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The Progressiveness of Joint Criminal Assault in the Central Kalimantan Region

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ABSTRACT

Joint assault constitutes a criminal offense categorized as violence against public order, as expressly governed under Article 170 paragraph (1) of the Indonesian Criminal Code (*Kitab Undang-Undang Hukum Pidana/KUHP*). This study examines the progressiveness of joint assault offenses in the Central Kalimantan Region, with particular focus on three principal concerns: the enforcement of law against jointly committed assault, the legal sanctions applicable to perpetrators, and the developmental trajectory of such offenses within the region. This research employs an empirical juridical method with a descriptive-qualitative approach. Data were gathered through field observation, structured interviews with law enforcement officials, and documentary analysis of relevant legal instruments and case records from the Central Kalimantan Regional Police. The findings reveal three principal conclusions. First, law enforcement against jointly committed assault must be conducted comprehensively and equitably, requiring law enforcement officers to operate professionally, transparently, and independently while safeguarding the rights of both victims and perpetrators in accordance with applicable legal provisions. Second, Article 170 of the Criminal Code prescribes a maximum imprisonment of five years and six months for perpetrators of joint assault, with aggravated penalties imposed where the act results in serious bodily injury or death. Third, the progressiveness of such offenses in Central Kalimantan is influenced by socioeconomic instability, limited legal awareness among the community,

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and inadequate access to mental health and social services, which collectively necessitate a holistic, multi-stakeholder approach to prevention and law enforcement.

Keywords: Joint Assault, Criminal Offense, Progressiveness, Law Enforcement, Central Kalimantan

1. INTRODUCTION

Violence against persons remains one of the most persistent and socially corrosive manifestations of criminal conduct in Indonesia. Among its various forms, joint assault — *penganiayaan secara bersama-sama* — stands as a particularly grave category, not merely because of the physical harm it inflicts upon individual victims, but because of its inherent capacity to destabilize public order and erode the collective sense of security that a functioning rule-of-law state must guarantee. When violence is perpetrated collectively, its social impact transcends the immediate victim: it generates wider societal anxiety and signals a fundamental breakdown in the normative framework that binds citizens to the law.

The normative foundation governing this offense is unambiguous. Article 170 paragraph (1) of the *Kitab Undang-Undang Hukum Pidana* (KUHP) — Indonesia's Criminal Code — provides expressly that whoever openly and with combined force uses violence against persons or property shall be punished with a maximum imprisonment of five years and six months. Where such violence results in serious bodily injury, the maximum penalty escalates to nine years; where it causes death, to twelve years, pursuant to Article 170 paragraphs (2) and (3). Crucially, the phrase *"terang-terangan dan dengan tenaga bersama"* — openly and with combined force — constitutes the defining legal threshold (*vis publica*) that distinguishes this offense from ordinary assault under Article 351 KUHP, which applies to individual perpetrators and carries a lower maximum sentence of two years and eight months. As Purba and Rahaditya have demonstrated, *vis publica* in Article 170 functions not merely as a descriptive qualifier, but as a substantive basis for sentencing aggravation — a

distinction that Indonesian courts have not always applied with the consistency and rigor that the law demands (Purba & Rahaditya, 2026).

Procedurally, the enforcement of this provision is governed by Law No. 8 of 1981 on Criminal Procedure (*Kitab Undang-Undang Hukum Acara Pidana*/KUHAP), which mandates a systematic progression from investigation (*penyelidikan*), formal inquiry (*penyidikan*), prosecution (*penuntutan*), to adjudication (*persidangan*). The institutional mandate of the National Police is anchored in Article 30 paragraph (4) of the 1945 Constitution of the Republic of Indonesia (*Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*), further elaborated in Law No. 2 of 2002 on the Indonesian National Police, which obligates the police to maintain public order, uphold the law, and protect the rights of all persons. In cases involving minors as perpetrators or victims, the procedural framework of Law No. 11 of 2012 on the Juvenile Criminal Justice System applies concurrently.

Several foundational principles of criminal law animate the enforcement of Article 170 KUHP and must be understood as the juridical bedrock of this study. The *asas legalitas* (principle of legality), derived from the Latin maxim *nullum crimen sine lege, nulla poena sine lege*, demands that no person be punished except on the basis of pre-existing law — a principle that constrains prosecutorial and judicial discretion while guaranteeing legal certainty. Equally operative is the *asas keadilan* (principle of justice), which requires that sanctions be imposed proportionally to the gravity of the offense and the degree of each perpetrator's participation, whether as principal (*pelaku utama*), aider (*pembantu*), or co-participant (*turut serta*) under Article 55 KUHP. The *asas perlindungan korban* (principle of victim protection) further obliges the State to ensure that victims of assault receive not only criminal redress but also access to rehabilitation and legal assistance. These principles are not merely theoretical aspirations; they constitute legally operative norms whose consistent application defines the legitimacy of the criminal justice system.

