

JURIDICAL ANALYSIS OF THE APPLICATION OF ARTICLE 170 PARAGRAPH (1) OF THE INDONESIAN CRIMINAL CODE IN THE CRIME OF COLLECTIVE VIOLENCE (A STUDY OF DECISION NUMBER 1935/PID.B/2025/PN MDN)

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Abstract

Criminal Code (KUHP) in the crime of collective violence, to examine the legal construction of violence committed by joint force from the perspective of positive Indonesian criminal law, and to analyze the legal reasoning of judges in rendering a decision in Case Number 1935/Pid.B/2025/PN Mdn. The results of the study show that the application of Article 170 paragraph (2) point 1 of the KUHP, which provides for a maximum imprisonment of seven years if the offender intentionally damages property or if the violence used results in injuries, has been carried out appropriately, as all elements of the offense were proven lawfully and convincingly. The legal construction of the crime of violence committed by joint force places the element of collective action as the primary aggravating factor without requiring a detailed division of roles. The judges' legal considerations in this case reflect a balance between juridical, sociological, and philosophical aspects, taking into account the protection of victims, the social impact of the act, and fairness for the defendants. Accordingly, the decision can be legally justified and reflects the objectives of sentencing within the framework of positive Indonesian criminal law.

Keywords: *Application, Article 170, Criminal Offense, Violence*

1. INTRODUCTION

The criminal act of violence is one form of crime that frequently occurs in society and causes disruption to public order as well as individual security. Violence committed collectively in public is an act that not only harms the victim, but also injures the sense of social justice and legal values within society. In Indonesia, data from the Central Statistics Agency (Badan Pusat Statistik/BPS) show that crime rates, particularly violent crimes, have experienced significant fluctuations in the last decade. Based on recorded data, violent crimes against persons and property increased by 12.3% during the 2020–2023 period. The State, through its legislative system, has regulated sanctions against perpetrators of collective violence as stipulated in Article 170 of the Criminal Code (Kitab Undang-Undang Hukum Pidana/KUHP). Article 170 paragraph (1) of the Criminal Code states: “Whoever openly and

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with joint force uses violence against persons or property shall be punished with imprisonment for a maximum of five years and six months.” This provision explicitly regulates the legal elements that must be fulfilled in prosecuting perpetrators of collective violence, namely the existence of an act of violence, committed openly, and carried out jointly by more than one person.

This research has novelty in several aspects: First, this research analyzes the application of Article 170 paragraph (2) point 1 of the Criminal Code in a case of collective violence resulting in injury through a recent case study approach (Decision 1935/Pid.B/2025/PN Mdn) which has never been examined before. Second, this research focuses on analyzing the fulfillment of the elements of the offense in the context of collective violence motivated by revenge.

2. METHODOLOGY

This research uses normative legal research. The approach at the first stage is a statutory approach, namely by examining the applicable laws and regulations in order to obtain the answer. More specifically, it will be reviewed based on the Criminal Code (KUHP), particularly Article 170 concerning the Criminal Act of Collective Violence. This research design is descriptive-analytical in nature, meaning that the data analysis carried out does not go beyond the scope of the problem and is based on general theories or concepts applied to explain a set of data. The data collection techniques in this research are library research methods and interviews. The data analysis technique in this research uses descriptive qualitative analysis.

3. RESULTS/CASE STUDY/EXPERIMENT/DEMONSTRATION/APPLICATION FUNCTIONALITY

Decision Number 1935/Pid.B/2025/PN Mdn demonstrates the application of Article 170 paragraph (2) point 1 of the Criminal Code in judicial practice. The judge chose the first alternative charge submitted by the Public Prosecutor. This choice was based on the fact that the violence resulted in injury to the victim. The consequence of injury became an aggravating factor distinguishing paragraph (2) from paragraph (1). This consideration was explicitly stated in the ruling and the reasoning of the decision.

Journal of Law and Justice

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Link: <https://e-journalbarokahpublisher.com/index.php/jihuk>

The imposition of punishment in this case was not only based on the fulfillment of the elements of the offense. The judge also considered the objectives of punishment in a social context. In an interview, the judge stated that collective violence has the potential to trigger horizontal conflict. Therefore, the punishment was imposed to create a deterrent effect and maintain public order. These considerations were then implicitly set out in the ruling.

The judge's considerations were structured based on the negative *wettelijke* system of proof. The judge based the decision on evidence and conviction. The evidence presented fulfilled Article 184 of the Criminal Procedure Code (KUHP). The judge's conviction was logically constructed from the facts of the trial. This approach is clearly reflected in the decision.

In the interview conducted for this research, the presiding judge stated that Article 170 of the Criminal Code is used to prosecute acts of violence committed openly and involving more than one perpetrator. The judge emphasized that the element of togetherness is the main reason for aggravating punishment. This view is in line with the normative construction of Article 170 of the Criminal Code.

The judge's considerations in this case began with an assessment of the Public Prosecutor's indictment. The judge first evaluated the form of the indictment, which was alternative in nature. Based on the facts of the trial, the judge selected the first alternative charge. This selection was based on the fulfillment of the element of resulting injury. In the interview, the judge stated that the selection of the charge was carried out based on careful attention to the legal facts.

