

**Penyelesaian Tindak Pidana Penganiayaan Melalui  
Restorative Justice Berbasis Hukum Adat  
(Tinjauan Yuridis Putusan Pengadilan Negeri  
Suka Makmue Nomor 63/Pid.B/2021/PN Skm)**

**Oleh:**

**Qory Amalia Syuhada  
E1A020238**

**ABSTRAK**

Penelitian ini dilaksanakan terhadap Putusan Pengadilan Negeri Suka Makmue Nomor 63/Pid.B/2021/PN Skm yang mengadili tindak pidana penganiayaan. Penelitian ini bertujuan untuk mengetahui dasar pertimbangan hukum hakim dalam menerapkan unsur-unsur tindak pidana penganiayaan pada Putusan Nomor 63/Pid.B/2021/PN Skm dan penyelesaian tindak pidana penganiayaan melalui *restorative justice* yang berbasis hukum adat pada Putusan Nomor 63/Pid.B/2021/PN Skm. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perundang-undangan, pendekatan konseptual, dan pendekatan kasus. Hasil penelitian menunjukkan bahwa dasar pertimbangan hukum hakim dalam menerapkan unsur-unsur tindak pidana penganiayaan pada Putusan Nomor 63/Pid.B/2021/PN Skm yaitu dakwaan tunggal Penuntut Umum dengan Pasal 351 (1) KUHP yang unsur-unsurnya telah terpenuhi dan terbukti dengan adanya alat bukti sebagaimana yang diatur Pasal 183 KUHP. Penyelesaian tindak pidana penganiayaan melalui *restorative justice* berbasis hukum adat pada Putusan Nomor 63/Pid.B/2021/PN Skm yaitu Majelis Hakim melakukan penemuan hukum (*rechtsvinding*) berdasarkan Pasal 5 ayat (1) jo. Pasal 2 ayat (2) Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman dan menafsirkan sifat melawan hukum perbuatan Terdakwa menjadi sifat melawan hukum materiil. Proses hukum acara berjalan dengan menerapkan prinsip-prinsip *restorative justice* yang berfokus pada perdamaian dan pemulihan keadaan dengan melibatkan Pelaku, Korban, dan Tokoh-Tokoh Masyarakat Adat. Perdamaian dan pemulihan keadaan tersebut menurut adat Aceh dan agama Islam merupakan dasar untuk memaafkan Pelaku sehingga Majelis Hakim menjadikannya sebagai alasan penghapus pidana. Penjatuhan hukuman telah sesuai dengan fungsi pidana sebagai *ultimum remedium*.

**Kata Kunci:** Tindak pidana penganiayaan, keadilan restoratif, hukum adat.

**Criminal Act of Persecution Settlement Through Restorative  
Justice Based on Customary Laws  
(Judicial Review of Suka Makmue District Court  
Decision Number 63/Pid.B/2021/PN Skm)**

**By:  
Qory Amalia Syuhada  
E1A020238**

**ABSTRACT**

This research is conducted towards Suka Makmue District Court Decision Number 63/Pid.B/2021/PN Skm on the case of persecution. This research aims to determine the basis of the judge's legal considerations in applying the elements of criminal acts of persecution in Court Decision Number 63/Pid.B/2021/PN Skm and to apprehend the resolution of criminal acts of persecution through restorative justice based on customary laws in Court Decision Number 63/Pid.B/2021/PN Skm. This research uses a normative juridical method with a statutory approach, conceptual approach, and case approach. The results of the research shows that the basis of the judge's legal considerations in applying the elements of the criminal act of persecution in Court Decision Number 63/Pid.B/2021/PN Skm is the single indictment of the Public Prosecutor under Article 351 (1) of the Criminal Code which elements have been fulfilled and proven by the existence of evidence as regulated in Article 183 of the Criminal Procedure Code. The settlement of criminal acts of persecution through restorative justice based on customary laws in Court Decision Number 63/Pid.B/2021/PN Skm is Judges carried out a legal discovery (*rechtsvinding*) based on Article 5 paragraph (1) jo. Article 2 paragraph (2) of Law Number 48 of 2009 concerning Judicial Power and interprets the unlawful nature of the Defendant's actions to be materially unlawful. The procedural legal process runs by applying the principles of restorative justice which focuses on resolution and restoring the situation by involving perpetrators, victims, and traditional community leaders. Resolution and restoration of the situation according to Acehnese customs and the Islamic religion is the basis for forgiving the perpetrator so that the Judges use it as the reason for the abolition of the crime. The imposition of punishment is in accordance with the function of punishment as the last resort.

**Keywords:** Criminal act of persecution, restorative justice, customary laws.