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Criminal Liability of Defendants with Bipolar Disorder: A Justice-Oriented Analysis of Supreme Court Decision No. 1209K/Pid.Sus/2023

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Original Article

Abstract

Indonesian criminal law stipulates that an individual can be held criminally liable only if the elements of fault are fulfilled and the principle of legality is observed. Criminal liability serves to determine whether an offender is deserving of responsibility for the consequences of their actions. Meanwhile, Bipolar Disorder is a severe mental illness characterized by extreme mood fluctuations that can impair an individual's ability to control their behavior. This study examines the application of justice in assessing the criminal liability of defendants with bipolar disorder, with reference to Supreme Court Decision No. 1209K/Pid.sus/2023. The research employs a statutory approach and a case-based approach. The findings indicate that the legal foundations for criminal liability are contained in Article 44 of the former Criminal Code and Articles 38 and 39 of the new Criminal Code. However, judicial practice does not fully reflect principles of justice, as the defendant's bipolar disorder was not duly considered, despite the requirement that criminal law take into account the mental condition of the offender to ensure decisions that are more humane and proportionate.

Keyword: *Criminal Liability, Bipolar Disorder, Justice*

Abstrak

Hukum pidana di Indonesia menetapkan bahwa seseorang hanya dapat dimintai pertanggungjawaban jika memenuhi unsur kesalahan dan sesuai asas legalitas. Pertanggungjawaban pidana bertujuan menentukan apakah pelaku layak menanggung akibat perbuatannya. Sementara itu, Bipolar Disorder merupakan gangguan mental serius yang menyebabkan perubahan suasana hati ekstrem dan dapat memengaruhi kemampuan mengendalikan tindakan. Penelitian ini menelaah penerapan aspek keadilan dalam pertanggungjawaban pidana bagi terdakwa dengan *bipolar disorder*, dengan merujuk pada Putusan Mahkamah Agung Nomor 1209K/Pid.sus/2023. Metode yang digunakan adalah pendekatan perundang-undangan dan pendekatan kasus. Hasil penelitian menunjukkan bahwa dasar hukum pertanggungjawaban pidana terdapat dalam Pasal 44 KUHP Lama serta Pasal 38 dan 39 KUHP Baru. Namun, praktik peradilan belum sepenuhnya mencerminkan keadilan karena kondisi *bipolar disorder* terdakwa tidak dipertimbangkan, padahal hukum pidana seharusnya memperhatikan aspek mental pelaku agar putusan lebih manusiawi dan proporsional.

Kata Kunci: *Pertanggungjawaban Pidana, Bipolar Disorder, Keadilan*

1. INTRODUCTION

In the Indonesian legal system, any individual who violates the law may be punished if their conduct meets the statutory elements of a criminal offense. However, from the perspective of criminal responsibility, only individuals who possess the capacity to be held accountable may be subjected to liability. Exceptions apply to persons deemed incapable of bearing such responsibility. Sentencing refers to the judicial process through which a judge imposes a penalty on an individual who has been proven to have committed a criminal offense. Sentencing may only be carried out when specific requirements are fulfilled. These requirements include both objective and subjective conditions. Objective conditions consist of the existence of a prohibited act (criminal act), the act being regulated by statutory law (principle of legality), and the act fulfilling the elements of a criminal offense. Subjective conditions include the perpetrator's legal capacity for responsibility, the presence of culpability (*schuld*), and the absence of any justification or excuse.¹

Historically, the imposition of punishment focused solely on the offender's actions. Over time, however, the requirements for punishment have evolved to consider not only the act but also the personal circumstances of the offender. In Indonesia, the imposition of punishment must meet several statutory requirements, including the existence of an act, the act's unlawfulness, the presence of fault, the offender's capacity for responsibility, the absence of justification or excuse, and a causal relationship between the act and its consequences. The principles of criminal punishment that apply and are strictly observed in the Indonesian criminal justice system include the principle of legality (*Nullum crimen, nulla poena sine lege*) and the principle of fault (*Geen straf zonder schuld*).² Sentencing must also consider two essential components: *actus reus*, the physical or overt act prohibited by criminal law, and *mens rea*, the intent, mental state, or culpability accompanying the criminal conduct.³

Criminal liability constitutes an inherent element of fault within the perpetrator that must be established before an individual can be held accountable under the law. If this element cannot be proven, a person who commits a criminal act is not necessarily subject to criminal sanctions; instead, an assessment must be made regarding whether the elements of the offense have been fulfilled. However, when a criminal act is committed by an individual with a mental health disorder, such as bipolar disorder, the issue extends beyond the consequences or impact of the act to the individual's capacity

¹ Angkasa, Rena Yulia, and Ogiandhafiz Juanda, "Urgensi Victim Precipitation Dipertimbangkan Oleh Hakim Dalam Penjatuhan Putusan Pidana," *Jurnal Wawasan Yuridika* 5, no. 1 (2021): 1–19, <https://doi.org/10.25072/jwy.v5i1.431>.

