

The Formulation for Implementation of Prosecution of Criminal Actions Causing Serious Injury at The Bone State Attorney

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Abstract. *The prosecution stage is one of the stages of settling criminal cases carried out by the Public Prosecutor whose provisions are subject to Article 30 of Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia. This writing aims to understand and analyze the formulation of the implementation of the Prosecution and the role of the Public Prosecutor (JPU) in carrying out the criminal act of persecution which caused serious injury to the Bone District Attorney. The approach used in this research is a sociological juridical approach, that is, by discovering the legal reality experienced in the field or an approach based on problems regarding juridical matters and existing facts. The analytical knife in this paper uses the theory of legal certainty and the theory of legal effectiveness. The results showed that the formulation of the implementation of the prosecution of the crime of persecution which caused serious injury to the Bone District Attorney was in accordance with the laws and regulations in force in Indonesia. Prosecutors and prosecutors at the Bone State Prosecutor's Office in carrying out their pre-prosecution and prosecution are based on the applicable law. The role of the Public Prosecutor at the Bone State Prosecutor's Office in carrying out the prosecution of the perpetrators of the crime of persecution stipulated in Article 351 Paragraph (1) of the Criminal Code has been carried out step by step.*

Keywords: Criminal; Persecution; Prosecution.

1. Introduction

The State of Indonesia is a constitutional state, which is explained in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution). Therefore, in the legal order of the state and nation which is based on legal provisions, the government forms and requires several law enforcement agencies such as the police, prosecutors, courts and correctional institutions which play an important role in the law enforcement process. The regulations that are regulated can be classified into civil, administrative, criminal, community, persons or legal entities that commit crimes or violations in the field referred to as criminal acts. Criminal acts in English are called criminal acts or criminal offenses, while in Dutch,¹

Crime is a social problem that is not only faced by Indonesia or certain communities and countries, but is a universal phenomenon, not only the number is increasing but also the quality is being taken seriously compared to the past.² According to Soenarto Soerodibroto, the definition of maltreatment is that to intentionally cause pain or injury, this intention must be accused in an indictment.³ The criminal act of persecution has caused unrest in society, so that in order to achieve public welfare, legal protection is needed.⁴ However, when examined in terms of the formality of filing a case, it is the authority of the public prosecutor to submit and apply what articles will be charged against a defendant in drafting his indictment. The indictment contains the facts charged against the defendant and the judge may only decide on the basis of these facts, no more or less. Because of this, the indictment is seen as a *litis contestatio*.⁵

The role of the Prosecutor's Office as one of the important elements in the SPP occupies a very important role in carrying out its duties and authorities in the context of carrying out prosecutions in cases of criminal acts of abuse in court hearings. Sociologically, every law enforcer has a position (status) and role (role). Position is a certain position in the social structure that may be high, mediocre or low. This position is actually a container whose contents are certain rights and obligations, where those rights and obligations constitute a role. A person who

¹Rodliyah and Salim, 2017, *Special Criminal Law*, PT Raja Grafindo Persada, Depok, p11.

²Moh. Hatta, 2009, *Several Problems of Enforcement of General Criminal Law and Special Crimes*, Yogyakarta: Liberty, p.33.

³Soenarto Soerodibroto, 2009, *Criminal Code and Criminal Procedure Code Complemented by the Supreme Court and Hoge Raad Jurisprudence*, Raja Grafindo Persada, Jakarta, p.214.

⁴Sri Endah Wahyuningsih, 2017, "Criminal Law Enforcement Against Drug Users in Central Java Regional Police", *Journal*, September, p.5

⁵Djoko Prakoso. 1987, *Investigators, Public Prosecutors, Judges in Criminal Procedure Legal Processes*, Bina Literacy, Jakarta, p.41.

has a certain position is usually called a role occupant. A right is actually an authority to do or not to do, while an obligation is a burden or duty.⁶

Based on the explanation of the background above, the authors formulate the problem as follows:

1. What is the formulation of the implementation of the Prosecution of the criminal act of persecution which caused serious injury to the Bone District Attorney?
2. What is the role of the Public Prosecutor (JPU) in carrying out the prosecution of the crime of persecution at the Bone District Attorney?

