

Legal Analysis Of Women As Perpetrators Of Criminal Acts Of Assault From The Perspective Of Pancasila Justice (Study Of Decision Number 229 / Pid. B/2025/ Pn Llg)

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Abstract. *This study aims to map the application of positive law when the perpetrator of an assault is a woman, assess the conformity of the judicial considerations and the ruling with the Framework of Pancasila Justice, and examine gender sensitivity, due process of law, and the space for restorative justice (العدالة التصالحية) established through the parties' reconciliation. The central question is whether the decision a quo upholds the principle of equality before the law without gender bias while simultaneously providing a proportional mechanism for social restoration. This study employs a normative juridical (doctrinal) method using statutory, case-based, and conceptual approaches. The theoretical framework includes Pancasila Justice, the principles of due process and the negative-wettelijk evidentiary system, feminist criminology, and comparative references to Islamic criminal law—specifically al-ṣulḥ (reconciliation), qīṣāṣ, and diyāt—as models of maṣlaḥah-based restoration. All legal materials are qualitatively analyzed through syllogistic reasoning and systematic-teleological interpretation. The findings indicate that the elements of Article 351 of the Indonesian Penal Code (KUHP) were proven legally and convincingly. The judge imposed a one-month imprisonment with deduction for house detention after considering mitigating factors (remorse, reconciliation, and payment of medical expenses) and aggravating factors (previous convictions). Viewed through the lens of Pancasila Justice, the decision seeks to balance legal certainty, justice, and utility through social reconciliation. Nevertheless, the analysis of gender sensitivity, criminogenic factors affecting female offenders, and structured indicators of restorative justice still requires strengthening, including a more explicit articulation of Pancasila values in the ratio decision to enhance responsiveness and accountability.*

Keywords: Assault; Female offender; Pancasila Justice.

1. Introduction

The history of legal development in Indonesia demonstrates a long and complex journey in shaping the current legal system. In pre-colonial times, the people of the archipelago lived under customary law, which grew from local values, traditional beliefs, and customs passed down through generations. Customary law was flexible and adaptive, prioritizing social balance and resolving disputes through deliberation. The role of customary law during this period formed the initial foundation for regulating social relations within society, demonstrating that law in the archipelago was deeply rooted in values of collective justice aligned with local culture.

This foundation then received constitutional recognition after Indonesia's independence, as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that "The State of Indonesia is a state of law." This recognition emphasizes that the implementation of national and state life must be based on the supremacy of law, including respect for customary law as long as it is still alive and in accordance with the development of society.¹

Entering the colonial era, particularly during the Dutch East Indies, the Indonesian legal system underwent significant changes. The colonial government introduced the *Burgerlijk Wetboek* (BW) and *Wetboek van Strafrecht* (WvS), which later became the forerunners of the Indonesian Civil Code and Criminal Code (KUHP). The colonial legal system was dualistic, with different applications for Europeans, Easterners, and indigenous peoples. Nevertheless, customary law was still recognized in certain areas, particularly in the field of civil law, as long as it did not conflict with colonial regulations.²

After Indonesia's independence on August 17, 1945, the direction of national legal development was aimed at freeing itself from colonial influence. In practice, many colonial legal products were retained due to legal continuity and the lack of adequate replacements. The 1945 Constitution became the supreme legal source, guiding the formation of legislation. The Criminal Code, which remains in effect today, is a colonial legacy that continues to be used, although it has undergone several gradual updates.³

2. Research Methods

Legal research methods are a framework used to solve legal problems scientifically.⁴ This method determines how researchers identify, analyze, and draw conclusions from the problems being studied. In legal research, the approach

¹Maerani, IA (2018). *Legal pluralism from the perspective of substantive justice in Indonesia*. Semarang: UNISSULA Press.

used not only examines regulatory texts but also relates them to their practical application and underlying concepts. Therefore, the choice of method must be tailored to the research objectives to produce a comprehensive analysis.

This research uses a normative juridical research method, namely a legal research method that focuses on written norms in laws and regulations, court decisions, and legal doctrine.⁵This approach is relevant because the research aims to examine the application of criminal law to women perpetrators of assault by analyzing Decision Number 229/Pid.B/2025/PN Llg from the perspective of positive law and Islamic law (الشريعة الإسلامية). Through this method, researchers can assess the consistency of legal application with applicable principles of justice.

