

Reformulation of Investigations into Criminal Acts of Assault to Achieve Legal Certainty Based on Criminal Procedure Code Number 20 of 2025

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ABSTRACT

This study aims to analyze and evaluate the investigation process of criminal assault crimes within the framework of realizing legal certainty, following the enactment of the latest codification of criminal procedure law, namely Law No. 20 of 2025. Law enforcement at the investigation stage often faces a dilemma between enforcement efficiency and human rights protection, which has implications for legal uncertainty for the judiciary. Using normative legal research methods and conceptual and legislative approaches, this study dissects three main aspects: synchronization of investigative procedures, implementation of restorative justice, and horizontal oversight functions. The results of the study indicate that Law No. 20 of 2025 has brought about a significant paradigm shift through the digitalization of investigative administration and tightening of scientific evidence parameters that minimize investigator subjectivity. Furthermore, this study found that legal certainty in the restorative justice mechanism is now more assured due to the standardization of material requirements that limit investigators' wild discretion. This study concludes that while the new regulations have provided adequate normative infrastructure for legal certainty, their success depends heavily on institutional integrity and consistent judicial oversight. The study's recommendations focus on accelerating investigators' competency in adopting integrated judicial administration technology and strengthening the role of judges in overseeing the validity of the pre-trial process.

INTRODUCTION

Indonesia, as a state based on law (*Rechtsstaat*), has a constitutional obligation to provide guarantees of fair legal certainty for all its citizens, as explicitly mandated in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. One manifestation of such constitutional protection is the fulfillment of the right to bodily integrity, free from all forms of physical violence. Substantively, this protection is constructed through the criminal offense of assault as regulated in Articles 466 to 471 of Law No. 1 of 2023 concerning the National Criminal Code.

To enforce such substantive law, formal criminal law delegates investigative authority to the Indonesian National Police as a manifestation of state authority in maintaining legal order. Based on Article 1 point 2 of Law No. 20 of 2025, investigation is defined as a series of actions carried out by investigators in accordance with the methods stipulated in this law to seek and collect evidence, which serves to clarify the criminal act that occurred and to identify the suspect. This definition emphasizes that every action taken by investigators must be limited and based on lawful procedures. The extensive authority of investigators, as detailed in Article 7 of Law No. 20 of 2025 – ranging from receiving reports, taking initial actions at the crime scene, to coercive measures – positions the investigation stage as the entry point as well as the primary filter in law enforcement within the Criminal Justice System. Therefore, integrity at this stage becomes a key determinant in realizing legal certainty in subsequent judicial processes.

Referring to Gustav Radbruch's postulate, law must embody three fundamental values: justice, utility, and legal certainty. Within the normative framework (*das sollen*), the exercise of investigative authority must reflect legal certainty through predictable, transparent procedures that uphold the principle of due process of law.

However, the empirical reality of law enforcement (*das sein*) often presents a condition contrary to the intent of the law. There are phenomena of disparity and obstacles in handling assault cases at the investigation stage. In practice, although Law No. 20 of 2025 mandates transparency and the digitalization of judicial administration, procedural noncompliance is still frequently found, such as delays in submitting the Notification Letter of Commencement of Investigation (*Surat Pemberitahuan Dimulainya Penyidikan / SPDP*) to the Public Prosecutor. Such delays violate the procedural obligation of investigators to promptly notify the commencement of an investigation as stipulated in the investigation provisions of Law No. 20 of 2025, which in turn weakens horizontal oversight by the public prosecutor (*pre-trial oversight*).

This phenomenon affirms the thesis of legal sociologist Soerjono Soekanto, who highlighted the gap between *law in books* and *law in action*. This disparity is often triggered by factors related to law enforcement officers, such as discretionary actions exceeding their authority (*detournement de pouvoir*) as well as constraints in the availability of legally valid evidence as stipulated in Article 235 of the Criminal Procedure Code. Furthermore, referring to Herbert L. Packer's concept, there is a clash of operational paradigms in practice, where

police investigators are often inclined toward the Crime Control Model, which prioritizes efficiency in enforcement, thereby potentially reducing procedural rights guaranteed under the Due Process Model.

