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ABSTRACT

Indonesia's bail system, as regulated by Article 31 of the KUHAP, suffers from vague standards, excessive discretion, and structural inequities that disproportionately burden the poor. Although the RKUHAP's proposed Article 103 introduces judicial oversight and clearer procedures, it does not sufficiently resolve the risks of arbitrary detention or wealth-based disparities. This research employs a normative and comparative legal methodology to examine bail systems in the United States and the Netherlands. The U.S. provides insight into codified standards, structured risk assessments, and procedural safeguards, while the Dutch model emphasizes non-monetary alternatives and strict judicial supervision, grounded in human rights law. By analyzing both jurisdictions, this study constructs a reform proposal for Indonesia that integrates legal clarity, presumption of release, and accessible non-financial mechanisms. The goal is to ensure that pretrial liberty is protected not as a privilege of wealth, but as a constitutional and human right. The findings conclude that while Article 103 of the RKUHAP marks a procedural improvement, deeper reforms are required to embed judicial primacy, codify release criteria, and institutionalize the presumption of liberty as the default standard in Indonesian bail practices by drawing from the procedural codification of the U.S. and the normative safeguards of the Dutch model.

Keyword: Bail, Pretrial Release, RKUHAP, Comparative Study

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INSTISARI

Sistem penangguhan penahanan di Indonesia yang diatur dalam Pasal 31 KUHAP masih diwarnai oleh ketidakjelasan norma, keleluasaan diskresi, serta ketimpangan struktural yang berdampak besar terhadap terdakwa dari kelompok miskin. Meskipun Pasal 103 dalam RKUHAP memperkenalkan pengawasan yudisial dan prosedur yang lebih terstruktur, reformasi ini belum secara menyeluruh mengatasi risiko penahanan sewenang-wenang maupun ketimpangan berbasis ekonomi. Penelitian ini menggunakan pendekatan yuridis normatif dan studi hukum komparatif untuk mengkaji sistem jaminan pra-persidangan di Amerika Serikat dan Belanda. Sistem Amerika memberikan pelajaran mengenai pentingnya parameter hukum yang baku serta mekanisme asesmen risiko, sedangkan model Belanda menunjukkan bahwa alternatif non-keuangan dan pengawasan hakim yang ketat dapat menjamin hak atas kebebasan tanpa diskriminasi ekonomi. Berdasarkan analisis ini, penelitian ini merumuskan model reformasi sistem penangguhan penahanan di Indonesia yang berfokus pada kejelasan hukum, asas praduga tak bersalah, serta perlindungan hak asasi terdakwa secara merata dan berkeadilan. Temuan penelitian menyimpulkan bahwa meskipun Pasal 103 RKUHAP menandakan kemajuan secara prosedural, reformasi yang lebih mendalam tetap diperlukan untuk menegakkan supremasi yudisial, mengkodifikasi kriteria pembebasan, dan melembagakan praduga kebebasan sebagai standar utama dalam praktik penangguhan penahanan di Indonesia dengan mengadopsi kodifikasi prosedural dari sistem Amerika dan perlindungan normatif dari model Belanda.

Keyword: Bail, Pretrial Release, RKUHAP, Comparative Study