

## **ABSTRAK**

### **ANALISIS DASAR PERTIMBANGAN HAKIM DALAM MENJATUHKAN PIDANA KEPADA PELAKU TINDAK PIDANA KEKERASAN SEKSUAL TERHADAP ANAK (Studi Putusan Nomor: 136/Pid.Sus/2024/PN Kot)**

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Kekerasan seksual terhadap anak merupakan tindak pidana yang menimbulkan dampak serius, baik secara fisik maupun psikologis bagi korban. Dalam penjatuhan pidana, hakim memiliki peranan penting untuk mewujudkan keadilan, kepastian hukum, dan kemanfaatan hukum. Isu hukum dalam penelitian ini adalah dasar pertimbangan hakim dalam menjatuhkan pidana terhadap pelaku tindak pidana kekerasan seksual terhadap anak serta apakah putusan yang dijatuhkan telah memenuhi rasa keadilan substantif bagi korban. Pada Putusan Nomor: 136/Pid.Sus/2024/PN Kot, terdakwa dituntut pidana 12 tahun penjara, namun hakim menjatuhkan pidana selama 8 tahun tanpa tambahan restitusi kepada korban, sehingga menimbulkan pertanyaan mengenai terpenuhinya rasa keadilan bagi korban anak.

Metode penelitian yang digunakan adalah pendekatan yuridis normatif dan yuridis empiris. Data yang digunakan terdiri dari data sekunder berupa peraturan perundang-undangan, literatur hukum, dan Putusan Nomor: 136/Pid.Sus/2024/PN Kot, serta data primer yang diperoleh melalui wawancara dengan hakim, jaksa, dan akademisi hukum pidana. Data dianalisis secara kualitatif untuk mengetahui kesesuaian pertimbangan hakim dengan aspek yuridis, filosofis, dan sosiologis

Hasil penelitian menunjukkan bahwa dasar pertimbangan hakim dalam menjatuhkan pidana didasarkan pada aspek yuridis, sosiologis, dan filosofis. Aspek yuridis terlihat dari terpenuhinya unsur tindak pidana berdasarkan alat bukti yang sah sesuai ketentuan KUHP dan Undang-Undang Perlindungan Anak. Aspek sosiologis mempertimbangkan dampak yang dialami korban serta kondisi sosial pelaku. Aspek filosofis menitikberatkan pada tujuan pemidanaan sebagai sarana pembinaan dan pencegahan agar tindak pidana serupa tidak terulang kembali. Namun, putusan pidana 8 tahun penjara dinilai belum sepenuhnya memenuhi rasa keadilan substantif bagi korban karena belum mempertimbangkan pemulihan

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korban secara optimal, khususnya terkait pemberian restitusi sebagaimana diatur dalam Undang-Undang Tindak Pidana Kekerasan Seksual.

Saran dalam penelitian ini yaitu hakim hendaknya lebih mempertimbangkan kepentingan terbaik bagi anak korban dalam menjatuhkan putusan, tidak hanya berorientasi pada pelaku tetapi juga pada pemulihan korban. Selain itu, aparat penegak hukum perlu mengoptimalkan penerapan restitusi bagi korban kekerasan seksual terhadap anak guna mewujudkan perlindungan hukum dan keadilan substantif secara menyeluruh.

**Kata Kunci: Dasar Pertimbangan Hakim, Pidana, Pelaku Kekerasan Seksual.**

## **ABSTRACT**

### **BASIC ANALYSIS OF THE JUDGE'S CONSIDERATION IN SENTENCING THE PERPETRATORS OF SEXUAL VIOLENCE AGAINST CHILDREN (Study Verdict Number: 136 / Pid.Sus / 2024 / PN Kot)**

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Sexual violence against children is a criminal offense that causes serious repercussions, both physically and psychologically for the victim. In criminal prosecution, the judge has an important role to realize justice, legal certainty, and legal expediency. Legal issues in this study is the basis of consideration of the judge in imposing a criminal offense against perpetrators of sexual violence against children and whether the verdict has met the sense of substantive justice for the victim. On The Verdict Number: 136 / Pid.Sus / 2024 / PN Kot, the defendant was charged with 12 years in prison, but the judge sentenced him to 8 years without additional restitution to the victim, raising questions about the fulfillment of a sense of justice for child victims.

The research method used is juridical normative and juridical empirical approach. The Data used consisted of secondary data in the form of legislation, legal literature, and Decision number: 136/Pid.Sus / 2024 / PN Kot, as well as primary data obtained through interviews with judges, prosecutors, and criminal law academics. The Data were analyzed qualitatively to determine the suitability of the judge's consideration with juridical, philosophical, and sociological aspects.

The results showed that the basic consideration of judges in imposing criminal based on juridical, sociological, and philosophical aspects. The juridical aspect can be seen from the fulfillment of criminal elements based on valid evidence in accordance with the provisions of the Criminal Procedure Code and the Child Protection Act. The sociological aspect considers the impact experienced by the victim as well as the social conditions of the perpetrator. The philosophical aspect focuses on the purpose of punishment as a means of guidance and Prevention so that similar crimes do not recur. However, the 8-year prison sentence is considered not to fully meet the sense of substantive justice for the victim because it has not

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considered optimal victim recovery, especially regarding the provision of restitution as stipulated in the Sexual Violence Crime Law.

The suggestion in this research is that the judge should consider the best interests of the victim's child in making a decision, not only oriented to the perpetrator but also to the recovery of the victim. In addition, law enforcement officers need to optimize the application of restitution for victims of sexual violence against children in order to realize legal protection and substantive justice as a whole.

**Keywords: Basic Consideration Of Judges, Criminal, Perpetrators Of Sexual Violence.**