

Application of Criminal Sanctions Against Perpetrators of Criminal Acts of Persecution That Cause Minor Injuries (Study of Decision Number: 3/Pid.C/2021/PN Gdt)

Lukmanul Hakim^{1*}, Okta Ainita², Muhamat Ilza Amanda³

Fakultas Hukum, Universitas Bandar Lampung

Corresponding Author: Muhamat Ilza Amanda muhamadilzaamanda@gmail.com

ARTICLE INFO

Keywords: Criminal Sanctions, Persecution, Law Enforcement, Minor Injuries

Received : 07, August

Revised : 12, August

Accepted: 25, September

©2023 Hakim,Okta,Amanda : This is an open-access article distributed under the terms of the [Creative Commons Attribution 4.0 International](https://creativecommons.org/licenses/by/4.0/).



ABSTRACT

This study aims to examine the application of loan sanctions against perpetrators of criminal acts of persecution that cause minor injuries in the criminal justice system. Mistreatment resulting in minor injuries is a frequent criminal act and has a significant impact on the victim. The research method used in this study is a normative research method using a legislative approach and a case approach and will be analyzed using content analysis. which is related to the application of loan sanctions in cases of mistreatment with minor injuries. The problems that will be discussed in this study are related to the application of criminal sanctions against perpetrators of criminal acts of persecution that cause minor injuries.

INTRODUCTION

Persecution is a serious problem that haunts people in various countries around the world. This phenomenon raises deep concerns because of its negative impact on victims, families, and society as a whole. The rise of persecution cases reflects the complexity of social issues that need to be deeply understood. In this essay, we will explore the background of the rampant cases of persecution in society, the root of the underlying problem, and the efforts that can be made to overcome this problem. The rise of persecution cases is a deep and complex issue. Some of the factors contributing to this problem include social inequality and economic e. Inequality in the distribution of economic resources and access to basic services can create a sense of discontent among some people. This can trigger conflict and acts of persecution as a form of expression of discontent.

Many individuals do not fully understand their legal rights and responsibilities. Incomprehension of the legal consequences of acts of persecution can make a person feel like they can break the law without serious consequences. Mistreatment is often related to emotional factors such as anger, frustration, or mental disorders. Individuals who lack the skills to manage their emotions healthily are more susceptible to acts of mistreatment. To understand the root cause of the rampant persecution cases. In some cases, a culture that justifies or even promotes violence in conflict resolution can be at the root of the problem. It can be found in families, communities, or even in the form of political violence. Education is key to changing society's view of persecution. Lack of access to quality education and awareness programs of the negative impact of persecution can be at the root of the problem.

Mental health disorders often go undiagnosed or untreated. Individuals with unresolved mental health problems can become perpetrators of acts of abuse. To address the prevalence of abuse, the following efforts need to be considered and the enforcement of laws against perpetrators of abuse should be accompanied by efforts to ensure that the law provides adequate protection to victims. The rise of persecution cases is a problem that should not be ignored. By understanding the root causes and taking appropriate action, communities can work together to create a safer and more supportive environment for all individuals. These efforts will require collaboration between governments, community agencies, and individuals to achieve significant change in addressing these issues.

The use of force by a person against another person is prohibited in the Criminal Law because the use of force results in injury or death. For this reason, the Criminal Code has formulated and threatened criminally against various ways and consequences of acts that use violence. Criminal sanctions are the

most widely used form of sanctions in sentencing someone who is proven to have committed a criminal act. The forms of criminal sanctions also vary, such as the death penalty, life imprisonment, imprisonment, confinement, and fines which are the principal crimes, as well as crimes in the form of deprivation of certain rights, confiscation of certain goods and announcement of certain rights. The judge's ruling for the entirety was an additional sentence. These types of crimes are written in Article 10 of the Criminal Code. This type of crime also applies to offenses written outside the Criminal Code. Types of criminal sanctions are distinguished between principal and additional crimes, fines and penalties.⁴ While additional crimes are in the form of deprivation of certain rights, confiscation of certain goods and announcement of judges' decisions. Additional criminal sanctions are only imposed if the principal criminal sanction is imposed, except in certain cases.