The gap between positive legal norms (*das sollen*) and the practice of investigating assault cases in the field (*das sein*) creates anomalies that undermine the principle of legal certainty. As emphasized by Sudikno Mertokusumo, legal certainty essentially constitutes the protection of individuals against arbitrary actions. If, at the investigation stage, the public loses the guarantee of legal certainty, then the entire structure of the Criminal Justice System—from prosecution to adjudication—loses its legitimacy. Therefore, this research is highly urgent to conceptually, dogmatically, and empirically examine the current implementation of investigations into assault offenses, in order to formulate an ideal model of law enforcement that ensures just legal certainty.

WRITING METHOD

This research method is designed as an instrument to examine the discrepancy between legal norms (*das sollen*) and legal reality (*das sein*) in relation to the investigation of assault cases. The selection of this method is based on the need to evaluate the internal consistency of statutory regulations (norms) and their application in realizing legal certainty. Considering that law is a logical and closed system (*legal dogmatics*), this research relies on the strength of legal argumentation to address the issues raised.

a. Type of Research

The type of research used is Normative Legal Research (Juridical Normative). This study does not rely on statistical field data but focuses on examining positive legal norms, legal principles, and relevant legal doctrines. The primary object of study is the synchronization between the Criminal Procedure Code (KUHAP), Police Regulations (Peraturan Kapolri), and the theory of legal certainty in handling the crime of assault.

Research Approach

To obtain a comprehensive analysis, this study employs three approaches:

1. **Statutory Approach:** Used to systematically examine investigation regulations in the Criminal Procedure Code (KUHAP) and Law No. 1 of 2023 (National Criminal Code).
2. **Conceptual Approach:** Used by referring to the views of legal scholars (such as Gustav Radbruch and Herbert L. Packer) to build an analytical foundation regarding the parameters of legal certainty in the investigation process.

3. **Analytical Approach:** Used to understand legal meanings, definitions, and legal terminology contained in regulations related to the investigation of assault cases.

b. Sources of Research

This research utilizes legal materials classified as follows:

1. **Primary Legal Materials:** Binding legal sources with authoritative value, including:
 - a. The 1945 Constitution of the Republic of Indonesia.
 - b. The Criminal Code (KUHP) and Law No. 1 of 2023.
 - c. Law No. 20 of 2025 concerning the Criminal Procedure Code (KUHAP).
2. **Secondary Legal Materials:** Materials that provide explanations of primary legal sources, such as:
 - a. Legal textbooks (treatises).
 - b. Reputable legal academic journals.
 - c. Opinions or doctrines of legal scholars (such as Sudikno Mertokusumo, Soerjono Soekanto, etc.).
3. **Tertiary Legal Materials:** Materials that provide guidance and clarification of primary and secondary legal sources, such as legal dictionaries and legal encyclopedias.

c. Technique of Collecting and Analyzing Legal Materials

Legal materials are collected through library research using a system of elimination and classification. Furthermore, the materials are analyzed using a descriptive-analytical method with a deductive reasoning pattern, namely drawing conclusions from general matters (legal norms/theories) to specific matters (the phenomenon of assault investigations), in order to determine whether legal certainty has been realized.

RESULTS AND DISCUSSION

Synchronization of Investigation Procedures for Assault Crimes under Law No. 20 of 2025 in Ensuring Procedural Rights and Legal Certainty

The investigation of assault crimes within the framework of Indonesian criminal procedure law following the enactment of Law No. 20 of 2025 has undergone a fundamental paradigm shift. Historically, under Law No. 8 of 1981 (the former Criminal Procedure Code), the investigation process was often trapped in a bureaucratic labyrinth that allowed excessively broad discretion for investigators, resulting in legal uncertainty. In the context of assault offenses – both ordinary assault (Article 466 of Law No. 1 of 2023) and aggravated assault (Article 467 of Law No. 1 of 2023) – procedural clarity is an absolute requirement to prevent abuse of power.

