

# **PENGATURAN TINDAK PIDANA YANG MENGHAMBAT PROSES PERADILAN (*CONTEMPT OF COURT*) DALAM SISTEM HUKUM PIDANA INDONESIA**

## **ABSTRAK**

Perkembangan sosial mempengaruhi pola-pola tindakan manusia. Demikian juga perkembangan sosial mempengaruhi perkembangan kejahatan. Adapun Salah satunya, yaitu perbuatan yang dianggap merendahkan dan merongrong kewibawaan, martabat dan kehormatan terhadap peradilan. Perbuatan tersebut disebut sebagai tindak pidana *Contempt of Court*. Rancangan Undang-Undang KUHP, di dalam perumusannya mencoba menerapkan kebijakan kriminalisasi perbuatan *Contempt of Court*. Istilah *Contempt of Court* dikenal dalam sistem *Common Law*, di mana dalam Rancangan KUHP Indonesia istilah tersebut diterjemahkan sebagai tindak pidana terhadap proses peradilan. Tulisan ini membahas apakah tindakan *Contempt of Court* perlu dikriminalisasi.

Metode yang digunakan adalah metode penelitian yuridis normatif. Metode yuridis normatif merupakan suatu penelitian bersifat deduktif. Bahan-bahan hukum yang digunakan antara lain bahan hukum primer mencakup peraturan perundang-undangan dan bahan hukum sekunder yaitu bahan pustaka yang berisikan informasi tentang bahan primer terdiri dari penjelasan undang-undang, Rancangan undang-undang KUHP dan literatur-literatur, kajian akademis, tesis-tesis. Metode pendekatan yuridis normatif bertujuan untuk mengetahui pengertian *Contempt of Court* dan mengkaji kriminalisasi terhadap tindakan *Contempt of Court*, serta urgensi *Contempt of Court* dalam Rancangan Kitab Undang-undang Hukum Pidana.

Penulis menyimpulkan bahwa pengertian tindakan *Contempt of Court* adalah segala perbuatan, tingkah laku, sikap dan ucapan yang dapat menghilangkan sifat sakral dari suatu peradilan dan merendahkan kewibawaan, martabat dan kehormatan badan peradilan. Dalam sistem hukum pidana Indonesia dapat dikriminalisasi sehingga perlu diatur dalam Rancangan Undang-undang Kitab Hukum Pidana Indonesia. Dalam penegakkan hukumnya harus berdasarkan asas legalitas sehingga perlu adanya pengesahan undang-undang. Tetapi, sebelum dilakukannya pengesahan maka harus ada pembenahan dalam pasal karena tidak semua pasal dalam Rancangan Undang-undang Kitab Hukum Pidana tersebut dapat dikriminalisasi.

**Kata kunci : Kriminalisasi, *Contempt Of Court*, Sistem Hukum Pidana Indonesia**

# **REGULATIONS FOR THE CRIMINAL ACT OF OBSTRUCTING THE COURSE OF JUSTICE (CONTEMPT OF COURT) IN THE INDONESIAN CRIMINAL LAW SYSTEM**

## **ABSTRACT**

Social developments may affect the various patterns of human action. By the same token, social growth may well have an impact on the development of crime. It so happens that one of these criminal acts consists of certain behavior that disparages and undermines the authority, dignity and honor of the judiciary. This form of crime is generally referred to as Contempt of Court. The parliamentary draft for the Criminal Code (KUHP) attempts to apply the policy of criminalization in its formulation of the criminal act known as Contempt of Court. The legal term Contempt of Court has been known in the Common Law system, where the term is interpreted (in the draft or Parliamentary Bill for the Indonesian Criminal Code mentioned above) as a criminal offense against the legal process or in broader terms, the actual course of justice. This research study discusses the issue of whether the criminal act defined as Contempt of Court is in need of criminalization or not.

The method used consists of the juridical-normative research method. This particular method can be classified as a deductive form of research. Among others, the legal sources and materials used include primary legal sources consisting of legislative regulations, while the secondary ones comprise library materials that contain information in primary references made up of clarifications of laws and ordinances, drafts (bills) for laws that fall under the Criminal Code, and various sources from the available literature, academic studies and theses on the subject. The juridical-normative approach aims to establish the correct interpretation of Contempt of Court and investigates its criminalization in order to determine the degree of its urgency in the draft or Parliamentary Bill for the Indonesian Penal Code. Upholding the law must be based on the principle of legality, so there is an obvious need for legalization of the laws involved. However, before this step is to be taken, the related sections (legal articles) dealing with this particular issue must be adjusted and improved, for as a matter of fact, not all sections in the proposal mentioned above can be subjected to criminalization.

**Key words: Criminalization, Contempt of Court, Indonesian Criminal Law System**

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