The Concept of Forced Defense As Legal Protection Against the Criminalization of Crime Victims

Irpan Suriadiata
Universitas Nahdlatul Ulama Nusa Tenggara Barat, Indonesia
irpan.suriadiata@gmail.com

<table>
<thead>
<tr>
<th>Article Info</th>
<th>Abstract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Received: 2023-08-12</td>
<td>Article 49 of the Indonesian Criminal Code (KUHP) governs the concept of compelled defense, also known as “noodweer” in Dutch terminology. This article offers legal protection for individuals who engage in an unlawful conduct, such as abuse or murder, but do so in self-defense or in defense of another person who is under a severe threat to their life or physical well-being. The objective of this study is to ascertain the manner in which investigators constructed the legal framework to identify the suspect responsible for the abuse crime in the case that transpired at Yayasan Al-Amin NW Kilang in District Montong Gading, East Lombok district, West Nusa Tenggara on July 19, 2022, and to determine whether the suspect’s actions constituted a forced defense in accordance with the provisions outlined in article 49, paragraph 1 of the Criminal Code. The present case study was authored utilizing analytical descriptive techniques in conjunction with empirical-normative research methods. The research findings indicate, initially, that the investigator’s subjective elements significantly influence the trajectory of the investigation in the a-quo case. Consequently, the investigator formulates questions for the investigation in a manner that is streamlined solely to satisfy and substantiate the requirements outlined in Article 351 paragraph of the Criminal Code and to identify the suspect. The second criminal act of abuse pertains to the suspect’s assault, which satisfies the criteria for a forced defense as defined in article 49 of the Criminal Code, provided that a-quo is satisfied.</td>
</tr>
<tr>
<td>Revised: 2024-02-21</td>
<td></td>
</tr>
<tr>
<td>Accepted: 2024-06-20</td>
<td></td>
</tr>
</tbody>
</table>

Keywords: Forced Defense, noodweer, Legal Protection, Crime Victims
INTRODUCTION
Criminal acts are actions that are forbidden by the norms of criminal law and are followed by specific criminal consequences for people who break these rules. Individuals who breach the regulations will be held accountable for their conduct in accordance with the errors they have committed (Collier & Esteban, 2007; Wiegmann & Shappell, 2017). The commission of an error plays a crucial role in determining the criminal liability that should be imposed on the perpetrator of a criminal act. This principle, known as "Geen straf zonder schuld" or "no crime without error," highlights the significance of error in attributing criminal responsibility. Without the presence of an error, an individual cannot be held accountable for criminal actions (Hafrida et al., 2022; Ikhsan et al., 2023; Muttaqin et al., 2023a).

The correlation between criminal acts and criminal responsibility is highly significant, despite the fact that they are distinct topics within the realm of criminal law. In order for criminal accountability to exist, a criminal act must occur (Bdiwi, 2023; Hart Jr, 1958; Robinson, 2017). Furthermore, discussions about criminal acts are meaningless without considering how the perpetrator of the act can be punished. It is important to note that in criminal law, it is the perpetrator of the act, rather than the act itself, that can be punished. The connection between criminal activities and criminal culpability is evident in each component, specifically the correlation between wrongdoing and the inherent violation of legal norms (Rauzi et al., 2023). Culpability is a necessary component in attributing a crime to the defendant for the committed conduct, and it is inconceivable for there to be an error if the act in question is not illegal. The comprehension of mistakes necessitates the presence of illegality, although illegality can exist independently of errors. This implies that an individual cannot be held accountable or given a criminal sentence if they have not engaged in a criminal conduct. However, even if a someone does perform a criminal act, it does not guarantee that they will always face punishment (Moeljatno, 2008).

