



# JURNAL ILMU KEPOLISIAN

(Police Science Journal)

VOL.19 NO.2  
AUGUST 2025

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P-ISSN:2620-5025  
E-ISSN:2621-8410

Indonesia Police Science College



## **Jurnal Ilmu Kepolisian**

Jurnal Ilmu Kepolisian (JIK) is published by the College of Police Science, Lemdiklat Polri and is intended as a medium of information and a forum for discussing issues related to Police Science. Our academic journal is a source of reference, both for experts, academics, practitioners, or anyone who is interested in expressing the results of their thoughts and research in the form of scientific articles to the wider community on all matters relating to Police Science. Jurnal Ilmu Kepolisian is published in print edition P-ISSN: 2620-5025 (<https://issn.brin.go.id/terbit/detail/1522224491>) and online edition E-ISSN: 2621-8410 (<https://issn.brin.go.id/terbit/detail/1532313039>). Jurnal Ilmu Kepolisian has been accredited based on the Decree of the Director General of Higher Education, Research and Technology of the Ministry of Education, Culture, Research and Technology of the Republic of Indonesia Number 79/E/KPT/2023, dated May 11, 2023.

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**P-ISSN: 2620-5025**

**E-ISSN: 2621-8410**

**Website: <http://jurnalptik.id/index.php/JIK/index>**

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Volume  
19

Number  
2

August  
2025

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## **Love Language and Its Senses on Belonging and Solidarity in Polrestabes Surabaya**

Submitted 18 June 2025, Revised 14 July 2025, Accepted 4 August 2025, Published 26 August 2025

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DOI: <https://doi.org/10.35879/jik.v19i2.667>

### **Abstract**

Internal solidarity and a strong sense of belonging are essential for the sustainability of an organization. A solid and cohesive team enables the effective execution of tasks and the achievement of organizational goals. The behavior of love language among leaders and members is expected to foster solidarity and a sense of belonging within the Indonesian National Police (Polri) organization. This research aims to fill the gap in previous studies by investigating the influence of love language on the sense of belonging and solidarity within an organization. The primary objective of this study is to describe the impact of love language demonstrated by leaders at the Surabaya City Police (Polrestabes Surabaya) and the Satpamobvit of Polrestabes Surabaya. This qualitative study employs a descriptive approach, with data collected through observations, interviews, documentation, and literature reviews. Data analysis is based on Gary Chapman's (1992 & 2015) theory of love languages. The findings indicate that the use of love language by the leaders at Polrestabes Surabaya and Satpamobvit Polrestabes Surabaya positively influences the sense of belonging and solidarity among the members of the organization. The leaders' love language behaviors encompass the five love languages: words of affirmation, giving gifts, quality time, acts of service, and physical touch. These behaviors have been shown to enhance the solidarity and sense of belonging within the organization. This research has the potential to be expanded to a broader scale, such as the East Java Police Region (Polda Jawa Timur).

**Keywords:** love language, sense of belonging, internal solidarity, Polri

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### **INTRODUCTION**

Strengthening internal solidarity has become a cornerstone of the organizational strategy of Indonesia's National Police Headquarters (Mabes Polri) as highlighted by the Chief of Indonesia's National Police's directives (Kumpan, 2021). This call has been embraced by various police units, including Polrestabes Surabaya and the unit for safeguarding vital objects (Satpamobvit), who are actively working to improve internal cohesion. Solidarity within an organization is not merely an abstract ideal but a critical element that drives effective functioning and the achievement of organizational goals (Khotimah, 2019). When the internal solidarity is strong, organizational operations are seamless, and the likelihood of accomplishing set objectives increases. Conversely, a breakdown in internal solidarity can hinder performance and even threaten the organization's long-term viability (Muslihah, 2016).

Thus, for an organization to thrive, it must cultivate a robust internal solidarity, which requires deliberate and sustained efforts from its leadership. The role of leadership in fostering an environment where solidarity can

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flourish is vital in aligning the team's efforts with the organizational mission and vision. Effective leadership ensures that the team remains united despite the challenges faced. This not only enhances task completion but also reinforces the organizational identity and purpose.

Internal solidarity in an organization does not emerge spontaneously; it is cultivated through the relationships between leadership and members and among the members themselves. A critical factor that underpins these relationships is the notion of "love language," a concept that underscores the role of emotional expression and interpersonal communication in organizational dynamics (Nur & Maria, 2023). The creation of a harmonious, comfortable, and conducive work environment is crucial for fostering interpersonal relationships, and one of the mechanisms to achieve this is through the application of love languages in the workplace. The idea of "love language" goes beyond romantic contexts and refers to the various ways in which individuals express care and affection, whether through words, actions, gifts, or quality time (Sigit & Insyiah, 2023).

This concept, first popularized by Gary Chapman in his book *The Five Love Languages: How to Express Commitment to Your Mate* (Chapman, 2015), can be applied in organizational settings to enhance interpersonal dynamics and organizational solidarity. Chapman's theory posits that individuals communicate their emotional needs and affection through five distinct love languages: words of affirmation, acts of service, receiving gifts, quality time, and physical touch. In the organizational context, applying these languages effectively can lead to improved relationships, increased motivation, and greater collaboration among team members. For example, "words of affirmation" might involve regular recognition of team members' contributions, fostering a sense of appreciation and validation. "Acts of service" can involve offering support during challenging tasks, thus building trust and mutual respect. "Receiving gifts" in a professional setting may not always involve material gifts but could be symbolic gestures that convey appreciation for hard work. "Quality time" is equally important in professional settings, where leaders invest time in mentoring or guiding their teams, which fosters connection and strengthens commitment. Lastly, "physical touch" in the context of organizational behavior refers to professional gestures, such as a handshake or a pat on the back, which reinforce interpersonal bonds (Permana et al., 2020).

A significant outcome of applying love language in organizations is the development of a strong "sense of belonging" among employees, which is inherently linked to internal solidarity. A sense of belonging can be understood as an emotional attachment that individuals feel toward their organization, and it plays a pivotal role in fostering internal solidarity. As defined by Hagerty and Patusky (1995), a sense of belonging involves a person's desire to be recognized, accepted, valued, and supported by others within an organizational or social setting. The experience of being valued and part of a community enhances the individual's emotional connection to the organization, which is essential for sustaining high levels of motivation and productivity. Moreover, according to Karaman and Cırak (2017), the concept of belongingness can be viewed as a social construct that involves solidarity, shared experiences, and collective identity. It manifests through behaviors such as sharing common goals, participating in group activities, and forming interpersonal bonds. This emotional attachment is not just about being physically present within the organization but about feeling recognized, heard, and valued. In organizations, such as Polresta Surabaya, a strong sense of belonging among personnel can act as a catalyst for achieving high levels of collaboration, problem-solving, and overall organizational success (Putri N R & Suryanto, 2018). This sense of belonging, when cultivated through positive organizational culture and practices such as love language, leads to a greater commitment to the organization's mission. When employees feel that they are an integral part of the organization, their work ethic and performance improve. This sense of belonging, intertwined with the solidarity within the organization, can help bridge gaps between organizational goals and employee engagement. As stated by Wood and Waite (2011), a sense of belonging creates a dynamic emotional connection that links individuals to both their material environment and the social world they experience, which in turn drives performance and commitment.

While much has been written on the individual components of love language, sense of belonging, and internal solidarity in organizational contexts, a gap persists in the literature concerning the integration of these factors and their collective impact on organizational performance. Previous studies have primarily focused on personal relationships and individual satisfaction derived from the application of love languages (Lestari & Darmawanti, 2023). For example, research by Nurmala Sari, Eni Murdiati, and Muhammad Randicha Hamandia (2023) explored the use of love language in resolving personal conflicts but did not extend this to

organizational dynamics. Furthermore, studies such as those conducted by (Febrianty et al., 2023) have shown that appreciation through love languages can unlock human resource potential, which is essential for organizational growth. However, these studies tend to focus on isolated aspects of love language application and fail to explore its broader implications for organizational cohesion and internal solidarity. The linkage between love language and organizational solidarity, especially in a high-stakes environment like the police force, remains underexplored. Moreover, while there are substantial discussions on organizational commitment and a sense of belonging, few studies have explicitly examined how these elements interact in an Indonesian organizational context, particularly within the public sector. The absence of research focusing on how love language influences both internal solidarity and a sense of belonging is a clear research gap. This is particularly relevant to Polrestabes Surabaya and Satpamobvit, where leadership styles and communication strategies directly affect the cohesion and motivation of personnel.

The gaps identified in the existing literature necessitate further exploration into how the application of love language by leaders in organizations can significantly affect both internal solidarity and the sense of belonging among employees. By focusing on Polrestabes Surabaya and Satpamobvit, this study aims to address these gaps by investigating the specific role of leadership communication styles in enhancing organizational solidarity. The results of this research provide valuable insights into how love languages can be integrated into organizational culture to foster stronger internal solidarity, higher levels of employee satisfaction, and improved organizational performance. In summary, the intersection of love language, sense of belonging, and internal solidarity represents an underexplored area in organizational research. By exploring how these elements interact in the context of a police organization, this study will contribute significantly to the field of organizational behavior, offering both theoretical insights and practical recommendations for improving organizational cohesion and performance. This research is guided by two research questions:

1. What is the impact of the love language by leaders at Polrestabes Surabaya and Satpamobvit on the sense of belonging and internal solidarity among their members?
2. How does the application of love languages by leaders influence the organizational culture and operational success at Polrestabes Surabaya and Satpamobvit?

This study, therefore, will not only expand existing knowledge but also offer a new perspective on how leadership communication can contribute to stronger organizational solidarity, particularly in Indonesian law enforcement agencies. This study was conducted at Polrestabes Surabaya and Satpamobvit Polrestabes Surabaya, East Java, Indonesia, from August to December 2023. The research employs a qualitative design with a descriptive approach, focusing on understanding the internal dynamics and operational issues within the police force, particularly related to internal solidarity and organizational practices. The qualitative approach is convenient for exploring complex, context-specific phenomena, such as the challenges faced by police personnel in fostering internal unity and cohesion, which are often nuanced and not easily quantifiable (Sugiyono, 2017).

The primary data for this study were collected directly from the research sites: Polrestabes Surabaya and Satpamobvit Polrestabes Surabaya. Key informants for the study included the commander and personnel from the Satpamobvit unit, who were selected based on their expertise and involvement in addressing the organizational issues under examination. These individuals were considered to have significant knowledge about the internal dynamics within the organization, and their insights were instrumental in understanding the underlying factors influencing internal solidarity. In addition to the interviews, relevant organizational documents were reviewed to provide additional context and corroborate the information obtained from the interviews. Meanwhile, the secondary data sources were carefully selected to ensure relevance and timeliness, drawing on materials published within the past five years. These included books, peer-reviewed journals, and online articles sourced from well-established academic platforms such as Google Scholar, ResearchGate, ScienceDirect, and Academia.edu. These secondary sources provided an important theoretical framework for understanding the broader trends and issues within organizational behavior and police culture.

Data collection was primarily conducted through in-depth interviews, which allowed for a detailed exploration of the participants' perspectives and experiences. The interviews followed a structured format guided by an interview protocol developed by the researcher. This approach ensured that the interviews remained focused on the key research questions while allowing the informants to provide rich, contextual information. To ensure the accuracy and reliability of the data, all interviews were recorded using a digital recorder, which facilitated

precise transcription and analysis. In addition to primary data, secondary data was collected through the systematic review of documents related to the research issues. These documents provided valuable background information, policy frameworks, and procedural guidelines that helped to contextualize the findings from the interviews.

The data analysis process for this qualitative study followed a rigorous and systematic approach. Initially, the interview transcripts were carefully reviewed and analyzed to identify recurring themes and patterns. Data reduction techniques were then applied to streamline the information and focus on the most relevant aspects. The remaining data was subjected to deeper analysis and interpretation, allowing the researcher to generate meaningful insights. Triangulation was employed to ensure the validity and reliability of the findings by cross-referencing data from multiple sources (interviews, documents, and secondary literature). This process strengthened the credibility of the study's conclusions, which were drawn from a comprehensive synthesis of the data. Overall, this research methodology was designed to provide a holistic understanding of the internal solidarity issues at Polrestabes Surabaya and Satpamobvit Polrestabes Surabaya, offering both a detailed account of the specific organizational challenges and a broader understanding of the factors influencing internal cohesion in law enforcement agencies.

## DISCUSSION

### **The impact of love language by leaders at Polrestabes Surabaya and Satpamobvit on the sense of belonging and internal solidarity among their members**

Based on Gary Chapman's theory of love languages (1992; 2015), which includes five distinct aspects of expressing love—Words of Affirmation, Acts of Service, Quality Time, Receiving Gifts, and Physical Touch—the operational definition of love language emphasizes the various ways individuals express affection and appreciation in relationships. These expressions are not only relevant in personal relationships but can also play a significant role in organizational dynamics, particularly in fostering a sense of belonging and solidarity among members. In the context of Polrestabes Surabaya, these love languages can impact the organizational culture, strengthening the members' emotional connections to their work and each other. The influence of love languages on the sense of belonging and organizational solidarity is an essential aspect that deserves deeper exploration, particularly within the framework of leadership and interpersonal communication in the workplace.

#### *Words of Affirmation*

Words of affirmation, according to Gary Chapman (1992), are a powerful way of expressing affection and appreciation through verbal communication. This language involves the use of words that support, encourage, and praise others, reinforcing positive behaviors and affirming the value of individuals within the group. In the organizational context of Polrestabes Surabaya, words of affirmation manifest through verbal expressions of gratitude, praise, and acknowledgment from leaders to their subordinates, as well as among peers. The use of such language serves not only as an affirmation of individual worth but also as a strategic tool to enhance the emotional well-being of employees, fostering a supportive environment.

In practice, these words might include simple expressions such as, "Thank you for your hard work," "I appreciate your dedication," or more specific acknowledgments like, "Your contribution in the field last week was exceptional." These verbal cues are crucial for reinforcing a sense of belonging and fostering solidarity, as they create an atmosphere of respect and appreciation. When members feel acknowledged and valued through verbal affirmations, they are more likely to feel connected to the organization and invested in its goals.

Chapman (1992) emphasizes that for some individuals, words of affirmation are the most meaningful expression of love and appreciation. This holds not only in personal relationships but also within the professional sphere. In Polrestabes Surabaya, the role of leadership in utilizing affirming language is crucial in shaping the work culture. Leaders who regularly employ words of affirmation create an environment in which employees feel recognized and valued, significantly enhancing their sense of belonging to the organization. This emotional connection, in turn, contributes to stronger interpersonal relationships and better cohesion among team members, which are essential for organizational solidarity.

Research has shown that regular verbal affirmations improve morale and job satisfaction, as they provide individuals with a sense of being seen and appreciated in their roles. Employees who receive affirmation from



their superiors are more likely to feel committed to the organization and remain engaged in their work, even during challenging times. This reinforces the importance of leaders consciously employing words of affirmation to cultivate loyalty, increase motivation, and maintain a positive, supportive organizational culture. Furthermore, the impact of words of affirmation extends beyond the individual level and can positively influence group dynamics. When leaders model the use of positive reinforcement, it encourages members at all levels to adopt similar communication styles. This creates a ripple effect where mutual respect and support permeate the organization, leading to greater collaboration and trust among team members.

However, it is important to note that the effectiveness of words of affirmation depends on their authenticity. Superficial or insincere praise can have the opposite effect, create distrust and diminish the sense of belonging. Therefore, for words of affirmation to truly impact the organizational culture and foster solidarity, they must be genuine, timely, and relevant to the context in which they are given. Leaders must be mindful of the emotional tone behind their words, ensuring that the praise and recognition are meaningful and appropriate to the individual's contributions.

This is as evidenced by the interview results with Bripda A.Z, as follows:

*"During my time as a member of SatPamObvit Polrestabes Surabaya, I often heard Mr. Kasat, Mrs. Wakasat, Mr. KBO, and Mr. Kanit say words which I thought were forms of support. Moreover, when I was preparing for a pencak silat competition at the regional police level, "Zaaa, you are still young, so practice hard to continue to improve your achievements in the field of pencak silat. The awards you achieve will later be a provision for you in developing your career," they said. Then, when I won the championship, Mr. Kasat, Mrs. Wakasat, Mr. KBO, and Mr. Kanit also often said words of praise and appreciation: "Zaa, thank you for your achievements, and your achievements also bring a good name to the unity. Once again, thank you, Zaaa." Apart from that, these words also appeared from all my co-workers."*

In conclusion, words of affirmation play a significant role in enhancing the sense of belonging and solidarity within an organization. Through consistent verbal expressions of gratitude, praise, and acknowledgment, leaders and members of Polrestabes Surabaya can strengthen their emotional ties to the organization, fostering a culture of mutual respect and collaboration. By utilizing words of affirmation thoughtfully and authentically, organizations can create an environment that encourages loyalty, trust, and long-term commitment, ultimately leading to improved performance and organizational success.

#### *Quality Time (Quality and Meaningful Time)*

This aspect of love language emphasizes the importance of giving full attention, particularly by the leadership of Polrestabes Surabaya toward the members, as well as among the members themselves. Full attention in this context involves more than just physical presence; it refers to the emotional and mental engagement of the individuals involved, creating a deeper connection and fostering trust and solidarity. Leadership at Polrestabes Surabaya demonstrates this love language by ensuring that the members are given undivided attention through collaborative activities. These activities occur not only during operational duties but also in management tasks, providing opportunities for members to share valuable knowledge and experiences.

The act of dedicating time and focus is crucial for developing a sense of belonging and reinforcing cohesion within the organization. In these interactions, active listening, mutual communication, and support play key roles. Moreover, one of the practices introduced by the leadership to facilitate quality time is the weekly breakfast gathering on Wednesdays (see Figure 1). This event serves as a ritual for enhancing interpersonal relationships, where the leadership and members alike engage in informal yet meaningful conversations. The act of sharing a meal fosters camaraderie and offers a moment for personal connection, which ultimately contributes to a stronger sense of community and teamwork within Polrestabes Surabaya. Through such practices, it becomes evident that quality time is not just about spending hours together but about creating moments of shared experience that build and solidify trust, communication, and understanding. The leadership's initiative to engage in these activities demonstrates their commitment to creating a supportive and collaborative environment. As demonstrated in the image below, the regular breakfast gathering is an integral part of fostering a culture of quality time, where relationships are nurtured, and members feel valued as part of the broader organizational family.



**Figure 1:** Breakfast Event

**Source:** Humas Satpamobvit Polrestabes Surabaya

### *Receiving Gifts*

Receiving gifts as a form of love language involves tangible expressions of care and appreciation from the leadership at Polrestabes Surabaya toward the members, as well as among the members themselves. This love language emphasizes the significance of offering a physical token, which serves as a clear and concrete demonstration of affection, rather than relying solely on words or verbal affirmations. For many individuals, receiving a thoughtful gift is a tangible expression of love and appreciation, and it evokes feelings of being valued and cherished within the organization. In the context of Polrestabes Surabaya, the act of giving gifts is not simply about material objects but about selecting something meaningful and personal that reflects the leadership's deep understanding of their members' individual needs and preferences. The choice of gift can significantly impact the emotional response of the recipient, making them feel seen and understood. It is important to note that this practice goes beyond a generic or routine approach; the leadership intentionally creates opportunities to surprise members with thoughtful gifts. This approach not only strengthens the bond between the leadership and the members but also helps foster an atmosphere of recognition and appreciation.

Moreover, the act of gift-giving is often tied to specific events that acknowledge the hard work, dedication, and accomplishments of individuals within the organization. This reinforces the sense of belonging and value among members, as they receive tangible recognition for their contributions. The leadership of Polrestabes Surabaya goes to great lengths to ensure that the gifts are meaningful and aligned with the values and needs of the members, showing a high level of thoughtfulness and commitment to the well-being of the team (see Figure 2).

As demonstrated in the image below, the gift-giving ceremony is an important event that further solidifies the bonds between the leadership and members. Such ceremonies often include awards or recognition for outstanding achievements, further highlighting the care and attention the leadership extends to its members. Such visual captures the essence of how receiving gifts serves not just as an expression of love but as a tool for reinforcing solidarity and enhancing the overall cohesion of the organization.



**Figure 2:** Award or Recognition Ceremony  
**Source:** Humas Polrestabes Surabaya

Furthermore, the Chief of Polrestabes Surabaya, Police Senior Commissioner Dr. Luthfie Sulistiawan, S.I.K., M.H., M.Si., has initiated a unique tradition of awarding members on their birthdays as a way to celebrate and recognize their milestones. This thoughtful gesture goes beyond merely acknowledging the date of birth; it serves as a clear expression of care and recognition for each member's contribution to the organization (see Figure 3). The act of celebrating birthdays within the organization strengthens emotional bonds, enhances a sense of belonging, and fosters a supportive environment. By personally engaging with members during such moments, the leadership reinforces the individual's value within the larger team, highlighting the importance of both personal and professional well-being. The ceremony is not only a moment of appreciation but also an opportunity for members to feel personally valued by their leadership, solidifying the connection between the leadership and the team. The image below illustrates the birthday celebration event, further emphasizing the leadership's commitment to nurturing a strong, cohesive, and appreciative organizational culture.



**Figure 3:** Birthday Celebration for Member  
**Source:** Humas Polrestabes Surabaya

### *Acts of Service*

Acts of service, in the context of Polrestabes Surabaya, refer to the small yet meaningful actions carried out by the leadership toward the members and among the members themselves. These actions might seem minor, such as adjusting a uniform collar, helping to attach operational identification ribbons, or assisting a colleague in lifting heavy equipment like the X-ray machine onto the vehicle. While these actions may appear trivial, they require significant thought, planning, time, effort, and energy. What truly distinguishes them is the willingness and positive spirit with which they are performed. When done with genuine care and a cooperative attitude, these acts serve as powerful expressions of love and support from the leadership to the members and between members themselves.

Such service-oriented actions go beyond simple tasks; they represent an ongoing commitment to the well-being and success of others. They reflect the values of humility, mutual respect, and teamwork that are essential in fostering a cohesive and supportive organizational culture. These seemingly small gestures contribute significantly to building a sense of belonging and strengthening solidarity within the team, which ultimately enhances overall organizational performance. As shared by Bripka D during the interview, these actions are not only physical but also emotional gestures, reinforcing the bond between leadership and members, as well as among peers.

*"On Tuesday, I was in a hurry to go to the office, and luckily, I wasn't late for the call. It was the leadership time, and there was a uniform check. Just before the morning roll call started, I realized that the surgical tape had not been attached to my left shoulder. Immediately, my senior, Aiptu R, standing beside me, helped put on the ribbon, looking sincere even though he was my senior."*

This approach exemplifies that leadership is not only about giving orders or setting objectives but also about being present in practical, everyday moments to ensure that team members feel supported, valued, and cared for. The cumulative impact of such actions fosters a culture where members are more likely to collaborate, support one another, and work towards shared goals with dedication and trust.

#### *Physical Touch*

Physical touch, as a form of love language within Polrestabes Surabaya, plays a crucial role in expressing affection, support, and solidarity between leadership and members, as well as among the members themselves. This form of expression is often observed during morning roll calls or throughout operational activities, where leaders and colleagues engage in gestures such as patting on the arm or back to provide encouragement and convey care. Such physical contact serves as a powerful and direct means of communication, expressing warmth, support, and a sense of belonging that words alone cannot fully capture. For individuals who prioritize physical touch as their primary love language, these gestures carry profound emotional significance. In these cases, a simple touch can resonate more deeply than verbal affirmations like "I love you" or "I hate you", as physical touch can foster a stronger sense of connection and emotional security. Offering physical encouragement—through a pat on the back or a reassuring touch—helps to reinforce trust and camaraderie, which are essential elements in a cohesive and motivated team.

This form of love language is not limited to physical proximity or simple gestures; it also reflects a deeper sense of mutual respect and empathy. By acknowledging the emotional needs of others and expressing them through physical touch, leaders and members of Polrestabes Surabaya cultivate a supportive environment that values human connection and solidarity. These actions, though subtle, play a significant role in strengthening interpersonal relationships and fostering a positive organizational culture where individuals feel seen, cared for, and motivated to contribute their best efforts to the team's collective goals. As noted in interviews conducted in 2023, for those whose primary love language is physical touch, these actions transcend simple greetings—they become a language of emotional resonance that speaks directly to the heart.

#### **The application of love languages by leaders influences the organizational culture and operational success at Polrestabes Surabaya and Satpamobvit**

Based on the findings of this study, the positive impact of love language behaviors exhibited by the leadership at Polrestabes Surabaya and among its members has fostered a sense of belonging and solidarity toward the organization, as outlined below:

#### *Pride in the organization, pride in work, and pride in being part of the organization*

This behavior is a clear indication of personal attachment to the organization. Each personnel member demonstrates a strong commitment to achieving the organization's goals, such as ensuring the security of vital objects or tourism sites. Their efforts to ensure smooth operations, safety, and comfort for the public show a sense of responsibility and pride in the role they perform. The absence of personnel requesting transfers to other units is another sign of their satisfaction and loyalty to the organization. This sense of pride is also supported by the research conducted by Linjuan Rita Men and Cen April Yue, showing that leadership that is communicative, responsive, and supportive contributes significantly to the cultivation of positive emotional cultures within organizations (Men & Yue, 2019). Their leadership approach, characterized by mutual respect



and understanding, encourages personnel to identify with the organization's values and vision, reinforcing the sense of pride they feel in their roles.

*The feeling of ownership of the organization and appreciation for its high disciplinary culture*

Personnel at Polrestabes Surabaya exhibit a deep sense of ownership over the organization, which is evident in their adherence to ethical conduct, discipline, and regulations. This behavior signifies not only personal responsibility but also the understanding that their actions directly reflect the organization's image. The consistent practice of professional etiquette, the use of appropriate language, and strict adherence to time rules all highlight the personnel's respect for the organization's culture, according to J. Thomas Whetstone's research on organizations that cultivate a culture of virtue-based management and the importance of moral leadership are better prepared to establish ethical practices and develop high-performing managers who appreciate the organization's values, including its high standards of discipline (Whetstone, 2003). This sense of ownership ensures that personnel view themselves as guardians of the organization's reputation and uphold its values with pride.

*Efforts to maintain the organization's reputation*

The behaviors observed among Polrestabes Surabaya personnel demonstrate a commitment to maintaining the organization's reputation by adhering to societal ethics. This behavior is crucial because it reflects how personnel interact with the public and stakeholders, ensuring that every action aligns with the organization's values. The use of positive, respectful communication during patrols and in interactions with the public shows that personnel understand their role in safeguarding not only the physical security of the organization but also its public image. Research conducted by Marcel Meyer and Matthias Huhn P., reinforces this by highlighting that effective communication, grounded in respect and positivity, is the key to achieving organizational success and ensuring that the organization maintains a strong and respectable public image (Meyer & Hühn, 2020). Personnel who actively protect the reputation of their organization contribute to its long-term success and trustworthiness.

*Enthusiasm in carrying out organizational tasks*

The strong work ethic and enthusiasm displayed by Satpamobvit personnel reflect their dedication to their duties. This enthusiasm is not just about fulfilling job requirements but goes beyond ensuring that tasks are completed with high efficiency and without procrastination. The low absenteeism rate, minimal personnel turnover, and harmonious working relationships further indicate that personnel feel a deep sense of duty and camaraderie within the organization. This enthusiasm is critical for organizational success, as it ensures that personnel are consistently motivated and engaged in their work, contributing to the overall performance of the unit.

