

## ANALYSIS OF CRIMINAL LIABILITY OF PERPETRATORS OF SEVERE PERSECUTION WITH PERMANENT DISABILITY (Study of Decision Number 38/Pid.B/2026/PN Tjk)

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### Abstract

#### **Keywords:**

*Criminal Liability,  
Severe Persecution,  
Permanent Disability,  
Judge's Consideration.*

*The crime of severe persecution that results in permanent disability is a crime against the body that causes physical and psychological suffering to the victim and requires strict criminal accountability. This study aims to analyze the factors that cause perpetrators to commit severe persecution as a result of permanent disability and to analyze the criminal liability of perpetrators in Decision Number 38/Pid.B/2026/PN Tjk. This research uses normative juridical approaches and empirical juridical approaches. Data were obtained through literature studies of laws and regulations, court decisions, and relevant literature, as well as field research through interviews with prosecutors, judges, and legal advisors. The results of the study showed that these criminal acts were influenced by emotional factors in the form of heartache, disappointment, and feelings of betrayal, which were strengthened by personal conflicts, low ability to control emotions, and low legal awareness. The criminal liability of the perpetrator is based on the fulfillment of the elements of the criminal act, the existence of intentionality, the ability to be responsible, and the absence of justification or forgiveness. The judge's decision to impose a prison sentence of 3 (three) years has been based on the facts of the trial, valid evidence, as well as juridical, philosophical, and sociological considerations. Thus, the verdict has reflected legal certainty, justice, and usefulness as the goal of criminal law enforcement.*

## INTRODUCTION

As the times progress, there will be an increase in the need for rules in the community. In this era, more and more crimes occur, because human beings as certain personal creatures have their own natures, dispositions, wills and interests. Humans have different feelings, emotions have a very crucial role in the process of interacting and self-development. Most people ignore the existence of emotions in themselves and others, this

will cause a decrease in human intelligence emotionally.(Donnelly, 2020)(Awan Y. Abdoellah & Yudi Rusfiana, 2016)

In a socio-juridical context, law can be interpreted as a set of norms and principles that exist in social entities to regulate human behavior. Intrinsically, law has the attributes of being regulative and imperative, where it not only serves as an ethical guide, but also has the power to force individuals to obey established norms. The dynamics of the existence of the law are manifested in social interaction, resulting in a framework that is able to force individuals to obey the existing social order, as well as provide strict sanctions, namely punishments, for violations that occur. (World Health Organization, 2022)

Essentially, criminal law plays a central role in the legal framework of a society. As an integral part of the legal system, criminal law provides a basis and norm for determining the various activities that should not be violated, and at the same time establishing the sanctions imposed on such violations. Its function is not only limited to regulating unwanted behaviors, but also serves as an instrument of social control that provides a deterrence or deterrent effect. (Khairunnisa & Rasji, 2024)

Substantially, the rules contained in the criminal law detail the provisions related to discomfort in the public environment caused by a person breaking the law. Criminal law, in this context, emerged as an instrument that upheld order and maintained the social order of society. Criminal law not only serves as an ethical guideline, but also has a coercive dimension. Its implementation involves law enforcement officials, such as the Police, Prosecutors, Judges, and Correctional Institutions, who provide criminal sanctions to violators. (Aristo & Ma'ruf, 2020)

Now, there are many individuals who deliberately violate various regulations that apply in Indonesia. These types of violations can be grouped into civil, administrative, and criminal offenses. Violations in the criminal realm involve the community, individuals, or legal entities that commit crimes, and those involved in criminal acts or violations are referred to as perpetrators of criminal acts or perpetrators of crimes. This condition reflects the complexity of the challenges in maintaining compliance with the law at the community level, and emphasizes the importance of law enforcement to ensure order and justice in a community. (Kamalludin et al., 2025)

The criminal accountability system in positive criminal law currently adheres to the principle of error as one of the principles in addition to the principle of legality. Criminal liability is a form of action by the perpetrator of a criminal act against the mistakes he committed. Thus, criminal liability occurs because there is a mistake that is a criminal act committed by a person, and there are rules that govern the criminal act. (Fadlian, 2020)