3. Results and Discussion

3.1. The Application of Indonesian Positive Law to Women as Perpetrators of Criminal Acts of Assault in Decision Number 229/Pid.B/2025/PN Llg

In legal discourse, positive law is understood as *ius constitutum*, a collection of norms that apply here and now because they are established by a legitimate authority and are recognized as binding by society. In Indonesia, positive law does not exist without value: it is rooted in Pancasila and is implemented within the framework of a state based on the rule of law (Article 1 paragraph (3) of the 1945 Constitution).⁶From upstream, the formation of norms is guided by the principles of the formation of laws and regulations; from downstream, their enforcement is subject to the principles of legality (*nullum crimen, nulla poena sine lege*), due process of law, and equality before the law.⁷

Indonesia's positive legal architecture is structured in stages: the 1945 Constitution serves as the basic norm, followed by laws/Perppu (Government Regulations in Lieu of Law), government regulations, presidential regulations, and regional regulations; all of which must be in line with Pancasila as the "source of all sources of law."⁸At the process level, procedural law ensures a legitimate way to find legal truth: judges may only sentence if they are convinced on the basis of

²Maerani, IA (2020). Islamic justice perspective on notifying the perpetrators of criminal action. *Journal of Acts*, 7(1), 33–42. <https://doi.org/10.30659/akta.v7i1.10275>

³Maerani, IA, & Firdaus, MM (2020). A comparative study of the reasons for the abolition of criminal offenses according to the Criminal Code and Islamic criminal law in the context of reforming national criminal law. *Journal of Law*, 36(2), 112–130.

⁴Marzuki, PM (2017). *Legal Research: Revised Edition*. Jakarta: Kencana Prenada Media Group.

⁵Soekanto, S., & Mamudji, S. (2015). *Normative Legal Research: A Brief Review*. Jakarta: Raja Grafindo Persada.

⁶The 1945 Constitution of the Republic of Indonesia, Article 1 paragraph (3).

⁷Law of the Republic of Indonesia Number 12 of 2011 concerning the Formation of Legislation (as amended by Law No. 13 of 2022), Article 2.

⁸*Ibid*

at least two valid pieces of evidence; the reasoning of the decision must be clearly written so that it can be tested publicly.⁹With this structure, the law works not merely as text, but as a reasoning system that maintains coherence between facts, elements, and principles.

The application of positive law to women reinforces the principle of equality. The Constitution guarantees equality before the law (Article 27 paragraph (1)), the right to recognition, guarantees, protection, and fair legal certainty (Article 28D paragraph (1)), and the prohibition of discrimination (Article 28I paragraph (2)).¹⁰Criminal law definitions of offenses are generally gender-neutral, using the phrase "Everyone" so that women can be perpetrators, victims, or witnesses subject to the same standard of proof. To prevent bias, the Supreme Court has issued gender-sensitive judicial guidelines requiring judges to avoid stereotyping and victim-blaming, while adhering to the principles of legality and standards of proof.¹¹

At the normative level, the most relevant national regulations include the Criminal Code (the legacy WvS regime that was still in force before the 2023 Criminal Code came into effect),¹²Criminal Procedure Code as a guideline for proof,¹³as well as special laws such as the Law on the Elimination of Domestic Violence (PKDRT)¹⁴and the Sexual Violence Crimes Act (TPKS).¹⁵All of these treat women as equal legal subjects and, depending on the context, provide instruments for both protection and accountability. In practice, factors such as authentic reconciliation, remorse, and the impact on the victim are considered at the sentencing stage as mitigating or aggravating factors, as long as they do not negate the perpetrator's accountability.

The framework aligns with international standards. Indonesia has ratified CEDAW (the Convention on the Elimination of All Forms of Discrimination Against Women).¹⁶and the Covenant on Civil and Political Rights (fair trial and equal

⁹Republic of Indonesia Law Number 48 of 2009 concerning Judicial Power, Article 50 paragraph (1).

¹⁰1945 Constitution of the Republic of Indonesia, Article 27 paragraph (1), Article 28D paragraph (1), and Article 28I paragraph (2).

¹¹Republic of Indonesia Supreme Court. (2017). PERMA No. 3 of 2017 concerning Guidelines for Trying Women's Cases in Conflict with the Law.

¹²Criminal Code (old Criminal Code) – see Articles 351 and 352.

¹³Law of the Republic of Indonesia Number 8 of 1981 concerning Criminal Procedure Code (KUHP), Articles 183–184.

¹⁴Law of the Republic of Indonesia Number 23 of 2004 concerning the Elimination of Domestic Violence.

¹⁵Law of the Republic of Indonesia Number 12 of 2022 concerning Criminal Acts of Sexual Violence.

¹⁶Law of the Republic of Indonesia Number 7 of 1984 concerning Ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

protection before the law),¹⁷ which strengthens the state's obligation to uphold fair and bias-free judicial processes. In the comparative realm, instruments such as the Istanbul Convention (Council of Europe, 2011)¹⁸ and Bangkok Rules (UN, 2010)¹⁹ indicate a policy direction that balances prevention, protection, prosecution, and redress; although not all of them are binding in Indonesia, these standards are useful as a policy mirror.

Starting from the decision date of July 15, 2025, Linda Farida's case must be read within the framework of the old Criminal Code (WvS) and the Criminal Procedure Code (KUHP) because the three-year transition period since the enactment of the 2023 Criminal Code has not yet ended, so the "new" criminal norms have not yet become the basis for making a decision.²⁰ Thus, the typification, criminal threat, and evidentiary procedures of the *a quo* case are linked to Article 351 of the Criminal Code concerning assault¹⁵ as well as the evidentiary standards of Articles 183–184 of the Criminal Procedure Code.²¹ This framework provides a neat analytical fence: the elements of the offense are tested one by one, the valid evidence is confirmed, and finally stitched into a reasoned verdict that the public can follow.

