

**LEGAL ANALYSIS OF CRIMINAL ACT OF RAPE CONTINUES (STUDY OF  
THE DECISION OF THE SURAKARTA DISTRICT COURT NUMBER:  
8/Pid.B/2024/Pn.Skt)**

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**ABSTRAK**

Perkosaan merupakan salah satu bentuk kekerasan seksual yang marak terjadi di Indonesia. Perkosaan juga menjadi suatu perbuatan yang sering kali terjadi secara berulang sehingga disebut sebagai perkosaan berlanjut. Tindak pidana tersebut menjadi suatu permasalahan yang konkret untuk ditangani dalam sistem peradilan yang ada. Hukuman terhadap perkosaan seringkali menimbulkan ketimpangan terhadap korbannya karena hukuman yang ada dianggap tidak setimpal dengan kerugian yang dialami korban. Penulisan ini menganalisis secara kualitatif terkait pertimbangan hakim serta penerapan hukuman dalam tindak pidana perkosaan berlanjut berdasarkan putusan Pengadilan Negeri Surakarta Nomor 8/Pid.B/2024/Pn.Skt. Penulisan ini menerapkan metode yuridis normatif dengan pendekatan kasus dari putusan Pengadilan Negeri Surakarta yang menunjukkan bahwa pertimbangan hakim didasarkan sesuai aspek yuridis, filosofis, dan sosiologis. Di dalam putusan tersebut penerapan Pasal 285 dan Pasal 64 ayat (1) KUHP telah relevan namun penerapan ancaman hukumannya tidak optimal.

**Kata Kunci:** Perkosaan Berlanjut; Penerapan Hukum; Pertimbangan Hakim.

## ABSTRACT

Rape is a form of sexual violence that is rampant in Indonesia. Rape is also an act that often occurs repeatedly so it is called ongoing rape. This crime is a concrete problem to be handled in the existing justice system. Punishment for rape often causes inequality for its victims because the existing punishment is considered disproportionate to the losses experienced by the victim. This paper qualitatively analyzes the judge's considerations and the application of punishment in the crime of ongoing rape based on the decision of the Surakarta District Court Number 8/Pid.B/2024/Pn.Skt. This paper applies the normative legal method with a case approach from the decision of the Surakarta District Court which shows that the judge's considerations are based on legal, philosophical, and sociological aspects. In the decision, the application of Article 285 and Article 64 paragraph (1) of the Criminal Code is relevant but the application of the threat of punishment is not optimal.

**Keywords:** Continued Rape; Application of Law; Judge's Consideration.

## INTRODUCTION

Sexual violence is one of the problems that is still rampant in Indonesia. Cases like this often present high legal and social complexity, especially related to victim protection and the deterrent effect for the perpetrators. Looking at the data in the Supreme Court directory, rape cases still occupy a fairly high number as the data from the last 4 years presented below.

Table 1. Rape Verdict Data

| Year         | Number of Decisions |
|--------------|---------------------|
| 2021         | 6,537 cases         |
| 2022         | 2,180 cases         |
| 2023         | 1,634 cases         |
| 2024         | 1,536 cases         |
| <b>Total</b> | <b>11,887 cases</b> |

Source: Supreme Court Decision Directory website  
[https://putusan3.mahkamahagung.go.id/search.html?q=Perkosaan%20berlanjut&jenis\\_doc=putusan](https://putusan3.mahkamahagung.go.id/search.html?q=Perkosaan%20berlanjut&jenis_doc=putusan)

Based on the data processed by the author seen from the Supreme Court Decision Directory, the number of decisions in rape cases from 2021 to 2024 has always decreased every year. However, the number of the same cases is still in a fairly high range, even more than 1,500 cases each year. Even in 2021, rape cases touched a fairly fantastic figure of 6,537 cases.

Victims of sexual violence experience long-lasting psychological impacts, while punishments for perpetrators do not always reflect the severity of the acts committed. In addition, the social stigma attached to victims often worsens their condition, making many victims reluctant to report the incidents they have experienced. In various studies, it has been found that there are still many cases of sexual violence that are not revealed due to fear and social pressure experienced by victims. This shows the need for a criminal justice system that is more pro-victim and stricter law enforcement against perpetrators.

