

PROSPEK PENGATURAN VICTIM IMPACT STATEMENT DALAM PENGAMBILAN KEPUTUSAN PEMBEBASAN BERSYARAT NARAPIDANA DI INDONESIA

oleh:

Mohammad Abduh Jerusalem¹, Sri Wiyanti Eddyono²

INTISARI

Penelitian ini mengkaji prospek pengaturan *Victim Impact Statement* (VIS) dalam pengambilan keputusan pembebasan bersyarat. Partisipasi korban di Indonesia pada pembebasan bersyarat narapidana masih belum diatur dalam peraturan perundang-undangan. Di sisi lain, Amerika Serikat dan Britania Raya memberikan hak partisipasi korban dalam pembebasan bersyarat melalui VIS. Meskipun Indonesia, Amerika Serikat, dan Britania Raya sama-sama menerapkan pembebasan bersyarat, tetapi hak partisipasi korban melalui VIS tidak ada di Indonesia. Berdasarkan hal tersebut penelitian ini hendak melihat bagaimana pengaturan VIS di Amerika Serikat dan Britania Raya untuk kemudian melihat bagaimana prospek pengaturan VIS dalam pembebasan bersyarat di Indonesia.

Penelitian menggunakan metode normatif melalui studi kepustakaan, dilengkapi wawancara dengan narasumber Lembaga Perlindungan Saksi dan Korban (LPSK), Direktorat Jenderal Pemasyarakatan (Ditjenpas), dan Institute for Criminal Justice Reform (ICJR). Data yang diperoleh kemudian dianalisis secara deskriptif kualitatif dan dihasilkan rekomendasi preskriptif.

Penelitian ini menyimpulkan dua hal *Pertama*, Amerika Serikat dan Britania Raya mengatur hak partisipasi korban dalam pembebasan bersyarat dengan caranya masing-masing yang mana semuanya menekankan pada penyampaian dampak tindak pidana melalui VIS. Namun, VIS bukanlah syarat pembebasan bersyarat melainkan salah satu bahan pertimbangan. *Kedua*, Indonesia tidak mengatur hak partisipasi korban pada pembebasan bersyarat secara eksplisit. Akan tetapi pada Laporan Litmas ditemukan adanya bagian Tanggapan Korban, sayangnya hal ini tidak cukup untuk dikatakan sebagai VIS. Di sisi lain, ditemukan pula pengalaman LPSK ketika menangani kasus korban pemerkosaan secara inses yang pelakunya hendak diberikan pembebasan bersyarat, bahwa korban tidak dilibatkan dan dilindungi dari tekanan pelaku. Berdasarkan dari berbagai keadaan di atas, maka penulis merumuskan Urgensi diadopsinya VIS ke dalam pembebasan bersyarat yaitu untuk menyampaikan dampak tindak pidana, memenuhi hak partisipasi korban, serta mewujudkan nilai-nilai *restorative justice*. Penulis juga merumuskan pengaturan VIS dalam pembebasan bersyarat dengan menetapkan standar-standar yang harus dipenuhi untuk melaksanakan VIS, serta empat alternatif prosedur yaitu mengintegrasikan VIS ke dalam sidang Tim Pengamat Pemasyarakatan, atau membentuk Direktorat Pembebasan Bersyarat (baik non-independen atau independen), atau membentuk Badan Pembebasan Bersyarat.

Kata kunci: *Victim Impact Statement*, Pernyataan Dampak Korban, Hak Partisipasi Korban, Pembebasan Bersyarat, Narapidana

¹ Mahasiswa Program Studi Magister Ilmu Hukum, Fakultas Hukum, Universitas Gadjah Mada.

² Dosen Hukum Pidana, Fakultas Hukum, Universitas Gadjah Mada.

PROSPECT ON REGULATING VICTIM IMPACT STATEMENT IN PAROLE DECISION MAKING FOR PRISONER IN INDONESIA

by:

Mohammad Abduh Jerusalem¹, Sri Wiyanti Eddyono²

ABSTRACT

This research aims to examine the prospect of regulating Victim Impact Statement (VIS) in parole decision-making. Victim participation in Indonesia in the parole of prisoners is not yet regulated in legislation. On the other hand, the United States and the United Kingdom provide the right to victim participation in parole through VIS. Even though Indonesia, the United States, and the United Kingdom implement parole, the right to victim participation through VIS does not exist in Indonesia. Therefore, this study aims to look at how VIS is regulated in the United States and the United Kingdom and then assess the prospects for regulating VIS in parole decision-making in Indonesia.

The research used a normative method through a literature study, supported by interviews with respondents from the Witness and Victim Protection Agency (LPSK), the Directorate General of Corrections (Ditjenpas), and the Institute for Criminal Justice Reform (ICJR). The data obtained is then analyzed in a qualitative descriptive approach and produces prescriptive recommendations.

This research concludes with two points. First, the United States and the United Kingdom regulate victims' participation rights in parole in their own ways, all of which emphasize the delivery of the impact of crime by victims through VIS. However, VIS is not a prerequisite for parole but rather one of the factors for parole consideration. Second, Indonesia does not explicitly regulate the right of victim participation in parole. However, in the Litmas Report, there is a Victim Response section, unfortunately, this is not enough to be considered as a VIS. On the other hand, it was also found that LPSK's experience when handling the case of a victim of incestuous rape whose offender was about to be granted parole, was that the victim was not involved and protected from the pressure of the offender. Based on the various circumstances above, I suggest the urgency of adopting VIS into parole decision-making, namely to convey the impact of criminal acts, fulfill the right of victim participation, and realize the values of restorative justice. I further suggest the regulation of VIS in parole by establishing standards that must be met to implement VIS, as well as four alternative procedures, namely integrating VIS into the Correctional Observation Team hearing, or establishing a Directorate of Parole (either non-independent or independent), or establishing a Parole Board.

Keywords: *Victim Impact Statement, Victim Participation Rights, Parole, Prisoner.*

¹ Student of the Magister in Law, Faculty of Law, Universitas Gadjah Mada.

² Lecture at the Criminal Law Departement, Faculty of Law, Universitas Gadjah Mada.