² Hotmaida Simanjuntak et al., *Aspek Hukum Terhadap Hapusnya Penuntutan Pidana Pelaksanaannya Di Indonesia* (Surakarta: Tahta Media Group, 2024).

³ Larasati Dwi Rizqiqa and Budi Arta Atmaja, "Penentuan Mens Rea Dalam Unsur Perencanaan Pada Perkara Penganiayaan Pasal 353 Ayat 2 KUHP," *Jurnal Belo* 6, no. 2 (2021): 126–47, <https://doi.org/10.30598/belovol6issue2page126-147>.

to bear criminal responsibility.⁴ Mental disorders, also referred to as mental illnesses or psychological disorders, are conditions that disrupt a person's thought processes, mood, behavior, and daily functioning. These disorders can influence how an individual thinks, feels, and acts. Various types of mental disorders affect individuals differently, and bipolar disorder is one of these conditions. Other disorders categorized as mental illnesses include depression, anxiety disorders, bipolar disorder, obsessive-compulsive disorder (OCD), schizophrenia, and others.⁵

Bipolar disorder is a severe neurological condition that results in mental health problems characterized by extreme mood fluctuations, which can impair a person's ability to control their actions.⁶ It is marked by alternating manic and depressive episodes. During the manic phase, an individual may experience heightened energy, impulsivity, and diminished self-control, while during the depressive phase, the person may feel profound sadness, hopelessness, and may even be at risk of engaging in dangerous behaviors, including suicide attempts.⁷ Diagnosis of bipolar disorder must be conducted carefully and can only be made by a qualified mental health professional. The rules concerning criminal liability in Indonesia are clearly regulated in Article 44 of the former Criminal Code (Law No. 1 of 1946) and in Articles 38 and 39 of the new Criminal Code (Law No. 1 of 2023). Sentencing must take into account the element of prudence and must also satisfy several sentencing requirements applicable in Indonesia. One of the primary requirements is that the offense must constitute a human act, either through an active conduct (commission) or a passive conduct (omission or failure to fulfill a legal obligation).⁸

The phenomenon of criminal acts within the Indonesian criminal law system cannot be separated from the centrality of the element of fault as the basis for imposing criminal responsibility. The element of fault is an essential component that must be proven before an individual can be held legally accountable. If this element cannot be established, the perpetrator cannot be subjected to criminal sanctions. Accordingly, assessing the fulfillment of the elements of a criminal act becomes a crucial aspect of the sentencing process. The issue becomes more complex when the perpetrator is an individual with a mental disorder, such as bipolar disorder. In such cases, the concern extends not only to the consequences of the act but also to the perpetrator's capacity

⁴ Muhammad Hanid Al Amin Damanik, Indra Gunawan Purba, and Susilawati, "Pertanggungjawaban Pelaku Tindak Pidana Pencurian Dengan Pemberatan (Studi Putusan Nomor : 899/Pid.B/2024/PN Dps)," *Al-Hikmah Jurnal Hukum Dan Kemasyarakatan* 6, no. 2 (2025): 388–410, <https://doi.org/10.30743/jhah.v6i2.11534>.

⁵ Ari Susanto, Julia Esa Pratiwi, and Wahyu Nengsih, "Gejala Kejiwaan Manusia," *Aktualita Jurnal Penelitian Sosial Keagamaan* 14, no. 2 (2024): 81–99, <https://doi.org/10.54459/aktualita.v14i2.798>.

⁶ Juliastrid Jelita Katili and Rugun Romaida Hutabarat, "Pertanggungjawaban Pidana Pengidap Bipolar Disorder Dalam Menghapus Unsur Kesalahan Pidana," *Jurnal Pendidikan Indonesia (Japendi)* 5, no. 12 (2024): 2064–74, <https://doi.org/10.59141/japendi.v5i12.7023>.