*Efforts to maintain and care for the organization's assets*

Personnel's commitment to taking care of organizational property, such as the X-ray machines, demonstrates a high level of responsibility and respect for the resources provided to them. The low rate of damage to equipment indicates the personnel's careful handling and conscientious attitude toward the assets entrusted to them. By showing care to these items, personnel are reinforcing their sense of ownership and ensuring that the organization's resources are used responsibly. This attention to detail is essential in fostering trust within the organization and ensuring the longevity of valuable assets.

*Encouraging initiative and creativity among members*

The growing initiative and creativity among Satpamobvit personnel are crucial to the organization's ability to adapt and innovate. Personnel who take the initiative, such as stepping up during supervisory visits or solving problems independently, demonstrate an entrepreneurial mindset that benefits the organization. Their ability to handle tasks efficiently after a single instruction without requiring constant reminders showcases their self-reliance and problem-solving abilities. This behavior reflects a strong sense of responsibility, as personnel do not wait for directions but instead actively seek out ways to improve processes. Encouraging creativity also ensures that personnel can find innovative solutions to challenges they may face, ensuring that the organization remains adaptable and responsive to change.

*Providing the best and wholehearted service to the community*

Satpamobvit personnel's commitment to providing exceptional service to the public is evident in their

punctuality and their humanistic approach to engaging with visitors and staff. By offering a warm, respectful, and approachable demeanor, personnel contribute to creating a positive image of the organization within the community. Their actions go beyond mere duty, demonstrating that they genuinely care about the well-being of others. This behavior is essential for building strong relationships with the community and ensuring that the organization is seen as an integral, trusted part of society.

#### *Focusing on effectiveness and efficiency in task execution*

Personnel at Polrestabes Surabaya demonstrate an exceptional ability to complete tasks both efficiently and effectively, ensuring that work is completed on time and according to the specified requirements. This focus on optimal execution, without sacrificing quality, indicates a high level of professionalism and a commitment to meeting organizational goals. The ability to complete tasks quickly and safely, without compromising on safety or efficiency, showcases the personnel's skills and their dedication to fulfilling their responsibilities in the most effective manner possible.

#### *Mutual respect, honor, and maintaining harmony among members*

The mutual respect and harmony observed among personnel contribute significantly to a positive working environment. By fostering an atmosphere of politeness and understanding, personnel demonstrate that they value each other's contributions. The respectful interactions between personnel not only strengthen relationships within the team but also enhance overall collaboration, which is vital for the smooth functioning of the organization. This behavior ensures that personnel feel supported and respected, leading to higher morale and productivity.

#### *Sharing knowledge, experiences, and resources within the organization*

The culture of sharing knowledge and experiences within the organization plays a key role in fostering a collaborative environment. Personnel who share their expertise on equipment usage or help others with challenges contribute to the collective growth of the team. This behavior ensures that all members of the organization are equally equipped to perform their tasks effectively and that knowledge is passed on to those who need it. Sharing resources, both material and immaterial, further strengthens the sense of unity and support among personnel, ensuring that everyone works together toward common goals.

#### *Spending quality time together among members*

The efforts to spend time together, such as through communal activities like office cleaning, coffee gatherings, or shared meals, help build stronger bonds among personnel. These activities encourage open communication, foster camaraderie, and create a sense of belonging within the team. By investing time in these interactions, personnel develop stronger interpersonal relationships, which contribute to a harmonious work environment and a more cohesive and supportive organization.

To explore the driving factors behind the love language behaviors in the Polrestabes Surabaya and Satpamobvit Polrestabes Surabaya environment, the analysis was conducted based on four key aspects, as outlined below:

#### *Childhood Experiences*

Childhood is a crucial developmental phase involving emotional, cognitive, and physical growth. During this stage, when children frequently receive positive affirmations and praise, they develop a strong sense of being loved. This early emotional nurturing shapes their adult relationships and their capacity to express affection. Research by Sally I. Maximo and Jennifer S. Carranza supports this notion, showing that parental expressions of love through quality time, affirming words, and acts of service significantly contribute to the resilience of children. Children growing up with loving and secure parental bonds tend to exhibit stronger emotional regulation and positive relational behaviors later in life (Maximo & Carranza, 2016). In the context of Polrestabes Surabaya, the leadership's ability to exhibit nurturing and affirming behaviors resonates with personnel, influencing how they relate to the organization and each other, ultimately fostering a deep sense of belonging.

#### *Education and Social Environment*

Education, whether in the family, school, or broader social settings, plays a pivotal role in shaping how individuals interact, behave, and cultivate positive attitudes. A robust educational background influences how

individuals navigate interpersonal relationships, communicate effectively, and embrace prosocial behaviors. Lourdes Villardón Gallego and colleagues emphasize that education has significant implications for creating a conducive learning environment that promotes prosocial behavior (Villardón-Gallego et al., 2018). The educational experiences that Polrestabes Surabaya personnel encounter, both formally and informally, likely affect their perceptions of leadership and their ability to engage in constructive behaviors within the organization. Thus, the positive reinforcement provided through education supports the development of love language behaviors, contributing to a more cohesive, collaborative, and respectful organizational culture.

#### *Emotional and Psychological Needs*

The emotional and psychological needs of individuals, particularly in a home setting, profoundly shape their love language behaviors. Spending quality time with parents, being supported during study sessions, sharing meals, and engaging in joint activities all play a pivotal role in developing emotional attachments. These experiences create a psychological foundation that individuals carry into adulthood, influencing how they interact with others in different settings, including the workplace. The research by Lindsay T. Graham, Samuel D. Gosling, and Christopher K. Travis further supports this, highlighting that home environments that foster comfort, togetherness, and productive roles contribute to an individual's psychological well-being. Their study suggests that these elements, including romance and personal bonding, can positively impact emotional well-being and behavioral patterns in broader contexts, including schools and workplaces (Graham et al., 2015). In the case of Polrestabes Surabaya, leaders who demonstrate care and emotional support likely contribute to a work environment that nurtures personnel's emotional well-being, thereby enhancing the sense of belonging and organizational solidarity.

#### *Romantic Experiences from the Past*

Romantic relationships and the attention and appreciation received from parents, partners, or significant others can significantly influence the development of love language behaviors. Individuals often replicate the care, affection, and affirmation they have experienced in their past relationships in their interactions with others. According to Curtis D. Smith IV and colleagues, romantic relationships have notable health benefits and can positively shape individuals' behavioral patterns. These romantic experiences contribute to the development of emotional resilience and affective behaviors that are carried into other relationships, including those in organizational settings (Smith IV et al., 2024). For personnel in Polrestabes Surabaya, past romantic experiences, whether positive or negative, may influence how they express and perceive love within the organizational context, leading to an enhanced sense of connection and camaraderie among colleagues.

Based on the findings of this research, the influence of love language behaviors exhibited by the leadership at Polrestabes Surabaya and among Satpamobvit Polrestabes Surabaya has a significant impact on the sense of belonging and organizational solidarity. The research provides evidence that five aspects of love language—words of affirmation, acts of service, quality time, receiving gifts, and physical touch—positively influence the development of a strong sense of belonging and organizational solidarity. This study has made a valuable contribution to understanding how love language behaviors within an organization can impact employee engagement and cohesion. However, it is important to note that this study is limited to the context of Polrestabes Surabaya. Future research is encouraged to explore additional variables, such as the relationship between love language behaviors and career advancement, as well as expanding the study to a broader scale, including the East Java Police (Polda Jawa Timur), to assess the generalizability of these findings across different organizational settings.

## **CONCLUSION**

The concept of love language behavior has been demonstrated by the leaders at Polrestabes Surabaya and among its members, manifesting through five distinct aspects: (i) the expression of supportive words aimed at encouraging members to achieve; (ii) giving gifts to high-achieving individuals; (iii) dedicating quality time by inviting members for weekly breakfast on Wednesdays; (iv) offering acts of service; and (v) providing physical touch. These behaviors are not merely symbolic but actively contribute to fostering a culture of care, recognition, and engagement within the organization. The leaders' consistent engagement in these love language behaviors highlights the importance of emotional affirmation and interpersonal connection in strengthening organizational relationships. Such actions nurture an atmosphere where members feel valued, leading to a higher degree of motivation and commitment to their roles and responsibilities.

The impact of love language behaviors on the cohesion and sense of belonging among members is significant. These behaviors have contributed to a strong sense of pride in being part of the organization, fostering an emotional connection that encourages members to take ownership of the organization's values and mission. It has been observed that this sense of belonging manifests in various ways, including a deep respect for the organizational discipline, enthusiasm for performing tasks, and a collective effort to maintain the organization's reputation. Members display increased initiative and creativity, constantly striving to provide excellent service to the public. Additionally, these behaviors promote an environment of mutual respect, support, and collaboration, with members sharing knowledge, experiences, and even resources within the group. This collaborative spirit strengthens the overall solidarity of the organization, as members prioritize working together harmoniously, ensuring the organization's success and well-being. Ultimately, the leaders' adoption of love language behaviors cultivates a cohesive, efficient, and emotionally connected organization.

### **SUGGESTION**

This study was limited to Polrestabes Surabaya, which means its findings may not be fully generalizable to other contexts. Future research is encouraged to expand on these findings by exploring additional variables that could further contextualize the impact of love language behaviors in broader organizational settings. For example, investigating the relationship between love language and career advancement or extending the scope to include larger institutions such as the Polda Jawa Timur would offer valuable insights into how these behaviors influence not only organizational cohesion but also individual professional growth and development. Such studies could contribute to a deeper understanding of the broader implications of love language behaviors in organizational dynamics across various levels of the police force and beyond.

### **ACKNOWLEDGEMENT**

The researcher would like to thank the Commanders and all Surabaya Police personnel who have helped with research data and have always motivated the writer to continue working. The author would also like to thank my parents, my wife, and my sons and daughters, who always provide space in their efforts to improve and develop themselves. This research uses private funding sources.



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## A Machine Learning Approach to Predicting Digital Leadership Success in Indonesian Police Officers

Submitted 25 February 2025, Revised 16 July 2025, Accepted 4 August 2025, Published 26 August 2025

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DOI: <https://doi.org/10.35879/jik.v19i2.646>

### Abstract

We develop a predictive model to enhance digital leadership among Indonesian National Police (Polri) officers, addressing the pressing need for technological proficiency in modern law enforcement. Digital leadership, vital for combating cyber threats and improving operational efficiency, remains underdeveloped in Polri due to limited technological skills and a lack of systematic leadership identification. We train machine learning models on 564 anonymized officer records, incorporating attributes like rank, position, and education, guided by Transformational, Adaptive, and Contingency Leadership theories. The Light GBM model excels, achieving an F1 Score of 0.9674, a Log Loss of 0.2244, a Cohen's Kappa of 0.9616, and a Matthews Correlation Coefficient of 0.9620, demonstrating high predictive accuracy. This model empowers Polri to identify officers with strong digital leadership potential, enabling targeted training programs and strategic personnel selection to drive digital transformation. We prioritize ethical deployment by excluding sensitive attributes, such as religion and gender, to mitigate bias and employ k-anonymity to safeguard data privacy. Fairness audits and interpretable outputs ensure equitable and transparent decision-making. Our approach aligns with global policing trends, offering a scalable solution to enhance leadership in tech-driven environments. By integrating robust technical performance with ethical safeguards, this study contributes to Polri's strategic goals and sets a foundation for future research in diverse policing contexts. We advocate for continuous model monitoring to sustain fairness and effectiveness in real-world applications.

**Keywords:** digital leadership, machine learning, polri, predictive model, police academy

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### INTRODUCTION

We develop a predictive model to enhance digital leadership among Indonesian National Police (Polri) officers, addressing the pressing need for technological proficiency in modern law enforcement. Digital leadership, vital for combating cyber threats and improving operational efficiency, remains underdeveloped in Polri due to limited technological skills and unsystematic leadership identification. We train machine learning models on 564 anonymized officer records, incorporating attributes like rank, position, and education, guided by Transformational, Adaptive, and Contingency Leadership theories. The Light GBM model excels, achieving an F1 Score of 0.9674, Log Loss of 0.2244, Cohen's Kappa of 0.9616, and Matthews Correlation Coefficient of 0.9620, demonstrating high predictive accuracy. This model empowers Polri to identify officers with strong digital leadership potential, enabling targeted training programs and strategic personnel selection to drive digital transformation. We prioritize ethical deployment by excluding sensitive attributes, such as religion and gender, to mitigate bias and employ k-anonymity to safeguard data privacy. Fairness audits and interpretable outputs ensure equitable and transparent decision-making. Our approach aligns with global policing trends, offering a scalable solution to enhance leadership in tech-driven environments. By integrating robust technical performance with ethical safeguards, this study contributes to Polri's strategic goals and sets

a foundation for future research in diverse policing contexts. We advocate for continuous model monitoring to sustain fairness and effectiveness in real-world applications.

While the imperative for digital prowess is clear, the Indonesian National Police (Polri) faces significant internal hurdles in cultivating a digitally adept leadership cadre. These challenges often stem from deeply entrenched organizational cultures that prioritize traditional command-and-control structures over agile, data-driven approaches. Furthermore, a historical lack of systematic methods for identifying and nurturing digital competencies among officers has led to a leadership gap, hindering Polri's agility in responding to evolving cyber threats and maximizing operational efficiencies in the digital age. This issue is not unique to Indonesia; similar challenges are observed in public sector organizations globally, where bureaucratic inertia often impedes technological transformation (Dzhurova, 2022).

Digital technologies have reshaped law enforcement, requiring Indonesian National Police (Polri) officers to exhibit strong digital leadership to address cyber threats and enhance efficiency (Babuta et al., 2020; Ferguson, 2020). Digital leadership, the ability to leverage technology for organizational goals, is critical for modern policing (Holmes et al., 2021). However, Polri faces challenges, including limited technological skills and a lack of systematic methods to identify digitally adept leaders (Hwang et al., 2020; Heaven, 2020). These gaps hinder Polri's ability to navigate a tech-driven policing landscape.

This deficit in digital leadership within Polri can be understood through the lens of established leadership theories. For instance, a lack of transformational leadership might explain the slow adoption of new technologies, as leaders may not effectively inspire or motivate their subordinates towards digital literacy and innovation (Northouse, 2022; Elnagdy & Zhang, 2022). Similarly, an absence of adaptive leadership capacities leaves the organization vulnerable to rapidly evolving cyber threats and societal demands for digital accountability (Uhl-Bien & Ospina, 2021; Ferguson, 2020). Contingency leadership theories further highlight how traditional leadership models, perhaps effective in conventional policing, may not be 'contingent' enough to the demands of a digitally transformed environment (Graça & O'Connor, 2020). Therefore, developing a systematic approach to identify and cultivate leaders who embody these digitally relevant traits is crucial for Polri's strategic resilience and effectiveness.

We propose a machine learning model to predict digital leadership success among Polri officers, using attributes such as education, rank, and experience (Alikhademi et al., 2022). This model supports targeted training and personnel selection, enabling Polri to build a digitally capable leadership cadre (Schwöbel & Remmers, 2022). By integrating ethical practices, including bias mitigation and data privacy safeguards, we ensure fair deployment (Birhane et al., 2022; Castelnovo et al., 2022; NAACP, 2024).

Research on digital leadership highlights its importance. Babuta et al. (2020) emphasize data analytics for efficiency, while Elnagdy and Zhang (2022) define digital leadership as a blend of technological capability and vision. Machine learning applications in policing provide methodological insights (Shi et al., 2020; Mehrabi et al., 2020). Unlike prior studies, we benchmark multiple algorithms and incorporate ethical considerations, focusing on Polri's needs (Northouse, 2022).

Digital leadership draws on Transformational, Adaptive, and Contingency Leadership theories (Northouse, 2022; Uhl-Bien & Ospina, 2021; Graça & O'Connor, 2020). Transformational leaders inspire technological adoption (Elnagdy & Zhang, 2022), adaptive leaders navigate dynamic threats (Ferguson, 2020), and contingency leaders tailor strategies to resources (Heaven, 2020). These attributes, adaptability, data-driven decision-making, and communication, guide our approach (Holmes et al., 2021).

This study aims to develop a predictive model for digital leadership success in shaping Presisi police officers using machine learning techniques. By utilizing historical data from various educational and training aspects, this model is expected to provide more profound and more accurate insights into the factors affecting police officers' success. Several machine learning algorithms will be employed to build the predictive model, including Decision Tree, XGBoost, Gradient Boosting, CatBoost, and LightGBM.

Research on digital leadership in the policing context has identified various attributes considered essential for success. Some key qualities frequently studied include technological capability, which refers to the ability to



understand and utilize digital technology in policing tasks Smith et al., (2020); transformational leadership, which is the ability to inspire and motivate team members to achieve common goals Brown et al., (2018); communication competence, or facilitates communication and improves business decision-making Bennett & Bierema (2010).; data-driven decision-making, which involves making decisions supported by accurate data analysis (Johnson et al., 2019); and adaptability, or the ability to quickly adjust to technological changes and operational situations (Williams & Smith, 2020).

While previous studies have explored various attributes and methods for measuring digital leadership [cite relevant studies], a significant gap remains in understanding the systemic factors that hinder or foster digital leadership development within hierarchical, traditional institutions like police forces. Prior research often focuses on descriptive analyses or theoretical frameworks of leadership (e.g., Munsamy et al., 2023), but rarely employs robust predictive analytics to identify potential leaders at scale, especially in a unique operational context like the Indonesian police. Our study distinguishes itself by not only advancing the technical methodology for predicting digital leadership success but also by implicitly addressing the social science challenge of identifying individuals best suited to drive digital transformation within a large public security organization, thus offering a practical, data-driven solution to a critical human resource and organizational development issue. Unlike purely qualitative approaches, our quantitative predictive model offers a scalable solution for systematic identification.

Various methods have been used in related research to measure and predict the success of digital leadership. Regression analysis has been applied to identify relationships between digital leadership attributes and operational success (Johnson et al., 2019). Qualitative approaches such as interviews and case studies have been used to determine effective digital leadership characteristics (Brown et al., 2018). Competency models have been developed as guidelines for digital leadership training (Munsamy et al., 2023). Machine learning algorithms such as Decision Tree, Random Forest, and Support Vector Machine (SVM) have also been implemented to predict digital leadership success (Williams & Smith, 2020).

Previous research has yielded various findings demonstrating the effectiveness of these methods. Smith et al. (2020) found that technological capability and transformational leadership had a significant positive correlation with operational success, with their regression model showing an  $R^2$  of 0.75. Brown et al. (2018) identified that effective communication and adaptability are key attributes for successful digital leadership, providing deep insights into best practices in digital leadership. Johnson et al. (2019) used regression analysis to predict digital leadership success with 82% accuracy, demonstrating that data-driven decision-making strongly predicts success. Williams & Smith (2020) implemented machine learning algorithms and found that Random Forest provided the best prediction accuracy, achieving an F1 Score of 0.89.

An evaluation of related studies shows significant results across various parameters. Smith et al. (2020) demonstrated that their regression model could explain 75% of the variability in operational success based on digital leadership attributes. Brown et al. (2018) provided valuable insights into best practices and challenges in digital leadership through their qualitative study. Munsamy et al. (2023) developed a widely adopted competency model used in police training programs. Johnson et al. and Williams & Smith (2020) demonstrated that the Random Forest algorithm was highly effective in predicting digital leadership success, with an F1 Score of 0.89.

This study differs from previous research in several key aspects. First, it employs a diverse set of machine learning algorithms, including Decision Tree, XGBoost, Gradient Boosting, CatBoost, and LightGBM, to develop a more comprehensive predictive model (Ke et al., 2017). Second, it utilizes a broader dataset that covers various aspects of police officer education and training, which have not been extensively studied in prior research. Third, it incorporates a broader range of evaluation metrics, such as F1 Score, Log Loss, Cohen's Kappa, and MCC, to provide a more complete assessment of model performance.

This study makes a significant scientific contribution by developing a more accurate and comprehensive predictive model for digital leadership success in shaping Presisi police officers. Benchmarking against previous research shows that the LightGBM model developed in this study delivers the best performance, with an F1 Score of 0.9674 and a Log Loss of 0.2244, outperforming previous research findings (Ke et al., 2017).

We designed a predictive model to identify digital leadership potential among Polri officers, using a dataset of 564 anonymized records with 15 attributes, including rank (Pangkat), position (Jabatan), work unit (Unit Kerja), compartment (Kompartemen), structural/functional roles (Struk/Fung), latest police education (Dikpol Akhir), latest general education (Dikum Akhir), and career progression indicators (TMT Jabatan, TMT Akpol) (Shi et al., 2020; Schwöbel & Remmers, 2022). These attributes capture seniority, expertise, and technological exposure (Holmes et al., 2021; Babuta et al., 2020).

The study was conducted using Polri's personnel database in Semarang, Indonesia, with ethical approval. We employed a four-stage pipeline: data collection, preprocessing, model training, and evaluation. Data collection involved anonymized records, excluding sensitive attributes like religion or gender (Ferguson, 2020). Preprocessing addressed missing values, encoding, normalization, and feature selection (van Buuren, 2020; Castelnovo et al., 2022). We trained five algorithms—Decision Tree, XGBoost, Gradient Boosting, CatBoost, and LightGBM—using 5-fold cross-validation and a hold-out test set (Shi et al., 2020; Mehrabi et al., 2020). Performance was evaluated using F1 Score, Log Loss, Cohen's Kappa, and Matthews Correlation Coefficient (MCC) (Powers, 2020).

Operational definitions included digital leadership success (binary: high/low potential) based on performance metrics. Analysis techniques involved statistical correlation and machine learning classification, ensuring robustness and fairness (Birhane et al., 2022; NAACP, 2024).

## **DISCUSSION**

We analyzed 564 officer records to uncover patterns and evaluate model performance, providing insights into digital leadership (Shi et al., 2020; Alikhademi et al., 2022).

### **Data Analysis**

Our correlation matrix (Figure 1) showed a strong positive correlation between Unit Kerja and Kompartemen (0.78,  $p < 0.01$ ), reflecting structural links (Schwöbel and Remmers, 2022). A moderate correlation between TMT Jabatan and TMT Akpol (0.53,  $p < 0.01$ ) indicated seniority's role (Holmes et al., 2021). Dikpol Akhir correlated moderately with Jabatan (0.31,  $p < 0.05$ ), highlighting education's influence (Babuta et al., 2020). Negative correlations (e.g., NRP and NO, -0.45,  $p < 0.01$ ) reflected administrative distinctions (Shi et al., 2020).

The distribution of 'Pangkat' (Rank), heavily weighted towards categories 9, 12, and 13 (65%), indicates that digital leadership potential is predominantly identified among mid-to-senior level officers. This pattern, while potentially reflecting the current hierarchical structure and experience accumulation within Polri, also raises questions for future leadership development strategies. Does it suggest that younger officers are less likely to be identified as digital leaders early in their careers, potentially overlooking latent talent? From an organizational behavior perspective, this could highlight a need for programs that foster digital leadership from junior ranks, preventing a talent bottleneck at higher echelons. Similarly, the 20% representation in 'operational leadership roles' (Jabatan) underscores that practical, frontline experience is a significant factor in shaping digital leaders. This highlights the importance of experiential learning and on-the-job training in developing digital leadership competencies, aligning with adult learning theories in professional development.

The target variable's distribution (Figure 2) showed balanced classes (52% positive, 48% negative). Countplots detailed: - Categories 9, 12, 13 dominated (65%) (Schwöbel and Remmers, 2022). - Jabatan (Figure 4): 20% in operational leadership roles (Babuta et al., 2020). These patterns confirm the dataset's suitability for modeling digital leadership (Babuta et al., 2020).

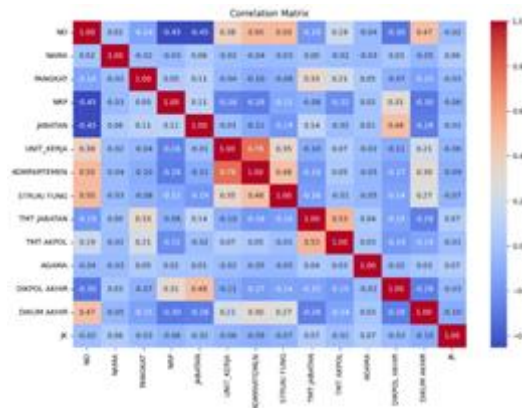


Figure 1: Correlation matrix: red for positive, blue for negative links.

### Model Performance

We evaluated five models using F1 Score, Log Loss, Cohen's Kappa, and MCC (Table 1) (Powers, 2020).

- LightGBM: F1 Score 0.9674, Log Loss 0.2244, Kappa 0.9616, MCC 0.9620 (Shi et al., 2020).
- Decision Tree: F1 0.9675, Kappa 0.9600, MCC 0.9605, Log Loss 1.2759 (Castelnovo et al., 2022).
- XGBoost: F1 0.9584, Kappa 0.9500, MCC 0.9510, Log Loss 4.7843 (Castelnovo et al., 2022).
- Gradient Boosting: F1 0.9412, Kappa 0.9350, MCC 0.9360 (Castelnovo et al., 2022).
- CatBoost: F1 0.9317, Kappa 0.9250, MCC 0.9260, Log Loss 0.2587 (Castelnovo et al., 2022).

LightGBM's performance stems from its efficient handling of structured data (Shi et al., 2020). Unit Kerja, Dikpol Akhir, and Jabatan were top predictors (Castelnovo et al., 2022).

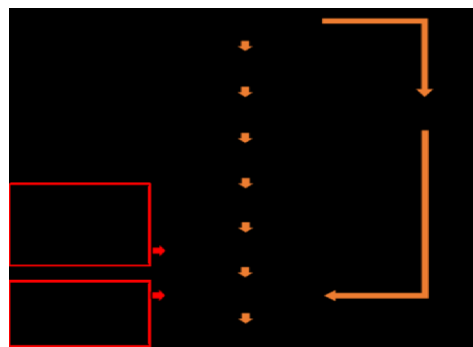


Figure 2: Training and testing class distribution

### Interpretation of Results

LightGBM's performance (F1: 0.9674, MCC: 0.9620) highlights its suitability for predicting digital leadership (Shi et al., 2020; Mehrabi et al., 2020). Its low Log Loss (0.2244) ensures reliable predictions (Powers, 2020). Compared to prior studies (Alikhademi et al., 2022), our approach offers higher accuracy.

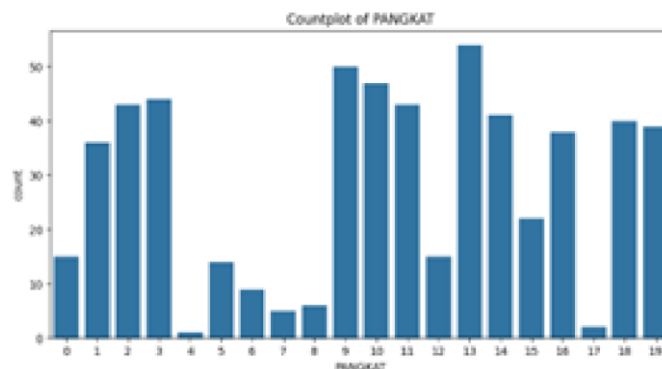


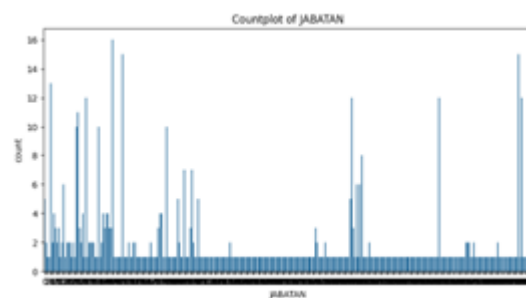
Figure 3: Rank (Pangkat) frequency, with peaks at indices 9, 12, 13.