This is the *das sollen* — the law as it ought to operate. Yet the empirical reality — the *das sein* — presents a sobering contrast. Data from the Central Kalimantan Regional Police (*Kepolisian Daerah Kalimantan Tengah*) reveal a troubling upward trajectory: recorded criminal offenses in the province increased from 2,995 cases in 2022 to 3,220 cases in 2023, reflecting a pattern of escalation that cannot be attributed solely to enhanced reporting. Joint assault cases constitute a significant component of this increase, driven by a convergence of socioeconomic instability, limited legal awareness among the population, weak deterrence in sentencing, and inadequate access to mental health and social services. The gap between normative prescription and practical enforcement is further compounded by the broader structural critique levelled at Indonesia's criminal justice system: the World Justice Project's Rule of Law Index assigned Indonesia a score of only 0.39 out of 1.00 in 2022, placing it 88th globally, with ineffective criminal investigations and high corruption among law enforcement cited as primary deficiencies (Al Ghifari, 2023).

Efforts at reform have not been absent. At the legislative level, the enactment of Law No. 1 of 2023 on the new Criminal Code represents the culmination of decades of deliberation aimed at replacing Indonesia's colonial-era *Wetboek van Strafrecht*, with the new Code signaling a paradigm shift toward a more humanistic and restorative model of criminal justice. At the operational level, the Supreme Court's restorative justice guidelines (Director General Decision No. 1691/DJU/SK/PS.00/12/2020) and the Attorney General Regulation No. 15 of 2020 on restorative justice-based prosecution have sought to introduce diversion mechanisms for minor offenses. However, these instruments remain largely peripheral to the enforcement of Article 170, which involves organized collective violence of a character that restorative justice is ill-suited to address alone. As Butt has persuasively argued, the new Criminal Code, despite its decolonization rhetoric, leaves many structural deficiencies of Indonesian criminal law unresolved (Butt, 2023).

It is against this backdrop that the present study positions itself. Three specific research questions guide the inquiry: first, how is law enforcement against jointly committed assault currently conducted within the Indonesian criminal justice system; second, what legal sanctions are applicable to perpetrators of such offenses under existing statutory law; and third, what is the trajectory of joint assault offenses in Central Kalimantan, and what legal reform measures are necessitated by that trajectory. The objective of this research is to analyze these questions through a criminal law lens, employing an empirical juridical method with a descriptive-qualitative approach, so as to generate normatively grounded and practically actionable recommendations for law enforcement authorities and policymakers in the region. The ultimate aspiration — consistent with the *asas kepastian hukum* (principle of legal certainty) — is to bridge the chasm between *das sollen* and *das sein*, and to move Indonesian criminal law enforcement in Central Kalimantan closer to the standard of comprehensive, equitable, and rights-respecting justice that the Constitution demands.

2. RESEARCH METHOD

The methodological design of this study is grounded in the conviction that an adequate understanding of joint assault as a criminal phenomenon cannot be achieved through abstract doctrinal analysis alone. Where the law operates not merely on paper but within a living social and institutional reality, the researcher is obligated to examine not only what the law prescribes — the *das sollen* — but also what it actually produces in practice — the *das sein*. This gap between normative aspiration and empirical reality constitutes, as Disemadi has correctly observed, the defining intellectual tension that distinguishes legal research from other modes of social inquiry, and it is precisely this tension that the present study seeks to illuminate (Disemadi, 2022).

Accordingly, this research adopts an *empirical juridical* (*yuridis empiris*) method — a form of legal inquiry that, as Soerjono Soekanto and Sri Mamudji have established

in authoritative Indonesian legal scholarship, treats law not merely as a set of normative propositions but as a social institution whose operation can and must be examined through direct engagement with the facts on the ground (Soekanto & Mamudji, 2010). The *empirical juridical* method is particularly well-suited to this study because the central questions it poses — concerning the enforcement of Article 170 of the *Kitab Undang-Undang Hukum Pidana* (KUHP), the application of criminal sanctions, and the developmental trajectory of joint assault in Central Kalimantan — are questions that cannot be resolved through legislative text or doctrinal commentary alone. They require the researcher to engage with law as it is actually practiced: by police investigators, public prosecutors, defense counsel, and judges operating within the criminal justice system of Central Kalimantan.

The research adopts a *descriptive-qualitative* approach. This means that the study does not seek to quantify or statistically model the incidence of joint assault as if it were a purely arithmetical phenomenon; rather, it aims to describe, interpret, and explain the legal conditions, institutional dynamics, and normative patterns that characterize the enforcement of criminal law against joint assault in the region. This approach is consistent with the methodological consensus in empirical criminal law research in Indonesia, where qualitative analysis has been recognized as the appropriate instrument for investigating complex interactions between legal norms, enforcement behavior, and social context (Gunawan, 2023). The entire analytical framework is anchored in criminal law exclusively — encompassing substantive criminal law, criminal procedure law, and the theory of progressive law enforcement — and deliberately excludes approaches drawn from sociology, criminology, or other disciplines that would dilute the legal-doctrinal rigor that this study demands.