⁷ Ipinu R. Nugroho, *Bipolar Seri Personality Disorder Dan Berbagai Hal Tentangnya* (Yogyakarta: Anak Hebat Indonesia, 2022).

⁸ Rodliyah and H. Salim H.S., *Pengantar Hukum Pidana Mengacu Pada KUHP Baru (UU No. 1 Tahun 2023)* (Jakarta: Sinar Grafika, 2023).

to be legally responsible for their actions.⁹ One prominent case related to this issue is Supreme Court Decision No. 1209K/Pid.Sus/2023, which involved a defendant diagnosed with bipolar disorder. The panel of judges' decision in the Juperlius case raises serious concerns regarding the fairness of the sentencing process. The judge imposed a sentence of 12 years' imprisonment and a fine of one billion rupiah or three months in lieu of imprisonment, without considering the defendant's psychological condition and mental health. Yet medical records indicate that the defendant suffers from a mental disorder that normatively falls within the scope of Article 44 of the former Criminal Code and Articles 38 and 39 of the new Criminal Code, which require judges to take the defendant's mental state into account when imposing a sentence. Therefore, sentencing should not solely emphasize punitive measures but should also incorporate a rehabilitative perspective and protect the rights of defendants with mental disorders.

The absence of such considerations in the verdict indicates potential injustice, particularly when a defendant is clearly proven to have bipolar disorder but is still found guilty without a thorough analysis of their capacity for criminal responsibility. This circumstance reflects a gap between the legal norms governing the obligation to consider mental conditions and current judicial practice. Based on these issues, this study was conducted to examine in depth how criminal responsibility for defendants with bipolar disorder should be situated within the framework of justice, with a specific focus on Supreme Court Decision No. 1209K/Pid.Sus/2023. Based on the foregoing, the research question posed is: How is the criminal responsibility of defendants with bipolar disorder viewed from the perspective of justice in Supreme Court Decision No. 1209K/Pid.Sus/2023?

2. RESEARCH METHODOLOGY

This research employs the normative legal research method as proposed by Peter Mahmud Marzuki, who views legal research as the process of discovering legal rules, principles, and doctrines to address the legal issues at hand.¹⁰ The research specification is descriptive analytical, a procedure intended to systematically analyze and interpret data to provide an objective and in-depth understanding of the legal issues being examined.

The research data is derived entirely from secondary sources through a literature review, encompassing primary, secondary, and tertiary legal materials. The primary legal materials consist of Law Number 18 of 2014 concerning Mental Health, Article 44 of

⁹ Puan Maharani Hasan et al., "Criminal Liability For People Of The Crime Of Theft For People With Schizophrenia Disorder," *Innovative: Journal Of Social Science Research* 5, no. 1 (2025): 2900–2913, <https://doi.org/10.31004/innovative.v5i1.17438>.

¹⁰ Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi*, 19th ed. (Jakarta: Prenada Media Group, 2019).

the Old Criminal Code, Articles 38 and 39 of the New Criminal Code, and Supreme Court Decision Number 1209K/Pid.Sus/2023. The secondary legal materials include literature and legal journals that support and reinforce the analysis of the regulatory framework governing criminal liability for defendants with bipolar disorder. The tertiary legal materials consist of supporting information obtained through online media. The research utilizes both a statute approach and a case approach by examining relevant regulations and judicial decisions ¹¹. Data analysis was conducted qualitatively through systematic interpretation of legal provisions and literature to gain a comprehensive understanding of the research issue.

3. RESULT AND DISCUSSION

3.1. The Application of Justice in Assessing the Criminal Liability of Defendants with Bipolar Disorder

Book Two of the Criminal Code regulates criminal offenses. An act is classified as a crime when it violates the provisions contained in Book Two. In practice, not all crimes are committed by individuals who are mentally and psychologically healthy; some offenses are committed by persons with mental disorders. In Indonesia, criminal cases involving offenders with mental disorders are relatively common.

In Indonesian criminal law, criminal responsibility is based not only on the principle of legality but also on the principle of fault. This means that a person may be punished only if their actions constitute a criminal offense and there is a demonstrable fault. Criminal responsibility functions to determine whether the perpetrator must bear the consequences of their conduct. In foreign terminology, criminal responsibility is known as *toerekenbaarheid*, criminal responsibility, or criminal liability. This concept helps determine whether a suspect or defendant may be punished or acquitted. For an individual to be convicted, the act must clearly be unlawful, and the perpetrator must be mentally responsible.

