

Criminal Responsibility for Perpetrators of Crimes of Violence and Assault Jointly in Kediri Regency

Bayu Aulia Rachman

Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia,
E-mail: bayuauliarachman.std@unissula.ac.id

Abstract. *Joint acts of violence are regulated in the Criminal Code (KUHP), specifically in Article 170. This article explicitly threatens the perpetrator with a maximum prison sentence of five years and six months, with a heavier threat if the violence results in injuries, serious injuries, or even death. The objectives of this study: 1). To determine and analyze the enforcement of criminal law against perpetrators of joint acts of violence and abuse in Kediri Regency; 2). To determine and analyze the obstacles to criminal law enforcement against perpetrators of joint acts of violence and abuse in Kediri Regency. This research uses a sociological juridical approach, with a descriptive analytical research method. The data used are primary and secondary data, which will be analyzed qualitatively. The research problem is analyzed using Lawrence's legal system theory, the Theory of Criminal Responsibility. The results of the study concluded that: 1) Criminal liability for perpetrators of crimes of violence and assault together in Kediri Regency, which is regulated in Article 262 of the National Criminal Code (Law No. 1 of 2023), faces significant challenges in its implementation. Each participant can be held individually accountable according to the level of involvement and the consequences caused. The implementation of the Article is by applying the principle of inclusion (deelneming) and independent accountability where each person in the group is tested for the level of error and their role; 2). Obstacles to criminal liability for perpetrators of crimes of violence and assault together in Kediri Regency, namely low public legal awareness, slow response of law enforcement officers, limited evidence, to inequality of access to justice are real challenges in the law enforcement process. On the other hand, internal factors of legal institutions, such as the lack of professionalism of officers and weak internal supervision, also affect the effectiveness of the process of taking action against perpetrators of assault. Solution: it is necessary to take comprehensive strategic steps, starting from strengthening the capacity of law enforcement officers, increasing legal education for the community, to improving the regulatory system that supports a fair and fast legal process. Strengthening inter-*

agency cooperation and implementing a restorative justice-based approach can also be an alternative option in resolving abuse cases while still guaranteeing the rights of victims.

Keywords: Abuse; Criminal Accountability; Violence.

1. Introduction

In today's modern era, the challenges of law enforcement are increasingly complex. Various factors such as socioeconomic inequality, rapid urbanization, the development of information technology, and changing societal values contribute to the rising crime rate. One phenomenon that remains highly concerning is the practice of group violence, known as mob violence. According to data from the Indonesian National Police, in 2022, there was a 15% increase in group violence cases across Indonesia compared to the previous year.

The crime of collective violence is regulated in the Criminal Code (KUHP), specifically in Article 170. This article expressly threatens the perpetrator with a maximum prison sentence of five years and six months, with a heavier threat if the violence results in injuries, serious injuries, or even death. In addition to Article 170 of the Criminal Code, this crime can also be linked to other articles such as Article 351 concerning assault, Article 358 concerning participation in attacks or fights, and in certain cases can intersect with Law Number 23 of 2004 concerning the Elimination of Domestic Violence or Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. Regulations regarding criminal liability in collective violence are also strengthened by Articles 55 and 56 of the Criminal Code. This legal construction aims to ensure that every party involved in collective violence can be held criminally responsible according to their respective roles, so that no perpetrator escapes the law simply because the action was carried out together.

Criminal liability is defined as a subjective act that meets the requirements for punishment. Therefore, the scope of criminal liability is closely related to the structure of the crime, as an act is viewed as a crime and reflects society's rejection of that act, and therefore, it is condemned. Therefore, criminal liability can only occur after someone commits a crime that violates a legal rule.

Law enforcement is an effort to harmonize values in legal rules to create, maintain and defend peace in society, as stated by Soekanto (2016).¹In this context, collective law enforcement against perpetrators of violent crimes is not only aimed at imposing sanctions but also as a preventative measure to prevent similar incidents in the future. The effectiveness of law enforcement is greatly

¹Soekanto, S, 2016, Factors influencing law enforcement, Raja Grafindo Persada, Jakarta

influenced by the clarity of legal norms, the professionalism of officers, supporting facilities, and public legal awareness, as expressed by Arief (2021).²

Abuse is a violent crime committed against the human body in various forms, resulting in injury or pain, or even death. The Criminal Code (KUHP) generally defines abuse as a crime against the human body.

Meanwhile, from a linguistic perspective, persecution has the prefixes *pe-* and *-an*, which are derived from the root word *aniaya*. Persecution means a person or subject who commits an act of persecution. A person who commits an alleged act of persecution must first be able to prove their intention to cause pain or injury to another person's body.³

Abuse is a common and easily occurring occurrence in society. The consequences of abuse are numerous and frequent, even resulting in death. Therefore, punishment for perpetrators must truly provide a sense of justice for the victim, their family, and even the perpetrator themselves, in order to serve as a lesson and deterrent.⁴

Abuse is also a phenomenon that is difficult to eradicate from social life. Frequent acts of abuse, such as beatings and physical violence, often result in bodily injuries or bodily injuries to victims, sometimes even leading to lifelong physical disabilities, even death.⁵

Meanwhile, perpetrators of criminal acts of abuse resulting in death can be subject to relevant punishment in accordance with Article 351 paragraph (3) of Law Number 1 of 2023 concerning the Criminal Code which states: "Assault resulting in death, is punishable by a maximum imprisonment of seven years." The phenomenon of many acts of abuse together resulting in death often occurs in society and is influenced by several things, including the economic situation of the perpetrator, the perpetrator's unstable emotions, how the perpetrator was raised in the family, how the environment was supervised or perhaps the victim who provoked the violence and many other factors that cause abuse to result in death.