This study draws on three tiers of legal materials that together constitute a comprehensive evidentiary base for the analysis. Primary data — the most authoritative and indispensable tier — were gathered through structured field research conducted at

the Central Kalimantan Regional Police (*Kepolisian Daerah Kalimantan Tengah*). This involved direct, structured interviews (*wawancara terstruktur*) with law enforcement officers, including senior investigators (*penyidik*) responsible for handling cases under Article 170 KUHP, prosecutors, and relevant judicial officers. These interviews were designed to elicit systematic, first-hand accounts of how the criminal justice process operates in practice across its four constitutive stages: preliminary investigation (*penyelidikan*), formal investigation (*penyidikan*), prosecution (*penuntutan*), and adjudication (*persidangan*), as governed by Law No. 8 of 1981 on Criminal Procedure (*Kitab Undang-Undang Hukum Acara Pidana*/KUHAP). The choice of structured interviewing — rather than open-ended or ethnographic methods — reflects the criminal law focus of this research and its commitment to producing findings that are reproducible and analytically precise.

Secondary data — the second tier — consist of written legal materials of high doctrinal authority, including the text of Article 170 KUHP and its interpretive history, the provisions of KUHAP governing investigative and prosecutorial procedure, Law No. 2 of 2002 on the Indonesian National Police, Law No. 1 of 2023 on the new Criminal Code, and the official case statistics of the Central Kalimantan Regional Police for the period 2022–2023. Also included within this tier are peer-reviewed scholarly journals, established legal textbooks, and monographs authored by recognized criminal law scholars — sources whose doctrinal authority provides the normative scaffolding against which the primary data are assessed. Tertiary data — the third and supporting tier — encompass legal dictionaries, encyclopedias, and terminological references that assist in clarifying legal concepts whose precise meaning is material to the analysis, such as *vis publica*, *turut serta*, and *delik kekerasan*.

Data collection was conducted through two complementary techniques. Structured interviewing, as described above, served as the primary instrument for gathering empirical, first-person accounts of law enforcement practice. Library research (*studi*

kepustakaan) — involving systematic examination of statutes, judicial decisions, legislative histories, and academic literature — served as the instrument for assembling the normative and doctrinal materials against which the field data are interpreted. The combination of these two techniques reflects the foundational methodological insight that the *empirical juridical* method is not a repudiation of doctrinal analysis but its enrichment: the field data acquire their legal significance only when read against the normative framework, and the normative framework acquires its evaluative force only when tested against empirical reality.

Data analysis was conducted using qualitative methods. Following the approach recommended by Moleong in the canonical Indonesian literature on qualitative legal research, the raw data gathered from interviews and documentary sources were subjected to a process of reduction, categorization, and interpretive synthesis (Moleong, 2018). This process involved identifying patterns of convergence and divergence between normative standards and enforcement practice, tracing the legal and institutional factors that account for those patterns, and drawing normatively grounded conclusions capable of informing both legal doctrine and policy reform. The analysis is strictly confined to the criminal law domain: every finding, every inference, and every recommendation in this study is framed within the conceptual vocabulary of criminal law — encompassing criminal liability, sentencing theory, procedural due process, and the progressive legal theory associated with Satjipto Rahardjo — and does not venture beyond that domain into neighbouring disciplines.

3. DISCUSSION

Law Enforcement Against the Criminal Act of Joint Assault

Law enforcement against the criminal act of joint assault constitutes one of the most pressing challenges within the Indonesian criminal justice system. Joint assault — referred to in Indonesian criminal law as *penganiayaan secara bersama-sama* or *pengeroyokan* — is a category of violence that, by its very nature, implicates multiple

perpetrators acting in concert against one or more victims in an open and public manner. The gravity of this offence lies not merely in the physical harm inflicted upon the victim, but equally in its capacity to disturb public order and erode the sense of collective security that forms the foundation of a rule-of-law society. Effective law enforcement against this type of crime, therefore, demands a coherent, systematic, and legally sound response — one that encompasses the stages of investigation, prosecution, and adjudication, all grounded firmly in the normative framework of Indonesian criminal law.

The primary legal basis for prosecuting joint assault in Indonesia is Article 170 of the *Kitab Undang-Undang Hukum Pidana* (KUHP), which provides that any person who openly and jointly uses violence against persons or property shall be punished with imprisonment of up to five years and six months. The provision establishes three aggravating circumstances: where the violence results in material destruction or bodily injury, the maximum term rises to seven years; where it results in grievous bodily harm, to nine years; and where it results in death, to twelve years. This graduated structure reflects the legislature's recognition that culpability in collective violence must be measured not only by the act of participation, but also by the severity of the consequences produced. Article 170 KUHP is therefore best understood not as a simple extension of ordinary assault under Article 351 KUHP, but as a distinct offence that targets the disruption of public order (*ketertiban umum*) caused by collective violence — a distinction that carries profound consequences for the manner in which law enforcement authorities must structure their investigative and prosecutorial strategies (Kurniawan, 2020).

The constitutive elements of the offence under Article 170 KUHP are: (1) *openness* (*terang-terangan* or *openlijk*), meaning the act must be committed in a place or in circumstances visible to the public; (2) *joint force* (*tenaga bersama* or *met vereenigde krachten*), requiring the participation of at least two perpetrators acting

together; and (3) the *use of violence* directed against persons or property (Istiqomah et al., 2022). The element of joint force is particularly significant from a law enforcement perspective. It is not sufficient that several persons happen to be present at the scene; what must be established is that the perpetrators acted with a shared intention to commit violence. As underscored by the Constitutional Court (*Mahkamah Konstitusi*) in its Decision No. 16/PUU-XXIII/2025, enforcement of Article 170 KUHP must not rest on assumptions or group-based generalizations, but must be founded on firm legal facts demonstrating the act and clear intent of each individual accused. This constitutional clarification represents a decisive corrective against the risk of collective criminal attribution without individualized proof — a principle that profoundly shapes how investigators must gather and present evidence.