This requires assessing whether the act was committed intentionally or negligently, demonstrating that the perpetrator understood their actions and their consequences. In other words, criminal responsibility evaluates not only the act itself but also the perpetrator's awareness and mental capacity. The fair application of criminal law must consider both elements, ensuring that punishment is not solely punitive but also takes into account the individual's capacity and mental condition. In

¹¹ Gracia Gracia, Dylan Aldianza Ramadhan, and Juan Matheus, "Implementasi Konsep Euthanasia: Supremasi Hak Asasi Manusia Dan Progresivitas Hukum Di Indonesia," *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 2, no. 1 (February 1, 2022): 1–24, <https://doi.org/10.15294/ipmhi.v2i1.53730>.

this manner, the legal system can uphold justice in a more humane and proportionate way.¹²

According to Ruslan Saleh, it is illogical to hold an individual criminally responsible when their actions do not fundamentally violate applicable law.¹³ In other words, before determining whether someone is guilty or deserving of punishment, the first and most essential step is to establish that the conduct in question indeed constitutes a criminal act. Without such certainty, subsequent legal processes—such as assessing culpability or imposing a sentence—become irrelevant and risk producing injustice.

Once the act has been proven to constitute a crime, the element of culpability, or *mens rea*, can be examined more thoroughly, including whether the conduct was committed intentionally, negligently, or with a certain degree of awareness. Through this approach, the legal system can ensure that each stage of law enforcement is carried out fairly and proportionately, so that the punishment imposed is truly commensurate with the perpetrator's actions and circumstances. This underscores the importance of a logical sequence in legal proceedings, wherein the certainty that a crime has been committed forms the foundation before assessing a person's criminal responsibility.

Historically, criminal law focused solely on the perpetrator's actions, but over time it has expanded to consider not only the act itself but also the personal circumstances of the offender. This is reflected in Indonesia's criminal law requirements, which include the existence of an act, the unlawfulness of the act, the presence of fault, the ability to be responsible, the absence of justification or excuse, and a causal relationship.¹⁴

Criminal acts committed by individuals with bipolar disorder are common and frequently occur in society, presenting a wide range of highly characteristic cases. This raises important questions regarding whether such cases should be subject to criminal sanctions.¹⁵ Provisions on criminal liability in Indonesia are explicitly outlined in Article 44 of the Old Criminal Code (Law No. 1 of 1946) and Articles 38 and 39 of the New Criminal Code (Law No. 1 of 2023). In the sentencing process, caution must be exercised, and various applicable sentencing requirements must be fulfilled under Indonesian law. One fundamental requirement for establishing a criminal offense is that

¹² Wilhelmina Maria Peni Tapowolo, Karolus K. Medan, and Adrianus Djara Dima, "Pertanggungjawaban Pidana Dan Perlindungan Hukum Bagi Pelaku Tindak Pidana Dengan Gangguan Kejiwaan," *Jurnal Ilmu Hukum: The Juris* 9, no. 1 (2025): 76–85, <https://doi.org/10.56301/juris.v9i1.1591>.

¹³ Hasbi Umar and Ruslan Abdu Gani, "Criminal Acts of Gratification of State Civil Apparatus According to Positive Law and Islamic Law in Jambi Province," *Ranah Research: Journal of Multidisciplinary Research and Development* 7, no. 5 (2025): 3971–90, <https://doi.org/10.38035/rrj.v7i5.1623>.

¹⁴ Muchlas Rastra Samara Muksin, "Tujuan Pemidanaan Dalam Pembaharuan Hukum Pidana Indonesia," *Sapientia et Virtus* 8, no. 1 (2023): 225–47, <https://doi.org/10.37477/sev.v8i1.465>.

