

Victimological Perspective on the Role of Victims in Assault Resulting in Serious Injury in Merauke Regency

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ABSTRACT

This study aims to determine and analyze the victimology perspective on the role of victims in criminal acts of abuse resulting in serious injuries in Merauke Regency. This type of research is empirical legal research. The results of the study indicate that in criminal acts of abuse resulting in serious injuries in Merauke Regency, victims are not always in a passive position, but can actively participate in triggering the crime through provocative actions. The concept of victim precipitation in victimology explains that the victim's initial behavior can influence the perpetrator's actions. In Decision Number 56/Pid.B/2021/PN Mrk, the active role of the victim is used as a consideration by the judge to reduce the perpetrator's criminal sanctions. This emphasizes the importance of considering the reciprocal relationship between the perpetrator and the victim so that

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1. INTRODUCTION

Criminal acts of assault resulting in serious injury are among the most common crimes occurring in Indonesian society. These offenses not only have physical impacts on the victims but also cause profound psychological and social effects. In some cases, assault resulting in serious injury can disrupt the victim's daily activities and even lead to permanent disability.

Humans possess distinct personalities, including differences in character, goals, life perspectives, and more. These differences can sometimes influence interactions and trigger conflict, whether rooted in conflicting interests or manifesting as either subtle ideological disputes or overt violence.¹

¹Rahmatul Husna, Susi Delmiati, Neni Vesna Madjid, "Analisis Viktimologi Peran Korban Tindak Pidana Penganiayaan Yang Menyebabkan Kematian Di Objek Vital Teluk Bayur", *UNES Journal of Swara Justisia*, Volume 7 Nomor 2, 2023, hal. 421.

Assault is an act intended to inflict pain or injury on another person. The element of intent here must include the purpose of causing pain or injury. Several factors contribute to the occurrence of criminal behavior.²

Legally, assault is formally regulated in Articles 351 to 356 of the Indonesian Penal Code (KUHP), which classifies various types of assault: ordinary assault (Article 351), minor assault (Article 352), premeditated assault (Article 353), serious assault (Article 354), and premeditated serious assault (Article 355). The focus here is on ordinary assault resulting in serious injury. According to Article 351(1), "Assault is punishable by a maximum imprisonment of two years and eight months or a maximum fine of four thousand five hundred rupiah." Whereas paragraph (2) states, "If the act results in serious injuries, the perpetrator shall be punished by a maximum imprisonment of five years."

Regarding serious injury as stated in Article 351(2), this provision applies when serious injuries arise as a result of ordinary assault, meaning that the perpetrator did not initially intend to cause serious injury. The serious harm occurred as a consequence of the assault, not due to deliberate intent to cause grave harm.

Criminal acts of assault resulting in serious injury may also involve the victim's own role, where the victim is not entirely passive but may be implicated in the occurrence of the crime. This suggests that the victim may be seen as having played a vital part in the crime. There is a functional relationship between the victim and the perpetrator, wherein the victim may also share responsibility.

Benjamin Mendelsohn, in his 1947 article "Biopsychosocial Horizon: Victimology," explains that in a broader context, victimology does not merely study the victim's suffering but also their contribution to the crime itself. Criminologists refer to this as "victim precipitation", a theory analyzing how interactions between the offender and the victim may mutually contribute to the commission of a crime.³

In some criminal cases, the victim may act as the trigger or provocateur of the offense, often culminating in criminal acts. According to the victim precipitation theory, the perpetrator cannot be entirely blamed. From the victimological perspective, victims may actively participate in the chain of events leading to assault causing serious injury. Victimology is the study of crime victims, their relationship with the perpetrator, and their interaction with the justice system.⁴

²Desi Wilma Shara, Nikita Rizky Amelia, & Buana Raja Manalu, "Peranan Visum Et Repertum dalam Proses Pembuktian Perkara Pidana Penganiayaan Biasa yang Mengakibatkan Kematian (Putusan Nomor: 3490/Pid.B/2015/Pn.Mdn)", *Jurnal Mercatoria*, Volume 12 Nomor 1, 2019, hal. 5.