The strong positive correlation observed between 'Unit Kerja' (Work Unit) and 'Kompartemen' (Compartment) (0.78,  $p < 0.01$ ) is particularly insightful when viewed through the lens of Contingency Leadership Theory. This finding suggests that an officer's placement within specific organizational structures, particularly those involving specialized digital functions, significantly correlates with their digital leadership potential. This aligns with the contingency perspective that effective leadership is dependent on situational factors and the specific demands of the environment (Graça & O'Connor, 2020). For Polri, this implies that strategic placement in digitally intensive units might inherently foster or reveal digital leadership qualities, necessitating targeted talent management within such departments.

Similarly, the moderate correlation between 'Dikpol Akhir' (Latest Police Education) and 'Jabatan' (Position) (0.31,  $p < 0.05$ ), which then correlates with digital leadership success, reinforces aspects of Transformational Leadership Theory. Higher educational attainment, particularly specialized police education, likely equips officers with the foundational knowledge and critical thinking skills necessary to grasp complex digital concepts and inspire their teams towards technological adoption (Northouse, 2022). This suggests that ongoing professional development and specialized training programs are crucial mechanisms for cultivating transformational digital leaders within the force.

### Practical Implications

Our model enables Polri to identify digitally adept leaders, optimizing training (Schwöbel and Remmers, 2022). Officers in cybercrime units with advanced education can be prioritized (Babuta et al., 2020; Ferguson, 2020). Interpretable outputs enhance transparency (Molnar, 2020; Birhane et al., 2022).



**Figure 4:** Position (Jabatan) frequency, showing diverse roles.

Our model provides a tangible tool for Polri's Human Resources department to move beyond traditional, subjective assessments for leadership identification. By objectively pinpointing officers with high digital leadership potential, this approach aligns with best practices in evidence-based human resource management (Gomes, 2021). This allows for targeted interventions, such as specialized cybersecurity leadership training for officers in cybercrime units with advanced education, ensuring optimal resource allocation and maximizing the return. Ethical safeguards, including k-anonymity and fairness audits, minimize bias and protect privacy (NAACP, 2024; Heaven, 2020). Targeted cybersecurity training can enhance adaptability (Hwang et al., 2020).

**Table 1:** Model Performance Metrics

Model	F1 Score	Log Loss	Cohen's Kappa	MCC
Decision Tree	<b>0.967543</b>	1.275882	0.961627	0.961954
XGBoost	0.958443	4.784290	0.952066	0.952632
Gradient Boosting	0.941225	0.627160	0.932869	0.933186
CatBoost	0.931680	0.258692	0.923318	0.924259
LightGBM	0.967382	<b>0.224386</b>	<b>0.961646</b>	<b>0.961973</b>

### Limitations

The dataset's focus on Polri limits generalizability (Hwang et al., 2020). Mid-to-senior officer emphasis (Figure 3) may overlook early-career potential (Alikhademi et al., 2022). Static data restricts dynamic factor capture (Shi et al., 2020).



Subtle biases in historical data may persist (Castelnovo et al., 2022). Privacy measures reduce but do not eliminate risks (Ferguson, 2020). Continuous monitoring is needed to prevent over-reliance (Dwork et al., 2021).

### **Future Research Directions**

Future studies should test the model in diverse policing contexts (Babuta et al., 2020). Real-time data could improve accuracy (Shi et al., 2020). Psychological traits may uncover new predictors (Holmes et al., 2021).

Ethical research should explore federated learning (Khan and Pandey, 2021). Standardized fairness metrics could ensure consistency (Heaven, 2020). Longitudinal studies will assess the long-term impact (Schwöbel and Remmers, 2022).

### **CONCLUSION**

We developed a machine learning model to predict digital leadership success in Polri officers, with LightGBM achieving an F1 Score of 0.9674 (Shi et al., 2020). Grounded in Transformational, Adaptive, and Contingency Leadership theories, education and work units emerged as key predictors (Northouse, 2022; Schwöbel & Remmers, 2022). The model supports targeted training and personnel selection, advancing Polri's digital transformation (Babuta et al., 2020). Ethical safeguards ensure fairness and privacy (Birhane et al., 2022; NAACP, 2024).

The Decision Tree model also demonstrated good performance with an F1 Score of 0.9675. However, it had a higher Log Loss of 1.2759, indicating that it is less accurate in predicting class probabilities compared to LightGBM. The XGBoost model, despite having a relatively high F1 Score of 0.9584, exhibited a significantly higher Log Loss of 4.7843, suggesting that this model is less effective in estimating correct class probabilities. Gradient Boosting and CatBoost showed lower performance than LightGBM, with F1 Scores of 0.9412 and 0.9317, respectively, and Log Loss values of 0.6272 and 0.2587.

The findings of this study indicate that the application of machine learning techniques, particularly LightGBM, can provide accurate predictions regarding the success of digital leadership in the formation of Polri officers. This model can serve as a decision-support tool in the selection and training process of Polri officers, offering deeper insights into the factors influencing digital leadership success. Additionally, the study highlights that employing various machine learning algorithms allows for a more comprehensive assessment of model performance, enabling researchers to choose the most suitable model for their needs.

Overall, this research makes a significant contribution to the field of education and training for Polri officers by developing an accurate and comprehensive predictive model for digital leadership success. These findings are expected to serve as a foundation for further advancements in this field and provide valuable insights for decision-makers in the selection and training of Polri officers.

### **SUGGESTION**

Based on the findings of this study, several recommendations can be made for future research and implementation.

First, it is recommended to expand the dataset by incorporating additional variables that may influence the success of digital leadership, such as work experience, additional training, and performance evaluations. This can help improve the accuracy of the predictive model. Second, further research can explore the use of more advanced machine learning techniques, such as deep learning, to assess potential performance improvements. Third, the implementation of this predictive model in the selection and training process of Polri officers should be carried out carefully, ensuring that the model serves as a supporting tool rather than the sole determinant in decision-making. Fourth, external validation using data from different sources is recommended to ensure the generalizability of the model.

Finally, this study also opens opportunities for developing a decision support system that can assist policymakers in designing more effective and efficient training programs based on digital leadership success predictions.

By following these recommendations, future research is expected to further enhance the accuracy and effectiveness of predictive models, contributing more significantly to the education and training of Polri officers. The findings of this study may also serve as a reference for other law enforcement institutions in developing data- and technology-driven training programs. Polri should integrate this model into leadership development programs, focusing on cybersecurity training for high-potential officers. Regular fairness audits and stakeholder consultations will sustain ethical deployment. Future research should explore real-time data integration to enhance model accuracy.

#### **ACKNOWLEDGEMENT**

We thank the Police Academy, Semarang, for providing data access and ethical approval. We also acknowledge the support of Polri's personnel division and funding from the Indonesian Ministry of Research.

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## Paradox of Criminal Responsibility for Persons with Mental Disabilities in the 2023 Penal Code

Submitted 23 January 2025, Revised 8 July 2025, Accepted 4 August 2025, Published 26 August 2025

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DOI: <https://doi.org/10.35879/jik.v19i2.632>

### Abstract

Criminal law reform in Indonesia through the ratification of the new Criminal Code has given rise to various complexities in legal governance, including the treatment of individuals with mental disabilities involved in criminal cases. Although the new Criminal Code is designed to integrate the principles of respect for Human Rights (HR) and emphasize a more humanistic approach in the law enforcement process, several provisions within it reveal normative contradictions. In particular, criminal regulations for people with mental disabilities often contradict the standards set out in the Convention on the Rights of Persons with Disabilities (CRPD). This phenomenon has sparked legal and ethical debates regarding the adequacy of the domestic regulatory framework regarding international commitments. Furthermore, law enforcement practices by the police, who are at the forefront of handling such cases, tend to prioritize a repressive approach rather than a rehabilitative one, thus potentially leading to human rights violations. This study examines the inconsistency between the normative ideals of the new Criminal Code and the factual implementation in the field, while emphasizing the urgency of developing policies that are inclusive, based on restorative justice, and consistently respect the dignity of individuals with mental disabilities. This research employed a qualitative method based on a normative legal approach, utilizing a statutory and conceptual approach as the primary analytical frameworks. The data in this study are sourced from a comprehensive literature review that encompasses laws and regulations, legal documents, previous research results, and various relevant scientific works. The data processing process is carried out through in-depth legal analysis to identify, interpret, and evaluate applicable legal norms. This approach allows research to produce a comprehensive understanding of the legal issues studied, while providing significant academic contributions to the development of legal theory and practice.

**Keywords:** human rights, mental disabilities, new criminal code, law enforcement

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### INTRODUCTION

Contemporary global legal frameworks increasingly emphasize the importance of protecting the human rights of individuals with mental disabilities (Van Hout et al., 2023). This increased focus arises from their inherent limitations and differential treatment compared to individuals without disabilities. In the context of criminal liability, the handling of mental disabilities presents a paradox that requires critical examination, especially through an analysis based on the Criminal Code (KUHP) No. 1 of 2023. A thorough examination of the complex relationship between criminal justice and human rights protection requires critical evaluation to ensure that the law is enforced fairly and inclusively.

The challenges in the implementation of Human Rights (HAM) trials in Indonesia reflect a paradoxical dilemma, like a double-edged sword. On the one hand, the judicial process must be carried out to uphold the principle of Equality Before the Law. However, on the other hand, law enforcement officers are an integral part of the government system, which often presents conflicts of interest in practice (Rofingi et al., 2022; Rosnida, 2020). Until now, the fundamental problems that have not been resolved include how human rights regulations are reflected in the legal framework in Indonesia and how the implementation of these human rights is integrated into the national criminal justice system effectively and consistently (Wardani & Suroto, 2023).

Human Rights (HAM) are a universal moral foundation that guarantees the protection of the dignity and freedom of every individual, regardless of their social status, physical condition, or mental condition (Melani et al., 2024). Within this framework, individuals with mental disabilities also have equal rights to be treated as dignified human beings (Pawestri, 2017), by ensuring respect and fulfillment of their human rights in their entirety (Kadir & Fadillah, 2023).

People with mental disabilities often face systemic discrimination (Bonaccio et al., 2020), including inequities in access to health and social services, negative stigma, and legal harassment (Saba et al., 2024; Wolbring & Nasir, 2024). Moral calls and legal frameworks require people with mental disabilities to be placed in a human rights protection pathway that takes into account their special conditions. Although the principle of equality before the law applies universally, people with mental disabilities cannot be subject to the same standards of criminal responsibility as individuals who are physically and mentally healthy (Arifin et al., 2021; Van Hout et al., 2023; Yana, 2024). This reflects the need for a more inclusive and equitable approach in the justice system.

The case of Zainal Abidin, a mentally ill man suspected of having schizophrenia and accused of murdering a woman in Banyuwangi in 2025, highlights the systematic criminalization of people with mental disorders (ODGJ) in the criminal justice system in Indonesia. The unpreparedness of law enforcement officers in understanding mental conditions and the absence of a legal mechanism that is responsive to the needs of mental disabilities caused Zainal to be processed like a criminal in general. In fact, according to the principles of human rights protection and national law, individuals with mental disabilities should receive special legal treatment, based on rehabilitation and oriented towards recovery, not repressive action (Komnas HAM RI, 2023).

Discriminatory behavior towards people with disabilities generally stems from negative awareness of the concept of disability and the individuals who have it (Castillo & Larson, 2020; Madhesh, 2022). This negative view is often rooted in the mindset of society, which is still dominated by the concept of normality, which tends to position people with disabilities as a different or less valuable group than individuals without disabilities (Park et al., 2023; Vuong & Palmer, 2024). This kind of mindset reinforces stereotypes and worsens social exclusion against them.

Article 1 of Law Number 8 of 2016 concerning Persons with Disabilities defines persons with disabilities as individuals who have long-term physical, intellectual, mental, and/or sensory limitations, who in their interactions with the environment face obstacles and difficulties in participating fully and effectively with other citizens, based on the principle of equal rights (Law of the Republic of Indonesia Number 8 of 2016 concerning Persons with Disabilities, 2016). From the definition above, Law Number 8 of 2016 concerning Persons with Disabilities mentions 4 types of persons with disabilities, including: a. Persons with physical disabilities; b. Persons with intellectual disabilities; c. Persons with mental disabilities, and/or developmental disabilities. Persons with sensory disabilities.

In Indonesia, according to the 2016 LPEM FEB Universitas Indonesia Research, the number of people with disabilities in Indonesia was 12.15 percent. Those in the moderate category were 10.29 percent, and those in the severe category were 1.87 percent. Meanwhile, the prevalence of disability in provinces in Indonesia is between 6.41 percent and 18.75 percent. The three provinces with the highest prevalence rates are West Sumatra, East Nusa Tenggara, and South Sulawesi. Of the 12.15 percent of people with disabilities, 45.74 percent of the education level of people with disabilities have never graduated from elementary school, compared to non-disabled people who are 87.31 percent of non-disabled people who have an elementary

school education or above (Susilawati, 2024). From the data on the disability information system in March 2020, there were 197,582 people with disabilities (Al Anshori, 2024).

People with disabilities are people who have disorders/that can interfere with activities (Mordini et al., 2018). Disability (impairment) or functional limitations are actually not related to the inability to carry out activities or social participation (Backe et al., 2018; Linden, 2017). Therefore, they should not be discriminated against because of their special conditions, but rather, their accessibility must be supported (Hikam, 2023).

In Canada, it is expressly stated that a person with a mental disorder cannot be held criminally responsible for his/her actions. Section 16 of the Criminal Code of Canada states that no person is criminally responsible for any act done or omission done while suffering from a mental disorder which causes the person to be unable to appreciate the nature and quality of the act or omission or to know that it is wrong (Criminal Code (R.S.C., 1985, c. C-46), 1985).

In the Criminal Code No. 1 of 2023, the article on criminal liability for people with mental disabilities is an article that is discussed specifically. The explanation of criminal liability for people with mental disabilities is in 3 articles, each of which contains paradoxes in narrative and substantive terms. The three articles are Article 38, Article 39, and Article 99, which explain the status of criminal liability for people with disabilities when committing criminal acts (Law of the Republic of Indonesia No. 1 of 2023 concerning the Criminal Code, 2023). There were inconsistencies between each article and indications that criminal law is still being applied to people with mental disabilities. From a human rights perspective, there is also a gap between the contents of the article and the criminalization that is still being applied to people with mental disabilities.

Based on this conceptual fact, this study conducts an analytical study of Human Rights and the Paradoxical Criminal Responsibility for Persons with Mental Disabilities from the Criminal Code No. 1 of 2023. This study uses a qualitative method through a normative legal approach by taking a statutory approach and a conceptual approach. This study uses secondary data sources or library research consisting of (1) primary legal materials, namely binding legal materials from basic norms or regulations, laws, and regulations. (2) secondary legal materials, namely those that provide explanations regarding primary legal materials, such as research results, scientific works, and books written by experts. (3) tertiary legal materials, namely legal materials that guide primary and secondary legal materials, such as legal dictionaries and encyclopedias that are elaborated systematically.

## DISCUSSION

### Definition of Mental Disability

The term "disability" is used to replace the term "disabled," which has negative connotations and tends to be discriminatory (Suharto et al., 2016). The use of this term is based on the understanding that every human being, as a creature of God, has unique differences (Audyandari, 2024). These differences do not only refer to physical aspects, disabilities, or abnormalities, but rather to the condition of humans as creatures in diverse social realities (Kafaa & Mada, 2024). This reflects respect for human diversity and rejects stereotypes that degrade the dignity of individuals with disabilities.

Furthermore, normatively, people with disabilities are defined as individuals who have long-term physical, intellectual, mental, and/or sensory limitations, who in their interactions with the environment face obstacles and difficulties in participating fully and effectively with other citizens, by the principle of equal rights (Suharto et al., 2016). In the Great Dictionary of the Indonesian Language, "penyandang" is defined as a person who has (suffers from) something. Meanwhile, "disability" is an Indonesian word derived from the English loanword disability (plural: disabilities), which means defect or inability (Ministry of National Education, 2012). The term "penyandang cacat" is now used to replace the term "penyandang cacat," which was previously better known by the public. This replacement was made because the term "penyandang cacat" was considered to have a negative connotation that could strengthen social stigma. The use of the term "penyandang cacat" reflects an effort to respect the dignity of individuals with certain limitations and eliminate discriminatory stereotypes (Barbareschi et al., 2021; Gutterman, 2021).

On the other hand, one of the fundamental problems faced by people with disabilities is the limited understanding of society and government officials regarding the meaning of disability and their important role as part of the nation's citizens. The view that considers disability as a disgrace, curse, or shameful thing often makes families reluctant to be open about family members who have disabilities. This kind of social stigma exacerbates the neglect of the rights of people with disabilities and prevents them from fully participating in social and community life (Fajri Nursyamsi et al., 2015; Hastuti et al., 2020). People with disabilities are often equated with people who are sick or helpless, who are considered not to need access to education and work. As a result, they are only considered to need to be pitied and cared for for their survival. This kind of view ignores their rights and potential, so that people with disabilities often do not get the same opportunities to develop or participate in various aspects of social, economic, and cultural life as other citizens (Purnomosidi, 2017; Sudika Mangku, 2020).

The variety of people with disabilities can be known and explained through Article 4, paragraph (1) of Law Number 8 of 2016 concerning People with Disabilities. First, people with physical disabilities, namely impaired motor function, including amputation, paralysis, or stiffness, paraplegia, cerebral palsy (CP), due to stroke, due to leprosy, and small people. Second, people with intellectual disabilities, namely impaired thinking function due to below-average intelligence levels, including slow learning, mental disabilities, and Down syndrome. Third, people with mental disabilities, namely impaired thinking, emotional, and behavioral functions, including: (a) psychosocial disorders, such as schizophrenia, bipolar disorder, depression, anxiety, and personality disorders; (b) developmental disabilities that affect social interaction abilities, including autism and hyperactivity. Fourth, people with sensory disabilities, namely impaired function of one of the five senses, including blindness, deafness, and/or speech disabilities (Shaleh, 2018; Triana et al., 2022).

In the research described in this article, the focus of the study is only on people with mental disabilities because this community is part of the discussion mentioned in the Criminal Code No. 1 of 2023. The definition outlined by the Ministry of Social Affairs of the Republic of Indonesia, that people with mental disabilities are individuals who experience mental disabilities or mental disorders who have been treated in a Mental Hospital and are recommended in a calm condition and therefore are obstacles or barriers for them to carry out their social functions in meeting needs, solving problems and daily activities (Social Rehabilitation, 2012).

In line with that, Mental disability is a condition that is episodic or not permanent, where individuals experience impaired mental function, but they can still live a normal life and can make good decisions for themselves. Despite experiencing mental challenges, many people with mental disabilities can function effectively in everyday life, contribute to society, and make decisions that align with their needs and aspirations (Lawson, 2014; Linden, 2017). People with mental disabilities refer to individuals who experience mental and/or behavioral disorders as a result of congenital factors or disease (Moons et al., 2023). These individuals face difficulties in learning and performing activities that are generally carried out by others who are considered normal (Totsika et al., 2022), so this becomes an obstacle in carrying out daily activities. This condition often requires special support so that they can function optimally in society (Wan Ali et al., 2024).

According to the American Psychiatric Association, a mental disorder is defined as a clinically significant psychological or behavioral syndrome or pattern that occurs in a person and is associated with distress and disability or is accompanied by an increased risk of painful death, pain, disability, or loss of freedom (Stein et al., 2010, 2021). The World Health Organization (WHO) in the International Classification of Impairment, Disability, and Handicap states that there are three definitions related to disability, namely impairment, disability, and handicap. Impairment is the loss or abnormality of psychological, physiological, or anatomical structure or function. Disability is a limitation or loss of ability (as a result of impairment) to perform an activity in a manner or within limits that are considered normal for a human being. Handicap is a disadvantage for a particular individual, as a result of an impairment or disability, that limits or hinders the implementation of a normal role. However, this also depends on age, gender, and social or cultural factors (Schuntermann, 1996) (et al., Eds.) Peden, M., 2019). The definition outlined above emphasizes that people with mental disabilities need to receive special attention and protection due to the psychological factors they experience, without discrimination or criminalization.

### **Human Rights and Protection of Persons with Mental Disabilities**



The concept of Human Rights (HAM) includes three main elements for human existence as social beings, namely human integrity, freedom, and equality (Budiardjo, 1990; Melani et al., 2024; Tampubolon, 2024). Of these three main elements, the author elaborates on them with the following explanatory space:

First, Human Integrity refers to a person's moral and social ethical character, which is applied consistently and honestly in various life decisions. This attitude includes cohesion between the values adopted and a person's real actions, as well as the capability to maintain moral principles even under any pressure or temptation. Human integrity is not only about not committing unethical acts, but much more about upholding the true principles of life.

Second, Freedom is a fundamental principle that refers to every individual when expressing themselves in making decisions, always acting on their own behalf, which is not easily influenced by others or oppression from other entities. This freedom is a form of intrinsic recognition of oneself and dignity that must be upheld.

Third, Equality refers to a basic principle that every individual is born with equal dignity and rights. This is also true regardless of differences in race, skin color, gender, language, religion, nationality, social status, and other factors. This equality is proof that everyone has and must feel equal justice in the eyes of the law, especially in the context of social interaction.

Since the founding of the Unitary State of the Republic of Indonesia (NKRI) in 1945, the state has been committed to upholding and implementing Human Rights (HAM). This commitment is reflected in the values contained in the Pancasila and the 1945 Constitution of the Republic of Indonesia, which contains various provisions regarding respect for human rights for all citizens. These principles underline the importance of recognizing, protecting, and fulfilling the basic rights of every individual in community and state life. Even though people with disabilities are not explicitly mentioned in the 1945 Constitution of the Republic of Indonesia, they are part of humans with equal status (Pawestri, 2017).

Legally, people with mental disabilities are included as Indonesian citizens (WNI) who have the same constitutional rights, so that they must be respected, protected, and fulfilled by the state. Article 28 D paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that "Everyone has the right to recognition, guarantees, protection and certainty of fair law and equal treatment before the law". This norm can be understood to expressly prohibit any differentiation in treatment before the law (Rahmanto, 2019).

The results of the 2018 National Commission on Human Rights (Komnas HAM) report show that the stigma that is currently developing in society still considers people with mental disabilities to be humans who are possessed by evil spirits, unable/capable of making decisions, considered dangerous, need to be concentrated/confined, and have no hope (Hartanto & Yulianti, 2018). This stigma causes discriminatory treatment felt by people with mental disabilities (Rahmanto, 2019).

Discrimination against people with disabilities shows the ineffectiveness of law enforcement. This can be caused by three factors, namely legal substance, legal structure, and legal culture (Barid et al., 2022; Bintari Kusumastuti, 2023). These factors are interrelated and have an impact on people with mental disabilities who feel quite discriminated against by law enforcement itself.

### **Analysis of Criminal Code No. 1 of 2023 and the Paradoxical Criminal Responsibility**

Legal systems around the world often critically consider the appropriateness of punishing people with mental disabilities for the crimes they have committed (Van Hout et al., 2023). Fair law enforcement assumes that every individual sentenced must have the capacity to understand the nature and consequences of their actions (Dolata & Schwabe, 2023). People with mental disabilities often face challenges in this regard, depending on the level of dependency and severity of their disability. This raises the need for a more sensitive and inclusive legal approach that takes into account an individual's mental capacity in determining their criminal responsibility (Morgan, 2021).

In some jurisdictions, there is a procedure to assess someone with a mental disability involving a medical or psychological diagnosis for an unlawful act that can be subject to legal consequences (Irmansyah et al., 2009; Dixon et al., 2024). The limitations and backwardness of people with mental disabilities have always been

debatable, as the legal perspective does not view them the same as normal humans (Craigie et al., 2019; Kadir & Fadillah, 2023; Rizka & Fadhilah, 2022).

Social life cannot be separated from criminal acts or crimes (*strafbaar feit*), which makes the existence of law very important to maintain order and justice. Specifically, people with mental disabilities are individuals who experience mental health disorders or conditions that affect their cognitive, emotional, behavioral, and social functions. Mental disabilities can include a variety of disorders, such as bipolar disorder, depression, anxiety, schizophrenia, or neurodevelopmental disorders such as autism. People with mental disabilities are often involved in criminal acts, either as victims or as perpetrators. When they become perpetrators, criminal liability becomes a highly debatable issue and requires special attention, given their limited ability to understand the consequences of their actions (Meghrajani et al., 2023).

Criminal liability is known as *toerekenbaarheid* or criminal responsibility, which can be interpreted as the punishment of a perpetrator of a crime to determine whether the perpetrator can be held accountable for the crime that has been committed or vice versa. Criminal liability is a form of legal consequence given to someone who has committed an act that violates applicable criminal law (Leweokeda, 2019).

In the Criminal Code No. 1 of 2023 concerning criminal liability for people with mental disabilities, it is regulated in articles 38, 39, and 99. These three articles explicitly affirm the position of people with mental disabilities regarding criminal liability for criminal acts. Some articles are interrelated, but some are contradictory and paradoxical regarding criminal liability for people with mental disabilities.

Article 38 states that anyone who, at the time of committing a crime, has a mental disability and/or intellectual disability can have their sentence reduced and/or be subject to action. This article places the position of people with mental disabilities as legal subjects who must be held accountable for their actions if they commit an unlawful act, with the criminal sentence being reduced, of course, with special considerations. Criminal acts for people with mental disabilities, if understood from the text of this article, are divided into two forms of accountability, namely (a) still given in the form of criminal sanctions (*straf stelsel*) but the criminal sentence can be reduced, (b) and/or given sanctions (*maatregel stelsel*) as their criminal accountability.

The paradox is very different from Article 39, which states that anyone who, at the time of committing a crime, has a mental disability that is in an acute relapse and is accompanied by psychotic symptoms and/or moderate or severe intellectual disability cannot be sentenced to criminal penalties, but can be subject to action. People with mental disabilities who commit crimes cannot be sentenced to criminal penalties at all. The responsibility for their unlawful actions is only up to the point of being subject to action. The action in question is certainly a rehabilitation measure that is not a prison sentence.

There is a debate about understanding the contents of the text of these two articles. The sentence about mental disabilities in acute relapse and accompanied by psychotic symptoms in Article 39 is the basis for releasing the criminal penalty for people with mental disabilities. This means that if a person with mental disabilities is not in an acute relapse and accompanied by psychotic symptoms, then a criminal penalty can be imposed, although it can be reduced. However, if we interpret mental disabilities themselves, of course, there is a situation and mental condition of a person who is suffering from mental disabilities that is not in a normal condition, whose relapse cannot be predicted, and whose psychotic symptoms are very dependent on the mental situation and environment of the person with mental disabilities.

So, Article 38 and Article 39 are very contradictory because a person with mental disabilities is not someone who is always in a state of normality. Relapse or non-relapse of his mental normality shows that the psychotic situation of a person with mental disabilities is always in an abnormal state. So it is very irrational to impose criminal penalties or not criminalize only the measure of relapse and psychotic disorders.