Individuals who engage in unlawful behavior are not subjected to punishment due to the existence of several factors outlined in the unlawful Code. These factors can be categorized into two main types: justifying reasons and forgiving reasons. These regulations are enforced both within and outside the Criminal Code (KUHP). One of the explanations outlined in Chapter III of Book One of the Criminal Code pertains to the concept of compelled defense, as stated in Article 49, Paragraphs (1) and (2). 1). "No individual shall face legal consequences for engaging in an act of self-defense or defense of others, their moral integrity, or their own or another person’s property, provided that there is an imminent and unlawful attack or threat of attack." 2) This is the second item. Inducing a defensive response that beyond normal boundaries, resulting directly from severe psychological trauma induced by an assault or the imminent danger of an assault, is exempt from legal consequences. In addition to article 49 of the Criminal Code, article 34 and article 43 of Law no. 1 of 2023, which pertains to the Criminal Code, also govern the grounds for the elimination of criminal sanctions (Bemmelen, 1986; Hiariej, 2014). According to Article 34 of Law Number 1 of 2023 on the Criminal Code, individuals who are compelled to engage in a forbidden action will not face punishment if the action is taken in self-defense against an immediate attack or threat that violates the law, personal honor, or the property of oneself or others. According to Article 43 of Law Number 1 of 2023 on the Criminal Code, those who engage in excessive self-defense as a result of serious psychological trauma induced by an unlawful act or threat thereof, will not face legal consequences.
The presence of articles pertaining to the elimination of criminal sanctions is highly significant, as it frequently occurs in legal proceedings that individuals accuse one another in a specific case. One notable instance that gained widespread attention on social media in Central Lombok included the identification of a suspect in a robbery incident. The culprit in question was referred to as As, also known by the alias M. After fatally defending himself against a robber in Ganti Village, East Praya District, Regency, M was implicated as a suspect under the murder charge. Following the widespread attention this case received, it was ultimately referred to the Central Lombok Police Investigators and classified as SP3. In addition, the rational justification for enforcing self-defense is based on the premise that it is unreasonable to expect a citizen to passively accept an illegal action perpetrated against them. In addition, the state's failure, specifically the police apparatus, to be present and ensure everyone's security during that time implies that individuals are entitled to engage in self-defense, as long as it adheres to the regulations outlined in the article.

Utrecht asserts that criminal law continues to have a proclivity for unjustly imposing punishment on individuals. An innocent individual may receive a criminal sentence for engaging in an act that aligns with the definition of a prohibited criminal act, even if they did not intend to commit the act. This can occur when the person is coerced or faced with an emergency situation that compels them to carry out actions that are forbidden by criminal law (Utrecht, 1994). The issue of coerced self-defense is intriguing as law enforcement officials often face challenges in establishing their stance, particularly when it comes to identifying suspects in circumstances when individuals report each other and both claim to be victims of the crime.

This study aims to investigate the alleged identification of the Chairman of the Al-Amin NW Refinery Foundation, located in the Montong Gading District of East Lombok Regency, as Hairul Hasri, A.Md. The basis for this investigation is a report filed by an individual named H. Munawar Aziz.

In 2022, the Al-Amin NW Kilang Foundation constructed a wall on their own land to prevent pupils from using the road as a means to skip school. Upon receiving news that the chairman of the Foundation had constructed a wall, H. Munawar Aziz expressed his objection. This is due to the fact that the specific place on the wall had been utilized as an entry and exit point to control the water supply used for irrigating his rice fields. Munawar Aziz vandalized the wall due to his objection. Following the demolition of the wall, H. Munawar Aziz proceeded to enter through the breached structure in search of the chairman of the Foundation, expressing his anger and directing curses on the chairman. Following a meeting with H. Munawar Aziz, the chairman of the Foundation, who was already in an emotionally charged state, he proceeded to promptly physically assault the chairman of the Foundation, who also held the position of principal at the Al-Amin NW Refinery Foundation. Due to his desire to be struck, H. Munawar Aziz was intentionally attacked by the Chairman of the Foundation after being kicked, resulting in a laceration on his temple and subsequent bleeding.