³Muhammad Fatoni, I Gusti Agung Ayu Dike Widhiyaastuti, "Tinjauan Yuridis Victim Precipitation Sebagai Pertimbangan Hakim Menjatuhkan Putusan Dalam Tindak Pidana Penganiayaan", *Jurnal Kertha Semaya*, Volume 12 Nomor 8, 2024, hal. 2003.

⁴Dhiva Rizky Aurathtri, Subaidah Ratna Juita, Ani Triwati, "Perspektif Viktimologi Terhadap Anak Korban Tindak Pidana Penganiayaan Yang Dilakukan Oleh Orang Tua",

The victim's role in the commission of a criminal offense must be carefully examined and proportionally linked not to absolve the perpetrator of criminal responsibility or blame the victim, but as a means of better understanding the dynamics of crime. This approach aligns with the principle of equality before the law, which is a fundamental basis for achieving justice for both the victim and the offender.⁵

Although assault is illegal and carries legal consequences, it remains a common behavior even among the people in Merauke Regency. Based on data from the Merauke Police Department, in 2021 there were two cases of assault resulting in serious injury, one of which involved the victim's role. In 2022, there were four such cases, with one involving the victim's contribution. In 2023, there was only one case resulting in serious injury, and no victim involvement was found in that incident.

This data shows that although not all serious assault cases involve victim contribution, patterns from 2021 and 2022 indicate that in some instances, the victim played a role in the dynamics leading to the crime. From a victimological perspective, victims should not always be seen as passive, but rather as integral components in the victimization process and in some contexts, as triggers of the assault."

Based on the background above, this study addresses the main issue: how the victimological perspective views the role of the victim in influencing the occurrence of criminal acts of assault that result in serious injury.

2. METHOD

This research is an empirical juridical study, which involves observing the legal realities occurring within society. The data analysis in this study was conducted using a descriptive-qualitative method by depicting the actual situation concerning the victimological perspective on the role of victims in criminal acts of assault resulting in serious injury in Merauke Regency. The results of interviews, documentation, and literature studies were processed and analyzed qualitatively to produce descriptive data. This research was conducted at the Merauke District Court and the Merauke Resort Police.

3. ANALYSIS OR RESULTS AND DISCUSSION

The Role of Victims in the Crime of Assault Resulting in Serious Injury in Merauke Regency

Under Law Number 31 of 2014, an amendment to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, Article 1 paragraph (3) explains that a victim is a person who suffers physical, mental, and/or economic harm as a result of a criminal act.

Repository Universitas Semarang, 2022, Hal. 2. Diakses melalui: <https://repository.usm.ac.id/detail-jurnalmahasiswa-1362.html>

⁵Adami Chazawi, "Pelajaran Hukum Pidana, Tindak Pidana dan Teori Pidana", (Jakarta: Raja Garfindo, 2014), hal.76.

Arif Gosita argues that a victim is someone who suffers physically and mentally as a result of the actions of another person seeking to fulfill their own or another's interests, which are contrary to the interests and fundamental rights of the one suffering.⁶ However, despite being the most disadvantaged party in a crime, in certain cases, not all victims are entirely passive. In fact, in the context of assault, victims may provoke or encourage the act of violence.

In law enforcement practice, when a crime occurs, it is not only the perpetrator who is blamed; sometimes the victim may also play a role in the commission of the offense. Through a victimological review (the study of victims), it is evident that victims may contribute to the process of victimization, making their role significant in the occurrence of a crime and therefore an important aspect to consider.⁷

It is generally accepted that in criminal cases, there exists a causal relationship between the perpetrator and the victim, bounded by the principles of cause and effect. A criminal act is interpreted as a legal consequence that requires a cause.

In criminal cases, the cause of the crime is not solely the intention of the perpetrator, but may also include the involvement of the victim. This is crucial information that must be understood before passing judgment on the perpetrator.

Victim precipitation is a criminological theory that later developed into victimology, analyzing how interactions between the perpetrator and victim can contribute to the commission of a crime. This theory is often associated with crimes such as murder, assault, rape, and robbery. Victim precipitation refers to the conditions and attitudes of a person that could make them a victim or influence someone else to commit a crime.⁸ In victimology, it is explained that victims can be contributing factors to the victimization that occurs in a criminal act.

