

ABSTRAK

ANALISIS PERTIMBANGAN HAKIM TERHADAP PELAKU TINDAK PIDANA KEKERASAN TERHADAP ANAK HINGGA MENINGGAL DUNIA (Studi Putusan: 574/Pid.Sus/2024/PN Tjk)

**Oleh
Divanka Audri Rahfiani**

Tindak pidana pembuangan bayi adalah suatu perbuatan yang dilakukan oleh seseorang dengan sengaja meninggalkan anak yang baru lahir untuk ditemukan oleh orang lain dengan maksud agar anak tersebut lepas dari tanggungjawabnya. Motif di balik tindakan pembuangan bayi, apapun bentuknya, tidak dapat dibenarkan karena jelas melanggar Hak Asasi Manusia. Setiap anak, bahkan sejak dalam kandungan, memiliki hak untuk hidup dan mempertahankan kehidupannya. Orang tua memiliki tanggung jawab untuk mengasuh, memelihara, mendidik, melindungi, serta mengembangkan potensi anak sesuai dengan bakat dan minat yang dimiliki. Kasus pembuangan bayi yang telah meninggal dunia seringkali menimbulkan dilema, baik dari sisi penerapan undang-undang maupun pertimbangan hakim dalam memutus perkara. Permasalahan yang dibahas dalam penelitian ini adalah bagaimanakah dasar pertimbangan hakim dalam menjatuhkan putusan terhadap pelaku tindak pidana pembuangan bayi yang telah meninggal dunia serta menilai sejauh mana putusan tersebut mencerminkan keadilan substantif.

Penelitian ini berfokus pada Putusan Nomor 574/Pid.Sus/2024/PN Tjk dengan menggunakan pendekatan hukum yuridis normatif yang didukung oleh analisis empiris melalui wawancara dengan Hakim Pengadilan Negeri Tanjung Karang, Jaksa Kejaksaan Tinggi Lampung, dan Dosen Hukum Pidana Fakultas Hukum Universitas Lampung. Data dianalisis kualitatif untuk memadukan interpretasi hukum dengan realitas sosiologis praktik peradilan.

Hasil penelitian menunjukkan bahwa pertimbangan hakim didasarkan pada tiga dimensi utama, yaitu pertimbangan yuridis melalui pembuktian unsur delik sesuai Pasal 80 ayat (3) jo. Pasal 76C Undang-Undang Nomor 17 Tahun 2016 tentang Perlindungan Anak telah terpenuhi dan tidak ditemukan adanya alasan pembeda atau pemaaf serta terdakwa mampu bertanggungjawab sehingga harus dinyatakan bersalah. Secara filosofis, hakim mempertimbangkan tujuan pemidanaan, yaitu menginternalisasi nilai hukum, moral, dan agama ke dalam diri terdakwa agar menyadari perbuatannya salah, pemidanaan dipandang sebagai sarana preventif,

Divanka Audri Rahfiani

korektif, dan edukatif yang sesuai kadar perbuatan. Sedangkan pertimbangan aspek sosiologis, yaitu perbuatan terdakwa menimbulkan kehebohan dan keresahan di masyarakat, karena bayi yang dilahirkan dalam keadaan suci justru dibunuh oleh ibu kandungnya sendiri. Putusan berupa pidana penjara 4 tahun dan denda Rp100.000.000 dinilai telah selaras dengan ketentuan yang berlaku dan telah memenuhi keadilan substantif, Putusan yang jauh lebih rendah dari ancaman maksimal (15 tahun) dan tuntutan jaksa (5 tahun 6 bulan) menunjukkan bahwa hakim tidak hanya menerapkan hukum secara mekanis tetapi mempertimbangkan konteks kemanusiaan di balik perbuatan, sehingga tidak menghancurkan masa depan terdakwa yang masih muda sambil tetap memberikan efek jera dan pengakuan bahwa telah terjadi pelanggaran hak asasi anak yang sangat serius. Pendekatan humanis ini sejalan dengan prinsip keadilan substantif yang mengharuskan putusan tidak hanya memenuhi kepastian hukum formal tetapi juga mencerminkan rasa keadilan masyarakat dan nilai-nilai kemanusiaan.