Following the incident on July 29, 2022, the Chairman of the Foundation filed a report with the Montong Gading Police, accusing individuals of engaging in criminal acts of vandalism and causing disturbance. Similarly, H. Munawar Aziz also filed a case with the Montong Gading Police, alleging criminal acts of abuse. Following a thorough examination and investigation, the Chairman of the Al-Amin NW Kilang Foundation was identified as a suspect for alleged criminal acts of abuse. Consequently, the Chairman was apprehended. However, the report submitted by the Chairman has not yet been further considered in the process of determining the suspect. This.
What is intriguing in this case is that despite a series of incidents involving H. Munawar Aziz, who unlawfully entered the Al-Amin NW Refinery Foundation by damaging its walls, proceeded to verbally abuse and physically assault the Foundation's chairman within its premises, he has not been officially identified as a suspect. Nevertheless, the Foundation chairman's actions of physically assaulting H. Munawar Aziz, in response to a previous attack, were considered to meet the criteria for a criminal act of abuse. As a result, the Foundation chairman was identified as a suspect and subsequently apprehended.

The objective of this research is to examine the process by which investigators establish the legal framework for identifying suspects involved in cases of abuse that took place on July 19, 2022 at the Al-Amin NW Refinery Foundation. Additionally, the study aims to determine whether the actions taken by the suspect in question align with the criteria outlined in article 49, paragraph 1 of the Criminal Code, which pertains to self-defense.

METHODS

This study employs a normative-empirical research methodology, utilizing a case study technique. The normative-empirical research approach is an amalgamation of normative and empirical research methods. Normative research methods involve examining legal regulations, records, or theories in order to draw findings or provide suggestions (Johnny Ibrahim, 2005; Syahrum, 2022). Empirical research methods encompass the collection and analysis of empirical data derived from observations, interviews, or surveys in order to comprehend social phenomena or human behavior. This research is supported through the examination of case files at the investigative level, tracking the trial process to uncover witness testimonies provided during the trial, conducting literature reviews of various criminal law publications, and analyzing relevant laws and regulations. The data analysis method employed is based on legal standards and norms.

FINDING AND DISCUSSION

3.1. The legal framework investigators developed to identify the suspect

An investigation comprises a sequence of investigative activities carried out in adherence to the protocols established by this legislation, with the objective of locating and acquiring evidence that establishes the commission of a crime and identifies the suspect. Several elements of action are outlined in this definition that investigators must execute when conducting a criminal case investigation: (1) gathering and searching for evidence; (2) gathering and searching for evidence must be conducted in accordance with the legally mandated procedure; and (3) the objectives are “a” to elucidate the nature of the crime that transpired and "b" to locate the suspect.

Noting that the investigation is conducted with the specific intention of locating suspects—specifically, individuals suspected of having committed the criminal acts that investigators have reported or are involved in—is an extremely vital aspect of this process. Despite the lack of systematic regulation under the Criminal Procedure Code, the investigator possesses extensive authority that transcends the scope of investigations (Harahap, 2002). Investigators may, during the course of an investigation, execute the following: apprehend suspects, forbid their departure, conduct searches, seize, scrutinize, and confiscate correspondence; extract fingerprints; and take photographs of individuals. The objective of every action undertaken during the investigation process is to elucidate the criminal act that transpired and locate the suspect.

During the investigative phase, the investigator will scrutinize witnesses and
all pertinent evidence in pursuit of justice. This implies that the investigation process is conducted with the intention of attaining justice. Consequently, the investigator will have complete knowledge of all matters pertaining to the case under investigation. Consequently, the investigator will be capable of impartially assessing and deciding whether a particular course of action is justified in light of the chronological sequence of events gleaned from the evidence.

The chronology of the incident was not thoroughly examined by the investigator, as evidenced by the Minutes of Investigation he or she obtained regarding the witnesses in the case under scrutiny. Investigators questioned H. Munawar Aziz in an effort to establish that Hairul Hasri had struck him. The investigator exclusively requests information from the witnesses being examined and those whose responses are included in the Minutes of Investigation. These inquiries pertain to the elements of the criminal act of abuse that the investigator seeks to establish and are in accordance with the requirements of the article. However, the chronological sequence and events in their entirety are not detailed in the Minutes of Examination of the case. Upon examination of the investigative findings, specifically those documented in the Minutes of Investigation, it is evident that Hairul Hasri has allegedly complied with the requirements of paragraph (1) of article 351 of the Criminal Code. As a result, the investigators are able to identify a suspect in connection with the alleged assault on Hairul Hasri.