The enforcement of criminal law against joint assault in Indonesia proceeds through a series of structured stages governed by the *Kitab Undang-Undang Hukum Acara Pidana* (KUHAP), Law No. 8 of 1981 on Criminal Procedure, now supplemented by Law No. 20 of 2025 on the new KUHAP. The process commences with *penyelidikan* (preliminary inquiry), followed by *penyidikan* (investigation proper), *penuntutan* (prosecution), and finally *persidangan* (trial). Each stage is not a mere administrative formality but a substantive legal checkpoint designed to safeguard the rights of both the accused and the victim, while ensuring that law enforcement action remains grounded in legality.

The stage of *penyelidikan* serves as the threshold determination of whether a criminal event has occurred at all. As explained by M. Yahya Harahap, *penyelidikan* constitutes an integral part of the investigative function that precedes coercive measures such as arrest and detention — its purpose being to gather preliminary facts as a lawful basis for proceeding to full investigation, so as to prevent law enforcement actions that demean human dignity (Harahap, 2013). In the context of joint assault, this preliminary stage is particularly critical: investigators must identify not only that violence occurred,

but that it was committed openly and with collective force, and must begin the process of determining individual roles within the group. This involves crime scene examination, witness interviews, and initial evidence gathering — all of which must be documented in a written report submitted to the supervising investigator.

The *penyidikan* stage is considerably more intensive. Under Article 17 of the KUHAP, an arrest may only be made where there is sufficient evidence (*alat bukti*), meaning a minimum of two valid pieces of evidence as recognized under Article 184 KUHAP, which includes witness testimony, expert opinions, documentary evidence, physical exhibits, and the statement of the accused. In cases of joint assault, investigators are frequently confronted with the challenge of establishing the distinct criminal contribution of each perpetrator. The *Dinamika Hukum* journal notes, in its analysis of an Article 170 KUHP case from the Boyolali resort police, that the investigative procedure must be adapted to the specific circumstances of the case — including decisions on whether summons, arrest, or detention are appropriate — and that seizure of physical evidence (*barang bukti*) must be authorized by the local district court, except in urgent circumstances (Narendra Pratama & Harti Winarni, 2025). It is also at this stage that investigators must confront the legal intersection between Article 170 KUHP and Article 351 KUHP on ordinary assault. Because these provisions share the element of violence, investigators commonly apply them *juncto* — that is, in conjunction — precisely to provide prosecutorial flexibility at the later charging stage (Pratama & Wahyuningsih, 2025).

The prosecutorial stage (*penuntutan*) introduces the principle of *dominus litis*: the public prosecutor (*Jaksa Penuntut Umum*) bears exclusive authority over the decision to bring a case to trial, and this decision must be based not on automatic continuation from investigation, but on an independent legal assessment of the sufficiency of evidence and the proportionality of prosecution. In joint assault cases, prosecutors regularly employ *dakwaan alternatif* (alternative charges), listing both Article 170 KUHP and Article 351

KUHP so that the trial court may select whichever provision is most consistent with the evidence presented (Kurniawan, 2020). This practice is doctrinally sound, but it also reflects the inherent complexity of distinguishing collective public violence from ordinary assault — a complexity that demands high prosecutorial competence and careful drafting of the indictment (*surat dakwaan*). A poorly drafted indictment that fails to specify individual roles risks acquittal or a reduction of charges, depriving victims of adequate legal redress.

At the trial stage, the judge's role is to impose appropriate punishment based on legally sufficient proof. Under the Indonesian criminal justice system, a conviction requires at least two pieces of valid legal evidence, together with the judge's inner conviction (*keyakinan hakim*). In joint assault prosecutions, the trial court must resolve the individualization of criminal liability — determining whether each accused acted as a principal perpetrator (*pelaku utama*), co-perpetrator (*turut serta*) under Article 55 KUHP, or as an accessory (*pembantu*) under Article 56 KUHP. The precise allocation of criminal responsibility among multiple defendants is one of the most demanding tasks in criminal adjudication, and errors at this stage may generate disproportionate outcomes — either imposing excessive punishment on peripheral participants or insufficiently punishing the principal architects of the violence. Judicial accuracy in this determination is indispensable not only as a matter of fairness to the accused, but also as a matter of justice to victims who rely on the law to vindicate the harm done to them.

Despite the existence of a comprehensive normative framework, law enforcement against joint assault in practice faces significant obstacles. Research on cases handled by the Bantul Resort Police in Yogyakarta reveals that in 2022 a total of 84 assault cases were reported, but only 64 were resolved; in 2023, the number of cases fell to 58 but the resolution rate remained around 72%, and a similar pattern was observed through 2024 and into 2025, with structural challenges persisting across the investigative cycle (Narendra Pratama & Harti Winarni, 2025). These challenges are technical,

sociological, and juridical in character. On the technical level, the identification of individual perpetrators in the chaos of collective violence is enormously difficult: witnesses may be unwilling to testify due to fear of retaliation, physical evidence may be contaminated or limited, and digital evidence — including social media — though increasingly relevant, requires specialized investigative capacity not uniformly available across regional police units. On the juridical level, the ambiguity surrounding the element of *joint force* — prior to the Constitutional Court's clarifying ruling — frequently resulted in prosecutorial uncertainty as to whether the conduct should be charged under Article 170 or Article 351 KUHP, with the risk of charges being dismissed or downgraded at trial. On the human rights dimension, law enforcement under Article 6 paragraph (1) of the KUHAP must be conducted independently and free from institutional pressures, with full protection of the rights of both victims and accused within the criminal justice process.

