

Policy of the Prosecutor's Role against Criminal Actions of Criminal Acts of Class I in Criminal Law Renewal

M. Sone Ridho Raharjo^{*)}

^{*)}Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia
email : soneridho@gmail.com

Abstract

The handling of narcotics cases tends to the perpetrators who are thrown into prison by the state who are still addicted to narcotics, this then makes the handling of narcotics offenders who are placed in detention inappropriate and ineffective and prevents narcotics. The policy of the role of the prosecutor as one of the important elements in the criminal justice system occupies a very important role in carrying out their duties and authorities in order to carry out law enforcement, namely the prosecution of narcotics crime cases in court, it is deemed important to conduct research on "Policy on the Role of the Prosecutor against Perpetrators of Category I Narcotics Crimes in Criminal Law Renewal (Case Study at the Pekalongan City Public Prosecutor's Office)". This research is normative and descriptive analysis. The legal theory used in this research is the theory of the criminal justice system, law enforcement, and the purpose of the law. The data used is secondary data which can consist of primary legal materials, secondary legal materials, and tertiary legal materials. The data collection technique is library research (library research). Data analysis is qualitative. In the enforcement of criminal law, reforms are needed in terms of renewal of criminal material, formal criminal law and the implementation of criminal reform. Reforms that are carried out through a set of elements can result in an act with the concept of the Draft Criminal Code which has just adopted the law as the main source of law, which is the Law, but expands the formulation of material laws that live in society. Furthermore, in formal reforms that expand with firm accountability and replacement of responsibility, implementation of reforms in criminal matters, punishments are applied which are formulated with the aim of punishment, namely community protection and protection. Criminal prosecution of narcotics perpetrators and criminal provisions against drug abusers must be prioritized in terms of treatment and care, rather than being immediately convicted and placed in prison. The goal is to prevent and eradicate illicit trafficking, to make it happen, it must first eliminate the effects of dependence that exist on drug addicts.

Keywords : Role, Prosecutors, Narcotics Crime Category I, Criminal Law Reform

1. Introduction

Narcotics use is often associated with crime, narcotics are considered to have a negative influence and cause users to commit crimes. Evil is basically a visible formula. Mustafa said that what is called a crime as a social phenomenon is not merely an act that is prohibited by law, an act that is a biological disorder or a psychological disorder, but these actions are detrimental and violate public sentiment. If we refer to the formulation of crime as described by Mustafa, the point of determining whether a behavior is considered a crime or not is not using formal rules as a reference.

The narcotics case that occurred in Pekalongan City is the difference in the decision given by the panel of judges with the demands imposed by the public

prosecutor, such as the class I narcotics crime case that occurred in 2020, with Case Register Number: PDM-42/Pekal/Enz. 2/07/2020 and the case was registered with number 177/Pid.Sus/2020/PN.Pkl with the defendant EKA RISKI RACHMAWATI Binti SUGIHARTO, in which the public prosecutor charged the defendant with Article 112 with a sentence of 5 (five) years in prison and a fine of IDR 800,000,000 (Eight Hundred Million Rupiah), but the judge sentenced the defendant outside the demands of the public prosecutor, namely violating Article 127 with a sentence of 1 (one) year in prison.

The case example above is one of the general descriptions of the implementation of procedural law in Indonesia, especially in Pekalongan City. There is a difference of belief between the public prosecutor and the panel of judges. But what causes this to happen, then what is the role of the prosecutor in handling class I narcotics cases so that the sentence handed down by the panel of judges can be in accordance with the demands given.

Based on the descriptions that have been stated above, the author is interested in conducting a study with the title, "Policy on the Role of the Prosecutor Against Narcotics Crime Actors Category I in Criminal Law Reform (Case Study at the Pekalongan City Public Prosecutor)."

2. Research methods

The approach method that the author uses in this research study is normative juridical. Normative legal research is legal research that has been carried out by examining existing library materials based on law as a norm. Actually the term normative legal research is not necessary, because the term legal research or legal research or Dutch *rechsonderzoek* is always normative.

