

LLY_AND_SEXUALLY_Case_Study_Rule_Number_86Pid.Sus2018 PN_Pwt.pdf

by

Submission date: 23-Sep-2022 01:22PM (UTC+0700)

Submission ID: 1906906811

File name: LLY_AND_SEXUALLY_Case_Study_Rule_Number_86Pid.Sus2018PN_Pwt.pdf (136.78K)

Word count: 2383

Character count: 12742

**CRIMINAL OFFENCE EXPLOITATION OF CHILDREN ECONOMICALLY AND SEXUALLY
(Case Study Rule Number 86/Pid.Sus/2018/PN Pwt)**Mey Sylvia Loren¹, Shinta Rukmi Budiastuti², Endang Yuliana Susilowati³Fakultas Hukum Universitas Slamet Riyadi Surakarta¹²³Email: sylviamey05@gmail.com**Info Artikel**

Masuk:25/02/2021

Revisi:18/08/2021

Diterima:28/08/2021

Terbit:30/08/2021

Keywords:

Children Protection; Children Abuse; Judge

Kata Kunci:

Perlindungan anak; Eksploitasi anak; Hakim

12

P-ISSN: 1412-310X

E-ISSN: 2656-3797

DOI : 10.33061

Abstract

Humans, by nature, need protection, even children. Society has an important place in the protection of children because of the increasing number of crimes that make children victims. One is the economic and sexual exploitation of children.

The study is to review the judge's judgment of sentencing the children abuser to rule number 86/ pid. Sus /2018/ pn PWT.

The study used a qualitative juridical analysis method. By data collection using literature related to research topics mainly secondary data supported from verdict, some books and regulations of legislation.

The results of this study are the judicial judges' judgment of children exploitation having already met elements that have established laws, evidence and exhibits but there is one element that does not fit the judge's theoretical faulty ruling. Yet, there is theoretically a flaw, which in the exercise of child abuse is a common misfit because a person is an instrument for a child doing a 15 - year - old sex work is sensible enough to understand consciously what the consequences are of his current and responsible work. The prosecution's low suit of punishment might influence the judge's ruling. The judge could prosecute higher and prosecution.

Abstrak

Pada hakekatnya manusia perlu mendapatkan perlindungan, termasuk juga anak. Masyarakat memiliki kedudukan penting dalam perlindungan anak karena semakin banyaknya kejahatan yang menjadikan anak sebagai korban. Salah satunya ialah eksploitasi anak baik secara ekonomi maupun seksual.

Penelitian ini bertujuan untuk mengkaji pertimbangan Hakim dalam menjatuhkan hukuman bagi pelaku eksploitasi anak dalam Putusan Nomor 86/Pid.Sus/2018/PN.Pwt.

Penelitian ini menggunakan metode analisis yuridis kualitatif. Dengan metode pengumpulan data menggunakan kepustakaan yang berhubungan dengan topik penelitian terutama data sekunder dengan ditunjang dari putusan, beberapa buku dan peraturan perundang-undangan.

Hasil penelitian ini adalah pertimbangan hakim secara yuridis dalam menjatuhkan hukuman bagi pelaku eksploitasi anak sudah memenuhi unsur yang telah ditetapkan Undang-Undang, barang bukti dan alat bukti. Namun ada salah satu unsur yang kurang tepat yang membuat cacatnya putusan hakim secara teoritis. Namun, secara teoritis ada cacat, dimana dalam unsur menyuruh melakukan dirasa kurang tepat karena orang yang dijadikan alat anak yang melakukan pekerjaan hubungan badan berusia 15 (lima belas) tahun sehat akal, mengerti secara sadar apa konsekuensi yang diperoleh dari pekerjaan yang dijalannya dan mampu bertanggungjawab. Tuntutan Jaksa yang tergolong rendah dari ancaman hukuman dimungkinkan mempengaruhi putusan Hakim. Padahal Hakim dapat memutus hukuman lebih tinggi dari tuntutan Jaksa.

I. PROLUSION

Each person has a strong instinct to live with his fellow man. Compared with other creatures such as animals, for example, humans would not be able to live alone. Man without other man is bound to "die"; Humans "shut up" alone in a confined space would have no doubt contributed to their own development.¹ Thus, human isa sentient creature whose life cannot be separated from one's cluster.

As humans, we need protection, as well as children. Children protection is a community effort in various positions as well asa role, which is well aware of the importance of children to future nusa nations. Furthermore, children protection is an attempt to create where a child can perform his rights and obligations in order to develop a natural children whether men⁴lly, physically and socially.