The latest development in the Restorative Justice legal framework is marked by the enactment of the new Criminal Code (Law Number 1 of 2023), which in

²Arief, B. N, 2021, Effectiveness of criminal law enforcement in handling violent crimes, *Journal of Legal Issues*, 50(2), 178–192.

³Gunsu Rapita Bambang, et al., 2021, Implementation of Criminal Responsibility for Students as Perpetrators of Assault Resulting in Death (Study of Decision Number 13/Pid.B/2020/PN.Gdt), *Pakuan Law Review* 07, p. 162.

⁴3I Kadek Agus Irawan, I Nyoman Sujana, and I Ketut Sukadana, 2019, "Criminal Acts of Assault Resulting in the Death of a Person," *Journal of Legal Analogy*, 1(3), p. 342.

⁵Laola Subair and Umar** Laila, 2022, Legal Analysis of the Crime of Assault, *Jurnal Tociung (Journal of Legal Studies)*, 2(2), pp. 83–84.

Article 132 paragraph (1) letter g recognizes that the termination of prosecution can be caused by "the existence of a settlement outside the judicial process as regulated in statutory regulations." This provision provides strong legitimacy for prosecutors to terminate prosecution through a Restorative Justice approach, provided that certain conditions are met. Article 1 number 1 of Perja Number 15 of 2020 defines restorative justice as "the resolution of criminal cases by involving the perpetrator, victim, the perpetrator's and/or victim's family, and other parties related to the case to jointly seek a just resolution by restoring the case to its original state and not retaliating." This definition emphasizes three main principles of RJ, namely the active participation of all affected parties, a focus on recovery (not retaliation), and recognition of the victim's needs.⁶ Article 30 paragraph (2) of the 2021 Prosecutor's Office Law also emphasizes this by mandating that "prosecution shall be carried out with due regard to the principles of public interest, the principle of proportionality, and the principles of simplicity, speed, and low cost." This principle is the basis for prosecutors to consider terminating prosecution through RJ if it is deemed more effective in achieving justice.⁷

Suspect K was charged with the criminal act of serious assault as referred to in Article 466 Paragraph (2) of Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code.

The suspect's actions fulfill all the elements of Article 351 paragraph (1) of the Criminal Code concerning abuse, which reads: "Assault is the act of intentionally causing pain or injury to another person's body." These elements include:⁸

1. Act of assault: The suspect deliberately hit the victim with the hand holding the refill cutter.
2. Intentional (*dolus*): The suspect deliberately took a cutter out of his bag and challenged the victim to a fight.
3. Legal consequences: Physical injuries occurred to the victim as evidenced by a post-mortem examination. With a maximum criminal penalty of two years and eight months, this case formally fulfills the requirements of Article 5 paragraph

⁶Juanrico Alfaromona Sumarezs Titahelu, 2023, Dissemination Of Mechanisms For Handling Criminal Cases In Criminal Procedure Law, *Aiwadthu: Journal of Legal Service* 3, No. 1 (March 30): 33, <https://F.Hukum.Unpatti.Ac.Id/Jurnal/Aiwadthu/Article/View/1293>.

⁷Ramadhan Et Al., 2023, Implementation of Restorative Justice Based on the Principles of Fast, Simple and Low Cost to the Community (Case Study of the Tanjung Perak Port Police, Surabaya), Surabaya.

⁸Gilbert Immanuel Gultom, Tardip Panggabean, and Erna Amalia, 2025, Analysis of Cases of Assault Based on Article 351 of the Criminal Code (Case Study of Decision Number 2/Pid.B/2019/Pn.Dpk), *Terang: Journal of Social, Political and Legal Studies*, 2(1)

(1) letter c of Perja 15/2020 which stipulates that RJ can only be applied to cases with a criminal penalty of less than five years.⁹

However, legal analysis should not stop at formal criminal threats, but must consider the characteristics of the crime holistically. The use of a dangerous tool refill cutter with a length of 11 cm and a width of 2 cm as admitted in witness statements and evidence, has the potential to shift the case to the realm of Article 351 paragraph (2) of the Criminal Code which regulates assault with weapons or tools that can be dangerous, with a criminal threat of up to five years. The explanation of Article 351 paragraph (2) of the Criminal Code states that what is meant by "weapons or tools" is any object that can endanger the safety of a person's life or body.¹⁰ Based on the Case Settlement Decree, the prosecutor stopped the prosecution after assessing that the six requirements in Article 5 paragraph (1) of Perja 15/2020 had been met. An in-depth analysis of the fulfillment of these requirements revealed a gap between administrative formalities and the substance of justice.

Based on Based on the background description above, the author is interested in writing a thesis entitled "Criminal Responsibility for Perpetrators of Criminal Acts of Violence and Assault Together in Kediri Regency".

2. Research Methods

The type of research used in completing this dissertation is the descriptive analytical legal research method, namely research conducted by examining library materials (secondary data) or library legal research.¹¹, then described in the analysis and discussion.