Researchers are intrigued as to why the investigator in the case investigation report failed to ask witnesses comprehensive questions regarding the incident's chronology, why he or she failed to make a connection between the report submitted by Hairul Hasri on July 29, 2022 and the report submitted by H. Munawar Aziz, who is presently under investigation, and why the case has been submitted to the trial process filed by H. Munawar Aziz despite the chronology being inconsistent? Witness H. Munawar Aziz, Witness Azizatul Rofaah, Witness Suhaili, Witness Ramli, Witness Hairul Rizal, S.Pd, Witness Muliadi, Witness Jumahar, and Witness Hairul Hasri, Witness Tantanus Handika, and Witness Indra Febrian Iswandi were among the individuals examined by investigators in the course of this case investigation.

In point 13 of the minutes of the witness examination conducted on Saturday, December 10, 2022, and Saturday, September 23, 2023, the investigator questioned witness Lalu Muhammad Nur as follows: "Please provide a chronological account of the riot incident, starting from its inception and concluding with the details you have provided above. The witness responded to this inquiry as follows: "At approximately 11:00 WIT on Tuesday, July 19, 2022, I subsequently detected a disturbance on the terrace of the hall. The chronology provided by the witness in the investigation minutes lacks a comprehensive account of all the events that transpired on July 19, 2022. The inquiries posed by the investigator to the witness solely concern the reporter H. Munawar Aziz's reaction to this incident. However, neither an explanation nor an inquiry into the actions of H. Munawar Aziz that precipitated this predicament were elicited.

In order to validate the data presented in the investigation reports dated Saturday, December 10, 2022, and Saturday, September 23, 2023, concerning witness Lalu Muhammad Nur, scholars conducted interviews on Saturday, January 13, 2024, at the residence of witness Lalu Muhammad Nur in Kilang Village, Kec. Montong Gading, Kab. East Lombok, Prov. NTB. Based on the interview findings, researchers learned that the witness had provided investigators with a comprehensive account of the July 19, 2022 incident. Furthermore, the witness confirmed to investigators that Hairul Hasri, the chairman of the Al-Amin NW Refinery Foundation, was the true victim in this case. This was because H. Munawar Aziz had caused damage to the boundary.
wall of the Al-Amin NW Refinery Foundation prior to the commotion in 2019, which had also been reported. During the July 19, 2022 incident, H. Munawar Aziz caused damage to the Foundation’s wall. Subsequently, he breached through the compromised wall and directed profanities towards the chairman of the Foundation. Upon encountering the chairman of the Foundation, H. Munawar Aziz promptly delivered a kick to the chairman, who in turn responded angrily by being kicked. The Foundation retaliated by striking him once with his bare hands. However, as per Lalu Muhammad Nur, the information provided was omitted from the complete investigation report because, in the opinion of the investigators, it was unrelated to the article's elements that would be substantiated in H. Munawar Aziz's report. Based on the witness statements analyzed by investigators during the course of this case, it is evident that one of them observed a disturbance at the Al-Amin NW Refinery Foundation. This is consistent with the testimony of (1) Witness Lalu Muhammad, which was included in the investigation minutes on 10 December 2022 in response to questions 5 and 7 and in the Minutes of Investigation dated 16 October 2023 in response to questions 3 and 7, but not in the subsequent questions posed by the investigator.

The investigator's question structure failed to inquire about the actions of reporter H. Munawar Aziz that caused the disturbance that culminated in the reporter's beating. Despite this, Hairul Hasri allegedly filed a report on July 29, 2022, which occurred nearly simultaneously with the inquiry. The alleged vandalism committed by H. Munawar Aziz caused a disturbance at the Al-Amin NW Refinery Foundation; therefore, investigators could obtain complete information about the incident from two reports on the same event; this information will be included in the inspection report.

