

Imposition Of Criminal Sanctions In The Case Of The Crime Of Child Abuse By A Mother Suffering From Baby Blues Syndrome (Study Decision Number 296/Pid.B/2018/Pn.Kwg)

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Abstract. *The writing of this article aims to analyze postpartum mental health disorders can be categorized as psychiatric disorders for reasons of criminal expungement and analyze the imposition of criminal sanctions in the criminal act of child abuse by mothers who suffer from baby blues syndrome in the Karawang District Court Decision Number 296/Pid.B/2018/PN.Kwg. The type of research used is normative with a statutory approach and a case approach. Based on the results of research conducted by the author, it is obtained that postpartum mental health disorders can basically be used as an excuse for criminal erasure in accordance with the severity experienced. The imposition of imprisonment by the judge in the case of child abuse by a mother with mental health disorder in the verdict was not appropriate because the judge did not pay attention and consider the condition of the perpetrator of the crime who suffered from mental health disorders of a fairly severe type and level.*

Keywords: *Postpartum Mental Health Disorders, Persecution, Imprisonment*

INTRODUCTION

Currently, there are many problems in social life involving violent crimes. Forms of crime and violence that often harm society include theft, rape, abuse, murder and so on. Persecution often occurs because human nature is uncontrolled, either due to inadequate education or the bad influence of the surrounding environment. In general, the definition of criminal acts against the human body in the Criminal Code is called persecution. The establishment of regulations regarding criminal acts against a person's body is intended to protect legal interests from an act in the form of an attack on a person's body which causes pain, injury and even death (Ismu Gunadi, 2015).

Thus, it can be said that the criminal act of abuse is an unlawful act and an act that endangers or causes pain to another person's body, where the injuries suffered by the victim are in accordance with the category of injuries in Article 90 of the Criminal Code which contains:

a. Falling ill or receiving an injury which gives no hope of recovery at all, or which poses a danger of death;

- a. Continuously unable to carry out the duties of the position or search work;
- b. Loss of one of the five senses;
- c. Having a serious disability;
- d. Suffering from paralysis;
- e. Disturbed thinking for four weeks or more;
- f. Abortion or death of a woman's womb.

Abuse is a criminal act in the form of injuring or eliminating the victim's bodily functions. According to the provisions of the Criminal Code, abuse is a form of action that can harm other people and cause loss of life. In the Criminal Code, criminal acts of abuse are classified into several types with different sanctions, namely regulated in Articles 351 to 358 of the Criminal Code. The rise in incidents of abuse of children by parents has attracted the attention of many parties. Violence or child abuse is a wrongful act against a child in the form of physical, emotional and sexual harm that can endanger their health, survival and development.

One example of a case related to the crime of child abuse which was decided by the Panel of Judges at the Karawang District Court through Decision Number 296/Pid.B/2018/PN.Kwg where the defendant was a mother who suffered from baby blues syndrome. So for his actions, the Panel of Judges declared the defendant legally and convincingly proven guilty of committing a crime of domestic violence which resulted in the death of the victim, as stated in Article 44 paragraph (3) of Law Number 23 of 2004 concerning the Elimination of Domestic Violence. The defendant was sentenced to imprisonment for 4 (four) years.

However, the facts that occurred in the trial conflict with the expert's statement which must be taken into consideration in deciding the case. An expert who was presented at the trial of the abuse case in Karawang, explained that the perpetrator of this abuse was a mother who suffered from baby blues syndrome at a fairly severe level. An expert who was present at the trial carried out observations, interviews and psychology on the defendant. Based on the Expert's information, it can be concluded that the Defendant has a dysfunction or limitation both intellectually and in adaptive behavior that can be measured or seen which results in a reduced capacity to act in a certain way, so that the sanctions imposed by the judge are inappropriate because they do not take into account the condition of the perpetrator.

Based on the description above, the author is interested in examining the issue regarding the imposition of imprisonment in cases of criminal acts of child abuse in the form of legal writing entitled "IMPOSITION OF PRISON SANCTIONS FOR CRIMINAL ACTIONS OF CHILD ABUSE (STUDY DECISION NUMBER 296/PID.B/2018/PN. Kwg)".