The victim's role as a participating victim or victim precipitant usually arises from a lack of awareness or caution, or the victim may even provoke the criminal act. Victimization does not always originate solely from the perpetrator; the victim may also participate as a contributor to the crime.⁹

Benjamin Mendelsohn argued that victims can be classified into five categories based on the degree of their fault: 1) completely innocent victims, 2) victims due to their own

⁶G.Widiartana, "Perspektif Korban dalam Penanggulangan Kejahatan", (Yogyakarta: Universitas Atma Jaya Yogyakarta, 2009), hal 19.

⁷Ekawati, "Peranan Korban kejahatan Sebagai Pertimbangan Hakim Dalam Menjatuhkan Putusan Pidana", Skripsi pada Universitas Hasanuddin, Makasar, 2023, hal 1.

⁸ Prakoso, Ari "Victim Precipitation Dalam Tindak Pidana Penghinaan Dan Pencemaran Nama Baik Di Media Sosial (Studi Kasus Terhadap Putusan Perkara Nomor 310/PID.SUS/2017/PN.IDM).", *Jurnal Idea Hukum*, Volume 5 Nomor 2, 2019, hal. 1544.

⁹ Budi Heryanto, Riska Anggraeni, Annisa Adha Azzahra, Dea Natali Christy, DKK "Korban Tindak Pidana Pemerkosaan Dalam Perspektif Viktimologi", *Jurnal Hukum Mimbar Justicia*, Volume 6 Nomor 1, 2020, hal. 94.

negligence, 3) victims equally guilty as the offender, 4) victims more guilty than the offender, and 5) the victim is the sole guilty party.¹⁰

This classification provides insight that in certain situations, victims are not entirely passive. In some cases, victims may provoke, challenge, or create situations that trigger a reaction from the offender, including physical violence. This is especially relevant in the context of violent crimes, including assault.

In the context of assault, the relationship between perpetrator and victim is often personal and emotional such as family disputes, individual altercations, or spontaneous conflicts. This makes assault a form of crime that is highly relevant to be analyzed through a victimological perspective.

Assault is no exception. According to P.A.F. Lamintang, assault is defined as a deliberate act that results in pain or injury to another person's body. Therefore, in order to state that someone has committed assault, that person must have intent (*opzet*) to cause pain or injury to another¹¹.

Mr. M. H. Tirtamidjaja stated that assault is an act intentionally causing suffering or harm to another person. Assault is defined as "an act carried out with intent to cause pain or injury to another person's body." A person is also considered to have committed assault if they intentionally or unintentionally cause suffering or harm to others.¹²

In the Indonesian Penal Code (KUHP), assault is regulated under Chapter XX, which specifically covers criminal acts of assault in Article 351. This article comprehensively states from paragraph (1) to (5) as follows:

1. Assault is punishable by imprisonment for a maximum of two years and eight months or a maximum fine of three hundred rupiahs (now four thousand five hundred rupiahs).
2. If the act results in serious injury, the perpetrator is punishable by imprisonment for a maximum of five years.
3. If the act results in death, the perpetrator is punishable by imprisonment for a maximum of seven years.
4. The act of intentionally harming another's health is equated with assault. Attempts to commit this crime are not punishable

Regarding assault resulting in serious injury under Article 351 paragraph (2) of the Penal Code, this refers to ordinary assault (paragraph 1) that results in serious injury.

¹⁰ Ira Dwiati, "Perlindungan Hukum Terhadap Korban Tindak Pidana Perkosaan Dalam Peradilan Pidana", Tesis pada Fakultas Hukum Universitas Diponegoro, Semarang, 2007, hal 50.

¹¹ P.A.F. Lamintang, "Kejahatan Terhadap Nyawa, Tubuh, dan Kesehatan", (Jakarta: Sinar Grafika, 2010), hal 132.

¹² Zainudin Ali, "Hukum Pidana Islam", (Jakarta: Sinar Grafika, 2007), hal 33.

This means that the perpetrator did not intend from the outset to cause serious injury. The serious injury occurred as a consequence of the act of ordinary assault, not due to the intention to inflict severe harm.

