

ABSTRAK

PENEGAKAN HUKUM PIDANA TERHADAP PELAKU TINDAK PIDANA KEKERASAN SEKSUAL PADA ANAK DI MASA PANDEMI COVID-19

Perlindungan terhadap anak diatur dalam Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak sebagaimana diubah dengan Undang-Undang Nomor 35 Tahun 2014 sebagaimana diubah dengan Undang-Undang Nomor 17 Tahun 2016. Kekerasan seksual pada anak, baik berupa kekerasan seksual konvensional ataupun kekerasan seksual secara online, mengalami peningkatan selama masa pandemi Covid-19. Di sisi lain, pandemi Covid-19 mempengaruhi pola perilaku masyarakat dengan adanya pembatasan interaksi secara langsung yang turut mempengaruhi proses penegakan hukum di Indonesia yang salah satunya penegakan hukum terhadap tindak pidana kekerasan seksual pada anak. Oleh karena itu, penulis akan membahas dua permasalahan, yaitu bagaimanakah penegakan hukum pidana terhadap pelaku tindak pidana kekerasan seksual terhadap anak pada masa pandemi Covid-19 dan mengapa terdapat faktor penghambat dalam penegakan hukum pidana terhadap pelaku tindak pidana kekerasan seksual terhadap anak saat ini.

Penelitian ini dilakukan dengan pendekatan yuridis normatif dan pendekatan yuridis empiris. Pengumpulan data dilakukan dengan metode studi kepustakaan dan studi lapangan dengan hasil berupa data primer dan sekunder yang diolah dan dianalisa secara deskriptif dengan metode analisis kualitatif.

Penelitian ini menunjukkan bahwa penegakan hukum pidana terhadap pelaku tindak pidana kekerasan seksual terhadap anak pada masa pandemi Covid-19 pada tingkat penyidikan dan penuntutan berjalan seperti biasa dengan tetap dilakukan secara langsung, namun pada tahap persidangan proses pemeriksaan dilakukan secara online sebagaimana diatur dalam Peraturan Mahkamah Agung Nomor 4 Tahun 2020 tentang Administrasi dan Persidangan Perkara Pidana di Pengadilan Secara Elektronik. Persidangan online dilaksanakan dengan Hakim dan Panitera/Panitera Pengganti bersidang di ruang sidang Pengadilan, Penuntut Umum dan saksi (termasuk korban) mengikuti persidangan di kantor Kejaksaan serta terdakwa mengikuti sidang dari tempat terdakwa ditahan. Hambatan dalam penegakan hukum pidana terhadap pelaku tindak pidana kekerasan seksual pada anak di masa pandemi Covid-19 didominasi oleh faktor sarana prasarana, sehingga tidak semua instansi siap dengan sarana yang ada misalnya koneksi internet yang tidak stabil, alat kelengkapan seperti laptop, layar LCD dan mikrofon yang tidak memadai.

Berdasarkan hasil penelitian tersebut direkomendasikan agar Pemerintah perlu memperbaiki fasilitas pemeriksaan secara teleconference serta Kejaksaan dan Kepolisian mesti menerbitkan panduan pemeriksaan secara teleconference guna membantu pencari keadilan dan berusaha mengatasi segala hambatan dan rintangan untuk mewujudkan peradilan yang sederhana, cepat dan biaya ringan.

Kata kunci: Penegakan hukum pidana, Kekerasan seksual, Anak Korban, Pandemi Covid-19

ABSTRACT

ENFORCEMENT OF CRIMINAL LAW AGAINST PERSONS OF CRIME OF SEX VIOLENCE ON CHILDREN DURING THE COVID-19 PANDEMIC

The protection of children is regulated in Law Number 23 of 2002 concerning Child Protection as amended by Law Number 35 of 2014 as amended by Law Number 17 of 2016. Sexual violence against children, whether in the form of conventional sexual violence or sexual violence online, experienced an increase during the COVID-19 pandemic. On the other hand, the COVID-19 pandemic has influenced people's behavioral patterns by limiting direct interactions, which has also influenced the law enforcement process in Indonesia, one of which is law enforcement against criminal acts of sexual violence against children. Therefore, the author will discuss two problems, namely how to enforce criminal law against perpetrators of criminal acts of sexual violence against children during the COVID-19 pandemic and why there are inhibiting factors in enforcing criminal law against perpetrators of criminal acts of sexual violence against children at this time.

This research was conducted using a normative juridical approach and an empirical juridical approach. Data collection was carried out using literature study and field study methods, with the results in the form of primary and secondary data, which were processed and analyzed descriptively using qualitative analysis methods.

This research shows that enforcement of criminal law against perpetrators of criminal acts of sexual violence against children during the COVID-19 pandemic at the investigation and prosecution level is proceeding as usual and is still carried out in person; however, at the trial stage, the examination process is carried out online as regulated in the Supreme Court Regulations Number 4 of 2020 concerning Electronic Administration and Trial of Criminal Cases in Court. Online trials are carried out with the Judge and Registrar/Substitute Registrar meeting in the Court's courtroom, the Public Prosecutor and witnesses (including victims) attending the trial at the Prosecutor's office, and the defendant attending the trial from where the defendant is detained. Obstacles in enforcing criminal law against perpetrators of criminal acts of sexual violence against children during the COVID-19 pandemic are dominated by infrastructure factors, so not all agencies are ready with existing facilities, for example, unstable internet connections, equipment such as laptops, LCD screens, and microphones, which is inadequate.

Based on the results of this research, it is recommended that the Government improve teleconference examination facilities and that the Prosecutor's Office and the Police issue guidelines for teleconference examinations to help justice seekers and try to overcome all obstacles to realize simple, fast, and low-cost justice.

Keywords: *Criminal law enforcement, sexual violence, child victims, Covid-19 pandemic*