In Indonesia, the crime of rape is regulated in Article 285 of the Criminal Code, which states that anyone who uses violence or threats of violence to force a woman to have sex outside of marriage can be sentenced to a maximum of 12 years in prison. However, the application of this article in various cases often causes debate, especially regarding the severity of the sentence imposed. In some cases, judges give lighter sentences based on various considerations, including age factors, guilty pleas, or other reasons that do not always take into account the impact on the victim. This raises concerns that sentences that are too light can reduce the deterrent effect for the perpetrator and not provide a sense of justice for the victim.

One of the cases of sexual violence contained in the Dumai District Court decision is the subject of research conducted by Septinus Halawa. The discussion focuses on the application of criminal elements and the judge's considerations that are considered appropriate in cases of child sexual intercourse viewed as ongoing acts. While in the author's research, he will examine more deeply the judge's considerations in making decisions and the application of penalties for ongoing rape cases.

The case in decision Number 8/Pid.B/2024/PN Skt began with the relationship between the defendant, namely Katib Fathullah Bin Djoko Sugiyono and the victim, namely Intan Surgawi Syaharbanu, who initially had interactions as friends and they often went out together. However, over time, the defendant began to use various methods to force the victim to have sexual relations to satisfy his desires. On several occasions, the defendant persuaded the victim by promising to marry her. While on other occasions, the defendant used threats and violence to force the victim to comply with his wishes. The manipulation carried out by the defendant further worsened the victim's psychological condition, where the victim felt trapped in a situation that was difficult to avoid. The victim dared to tell her sister about the incident after the incident happened repeatedly until it made her condition worse. After that, the victim was invited to do a medical examination and the victim's family reported the incident to the Surakarta Police Headquarters. The victim's family still chose to have the case resolved through legal channels even though the defendant's family had apologized. The defendant was sentenced to 5 years in prison and a fine of Rp. 5,000.- for the actions that had been committed.

The Surakarta District Court Decision Number 8/Pid.B/2024/PN Skt is a concrete example of how the justice system in Indonesia handles repeated rape cases against the same victim. In criminal law, such acts can be said to be continuing acts. In this case, the defendant Katib Fathullah Bin Djoko Sugiyono was sentenced to 5 years in prison, even though he was proven to have committed repeated acts of sexual violence from 2021 to 2023. This decision raises various questions related to the judge's considerations and victim protection in the criminal justice system. This case also draws public attention regarding the effectiveness of the law applied in providing protection for victims of sexual violence, considering that the psychological impact suffered by victims is often much greater than the punishment imposed on the perpetrator.

## **METHOD**

This study uses a normative legal method through legislation with a case approach through decisions. This study examines one of the decisions of the Surakarta District Court

Number 8 / Pid.B / 2024 / Pn.Skt in a rape case, continuing to focus on the application of the law and the judge's considerations in making his decision in the case. All data in this study were studied through library research on relevant legal materials and then analyzed qualitatively by analyzing the data based on their relationship to be described systematically and logically. Data analysis was carried out through several steps starting with data collection based on the problems that emerged then grouping the data. After that, the data was presented systematically and finally, conclusions were drawn.

## **RESULTS AND DISCUSSION**

### **Judge's Consideration and Application of Law**

The judge's consideration is one of the important aspects in realizing the values of justice and legal certainty. The criminal sanctions imposed on the perpetrators of rape crimes continued in the decision number 8/Pid.B/2024/Pn.Skt of course based on the judge's considerations in the trial process. Based on the facts revealed in the trial, the defendant's actions were carried out in several different locations, especially in hotels in Surakarta City. The victim was often forced to pick up the defendant at his home before being directed to the hotel that had been booked by the defendant. In several incidents, the victim refused the defendant's invitation but the defendant used the threat of distributing a video of the sexual intercourse that was previously recorded without the victim's permission to force her to obey the defendant. This kind of threat further shows how much pressure the victim was under, which left her with little choice but to follow the defendant's wishes.

The violent acts committed by the defendant against the victim were documented in the visum et repertum, which showed bruises and wounds due to blunt force on several parts of the victim's body, including the face, arms, thighs, and forehead. In addition, the results of the visum et psychiatricum showed that the victim experienced psychological trauma that disrupted her life functions. This trauma not only impacted the victim's daily life but also her future, both in terms of education, career, and social relationships with others. Looking at the existing decision, the defendant's actions were charged with a single charge by the public prosecutor. Until finally

according to decision Number 8 / Pid.B / 2024 / PN.Skt the defendant was sentenced to 5 years in prison because he was proven to have committed the crime of continued rape.

