

# Keadilan Substansial Versus Keadilan Prosedural Dalam Tuntutan Ganti Kerugian Pasca Putusan Bebas: (Studi Kasus Putusan Nomor 76/Pid.Pra/2019/PN JKT.SEL dan 98/Pid.Pra/2016/ PN JKT.SEL) = Compensation for Post Acquittal Verdict: A Comparative Analysis on Procedural Justice and Human Right

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Abstrak

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Tujuan KUHAP adalah untuk memberikan kepastian hukum sehingga terdapat perlindungan dari tindakan sewenang-wenang penegak hukum, demi tercapainya keadilan. Dalam rangka mencapai tujuan tersebut sering terjadi pertarungan antara keadilan prosedural dan keadilan substantif terutama dalam putusan majelis hakim. Ganti kerugian adalah perlindungan hak serta konsekuensi adanya pelanggaran hak asasi tersangka, terdakwa atau terpidana. Namun pengaturan mengenai ganti kerugian pasca putusan bebas masih mengandung banyak perdebatan. Salah satu contohnya adalah mengenai perbedaan penafsiran jangka waktu pengajuan ganti kerugian. Keadilan substantif dengan keadilan prosedural bertarung mengakibatkan pengajuan ganti kerugian tersebut ditolak karena dianggap telah kadaluarsa. Padahal ganti kerugian itu sendiri telah menjadi hak asasi yang diatur dalam konvensi internasional apabila terjadi pelanggaran hak asasi manusia. Dengan ditolaknya pengajuan tuntutan ganti kerugian maka diperlukan upaya hukum lanjutan atas hal tersebut. Oleh karena itu, dalam Skripsi ini akan dibahas lebih lanjut mengenai pengaturan tuntutan ganti kerugian pasca putusan bebas serta pertentangan antara keadilan prosedural dengan Keadilan Substansial dalam tuntutan ganti kerugian pasca putusan bebas. Skripsi ini menggunakan Bentuk penelitian yuridis normatif, sehingga metode yang digunakan adalah studi kepustakaan

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**ABSTRACT**

The purpose of the Criminal Procedure law is to provide legal certainty so that there is a protection from arbitrary acts of law enforcement. In order to achieve this goal, it is often that struggle occurred between procedural justice and substantive justice, especially in the decisions of the judges. Compensation is the protection of rights and the consequences of violations of the rights of suspects, defendants or convicted persons. However, the regulation regarding compensation after the verdict, still contains much debate. One example is the difference in interpretation of the period for submitting compensation. Substantive justice fights with procedural justice resulted in the submission of compensation being rejected because it is considered to be expired. Even though compensation itself has become a human right which is regulated in international conventions in the event of human rights violations. With the rejection of the claim for compensation, further legal remedies are needed for this matter. Therefore, in this paper will be discussed further about the regulation of compensation claims after the verdict and the conflict between procedural justice and Substantial Justice in the claims for compensation after the verdict. This article will also deeply discuss a comparative analysis with Australia and Singapore by revisited the similar judicial decisions on the issue of compensation after acquittal verdicts.