



Role of the Prosecution in Overcoming Criminal Acts of Terrorism

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Abstract

The prosecutor's office is responsible for carrying out investigations into criminal acts of terrorism. This includes collecting evidence, monitoring perpetrators, and gathering information from related parties. The prosecutor's office also has the authority to examine documents related to criminal acts of terrorism, such as newspapers, magazines, and social media. Prosecutors as Public Prosecutors have the primary task and role of prosecuting various criminal cases and carrying out judge's determinations and court decisions with permanent legal force. This terrorism case is classified as an ordinary examination procedure. The prosecution process in this terrorism case must be based on an indictment proven at a court hearing and ends with a legal charge (Requisitoir) as regulated in the Criminal Procedure Code. The procedure for criminal prosecution must be guided by the Circular Letter issued by the Attorney General's Office, namely Circular Letter Number: SE- 003/JA/8/1988, which has been updated with Circular Letter Number: SE. 001/JA/4/1995 Concerning Guidelines for Criminal Charges. The Public Prosecutor must be astute and thorough in formulating a criminal offense and the articles imposed on the defendant because it will significantly impact the indictment. If there is an error in formulating the criminal act and the articles imposed, it will have fatal consequences, namely that the case is null and void, and the defendant will be acquitted. Challenges include fulfilling formal and material requirements in the investigator's investigation report (BAP). So, the BAP has to go back and forth from the prosecutor to the investigator to be completed until it meets the requirements to be submitted to trial. There are a lot of court visitors or spectators at trials in terrorism cases. So that the prosecutor's office coordinates with the Police regarding security matters. Limitations in strengthening cooperation with related institutions in dealing with criminal acts of terrorism in the digital era.

Keywords: Prosecutor's Office, Public Prosecutor, Terrorism Crime

Introduction

The Prosecutor's Office of the Republic of Indonesia is a state institution that exercises state power independently, mainly carrying out its duties and authority in the field of prosecution and carrying out its duties and authority in the field of investigation and prosecution of cases of criminal acts of corruption, human rights violations (Human Rights), criminal acts of terrorism and other authorities based on Constitution (Yasmira Mandasari Saragih et al. 2023; Yasmirah Mandasari Saragih, Fatmawati, et al. 2022).

Indonesia is a country that is also part of the world's countries with sovereignty. Not only Indonesia, but but all countries worldwide have goals they want to achieve (Yasmirah Mandasari Saragih, Siregar, et al. 2022; Yasmirah Mandasari Saragih, Prasetyo, and Hafidz 2018). One of Indonesia's goals is contained in the Preamble to the 1945 Constitution of the Republic of Indonesia: to protect the entire Indonesian nation and all of Indonesia's blood and to promote the general welfare, educate the life of the nation, and participate in implementing world order based on independence, eternal peace, and social justice (Yasmirah Mandasari Saragih, Napitupulu, et al. 2023).

From these goals, Indonesia has goals that must be achieved, and everything that hinders them must be eradicated in order to achieve the goals of the Indonesian state. As science and information technology developed in the digital era, this seems to be a smooth path for perpetrators of criminal acts of terrorism to develop so that the phenomenon of terrorist crimes is still an unresolved problem, and it is feared that it will become more widespread considering the large number of terrorism cases that have occurred. It appeared at this time and made the world community alert (Yasmirah Mandasari Saragih 2017b).

The increasing number of increasingly complex crime cases means that it is necessary to handle them seriously by law enforcement officials and the community and make preventive efforts to overcome crime so that security stability will be created in society. In the guidelines for implementing the law.

The criminal procedure aims to seek and obtain or at least approach the material truth, namely the complete truth of a criminal act, by applying the provisions of criminal procedural law appropriately to find perpetrators who can be charged with committing a criminal act and then requesting an examination (Yasmirah Mandasari Saragih, Irmawan, et al. 2023; Yasmirah Mandasari Saragih, Lubis, et al. 2023; Yasmirah Mandasari Saragih, Armanda, and Novaisal 2023). Moreover, a decision from the court to determine whether the person has been proven to have committed a criminal act so that they can be blamed.