The definition of criminal acts does not include liability. Criminal acts only point to the prohibition of acts. Whether the person who has committed the act is then also convicted depends on the question, whether he has a mistake in committing the act or not. If the person who committed the criminal act does have a mistake, then of course he will be punished. But, while he has an offence, even if he has committed a forbidden and reprehensible act he is not punished. The unwritten principle: "Not guilty if there is no mistake", is of course the basis of the conviction of the maker. (Huda, 2006)

The definition of Criminal Liability in foreign language Criminal liability is referred to as *toerekenbaarheid*, criminal responsibility, criminal liability. That criminal liability is intended to determine whether a suspect/defendant is held accountable for a

crime that occurred or not. In other words, whether the defendant will be convicted or released. If he is convicted, it must be found that the act committed is against the law and the defendant is able to be responsible. This ability shows the error of the act in the form of intentionality or forgetfulness.(Zainudin Hasan et al., 2023)

The Criminal Code (KUHP) presents itself as a basic material knowledge of criminal law, containing general norms that govern the essential aspects of criminal law. With a systematically organized structure, the general rules of criminal law are summarized in Book I, while formulations regarding specific criminal acts are presented in Books II and III. These offences include definitions and details of active and passive acts that are expressly prohibited, with specific criminal threats being imposed on anyone who violates the prohibition. As a compendium of criminal law, the Criminal Code not only contains legal norms, but also a comprehensive guide that forms the basis for criminal law enforcement at the community level, reflecting its central role in regulating behavior and maintaining justice (Agus & Susanto, 2021)

For example, case number 38/Pid.B/2026/PN Tjk occurred at Baruna Ria Field, Jl.Soekarno Hatta Kel. Karang Maritim Kec. Panjang Bandar Lampung City or at least in a certain place that is still included in the jurisdiction of the Class 1 A District Court Tanjung Karang which has the authority to examine and adjudicate this case, has committed the act of "Persecution of Witness Karsilan Bin Muska using 1 (one) Kenko Brand Red Cutter Knife with a prior plan which resulted in serious injuries"

The actions of the defendant Windi Syintia Putri Binti Sanusi are regulated by criminal threats in article 353 paragraph (2) of the Criminal Code as amended by Article 467 Paragraph (2) of Law No. 01 of 2023 concerning the Criminal Code by being sentenced to 3 (three) years in prison.

Based on this background, the author is interested in conducting a research entitled: Analysis of Criminal Liability of Perpetrators of Severe Persecution with Permanent Disability (Study of Decision Number 38/Pid.B/2026/PN Tjk)

## RESEARCH METHODS

This research uses a type of legal research with a normative juridical approach and an empirical juridical approach. The normative juridical approach is carried out through the study of laws and regulations, court decisions, doctrines, and literature related to the criminal liability of perpetrators of severe persecution that result in permanent disability. Meanwhile, an empirical juridical approach is carried out to obtain primary data through interviews with investigators, prosecutors, legal advisors, and judges to determine the application of criminal liability and legal considerations in resolving cases as per Decision Number 38/Pid.B/2026/PN Tjk. The combination of these two approaches is used so that the research is able to provide a comprehensive analysis of the normative aspects and implementation of criminal liability in judicial practice. (Hartono et al., 2024)

## RESULTS AND DISCUSSION

### a. Factors Causing Perpetrators to Commit Serious Persecution Crimes with Permanent Disability (Study of Decision Number 38/Pid.B/2026/PN Tjk)

Based on the results of an interview with Mellisa Rahmaini Lubis, S.H., as the Public Prosecutor at the Bandar Lampung District Attorney's Office, information was obtained regarding the factors that caused the perpetrator to commit a serious criminal act of persecution that resulted in permanent disability to the victim as stated in Decision

Number 38/Pid.B/2026/PN Tjk.

In general, criminal acts against the body regulated in the Criminal Code are called "persecution". The establishment of this rule regarding crimes against the human body is intended for the protection of a legal interest in the body from acts in the form of attacks on the body or parts of the body that cause injury or pain, even such injuries to the body that can result in death.