The specification of the research conducted by the author is descriptive analytical. Legal science has characteristics as a prescriptive science, legal science studies the purpose of law, values of justice, validity of the rule of law, legal concepts, and legal norms. As an applied science, legal science establishes standard procedures, provisions, and signs in implementing the rule of law. Law is not a descriptive science, but a prescriptive science. Therefore, legal research, whether carried out by practitioners or scholars, does not start with a hypothesis. Prescriptive according to the Big Indonesian Dictionary is to give instructions or provisions; depend on or according to applicable official regulations. So, The prescriptive nature of this research is intended to provide instructions or provisions for the results of research that has been carried out. Arguments are made to provide a prescriptive about right or wrong according to the law regarding the crime of corruption which is related to facts or legal events that occur in the community which are then linked to the results of the research.

Data collection is done in two ways, namely first to analyze the Pekalongan District Court Decision No. 177/Pid.Sus/2020/PN.Pkl will be considered by the judge to impose a sentence, in which case the judge decides on an article that is lower than the demands of the public prosecutor. The second is a literature study consisting of books, articles, newspaper journals, internet, legal dictionaries, KBBI, encyclopedias and other sources.

The data analysis method used is a qualitative method using the stages of data collection, classifying, connecting with existing theories and problems, then drawing conclusions to determine the results. Then it is described descriptively, namely explaining, describing, and describing in accordance with the problems that are closely related to this research.

3. Research result

The narcotics case that occurred in Pekalongan City is the difference in the decision given by the panel of judges with the demands imposed by the public prosecutor, such as the class I narcotics crime case that occurred in 2020, with Case Register Number: PDM-42/Pekal/Enz. 2/07/2020 and the case was registered with number 177/Pid.Sus/2020/PN.Pkl with the defendant EKA RISKI RACHMAWATI Binti SUGIHARTO, in which the public prosecutor charged the defendant with Article 112 with a sentence of 5 (five) years in prison and a fine of IDR 800,000,000 (Eight Hundred Million Rupiah), but the judge sentenced the defendant outside the demands of the public prosecutor, namely violating Article 127 with a sentence of 1 (one) year in prison.

The case example above is one of the general descriptions of the implementation of procedural law in Indonesia, especially in Pekalongan City. There is a difference of belief between the public prosecutor and the panel of judges. But what causes this to happen, then what is the role of the prosecutor in handling class I narcotics cases so that the sentence handed down by the panel of judges can be in accordance with the demands given. The role of the prosecutor as one of the important elements in the SPP occupies a very important role in carrying out its duties and authorities in order to carry out law enforcement, namely the prosecution of narcotics crime cases in court.

3.1. The Role of the Prosecutor Against Actors of Narcotics Crime Category I in Indonesia's Current Positive Law

The role of the public prosecutor in the prosecution process is that when the prosecutor gets a Notice of Commencement of Investigation (SPDP) then the Head of the District Attorney makes P-16, namely a warrant for the appointment of a public prosecutor to follow the progress of investigations into criminal cases made by police investigators, appointed prosecutors. by the Head of the District Attorney has the authority to supervise the investigation process until the Minutes of Examination (BAP) is submitted to the District Attorney. When the BAP is submitted, the Head of the District Prosecutor's Office makes P-16A, namely a Warrant for the Appointment of a Public Prosecutor for the settlement of criminal cases.

In the case of the implementation of the pre-prosecution, the Minutes of Examination (BAP) received from the investigator is then examined by the Public Prosecutor. At this stage the public prosecutor is required to be thorough and careful. The BAP must meet the requirements to be able or not to be transferred to the court, as outlined by Article 139 of the Criminal Procedure Code. If the BAP examination finds deficiencies, the public prosecutor issues P-18, namely a letter stating the results of the investigation are not complete and the return of the case file to be completed

accompanied by detailed instructions. If the BAP is complete, the public prosecutor issues P21, namely the Notification of Investigation Results is complete.

3.2. Weaknesses of the Public Prosecutor in Determining Prosecution Against Actors of Narcotics Crime Category I in Pekalongan City

Crime tends to increase every year, including crimes in the narcotics sector. These crimes are mostly committed by younger people and the majority are unemployed. In criminological theory, this situation is actually considered very important because poverty is a form of structural violence with very many victims. One of the causes of crime in Indonesia is the economic crisis, including income inequality and economic injustice.