Furthermore, the inconsistency of sanctions applied at the sentencing stage — noted by practitioners as a recurring deficiency — undermines the deterrent function of criminal law. Where the penal response to joint assault lacks predictability, it creates an environment of legal uncertainty that may embolden would-be offenders. The principle articulated by Soerjono Soekanto — that effective law enforcement depends on the harmonious interaction of five factors, namely the law itself, law enforcers, facilities, the community, and legal culture — remains critically instructive in diagnosing why enforcement gaps persist (Soekanto, 2013). In Central Kalimantan, as in other regions, the absence of adequate investigative infrastructure, insufficient training on complex multi-perpetrator cases, and low public trust in the criminal justice system collectively diminish the efficacy of legal responses to joint assault.

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Legal Sanctions Against Perpetrators of the Criminal Act of Joint Assault

The question of what constitutes an adequate criminal sanction for perpetrators of joint assault lies at the very heart of penal justice in Indonesia. It is not merely a technical exercise in statutory construction; it is, fundamentally, a statement about the values a legal system seeks to protect and the kind of society it aspires to sustain. Joint assault — comprising the open and collective use of violence against persons or property as proscribed by Article 170 of the *Kitab Undang-Undang Hukum Pidana* (KUHP) — demands a penal response that is at once firm, proportionate, and meaningfully differentiated according to the nature and consequences of the violence inflicted. This section argues that the current framework of criminal sanctions applicable to joint assault, as constructed across Articles 170 and 351 KUHP and complemented by provisions for victim protection and additional penalties, represents a doctrinally coherent but still imperfectly applied system — one that urgently requires consistent judicial application to fulfil its deterrent, retributive, and restorative purposes.

Article 170 KUHP establishes a graduated structure of primary criminal sanctions that tracks the gravity of the harm produced by the collective violence. In its basic form, any person who openly and jointly uses force against persons or property is liable to imprisonment of up to five years and six months. Where the violence results in material destruction or bodily injury, the maximum term of imprisonment rises to seven years. Where it causes grievous bodily harm (luka berat), the maximum escalates to nine years. And where the collective violence results in the death of the victim, the maximum custodial sentence reaches twelve years of imprisonment. This graduated architecture reflects a foundational principle of criminal law: the severity of punishment must bear a rational and proportionate relationship to the severity of the harm caused. The law rightly recognizes that collective violence that kills cannot be treated equivalently to collective violence that merely disturbs public order, even where the underlying conduct — participation in open group force — is formally the same.

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The significance of vis publica as the operative legal threshold for this provision cannot be overstated. Recent scholarship has persuasively argued that the element of public visibility (terang-terangan) in Article 170 KUHP does not function merely as a locational qualifier but as the very criterion that transforms individual assault into a public-order crime. As Purba and Rahaditya have demonstrated, vis publica — the open and visible nature of the collective force — justifies aggravated sentencing only when the court can demonstrate a causal link between the public character of the violence and the expanded harm caused to social order (Purba & Rahaditya, 2026). This doctrinal refinement has profound implications for sentencing: a judge who imposes the maximum penalty under Article 170 paragraph (2) must articulate not merely that the violence was visible, but that its public nature amplified the social harm and generated public social anxiety — a measurable disturbance of collective security — beyond what would have occurred had the same violence been committed in private. The failure to reason through this causal chain, as has been documented in numerous district court decisions, results in inconsistent sentencing that undermines both legal certainty and public confidence in the criminal justice system (Natashya & Adhari, 2025).

The legal sanction framework for joint assault cannot be properly understood without a careful comparison with Article 351 KUHP on ordinary assault (penganiayaan biasa). This comparison is not merely academic: prosecutors regularly frame indictments in joint assault cases using dakwaan alternatif that juxtapose Articles 170 and 351 KUHP, leaving the trial court to determine which provision governs on the evidence presented. The structural differences between these two sanction regimes are both qualitatively and quantitatively significant.

Under Article 351 KUHP, ordinary assault in its basic form carries a maximum of two years and eight months imprisonment. Where serious injury results, the maximum rises to five years; where death results, to seven years. Comparing these with the corresponding thresholds under Article 170 KUHP — seven, nine, and twelve years

respectively — it becomes immediately apparent that the legislature has calibrated distinctly higher maxima for collective public violence. The rationale is doctrinal: Article 170 KUHP targets not merely the physical harm to an individual victim but the disruption of public order (ketertiban umum) that is the defining characteristic of openly conducted collective violence. As articulated by P.A.F. Lamintang and quoted extensively in the literature, ordinary assault under Article 351 focuses on the intentional infliction of pain or harm on the victim's person; Article 170, by contrast, reaches outward to protect the community and public peace threatened by collective force deployed in the open (Lamintang, 2012). This distinction also explains why the attempt to commit the offence under Article 351 is not punishable, whereas Article 170 — precisely because of its public-order character — may engage criminal liability at a lower threshold of participation.