THEORETICAL REVIEW

Based on this, the judge's basis for judgment in deciding a case is very important to take into consideration in the application of criminal sanctions, whether the defendant can be found guilty and can be held criminally responsible in accordance with the charges and demands of the public prosecutor.¹³ Coupled with the frequent occurrence of unequal criminal applications to the same offence in practice in court or better known as disparity in verdicts judges or criminal disparities caused because until now the Criminal Code does not have penal guidelines.¹⁴ One example of the application of criminal sanctions to perpetrators of criminal acts of persecution is in Decision Number: 3/Pid.C/2021/PN Gdt, which states that the Defendant is legally and conclusively proven guilty of committing the crime of "Misdemeanor" as in the resume, sentencing the Defendant to imprisonment for 2 (two) months, determine that the crime does not need to be served unless in the future there is a judge's decision that determines otherwise because the Convicted committed a crime before the probation period for 6 (six) months ended and charged the Defendant to pay the cost of the case in the amount of Rp. 5,000.00 (five thousand rupiah). Based on the description above, the problem in this study is What are the factors that cause the perpetrator to commit a criminal act of persecution against construction workers based on Decision Number: 3/Pid.C/2021/PN Gdt and How to apply criminal sanctions to perpetrators of criminal acts of persecution that cause minor injuries based on Decision Number: 3/Pid.C/2021/PN Gdt.

METHODOLOGY

The research method used is a normative research method, using a *statute approach* related to the application of loan sanctions against perpetrators of criminal acts of persecution that cause minor injuries. The *statute approach* is to examine matters concerning legal principles, legal views and doctrines, and laws and regulations related to the meeting point between the application of criminal sanctions against perpetrators of criminal acts of persecution that cause minor injuries, with accurate and accountable data. In addition, an in-depth examination of the legal facts is also held to then seek solutions to the problems that arise in the symptoms concerned.

RESULTS AND DISCUSSION

Criminal Offences of Mistreatment

The criminal act of maltreatment is a serious problem that affects individuals, families, and society at large. The urgency of addressing the criminal act of persecution cannot be ignored, and some of the main reasons supporting the need for immediate action include the following:

- a) Every individual has human rights which include the right to live without fear of violence or persecution. Criminal acts of persecution are human rights violations that deprive them of that right and must be dealt with seriously to protect individual rights.
- b) Physical and Mental Health: The criminal act of maltreatment often causes serious physical injury and is detrimental to the victim's mental health. Acts of maltreatment can leave permanent physical scars and deep psychological trauma. Therefore, prompt and effective treatment is needed to minimize adverse health impacts.
- c) Further Prevention: Criminal acts of maltreatment that are not taken seriously may set a precedent for similar acts in the future. Therefore, handling the criminal act of persecution firmly can act as a preventive measure against wider violence.
- d) Justice and Deterrence: Fair and equivocal handling of criminal acts of abuse helps create a sense of justice for victims and communities. In addition, the punishment given to the perpetrator can be an effective example and provide a deterrent effect to other potential perpetrators.
- e) Community Protection: Criminal acts of maltreatment that are not taken seriously can endanger the safety and security of society as a whole. Unpunished abusers can pose a potential threat to others around them.
- f) Culture and Awareness Change: Strict handling of criminal acts of persecution can also contribute to better cultural change in society. It can raise awareness of the problem of persecution and change social norms that value nonviolent conflict resolution.

By understanding the urgency of addressing criminal acts of abuse, we can provide greater support to efforts to prevent and address this problem. The protection of human rights, physical and mental health, and justice are values that must be maintained in a civilized society. Based on the description above, it can be analyzed that the rampant acts of persecution seen from various sources are a sign that it cannot be separated from the behavior of the community that is less controlled both due to the low level of education and the influence of the social environment is not good. Disputes both personally and in groups can be a factor that can invite violence that leads to persecution. The Criminal Code has classified several articles related to persecution and also types or forms of persecution which certainly have different criminal consequences.

Delik persecution is a form of action that can harm others physically and can even have an impact on the loss of other people's lives. Not only that, the existence of criminal rules of torture that can cause serious injury or cause loss of life of others must clearly be viewed as an act that greatly harms the victim as a legal subject who deserves justice. The factors causing perpetrators to commit criminal acts of persecution based on Decision Number 3/Pid.C/2021/PN Gdt are as follows: emotional factors, namely feelings within a person to commit an act that has a positive or negative impact. The follow-up factor is the impulse from within a person to do an action or deed. The factor of lack of trust in the law is because the actions taken by law enforcement are not in accordance with these values and norms and there is no discrepancy in carrying out the law. And the situation factor is a condition or situation where someone sees a situation from the situation of place, time, and a problem, both life problems that they (society) are facing.

The application of criminal sanctions against perpetrators of criminal acts of persecution that cause minor injuries based on Decision Number: 3/Pid.C/2021/PN Gdt

