

ABSTRAK

PERLINDUNGAN HUKUM TERHADAP PEREMPUAN TERPIDANA MATI DALAM PERSPEKTIF HAK ASASI MANUSIA

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Negara harus menjamin hak-hak dasar terpidana perempuan dijatuhi pidana mati sebagai manusia yang harus dihormati, meskipun kemerdekaan mereka terampas sebagai akibat dari perbuatan mereka. Pada praktiknya masih banyak belum terpenuhinya hak-hak terpidana Perempuan dijatuhi pidana mati berdasarkan temuan komisioner Komnas Perempuan mengemukakan bahwa terpidana mati perempuan terdapat unsur-unsur peniksaan, perlakuan kejam, tidak manusiawi, dan merendahkan martabat manusia terutama dalam masa deret tunggu. Data menunjukkan jumlah narapidana terpidana mati di Indonesia saat ini 360 orang dan 14 diantaranya merupakan Perempuan.

Bagaimanakah perlindungan hukum terhadap perempuan terpidana mati dalam perspektif hak asasi manusia, Mengapa terjadi hambatan petugas pasyarakatan dalam memberikan perlindungan hukum terhadap perempuan terpidana mati dalam perspektif hak asasi manusia.

Metode penelitian yang digunakan dalam penelitian ini adalah metode penelitian yuridis normatif dan yuridis empiris dengan menggunakan pendekatan *statute approach* dan pendekatan *theoretical approach*, yang berkaitan dengan perlindungan hukum terhadap perempuan terpidana mati dalam perspektif hak asasi manusia.

Pengakuan atas hak untuk bebas dari peniksaan juga dijamin secara tegas dalam konstitusi, perlindungan dapat ditemukan dalam berbagai undang-undang lainnya, karena seriusnya tindakan ini bagi martabat manusia. Selain itu, hak setiap orang untuk bebas dari peniksaan merupakan hak yang tidak dapat dikurangi dalam keadaan apapun (*non-derogable rights*), sebagaimana diatur juga dalam Pasal 4 dan Pasal 33 ayat (1) Undang-Undang No. 39 tahun 1999 tentang Hak Asasi Manusia. Hasil penelitian menunjukkan pengaturan tentang perlindungan hukum terhadap perempuan terpidana mati telah berspektif hak asasi manusia diatur dalam UU Pasyarakatan, dan peraturan pelaksanaan. Namun tidak memberikan perlindungan khusus bagi terpidana perempuan dijatuhi pidana mati, peraturan terkait melindungi hak narapidana secara umum tanpa memisahkan kebutuhan khusus terpidana perempuan dijatuhi pidana mati. Hambatan petugas pasyarakatan kelebihan kapasitas lembaga pasyarakatan Perempuan, kurangnya sarana dan prasarana kesehatan psikologis serta kurangnya akses bantuan hukum. Saran penulis untuk pemerintah meningkatkan penganggaran hak atas kesehatan mental, pendampingan hukum yang berkualitas, meningkatkan pengawasan, melakukan assessment berkala, memperkuat program bersama dan silang sumber daya, merevisi aturan pelaksana Undang-Undang pasyarakatan, untuk keluarga dan terpidana harus memahami regulasi yang berkaitan dengan hak-hak dan Upaya hukum yang dapat dilakukan.

Kata Kunci: Perlindungan Hukum, Pidana Mati, Terpidana Perempuan, Hak Asasi Manusia

ABSTRACT

LEGAL PROTECTION FOR WOMEN ON DEATH ROW FROM A HUMAN RIGHTS PERSPECTIVE

By

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The state must guarantee the fundamental rights of female convicts sentenced to death as human beings that must be respected, even though their freedom is taken away as a result of their actions. In practice, many female convicts' rights have not been fulfilled based on the findings of the National Commission on Violence Against Women commissioners, it was stated that female death row convicts experienced elements of torture, cruel, inhumane and degrading treatment, especially during the waiting period. Data shows that the number of death row prisoners in Indonesia is currently 360 people and 14 of them are women.

How is the legal protection for female convicts sentenced to death from a human rights perspective? What are the obstacles for correctional officers in providing legal protection for female convicts sentenced to death from a human rights perspective?

The research method employed in this study is a combination of normative and empirical approaches, utilizing both a statutory and theoretical framework, which examines the legal protection afforded to female convicts sentenced to death from a human rights perspective. Recognition of the right to be free from torture is also expressly guaranteed in the constitution, protection can be found in various other laws, due to the seriousness of this act for human dignity.

In addition, the right of every person to be free from torture is a right that cannot be reduced under any circumstances (non-derogable rights), as also regulated in Article 4 and Article 33 paragraph (1) of Law No. 39 of 1999 concerning Human Rights. The results of the study show that the regulation on legal protection for female convicts sentenced to death has a perspective of respecting human rights, as regulated in the Corrections Law and its implementing regulations. However, it does not provide special protection for female convicts sentenced to death; the related regulations protect the rights of prisoners in general without separating the special needs of female convicts sentenced to death. The obstacles for correctional officers are the overcapacity of female correctional institutions, lack of psychological health facilities and infrastructure, and lack of access to legal aid. The author's suggestions for the government include increasing budgeting for mental health rights, providing quality legal assistance, increasing supervision, conducting periodic assessments, strengthening joint programs and cross-resources, revising the implementing regulations of the Corrections Law, and for families and convicts to understand the regulations relating to rights and legal efforts that can be made.

Keyword : **Legal Protection, Death Penalty,
Female Convicts Sentenced to Death, Human Rights**