

ABSTRAK

PENEGAKAN HUKUM TERHADAP PELAKU TINDAK PIDANA KEKERASAN SEKSUAL FISIK YANG DILAKUKAN PADA ORANG DENGAN GANGGUAN JIWA

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Tindak Pidana kekerasan seksual fisik yang dilakukan pada Orang Dengan Gangguan Jiwa merupakan pelanggaran hukum yang serius dan membutuhkan penegakkan hukum yang tegas oleh aparat. Kasus yang dikaji dalam penelitian ini adalah Putusan Nomor 657/Pid.B/2024/PN Tjk dimana terdakwa terbukti melakukan tindak pidana kekerasan seksual fisik pada Orang Dengan Gangguan Jiwa sesuai dengan pasal 285 KUHP, terdakwa dijatuhi hukuman penjara 8 tahun. Dan membayar perkara sejumlah Rp.2000,00,- (dua ribu rupiah).Permasalahan dalam penelitian ini adalah bagaimana penegakkan hukum terhadap pelaku tindak pidana kekerasan seksual fisik yang dilakukan pada Orang Dengan Gangguan Jiwa dan apa saja faktor yang menghambat proses penegakkan hukum tersebut.

Penelitian ini menggunakan pendekatan yuridis normatif dan empiris. Pengumpulan data dilakukan melalui studi pustaka dan wawancara dengan narasumber, termasuk Penyidik Kepolisian Resor Kota Bandar Lampung. Hakim pada Pengadilan Negeri Tanjung Karang Kelas 1A dan Dosen bagian Hukum Pidana Universitas Lampung. Analisis data dilakukan secara kualitatif untuk mendapatkan gambaran yang komprehensif.

Penegakan hukum dalam Putusan Nomor 657/Pid.B/2024/PN Tjk telah melalui tahap formulasi, aplikasi, dan eksekusi, tetapi masih terdapat kekurangan. Pasal 285 dan 286 KUHP serta UU TPKS sebenarnya memberikan perlindungan lebih bagi korban ODGJ, termasuk hak pemulihan dan pemberatan pidana bagi pelaku, namun penerapannya belum berjalan maksimal. Pada tahap aplikasi, aparat penegak hukum terkendala minimnya bukti elektronik dan rendahnya partisipasi masyarakat. Pada tahap eksekusi, pidana telah dijalankan, tetapi pemulihan korban seperti restitusi, rehabilitasi, dan dukungan sosial belum terpenuhi optimal. Selain itu, hakim seharusnya tidak memberi keringanan hukuman hanya karena terdakwa sopan atau baru pertama kali dipidana, melainkan menjatuhkan pidana yang lebih tegas sesuai Pasal 285 KUHP yaitu pidana penjara maksimal 12 tahun, mengingat korban adalah penyandang disabilitas yang tidak mampu membela diri dikarnakan keterbatasan mental.

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Faktor-Faktor penghambat dalam penegakan hukum pada Putusan Nomor 657/Pid.B/2024/PN Tjk terlihat dari berbagai aspek. Faktor substansi hukum, KUHP masih lebih dominan digunakan dibanding UU TPKS sehingga perlindungan korban belum maksimal. Faktor aparat penegak hukum, polisi terhambat minimnya alat bukti, jaksa menghadapi ketidakkonsistenan keterangan korban, dan hakim harus melibatkan ahli karena kondisi psikologis korban. Selain itu, dalam putusan tersebut hakim belum memaksimalkan penerapan pidana sesuai Pasal 285 KUHP dan ketentuan pemberatan dalam UU TPKS, sehingga rasa keadilan bagi korban berkurang. Dari aspek sarana, dukungan teknologi dan layanan khusus bagi korban masih terbatas. Sedangkan dari faktor masyarakat dan budaya, rendahnya kesadaran hukum masyarakat untuk melapor serta penyelesaian secara kekeluargaan turut menghambat penegakan hukum.

