



Juridical Analysis of the Role of the Prosecutor's Office in Criminal Law

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ABSTRACT

Basically, the Prosecutor's Office is a state law enforcement tool, protector and protector of society, obliged to maintain the rule of law. The Prosecutor's Office thus acts as a law enforcer. The prosecutor's office is the only state institution which is a government apparatus that has the authority to delegate criminal cases, prosecute perpetrators of criminal acts in court and carry out decisions and decisions of criminal judges. This power is a characteristic of the prosecutor's office that differentiates other law enforcement institutions or bodies. In the criminal justice system, there is a prosecution sub-system carried out by the Prosecutor's Office of the Republic of Indonesia. The prosecutor has an important role in the trial and it is the prosecutor who is authorized by law to carry out prosecutions as a public prosecutor who acts on behalf of the State in carrying out his duties and authority. In the realm of criminal law, the prosecutor's office has a very urgent role and also has a role and authority which is confirmed in Article 30C of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia.

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INTRODUCTION

The aim of developing Indonesian national law is to create a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia. In the framework of this legal development, efforts to reform the law and stabilize the position and role of law enforcement agencies in a directed manner are needed to support development in various fields in accordance with development demands as well as legal awareness and dynamics developing in society.

The law determines what must be done and/or what is permitted and what is prohibited. The legal targets that are intended to be addressed are not only people who actually act against the law, but also legal actions that may occur, and the state equipment to act according to the law. This system of legal operation is a form of law enforcement.

The founding fathers of this republic envisioned Indonesia as a country based on law (Rechtstaat) not power (Machtstaat), our constitution, the 1945 Constitution, also emphasized that the Indonesian State is a State of Law. As a consequence of the rule of law, the Indonesian state must uphold the supremacy of law based on the basic principle of the rule of law, namely equality before the law, which means that everyone has the same position in the eyes of the law.

As a legal state, it is also appropriate that everything that is carried out in state and social life must also be within the corridors of law, meaning that in society, law is absolutely necessary to regulate relations between citizens and the relationship between society and the state. Violations or deviations from applicable laws will be subject to sanctions in accordance with the provisions stipulated in the law. In this case criminal law is used. Thus, law enforcement using criminal law instruments is also an effort to eradicate crime.

In Indonesia there are law enforcers, one of which is the Prosecutor's Office. The formation of this Prosecutor is based on Law no. 16 of 2004 concerning the Prosecutor's Office which in the weighing section explains that Indonesia's national goal is to enforce law and justice and as one of the bodies whose functions are related to the composition of the Prosecutor's Office according to Law No. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, which consists of the Attorney General's Office, the High Prosecutor's Office, and the District Attorney's Office. Where the highest authority in the Prosecutor's Office rests with the Attorney General, namely the Attorney General himself, while a prosecutor is appointed and dismissed by the Attorney General, where the conditions for being appointed as a prosecutor are regulated in Law No. 16 of 2004 article 9. In carrying out his duties and its function, the prosecutor acts on behalf of the state and is responsible according to hierarchical channels. So this research will discuss a juridical analysis of the role of the prosecutor in the realm of criminal law.

RESEARCH METHODS

In this research, the author uses a normative juridical legal research approach, namely research that focuses on examining the application of rules or norms in positive law, namely statutory regulations, legal theories related to the problems to be discussed. According to Johnny Ibrahim, there are 7 (seven) approaches in normative legal research, namely: "Statutory approach), conceptual approach, analytical approach, comparative approach, historical approach. approach), philosophical approach, and case approach".

The research specification in this research is analytical descriptive research. Descriptive means that in this research the author intends to describe and explain in detail, systematically and comprehensively everything related to legal aspects that need to be considered in relation to the problems to be studied.

RESULTS AND DISCUSSION

The Role of the Prosecutor's Office in Criminal Law

Basically, the Prosecutor's Office is a state law enforcement tool, protector and protector of society, obliged to maintain the rule of law. The Prosecutor's Office thus acts as a law enforcer. The prosecutor's office is the only state institution which is a government apparatus that has the authority to delegate criminal cases, prosecute perpetrators of criminal acts in court and carry out decisions and decisions of criminal judges. This power is a characteristic of the prosecutor's office that differentiates other law enforcement institutions or bodies.

The important thing in the criminal justice system is that there is a prosecution sub-system carried out by the Prosecutor's Office of the Republic of Indonesia. The Prosecutor's Office of the Republic of Indonesia is a state institution that acts as a law enforcement officer by carrying out its functions which have the authority as a public prosecutor, implementing court decisions and other authorities regulated in the prosecutor's law in the corridor as a law enforcement officer. The prosecutor has an important role in the trial and it is the prosecutor who is authorized by law to carry out prosecutions as a public prosecutor who acts on behalf of the State in carrying out his duties and authority.

