



Justice and Legal Certainty in Case of Novel Baswedan

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Abstract: This study aims to determine justice and legal certainty in the case of Novel Baswedan. The legal research used in this paper is normative legal research using statutory and case approaches. Furthermore, using the technique of analysis of legal materials Interpretation. The study results show that the Novel Baswedan Persecution Case, Seen from the Perspective of Justice and Legal Certainty, is applied to Court Decision Number 372/Pid.B/2020/PN.Jkt.Utr. It has many irregularities, as is the case with the application of articles that do not have clear legal certainty or the application of articles that are not following what the defendant did. From a justice point of view, the public prosecutor's indictment did not reflect a sense of justice for the victim, where the defendant should have been subject to premeditated serious maltreatment. However, the public prosecutor was only subject to ordinary maltreatment. All stakeholders within the scope of law enforcement, including the police, public prosecutors, legal advisors, and judges, must represent the values and legal norms that apply to create legal certainty and justice for people who are dealing with legal proceedings, both as perpetrators and victims in general.

Keywords: justice; legal certainty; persecution.

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1. Introduction

Indonesia is a country that adheres to the Continental European legal tradition, often referred to as civil law.¹ The civil law tradition is characterized by a written legal system, which is the main requirement in state administration.² In its constitution, Indonesia is a constitutional state whose embodiment is reflected in laws and regulations made to limit the state's power (government) and provide guidelines for the people in carrying out their activities as citizens.³ Indonesia itself, when viewed from the perspective of the journey of Pancasila, which has its history in the lives of the nation and state and which until now has not shown the harmony of life for each component of the country, requires Indonesians to rethink the best path for the journey of national and state life in the way of Pancasila.⁴

The government creates order and peace in people's lives and maximizes the potential for regional development.⁵ Everyone else, including the government, must heed it, making laws based on their rights.⁶ Because of this, one of the objectives of recognizing and strengthening the rule of law is to protect human rights, meaning that individual rights and freedoms are recognized, respected, and upheld.⁷

The process of resolving the assault case against Novel Baswedan, an investigator at the Corruption Eradication Commission (KPK), followed criminal law procedures in Indonesia. This means that the case's investigation, prosecution, and trial are integrated processes. This is known as an integrated criminal justice subsystem. The case files of the defendants examined at the North Jakarta District Court are divided into two. First is the defendant's case file, Ronny Bugis, with registration number 371/Pid.B/2020/PN.JKT.Utr. Second, is the defendant's case file, Rahmat Kadir Mahulette, with registration number 372/Pid.B/2020/PN.JKT

¹ Ahmad Ahmad, "Purifikasi Pemberian Amnesti Dan Abolisi: Suatu Ikhtiar Penyempurnaan Undang Undang Dasar 1945," *Ius Civile: Refleksi Penegakan Hukum Dan Keadilan* 5, no. 2 (October 28, 2021), <https://doi.org/10.35308/jic.v5i2.2547>; Ahmad Ahmad and Novendri M. Nggilu, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution," *Jurnal Konstitusi* 16, no. 4 (2019): 785-808, <https://doi.org/10.31078/jk1646>; Ahmad Ahmad and Nadya Lonely Bifirli Polii, "Mencari Jiwa Asas Pacta Sunt Servanda Dalam Pelanggaran General Agreement Of Tariff And Trade," *Jurnal Pendidikan Tambusai* 7, no. 1 (April 13, 2023): 1623-31, <https://doi.org/10.31004/jptam.v7i1.6036>.

² fence M. Wantu Kadek Wijayanto, Lusiana Margareth Tijow, "Kedudukan Peraturan Desa Dalam Sistem Pembentukan Peraturan Perundang Undangan Nasional," *Jurnal Ius Civile* 4, no. 2 (2020): 198-219., 198

³ Nuvazria Achir, "Anotasi Normatif Terhadap Peraturan Daerah Tentang Transparasi.," *Jambura Law Review*. 2, no. 1 (2020): 83-100.

⁴ Abdul Hamid. Tome, "Membumikan Pancasila: Upaya Pelembagaan Nilai Pancasila Dalam Kehidupan Masyarakat Desa.," *Jurnal Al-'Adl*. 13, no. 1 (2020): 83-100.

⁵ Sri Nanang Meiska Kamba Nuvazria Achir, "The Function Of Sharia-Based Regional Regulations On Education And Social Services In The Regions," *Jambura Law Review*. 3, no. Special Issue (2021): 1-17.

⁶ M. H. Bakung, D. A., & Muhtar, "Determinasi Perlindungan Hukum Pemegang Hak Atas Neighbouring Right," *Jambura Law Review*. 2, no. 1 (2020): 65-82.