In an effort to find and research the causes of crime in the community. There are several theories that are different from other theories, the theory from the sociological aspect has the reasons for the causes of crime in the social environment. The theories on the causes of crime from the sociological aspect are grouped into three general categories, namely:

- *Anomie* (absence of norm) or Strain (description)
- *Cultural* cultural deviation)
- *Social Control*

Anomie theory and cultural deviation, focus on the social forces that cause people to commit criminal activities. This theory assumes that social class and criminal behavior are related. Adherents of the anomie theory assume that all members of society follow a set of cultural values, namely middle-class cultural values, namely the assumption that the most important cultural value is economic success.

Because lower class people do not have legitimate means to achieve these goals, such as high salaries, advanced business midwives, and so on, they become frustrated and switch to using illegal means (illegitimate means). This is different from the theory of cultural deviation which claims that people from the lower classes have a different set of values, and tend to conflict with the values of the middle class as a consequence, when people at the bottom follow their own value system. They may have violated conventional norms

The causative factor of the circulation of narcotics class I is the large demand for narcotics class I. As long as the demand is still there, then the supply will try to exist. In other words, as long as there are users and buyers, as long as there are sellers there will always be. There are those who think that one of the causes of people being trapped in drug crimes is the economic factor. In other words, they are involved in this world, either as perpetrators, dealers, couriers, suppliers, or as drug dealers, driven by their low economic conditions. Moreover, the income from selling drugs is certainly very tempting to many people.

As a result, the more people who are tempted to enter the illicit network, it is certain that there will be more victims around us. It must be realized, with the ease with which people get drugs, social symptoms appear in the form of crimes that are troubling the community. Drug crimes are crimes against humanity. And, drug crime is an umbrella for all crimes.

3.3. The Role of the Prosecutor against the Coming of Narcotics Criminal Acts Category I in the Criminal Law Reform

Efforts and policies to make good criminal law regulations essentially cannot be separated from the purpose of crime prevention. So the policy or politics of criminal law is part of criminal politics. In other words, from the point of view of criminal politics, the politics of criminal law is synonymous with the notion of "crime prevention policy with criminal law". Crime prevention efforts with criminal law are essentially part of law enforcement efforts (especially criminal law enforcement).

Criminal law reforms in the context of improving the criminal system are still being carried out. One important thing in the criminal justice system which is also crucial for reforming the Indonesian criminal law is the structural punishment system. This should be included in the concept of criminal law reform.

4. Closing

Regarding law enforcement carried out by the prosecutor's office in narcotics crime, the scope of the prosecutor's office includes, among others, prosecuting narcotics criminals and determining the status of narcotics confiscated goods for the purpose of proving the case.

A very heavy criminal threat is not the right means to achieve that goal. Non-penal efforts in treating and rehabilitating narcotics abusers are an effective means of preventing narcotics abuse and illicit trafficking.

It is hoped that the Pekalongan City Public Prosecutor's Office will maintain and improve its performance in order to carry out its authority and function as part of the judicial process.

The reform of criminal law concerning criminal provisions against narcotics criminals will be useful and effective if the Judge in his decision continues to pay attention to the purpose of the criminal being imposed, which in this case the role of the Judge is very important in realizing the original purpose of the enactment of this Law on Narcotics.

The provision of heavier sanctions in processing cases against narcotics traffickers needs to be carried out so that the deterrent effect aimed at the perpetrators can run effectively.

5. Bibliography

Book

- [1] Alam, Andi Samsu, 2010, Introduction to Criminology, Books Reflection Library, Makassar.
- [2] Arif, Barda Nawawi, 1984, Sari Lecture on Criminal Law II, Faculty of Law Undip, Semarang.
- [3] Bakir, R. Suyoto, 2009, Complete Indonesian Dictionary, Karisma Publishing Group, Tangerang.

