

STUDI KASUS HUKUM

DASAR PERTIMBANGAN HAKIM DALAM MEMUTUS PERKARA

TINDAK PIDANA TERHADAP ASAL USUL PERKAWINAN

BERDASARKAN PASAL 279 KUHP

(Studi Kasus Putusan PN Bukittinggi Nomor 38/Pid.B/2023/PN Bkt)

Diajukan untuk memenuhi persyaratan dalam rangka memperoleh gelar

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(Delfi Yanti, 2110111031, Fakultas Hukum Universitas Andalas, 84 halaman, 2025)

ABSTRAK

Perkawinan merupakan ikatan lahir batin manusia dalam membentuk keluarga yang bahagia. Dalam perspektif hukum positif, perkawinan dianggap sah apabila memenuhi syarat-syarat materiil dan formil. Penelitian ini mengkaji Putusan Pengadilan Negeri Bukittinggi Nomor 38/Pid.B/2023/PN Bkt, dimana terdakwa terbukti melakukan perkawinan kedua tanpa izin dari istri sah dan tanpa penetapan pengadilan agama yang melanggar ketentuan Pasal 279 Ayat (1) ke 1 KUHP. Meskipun ketentuan tersebut mengatur ancaman pidana penjara paling lama 5 (lima) tahun, terdakwa hanya dijatuhi pidana penjara selama 5 (lima) bulan. Putusan ini dinilai tergolong ringan, terlebih karena terdakwa merupakan Aparatur Sipil Negara (ASN) yang seharusnya menjadi panutan publik. Penelitian ini berfokus pada dua permasalahan, yaitu pertama, Bagaimanakah dasar pertimbangan hakim dalam memutus perkara tindak pidana terhadap asal usul perkawinan dalam Putusan PN Bukittinggi Nomor 38/Pid.B/2023/PN Bkt? Kedua, Bagaimana putusan nomor 38/Pid.B/2023/PN Bkt mencerminkan fungsi kemanfaatan pembedaan sesuai dengan tujuan pembedaan sebagaimana diatur dalam UU No. 1 Tahun 2023 tentang KUHP? Metode yang digunakan adalah yuridis normatif dengan pendekatan kasus, perundang-undangan dan konseptual serta menggunakan data sekunder secara deskriptif. Hasil penelitian ini adalah (1) Dasar pertimbangan hakim dalam memutus perkara tindak pidana terhadap asal usul perkawinan dalam Putusan PN Bukittinggi Nomor 38/Pid.B/2023/PN Bkt didasarkan pada pertimbangan yuridis dan non yuridis, dasar pertimbangan hakim mencakup unsur-unsur yuridis seperti: dakwaan, keterangan terdakwa, keterangan saksi, barang bukti dan unsur-unsur dari delik yang didakwakan, di sisi lain hakim juga mempertimbangkan aspek non-yuridis seperti: keadaan pribadi terdakwa serta dampak sosial atas perbuatannya. Meskipun demikian, sanksi pidana yang dijatuhkan relatif ringan dibandingkan dengan ancaman maksimal pasal tersebut. Hal ini menunjukkan bahwa pertimbangan hakim lebih menitikberatkan pada unsur formil dan keadaan pribadi terdakwa, tanpa secara tegas menggali kerugian sosial dan psikologis yang ditimbulkan terutama bagi korban dan tatanan hukum perkawinan. (2) Putusan PN Bukittinggi Nomor 38/Pid.B/2023/PN Bkt telah mencerminkan fungsi kemanfaatan pembedaan sebagaimana diatur dalam Pasal 51 Undang-Undang Nomor 1 Tahun 2023 tentang KUHP, dengan menekankan aspek edukatif, korektif, dan preventif. Namun demikian, pembedaan yang dijatuhkan tergolong ringan dan belum sepenuhnya mencerminkan keadilan khususnya bagi korban. Oleh karena itu, perlu pendekatan pembedaan yang lebih menyeluruh, dengan mempertimbangkan kepentingan seluruh pihak secara proporsional.

Kata Kunci: Pertimbangan Hakim, Tindak Pidana, Perkawinan, Tindak Pidana terhadap Asal Usul Perkawinan

**THE JUDGE'S BASIC CONSIDERATIONS IN DECIDING CASES OF
CRIMINAL ACTIONS AGAINST THE ORIGIN OF MARRIAGE
BASED ON ARTICLE 279 KUHP**

**(Case Study of the Decision of the Bukittinggi District Court Number
38/Pid.B/2023/PN Bkt)**

(Delfi Yanti, 2110111031, Faculty of Law, Andalas University, 84 pages, 2025)

ABSTRACT

Marriage is a spiritual and physical bond between two people to form a happy family. From a positive legal perspective, a marriage is considered valid if it fulfills material and formal requirements. This study examines the Decision of the District Court of Bukittinggi No. 38/Pid.B/2023/PN Bkt, where the defendant was found guilty of entering into a second marriage without the consent of his lawful wife and without a religious court ruling, thereby violating the provisions of Article 279(1)(1) of the Criminal Code. Although the provision stipulates a maximum prison sentence of 5 (five) years, the defendant was only sentenced to 5 (five) months in prison. This decision is considered lenient, especially since the defendant is a civil servant (ASN) who should serve as a public role model. This study focuses on two issues: first, what were the judge's considerations in deciding the criminal case regarding the origin of the marriage in Bukittinggi District Court Decision No. 38/Pid.B/2023/PN Bkt? Second, does Decision No. 38/Pid.B/2023/PN Bkt reflect the rehabilitative function of punishment in accordance with the objectives of punishment as stipulated in Law No. 1 of 2023 on the Criminal Code? The method used is a normative legal approach with a case-based, legislative, and conceptual framework, utilizing descriptive secondary data. The results of this study are (1) The basis for the judge's decision in criminal cases regarding the origin of marriage in Bukittinggi District Court Decision Number 38/Pid.B/2023/PN Bkt is based on legal and non-legal considerations. The basis for the judge's decision includes legal elements such as: charges, defendant's testimony, witness testimony, evidence, and elements of the alleged offense. On the other hand, the judge also considered non-legal aspects such as the defendant's personal circumstances and the social impact of their actions. However, the criminal sanction imposed was relatively lenient compared to the maximum penalty stipulated in the relevant provision. This indicates that the judge's considerations place greater emphasis on formal elements and the defendant's personal circumstances, without explicitly addressing the social and psychological harm caused, particularly to the victim and the legal framework of marriage. (2) The decision of the Bukittinggi District Court No. 38/Pid.B/2023/PN Bkt reflects the rehabilitative function of punishment as stipulated in Article 51 of Law No. 1 of 2023 on the Criminal Code, emphasizing the educational, corrective, and preventive aspects. However, the punishment imposed is relatively light and does not fully reflect justice, especially for the victim. Therefore, a more comprehensive approach to punishment is needed, taking into account the interests of all parties in a proportional manner.

Keywords: Consideration of the judge, Criminal Acts, Marriage, Crime against the Origin of Marriage