There is a disharmony in the regulations related to criminal liability in positive law in Indonesia, which results in ambiguity. This condition can give rise to disparities in the uncertainty of the law by the judge's decision because it gives rise to multiple interpretations (Koedoeboen, 2020; Suartha & Ivory, 2024; Syamsudin et al., 2022). In this context, the position of the new Criminal Code, which has accommodated regulations regarding the criminal liability of people with mental disabilities, is not in line with the legal principle of *lex specialis*

derogat legi generali. Further regulations at the level of laws are needed to regulate and cover the problems of criminal liability of people with mental disabilities, the aim of which is to cover parts that are not specifically regulated by the new Criminal Code.

Article 99 of the Criminal Code No. 1 of 2023 (new Criminal Code) further emphasizes that people with mental disabilities are still not removed from their criminal penalties, and can be sentenced to death. The contents of the text of Article 99 are that the implementation of the death penalty against pregnant women, women who are breastfeeding their babies, or people who are mentally ill is postponed until the woman gives birth, the woman is no longer breastfeeding her baby, or the mentally ill person recovers.

Before being sentenced to death, people with mental disabilities (mentally ill people) must certainly go through the trial stages in our justice system. Before the verdict is handed down, the trial process certainly runs and positions the mentally ill person starting as a witness, then a suspect, and finally a defendant. Imagine law enforcement like this is very irrational, inhumane, and far from the principles of justice and human rights. A mentally ill person continues to live with his status as a defendant by accepting the death penalty, even though the execution of his death must wait for recovery. This means that the criminal sentence against him is not lost; it is only postponed with consideration of psychotic disorders.

The paradox of criminal responsibility for people with mental disabilities is increasingly evident because human rights for people with mental disabilities are still not fully on their side. Lowekada explains that in the Indonesian criminal law system, several elements must be met to determine a person's criminal responsibility (Hidayat & Ibrahim, 2023), including:

1. Fault (culpa): A person can only be held criminally responsible if his/her actions are intentional or due to his/her negligence that can be accounted for. In the Criminal Code, there is a division between intentional criminal acts (dolus) and negligent criminal acts (culpa).
2. Mindfulness (mental ability): A person must have sufficient mental ability or mindfulness to be held criminally responsible. If a person has a severe mental disorder that makes him unable to understand the consequences of his actions, then he may not be held criminally responsible.
3. Age: Based on the Criminal Code, children under the age of 12 are considered not criminally responsible. Children aged between 12 and 18 years can be subject to special measures by Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. However, these minors can still be held criminally responsible if they commit crimes that endanger society or crimes that are punishable by the death penalty or life imprisonment, as regulated in Article 81, paragraphs (1) and (6) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

If it is analyzed that criminal responsibility can be imposed on someone who commits an unlawful act, or commits a crime, it must touch on 3 elements, namely;

1. The act was committed due to an element of intent or negligence. Intention means that the act was planned in a conscious state without coercion, or not under pressure. While negligence means that the act was carried out without planning, it was carried out in a conscious state without coercion or under pressure.
2. Have normal normative thinking abilities and mental abilities that are not in psychotic disorders, according to the results of medical and psychological diagnoses.
3. A person who is declared to be of sufficient age (over 12 – 18 years old), or is considered an adult who can distinguish logical actions, and/or can judge whether an action is against the law.

### **The Approach of Police Investigators in Handling Criminal Cases Against People with Mental Disabilities**

In handling criminal cases, Polri investigators are required to comply with applicable legal and ethical standards by ensuring the protection of the rights of perpetrators of criminal acts, especially for individuals with mental disabilities (Rizkyandi et al., 2024). Investigators are expected to have an effective and appropriate approach in interacting with people with mental disabilities during the investigation process, which takes into account their special conditions and ensures fair and dignified treatment by the principles of justice and human rights.

The Indonesian National Police, as one of the subsystems in the criminal justice system, has the authority to conduct investigations and inquiries (Sembiring & Halimah, 2023). In carrying out this task, the Police must

have the capacity and readiness to handle cases involving individuals with disabilities, either as victims, witnesses, or perpetrators. An inclusive and professional approach is essential to ensure the protection of their rights and fair and dignified law enforcement (Ramadhany, 2022). In handling criminal cases involving people with mental disabilities, the police must be able to understand the perpetrator's mental disorder and understand the characteristics of criminal responsibility as stipulated in the latest Criminal Code number 1 of 2023.

In some countries, including the United States, national laws have established special protections for people with disabilities in their interactions with law enforcement, especially the police. The Americans with Disabilities Act (ADA) explicitly regulates the fair treatment of people with disabilities in a variety of contexts, including law enforcement (Justice, 2010; Sidebari, 2021). About people with mental disabilities, the specific approach stipulated emphasizes the importance of understanding the individual's psychological condition. For the police, this requires a focus on the deeper psychological aspects, not just a psychic approach, to ensure a fair and appropriate legal process for their needs.

In the context of handling criminal cases involving people with mental disabilities, investigators of the Indonesian National Police need to receive special training on how to interact effectively with this group. This training includes an in-depth understanding of the psychological condition of the perpetrator, empathetic communication skills, and de-escalation techniques without intimidation. The goal is to minimize the potential for violence and misunderstanding during the interaction process, so that people with mental disabilities can be treated fairly and with dignity by the principles of human rights and professionalism in law enforcement.

Police investigators need to prepare a special protocol in the process of collecting verbal information that begins with an assessment, so that investigators can assess whether the crime committed can be distinguished, whether it was planned or spontaneous. Of course, this initial assessment can be a benchmark for the mens rea of the perpetrator himself. There are concerns with stigma and discrimination that people with mental disabilities are often treated unfairly, with inadequate forms of risk for their mental condition. People with disabilities are often portrayed as weak individuals, dependent on others, and unable to contribute productively to society.

Police investigators need to undergo special training in the form of a Crisis Intervention Team (CIT) model program to teach investigators communication and crisis management skills so that they can easily interact with every individual experiencing a mental disorder crisis and people with mental disabilities. The importance of this training is to ensure that the Police, as a leading law enforcement institution, also has human rights standards that maintain and enforce the law, while maintaining and enforcing the principles of humane justice.

In handling perpetrators of criminal cases for people with mental disabilities, the examination is evaluative or forensic, namely (1) Measuring the perpetrator's ability to take responsibility, (2) Assessing a person's sanity, (3) Assessing whether a person can understand and know the risks of an act (Budiono et al., 2023). Police investigators really need to explore these three evaluations in order to make it easier to measure the results of the investigation carried out.

Training should include in-depth information about the different types of mental disabilities, including psychotic disorders (such as schizophrenia), mood disorders (such as major depression and bipolar disorder), anxiety disorders, and developmental disabilities. This helps investigators understand the symptoms, behaviors, and unique needs of people with mental disabilities. Training should include information on how to work with mental health professionals, such as psychiatrists and psychologists, to obtain assessments and recommendations regarding the mental health of individuals involved in a case.

A healthy mental condition in each individual cannot be equated (Ardiansyah et al., 2023). This condition is what makes the discussion of mental health with a special approach and treatment for people with mental disabilities involved in criminal cases, being handled by police investigators, increasingly urgent.

## **Recommendations and Solutions**



People with mental disabilities have the same rights to be treated fairly without discrimination in the criminal justice system. People with disabilities should not be treated inhumanely, especially in the context of executing criminal sentences. Criminal liability in the form of criminal penalties for people with mental disabilities needs to be reviewed, considering that psychotic disorders require medical and psychological treatment. The most likely criminal liability is medical, social, and psychosocial rehabilitation.

To avoid multiple interpretations and to have legal certainty, it is necessary to create government regulations regarding criminal liability for people with mental disabilities. Through these regulations, the human rights of people with mental disabilities can be protected, and legal protection for all parties can be ensured as a legal principle that everyone is equal before the law.

## **CONCLUSION**

Today, the real challenge of the paradox of criminal responsibility for people with mental disabilities requires a more inclusive and sensitive legal approach to ensure true justice in a legal system that is aligned with human rights principles. Protection of human rights, especially the rights of people with disabilities, must be a primary focus in the formation and implementation of fair and ethical legal policies.

Mental disability is a condition that is not permanent and episodic, in which a person experiences impaired mental function so that it is difficult to learn and carry out activities that can generally be done by individuals without obstacles. Discrimination against people with disabilities reflects weak law enforcement, which is influenced by aspects of legal substance, legal structure, and legal culture. The paradox in criminal liability for people with mental disabilities is increasingly apparent, indicating that human rights protection for this group is still not fully impartial and adequate.

The birth of the Criminal Code No. 1 of 2023 is expected to be an entry point into a firm, characterful, and cultured law enforcement space, according to the culture of the Indonesian nation. The entrance must also be decorated with a window of justice, humanity, and certainty by understanding and appreciating the side of limitations for existing legal subjects, especially people with mental disabilities.

Police investigators also need to receive special training when handling cases of people with mental disabilities. This special training is part of the professionalism of the Police in handling cases and placing the position of human rights for every perpetrator of a crime in undergoing the verbal process in the police.



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## **Abortion Law in Rape Victims' Cases: Perspective of the KUHP and Indonesia's Health Law**

Submitted 16 June 2025, Revised 4 August 2025, Accepted 7 August 2025, Published 26 August 2025

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DOI: <https://doi.org/10.35879/jik.v19i2.665>

### **Abstract**

Abortion is an issue that is always debated in various parts of the world, including in Indonesia. This study aims to examine the legal aspects of abortion performed on rape victims from the perspective of the latest criminal code, namely Law Number 1 of 2023, and from the perspective of the health law currently in force in Indonesia, namely Law Number 17 of 2023. The theory that focuses on the importance of law for rape victims is the Trauma theory, where trauma is not only an individual event, but also has broad social impacts. This study will examine abortion law from the current perspective of the regulations in force in Indonesia. This study found that there is harmonization in the regulations related to abortion in Indonesia, especially for rape victims. The contribution made by this study is the need for the real implementation of the rules and laws related to rape victims to show that the state is on the side of women. The consequences of rape have been proven to cause mental trauma, worsen the victim's mental condition, and result in physical and psychological suffering for the victim.

**Keywords:** abortion, rape victims, Law No. 17 of 2023

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### **INTRODUCTION**

Rape cases not only have physical impacts, but also profound psychological impacts on victims. One impact that can occur is an unwanted pregnancy due to rape. In this situation, many argue that abortion should be allowed to protect the welfare of the victim. According to the Regulation of the Minister of Health of the Republic of Indonesia Number 3 of 2016, abortion is an effort to remove the results of conception from the womb before the fetus can live outside the womb. According to the Great Dictionary of the Indonesian Language (KBBI), abortion is the termination of pregnancy.

Abortion practices in Indonesia have become a major focus of government efforts. A study by Angie & Srihadiati (2024) reported that reports from two global organizations, the World Health Organization (WHO) and the United Nations Population Fund (UNFPA), indicate that the number of abortions in Indonesia ranges from 750,000 to 1,500,000 per year, with approximately 2,500 cases resulting in death. The Jombang Women's Crisis Center (WCC) provided support to rape victims in 2023, stating that although there are regulations governing abortion practices (in laws and their derivatives), there are currently no safe abortion services accessible to victims of sexual violence. There is an illegal abortion practice allegedly carried out by a dentist in Bali, with a total of 1,300 patients in 2023 (<https://www.bbc.com/indonesia/articles/c883m7x871do>). Although abortion is generally prohibited by law, exceptions exist for medical reasons and rape victims. Nevertheless, the research and information above demonstrate that illegal abortion practices are still widespread and often pose significant risks to women's health.



Abortion in cases of rape is a complex issue with legal, ethical, and social implications. Many countries, including Muslim-majority countries, have restrictive abortion laws, although some allow it for medical reasons or in cases of rape. In Pakistan, the abortion law does not specifically address pregnancy related to rape, highlighting gaps in the legal framework (Qurratul-Ain-Munir-Minhas and Niazi, 2020). Russell (2022) stated that Brazil legally allows abortion in cases of rape, but access remains limited due to barriers such as misinformation, inadequate service networks, and conscientious objections by health care providers.

Some countries require a medical examination to qualify for a legal abortion in cases of rape, which can pose practical challenges and uncertainties for health care providers. This study emphasizes the need for clearer guidelines and increased access to safe abortion services for rape victims, considering cultural, religious, and ethical perspectives in policy making. Article 55 of Health Law Number 17 of 2023 states that: Everyone has the right to: (a) live a healthy, safe reproductive and sexual life, free from discrimination, coercion, and/or violence by respecting noble values that do not degrade human dignity by religious norms; (b) obtain information, education, and counseling regarding reproductive health that is correct and accountable; and (c) receive health services and recovery from criminal acts of sexual violence.

The current rampant acts of violence are a particular concern for feminists and the wider community. This concern arises because, apart from looking at the enforcement of justice by punishing the perpetrators, it is also necessary to protect victims of sexual violence, especially victims who are pregnant with children, from the perpetrators of rape because of rape. The various problems experienced by rape victims require a multidisciplinary approach involving legal policies, sensitive health services, community education, and psychological support for victims. The rights of rape victims must be respected, and they must receive proper care. The following are problems [A1] that can arise from pregnancy in rape victims, namely:

1. **Social Stigma:** Rape victims often face stigma and discrimination from society. This can make victims feel pressured not to report the rape or seek medical help, including abortion services.
2. **Limited Access to Health Services:** Many rape victims do not have access to safe and legal health services for abortion. These limitations can be caused by geographic location, lack of licensed health facilities, and lack of information about reproductive health rights.
3. **Unclear Legal Regulations:** Although there are provisions in the Health Law that allow abortion in certain conditions, including cases of rape, the implementation and understanding of this law are often still limited. There is legal uncertainty that affects the decisions of medical personnel, who may be hesitant to perform abortions in these cases.
4. **Moral and Religious Considerations:** Many people in Indonesia have strong views based on religious norms and morality that oppose abortion. This can cause victims to feel guilty and pressured not to continue with the abortion process, even in conditions that require it.
5. **Lack of Reproductive Health Education:** The low level of reproductive health education in the community leads to ignorance about their rights and available options, including safe and legal abortion services.
6. **Psychological Trauma:** Many rape victims experience deep psychological trauma. The abortion process, if not handled sensitively and with adequate psychological support, can worsen the victim's mental condition.
7. **Economic Difficulty:** The cost of having an abortion, especially at a legal and safe health facility, can be a barrier for many victims, especially those from weak economic backgrounds.
8. **Institutional Violence:** In some cases, there are reports of discriminatory treatment or even violence experienced by victims in hospitals or other health services, which makes them reluctant to seek help. (Sources: <https://findahelpline.com/countries/id/topics/sexual-abuse>; <https://www.cdc.gov/sexual-violence/about/pregnancy-resulting-from-rape.html>)

Based on the introductory description, guided by the legal basis in force in Indonesia, the research question that will be sought in this study is how the legal protection in Indonesia is related to abortion in rape cases. In addition,

this study also wants to find answers to the suitability (synchronization) of the current legal regulations in Indonesia regarding abortion in cases of rape victims. The research method employed in this paper is normative juridical, meaning it is based on theory, rules, and legal systems, as well as existing studies.

Discussion and Research Results The law regulating abortion in Indonesia has existed since 2009, namely in the Health Law number 36 of 2009 (omnibus law Law Number 17 of 2023). However, it still causes problems because it is still not in line with the Criminal Code (KUHP). Government Regulation Number 61 of 2014 concerning Reproduction, as a mandate of Law 36 of 2009, is still relevant to Law Number 17 of 2023 concerning Health, which is new and explained in more detail in Government Regulation (PP) Number 28 of 2024.

The theory that focuses on the importance of law for rape victims is trauma theory. Trauma theory, where trauma is not only an individual event but also has a broad social impact. The theory used in this study as a basic assumption that supports the argument on the importance of law for rape victims is Trauma theory. Trauma theory was introduced by Judith Herman in her famous book "Trauma and Recovery" in 1992, which explains that trauma is not only an individual event but also has a broad social impact. This trauma theory explains how trauma can disrupt a person's sense of control and adaptation to everyday life, as well as how recovery involves reconnecting fragmented memories and restoring social ties. Herman (1992) explains in trauma theory that trauma is understood as an experience that threatens the self, disrupting psychological and social functioning. The recovery process for victims through methods that can increase self-confidence and build strength to rise above the horrific shadows is essential for some people.

### **Criminal Code (KUHP)**

Abortion, or better known in legal terms as *abortus provocatus*, written in Latin, means the termination of pregnancy intentionally or with the intention of oneself or another person. The rules regarding abortion are regulated in the old Criminal Code, article 346, which states, "A woman who intentionally aborts or kills her pregnancy or orders someone else to do so, is threatened with a maximum imprisonment of four years".

Meanwhile, Law Number 1 of 2023 has been issued, even though it will only be in effect for 3 years since it was enacted, namely in 2026. Where there are already exceptions, such as those in article 463, which states;

1. Every woman who has an abortion shall be punished with a maximum imprisonment of 4 years.
2. The provisions as referred to in paragraph (1) do not apply if the woman is a victim of a criminal act of rape or other criminal act of sexual violence that causes a pregnancy whose gestational age does not exceed 14 weeks or has indications of a medical emergency.

If a medical officer performs an abortion due to an indication of a medical emergency, then they are not subject to criminal penalties; likewise, if the woman who undergoes the abortion is a victim of rape, then they are also not subject to criminal penalties. This provision is contained in paragraph (3) of Article 465 of the Law which states that; Doctors, midwives, paramedics, or pharmacists who perform abortions due to indications of a medical emergency or against victims of rape or other sexual violence resulting in pregnancy as referred to in Article 463 paragraph (2), are not subject to criminal penalties. The Health Law provides space for abortion practices under certain conditions. Before the issuance of Law Number 17 of 2023 concerning Health, Law Number 36 of 2009 also contained regulations related to abortion. However, it is not in line with the regulations in the Criminal Code at that time.

Article 60, paragraph 1 of Law Number 17 of 2023 expressly prohibits abortion except with the criteria permitted according to the provisions of the Criminal Code. Meanwhile, abortion permitted in Law Number 1 of 2023 states except as in paragraph 2, namely that the Provisions as referred to in paragraph (1) do not apply if the woman is a victim of a criminal act of rape or other criminal act of sexual violence that causes a pregnancy that is not more than 14 weeks old or has an indication of a medical emergency. Thus, there is a relationship in the regulation of abortion between the Health Law and the Criminal Code/Law Number 1 of 2023. As a criminal sanction for perpetrators of abortion in Law Number 17 of 2023, it is contained in Articles 427 to 429.

This research uses a normative legal method. This normative legal method is a legal research methodology that focuses on the study of written legal norms or rules, such as laws, regulations, official documents, legal literature, and court decisions. Normative legal research uses law as the basis for norms.

Normative descriptive research emphasizes caution in guarding against bias and attempts to maximize reliability (Kothari, 2019). In this study, the rules used are expected to reduce bias and maximize reader reliability. This research uses normative descriptive research, by describing existing phenomena, collecting facts and data, reviewing applicable legal norms, and describing applicable laws and regulations about legal theories and the 4 practices of implementing positive law concerning the problems that have been formulated.

The steps taken in this normative legal research are as follows.

1. **Determination of Objectives and Problem Formulation.** At this stage, the researcher determines what they want to achieve from the research and formulates the problem specifically. This objective serves as the primary guide throughout the research process and helps focus the research and study.
2. **Data Collection through Interviews, Documents, and Observations.** Data is collected using various methods, such as direct interviews, collecting relevant documents, and conducting direct observations of the objects or situations being studied. This system ensures that the data obtained is complete and in-depth.
3. **Data Analysis Thematically or Narratively.** The collected data is analyzed by grouping specific templates or themes (thematic analysis) or by constructing a story based on the data (narrative analysis). The goal is to discover patterns, meanings, and relationships within the data.
4. **Development of Contextual and In-depth Interpretations.** After analysis, interpretations are conducted that focus on the context, deeper meanings, and interpretations of the data relevant to the situation or phenomenon being studied to gain a comprehensive understanding.
5. **Reporting Results Based on Data and Critical Analysis.** Research results are compiled in a report that outlines the main findings, supported by data and critical analysis. This report provides a complete and reliable overview of the research results, including conclusions and recommendations.

## **DISCUSSION**

Delmiati et al. (2023) studied legal protection for abortion for rape victims based on Article 76 of the Health Law. Their study related to legal protection for rape victims who undergo abortion is regulated through Article 76 of Law Number 36 of 2009 concerning Health. This law explains the exceptions to abortion and allows abortion under certain conditions for rape victims. Abortion is permitted under special conditions related to the health of the mother. The findings of Delmiati et al. (2023) are in line with studies conducted by previous researchers who found psychological trauma in rape victims, where psychological trauma due to rape is considered a legitimate reason for having an abortion. The abortions carried out are by the law governing the case, so that victims who have abortions are not punished by Article 75 paragraph (2) of Law Number 36 of 2009 concerning Health. However, the implementation of pre- and post-abortion counseling by Article 37 I22 of Government Regulation Number 61 of 2014 concerning Reproductive Health is an aspect that is needed by women who are victims of rape (Pradana, 2020). In line with the arguments given in Pradana's study (2020), other studies have also found that pregnancy due to rape has been proven to cause mental trauma (Novita, 2023), worsen the victim's mental condition (Dharma, 2022), and experience physical and psychological suffering due to violence from the perpetrator and loss of mental capacity (Lestari et al., 2024). Novita (2023) explains that rape victims are psychologically unable to accept the pregnancy they experience, and of course, this gives rise to the victim's desire to have an abortion.

Research in Indonesia that has conducted studies in the realm of abortion that can be legally permitted for rape victims in certain emergencies, with legal protection for doctors and patients based on Law Number 36 of 2009 concerning Health, has been widely conducted. Yanti (2020), Putri et al. (2022), Ekatama (2019), Fadli (2022), Pradana (2020), Delmiati et al. (2023), and Alfi and Gunarto (2020) are some of the studies that have been conducted on the Health Law of 2009. However, Lestaria et al. (2024) have started a study using abortion regulations in Indonesia in the Criminal Code and the Health Law of 2023. In a study of 6 (six) countries in Asia (namely: Indonesia, Malaysia, Singapore, the Philippines, Japan, and South Korea), Lestaria et al. (2024) found that each country has different laws and regulations regarding abortion.

Previous research has shown that in Indonesia, abortion is generally illegal except to save the mother's life, as regulated by the Criminal Code (KUHP) and health laws. In Malaysia, abortion laws are also limited, permitted only if performed to save the mother's life and subject to specific medical procedures; the regulations are quite strict. Singapore has more liberal regulations, allowing abortion on request up to a certain gestational age, which is legally available at certified clinics. Abortion in the Philippines is based on very strict laws;

abortion is completely prohibited, and violations are subject to criminal penalties, although there is debate and pressure for change. Japan allows abortion under certain conditions, such as medical and social reasons, and it is legally regulated to prevent health or financial risks. South Korea has recently revised its abortion regulations and partially legalized premarital pregnancies, and there are reform efforts to expand access. This research shows that the legal frameworks related to abortion in Asian countries vary widely, ranging from total prohibitions, strict prohibitions with certain exceptions, to more liberal regulations and national legalization. These differences reflect differences in culture, morals, religion, and national policies that impact access to and protection of women's reproductive health rights in each country.

Rape is a criminal act regulated in the Criminal Code. The definition and provisions regarding rape need to be understood as a basis for assessing cases related to abortion. Several provisions permit abortion in the context of rape. In the Health Law, it is stated that abortion can be carried out if the pregnancy endangers the physical and/or mental health of the mother, which can include cases of rape.

Government Regulation Number 61 of 2014 (PP 61/2014) concerning Reproduction explains in detail regarding abortion for rape victims. PP 61 of 2014 is a mandate of the previous health law, namely Law Number 36 of 2009. Chapter IV of the PP explains the indications of medical emergencies and rape as exceptions to the prohibition of abortion, namely from Article 31 to Article 39. As the Criminal Code and Health Law which allow abortion for indications of medical emergencies or victims of rape or other sexual violence crimes that cause pregnancy, then Article 31 paragraph 1 also states the same thing, but in paragraph 2 regarding the gestational age can only be carried out if the gestational age is a maximum of 40 (forty) days calculated from the first day of the last menstruation. This is different from the latest Criminal Code Article 463, which states that the gestational age permitted for abortion is not more than 14 weeks.

In terms of indications of rape, it is explained in Article 34 of PP 61/2014, as follows.

1. Pregnancy due to rape, as referred to in Article 31 paragraph (1) letter b, is a pregnancy resulting from sexual intercourse without the consent of the woman, by the provisions of statutory regulations. Point b explains that in this sexual relationship, the act is carried out without the woman's consent or permission and is included in the category of sexual violence that violates women's human rights. This case is governed by the provisions of national laws and regulations, such as the Criminal Code and the law on the protection of women and sexual violence, which determine the definition and criteria for rape and related criminal acts. The legal implication in this case is that pregnancy resulting from rape is considered the result of a crime and is usually followed by the woman's right to receive protection, medical assistance, and abortion services according to law. In other words, if pregnancy resulting from rape is a direct consequence of a particular criminal act, it is specifically regulated in applicable legal provisions.
2. Pregnancy resulting from rape, as referred to in paragraph (1), is proven by: Gestational age based on the planned incident, as stated in a doctor's certificate. Determination of the planned gestational age of the victim must be based on the results of a medical examination by a doctor, who will provide information regarding the estimated date of conception or gestational age. This doctor's certificate serves as crucial official evidence in legal and administrative proceedings, as it helps establish the timing of the pregnancy and its relationship to the time of the accident.

Statements from investigators, psychologists, and/or other experts regarding the allegations. In addition to medical evidence, opinions and statements from investigators, psychologists, or other experts, such as psychiatrists or forensic experts, are also important in strengthening the suspicion that the incident was a hoax. Investigators provide explanations based on the results of their investigation and the evidence gathered, while psychologists or other experts can assess the victim's psychological condition and evidence of sexual violence experienced, all of which will help strengthen or confirm the victim's mental status and the incident in legal proceedings and case management.

This study aims to highlight the trauma experienced by rape victims. Therefore, several factors must be considered to deepen the trauma experienced by rape victims. One approach is to firmly enforce the law and change society's perspective on victims.

## **CONCLUSION**

Law enforcement in Indonesia regarding abortion in rape cases already has clear regulations, namely Law 1/2023 concerning the Criminal Code (valid for 3 years since it was enacted, namely in 2026), Law 17/2023 concerning health which is further explained in PP 28/2024, also in PP 61/2014 as a mandate of Law Number 36 of 2009 (which is no longer valid with the issuance of Law 17/2023). The legal regulations currently in force in Indonesia regarding abortion in cases of rape victims are relevant to each other; even if there is a discrepancy, it can still be set aside by prioritizing new regulations or *lex posterior derogat lex priori*.

## **SUGGESTION**

Abortion in cases of rape victims is a complex and multidimensional issue. Although existing regulations provide space for abortion under certain conditions, there are still many challenges in their implementation. It is important for the government, stakeholders, and society to work together to create an environment that supports victims. For example, create a warm family environment that supports the victim, so that the victim does not feel like a victim for a long time. Improvements and revisions to regulations regarding abortion, to better support rape victims, and to consider women's reproductive health rights.

## **ACKNOWLEDGEMENT**

This research can be completed thanks to discussions conducted with parties who understand the writing of scientific papers. We would like to thank Prof. Dr. Lindrianasari, who has assisted in the writing of this scientific paper. The support of the Military Law College also encouraged the completion of this work.



