

Analysis of Law Enforcement for Perpetrators of Criminal Acts of Assault From a Human Rights Perspective

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Abstract. *This study examines law enforcement against perpetrators of assault crimes and its crucial role in safeguarding human rights (HR) in Indonesia. The research aims to analyze the implementation of law enforcement in assault cases from a human rights perspective, as well as to identify the obstacles and solutions encountered in the enforcement process. This study is important to ensure that the rights of both victims and defendants are fulfilled fairly and proportionally within the criminal justice system. The research method used is a socio-legal approach, combining normative study of applicable legal provisions with empirical analysis of social conditions in the field. Data were collected through literature review, legal documents, and interviews with law enforcement officers and victims of assault crimes. This approach enables the researcher to understand not only the formal legal aspects but also the social dynamics influencing law enforcement. The results show that law enforcement against assault perpetrators must always uphold human rights principles, respecting the rights of defendants while ensuring justice for victims. The obstacles encountered include limited human rights understanding among officers, insufficient institutional support and resources, and socio-cultural factors. To overcome these challenges, it is necessary to enhance the capacity of law enforcement personnel and provide continuous human rights education. This study concludes that human rights-based law enforcement can improve substantive justice and prevent recurring violence in society.*

Keywords: Assault; Enforcement; Human; Law.

1. Introduction

Indonesia is a state based on law. This is explicitly stated in the explanation of the 1945 Constitution of the Republic of Indonesia (UUD 1945), which states that "the

Republic of Indonesia is based on law (rechstaat)."¹ not based solely on power (machstaat). As a state based on law, Indonesia tends to judge the actions of its citizens based on legal regulations. Therefore, within the government, law holds the highest position. A state based on law is a state that contains various aspects of regulations that are mandatory and have strict sanctions if violated. In social life, there are rules in the form of written and unwritten laws, which, if violated by citizens, will be subject to sanctions, such as physical and non-physical punishment. These written and unwritten punishments are called norms. These norms include: legal norms, religious norms, customary norms, moral norms, and norms derived from customary law.

The General Guidelines of State Policy (GBHN) on law include the following: "legal material must be able to be used as a basis to guarantee that society can enjoy legal certainty, legal order, and legal protection that is based on justice and truth, and provides a sense of security and peace."

"Legal protection" will provide a sense of security and peace with the existence of legal certainty. "Legal protection" and "legal certainty" are two inseparable things. Legal protection cannot be felt without legal certainty. Legal protection cannot be obtained without legal certainty. Conversely, with the establishment of legal certainty, legal protection will provide benefits to society. Legal certainty here means that the application of the law is acceptable to the majority of society or the population. Law enforcement in criminal law also includes criminalization as a formulation of justice enforcement. Law enforcement can be felt, based on public opinion, to be commensurate with the crime. The phrase "commensurate with the crime" is an elaboration of the legal apparatus both in the formulation of laws and in their enforcement or application.²

The implementation carried out by state officials is a form of accountability by the perpetrator who committed the error or criminal act, criminal accountability occurs because there is an error which is a criminal act committed by a person and there are already regulations that regulate the criminal act.³

Criminal acts refer to prohibited acts, whether the person who has committed the act is then also punished depends on the question, whether he committed the act was guilty or not. If the person who committed the criminal act was indeed guilty, then of course he will be punished. However, when he makes a mistake, even though he has committed a forbidden and disgraceful act, he is not punished. The unwritten principle: "No punishment if there is no mistake", is of course the basis

¹Muhammad Baharuddin and Akhmad Khisni, "Effectiveness of Plea by the Supreme Court of Criminal Murder," Law Development Journal, Vol. 2 No. 2, June 2020, p. 10

²Leden Marpaung, 2002, Criminal Acts Against Life and Body, Sinar Grafika Jakarta, p. 1

³Roeslan Saleh, 2002, Thoughts on Criminal Responsibility, Ghalia Indonesia, Jakarta, p. 10

for the perpetrator being punished⁴.

The definition of criminal responsibility in foreign languages is referred to as *toerekenbaarheid*, criminal responsibility, or criminal liability. Criminal responsibility is intended to determine whether a suspect/defendant is held responsible for a crime that has occurred or not. In other words, whether the defendant will be convicted or acquitted. If convicted, it must be proven that the act committed was unlawful and the defendant is capable of being held responsible.

