

ABSTRAK

ANALISIS PUTUSAN HAKIM DALAM MENJATUHKAN PIDANA PENJARA DAN KEBIRI KIMIA TERHADAP PELAKU PEDOFILIA (Studi Putusan Nomor: 695/Pid.Sus/2019/PT.Sby)

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Salah satu tindak pidana kekerasan seksual terhadap anak yang terjadi dalam kehidupan masyarakat adalah pelaku pedofilia. Pedofilia atau Pelaku kejahatan kekerasan seksual terhadap anak ternyata belum sepenuhnya mati di Indonesia, hingga saat ini Pelaku kekerasan seksual terhadap anak masih marak terjadi di Indonesia. Salah satu contoh kasus tindak pidana kekerasan seksual terhadap anak adalah kasus pada Putusan Nomor: 695/Pid.Sus/2019/PT.Sby dalam kasus tersebut terdakwa Muhammad Aris dijatuhan putusan pidana penjara dan kebiri kimia. Menilai dari putusan hakim yang memutus pidana penjara dan kebiri kimia terhadap terdakwa, maka penulis tertarik untuk melakukan penelitian mengenai bagaimanakah dasar pertimbangan Hakim dalam menjatuhkan putusan pidana penjara dan kebiri kimia terhadap pelaku pedofilia berdasarkan Putusan Nomor: 695/Pid.Sus/2019/PT.Sby dan apakah putusan pidana penjara dan kebiri kimia terhadap pelaku pedofilia tersebut telah mencerminkan kedilan substantif.

Metode penelitian yang digunakan yaitu metode penelitian yuridis normatif, sumber bahan hukum primer dan sekunder, pencatatan terhadap buku-buku peraturan perundang-undangan serta literatur lainnya dilakukan untuk mengumpulkan data, dan analisis bahan hukum dengan menggunakan argumentasi hukum melalui wawancara secara langsung kepada informan yaitu Hakim Pengadilan Tinggi Lampung, Jaksa pada Kejaksaan Negeri Bandar Lampung, Lembaga Perlindungan Anak Bandar Lampung, Anggota Ikatan Dokter Indonesia Bandar Lampung dan Dosen Bagian Hukum Pidana Fakultas Hukum Universitas Lampung.

Berdasarkan hasil penelitian dan pembahasan, dapat disimpulkan bahwa dasar pertimbangan hakim dalam memutus pidana penjara dan kebiri kimia terhadap pelaku pedofilia Putusan Nomor: 695/Pid.Sus/2019/PT.Sby terdakwa Muhammad Aris memenuhi unsur “dengan sengaja melakukan kekerasan memaksa anak melakukan persetubuhan dengannya atau dengan orang lain” yang

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dimana terdakwa melakukan kekerasan memaksa anak melakukan persetubuhan dengannya atau dengan orang lain terhadap 9 orang anak, sehingga terdakwa terbukti secara sah dan meyakinkan bersalah melakukan tindak pidana sebagaimana yang didakwakan dalam Dakwaan Primair oleh Jaksa Penuntut Umum. Majelis Hakim dalam memutuskan perkara tindak pidana ini telah mempertimbangkan aspek yuridis, aspek filosofis dan aspek sosiologis. Dari segi yuridis dan non yuridis pertimbangan Majelis Hakim dalam menjatuhkan putusan tersebut dinilai sudah adil dan sudah sesuai dengan pasal-pasal yang berlaku. Adapun putusan penjara dan kebiri kimia yang dijatuhkan kepada pelaku pedofilia sudah memenuhi unsur keadilan substantif, dimana hakim telah melihat dari berbagai sudut pandang dalam hukum pidana, dan dampak psikologi anak. Selain mempertimbangkan sesuai dengan pasal yang berlaku, Majelis Hakim juga dalam memutus melihat sikap dan prilaku terdakwa dan Penerapan Kebiri Kimia akan dilaksanakan sesudah terdakwa menjalani pidana penjara yang tertuang dalam Peraturan Pemerintah No. 70 Tahun 2020 tentang Tata Cara Pelaksanaan Kebiri Kimia, Pemasangan Alat Pendeksi Elektronik, Rehabilitasi, dan Pengumuman Identitas Pelaku Kekerasaan Seksual Terhadap Anak.

