

RINGKASAN

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**Pertanggungjawaban Pidana Pelaku
Penghakiman Melalui Media (*Trial by
Media*) (Dr. Yusrizal, S.H., M.H Dan Dr.
Yusrizal, S.H., M.H)**

Di era digital, pemberitaan dan penyebaran informasi mengenai suatu perkara pidana yang masih dalam proses pemeriksaan berlangsung secara masif. Publik turut membentuk opini yang menghakimi, menciptakan kebersalahan dan ketidakbersalahan seseorang sebelum adanya putusan pengadilan yang berkekuatan hukum tetap. Secara normatif, Pasal 27A UU ITE memberikan batas terhadap penyebaran informasi yang menyerang kehormatan atau nama baik seseorang dengan cara menuduhkan suatu hal untuk diketahui umum. Namun, pemberitaan mengenai suatu perkara yang masih dalam proses pemeriksaan sering kali lebih cepat menyebar di media mendahului peradilan. Oleh karena itu, penelitian ini bertujuan untuk mengkaji pertanggungjawaban pidana yang dapat dikenakan kepada pelaku penghakiman melalui media (*trial by media*).

Metode penelitian yang digunakan adalah yuridis normatif, dengan pendekatan perundang-undangan, pengumpulan data yang dilakukan dengan studi kepustakaan (*library search*), serta analisis yang bersifat deskriptif.

Berdasarkan hasil penelitian, konstruksi hukum di Indonesia terkait kebebasan pers dan batasan pemberitaan terhadap perkara pidana yang masih dalam proses pemeriksaan, belum diatur secara maksimal. sehingga menimbulkan ketidakjelasan batas antara pemberitaan yang sah dengan penghakiman melalui media. Pertanggungjawaban hukum terhadap pelaku *trial by media* dibedakan berdasarkan jenis pelakunya. pelaku dari kalangan pers diatur melalui UU Pers dengan Dewan Pers sebagai (*primary remedy*) dan sanksi pidana sebagai upaya terakhir (*ultimum remedium*), sementara pelaku dari luar kalangan pers dapat dijerat langsung melalui UU ITE, KUHP, dan UU PDP. Namun, ketiadaan pengaturan khusus terkait *trial by media* juga menyebabkan ketidakmampuan memberikan efek jera yang memadai terhadap pelaku, sehingga diperlukan regulasi yang komprehensif untuk melindungi martabat peradilan dan hak atas peradilan yang adil.

Disarankan agar pemerintah merumuskan regulasi khusus tentang *contempt of court* yang secara eksplisit mengatur larangan *trial by media* sebagai bentuk *indirect contempt*, lengkap dengan definisi operasional dan mekanisme pertanggungjawaban yang proporsional bagi pelaku dari kalangan pers maupun diluar kalangan pers.

Kata kunci: Pertanggungjawaban Pidana, Media, Penghakiman Melalui Media, Kebebasan Pers, Penghinaan terhadap Pengadilan

SUMMARY

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**Criminal Liability of Those Who Engage
in “Trial by Media” (Dr. Yusrizal, S.H.,
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In the digital era, reporting and dissemination of information concerning criminal cases that are still under examination occur extensively. The public also contributes to the formation of prejudicial opinions, creating perceptions of a person’s guilt or innocence before a legally binding court decision has been rendered. Normatively, Article 27A of the Electronic Information and Transactions Law (ITE Law) sets limits on the dissemination of information that attacks a person’s honor or reputation by making an allegation concerning a particular matter for public knowledge. However, reporting on cases that are still under examination often spreads rapidly through the media, preceding the judicial process. Therefore, this study aims to examine the criminal liability that may be imposed on perpetrators of trial by media. The research method used is a normative legal approach, employing a statutory analysis, with data collection conducted through a literature review (library search) and descriptive analysis.

*Based on the research findings, the legal framework in Indonesia regarding press freedom and restrictions on reporting on criminal cases still under investigation has not been adequately regulated. This has led to ambiguity regarding the boundary between legitimate reporting and media trials. Legal accountability for perpetrators of “trial by media” is differentiated based on the type of perpetrator. Perpetrators from within the press are regulated by the Press Law, with the Press Council serving as the primary remedy and criminal sanctions as a last resort (*ultimum remedium*), while perpetrators from outside the press can be directly prosecuted under the ITE Law, the Criminal Code (KUHP), and the Personal Data Protection Law (PDP). However, the absence of specific regulations regarding “trial by media” also results in an inability to provide an adequate deterrent effect against perpetrators; therefore, comprehensive regulations are needed to protect the dignity of the judiciary and the right to a fair trial.*

It is recommended that the government formulate specific regulations on contempt of court that explicitly prohibit “trial by media” as a form of indirect contempt, complete with operational definitions and proportional accountability mechanisms for perpetrators—whether from the press or outside the press. The Press Council should strengthen its role as the primary forum, and the public needs to improve its legal literacy so as not to rush to judgment before a court decision has become final and binding.

**Keywords: Criminal Liability, Media, Trial by Media, Freedom of the Press,
Presumption of Innocence, Contempt of Court**