3. Results and Discussion

3.1. Accountability Criminal Prosecution of Perpetrators of Violent and Abusive Acts Together in Kediri Regency

The concept of criminal responsibility is crucial in criminal law, as it addresses issues of guilt, responsibility, and punishment, which must be addressed within a moral, religious, and legal context. These three components are interconnected and based on a shared context, encompassing a collectively shared set of

⁹Dwi Anggriani, Rahmattullah Lihawa, And Roy Marthen Moonti, 2025, The Concept of Restorative Justice in Resolving Minor Crimes: Relevance to the Social Justice Agenda, *Activism: Indonesian Journal of Educational, Political and Social Sciences*, 2(3).

¹⁰Samuel Raymond Charles Siregar Muhammad Din Al Fajar, Adventus Sinulingga, Gregorius Pascalis Baroni Dachi, Ignasia Lauditta Simbolon, Jedidiah Clarabel Purba, 2024, Application of Article 351 of the Criminal Code in Cases of Assault: Legal Analysis of the Decision of the Sorong District Court, *Jurnal Intelek Insan Cendika*, 1(9).

¹¹Ediwarman, 2010, Monograph, Legal Research Methodology, Postgraduate Program, Muhammadiyah University of North Sumatra, Medan, p. 24.

behavioral norms that lead to the emergence of the concepts of guilt, responsibility, and punishment. This exemplifies the emergence of a conceptual framework rooted in a normative system.¹² Criminal liability refers to the process of determining the guilt of a suspect or defendant in connection with a crime. Criminal guilt is essentially the determining factor in the legal system, determining whether a person should be acquitted or punished.¹³

The legal systems of the United Kingdom and the United States adhere to the concept of criminal responsibility, which is primarily based on the doctrine of guilt as *mens rea*. According to this principle, a person cannot be deemed guilty solely based on their actions; rather, their guilt depends on the presence of a guilty state of mind. In other words, a person is not considered guilty unless their mental state is consistent with their actions.¹⁴ It is possible for a person to be considered guilty even though his intention was not to commit a wrongful act.¹⁵ The dualistic approach posits a distinction between the act and criminal responsibility. The element of criminal responsibility relates solely to the fault, while the nature of the violation of the law is not an element of criminal responsibility. The inherent nature of the violation of the law is an inseparable component of criminal behavior, thus establishing a correlation between the unlawful act and the behavior that violates established laws.¹⁶

The perpetrator or *dader* is regulated in Article 55 of the Criminal Code. "The meaning of *dader* comes from the word *daad* which in Dutch means the act of doing or as an action." In criminal law, it is not common for people to say that a perpetrator has committed a crime or that a perpetrator has committed a crime, but what is commonly said is that a perpetrator has committed a crime. The perpetrator or *dader* as defined in Article 55 of the Criminal Code. The concept of the perpetrator of a crime is a fundamental aspect in the criminal law system related to legal subjects who can be held criminally responsible. Terminologically, the perpetrator of a crime (*dader*) is a person who fulfills all the elements of a crime as formulated in the law, both subjective and objective elements.

According to Eddy OS Hiariej (2016), perpetrators of criminal acts in the narrow sense are those who commit criminal acts (*pleger*), while in the broad sense it also includes those who participate in committing (*medepleger*), order to commit (*doenpleger*), induce to commit (*uitlokker*), and assist in committing (*medeplichtige*). In the context of Indonesian criminal law, Articles 55 and 56 of

¹²Amir Ilyas, 2014, *Principles of Criminal Law*, Rangkang Education, Yogyakarta, p. 41

¹³Roeslan Saleh, 1998, *Thoughts on Criminal Responsibility*, Ghalia Indonesia, Jakarta, p. 56.

¹⁴Hartono, B., & Junisda, M, 2023, *Accountability of Perpetrators of Criminal Acts of Assault Resulting in Death in Appeal Decisions*, (*Judex Factie*). 9, 1–2.

¹⁵Huda. Nurul, Z, 2023, *Pediaqu: Journal of Social and Humanities Education* Volume 2 Number 1 (2023) 88 EDUCATIONAL PLANNING. *Social and Humanities Education*, 2(3), 10111–10121..

¹⁶Agus Rusianto, 2016, *Criminal Acts and Criminal Responsibility*, Prenadamedia Group, Jakarta.

the Criminal Code divide perpetrators of criminal acts into several categories based on their roles and contributions in the criminal act. Chairul Huda stated that this division indicates the existence of participation (*deelneming*) in criminal acts, where several people act in one criminal act with different roles. Theoretically, participation has two forms, namely participation in the narrow sense (*medeplegen*) and participation in the broad sense (*deelneming*).

Criminal acts are a fundamental concept in criminal law and a central focus of discussion and study. Doctrinally, the term criminal act is a translation of the Dutch word "*strafbaar feit*," which has no exact Indonesian equivalent. Moeljatno (2015) defines a criminal act as an act prohibited by a legal regulation, accompanied by a threat (sanction) in the form of a specific penalty for those who violate the prohibition. This definition emphasizes the prohibited act (criminal act) as the primary focus of the criminal act.