¹⁵ Orintina Vavinta Ida and Nany Suryawati, "Pertanggungjawaban Pidana Bagi Pelaku Tindak Pidana Dengan Gangguan Kejiwaan Menurut Ketentuan Hukum Positif," *Binamulia Hukum* 12, no. 2 (2023): 263–75, <https://doi.org/10.37893/jbh.v12i2.620>.

the act must be the result of human conduct, either active—engaging in a prohibited action—or passive—failing to fulfill a mandatory obligation. This element underscores that only humans can be held legally accountable for their actions.¹⁶

Furthermore, the act must be unlawful, meaning it contradicts legal norms, statutory provisions, or prevailing societal values. The act must also fall into the category of conduct punishable under criminal law, signifying that the law explicitly prescribes penalties or legal sanctions for such behavior. This demonstrates that not all acts perceived as wrong by society can be punished without a clear legal basis. Additionally, the perpetrator must possess the capacity for responsibility, namely awareness, sound judgment, and a sufficient understanding of the consequences of their actions. An individual who cannot comprehend the consequences of their conduct—such as those suffering from a severe mental disorder—cannot be treated in the same manner as a mentally healthy person.

The final and equally important element, the element of fault (*schuld*), is also a crucial requirement for criminal punishment. This element underscores that an act is punishable only when it is committed with intent (*dolus*) or negligence (*culpa*). In other words, the perpetrator's actions must reflect intent, will, or at least a degree of negligence that can be legally accounted for. All of these elements are interrelated to ensure that punishment is imposed only on individuals who are truly culpable, both legally and morally.¹⁷

The concept of criminal responsibility in Indonesian law is grounded in the theory of culpa (fault), which encompasses two main components: first, *mens rea* (evil intent), a psychological element indicating awareness and the will to commit an unlawful act; and second, *actus reus* (unlawful act), a physical element manifested in conduct that clearly violates legal norms. However, in individuals with mental disorders, particularly bipolar disorder, *mens rea* is often difficult or impossible to establish because their mental condition impairs their ability to formulate rational intentions.¹⁸

Bipolar disorder, often referred to as manic–depressive mood disorder, is a complex mental health condition characterized by extreme emotional shifts and unpredictable fluctuations in energy.¹⁹ Individuals with this disorder experience distinct mood swings between two primary phases: mania and depression. During the manic phase, individuals typically exhibit heightened energy, an abundance of ideas, overconfidence, and a tendency to engage in activities without considering the associated risks. They may speak more rapidly than usual, struggle with concentration, and feel an intense drive to remain constantly active. Conversely, upon entering the depressive phase, these conditions change drastically. Individuals may experience

¹⁶ Rahmanuddin Tomalili, *Hukum Pidana* (Yogyakarta: Deepublish, 2019), hal. 77-78.

¹⁷ Marus Mahrus Ali, *Dasar-Dasar Hukum Pidana* (Jakarta: Sinar Grafika, 2011), hal. 90.

¹⁸ Lukman Hakim, *Asas-Asas Hukum Pidana Buku Ajar Bagi Mahasiswa* (Sleman: Deepublish, 2020), hal. 178.

¹⁹ Namora Lumongga, *Depresi: Tinjauan Psikologis* (Jakarta: Kencana, 2016), hal. 180.

profound sadness, lose interest in previously enjoyable activities, and feel helpless or hopeless. Their energy levels decrease significantly, sleep and eating patterns become disrupted, and they often withdraw from social interactions. These extreme mood shifts may occur gradually or abruptly, making it difficult for individuals to maintain stability in daily life.²⁰

Bipolar disorder affects not only emotional functioning but also significantly impacts social relationships, employment, and overall quality of life. In certain situations, particularly when symptoms are uncontrolled, individuals may act impulsively and without full awareness, such as making risky decisions, harming themselves, or endangering others. Accordingly, bipolar disorder requires serious attention and comprehensive treatment. Effective management typically involves a combination of medical intervention, psychological therapy, and social and emotional support from family and friends. With professional guidance and a structured lifestyle, individuals can learn to recognize early signs of mood changes, manage stress, and maintain emotional stability. Continued support is essential for enabling individuals with bipolar disorder to live balanced, productive, and meaningful lives without being overwhelmed by their emotional fluctuations.²¹

The Indonesian criminal justice system tends to emphasize punishment rather than rehabilitation. Criminal law should no longer serve merely as an *ultimum remedium* focused solely on punitive measures.²² According to modern criminal law theory (Penal Policy), criminal law also functions within society to promote justice, healing, and societal benefit. Law Number 18 of 2014 concerning Mental Health explicitly underscores the importance of providing protection for individuals experiencing mental disorders. Within the criminal law context, this law strengthens the legal framework to ensure that individuals involved in criminal proceedings receive appropriate medical treatment. Furthermore, the law regulates the provision of community-based treatment, which allows individuals with mental disorders to receive care without entirely losing their personal freedom.²³

This situation highlights the need for a shift in legal perspectives, moving beyond a sole focus on punishment toward the implementation of a rehabilitative approach integrated with mental health services. This means that law enforcement must be accompanied by efforts to restore the psychological well-being of offenders with mental disorders, ensuring that the legal process is not merely repressive but also humane and

²⁰ Lumongga, *Depresi: Tinjauan Psikologis*.