From data published by the director of children rehabilitation for the ministry of social affairs, hersanto mentions from 2016 to mid-2019, the number of trafficking victims reached 4,906 cases and was dominated by women and child¹n.²

Ironically, a case at the purwokerto county court, with a case study ruling number 86/ pd. SUS /2018/ pn. PWT child abuunderer who initially offered a job to a 15-year-old who turned out to be having sex with the opposite sex and the first job offered in 2017. In the year 2018, the perpetrators were arrested while they were making a girls' transaction to get laid at one of the hotels. After investigating the perpetrators more than three times already made the transaction. In this case the pro¹secution alleges that the prosecution has placed, allowed, committed, or participated in the economic and/or sexual exploitation of children, the act of the accused is governed and threatened in article 76l of 2014 article 35 of the 2014 amendment on child protection. Where the offender is only being prosecuted and convicted as a minor rule in the 200⁷ statute of child protection Jo act 35 of 2014 on child protection, which states the principles of child protection: non-discrimination, the best interest for the child, survival and respect for child participation. It's interesting to examine. Hence, researchers review the judge's judgment of child abutting (case study ruling number 86/ ppd. SUS /2018/ PWT) because in order to make inquiries, judges must heed the rules of proof that is the law of proof. Because legal uncertainty and overbearance would arise when the judge, in carrying out his commission, was allowed to rest his verdict only on his belief, even though it was powerful and pure. The judge's belief must be based on something by the law called the instrument of evidence.³

RESEARCH METHODS

The kind of research used in the compilation is normatif juridical research derived from an existing literature. Dis normatif research is a study that defines the rules of current legislation, is linked to what is in the field and then is analyzed by comparing the demands of the ideal values in the legislation and the reality in the field.⁴ In this case researchers analyzed data ruling as the purwokerto district court judge.

Research goes into descriptive research. Where researchers attempt to paint a clear picture only to describe the application of the materials' criminal laws to the criminal economy and sexual exploitation of children. Descriptive research itself is a comprehensive

¹ Soerjono Soekanto, 1990, *Sosiologi Suatu Pengantar*, Jakarta:PT Raja Grafindo Persada. Hal 25

² Maidian Reviana, "Sampai Pertengahan Tahun ini, 4.906 Orang Indonesia Jadi Korban Mafia Perdagangan Manusia", <http://m.akurat.co/704217/sampai-pertengahan-tahun-ini-4906-orang-indonesia-jadi-korban-mafia-perdagangan-manusia> (diakses pada 1 Juni 2020)

³ Susanti Ante. 2013. *Pembuktian dan Putusan Pengadilan dalam Acara Pidana*. Lex Crimen. Volume II. Nomor 2. <http://ejournal.unsrat.ac.id/index.php/lexcrimen/article/view/1544/1239>

⁴ Bahder Johan Nasution. 2008. *Metode Penelitian Ilmu Hukum*. Bandung: Mandar Maju, Hal 72

and systematic portrayal of the focus of research, including current legislation or laws found in society and would be lydicratic.

DISCUSSION

Judge's consideration for child exploitation (rule number 86/ pid. SUS /2018/ PWT).

The judicial process ends with a verdict in which there is a conviction of criminal penalties, and the judge's verdict expresses his opinion on what was considered and what his verdict would be. Before reaching that stage, there is a process that must be taken, a proof phase in the rendering of a criminal against the accused.

In this case the panel of judges argued that the accused was legally and convincingly guilty of criminal acts ordering the economic and sexual exploitation of children. Regarding the legal consideration of the panel of judges, the writer will outline an analysis that is:

The panel of judges can convict on condition that criminal acts meet the elements stipulated in the act. In rendering a criminal verdict should be based on evidence and a minimum of 2 (two) tools of exhibits and obtained confidence that the accused actually took place and the accused did so.

Yuridis in ruling 86/ pid. SUS /2018/ pn PWT, the process of decision making by the panel of judges is in accordance with the prevailing rule of law, based on evidence and evidence. But the elements are these:

1. everyone

The element of each person meant as a sentence stating the pronoun person as the subject of criminal law would be held criminally responsible in the case.

2. It is forbidden to place, let, do, direct or participate in any economic and/or sexual exploitation of children.

Where this second element is an alternative so that when one of the elements is fulfilled it can be proved it is fulfilled. The jury finds the defendant to be found legally and convincingly guilty of criminal abuse soliciting economic and sexual exploitation of children.

In the theory that researchers knew of inclusion, it was a person who would do a delic, but not do it himself, but tell someone else to do it. The most important requirement was that people who were told must be accountable according to criminal law.⁵

At this ruling after researchers have read and analyzed no element of the second telling or disproving or incorrect because the person being the tool or in this case the child doing the intercourse work is 15 (fifteen) years reasonable, A conscious understanding of the consequences of his work and being responsible because the 2014 no. 35 act on child protection does not specifically explain the inclusion (mandate to do this), the law in the book I KUHP was enacted. So, theoretically the judge's verdict in this case is flawed.

Then sociologically the judge's scales would incriminate and alleviate the accused, namely:

- The damning of the accused goes against the norms of religion and decency.
- In extenial circumstances, the accused had never been convicted, admitted his conduct, and displayed good manners in the trial.