In contrast to Moeljatno, who defines a crime as a behavior that is punishable by law, is unlawful, and is related to an error committed by a person who is capable of being responsible. This definition includes both the act and criminal responsibility in one unified concept. Meanwhile, Wirjono Prodjodikoro (2013) explains a crime as an act whose perpetrator can be subject to criminal punishment. The ratification of Law Number 1 of 2023 concerning the Criminal Code (KUHP) marks a new era in the Indonesian criminal law system which replaces the old KUHP based on Law Number 1 of 1946. The new KUHP will come into effect after 3 (three) years from the date of promulgation or 3 (three) years after January 2, 2023, which means it will be effective in 2026. The fundamental difference between the two KUHPs lies in several fundamental aspects, the first is the change in terminology where the new KUHP no longer recognizes the difference between criminal acts and violations, both use the term criminal act. Second, the new Criminal Code explicitly strengthens the principle of legality, specifically prohibiting analogical interpretation and recognizing customary law. Third, the new Criminal Code philosophically aims to establish a national criminal law based on Pancasila and more deeply rooted in Indonesian legal culture, unlike the old Criminal Code, which was still based on the Dutch colonial legacy of the *Wetboek van Strafrecht*.

This paradigm shift not only concerns terminology but also encompasses the basic concepts of criminal acts, criminal responsibility, punishment, and actions that are aligned with Indonesian values. Criminal acts in the Indonesian criminal law system are characterized by dualism and monism. Eddy OS Hiariej (2016) argues that, in the dualist view, criminal acts only encompass actions that are punishable by punishment, while criminal responsibility is not an element of the crime. This differs from the monist view, which includes guilt and criminal responsibility as part of the crime.

According to Zainal Abidin Farid (2014), the elements of a crime consist of objective and subjective elements. Objective elements include actions (active or passive), consequences of actions relevant to the crime, and certain circumstances. While subjective elements include the psychological state of the perpetrator, which can be intentional or negligent. A similar opinion was expressed by Chairul Huda (2015), who emphasized that a crime dogmatically only contains actions and consequences of actions, while criminal responsibility is in a different realm. Etymologically, violence comes from the word "hard" which in the KBBI is defined as an act that is coercive, causes injury or death to another person, or causes physical damage. From a criminal law perspective, violence is defined as an act carried out using substantial physical force or strength illegally, resulting in another person suffering injury or pain or even death. R. Soesilo (2017) defines violence as the unlawful use of substantial physical force or strength, for example, hitting with a hand or weapon, kicking, kicking, and so on. The Criminal Code contains several provisions governing violent crimes, including: Article 170 of the Criminal Code concerning violence against people or property in public; Articles 285-288 of the Criminal Code concerning crimes against morality related to sexual violence; Articles 338-350 of the Criminal Code concerning crimes against life; Articles 351-358 of the Criminal Code concerning assault. Regarding collective acts of violence as regulated in Article 170 of the Criminal Code, this is a form of crime against public order.

Article 170 paragraph (1) of the Criminal Code states: "Anyone who openly and with joint force uses violence against people or property, is threatened with a maximum prison sentence of five years and six months." This crime has special characteristics, namely that it is carried out openly (*openlijk*) and with joint force (*met vereenigde krachten*). According to Adami Chazawi (2015), the element "with joint force" means that the violence is carried out by more than one person who acts together in the violence. In contrast to the crime of assault (Articles 351-358 of the Criminal Code), the focus of Article 170 of the Criminal Code is not on the consequences caused, but on the disturbance to public order caused by violence carried out together and openly. In the development of modern criminal law, the crime of joint violence can also be categorized as a crime with participation (*deelneming*), where several people together commit a crime. According to Utrecht (2015), participation is the participation of one or more people when another person commits a crime. This has implications for criminal liability which can vary according to the role of each perpetrator in the crime.

Concerning participation (*deelneming*) in a crime of violence together, Hanafi Amrani (2015) explains that the concept of criminal responsibility in participation has undergone development with the acceptance of the doctrine of "joint criminal enterprise" which allows criminal responsibility for those who have a common goal in a crime even though their roles are different. Widodo

Ekatjahjana (2018) strengthens this view by stating that in the context of a crime committed together, each perpetrator who fulfills the elements can be held criminally responsible according to their respective roles.

One of the investigator's activities is to conduct examinations of witnesses, experts and suspects which are set out in the Examination Report, where the results are to obtain information and clarity regarding the position and role of a person or evidence in a crime that occurred. The Examination Report is made in a certain form by the Investigator or Assistant Investigator on the strength of the oath of office, dated and signed by the Investigator / Assistant Investigator, Witness, Expert and Suspect being examined, and contains a description of the suspected crime, the identity of the Investigator / Assistant Investigator, and the person being examined and their statement.

The legal basis for the investigator's authority in making an examination report is: 1. Law Number 20 of 2025 concerning the Criminal Procedure Code 41 2. Law of the Republic of Indonesia No. 2 of 2002 concerning the Republic of Indonesia National Police 3. Decree of the Head of the Criminal Investigation Unit of the Indonesian National Police No. Pol. Skep / 82 / XII / 2006 / Bareskrim dated December 15, 2006 concerning the Temporary Manuscript of the Criminal Investigation Guidelines and the Temporary Manuscript of the Investigation Administration Implementation Guidelines.

The function of the examination report is to handle the investigation process of the case quickly, accurately and transparently, so that the report becomes the basis for the public prosecutor in making an indictment. In cases of joint violence (Article 170 of the Criminal Code) and assault (Article 351 of the Criminal Code) in essence regulates legal sanctions for perpetrators of violence against people or property in public. Indeed, this article is similar to Article 351 of the Criminal Code, so its application can touch on Article 351 of the Criminal Code. In practice, sometimes Article 170 is juxtaposed with Article 351, this certainly makes it easier for the Public Prosecutor to use alternative charges. The essence of Article 170 of the Criminal Code lies in the act "using violence" as stated in paragraph (1), namely (a) in public and (b) carried out together. The meaning of "in public" is intended to mean that the act is carried out in a public place, where the public or many people can see the act of violence. Meanwhile, "together" means the act was committed by at least two or more people. The word "together" indicates that the act was done intentionally (a crime of *dolus*) or had a definite purpose, so it was not accidental (a crime of *culpa*). Meanwhile, "violence" is defined as the use of substantial and unlawful physical force or power.

