

Analisis penanganan tindak pidana aborsi di wilayah hukum Polda Metro Jaya: studi kasus praktik aborsi di Cikini dan Raden Saleh = Analysis of the handling of the criminal act of abortion in the Jakarta Metro police jurisdiction: case study of abortion practice in Cikini and Raden Saleh

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Abstrak

Penanganan kasus tindak pidana aborsi dalam tesis ini berawal dari terbongkarnya praktik aborsi yang berawal dari beberapa situs website yang tersebar di Internet. Tempat praktik aborsi berkamufase sebagai kantor lembaga hukum dan tour travel Gayatri di Jalan Cimandiri No.7 RT06/04 Cikini, Menteng, Jakarta Pusat, yang kemudian digeledah oleh petugas dari Subdit III Sumdaling Ditreskrimsus Polda Metro Jaya. Adapun faktor yang diduga penyebab meluasnya praktik aborsi di Indonesia adalah: 1 meningkatnya perilaku permisif dan seks bebas dikalangan remaja baik dipertanian maupun di pedesaan; 2 memintapertolongan orang untuk mengugurkan kandungan baik secara tradisional tenaga non medis maupun secara modern tenaga medis; 3 tempat praktik aborsi baik yang dilakukan oleh oknum dukun beranak, bidan atau perawat cukup tersedia dikota maupun di desa; 4 praktik aborsi yang dilakukan secara terselubung diklinik-klinik bersalin dan rumah sakit baik negeri maupun swasta juga tersedia dikota-kota besar, ditambah lemahnya kontrol sosial dan sanksi sosial; dan 5 adanya anggota masyarakat yang malah ikut mengambil keuntungan dari kehadiran klinik terselubung itu. Menurut hukum yang berlaku di Indonesia, praktik aborsi seperti yang dibongkar polisi dalam penelitian ini, termasuk kejahatan atau yang dikenal dengan istilah 'Abortus Provocatus Criminalis'. Tindakan abortus ini dikategorikan sebagai tindakan kriminal. Upaya yang dilakukan oleh penyidik Subdit Sumdaling Ditreskrimsus Polda Metro Jaya telah memenuhi 3 dimensi, 1 yakni dimensi sistem normatif dimana penyidik menerapkan aturan hukum yakni KUHP Pasal 346, 367, 348, dan 349 dan juga Undang-Undang nomor 36 Tahun 2009 tentang kesehatan dimana para tersangka dikenakan sanksi pidana; 2 dimensi sistem administratif dimana penyidik juga melakukan koordinasi dan interaksi dengan pihak lain pihak Ikatan Dokter Indonesia IDI dan ahli kebidanan, dan pihak kejaksaan negeri selaku penuntut umum, dan juga 3 dimensi social system dimana penyidik juga mendefinisikan kasus tersebut terhadap dampaknya kepada masyarakat umum. Sementara itu guna menunjang penyelidikan dan penyidikan kasus aborsi, kompetensi SDMSubdit Sumdaling harus ditingkatkan dikarenakan dari data yang diperoleh masih banyak penyidik pembantu yang belum mengikuti pendidikan kejuruan untuk meningkatkan kompetensi dalam bidang penyidikan kasus-kasus khusus seperti kasus aborsi dan sejenisnya. Begitu juga sarana, prasarana dan pendanaan guna menunjang kerja dari penyidik.

The handling of the criminal act of abortion case in this thesis began with the unveiling of an abortion practice that was found from several websites on the internet. The abortion facility operated under the guise of Gayatri law office and tour travel agency on Jalan Cimandiri No.7 RT 06 04 Cikini, Menteng, Central Jakarta, which was then searched by officers of Subdit III Sumdaling Ditreskrimsus Sub Directorate III of Environmental Resources, Special Criminal Investigation Directorate of Jakarta Metro Police. The widespread of the practice of abortion in Indonesia is presumably caused by the following factors 1

the increase of permissive behavior and free sex among teenagers in cities and rural areas 2 people seeking help for abortion by traditional methods non medical personnel and modern methods medical personnel 3 the availability of places that provide abortion performed by traditional birth attendants, midwives or nurses in cities and rural areas 4 the practice of abortion performed covertly in maternity clinics and hospitals, both public and private, is also available in major cities, along with weak social control and social sanctions and 5 community members who take advantage of such covert clinics. According to Indonesian law, the abortion practice as unveiled by the police in this research is considered a crime or otherwise known as 'Abortus Provocatus Criminalis'. This act of abortion is categorized as a criminal act. Efforts undertaken by Subdit Sumdaling Ditreskrimsus investigators of Jakarta Metro Police have fulfilled these 3 dimensions, 1 the dimension of normative system in which the investigators applied the rule of law namely KUHP Criminal Code Articles 346, 367, 348, and 349 and also Law Number 36 of 2009 regarding health in which the suspects are subject to criminal sanctions 2 the dimension of administrative system in which the investigators also coordinated and interacted with other parties, Ikatan Dokter Indonesia IDI Indonesian Medical Association and obstetricians, and the district attorney as public prosecutor, and also 3 the dimension of social system in which the investigators also defined the case in terms of its impact on the general population. Meanwhile, in order to support inquiry and investigation of abortion cases, Subdit Sumdaling needs to improve the competency of its personnel because according to the obtained data, many of the assistant investigators have not pursued vocational education to improve their competency in the area of special case investigation such as abortion cases and others. The same goes for facilities, infrastructure and funding that are needed to support the task of investigators