The application of criminal sanctions against perpetrators of criminal acts of mistreatment of construction workers based on Decision Number: 3/Pid.C/2021/PN Gdt is to declare the Defendant M. Udzu Alfi Aqil bin Arifin mentioned above, legally and conclusively proven guilty of committing the crime of "Mistreatment" as in the resume, sentencing the Defendant therefore to imprisonment for 2 (two) months, determine that the crime does not need to be served unless in the future there is a Judge's decision that determines otherwise because the Convicted committed a crime before the 6 (six) month probation period ended and charged the Defendant to pay the cost of the case in the amount of Rp. 5,000.00 (five thousand rupiah). 25 The application of criminal sanctions against perpetrators of criminal acts of mistreatment of construction

workers based on Decision Number: 3/Pid.C/2021/PN Gdt is imprisonment for 2 (two) months, stipulating that the crime does not need to be served unless in the future there is a Judge's decision that determines otherwise because the Convicted committed a crime before the 6 (six) months probation period ended and charged the Defendant to pay case costs in the amount of Rp. 5,000, 00 (five thousand rupiah). The application of criminal sanctions against perpetrators of criminal acts of mistreatment of construction workers based on Decision Number: 3 / Pid.C / 2021 / PN Gdt is to sentence the Defendant to imprisonment for 2 (two) months, stipulating that the crime does not need to be served unless in the future there is a Judge's decision that determines otherwise because the Convicted committed a crime before the 6 (six) months probation period ends and charges to The defendant paid the cost of the case in the amount of Rp5,000.00 (five thousand rupiah). For most people, the criminal law is seen as having a harsh and cruel disposition. This can be seen from the characteristics of the sanctions it has, which can be in the form of deprivation of human life, freedom, or property owned by each legal subject.

In contrast to sanctions in the field of civil law and state administrative law in the form of compensation and revocation of permits and fines. The nature of suffering from sanctions possessed by criminal law is characteristic of criminal law from the past to the present, not even excessive if it is said to be later. So it is not surprising that the talk of crime will always clash at a paradoxal point of contention, namely that crime on the one hand is held to protect one's interests, but on the other hand it turns out that raping the interests of another person by giving punishment in the form of suffering means that the nature (suffering) cannot be separated from the criminal law itself. When a person commits a premeditated criminal offense of persecution, basically the perpetrator will be charged with Article 353 of the Criminal Code with a penalty of up to four years in prison, if causing serious injury is punished with a maximum of seven years, and if it causes death then the offender is threatened with imprisonment for a maximum of nine years. Each of the criminal threats mentioned above will be added one-third for those who commit premeditated criminal acts of persecution against people or use materials as mentioned in Article 356 of the Criminal Code. Thus, for example, a person who commits a criminal act of premeditated molestation against his mother so as to cause the death of the mother, Article 353 jo applies. Article 356 number 1e of the Criminal Code with a total penalty of up to twelve years imprisonment.²⁸ Something can be said to be a criminal offense, if there are formal elements, namely there must be a passage that prohibits the act and threatens it with punishment, the material element is to commit an act that constitutes a criminal act, both acts and attitudes not to do, and the moral

element is that the perpetrator must be a believer, meaning he is responsible for the criminal act committed.

A crime if it does not meet these elements then it cannot be said to be *jarimah* (criminal act). Meanwhile, the specific elements of a crime vary with the different nature of each crime. The elements in the criminal act (*jarimah*) of persecution based on the understandings that have been stated above, the most important is the existence of harmful acts directed against human limbs and in general in the form of destructive acts such as wounding, beating, cutting, sticking and so on. Then there is the subject of the criminal act of persecution, as well as the consequences resulting from the act. In addition to the main crime, namely imprisonment, in the criminal act of persecution contained in the Criminal Code there are also additional crimes that can be given specifically for perpetrators of premeditated persecution (Article 353 of the Criminal Code) and severe premeditated persecution (Article 355 of the Criminal Code) in the form of deprivation of certain rights as contained in Article 35 numbers 1 to 4 of the Criminal Code.

Based on the description above, it can be analyzed that the act of persecution as a criminal act, persecution is also regulated in the Criminal Code (KUHP) contained in Chapter XX concerning persecution from Article 351 to Article 358 of the Criminal Code (KUHP). Criminal sanctions for persecution are regulated in the Criminal Code in the form of imprisonment. The severity of the threatened prison sentence varies from each type of persecution. For ordinary types of persecution, premeditated persecution, severe persecution, and planned severe persecution, the maximum prison sentence given can be increased by one third from the one specified in each article if it meets the criteria contained in Article 356 of the Criminal Code. In addition to imprisonment, there are also additional penalties that can be given specifically for perpetrators of premeditated persecution and severe premeditated persecution in the form of deprivation of certain rights. The application of criminal sanctions against perpetrators of criminal acts of mistreatment of construction workers based on Decision Number: 3/Pid.C/2021/PN Gdt is Defendant M. Udzu Alfi Aqil bin Arifin mentioned above, legally and conclusively proven guilty of committing the crime of "Misdemeanor" as in the resume, sentenced the Defendant therefore to imprisonment for 2 (two) months, determine that the crime does not need to be served unless in the future there is a judge's decision that determines otherwise because the Convicted committed a crime before the probation period for 6 (six) months ended and charged the Defendant to pay the cost of the case in the amount of Rp. 5,000.00 (five thousand rupiah)