⁷ Badu Lisnawaty, "Euthanasia Dan Hak Asasi Manusia," *Jurnal Legalitas*. 5, no. 1 (2012): 1-11.

The case was examined using separate files, with the same articles charged against the two defendants. Subsidiarity of the indictments includes violations of Article 355 paragraph (1) of the Criminal Code in conjunction with Article 55 paragraph (1) of the 1st Criminal Code as the primary charge, violations of Article 353 paragraph (2) of the Criminal Code in conjunction with Article 55 paragraph (1) of the 1st Criminal Code as an indictment subsidiary, and violations of Article 351 paragraph (2) of the Criminal Code in conjunction with Article 55 paragraph (1) of the 1st Criminal Code as a more subsidiary charge. Regarding the charges in this case, there are two exciting things to note. First, regarding the preparation of indictments in the form of subsidiarity and separation of case files; Second, regarding the summary of the articles listed in the indictment,

First, an indictment made in subsidiary form consists of two or more indictments sorted by severity, starting with the article that carries the heaviest sentence. According to M. Yahya Harahap, the public prosecutor is unsure and does not dare say with certainty that this result has hit the specific criminal article in the subsidiary charge. The public prosecutor has laid a crude and deceptive trap. This style of indictment shows the prosecutor's ability to understand and evaluate cases.⁸

The case files of the defendants, which are divided into two, also need attention. In general, if there is sufficient evidence and witnesses in the case, completing the case file becomes crucial.⁹ Each defendant paired with another defendant can be called a witness in turn.

Second, the articles applied to the defendants are regulated in Book II of Chapter XX of the Criminal Code relating to acts of persecution. Article 351 of the Criminal Code regulates the main form of persecution. Meanwhile, Article 55, paragraph 1, of the Criminal Code regulates the involvement of other people in this act of persecution.

Persecution is intentionally causing pain or injury to another person's body (Hoge Raad decision dated June 25, 1894). An intentional act: "(a) causing pain to another person; (b) causing injury to another person's body; or (c) harming the health of others. Persecution is a material criminal act; it is considered complete when the consequences arise. In this case, the perpetrator's intention should not be aimed at inevitable consequences. It could be that the result of the perpetrator's intention was aimed at other actions".¹⁰

⁸ M. Yahya Harahap, *Pembahasan Permasalahan Dan Penerapan Kuhap: Penyidikan Dan Penuntutan* (Jakarta: Sinar Grafika, 2015).

⁹ Ahmad Ahmad, "Measuring The Application of Corporate Social Responsibility of PT. Gorontalo MineralS," *Estudiante Law Journal* 4, no. 2 (February 15, 2022): 132–45, <https://doi.org/10.33756/eslaj.v4i2.16489>; Ahmad, Fence M. Wantu, and Novendri M. Nggilu, *Hukum Konstitusi (Menyongsong Fajar Perubahan Konstitusi Indonesia Melalui Pelibatan Mahkamah Konstitusi)* (Yogyakarta: UII Press, 2020); Dian Ekawaty Ismail et al., "Collocation of Restorative Justice with Human Rights in Indonesia," *Legality : Jurnal Ilmiah Hukum* 32, no. 2 (September 20, 2024): 394–417, <https://doi.org/10.22219/ljih.v32i2.35374>.

¹⁰ P.A.F. Lamintang, *Delik-Delik Khusus: Kejahatan Terhadap Nyawa, Tubuh, Dan Kesehatan Serta Kejahatan Yang Membahayakan Bagi Nyawa, Tubuh, Dan Kesehatan*. (Bandung: Bina Cipta, 1986).

Article 90 of the Criminal Code states, "Severe injury means: (-) falling ill or receiving an injury which gives no hope of recovery or which poses a danger of death; (-) being unable to continue to carry out job duties or search work; (-) losing one of the five senses; (-) having a severe disability; (-) suffering from paralysis; (-) having disturbed thinking power for more than four weeks; (-) the death or death of a woman's womb." In this case, the judge has the freedom to consider any situation that is "harmful to the body as a serious injury to the body," which, according to the grammatical understanding, can be considered as such.

Article 353 paragraph (2) of the Criminal Code regulates the crime of persecution, which qualifies as "premeditated." The formulation of the article is, "If the act causes serious injury to the body, then the guilty person shall be punished with imprisonment for a maximum of seven years."