Basically, substantially in Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP) there is a distinction between prosecutors and public prosecutors. Based on Article 6 letter a of the Criminal Procedure Code, a prosecutor is an official who is authorized by law to act as a public prosecutor and implement court decisions that have permanent legal force. Meanwhile, in Article 6 letter b of the Criminal Procedure Code, a public prosecutor is defined as a prosecutor who is authorized by law to carry out prosecutions and carry out the judge's decisions. So it can be said that the Public Prosecutor is definitely a Prosecutor. The meaning of prosecutor correlates with aspects of a functional position or official, while the meaning of public prosecutor correlates with aspects of the function in carrying out prosecutions and carrying out the judge's determination before the trial.

In essence, the duties and authority of the Prosecutor in the criminal procedural legal process may include the following matters:

1. Make a request for a re-examination of a criminal case because the examination record of the case has been lost while the Court Decision must continue to be implemented or if regarding the decision letter or a legal derivative of the original decision or an excerpt from the original decision, doubts arise regarding the type, amount and expiry date of the sentence that has been given. If this is carried out, the court concerned, because of its position, at the request of the Prosecutor, or at the request of the convicted person, after holding an examination, can make an official determination regarding the type and amount of time for the sentence to expire (Articles 3 and 4 of Law Number 22 of 1952 concerning Regulations for Dealing with the Possibility of Loss of Letters Court Decisions and Examination Letters;

2. Must resign if he is still tied to a blood or marriage relationship up to the third degree, or a husband or wife relationship even though he has divorced the defendant (Article 29 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power);
3. Carry out the Judge's determination and decision in criminal cases (Article 30 paragraph (1) of Law Number 16 of 2004 concerning the Prosecutor's Office);
4. Ask the District Court to examine and then determine whether or not a person can be extradited and the Prosecutor to attend the trial and give his opinion (Article 27, Article 31 paragraph (2) Law Number 1 of 1979 concerning Extradition);
5. Carrying out investigations according to the special provisions of criminal procedures as stipulated in Article 284 paragraph (2) of the Criminal Procedure Code or carrying out investigations into certain criminal acts based on laws as stipulated in Article 30 paragraph (1) letter d of Law Number 16 of 2004 and make a written request for the release of confiscated goods to implement a court decision that has permanent legal force (Article 7, Article 28 of Government Regulation Number 27 of 1983 concerning the Implementation of the Criminal Procedure Code);
6. Carry out cassation legal action against the acquittal decision based on the situation and conditions for the sake of law, justice and truth;
7. Carry out an inspection if there are strong indications that there has been fraud and deviation or abuse committed by Officials/Employees/Village Heads and their apparatus within the ranks of the domestic department which are suspected of being special criminal acts such as corruption, smuggling and subversion after first notifying the Official in charge. authorized;
8. Carrying out investigations and/or investigations or findings from the BPKP in carrying out its supervisory duties to find cases that indicate corruption.

The role and authority of other prosecutors is confirmed in Article 30C of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, namely as follows:

1. Carrying out criminal statistics and judicial health activities for the prosecutor's office;
2. Participate and be active in seeking the truth regarding cases of serious human rights violations and certain social conflicts in order to achieve justice;
3. Participate and be active in handling criminal cases involving witnesses and victims as well as the rehabilitation, restitution and compensation process;
4. Carrying out penal mediation, confiscating executions for payment of criminal fines and substitute criminal penalties as well as restitution;
5. Can provide information as information and verification material regarding whether or not there are allegations of legal violations that are being or have been processed in criminal cases for occupying public office at the request of the authorized agency;
6. Establish functions and authorities in the civil sector and/or other public sectors as regulated in law;
7. Carrying out confiscatory executions for payment of criminal fines or compensation money;
8. Carrying out wiretapping based on special laws that regulate wiretapping and organizing monitoring centers in the field of criminal acts.

CONCLUSION

From the results of this research, it can be concluded that in the criminal justice system there is a prosecution sub-system carried out by the Prosecutor's Office of the Republic of Indonesia. The prosecutor has an important role in the trial and it is the prosecutor who is authorized by law to carry out prosecutions as a public prosecutor who acts on behalf of the State in carrying out his duties and authority. In the realm of criminal law, the prosecutor's office has a very urgent role and also has a role and authority which is confirmed in Article 30C of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia

SUGGESTION

The prosecutor's office in criminal cases must carry out its role and authority according to the laws and regulations in force in Indonesia.

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