The construction of the offense used by the prosecutor and judge is in line with the doctrinal mapping of *actus reus* and *mens rea*. The act of attacking bodily integrity (the blow to the lip), the resulting consequences (pain/injury), and the causal link between the two are clearly visible through the post-mortem examination at Rupit Regional Hospital, which confirmed bruising on the lower lip due to a blunt object. On the spiritual side, the intention that is worthy of being blamed as *opzet* or at least *culpa* according to the construction of the article is explained by a series of facts, including the defendant's confession at trial. There is no apparent justification or excuse (such as *noodweer*) that can negate the unlawful nature of the act. With the composition of evidence that meets the formula of "at least two valid pieces of evidence" and leads to the judge's conviction, the requirement of beyond reasonable doubt according to the negative-legal evidentiary system of the Criminal Procedure Code is methodologically fulfilled.

¹⁷Law of the Republic of Indonesia Number 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights (ICCPR).

¹⁸Council of Europe. (2011). Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).

¹⁹United Nations General Assembly. (2010). United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), A/RES/65/229.

²⁰Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code, Article 624 (provisions come into force three years after promulgation) and Article 466 (assault—main form).

²¹Law of the Republic of Indonesia Number 8 of 1981 concerning Criminal Procedure Code (KUHP), Articles 183–184.

The factual chronology that began on Friday, November 8, 2024 in Dusun XI Tebing Tinggi, when a statement deemed demeaning sparked an escalation of emotions and resulted in a blow that resulted in bruising is placed as a minor premise in a legal syllogism. The victim's report to the North Musi Rawas Police, a medical examination at Rupit Regional Hospital, the defendant's confession and remorse, and an authentic peace agreement accompanied by a contribution of Rp1,500,000 in medical expenses form a consistent mosaic of evidence. At the prosecution stage, the prosecutor requested a 2 (two) month prison sentence; the judge, after assessing that all elements of Article 351 of the Criminal Code had been fulfilled,²² formulated a sentence of 1 (one) month imprisonment, minus the period of house arrest that has been served, ordered the return of evidence (a house dress), and set court costs of Rp. 5,000. This decision shows the calibration of sanctions that do not stop at the maximum threat text (2 years and 8 months for the main form), but rather measures the weight of harm, degree of error, as well as mitigating factors (peace, regret) and aggravating factors (history of previous convictions) proportionally.

That the panel still chose Article 351 instead of Article 352 (minor assault), which in practice is often positioned as a complaint offense, can be understood as long as the result of "pain/injury" is proven and the sentence imposed is then adjusted to be proportional.²³ This is where the quality of reasoning suggested by the literature is apparent: the flow of facts → elements → principles → sanctions is written clearly, so that the decision is not only legal-valid, but also value-responsive to the degree of real danger of the case.

The dimension of equality before the law provides important context because the perpetrator was a woman. The Constitution guarantees equality, fair legal certainty, and a prohibition on discrimination.²⁴ Meanwhile, PERMA No. 3 of 2017 requires gender-sensitive justice.²⁵ The mandate of Law 48/2009 (Article 5 paragraph (1)) for judges to "explore, follow and understand the legal values and sense of justice that exist in society" strengthens this obligation: the reasons for the decision must be communicative and can be audited by public reasoning (a reasoned decision).²⁶ Within the framework of UNISSULA's academic thinking, Sri Endah Wahyuningsih emphasized that good punishment is rational, proportional, and recovery-oriented; while Gunarto emphasized the balance of certainty,

²²Old Criminal Code Article 351 (and comparison with Article 352).

²³Ibid

²⁴1945 Constitution of the Republic of Indonesia, Article 27 paragraph (1), Article 28D paragraph (1), and Article 28I paragraph (2).

²⁵Republic of Indonesia Supreme Court. (2017). PERMA No. 3 of 2017 concerning Guidelines for Trying Women's Cases in Conflict with the Law.

²⁶Republic of Indonesia Law Number 48 of 2009 concerning Judicial Power, Article 5 paragraph (1).

justice, and utility as the essence of the rule of law.²⁷The assembly's consideration of authentic peace and real remorse without eliminating accountability is in line with these two accents: society receives a signal that the law is upheld, but injured social relations are also restored.

At the same time, the court maintained the discipline of the principle of legality: this case was not brought to *lex specialis* such as the Domestic Violence Law or the TPKS Law because the elements were irrelevant; the path taken was the general assault route in the Criminal Code, with peace positioned as a mitigating factor, not an expiation of the crime.²⁸For academic purposes, readers may note that the structure of Article 351 of the Criminal Code broadly corresponds to Article 466 of the 2023 Criminal Code; however, because the transition period had not yet ended when the verdict was rendered, the new norms serve a comparative function, not a basis for decision-making.²⁹

To this point, the portrait of the application of positive law in case No. 229/Pid.B/2025/PN Llg shows four mutually reinforcing nodes. First, the legal basis was chosen appropriately: the old Criminal Code and the Criminal Procedure Code as normative-procedural references. Second, the elements of the crime were proven through orderly evidentiary procedures, post-mortem examinations, witness testimony, and confessions, which together established *actus reus* and *mens rea*. Third, the principle of equality and gender-sensitive judicial guidelines were in concrete action. Fourth, the punishment was imposed proportionally, so that the decision combined certainty, justice, and expediency in line with the horizon of Pancasila Justice, which demands a rational balance between normative texts and human dignity protected by law.