- [4] Effendy, Marwan, 2004, RI Attorney General's Office Position and Functions from a Legal Perspective, Public Library Gramedia, Jakarta.
- [5] Erwin, Moh., 2011, Philosophy of Law, Critical Reflection on Law, Rajawali Press, Jakarta.
- [6] Hakim, M. Arief, 2007, Drugs: Dangers and Countermeasures, Jember, Bandung. Hamzah, Andi and Surachman, RM., 1994, Narcotics and Psychotropic Crimes, Sinar Graphic, Jakarta.
- [7] Prakoso, Djoko, 1985, The Prosecutor's Existence in the Community, Ghalia Indonesia, Jakarta.
- [8] Priyanto, Anang, 2012, Criminology, Wave Publisher, Yogyakarta.
- [9] Purba, Jonlar, 2017, Law Enforcement Against Crimes with Minor Patterns with Restorative Justice, Jala Permata Aksara, Jakarta.
- [10] Raharjo, Satjipto, 1982, Law Enforcement A Sociological Review, Genta Publishing, Yogyakarta.
- [11] Rosramadhana, et al, 2020, Menolis Ethnography: Learning to Write About the Socio-Cultural Life of Various Ethnicities, Kita Writing Foundation, Medan.
- [12] Sampara, Said, 2011, Introduction to Law, Total Media, Yogyakarta.
- [13] Santoso, Topo and Zulfa, Eva Achjani, 2008, Criminology, PT RajaGrafindo Persada, Jakarta.
- [14] Sholehuddin, M., 2003, Sanction System in Criminal Law, Raja Grafindo Persada, Jakarta.
- [15] Sunarso, Siswantoro, 2004, Law Enforcement in Sociological Studies, Raja Grafindo Persada, Jakarta.
- [16] Surachman, RM and Hamzah, Andi, 1976, Prosecutors in Various Countries, Sinar Graphic, Jakarta.
- [17] Syamsudin, Aziz, 2011, Special Crimes, Jakarta: Sinar Graphic.
- [18] Utami, Indah Sri, 2012, Schools and Theories in Criminology, Thafa Media, Yogyakarta.
- [19] Widjaya, AW, 1985, Problems of Juvenile Delinquency and Narcotics Abuse, Armico, Bandung.

Legislation

- [1] Law Number 1 of 1946 concerning the Criminal Code
- [2] Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHP)
- [3] UU no. 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia
- [4] Law Number 35 of 2009 concerning Narcotics
- [5] Government Regulation Number 40 of 2013 concerning the Implementation of Law Number 35 of 2009 concerning Narcotics

Journal

- [1] Aidil, Mohamad, 2015, Effectiveness of the Implementation of Law Number 35 Year 2009 concerning Narcotics, e-Jurnal Catalog, Vol. 3, No. 10, p. 13.

- [2] Angkouw, Julio Audy, 2013, Duties and Functions of the Prosecutor's Office in Resolving Corruption Cases in Indonesia, *Lex Crimen Journal* Vol. II No. 3, p. 199.
- [3] Asriwan et al, 2019, Effectiveness of Enforcement of Criminal Sanctions Against Narcotics Abuse and Illicit Trafficking, *Indonesian Journal of Legality of Law*, Vol. 1, No. 2.
- [4] Jainah, Zainab Ompu, 2013, Drug Crime as a Phenomenon of Transnational Organized Crime, *Jurnal Pranata Hukum* Vol. 8, No.2.
- [5] Mulyadi, Lilik, 2012, Criminalization of Drug Dealers and Users: Research on Principles, Theory, Norms and Practices of Justice, *Journal of Law and Judiciary*, Volume 1 Number 2, p. 314.
- [6] Sanger, Elrick Christovel, 2013, Law Enforcement Against Drug Trafficking Among the Young Generation, *Lex Crimen Journal*, Vol.II No.4, p. 6.

Internet

- [1] Ministry of Education and Culture of the Republic of Indonesia in KBBI Online, Benefits, <https://kbbi.kemdikbud.go.id/entri/Manfaat>, accessed on July 25, 2022.
- [2] Attorney General of the Republic of Indonesia, History, https://www.kejaksaan.go.id/profil_kejaksaan.php?id=3 accessed on July 10, 2022 at 18.00 WIB