

ABSTRAK

Pertanggungjawaban Pidana Pelaku Kekerasan Seksual Terhadap Anak Berdasarkan Pasal 83 Ayat (1) Undang-Undang Nomor 35 Tahun 2014 (Studi Kasus Putusan Nomor 28/Pid.Sus/2025/PN.Cms)

Penelitian ini dilatarbelakangi oleh meningkatnya kasus kekerasan seksual terhadap anak yang merupakan pelanggaran serius terhadap hak asasi manusia dan hak anak sebagai kelompok rentan yang wajib memperoleh perlindungan hukum. Dalam praktik penegakan hukum, pertanggungjawaban pidana terhadap pelaku kekerasan seksual terhadap anak tidak hanya berkaitan dengan terpenuhinya unsur tindak pidana, tetapi juga menyangkut pertimbangan hakim dalam menerapkan hukum serta mewujudkan tujuan pemidanaan yang berkeadilan.

Rumusan masalah dalam penelitian ini meliputi: bagaimanakah konstruksi normatif pertanggungjawaban pidana pelaku kekerasan seksual terhadap anak menurut Pasal 83 ayat (1) Undang-Undang Nomor 35 Tahun 2014 dalam sistem hukum Pidana Indonesia, serta bagaimanakah pertimbangan hukum Hakim dalam Putusan Nomor 28/Pid.Sus/2025/ PN.Cms dan apakah telah mencerminkan prinsip negara hukum serta tujuan pemidanaan.

Metode penelitian yang digunakan adalah metode penelitian hukum normatif dengan pendekatan kasus. Spesifikasi penelitian bersifat deskriptif analitis dengan menggunakan data sekunder berupa bahan hukum primer, sekunder, dan tersier. Teknik pengumpulan data dilakukan melalui studi kepustakaan terhadap peraturan perundang-undangan, literatur hukum, jurnal ilmiah, serta putusan pengadilan yang berkaitan dengan objek penelitian.

Hasil penelitian menunjukkan bahwa pertanggungjawaban pidana terhadap pelaku kekerasan seksual terhadap anak berdasarkan Pasal 83 ayat (1) Undang-Undang Nomor 35 Tahun 2014 mensyaratkan adanya unsur perbuatan melawan hukum, kesalahan, kemampuan bertanggungjawab, serta tidak adanya alasan penghapus pidana. Dalam putusan nomor 28/Pid.Sus/2025/PN.Cms, Hakim menilai bahwa terdakwa telah memenuhi seluruh unsur tindak pidana sehingga dapat dimintai pertanggungjawaban pidana. pertimbangan Hakim dalam menjatuhkan pidana telah memperlihatkan aspek yuridis dan non yuridis, termasuk perlindungan terhadap anak sebagai korban dan tujuan pemidanaan berupa efek jera serta perlindungan masyarakat.

Kesimpulan penelitian ini adalah bahwa penerapan pertanggungjawaban pidana terhadap pelaku kekerasan seksual terhadap anak dalam putusan nomor 28/Pid.Sus/2025/PN.Cms telah sesuai dengan ketentuan hukum pidana dan prinsip perlindungan anak. Adapun saran dalam penelitian ini adalah perlunya penguatan penegakan hukum terhadap pelaku kekerasan seksual terhadap anak, peningkatan sensitivitas aparat penegak hukum terhadap korban anak, serta optimalisasi perlindungan hukum dan pendampingan psikologis bagi korban selama proses peradilan.

ABSTRACT

Criminal Responsibility for perpetrators of sexual violence against children Based on Article 83 Paragraph (1) of Law Number 35 of 2014 (A Case Study of Decision Number 28/Pid.Sus/2025/PN.Cms)

This study is motivated by the increasing number of cases of sexual violence against children, which constitutes a serious violation of human rights and the rights of children as a vulnerable group entitled to legal protection. In the practice of law enforcement, criminal liability for perpetrators of sexual violence against children is not only concerned with the fulfillment of the elements of a criminal offense but also with judicial considerations in applying the law and achieving the objectives of fair punishment.

The research problems addressed in this study are: (1) how is the normative construction of the criminal liability of perpetrators of sexual violence against children under Article 83 paragraph (1) of Law Number 35 of 2014 within the Indonesian criminal justice system; and (2) how did the panel of judges formulate the legal considerations in Decision Number 28/Pid.Sus/2025/PN.Cms, and do those considerations reflect the principles of the rule of law and the objectives of criminal punishment?

This research employs a normative legal research method with a case approach. The research is descriptive-analytical in nature and utilizes secondary data consisting of primary, secondary, and tertiary legal materials. Data were collected through library research by examining statutory regulations, legal literature, scientific journals, and court decisions relevant to the subject matter of this study.

The results of the study indicate that criminal liability for perpetrators of sexual violence against children under Article 83 paragraph (1) of Law Number 35 of 2014 requires the existence of an unlawful act, culpability (fault), criminal responsibility, and the absence of grounds for the exclusion of criminal liability. In Decision Number 28/Pid.Sus/2025/PN.Cms, the court found that the defendant had fulfilled all the elements of the criminal offense and was therefore criminally liable. The judges' legal considerations in imposing the sentence reflected both juridical and non-juridical aspects, including the protection of the child as the victim and the objectives of punishment in the form of deterrence and the protection of society.

The study concludes that the application of criminal liability to the perpetrator of sexual violence against a child in Decision Number 28/Pid.Sus/2025/PN.Cms is consistent with the provisions of Indonesian criminal law and the principles of child protection. The study recommends strengthening law enforcement against perpetrators of sexual violence against children, enhancing the sensitivity of law enforcement officers toward child victims, and optimizing legal protection as well as psychological assistance for victims throughout the judicial process.