This ability demonstrates the perpetrator's fault, whether intentional or negligent. This means that the act is reprehensible if the accused is aware of the act.⁵ Criminal liability is an act that is reprehensible by society for which the perpetrator must be held accountable for the act committed. By holding the perpetrator responsible for the reprehensible act, is the perpetrator also reprehensible or not?⁶

In this case, the perpetrator can also be called the perpetrator. The perpetrator is the person who commits the crime in question, in the sense of a person who intentionally or unintentionally as stipulated by the law has caused a consequence that is not desired by the law, whether it is subjective elements or objective elements, regardless of whether the decision to commit the crime arose from himself or not due to the movement of a third party.⁷

In social interaction, humans are social by nature and will interact with one another. This interaction will give rise to both positive and negative interactions. Negative interactions are very likely to occur, such as compliments, misunderstandings, lust, or the inability to control emotions. These things can lead to abuse. Abuse is a form of crime against the body. The Criminal Code itself does not specify the definition of abuse. Abuse is defined as "arbitrary treatment."⁸ The definition of abuse is broad, including anything that concerns "feelings" or "inner self." Assault, as defined in criminal law, is the intentional infliction of pain or bodily injury on another person.

2. Research Methods

In compiling a scientific work, data whose truth can be accounted for is required. This can be done by conducting research in a specific environment or scope in

⁴Ibid, p. 75.

⁵Kanter and Sianturi, 2002, Principles of Criminal Law in Indonesia and Their Implementation, Stora Grafika, Jakarta, p. 54.

⁶Roeslan Saleh, Op.Cit, p. 76

⁷Edo Aronta, 2023, Criminal Responsibility for Perpetrators of Criminal Acts of Assault Carried Out Jointly (Study of District Court Decision No. 368/Pid.B/2022/PN Jkt.Pst), Thesis, University of Lampung, Bandar Lampung, p. 5

⁸Big Indonesian Dictionary

order to obtain accurate and factual data in accordance with the author's desired objectives. The approach method used in this research is the sociological juridical approach. The sociological juridical approach is a legal research method that examines law not only as written norms (law in text), but also how the law is applied in society (law in practice).⁹ The research specifications used are descriptive analysis, namely research that aims to provide an overview of the problems that occur in connection with the use of applicable laws and regulations and relevant theories, then collected through data that is collected, processed, and arranged according to existing theories to obtain problem solving in accordance with applicable provisions.¹⁰

3. Results and Discussion

3.1. Law Enforcement for Perpetrators of Criminal Acts of Assault from a Human Rights Perspective

1) Case Chronology Description

This case stemmed from a family conflict that was intended to be resolved amicably. On May 27, 2024, at approximately 3:30 PM WIT, at a public location at the SP5–SP6 intersection in Mimika Regency, Papua, witness Kristina Kiki Rumbiak and her family attended a meeting to discuss and resolve a personal issue involving each party's younger sisters.

The dispute arose between witnesses Esterlina Debora Rumbiak Matoke and Magdalena Irianti Mally, the victim's younger sister, and Magdalena Nona Ani, the defendant's younger sister, Yohanes Yosef Sawan. The meeting was intended as a forum for deliberation aimed at reconciling the conflicting parties. In the context of local customs and culture, such meetings are commonly held to avoid further conflict and resolve disputes amicably without involving law enforcement.

However, the meeting ended in violence. During the dialogue, a heated argument broke out between Kristina Kiki Rumbiak and Magdalena Nona Ani. This argument prompted direct intervention from the Defendant. Feeling uncomfortable and perhaps disturbed by the victim's tone or content, the Defendant then said to the victim-witness, "Shut up." The victim-witness responded defiantly, saying, "This is a woman's matter, so you men should be the ones to shut up."

These words were deemed offensive to the Defendant's dignity. Feeling humiliated, the Defendant reacted emotionally and spontaneously. He quickly approached the victim-witness, then used his clenched right hand to strike the victim-witness once in the head. The blow was strong enough to cause the victim

⁹Soerjono Soekanto & Sri Mamudji, *Normative Legal Research (A Brief Review)*, Rajawali Pers, Jakarta, pp. 13-14.