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as amended by, Law Number 35 of 2014 concerning Amendments to Law Number 23 concerning Child Protection and amended by Government Regulation instead of Law Number 1 of 2016 concerning Second Amendment to Law Number 23 of 2002 concerning Child Protection which was stipulated as Law with Law Number 17 of 2016.

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Vol. 19, No. 2, 2025, pp. 38-45

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## The Enforcement of Progressive Law in Indonesia: In the Treatment of Terrorist Convict

Submitted 8 Mei 2025, Revised 16 June 2025, Accepted 4 August 2025, Published 26 August 2025

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DOI : <https://doi.org/10.35879/jik.v19i2.657>

### Abstract

The treatment of terrorist inmates at the Nusakambangan Correctional Institution has not been running optimally. The impact is that there are still many terrorist prisoners who do not recognize Pancasila, the unitary state of the Republic of Indonesia, and are unable to reduce their criminal risk. The purpose of his research is to explore the application of Progressive Law in improving the treatment of terrorist inmates in the Nusakambangan Super Maximum Security Correctional Institution (SMAX) in Indonesia. The research method with a Socio-legal approach, by conducting direct research on terrorist inmates in the Nusakambangan SMAX prison, data collection techniques included in-depth interviews and observation of the lives of inmates in the Nusakambangan correctional institution. The results of the analysis show that the implementation of personality treatment for terrorist inmates in SMAX Prison is not carried out in a well-directed manner, in line with the goals of correction. Coaching is only carried out based on the concept that exists in correctional institution officers and community supervisors, at any time presented by Densus 88 Polri and the National Agency for Countering Terrorism. So that the coaching carried out using a progressive legal approach has not been implemented optimally due to the tightening of detention cells, there are no guidance standards, and terrorist prisoners do not follow the guidance properly because they have different understandings of religion from those of the government counselors. It is hoped that the government can pay attention to the model of fostering legal awareness by involving all related elements to the maximum, so that it can increase the awareness of the law of the nation and the state among terrorist prisoners.

**Keywords:** inmate personality, personality treatment, progressive law, terrorist convict

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### INTRODUCTION

Acts of terrorism are among the extraordinary crimes that occur in Indonesia and the world. Acts of terrorism in Indonesia are mostly ideologically motivated. Misinterpretation of religious values has the potential to give birth to radical thinking, and if not prevented, it will result in acts of terrorism. Acts of terror in various countries are not only carried out by adults, but also by children. Acts of terrorism involving women have been carried out by several terrorist groups, such as the Syrian Social Nationalist Party (SSNP), Irish Republican Army (IRA), Boko Haram Group, and Red Brigades (Musfia 2017) (Yumitro et al., 2023). In general, delinquency increases during adolescence, followed by a decline in early adulthood (Skjærvø et al., 2024). In February 2015, three teenage girls from East London fled to Syria and disappeared into international headlines. According to a report in the Daily Mail, the young women Shamima Begum, Kadiza Sultana, and Amira Abase had been "brutally treated online" and "brainwashed in their bedrooms" (Cottee & Cunliffe, 2020).

In Indonesia, many have joined the Islamic State of Iraq and Syria (ISIS) (Jiménez & Lupton, 2021). ISIS is one of the cases being investigated for several reasons, including that the group is a direct descendant of Al-Qaida in Iraq, founded by Al-Zarqawi, which is a sectarian terrorism group to spur Sunni mobilization (e.g., Haykel, 2016; Weiss & Hassan, 2016) (Polo & González, 2020). Many members of Jamaah Islamiyyah in Indonesia, ansyari congregations, are studying the concept and doctrine of ISIS. ISIS is one of the terrorist groups that has received wide attention in the treatment of the dynamics of the current treatment of terror. ISIS aims to establish an Islamic Caliphate in the world (Rahmanto et al., 2020). The views of terrorist prisoners in correctional institutions are also the same as ISIS's thinking, namely, establishing an Islamic state centered in Syria. Such as in European countries in the fight against ISIS (Islamic State of Iraq), and the immigrant crisis (Avraham, 2021) (Dogru-Dastan & Tütüncü, 2024). Terrorist acts are jihadists (Cottee & Cunliffe, 2020), so they are not afraid of death.

Acts of terrorism are extraordinary crimes. Crimes involving people who have been specifically taught that suicide bombings are jihad for the perpetrators. Like an Iraq extremist-affiliated suicide bomber who carried out an attack on a shopping mall in Stockholm while Round 5 of the ESS was on the ground (Peri et al., 2023). The same as terrorist thinking in Indonesia, that suicide bombings are a Jihad to defend Allah's Religion. In fact, in times of peace, suicide bombing is haram and a major sin (Farid Azizullah dan Muhammad Alfajry, 2023). Then, since 2018, there have been as many suicide bombings as there have been in Indonesia, six in the Philippines and Malaysia in the second decade of the 21st century, and more than 500 suspects have been arrested (Subandi et al., 2023). This terrorist war is also a civil war (Polo & González, 2020) because the one who was bombed was his brother, who was in the country. Terrorism occurs a lot in the context of civil war; the proof is that at least 50% of global terrorist attacks are related to civil war (Findley & Young, 2012; Polo & Gleditsch, 2016; Stanton, 2013) (Polo & González, 2020). In addition to the danger of human death, suicide bombings are also dangerous, in particular, increasing business bankruptcies in developing and fragile countries (Dai, Eden, & Beamish, 2017; Tingbani, Okafor, Tauringana, & Zalata, 2019). Conditions like this require the presence of the state to provide understanding, thought, and strengthen the importance of citizens' understanding of the country by providing national insight, national history as part of a shared living space that must be maintained.

The international world is always shocked by the acts of terror that occur in various countries. From 2001 to 2024, there have been many acts of terror (Qu et al., 2024) that have occurred. Terrorist acts of September 21, 2001, by Al Qaeda. Bali bombs in two tourist areas on Indonesia's tourist Islands have killed at least 26 people, including foreign nationals, and three others (Liputan6, 2021). Then from 2008 to 2020, there were 367 cases of terrorism, 1,325 people were arrested, 123 people were sentenced to death, 819 people were serving sentences in correctional institutions, and 196 people were free for the sake of the law. Of all the perpetrators of terrorism, 104 former terrorism inmates are not deterred and then take action again after being released from the penitentiary (Jerry & Aji, 2019; Subagyo, 2021).

The perpetrator of this terrorism was arrested and detained, put in prison (Pakes, 2023) to serve a criminal term in a penitentiary. Many of these terrorist inmates (Carthy & Schuurman, 2024) do not follow the coaching, and the impact is that the inmates do not get basic rights, including maximum coaching in the correctional institution. Rights that are not provided, such as the right to maximum guidance, because these factors weaken the ethical performance of the government, and their commitment to guaranteeing the rehabilitation function of prisons and respect for the human rights of prisoners (Coretti et al., 2023).

Coaching carried out in Correctional Institutions in Indonesia has been categorized with the regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 35 of 2018. That correctional institutions are classified into 4 classifications, namely Super Maximum Security Correctional Institutions (SMAX), Maximum Security Correctional Institution (MAX), Medium Security Correctional Institution (MED), and Minimum Security Correctional Institution (MS) (Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 35 of 2018 Concerning Correctional Revitalization, 2018). With this classification, it has an impact on the difference in coaching in each existing Correctional Institution. Loose coaching is carried out in the MS Correctional Institution. Coaching in the environment in the Correctional Institution is carried out in the MED Correctional Institution, coaching in the cell room at the

MAX Correctional Institution, and very little coaching does not even receive coaching treatment following the correctional regulations at the SMAX Correctional Institution.

Previous research has shown that the risk of placing terrorist inmates in correctional institutions that are not specifically designed for terrorists can incite and even find time to fight against what does not follow their ideology, and coaching cannot be carried out optimally (Permata & Wibowo, 2021). Then the next research is that this deradicalization process has not been maximized, so it takes extra hard efforts by all stakeholders involved and the community to work together in Countering and Preventing Terrorism in Indonesia (Kamaludin, 2021). Other research shows that the deradicalization of terrorist prisoners is not optimal due to the factors of facilities and infrastructure, the small number of officers, the lack of cooperation with stakeholders, and the unwillingness to change from terrorist prisoners to the cause or obstacle of deradicalization efforts (Febriyansah et al., 2017). The next research is that the implementation of individual treatment through religious awareness treatment programs, national and state awareness treatment, legal awareness treatment, and psychological counseling has not been optimal due to a lack of human resources, inadequate facilities, and infrastructure. Based on the four results of the above research, it shows that there has not been the implementation of proper coaching in fostering terrorist prisoners in Indonesia.

When terrorist prisoners are placed in general correctional institutions without special rehabilitation programs, there is a high risk of radicalization spreading to other prisoners. In addition, ideological resistance can make rehabilitation efforts ineffective because these people may reject guidance that is contrary to their beliefs. This will happen to terrorist prisoners who are placed in groups. But in prisons where one man is placed in one cell, it is rather difficult to happen because there is no close interaction between prisoners. A more targeted approach, such as specialized correctional facilities, structured deradicalization programs, and continuous monitoring by trained professionals, could improve rehabilitation outcomes. Strengthening collaborations between correctional institutions, psychologists, religious scholars, and law enforcement could also create more effective strategies to address extremist ideologies. The next research is that the implementation of individual treatment through religious awareness treatment programs, national and state awareness treatment, legal awareness treatment, and psychological counseling has not been optimal due to a lack of human resources, inadequate facilities, and infrastructure. Based on the four results of the above research, it shows that there has not been the implementation of proper coaching in fostering terrorist prisoners in Indonesia.

Coaching at SMAX Correctional Institution is very contrary to the purpose of correctional services, to carry out personality treatment and independence for each inmate. Life in an open prison is marked by happiness (Pakes, 2023). The placement of inmates in one cell violates the inmates' safety. In Denmark, as the lack of cells in prisons becomes more overcrowded, foreign prisoners who can be deported as a danger to the sustainability of the welfare state follow suit (Abellan-almenara, 2024). But in Indonesia, the placement of high-risk inmates is carried out specifically with one person per room, as long as it does not reduce the risk of the crime they commit. The requirements for receiving coaching for inmates in the SMAX Correctional Institution must reduce the risk of crimes committed by realizing their mistakes, recognizing the unitary state of the Republic of Indonesia, and recognizing Pancasila as a state ideology that must be respected and upheld. Then the need for the support of others, such as the availability of social support, is also significant (Hobbs, 2000; Mukasheva et al., 2024). If terrorist convicts are not aware of this, then until you finish serving your sentence, you will not get proper coaching in the Correctional Institution. Rehabilitation and reintegration are also not maximized, creating a safe environment, meeting individual needs for skills treatment, and transition support back into society is essential (Mukasheva et al., 2024). Then the treatment of legal awareness to return to the community properly cannot be done optimally. The purpose of penal punishment is the reintegration into society of the convicted person, which is the modern legal view of punishment (Coretti et al., 2023). This research aims to explore how the Application of Progressive Law improves the treatment of terrorist inmates in the SMAX Nusakambangan Correctional Institution in Indonesia.

This research uses a Socio-legal approach. The Socio-legal approach emphasizes looking at the social symptoms that occur. Social and legal studies can be researched using socio-legal studies (Dizon, 2024). The social phenomenon in question is the principles and thoughts of terrorist prisoners related to the implementation of criminal punishment. Correctional institutions not only serve as punishment for crimes but also effectively serve as detention for deportation (Pakes, 2023). This socio-legal approach provides symbolic meanings for social actors as seen in the interactions between them. Then, from a socio-legal perspective, to



establish effective laws and regulations and other necessary measures (Carballo Pineiro & Kitada, 2020). According to the Statement of Principles of Ethical Research Practice from Socio-Legal Studies Association's (SLSA), "Socio-legal studies encompass disciplines and subjects related to law as a social institution, with the social impact of law, legal processes, institutions and services and with the influence of social, political and economic factors on law and legal institutions" (Dizon, 2024).

This research was conducted to find the meaning contained in the views, attitudes, behaviors, and ideologies embraced by prisoners in correctional institutions. The author wants to know the views of terrorist inmates related to the application of coaching in correctional institutions. In addition, it is also possible to see regulations related to the regulation of terrorist inmate coaching and coaching in general. The Socio-legal approach also seeks and conducts in-depth interviews with terrorist inmates until they find the goals they want to achieve, the officers in the correctional institution for the implementation of effective coaching, or are not carried out in the SMAX correctional institution. Data Interviews were conducted in December 2022 and January 2023 at two Nusa Kambangan Correctional Institutions, the Supermaximum Security Class I Besi Correctional Institution and the Class IIA Supermaximum Security Correctional Institution Karang Anyar Nusa Kambangan. Data was collected by conducting in-depth interviews with 4 terrorist prisoners at 2 correctional institutions, 1 Community Guidance Officer, 1 Densus 88 Police Officer who handles the treatment of terrorist prisoners at 2 Nusakambangan Correctional Institutions, 1 Correctional Institution Guard who handles terrorist prisoners, and terrorist prisoners at the Nusakambangan Correctional Institution.

## DISCUSSION

### The Concept of Progressive Law in the Context of Terrorism

*The law is not rigid, but adaptive to the social context of society*

Law is not for law but law for humans, which is the basis for progressive legal views (Satjipto Rahardjo). Law is a tool to achieve social justice and the protection of human rights. Therefore, the law should not be rigid or absolute, but must be able to adapt to the dynamics of the development of the times and social reality in Indonesia. In the context of terrorism, that:

- a. Law enforcement is not enough to just punish, but must also look at the roots of social, economic, and psychological problems that cause someone to be involved in terrorism. The cause of terrorism is not caused by one factor alone, but many factors that must be considered, so many experts need to conduct in-depth studies of the root of the problem. Thus, the law is not the only tool to punish, but in other ways can help terrorist prisoners to return to living normally as good citizens.
- b. Law must function as a tool for social change, including preventing the cycle of violence and improving the system of reintegration of former perpetrators into society. When law is viewed in a social context, it can help people to be better. Law must be able to create people who are better than before.

### *Prioritizing Recovery, Not Just Retaliation*

One of the main characteristics of progressive law is prioritizing substantive justice and restoration, compared to the traditional approach that only focuses on punishment (retributive justice). In cases of terrorism, progressive law focuses not only on imposing severe penalties (death penalty, life imprisonment), but also on restoring the relationship between the perpetrator, the victim, and the community. Implementing through psychosocial rehabilitation programs, counseling, ideological education, and social reintegration for repentant perpetrators. The main goal is so that the perpetrator does not repeat his actions, and can return to being a constructive member of society.

### Law Enforcement Practices against Terrorists in Indonesia

*The judicial process is predominantly repressive.*

Law enforcement against terrorists in Indonesia is generally still based on a repressive approach (harsh action and severe punishment). The punishment given is more of a prison sentence approach. This can be seen in the perpetrators who were given prison sentences. As happened in the cases of Fauzi and Fauzan in the Class I Cipinang Prison and Zaenudin in the Class IIA Narcotics Prison Gunung Sindur, the dominant repressive application process can also be shown by: The legal instrument used in the criminal justice of terrorism is Law Number 5 of 2018 concerning the Eradication of Criminal Acts of Terrorism which gives great authority to the security forces to arrest, detain, and process the law of terrorists. The definition of a terrorist does not match the conditions at the time of the process. In its definition, it is said that a terrorist threatens the integrity

of the state, carries out actions, or damages public places, but cases such as Fauzi, Fauzan, and Zaenudin are not like the definition of a terrorist, but are rightly processed until they are convicted.

#### *Treatment of Terrorist Convicts in Nusakambangan*

This research was conducted in two SMAX Correctional Institutions, namely SMAX Correctional Institution Class I Batu Nusakambangan and SMAX Correctional Institution Class IIA Karang Anyar Nusakambangan. In these two correctional institutions, the Correctional Revitalization Regulation is implemented with the classification of Correctional institutions with the classification of SMAX. These two correctional institutions are very strict, so the coaching activities are very minimal, including listening to the national anthem every morning and evening. In addition, coaching is carried out occasionally without a special schedule by presenting members of the Special Detachment 88 of the National Police of the Republic of Indonesia and bringing scholars or former terrorist prisoners to conduct counter-narratives and Islamic debates with terrorist prisoners in it based on the findings with such coaching conditions, terrorist prisoners who are aware of the law, recognize the unitary state of the Republic of Indonesia and the ideology of Pancasila very few. In 2022, the coaching by Densus 88 Polri in the two Correctional Institutions had a total of 45 terrorist inmates; there are only 11 people, or 24.44% who are conscious, can be deradicalized, and can be sent to the MAX Correctional Institution for further guidance. Meanwhile, 34 people or 75.55% remain in the SMAX Correctional Institution as long as they do not change their level of consciousness until the end of their sentence. To find out the change in consciousness, the correctional supervisor at the correctional center in Nusakambangan conducts an assessment every three months and is visited by Densus 88 Polri occasionally in the correctional institution.

The form of treatment of terrorist inmates in the SMAX Correctional Institution is very different from the treatment of inmates in other Correctional Institutions. Terrorist prisoners are placed in one person per cell and are not allowed to interact with each other. Human social interaction and behavioral aspects in individuals and societies have the potential to benefit a large portion of the population while potentially depriving them of population rights or developing economies with less access to the necessary tools and means (Brown et al., 2024). When met by officers to feed and coach, officers use high security equipment such as wearing thick vests, covering their faces and heads, and must not come into contact with inmates. This shows that the pattern of treatment given to terrorist inmates, such as the form of securing the prison system, does not use a correctional system that prioritizes humane treatment, providing their rights without limiting the treatment of rights obtained by inmates during their sentences. This shows that there are still main avenues of innovation in violations and victimization in prisons (van Ginneken & Wooldredge, 2024).

In this study, in-depth interviews were conducted with 4 (four) terrorist inmates at the two institutions. At the Class I SMAX Correctional Institution Batu Nusakambangan, conducted interviews with inmates with the initials SY and WH, while at the SMAX Class II Correctional Institution Karang Anyar Nusakambangan, conducted interviews with inmates with the initials ABR and AR. These four terrorist inmates are ideologue inmates who can mobilize others to become radicals and terrorists. The first terrorist inmate, with the initials SY, who came from Medan, had the principle that the state must be led by a caliph who came from Muslims and would not submit to an obedient state, and the rules used were made by humans who were considered thugs. SY inmates will not pledge to recognize Pancasila as the state ideology. If this is done, it has entered kafir in its understanding. This SY terrorist prisoner is religious and radical in the principles that are believed in and still follows the da'wah carried out by his terrorist community.

The second terrorist inmate, with the initials WH from Bima, West Nusa Tenggara, West Indonesia, controls the network under the Ansyori Daulah Network (ADN). These terrorist inmates are in the militant category because they can move others in the organization. His religious understanding is still lacking, but because of his very strong doctrine, it will not lower his level of awareness that he wants to create an Islamic state under the leadership of caliphs who come from Syam and Syria. This inmate has gathered a network of 300 people throughout Indonesia to carry out amaliyah, which is to carry out suicide bombings in every region and place they are going to. Initially, this inmate was only armed with learning from social media, meeting radical people, and gathering to carry out actions. These prisoners will not reduce the risk and are aware of the state and the ideology of Pancasila because they consider Pancasila not the foundation of religion that must be obeyed, and do not need to obey leaders who submit to Pancasila as the state ideology.

The third terrorist inmate with the initials ABR, who is in the category of ideologues, can influence others to follow his thoughts and beliefs. ABR initially had ideas from Jamaah Islamiyyah (JI) from Surabaya and studied at the Abu Bakar Islamic Boarding School and established its own Islamic Boarding School in the West Nusa Tenggara region of Indonesia. ABR explained that in his time to become a member of Jamaah Islamiyyah must be strictly selected, undergo two years of boarding school education, then take an organizational entrance test to determine whether it is feasible to join JI or not, after joining JI the members will be equipped with guidelines to achieve the main goal, namely upholding Islamic Sharia in Indonesia. Currently, ABR views that the State of Indonesia is an infidel country, this is assessed based on the Ijtihad of nadjed scholars that when a country implements Islamic sharia but the society is a Muslim minority, the country is an Islamic state (Daarul Islam), on the other hand, if a country does not apply Islamic sharia even though the majority of the people are Muslims, then the status of the country is an infidel state (Daarul Kufri). This strengthens ABR's thinking that the State of Indonesia is an infidel country that will not submit to its leaders and country before upholding Islamic law in the state of Indonesia.

The fourth terrorist inmate with the initials AR is a prisoner who has a strong ideologue category because he can influence and has worshippers who faithfully follow his teachings. AR is a terrorist inmate who was part of suicide bombings in several places, such as suicide bombings in Kampung Melayu, Sarinah Thamrin bombing, Samarinda Church bombing, North Sumatra Regional Police Headquarters attack, and attack on police in Bima, West Nusa Tenggara. The series of incidents of unrest at the Kelapa Dua Detention Center, the suicide bombing in Surabaya, the Sidoarjo bombing, and the attack on personnel at the Riau Police Headquarters in early May 2022 have soared the news rating about the atrocities of the AR figure. AR was born into a non-fanatical Muslim family with an undergraduate education. In his current thinking, he learns from life and his support group, which originated from JAD, and is the author of books about jihad. AR is a terrorist prisoner in the ideologue category who can influence others to follow his thoughts, so it is said to be very dangerous when meeting other people. So with his thoughts, a lot of people have been trapped, and AR has been arrested many times since 2004 in the Ambon case, and for the actions he has taken, he has moved from outside the Nusakambangan prison to several correctional institutions until now. AR was re-arrested with the case of Thamrin being sentenced to death and just awaiting execution by the prosecutor's office. If noticed the results of the interview with AR, that the power of his thinking about jihad is very strong. To re-recognize the unitary state of the Republic of Indonesia is very difficult with the power of its thinking and the joining of AR with the way of thinking of ISIS. ISIS considers that a country that does not have Islamic law is considered an infidel and should not be subject to that state.

#### *Implementation of Progressive Law in Prisoner Treatment in Indonesia*

Progressive law is a legal concept that is not confined to the concept of legal text alone, but also pays attention to the sense of justice that lives in society (Aulia, 2018). In Indonesia, the Progressive law emerged around 2002 with its initiator, Satjipto Rahardjo. Progressive law is a legal perspective that sees law as a means to serve humans. The law exists for humans, not the other way around. Satjipto Rahardjo said: "When there is a problem in the law, it is the law that must be reviewed and improved, not humans who are forced to enter the legal scheme" (Faisal, 2023). According to Satjipto Rahardjo (2007), he then initiated progressive law, a breakthrough to break the law, which was dominated by a formal-legalistic regime. The breakthrough made by Satjipto is to reverse the philosophical assumption of the purpose of law, which originally tended to be "law for law" to "law for man". Man, here is a symbol or symbol for the underlying views, concerns, or legal tendencies to guide and serve society.

To be able to see the importance of progressive law, it is necessary to first explain the three basic values of legal objectives. According to Gustav Radbruch, in terms of legal objectives, three basic values become the *idee des recht*, namely: justice (*gerechtigkeits*), legal certainty (*rechtssicherheit*), and benefits (*zweckmassigkeit*). (Disyon et al., 2023). Some believe justice is the most important objective of the three legal objectives. Gustav Radbruch's opinion is that the conflict between justice and legal certainty is unsolvable, so only conditional priority is allowed. Then these conditional priorities operate to support legal certainty, and the primacy of legal certainty is revoked when injustice becomes unbearable (Disyon et al., 2023). In the implementation of progressive law, it approaches the theory of the Legal System from Lawrence M. Friedman that there are three components of the legal system in the implementation or application of law, namely, substance of the law, structure of law, and legal culture (Disyon et al., 2023).

### *Terrorist Inmate Coaching at SMAX Correctional Institution*

The coaching program leads to two models, namely personality treatment and independence treatment. Fostering independence is aimed at training and equipping terrorism prisoners, sympathizers of terrorism movements, and former terrorism prisoners so that they can get out of the radical ideological network with the ability to support themselves. The independence coaching provided is in the form of work skills and expertise to be able to secure jobs. Meanwhile, personality treatment aims to improve self-esteem, improve spirituality, and provide spiritual mental coaching.

Progressive law in the treatment of terrorist inmates through the theoretical approach of Lawrence M. Friedman, legal substance by paying attention to the main purpose of placing terrorist prisoners in correctional institutions Classification with the implementation of Permenkumham 35 of 2018 is to reduce risks as explained in Article 8 paragraph (1) Revitalization of Prisoner Treatment as referred to in Article 3 letter b, carried out to improve the quality of the function of Prisoner Treatment in encouraging Behavioral changes and decreased risk levels. Sometimes the risk level is low or moderate (Seabra et al., 2020). In paragraph (2), the Revitalization of Prisoner Treatment as intended in paragraph (1) is held in: a. Super Maximum Security Prison; b. Maximum Security Prison; c. Medium Security Prison; or d. Minimum Security Prison. This condition occurred in the Classification Prison after the existence of the Indonesian Law and Human Rights Regulation 35/2018 (Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 35 of 2018 Concerning Correctional Revitalization, 2018).

To be able to create a legal structure, in the treatment of terrorist prisoners, fostered in correctional institutions, to strengthen and increase awareness of the nation and state. The limitations of correctional institutions in fostering terrorist inmates are a burden for correctional institutions, as they are not able to provide maximum guidance. To realize the goal of coaching by the mandate of Law number 22 of 2022 concerning Corrections, the treatment of terrorist prisoners requires stakeholders to synergize with each other in improving the quality of coaching so that it can realize coaching that makes terrorist prisoners aware of recognizing the ideology of Pancasila and the 1945 constitution, which is the country's constitution.

If the reduction of the risk level cannot be implemented, then terrorist prisoners remain in the SMAX Correctional Institution. The provision of coaching at the SMAX Correctional Institution is very minimal, and even the guidance is limited to listening to the national anthem and occasionally bringing in the ustad to give religious lectures in the Correctional Institution. Including coaching is carried out with Densus 88 Polri and the National Counterterrorism Agency. So, the coaching program implemented at the SMAX Correctional Institution does not have a special coaching program for coaching and reducing the risk level for terrorist prisoners. In Article 9, the SMAX Correctional Institution, as referred to in Article 8, paragraph (2), letter (a), runs a coaching program for high-risk inmates to encourage behavior change and reduce the risk level. Article 10, paragraph (1) High-risk inmates as referred to in Article 9 are convicts who meet the following categories: a. endangering state security; and/or b. endanger public safety (Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 35 of 2018 Concerning Correctional Revitalization, 2018). In paragraph (2), each inmate referred to in paragraph (1) is placed in one residential room. This includes terrorist inmates who are in SMAX Prison.

The implementation of One Man One Cell aims to make it easier to communicate and interact so that they can influence and indoctrinate each other. Monitoring by officers is also not in direct contact, but with protective equipment, so that it is not easy to carry out doctrine by terrorist inmates while supervising their duty activities. So that the form of supervision is very strict, and coaching is sometimes ignored. In Article 11, paragraph (1), the provision of the inmate coaching program and the assessment time for changes in attitudes and behaviors of high-risk inmates in the SMAX Correctional Institution, as referred to in Article 10, is carried out based on the results of community research and the recommendations of the Correctional Observer Team session. The results of Community Research are carried out by community supervisors in coordination with the Correctional Guardian. In paragraph (2), the Prisoner Treatment Program, as intended in paragraph (1), includes: a. fostering religious awareness; b. fostering national and state awareness; c. fostering legal awareness; and d. psychological counseling. In paragraph (3), the implementation of the Prisoner Treatment program, as referred to in paragraph (2), is carried out using the method of individual separation to find out the concept of self-awareness of high-risk behavior in order to protect the community from bad influences (Krisnawati, 2021). Community supervisors and correctional guardians are very influential in assessing the



risk level of terrorist inmates to be categorized as low-risk and can be placed in the MAX Prison, and can participate in better coaching programs at the MAX Correctional Institution.