Investigators should examine the Al-Amin NW Refinery Foundation as the site of the incident and inquire as to how H. Munawar Aziz managed to locate the Foundation in order to determine what he did to cause this incident to transpire. Furthermore, what is the rationale behind his visit and how does H. Munawar Aziz communicate his intention? According to the trial facts, H. Munawar Aziz does not hold the position of Foundation administrator; therefore, investigators must inquire about his presence within the Foundation in order to gain insight into the matter. From this incident so that they may adopt the proper approach and make the appropriate judgments during the investigation, as well as ascertain the identity of the perpetrator and the victim. Had H. Munawar Aziz not approached the Foundation by inflicting damage on its fence, profaning at its leader, and kicking its leader, the beating would not have been conceivable.

In this particular instance, the researcher discerned that the investigator's subjective elements dictated the course of the investigation; consequently, the investigator streamlined the construction of the questions utilized in the investigation so as to satisfy and substantiate the requirements of the article referenced in paragraph 1 of article 351 of the Criminal Code, and to ascertain its veracity. The fact that Hairul Hasri inflicted the facial injury on H. Munawar Aziz enabled investigators to classify Hairul Hasri as a suspect.

As evidenced by the inquiries conducted by investigators during the course of this case inquiry, specifically to satisfy and substantiate the stipulations of Article 351, paragraph 1 of the Criminal Code through the omission or exclusion of the chronological sequence of events as described by witnesses, this could be interpreted as an attempt to stigmatize the victim, who has previously opposed criminal activities.

3.2. The Suspect’s Actions in the A-Quo Case Have Met the Criteria as A Form Of Forced Defense
The exercise of forced defense as a constitutional right is severely constrained; it cannot be executed capriciously. In order to qualify as a compelled defense, a defense must satisfy every one of its stringent requirements. The individual who orchestrated the defense was compelled to provide justification for employing a coerced defense due to the circumstances and circumstances at hand (Knoops, 2008; Susanti & Meduri, 2023; Westen & Mangiafico, 2003).

One rationale for the abolition of criminal penalties as outlined in Book III of the Criminal Code is this coerced defense. Why is it necessary to regulate forced defense as a factor in expunging a crime in the Criminal Code? As stated by Utrecht, the inherent vagueness of criminal law introduces the potential for an individual to receive an unjust sentence. This inequitable penalty may ensue due to the fact that law enforcement personnel may only correlate specific components of the article with fragments of criminal occurrences, neglecting to consider the overall chronology of the events. Thus, the terms criminal act and criminal responsibility are recognized within the realm of criminal law. Criminal responsibility is not merely attributable to the commission of a criminal act; an error or culpable interior attitude is also required. This is exemplified by the principle Geen straf zonder schuld, which states that in the absence of error, no offense has occurred. In criminal law, criminal acts and criminal responsibility are distinct concepts, but they are intimately related. Non-compliance with criminal liability is the absence of any criminal conduct (Alviolita, 2018; Muttaqin et al., 2023b)

Aside from that, a sentence may be overturned in accordance with the theory of punishment if one of the fundamental offenses is not satisfied. Included among the grounds that nullify punishment are the absence of a material unlawful nature or element of unlawfulness in an action, as well as the absence of a schuld (defect) element in an individual. The justifications for obviating the need for this penalty are subsequently termed the "reasons for eliminating the crime." The two theoretical categories of grounds for expunging a criminal record are justifications (rechtsvaardidingsgrond-faits justificatifs) and forgiveness (schulduitingsgrond-faits d'exuce). Rationales for justification and forgiveness are governed by legislation both within and beyond the Criminal Code (KUHP). Forced defense is one of the justifications governed by Chapter III of Book One of the Criminal Code; the relevant provisions are outlined in Article 49, paragraphs 1 and 2.

1) No one shall be penalized for violating the law by committing an act of forced defense to protect oneself, another, the honor of morality, or one's own or another's property in the face of an imminent attack or threat of attack.

