

ABSTRAK

Kekerasan seksual di Indonesia terus mengalami peningkatan signifikan, dengan data Komnas Perempuan tahun 2024 mencatat 330.097 kasus kekerasan berbasis gender, di mana kekerasan seksual menjadi bentuk yang paling banyak dilaporkan. Penelitian ini bertujuan untuk menganalisis kebijakan formulasi tindak pidana kekerasan seksual di Indonesia dan pertanggungjawaban pidana pelaku pengambilan gambar bermuatan seksual melalui tangkapan layar dalam kasus *body checking* finalis Miss Universe Indonesia 2023. Penelitian ini menggunakan metode yuridis normatif (doktrinal) dengan pendekatan peraturan perundang-undangan dan pendekatan kasus, yakni mengkaji Putusan Nomor 848/Pid.Sus/2023/PN. Jkt. Pst. Data diperoleh dari bahan hukum primer berupa peraturan perundang-undangan dan putusan pengadilan, serta bahan hukum sekunder berupa literatur dan kajian ilmiah yang relevan. Analisis data dilakukan secara kualitatif-normatif. Hasil penelitian menunjukkan dua temuan utama. Pertama, kebijakan formulasi pengaturan tindak pidana kekerasan seksual di Indonesia bertumpu pada keterpaduan jalur penal dan nonpenal, yang diperkuat perspektif *feminist legal theory* dan diwujudkan melalui UU Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual (UU TPKS). Kedua, terpidana Andaria Sarah Dewia terbukti secara sah dan meyakinkan melanggar Pasal 14 ayat (1) huruf a jo Pasal 15 ayat (1) huruf e UU TPKS karena mengambil 17 foto bermuatan seksual dari empat finalis tanpa izin menggunakan ponsel pribadinya. Seluruh unsur pertanggungjawaban pidana terpenuhi, meliputi kemampuan bertanggung jawab, adanya kesengajaan, dan tidak terdapat alasan penghapus kesalahan karena dalih perintah jabatan dari

CEO tidak dapat diterima sebagai alasan pemaaf sehingga terpidana dijatuhi pidana penjara 1 tahun 4 bulan, denda Rp100.000.000, dan restitusi sebesar Rp738.877.500.

Kata Kunci: Pertanggungjawaban Pidana, Kekerasan Seksual Berbasis Elektronik, Tangkapan Layar, *body checking*, UU TPKS.

ABSTRACT

Sexual violence in Indonesia has continued to increase significantly, as reflected in data from Komnas Perempuan in 2024 recording 330,097 gender-based violence cases, with sexual violence being the most frequently reported form. This study aims to analyze the formulation policy of sexual violence crimes in Indonesia and the criminal liability of the perpetrator who captured sexually explicit images through screenshots in the body checking case involving Miss Universe Indonesia 2023 finalists. This study employs a normative juridical (doctrinal) method with a statutory approach and a case approach, namely examining Decision Number 848/Pid.Sus/2023/PN. Jkt. Pst. Data were obtained from primary legal materials in the form of legislation and court decisions, as well as secondary legal materials comprising relevant literature and academic studies. Data analysis was conducted using a qualitative-normative approach. The findings reveal two main conclusions. First, the formulation policy governing sexual violence crimes in Indonesia rests on the integration of penal and non-penal measures, reinforced by the perspective of feminist legal theory and realized through Law Number 12 of 2022 on Sexual Violence Crimes. Second, the convicted party, Andaria Sarah Dewia, was proven guilty beyond reasonable doubt of violating Article 14 paragraph (1) letter a in conjunction with Article 15 paragraph (1) letter e of the Sexual Violence Crime Law for taking 17 sexually explicit photographs of four finalists without consent using her personal mobile phone. All elements of criminal liability were established, including criminal capacity, the presence of intent, and the absence of grounds for excluding culpability, as the defense of superior orders from the CEO

could not be accepted as a justifying excuse. Consequently, the convicted party was sentenced to 1 year and 4 months of imprisonment, a fine of IDR 100,000,000, and restitution amounting to IDR 738,877,500.

Keywords: Criminal Liability, Electronic-Based Sexual Violence, Screenshot, Body Checking, Sexual Violence Crime Law.