

ABSTRAK

ANALISIS NORMATIF PENCABUTAN LAPORAN TERHADAP TINDAK PIDANA KEKERASAN DALAM RUMAH TANGGA (KDRT) (Studi Kasus di POLRESTA Medan)

Yestilia Dachi*

Kekerasan dalam rumah tangga (KDRT) merupakan salah satu masalah sosial yang masih sering terjadi di Indonesia, termasuk di kota Medan. Dalam penanganannya, tidak jarang terjadi pencabutan laporan oleh korban KDRT. Hal ini dapat disebabkan oleh berbagai faktor, baik dari sisi korban maupun pelaku. Pencabutan laporan KDRT ini menimbulkan pertanyaan dari sisi normatif, apakah pencabutan laporan tersebut dapat diterima atau tidak.

Penelitian ini bertujuan untuk mengetahui pengaturan terhadap tindak pidana kekerasan dalam rumah tangga, pertanggungjawaban hukum pencabutan laporan terhadap tindak pidana kekerasan dalam rumah tangga, serta hambatan dan upaya terhadap penyelesaian kasus tindak pidana kekerasan dalam rumah tangga di Polresta Medan.

Penelitian ini, menggunakan metode penelitian yuridis normatif yang mencakup penelitian hukum kepustakaan yang dilakukan dengan cara meneliti bahan-bahan kepustakaan atau data sekunder belaka.

Hasil penelitian menunjukkan bahwa: Pengaturan terhadap tindak pidana kekerasan dalam rumah tangga sebelum berlakunya Undang-Undang Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan Dalam Rumah Tangga diatur dalam delik penganiayaan dalam KUHPidana yakni Pasal 351 KUHP – Pasal 354 KUHPidana. Sedangkan dalam pengaturan Undang-Undang Nomor 23 Tahun 2004 yang merupakan *lex specialis derogate lex generalis*, perbuatan KDRT diatur dalam Pasal 44 - Pasal 48 Undang-Undang Nomor 23 Tahun 2004, dan dalam pelaksanaan penanganannya melalui pendekatan *restorative justice* berdasarkan Peraturan Kapolri No 8 Tahun 2021, tentang Penanganan Tindak Pidana Berdasarkan *Restorative Justice*, pencabutan laporan KDRT menghilangkan status tersangka pada pelaku. Jika ada laporan, polisi wajib menindaklanjuti dan jika bukti cukup, terlapor menjadi tersangka. Namun jika pelapor mencabut, status tersangka dihilangkan dan kasus dihentikan, hambatannya antara lain tidak ada aturan baku proses damai dalam UU PKDRT, keinginan korban berdamai dengan pelaku, keterbatasan tempat penyidikan, korban dan saksi tidak kooperatif. Upayanya adalah meminta korban mencabut laporan dan meyakinkan saksi untuk memberi keterangan.

Kata Kunci: KDRT, Restoratif Justice, Pencabutan, Tindak Pidana

*Mahasiswa Program Pascasarjana Program Ilmu Hukum Universitas Islam Sumatera Utara

ABSTRACT

NORMATIVE ANALYSIS OF THE REVOCATION OF THE REPORT ON THE CRIME OF DOMESTIC VIOLENCE (DOMESTIC VIOLENCE) (Case Study at Medan Police Station)

Yestilia Dachi*

Domestic violence is one of the social problems that still occurs frequently in Indonesia, including in Medan City. In handling it, it is not uncommon for the victim of domestic violence to withdraw the report. This can be caused by various factors, both from the side of the victim and the perpetrator. The revocation of the domestic violence report raises questions from the normative side, whether the revocation of the report is acceptable or not.

This study aims to determine the regulation of criminal acts of domestic violence, legal responsibility for revocation of reports on criminal acts of domestic violence, as well as obstacles and efforts to resolve cases of criminal acts of domestic violence at Medan Police Station.

This research uses normative juridical research methods which include library legal research conducted by examining library materials or secondary data only.

*The results showed that: The regulation of the crime of domestic violence before the enactment of Law Number 23 Year 2004 on the Elimination of Domestic Violence is regulated in the offense of persecution in the Criminal Code, namely Article 351 of the Criminal Code - Article 354 of the Criminal Code. Meanwhile, in the regulation of Law Number 23 of 2004 which is a *lex specialis derogate lex generalis*, acts of domestic violence are regulated in Article 44 - Article 48 of Law Number 23 of 2004, and in the implementation of handling through a restorative justice approach based on National Police Chief Regulation No. 8 of 2021, concerning Handling Crimes Based on Restorative Justice, the revocation of the domestic violence report eliminates the suspect status of the perpetrator. If there is a report, the police are obliged to follow up and if the evidence is sufficient, the reported person becomes a suspect. However, if the reporter revokes, the suspect status is eliminated and the case is stopped. The obstacles include no standard rules for the peace process in the PKDRT Law, the victim's desire to reconcile with the perpetrator, limited investigation space, uncooperative victims and witnesses. Efforts were made to ask the victim to withdraw the report and convince witnesses to provide testimony.*

Keywords: Domestic Violence, Restorative Justice, Revocation, Criminal Offense

**Students of the Postgraduate Program in the Law Program at the Islamic University of North Sumatra.*