Saran dalam penelitian ini adalah hakim diharapkan mengintegrasikan pertimbangan yuridis, filosofis, dan sosiologis secara seimbang dalam memutus perkara pembuangan bayi, dengan menggali latar belakang pelaku terutama terkait kondisi psikis, tekanan sosial, dan keterbatasan ekonomi serta penerapan keadilan substantif dalam perkara pembuangan bayi tidak hanya diwujudkan melalui penjatuhan pidana yang proporsional, tetapi juga melalui pendekatan yang lebih komprehensif dengan memasukkan aspek rehabilitasi psikologis dan sosial bagi pelaku, serta meningkatkan kepekaan sosial, mengurangi stigma terhadap kehamilan di luar nikah, dan berperan aktif memberikan dukungan serta melaporkan kekerasan terhadap anak guna mencegah terulangnya kasus serupa.

Kata Kunci: Pertimbangan Hakim, Pembuangan Bayi, Keadilan Substantif.

ABSTRACT

ANALYSIS OF JUDGE'S CONSIDERATIONS REGARDING PERPETRATORS OF CRIMINAL VIOLENCE AGAINST CHILDREN RESULTING IN DEATH (Case Study: 574/Pid.Sus/2024/PN Tjk)

**By
Divanka Audri Rahfiani**

The criminal act of abandoning an infant is an act committed by a person who intentionally leaves a newborn to be found by others with the intention of relinquishing responsibility for the child. The motive behind the act of abandoning an infant, whatever it may be, is to avoid responsibility for the child. The crime of abandoning a baby is an act committed by a person who intentionally leaves a newborn child to be found by others with the intention of relinquishing responsibility for the child. The motive behind the act of abandoning a baby, whatever its form, cannot be justified because it clearly violates human rights. Every child, even from the womb, has the right to life and to defend their life. Parents have the responsibility to care for, nurture, educate, protect, and develop their children's potential in accordance with their talents and interests. Cases of abandoning a deceased baby often pose a dilemma, both in terms of the application of the law and the judge's consideration in deciding the case. The issue discussed in this study is the basis for the judge's consideration in passing a verdict on the perpetrator of the crime of abandoning a deceased baby and assessing the extent to which the verdict reflects substantive justice.

This study focuses on Decision Number 574/Pid.Sus/2024/PN Tjk using a normative legal approach supported by empirical analysis through interviews with judges from the Tanjung Karang District Court, prosecutors from the Lampung High Court, and criminal law lecturers from the Faculty of Law at the University of Lampung. The data was analyzed qualitatively to combine legal interpretation with the sociological reality of judicial practice.

The results of the study show that the judge's considerations were based on three main dimensions, namely juridical considerations through the proof of the elements of the offense in accordance with Article 80 paragraph (3) in

conjunction with Article 76C of Law Number 17 of 2016 concerning Child Protection, which had been fulfilled, and no justifiable or exculpatory reasons were found, and the defendant was capable of being held responsible, so he must be found guilty. Philosophically, the judge considered the purpose of punishment, namely to internalize legal, moral, and religious values into the defendant so that he would realize that his actions were wrong. Punishment was seen as a preventive, corrective, and educational measure appropriate to the degree of the offense. Meanwhile, sociological considerations, namely that the defendant's actions caused an uproar and unrest in the community, because a baby born in a state of purity was killed by its own biological mother. The verdict of 4 years imprisonment and a fine of IDR 100,000,000 is considered to be in accordance with applicable regulations and has fulfilled substantive justice. The sentence, which is much lower than the maximum penalty (15 years) and the prosecutor's demand (5 years and 6 months), shows that the judge did not merely apply the law mechanically but considered the humanitarian context behind the act, so as not to destroy the future of the young defendant while still providing a deterrent effect and acknowledging that a very serious violation of children's rights had occurred. This humanistic approach is in line with the principle of substantive justice, which requires that verdicts not only fulfill formal legal certainty but also reflect the community's sense of justice and human values.

The recommendation in this study is that judges should integrate legal, philosophical, and sociological considerations in a balanced manner when deciding cases of infant abandonment, by exploring the background of the perpetrator, especially in relation to psychological conditions, social pressure, and economic limitations. Furthermore, the application of substantive justice in cases of infant abandonment should not only be realized through the imposition of proportional penalties, but also through a more comprehensive approach that includes psychological and social rehabilitation for the perpetrator, as well as increasing social sensitivity, reducing the stigma attached to pregnancy outside of marriage, and playing an active role in providing support and reporting violence against children to prevent similar cases from recurring.

Keywords: Judicial Considerations, Infant Abandonment, Substantive Justice