2. Research Methods

The approach used in this research is a sociological juridical approach. Sociological juridical, that is by finding the legal reality experienced in the field or an approach that stems from problems regarding juridical matters and existing realities.⁷ Using descriptive qualitative is one of the types of research that is included in the type of qualitative research. The purpose of this research is to reveal events or facts, circumstances, phenomena, variables and circumstances that often occur during research by presenting what actually happened.

3. Result and Discussion

3.1. Formulation of the Implementation of the Prosecution of Serious Abuse Crimes at the Bone District Attorney

Law Number 1 of 2023 concerning the Criminal Code (KUHP) regulates persecution in Article 466. Meanwhile, persecution that causes serious injuries is regulated in Article 468, namely:

(1) Everyone who seriously injures another person, shall be punished for serious maltreatment, with a maximum imprisonment of 8 (eight) years.

(2) If the act referred to in paragraph (1) results in death, the penalty shall be imprisonment for a maximum of 10 (ten) years.

⁶Soerjono Soekanto, 2008, Factors Influencing Law Enforcement, PT Raja Grafindo Persada, Jakarta, p. 20.

⁷Hilman Hadi Kusuma, 2012, Methods for Making Working Papers or Legal Studies Thesis, CV. Mandar Maju, Bandung, p. 34

Law enforcement in Indonesia to eradicate and prevent criminal acts involves law enforcement officials, one of which is the prosecutor. The Attorney General's Office is a government institution whose function is related to the judicial power that exercises state power in the field of prosecution and other powers based on the law.⁸The Prosecutor's Office in carrying out its functions related to judicial power is carried out independently.

1. Prosecution Process in the Criminal Procedure Code

The public prosecutor after receiving the results of the investigation and the investigator immediately studies and examines them and within seven days is obliged to notify the investigator whether the results of the investigation are complete or not. In the event that the results of the investigation are found to be incomplete, the public prosecutor returns the case dossier to the investigator accompanied by instructions on what must be done to complete it and within fourteen days from the date of receipt of the dossier, the investigator must have submitted the case dossier back to the public prosecutor.⁹

After the public prosecutor receives or receives back the complete investigation results from the investigator, he immediately determines whether the dossier meets the requirements to be transferred to court or not.

The results of investigations that have been carried out by the public prosecutor are related to follow-up steps, such as:

a. the public prosecutor is of the opinion that from the results of the investigation a prosecution can be carried out, he in the shortest possible time draws up an indictment.

b. the public prosecutor is of the opinion that from the results of the investigation a prosecution can be carried out, he in the shortest possible time draws up an indictment.

1) The contents of the decree are notified to the suspect and if he is detained, he must be released immediately.

2) Derivatives of the decree must be submitted to the suspect or his family or legal counsel, officials at the state detention center, investigators and judges.

⁸Rudiansyah, 2021, "The Existence of the Prosecutor's Commission of the Republic of Indonesia After the Enactment of Law Number 5 of 2014 concerning State Civil Apparatus", *Journal of Intellectuality: Islam, Social, and Science*, Vol. 10, No. 1, p. 155.

⁹Article 138 of the Criminal Procedure Code

3) If later it turns out that there is a new reason, the public prosecutor can prosecute the suspect

2. Prosecution in Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia

For the sake of justice and truth based on Belief in the One and Only God, the prosecutor conducts prosecutions with conviction based on valid evidence.

The renewal of the Law on the Prosecutor's Office of the Republic of Indonesia is intended to further strengthen the position and role of the Attorney General's Office of the Republic of Indonesia as a state government institution that exercises state power in the field of prosecution and must be free from the influence of any party's power, namely those carried out independently regardless of the influence of government power and other powerful influences.

The Attorney General's Office of the Republic of Indonesia as a government institution that exercises state power in the field of prosecution must be able to realize legal certainty, legal order, justice and truth based on law and respect religious norms, decency and decency, and must explore human values, law and justice in society.