This consideration also demonstrates the adequate quality of the reasoned decision: the panel does not simply copy the elements, but explains the logical connection between the proven facts, the fulfillment of the elements of the crime, the relevant principles, and the calibration of the sentence. This way of reasoning is in line with the mandate of Article 5 paragraph (1) of the Judicial Power Law regarding the judge's obligation to "explore, follow, and understand legal values and a sense of justice," and strengthens the predictability of decisions as a

²⁷Wahyuningsih, SE (2019). Reasoned decisions and predictability of criminal decisions. *Sultan Agung Law Review*, 1(2), 1–20; & Gunarto. (2016). Just and certain law enforcement. *Unissula Law Journal*, 3(1), 1–15.

²⁸Law of the Republic of Indonesia Number 23 of 2004 concerning the Elimination of Domestic Violence. Law of the Republic of Indonesia Number 12 of 2022 concerning Criminal Acts of Sexual Violence.

²⁹Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code, Article 624 (provisions come into force three years after promulgation) and Article 466 (assault—main form).

requirement for a healthy rule of law.³⁰ Within that horizon, the legibility of the judgment's reasoning becomes an instrument of public accountability: it enables society and the parties to assess the proportionality of the criminal reaction to the real harm.³¹

In terms of sentencing policy, the decision demonstrates an orientation that is not solely retributive, but also considers prevention and rehabilitation goals. The defendant's confession, remorse, and genuine reconciliation, along with contributions to medical expenses, are noted as mitigating circumstances, without obscuring criminal accountability. This practice is consistent with the Supreme Court's gender-sensitive judicial guidelines, which require a non-stereotypical assessment of the context and adherence to the principles of legality and standards of proof.³² Thus, the sentence which is lighter than the prosecutor's demands remains within the legal-proportional corridor because it is based on a valid evidentiary structure and an analysis of the degree of wrongdoing and the consequences it causes.³³

3.2. Judge's Considerations and the Course of the Judicial Process

Before delving into the technical analysis of the *a quo* case, it is important to emphasize that the judges' framework for thinking in criminal cases rests on three pillars: legality, due process, and accountability for the rationale of their decisions. In a state governed by the rule of law, guarantees of equality before the law and the right to a fair trial are prerequisites, while judges are obligated to explore, adhere to, and understand the legal values that exist within society.³⁴ This obligation does not stop at procedural compliance, but rather demands arguments that can be traced and publicly tested, so that decisions are not only conclusive, but also well-founded (reasoned decision).³⁵

As a working guideline, the scope of the examination is determined by a valid, accurate and clear indictment, because the indictment functions as a boundary for

³⁰Law Number 48 of 2009 concerning Judicial Power. Supreme Court of the Republic of Indonesia. (2017). PERMA No. 3 of 2017 concerning Guidelines for Adjudicating Cases of Women in Conflict with the Law.

³¹Law Number 8 of 1981 concerning Criminal Procedure Law (KUHP).

³²Republic of Indonesia Supreme Court. (2017). PERMA No. 3 of 2017. Supreme Court of the Republic of Indonesia. (2017). PERMA No. 3 of 2017 concerning Guidelines for Trying Women's Cases in Conflict with the Law.

³³Law Number 8 of 1981 concerning Criminal Procedure Law (KUHP).

³⁴The 1945 Constitution of the Republic of Indonesia (rule of law, equality, legal certainty). Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power (independence, open trials, obligation to explore legal values).

³⁵Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power (independence, open trials, obligation to explore legal values). Wahyuningsih, SE (2019). Reasoned decisions and predictability of criminal decisions. *Sultan Agung Law Review*, 1(2), 1–20.

the arena of evidence and a reference point for assessing the elements of the crime.³⁶From here, the panel formulates the legal issues that must be answered through valid evidence, examines the relevance and weight of each piece of evidence, and combines them with the applicable doctrines and principles, so that each element of the indictment is tested explicitly without any logical gap between the proven facts and legal conclusions.³⁷

In the case of proof, the burden of proof is in principle on the public prosecutor; the defendant is not burdened with the obligation to prove his innocence.³⁸The negative-legal model adopted by the Criminal Procedure Code requires that two cumulative prerequisites be met: the existence of at least two valid pieces of evidence and the emergence of the judge's conviction from these pieces of evidence.³⁹Thus, the test does not stop at the quantity of evidence, but rather assesses the logical fit between the evidence, the structure of the elements of the crime, and the flow of events while opening up the possibility of assessing the absence of justification or excuse which, if proven, negates the unlawful or wrongful nature.⁴⁰