According to Wiryono, persecution or murder are two issues that have a very close relationship with each other. This is understandable because of the practice that shows that many murders are preceded by persecution. Or there are also many acts of persecution that result in death. Or also according to Wiryono himself, there are many cases that are primarily accused of murder and subsidiaries are accused of persecution that results in death.

Meanwhile, according to Sudarsono, it provides the understanding that persecution is an act of hurting or torturing human beings with the intention of reducing or damaging the health of others.

According to Mellisa Rahmaini Lubis, S.H., the crime of severe persecution generally does not occur suddenly, but is influenced by various interrelated factors, both internal factors that come from the perpetrator and external factors that come from the surrounding environment. In the case he handled, acts of persecution that resulted in permanent disability showed a high level of violence that caused serious consequences for the victim. Legally, the result of permanent disability is a form of serious injury because it causes the victim to lose or permanently disrupt limb function.

He explained that one of the main factors that is often found in severe abuse cases is uncontrolled emotions. Perpetrators tend to prioritize momentary anger without considering the legal consequences or the impact that the victim will experience. The inability to control these emotions often causes the perpetrator to commit excessive acts of violence that result in severe injury or permanent disability.

In addition to emotional factors, there are also factors of personal conflict and social relationships between the perpetrator and the victim. Disputes that last for a certain amount of time, hurt feelings, grudges, or unresolved arguments can develop into acts of physical violence. Under certain conditions, conflicts that are initially simple can turn into serious criminal acts when the perpetrator chooses to use violence as a way to solve the problem.

Furthermore, Mellisa Rahmaini Lubis, S.H. said that the low legal awareness factor is also one of the causes of severe persecution. Some perpetrators do not understand or ignore that their actions can cause severe legal consequences, including the threat of imprisonment and the obligation to account for all consequences caused to the victim. As a result, the perpetrator acts without considering the legal risks he will face.

According to him, based on the facts revealed in the trial process, the incident began when the defendant had prepared the tool used to carry out the persecution, namely 1 (one) red Kenko brand cutter knife. The tool was hidden by the defendant behind the clothes he was wearing so that it was not known to the victim or other people around the scene.

It was further explained that at the time the opportunity arose, the defendant took out a cutter knife that had previously been hidden. Furthermore, the defendant approached the victim and with his left hand held the head or tip of the victim's genitals so that the victim could not avoid the actions taken by the defendant. After that, using his right hand,

the defendant swung the cutter knife and slashed the victim's pubic shaft deliberately.

As a result of this act, the victim suffered very serious injuries to his vital organs that required intensive medical treatment. The injuries suffered by the victim caused severe physical suffering and had an impact on the function of the victim's organs. Based on the results of the medical examination and evidence submitted in the trial, the consequences caused by the defendant's actions were categorized as serious injuries that resulted in permanent disability in the victim. In criminal law, serious injuries include circumstances that cause permanent loss or impairment of limb function.

According to Mellisa Rahmaini Lubis, S.H., the actions taken by the defendant showed an element of intentionality because the defendant consciously carried and hid the tools used to injure the victim. In addition, the way of carrying out the act that directly targets certain parts of the body shows that the defendant knows and wants the consequences that may arise from his actions.

He explained that based on the evidence, witness statements, expert testimony, and facts revealed at the trial, the defendant's actions met the elements of the crime of gross persecution as stipulated in the provisions of the applicable criminal law. Therefore, the defendant must be criminally accountable for the consequences that have been caused to the victim.

Based on the results of the interview, it can be concluded that the criminal act of severe persecution that resulted in permanent disability was carried out by the defendant hiding a cutter knife that had been prepared beforehand, then grabbing the victim's genitals and slashing him with a cutter knife until it caused severe injuries that permanently affected the victim's physical condition. The act shows intentionality and results in very serious losses for the victim both physically and psychologically.

Based on the results of the interview with Nurul Hidayah, S.H., M.H., as the Defendant's Legal Advisor, information was obtained about the background and factors that prompted the defendant to commit the crime of severe persecution against the victim as revealed in the trial process.

