

Analysis of Criminal Sanctions for Criminal Acts of Assault in Indonesia

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ABSTRACT

The crime of assault is a violation of the law that often occurs in Indonesian society and has serious implications for public security and order. Assault is clearly regulated in the Criminal Code (KUHP), especially in Articles 351 to 358, which cover various forms and levels of severity of assault. This article aims to analyze the application of criminal sanctions against perpetrators of assault in Indonesia, both in the form of imprisonment and fines. Using a normative legal approach, this study examines aspects of positive law, legal doctrine, and related court decisions. It was found that although the regulations have been quite adequate, the application of sanctions still faces challenges such as inconsistency in judges' decisions, non-legal considerations, and the less than optimal role of law enforcement officers. This article also discusses the need for reformulation of the criminal sanction approach and alternative conflict resolution, such as restorative justice, to create more substantial justice. This study is expected to contribute to the development of a more humanistic and just national criminal law.

Keywords: Abuse, Criminal Sanctions, Criminal Code

INTRODUCTION

The crime of abuse is a legal issue that cannot be considered trivial because it concerns the dignity and honor of humans as legal subjects who have the right to live and receive protection for their bodily integrity. In community life, forms of abuse often appear in various situations, ranging from personal conflicts, domestic violence, to anarchic actions in demonstrations. Abuse as a criminal act has been regulated quite clearly in the Criminal Code, especially Articles 351 to 358, which detail the forms of abuse from mild to severe, as well as the legal consequences that arise. These articles not only determine the types of sanctions, but also provide guidelines for law enforcement officers in handling cases objectively.

Society generally views abuse as an act that must be dealt with firmly, but in practice, the judicial process often faces challenges. Judges' decisions can vary greatly depending on subjective considerations, the condition of the victim and the perpetrator, and the availability of adequate evidence. This often gives rise to a perception of injustice in society, especially when the sanctions

imposed are considered too light or disproportionate to the consequences caused by the perpetrator's actions. Therefore, it is important to review the extent to which existing laws and regulations are able to provide substantive justice.

The application of criminal sanctions against perpetrators of abuse is not only intended to provide a deterrent effect, but also as an effort to prevent and educate society. In some cases, perpetrators of abuse are people who are driven by momentary emotions or complex socio-economic backgrounds. This shows the need for a more holistic approach, including strengthening the capacity of law enforcement officers and integrating a restorative approach in handling cases. The concept of restorative justice, for example, offers opportunities for conflict resolution that emphasizes the restoration of social relations and moral responsibility rather than retaliation through punishment alone.

With the increasing legal awareness of the community, the expectation for a fair, fast, and humane legal system is also increasing. Therefore, the renewal of criminal policy and the improvement of the quality and professionalism of law enforcement officers are urgent needs. This study is here to provide theoretical and practical contributions in unraveling the complexity of the application of criminal sanctions for abuse and to provide recommendations for improving criminal law policy in Indonesia.

METHODS

This study uses a normative legal approach, namely an approach that emphasizes the analysis of applicable positive legal norms. Data sources consist of primary legal materials such as the Criminal Code (KUHP), especially Articles 351 to 358, and Law Number 8 of 1981 concerning Criminal Procedure Law (KUHP). In addition, secondary legal materials in the form of criminal law literature, scientific journals, and opinions of legal experts are used as additional references. Data collection techniques are carried out through library research, and the data obtained are analyzed qualitatively descriptively. This analysis aims to examine the extent of the effectiveness of the application of criminal sanctions in practice and to evaluate the relevance of applicable positive law to empirical conditions in society.

DISCUSSION

The application of criminal sanctions for criminal acts of assault in Indonesia has complex dynamics, both from the aspect of normative law and judicial practice. Article 351 of the Criminal Code stipulates that assault that causes serious injury or death can be punished more severely than minor assault. However, in practice, many court decisions show substantial differences in the imposition of sanctions. Factors such as the perpetrator's motive, the relationship between the perpetrator and the victim, and public pressure often influence the judge's considerations.

Supreme Court Decision No. 1234 K/Pid/2018, for example, shows that in a case of assault resulting in serious injury, the defendant was only sentenced to 6 months in prison on the grounds that there was a peaceful effort between the two parties. This raises questions regarding the consistency of law enforcement and protection of victims. On the other hand, in Decision No. 882

K/Pid/2019, the defendant was sentenced to 4 years in prison for similar assault. This kind of inconsistency has an impact on public trust in the criminal justice system.

In addition, the application of the restorative justice principle as introduced in the Regulation of the National Police of the Republic of Indonesia Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice opens up the possibility of resolving cases of abuse peacefully without a court process. However, the application of this approach is still limited to minor cases and is highly dependent on the agreement of both parties. The main weakness of this approach is the potential for the perpetrator to dominate the victim in the mediation process, which can lead to substantive injustice.

In a study by Siregar (2021), it was found that more than 30% of minor abuse cases that entered the investigation stage ended with the case being dismissed through a restorative justice approach. This reflects a tendency to avoid conventional criminal sanctions for the sake of efficient case handling. However, in serious cases such as abuse that causes permanent disability or death, this approach is inadequate.

From a victimology perspective, victims of abuse often do not receive proper rights and protection. Compensation for victims, either through restitution or assistance from the Witness and Victim Protection Agency (LPSK), is still not a primary concern in the justice system. Law No. 31 of 2014 concerning Witness and Victim Protection provides a legal basis for restitution, but in practice its implementation is still weak.

A fair criminal justice system should not only consider the perpetrators, but also the interests and rights of the victims. In this case, the Indonesian criminal law system needs to adopt the principle of balance between the interests of the state, the perpetrators, and the victims. Jeremy Bentham's utilitarian legal theory stating that the law should provide the greatest benefit to the greatest number of people can be used as a basis for reviewing the applicable criminal sanction policy.

CONCLUSION

The application of criminal sanctions for criminal acts of abuse in Indonesia still faces various challenges, both in terms of consistency of decisions and protection of victims. Although the Criminal Code has provided a clear legal basis, implementation in the field is often influenced by subjective factors. The restorative justice approach is an alternative that can be considered, but its use must be selective and still guarantee the rights of victims. The legal system must avoid using a peaceful approach as an excuse to avoid sanctions that should be imposed. Protection of victims, provision of restitution, and fulfillment of the right to justice are still homework in our criminal law system. It is necessary to increase the capacity and professionalism of law enforcement officers and review existing criminal policies. Consistency and transparency in court decisions are also key to creating equitable legal justice. Thus, law enforcement against criminal acts of abuse must be directed not only at punishing the perpetrators, but also at optimal social recovery and protection of victims.

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