

ABSTRAK

IMPLEMENTASI PENERAPAN PIDANA BERSYARAT DALAM KITAB UNDANG-UNDANG HUKUM PIDANA (KUHP)

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Pidana bersyarat yang diatur dalam KUHP kurang memberikan pelindungan kepada pelaku tindak pidana karena bukan merupakan jenis pidanatetapi caramenjalankan pidana. Oleh karenainitu, RUU KUHP mengatur pidana pengawasan sebagai jenis sanksi pidana barudalam pidanapokok. Pidana pengawasan merupakan pengganti pidana bersyarat dan alternatif pidana penjara. Artikel ini mengkaji pela ksanaan pidana bersyarat dan pengaturan pidana pengawasan dalam RUU KUHP dengan melihat pelaksanaan pidana pengawasan di beberapa negara, agar keadilan restoratif dapat terwujud. Pengaturan pidana pengawasan dalam RUU KUHP menyerupai sistem probation di Inggris, tetapi menekankan pengembalian kerugian yang ditimbulkan daritindak pidana. Dalam penjatuhan pidana pengawasan perludiperhatikan hak-hak korban dan persiapan ksumberdaya manusia. Balai Pemasyarakatan Kemenkumham sebagai lembaga pengawas dan hakim pengawas, serta sarana dan prasarana..

Adapun yang menjadipermasalah dalam penulisantesisini yakni 1. Bagaimana pengaturan pidana bersyarat dalam perundang-undangan di Indonesia, 2.

Bagaimanapelaksanaanpidanabersyarat di Indonesia dan Bagaimanapengaturanpidanabersyarat dalam rancangan KUHP yang baru.

Metode penelitian dapat diartikan sebagai suatu sarana yang penting guna menemukan, mengembangkan serta menguji kebenaran suatu pengetahuan. Oleh karena itu sebelum melakukan penelitian, penulis terlebih dahulu menentukan metode yang akan penulis pergunakan. Metode atau metodologi merupakan unsur yang mutlak harus ada di dalam penelitian dan pengembangan ilmu pengetahuan. Penelitian hukum adalah suatu proses untuk menemukan aturan hukum, prinsip-prinsip hukum, maupun doktrin-doktrin hukum guna menjawab isu hukum yang dihadapi

Jika pidana bersyarat telah dijatuahkan, kepada petugas pengawas terutama Jaksa sebaiknya harus sering berkomunikasi dengan Hakim Pengawas dan Hakim Pengamat untuk memantau keadaan dan perkembangan si terpidana. Selain itu hakim juga melihat peristiwa yang melatar belakangi perbuatan pidana tersebut secara keseluruhan serta sikap dan perbuatan terdakwa sehari-harinya dalam masyarakat. Perlu pembinaan serta penjelasan mengenai ilmu hukum didalam lingkungan masyarakat, agar terciptanya masyarakat yang sadar hukum.

Kata Kunci : Pidana Bersyarat, Rancangan Undang-Undang,

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ABSTRACT

IMPLEMENTATION OF CONDITIONAL CRIMINAL IMPLEMENTATION IN THE CRIMINAL LAW (KUHP)

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Conditional punishments regulated in the Criminal Code do not provide protection to perpetrators of criminal acts because they are not a type of crime but a way of carrying out a crime. Therefore, the Draft Criminal Code regulates criminal supervision as a new type of criminal sanction in the main crime. Supervision punishment is a substitute for conditional punishment and an alternative to imprisonment. This article examines the implementation of conditional criminal and criminal supervision arrangements in the Criminal Code Bill by looking at the implementation of criminal supervision in several countries, so that restorative justice can be realized. The criminal supervision arrangement in the Criminal Code Bill resembles the probation system in the UK, but emphasizes recovering losses incurred from criminal acts. In imposing a criminal supervision, it is necessary to pay attention to the rights of victims and to prepare human resources for the Penitentiary of the Ministry of Law and Human Rights as a supervisory agency and supervisory judge, as well as facilities and infrastructure.

As for the problems in writing this thesis, namely 1. How is the regulation of conditional criminal penalties in the Indonesian legislation, 2. How is the implementation of conditional crimes in Indonesia and How is the conditional criminal arrangement in the draft of the new Criminal Code.

The research method can be interpreted as an important means to find, develop and test the truth of a knowledge. Therefore, before conducting research, the author first determines the method that will be used by the author. Methods or methodologies are elements that absolutely must exist in scientific research and development. Legal research is a process to find the rule of law, legal principles, and legal doctrines in order to answer the legal issues faced

If a conditional sentence has been imposed, the supervisory officers, especially the Prosecutor, should have frequent communication with the Supervisory Judge and the Observer Judge to monitor the condition and progress of the convict. In addition, the judge also saw the events behind the criminal act as a whole as well as the attitudes and actions of the defendant in his daily life in society. It is necessary to develop and explain the science of law in the community, in order to create a society that is aware of the law.

Keywords: Conditional Criminal, Draft Law,

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