Indonesia's policies related to handling terrorism can be seen immediately, such as creating anti-terrorism laws, establishing cooperation at regional and international levels to overcome terrorism, and establishing bodies to handle terrorism. The efforts made by the Indonesian Government in fighting terrorism continue to be carried out, thus encouraging the President of the Republic of Indonesia to issue special regulations, namely Presidential Regulation Number 46 of 2010, concerning the National Counterterrorism Agency (BNPT), which is entirely under the responsibility of the President and this organization was created to help notable organizations others such as Densus 88 from the Police, the State Intelligence Agency (BIN) which all deal with counterterrorism in Indonesia. Apart from that, the role of the prosecutor's office is also needed in prosecuting and implementing the judge's decisions

in criminal acts of terrorism.

Formulation of the Problem

1. What is the role of the Prosecutor's Office as a public prosecutor in cases of criminal acts of terrorism?
2. What are the obstacles to the Prosecutor's Office as a public prosecutor in cases of criminal acts of terrorism?

Research Methods

The type of research used in this research is normative legal research methods or library legal research. Namely, legal research is carried out by reviewing library materials, namely primary and secondary data. The legal materials are arranged systematically to make concluding the problems studied easier in approaching this problem using the Normative Juridical method. This approach is an approach to applicable laws and regulations. The legislative approach examines all statutory regulations related to the content of the law being handled. The normative juridical problem approach is used to approach statutory regulations (statute approach); this approach examines statutory regulations related to statutory regulations. The problem being studied. A conceptual approach is also used to look at legal concepts related to existing problems.

Results and Discussion

The Role of the Prosecution as a Public Prosecutor in Terrorism Crime

Based on Article 1 Paragraph 7 of Law No. 8 of 1981, the Criminal Procedure Code (KUHAP), the prosecution is the action of the public prosecutor to transfer a criminal case to the competent district court in the terms and according to the method regulated in this law by request to be examined and decided by a judge at a court hearing (Effendi 2017; Yasmirah Mandasari Saragih, Sani, and Abu 2021).

In this understanding, there are several keywords obtained. First, that prosecution is the action of a public prosecutor, which means the authority. Only the public prosecutor can carry out prosecutions, called *dominus litis*, which means absolute authority to prosecute cases at trial (Yasmirah Mandasari Saragih 2017a; Yasmirah Mandasari Saragih and Medaline 2018; Yasmirah et al. 2021).

This authority is absolute for the public prosecutor who carries out the prosecution; this can be seen in Article 137 of the Criminal Procedure Code, which states, "The public prosecutor has the authority to carry out prosecutions against anyone charged with committing a criminal offense within their jurisdiction by handing over the case to a court with authority to try." The prosecution criminal justice system in several countries clearly distinguishes between the prosecution criminal justice system, which adheres to the principle of legality, and the prosecution criminal justice system, which adheres to the principle of opportunity (Adhytia 2022; Syahrani, Pujiyono, and Rozah 2019).

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The principle of legality referred to in criminal procedural law as a fundamental principle in the prosecution system has a very different meaning from the principle of legality in criminal law as the basis for applying criminal law. The principle of legality in criminal law is defined as the absence of criminal crimes without prior criminal law legislation (Prodjodikoro 1989).

This terrorism case is included in the standard examination process, where prosecuting the case takes a long time, and the public prosecutor must be able to prove the charges presented before the court (Soedarsono 2010; Syahrani, Pujiyono, and Rozah 2019). The role of the public prosecutor in the prosecution process begins when the prosecutor receives a Notice of Commencement of Investigation (SPDP). The Head of the District Prosecutor's Office makes P-16, namely an Order for the Appointment of a Public Prosecutor, to follow the progress of the investigation of criminal cases made by police investigators and appointed prosecutors. The Head of the District Prosecutor's Office can supervise the investigation process until the Investigation Report (BAP) is submitted to the District Prosecutor's Office (Kharisma and Hartanto 2018; Syam, Sahari, and Zulyadi 2023).

