

Universitas Ngudi Waluyo
Program Studi Ilmu Hukum, Fakultas Ekonomi, Hukum, dan Humaniora
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Shinta Zulfa Kurniawati
115232001

TINJAUAN YURIDIS PENERAPAN PENJATUHAN PIDANA TERHADAP TINDAK KEKERASAN SEKSUAL ANAK (Study Kasus Putusan Nomor 989/Pid.sus/2021/PN Bdg Junctis 86/Pid.sus/2022/PT Bdg, 5642K/Pid.sus/2022)

ABSTRAK

Indonesia merupakan negara hukum yang melindungi seluruh hak masyarakatnya, termasuk hak asasi anak. Perlindungan terhadap anak menjadi perhatian pemerintah karena maraknya kasus kekerasan terhadap anak khususnya kasus kekerasan seksual terhadap anak. Maraknya kasus kekerasan seksual terhadap anak yang terjadi di Indonesia tidak sesuai dengan upaya-upaya yang telah dilakukan pemerintah melalui amandemen Undang-undang mengenai perlindungan anak dan kekerasan seksual dengan sanksi berat, tentunya hukum menjadi tolok ukur bagi banyak pihak dalam fenomena ini. Dalam hal ini penulis meneliti regulasi-regulasi mengenai perlindungan anak dan kekerasan seksual terhadap anak serta pengimplementasian regulasi perlindungan anak khususnya dalam penanganan kasus kekerasan seksual terhadap anak pada putusan hakim, dengan metode yuridis normatif penulis meneliti pertimbangan hakim dalam putusan Pengadilan Negeri Bandung, Pengadilan Tinggi Bandung, dan Mahkamah Agung. Menurut pandangan penulis terdapat disparitas dalam putusan Pengadilan Negeri dengan Pengadilan Tinggi dan Mahkamah Agung. Dalam penjatuhan pidana Hakim harus mempertimbangkan substansi tujuan hukum yakni keadilan, kemanfaatan, dan kepastian hukum. Dalam pengambilan keputusan tidak hanya melihat pada satu ketentuan perundang-undangan saja namun juga melihat ketentuan hukum lain yang masih relevan, dan juga melihat dari perspektif korban, pelaku, dan masyarakat luas. Peneliti juga berpandangan bahwa untuk menekan peningkatan kekerasan seksual terhadap anak tidak hanya menitik beratkan pada aspek hukum namun juga aspek lain seperti halnya, budaya patriarki, pendidikan, ekonomi, dan aspek-aspek lainnya.

Kata Kunci : Perlindungan, Anak, Kekerasan Seksual.

Ngudi Waluyo University
Study Program of Legal, Faculty of Economics, Law and Humanities
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Shinta Zulfa Kurniawati
115232001

JURIDICAL REVIEW OF THE IMPLEMENTATION OF CRIMINAL PENALTIES FOR ACTS OF CHILD SEXUAL VIOLENCE (Case Study Decision Number 989/Pid.sus/2021/PN Bdg Junctis 86/Pid.sus/2022/PT Bdg, 5642K/Pid.sus/2022)

ABSTRACT

Indonesia is a legal country that protects all the rights of its people, including children's human rights. Protection of children is of concern to the government because of the increasing number of cases of violence against children, especially cases of sexual violence against children. The rise in cases of sexual violence against children that occur in Indonesia is not in accordance with the efforts that have been made by the government through amendments to the law regarding child protection and sexual violence with heavy sanctions, of course the law is a benchmark for many parties in this phenomenon. In this case the author examines regulations regarding child protection and sexual violence against children as well as the implementation of child protection regulations, especially in handling cases of sexual violence against children in the judge's decision, using normative juridical methods the author examines the judge's considerations in the decisions of the Bandung District Court, Bandung High Court , and the Supreme Court. In the author's view, there is a disparity in the decisions of the District Court and the High Court and the Supreme Court. In imposing a crime, the judge must consider the substance of the legal objectives, namely justice, expediency and legal certainty. When making decisions, we don't just look at one statutory provision but also look at other legal provisions that are still relevant, and also look from the perspective of the victim, perpetrator and the wider community. Researchers also believe that to suppress the increase in sexual violence against children, we should not only focus on legal aspects but also other aspects such as patriarchal culture, education, economics and other aspects.

Keywords: Protection, Children, Sexual Violence