

ABSTRAK

PENGATURAN SANKSI PIDANA PENJARA TERHADAP PELAKU TINDAK PIDANA KEKERASAN SEKSUAL PADA ANAK MENURUT PERATURAN PERUNDANG-UNDANGAN DI INDONESIA

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Penelitian ini dilakukan untuk mengetahui pengaturan terhadap pelaku tindak pidana kekerasan seksual terhadap anak menurut peraturan perundang-undangan di Indonesia, karena perlindungan kekerasan seksual masih ambigu dan belum terdapat kesatuan pandangan para penegak hukum sehingga terjadi pertentangan undang-undang karena adanya perbedaan sanksi pidana dalam KUHP, UUPA dan UU TPKS. Persoalan pidana terhadap pelaku kekerasan seksual terhadap anak yang diatur di dalam UUPA dan UU TPKS namun dengan ancaman pidana yang berbeda, bahkan juga diatur dalam KUHP di pasal-pasal yang mengatur tentang pelanggaran kesusilaan, hal ini mengindikasikan masih adanya kelemahan dalam penegakan hukum terhadap pelaku tindak pidana kekerasan seksual terhadap anak. Kelemahan dalam penegakan hukum terhadap pelaku tindak pidana kekerasan seksual terhadap anak dapat berdampak pada tidak adanya rasa takut dan efek jera terhadap pelaku, karena tidak maksimalnya pemidanaan terhadap pelaku. Jenis penelitian ini adalah metode penelitian normatif, sedangkan pendekatan penelitiannya yaitu pendekatan undang-undang dan pendekatan konseptual. Sifat penelitian ini adalah bersifat deskriptif analitis. Data yang dipergunakan dalam penelitian ini bersumber dari data sekunder. Selanjutnya data yang sudah berhasil dikumpulkan dalam penelitian dianalisis dengan menggunakan analisis kualitatif. Hasil penelitian menunjukkan bahwa: (1) Pengaturan terhadap pelaku tindak pidana kekerasan seksual terhadap anak menurut peraturan perundang-undangan di Indonesia diatur dalam Undang-Undang Nomor 35 Tahun 2014, serta dalam Undang-Undang Nomor 12 Tahun 2022, namun kedua aturan tersebut memiliki pertentangan dalam hal ketentuan sanksi pidana penjara bagi pelaku tindak pidana kekerasan seksual pada anak; (2) Pengaturan ke depannya agar tidak terjadi lagi kekerasan seksual terhadap anak dapat dilakukan dengan cara melakukan revisi dan penguatan terhadap UU TPKS, yaitu terkait dengan pengaturan sanksi batas minimum khusus pidana penjara terhadap pelaku tindak pidana kekerasan seksual pada anak, karena sampai saat ini sanksi pidana penjara yang diatur dalam UU TPKS tidak mengatur batas minimum khusus pidana penjara bagi pelaku.

Kata Kunci: pengaturan sanksi pidana, kekerasan seksual, anak.

ABSTRACT

REGULATION OF IMPRISONMENT SANCTIONS AGAINST PERPETRATORS OF SEXUAL VIOLENCE AGAINST CHILDREN ACCORDING TO INDONESIAN LAWS AND REGULATIONS

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This research was conducted to determine the regulation of perpetrators of sexual violence against children according to Indonesian legislation, because the protection of sexual violence is still ambiguous and there is no unity of view of the law enforcement agencies so that there are contradictions in the law due to differences in criminal sanctions in the Criminal Code, UUPA and TPKS Law. Criminal issues against perpetrators of sexual violence against children are regulated in the UUPA and the TPKS Law but with different criminal threats, even also regulated in the Criminal Code in articles governing violations of decency, this indicates that there are still weaknesses in law enforcement against perpetrators of sexual violence against children. Weaknesses in law enforcement against perpetrators of criminal acts of sexual violence against children can have an impact on the absence of fear and deterrent effects on the perpetrators, because of the lack of maximum punishment against the perpetrators. This type of research is a normative research method, while the research approach is a statutory approach and a conceptual approach. The nature of this research is descriptive analytical. The data used in this research comes from secondary data. Furthermore, the data that has been successfully collected in the research is analyzed using qualitative analysis. The result of the research shows that: (1) The regulation of perpetrators of sexual violence against children according to Indonesian legislation is regulated in Law Number 35 of 2014, as well as in Law Number 12 of 2022, but the two regulations have contradictions in terms of the provisions of imprisonment sanctions for perpetrators of criminal acts of sexual violence against children; (2) Future arrangements so that sexual violence against children does not occur again can be done by revising and strengthening the TPKS Law, namely related to the regulation of a special minimum limit of imprisonment sanctions against perpetrators of criminal acts of sexual violence against children, because until now the imprisonment sanctions provided for in the TPKS Law do not regulate a special minimum limit of imprisonment for perpetrators.

Keywords: *criminal sanctions, sexual violence, children.*