The principle of legal certainty, as proposed by Gustav Radbruch, requires that law must be certain and predictable. Law No. 20 of 2025 implements this principle through a more rigid yet human rights–adaptive procedural synchronization. This synchronization begins with the crystallization of sufficient preliminary evidence. Whereas in the past the determination of “injury” in assault cases was often subjective prior to the issuance of a *Visum et Repertum*, Law No. 20 of 2025 strengthens the integration between police investigators and medicolegal experts from the inquiry stage to ensure that the escalation of a case to the investigation stage is based on indisputable scientific grounds.

One of the most significant reforms introduced by Law No. 20 of 2025 is the obligation to administer investigations through an integrated electronic system. In assault cases, the phenomenon of “stagnant case files” has often undermined legal certainty for both victims and suspects. Under this new law, every stage of investigation—from the issuance of the Police Report, Investigation Warrant (*Sprindik*), to the Notification Letter of Commencement of Investigation (*SPDP*)—must be uploaded into an integrated information system accessible to public prosecutors and justice seekers (*justiciables*).

This aligns with Lon L. Fuller’s theory of the *Internal Morality of Law*, particularly the principles of promulgation and constancy. Legal certainty cannot be achieved if legal procedures are secretive or inconsistent. Through digital administrative synchronization, the time limits for investigations stipulated in Law No. 20 of 2025 can be monitored in real time. For suspects in assault cases, this guarantees their procedural rights by preventing indefinite legal uncertainty. Certainty regarding investigation duration reflects the principle of a fast, simple, and low-cost justice system, now supported by concrete digital oversight mechanisms.

From Herbert L. Packer’s perspective, Law No. 20 of 2025 appears to shift the balance from the Crime Control Model toward the Due Process Model. In handling assault cases, investigators are now required to ensure the presence of legal counsel from the first examination. Investigation reports obtained without legal assistance in cases involving certain criminal penalties (including aggravated assault) may be declared null and void.

This provision closes loopholes for coercive investigative practices. Legal certainty here is not merely about ensuring punishment for perpetrators but also about guaranteeing the protection of suspects’ rights against arbitrary actions—what Sudikno Mertokusumo refers to as the protection of *justiciables*. The law also regulates in detail the procedures for the seizure of evidence in assault cases—such as sharp or blunt objects—which must be validated by a Preliminary Examining Judge within a very short timeframe. This synchronization between coercive measures and judicial control constitutes a *conditio sine qua non* for professional law enforcement.

Additionally, material synchronization under Law No. 1 of 2023 affects formal procedures under Law No. 20 of 2025. New categorizations of minor assault and domestic assault—some of which may constitute complaint-based offenses—require investigators to possess strong juridical precision in determining the appropriate investigative pathway. Legal certainty is achieved when investigators do not impose investigations for complaint-based offenses without a valid complaint from the authorized party. This procedural synchronization ensures that the state does not excessively intervene in the private sphere where the law provides room for resolution.

Conceptually, Law No. 20 of 2025 has succeeded in codifying more synchronized and harmonious procedures. Guarantees of procedural rights are no longer merely normative jargon but have become technical obligations whose violation carries legal consequences affecting the validity of the investigation itself. Thus, the realization of legal certainty in assault investigations is no longer aspirational but a procedural certainty built upon transparency, oversight, and respect for human dignity.

