

RINGKASAN

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**Analisis Yuridis Perlindungan Hukum Terhadap
Perempuan Penyandang Disabilitas Sebagai Korban
Tindak Pidana Kekerasan Seksual (Studi Kasus
Nomor:1245/Pid.B/2023/PN Mdn)
(Sumiadi S. H., M. Hum. Dan Zulfan S. H., M. Hum).**

Penyandang disabilitas berhak memperoleh perlindungan hukum dan akses keadilan berdasarkan Pasal 9 UU No. 8 Tahun 2016. Hak tersebut diperkuat UU No. 12 Tahun 2022 melalui hak atas penanganan, pelindungan, pemulihan, dan restitusi. Permasalahan dalam Putusan No. 1245/Pid.B/2023/PN Mdn terletak pada belum optimalnya pertimbangan hakim terhadap kondisi disabilitas korban dan hak restitusi sebagai bagian dari pemulihan terhadap korban.

Metode penelitian yang digunakan adalah penelitian yuridis normatif dengan pendekatan perundang-undangan dan pendekatan kasus. Bahan hukum primer terdiri atas Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Undang-Undang Nomor 8 Tahun 2016 tentang Penyandang Disabilitas, Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual, Undang-Undang Nomor 31 Tahun 2014 tentang Perlindungan Saksi dan Korban, Peraturan Pemerintah Nomor 35 Tahun 2020, serta Putusan Pengadilan Negeri Medan Nomor 1245/Pid.B/2023/PN Mdn. Bahan hukum sekunder diperoleh dari buku, jurnal ilmiah, hasil penelitian terdahulu, dan doktrin para ahli hukum yang relevan.

Hasil penelitian menunjukkan bahwa pertimbangan hakim dalam Putusan Nomor 1245/Pid.B/2023/PN Mdn belum sepenuhnya mencerminkan perlindungan hukum terhadap perempuan penyandang disabilitas sebagai korban tindak pidana kekerasan seksual. Meskipun hakim telah menyatakan terdakwa terbukti bersalah berdasarkan alat bukti dan fakta persidangan, pertimbangan hukum yang diberikan masih berfokus pada pembuktian unsur tindak pidana tanpa mengembangkan kondisi disabilitas korban sebagai dasar untuk menilai tingkat kerentanan korban dan beratnya kesalahan pelaku. Selain itu, hak korban atas restitusi sebagaimana diatur dalam Undang-Undang Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual juga belum dipertimbangkan dalam putusan. Akibatnya, penerapan hukum dalam putusan tersebut belum sepenuhnya mengakomodasi prinsip perlindungan, kesetaraan, dan pemulihan hak korban sebagaimana diamanatkan dalam peraturan perundang-undangan hukum yang bersifat substantif terhadap korban penyandang disabilitas.

Disarankan kepada aparat penegak hukum, khususnya hakim dan penuntut umum, agar lebih optimal menerapkan ketentuan perlindungan terhadap perempuan penyandang disabilitas dengan mempertimbangkan kondisi dan kerentanan korban dalam pertimbangan hukum, serta memastikan pemenuhan hak korban atas restitusi dan pemulihan, sehingga penegakan hukum tidak hanya berorientasi pada penghukuman pelaku, tetapi juga memberikan keadilan dan perlindungan yang optimal bagi korban.

Kata Kunci: Perlindungan Hukum, Penyandang Disabilitas, Kekerasan Seksual, Restitusi, Pertimbangan Hakim

SUMARRY

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Juridical Analysis of Legal Protection for Women with Disabilities as Victims of Sexual Violence (Case Study of Decision Number 1245/Pid.B/2023/PN Mdn) (Sumiadi, S.H., M. Hum. and Zulfan, S.H., M. Hum.)

Persons with disabilities are entitled to legal protection and access to justice under Article 9 of Law No. 8 of 2016. This right is reinforced by Law No. 12 of 2022, which guarantees rights regarding handling, protection, recovery, and restitution. The issue in District Court Decision No. 1245/Pid.B/2023/PN Mdn lies in the judge's less-than-optimal consideration of the victim's disability and the right to restitution as a component of victim recovery.

The research employs a normative-juridical method, utilizing both statutory and case-based approaches. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law No. 8 of 2016 concerning Persons with Disabilities, Law No. 12 of 2022 concerning the Crime of Sexual Violence, Law No. 31 of 2014 concerning Witness and Victim Protection, Government Regulation No. 35 of 2020, and Medan District Court Decision No. 1245/Pid.B/2023/PN Mdn. Secondary legal materials were obtained from books, scholarly journals, prior research findings, and relevant legal doctrines.

The analysis indicates that the judge's reasoning in Decision No. 1245/Pid.B/2023/PN Mdn does not fully reflect the legal protection owed to a woman with a disability who is a victim of sexual violence. Although the judge found the defendant guilty based on evidence and trial facts, the legal reasoning focused primarily on proving the elements of the offense without adequately addressing the victim's disability as a basis for assessing her vulnerability or the severity of the perpetrator's culpability. Furthermore, the victim's right to restitution—as stipulated in Law No. 12 of 2022 concerning the Crime of Sexual Violence—was not considered in the decision. Consequently, the application of the law in the ruling Prestoration of victims' rights as mandated by substantive legal provisions concerning victims with disabilities.

It is recommended that law enforcement officials, especially judges and public prosecutors, more optimally implement provisions for the protection of women with disabilities by considering the conditions and vulnerabilities of victims in legal considerations, as well as ensuring the fulfillment of victims' rights to restitution and recovery, so that law enforcement is not only oriented towards punishing perpetrators, but also provides optimal justice and protection for victims.

Keywords: Legal Protection, Persons with Disabilities, Sexual Violence, Restitution, Judge's Considerations