Violence according to R. Soesilo is all human actions that meet the formulation of provisions as stated in the Criminal Code. In Article 89 of the Criminal Code it is formulated that "committing violence means using physical force or strength illegally, for example hitting with hands or with any kind of weapon, kicking,

kicking and so on. What is equated with violence according to this article is making someone faint or helpless. In this article, violence is directed at the act of "damaging property" or "assault". Against people or property violence is directed at people or property as victims.

It should be understood that the use of this article is not the same as the use of Article 351. In Article 170, the perpetrator is more than one person, while in Article 351 the perpetrator consists of one person or can be more than one person, and is not carried out at the same time. A person can experience violence from two or more people, but the perpetrators do not do it together or do not agree and have the same understanding to carry out the violence, then this is included in Article 351 of the Criminal Code.

Violence 43 according to Article 170 of the Criminal Code is carried out by the perpetrators at the same time or in close proximity, with the condition that there must be an agreement to commit the violent act against people or objects. The fundamental difference between Article 170 of the Criminal Code and Article 351 of the Criminal Code is that in Article 170 of the Criminal Code, the violent act is carried out in front of a large crowd (crowd) or in an open public space, while in Article 351 of the Criminal Code this does not differentiate whether it is carried out in a closed space for the public or in an open public space⁵². Likewise with regard to criminal threats, Article 170 of the Criminal Code threatens acts of violence that are more severe than Article 351 of the Criminal Code. It is emphasized in Article 170 of the Criminal Code, if the "victim" suffers serious injuries then the perpetrator is threatened with a maximum prison sentence of nine years, while in Article 351 with the same result, namely serious injuries, the perpetrator is threatened with a maximum prison sentence of five years. If the consequence is the death of the victim, Article 170 threatens a maximum prison sentence of twelve years, while Article 351 threatens a maximum prison sentence of seven years.

The issue of assault committed by groups in public is a crucial issue in the Indonesian criminal justice system. Violence involving more than one perpetrator in public spaces not only has physical consequences for the victims but can also disrupt public order and threaten social stability.¹⁷

Article 262 of the National Criminal Code (Law No. 1 of 2023) regulates acts of violence committed together in public. Although Indonesian criminal law has a clear basis for acts of violence together, its implementation often faces obstacles. The main problem is the mismatch between existing legal theory and

¹⁷Amalia, Rizki. 2017, Legal Analysis of Criminal Law Enforcement Against Online Business Fraud Crimes, Faculty of Law, University of Lampung

its practical application.¹⁸The urgency of research on law enforcement against collective violence in public is particularly relevant given the increasing number of violent incidents in recent years. According to data from the National Commission on Human Rights (Komnas HAM) (2022), more than 1,000 cases of violence were recorded in the context of demonstrations or protests involving mass violence. These cases demonstrate that violence in public spaces remains a serious problem that requires special attention in terms of more effective and equitable law enforcement. In this context, it is crucial to understand how criminal law can be appropriately applied to address collective violence, as well as how the social factors underlying such violence can influence the law enforcement process. Furthermore, the application of Article 262 of the National Criminal Code (Law No. 1 of 2023) in handling cases of collective violence in public does not always run smoothly. One of the obstacles that often arises is the difficulty in gathering evidence that can prove the involvement of all perpetrators in the violence.

Law enforcement officers are also often faced with limitations in understanding the psychological elements that influence group behavior in collective violence.¹⁹Therefore, a more in-depth study of the legal and psychological aspects of these acts of violence is essential for optimal law enforcement. This topic's relevance is even more crucial when considering the potential for mass violence in various social contexts, particularly political activities or demonstrations. For example, many demonstrations are marked by violence by mobs acting collectively, either directly or indirectly. Law enforcement against the perpetrators of these acts of violence must be carried out appropriately to protect the rights of victims and prevent these actions from undermining social stability.²⁰

A concept related to legal obligation is legal responsibility (liability). A person is said to be legally responsible for a particular act if he or she is subject to sanctions in the case of a contrary act. Normally, in cases where sanctions are imposed on the perpetrator, it is because of the person's own actions that make the person responsible. In this context, judges are expected to be more careful in deciding cases that have the potential to become jurisprudential, by prioritizing sociological, philosophical, and substantive justice considerations. Judges must decide based on valid evidence without external intervention such as political pressure or bribery. Another recommendation is to apply the principle of

¹⁸State, Dimas Andhi Cipta, 2024, Legal Analysis of the Investigation and Inquiry Process by the Police in Revealing Criminal Acts of Fraud and Embezzlement to Achieve Legal Certainty, Sultan Agung Islamic University Semarang, Semarang.

¹⁹Ana, Normatriya Sofiana, Muhammad Purnomo, and Dian Rosita, 2025, Legal Analysis of the Crime of Love Scamming as a Cyber Crime, Semarang Law Review (SLR), 6(2), 282-98.