METHOD

The type of research used in this research is normative legal research. According to Peter Mahmud Marzuki, normative legal research is a process of finding legal rules, legal principles and legal doctrines to answer the legal issues faced. The nature of the research used by the author in this research is the nature of perspective research. According to Peter Mahmud Marzuki, prescriptive research aims to provide an overview or formulate a problem according to existing circumstances or facts. Meanwhile, the approach used by the author is a statutory approach, namely by examining all statutory regulations related to the legal issue being handled and a case approach to analyzing related cases, namely regarding the criminal imposition of criminal acts of abuse. happen.

The primary legal materials that the author used in this writing include the Criminal Code, Law of the Republic of Indonesia Number 23 of 2004 concerning the Elimination of Domestic Violence, and the Karawang District Court Decision Number 296/Pid.B/2018/PN Kwg.

In compiling this writing, the author used supporting legal materials, consisting of all legal publications, legal journals, articles, written interviews, materials obtained from the internet and other sources related to this legal writing as well as comments on court decisions (Peter Mahmud Marzuki, 2019 :181). In this research, the author carried out techniques for collecting legal materials that support the presentation of this research, namely library research. The author uses a deductive legal material analysis technique using the syllogism method. The use of this deduction method stems from submitting a major premise (general statement) then submitting a minor premise (specific statement), from these two premises a conclusion is then drawn.

RESULTS AND DISCUSSION

Postpartum Mental Health Disorders Can Be Categorized as Mental Disorders for Criminal Expungement Reasons According to Psychiatric Experts

Mental disorders can happen to anyone, but there are several conditions that can increase a person's risk of experiencing mental health disorders, including a family history of mental disorders, brain damage due to serious injury, stressful life situations, alcohol use, and

experiences traumatic. Not only that, mental disorders can also occur in postpartum mothers who experience health problems or problems after giving birth to a child. This disorder in mothers after giving birth is often known as baby blues syndrome.

Yusari and Risneni explained that there are three forms of psychological changes or disorders in the postpartum period, namely Baby Blues Syndrome or Postpartum Blues, Postpartum Depression, and Postpartum Psychosis (Yusari & Risneni, 2016). Baby Blues Syndrome is a mild depression that occurs in a mother within a few hours after giving birth, up to a few days after giving birth, which will then disappear by itself if given good psychological services. Factors that influence baby blues syndrome include hormones, level of readiness to give birth, condition and quality of the baby, birth complications and so on (Prasetyaningrum, 2017).

Mental medicine specialists (psychiatrists) explain that baby blues syndrome is a form of mild anxiety and depression that occurs in the early postpartum period. Most women who experience baby blues tend to recover on their own without professional treatment. However, there are some women who experience perinatal depression. This condition develops from baby blues syndrome and requires professional treatment, such as psychological therapy and taking medication. If left untreated and not treated immediately, it will endanger the mother and baby.

Psychologists recommend that mothers who suffer from baby blues immediately consult a psychologist or psychiatrist if their feelings of sadness, anxiety, or changes in mood last for more than two weeks or really interfere with their daily activities. Baby blues is a common condition after giving birth, but if the symptoms persist, this could be a sign that there is a more serious problem.

The second psychological disorder in the postpartum period is Postpartum Depression. According to Janiwarty and Pieter, postpartum depression is a feeling disorder experienced by a mother after giving birth, in which the mother feels sadness, loss of concentration, and feelings of guilt. Signs and symptoms of a mother experiencing postpartum depression include easy despair, excessive anxiety and worry, and the desire to commit suicide (Janiwarty and Pieter, 2013). The third psychological disorder in the postpartum period is Postpartum Psychosis. Postpartum Psychosis is a serious mental problem experienced by a mother after giving birth, characterized by symptoms of personality changes, delusions and hallucinations which can endanger the safety of the mother and baby, so this requires help and assistance from a psychiatric expert.

The three psychological disorders in postpartum mothers above are included in the category of dangerous disorders, especially postpartum depression and postpartum psychosis,

because a mother with this syndrome is unable to control her thoughts, and experiences delusions and hallucinations. So, if a mother with this syndrome commits a criminal act, she cannot be held responsible because there are reasons to eliminate the crime. The reason for abolishing criminal penalties is a regulation that is primarily addressed to judges, where this regulation determines the condition of an offender who has fulfilled the formulation of the offense and should be punished, but is not punished (Izaak, 2016).