2) Extremely forceful defense that results from severe mental distress induced by an attack or threat of attack is exempt from legal consequences.

According to Article 34 of Law Number 1 of 2023, which pertains to the Criminal Code, the following is stipulated: "In the event that an individual is coerced into performing a forbidden action, they shall not be held accountable; provided that the action is performed in self-defense or in response to the threat of imminent attack, and is illegal against themselves or another person, honor as defined by decency, or their own or another person's property." According to Article 43 of Law Number 1 of 2023, which pertains to the Criminal Code, an individual shall not be liable for punishment if they engage in forced defense that surpasses the thresholds caused directly by severe mental trauma inflicted by an unlawful assault or the threat thereof. One logical justification for mandatory defense is that it is unreasonable to expect an individual who is a citizen to willingly submit to an illicit act that is committed against them. Additionally, the state's incapability to offer protection during that period
signifies that any individual may engage in coerced defense, provided it adheres to the stipulations of the aforementioned article. Forced defense, also known as noodweer in the doctrine, is a phenomenon that is dated back to the age of the world (night unrest). Noch ehren Sie sich, das ist die Natur, umslossen. Since "weer" means "defense" and "nood" means "emergency," the literal interpretation of "noodweer" is "a defense executed during an emergency." As defined in 49 paragraph 1 of the Criminal Code, "attack" refers to any conduct that inflicts injury upon the legal interests of another individual concerning their personhood (including life), honor, or material possessions.

In this investigation, the researcher will assess whether the Defendant's actions constituted a forced defense or not by analyzing the actions in light of Van Hamel's theory, which systematically and exhaustively outlines the requirements for a forced defense in accordance with the elements of attack or threats of attack and elements of defense.

a) Executed in response to an assault or threat of assault targeting three lawful interests—individual interests, honor, or property—that of oneself or another.

Based on what happened in court, the Defendant was protecting his own interests, specifically his self-respect and honor as a person and Chairman of the Foundation. He was also protecting the interests of the Principal of the Al-Amin NW Kilang Foundation, who was verbally abused and hit, as well as the interests of the Al-Amin NW Refinery Foundation's property, which was damaged by the Reporting Party during the incident. One of the Defendant's substantial and important interests in criminal law is his or her self-respect, which other people, including the Complainant, must not insult, bother, or threaten. Citing Lamintang's opinion, which says that Article 49(1) of the Criminal Code protects honor interests in the sense of honor and dignity as a person, which must be respected and protected by others. This includes privacy and keeping other people from messing with one's property.

The Defendant hit the Complainant once with his bare hands to protect his honor and property after the Complainant H. Munawar Aziz damaged property, swore at him, and hit him. is part of the Al-Almin NW Refinery Foundation, and the Defendant is the head of the Foundation and is in charge of this.

The law doesn't say that there has to be violence in order for a forced defense to be legal, according to Noyon-Langemeijer. Just having a clear threat of violence is enough of a reason to defend oneself. In the a-quo case, Reporter H. Munawar Aziz did more than just make threats against the Defendant. He actually broke the boundary wall that belonged to the Al-Amin NW Refinery Foundation, of which the Defendant is the chairman, and insulted, cursed, and kicked the Defendant.

The damage that Reporter H.Munawar Aziz did to the Al-Almin NW Refinery Foundation's wall was not the first time that something like this had happened. It was reported in 2019 that reporter H. Munawar Aziz damaged the boundary wall that belonged to the Al-Amin NW Refinery Foundation in the north. The defendant, Hairul Hasri, quickly reported the damage to the Mondong Gading Police, and this has been kept up to this point. The report hasn't been followed up on yet because, according to the Montong Gading Police Investigator's statement, several prosecutor's instructions haven't been followed. This means that the report can't be P-21 and has been stuck until now, even though H. Munawar Aziz has been named a suspect. That these
facts show the first condition for forced self-defense has been met.
b) Countering the menace of immediate unlawful assaults.