²⁰Rahmanto, Tony Yuri, JHRS Kav, and South Jakarta Kuningan, 2019, Law Enforcement Against Electronic Transaction-Based Fraud Crimes, De Jure Legal Research Journal, 19(1), p. 31

substantive justice in all stages of the trial, by thoroughly examining all evidence so that the decisions taken not only reflect legal certainty but also justice for society.

According to Hans Kelsen, in his pure theory of law, law is a hierarchical system of norms, with basic norms as the peak. According to Kelsen, the judge's decision must be based on the law currently in force and valid evidence. According to him, the principle of legal certainty is that the law must have a logical and consistent structure so that every rule can be traced back to a higher source of law, this eliminates uncertainty and makes the law easy to predict.

Accountability criminal penalties against perpetrators of crimes of violence and abuse together in Kediri Regency, namely as regulated in Article 262 of the National Criminal Code (Law No. 1 of 2023), face quite a big challenge in its implementation.

3.2. Obstacles and Solutions Accountability Criminal Prosecution of Perpetrators of Violent and Abusive Acts Together in Kediri Regency

The form of criminal responsibility for the perpetrators of a collective assault resulting in death must first be examined from various perspectives. This will determine the extent of the perpetrators' involvement in the violation. Once this is known, the appropriate criminal responsibility to be imposed on the perpetrators can be determined. Considering the nature and harm caused by the crime, which includes public unrest and the loss of a family member, the offense of collective assault resulting in death can generally be considered a criminal offense.²¹

To determine whether perpetrators of a crime can be held accountable for their actions, an element of fault must first be proven. Based on the concept of criminal responsibility, this element of fault adheres to the doctrine of *mens rea*. Furthermore, the concept of criminal responsibility refers to the mental state of the perpetrators at the time of their actions, making them blameworthy. Therefore, the concept of criminal responsibility is "always related to fault, whether in the form of negligence or intent."²²

Criminal liability requires the capacity to be held accountable. This capacity must be proven, as evidenced by the perpetrators' mental state. Furthermore, to be held accountable for an act, the perpetrators must also meet other elements, namely the absence of excuses and justifications. The absence of excuses that

²¹Yulia Intan Tindage, Diana R. Pangemanan, M, 2021, Joint Violent Crimes According to the Criminal Code. *Lex Privatum*, 12(5), 61–66

²²Syawal Abdul Dan Anshar, 2010, Criminal Responsibility of Military Command for Serious Human Rights Violations (A Study in Criminal Reform Theory), Laksbang Pressindo, Yogyakarta, p. 40.

can eliminate criminal liability is often associated with compelling circumstances in committing the crime. In this case, compelling circumstances include three things: "a person is caught between two interests, a person is caught between interests and obligations, and there is a conflict between two obligations."²³

Social control theory is often used to explain why individuals do not commit crimes; it can also be applied to understand why perpetrators engage in certain actions after a crime has occurred, including destroying evidence. In this context, perpetrators are motivated to destroy evidence because of their weak ties to legal norms and their strong incentive to avoid legal consequences. Perpetrators with low self-control, or who do not feel strongly bound to the legal system and social norms, are more likely to resort to extreme measures to protect themselves from criminal prosecution. They see destroying evidence as an effective way to avoid punishment.

Investigators explained that "evidence is often discarded by the perpetrators," indicating a conscious effort by perpetrators to eliminate traces of their crimes. This phenomenon reflects a certain degree of premeditation, even though the violent acts may appear spontaneous. To overcome the lack of eyewitnesses, investigators developed an alternative strategy by "scouring CCTV footage in the vicinity." This approach demonstrates the technological advancements in modern criminal investigations, where electronic evidence becomes a crucial source of information when witness testimony is unavailable or unreliable. Solving cases of collective violence through digital traces on social media is a modern investigative approach that utilizes the digital footprints left by perpetrators on various social media platforms. Collaborative violence, involving two or more perpetrators in a single crime, often leaves a complex digital footprint that can be traced through appropriate digital forensic methodologies. This digital footprint includes metadata from uploaded content, communication patterns between perpetrators, geolocation data, activity timestamps, and network analysis that reveals the social connections between individuals involved in the violence.

The phenomenon of witnesses' fear of testifying is a classic obstacle in handling crimes of group violence. Intimidation of witnesses and victims often occurs in cases involving multiple perpetrators, as extensive social networks allow for sustained psychological pressure on those who testify. Social stigma that hinders rehabilitation also complicates comprehensive law enforcement. Victims and witnesses may experience negative labeling from society, which in turn can affect their willingness to participate in the legal process.

²³Syawal Abdul Dan Anshar, 2010, *Criminal Responsibility of Military Command for Serious Human Rights Violations (A Study in Criminal Reform Theory)*, Laksbang Pressindo, Yogyakarta, p. 40.

Criminal liability is a fundamental concept in criminal law that relates to a person's ability to be held accountable for their actions. Conceptually, criminal liability involves the elements of fault (*schuld*), the capacity to take responsibility, and the absence of justification or excuse.²⁴ The basic principle of criminal law states that a person cannot be punished without fault (*geen straf zonder schuld*), which means that criminal responsibility can only be imposed if the perpetrator consciously commits an act prohibited by law and understands the consequences of his actions.²⁵ This principle is the basis for determining whether a person can be held accountable for a crime. Fault, as the primary element of criminal liability, can be intentional (*opzet*) or negligence (*culpa*).