So in the judgment and the judge's conviction the judges sentenced 1 (one) years and 10 (ten) months and a fine of some Rp.100,000,000,00 (one hundred million rupiah) on the condition that if the fine was not paid was replaced with the 1 (one) month.

The researchers here disagree, because under the 2014 rule of legislation on children protection article 76i, article 88, the defendant can be sentenced to a maximum of 10

(ten) years in prison and/or a maximum of Rp.200,000,000 (two hundred million rupiah). The public prosecutor filed a lower sentence of 2 (two) years 6 (six) a month with Rp.100,000,000 fine,- (one hundred million rupiah) subsidi 2 (two) months of confinement, which in practice typically influenced the judge's decision to pass a sentence that was usually lower than the prosecution's claim. In this verdict the judge sentenced the prison penal system 1 (one) years 10 (ten) months with Rp.100,000,000 fine,- (one hundred million rupiah).

Whereas a judge as an official who does the work of the judiciary could impose a higher sentence on the prosecution that still conforms to the rule of the law. The panel should also consider the charges against the accused against the norms of religion and decency. This was intended to prevent learning effects on the perpetrator, a preventive effect on the community from participating in the act, and there was a protective effect that no child would be the victim of the crime.

CONCLUSION

Based on research conducted by researchers, it can be concluded that the judge's judgment was justly in sentencing the child abuser (case study ruling number 86/ pid. SUS /2018/ pn PWT) on the basis of the requirement that criminal ACTS already meet elements established in article 76i of the 2014 article no. 35 on children protection, evidence and exhibits upon which the judge has confidence to pass sentence. Yet, there is theoretically a flaw, which in the elements of Instructed to do is that the person who used to be a child's accessory to the 15 - year - old relationship work is sound, understanding consciously what the consequences would be for the job it is doing and being responsible.

The prosecution's charges of low value on the threat of punishment were possible to influence the verdict of the judge in which, in practice, the judge imposed lesser sentences than the prosecution's. The judge could have ruled out a higher sentence than the prosecution would have.

As for the Suggestions raised in this study, the prosecutor should be able to maximize more in prosecuting the defendant of economic and sexual exploitation because the defendant is already using a child as a means of generating revenue. Furthermore, a judge should be even more careful in establishing an element in a case of criminal and higher punishment for the accused in order to make children feel better protected, as well as to prevent similar occurrence in society because the child is the most valuable generation of people for the future that must be guarded and protected.

BIBLIOGRAPHY

Source of Books :

- Bahder Johan Nasution. 2008. *Metode Penelitian Ilmu Hukum*. Bandung: Mandar Maju.
 HB Sutopo, 2002, *Metode penelitian Kualitatif Dasar Teori dan Praktek Dalam Penelitian*, Surakarta: Uns Press.
 Soerjono Soekanto, 1990, *Sosiologi Suatu Pengantar*, Jakarta: PT Raja Grafindo Persada.
 Teguh Prasetyo. 2016. *Hukum Pidana*, Jakarta: Rajawali Pers

Legislation :

- Kitab Undang-Undang Hukum Pidana
 Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak

Journal :

- Susanti Ante. 2013. *Pembuktian dan Putusan Pengadilan dalam Acara Pidana*. Lex Crimen. Volume II. Nomor 2. <http://ejournal.unsrat.ac.id/index.php/lexcrimen/article/view/1544/1239>

Internet:

Maidian Reviana , “*Sampai Pertengahan Tahun ini, 4.906 Orang Indonesia Jadi Korban Mafia Perdagangan Manusia* ”, <http://m.akurat.co/704217/sampai-pertengahan-tahun-ini-4906-orang-indonesia-jadi-korban-mafia-perdagangan-manusia>

ORIGINALITY REPORT

21 %
SIMILARITY INDEX

20 %
INTERNET SOURCES

5 %
PUBLICATIONS

5 %
STUDENT PAPERS

PRIMARY SOURCES

1 garuda.kemdikbud.go.id 12 %
Internet Source

2 Submitted to Universitas International Batam 3 %
Student Paper

3 Submitted to Fakultas Hukum Universitas Lampung 2 %
Student Paper

4 journal.unnes.ac.id 1 %
Internet Source

5 digilib.uinsby.ac.id 1 %
Internet Source

6 lppm-unissula.com 1 %
Internet Source

7 www.slideshare.net 1 %
Internet Source

8 conference.undana.ac.id <1 %
Internet Source

9 core.ac.uk <1 %
Internet Source

10 ejournal.uhn.ac.id <1 %
Internet Source

11 sediaskripsiptk.wordpress.com <1 %
Internet Source

12 www.researchgate.net <1 %
Internet Source

Exclude quotes On

Exclude matches Off

Exclude bibliography On