According to Nurul Hidayah, S.H., M.H., the actions committed by the defendant were inseparable from the emotional condition he experienced due to a personal relationship that had lasted for a long time with the victim. The defendant admitted that he felt very hurt, disappointed, and felt lied to by the victim. During their romantic relationship, the victim was suspected of having affairs several times and having relationships with other women without the defendant's knowledge. This condition caused a sense of disappointment that continued to accumulate in the defendant until it affected his psychological condition.

He explained that based on the defendant's statement, the victim was known to have often changed partners and had affairs several times during their relationship. Nevertheless, the defendant maintained the relationship in the hope that the victim would change and show a more serious commitment. However, this hope was not realized because the victim later married another woman.

Furthermore, Nurul Hidayah, S.H., M.H. said that after getting married, the victim still gave confidence to the defendant that their relationship could continue as before. This situation caused confusion and emotional distress for the defendant because he felt that he had been maintained in a relationship that had no certainty. According to the defendant, the victim's attitude of maintaining communication and close relationships after marriage made him feel even more playful and unappreciated.

According to the legal counsel, the heartache, disappointment, and feelings of betrayal eventually developed into deep anger. In this emotional condition, the defendant has the thought that the victim should no longer be able to treat other women as he has done to her. These feelings then became one of the factors behind the occurrence of the persecution incident which led to severe injuries and permanent disability to the victim.

Nurul Hidayah, S.H., M.H. also explained that although there were emotional factors behind the defendant's actions, it was not intended to justify the actions that had been committed. The information was submitted as part of an effort to explain the psychological condition and background experienced by the defendant before the crime occurred. In the trial process, these factors were put forward as mitigating considerations to provide a complete picture of the defendant's condition.

Based on the results of the interview, it can be concluded that the main motive that prompted the defendant to commit the crime of severe persecution was heartache, disappointment, and feelings of betrayal due to a romantic relationship that was considered dishonest and full of infidelity. This emotional condition was further strengthened by the fact that the victim was married to another woman, but still gave hope to the defendant to continue the relationship as before. The accumulation of these feelings is ultimately one of the factors behind the occurrence of criminal acts in this case.

Based on the facts of the trial and the results of an interview with Nurul Hidayah, S.H., M.H. as the defendant's legal counsel, the author analyzes that the actions committed by the defendant can be examined using the Differential Association Theory proposed by Edwin H. Sutherland. This theory explains that criminal behavior is not carried from birth, but rather is learned through the process of interaction and communication with the social environment in which a person belongs. A person can learn the values, attitudes, techniques, and reasons that support the occurrence of an unlawful act through relationships with the people around him.

According to the author's analysis, the acts of persecution carried out by the defendant did not merely appear spontaneously, but were the result of the process of forming the defendant's attitude and perspective in dealing with the conflict he experienced. Feelings of hurt, disappointment, and betrayal due to an infidelity and dishonesty from the victim have caused strong emotional pressure in the defendant. In this condition, the defendant chose to use violence as a means to vent his anger and solve the problems he faced.

Based on the Differential Association Theory, the choice to use violence as a way to resolve conflicts can be influenced by life experiences, social environments, and interaction patterns that a person has received. If a person is accustomed to seeing or hearing that conflict can be resolved through aggressive action, then it is possible that the individual will consider violence as a justifiable action when facing serious personal problems.

In this case, the author argues that the accumulation of emotional conflicts experienced by the defendant, coupled with the possibility of certain environmental influences or social experiences, has formed a mindset that encourages the defendant to commit acts of persecution against the victim. The defendant no longer views the solution of the problem through rational or legal channels, but chooses actions that are contrary to the applicable legal and social norms.

Furthermore, Sutherland's theory explains that a person is more likely to commit a criminal act if the definition that supports breaking the law is more dominant than the

definition that opposes it. In this case, anger, resentment, and the desire to inflict suffering on the victim seem to be more dominant than the defendant's awareness of the legal consequences that will be caused. As a result, the defendant committed an act that resulted in serious injuries and permanent disability to the victim.