The practical consequence of this doctrinal distinction for judicial sentencing is decisive. A court that applies Article 351 instead of Article 170 in a case that satisfies the elements of open and collective violence fundamentally mischaracterizes the offence and imposes a sentence that under-reflects the public harm caused. The Awang Long Law Review has drawn attention to precisely this problem: in Decision No. 200/Pid.B/2025/PN.Jkt.Pst, the sentence imposed — one year and two months imprisonment — fell dramatically below the maximum penalty of nine years specified in the relevant provision, a disparity indicative of structural inconsistency in judicial sentencing reasoning and a failure to properly assess aggravating factors within the applicable sanction framework. Such outcomes are not isolated; they represent a systemic tendency toward sentencing leniency in collective violence cases that erodes the deterrent function of criminal law and communicates, dangerously, that group violence carries limited legal risk.

A central challenge in applying sanctions to joint assault lies in the allocation of criminal responsibility among multiple participants. The general participation doctrine

(deelneming) under Articles 55 and 56 KUHP provides the structural framework. Article 55 paragraph (1) identifies four categories of principal participants: those who directly commit the act (plegen), those who cause another to commit it (doen plegen), co-perpetrators (medeplegen) — that is, those who jointly execute the criminal act — and inciters (uitlokking) who through promises, abuse of authority, or other means bring about the commission of the crime. Article 56 KUHP governs accessories who assist the crime, but prescribes that their sentence be capped at two-thirds of the maximum prescribed for the principal offence.

In the context of Article 170 KUHP prosecutions, the classification of each accused as a principal or accessory is not simply a doctrinal formality; it determines the upper limit of the sanction that may be lawfully imposed. Research on participation doctrine applied to multi-perpetrator offences in the Indonesian courts reveals that both prosecutors and judges frequently struggle with the line between medepleger and pembantu (assistant/accessory), particularly where some participants were physically active in the violence while others provided encouragement, blocked escape routes, or stood watch (Siswantari Pratiwi, 2023). Where participation is misclassified — most commonly by prosecutors framing accessories as co-principals, or courts acquitting peripheral participants for insufficient evidence of direct violence — the resulting sanctions fail to reflect the true culpability structure of the offence. This is doctrinally indefensible and practically harmful: it generates disproportionate outcomes, rewards passive facilitation of group violence, and strips victims of the vindication they are owed.

Beyond the primary custodial sanctions, the Indonesian criminal law framework provides for additional penalties that are particularly relevant to joint assault cases. Article 35 of the KUHP permits the imposition of additional penalties including, among others, the deprivation of certain civil rights and the confiscation of property. Under Article 262 paragraph (3) of the new Kitab Undang-Undang Hukum Pidana enacted by

Law No. 1 of 2023 — which entered into force on 2 January 2026 — perpetrators of collective open violence may additionally be sentenced to pay compensation (ganti rugi) as an additional penalty, expressly codified in Article 66 paragraph (1)(d) of the new Code. This development marks a critical doctrinal shift: victim compensation is no longer left exclusively to the discretionary civil joinder mechanism under Article 98 of the KUHAP, but is partially embedded in the primary criminal sanction framework itself.

The protection of victims within the sanction framework draws also from Law No. 31 of 2014 on the Amendment to the Law on Witness and Victim Protection, which guarantees victims of criminal violence the right to medical and psychological rehabilitation as well as restitution. Scholarship on compensation and restitution mechanisms under Indonesian law has identified significant regulatory weaknesses: victims' rights are formally recognized but procedurally constrained, since the KUHAP conditions compensation claims on civil joinder procedures that many victims — particularly those from marginal communities — cannot effectively navigate (Ali et al., 2022). These gaps are morally and legally untenable in the context of joint assault, where victims often sustain severe physical injuries inflicted by multiple perpetrators and require prompt and substantial remedial support. The integration of ganti rugi as a mandatory judicial consideration in the new KUHP's sanction framework is therefore a welcome reform, though its practical efficacy will depend on judicial willingness to impose it consistently and on enforcement mechanisms capable of compelling payment from multiple co-perpetrators.

It is also worth emphasizing that the new KUHP enacted by Law No. 1 of 2023 introduces a paradigm shift in penal philosophy — from a purely retributive model toward an integrative approach that balances the interests of the offender, the victim, and society. Under Articles 51 and 52 of the new Code, the purposes of punishment now expressly include the recovery of victims and the restoration of social balance, not

merely the penalization of perpetrators (Mansar & Lubis, 2023). For joint assault sentencing, this means that courts must engage with the victim's actual harm — physical, psychological, and financial — as a central consideration in the sentencing determination, rather than treating it as peripheral to the purely punitive calculus. A sentence that imposes imprisonment but ignores the victim's unmet restitution needs fails the integrative standard that the new Code demands.