3.2. The Role of the Public Prosecutor (JPU) in the Implementation of Prosecution of the Crime of Persecution at the Bone District Attorney

The Public Prosecutor (JPU) in carrying out his duties and authority carries out pre-prosecution and prosecution.

a. Pre Prosecution Stage

Pre-prosecution is the authority of the Public Prosecutor to give instructions to investigators in the framework of completing the case file or pre-prosecution is the actions of the Public Prosecutor to provide instructions in the framework of completing the investigation by investigators.¹⁰

As for the activities at the pre-prosecution stage in handling cases of criminal acts of persecution at the Bone District Attorney on behalf of the Defendant Lewa Alias Baco Tang Alias Bin Lallo Dg. Paliweng which is the focus of the author's research includes:

¹⁰Prosecutor's Education and Training Agency of the Republic of Indonesia, 2013, Pre-Prosecution Module, Jakarta, p. 5.

- 1) Receipt of the Letter of Notification of Commencement of Investigation (SPDP) from Bone Resort Police investigators to the Bone District Prosecutor's Office, followed by the appointment of the Public Prosecutor to follow the progress of the investigation into criminal cases (P-16)
- 2) Monitoring the progress of the investigation, the public prosecutor requests the results of the investigation, if the case files are not immediately submitted (P-17)
- 3) Receipt of case files from investigators (stage 1), followed by research on case files.

From the case dossier research if:

- 1) The research results of the case file are incomplete, so the case file is returned to the investigator to be completed (P-18 = Incomplete Investigation Results) along with instructions for completing the case file (P-19 = Return of Case Files to be Completed).
- 2) The research results of the case dossiers are complete and suitable for trial, so a letter of notification of the complete dossier (P-21) is issued accompanied by an indictment plan (P-29), Minutes of Opinion (P-24), Matrix (P-7), Minutes of exposure to cases, and list of attendees of exposure to cases.

Related to the handling of cases of criminal acts of persecution on behalf of the suspect Lewa Alias Baco Tang Alias Bin Lallo Dg. Paliweng said, after the Public Prosecutor at the Bone District Prosecutor's Office receives the case files from the investigator as stated in the Case File Delivery Letter, then the Public Prosecutor within a maximum period of 7 (seven) examines the completeness of the formal requirements and material requirements of the case files and determines whether the files whether the case is complete or not, and includes the results of the case file research in the case file research results form (checklist).¹¹

The opinion of the Public Prosecutor who examined the case files on behalf of the suspect Lewa Alias Baco Tang Alias Bin Lallo Dg. Paliweng as stated in the Case File Research Results form (checklist) (so it is still within 7 (seven) days) is "the results of the investigation are complete (P-21) it is necessary to continue handing over responsibility for the suspect and evidence, to immediately determine whether the case has fulfilled the requirements to be transferred to the Court or not (Article 139 of the Criminal Procedure Code). Because the Public

¹¹Results of the interview with Siswandi, SH, MH on July 28, 2023 at the Bone State Prosecutor's Office

Prosecutor is of the opinion that the case dossier is complete, the Public Prosecutor does not return the case dossier to the investigator to be completed (P-18 = Incomplete Investigation Results) along with instructions for completing the case dossier (P-19 = Return of Case Dossier to be Completed)),

As a complete administrative material for handling cases, then the Public Prosecutor at the Bone District Attorney who handled cases of criminal acts of abuse on behalf of the suspect Lewa Alias Baco Tang Alias Bin Lallo Dg. Paliweng made a Planned Indictment Letter (P-29), Minutes of Opinions on Case File Research Results (P-24) dated January 3 2018, Case Matrix (P-7), Minutes of Case Exposés, and List of Presents of Case Exposés.

After the Bone Resort Police investigators received a copy of the Letter of Notification of the Complete Criminal Case Investigation Results (P-21), then the investigator coordinated with the Public Prosecutor at the Bone State Prosecutor's Office to determine the time (day and date) of surrender of the suspect and evidence (stage 2) case on behalf of the suspect Imam Sofi'l bin Suwardi and it was determined and agreed that the surrender of the suspect and evidence (stages) would be carried out.

b. Prosecution Stage

As for the activities at the prosecution stage in the handling of the criminal act of abuse at the Bone District Attorney on behalf of the Defendant Lewa Alias Baco Tang Alias Bin Lallo Dg. Paliweng which is the focus of the author's research includes:¹²