²¹ Wisnu Catur Bayu Pati, *Pengantar Psikologi Abnormal: Defenisi, Teori, Dan Intervensi* (Pekalongan: NEM, 2022), hal. 165-166.

²² Yuni Ginting, "Penyelesaian Perkara Pidana Di Luar Pengadilan Berdasarkan Asas Ultimum Remedium," *The Prosecutor Law Review* 2, no. 1 (2024): 73–94, <https://doi.org/10.64843/prolev.v2i1.32>.

²³ Rakhma Nurrozalina et al., "Tanggung Jawab Negara Dalam Memberikan Jaminan Hukum Untuk Rehabilitasi Dan Reintegrasi Sosial Bagi Individu Dengan Gangguan Kesehatan Mental," *Juris Studia Jurnal Kajian Hukum* 5, no. 3 (2024): 905–15, <https://doi.org/10.55357/is.v5i3.793>.

oriented toward individual recovery. The dominant punitive paradigm in the current justice system often results in defendants with mental disorders serving prison sentences without access to adequate medical or psychiatric care. Yet their conditions require specialized attention and treatment that cannot be equated with those of the general prison population. When individuals with mental disorders are incarcerated without therapeutic intervention, their health needs are neglected, and their psychological condition may deteriorate due to the harsh prison environment, which is not conducive to mental recovery.²⁴

Ideally, the legal system should implement a more comprehensive mechanism for examination and treatment before sentencing defendants suspected of having mental illness. This procedure should include an in-depth psychiatric evaluation through clinical interviews, consistent behavioral observations, and, when necessary, a series of additional psychological tests to obtain an objective understanding of the defendant's mental condition. Such evaluations not only help determine the degree of criminal responsibility but also ensure that the sentence imposed is fair and proportionate.²⁵

Judging from the Panel of Judges' decision in the Juperlius case, and from the perspective of current Indonesian law, it certainly does not reflect the value of justice. The rules regarding criminal liability in Indonesia are regulated in Article 44 of the old Criminal Code and Articles 38 and 39 of the new Criminal Code, which concern the criminal liability of individuals with mental or intellectual disabilities. Article 44 of the Criminal Code states:

- (1) Anyone who commits an act for which he cannot be held accountable because his mental development is defective or impaired by disease shall not be punished.
- (2) If it is found that the act cannot be held accountable to the perpetrator because his mental development is defective or impaired by disease, the judge may order that the individual be committed to a mental hospital for a maximum of one year as probation.
- (3) The provisions in paragraph 2 apply only to the Supreme Court, High Courts, and District Courts.

Contents of Article 38 and Article 39 of the New Criminal Code

1. Article 38: "Any person who, at the time of committing a crime, has a mental and/or intellectual disability may be given a reduced sentence and/or be subject to certain measures."

²⁴ Nurlin Latili, "Perlindungan Hukum Terhadap Pelaku Tindak Pidana Yang Mengalami Gangguan Mental," *Ganec Suara* 19, no. 1 (2025): 298–303, <https://doi.org/10.59896/gara.v19i1.219>.

²⁵ Cindy Carolin et al., "Hukuman Bagi Pelaku Kejahatan Dengan Masalah Kejiwaan," *Journal of Law and Nation* 4, no. 1 (2025): 82–100.

2. Article 39: “Any person who, at the time of committing a crime, has a mental disability with an acute relapse accompanied by psychotic symptoms and/or has a moderate or severe intellectual disability may not be subject to criminal punishment, but may be subject to certain measures.”

However, in practice, these ideal measures are often not implemented optimally. The limited number of mental health professionals, inadequate psychiatric examination facilities within legal and correctional institutions, and weak interagency coordination constitute major obstacles. Moreover, the absence of uniform standard operating procedures across the judicial system further undermines the effectiveness of a rehabilitative approach. As a result, many individuals with mental illness do not receive proper treatment, and the legal system loses the opportunity to uphold justice that is more humane and oriented toward social recovery.