The Progressivity of Joint Assault Crimes in the Jurisdiction of Central Kalimantan

The phenomenon of joint assault (*penganiayaan secara bersama-sama*) as regulated under Article 170 of the *Kitab Undang-Undang Hukum Pidana* (KUHP) — the Indonesian Criminal Code — represents one of the most persistent and structurally complex forms of violent crime in Indonesia, including within the jurisdiction of Central Kalimantan (*Kalimantan Tengah*). This crime is characterized not merely by physical violence, but by the collective nature of the act: it requires the participation of at least two individuals who use force openly and jointly against persons or property. From a criminal law perspective, the gravitation toward this form of collective violence raises urgent normative questions about how the law responds to, and anticipates, its recurrence. The concept of *progresifitas* — legal progressivity — as introduced and developed by Satjipto Rahardjo offers a compelling theoretical lens through which to examine whether the existing criminal law framework in Central Kalimantan has been adaptive, responsive, and ultimately just in addressing the trajectory of this offense.

Central Kalimantan, as one of Indonesia's provinces with significant demographic and socioeconomic dynamism — shaped by extractive industries, forest resource contestation, transmigration populations, and internal migration patterns — presents a particular social landscape in which collective violence has found fertile conditions. While precise regional crime statistics for joint assault are not comprehensively

disaggregated at the provincial level in publicly available national publications, patterns observed across Kalimantan's major cities and districts indicate a recurring and periodically intensifying prevalence of Article 170 cases. Joint assaults frequently arise in contexts of communal disputes, inter-group rivalries, land conflicts, and incidents exacerbated by alcohol consumption, all of which find documented relevance in Central Kalimantan's social fabric.

Criminal data from the *Badan Pusat Statistik* (BPS) and reports by regional police (*Kepolisian Daerah Kalimantan Tengah*) consistently show that crimes against the person — particularly those involving group-based violence — constitute a significant proportion of criminal cases brought before district courts in cities such as Palangka Raya, Sampit, and Pangkalan Bun. The progression of these cases is not linear; rather, it reflects both endemic conditions and episodic spikes associated with social conflicts. The *openlijk* (openly committed) nature of Article 170 offenses means that these acts are, by definition, conducted in public visibility, thereby further destabilizing the sense of public order and security that the statute was designed to protect. As Aziza Istiqomah et al. observe in their analysis of Article 170, acts of violence against persons or property committed jointly (*secara bersama-sama*) constitute a form of crime against *ketertiban umum* (public order), and their impact extends beyond individual victims to undermine the broader social fabric (Istiqomah et al., 2022).

Understanding the *progresifitas* of joint assault crimes in Central Kalimantan demands a candid analysis of the structural, situational, and normative factors that drive their escalation. From the perspective of criminal law, these factors do not merely constitute background context; they directly implicate the adequacy and responsiveness of the legal system itself. The first and arguably most structurally significant factor is socioeconomic inequality and its relationship to criminal behavior. Income disparity (*ketimpangan pendapatan*) has been empirically linked to the incidence of violent crime in Indonesian provinces, including those in Kalimantan. A study published in *Borjuis:*

Journal of Economy specifically examining the relationship between income inequality and criminality in Central Kalimantan found that widening economic gaps correlate meaningfully with increases in criminal conduct, as frustrated economic expectations create conditions of social tension that can erupt in collective violence (Sugiharti et al., 2023). The plantation sector, mining operations, and palm oil industry have generated significant wealth in Central Kalimantan, but that wealth has not been equitably distributed, creating pockets of structural exclusion that render certain communities more susceptible to engaging in, or being victimized by, violent offenses.

The second contributing factor is the role of alcohol consumption as a behavioral catalyst. Research in Indonesian criminal law and criminology consistently identifies alcohol as a direct precipitating factor in assault crimes, including those committed jointly. Alcohol diminishes impulse control and lowers the psychological threshold for collective aggression, particularly among groups of young men in social settings. The normalization of alcohol consumption in certain rural and semi-urban areas of Central Kalimantan — where regulatory enforcement is uneven — means that preventative criminal law has thus far been insufficiently attentive to this behavioral variable (Nusawakan & Mufty, 2025).

Third, the weakness of legal awareness (*kesadaran hukum*) among certain community segments remains a structural challenge. The principle embedded in progressive criminal law theory is that law must serve human beings and humanity, not the other way around (Aulia, 2018). Where communities lack meaningful access to legal information and education, the deterrent function of criminal law is structurally compromised. Many perpetrators of joint assault cases have no prior criminal record and act in the heat of collective emotion, unaware of — or indifferent to — the severity of criminal liability under Article 170, which carries imprisonment of up to five years and six months at the base level, rising to twelve years where death results.

Fourth, the ineffectiveness of informal social control mechanisms must be acknowledged. As Satjipto Rahardjo argued, law and social order are not synonymous, and formal legal instruments cannot substitute for the normative governance that functions through community structures, local leadership, and customary norms. In areas where these informal controls have eroded — through urbanization, population mobility, or the displacement of indigenous communities — the vacuum is often filled by collective acts of violence that substitute for proper legal recourse.