In the sentencing phase, the quality of consideration is measured by the legibility of the logical bridge of facts → elements → principles → sanctions, as well as sensitivity to the objectives of modern sentencing: protection of society, prevention, and rehabilitation, in addition to proportional retribution.⁴¹Indonesian criminal literature emphasizes the balance between certainty, justice, and expediency as the pulse of the rule of law; therefore, mitigating circumstances such as confession, remorse, and authentic reconciliation, as well as aggravating circumstances such as a record of recidivism, must be calculated and explained transparently in the sentence.⁴²

In cases involving women, the principle of equality must be factually operationalized. Subject-neutral formulations of offenses ensure that women, as perpetrators, victims, or witnesses, are subject to identical standards of proof,

³⁶Law of the Republic of Indonesia Number 8 of 1981 concerning Criminal Procedure Code (KUHP), in particular provisions regarding the validity of charges and the scope of examination.

³⁷Criminal Procedure Code, Articles 183–184 (negative-legal model of proof).

³⁸Criminal Procedure Code, Article 66 (suspects/defendants are not burdened with the obligation to provide proof).

³⁹Criminal Procedure Code, Articles 183–184 (negative-legal model of proof).

⁴⁰Arief, BN (2012). *Selected Chapters on Criminal Law*. Bandung: Citra Aditya Bakti.¹² Muladi, & Arief, BN (2010). *Criminal Theories and Policies*. Bandung: Alumni.

⁴¹Criminal Procedure Code, Article 197 paragraph (1) (obligation to include reasons/considerations and aggravating/mitigating factors). Muladi, & Arief, BN (2010). *Criminal Theories and Policies*. Bandung: Alumni.

⁴²Wahyuningsih, SE (2019). Reasoned decisions and predictability of criminal decisions. *Sultan Agung Law Review*, 1(2), 1–20. Gunarto. (2016). Just and certain law enforcement. *Unissula Law Journal*, 3(1), 1–15.

while gender-sensitive judicial guidelines direct judges to avoid stereotyping and victim-blaming without compromising the principle of legality.⁴³ This standard also derives legitimacy from Indonesia's international commitment to fair trial and equal protection.⁴⁴

Within the due process framework, the panel of judges is obliged to link all factual findings to the principles of legality, judicial independence, and the right to a fair trial. The basic norm is clear: Indonesia is a country of law, where everyone is guaranteed equality before the law and legal certainty. Judges are obligated to explore and adhere to the legal values that exist within society.⁴⁵ The principle of open trials unless otherwise provided by law affirms accountability, while ensuring that the reasons for decisions can be audited by the public as part of the rule of law.⁴⁶

Procedurally, the trial process is controlled by the Criminal Procedure Code: starting from the transfer of the case and examination of the completeness of the files, the reading of the indictment which is valid and accurate as a "compass" for the scope of evidence, examination of witnesses, experts if any, reading of written evidence, confrontation, to the defendant's statement and the prosecution/plea-repudiation stages before the panel's deliberations and pronouncement of the verdict.⁴⁷ At each stage, the defendant's fundamental rights to legal counsel, the presence of defense witnesses, and sufficient time to defend himself must be safeguarded; significant violations at these stages have the potential to undermine the validity of the evidence and the legitimacy of the verdict.⁴⁸

The standard of proof used is the negative-legal model: a judge may impose a sentence only if supported by at least two valid pieces of evidence and on the basis of the belief obtained from said pieces of evidence.⁴⁹ Consequently, the panel does not simply count the quantity of evidence, but also assesses its quality and its

⁴³Criminal Code (WvS), Article 351 (assault; subject-neutral formulation). Supreme Court of the Republic of Indonesia. (2017). PERMA No. 3 of 2017 concerning Guidelines for Adjudicating Cases of Women in Conflict with the Law.

⁴⁴Law of the Republic of Indonesia Number 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights (ICCPR), especially Article 14 (fair trial).

⁴⁵The 1945 Constitution of the Republic of Indonesia, Article 1 paragraph (3), Article 27 paragraph (1), and Article 28D paragraph (1). Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power, Article 3, Article 5 paragraph (1), and Article 13.

⁴⁶Republic of Indonesia Law Number 48 of 2009 concerning Judicial Power, Article 3, Article 5 paragraph (1), and Article 13.

⁴⁷Law of the Republic of Indonesia Number 8 of 1981 concerning Criminal Procedure Law (KUHP), including Articles 143, 156, 160.

⁴⁸Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power, Article 3, Article 5 paragraph (1), and Article 13. Law of the Republic of Indonesia Number 8 of 1981 concerning Criminal Procedure Law (KUHP), including Articles 143, 156, 160.