When the BAP (Investigation Report) is submitted, the Head of the District Prosecutor's Office makes a P-16A, namely an Order for the Appointment of a Public Prosecutor to resolve criminal cases. This is when the prosecutor becomes a public prosecutor, where the public prosecutor has the authority to carry out pre-prosecution and prosecution. In the case of pre-prosecution, the Public Prosecutor then examines the Investigation Report (BAP) received from the investigator (Harahap 2002; Prodjodikoro 1989).

At this stage, the public prosecutor is required to be careful and thorough. The BAP (Investigation Report) must meet the requirements to be able or not to be submitted to court, as outlined by Article 139 of the Criminal Procedure Code. Suppose the BAP (Investigation Minutes) deficiencies are found during the examination. In that case, the public prosecutor issues a P-18, namely a letter stating that the investigation results are incomplete and returning the case files to be completed accompanied by detailed instructions. If the BAP (Investigation Minutes) is complete, the public prosecutor issues P-21, namely the Notification of Investigation Results is complete. This needs to be known at this pre-prosecution stage (Kharisma and Hartanto 2018; Syahrani, Pujiyono, and Rozah 2019; Syam, Sahari, and Zulyadi 2023; Triwibowo 2021).

This is a critical stage for public prosecutors who want their prosecution work to be successful. The success of the public prosecutor in pre-prosecution will significantly influence the public prosecutor in making an indictment and the success of evidence at trial. After the BAP (Investigation Report) is declared complete and the suspect and evidence have been handed over, the first step taken by the public prosecutor is to make an indictment (P-29) (Kharisma and Hartanto 2018; Syahrani, Pujiyono, and Rozah 2019). The public prosecutor must be observant and careful in formulating the criminal offense and the provisions of the articles that can be imposed on the defendant because errors in making the indictment, whether errors in formulating the criminal act or the provisions of the article, can result in the case being null and void and can result in the defendant being acquitted (Kharisma and Hartanto 2018).

After the public prosecutor makes an indictment, the next step is to make P-31, namely a Letter of Transfer of Cases for an ordinary examination procedure, addressed to the District Court for a trial. The task of the public prosecutor in a trial is to prove his charges accompanied by supporting evidence in the prosecution of the case. The public prosecutor must be active,

corrective, and professional in the evidence process. So that the material truth and elements of criminal acts in the articles imposed on the defendant can be proven (Syahrani, Pujiyono, and Rozah 2019).

After the examination at trial is complete, and the prosecutor feels that he has received sufficient evidence and witnesses, the prosecutor's most decisive task or role in the prosecution process is to write a letter of indictment. The charge letter is a description of the results of the examination at trial, which contains the identity of the defendant, the indictment, statements from witnesses and letters including intelligence information, statements from the victim and defendant, evidence, elements of the crime, and the prosecutor's considerations which include: aggravating and mitigating factors as well as criminal charges. The demand letter is submitted to a court hearing; then, the final task or role of the public prosecutor is to carry out the judge's determination after the judge has decided the case and has been declared to have permanent legal force (Syahrani, Pujiyono, and Rozah 2019).

The Public Prosecutor has the authority to prosecute anyone accused of committing a criminal offense within their jurisdiction by transferring the case to a court with the authority to try by Article 137 of the Criminal Procedure Code. The most important things to discuss regarding the above authority include (Polontalo 2018):

Pre-prosecution. Pre-prosecution emerged simultaneously as enacting the Criminal Procedure Code through Law Number 8 of 1981. Observing the authority of the public prosecutor, it is interesting to discuss pre-prosecution (vide article 14 letter b of the Criminal Procedure Code). According to Andi Hamzah, what is meant by pre-prosecution is the public prosecutor's action to provide instructions to perfect the investigation by investigators (INDONESIA and Indonesia 1981; Waluyo 2022).

Obstacles Attorney As Prosecutor General The Crime Of Terrorism

Criminal acts of terrorism require serious attention from law enforcement officials, in this case, the prosecutor's office, namely carrying out their duties and functions in prosecuting criminal acts of terrorism. So, it will create security, order, comfort, and tranquility in society. In filing criminal charges, the public prosecutor must be based on the facts at trial, both facts obtained from the statements of the defendant, witnesses, and other pieces of evidence, which are then linked together so that convincing facts can be obtained that the crime was indeed true. -happened, and the defendant committed the crime (Syahrani, Pujiyono, and Rozah 2019).