Assault resulting in serious injury, as regulated in Article 351 paragraph (2) of the Penal Code, is an intentional act to severely injure another person’s body. However, from a victimological perspective, the process of assault often involves complex social interactions between victim and perpetrator, where the victim may have been involved in the initial conflict, provided verbal or physical provocation, or even engaged in a fight that led to the assault.

The role of the victim in cases of assault causing serious injury can be seen in the data table from the author's research at the Merauke District Police (Polres Merauke) as follows:

Table 3.1. Data On The Role Of Victims In Criminal Acts of Assault Resulting in Serious Injury in Merauke Regency, 2021–2023

Year	Assault Cases	Number of Assault Cases Resulting in Serious Injury	Victim’s Role
2021	67	2	1 Case caused by the victim
2022	83	4	1 Case caused by the victim
2023	92	1	No case caused by the victim

Source of Data: Obtained from primary data of the Criminal Investigation Unit, Merauke Police Department, 2024

Based on the data in the table above, it can be seen that from 2021 to 2023, there were fluctuations in the number of assault cases resulting in serious injuries, as well as variations in the extent to which victims were involved or played a role in the occurrence of these crimes. In 2021, there were 67 recorded assault cases in total, 2 of which were categorized as assaults resulting in serious injury. Of those 2 cases, 1 was found to have occurred due to the active involvement of the victim. This indicates that in at least one serious assault case in 2021, the victim was not entirely passive but rather took part in a sequence of events that triggered the violent act.

In 2022, the number of assault cases increased to 83, with 4 of them resulting in serious injuries. Similar to the previous year, 1 out of the 4 cases involved the victim playing a role in initiating the conflict that led to the assault. Although the victim's role in 2022 was relatively smaller, it still demonstrates that victims can influence the escalation of conflicts that culminate in assaults causing serious injury.

In 2023, the total number of assault cases rose again to 92. However, only 1 of these cases resulted in serious injury, and in that instance, there was no evidence of the victim playing an active role in provoking the incident.

Thus, the author concludes that based on the data from 2021 to 2023, although most victims were in a passive position, there were circumstances in which victims played a role in triggering criminal acts. From a victimological perspective, the process of victimization does not always stem solely from the perpetrator; victims can also participate as contributors to the crime itself.

In other words, this demonstrates that every criminal case, including assault resulting in serious injury, must be viewed comprehensively by considering all dimensions of the crime, including whether or not the victim was actively involved.

The author's explanation above is also supported by an interview with an investigator from the Criminal Investigation Unit at the Merauke Police Department, namely Brigadier Police Officer (Brigpol) Resi Mangara Paruseva, S.H. who explained that in 2021, there were 67 total assault cases recorded, with 2 cases involving serious injury to the victim. In 2022, there were 83 cases, with 4 resulting in serious injury, and in 2023, there were 92 cases with 1 resulting in serious injury. Specifically regarding the role of the victim in assaults that caused serious injury over the past three years: in 2021, there was 1 case where the victim played a role; in 2022, again 1 case involved the victim; while in 2023, no cases involved any contribution from the victim.¹³

From this interview, Brigpol Resi Mangara Paruseva, S.H., also described the chronology of events showing the victim's role in triggering the criminal act of assault resulting in serious injury. In the 2021 case, the perpetrator was attending a 40 day memorial event for a deceased relative when the victim, believing the perpetrator had not helped with preparations, confronted and slapped the perpetrator twice as a reprimand. The perpetrator, under the influence of alcohol, reacted by picking up a twisted iron rod used for a stove and assaulted the victim, causing head injuries requiring five stitches and a torn left hand, leading to functional impairment. This case has reached a verdict in court.¹⁴

In a follow-up interview, Brigadier Police Officer Resi Mangara Paruseva, S.H. further explained that in the 2022 assault case resulting in serious injury, the perpetrator and the victim, who are siblings, were initially drinking alcohol together. The perpetrator then asked the victim to take him home, and the victim agreed. However, upon arriving at the perpetrator's house, the two got into a verbal argument over a certain issue, which triggered the victim's emotions. The victim then drew a knife from his pants pocket and chased the perpetrator with it. The perpetrator, unwilling to accept

¹³ Wawancara Dengan Brigpol Resi Mangara Paruseva, S.H , Penyidik Polres Merauke, 21 Februari 2024.