⁴⁹Criminal Procedure Code, Articles 183–184 (negative-legal evidence system).

logical fit with the elements of the crime. In assault cases, the criteria are the act that violates bodily integrity, the consequences (pain or injury), and the causal relationship that can be deduced from the series of proven facts.⁵⁰

The usual configuration of evidence in this type of case includes: (i) witness statements regarding the beating incident, (ii) the defendant's statement which is consistent and mutually corroborating with other evidence, (iii) a *visum et repertum* as written evidence issued by an authorized official which explains the presence of wounds or bruises according to forensic medical principles, and (iv) clues arising from the facts revealed in court.⁵¹ In a careful analysis of the evidence, the panel will consider the credibility of the witnesses, the temporal-locational coherence of the events, the compatibility of the post-mortem with the narrative of the events, and the absence of justification/excuse reasons (for example, *noodweer*) which, if proven, could eliminate the unlawful nature or error.⁵²

The aspect of equality is also a crucial framework. The formulation of the crime of assault in the old Criminal Code was subject-neutral (not gender-specific), allowing women to act as perpetrators, victims, or witnesses, all subject to the same standard of proof.⁵³ Accordingly, the Supreme Court requires gender-sensitive justice: judges avoid stereotyping, victim-blaming, and bias, without slackening the discipline of legality. This guideline is relevant both when women are victims and when they are perpetrators; judgments must be based on valid evidence and elements of the crime, not on prejudiced socio-cultural assumptions.⁵⁴ Furthermore, fair trial and equal protection before the law also gain additional legitimacy from Indonesia's international commitments.⁵⁵

At the sentencing stage, the Criminal Procedure Code requires that the decision contain reasons and considerations, including aggravating and mitigating circumstances.⁵⁶ This is where the quality of a reasoned decision is tested: the panel narrates a logical bridge from facts to fulfillment of elements to relevant principles to selection of sanctions. This approach aligns with the thinking of Indonesian legal academics. Wahyuningsih emphasized the importance of predictability through well-reasoned decisions, so that legal certainty is in

⁵⁰Criminal Procedure Code, Articles 183–184 (negative-legal evidence system).

⁵¹Criminal Procedure Code, Article 187 (letter/including *visum et repertum*), Article 188 (instructions), Article 189 (defendant's statement).

⁵²Criminal Procedure Code, Articles 183–184 (negative-legal evidentiary system). Arief, BN (2012). *Selected Chapters on Criminal Law*. Bandung: Citra Aditya Bakti.

⁵³Criminal Code (WvS), Article 351 (assault).

⁵⁴Republic of Indonesia Supreme Court. (2017). PERMA No. 3 of 2017 concerning Guidelines for Trying Women's Cases in Conflict with the Law.

⁵⁵Law of the Republic of Indonesia Number 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights (ICCPR), especially Article 14 (fair trial).

⁵⁶Criminal Procedure Code, Article 197 paragraph (1) (obligation to include reasons/considerations and aggravating/mitigating factors).

harmony with a sense of justice, while Gunarto emphasized the balance of certainty, justice, and expediency as the lifeblood of the rule of law.⁵⁷In cases of assault resulting in minor injuries, for example, the defendant's confession and remorse, genuine reconciliation, and contribution to medical expenses can be considered mitigating factors; conversely, a track record of recidivism or broader social impact can be aggravating factors, as long as they are all linked argumentatively to the purpose of the sentence.⁵⁸

Viewed from the perspective of reasoning techniques, the judge's considerations are deemed adequate if they fulfill three conditions: first, completeness. all elements of the accusation are tested and given reasons; second, coherence the flow of reasoning between the evidence is not contradictory and is in line with negative-legal standards; third, transparency The reasons for the criminalization and the choice of articles are stated clearly and can be examined by the public and the parties.⁵⁹Compliance with these three conditions is not merely a formality, but a legitimate prerequisite for criminal decisions in a modern state under the rule of law.⁶⁰

By considering the conformity of the procedure with the Criminal Procedure Code, the integrity of the evidence based on valid evidence, sensitivity to the principle of equality without obscuring the principle of legality, and the clarity of the reasons for proportional sentencing, it can be stated that the judge's considerations and the course of the judicial process in the a quo case reached the appropriate due process standard: legally valid and value-responsive to the degree of danger, the social relations affected, and the need for proportional recovery.⁶¹

Implementing Theory as an Analytical Tool: In analyzing the judge's considerations in the a quo case, the theory of justice used in this study serves as an analytical

⁵⁷Wahyuningsih, SE (2019). Reasoned decisions and predictability of criminal decisions. *Sultan Agung Law Review*, 1(2), 1–20. Gunarto. (2016). Just and certain law enforcement. *Unissula Law Journal*, 3(1), 1–15.

⁵⁸Arief, BN (2012). *Selected Chapters on Criminal Law*. Bandung: Citra Aditya Bakti. Muladi, & Arief, BN (2010). *Criminal Theories and Policies*. Bandung: Alumni.

⁵⁹Criminal Procedure Code, Articles 183–184 (negative-legal evidentiary system). Criminal Procedure Code, Article 197 paragraph (1) (obligation to include reasons/considerations and aggravating/mitigating factors). Wahyuningsih, SE (2019). Reasoned decision and predictability of criminal decisions. *Sultan Agung Law Review*, 1(2), 1–20.