Article 355 paragraph (1) of the Criminal Code regulates the crime of maltreatment, which qualifies as "severe maltreatment with premeditation." The formulation of the article is "Severe abuse that is carried out with premeditation is punishable by imprisonment for a maximum of twelve years." P.A.F. Lamintang said that Article 355 of the Criminal Code constituted serious persecution with weight.¹¹

Van Toelichting's memory states that planning requires a certain period to plan calmly and to reconsider it calmly. It is planned depending on the concrete circumstances of each event. The element of "premeditation" is a core part of a criminal act, which aggravates the criminal situation.¹²

Intentional acts that result in serious bodily harm to another person are classified as serious maltreatment. The decisions of the Hoge Raad of January 8, 1917, and October 22, 1923, explained that serious bodily injuries referred to injuries that had a significant and permanent adverse effect or caused the loss of an important part of the body.

Novel Baswedan is a state official who is an investigator for the Corruption Eradication Commission (KPK). The formation of the KPK was based on Law Number 30 of 2002 concerning the Corruption Eradication Commission. The KPK is tasked with eradicating corruption professionally, intensively, and sustainably. This institution is an independent state agency that, in carrying out its duties and authority, is free from outside influence. On April 11, 2017, Novel was attacked by

¹¹ Maya Lasena et al., "Cockfighting Gambling Criminal Acts Commitment," *Estudiante Law Journal* 4, no. 2 (June 1, 2022): 77-90, <https://doi.org/10.33756/eslaj.v4i2.16039>; Dian Ekawaty Ismail et al., "Model for Legal Settlement on Damage to the Tanjung Panjang Nature Reserve in Pohuwato Regency," *Russian Law Journal* 11, no. 3s (April 5, 2023), <https://doi.org/10.52783/rlj.v11i3s.734>; Dian Ekawaty Ismail et al., "Cyber Harassment of Public Figures: Causes and Importance of Legal Education," *E3S Web of Conferences* 594 (2024): 03005, <https://doi.org/10.1051/e3sconf/202459403005>; Ahmad Ahmad, Muh Ramdhani Hamzah, and Gunawan Rena, "Upaya Pemerintah Dalam Mengurangi Dampak Negatif Pertambangan Batu Hitam Di Daerah Gorontalo," *Depositi: Jurnal Publikasi Ilmu Hukum* 2, no. 2 (May 27, 2024): 422-30, <https://doi.org/10.59581/deposisi.v2i2.3293>.

¹² Andi Hamzah, *Delik-Delik Tertentu (Speciale Delicten) Di Dalam KUHP* (Jakarta: Sinar Grafika, 2010).

two unidentified people after performing morning prayers near his house. He was attacked with acid, resulting in damage to his eye.

In light of the results of the police investigation, it was revealed that the clever attack was a painstakingly orchestrated demonstration. The reason is that the two perpetrators already knew that the victim was praying Subuh in the congregation. As a third party authorized to carry out investigations, Polda Metro Jaya has examined 73 witnesses by police investigators, installed CCTV in the field, and requested additional information from victims. Polri is also working with the Australian police to expedite the disclosure of cases. This collaboration took the form of searching for CCTV footage of the alleged assailants who attacked Novel Baswedan. The National Police released three sketches of the suspect's face based on the CCTV identification results. However, these efforts have not produced results because the alleged arrested perpetrators have an alibi.¹³

This case has not been resolved for more than two years since the attack in early 2019. The public makes many assumptions about sufficient time to uncover a criminal case. The public is starting to hear various statements that have the potential to question the performance of the police. Suspicions that raised doubts about the police's exposure emerged from several parties, including Novel Baswedan, the KPK, and the ICW. The statements of some of these parties may raise questions about the performance of the police.

This case is very strange because the Public Prosecutor, acting as legal adviser, was pleased with the unusual trial procedure and the Public Prosecution Service's desire for one year in prison against the senior KPK attacker accused, Novel Baswedan. Due to the severity of the persecution, this situation is also not right. The hatred of Rahmat Kadir Mahulatte, who was accused of intentionally torturing Novel Baswedan, ignoring the life of the corps, not harming his crew, and not sacrificing the institution that raised him, became the trigger for the defendant to teach the victim witness a lesson.

This can be shown analytically or by autopsy, and it also depends on how the criminal investigator behaves at the crime scene and questions witnesses. These explanations must be characterized to rule out the possibility that the maltreatment injuries were caused by anything, the deliberate misuse of hazardous chemicals or the premeditated act of killing. The investigation of several witnesses who have already given confessions to investigators, as well as new witnesses who have information and clues, will continue to determine the results of the TPF's disclosures as another route of investigation.¹⁴

¹³ Dina Etikawati, "Representasi Kinerja Polri Terkait Kasus Teror Air Keras Novel Baswedan Dalam Media Masa Online Di Indonesia" (Universitas Diponegoro, 2019).