The concept of *hukum progresif* (progressive law), as elaborated by Satjipto Rahardjo, insists that law is not an end in itself but an instrument oriented toward human welfare. Rahardjo asserts that *progressivisme* proceeds from the humanistic premise that law must dare to transcend conventional status-quo approaches, and that legal actors must interpret legal texts with creativity and boldness, liberating themselves from purely logico-positivistic constraints (Rahardjo, 2010). Applied to the problem of joint assault in Central Kalimantan, this framework demands that prevention and countermeasures not be confined to reactive, retributive responses — imprisonment and prosecution — but must embrace a proactive, restorative, and community-anchored approach.

Within the framework of criminal law, the most significant normative development in this direction is the formal institutionalization of *restorative justice* (*keadilan restoratif*). The *Peraturan Jaksa Agung* (Regulation of the Attorney General) Number 15 of 2020 and *Peraturan Kapolri* (Police Regulation) Number 8 of 2021 together establish a regulatory framework permitting the termination of prosecution and investigation, respectively, where the parties have achieved reconciliation and the offense is not a repeated crime. Research on the application of this framework to assault cases has demonstrated its empirical effectiveness in restoring social relations and reducing the burden of litigation on courts (Ilham Saputra Machmud et al., 2023). For Central Kalimantan, where many joint assault incidents arise from interpersonal or

communal disputes rather than organized crime, the *restorative justice* mechanism offers a structurally superior response compared with full prosecution under Article 170 alone.

However, a progressive criminal law analysis must go further than simply endorsing *restorative justice* as a procedural mechanism. It must interrogate the conditions under which this mechanism operates justly. Research examining the implementation of *restorative justice* in assault cases — including a study on the effectiveness of *restorative justice* in the North Gorontalo District Attorney's handling of assault cases — reveals that the principle works best when it is not reduced to a mere formality of "letter of peace" (*surat damai*), but is embedded in genuine facilitated dialogue that addresses the root causes of the conflict (Ilham Saputra Machmud et al., 2023). Where *restorative justice* is instrumentalized as a transactional shortcut rather than a substantive process of accountability and repair, it risks reinforcing impunity rather than advancing the humanistic goals that progressive law demands.

Beyond *restorative justice*, progressive criminal law in Central Kalimantan must be oriented toward structural prevention — *upaya penanggulangan* that address the conditions giving rise to joint assault, not merely the acts themselves. Law enforcement agencies (*aparat penegak hukum*) must be supported in developing integrated prevention strategies that combine community policing, legal education (*penyuluhan hukum*), early conflict mediation in high-risk communities, and coordination with regional government to address socioeconomic determinants of violence. The *Lutfil Ansori* analysis on law enforcement reform in a progressive law perspective underscores that genuine reform of criminal law enforcement requires not only doctrinal rethinking but institutional transformation — new attitudes, new practices, and new forms of accountability among police, prosecutors, and judges (Ansori, 2017).

Critically, courts adjudicating joint assault cases under Article 170 must embrace progressive judicial interpretation that goes beyond mechanical application of statutory

provisions. The doctrine of *hukum progresif* demands that judges consider the full context of the offence — the social conditions, the culpability of each individual participant, the harm suffered by victims, and the prospects for genuine rehabilitation — rather than applying uniform punitive responses. The empirical finding that judges frequently impose sentences far below the maximum statutory penalty, as documented in multiple Article 170 case studies, reflects not merely leniency but, at its best, an exercise of judicial discretion responsive to the realities of each case (Marehanda, 2008). This judicial creativity, when properly guided by principles of substantive justice rather than arbitrary discretion, is precisely the kind of "legal leap" (*lompatan hukum*) that Rahardjo envisaged as the hallmark of progressive legal reasoning.

4. CONCLUSION

Law enforcement against joint assault in Indonesia rests on a normatively robust but practically challenged foundation. Article 170 KUHP provides a carefully differentiated legal basis for criminal liability that reflects the public-order dimension of collective violence, while the procedural framework of the KUHAP structures the path from preliminary inquiry through trial. However, the genuine effectiveness of this legal machinery depends on the capacity of investigators to individualize culpability within group violence, the competence of prosecutors to frame charges with precision, the rigor of courts in allocating criminal responsibility, and the collective will of all institutions to overcome the technical, sociological, and structural obstacles that continue to impede the full realization of justice for victims of this grave category of crime.

The legal sanction framework applicable to perpetrators of joint assault in Indonesia is structurally sound in its normative architecture — providing a graduated primary sanction under Article 170 KUHP, a coherent comparative baseline in Article 351 KUHP, a differentiated participation framework under Articles 55 and 56 KUHP, and victim-protective mechanisms under both the KUHAP and the new Criminal Code — but remains compromised in its practical application by inconsistent judicial

sentencing, inadequate attention to the causal nexus between vis publica and social harm, persistent misclassification of participant roles, and the under-enforcement of compensation orders in favour of victims. Overcoming these deficiencies is not merely a technical imperative; it is a moral obligation of the criminal justice system toward the individuals and communities most harmed by collective violence.

The trajectory of joint assault crimes in Central Kalimantan reflects a complex interplay between socioeconomic inequality, behavioral catalysts, weakened social controls, and the persistent limitations of a formalistic criminal law response. The path forward, as illuminated by progressive criminal law theory, lies not in the mechanical reproduction of retributive penalties but in a genuinely humanistic, adaptive, and structurally informed approach to both prevention and adjudication — one that places the restoration of human dignity and social order at the center of every legal response to this persistent and serious offense.

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