Legal theory divides reasons for abolition of punishment into 2 (two) types, namely justifying reasons and forgiving reasons. The justification is if someone has committed an act that is in accordance with the formulation of the offense but is not sentenced to a crime due to things that result in the act not being unlawful in nature. Meanwhile, the reason for forgiveness is if someone has committed an act that fits the definition of an offense but is not sentenced to a crime, because that person should not be criticized and blamed. So something that causes him not to be blamed is said to be something that can forgive him.

Legal experts include reasons for forgiveness, namely inability to take responsibility (Article 44 paragraph 1 of the Criminal Code), forced defense that goes beyond the limits (Article 49 paragraph 2), carrying out illegal office orders in good faith (Article 51 paragraph 2). Meanwhile, those included in the justification are force (Article 48), forced defense/emergency defense (Article 49 paragraph 1), carrying out statutory orders (Article 50), carrying out legal office orders (Article 51 paragraph 1). The perpetrator cannot be held accountable according to Article 44 paragraph (1) of the Criminal Code, which states "whoever commits an act for which he cannot be held responsible because of a mental disability in development or is disturbed by disease shall not be punished". The application of Article 44 paragraph (1) of the Criminal Code must pay attention to two conditions, namely:

- a. The psychiatric requirement is that the defendant must have an imperfect sense or be sick and change his mind, which is a condition of someone experiencing madness (idiot) and other disorders that may have existed since birth or arise due to a mental illness.
- b. The psychological requirement is that the disturbance experienced by a person must be present at the time the perpetrator commits a criminal act.

Based on the description above, a mother with baby blues syndrome who commits a crime must have her condition checked, whether the perpetrator really has baby blues syndrome or whether the condition has progressed to a more serious disorder. If after the examination is carried out, the results state that the condition of the perpetrator with baby blues syndrome is getting worse and has entered a more serious disorder, then this condition can be considered as

a reason to cancel the sentence in accordance with the provisions of Article 44 Paragraph (1) of the Code. Criminal law.

Imposing Prison Sanctions for the Crime of Child Abuse (Study Decision Number 296/Pid.B/2018/Pn.Kwg)

Sentencing in cases of criminal acts of child abuse as decided by the Karawang District Court in 2018 in Karawang District Court Decision Number 296/Pid.B/2018/PN.Kwg The defendant was charged alternatively where his actions were charged with violating Article 44 paragraph (3) of the Law. Law Number 23 of 2004 concerning the Elimination of Domestic Violence. In his decision the judge stated that the defendant was legally and convincingly proven guilty of committing the crime of "domestic violence which resulted in the death of the victim", and was sentenced to prison for 4 (four) years.

An expert who was presented at the trial of the abuse case in Karawang, explained that the perpetrator of this abuse was a mother who suffered from baby blues syndrome at a fairly severe level. Experts have carried out observations, interviews and psychological tests on the Defendant. From these results, 3 (three) aspects of the Defendant's life can be described, namely cognitive, social emotional and personality aspects. From the cognitive aspect, it shows that the Defendant has a below average level of intelligence, an inadequate level of education so that the Defendant is not capable enough to find solutions to simple problems that he has to face. The defendant also lacks the ability to plan, so he is unable to analyze a situation in depth because it is difficult to find alternative solutions to problems correctly and quickly. From the social emotional aspect, the Defendant showed emotional immaturity, showing a lack of control over negative emotions, and a lack of acceptance by tending to blame others for the failures experienced.

The criminal sentence in this case was not appropriate, here it can be seen that the Judge did not pay enough attention to the Defendant's condition as a sufferer of baby blues syndrome accompanied by dysfunction or limitations both intellectually and in adaptive behavior that could be measured or seen which resulted in a reduced capacity to act in certain ways.

CLOSING

Based on the results of the research and discussion presented by the author regarding postpartum mental health disorders and criminal penalties for maltreatment which were decided by the Karawang District Court Number 296/Pid.B/2018/PN.Kwg, it can be concluded that mental health disorders Postpartum can be used as a reason to expunge a criminal sentence for someone who has committed a crime, if after being examined by an expert the perpetrator

suffers from a fairly severe mental health disorder, namely postpartum depression and postpartum psychosis. Because this syndrome is a serious psychological disorder and people with this syndrome have impaired consciousness and are unable to build relationships with their environment.

Then the judge imposed the sentence in Court Decision Number 296/Pid.B/2018/PN.Kwg which stated that imposing a prison sentence of 4 (four) years was not appropriate. In accordance with the expert's statement, the judge should have paid attention to and taken into account the condition of the perpetrator who suffered from severe postnatal mental health disorders.

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