

## **ABSTRAK**

### **DASAR PERTIMBANGAN HAKIM MEMBERIKAN PUTUSAN RINGAN PADA TINDAK PIDANA TURUT SERTA MELAKUKAN PERDAGANGAN ANAK**

(Studi Putusan Perkara Nomor: 893/Pid.Sus/2024/PN Tjk)

**Oleh**

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Tindak pidana perdagangan dalam Putusan Nomor 893/Pid.Sus/2024/PN Tjk di Kota Bandar Lampung, di mana terdakwa terbukti turut serta dalam perdagangan anak untuk tujuan eksploitasi seksual dengan memperoleh keuntungan ekonomi. Majelis Hakim menjatuhkan pidana penjara selama 4 (empat) tahun dan 4 (empat) bulan, yang lebih ringan dibandingkan tuntutan Jaksa Penuntut Umum. Permasalahan yang diangkat seperti bagaimanakah dasar pertimbangan Hakim memberikan putusan ringan pada tindak pidana turut serta melakukan perdagangan anak dan apakah Putusan Nomor: 893/Pid.Sus/2024/PN Tjk telah memenuhi rasa keadilan.

Metode penelitian ini menggunakan pendekatan yuridis normatif dan yuridis empiris. Sumber dan jenis data yang digunakan adalah data sekunder diperoleh dari hasil studi pustaka. Adapun narasumber yang telah di wawancara yaitu Hakim Pengadilan Negeri Kelas IA, Tanjung Karang dan Dosen Bagian Hukum Pidana Fakultas Hukum Universitas Lampung.

Berdasarkan hasil penelitian, Majelis Hakim menilai bahwa terdakwa secara sah dan meyakinkan telah memenuhi unsur tindak pidana turut serta melakukan perdagangan anak berdasarkan Pasal 83 *Juncto* Pasal 76F Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak, dengan didukung alat bukti yang sah. Secara yuridis, putusan telah memenuhi asas legalitas dan kepastian hukum. Namun, dari perspektif filosofis dan sosiologis, pidana yang dijatuhkan dinilai masih relatif ringan dan belum sepenuhnya mencerminkan keadilan substantif serta perlindungan maksimal bagi anak sebagai korban. Penjatuhan pidana penjara selama 4 (empat) tahun dan 4 (empat) bulan dianggap belum sebanding dengan tingkat kesalahan pelaku dan dampak serius berupa eksploitasi seksual serta trauma psikologis yang dialami korban. Oleh karena itu, disarankan agar Majelis Hakim dan Jaksa Penuntut Umum lebih mengedepankan prinsip kepentingan terbaik bagi

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anak (*the best interest of the child*), dengan mempertimbangkan aspek yuridis, filosofis, sosiologis, dan viktimologis secara proporsional dalam penegakan hukum terhadap tindak pidana perdagangan anak.

Saran kepada Majelis Hakim diharapkan dalam memeriksa dan memutus perkara tindak pidana perdagangan anak, khususnya terhadap pelaku yang turut serta, lebih mengedepankan prinsip perlindungan anak secara maksimal dan kepentingan terbaik bagi anak (*the best interest of the child*) dengan menempatkan pertimbangan yuridis, filosofis, dan sosiologis secara proporsional dalam penjatuhan pidana. Mengingat perdagangan anak merupakan kejahatan luar biasa (*extraordinary crime*) yang berdampak serius terhadap fisik, psikis, dan masa depan korban, maka pertimbangan kemanusiaan terhadap pelaku tidak seharusnya mengurangi esensi keadilan substantif bagi korban.

**Kata Kunci :** Pertimbangan Hakim, Perdagangan Anak, Putusan Ringan, Turut Serta.

## **ABSTRACT**

### **THE JUDGE'S CONSIDERATIONS FOR ISSUE A LIGHT SENTENCE FOR THE CRIMINAL ACTION IN CHILD TRAFFICKING** *(Decision Study Case Number: 893/Pid.Sus/2024/PN Tjk)*

**By**

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*The crime of trafficking in Decision Number 893/Pid.Sus/2024/PN Tjk in Bandar Lampung City, where the defendant was proven to have participated in child trafficking for the purpose of sexual exploitation by obtaining economic benefits. The Panel of Judges sentenced him to 4 (four) years and 4 (four) months in prison, which is lighter than the demands of the Public Prosecutor. The issues raised include what is the basis for the Judge's consideration in giving a light sentence to the crime of participating in child trafficking and whether Decision Number: 893/Pid.Sus/2024/PN Tjk has fulfilled the sense of justice.*

*This research method uses a normative and empirical juridical approach. The sources and types of data used are secondary data obtained from literature studies. The interviewees were a Class IA District Court Judge, Tanjung Karang, and a lecturer in the Criminal Law Department of the Faculty of Law, University of Lampung.*

*Based on the research results, the Panel of Judges considered that the defendant had legally and convincingly fulfilled the elements of the crime of participating in child trafficking based on Article 83 Juncto Article 76F of Law Number 35 of 2014 concerning Child Protection, supported by valid evidence. Juridically, the decision has fulfilled the principles of legality and legal certainty. However, from a philosophical and sociological perspective, the sentence imposed is considered relatively light and does not fully reflect substantive justice and maximum protection for children as victims. The imposition of a prison sentence of 4 (four) years and 4 (four) months is considered disproportionate to the level of the perpetrator's guilt and the serious impact in the form of sexual exploitation and psychological trauma experienced by the victim. Therefore, it is recommended that the Panel of Judges and the Public Prosecutor prioritize the principle of the best interest of the child, by considering the juridical, philosophical, sociological, and*

**M. Mu'afilah Rizqi Pratama**

*victimological aspects proportionally in enforcing the law against the crime of child trafficking.*

*In examining and deciding child trafficking cases, particularly against the perpetrators involved, the Panel of Judges is expected to prioritize the principles of maximum child protection and the child's best interests by placing proportional legal, philosophical, and sociological considerations in sentencing. Considering that child trafficking is an extraordinary crime that has serious physical, psychological, and future impacts on the victim, humanitarian considerations for the perpetrator must not diminish the essence of substantive justice for the victim.*

**Keywords:** *Judge's Considerations, Child Trafficking, Light Sentence, Participation.*