¹⁴ Mhd. Yuda Mulyawan Simatupan Lestari Victoria Sinaga, "Fungsi Olah Tempat Kejadian Perkara (Tkp) Guna Mengungkapkan Kasus Penganiayaan Berat Ditinjau Dari Sudut Hukum Acara Pidana," *Jurnal Rectum*. V 2, no. 2 (2020): 129-36.

The public prosecutor demanded one year in prison for the two defendants, Rahmat Kadir Mahulette and Roni Bugis. These demands are very rigid and theatrical. Because Rahmat doused Novel with sulfuric acid, also known as H₂SO₄, the prosecution found Rahmat guilty of premeditated assault causing significant loss. According to the prosecutor, Rahmat wanted to splash liquid on Novel's body. It was a very odd line of thinking on the part of the prosecution, which insisted Novel had been hit in the face by accidentally splashing acid. The two perpetrators are members of the National Police, who certainly have unique expertise. Since it was a deliberate attack, this statement was completely irrational. In which the actors were interviewed while witnessing Novel Baswedan's activities, house, and environment.

One of the goals of Indonesian law is certainty. Due to the many legal issues in Indonesia, the law is often applied inconsistently and, in certain cases, in a way that contradicts the prevailing legal theory. The level of legal certainty increases with how well a country's legal system works. Conversely, a country's legal certainty level will be low if it does not have an independent legal system.¹⁵ During the 70 years of Indonesia's independence, this country has been considered less productive in drafting laws that truly benefit its people. Even though the government has introduced many regulations, there is a growing sense of overlap between them, which confuses the general public.

Because of these criminal acts, there is a need for responsibility. The term responsibility in legal terminology is often replaced with accountability. Responsibility can be interpreted as a basic willingness to carry out what is obligatory.¹⁶ Local government is a subsystem of the government of the Unitary State of the Republic of Indonesia.¹⁷ Therefore, all the goals and ideals mandated by the opening of the 1945 Constitution of the Republic of Indonesia are also the aspirations and goals of the local government that must be achieved.¹⁸ The perpetrators were not given the maximum sentence following statutory provisions in these cases.¹⁹

¹⁵ Jan Michiel Otto, *Kepastian Hukum Di Negara Berkembang* (Jakarta: Komisi Hukum Nasional Republik Indonesia, 2003).

¹⁶ Lusiana Tijow, "Perlindungan Hak Asasi Manusia Terhadap Hak Hidup Anak Dalam Kandungan Di Luar Perkawinan Yang Sah," *Jurnal Legalitas*, 3, no. 2 (2003): 79-90.

¹⁷ Novendri M. Nggilu and Ahmad Ahmad, "Optimalisasi Jaringan Dokumentasi Dan Informasi Hukum (JDIH) Dalam Pembentukan Produk Hukum Desa Tabongo Timur," *DAS SEIN: Jurnal Pengabdian Hukum Dan Humaniora* 3, no. 1 (January 31, 2023): 49-66, <https://doi.org/10.33756/jds.v0i0.15535>; Fence M. Wantu et al., "Indonesian Constitutional Interpretation: Constitutional Court Versus the People's Consultative Assembly," *Journal of Legal, Ethical and Regulatory Issues* 24, no. 6 (July 1, 2021): 1-717, <https://www.abacademies.org/abstract/indonesian-constitutional-interpretation-constitutional-court-versus-the-peoples-consultative-assembly-11463.html>; Mohammad Abdi Lanjahi et al., "Analisis Yuridis Terhadap Perlindungan Ekspresi Budaya Tradisional Provinsi Gorontalo," *Perkara: Jurnal Ilmu Hukum Dan Politik* 1, no. 3 (August 20, 2023): 161-82, <https://doi.org/10.51903/perkara.v1i3.1347>.

¹⁸ Novendri M. Nggilu, "Tinjauan Yuridis Pengaturan Sanksi Pidana Dalam Peraturan Daerah Provinsi Gorontalo," *Lambung Mangkurat Law Journal*, 5, no. 2 (2020): 109-21.

¹⁹ Mohamad Rizky Alhasni, Lisnawaty W Badu, and Novendri M Nggilu, "Menakar Peran Kepolisian Dalam Mencegah Tindak Pidana Pencabulan Terhadap Anak Di Bawah Umur," *Jurnal Legalitas*, 12, no. 2 (2019): 110-23.

Quoting what was said in the journal Fence Want and A. Hamid T that the existence of the regulation provides equal rights for every citizen.²⁰

The actions and behavior of the public prosecutor, who made a subsidiary indictment and charged only one year in prison against the suspect in the persecution of Novel Baswedan, is one of the many strange issues and has given rise to many question marks in the public's minds. Not only is there legal certainty, but justice is also questioned in the settlement flow in these cases.