- 1) Acceptance of the transfer of responsibility for the suspect and evidence from the Police investigator to the Attorney General's Office, followed by the appointment of the Public Prosecutor to prosecute or hear cases in Court (P-16.A)¹³
- 2) The Public Prosecutor then conducts research and re-examination of the suspect and his evidence by interviewing and checking the condition of the evidence (BA-4 and BA-18), then if the suspect is detained then the detention period can be extended by the Public Prosecutor for 20 days (T-7)

¹²Results of the interview with Siswandi, SH, MH on July 28, 2023 at the Bone State Prosecutor's Office

¹³Decree of the Attorney General of the Republic of Indonesia Number: KEP-518/A/JA/11/2001 dated November 1, 2001 concerning Amendments to the Decree of the Attorney General of the Republic of Indonesia Number: KEP-132/JA/11/1994 dated November 7, 1994 concerning Administration of Criminal Cases.

3) The Public Prosecutor submits the case files and evidence to the local District Court for immediate trial (P-33 and P-34)

4) The District Court appoints the Panel of Judges to handle the case, then in a letter of determination determines the trial day and extends the detention period (BA-15), then orders the Public Prosecutor to appear before the defendant, evidence and evidence at trial

5) The Public Prosecutor immediately informs the defendant (P-37 and P-38) the day of the trial within a minimum of 3 days, then summons witnesses to appear at trial (P-37 and P-38 witnesses)

The stages of the trial of the crime of maltreatment on behalf of the defendant include:

- a) Reading of the indictment by the Public Prosecutor
- b) Examining witnesses, letters, defendants and showing evidence before the court (proof).
- c) Reading of the charge sheet (P-42) by the Public Prosecutor

The Public Prosecutor read out the Charges Letter (P-42) with the following demands:

1. Stated that the defendant LEWA AKA BACO TANG BIN LALLO DG. PALIWENG was proven legally and convincingly guilty of committing the crime of "Performing Persecution which Resulted in Serious Injury", as stipulated and subject to criminal penalties in Article 351 Paragraph (2) of the Criminal Code as charged in the Public Prosecutor's indictment.

2. Sentenced a sentence against the defendant LEWA AKA BACO TANG BIN LALLO DG. PALIWENG is therefore subject to imprisonment for 3 (three) years and 6 (six) months reduced while the Defendant is in custody, and with an order that the accused remain in custody.

3. Determine the evidence seized in the form of:

- 1 (One) long blade of machete without sheath, brown wood on the handle, 67 cm (sixty seven centimeters) long.

Forfeited to be destroyed.

4. Stipulates that the defendant pay court costs of Rp. 2,000, - (two thousand rupiah).

After the Public Prosecutor finished reading the Charges Letter (P-42) then the Chief Judge of the Panel asked each of the defendants whether to submit a defense (pledoi) and was answered that each defendant would submit an oral defense (pledoi), which in essence each of the defendants stated:

- (1)The defendant regretted his actions;
- (2)The accused will no longer repeat his actions;
- (3)The defendant asked for leniency; And
- (4)The accused is the backbone of the family.

Then the Chief Judge of the Panel asked the Public Prosecutor's response (replik) to the defense (pledoi) of the defendants, and the Public Prosecutor answered verbally which in essence "keep in charge", as well as the defendants in their dupic stated verbally "stay in defense (pledoi)".

d) Reading the judge's decision/sentence, if one party or both parties do not accept then one party or both parties who do not accept can take legal action (appeal, cassation), but if both parties accept then execution can be carried out.

e) The demands made by the public prosecutor were not only arbitrary, but were based on a fact analysis and a juridical analysis.

4. Conclusion

The formulation of the implementation of the prosecution of the crime of persecution which caused serious injury to the Bone District Attorney is in accordance with the laws and regulations in force in Indonesia. Prosecutors and prosecutors at the Bone State Prosecutor's Office in carrying out their pre-prosecution and prosecution are based on the applicable law. This shows that the implementation of the prosecution of criminal acts of persecution has legal certainty. Legal certainty is a guarantee regarding the law that contains justice. Norms that promote justice must really function as rules that are obeyed. The role of the Public Prosecutor at the Bone State Prosecutor's Office in carrying out the prosecution of the perpetrators of the crime of persecution stipulated in Article 351 Paragraph (1) of the Criminal Code has been carried out step by step, so that law enforcement can be enforced to achieve legal justice.

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