Intentionality is the mental state of the perpetrator who desires or at least knows the possibility of the consequences of his actions. Intentionality can be classified into three forms: intention as a goal, intention with awareness of certainty, and intention with awareness of the possibility of consequences (*dolus eventualis*). Meanwhile, negligence is a form of error that occurs due to the perpetrator's lack of caution, resulting in consequences prohibited by law. The difference between intentionality and negligence has implications for the level of criminal responsibility and the severity of the sanctions imposed.²⁶

Criminal liability is based on the principle that every individual must comply with the laws and legal norms applicable in a particular country or jurisdiction. Violations of the law can result in legal liability. This includes any act prohibited by law, such as crimes, violations, or acts that harm individuals or society. Criminal liability involves a fair legal process, including investigation, prosecution, and trial. Law enforcement must prove that the perpetrator has committed an unlawful act before a penalty can be imposed.

The primary purpose of criminal liability is to uphold justice in society, provide security for individuals and groups, and prevent crime by establishing clear consequences for unlawful acts. If someone is found guilty, the perpetrator can be subject to various criminal sanctions, such as imprisonment, fines, or other sanctions appropriate to the severity and type of the offense. Criminal liability is a fundamental legal principle in maintaining social order and justice, as well as regulating the relationship between individuals, the state, and society.

Furthermore, there is a public disinterest in reporting acts of violence or providing testimony. In many cases, eyewitnesses who could provide crucial evidence are often reluctant or afraid to participate in the legal process, fearing threats or retaliation from the perpetrators or even from the larger group. This

²⁴Bintang, E., & Ade Adhari, 2021, Analysis of the Absence of Intent in Criminalization, *Adigama Law Journal*, 4(2), 1-15

²⁵Salsabila, L., & Alfian Azhari, 2025, Criminal Responsibility, *Journal of Justice, Law Studies, and Politics*, 1(1), 1-10

²⁶Moeljatno, 1993, *Criminal Acts and Responsibility in Criminal Law*, Bina Aksara, Jakarta, p. 60.

poses a serious obstacle to law enforcement efforts against collective violence, where evidence depends heavily on the availability of witnesses willing to provide objective testimony.

In this context, it is crucial to improve witness protection and encourage the public to be more active in reporting incidents of violence. Another major challenge is the potential for conflicts of interest or unfairness in the legal process. In some cases, intervention by certain parties attempts to influence the legal process to prevent victims from benefiting or prosecuting the perpetrators. This situation creates legal uncertainty, preventing justice from being upheld equitably and objectively. Therefore, reform of the judicial system is necessary to ensure that the legal process can proceed fairly without external influence.

To address these various obstacles, the first step is to improve the human resource capacity of law enforcement agencies. Regular training on handling collective violence involving mobs is essential. Investigators must be equipped with skills in analyzing digital evidence and video recordings, which are often the primary pieces of evidence in such cases.

Furthermore, law enforcement officials need to be given a deeper understanding of group psychological dynamics to more accurately assess the role of each individual in these acts of violence. The second step is to strengthen protection for witnesses and whistleblowers. One way to do this is by establishing a safer and more reliable witness protection system. By providing adequate protection, witnesses will be more willing to provide testimony that can assist in the evidentiary process in cases of collective violence.

This can also help reduce the fear often felt by the public when involved in the legal process. Regardless of whether or not social justice-based law enforcement is prioritized, it is crucial to involve the public in the law enforcement process by providing an understanding of their rights and the importance of supporting a fair legal process. Raising legal awareness among the public will help create a more supportive environment for addressing acts of violence that occur in public spaces. Through broader legal education, it is hoped that the public will be more open to reporting cases of violence they witness.

The crime of collective assault (mob assault) based on the New Criminal Code (Law Number 1 of 2023) is regulated in Article 262. This provision replaces Article 170 of the old Criminal Code with a structure of criminal threats that is adjusted based on the impact of the victim's injuries.

Complicated procedures, coupled with limited information regarding legal processes, leave victims feeling inadequately protected by the state. Furthermore, in some cases, law enforcement officials appear unresponsive or slow in handling reports of abuse, which has eroded public trust in the judiciary.

In addition to challenges at the victim and community level, internal barriers within law enforcement agencies also require attention.

According to R. Soesilo in his book, *The Criminal Code (KUHP) and its Complete Article-by-Article Commentaries*, what is prohibited in Article 170 of the Criminal Code is violence (pp. 146-147). What is meant by violence here is the unlawful use of physical force or strength, such as hitting with the hand or with a weapon, kicking, kicking, and so on.

Violence under Article 170 of the Criminal Code typically involves “damaging property” or “assault.” However, it can also involve less serious offenses, such as throwing stones at people or houses or throwing away merchandise.

The low integrity and professionalism of some officers, as well as the lack of ongoing training, often impacts the quality of investigations and prosecutions.²⁷ In some areas, supporting facilities and infrastructure, such as forensic laboratories, post-mortem facilities, and legal representation, remain very limited. This undoubtedly makes it difficult for authorities to comprehensively prove criminal assault in court. However, efforts to improve and address these obstacles are ongoing. Legal education for the public is a crucial step that needs to be continuously intensified, both through formal institutions such as schools and universities, and through community-based legal outreach activities.²⁸

Legal System Theory according to Lawrence M. Friedman, a professor of law, historian, expert in American legal history, and prolific author, there are three main elements of a legal system, namely: legal structure, legal substance, and legal culture. Lawrence M. Friedman stated that the effectiveness and success of law enforcement depends on these three elements of the legal system. Legal structure concerns law enforcement officers, legal substance includes legislative instruments, and legal culture is the living law adopted in a society.