2. Method

The legal research used in this paper is empirical legal research using statutory and case approaches. Furthermore, using the technique of analysis of legal materials Interpretation. According to Suratman and Philips Dillah, interpretation is one of the methods in a legal discovery that aims to understand legal materials, especially primary legal materials, and find out whether there are legal voids, antinomies, or unclear legal norms.

3. Justice and Legal Certainty in the Novel Baswedan Case

3.1 Legal Certainty

Legal certainty, as one of the goals of the law, can be said to be part of efforts to achieve justice. The basic form of legal certainty is the implementation or law enforcement of an action, regardless of who does it. With legal certainty, everyone can predict what will happen if they take specific legal actions. Certainty is needed to realize equality before the law without discrimination.²¹

The verdict has been decided on the crime of persecution of Novel Baswedan through Court Decision Number 372/Pid.B/2020/PN.Jkt.Utr. Raises pros and cons from various parties because the prison sentence imposed on the defendant is considered not following the consequences felt by Novel Baswedan, especially since the defendant and the victim are from the police or law enforcement agencies.

According to Fence M. Wantu in his writings²² the legal certainty outlined in the judge's decision is a result that is based on the facts of the trial that are legally relevant and considered with a conscience. Judges are always required to be able to interpret the meaning of laws and other regulations that are used as the basis for implementation. Applying the law must follow the case that occurred so that the judge can construct the case being tried as a whole, wisely and objectively.

In connection with the acid attack case against KPK investigators, in this case, Novel Baswedan, there were irregularities from the legal certainty point of view, for

²⁰ Abdul Hamid Tome, "Dynamics of Village Head Election Arrangements," *Jambura Law Review*. 3, no. Spesial Issue (2021): 96-116.

²¹ Moh. Mahfud MD, "Penegakan Hukum Dan Tata Kelola Pemerintahan Yang Baik, Makalah Pada Acara Seminar Nasional Dengan Tajuk Saatnya Hati Nurani Bicara Yang Diselenggarakan Oleh DPP Partai HANURA.," 08 Januari 2009 (Jakarta, n.d.).

²² Ibid.

example, in the imposition of an article that was not following what the defendant had done.

Suppose you look at PN Decision No. 372/Pid.B/2020/PN.Jkt.Utr, where the public prosecutor charged the defendant with a subsidiary charge. In the direct indictment, it reads: "together committed or took part in committing an act of serious maltreatment which was carried out with premeditation," as stipulated in the provisions of Article 355 paragraph (1) of the Criminal Code in conjunction with Article 55 paragraph (1) of the 1st Criminal Code. The subsidiary indictment reads: "together committed acts of persecution with premeditation which resulted in serious injuries," as in the provisions of Article 353 paragraph (2) of the Criminal Code, Article 55 paragraph (1) 1st of the Criminal Code, and more subsidiary indictments: "together committed or participated in committing acts of persecution which resulted in serious injuries," as in the provisions that contradict Article 351 paragraph (2) of the Criminal Code in conjunction with Article 55 paragraph (1) 1st of the Criminal Code.

According to the Public Prosecutor, the defendant was proven to have committed a criminal act "together committed acts of persecution with premeditation which resulted in serious injuries," as contained and received criminal threats in Article 353 paragraph (2) of the Criminal Code in conjunction with Article 55 paragraph (1) of the 1st Criminal Code in subsidiary indictments. The legal basis used by the public prosecutor in charging the defendant for using Article 353 paragraph (2) of the Criminal Code in conjunction with Article 55 paragraph (1) of the 1st Criminal Code, in this case, is deemed inappropriate. The defendant's actions against the victim should have fulfilled the elements of Article 355 paragraph (1) of the Criminal Code in conjunction with Article 55 paragraph (1) of the 1st Criminal Code as stated in the direct indictment with the following elements:

1. Elements of Whoever
2. elements of severe persecution;
3. With planning,
4. Who Did, Who Ordered to Do, or Who Participated in Doing

If you look at the various elements of the article above, it can be said that the defendant has fulfilled the elements of the article as mentioned above. Regarding the elements of severe maltreatment with prior planning, it is a combination of severe maltreatment (Article 354 paragraph 1 of the Criminal Code) and premeditated persecution (Article 353 paragraph 1 of the Criminal Code), so that the two forms of persecution occur simultaneously or together in order to comply with the provisions of Article 355 paragraph 1 of the Criminal Code.

