

RINGKASAN

**YESSI OKTAFIANDA
NIM 220510286** **PERTIMBANGAN HAKIM DALAM
PENJATUHAN PUTUSAN BEBAS TERHADAP
TERDAKWA TINDAK PIDANA
PERDAGANGAN ORGAN TUBUH MANUSIA
(Studi Putusan No. 318/Pid.Sus/2024/PN Lbp)**

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Pertimbangan hakim dalam perkara tindak pidana perdagangan organ tubuh manusia masih menimbulkan persoalan dalam penerapan hukum pidana. Secara normatif, Pasal 124 ayat (1) dan ayat (3) Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan mengatur bahwa transplantasi organ dilakukan untuk tujuan kemanusiaan serta melarang komersialisasi dan jual beli organ. Namun, dalam Putusan Nomor 318/Pid.Sus/2024/PN Lbp, perkara dugaan perdagangan organ tubuh manusia berakhir dengan putusan bebas terhadap Terdakwa sehingga menimbulkan persoalan mengenai pertimbangan hakim dalam menjatuhkan putusan tersebut.

Tujuan penelitian ini adalah untuk menganalisis pertimbangan hakim dalam menjatuhkan putusan bebas terhadap Terdakwa dalam Putusan Nomor 318/Pid.Sus/2024/PN Lbp, menganalisis kesesuaian pertimbangan hakim tersebut dengan asas keadilan dalam hukum pidana, serta pengaturan hukum mengenai tindak pidana perdagangan organ tubuh manusia dalam hukum positif Indonesia.

Metode penelitian yang digunakan adalah penelitian hukum normatif dengan sifat deskriptif analitis. Data yang digunakan berupa data sekunder yang terdiri atas bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier. Pengumpulan bahan hukum dilakukan melalui penelitian kepustakaan, sedangkan analisis dilakukan secara kualitatif dengan pendekatan perundang-undangan dan pendekatan kasus.

Hasil penelitian menunjukkan bahwa hakim menjatuhkan putusan bebas karena unsur eksploitasi dan perdagangan orang tidak terbukti secara sah dan meyakinkan berdasarkan fakta persidangan. Pertimbangan tersebut telah mencerminkan keadilan formal karena berlandaskan ketentuan pembuktian dalam hukum pidana, tetapi dari perspektif keadilan substantif masih terdapat persoalan karena kerentanan ekonomi calon donor belum dipertimbangkan secara optimal sebagai bentuk eksploitasi. Pengaturan hukum mengenai perdagangan organ tubuh manusia pada dasarnya telah memadai dan tidak terdapat kekosongan hukum, sedangkan permasalahan dalam perkara tersebut berkaitan dengan konstruksi dakwaan yang menentukan unsur-unsur yang harus dibuktikan.

Disarankan agar hakim mempertimbangkan aspek sosial dan ekonomi calon donor dalam menilai unsur eksploitasi guna mewujudkan keadilan, serta Penuntut Umum lebih cermat dalam menentukan ketentuan pidana yang didakwakan guna menjamin kepastian hukum.

Kata Kunci : Pertimbangan Hakim, Putusan Bebas, Perdagangan Organ Tubuh Manusia, Asas Keadilan.

SUMMARY

**YESSI OKTAFIANDA JUDICIAL CONSIDERATIONS IN THE
NIM 220510286 ACQUITTAL OF THE DEFENDANT IN THE
CRIME OF HUMAN ORGAN TRAFFICKING
(Case Study of Decision Number
318/Pid.Sus/2024/PN Lbp)**

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Judicial considerations in cases involving the crime of human organ trafficking continue to raise issues in the application of criminal law. Normatively, Article 124 paragraphs (1) and (3) of Law Number 17 of 2023 concerning Health stipulates that organ transplantation is carried out for humanitarian purposes and prohibits the commercialization and sale and purchase of organs. However, in Decision Number 318/Pid.Sus/2024/PN Lbp, the alleged human organ trafficking case resulted in an acquittal of the Defendant, thereby raising issues concerning the judicial considerations underlying the issuance of such decision.

The purpose of this research is to analyze the judicial considerations in acquitting the Defendant in Decision Number 318/Pid.Sus/2024/PN Lbp, to analyze the conformity of such judicial considerations with the principle of justice in criminal law, and to examine the legal regulation concerning the crime of human organ trafficking under Indonesian positive law.

The research method employed is normative juridical research with a descriptive-analytical nature. The data used consist of secondary data comprising primary, secondary, and tertiary legal materials. The collection of legal materials was conducted through library research, while the analysis was carried out qualitatively using a statutory approach and a case approach.

The research findings indicate that the judges acquitted the Defendant because the elements of exploitation and human trafficking were not proven lawfully and convincingly based on the facts established during the trial. Such considerations reflect formal justice because they were based on the evidentiary provisions of criminal law. However, from the perspective of substantive justice, issues remain because the economic vulnerability of prospective donors was not optimally considered as a form of exploitation. The legal regulation concerning human organ trafficking under Indonesian positive law is essentially adequate, and there is no legal vacuum. The issue in the case is instead related to the construction of the indictment, which determines the elements of the crime that must be proven.

It is recommended that judges consider the social and economic circumstances of prospective donors when assessing the element of exploitation in order to realize justice. Furthermore, public prosecutors should exercise greater care in determining the criminal provisions to be charged in order to ensure legal certainty.

Keywords: Judges' Considerations, Acquittal, Human Organ Trafficking, Principle of Justice.