The case reflected in Supreme Court Decision No. 1209K/Pid.Sus/2023 involving a drug offender named Juperlius illustrates this problem. The case sparked debate regarding the proper legal treatment, with some arguing that the defendant should not be punished because he was proven to suffer from a mental disorder, while others contended that punishment remained appropriate. Due to ambiguities in the norms of Article 44 of the Criminal Code—which requires conditions categorized as “imperfect intellectual development” or “disorders caused by illness”—the judge plays a crucial role in the legal examination process. Judicial interpretation becomes essential to fulfilling the public’s sense of justice in resolving such cases.

Based on the legal provisions in force in Indonesia, the verdict rendered by the panel of judges in the case involving Juperlius in Supreme Court Decision No. 1209K/Pid.Sus/2023 can be considered unfair. In delivering the judgment, the panel of judges should have assessed not only the defendant’s actions but also his psychological condition and mental health. In this decision, the judge sentenced Juperlius to twelve years of imprisonment and a fine of one billion rupiah, which, if unpaid, would be replaced with a three-month prison term. In Juperlius’s case, it was clearly established—supported by medical documentation and health records—that he suffered from a mental disorder. This condition falls within the criteria regulated in Article 44 of the old Criminal Code as well as Articles 38 and 39 of the new Criminal Code, both of which emphasize the necessity of considering a defendant’s mental state in legal proceedings.

Thus, the panel of judges should not have focused solely on the punitive aspect but should have incorporated rehabilitative considerations and protection of the rights of defendants with mental disorders. Ignoring mental health factors in judicial processes not only risks producing injustice but may also exacerbate the defendant’s psychological condition. Therefore, fair law enforcement must be comprehensive, integrating psychiatric evaluations and medical evidence as essential components of judicial

decision-making. This ensures that verdicts are not merely repressive but also considerate of the defendant's humanity and potential for rehabilitation.

The panel of judges should have considered the sentencing requirements, particularly the defendant's capacity to take responsibility for his actions, in rendering a verdict in the case of Juperlius, who is known to suffer from bipolar disorder. One key consideration in sentencing is the defendant's ability to accept responsibility for his conduct. Given that Juperlius suffers from significant mental health issues, as demonstrated throughout the trial, this factor should have substantially influenced the court's legal assessment.

In this regard, the panel of judges should have considered imposing a lesser sentence or alternative, more rehabilitative measures, as Juperlius's mental condition falls within the category of intellectual impairment or a distinct psychological disorder—namely, bipolar disorder. It is important to recognize that this disorder affects an individual's ability to regulate emotions, make decisions, and comprehend the consequences of their actions. By incorporating mental health considerations into the decision-making process, the justice system not only formally enforces the law but also upholds a conception of justice that takes into account the defendant's humanity, safety, and psychological recovery. Thus, a decision that properly considers Juperlius's mental condition would more fully reflect the principle of comprehensive justice, in which punishment is not solely repressive but also affords the defendant an opportunity to receive necessary care and support.

4. CONCLUSION

Indonesian criminal law, through Article 44 of the old Criminal Code and Articles 38 and 39 of the new Criminal Code, stipulates that a person may be punished only if they possess the mental capacity to understand and be responsible for their actions. In individuals with mental disorders such as bipolar disorder, this capacity is often impaired, making *mens rea* difficult to establish. Therefore, the assessment of criminal responsibility must be conducted holistically, emphasizing not only punishment but also incorporating rehabilitative considerations and protections for individuals with mental disorders, in accordance with Law Number 18 of 2014 concerning Mental Health. In the Juperlius case, the panel of judges should have treated the defendant's mental state—proven through clear medical evidence to involve bipolar disorder—as a crucial factor in sentencing. Ideally, the verdict should have included leniency or specialized treatment rather than the imposition of a full sentence that disregarded the defendant's mental condition.

Law enforcement officials, particularly judges and prosecutors, must enhance their understanding of defendants' mental conditions through training and collaboration with psychiatric experts. Comprehensive psychiatric evaluations should be mandatory

to ensure justice for defendants with mental disorders. Moreover, the Indonesian criminal justice system needs to prioritize a rehabilitative approach over a purely punitive one, consistent with the principles of justice and humanity. The government must also clarify the provisions of Article 44 of the old Criminal Code and Articles 38 and 39 of the new Criminal Code and provide adequate mental health rehabilitation facilities to enable offenders with mental disorders to recover and reintegrate into society.

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