Thus, the author concludes that based on Edwin H. Sutherland's Differential Association Theory, the criminal act of severe persecution committed by the defendant can be understood as a result of the social learning process that shapes the way of thinking and the way of acting of the defendant in dealing with conflicts. Although the main factor behind the act is heartache and disappointment with the victim, the violent act chosen by the defendant shows a process of internalizing values or problem-solving patterns that deviate from legal norms. Therefore, this theory can be used to explain how social environmental factors and one's interaction experience play a role in the formation of criminal behavior.

#### **b. Criminal Liability of Perpetrators of Serious Persecution with Permanent Disability (Study of Decision Number 38/Pid.B/2026/PN Tjk)**

Based on the results of an interview with Mellisa Rahmaini Lubis, S.H., as the Public Prosecutor at the Bandar Lampung District Attorney's Office, information was obtained regarding the criminal responsibility of the perpetrator in the case of the crime of severe persecution that resulted in permanent disability as decided in Decision Number 38/Pid.B/2026/PN Tjk.

According to Mellisa Rahmaini Lubis, S.H., criminal liability is a legal consequence that must be borne by a person who commits a criminal act and is proven to meet the elements specified in laws and regulations. In this case, the defendant is considered to be able to account for his actions because at the time of committing a criminal act there is no justification or excuse that can eliminate criminal liability.

He explained that based on the facts revealed at the trial, the defendant consciously and deliberately committed an act that resulted in serious injuries to the victim. The act was carried out using a tool in the form of a cutter knife that had previously been prepared and hidden by the defendant. This action shows the will and awareness of the perpetrator to commit an act that can cause consequences for the victim's body.

Furthermore, Mellisa Rahmaini Lubis, S.H. explained that the element of guilt in this case was proven through the intentionality and ability of the defendant to understand the consequences of his actions. In criminal law, a person can be held accountable if he has the ability to be responsible, commit an act with a mistake, and there is no reason to abolish the crime. Based on the results of the examination during the investigation and trial process, the defendant was known to be in a conscious condition, physically and spiritually healthy, and able to understand the consequences of his actions.

According to him, the consequences caused in this case were very serious because the victim suffered serious injuries that led to permanent disability. This condition resulted in the victim experiencing permanent organ function disorders, affecting the victim's quality of life in the long term. Therefore, the consequences caused are one of the important considerations in determining the level of criminal liability that must be imposed on the defendant.

He also explained that based on the provisions of Article 467 paragraph (2) of Law Number 1 of 2023 concerning the Criminal Code, persecution carried out with a pre-planned and resulting in serious injury is threatened with imprisonment for a maximum of 7 (seven) years. This provision shows that the lawmakers view the act as a serious

criminal act because of the planning element and severe consequences for the victim.

According to Mellisa Rahmaini Lubis, S.H., in the prosecution and criminal sentencing process, the judge not only considers the fulfillment of the elements of the criminal act, but also considers the circumstances that aggravate and mitigate the defendant. However, because the defendant's actions have caused permanent disability to the victim, criminal liability must still be upheld as a form of legal protection for the victim and an effort to realize a sense of justice in society.

Based on the results of the interview, it can be concluded that the criminal liability of the perpetrator in a case of severe persecution with the consequences of permanent disability is based on the fulfillment of the elements of the criminal act, the existence of mistakes in the form of intentionality, the ability of the defendant to be responsible, and the absence of a reason that abolishes the crime. Therefore, the defendant is obliged to account for his actions before the law for the serious consequences caused to the victim, namely serious injuries that result in permanent disability.

Based on the results of an interview with Teti Hendrawati, A.Md., S.H., M.H., as a Judge at the Tanjung Karang District Court, information was obtained regarding the consideration of the panel of judges in imposing a sentence on the Defendant Windi Syintia Putri Binti Sanusi for 3 (three) years in prison, which is lighter than the Public Prosecutor's demand for 4 (four) years and 6 (six) months in prison.