Under these circumstances, two prerequisites must be met: firstly, the threat of imminent or imminent attack; and secondly, the act in question being illegal. If both conditions are satisfied, then this condition is considered to be fulfilled. The expeditious provisions pertaining to attack threats lengthen the time available to execute a forcible defense, specifically in situations where an indication of an impending attack is presented in the form of a plain and direct threat that cannot be anticipated to be canceled. In contrast, violating the law in its broadest sense is considered a reprehensible action as well, since it contradicts not only written regulations but also the sense of justice and social norms that govern existence in society.

Assuming the reporter H Munawar Haris approached the Defendant and promptly initiated an assault, specifically by kicking the Defendant, the danger to the Defendant's bodily interests shifted from a mere direct threat to one that could have been more dangerous had the Defendant refrained from defending himself and no one else had been present to intervene. This is supported by the testimonies of witnesses who were present during the incident.

The premeditated and illicit assault threatened by H. Munawar Aziz transpired prior to their encounter with the defendant, as H. Munawar Aziz, as stated by the trial witnesses, operated from behind the Al-Amin NW Foundation. The process of refinement involves the demolition of structures that are owned by the Foundation. H.Munawar Aziz's destruction of the Foundation's wall is unequivocally an unlawful act, given that he has no authority to do so and could not better express his aspirations by entering through the front door. Furthermore, H.Munawar Aziz could have done so in a dignified manner, devoid of wall destruction, profanity, and physical abuse towards the Defendant.

When the defense is executed and the threat of attack materializes without any delay, forced defense against the threat of instantaneous attack is also justifiable. This suggests that forced defense is not a premeditated or deliberate response to the attack, but rather an instinctive action triggered by the imminent threat of harm. The Defendant's compelled defense authorized the Defendant to violate the legal interests of others, specifically the journalist H. Munawar Aziz's rights under his obligation to safeguard his legal interests.

The Defendant's reputation was jeopardized by H. Munawar Aziz's verbal abuse and physical assaults within the Foundation or school where the Defendant taught. The Reporting Party, on the other hand, was an external who entered the premises with the intention of causing damage to the Wall of the Foundation, which is under the ownership and control of the Defendant. Then, he cursed at the defendant and launched an immediate assault by striking the defendant.

The Defendant's physical assault on the Whistleblower was instigated by the Whistleblower's personal apprehension or anxiety that the Whistleblower would commit acts and attacks at the Foundation, where the student was enrolled for learning hours at the time of the incident. That the beating committed by the Defendant was an impulsive act and not the result of extensive preparation, as the time between the Complainant's kick and the Defendant's punch was mere seconds, the Defendant did not bring any tools or objects with him when he was kicked and then struck back, and the
 Defendant did not carry any tools or objects. The Defendant never considered doing anything that could be used to strike or assault the Complainant; in fact, he never would have considered doing so if the Complainant had not indiscriminately kicked the Defendant.

As per Van Hamel's analysis, an assault is deemed unlawful when the victim endures or has the capacity to endure suffering, notwithstanding the fact that the attackant is not entitled to such suffering under the law. This implies that the individual whose rights are infringed upon has been violated subjectively, as he is entitled to protection against suffering as a result of the aggressor's or threatener's actions. Subsequently, it must be objectively limited to the fact that the threat of assault that transpired constitutes a legally prohibited offense, and not merely an unfounded assumption by the defense.

In this instance, the Defendant was present at the educational institution where they taught. Moreover, that institution entrusted the Defendant with the responsibility and authority to safeguard the Foundation against any potential harm, including external assaults and other detrimental actions, up to a certain limit. In conclusion, the Reporting Party unlawfully approached the Defendant by destroying the foundation wall, entering from behind while cursing and becoming enraged, and then kicking the Defendant; therefore, the threat of attack emanating from the Reporting Party's actions was objectively unlawful, as it constituted a criminal act. Engaging in illicit activities such as causing damage to the property of others, insulting, or misrepresenting the defendant are strictly prohibited by law. The Defendant, in essence, possesses the right to be treated with respect by the principal who oversees both the school and the Foundation and as Chairman of the Foundation. Furthermore, as an individual who has no right to be insulted or treated harshly by others, the Reporting Party's actions have contravened the Defendant's rights and are consequently illegitimate.

