

ABSTRAK

DISPARITAS PIDANA DALAM PERKARA ANCAMAN KEKERASAN BERBASIS GENDER *ONLINE* (KBGO)

**(Studi Putusan Nomor 1007/Pid.Sus/2022/PN.Tjk dan Nomor
406/Pid.Sus/2023/PN.Tjk)**

**Oleh :
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Disparitas pemidanaan mengacu pada perbedaan besaran hukuman yang dijatuhkan pengadilan dalam perkara-perkara dengan karakteristik serupa. Penelitian ini fokus pada disparitas pidana yang muncul dalam perkara ancaman distribusi konten yang memuat asusila sebagai bentuk Kekerasan Berbasis Gender Online (KBGO). Dua putusan yang menjadi objek studi menunjukkan penerapan pasal yang sama namun menghasilkan vonis yang berbeda, yakni Putusan Nomor 1007/Pid.Sus/2022/PN.Tjk dan Putusan Nomor 406/Pid.Sus/2023/PN.Tjk. Hal ini menimbulkan pertanyaan terkait dasar pertimbangan hakim dan penyebab terjadinya disparitas dalam pemidanaan kasus serupa.

Penelitian ini menggunakan pendekatan yuridis normatif dan yuridis empiris. Data diperoleh dari studi kepustakaan serta wawancara dengan hakim Pengadilan Negeri Tanjung Karang, Jaksa Penuntut Umum Kejaksaan Negeri Bandar Lampung, dan Dosen Hukum Pidana Universitas Lampung. Teknik analisis yang digunakan bersifat kualitatif, dengan menelaah dasar hukum, fakta konferensi, serta pertimbangan yuridis dan non-yuridis dalam putusan.

Hasil penelitian menunjukkan bahwa disparitas pemidanaan dalam dua putusan tersebut dipengaruhi oleh sejumlah faktor, seperti latar belakang sosial-psikologis penipuan, sikap kooperatif dalam persidangan dan subjektivitas penilaian hakim. Meskipun tidak terdapat pelanggaran pidana dan pasal yang digunakan sama, perbedaan dalam pertimbangan non-yuridis menghasilkan perbedaan yang signifikan dalam putusan.

Berdasarkan temuan tersebut, diharapkan agar hakim memutuskan perkara KBGO lebih mengedepankan asas kepastian dan kesetaraan hukum, serta mempertimbangkan standar pedoman pemidanaan yang konsisiten. Selain itu, negara perlu memperkuat perlindungan hukum korban KBGO srta melakukan pembaharuan agar responsif terhadap bentuk-bentuk kekerasan berbasis gender di ranah digital.

Kata Kunci : Disparitas Pidana, Pertimbangan Hakim, KBGO.

ABSTRACT

CRIMINAL DISPARITY IN THE CASE OF THREATS OF ONLINE GENDER-BASED VIOLENCE (OGBV)

**(Study of Decision Number 1007/Pid.Sus/2022/PN.Tjk and Number
406/Pid.Sus/2023/PN.Tjk)**

By

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Sentencing disparity refers to the difference in the amount of punishment imposed by the court in cases with similar characteristics. This research addresses the legal issue of sentencing disparity in criminal cases involving threats to distribute sexually explicit content as a form of Online Gender-Based Violence (OGBV). The two court decisions under review Decision Number 1007/Pid.Sus/2022/PN.Tjk and Decision Number 406/Pid.Sus/2023/PN.Tjk apply the same legal provisions but result in significantly different sentences. This raises concerns about the legal reasoning behind such disparities and their underlying causes.

The research focuses on analyzing the basis of judicial considerations in both decisions and identifying the factors contributing to the sentencing disparity. The methodology combines normative and empirical juridical approaches, utilizing primary, secondary, and tertiary legal sources. Primary data were collected through interviews with judges from the Tanjung Karang District Court, prosecutors from the Bandar Lampung District Attorney's Office, and criminal law scholars from the University of Lampung. Data were analyzed using qualitative methods.

The findings reveal that despite involving similar criminal conduct and identical legal provisions, the two cases resulted in notably different sentences. Factors influencing this disparity include both juridical and non-juridical considerations, such as the defendants' backgrounds, psychological conditions, and the judges' individual interpretations and discretion.

Based on these results, it is recommended that judges handling OGBV cases adhere more consistently to statutory sentencing guidelines to ensure legal certainty and deterrence. Additionally, the state should strengthen legal protections for victims, ensuring that justice not only punishes perpetrators but also prioritizes victim recovery and rights.

Keywords: Criminal Disparity, Judges' Consideration, OGBV