Saran dalam penelitian ini yaitu hakim harus bersikap lebih adil dalam menangani suatu kasus tindak pidana kekerasan seksual terhadap anak. Hakim dalam memutus suatu perkara harus mempertimbangkan segala aspek yang bersifat filosofis, yuridis dan sosiologis, sehingga keadilan yang ingin dicapai, diwujudkan dan dipertanggungjawabkan dalam putusan hakim adalah keadilan yang berorientasi pada keadilan hukum (*legal justice*), keadilan moral (*moral justice*) dan keadilan masyarakat (*sosial justice*), dan Majelis Hakim diharapkan dapat menekankan keadilan substantif terkait dengan isi putusan hakim dalam mengadili suatu perkara, yang dibuat berdasarkan pertimbangan yang objektif, jujur, imparsial dan rasional (*logis*) sehingga terciptalah keadilan substantif.

Kata Kunci: Dasar Pertimbangan Hakim, Pedofilia, Putusan Pidana Penjara dan Kebiri Kimia.

ABSTRACT

ANALYSIS OF THE JUDGE'S VERDICT IN SENTENCING PRISON AND CHEMICAL CASTRATION AGAINST PEDOPHILIA PERPETRATORS

(Study Verdict Number: 695/Pid.Sus/2019/PT. Sby)

By

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One of the crimes of child sexual abuse that occurs in public life is pedophilia. Pedophilia or perpetrators of crimes of sexual violence against children have not completely died in Indonesia, until now perpetrators of sexual violence against children are still rampant in Indonesia. One example of a criminal case of sexual violence against children is the case in Verdict Number: 695/Pid.Sus/2019/PT. Sby in that case defendant Muhammad Aris was sentenced to prison and chemical castration. Judging from the decision of the judge who decided the prison sentence and chemical castration against the accused, the author is interested in conducting research on how the judge's consideration in dropping the prison sentence and chemical castration against pedophilia perpetrators based on Verdict Number: 695/Pid.Sus/2019/PT. Sby and whether the prison sentence and chemical castration against the pedophile perpetrators have reflected the substan.

The research methods used are normative juridical research methods, sources of primary and secondary legal materials, recording of the books of legislation and other literature conducted to collect data, and analysis of legal materials using legal arguments through interviews directly to informants, namely The Judge of the High Court of Lampung, Prosecutor at the Bandar Lampung State Prosecutor's Office, Bandar Lampung Child Protection Institute, Members of the Indonesian Doctors Association of Bandar Lampung and Lecturers of Criminal Law Department of the Faculty of Law, University of Lampung.

Based on the results of research and discussion, it can be concluded that the basis of consideration of judges in deciding prison sentences and chemical castration against pedophilia perpetrators Verdict Number: 695/Pid.Sus/2019/PT. Sby defendant Muhammad Aris fulfilled the element of "intentionally committing violence forcing the child to have intercourse with him or with others" in which the defendant committed violence forcing the child to have intercourse with him or with others against 9 children, so that the defendant was proven legally and

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convincingly guilty of committing a crime as alleged in the Primair Indictment by the Prosecutor The Panel of Judges in deciding this criminal case has considered the juridical aspects, philosophical aspects and sociological aspects. In terms of juridical and non-juridical consideration of the Panel of Judges in dropping the verdict is considered fair and in accordance with the applicable articles. In addition to considering in accordance with the applicable article, the Panel of Judges also in deciding to look at the attitudes and behavior of the accused and the Application of Chemical Castration will be carried out after the defendant undergoes a prison sentence contained in Government Regulation No. 70 of 2020 concerning Procedures for the Implementation of Chemical Castration, Installation of Electronic Detection Equipment, Rehabilitation, and Announcement of Identity of Perpetrators of Sexual Abuse against Children.

The advice in this study is that judges should be fair in handling a criminal case of child sexual abuse. Judges in deciding a case must consider all aspects that are philosophical, juridical and sociological, so that the justice that is to be achieved, realized and accounted for in the judge's decision is justice oriented to legal justice, moral justice (moral justice) and community justice (social justice), and the Panel of Judges is expected to emphasize substantive justice related to the content of the judge's decision in adjudicating a case, which is made based on objective, honest, impartial and rational (logical) considerations so that substantive justice is created.

Keywords: **Basic Judge Considerations, Pedophilia, Prison Sentences and Chemical Castration.**