¹⁰Sri Sumawarni, 2012, *A Series of Legal Research Methods*, UPT UNDIP Press,

to fall and suffer a laceration to the forehead, right above the head.

Following the incident, the victim was rushed to the hospital. Based on the *Visum Et Repertum* from Mitra Masyarakat Hospital, Mimika Regency (Number: IV/VI/2024/RM-RSMM, dated June 26, 2024), conducted by Dr. Irmayanti Emang, it was found that the victim suffered injuries due to blunt force trauma to the head. The examination stated that the victim arrived conscious but was experiencing moderate pain. Injuries were found indicating the physical impact of the beating carried out by the Defendant. These injuries require medical treatment that includes wound care and medication.

During the trial, witness Kristina Kiki Rumbiak explained that she was indeed hit by the defendant, who was upset over an argument between their siblings. The witness confirmed that the blow was delivered with a clenched fist and hit her head, resulting in a serious wound that required eight stitches.

Another witness, Esterlina Debora Rumbiak Matoke, the victim's younger sister, confirmed the entire incident. She witnessed the defendant's beating of her sister. The defendant confirmed the testimony of these witnesses before the panel of judges. She admitted to inflicting the beating, although she stated that she used her left hand, not her right, as the victim's witness had stated.

Furthermore, the Defendant stated that after the incident, he had made good intentions to reconcile with the victim. Based on the local Biak customary law, the Defendant offered compensation in the form of Rp5,000,000.00 (five million rupiah) and included a traditional peace instrument in the form of a plate as a symbol of apology and responsibility for his actions. The victim and his family accepted this settlement and stated that they would not pursue the matter further personally.

However, even though peace has been reached, the legal process continues because the actions carried out by the Defendant fulfill the elements of a criminal act as regulated in Article 351 paragraph (1) of the Criminal Code, which regulates the crime of assault. In Indonesian criminal law, customary or peaceful resolution does not eliminate criminal responsibility, especially if the elements of the crime have been fulfilled.

During the trial, the Public Prosecutor presented evidence in the form of a *Visum Et Repertum* (*Visum Et Repertum*) and presented witnesses. The Defendant himself did not present any mitigating evidence or witnesses. However, the Defendant expressed regret for his actions and promised not to repeat the same mistake in the future. This is one of the mitigating considerations in the trial process.

The Panel of Judges in its considerations stated that all elements of the crime of assault as referred to in Article 351 paragraph (1) of the Criminal Code had been

legally and convincingly fulfilled. The element of "whoever" was clearly fulfilled because the Defendant was a legal subject who was criminally responsible. The element of "intentionally" was also deemed proven because the Defendant consciously and in a state of anger beat the victim. Finally, the element of "causing pain or injury" was also proven based on the results of the post-mortem and the statements of the victim and other witnesses.

The panel of judges also considered the fact that the victim and perpetrator had reconciled, and that the defendant had shown remorse and paid compensation. However, because the act remains a common crime, which is still processed without requiring a complaint from the victim, the legal process continued until a verdict was reached.

Finally, the Panel of Judges stated that Yohanes Yosef Sawan was legally and convincingly guilty of committing the crime of assault, as regulated in Article 351 paragraph (1) of the Criminal Code. Although the criminal threat for ordinary assault can reach 2 years and 8 months, the fact that there was reconciliation and remorse from the defendant was a reason for the judge to impose a lighter sentence than the maximum threat.

2) Analysis of Law Enforcement for Perpetrators of Criminal Acts of Assault from a Human Rights Perspective in Decision Number 73/Pid.B/2024/PN Tim.

a. Law Enforcement and Human Rights

Law enforcement is a fundamental pillar in ensuring social order and justice. In the context of criminal acts of assault, law enforcement not only involves the state's efforts to impose sanctions on perpetrators, but must also reflect human rights principles that guarantee protection for victims and suspects/defendants. In the Indonesian legal system, human rights are constitutionally guaranteed as stipulated in Articles 28A to 28J of the 1945 Constitution of the Republic of Indonesia, and are reinforced by international provisions such as the International Covenant on Civil and Political Rights (ICCPR).

