

ABSTRAK

Perkembangan teknologi reproduksi berbantu (TRB), khususnya pembekuan sel telur, menimbulkan problem hukum dan etika di Indonesia karena belum adanya regulasi yang jelas mengenai penyimpanan, penggunaan, dan potensi komersialisasi sel telur beku. Hal ini menimbulkan pertanyaan apakah praktik komersialisasi sel telur beku dapat dikualifikasikan sebagai tindak pidana jual beli organ atau jaringan tubuh manusia, serta bagaimana perbandingan pengaturan hukum di Indonesia dan India.

Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan perbandingan hukum. Bahan hukum primer berupa Undang-Undang No. 17 Tahun 2023 tentang Kesehatan dan Undang-Undang No. 1 Tahun 2023 tentang KUHP, serta regulasi ART Act 2021 di India, didukung literatur sekunder terkait hukum pidana, bioetika, dan regulasi kesehatan reproduksi. Analisis dilakukan secara deskriptif-komparatif untuk mengkaji kesesuaian dan perbedaan regulasi.

Hasil penelitian menunjukkan bahwa sel telur secara biologis tidak dapat dikategorikan sebagai organ atau jaringan, sehingga komersialisasi sel telur beku tidak serta-merta masuk rezim larangan jual beli organ dalam hukum Indonesia. Namun, ketiadaan regulasi khusus menimbulkan celah hukum dan risiko eksploitasi. Perbandingan dengan India menunjukkan perlunya Indonesia membentuk regulasi komprehensif agar tercipta kepastian hukum dan perlindungan bagi perempuan serta tenaga medis.

Kata Kunci : Teknologi Reproduksi Berbantu, Pembekuan Sel Telur, Hukum Pidana, Komersialisasi, Etika Medis

ABSTRACT

The development of assisted reproductive technology (ART), particularly egg freezing, raises legal and ethical challenges in Indonesia due to the absence of clear regulations regarding the storage, use, and potential commercialization of frozen eggs. This raises the question of whether the commercialization of frozen eggs can be classified as a criminal act of trading human organs or tissues, as well as how Indonesia's legal framework compares to that of India.

This study employs a normative legal research method with statutory and comparative approaches. Primary legal materials consist of Law No. 17 of 2023 on Health, Law No. 1 of 2023 on the Criminal Code, and India's ART Act 2021, supported by secondary literature on criminal law, bioethics, and reproductive health regulations. The analysis is carried out descriptively and comparatively to assess the similarities and differences in regulation.

The results show that eggs, from a biological perspective, cannot be categorized as organs or tissues, and therefore the commercialization of frozen eggs does not automatically fall under Indonesia's prohibition on the trade of organs and tissues. However, the absence of specific regulations creates legal loopholes and risks of exploitation. The comparison with India demonstrates the need for Indonesia to establish comprehensive regulations to ensure legal certainty and protection for women and medical practitioners.

Key Word : *Assisted Reproductive Technology, Egg Freezing, Criminal Law, Commercialization, Medical Ethics.*