¹⁴ *Ibid.*

the victim's actions, entered his house to retrieve a machete, came back outside, and swung the machete toward the victim, striking the victim's right hand and back, causing serious injuries to both areas. This 2022 case did not proceed to trial and was resolved amicably through a family agreement in which the perpetrator agreed to pay for the victim's medical expenses.¹⁵

Brigpol Resi Mangara Paruseva, S.H., also noted that assault cases in Merauke Regency are relatively high and continue to rise each year, with some resulting in serious injuries to victims. Despite this, many cases involve victims playing a role in provoking the acts of assault that eventually caused serious injuries.¹⁶

The victim's role in assaults resulting in serious injury may include intentionally or unintentionally provoking someone to commit a crime or inflict harm. Therefore, both perpetrators and victims can bear responsibility. Even in cases where the crime has occurred and the victim is held accountable, the victim-perpetrator relationship remains significant. Because the victim creates the potential for the crime, they play a vital role in the occurrence of such acts, making the relationship reciprocal.

The victim's role in crimes of assault that result in serious injury also holds significant weight in judicial considerations. Judges, in deciding cases, must consider the victim's involvement to ensure a fair judgment for both the victim and the perpetrator. This includes not only summoning the victim as a witness in the criminal process but also acknowledging the victim's role, interests, and suffering as a result of the crime.

In the context of criminal law, a judge's consideration of the victim's role can influence the assessment of the perpetrator's level of culpability and, ultimately, the severity of the punishment imposed. As a judicial authority, judges are obligated to examine and resolve every issue or case brought before them, as they are the institution responsible for administering justice. When deciding on penalties, judges must consider not only the statutory provisions but also humanitarian values, the utility principle, the efficiency of the sentence, and the deterrent effect on the perpetrator after release from prison. Failing to take these into account may result in legal uncertainty and injustice in sentencing decisions.

This is precisely what was done by the judge of the Merauke District Court, who also considered the victim's role in an assault case resulting in serious injury in Merauke Regency, as reflected in the following table:

¹⁵*Ibid.*

¹⁶*Ibid.*

Table 3.2 Court Decisions That Considered the Role of Victims in Criminal Acts of Assault Resulting in Serious Injury in Merauke Regency, 2021-2024

Year	Decision Number	Prosecutor's Charge	Judge's Verdict	Judge's Considera
2021	No. 56/Pid. B/2021/PN Mrk	4 Years	3 Years	Victim's Role Present
2022	-	-	-	-
2023	-	-	-	-
2024	No. 5/Pid. B/2024/PN Mrk	7 Years 6 Months	7 Years 6 Months	No Victim Involvement

Source of Data: Obtained from primary data of the obtained from the Merauke District Court, 2024

Based on the data in the table above, it is evident that judicial consideration of the victim's role has a tangible impact on the length of the sentence imposed on the perpetrator. In case Number 56/Pid.B/2021/PN Mrk, the prosecutor demanded a sentence of 4 years' imprisonment. However, the judge ultimately sentenced the defendant to 3 years after taking into account the victim's role in triggering the crime. This reflects the application of a victimological approach, where the victim is not always viewed as entirely passive, but potentially as a contributing party to a situation that led to violence.

Conversely, in 2024, in case Number 5/Pid.B/2024/PN Mrk, the judge issued a sentence in accordance with the prosecutor's demand 7 years and 6 months of imprisonment—because there was no indication of the victim's involvement in provoking the assault. This demonstrates that in cases where the victim is entirely passive and not at fault, the judge tends to impose the full or proportional sentence. From these two examples, it can be concluded that consideration of the victim's role or the absence thereof can influence judicial decisions. In other words, understanding the dynamics between the victim and the perpetrator is essential in the judicial process, as it can affect the form and degree of justice granted to both parties.