In Article 12, paragraph (1), the attitude and behavior of high-risk inmates, as referred to in Article 11, are observed and recorded by the Correctional Guardian in the daily report on the attitude and behavior of the inmate. In paragraph (2), the daily report on the attitude and behavior of inmates as referred to in paragraph (1) is used as a source of data for community supervisors in conducting assessments and preparing community research. In paragraph (3) If the results of community assessment and research as referred to in paragraph (2) show changes in attitudes and behaviors and a decrease in the level of risk by the indicators of successful coaching, the inmates are transferred to the MAX Correctional Institution (Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 35 of 2018 Concerning Correctional Revitalization, 2018).

If during the coaching period, terrorist inmates show that they are at risk again and endangering public safety (Qu et al., 2024), as explained in Article 25 paragraph (1) if based on the results of the prisoner's assessment and research shows a change in attitude and risky behavior, then the prisoner can be returned and transferred to a required institution by the results of the assessment and correctional research. In paragraph (2), the return and transfer of prisoners as referred to in paragraph (1) is carried out based on the recommendation of the correctional observer team. In Article 27, paragraph (2), inmates in the category of endangering state security and/or public safety who are placed in SMAX Correctional Institution are not given the right to remission, assimilation, leave to visit family, parole, leave before release, or conditional leave. So it can be said that prisoners who are in the SMAX Correctional Institution do not get any rights to the above as long as they do not pose a risk and are transferred to the MAX Correctional Institution.

The legal culture is also the central point in the treatment of terrorist prisoners. The behavior and desires of officers and stakeholders must be strengthened so that they have the same perception to realize the treatment of terrorist prisoners who are aware of the nation and state. Correctional wards and community supervisors in correctional facilities must pay close attention to coaching and assessment. Other stakeholders, such as Densus 88 Polri, the National Agency for Countering Terrorism, the Ministry of Religion, and other stakeholders, must also be maximally involved in improving the quality of coaching in correctional institutions. A legal culture that is equally committed to improving the treatment of terrorist prisoners for the better must grow from every stakeholder in coaching.

Based on the views and regulations above, according to the theory of progressive law, the law for human beings is not the law for the law. Prisoner coaching does not only look at the regulations, but the law that sees justice from the human side is not only written in the rules. The emergence of such thoughts and conditions must be expressed in a condition in society. Terrorist prisoners who refused to recognize the Unitary State of the Republic of Indonesia for reasons relevant to their thinking that the condition of the state that was considered thogut was certainly not accepted by prisoners who opposed their ideas about the state and religion. In his view, religion as the source of every legal instrument must be used properly and outlined in a regulation. So this contradictory thinking gives different meanings to the state and terrorist prisoners. With such conditions, the responsive law must look at social conditions, not only at existing regulations.

Good laws must be competent and also fair. Such a law should be able to recognize the will of the public and have a commitment to the achievement of substantive justice. The treatment of regulations to revitalize the implementation of correctional institutions so that the current categorization of correctional institutions does not provide and refer to the direction and goals of corrections that look at coaching for every inmate in the correctional institution. Coaching can also be said to provide education and life provisions for inmates. The need for coaching is also carried out by involving the world of education to reduce the level of radicalization among terrorist prisoners. Some view and observe that many individuals who radicalize and engage in violent extremism will, at some point in their lives, interact with educational institutions (Christodoulou & Szak'acs, 2018; Carthy & Schuurman, 2024). Many have done previous research with different approaches. The aim is to reduce radicalization by increasing coaching for terrorist prisoners.

One of the special conditions that is not obtained from terrorist prisoners, for example, does not reduce the risk by not recognizing the Unitary State of the Republic of Indonesia, then the impact will be in the SMAX



penitentiary until the completion of the criminal term. This shows the state's failure to reduce the risk and allow terrorist prisoners to remain free in society with their radical thinking. The state should have better coaching goals and directions so that these terrorist inmates do not stick to their thinking by making coaching that prioritizes their people, not prioritizing security, which reduces the coaching goals that are to be achieved in correctional institutions.

The law for humans, not the law that will further punish convicts to get sick, suffer more and more, and the state increasingly shows its power to hurt convicts so that they suffer more in SMAX correctional institutions, because they do not reduce the risk of convicts. With the direction of the correctional goals initiated by Sahardjo and Law 22/2022, it has not succeeded in convincing terrorist prisoners to return to becoming law-conscious human beings, recognizing the Unitary State of the Republic of Indonesia, the constitution and Pancasila which are made based on religious guidance (Law Number 22 of 2022 Concerning Correctional Services, 2022). Thus, the benefits of the law have not been maximized in increasing the treatment of terrorist prisoners.

The state must be able to explore the law in the living environment of terrorist prisoners, not impose existing laws so that the more convicts are punished, the more they suffer. Law enforcement officials who arrest, investigate, uncover cases, and others must also see and interpret the terrorism law comprehensively (Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 35 of 2018 Concerning the Implementation of Correctional Revitalization, 2018). Regulations must also interpret which are categorized as terrorists who must be arrested, detained, investigated, prosecuted, and decided in a court by considering the elements of their actions, so as not to arrest someone because it is limited only to their thoughts, but must be based on their actions. The definition and meaning of terrorism laws must also be corrected so that everyone is not treated based on power, but on the basis of the deeds committed. So there is a need for legal certainty in carrying out good coaching for terrorist inmates.

*Robert B. Seidman's Theory of Action Approach and Progressive Law in the Treatment of Terrorist Prisoners*  
Robert B. Seidman's theory is that any action that will be taken by the role holder should be contributive, the rule enforcement and sanctioning policies (van Ginneken & Wooldredge, 2024), and resuscitate terrorist inmates after serving their sentences. Role holders such as the legislature must make laws that can sensitize and strengthen coaching for prisoners, not ensnare them with severe punishments, and have the effect of resistance and revenge on terrorist prisoners. So the holder of this role must be able to make a regulation that can improve the treatment of terrorist prisoners and the awareness of terrorist prisoners about their way of thinking. Then, the implementing institutions and lawmakers are always within the scope of the complexity of social, cultural, economic, and political forces, and so on. In making laws, it is necessary to receive input from former terrorist prisoners who are aware of the situation to ensure proper guidance for terrorist prisoners who are still in the strong category with the ideology they believe in. Because regulations that provide a basic understanding can be implemented in the implementation of coaching, it will make it easier for the executive as the implementer of the law to make guidelines for the implementation of coaching for terrorist inmates. Social, cultural, economic, and political forces, and so on, must be included to know the results of the regulations and coaching for terrorist prisoners can be implemented in the lives of terrorist prisoners in correctional institutions.

All social forces always work in every effort to enforce the applicable regulations, apply their sanctions, and in all the activities of their implementing institutions. The existence of social forces that are part of the coaching process and apply sanctions in the event of violations in its implementation. In the goal of corrections, the task of coaching must be a collaboration of 3 (three) components, namely correctional officers, the community, and inmates. So, the task of the community is in the social category, which will be involved in the rehabilitation activities of terrorist prisoners while serving their sentences. The correctional institution must involve the community to facilitate the process of coaching and supervising whether these terrorist inmates are aware or not during the coaching period in the correctional institution.

Progressive law places the presence of law in close relation to humans and society (law for humans), not looking at law solely from the lens of punishment itself (law for law). In this sense, the main purpose of law, according to progressive law, is to bring justice and benefit to human beings. Law is a means for justice and creates benefits for human beings to obtain happiness. Through this priority, progressive law encourages the

community of legal workers to make breakthroughs and reforms in the practice of law. The law is not seen as a final scheme or something that has been completed; it needs to be implemented (legal certainty), but is open to change (law process) to bring justice and real benefits to human beings (justice seekers/judicial).

To be able to realize a progressive law, it is necessary to amend Permenkumham 35 of 2018 by emphasizing coaching with a progressive legal theory approach by attaching importance to improvement and guidance to terrorist prisoners rather than strengthening security which emphasizes more on state retaliation for the actions committed by terrorist prisoners if they cannot reduce the risks that exist in their thinking. By further tightening the conditions of terrorist prisoners in individual cells for many years, it prolongs their thinking and concept of the state's inability to rehabilitate terrorist prisoners in SMAX correctional institutions.

### **Comparison of Terrorist Program Rehabilitation with Other Countries**

The two countries that are used as comparisons in implementing training programs for terrorists and terrorist prisoners are Saudi Arabia and Malaysia. Saudi deradicalization programs began in 2004, when the Interior Ministry responded to a series of domestic terrorist incidents by transforming its counterterrorism strategy, taking steps to balance traditional security efforts with techniques that address ideological sources of violent extremism. One critical component of this new approach was the rehabilitation of extremists in prison through religious reeducation and psychological counseling. Over time, the Saudi rehabilitation program grew in scope and prestige as graduates appeared to reintegrate successfully into society. Since its inception, about four thousand Ministry of Interior prisoners have participated in a six-week rehabilitation course, counseling sessions, and an after-care program that helps reintegrate them into Saudi society. The initiative is overseen by committees of clerics, psychologists, and security officers who handle religious, psycho-social, security, and media-related programming (Brief & Porges, 2010).

In the efforts to combat terrorism, the Malaysian government is using Countering Violent Extremism (CVE) as a theoretical framework in its implementation. CVE is an approach that is often used today by most countries in the world in efforts to combat terrorism. The CVE approach was initially formed due to the ineffectiveness of the military approach taken by the United States military in efforts to combat terrorism. To prevent the emergence of extremist actions before they appear in a region, community, or individual. In the efforts to combat terrorism, the Malaysian government is using Countering Violent Extremism (CVE) as a theoretical framework in its implementation. CVE is an approach that is often used today by most countries in the world in efforts to combat terrorism. The CVE approach was initially formed due to the ineffectiveness of the military approach taken by the United States military in efforts to combat terrorism. To prevent the emergence, the concept also strongly avoids military involvement in counter-terrorism. The CVE concept is used in an effort to prevent the radicalization process originating from its center. The CVE approach has two ways, each of which has different characteristics. The two ways of the CVE approach are: First, Disengagement A subtle approach to handling terrorism where individuals from a terrorist organization are invited not to use and participate in violent actions that lead to support for acts of terror by extremist organizations, and second, Deradicalization A preventive action in counter-terrorism efforts where there is the use of strategies to neutralize ideologies that are considered radical and can be dangerous by using a non-violent approach. The non-violent approach is interdisciplinary, meaning the use of religious, psychological, educational, socio-cultural, and other aspects. Extremist actions before they appear in a region, community, or individual (Berger, 2016; Mujib et al., 2022).

### **CONCLUSION**

Based on the results of the above analysis, it can be concluded that: the coaching of terrorist inmates in SMAX correctional institutions has not been implemented optimally because of the tightening of correctional institutions by implementing one room and one cell, restrictions on interaction between inmates and officers, limited coaching carried out only limited to listening to the national anthem every morning and evening and coaching by other parties without being specifically scheduled. The application of progressive law should be carried out in SMAX Correctional Institutions so that they can apply the law by paying attention to its justice, usefulness, and legal certainty for terrorist prisoners. The law applies not only to the applicable law, but also pays attention to prisoners who carry out their crimes in order to ensure proper guidance in increasing legal awareness with a progressive legal approach. The treatment of terrorist prisoners must look at the legal structure by improving existing regulations, the legal structure by coordinating with each stakeholder to participate in the treatment, and the legal culture by improving the goals of all stakeholders that the guidance

to improve the quality of awareness, recognition of Pancasila and the unitary state of the Republic of Indonesia can be realized to the maximum. This research still has shortcomings, so further research is needed to see the coaching of terrorist inmates from other aspects of science.

### **SUGGESTION**

For a more effective approach, policymakers could consider:

1. Adjusting Security Levels Based on Rehabilitation Progress – Implementing phased security reductions for inmates who demonstrate positive behavioral changes.
2. Enhancing Psychological & Educational Programs – Allowing greater access to deradicalization initiatives without compromising institutional safety.
3. Involving Multiple Stakeholders – Strengthening cooperation between correctional officers, psychologists, religious leaders, and community organizations to create a comprehensive support system.
4. Reviewing Policies at the Ministry Level – Regular assessments by the Ministry of Immigration and Corrections to ensure that security measures align with rehabilitation goals.
5. Optimizing policies in these areas could improve reintegration efforts while maintaining necessary security standards.

### **ACKNOWLEDGEMENT**

I would like to thank the Head of the Prison in Nusakambangan for providing the opportunity to carry out research in the prison.

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## The Strategic Role of Community Policing and Motorcycle Theft Prevention in Indonesia Font

Submitted 22 January 2025, Revised 1 July 2025, Accepted 4 August 2025, Published 26 August 2025

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DOI: <https://doi.org/10.35879/jik.v19i2.631>

### Abstract

Motorcycle theft cases in Indonesia have increased throughout the year. Efforts have been made to reduce motorcycle theft crimes. However, these efforts have not been successful due to various factors, one of which is the limited effectiveness of community policing in Indonesia, largely attributed to a lack of openness and public trust in police cooperation. Through a literature analysis, the police must serve, protect, be transparent, and offer community counseling to ensure that community policing in Indonesia functions efficiently and effectively. Then, through the combination of two policing models, such as hot spot policing and e-policing, it is intended that community policing in Indonesia would be able to effectively reduce the number of motorcycle theft crimes, and the cooperation and partnerships that have been built and established previously can be appropriately maintained.

**Keywords:** community policing, motorcycle theft case

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### INTRODUCTION

Crime in the form of theft in Indonesia continues to increase every year. There is data on theft cases from the Regional Police (Polda), where crimes against property/goods without violence (theft, aggravated theft, motor vehicle theft, damage/destruction of goods, deliberate burning, and receiving) from 2018-2021 experienced a decrease or spike, namely in 2018, there were 90,757 reported to the authorities (BPS, 2023). Although it decreased in 2021 by 69,347 cases, in 2022, there was a spike, reaching 91,892 cases in the last five years (BPS, 2023).

Speaking about theft, in 2023, theft was the most common crime, where Polda Metro Jaya prosecuted 367 thefts, such as motorbikes, car thefts, thefts accompanied by violence, thefts accompanied by aggravated, petty thefts, and ordinary thefts (Pusiknas Bareskrim Polri, 2021). Based on data from the Pusat Informasi Kriminal Nasional (Pusiknas) Bareskrim Polri, 394,001 crimes occurred throughout 2023 as of November, which has increased when compared to the total crimes that occurred in 2022, which was 322,200 incidents, and in 2021, Pusiknas noted that 275,258 crimes occurred (Jauhari, 2023). Indonesia itself uses a community policing model, a proactive approach to policing that empowers change management involvement in service production, including policing with and for communities (Gill et al., 2014; Fenn & Bullock, 2021; Sorrentino, Ruggiero, & Mussari, 2023), where partnership, cooperation, and problem-solving are the main goals in this policing model. The Republic of Indonesia adopted community policing as a strategy that was then made into a policy of Peraturan Pemda Number 3 of 2015 concerning Community Policing (or PolMas as a short name) (Peraturan Polri, 2023). When it comes to the area that occurs of theft crimes, of the five Resort Police (Polres) that handle motorcycle theft cases, the South Jakarta Metro Police is the Polres that handles the most cases in

the jurisdiction of the Polda Metro Jaya until mid-2024, and the total average cases handled by the Polda Metro Jaya for motorcycle theft crimes is 126 cases. On average, seven motorcycle thefts occur every day in the jurisdiction of the Polda Metro Jaya (Pusiknas Bareskrim Polri, 2023).

Overall, in Indonesia, it was reported that there were at least five Regional Police (Polda) that did not report handling motorcycle theft cases, namely the North Kalimantan Police, Southeast Sulawesi Police, Gorontalo Police, Maluku Police, and North Maluku Police from 1 to 17 July 2024, with 141 cases handled by the North Sumatra Police which is the provincial level unit that handles the most motorcycle theft cases, and the number of motorcycle theft cases reported to the police was 927 cases (Pusiknas Bareskrim Polri, 2024). The North Sumatra Police was the region with the highest number of incidents in 2022, with 16,347 crime incidents, followed by the East Java Police and West Java Police, with 9,923 and 8,881 incidents (BPS, 2023). The areas with the fewest non-violent property/goods crime cases are the North Maluku Regional Police with 126 cases, the North Kalimantan Regional Police (313 cases), and the Gorontalo Regional Police with 345 cases (BPS, 2023). That being said, property crimes that occur in the regions usually involve theft and robbery (Ceccato & Abraham, 2022), while crimes that occur in big cities are in the form of white-collar crimes where the crimes are more serious, such as corruption, money laundering, and other serious crimes committed by people from the upper socio-economic class (Mustofa, 2021).

Based on the data presented, despite the implementation of community policing, the number of motorcycle thefts has not decreased significantly. Community policing in Indonesia itself is considered not to have been formed optimally, even after the collaboration, both by the community and legal institutions (i.e., the police) has been accomplished, because community policing in Indonesia has not been able to increase legitimacy and cooperation. Seeing the rapid development of technology, literature analysis can be used to study it methodologically and carefully, especially regarding the improvement of community policing in Indonesia, which is adjusted to the development of global society.

## DISCUSSION

The community itself is expected to have a positive impact, where this community can strengthen social ties and networks, promote transformative justice, and strive to contribute to eradicating crime by improving more effective public services, this is what is expected from the community regarding community policing, where community policing requires various levels of collaboration, ranging from basic improvements in police relations with the community to strategic partnerships for sharing power and responsibility (Sorrentinoa et al., 2023). Community policing is implemented to detect and identify public security and order (Kamtibmas) problems in the environment and find solutions to the issues that can provide services to the community where there is a sense of comfort so that it can create trust and avoid anxiety and worry about the community and free from threats or terror where the police provide a sense of security and comfort, physical and psychological safety is fulfilled, security guarantees and a sense of trust are given so that community policing can be carried out properly and smoothly, but there are limitations in police personnel and strategies and knowledge to build cooperation in carrying out community policing (Himawan, 2023). The pattern of community policing itself is largely determined by how the police can resolve problems, are oriented to serving and protecting the public (community), can rely on resources well, can coordinate/convey messages well and wisely to the community, and can maintain cooperation and partnerships that are based on Human Rights (HAM) with the community (Sawir et al., 2023).

The problem-solving process in community policing depends on the input or initiative from both the police and the community. Where the problem disappears completely, the number of problems can reduce the level of incidents and environmental factors to discourage criminals who want to commit crimes, where protection from the police to the community is critical (Ningtias, 2022). The existence of collaboration between the police and the community, where there is interdependence, shared thinking, unification of thoughts, joint decision-making, responsibility, and routine patrols, is a form of anticipating the occurrence of motorcycle theft, as well as patrols, counseling, use of technology, and street lighting. And providing security counseling and maintaining partnerships with institutions (Lubby, 2024). Lack of cooperation between the police and the community where the community is apathetic when motorbike theft occurs and the community also does not participate enough so that the information obtained is not enough to catch the perpetrators when the problem is not resolved and is just left alone, as well as external factors such as the lack of adequate tools (technology) to help solve the problem, the countermeasures carried out are conducting night patrols and patrols with the

community, and providing counseling so that the community and the police can contribute more to solving problems to prevent motorbike theft (Purba et al., 2022).

Also, the lack of implementation of community policing in preventing street crimes such as communication between each other (police and community), resources (human, budget, equipment, and authority), disposition (appointment of bureaucracy and officer incentives), bureaucracy (standards of operational procedures and fragmentation, prevention methods (techniques used for community policing), and agencies (partnerships carried out by the police with the community) which are still less than optimal. Therefore, a review of community policing (or community policing) is needed, which is still lacking in its implementation (Purba et al., 2021). There are several efforts made by the police to prevent motorbikes, namely the need for cooperation between the community and the police, where the police themselves have prepared a special call center to make it easier for the public to report (not only for motorbike theft crimes, but for other types of crimes), conducting border post raids, conducting and maintaining cooperation with other legal institutions and other Resort Police (Polres), conducting patrols and reviving the security post, and working with the community to monitor recidivists (Hasan et al., 2024), as well as carrying out repressive (action) and preventive (prevention) crime control to detect and identify public security and order (Kamtibmas) problems in the environment and can resolve problems where good communication is needed and maintaining partnerships with the police and the implementation of community policing so that community policing can be maintained properly (Verjenia, 2020).

Since it is not possible to analyze the community policing model for theft cases (especially motorcycle theft) in several places in Indonesia, the methodology used for this article begins with several exploratory, in-depth, and contextual studies in the form of literature reviews. After that, an in-depth study and content analysis were conducted using case studies. Through this content analysis process, it can be seen how the community policing model is applied to the crime of theft (especially motorcycle theft) and how its current development can be identified and applied in depth.

The main problem of community policing in Indonesia has not been running well, namely in the implementation method, where there is conceptual ambiguity and several internal and external factors of the organization that affect the work of community policing. Several articles explained that the main problem of community policing not running effectively is the lack of cooperation. Considering the increasing crime rate every year, several human resources (HR) are also greatly needed, as the community's needs will also increase, especially in terms of security. However, what happened was that there were shortcomings in terms of implementation, namely regarding the problem of facilities to facilitate the community in strengthening cooperation effectively, where the condition of human resources (HR) of this institution is considered still less than ideal, where some members of this institution still do not have enough knowledge and skills in the field of technology in carrying out their duties to serve the community so that this is considered less effective. Then, there is the budget problem, which is considered insufficient to accelerate the service process to the community. The lack of this planning institution before implementing community policing where thorough preparation is needed, for example, collecting accurate data on the community, such as population data in the community policing area (target area), then data on the characteristics and vulnerability of the target area to crime (in this case, namely the case of motorcycle theft).

### **Koban and Door-to-Door for Community Policing**

Speaking about community policing, Indonesia itself has collaborated with Japan in the form of implementing Japanese community policing, namely Police Box / Security Box, or another name, Koban, is a form of community policing in police stations located throughout Japan that operates 24 hours a day with the main task of responding to incidents and accidents in their jurisdiction, providing directions, handling lost items, providing advice on security and other issues to those in their jurisdiction, patrolling, and making house-to-house visits (Suzuki et al., 2023) is very preventive in increasing environmental security and preventing crime in the community (Suzuki et al., 2023). The main task of the police members of Koban is to guard in front of the police post, guarding from the inside, and field duties consisting of patrols and door-to-door visits to homes and businesses, as well as officers stationed at the police box work according to the schedule set for each day, and if a crime, accident, or other emergency occurs, the response to the incident must be prioritized (Cho & Shi, 2005). In this case, Indonesia is slowly implementing the same system as community policing implemented in Japan. JICA program coordinator Anzai Toshiya, at the 2022 Community Policing

Symposium in Indonesia and Japan, explained that currently, the implementation of the quality of community policing in Indonesia is still very lacking, considering the minimal evaluation of the activities of officers in the field, which will certainly affect the motivation of the police officers themselves, and this will also affect the quality of the work performance of the police officers (Hapsari, 2022). For example, door-to-door system visits are also part of the Bhabinkamtibmas methods that developed from Japanese community policing, which is carried out by visiting the homes of residents within their area of responsibility (Ningtias, 2022) are conducted as a form of *siskamling*/ circular patrols where in this case, police officers can understand the situation of the area/region being patrolled; then, with this visit, the police can also listen carefully to the opinions and suggestions of the surrounding community and police officers share information about crimes and accidents in the area/region, safety measures, and other information that can help the community to always be alert and careful, in this case, for example, the crime of motorbike theft (Cho & Shi, 2005; Ningtias, 2022). It is estimated that legal institutions (preferably the police) can make the best use of this cooperation, where not only the application method is reviewed but also how cultural values, considering that all communities are not the same, are implemented, can help community policing in Indonesia run effectively and according to what the community expects.

### **Hot-spot Policing on Community Policing**

Target areas on community policing implemented in Indonesia itself is still less effective where there is no fixed schedule for the police to patrol or visit areas where motorcycle theft cases often occur (hot spot policing) where this is very necessary in addition to preventing motorcycle theft incidents, also to collect data on cases of motorcycle theft that have previously occurred in the area/ region to help community policing work effectively (Braga et al., 2019). Hot spot policing, where police are placed in crime-prone areas (Maple, 1999; Braga, Turchan, Papachristos, & Hureau, 2019), can be applied to community policing where, in addition to establishing cooperation with the community in preventing crime, the police also implement hot spot policing where the police conduct patrols (or *siskamling*) around the community/residents to monitor and guard the area so that the area is safe, where crimes can occur (in this case, crimes in the form of motorcycle theft) can occur, especially areas that are prone to crime (in this case, crimes in the form of motorcycle theft). The concept of Routine Activity Theory (RAT) is where predatory crimes (e.g., robbery, various forms of assault (e.g., sexual assault), murder, theft, and housebreaking) can only occur if the right target is accessible to a motivated perpetrator without a competent guardian (Wilcox, 2010; Benson, 2021). Crimes such as motorcycle theft can increase due to the carelessness of the community/residents around them and the lack of strict supervision. Providing counseling to the police, the community, and the community/residents around, it is urged to always lock the motorcycle handlebars with a Secure Key Shutter (SKS), not forget to remove the key, not leave the motorcycle carelessly in the open, and use a spare double key. In addition to conducting patrols/circular patrols, the community/residents around are advised to install CCTV at home or around the house in the area to monitor and prevent crime (in this case, motorcycle theft). Then, data on previous cases of motorcycle theft (for example, the place/location of the incident, the time, and modus operandi) and, most importantly, data from recidivists related to previous crimes where the police do not include data on the list of previous motorcycle theft, recidivists so that the community itself is careless and does not know if one of the people in their environment might be a previous motorcycle theft recidivist and the community itself becomes careless so that motorcycle theft can happen again. It is necessary to quickly trace the report from the police with accountability for the implementation of the task, so that the incident can be recorded and traced as the cause of the increase in motorcycle theft figures every year, and can be prevented before this incident occurs again. Input from the community is needed so that community policing in preventing motorcycle theft can be implemented effectively, where it is still found that reporting is only in an administrative form and not implemented. Then, the lack of public knowledge about community policing itself is caused by the rare police officers who provide counseling and increase motivation to the community about community policing itself, and some of the public's responses/assessments of the police and these institutions are not positive (both parties look down on each other). In this case, the police are expected to be able to maintain trust and be able to protect the community so that the community is more open and willing to cooperate, so that crime can be prevented, and in this case, the crime of motorcycle theft.