A good understanding of legal rights and reporting procedures will increase public participation in actively enforcing the law. Furthermore, improving the quality of human resources within law enforcement is also a crucial solution. Regular training, particularly regarding the handling of victims of violence and trauma, is essential to ensure officers adopt a more humane and professional approach. Enforcement of internal codes of ethics also needs to be strengthened to prevent irregularities or abuse of authority in case handling. Strengthening cooperation between institutions, including the Witness and Victim Protection

²⁷Dwityas Witarti Rabawati et al., 2025, *Integrity and Professionalism in Legal Professional Ethics: Main Pillars of Upholding Justice*, 9, no. 1, 122–27.

²⁸M Novrianto, 2024, *Optimizing the Role of the Community in Preventing and Handling Gender-Based Violence Through Legal Education in Menang Raya Village, Ogan Komering Ilir Regency*, *Jurnal Hukum*, 02, no. 02, 213–21.

Agency (LPSK), hospitals, and legal aid institutions, can be key to creating a more holistic protection system for victims of abuse.²⁹

With multi-stakeholder involvement, the law enforcement process becomes more than just a technical matter, but also a space for justice that truly favors victims. Furthermore, unequal access to justice is a crucial issue, particularly in remote and rural areas. Not everyone has the financial means or access to adequate legal assistance. As a result, many cases of abuse end peacefully informally without going through a legal process. Such resolutions often do not reflect justice, especially for victims who do not receive redress or guaranteed protection from repeated threats. This is where the state's role is crucial in ensuring that every citizen is equal before the law, regardless of social status or geographic location. In the context of handling perpetrators, obstacles also arise at the stage of establishing evidence and reading the elements of the offense in criminal acts of abuse.

It's not uncommon for assaults that should be classified as serious assault to be charged only with minor assault due to a lack of evidence or witnesses. This inevitably impacts the sanctions imposed by judges, which may not reflect the gravity of the perpetrator's actions. Therefore, the ability of law enforcement officers to accurately interpret the situation and refer to the provisions of the Criminal Code is crucial to the quality of law enforcement. Therefore, handling assault cases requires comprehensive synergy between structural reform, cultural education, and a commitment to enforcing the law fairly and transparently. Only in this way can the law's goal of providing justice, certainty, and benefit be truly achieved in the context of protecting society from criminal assault.

Obstacles to criminal accountability for perpetrators of collective violence and assault in Kediri Regency include low public legal awareness, slow response from law enforcement officials, limited evidence, and unequal access to justice, all present real challenges in the law enforcement process. On the other hand, internal factors within legal institutions, such as a lack of professionalism and weak internal oversight, also impact the effectiveness of prosecutions against perpetrators of assault.

Solution: Comprehensive strategic steps need to be taken, starting from strengthening the capacity of law enforcement officers, increasing legal education for the public, and improving the regulatory system to support a fair and expeditious legal process. Strengthening inter-agency cooperation and

²⁹Mamay Komariah, Legal Protection for Witnesses and Victims by LembaM Novrianto, "Optimizing the Role of the Community in Preventing and Handling Gender-Based Violence Through Legal Education in Menang Raya Village, Ogan Komering Ilir Regency" 02, no. 02 (2024): 213–21.ga Witness and Victim Protection (Lpsk)," *Galuh Justisi Scientific Journal* 3, no. 2 (2015): 229, <https://doi.org/10.25157/jigj.v3i2.421>

implementing a restorative justice-based approach can also be alternative options for resolving abuse cases while still guaranteeing the rights of victims. With consistent and ongoing efforts, it is hoped that law enforcement against perpetrators of abuse will not be merely a repressive measure, but will also reflect the principle of substantive justice for all parties involved.

4. Conclusion

1. Criminal liability for perpetrators of criminal acts of violence and abuse together in Kediri Regency is regulated in Article 262 of the National Criminal Code (Law No. 1 of 2023), faces significant challenges in its implementation. Each participant can be held individually accountable according to the level of involvement and the consequences caused. The implementation of the Article is by applying the principles of participation (*deelneming*) and independent accountability where each person in the group is tested for the level of culpability and role. The threat of sanctions is a maximum of 5 years' imprisonment or a category V fine if carried out together with a collective effort in public. The aggravated penalty (injury/destruction) is a maximum of 7 years' imprisonment (category IV fine) if the violent act results in injuries or damage to property. The fatal consequences of sanctions can be further aggravated if the collective action results in more severe consequences such as serious injury or death.

2. Constraint Criminal liability for perpetrators of crimes of violence and abuse together in Kediri Regency These include low public legal awareness, slow response from law enforcement officials, limited evidence, and unequal access to justice, all of which are real challenges in the law enforcement process. On the other hand, internal factors within legal institutions, such as a lack of professionalism and weak internal oversight, also influence the effectiveness of prosecutions against perpetrators of abuse.

Solution : Comprehensive strategic steps need to be taken, starting from strengthening the capacity of law enforcement officers, increasing legal education for the public, and improving the regulatory system to support a fair and expeditious legal process. Strengthening inter-agency cooperation and implementing a restorative justice-based approach can also be alternative options for resolving abuse cases while still guaranteeing the rights of victims. With consistent and ongoing efforts, it is hoped that law enforcement against perpetrators of abuse will not be merely a repressive measure, but will also reflect the principle of substantive justice for all parties involved.

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