely: (1) testimony from witnesses who directly witnessed the incident, (2) consistent testimony from the victim, (3) *visum et repertum* as objective medical evidence, and (4) evidence in the form of a knife. These four pieces of evidence support each other and confirm that the defendant is indeed guilty, without justification or excuse.

The analysis of criminal liability in this decision can be explained through Gustav Radbruch's theory of legal certainty and Hans Kelsen's theory of responsibility. According to Radbruch, the law must fulfill three basic values: justice (*gerechtigkeit*), utility (*zweckmäßigkeit*), and legal certainty (*rechtssicherheit*). In this context, Article 351 of the Criminal Code represents legal certainty because it provides clear and predictable norms for both society and judges. This norm guarantees that anyone who violates the law will be subject to sanctions according to applicable regulations.²⁷

Meanwhile, Hans Kelsen, through his pure legal theory, emphasized that criminal responsibility is a normative consequence of violating the law. If someone commits a prohibited act, the norm requires the state to impose sanctions. The judge's decision embodies the application of general norms (the Criminal Code) to individual norms (the verdict). Therefore, the defendant's liability in this case is normatively valid because it conforms to the principle of the hierarchy of legal norms.²⁸

When analyzed comparatively, Kelsen considers this decision valid and in accordance with positive law. However, Radbruch emphasized that legal certainty must be accompanied by substantive justice. In this case, although the decision has fulfilled legal certainty, it is necessary to question whether substantive justice, such as through a restorative justice approach, has been accommodated. Ideally, this mechanism can be used for reconciliation between the perpetrator and the victim, in line with the spirit of modern criminal law. However, in general, the defendant's legal responsibility is considered appropriate, because it fulfills the elements of Article 351 paragraph (1) of the Criminal Code, is proven guilty, and there is no reason to eliminate the criminal penalty.²⁹

4. Conclusion

²⁶Decision of the Tanjung Pinang District Court, "Number 5/Pid.B/2025/PN Tpg"

²⁷Gustav Radbruch, "Rechtsphilosophie"

²⁸Hans Kelsen, "Reine Rechtslehre"

²⁹Anis Mashdurohatun, "Restorative Justice in the Criminal Justice System,"

From this analysis it can be concluded that the crime of assault as regulated in Article 351 of the Criminal Code is an act that causes physical and psychological suffering and must be legally accounted for. The legal construction in this case shows that the defendant's actions fulfill the elements of assault, so the prosecutor charges in accordance with applicable legal provisions, with the aim of not only providing a deterrent effect on the perpetrator but also maintaining justice for the victim and society. Criminal punishment in assault cases has an important role in upholding order, protecting victims, and reflecting the values of social justice. Criminal responsibility can only be imposed if the elements of a criminal act (*actus reus*) and error (*schuld*) are fulfilled, according to the principle of *geen straf zonder schuld*. In Decision No. 5/Pid.B/2025/PN Tpg, the panel of judges stated that the defendant Muhamad Jailani alias Mamat was legally and convincingly proven to have committed assault according to Article 351 paragraph (1) of the Criminal Code, with evidence through witness statements, victim statements, *visum et repertum*, and knife evidence that mutually corroborate. The judge emphasized that there were no justifications or excuses, so the sentence was imposed based on a clear legal framework, consistent with the Criminal Procedure Code (KUHP), and based on the principle of legal certainty. Therefore, this decision aligns with the principles of Indonesian criminal law, providing certainty, justice, and legal protection for the victim and the community.

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