⁶⁰The 1945 Constitution of the Republic of Indonesia, Article 1 paragraph (3), Article 27 paragraph (1), and Article 28D paragraph (1). Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power, Article 3, Article 5 paragraph (1), and Article 13. Gunarto. (2016). Law enforcement with justice and certainty. *Unissula Law Journal*, 3(1), 1–15.

⁶¹Wahyuningsih, SE (2019). Reasoned decisions and predictability of criminal sentences. *Sultan Agung Law Review*, 1(2), 1–20. Gunarto. (2016). Just and certain law enforcement. *Unissula Law Journal*, 3(1), 1–15. Muladi, & Arief, BN (2010). *Criminal Theories and Policies*. Bandung: Alumni.¹³ Law of the Republic of Indonesia Number 12 of 2005 concerning the Ratification of

tool to test whether the judicial process and verdict have met the standards of certainty, fairness, and expediency. All of these theories are not presented as abstract descriptions, but are used directly to interpret the trial facts, the position of women as perpetrators, and the legal arguments developed by the panel.

First, Aristotelian proportionality is used to assess the balance between the defendant's level of culpability, the injuries caused, and the one-month sentence imposed. From this perspective, the verdict appears proportional because the judge considered the defendant's confession, the settlement agreement, and the payment of medical expenses as corrective factors. This analysis demonstrates that punishment is not merely retribution, but an effort to restore social order appropriately and without over-punishment.

Second, Kelsenian legality serves as the basis for examining the validity of the judicial process. The panel proved the elements of Article 351 of the Criminal Code through two valid pieces of evidence and the defendant's testimony, in accordance with the negative-wettelijk standard. This demonstrates that the verdict aligns with the principle of due process of law. However, Kelsenian theory also emphasizes that procedural compliance must be read in conjunction with substantive theory to ensure a truly just outcome.

Third, through Rawls's justice as fairness, this case is analyzed from the perspective of equal treatment of women as perpetrators. The principle of equality before the law requires the absence of gender bias, and the verdict demonstrates that the judge did not discriminate. However, the difference principle requires that the defendant's social vulnerability—as a woman with prior criminal convictions and a history of social conflict—be more explicitly explained as a relevant context in mitigating the situation.

Fourth, Pancasila Justice serves as an evaluative framework that unifies aspects of certainty, justice, and expediency. In this context, decisions fulfill legal certainty through the application of Article 351 of the Criminal Code, fulfill justice through the imposition of a proportional sentence, and fulfill expediency through social reconciliation between the defendant and the victim. However, the theory of Pancasila Justice also demands a reasoned decision that incorporates humanitarian and restorative values. This section demonstrates that judges have not explicitly explored Pancasila values in their *ratio decidendi*, particularly regarding victim reparation and consideration of women's criminogenicity.

Based on the use of these four theories, it can be concluded that the *a quo* decision has generally met the standards of legality and basic justice, but still requires strengthening in terms of gender sensitivity and restorative justice indicators so that the decision is more responsive to the social realities of the parties involved.

4. Conclusion

The application of positive law in Decision No. 229/Pid.B/2025/PN Llg shows that the judicial process against women as perpetrators of abuse is carried out in accordance with the principles of legality, equality before the law, and the negative-wettelijk standard of proof. This is in line with the theory of procedural justice (Kelsenian) which requires certainty of norms, as well as Rawls' justice as fairness which demands equality without gender bias. Elements of Article 351 of the Criminal Code are proven through valid evidence, while gender-sensitive judicial guidelines ensure objectivity without reducing criminal accountability. The consideration of lighter but proportional criminal penalties reflects Aristotelian justice, the benefit in the theory of Islamic justice (*maqāṣid al-sharī'ah* – المصلحة) through the restoration of relations between the parties, and the balance of certainty-justice-benefit in the Pancasila Theory of Justice. This decision demonstrates the quality of a strong reasoned decision because the facts, elements of the crime, legal principles, and punishment are arranged consistently with human dignity as the ethical axis of law enforcement.

5. References

Journals:

- Arifianto, B. R., & Maerani, I. A. (2019). Proses penyidikan terhadap anak pelaku tindak pidana penganiayaan di Unit PPA Polres Pati. *Prosiding Konferensi Ilmiah Mahasiswa UNISSULA (KIMU)*, 1(1), 245–256.
- Council of Europe. (2011). *Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)*.
- Daly, K., & Chesney-Lind, M. (1988). Feminism and criminology. *Justice Quarterly*, 5(4), 497–538. <https://doi.org/10.1080/07418828800089871>
- Dewandaru, L. B., Hafidz, J., & Hanim, L. (2022). The policy of the prosecutor's authority in termination of prosecutions based on restorative justice in Indonesia. *Law Development Journal (UNISSULA)*.
- Gunarto. (2016). Penegakan hukum yang berkeadilan dan berkepastian. *Jurnal Hukum UNISSULA*, 3(1), 1–15.
- Gunarto. (2014). Agenda penegakan hukum dan relevansinya bagi pembangunan bangsa. *Jurnal Pembaharuan Hukum*, 1(1), 1–7.
- Hamid, U., & Sulaiman, R. (2019). Al-ṣulḥ sebagai instrumen restorative justice dalam hukum Islam. *Jurnal Syari'ah dan Masyarakat*, 12(2), 55–72.