Furthermore, quoting as according to SR. Sianturi, deliberately seriously injuring was related to his qualifications, namely because severe maltreatment meant that the aim and will of the perpetrator were for the object to be seriously injured, not just

injured. And if it also happens that serious injuries occur, then it can be called severe persecution.²³

As the author's analysis above shows, the defendant should have been charged with the article on premeditated severe maltreatment because, by looking at the chronology of the Novel Baswedan case, it was revealed in the trial that the defendant had planned the actions they would commit. This is the case with searching the victim's house, providing acid or sulfuric acid, which is used for flushing the victim and monitoring the paths or tracks often passed by the victim. So by looking at the various facts mentioned above, it can be said that the actions and deeds committed by the defendant amounted to premeditated, severe maltreatment.

Furthermore, according to the author's analysis, there was an imposition of an article on severe maltreatment when acid or sulfuric acid was poured on the victim in the eye and caused the victim to become disabled, where he could not see properly. In the PN Decision No.372/Pid.B/2020/PN.Jkt.Utr, the defendant, in his statement, said that he had no intention of injuring the victim Novel Baswedan until he was disabled. The defendant's intention was only to warn the victim's body, not the victim's face, and the defendant did not know that he was hit in the face. The defendant himself knows that the actions he has taken are classified as actions that are contrary to the law and must be held accountable. Rahmat Kadir Mahulette should be aware because of his actions. It can happen according to what he wants or not at all. Novel Baswedan suffered serious injuries to his eyes caused by actions that occurred even though they were not wanted but were considered or suspected to have happened. However, the defendant's desire was so great to carry out his actions he still took the risk to commit these actions. This action can be categorized as intentional as a possibility, and because of this, the author considers that the decision has no legal certainty.

Judge's decisions that contain elements of legal certainty will contribute to the development of knowledge in the field of law. This is because the judge's decision has permanent legal force. It is no longer the opinion of the judge who decides the case but is already the opinion of the court institution and has become a reference for society in daily interactions.²⁴

Competent and efficient law enforcement is highly dependent on everyone's legal knowledge. The awareness of each party, in this case, prosecutors, judges, and actual actors, must be appropriate so that the rules can function properly and are on target. In deciding a case, the judge is important in ensuring justice. There will be gains, losses, and injustice when the judge favors one of the parties. The public will understand better that a criminal act will be dealt with decisively in a situation like

²³ E.Y. Kanter Dan S.R. Sianturi, *Asas-Asas Hukum Pidana Dan Penerapannya* (Jakarta: Stora Grafika, 2002).

²⁴ MD, "Penegakan Hukum Dan Tata Kelola Pemerintahan Yang Baik, Makalah Pada Acara Seminar Nasional Dengan Tajuk Saatnya Hati Nurani Bicara Yang Diselenggarakan Oleh DPP Partai HANURA."

this, creating a deterrent effect for both the perpetrator and the general public not to do so when a court decision can provide legal certainty for all parties.

3.2.2 Jusctice

The light charge of only one year in prison for the perpetrators of the acid attack on the Novel Baswedan suddenly made the public wonder and feel odd. This is because the practice of violence not only physically injured the KPK investigator but allegedly injured the conscience of justice and the future of corruption enforcement in this country.

Justice and law enforcement values are still not reflected in the picture of law enforcers in Indonesia. One of the places where people can get justice and settle cases is in court. Indonesia promises its people that they will obtain justice through judicial power through judicial intermediaries following applicable laws and regulations. Article 24, paragraph (1) of the 1945 Constitution of the Republic of Indonesia emphasizes that judicial power is an autonomous power responsible for upholding the rule of law and justice.

Suppose referring to what was said by Prof. Fenty Puluhulawa in his writings that the government through law has provided a starting point for justice, which is carried out for the sake of justice based on Belief in God.²⁵ Quoting, as said by Fence M. Wantu in his journal, the essence of justice is assessed from one person to another, which is generally seen from the side which receives the treatment.²⁶ Quoting as Suwitno Yutye Imran said that justice serves as a guideline to distinguish between just and unfair actions, elements of justice can be contained in the substance.²⁷ Equality in law or equality before the law means that when dealing with the law, there should be no form of discrimination or differential treatment for citizens because all are equal before the law.²⁸

According to Umar Sholehudin in his writings, legal justice for society is not just formal-procedural justice but justice based on rigid normative rules that are far from morality and human values. The opposite of formal-procedural justice is substantive justice, namely justice whose size is not quantitative as it appears in formal justice but qualitative justice, which is based on public morality and human values and can provide satisfaction and happiness to society.²⁹

²⁵ Sutrisno, Puluhulawa Fenty, and Lusiana Margaereth Tijow, "Penerapan Asas Keadilan, Kepastian Hukum Dan Kemanfaatan Dalam Putusan Hakim Tindak Pidana Korupsi," *Gorontalo Law Review*. 3, no. 2 (2020): 168-87.