The judge's considerations were based on a series of evidence, witness statements, and the defendant's confession that were carefully reviewed. The judge prioritized the victim's witness statement as the main evidence considering that sexual violence cases are often difficult to uncover due to their closed nature. In this case, the victim provided detailed testimony regarding a series of acts of violence and coercion carried out by the defendant. The victim explained how the defendant used threats, persuasion, and physical violence to force the victim to have sexual intercourse on various occasions. This testimony was strengthened by the results of the visum et repertum which showed bruises, abrasions, and psychological trauma on the victim.

The judge also considered the evidence presented by the public prosecutor. Evidence in the form of the victim's clothing and the cellphone used by the defendant to record the sexual violence are elements that can strengthen the charges. In addition, there are statements from other witnesses such as the victim's family and witnesses who saw video clips on social media, also supporting the truth of the victim's statement. The judge noted that the defendant did not deny most of the statements, although he tried to provide reasons that the relationship was consensual. However, the judge considered that evidence of physical violence and threats to spread the victim's personal content showed that there was coercion in the defendant's actions.

The judge's consideration in making a decision is also seen from various underlying aspects such as the legal aspect, philosophical aspect, and sociological aspect. Therefore, the judge does not only consider the legal aspect but must also look at it philosophically and sociologically in order to fulfill the complete principle. The judge must look at the background of the defendant, the defendant's condition, and the consequences arising from the actions committed by the defendant. All of this is done in order to fulfill all principles of certainty, justice, and benefit.

The judge in this case used a legal, sociological, and philosophical approach in considering his decision. From a legal aspect, considerations must be based on applicable norms. The judge must interpret relevant regulations in determining a decision in accordance with

applicable legal provisions. The judge decided this case by referring to Article 285 of the Criminal Code concerning rape and Article 64 paragraph (1) of the Criminal Code concerning continued acts. These articles are relevant because the defendant's actions were carried out repeatedly and involved threats and physical violence. These legal considerations are supported by trial facts, including the visum et repertum which showed the victim's physical and psychological injuries and the victim's testimony which was consistent with other evidence.

Philosophically, this decision should reflect the values of justice that uphold human rights, especially protection of the victim's dignity. The judge not only accommodates the interests and rights of the victim, but also the interests and rights of the perpetrator. The judge's decision looks at the background of the perpetrator and the circumstances of the perpetrator, both aggravating and mitigating. In this decision, the judge considers that the perpetrator is able to be held accountable for his actions without any reason to eliminate such responsibility. The judge has also considered the aggravating circumstances for the defendant because the defendant's actions have damaged the victim's future and traumatized the victim. The mitigating factors for the defendant's sentence are that the defendant behaved politely and has also regretted his actions. In addition, the defendant's family has tried to apologize to the victim's family.

Viewed from a social perspective, the decision given by the judge must consider the impact of the decision on the consequences that arise not only for the individual but also for society. This case reflects the weak protection of victims of sexual violence, especially women who are in vulnerable positions. The judge noted that the defendant's actions not only harmed the victim individually, but also had the potential to create fear in society of legal justice in similar cases. The judge considered the existence of a social change that illustrates respect for human rights through the decision he made.

The verdict in this case reveals several series of events in the trial, one of which is related to the criminal charges that have been filed by the Public Prosecutor. In essence, against the defendant Katib, the public prosecutor filed a charge in the form of stating that the defendant was proven legally and guilty of committing a crime as stated in Article 285 of the Criminal Code in conjunction with Article 64 of the Criminal Code. The public prosecutor also demanded that the

defendant be sentenced to 5 years in prison minus the detention period and the defendant be burdened with court costs of Rp. 5,000,-.

Article 285 of the Criminal Code regulates rape committed with violence or the threat of violence. In this case, the defendant used the threat of spreading an intimate video of the victim to force her to have sexual intercourse. This threat clearly fulfills the element of "violence or threat of violence" in the article. In addition, Article 64 paragraph (1) of the Criminal Code regulates ongoing acts which are relevant because the defendant's actions occurred repeatedly over a period of almost two years. Judging from the trial evidence such as threats via WhatsApp messages, video recordings without the victim's permission, and physical actions in the form of beatings, it confirms that the elements of violence and threat of violence have been fulfilled.