- Juyanto, J. (2016). Rekonstruksi restorative justice system dalam tindak pidana penganiayaan berbasis keadilan hukum. *Jurnal Pembaharuan Hukum*, 3(3), 400–408.
<https://jurnal.unissula.ac.id/index.php/PH/article/view/1374/1058>
- Kadir, A., Gunarto, G., Hussain, A. A.-M., & Taher, M. A. (2024). Measuring the consistency of Pancasila rule of law implementation in ensuring judicial independence in Indonesia. *Jurnal Hukum UNISSULA*.
- Laksana, A. W. (2020). Proporsionalitas pembedaan dan perlindungan korban. *Jurnal Hukum dan Pembangunan*, 50(3), 555–578.
- Laksana, A. W., Mashdurohatun, A., Wahyuningsih, S. E., & Sudijanto, Y. P. (2023). Reconstruction of law enforcement regulation against criminal actions performed by children based on the value of justice of Pancasila. (Artikel akses terbuka).
- Maerani, I. A. (2020). Islamic justice perspective on notary the perpetrators criminal action. *Jurnal Akta*, 7(1), 33–42.
<https://doi.org/10.30659/akta.v7i1.10275>

Books:

- Arief, B. N. (2012). *Kapita selekta hukum pidana*. Citra Aditya Bakti.
- . (2010). *Bunga rampai kebijakan kriminal*. Kencana.
- Aristotle. (2014). *Nicomachean ethics* (R. Crisp, Trans.). Cambridge University Press.
- Atmasasmita, R. (2004). *Sistem peradilan pidana*. Pustaka.
- Auda, J. (2008). *Maqasid al-Shariah as philosophy of Islamic law: A systems approach*. The International Institute of Islamic Thought.
- Black, H. C. (2019). *Black's Law Dictionary* (11th ed.). Thomson Reuters.
- Hamzah, A. (2008). *Asas-asas hukum pidana*. Rineka Cipta.
- Kelsen, H. (1967). *Pure theory of law* (M. Knight, Trans.). University of California Press.
- Mahfud MD, M. (2010). *Politik hukum di Indonesia*. Rajawali Press.
- Maerani, I. A. (2018). *Hukum pidana & pidana mati*. UNISSULA Press.

Marzuki, P. M. (2017). *Penelitian hukum (Edisi Revisi)*. Kencana Prenada Media Group.

Muladi, & Arief, B. N. (2010). *Teori-teori dan kebijakan pidana*. Alumni.

—. (1992). *Teori-Teori dan kebijakan pidana*. Alumni.

Nazir, M. (2014). *Metode penelitian*. Ghalia Indonesia.

Rahardjo, S. (2009). *Hukum dan masyarakat*. Alumni.

Salim, H. S., & Nurbani, E. S. (2017). *Penerapan teori hukum pada penelitian tesis dan disertasi*. RajaGrafindo Persada.

Soekanto, S. (2006). *Faktor-faktor yang mempengaruhi penegakan hukum*. Rajawali Press.

—. (2006). *Pengantar penelitian hukum*. RajaGrafindo Persada.

Sudarto. (1986). *Hukum pidana dan perkembangan masyarakat*. Sinar Baru.

Wahbah al-Zuhaili. (2007). *Fiqh al-Islami wa Adillatuhu*. Dar al-Fikr.

Wahyuningsih, S. E. (2020). *Teori dan praktik pemidanaan di Indonesia*. UNISSULA Press.

Regulation:

Republic of Indonesia. (1945). *The 1945 Constitution of the Republic of Indonesia*.

Republic of Indonesia. (1981). *Law Number 8 of 1981 concerning Criminal Procedure Code (KUHP)*.

Republic of Indonesia. (1999). *Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption*.

Republic of Indonesia. (2004). *Law Number 23 of 2004 concerning the Elimination of Domestic Violence*.

Republic of Indonesia. (2007). *Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking*.

Republic of Indonesia. (2008). Law Number 11 of 2008 in conjunction with Law Number 19 of 2016 concerning Electronic Information and Transactions.

Republic of Indonesia. (2009). Law Number 35 of 2009 concerning Narcotics.

Republic of Indonesia. (2009). Law Number 48 of 2009 concerning Judicial Power.

Republic of Indonesia. (2011). Law Number 12 of 2011 concerning the Formation of Legislation.

Republic of Indonesia. (2014). Law Number 35 of 2014 concerning Child Protection.

Republic of Indonesia. (2022). Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence.

Republic of Indonesia. (2022). Law Number 13 of 2022 concerning the Second Amendment to Law 12/2011.

Republic of Indonesia. (2023). Law Number 1 of 2023 concerning the Criminal Code (KUHP).

Supreme Court of the Republic of Indonesia. (2017). Supreme Court Regulation Number 3 of 2017 concerning Guidelines for Adjudicating Cases of Women in Conflict with the Law.