CONCLUSION

Based on the description above, it can be concluded that the application of criminal sanctions against perpetrators of criminal acts of persecution that cause minor injuries based on Decision Number: 3 / Pid.C / 2021 / PN Gdt is the Defendant M. Udzu Alfi Aqil bin Arifin mentioned above, legally and conclusively proven guilty of committing the crime of "Minor Persecution" as in the resume, sentenced the Defendant therefore to imprisonment for 2 (two) months, determine that the crime does not need to be served unless in the future there is a Judge's decision that determines otherwise because the Convicted committed a crime before the 6 (six) month probation period ended and charged the Defendant to pay the cost of the case in the amount of Rp. 5,000.00 (five thousand rupiah).

ADVANCED RESEARCH

This research still has limitations so further research needs to be carried out on this topic

REFERENCES

- Abdulkadir Muhammad, Law and Legal research, Bandung:Citra Aditya Bakti, 2004, 45
- Amran, Erwin, Muliaty Pawennei, and Zainuddin Zainuddin. "The effectiveness of investigations of victims of violence against children." *Journal of Lex Theory (JLT)* 1.2 (2020): 181-195.
- Anandari, Yeni Apriana, Onitiya Sekarini, and Anik Widiastuti. "The sociological situation of former migrant workers who were trafficking victims in Nomporejo Village, Galur Kulon Progo, Yogyakarta." *JIPSINDO, Indonesian Journal of Social Science Education* 5.1 (2018): 44-60.
- Andi Hamzah. 2012. *Principles of Criminal Law*. Rineka Cipta, Jakarta, p. 27.
- Asmadi, Erwin. "The Role of Psychiatrists in Proving Psychological Violence in Victims of Domestic Violence." *De Lega Lata: Journal of Legal Sciences* 3.1 (2018): 39-51.
- Benuf, Cornelius, and Muhammad Azhar. "Legal Research Methodology as an Instrument to Unravel Contemporary Legal Problems." *Echoes of Justice* Vol 7. No 1, 2020, pp 20-33.
- Bilher Hutahaeen. 2013. *Application of Criminal Sanctions for Perpetrators of Child Crime (Review of Decision Number 50/Pid.B/2009/PN.Btg)*, *Journal of the Faculty of Law, Trunajaya University, Bontang*, p. 10.
- Cristiana, Ni Komang Marsena Yanis, Ni Putu Rai Yuliantini, and Dewa Gede Sudika Mangku. "The role of the police as investigators in solving domestic violence crimes in Karangasem Regency." *Journal of the Judicial Community* 2.2 (2020): 78-87.
- Fadhlurrahman, Fadhlurrahman, Rafiqi Rafiqi, and Arie Kartika. "The investigation process in solving domestic violence crimes committed by

the TNI-AD (Study at Military Court I-02 Medan)." *JUNCTO: Legal Scientific Journal* 1.1 (2019): 52-64.

Fauziah, Anwita, Ridho Mubarak, and Wessy Trisna. "Implementation of Minor Crimes in Cases of Persecution (Study of Verdict Number: 178/PID. B/2017/PN. Mdn)." *JUNCTO: Scientific Journal of Law* 1.1 (2019): 31-40.

Gagundali, Deysky Neidi. "Visum et repertum as evidence in cases of minor maltreatment according to the Code of Criminal Procedure." *Lex Administratum* 5.9 (2017).

Hanifah, Ida. "The role and responsibility of the state in the protection of problematic Indonesian labor law abroad." *De Lega Lata: Journal of Legal Sciences* 5.1 (2020): 10- 23.

Hehanussa, Deassy JA, and Yonna Beatrix Salamor. "Building legal awareness of women and children in tackling sexual violence." *Sabdamas* 1.1 (2019): 292- 297
Johnny, Ruby Hadiarti. "Criminal acts of violence against women (Study of criminal etiology in the jurisdiction of Banyumas police station)." *Journal of Legal Dynamics* 11.2 (2011): 214-229.

Lamintang. 2011. *Indonesian Panitentiary Law*. Arimeco, Bandung, p 58
Lumoring, Erwin. "The Government's Role in the Mistreatment of Indonesian Workers Abroad." *Lex et Societatis* 7.6 (2019). 56

Moeljatno. 2011. *Criminal Code*, Bina Aksara, Jakarta, p.150. Mukti Fajar and Yulianto Achmad, 2010, *Dualism of Normative & Empirical Legal Research*, Yogyakarta, Student Library, p. 34

Nurhaipah, Titih. *The Potential of Caraka FM Community Radio as an Advocacy Media for Migrant Workers in Ciborelang Village, Jatiwangi District, Majalengka Regency*. Diss. Faculty of Communication Sciences, Bandung Islamic University Bandung 2017, 344