

TINJAUAN HUKUM MENGENAI KEDUDUKAN SAKSI PELAKU DALAM TINDAK PIDANA PEMBUNUHAN BERENCANA BERDASARKAN PERSPEKTIF SEJARAH HUKUM

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ABSTRAK

Saksi pelaku adalah tersangka, terdakwa, atau terpidana yang membantu aparat penegak hukum untuk membuat terang suatu perkara pidana. Tindak Pidana pembunuhan berencana dapat menghadirkan peran saksi pelaku, meskipun tidak disebut jelas dalam beberapa peraturan di Indonesia. Saksi pelaku merupakan peran penting dalam proses peradilan pidana di Indonesia karena keterangannya dapat membantu aparat penegak hukum mengungkap suatu tindak pidana. Saksi pelaku memiliki kedudukan sebagaimana tahap proses peradilan pidana yang sedang dijalani. Pengaturan saksi pelaku dapat dilihat dari hukum positif (yang saat ini berlaku), dan hukum yang diangan-angankan (Ius Constituendum) yang akan berlaku di masa yang akan datang.

Penelitian ini menggunakan metode normatif karena penulis menggunakan pendekatan sejarah dan peraturan perundangundangan yang datanya diambil dari buku-buku, dan jurnal dengan melakukan studi pustaka.

Saksi Pelaku dalam hukum positif di Indonesia di atur dalam Undang-Undang Nomor 31 Tahun 2014, Peraturan Bersama beberapa institusi penegak hukum, dan Surat Edaran Mahkamah Agung, sedangkan berdasarkan ius constituendum diatur dalam Rancangan KUHP, Rancangan Peraturan Pemerintah, dan Rancangan Peraturan Presiden .

Meskipun peran seorang saksi pelaku sangat penting dalam proses peradilan pidana, namun tidak ada regulasi jelas yang mengatur mekanisme saksi pelaku secara khusus. Sehingga saran yang diberikan penulis adalah pemerintah harus segera menetapkan rancangan-rancangan peraturan yang sudah dibuat, baik itu rancangan peraturan pemerintah, maupun peraturan presiden.

Kata kunci : Saksi Pelaku, Pembunuhan Berencana, Hukum Positif, Ius Constituendum.

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LEGAL REVIEW REGARDING THE POSITION OF THE WITNESSES IN THE CRIME OF PREMEDITATED MURDER BASED ON A LEGAL HISTORICAL PERSPECTIVE

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ABSTRACT

Justice Collaborator are suspects, defendants, or convicts who help law enforcement officials to shed light on a criminal case. The crime of premeditated murder can involve the role of a Justice Collaborator, even though it is not stated clearly in several regulations in Indonesia. Justice Collaborator play an important role in the criminal justice process in Indonesia because their statements can help law enforcement officials uncover a criminal act. The perpetrator's witness has a position according to the stage of the criminal justice process currently being undertaken. The regulation of perpetrator witnesses can be seen from positive law (which is currently in force), and envisioned law (Ius Constituendum) which will apply in the future.

This research uses a normative method because the author uses a historical approach and statutory regulations whose data is taken from books and journals by conducting a literature study. Justice Collaborator in positive law in Indonesia are regulated in Undang-Undang Nomor 31 of 2014, Joint Regulations of several law enforcement institutions, and Circular Letters from the Supreme Court, while based on ius constituendum they are regulated in the Draft Criminal Procedure Code, Draft Government Regulations, and Draft Presidential Regulations.

Even though the role of a Justice Collaborator is very important in the criminal justice process, there are currently no clear regulations governing the Justice Collaborator mechanism specifically. So the advice given by the author is that the government must immediately enact the draft regulations that have been made, both draft government regulations and presidential regulations.

Keywords: Justice Collaborator, Premeditated Murder, Positive Law, Ius Constituendum.

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