Implementation of Discretion and Restorative Justice in Assault Cases: Between Substantive Justice and Legal Certainty

The application of restorative justice (RJ) in the investigation of assault crimes reflects a paradigm shift in criminal law from retributive justice toward rehabilitative and restorative justice. Within the framework of Law No. 20 of 2025, RJ is no longer viewed merely as a discretionary policy of law enforcement officers but has become a formally regulated legal institution. However, theoretically, its implementation creates a dialectical tension between Legal Certainty (*Rechtssicherheit*) and Justice (*Gerechtigkeit*), as articulated in Gustav Radbruch's triadic legal values.

Legal certainty demands rigid and consistent application of norms (that every assault offense must proceed to court), while RJ offers flexibility for the sake of utility and reconciliation. Law No. 20 of 2025 seeks to harmonize this tension by imposing strict material limitations. In cases of ordinary assault (Article 466 of Law No. 1 of 2023), RJ may only be pursued if it meets objective qualifications: the offender is not a recidivist, the injury does not result in permanent disability, and there is voluntary restoration of the situation. Without such parameters, investigative discretion risks devolving into dangerous subjectivity (*arbitrary power*).

Police discretion is inevitable in law enforcement systems, given that legislation can never fully capture the complexity of social realities. Referring to Indroharto's view, discretion (*freies Ermessen*) must be grounded in the general principles of good governance (*algemene beginselen van behoorlijk bestuur*). In assault investigations, discretion to terminate cases through RJ must be exercised transparently. Law No. 20 of 2025 mandates that every restorative settlement must undergo a Special Case Review involving internal and external supervisory bodies.

This is crucial to ensure legal certainty for victims. Empirically, victims of assault are often in weak bargaining positions and may be pressured into accepting settlements. Legal certainty under Law No. 20 of 2025 ensures that agreements are not the result of coercion. If investigators misuse discretion to “settle” serious assault cases that should be prosecuted in the public interest, such actions constitute abuse of power (*detournement de pouvoir*). Here, legal certainty acts as a safeguard against the commodification of cases at the investigation stage.

From Jeremy Bentham’s perspective, law enforcement should produce the greatest happiness for the greatest number. RJ in minor assault cases – such as neighborhood disputes or youth altercations without permanent injury – may provide greater social benefit than imprisonment (which contributes to overcrowding). However, legal certainty requires that such benefits do not compromise the integrity of the legal system. Law No. 20 of 2025 addresses this by stipulating that RJ agreements carry executorial force and must be reported to the Preliminary Examining Judge for official recording in the offender’s criminal record.

This approach realizes “just legal certainty,” ensuring that even when cases are resolved at the investigation stage, their legal status remains clear and documented. It prevents societal uncertainty regarding acceptable behavioral boundaries. For perpetrators, legal certainty is achieved through clear requirements for obtaining RJ, eliminating opportunities for informal or illicit negotiations that have long undermined police professionalism.

Legal uncertainty often arises from procedural disparities across regions. Law No. 20 of 2025 standardizes RJ procedures across all levels of the police institution. In every assault case, investigators are required to conduct a social assessment of the conflict background. Legal certainty here embodies the principle of equality before the law, ensuring that RJ is not selectively applied to certain social groups.

Thus, the implementation of RJ under Law No. 20 of 2025 has evolved from merely an “alternative dispute resolution” mechanism into an integral and measurable component of the criminal justice system. Legal certainty is no longer confined to the certainty of punishment but extends to certainty in fair, transparent, and accountable resolution procedures.

Juridical Implications of Strengthening Horizontal Oversight Functions on the Professionalism of Police Investigators in Handling Assault Offenses

Legal certainty does not arise solely from clear statutory texts but also from effective control mechanisms over those who implement them. In handling assault cases, police investigators possess discretionary powers and coercive measures that directly affect human rights. According to Philipus M. Hadjon’s theory of authority, every authority granted by law must be accompanied by responsibility (legal liability) and supervision (legal supervision). Law No. 20 of

2025 marks a significant advancement by introducing and strengthening the role of the Preliminary Examining Judge (*Hakim Pemeriksa Pendahuluan / HPP*) as a form of horizontal oversight.