In the case of the abuse of Kristina Kiki Rumbiak by Yohanes Yosef Sawan, law enforcement carried out by the police, prosecutors, and courts reflects the role of the state in responding to human rights violations, especially the victim's right to physical protection, a sense of security, and human dignity. These rights are part of the right to life and freedom from torture, as guaranteed in Article 28G paragraph (1) of the 1945 Constitution and Article 7 of the ICCPR which states that no one may be subjected to torture or cruel, inhuman, or degrading treatment or punishment.

The defendant's actions in hitting the victim's head, resulting in a laceration requiring stitches, clearly constitute a form of physical violence that violates the victim's basic rights. Therefore, the state is obligated to respond proportionately

and fairly to such actions, regardless of whether the incident occurred within a family or customary context.

Although the meeting was initially intended to resolve the conflict amicably and through customary means, the violence that occurred during the process exceeded the bounds of reasonableness in non-litigation resolution. The state, through law enforcement officials, must still implement formal legal proceedings because the violence falls under the category of ordinary crimes (not complaints), meaning it can be prosecuted without waiting for a report or complaint from the victim.

The state's involvement in this case also demonstrates the principle of non-derogable rights, or rights that cannot be diminished under any circumstances. One of these rights is the right to physical protection and personal safety. The state cannot tolerate any form of violence, even when the parties have reached a peaceful resolution through customary mechanisms. In this case, peace can only be a mitigating factor in sentencing, not a reason to eliminate criminal liability.

Furthermore, the principle of due process of law in the Indonesian criminal justice system requires that every law enforcement process guarantee the rights of the accused, including the right to self-defense, the right to legal counsel, and the right to humane treatment during the legal process. In this case, Defendant Yohanes Yosef Sawan was granted the right to present a defense, admit guilt, and demonstrate good faith through peace efforts and customary compensation.

However, it's important to note that true law enforcement isn't just about punishing perpetrators, but rather about how the state ensures substantive justice for all parties involved, especially victims. Law enforcement must be seen as an instrument to restore victims' violated rights and to ensure that similar incidents don't recur.

In his decision, the judge not only considered the criminal elements in Article 351 paragraph (1) of the Criminal Code, but also considered sociological aspects, such as family relationships, local culture (Biak customary law), and the defendant's good faith. Even though the judge imposed a lighter sentence than the maximum threat, the legal process was still carried out to ensure that criminal acts that violate human rights are still sanctioned as a form of the state's moral and legal responsibility.

Thus, this case illustrates that law enforcement and human rights must go hand in hand. The legal process should not only emphasize repressive aspects against perpetrators but also restore the dignity of victims. The state exists to balance legal certainty, justice, and legal benefit, as embodied in the trias politica principle of progressive law. The state should also not ignore local values (such as customary resolution mechanisms) but must still place them within the framework of national law and universal human rights principles.

b. The Right to Physical Protection of Victims from a Human Rights Perspective

The right to be free from violence and degrading treatment is recognized as a non-derogable human right. In this case, the victim, Kristina Kiki Rumbiak, experienced physical abuse, including beatings that resulted in lacerations to her head, which constitutes a violation of the right to bodily integrity. This violates:

- 1) Article 28G paragraph (2) of the 1945 Constitution: "Everyone has the right to be free from torture or treatment that degrades human dignity."
- 2) Article 7 of the ICCPR: "No one shall be subjected to torture or cruel treatment, no in humane, or degrading."

Abuse in public spaces and in family deliberation forums exacerbates the psychological impact on victims and demonstrates the importance of effective legal protection. Kristina Kiki Rumbiak, as a victim, experienced physical violence in the form of blows with bare hands that caused lacerations to the head, as well as psychological trauma because the incident occurred in an extended family deliberation forum. These actions clearly violate Article 28G paragraph (2) of the 1945 Constitution and Article 7 of the ICCPR, because they violate the victim's rights to bodily integrity, dignity, and a sense of security. The state is obliged to protect citizens from arbitrary actions that result in physical or mental suffering.