4. DISCUSSION

The application of Article 170 paragraph (2) point 1 of the Criminal Code in Decision Number 1935/Pid.B/2025/PN Mdn shows that the panel of judges systematically and strictly examined all elements of the offense. The elements of "whoever," "in public," "jointly," and "committing violence" were proven through witness testimony, the defendants' confessions, documentary evidence, and physical evidence. Togetherness was interpreted as the active involvement of more than one person without requiring a detailed division of roles, while the consequence of violence in the form of injury to the victim was proven through a *Visum et Repertum*, thus appropriately serving as the basis for applying the aggravated paragraph. The defendants' intent was assessed from a series of directed and repeated actions, so that all

Journal of Law and Justice

ISSN: 3124-419X (Online Media) Vol: 1, No: 1, Page: 167 - 175

Link: <https://e-journalbarokahpublisher.com/index.php/jihuk>

elements of the offense were proven legally and convincingly in accordance with the principle of legality.

In rendering the decision, the judge based the considerations on the negative *wettelijke* system of proof by combining valid evidence and judicial conviction. The legal reasoning reflects a balance between juridical aspects, sociological aspects, and the objectives of punishment, including protection of the victim and maintaining public order from the potential of horizontal conflict. No justifying or excusing reasons were found, so criminal responsibility was fully imposed on the defendants by proportionally considering aggravating and mitigating factors. Thus, the application of Article 170 paragraph (2) point 1 of the Criminal Code in this case is consistent with positive criminal law in Indonesia and provides legal certainty and justice.

The legal construction of the criminal act of violence committed with joint force in positive criminal law in Indonesia is built through Article 170 of the Criminal Code, which places the elements of violence and togetherness as inseparable main elements. This article is designed to protect public order from collective violent acts that have the potential to cause widespread social disturbance. The elements of “in public” and “jointly” emphasize that legal protection is directed at societal interests, not merely individual victims. Togetherness does not require a detailed division of roles, but it is sufficient to prove the presence and active involvement of the perpetrators, thereby preventing attempts to evade criminal responsibility under the pretext of passive roles.

From the perspective of positive criminal law, Article 170 of the Criminal Code remains subject to the principle of legality and the principle of individual criminal responsibility. Each perpetrator is responsible for his or her own actions, even though committed collectively, based on the doctrine of participation. Aggravation of punishment in paragraph (2) is based on the consequence of violence, particularly the occurrence of injury, as a manifestation of the principle of proportionality. Proof is carried out through the negative *wettelijke* system by emphasizing the conformity of evidence, such as witness testimony and *visum et repertum*, along with judicial conviction. This legal construction shows that Article 170 of the Criminal Code functions not only repressively but also preventively, with the aim of maintaining public order and preventing the escalation of social conflict due to collective violence.

Journal of Law and Justice

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Link: <https://e-journalbarokahpublisher.com/index.php/jihuk>

The judge's legal considerations in rendering the decision against the defendants in Case Number 1935/Pid.B/2025/PN Mdn began with an assessment of the Public Prosecutor's alternative indictment. Based on the facts of the trial, the judge selected the first alternative charge because the injury to the victim was proven. Juridical considerations were carried out by systematically elaborating the elements of Article 170 paragraph (2) point 1 of the Criminal Code, including the elements of "whoever," "in public," "jointly," the element of violence, intent, and the consequence of injury. All these elements were deemed proven through witness testimony, the defendants' confessions, visum et repertum, and mutually corroborating physical evidence. The judge built conviction based on the negative wettelijke system of proof, namely a combination of valid evidence and judicial conviction.

In addition to juridical aspects, the judge also considered non-juridical aspects and the objectives of punishment. Violence committed collectively was deemed to have the potential to cause unrest and social conflict; therefore, punishment was imposed not only to punish but also to maintain public order and prevent the recurrence of similar acts. The judge assessed that there were no justifying or excusing reasons, so the defendants were declared capable of bearing criminal responsibility. In imposing the sentence, the judge proportionally considered aggravating and mitigating factors, while still ensuring the protection of the defendants' rights in accordance with procedural law. Thus, the judge's considerations reflect a balance between legal certainty, justice, and expediency, and can be accounted for juridically.

5.CONCLUSION

The application of Article 170 paragraph (2) point 1 of the Criminal Code shows that the Panel of Judges systematically elaborated and proved all elements of the offense, starting from the element of legal subject, the act committed in public, committed jointly, the use of violence, up to the consequence in the form of injury to the victim. The facts of the trial supported by witness testimony, the defendants' confessions, evidence, and visum et repertum formed the basis of the judge's conviction. Therefore, the application of the article can be accounted for juridically. The legal construction aims to protect public order from collective violence that has the potential for broader social disturbance. Positive criminal law does not require a detailed division of roles among perpetrators, but merely the existence of active joint involvement. This construction is supported by criminal law doctrine and is consistently applied in judicial practice, including in the a quo case. The Judge's considerations regarding

Journal of Law and Justice

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Link: <https://e-journalbarokahpublisher.com/index.php/jihuk>

the criminal act of collective violence did not only focus on the fulfillment of the elements of the offense, but also considered the social impact of the act, protection of the victim, and justice for the defendants. The results of interviews with the judge indicate that the decision was rendered proportionally by taking into account aggravating and mitigating factors. Thus, the judge's considerations reflect a balance between legal certainty, justice, and expediency.

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