According to Teti Hendrawati, A.Md., S.H., M.H., in making the verdict, the judge is not solely guided by the charges filed by the Public Prosecutor, but is obliged to consider all legal facts revealed at the trial, valid evidence, witness statements, defendant statements, and circumstances that aggravate and mitigate the defendant. Therefore, the prosecutor's demands are not something that binds the judge in determining the amount of the crime to be imposed.

He explained that the panel of judges first assessed whether all elements of the criminal act charged had been legally and convincingly proven. After the elements of the criminal act are proven, the judge then considers the level of guilt of the defendant, the motive of the act, the consequences caused to the victim, and the personal condition of the defendant as the basis for determining a proportionate crime.

Furthermore, he said that in this case there were several circumstances that were considered by the panel of judges. From the incriminating side, the defendant's actions have resulted in serious injuries and permanent impacts on the victim, causing physical and psychological suffering that is not light. In addition, the act was carried out using tools that could endanger the safety of the victim.

The process or stages of imposing a verdict by a judge, in criminal cases, according to Moeljatno in his book Ahmad Rifai said that it is carried out in several stages, namely:

- a. Stage of Analyzing Criminal Acts When the judge analyzes whether the defendant committed a criminal act or not, what is seen as primary is the social aspect, that is, the act as in the formulation of a criminal rule.
- b. Stage of Analyzing Criminal Responsibility If a defendant is found to have committed a criminal act violating a certain article, the judge analyzes whether the defendant can be declared responsible for the criminal act he committed.
- c. The Criminal Determination Stage The judge will impose a criminal penalty if the elements have been met by looking at the article of the Law violated by the perpetrator. With the imposition of the penalty, the perpetrator is clearly the Defendant.

However, the panel of judges also considered mitigating circumstances. Based on the facts of the trial, the defendant behaved politely during the trial process, admitted his actions, had never been convicted before, and had family dependents who still needed attention and support from the defendant. In addition, the background of the personal relationship between the defendant and the victim is also one of the aspects considered to understand the motive for the crime to occur, although it cannot be used as a justification for the act committed.

According to Teti Hendrawati, A.Md., S.H., M.H., the purpose of punishment is not only to provide retribution for the perpetrator's actions, but also to provide a deterrent effect, improve the behavior of the perpetrator, and create a balance between the interests of the victim, the perpetrator, and the community. Therefore, the judge must impose a fair and proportionate sentence according to the degree of error proven at trial.

He emphasized that the difference between the Public Prosecutor's demands and the judge's decision is a natural thing in the criminal justice system. The prosecutor is in charge of filing charges based on the results of the evidence according to his judgment, while the judge has the independent authority to assess all the facts of the trial and determine the crime that is considered most appropriate based on convictions based on valid evidence.

Based on the results of the interview, it can be concluded that the imposition of a criminal sentence of 3 (three) years in prison against the defendant Windi Syintia Putri Binti Sanusi was based on a thorough legal consideration of the facts of the trial, the level of the defendant's guilt, the consequences caused to the victim, and the aggravating and mitigating circumstances. Although lighter than the Public Prosecutor's demand for a sentence of 4 (four) years and 6 (six) months, the verdict according to the panel of judges has reflected the sense of justice, legal certainty, and legal utility in the case being examined.

Based on Decision Number 38/Pid.B/2026/PN Tjk, the Panel of Judges sentenced the Defendant Windi Syintia Putri Binti Sanusi to 3 (three) years in prison, while the Public Prosecutor demanded a prison sentence of 4 (four) years and 6 (six) months. According to the author, the difference between the prosecutor's demands and the judge's decision can be analyzed using the Judge's Consideration Theory (*Ratio Decidendi*) proposed by Ahmad Rifai.

According to Ahmad Rifai, the judge in imposing a verdict must base his consideration on clear legal reasons (*ratio decidendi*) by paying attention to juridical, philosophical, and sociological aspects so that the verdict handed down not only provides legal certainty, but also justice and benefits for the parties. The judge's consideration must be based on the facts of the trial, valid evidence, applicable laws and regulations, and the values of justice that live in society.