The case of the assault on Kristina Kiki Rumbiak by defendant Yohanes Yosef Sawan provides a concrete illustration of the violation of these rights. In the incident, the defendant suddenly struck the victim with his bare hands in front of his extended family gathered in a discussion forum. As a result of the beating, the victim suffered a laceration to her head that required medical treatment and stitches. In addition to the physical damage, the victim also suffered psychological trauma because the violence was perpetrated in a public space, in front of relatives and those who should have provided her with protection.

This act of violence constitutes a clear violation of the right to bodily integrity and the right not to be treated in a degrading manner. The violence inflicted not only physical harm but also socially and psychologically humiliates and humiliates the victim. This is in stark contrast to the fundamental principles of human rights, which stipulate that every individual has the right to be treated humanely and with dignity.

This incident also demonstrates that family space or local culture cannot be used as an excuse to legitimize acts of violence. Although the forum aimed to resolve conflicts amicably and according to customary law, the defendant's acts of abuse violated the principles of human rights protection. This incident demonstrates that violence within the family space can be even more dangerous because it conceals violations within a social framework considered "sacred" or "honorable," even though they fundamentally violate fundamental individual rights.

In this context, the state has a positive obligation to protect every citizen from all forms of violence, whether perpetrated by the state (state actors) or by fellow citizens (non-state actors). The state must not remain passive in the face of violence committed in private or public spaces. In this case, law enforcement officials who received the victim's report followed the legal process until the case was brought to court, demonstrating the state's commitment to fulfilling this obligation.

In addition to protecting physical integrity, psychological protection must also be considered. The right to feel safe and free from fear is an integral part of human rights protection. Victims of violence often experience secondary victimization, which is further suffering due to slow legal proceedings, social stigma, or a lack of concern for their psychological well-being. In this case, the psychological trauma experienced by Kristina Kiki Rumbiak due to being attacked in front of her extended family is a factor that must be taken into account in formulating steps for victim recovery and comprehensive justice.

The court's decision in this case stated that the defendant was legally and convincingly proven to have committed the crime of assault as stipulated in Article 351 paragraph (1) of the Criminal Code. In his decision, the judge considered factors such as family relationships, customary peace efforts, and the defendant's confession, but still sentenced him to prison, albeit with a probationary period. This shows that the state continues to uphold the law despite the existence of a non-litigative approach to conflict resolution.

3.2. Obstacles and Solutions Faced in Law Enforcement Against Perpetrators of Criminal Acts of Assault from a Human Rights Perspective

Law enforcement against perpetrators of criminal acts of abuse is not solely the responsibility of the criminal justice system, but must also reflect respect for human rights values. In this context, the principles of justice, equality before the law, and protection of the physical and mental integrity of individuals are fundamental elements that cannot be ignored. As guaranteed in Article 28G of the 1945 Constitution of the Republic of Indonesia and Article 7 of the International Covenant on Civil and Political Rights (ICCPR), everyone has the right to protection from torture and inhumane treatment, and to receive adequate justice.

However, in practice, law enforcement often faces various structural and cultural obstacles, particularly when a crime occurs in an environment steeped in family values and local customs. For example, in the case of Yohanes Yosef Sawan's assault on Kristina Kiki Rumbiak (Decision Number 73/Pid.B/2024/PN Tim), despite amicable settlement, the state continued the criminal process because assault is a common crime. This creates a dilemma between the need to enforce the law objectively and the demands of local communities to resolve the case peacefully through customary mechanisms.

1. Obstacles to Law Enforcement from a Human Rights Perspective (Case Study of Decision Number 73/Pid.B/2024/PN Tim)

a. Limitations of Apparatus Regarding Human Rights and Local Cultural Context

In this case, Defendant Yohanes Yosef Sawan assaulted victim Kristina Kiki Rumbiak by slapping and hitting her head with a plastic chair during a family gathering. Although the act has been taken to court, the investigation process does not fully reflect the principle of fair treatment for both perpetrator and victim. One of the obstacles is the legal approach which is still repressive and minimal in mainstreaming human rights principles, such as protecting the victim's rights to receive psychological services and the defendant's right to a non-discriminatory legal process.