²⁶ Fence M. Wantu., "Kendala Hakim Dalam Menciptakan Kepastian Hukum, Keadilan, Dan Kemanfaatan Di Peradilan Perdata.," *Jurnal Mimbar Hukum*. 25, no. 2 (2013): 205-218., 208.

²⁷ Suwitno Yutye Imran, "The Urgency of Regulation of the Ultra Qui Judicat Principle in Criminal Judgments," *Jambura Law Review*. 3, no. 2 (2021): 395-410, <https://doi.org/10.33756/jlr.v3i2.11154>.

²⁸ Lisnawaty W. Badu dan Apripari., "Menggagas Tindak Pidana Militer Sebagai Kompetensi Absolut Peradilan Militer Dalam Perkara Pidana.," *Jurnal Legalitas*. 12, no. 1 (2019): 57-77.

²⁹ Umar Sholehudin, *Hukum & Keadilan Masyarakat* (Malang: Setara Press, 2011).

Based on the previous explanation of the North Jakarta District Court Decision Number 372/Pid.B/2020/PN Jkt. Utr, several things are of public concern, namely the demands of the Public Prosecutor, who charged the two perpetrators with a demand of 1 year in prison. At the same time, the public prosecutor's indictment uses Article 353 paragraph (2) of the Criminal Code, which should carry a maximum prison sentence of seven years. The public prosecutor considered that the defendant intended to splash acid on Novel's body, but the splash accidentally hit Novel's eye. Seeing the argument presented by the prosecutor shows a lack of objectivity in revealing the truth of the facts about legal events by correlating evidence.³⁰ This results in the low quality of law enforcement in Indonesia in upholding law and justice. Then, the trial continued to the evidentiary stage, which presented evidence from 11 witnesses and three experts from the public prosecutor. Meanwhile, the legal counsel presented two experts and two witnesses.

It is also considered that the public prosecutor was not careful in paying attention to the fact that acid water was used by the defendant, as proven in court from the results of the Puslabfor Lab Number: 1375/KTF/2017 dated April 18, 2017, and the testimony of Expert Dr. Rer.Nat I Made Gelgel and Expert a Discharge Dr. Rer.Nat Budiawan, who explained based on literature studies that sulfuric acid with the formula H₂SO₄ is a colorless liquid, has no odor, mixes easily with water, and has corrosive properties. When exposed directly to the skin, it can cause burns, inflammation, and damage to the skin tissue. If inhaled, it can irritate the nose, lungs, and others. If it gets in the eyes, it can cause blindness, and the opinion of a forensic toxicologist stated that battery water, which belongs to the type of sulfuric acid (H₂SO₄), belongs to the hydrochloric group.³¹

- 1) The judge's decision can be influenced by the public prosecutor's carelessness in examining evidence. Therefore, it is hoped that the Public Prosecutor will be careful in drafting the indictment so that the defendant's actions can be linked to the article in question regarding actions deemed unlawful and so that he can be punished according to his actions.

³⁰ Suwito et al., "Contemplating the Morality of Law Enforcement in Indonesia," *Journal of Law and Sustainable Development* 11, no. 10 (October 25, 2023): e1261-e1261, <https://doi.org/10.55908/sdgs.v11i10.1261>; Ahmad Ahmad and Novendri M. Nggilu, *Constitutional Dialogue : Menguatkan Intraksi Menekan Dominasi (Konvergensi Terhadap Pengujian Norma Di Mahkamah Konstitusi)* (Yogyakarta: UII Press, 2023); Ahmad Ahmad, Fence M. Wantu, and Dian Ekawaty Ismail, "Convergence of Constitutional Interpretation to the Test of Laws Through a Constitutional Dialogue Approach: Konvergensi Penafsiran Konstitusional Terhadap Pengujian Undang-Undang Melalui Pendekatan Constitutional Dialogue," *Jurnal Konstitusi* 20, no. 3 (September 1, 2023): 514-35, <https://doi.org/10.31078/jk2038>; Ahmad Ahmad, Viorizza Suciani Putri, and Mohamad Hidayat Muhtar, "Antara Otoritas dan Otonomi : Pertautan Hak Asasi Manusia dalam Praktik Eksekusi Putusan PTUN: Perlindungan HAM dalam Eksekusi Upaya Paksa Terhadap Putusan Peradilan Tata Usaha Negara," *Jurnal Konstitusi* 21, no. 3 (September 1, 2024): 392-412, <https://doi.org/10.31078/jk2133>.