Saran dari penelitian ini adalah Aparat penegak hukum penyidik, jaksa, dan hakim diharapkan mengedepankan perlindungan terhadap korban, khususnya penyandang disabilitas, dengan menjatuhkan pidana yang tegas dan sepadan tanpa keringanan berdasarkan alasan subjektif seperti sikap sopan atau status pelaku pertama kali. Penggunaan UU TPKS perlu diperkuat dan disinkronkan dengan KUHP agar ketentuan perlindungan dan pemulihan korban, termasuk Pasal 70 dan Pasal 15 ayat (1) huruf h, dapat diterapkan secara efektif. Aparat penegak hukum juga perlu meningkatkan kualitas penyidikan dan penuntutan melalui penguatan alat bukti serta kemampuan menangani korban penyandang disabilitas, disertai penyediaan fasilitas restitusi, rehabilitasi, dan dukungan sosial yang memadai. Pemerintah perlu melengkapi sarana pendukung seperti teknologi forensik dan layanan khusus korban, sementara masyarakat diharapkan meningkatkan kesadaran hukum dan keberanian melapor agar penegakan hukum berjalan lebih efektif dan tidak terhambat budaya penyelesaian secara kekeluargaan.

Kata Kunci: Penegakkan Hukum, Kekerasan Seksual, Orang Dengan Gangguan Jiwa.

ABSTRACT

LAW ENFORCEMENT AGAINST PERPETRATORS OF VIOLENT CRIMES PHYSICAL SEXUAL ABUSE ON PEOPLE WITH MENTAL DISORDERS

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The crime of physical sexual violence committed against people with mental disorders is a serious violation of the law and requires strict law enforcement by the authorities. The case studied in this study is Decision Number 657 / Pid.B / 2024 / PN Tjk where the defendant was proven to have committed the crime of physical sexual violence against people with mental disorders in accordance with Article 285 of the Criminal Code, the defendant was sentenced to 8 years in prison. And pay a case of Rp. 2000.00, - (two thousand rupiah). The problem in this study is how to enforce the law against perpetrators of physical sexual violence committed against people with mental disorders and what factors hinder the law enforcement process

This research uses a normative and empirical juridical approach. Data collection was conducted through literature review and interviews with sources, including investigators from the Bandar Lampung City Police Department, judges at the Tanjung Karang District Court Class 1A, and lecturers in the Criminal Law department at the University of Lampung. Data analysis was conducted qualitatively to obtain a comprehensive picture.

Law enforcement in Decision Number 657/Pid.B/2024/PN Tjk has gone through the stages of formulation, application, and execution, but several shortcomings remain. Articles 285 and 286 of the Indonesian Criminal Code and the Sexual Violence Crime Law actually provide greater protection for victims with mental disabilities), including rights to recovery and the imposition of aggravated sentences for perpetrators. However, their implementation has not been carried out optimally. In the application stage, law enforcement officers face obstacles such as the lack of electronic evidence and low community participation. In the execution stage, although the sentence has been carried out, the victim's recovery—including restitution, rehabilitation, and social support—has not been fulfilled adequately. In addition, the judge should not grant sentence mitigation merely because the defendant was polite or a first-time offender. Instead, the judge should impose a stricter punishment in accordance with Article 285 of the KUHP, which provides for a maximum imprisonment of 12 years, considering that the victim is a person with disabilities who was unable to defend herself due to mental limitations

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The factors hindering law enforcement in Decision Number 657/Pid.B/2024/PN Tjk can be seen from several aspects. From the aspect of legal substance, the KUHP is still more dominantly applied than the UU TPKS, resulting in suboptimal protection for victims. From the aspect of law enforcement officers, the police are constrained by limited evidence, prosecutors face inconsistent statements from the victim, and judges need to involve experts due to the victim's psychological condition. Furthermore, in this decision, the judge has not fully applied the sentencing provisions under Article 285 of the KUHP and the aggravating factors under the UU TPKS, thereby reducing the sense of justice for the victim. In terms of facilities, technological support and specialized services for victims remain limited. Meanwhile, from the societal and cultural aspects, low public legal awareness and the tendency to settle cases through familial approaches further hinder law enforcement efforts.

The suggestion from this research is that Law enforcement officers—investigators, prosecutors, and judges—are expected to prioritize the protection of victims, especially persons with disabilities, by imposing firm and commensurate sentences without granting mitigation on subjective grounds such as politeness or first-time offender status. The application of the UU TPKS needs to be strengthened and synchronized with the KUHP so that protection and recovery provisions for victims, including Article 70 and Article 15 paragraph (1) letter h, can be effectively implemented. Law enforcement officers must also improve the quality of investigation and prosecution through stronger evidence collection and enhanced capacity in handling victims with disabilities, supported by adequate facilities for restitution, rehabilitation, and social assistance. The government must provide supporting infrastructure such as forensic technology and specialized victim services, while society is expected to increase legal awareness and willingness to report so that law enforcement can run more effectively and is not hindered by the practice of familial settlement.

Keywords: *Law Enforcement, Sexual Violence, People with Mental Disorders*