### **BHABINKAMTIBMAS on Indonesia's Community Policing**

The policing community implemented in Indonesia itself is in the form of an institution formed by the police, namely BHABINKAMTIBMAS (Bhayangkara Pembina Keamanan dan Ketertiban Masyarakat), where this program aims to handle criminal acts through cooperation with the community, police, and other legal



institutions. This institution is expected to be able to create a safe and comfortable situation according to the needs and expectations of the community. The functions of Bhabinkamtibmas implemented in the Regulation of the Chief of Police Number 3 of 2015 are: Listen to complaints from community members regarding security issues and keep maintaining and providing explanations and solutions; maintaining friendly/cooperatively relationships; training, counseling, security, and discussing in the legal field to increase legal awareness by upholding human rights; disseminating information regarding the policies of the Police leadership related to maintaining community security and peace (harkamtibmas); encouraging the implementation of siskamling in maintaining the environment and community activities; providing police services to communities in need; mobilizing positive community activities; coordinating Kamtibmas training efforts with village officials and other related parties; and carry out consultation, mediation, negotiation, facilitation, motivation to the community in harmony and justice as well as resolving crime and social problems (Junior & Adhari, 2023). One form of implementation of activities carried out by Bhabinkamtibmas is the door-to-door system, where police officers introduce themselves to the community and visit at least several residents' homes in one day, accompanied by the delivery of information/messages related to maintaining security and the community, legal counseling, and other information so that the community can be more vigilant and by making this visit, police officers are expected to be able to carry out early detection of crime through information obtained from the community. The Bhabinkamtibmas Leading Sector itself has a very important task, where cooperation and partnerships carried out with the community must be maintained and strengthened. If there is input from both parties, it is expected that they will communicate with each other through deliberation and consensus so that problems can be resolved effectively and quickly. Using the problem-solving method is expected to solve the problem by describing and presenting the problem, inviting the community or both parties into the problem-solving process, and working with the local government to coordinate with the community or both parties so that a solution can be found through consensus (Heriwati, Mahsyar, & Usman, 2023).

### **E-policing in Indonesia's Community Policing**

After the COVID-19 outbreak, everyone was required to stay at home and minimize activities outside. However, cases of motorbike theft have increased until now by using the E-Policing concept, is a policing model in the digital era that seeks to penetrate the barriers of space and time so that various police services can be carried out quickly, precisely, accurately, transparently, accountably, informatively, and easily accessible (Dwilaksana, 2010; Dwilaksana, 2020) that effectively applied to community policing, so that the relationship between the police and the community can be established 24 hours a day and 7 hours a week, without any space and time limits that make it easier for the community to communicate with the police (Dwilaksana, 2020). For example, CCTV footage was found of where a motorbike theft occurred. Therefore, the recording can be analyzed more quickly for data collection and can be immediately followed up. This policing model can also be used for other crime cases, such as E-tickets, borrowing cases, and many other types of crimes. Therefore, the police need to improve the quality of community policing assisted by the hot spot policing model and e-policing to perfect the working method of this community policing model. In addition, it is expected that Bhabinkamtibmas could strengthen community policing with the help of implementing the hot spot policing model and e-policing so that peace and security are maintained. In this case, it can prevent the occurrence of motorcycle theft crimes.

### **CONCLUSION**

Community policing in Indonesia is currently considered to be very lacking in terms of application and implementation. Various factors that influence the implementation of the policing community in Indonesia are less effective. By using the implementation of Japanese community policing and using hot spot policing and e-policing to support community policing work effectively and quickly, it is hoped that the police and the community can strengthen and maintain cooperation and partnerships and provide counseling on community policing so that the community can be more open and help each other so that cases of motorcycle theft can decrease and together find the right solution to solve the problem of motorcycle theft. Of course, there are still many limitations in this article. Since it used the literature review method, it cannot review more specifically why the number of motorcycle theft crimes in Indonesia is increasing. For instance, community policing in Indonesia, which is adapted from community policing in Japan, needs to be adjusted to the current situation in Indonesia, especially in providing information and approaches to the community (in Japan itself, the



relationship between Koban and the surrounding community is very close and strong in which they collaborate to reduce crime in the residents' residential and settlement areas). It is hoped that in the future, other researchers and writers can conduct further research and investigations into this crime problem.

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## Digitalization and Integration of e-KTP and the Indigenous People It Left Behind

Submitted 17 January 2025, Revised 7 July 2025, Accepted 4 August 2025, Published 26 August 2025

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DOI: <https://doi.org/10.35879/jik.v19i2.630>

### Abstract

This article aims to highlight the discrepancies between the regulation and the implementation of laws regarding identities and the administration of the indigenous communities in Indonesia, and how these issues occur and persist. Indonesian Identity Card or KTP and its electronic variant, e-KTP, is considered the primary identifying means for Indonesian citizenship, with the Population Administration Act (Law No. 23/2006, later amended by Law No. 24/2013) even mandating the government to provide all public services based on the NIK or Customs Identification Number. Consequently, this poses a risk of excluding and marginalizing certain segments of the population, namely the Indigenous people of Indonesia, as this document has become mandatory for accessing essential services provided by the government. This exclusion and discrimination of indigenous groups and communities is based on a lack of access to register for the e-KTP itself, and is even based on religion and identity. To examine this issue, this article uses qualitative research, specifically grounded theory methodology, by examining data and law, and reviewing reports made by or of a few different Indigenous communities throughout Indonesia— namely, case studies and reports from indigenous communities in Banten, Sumatra, and Papua, to get a better understanding of this nationwide issue. This article elucidates systemic issues that occur and the problems that emerge from relying solely on one specific identification document for Indigenous people and communities in Indonesia.

**Keywords:** indigenous rights, digitalization, indigenous identity, accessibility, e-KTP.

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### INTRODUCTION

Despite the Amendment Law and Indonesian Constitutional Court decision regarding inclusion of Indigenous belief, and Article 29 of the 1945 Constitution guaranteeing the freedom to embrace their faith and worships according to one's beliefs, religious communities that are not officially recognized in Indonesia have claimed to still be subjected to incidents of religious discrimination, and are forced to formally renounce their faith in some instances. This has impacts just beyond the faith stated on one's ID but has a trickle-down effect on other public and private sectors. Religious identity is not the only thing e-KTP (Kartu Tanda Penduduk Elektronik) risks marginalizing. Relying solely on one specific identification document can heighten the vulnerability of marginalized groups who do not have legal forms of identification in the first place.

The 1945 constitution of the Republic of Indonesia, under Article 28D Paragraph 4, had guaranteed the right of citizenship to everyone. Article 2 of Law Number 23 of 2006 on Population Administration stated that every resident has the right to a Population Document; equality in population registration and civil registration; and legal certainty regarding ownership of population documents. What constitutes a Population Document in this instance is an official document issued by the Implementing Agency, which has legal force as authentic evidence resulting from Population Registration and Civil Registration services. These documents include KTP (Kartu Tanda Penduduk) (Article 59 (1) Law 23 of 2006).

The digitalization of the Indonesian Identity Card, known as e-KTP, which launched its first phase in February of 2011 and its second phase in 2012, was set to address a few existing problems regarding IDs and be the start of realizing the Single Identity Card. The program was conceived for the purpose of minimizing the duplication or forgery of an ID card, with the well-integrated Custom Identification Number or *Nomor Induk Kependudukan* (NIK) at its center. The NIK ties each person with a string of numbers that can be used to access public services, from healthcare to domestic flights, to voting and participating in political activities.

In recent years, the NIK and its integration in multiple parts of public services have been more apparent than ever. As an example, the COVID-19 pandemic, which brought about the mandated mobile application PeduliLindungi, now renamed SatuSehat, requires one NIK to create one account, personalizing the app to one's identity, and with it: access to medication; free vaccination; and free COVID-19 quarantine programs.

The practice of people's right to vote also hinges on e-KTP, which became one of the requirements to vote during elections as proof of identification. General Election Commission Regulation No. 25 of 2023 only recognizes e-KTP and a passport as the official proof of identification. People who did not have an e-KTP or a passport must obtain a statement letter, which still requires people to be registered in the e-KTP system beforehand (Article 1 No. 55); in other words, people cannot vote without an e-KTP.

The integration of NIK didn't stop there. In July 2022, the Directorate General of Taxation launched a new program to replace the Taxpayer Identification Number (Nomor Pokok Wajib Pajak) or NPWP with NIK, with Law 7 of 2021 on the Harmonization of Tax Regulation. The Ministry of Finance stated that the reason for this integration is to minimize the amount of identification numbers used, and to push for further integration by other agencies to achieve a Single Identification Number (SIN) (DJKN 2022). The characteristics of SIN include: unique; no double or multiple identities; standardized, the same standardized national identity structure; complete, data will be used as an identity, namely data that covers the entire territory of Indonesia (national in nature); permanent, cannot be changed and is eternal in nature; integrated (Ayuningtyas & Furqon, 2023).

The integration of NIK and e-KTP to various public services is widely viewed as a big leap in progress. However, it is easy to forget who we have left behind in our haste to reach the future. While the digitalization and integration of an identification document like e-KTP is not a new phenomenon, we must take a look at what this digitalization and total integration would mean for those unable to obtain e-KTP in the first place. By definition, *Masyarakat Adat* or Indigenous People, is a customary law community and/or traditional communities that have lived for generations in certain geographical areas and are bound by cultural identity, strong ties to the land, and the territories and natural resources in their customary areas (Article 1 Law No. 17 of 2019). This term is in line with the philosophical idea of 'indigenous peoples' term that has been developed by international norms such as ILO (Fahmi, et al., 2023), which regarded Indigenous people on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions (Article 1(b) Indigenous and Tribal Peoples Convention, 1989 (No. 169)). Indigenous People in Indonesia are closely tied to customary laws, often rejecting and distancing themselves from certain facets of modernity and technology, while embracing nature and tradition. Indigenous People of Indonesia also tend to live in more secluded, out-of-the-way areas on their customary land and customary forest.

In Indonesia, the existence of indigenous communities has been acknowledged and protected by the government since the Dutch East Indies era. However, in its development, the condition and position of indigenous communities have experienced ups and downs following the development of the political system of regional government (Zuhraeni, 2014). Article 18B, Paragraph (2) of the 1945 Constitution affirms the recognition and protection of the assets and rights of indigenous people. This reflects the recognition of the existence, rights, and interests of indigenous people in the laws of the Republic of Indonesia (Sempo et al., 2024). However, institutional recognition of indigenous peoples' existence does not by itself guarantee them safety from the threat of violence and discrimination (Yusa, 2016). There are 2.449 Indigenous communities scattered all over Indonesia, with an Indigenous Population estimated to be around 40 to upwards of 70 million people (Charliesta, 2023). However, as of 2023, per the data provided by Aliansi Masyarakat Adat Nusantara (AMAN), there are still 1.5 million Indigenous People who cannot exercise their right to vote due to not having



an e-KTP. This was not much of an improvement from 2019, where there were only 530.000 Indigenous people who could vote (Intania, 2023). AMAN's reports suggested that this phenomenon stems from a lack of access, a lack of resources, and even a lack of inclusivity. This lack of inclusivity can be seen by the lack of formal acknowledgment of indigenous beliefs and identity, with reports of Indigenous people having to formally renounce their faith and or identity to be able to receive some form of formal identification. This was not helped by the fact that the indigenous population must go through extra steps of administration and verification, the same steps not required for others who did not identify as indigenous. These caused the Indigenous population to continue to be left even further behind as integration and digitalization progress, over which they have no control. However, is the marginalization of the Indigenous community regarding their identities a systemic issue? And how could the digitalization and integration of the Indonesian identity card, like e-KTP, further affect the indigenous population?

This article will highlight the systemic issues regarding discrimination and marginalization that some Indigenous communities in Indonesia face, especially regarding their rights to formal identification in the new era of digitalization, modernization, and single identity usage. Because of the reasons stated above, this article will also examine the current efforts made by the government, Indigenous communities, and related NGO's like AMAN, to bridge this issue, the extent to which it has narrowed the gap of marginalization, and propose further actions to narrow the gap.

## DISCUSSION

This article aims to help showcase the existence of systemic marginalization of Indigenous People regarding their identities and identification through the cases and reports of Indigenous people, specifically of indigenous communities in Banten, Sumatra, and Papua. After pinpointing the systemic issue, this article will then delve into what efforts are currently being made to narrow the gap of marginalization and dismantle the systemic issue. The result will show the instances of religious barriers and logistical hurdles that create & contribute to the systemic marginalization of Indigenous People.

The result of this article indicates the need for a more proactive approach regarding bridging the gap of marginalization to be able to move towards dismantling the systemic marginalization of the Indigenous Population in Indonesia. This pro-active approach comes both from the government, by facilitating the making of e-KTP for indigenous communities previously unreachable by the rest of the populace, and from the Indigenous communities themselves, with efforts to become more politically active to bring light to Indigenous issues previously unheard of by the rest of the populace.

This article uses a small sample size, limiting the study to reports & research of indigenous communities in Banten, Sumatra, and Papua. This could have led to an overestimation of the effect. Future research should reconfirm these findings by conducting larger-scale studies.

### Systemic Marginalization of Indigenous People

The existence of Indigenous Peoples has not only received constitutional legal protection as regulated in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, but its protection is even stronger because it is emphasized in Article 28I concerning Human Rights (Thontowi, 2013). Indigenous People are a part of Indonesian society and are citizens of the country, yet there is still a gap that exists between the majority population and the Indigenous population in Indonesia. This gap consists of inequality and marginalization in accessing what one might deem to be necessities and civil rights.

In general, most people still consider population registration with the Civil Registration Office to have no benefits for individuals. The level of public awareness regarding the ownership of population documents and civil registration certificates to report or update important events and population events on time is still low. This is because its use is limited to incidentals only needed at certain moments, so that the public may deem it not *too* important to have if it is not urgent (Anuttari et al., 2024). While the lack of access to obtain e-KTP might be a general problem faced by multitudes of people, this inaccessibility for Indigenous People could be considered a systemic issue.

### Religious Barriers

To illustrate this point, the existing laws and regulations regarding Indigenous Peoples may not reflect the existing customs and traditions of the Indigenous Peoples themselves. An example of this can be seen in the Regional Regulation of Jayapura Regency Number 8 of 2016 on Indigenous Village (*Kampung Adat*), where the regulation strictly requires everything related to indigenous rules and customary laws to be documented in writing and submitted to the regional government of Jayapura Regency (Article 22). This article did not take into account several key aspects: the lack of literacy and access to education for Jayapura residents, or the fact that the customs of the people, or customary laws, are passed down through oral traditions. Indonesia itself was ranked 64<sup>th</sup> out of 72 countries worldwide on literacy level in a survey conducted by the Programme for International Student Assessment (Yonggom & Iwong, 2021). Indigenous People in many different areas of the archipelago have varying customary institution characteristics, with some having relatively complex customary institutions and others having customary institutions with less sophisticated mechanisms (Pratiwi et al., 2018). A lot of existing laws require assimilation on the part of Indigenous Peoples, and these laws and rules may disregard pre-existing Indigenous traditions, customs, and their customary institution. Indigenous people are denied control over their development based on their own values, needs, and priorities (Yusa, 2016). However, this does not mean that Indigenous People should be excluded from accessing their rights when they failed to assimilate due to a lack of access to the rights guaranteed to them by law.

Documents of identification are a right as stated in Article 2 of Law 23 of 2006 regarding Population Administration. This right also applies to the indigenous population, as they are a part of the Indonesian populace. However, reports of discrimination faced by the Indigenous population, lack of accessibility due to the Indigenous population's often secluded land, lack of access to education, and the lack of acknowledgement of Indigenous identity have hindered their ability to obtain formal identification documentation in the first place. Article 64 of Law Number 23 of 2006 stated that KTP shall include, but not limited to: NIK, name, place and date of birth, gender, religion, marital status, blood type, address, occupation, citizenship, photograph, validity period, place and date of issue of the KTP, and signature of the KTP holder. Article 64 of Law Number 23 of 2006 also stipulates that information about religion as referred to in the article, for those whose religion has not been recognized as one of the five major religions by the provisions of statutory regulations, this section will not be filled in, but the person shall still be served and their data shall still be recorded in the population database. In more recent development, the Constitutional Court, through Constitutional Court Decision Number 97/PUU-XIV/2016, ruled that adherents to religious beliefs can include *other* beliefs in the religion column on their ID cards and family cards. Unfortunately, the implementation of that decision may not be as simple.

In 2017, it was reported that some members of Orang Rimba tribe, a nomadic hunter-gatherer people in Sumatra, have converted to Islam, one of the acknowledged religions in Indonesia (recognition based on the explanation of Article 1 of Presidential Decree Number 1 of 1965 About the Prevention of Religious Abuse and/or Defamation), to obtain KTP. Others have converted to Christianity or Catholicism and denounce their indigenous faith, all to obtain their civil rights. BBC Indonesia conducted an interview in 2017 with the Chief of Orang Rimba in Bukit Duabelas, Yusuf (formerly known as Yuguk), who stated that the existing procedures and bureaucracy are hindering his people in obtaining KTP and even the Family Card known as *Kartu Keluarga* or KK. Yusuf claimed that he had previously reported this discrimination to government officials, and the officials instead claimed that he and his people were not Indonesian and were deemed as foreigners. This behavior, conducted by the aforementioned government official and the lack of services they receive when applying for e-KTP, may be viewed as a violation of Law 40 of 2008 on Elimination of Racial and Ethnic Discrimination, and a violation of Article 2 of Law Number 23 of 2006 regarding Population Administration. This lack of documentation, despite the efforts taken to ensure their receipt of e-KTP, is negatively affecting Orang Rimba's lives. An example of this, according to Yusuf, is when a member of Orang Rimba passed away in a hospital and was left there for days because the hospital had no form of identification, they could use to find the deceased's address or next-of-kin (BBC Indonesia, 2017).

### Logistical Hurdles

Indigenous people's difficulties in obtaining KTP or e-KTP are not just based on the lack of acknowledgment of their faiths and identity, but sometimes it even goes as deep as the fact that for a lot of indigenous people, their birth has never been officially recorded, and they do not have birth certificates. Ministry for Women's Empowerment and Child Protection stated in 2021 that there are around 5 million children nationwide who do not have a birth certificate (Kompas, 2021). Deputy for the Child Growth and Development Office, Lenny

Rosalin, stated to the media that indigenous children will receive birth certificates like other children, even though they are born from customary marriages, and the children's birth will be recorded as long as there is a report made by the child's parents (Gatra, 2019). However, the number of births reported and recorded by some Indigenous communities is still quite low. Eros Rosita, a midwife working in a health centre near the villages of the Baduy Tribe, an indigenous Indonesian tribe located in the Kendeng Mountains in Banten, stated to IDN Times Banten in 2020 that the lack of birth records and certification of the Baduy children is due to Indigenous populations being less likely to independently register their children's births to the government/civil registry (IDN Banten, 2020). The Baduy tribe still holds fast to the tradition of giving birth at home as they believe that mothers giving birth should not bleed outside the Baduy area (Nurlaili, 2023), and with the lack of access, it makes it hard for members of the Baduy Tribe to register said births. Head of Civil Registration Division of the Department of Population and Civil Registration or *Dinas Kependudukan dan Pencatatan Sipil* (Disdukcapil) of Lebak Regency, Marlia Kurniasih, stated that the requirements for birth certificate ownership are *simple* and only require: a birth recognition letter from a midwife or obstetrician; and the KTP of both parents. In addition, it is also required to attach the KTP of two other witnesses and a marriage certificate issued by the Office of Religious Affairs or *Kantor Urusan Agama* (KUA); however, for those who do not have a marriage certificate, they can submit a Statement of Absolute Responsibility or *Surat Pernyataan Tanggung Jawab Mutlak* (SPTJM) to the local Disdukcapil (IDN Banten, 2020). This statement is in line with the requirements set out by the Lebak Regency regulation regarding acquiring a birth certificate.

Wahana Visi Indonesia, a non-profit, through their South Bengkulu program reports in 2019 that there is still stigma around birth registry, as the process deemed to be complicated; takes time and effort; and costly, on account of the cost of transportation to travel to and from the nearest civil registry office from the villages (Wahana Visi Indonesia, 2019). Despite the relatively simple requirements, if these stigmas persist, then members of the community still would not feel compelled to register the births of their children, in fear of bureaucratic complications and high costs.

The minimal birth registrations of indigenous children may be due in part to the lack of registration done by the parents, but it is also in part because Indigenous Peoples simply cannot fulfill said requirement systemically. An example of this is a birth recognition letter from a midwife or obstetrician that may be harder to get because Indigenous midwives are often not licensed or categorized instead as shamans. For example, Baduy people trust *Paraji* more as a birth attendant (Nurlaili, 2023) than modern hospitals. According to the Sundanese dictionary, *Paraji* is a term for *indung beurang*, which means a mother whose job is to help babies come out of the dark world into the bright world (Fitriyani, 2018). Not to mention the fact that Indigenous people often face challenges in accessing general health services due to a variety of barriers including high health care costs, experiences of discrimination and racism, and poor communication with healthcare workers (Khatimah, et al., 2019), that contributes to a culture of seeking help from Indigenous shaman or *Paraji* instead of a licensed midwife or obstetrician, which might make their birth recording invalid. Lack of identification the parents had in the first place also plays a part, with KTP being one of the requirements in registering births and obtaining a birth certificate for their children, a birth certificate that will then be used to obtain a KTP once the child becomes of age. This might be why this polemic could be viewed as a never-ending cycle.

While indigenous children may face issues in obtaining their KTP as a result of their unrecorded birth, the adult Indigenous population also faces difficulties in obtaining their KTP after the fact. Discrimination and a lack of acknowledgement of their indigeneity are only one facet of the systemic problem they faced regarding formal and legal documentation. That is due in part to the fact that indigenous people in Indonesia must go through a series of registration and verification as part of an indigenous community to get acknowledgement of their indigeneity. In the province of Papua, identification of indigenous communities based on Regional Regulations in Jayapura Regency includes several aspects, namely: history of indigenous communities, indigenous territories, social units of indigenous communities (tribes, *keret*, clans, etc.), customs and customary laws, local languages, customary government institutions/systems with the concept of traditional leadership, customary rights inherited from generation to generation, and customary justice (GTMA Jayapura, 2021). The steps of identification for Papua's indigenous populations consist of collecting and writing information related to the history of origin, customary territory, social unit structure, customs and customary law, customary justice, customary government institutions/systems, and customary rights. Afterward, an application to the government with said documents will then go through a series of verification and validation. If an indigenous community failed to receive an acknowledgment from the government, they can file a motion

to oppose the result and request a re-verification while presenting new and additional evidence of their indigeneity (GTMA Jayapura, 2021).

The main objective of such registration and verification varied, but one of the objectives is to set and for the acknowledgement of indigenous territory as they are protected by the law as stipulated in Law Number 5 of 1960 Concerning Basic Agrarian Principles Regulations on Article 2 paragraph (4) which states that the State's Right to Control over land and natural resources can be delegated to autonomous regions and customary law communities when necessary and not in conflict with national interests. According to the provisions of the Government Regulations. Law No. 41 of 1999 concerning Forestry, in conjunction with Constitutional Court Decision Number 35/PUU-X/2012 Constitutional Court Decision on the change in the phrase of Article 1 number (6), which states that customary forests are forests located within the territory of the indigenous population. This correction reaffirms the existence of the indigenous population and their rights, including the right to customary forests in their territories. It can be argued that customary land is inseparable from the indigenous people and their faiths. At the very heart of religion is worship, and in an indigenous context, worship often includes their customary land, a sacred place, a particular "subject" or object on their land, and the availability to access their land equals religious freedom (Mubarak & Adawiah, 2021).

While on one hand, it is understandable to register and verify indigeneity and their customary land to delegate the State's right to control lands and natural resources on the land over to indigenous people who owned the land based on customary rights, in practice, many indigenous people still lost their customary lands and much of their territory. Secretary General of AMAN, Rukka Sombolinggi, stated to the media in 2023 that there were about 301 cases of customary land grabbing within a period of 5 years between 2019 to 2023, with total land area of 8.5 million acres, and 672 Indigenous people are victimized and criminalized while protecting their customary land in the process of these customary land grabs (Detik Sulsel, 2023). According to Data from *Badan Registrasi Wilayah Adat* (BRWA) or Customary Territory Registration Agency, as of March 18, 2024, there are 28.2 million acres of 1,452 customary territory maps that have been registered, and of that number, only 13.8% or 3.939.106 acres have been recognized by the regional government (BRWA, 2024). This data showed that the recognition Indigenous People received is not in line with the number of registered Indigenous People, and registration and claim of indigeneity do not equal recognition by the government. Indigenous People need recognition for their existence in the country. This is also a form of legal protection for indigenous People. Recognition of Indigenous People is a statement from a country that acknowledges that Indigenous People are ready and willing to build relationships with other communities, local governments, and central governments as a manifestation of recognition of indigenous communities (Bayo et al., 2023). Recognition of indigenous communities can be a guideline for protecting the existence of indigenous peoples (Surya Dewi et al., 2020).

The lack of proper identification and e-KTP ownership has a serious impact on indigenous lives. With limited access to basic public services and rights requiring the use of e-KTP, Indigenous Peoples have even less access to the same rights most of the population can access. The use of e-KTP aims to facilitate economic activities such as opening a bank account, purchasing financial products, or applying for a loan. e-KTP provides a strong basis for secure and reliable digital identity verification (Anuttari et al., 2024). E-KTP is also used in voter registration and allows no substitution; this means Indigenous People are less likely to be able to cast their votes and participate in democracy, as many of them do not have e-KTP. In 2023, Aliansi Masyarakat Adat Nusantara (AMAN), or the Indigenous Peoples Alliance, estimated that around 1.5 million indigenous people would not be able to participate in the 2024 general election due to not having an e-KTP (Pamungkas et al., 2023). Looking back on the 2019 election, of the approximately 3 million indigenous people, only 530.000 were able to vote in the election (Intania, 2023). While that number seems like an improvement, it is still a true indictment of an existing gap in political access. In 2024, after the Regional Election on the 27<sup>th</sup> of November, this number still stands, and much still needs to be done to narrow the gap.

This inability to participate in elections stems from the requirement of e-KTP as one of the main documents used in voter registration, and the prohibition of the usage of other forms of legal Identification as a substitute. This is in line with the regulations stated on Article 202 paragraph (2) of Law Number 7 of 2017 concerning Elections as amended by Government Regulation instead of Law Number 1 of 2022 (Election Law) and Article 3 paragraph (2) of KPU Regulation Number 7 of 2022 concerning Compilation of Voter Lists in the Implementation of General Elections and Voter Data Information Systems as amended by KPU Regulation



Number 7 of 2023. The prohibition of the usage of other identification document as substitute was confirmed to be the case on the ground by one of the Head of *Kelompok Penyelenggara Pemungutan Suara* (KPPS) or the Election Organizing Group Polling Station for 2024's Regional Elections, Mr. Raditya R. As head of the Election Organizing Group Polling Station 018 for Subdistrict Beji, Depok City, he stated that "not only the use of e-KTP held a major significance in voting administration, but other forms of legal documentation are not recognized as a valid proof of identification for registration purposes in the polling stations". This lack of options in proof of identification obstructs Indigenous People who are systematically more likely to face more difficulties in obtaining a basic identification card to perform their civic duties and access their civil rights.

### Efforts to Bridge the Gap of Marginalization

Single Identity is the goal, and Indonesia is starting to reduce the use of multiple identity cards with the use of NIK as NPWP. In addition, the Ministry of Home Affairs is also building data integration between NIK and social assistance cards, BPJS health cards, and pre-employment cards (Tobing & Kusmono, 2022). In 2021, the General Director of the Department of Population and Civil Registration, Prof. Zudan Arif Fakrulloh, stated that moving towards SIN is beneficial, so that every resident only holds one identity in their wallet, one NIK, and one residential address that is properly recorded in the population database. This will make mistaken identity or wrong addresses a thing of the past. With Single Identification Number (SIN) becoming the State's goal and policies are created to support and push forward progress in realizing this goal, we must first recognize that while SIN might be beneficial for the general public, limiting formal and legal identification document as an all-in-one card via e-KTP means that once people do not have access to it, they do not have access to anything. This will push marginalized communities like Indigenous Peoples to be even more segregated from the other citizens of Indonesia.