³¹ And Mukhlis Mukhlis. Anisa, Tasya, "Studi Kasus Putusan Pengadilan Negeri Nomor 372/Pid. B/2020/Pn. Jkt Utr Tentang Tindak Pidana Penganiayaan Terhadap Novel Salim Baswedan.," *Jurnal Ilmiah Mahasiswa Bidang Hukum Pidana* 5, no. 2 (2021): 371-79.

- 2) If you look at the jurisprudence related to the object of the same case, in this case, an acid attack, here is the comparison:
- a) Decision on case Number 283/Pid.Sus/2019/PN Pkl.: Dousing Ruslam with acid on his wife and parents-in-law The prosecutor, in this case, demanded that Ruslam, as a defendant, be sentenced to 8 years in prison, and the panel of judges handed down a heavier sentence of 10 years in prison.
 - b) The Rika Sonata case in October 2018: Rika, was found to have hired thugs to douse her husband with acid. The prosecutor then demanded ten years in prison. The Bengkulu District Court panel of judges handed down a more severe sentence, namely 12 years in prison for Rika. Rika's actions violated Article 355, paragraph 1 of the Criminal Code. Article 55 of the subsidiary Criminal Code violated Article 354, paragraph 1 of the Criminal Code. Article 55 of the Criminal Code, which was more subsidiary to Article 351 paragraph 2 of the Criminal Code, was Article 55.
 - c) Lamaji acid attack case (39): a woman named Dian Wulansari (24). The case occurred on March 7, 2017. The victim was splashed by her boyfriend, Lamaji (39), because of a love affair. As a result, the victim suffered serious injuries and died one month later. The panel of judges sentenced Lamaji to 12 years in prison because he was found guilty of violating Article 353 of the Criminal Code in conjunction with Article 355 paragraph (2) of the Criminal Code. The sentence was lighter than the Public Prosecutor's (JPU) demands for 15 years in prison.

The existence of complete assistance and protection as a form of fulfillment of constitutional rights for every citizen following the purpose of legal assistance.³² So what about the defendant's verdict for pouring acid on Novel Baswedan? The Panel of Judges at the North Jakarta District Court sentenced the defendant, Ronny Bugis, to 1 year and six months in prison, while Rahman Kadir was sentenced to 2 years. Seeing that the decision did not contain aspects of justice for the victim, the perpetrator was only sentenced to 2 years and one year and six months in prison for committing the crime of severe mistreatment, which resulted in blindness in the victim's eye and interfered with his survival. As is known, the function of criminal law is to protect five interests, namely life, body, honor, property, and freedom, from acts that want to rape her with sanctions in the form of more cruel crimes.³³

The increase in people's welfare facilitated by this law is undoubtedly synergistic with Subekti's thought that "the law is dedicated to the direction of the state, which in essence is to produce glory and joy for its people..³⁴ Therefore, it is also hoped

³² Julius Mandjo, "The Right to Obtain Free Assistance and Legal Protection for The Indigent People Through Legal Assistance Organizations," *Jambura Law Review*. 3, no. 02 (2021): 365-77.

³³ Tongat, *Dasar-Dasar Hukum Pidana Indonesia Dalam Perspektif Pembaharuan*. (Malang: Ummpress, 2012).

³⁴ Jufryanto Puluhulawa, Mellisa Towadi, and Vifi Swarianata, "Perlindungan Hukum Situs Bawah Air Leato / Japanese Cargo Wreck The Legal Protection of The Leato Underwater Site / Japanese

that the public will need to increase legal awareness and participation in supervising and preventing criminal offenses.³⁵

4. Conclusion

Novel Baswedan's Persecution Case Seen from the Perspective of Justice and Legal Certainty is applied to Court Decision Number 372/Pid.B/2020/PN.Jkt.Utr. It has many irregularities, as is the case with the application of articles that do not have apparent legal certainty or the application of articles that are not under what the defendant did. From a justice point of view, the public prosecutor's indictment did not reflect a sense of justice for the victim, where the defendant should have been subject to severe premeditated maltreatment. However, the public prosecutor was only subject to ordinary maltreatment. All stakeholders within the scope of law enforcement, including the police, public prosecutors, legal advisers, and judges, must represent the values and legal norms that apply to create legal certainty and justice for people who are dealing with legal proceedings, both as perpetrators and victims in general.

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³⁵ L. Solekha, R. R., Wantu, F., & Tijow, "Penegakan Hukum Terhadap Tindak Pidana Money Politic Oleh Calon Anggota Legislatif Pada Pemilihan Umum 2019.," *Jurnal Legalitas*. 13, no. 1 (2020): 51-69.

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