In line with the author's explanation regarding the data above, the results of an interview with a judge at the Merauke District Court, Indraswara Nugraha, S.H., M.H., revealed that the criminal act of assault resulting in serious injury to the victim also occurred due to the victim's involvement, as stated in Decision Number 56/Pid.B/2021/PN Mrk.¹⁷

The case began with an argument between the perpetrator and the victim. The victim accused the perpetrator of not helping with a family memorial event (the 40-day

¹⁷Wawancara Dengan Hakim Indraswara Nugraha, S.H., M.H, Hakim di Pengadilan Negeri Merauke, 04 Maret 2024.

commemoration of a deceased relative). As a form of reprimand, the victim slapped the perpetrator's left cheek twice with his right hand. The perpetrator, who was under the influence of alcohol, did not accept the reprimand and took a twisted iron rod commonly used for a stove and struck the victim three times – on the head and the left arm. This resulted in a head wound requiring five stitches and a torn injury to the victim's left wrist due to blunt force trauma, which interfered with his daily activities.¹⁸

Based on this interview, the author concludes that the crime in Decision Number 56/Pid.B/2021/PN Mrk occurred because the victim acted as a victim precipitant meaning the victim provoked the perpetrator to commit the assault, prompting the violent response that led to serious injury.

Judge Indraswara Nugraha, S.H., M.H. also explained the elements influencing the assault as outlined in Decision Number 56/Pid.B/2021/PN Mrk, which include both internal and external causes. The individuals involved the victim and the perpetrator are considered internal variables, while the most prominent external factor was alcohol. Internally, the victim provoked the perpetrator by slapping him during an argument about his perceived lack of contribution to the event. The perpetrator, under the influence of alcohol, reacted by striking the victim with an iron rod, causing serious injury.¹⁹

Therefore, the judge in this case had to take these factors into consideration. Judge Indraswara Nugraha, S.H., M.H. further explained that in Decision Number 56/Pid.B/2021/PN Mrk, both aggravating and mitigating factors had to be reviewed before imposing a sentence. The factors were as follows:²⁰

Aggravating factors:

1. The perpetrator committed an assault.
2. The assault resulted in serious injury.
3. The perpetrator's actions caused public unrest.
4. The victim was the perpetrator's father-in-law.

Mitigating factors:

1. The active role of the victim.
2. The perpetrator confessed to his actions.
3. The perpetrator expressed remorse.
4. The perpetrator had no prior criminal record.

According to Article 351 paragraph (2) of the Criminal Code, which states, "If the act causes serious injury, the offender shall be punishable by imprisonment for a maximum of five (5) years," the perpetrator should have received a five-year sentence. However, considering both aggravating and mitigating circumstances, the judge sentenced the perpetrator to only three (3) years in prison for committing

¹⁸*Ibid.*

¹⁹*Ibid.*

²⁰*Ibid.*

an assault that resulted in serious injury. This reduction was due to the mitigating factor of the victim's active role in provoking the incident.

Based on the explanation above, the author concludes that in case Number 56/Pid.B/2021/PN Mrk, the victimological approach, particularly the theory of victim precipitation, plays a vital role in forming a more comprehensive understanding of the dynamics of criminal events. Victim precipitation suggests that in some violent crimes, the victim's actions may serve as a trigger or catalyst that provokes the offender into committing a criminal act.

In this case, the victim's act of slapping the perpetrator marked the beginning of a series of events that escalated into an assault resulting in serious injury. Although the perpetrator remains legally accountable for his actions, the victim's role in initiating the provocation became one of the judge's considerations in delivering a more proportionate sentence. Thus, the victimological perspective is not intended to blame the victim but to offer a balanced understanding of both internal and external factors influencing the crime.

4. CONCLUSION

The role of the victim in criminal acts of assault resulting in serious injury in Merauke Regency indicates that, in the context of victimology, the victim is not always in a passive position. On the contrary, the victim may actively contribute to the occurrence of the crime through provocative actions, whether verbal or physical. This is evident in the concept of victim precipitation, which explains that the victim's initial actions can trigger a violent response from the perpetrator. In cases such as Decision Number 56/Pid.B/2021/PN Mrk, the victim's active role was taken into consideration by the judge as a mitigating factor in sentencing the offender. Although the perpetrator remains legally responsible for their actions, the victim's involvement contributes to a verdict that is fairer, more proportional, and comprehensive. Therefore, in addressing criminal acts of assault or other crimes, it is essential to thoroughly consider the reciprocal relationship between the perpetrator and the victim so that judicial decisions provide more proportional justice for both parties.

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