The defendant was charged with a single charge as threatened with the criminal penalty in Article 285 in conjunction with Article 64 paragraph (1) of the Criminal Code. The defendant has fulfilled all the elements in the articles that have been charged, including, firstly, "whoever"; the second element is "with violence or threat of violence forces a woman who is not his wife to have sexual intercourse with him"; and the third element is "continuing acts".

The first element refers to a legal subject who can be held accountable for his actions, which the judge based on the existing legal facts makes this element fulfilled. Furthermore, the second element as previously explained that there is violence or threat of violence in it as proven in the trial which also makes the second element fulfilled. The third element is "continuing actions" which has been proven that the defendant repeatedly committed his actions within a period of time that has not passed the limit so that this third element has also been fulfilled. Therefore, by fulfilling all elements in the indictment, the defendant is proven legally and convincingly to have committed a crime according to the public prosecutor's indictment.

Article 285 of the Criminal Code provides a maximum sentence of 12 years in prison. However, the defendant was only sentenced to 5 years in prison even though he was proven to have committed repeated acts with violence which should have been an aggravating factor. Although the sentence imposed by the judge was in accordance with the demands submitted by the public prosecutor, it was still felt to be disproportionate to all the losses to the victim and the

existing considerations. This inequality shows the lack of application of the principle of justice which aims to provide punishment commensurate with the level of error and impact of the act.

The existing criminal justice system often does not reflect the need for victim protection and prevention of similar crimes. In this case, relatively light sentences do not provide an adequate deterrent effect for both the perpetrator and society in general. Reform in sentencing for sexual violence cases is urgently needed, including the application of heavier sentences for perpetrators by considering the psychological and social impacts on victims.

## CONCLUSION AND SUGGESTION

### 1. Conclusion

The judge's consideration in sentencing in the crime of rape continues based on decision number 8/Pid.B/2024/PN.Skt not only looking at the legal aspect, but also considering the philosophical and sociological aspects. The judge's consideration is supported by the facts in the trial as well as all evidence and evidence that were included in the trial. In addition, the judge also considered the defendant's background including the defendant's circumstances that could affect the sentence given. The defendant is considered capable of being responsible for his actions without any justification and/or excuse that can eliminate the responsibility. The considerations given are certainly intended to reflect the principles of certainty, justice, and also benefit. The defendant was given a criminal penalty of 5 years in prison and a fine of Rp. 5,000.- so that he feels deterred and will not repeat his actions in the future. The rape case continued in the Surakarta District Court Decision Number 8/Pid.B/2024/PN.Skt showing various challenges in the criminal justice system in Indonesia, especially in imposing appropriate sentences for perpetrators in order to provide protection for victims. Although the defendant Katib Fathullah Bin Djoko Sugiyono was proven to have committed repeated sexual violence from 2021 to 2023, the 5-year prison sentence imposed did not reflect the severity of his actions even though the sentence was in accordance with the demands of the public prosecutor. Especially considering the profound physical and psychological impacts on the victim. The application of Article 285 and Article

64 paragraph (1) of the Criminal Code has been relevant to the chronology of the case, but the application of the maximum penalty which should be a tool to aggravate the sentence has not been applied optimally. This case underscores the importance of greater protection for victims of sexual violence, especially ongoing rape, who often face severe psychological pressure and social stigma. Justice that reflects protection of the victim's dignity and a deterrent effect on the perpetrator must be a priority in the criminal justice system.

## **2. Suggestion**

Legal reform is needed to correct the imbalance in sentencing and ensure that the criminal justice system can function effectively in providing a sense of justice for victims of sexual violence. Strengthening regulations is also needed to provide protection for victims in order to provide a sense of security for victims and witnesses. Judges must always maintain their integrity without being influenced by external factors in order to realize a fair trial and maintain public trust. Judges are also expected to be more assertive and careful in considering all existing aspects before making a criminal decision that represents the victim's side as well as a deterrent effect for the perpetrator himself. In addition, legal socialization is needed to the community as a preventive measure to encourage social awareness and change the mindset about the rights and protection of victims of sexual violence.

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