b. Social Intervention in the Dominance of Customary Settlement

Based on the legal facts in the verdict, after the assault, the defendant's family took the initiative to reconcile with the victim's family through a familial and customary approach. This reflects the dominant socio-cultural power in conflict resolution. However, this dominance of customary resolution can become an obstacle when used as an excuse to discontinue formal legal proceedings. From a human rights perspective, this risks obscuring substantive justice and weakening law enforcement against perpetrators of violence, as assault is a common crime that cannot be eliminated simply by reconciliation.

c. Lack of Protection for Victims in the Legal Process

The victim in this case, Kristina Kiki Rumbiak, did not receive adequate protection from the state, either psychologically or in the context of witness protection. In fact, the violent act she experienced occurred in a public space and resulted in physical and psychological suffering. In many similar cases, victims often experience pressure from their social environment, even from their families, to resolve the case peacefully, so that the victim's rights to justice and a sense of security are neglected. This contradicts the principle of protection of physical integrity as guaranteed in Article 7 of the International Covenant on Civil and Political Rights and Article 28G paragraph (1) of the 1945 Constitution.

2. Solutions in Law Enforcement from a Human Rights Perspective (Case Study of Decision Number 73/Pid.B/2024/PN Tim)

a. A Humanistic and Human Rights-Based Law Enforcement Approach

The main solution is to ensure that every stage of the law enforcement process against the Defendant is carried out fairly and humanely. Even if the Defendant admits his actions and shows remorse, the principle of a fair trial must still be guaranteed. The Defendant's right to legal representation, humane treatment during detention, and protection from arbitrary treatment must be upheld as

guaranteed in Article 28D paragraphs (1) and (2) of the 1945 Constitution and Article 14 of the ICCPR. On the other hand, victims must also be given access to victim service institutions so that their rights to security and justice are not neglected.

b. Integration of Customary Settlement into a Formal Legal System that Respects Human Rights

The state can accommodate local values such as customary peace, but not use this as a reason to halt the legal process. In this case, the customary approach taken by the Defendant can be considered a mitigating factor in sentencing, but not an abrogation of criminal responsibility. This aligns with the principle of non-impunity in human rights: that perpetrators of violations of another person's physical integrity must still be held accountable through formal legal mechanisms, even after peace has been achieved.

c. Strengthening Institutions and Victim Protection Mechanisms

The government and state institutions such as the Witness and Victim Protection Agency (LPSK) must be more proactive in providing protection to victims, including in this case. Victims of abuse have the right to physical protection, legal assistance, and psychological recovery. These mechanisms were not evident in the verdict in this case, demonstrating the weak fulfillment of victims' rights in our judicial system. Therefore, collaboration between law enforcement officials, victim protection agencies, and civil society organizations is needed to ensure that victims are not re-victimized during the legal process.

4. Conclusion

Law enforcement against the perpetrator of the crime of assault in the Yohanes Yosef Sawan case reflects an effort to balance legal certainty, a sense of public justice, and the protection of human rights for both victims and perpetrators. In the context of human rights, the state is obliged to ensure that every victim of physical violence has access to justice and reparation, which in this case is demonstrated through a legal process that continues until the verdict, even though a customary peace agreement has been reached. However, the perpetrator also retains his basic rights as a suspect and defendant, including the right to a fair trial, the right to admit guilt, and the right to present a defense. In this case, although the defendant committed assaults that resulted in physical injuries, the state, through the courts, did not immediately impose the maximum sentence. The main obstacle in law enforcement against perpetrators of assault in the context of human rights, as in this case, lies in the tension between formal legal settlements and customary-based settlements. Peaceful efforts through family deliberations and the provision of compensation according to Biak customs are forms of conflict resolution based on local wisdom that are fundamentally in line with the principle of reconciliation in human rights. However, the Indonesian

positive legal system has not fully accommodated customary settlements as a legitimate alternative to the abolition of criminal offenses, so even though a peace agreement has been reached, the legal process continues. The solution to this obstacle is the need for harmonization between positive law and customary law, so that customary-based resolutions can have stronger legitimacy, especially for minor cases. Furthermore, increasing understanding among law enforcement officials regarding restorative justice approaches that align with human rights principles needs to be continuously encouraged. Human rights-based law enforcement is not only repressive, but also preventive, educational, and healing, as demonstrated in the judicial process in this case, which continues to recognize customary peace and considers it as a mitigating factor.

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