Based on this theory, the author argues that the panel of judges in this case first considered the juridical aspect, namely the fulfillment of the elements of the criminal act of persecution with a prior plan that resulted in serious injuries as charged to the defendant. The facts of the trial show that the defendant was proven to have committed an act that caused the victim to suffer serious injuries to permanent disability. Therefore, the judge stated that the defendant was proven guilty and must be held criminally accountable for his actions.

In addition to juridical considerations, the judge also pays attention to sociological aspects. According to the author's analysis, the panel of judges not only looked at the

consequences experienced by the victim, but also paid attention to the defendant's personal condition, the background of the crime, the defendant's attitude during the trial, and the possibility of the defendant improving himself in the future. This consideration is a form of criminal individualization, namely the crime is imposed by paying attention to the concrete circumstances of the perpetrator and the criminal events that occurred.

Furthermore, from a philosophical aspect, the judge tried to balance the interests of the victim, the defendant, and the community. Although the defendant's actions have resulted in serious suffering for the victim, the sentence imposed is not solely intended to be retributive, but also to provide an opportunity for the defendant to realize his mistake and return to being a good member of society after serving his sentence. These considerations reflect the judge's efforts in realizing proportionate justice in accordance with the defendant's level of error.

According to the author, the main reason the judge imposed a sentence of 3 (three) years in prison, which is lighter than the Public Prosecutor's demand, may be based on the existence of mitigating circumstances, such as the defendant behaving politely during the trial, admitting his actions, regretting his actions, having never been convicted, and having family dependents. These factors are commonly used as non-judicial considerations by judges in determining the severity of the crime to be imposed.

Thus, based on the Theory of Consideration of Judge Ahmad Rifai, the author concludes that the decision of the panel of judges to sentence the defendant Windi Syintia Putri Binti Sanusi to imprisonment for 3 (three) years is the result of a consideration process that is not only oriented towards proving the elements of the criminal act, but also considers philosophical, sociological, and humanitarian aspects. Therefore, even though the sentence imposed is lighter than the Public Prosecutor's demands, the verdict can still be seen as a form of application of the principles of justice, utility, and legal certainty as stated in the theory of judge's consideration by Ahmad Rifai.

## CONCLUSION

The criminal act of severe persecution that results in permanent disability in Decision Number 38/Pid.B/2026/PN Tjk is influenced by internal and external factors. The main factor that drives the defendant to commit this act is the accumulation of emotions in the form of heartache, disappointment, and feelings of betrayal due to a personal relationship with the victim. In addition, low emotional control, prolonged conflicts, and low legal awareness are also factors behind the occurrence of criminal acts. Based on Edwin H. Sutherland's Differential Association Theory, the defendant's actions can be understood as the result of a social learning process that forms a mindset and a way of resolving conflicts through violent acts, even though these factors do not eliminate the unlawful nature of the acts committed.

The defendant's criminal liability is based on the fulfillment of the elements of the criminal act, the existence of intentionality, the defendant's ability to be responsible, and the absence of a justifying or forgiving reason being found. Therefore, the defendant was found criminally responsible for the severe persecution that resulted in permanent disability in the victim. Based on the Theory of Consideration of Judge (Ratio Decidendi) Ahmad Rifai, the criminal verdict of imprisonment for 3 (three) years is the result of consideration based on the facts of the trial, valid evidence, aggravating and mitigating circumstances, as well as juridical, philosophical, and sociological aspects. Thus, the decision has reflected the legal goals in the form of legal certainty, justice, and usefulness

in the settlement of criminal cases.

Based on the results of the study, it is recommended that law enforcement officials increase efforts to prevent serious crimes of persecution through legal education to the public about the criminal consequences of using violence as a conflict resolution. In addition, it is necessary to strengthen coaching related to emotional control and peaceful dispute resolution to minimize the occurrence of criminal acts that result in serious injuries or permanent disabilities. For law enforcement officials and the court, it is expected to continue to implement law enforcement in a professional, objective, and consistent manner by considering the balance between protection for victims, the rights of the defendant, and the purpose of punishment in the form of legal certainty, justice, and utility.

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