

ABSTRAK

ANALISIS PERTANGGUNGJAWABAN PIDANA PELAKU TINDAK PIDANA PERDAGANGAN ORANG DENGAN MODUS *OPEN BOOKING OUT* MELALUI APLIKASI MICHAT (Studi Putusan Perkara Nomor: 892/Pid.Sus/2024/PN Tjk)

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Perkembangan teknologi informasi selain membawa manfaat juga memicu munculnya kejahatan baru, seperti perdagangan orang melalui modus *open booking out* di aplikasi MiChat yang mengeksploitasi anak di bawah umur. Kasus ini menimbulkan kerugian bagi korban dan mengancam nilai kemanusiaan. Putusan Nomor 892/Pid.Sus/2024/PN Tjk penting dikaji karena hakim hanya menjatuhkan pidana berdasarkan dakwaan perlindungan anak tanpa mempertimbangkan dakwaan perdagangan orang, sehingga menimbulkan persoalan keadilan. Oleh karena itu, penelitian ini membahas pertanggungjawaban pidana pelaku serta dasar pertimbangan hakim dalam menjatuhkan pidana terhadap pelaku.

Penelitian ini menggunakan metode pendekatan yuridis normatif dan empiris untuk memberikan gambaran yang lebih utuh mengenai permasalahan hukum. Narasumber dalam penelitian ini adalah Hakim Pengadilan Negeri Tanjung Karang Kelas IA dan Dosen Bagian Hukum Pidana. Data dikumpulkan melalui studi kepustakaan dan studi lapangan, kemudian data diolah dan dianalisis secara kualitatif.

Hasil penelitian menunjukkan bahwa pertanggungjawaban pidana pelaku dan dasar pertimbangan hakim menegaskan bahwa terdakwa terbukti secara sah dan meyakinkan melakukan tindak pidana perdagangan orang dengan cara mengeksploitasi anak di bawah umur, sebagaimana diatur dalam Pasal 83 jo. Pasal 76F Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak. Pertanggungjawaban pidana didasarkan pada terpenuhinya unsur *actus reus* berupa perbuatan memperdagangkan anak dan *mens rea* berupa kesengajaan untuk memperoleh keuntungan, dengan kemampuan bertanggung jawab penuh tanpa adanya alasan pembenar maupun pemaaf. Terdakwa secara sadar mengendalikan

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tindakannya dan memperoleh keuntungan dari hasil eksploitasi korban. Pertimbangan hakim meliputi aspek yuridis dengan terpenuhinya unsur delik, aspek sosiologis yang memperhatikan dampak terhadap korban dan masyarakat, serta aspek filosofis yang menekankan perlindungan hak anak dan keadilan substantif. Putusan hakim mencerminkan penegakan hukum yang menjunjung tinggi kepastian hukum, keadilan, dan perlindungan anak.

Saran dari hasil penelitian ini adalah agar pemerintah, aparat penegak hukum, dan seluruh pihak meningkatkan pengawasan, pencegahan, serta penindakan terhadap tindak pidana perdagangan orang daring sesuai dengan Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana (KUHP Nasional) yang menegakkan asas legalitas, kepastian hukum, dan perlindungan terhadap kelompok rentan. Hakim dan jaksa juga diharapkan lebih tegas dan konsisten dalam menjatuhkan putusan yang proporsional, mencerminkan keadilan bagi korban, memberikan efek jera bagi pelaku, serta mengintegrasikan pendekatan yuridis, sosiologis, dan filosofis guna melindungi hak anak, menegakkan nilai kemanusiaan, dan mewujudkan keadilan substantif. Selain itu, denda dan pidana subsidair kurungan harus ditetapkan secara setara dan proporsional dengan tingkat kesalahan pelaku agar tidak menimbulkan ketimpangan dalam penegakan hukuman.

Kata Kunci: Perdagangan Orang, Eksploitasi Seksual, MiChat, Pertanggungjawaban Pidana, Pertimbangan Hakim.

ABSTRACT

ANALYSIS OF CRIMINAL LIABILITY OF PERPETRATORS OF HUMAN TRAFFICKING CRIMES USING THE OPEN BOOKING OUT MODUS THROUGH THE MICHAT APPLICATION (Study of Case Decision Number: 892/Pid.Sus/2024/PN Tjk)

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The development of information technology, while bringing many benefits, has also triggered the emergence of new crimes, such as human trafficking through the open booking out modus on the MiChat application, which exploits minors. This case causes harm to victims and threatens human values. Decision Number 892/Pid.Sus/2024/PN Tjk is important to examine because the judge imposed a sentence based solely on the child protection charge without considering the human trafficking charge, thereby raising issues of justice. Therefore, this study discusses the criminal liability of the perpetrator and the judicial considerations in imposing the sentence.

This research employs a normative and empirical juridical approach to provide a more comprehensive overview of the legal issues. The informants in this study are Judges of the Tanjung Karang District Court Class IA and Lecturers from the Criminal Law Department. Data were collected through literature study and field study, then processed and analyzed qualitatively.

The results of the study indicate that the perpetrator's criminal liability and the basis for the judge's considerations confirm that the defendant has been legally and convincingly proven to have committed the crime of human trafficking by exploiting minors, as regulated in Article 83 in conjunction with Article 76F of Law Number 35 of 2014 concerning Child Protection. Criminal liability is based on the fulfillment of the actus reus element in the form of an act of trafficking children and mens rea in the form of intent to obtain profit, with the ability to take full responsibility without any justification or excuse. The defendant consciously controlled his actions and obtained profit from the results of the exploitation of the victim. The judge's considerations include the juridical aspect by fulfilling the elements of the offense, the sociological aspect that pays attention to the impact on the victim and society, and the philosophical aspect that emphasizes the protection

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of children's rights and substantive justice. The judge's decision reflects law enforcement that upholds legal certainty, justice, and child protection.

The recommendations from this research are that the government, law enforcement officials, and all parties increase supervision, prevention, and enforcement of human trafficking crimes in accordance with Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code), which upholds the principles of legality, legal certainty, and protection for vulnerable groups. Judges and prosecutors are also expected to be more assertive and consistent in issuing proportional decisions, reflecting justice for victims, providing a deterrent effect for perpetrators, and integrating legal, sociological, and philosophical approaches to protect children's rights, uphold humanitarian values, and realize substantive justice. In addition, criminal and subsidiary imprisonment must be determined equally and proportionally to the level of culpability of the perpetrator to avoid inequality in the enforcement of punishment.

Keywords: Human Trafficking, Sexual Exploitation, MiChat, Criminal Liability, Judicial Consideration.