In regard to the digitalization of KTP through e-KTP, we must acknowledge that the distribution and/or transition to e-KTP is uneven, with places further away from cities being impacted the most. An example of this is the effort taken to record Baduy people for them to obtain e-KTP in June 2023 by Lebak Regency Disdukcapil. In June 2023, 200 e-KTPs were produced for the Baduy Tribe due to limited network capabilities, and the remaining unprinted data was said to be printed at the Disdukcapil Office (DINKES Lebak, 2023).

The regional government needs to have a more proactive approach when it comes to providing legal documentation and formal identification, like e-KTP, to remote and secluded places, where most Indigenous People reside. A portion of the area in Indonesia, aptly named 3T: *Tertinggal, Terdepan, Terluar* (Remote, Frontier, and Outermost Areas), is a region of Indonesia that have geographical, social, economic, and cultural conditions that are less developed compared to other regions on a national scale (Ombudsman RI 2023). This proactive approach has been used before, and it has been proven to be effective. An example of this can be seen when Lebak Regency Disdukcapil paid a visit to a Baduy Village in November 2024 as preparation for the 2024 Regional Election, and this resulted in an additional 300 e-KTPs procured by Baduy People, with 6.763 Baduy People in total owning an e-KTP.

While a proactive approach can bridge the lack of access, lack of resources, and lack of recognition of their indigeneity and faith issues, this is just one aspect of the solution at present. Even with a proactive program of fulfilling Indigenous rights to documentation and identification, this does not negate the fact that there is still a lot of catching up to do. While it was stated earlier that Lebak Regency Disdukcapil's proactive program has resulted in 6.763 Baduy People in total having e-KTP in 2024 (Detik, 2024), an improvement from the 6.541 Baduy People in 2023 (Putri et al., 2024), the population of the Baduy tribe is estimated at around 26,000 people (Putri et al., 2024); therefore, only 26% of the total population is currently registered (Putri et al., 2024).

The proactive programs enacted by the Regional Government merely answer one side of the issue; the other issue is that some of the Indigenous People simply *choose* not to have an e-KTP. An example of this is another subgroup of Baduy People, Baduy Dalam (Inner Baduy). Most of the data found about Baduy People is mostly about Baduy Luar (Outer Baduy), who are more open to outside civilization, and are embracing some facets of modernity and technology into their lives. Generally, the Baduy people do not want to be called an isolated tribe, but they consider themselves a tribe that has distanced itself from modern civilization. They reject various government programs and have their customary laws that bind them (Abduh et al., 2023). This self-distancing and rejection of certain aspects of modernity and technology shall be their choice, and we must not



limit said choice and take it away from them by not allowing them to *join* and take part as Indonesian citizens when they choose to do so.

Another effort to bridge the gap of marginalization is through political participation. AMAN's secretary general emphasized AMAN's mission to increase the political participation of Indigenous people by encouraging hundreds of the best candidates to be involved in elections and the legislature. This decision is based on the fact that various violations of indigenous peoples' rights may be caused by the fact that laws and policies are often drafted by people who do not understand indigenous peoples' issues (Teredi, 2021). The Regional Daily Management (*Pengurus Harian Daerah*) of AMAN in several areas held a training program to educate beginner candidates to strengthen the next generation of strong and independent Indigenous People in each indigenous community. This beginner education program, which was mostly attended by youth groups, was carried out in various Indigenous Peoples' communities in each region. In Dompu District, West Nusa Tenggara, it was reported that a total of 22 representatives of indigenous youth from 7 indigenous communities participated in this program on March 7<sup>th</sup>, 2024, and in Lombok Tengah, 27 representatives on March 9<sup>th</sup>, 2024. (Hajazi, et al., 2024).

The historical involvement of AMAN in electoral politics over the last decade has been significant. Just in the 2019 Election, AMAN tried to increase the number of its candidates to be involved in practical politics. 163 political envoys from indigenous communities advanced as legislative candidates through 16 Political Parties at all levels of nominations; 6 Candidates for DPD RI Members, 12 Candidates for DPR RI Members, 27 Candidates for Provincial DPRD Members, and 118 Candidates for Regency/City DPRD Members (Teredi, 2021).

## CONCLUSION

Documents of identification are a right as stated in Article 2 of Law 23 of 2006 regarding Population Administration. This right also applies to the indigenous population, as they are a part of the Indonesian populace. This right also included the right to e-KTP, a digitized version of KTP, and another step towards the Single Identification Number (SIN) Program. The integration of e-KTP and its importance in accessing multiple basic public necessities make e-KTP a vital documentation for all adult citizens of Indonesia.

Through Constitutional Court Decision Number 97/PUU-XIV/2016, it was ruled that adherents to religious beliefs can include *other* beliefs in the religion column on their ID cards and family cards. This should mean that discrimination for non-acknowledged religion, out of the 5 acknowledged religion as stated on Article 1 of Presidential Decree Number 1 the Year 1965 on the Prevention of Religious Abuse and/or Defamation: Islam; Christianity; Catholicism; Hinduism; Buddhism; and Khong Hu Cu (Confucius), should cease when it comes to obtaining identification. However, despite the decision made by the constitutional court, the Indigenous Population still reports some discrimination in obtaining their documentation. Discrimination is also not the only hindrance Indigenous People face when it comes to obtaining e-KTP.

The problem Indigenous People face is systemic. Lack of access and lack of resources have made obtaining e-KTP seem to be a particularly daunting task. The lack of e-KTP negatively impacted the lives of the Indigenous Population, as they are unable to access and exercise their rights. With the digitalization of e-KTP and the plan to integrate it with other forms of identification by the State, this may lead to further marginalization of Indigenous People who do not have access to e-KTP in the first place. Regarding this, before we embrace digitalization and integration of a single identification for all, first, we must ensure the accessibility to obtain e-KTP for Indigenous People.

Utilizing a more proactive program conducted by the regional government for the existing Indigenous communities within their region has proven results. As reflected through the proactive program conducted by Lebak Regency Disdukcapil for Baduy people, the number of Baduy people owning an e-KTP went up from 6.541 in 2023 (Putri et al., 2024) to 6.763 in 2024. This can be seen as a solution to the accessibility problem. This will also help to realize the Indigenous right to documents of identification as stated in Article 2 of Law 23 of 2006.

The government should consider going beyond a singular identification system until they're able to logistically accommodate it, until the number of people nationwide, including Indigenous people, reaches a certain threshold. To push for the acquisition of e-KTP, exceptions to certain requirements or additional requirements may be necessary and accommodated to Indigenous Peoples' conditions. An example of this is allowing substitution for KTP on the requirement to obtain a birth certificate or the acknowledgement of a shaman and Indigenous midwife in place of a licensed and registered obstetrician. This way, the State's goal and program can still move forward without further excluding marginalized communities.

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## **Regulations**

1945 Constitution of the Republic of Indonesia

Law 40 of 2008 regarding the Elimination of Racial and Ethnic Discrimination

Law 24 of 2013 on Amendment to Law 23 of 2006 regarding Population Administration

Presidential Decree Number 1 of 1965 About the Prevention of Religious Abuse and/or Defamation

Constitutional Court Decision Number 97/PUU-XIV/2016

International Labor Office, ILO Convention on Indigenous and Tribal People, 1989 (No. 169)

## Criminal Liability for Vigilantism Under Articles 351, 170, and 406 KUHP

Submitted 3 February 2025, Revised 2 June 2025, Accepted 4 August 2025, Published 26 August 2025

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DOI: <https://doi.org/10.35879/jik.v19i2.625>

### Abstract

This study was conducted with the aim of determining criminal liability for the crime of vigilantism (*eigenrichting*) in criminal law in Indonesia. This study uses a qualitative approach with an orientation towards a deep understanding of the phenomenology of the crime of vigilantism and the form of criminal liability for the perpetrators. Data analysis in this study was conducted using a qualitative legal analysis approach. The results of this study indicate that criminal liability for the crime of vigilantism (*eigenrichting*) is still enforceable under Indonesian criminal law. Everyone who commits the crime will undergo sanctions and cannot be represented by another person. Criminal liability for the crime of vigilantism (*eigenrichting*) is indeed not regulated in a limitative manner in the laws and regulations, however in the law there are elements of a crime as stated in the Criminal Code (KUHP), namely in Section 351 concerning Abuse, Section 170 concerning Abuse and Section 406 concerning Destruction. Therefore the perpetrators of the crime of vigilantism can be subject to several Sections above.

**Keywords:** criminal liability, criminal acts, vigilantes, *eigenrichting*, criminal law

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### INTRODUCTION

The impact of allowing criminal acts of vigilantism to continue will cause society to become increasingly violent in venting its anger and eliminate the basic human rights of victims as human beings who have the right to live (Aditya Rambe, 2018). If this practice of vigilantism continues to be allowed, there will be an erosion of trust in the legal system and law enforcement officers. The public will tend to take justice into their own hands, which can ultimately create a prolonged cycle of violence, insecurity, and social instability. The increasing number of crimes that occur in society has led to many assumptions that law enforcers have failed to address the problem and are delayed in fulfilling their responsibilities. These causing feelings of public discontent because application of legal action does not take place as it should. This is due to the long process in the courts which is less educational and often the perpetrators of crimes are released due to lack of evidence. Even if the problem is processed in court, the punishment is also not in accordance with the expectations of the community (Donsisko Marbun, 2021).

*Eigenrichting* is a Dutch translation which means enforcing the law personally, claiming rights without regard to the law or unlawfully without the knowledge of the authorized government and without the use of government power (Veronica Sherly Margareta dan Wasipiah Wasipiah, 2020). One example of taking the law into one's own hands is beating perpetrators of crimes by the community (Marwan and Jimmy P, 2009). Taking the law carried out personally is an act of carrying out based on personal will that is arbitrary and lacks the consent of other concerned stakeholders, which may lead to harm (Sudikno Mertokusumo, 2010).



From a in terms of sociology, the phenomenon is simply a social symptom that is usually resolved without specific legal rules and is normative (Faliani Zaliaokta dan Tajul Arifin, 2023). An example of vigilante behavior is physical assault that are often carried out against perpetrators of crimes, immorality, muggings and others (Muh.Triocsa Taufiq, 2014). This act of vigilantism is closely related to the unlawful nature of every criminal act. Usually with a criminal act an individual suffers a loss. Sometimes the victim tries to eliminate the loss he suffered by himself, without waiting for the actions of state apparatus such as the Police or Prosecutors, as if he were judging himself (*eigenrichting*) (Wirjono Prodjodikoro, 2008).

In the provisions of Law Number 39 of 1999 concerning Human Rights, the right to personal freedom itself is the right to freedom that every Indonesian citizen has in living his life. According to Section 4 of Law No. 39 of 1999 on Human Rights, it is stated that:

*The right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person and equality before the law and the right not to be prosecuted on the basis of retroactive laws are human rights that cannot be reduced under any circumstances and by anyone.*

Then according to as provided in Section 33 Paragraph (1) of Law Number 39 Year 1999 regarding Human Rights, it declares that:

*Everyone has the right to be free from torture, punishment or cruel, inhuman or degrading treatment or punishment.*

Under Law Number 39 of 1999 regarding Human Rights, it not only regulates personal entitlements, but also the rights of others that must be protected and regulated more specifically as in Section 33 paragraph (1) above. From Section 33 paragraph (1) it is clear that the rights of others also need to be protected, but if later these rights are seized by others, the act must be processed according to applicable law. In criminal law provisions, a person who commits an act is not considered guilty before a judicial decision that holds permanent legal validity (Didik Purwadi, Amiruddin, 2022). Assuming the role of law enforcer without proper authority has also violated principal presumption the innocence (presumption of onnocent) in Latin *ei incumbit probatio qui dicit, non qui negat*. This means that a person cannot be considered guilty or treated as the guilty party before being proven in a final court that has permanent legal force convincingly without reasonable doubt (beyond reasonable doubt) which proves that the suspect is indeed legally guilty (Moeljatno, 1985).

This study uses a qualitative approach with an orientation towards an in-depth understanding of the phenomenology of vigilante crime (*eigenrichting*) as well as the type of criminal responsibility imposed on the perpetrators in Indonesia. That approach was chosen because the focus of this study is not only on written legal norms, but also on the social reality of society towards the practice of *eigenrichting* in the criminal law system in Indonesia. This study is based on relevant legal documents and literature, both in the form of primary and secondary sources. The primary data in this study were obtained through laws and regulations such as the Criminal Code (KUHP), Law Number 39 of 1999 concerning Human Rights, etc. While secondary data include criminal law books, scientific journal Sections, and the opinions of legal experts who study the criminal responsibility of vigilante perpetrators (*eigenrichting*). This was done by the author to strengthen the analysis of how *eigenrichting* actions should be positioned within the framework of criminal law in Indonesia, both normatively and theoretically.

Data analysis in this study was conducted using a qualitative legal analysis approach, namely analyzing primary and secondary legal materials systematically. This analysis is used to identify whether the act of *eigenrichting* meets the elements of a criminal act in the Criminal Code, especially Section 351 (assault), Section 170 (gangstaffing), or Section 406 (vandalism). In this stage, the principles of criminal law related to actus reus (act) and mens rea (evil intent) will be studied, as well as how the principles of culpa and dolus apply to perpetrators of vigilante crimes.

## RESULTS AND DISCUSSION

### Criminal Responsibility for Property in Criminal Law

According to foreign legal systems, criminal liability is also referred to as "teorekenbaardheid" can also be "criminal responsibility" resulting in punishment for the purpose of establishing whether a suspect and

defendant can be held responsible for a criminal act regardless of whether it occurs or not (Kiki Kristanto, 2017). A person can be prosecuted only if the act they committed fulfills the legal elements defined by law. From the standpoint of prohibited conduct, an individual is held responsible when their actions violate the law and no legal justification or grounds exist to negate the criminal nature of those actions (Kiki Kristanto, 2017).

In criminal law, criminal liability is limited by the provisions of the law and must meet the elements that have been established according to legal provisions as stated in the Criminal Code, especially Section 351 (assault), Section 170 (gang assault), or Section 406 (destruction). Viewed from the perspective concerning the incident of a banned act, an individual shall be considered responsible to their acts in case the act this unlawful and (not presence of justification) and has the ability to be responsible (Fitri Wahyuni, 2021). Regarding handling justice independently without going through legal procedures when viewed from provisions of principle legality, there are several aspects that must be considered (Didik Purwadi, Amiruddin, 2022), namely:

1. No act can be punished except based on the provisions of the Law.
2. In assessing whether a criminal act has occurred, analogy cannot be used.
3. Criminal provisions are not retroactive.
4. There is no punishment based only on custom.
5. There is no formulation of a criminal act that is unclear (*lexcetra*).
6. Criminal prosecution may only be carried out based on the provisions of the Law.
7. There is no other punishment other than that specified in the Law.

Acts of taking the law into one's own hands are carried out on the basis of emotional reasons (explosion of anger) and piles of disappointment (Soerjono Soekanto, 2019). This is what causes the perpetrator to take the law into his own hands. It could be that the perpetrator of taking the law into his own hands has experienced the loss of an item, as if a thief or victim who committed his crime elsewhere was caught red-handed by several members of the community. Members of the community who have experienced the loss of goods therefore cause emotions, resentment and disappointment to assume that he is the thief, causing the perpetrator to vent his anger and disappointment on the victim considering the thief or victim the same. Taking the law into his own hands cannot be justified by the positive law in force in Indonesia regardless of the reason.

For perpetrators of vigilante actions in this case, they must be responsible for their actions because they harm others, these actions are a form of criminal act (Didik Purwadi, Amiruddin, 2022). The act of vigilantism has not been regulated in a limited manner in the Law, but perpetrators of *eigenrichting/vigilante* actions can be processed/prosecuted legally if they violate the provisions contained in criminal law, including:

#### *Abuse (Section 351 of the Criminal Code)*

This act of taking law into one's own hands tends towards abuse, where the victim experiences suffering or injury as a result of the act. Section 351 does not provide provisions on what is meant by "abuse" (mishandeling). According to Leden Marpaung, abuse is intentionally causing pain or injury to another person. However, an act that causes pain or injury to another person cannot be considered abuse if the act is carried aimed at enhancing physical security (Leden Marpaung, 2005). Abuse is like that too an act that is carried out intentionally causing unpleasant feelings (suffering), pain or injury. Below are some acts of vigilantism in a form of persecution. These forms of persecution depend on the consequences, resulting in light or heavy persecution or in other words have their own criteria. The following is a classification of criminal acts of persecution in the Criminal Code as follows:

##### a. Ordinary assault (Section 351 of the Criminal Code)

The provisions of Section 351 of the Criminal Code state that:

- 1) Abuse carries a maximum penalty of 2 years and 8 months in prison or a fine not exceeding four thousand five hundred rupiah.
- 2) In the event that the act causes severe injuries, the guilty party is subject to a maximum sentence of five years imprisonment.
- 3) In the event that it causes death, it is punishable with a sentence of up to seven years imprisonment.

- 4) Abuse is considered as deliberately harming health.
- 5) Any attempt to commit this offense is not subject to punishment.
- b. Minor Assault (Section 352 of the Criminal Code)  
The prescribed terms of Section 352 of the Criminal Code state that:
  - 1) Except for those mentioned in Sections 353 and 356, mistreatment that does not result in illness or obstacles to performing official labor or investigation is subject to punishment as minor abuse, with no more than prison sentence for 3 months or a fine not exceeding IDR 4.5 million. The sentence may be elevated by one third for an individual who commits a violation directed at a person who is either in his service or under his supervision.
  - 2) Attempt this offense is not subject to punishment.
- c. Serious Assault (Section 354 of the Criminal Code)  
The provisions of Section 354 of the Criminal Code state that:
  - 1) Anyone who intentionally causes serious injury to another person shall be punished for serious assault, punishable by imprisonment for a term not exceeding eight years.
  - 2) In the event that the act causes the death of the party, the responsible individual is sentenced to detention for up to ten years.

*Assault (Section 170 of the Criminal Code)*

Acts of vigilantism also tend to be carried out by committing violence that is carried out together. This is stated in Section 170 of the Criminal Code which states that:

- 1) Any person who collectively engages in acts of violence against individuals or property in public shall be punished by imprisonment for up to five years and six months.
- 2) Found guilty shall be penalized:
  - a) Punishable by a maximum of seven years in prison if the act is committed intentionally damages goods or acts of violence he commits results in injury.
  - b) Punishable by up to nine years in prison, in the event that the violence results in severe physical harm.
  - c) Punishable by up to twelve years in prison, provided that the violence results in death.

The elements contained in this Section are as follows:

1. Any person: Denoting the person or individual acting as the offender.
2. Within the public sphere, the act was committed within place where the public could see it.
3. Together: This means that it is done by at least two or more people. The meaning of the word together shows that the act was done intentionally or possessed a clear intention, so it is not an accident.
4. Violence: This means using physical force or strength that is not small and not legitimate. Violence in this Section usually consists of “damaging property” or “assault”.
5. Against people or property: The violence must be directed at people or property as victims.

The use section is not the same as the use of Section 351 of the Criminal Code. Because in Section 170 of the Criminal Code, the perpetrator is more than one, while in Section 351 of the Criminal Code. The perpetrator is one person or can be more than one person with the note that it is not done at the same time. A person can receive violent treatment from two or more people but the perpetrators do not do it together or do not agree and understand to carry out the violence, then this has entered the realm of Section 351 of the Criminal Code. Violence carried out according to Section 170 of the Criminal Code is certainly carried out by the perpetrators at the same time or in close proximity with the condition that there is an agreement and understanding to carry out the violent act against people or goods.

*Vandalism (Section 406 of the Criminal Code)*

If it is related to perpetrating justice independently without legal authority with a destruction contained in Section 406 of the Criminal Code, it also fulfills its elements. Section 406 (Criminal Code) states that:

- 1) Anyone who, with intent and without legal justification, destroys, harms, makes unusable or removes an object that fully or partially belongs to someone else, shall be subject to an upper limit of prison sentence with imprisonment up to two years and eight months, or a fine reaching four thousand five hundred rupiah.

- 2) The same penalty shall be applied to an individual who deliberately and without legal justification takes another's life, damages, makes inoperable or removes on living being, which in whole can be also in part belongs to someone else.

The application of Section 406 paragraph (1) of the Criminal Code in vigilante actions that are accompanied by damage or destruction of goods in the vicinity, whether the victim's property or the property of another person, can also be imposed under Section 406 paragraph (1) as an additional sanction that is aggravating. Specifically for violence against property, the Section that also regulates vigilante actions accompanied by damage to property is regulated in Section 406 paragraph (1), which reads: Anyone who intentionally and unlawfully destroys, damages, renders unusable or removes goods that are in whole or in part owned by someone else, is to be subject to a custodial sentence up to two years and eight months, or a financial penalty up to four thousand five hundred rupiah. The components of Section 406 of the Criminal Code include:

1. Any person who;
2. Intentionally and unlawfully;
3. Commits an act of destroying, damaging, rendering unusable or removing an item;
4. The item belongs in full or in part to another party.

The party who orders to do it is not the perpetrator who directly commits the crime. However, in criminal law, the party who can be punished as the perpetrator is not limited to the perpetrator who directly commits the crime. In criminal law, those who are classified/considered as perpetrators (*dader*) of a crime are at least 4 types as stipulated in Section 55 of the Criminal Code (Soesilo, 2008), namely:

1. Those who commit a criminal act themselves (*plegen*);
2. Those who order others to commit a criminal act (*doen plegen*);
3. Those who participate (together) in committing a criminal act (*medeplegen*); and
4. Those who intentionally encourage (motivate) others to commit a criminal act (*uitlokking*).

In addition, in criminal law there is also a term known as an accomplice to a crime (*medeplechtige*) which is regulated in Section 56 of the Criminal Code which stipulates: Punishable as accomplice (*medeplechtige*) for a criminal offense:

1. Individuals who deliberately provide assistance when the offense takes place;
2. Those who intentionally provide the opportunity, means or information to commit the crime.

This is included in the act of ordering another person to do a criminal act (*doen plegen*), and the person gets the same punishment as the perpetrator who directly committed the act of destruction (Laurensius Arliman S, 2019). The person who ordered the craftsman to commit the destruction can be punished like the perpetrator who directly committed the offense of destruction based on the provisions of Section 406 of the Criminal Code.

For a craftsman that receives wages, if he does not know that the order is intended to damage something (for example, the craftsman thinks that he must destroy a building because it is no longer used and a new building will be built), then in this case there is no element of intent to damage something belonging to someone else in an unlawful manner (Soesilo, 2008). If the craftsman knows from the start that the order is indeed to harm someone else by damaging the item, then there is an element of intent in his actions and the craftsman can be punished as a perpetrator based on Section 406 of the Criminal Code.

Whatever a reason, if act harms others in inhumane ways, it must be accounted for. The system of criminal liability in current positive criminal law is based on the fault principle, which is one of the fundamental doctrines besides the legal certainty principle (Grace Yurico Bawole, 2018). Criminal liability represents a type of conduct by perpetrator pertaining to an offender act against the mistake he made. Responsibility under criminal law occurs due to the presence of is a mistake that constitutes a criminal act perpetrated by a person, as well as the existence of already regulations governing the criminal act. The the components of criminal responsibility consist (S.R. Sianturi dan E.Y. Kanter, 1989), including:

- a. The condition of his mind:
  - 1) Unaffected by either ongoing or momentary illness (*Temporari*)
  - 2) Not deformed in development (dumb, very low intelligence, mental retardation, other intellectual disorders), and

- 3) Free from interference caused by shock, hypnosis, intense emotional outbursts, or unconscious impulses (reflex movements), slipping (slaapwandel), disturbed by fever (koorts), urges and similar impulses. To put it differently, he possesses awareness.
- b. His Emotional Abilities
  - 1) Has the ability to comprehend the core meaning of his conduct.
  - 2) Has the ability to establish his will concerning the action, whether to carry it or refrain from doing so. Is able to know the blameworthiness regarding the act.

Committing an deed that cannot be held accountable due to impairment of his mental state its developmental or impaired by sickness, does not punishable (Elyada Umbu Ndapabehar dan R. Rahaditya, 2023). Not having the capacity for accountability is a condition of mind, namely like a people with mental disorders where in this case a people with mental disorders cannot be held responsible for his actions. The act of taking the law into one's own hands is not regulated in the Criminal Code and in other laws, but this the act of enforcing justice personally without legal authority contains elements of a criminal act that can be processed according to applicable law. This the act of personally enforcing the law breaches the provisions of the Criminal Code like abuse, violence destruction on the basis of which the state prosecutor submits the matter to the District Court to be processed and decided by a panel of authorized judges with permanent legal force (Didik Purwadi, Amiruddin, 2022).

From a criminal law perspective, taking firm action against perpetrators of vigilantism aims to maintain public order (de handhaving van de maatschappelijke) and to prevent crime (ter voorkoming van de misdaad). Thus, vigilante behavior in society can be minimized (Kiki Kristanto, 2017). Therefore, taking firm action against perpetrators who commit vigilantism is a form of criminal responsibility for the perpetrators. In other research conducted by La Ode Awal Sakti, et al. in relation to criminal responsibility for perpetrators of vigilante justice, the perpetrators can be held accountable for their conduct in accordance with their role and the nature of their actions (La Ode Awal Sakti, Yeni Haerani, Yahyanto, 2024).

## CONCLUSION AND SUGGESTION

Criminal liability against the crime of taking the law into one's own hands (*eigenrichting*) in criminal law in Indonesia must still be held accountable, because he who committed the crime, then he will also undergo the sanctions and cannot be represented by another person. Criminal liability against the crime of acting as a self-appointed enforcer of the law (*eigenrichting*) is indeed does not regulated in limited manner in the law but in this action, there are elements of the crime as stated in the Criminal Code (KUHP) namely in Section 351 concerning Assault, Section 170 concerning Mob Attacks and Section 406 concerning Vandalism. In relation to an act that can harm others in inhumane ways, it must still be accountable. legal responsibility for a criminal act occurs due to the existence of a fault that constitutes a criminal offense act carried out by an individual, and there exist already regulations governing criminal acts.

Vigilante justice occurs because the lack of public trust in law enforcers. Law enforcers are expected to be able to provide a sense of justice and security to the public so that the public trusts them. So the author's suggestion is that there should be efforts by the government and law enforcers to conduct legal counseling to provide or build public legal awareness so that they do not take the law into their own hands, there are many facts in society where the public does not know that the actions taken are criminal acts. Victims of assuming control over the law their personal control in criminal justice systems must receive more status or attention from the State. The position of victims in criminal law must be given attention to their rights and protection by law. In addition, law enforcers should form regulations that regulate taking the law into their own hands more specifically and in detail in their regulations, so that if taking the law into their own hands they can be charged with these regulations.

## ACKNOWLEDGEMENT

A big thank you to fellow authors who have made valuable contributions in the process of compiling this research. The participation, support, and solid cooperation of colleagues greatly assisted in the implementation of research on criminal responsibility for perpetrators of vigilantism (*eigenrichting*). Without the active involvement and collaborative spirit of colleagues, this research would not have been completed properly. Hopefully the results of this research can provide a positive contribution to the development of criminal law in Indonesia.



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