The law prohibits any circumstance or condition under which the Reporting Party may cause harm to the Defendant's property or engage in repeated insults and attacks against the Defendant in such a way that causes the Defendant to suffer loss and damage. As a result, it is indisputable that the Reporting Party did not violate the law in any way by demolishing the Defendant's Foundation's boundary wall, cursing/insulting, and kicking the Defendant. In the same way, since there are no legal facts supporting the claim that H. Munawar Aziz had the authority to damage the Foundation's walls, insult, or kick the Defendant, as supported by the statements of the witnesses and the Defendant, it can be concluded that the Reporting Party's conduct was in complete violation of the law. The aforementioned circumstances satisfy the second criterion for forced self-defense.

The facts of the case showed that the Defendant did not have any kind of weapon on them at the time of the event. That the defendant did not bring anything with them when they met the complainant. They did not have any weapons or tools with them that could hurt the complainant or other people.

This means that the act of defense must be proportional to the attack or threat of attack. This means that the methods and tools used in forced defense must be proportional to the attack or fear of attack that happens. In this case, the requirement makes the concept of proportionality real.

In Utrecht, someone who is attacked with a piece of wood must not protect himself with a knife or a gun. This is an example of proportionality in forced defense. This means that using a piece of wood to attack someone and
a knife or gun to defend yourself are two different acts because the tools are
different. This can also lead to different legal interests. If someone attacks you
with a piece of wood, you should defend yourself with a piece of wood or
something even lighter, if possible. Never use something heavy.

As a forced defense, actions can also be okay if the methods used are
in line with the goals that need to be reached. When the a-quo case happened,
the Complainant, H. Munawar Aziz, kicked the Defendant with his booted
foot, and the Defendant hit back with his hand. The legs are definitely stronger
and have more muscles than the hands. This means that if the Complainant
hits the Defendant with his feet and then the Defendant hits back with his
hands, this is the same as the Complainant attacking, especially if it has
something to do with what the Complainant did before. After insulting the
Defendant with insults, the Complainant damaged the Foundation wall twice
and then hit the Defendant. The Defendant said that the beating had to happen
because the Complainant wanted to hit the Defendant with his hand after
kicking him, so the Defendant hit the Complainant out of habit. He used his
hands once, but the teacher stopped him right there. The fourth requirement
for forced self-defense has been met by these events.

CONCLUSION

The investigator’s questions in the a-quo case did not inquire about the actions of
the complainant, H. Munawar Aziz, that caused the commotion that led to the
beating of the complainant. However, the Defendant Hairul Hasri filed a report on
July 29, 2022, regarding an alleged criminal act of vandalism committed by H.
Munawar Aziz, which subsequently caused a commotion at the Al-Amin Founda,
almost simultaneously. The investigation in the aforementioned case is heavily
influenced by the investigator’s personal views. As a result, the investigator
formulated questions for the investigation in a simplified manner, solely to satisfy
and establish the requirements outlined in Article 351 paragraph 1 of the Criminal
Code and to ascertain that Hairul Hasri is indeed responsible for the facial injuries
inflicted by H. Muawar Aziz, so that the investigators could deduce the truth. a-
quo resistance to criminal activity. The conduct exhibited by the Suspect in the a-
quo case satisfies the requirements for a forced defense as defined in paragraph 1
of article 49 of the Criminal Code: (1) executed in response to an assault or threat
of assault directed at bodily interests, moral honor, or property belonging to
oneself or another individual; (2) executed to thwart an immediate unlawful
assault or threat of assault; (3) executed out of extreme necessity.

References

Bdiwi, G. (2023). Should We Call for Criminal Accountability During Ongoing Conflicts?
Journal of International Criminal Justice, mqac037.
Binacipta.
Hafrida, H., Kusniati, R., & Monita, Y. (2022). Imprisonment as a Criminal Sanction against
The Concept of Forced Defense as Legal Protection Against


