

ABSTRAK

ANALISIS PENJATUHAN PIDANA KEPADA PELAKU PERBARENGAN TINDAK PIDANA (Studi Putusan Nomor: 287/Pid.B/2023/PN.Mgl)

Oleh

VIENNA EGITHA QURRATU AINI

Tindak pidana dapat dilakukan dalam delik perbarengan perbuatan (*concurcus*), antaranya tindak pidana asal usul perkawinan dan kekerasan dalam rumah tangga (KDRT), khususnya penelantaran dalam rumah tangga, sehingga dapat dijatuhkan pidana terhadap pelaku tindak pidana tersebut.

Permasalahan: apakah penjatuhan pidana terhadap pelaku *concurcus* tindak pidana asal usul perkawinan dan penelantaran dalam rumah tangga telah memenuhi aspek keadilan dan bagaimanakah dasar pertimbangan hakim dalam menjatuhkan pidana terhadap pelaku *Concurcus* tindak pidana asal usul perkawinan dan penelantaran dalam rumah tangga dalam Putusan Nomor: 287 /Pid.B/2023/PN.Mgl.

Penelitian ini menggunakan jenis penelitian normatif, dengan pendekatan perundang-undangan dan konseptual. Pengumpulan data melalui studi kepustakaan, dengan bahan hukum primer, sekunder dan tersier. Selanjutnya analisis data dilakukan secara kualitatif untuk mendapatkan simpulan.

Berdasarkan hasil penelitian dan pembahasan, dapat disimpulkan bahwa penjatuhan pidana terhadap pelaku *concurcus* tindak pidana asal usul perkawinan dan penelantaran dalam rumah tangga belum memenuhi aspek keadilan bagi korban, karena belum adanya ketentuan hukum yang secara eksplisit mengatur mengenai ganti rugi bagi korban kekerasan dalam rumah tangga, khususnya dalam bentuk penelantaran. Dasar pertimbangan hakim dalam penjatuhan pidana terhadap pelaku tindak pidana asal usul perkawinan dan penelantaran dalam rumah tangga dalam Putusan Nomor: 287/Pid.B/2023/PN.Mgl didasarkan pada pertimbangan yuridis, filosofis, dan sosiologis, yang mencerminkan upaya pemenuhan aspek keadilan bagi pelaku maupun korban. Majelis Hakim menjatuhkan pidana penjara selama tiga tahun setelah terdakwa terbukti melanggar Pasal 279 ayat (2) KUHP dan Pasal 49 huruf a *juncto* Pasal 9 ayat (1) Undang-Undang Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan dalam Rumah Tangga.

Berdasarkan hal tersebut penulis menyarankan dalam penanganan perkara serupa di masa mendatang, selain penting bagi hakim untuk benar-benar memenuhi keadilan bagi korban, termasuk perlindungan atas kerugian moril maupun materil yang dialami oleh korban, juga hendaknya secara konsisten mempertimbangkan aspek yuridis, filosofis, dan sosiologis secara komprehensif.

Kata Kunci: Penjatuhan Pidana, Perkawinan, Penelantaran.

ABSTRACT

AN ANALYSIS OF SENTENCING IN CONCURRING CRIMINAL OFFENSES (A Case Study of Decision Number: 287/Pid.B/2023/PN.Mgl)

By
VIENNA EGITHA QURRATU AINI

Criminal offenses may be committed concurrently (concurrence of offenses), such as the criminal offense related to the origin of marriage and domestic violence, particularly in the form of domestic neglect, which may subject the perpetrator to criminal sanctions.

This study addresses the following issues: whether the Imposition of criminal sanctions on the perpetrator of criminal acts concerning the origin of marriage and domestic neglect has fulfilled the aspect of justice, and the legal considerations of the judge in imposing criminal sanctions on the perpetrator of criminal acts concerning the origin of marriage and domestic neglect in Decision Number: 287/Pid.B/2023/PN.Mgl

This research employs a normative legal research method, using statutory and conceptual approaches. Data were collected through literature study, utilizing primary, secondary, and tertiary legal materials. The data were then analyzed qualitatively to derive conclusions.

Based on the results and discussion, it can be concluded that the imposition of criminal sanctions on the perpetrator of criminal acts concerning the origin of marriage and domestic neglect has not yet fulfilled the aspect of justice for the victim. This is due to the absence of explicit legal provisions regulating compensation for victims of domestic violence, particularly in the form of neglect. The judges' legal considerations in imposing criminal sanctions on the perpetrator of criminal acts concerning the origin of marriage and domestic neglect in Decision Number: 287/Pid.B/2023/PN.Mgl were based on juridical, philosophical, and sociological considerations, reflecting efforts to fulfill the aspect of justice for both the perpetrator and the victim. The Panel of Judges imposed a sentence of three years' imprisonment, after the defendant was found guilty of violating Article 279 paragraph (2) of the Indonesian Criminal Code (KUHP) and Article 49 letter a in conjunction with Article 9 paragraph (1) of Law Number 23 of 2004 concerning the Elimination of Domestic Violence.

Based on these findings, the author suggests that in handling similar cases in the future, it is important for judges not only to ensure that justice is fully realized for victims, including protection and compensation for both moral and material losses, but also to consistently and comprehensively take into account juridical, philosophical, and sociological aspects.

Keywords: Sentencing, Marriage, Neglect