This strengthening represents a paradigm shift from internal-bureaucratic oversight to judicial-contestative oversight. In practice, complaints have often arisen regarding the legality of evidence seizure or premature suspect designation. Through the HPP mechanism, investigators are required to justify every coercive measure before or immediately after it is carried out. This creates preventive legal certainty, encouraging investigators to act more carefully and professionally, knowing that their actions will be scrutinized by an independent judicial authority.

From Herbert L. Packer's perspective, strong horizontal oversight is a defining feature of the Due Process Model. Procedural obstacles are necessary to prevent unchecked efficiency characteristic of the Crime Control Model. In assault cases, investigators often face public pressure to detain suspects quickly. Horizontal oversight ensures legal certainty not only for victims but also for suspects, guaranteeing that detention is based solely on lawful evidence and urgent legal necessity.

Juridically, this strengthened oversight enhances investigator professionalism. Professionalism here entails strict compliance with standard operating procedures and statutory regulations. Law No. 20 of 2025 stipulates that procedural violations—such as unlawful searches or examinations without legal counsel—may render evidence inadmissible. This compels the police institution to continuously improve investigator competence to prevent cases from collapsing, which would ultimately undermine legal certainty.

As emphasized by Sudikno Mertokusumo, legal certainty serves as protection for *justiciables* against arbitrary actions. Horizontal oversight provides legal channels for both victims and suspects to challenge investigative irregularities. In assault cases, uncertainty often arises when investigations are terminated without clear reasons or continued despite weak evidence.

This oversight mechanism ensures that every investigative action is subject to correction. If procedural errors occur, mechanisms for rehabilitation and compensation are more progressively regulated under Law No. 20 of 2025. This demonstrates that legal certainty in assault investigations is no longer unidirectional—from the state to citizens—but reciprocal, where the state (through investigators) must also prove the legality of its actions. This represents the culmination of a democratic *Rechtsstaat*.

In conclusion, strengthening horizontal oversight under Law No. 20 of 2025 is an essential prerequisite for achieving the professionalism of police investigators. Its juridical implications include the establishment of a more accountable, transparent, and measurable investigative system. With rigid oversight, opportunities for abuse of authority in assault cases can be minimized,

ensuring that the envisioned legal certainty—law that is predictable and protective of individual rights—is realized in practice within Indonesia’s criminal justice system.

CONCLUSION

Based on the results of this study and discussion, it can be concluded that the implementation of investigations into assault crimes under the regime of Law No. 20 of 2025 has realized a transformation of legal certainty through the synchronization of digitally based procedures and the strengthening of scientific evidence (*scientific crime investigation*), which is capable of reducing case delays (*undue delay*). Substantive legal certainty is also reinforced by the formal foundation of restorative justice, which limits the subjectivity of investigators’ discretion through rigid material requirements aimed at restoring the victim’s condition.

Finally, the strengthening of the function of the Preliminary Examining Judge (*Hakim Pemeriksa Pendahuluan / HPP*) as a mechanism of horizontal oversight has created an effective system of checks and balances to minimize abuse of power, thereby ensuring the protection of *justiciables* and enhancing the professionalism of Indonesian National Police investigators within the framework of due process of law.

RECOMMENDATIONS

It is recommended that law enforcement authorities optimize the implementation of this legal framework. The Indonesian National Police institution should accelerate efforts to improve investigators’ competence in operating digital administrative systems and in understanding the latest criminal procedural law paradigm with a high level of integrity.

The Government and the House of Representatives (DPR) should promptly formulate comprehensive implementing regulations concerning the procedures for hearings before the Preliminary Examining Judge to prevent procedural gaps during the legislative transition period.

Furthermore, the public is encouraged to become more proactive and legally aware in exercising their procedural rights and utilizing the available judicial control mechanisms, in order to foster a criminal law enforcement ecosystem that is transparent, accountable, and just.

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