Providing punishment is not aimed only at retaliation but at educating perpetrators of criminal acts to become good human beings who are helpful to the nation, state, and broader society. In the process of prosecuting a criminal act, it is possible that prosecutors as public prosecutors will encounter problems and obstacles. The obstacles and obstacles that arise in the prosecution process, several obstacle factors that arise include (a) Fulfillment of formal and material requirements in the Investigation Report (BAP) prepared by the investigator. If there are deficiencies in the BAP regarding formal requirements and material requirements, the public prosecutor will return the BAP to the investigator to be completed, accompanied by detailed instructions. So, the BAP may have to go back and forth from investigators to the public prosecutor until the BAP truly meets the requirements to be submitted to court.

So at this pre-prosecution stage, the public prosecutor must be astute and careful because it will affect the preparation of the indictment and the success of the evidence at trial; (b) There

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are so many court visitors or spectators at trials in terrorism cases that the prosecutor's office coordinates with the Police regarding security matters. Seeing terrorism cases themselves is a criminal act that makes most people anxious about their actions. Therefore, many people want to witness firsthand the trial process for terrorism cases (Syahrani, Pujiyono, and Rozah 2019).

Some of them watched just because they were curious, and some were angry because of the actions committed by the defendant, so they wanted to see the defendant being tried in court. Spectators or court visitors in trials of terrorism cases will always be complete; this cannot be denied, seeing the impact that acts of terror have on society, which indirectly makes some people anxious about these acts.

In this case, the prosecutor's office asked for help from the Police to secure the proceedings so that the trial could run smoothly and there would be no chaos during the trial. Apart from that, there were court visitors who came from families of victims of criminal acts of terrorism who demanded that the judge give the most severe punishment to the terrorist defendants; in this case, the Police were responsible for providing security, both inside the courtroom and outside the court building. Apart from the Police, there are TNI (Indonesian et al.) who also help secure the proceedings in cases of criminal acts of terrorism in order to prevent unexpected things from happening beyond the reach of the court, prosecutor's office, and Police.

The Police is a subsystem in the criminal justice system that determines the success and work of the entire system in providing services to the community. This is because the Police is a subsystem directly related to perpetrators of criminal acts and the community, so the duties and responsibilities of the Police can be said to be greater than other subsystems. So it is clear that it is the obligation of the National Police of the Republic of Indonesia, according to Law Number 2 of 2002, to maintain security and order, and the efforts made by the Police to create conditions for a safe and orderly society must also uphold human rights, namely using prevention, as well as coaching (Indonesia 2002; Undang-Undang, UNDANG-UNDANG, and INDONESIA 2003).

Alternatively, guidance to the community; ultimately, if these efforts are unsuccessful, they will be carried out by applicable law.

There were crowds of court visitors from various groups who came to watch the trial of criminal acts of terrorism, so quite a few protested when the public prosecutor read the demands. This process was initiated by court visitors who usually did not accept the criminal charges that would be accepted by the defendant for a crime of terrorism, resulting in a trial that was not conducive (Syahrani, Pujiyono, and Rozah 2019).

Based on this, the court, through the Court Officer, calms the court visitors who need to be more conducive. However, if, after being warned by the court officer, they still cannot cooperate, then the court officers, with the assistance of the Police, can expel the uncooperative court visitors. Without a warrant, the security officer in The court, because of its official duties, can conduct a body search to ensure that a person present in the courtroom does not carry weapons, materials, tools, or objects such as firearms, sharp weapons, explosives or objects that could endanger the security of the court. If there are any, the officer will invite the person concerned to entrust it (Syahrani, Pujiyono, and Rozah 2019).

If the person concerned intends to leave the courtroom, the officer must return the item he or she has left. If the trial atmosphere is not conducive, there are far from good facilities,

such as the door to the trial venue being left open. So the voices of judges, prosecutors, legal advisors, and defendants are not appropriately heard due to the voices of court visitors who are not cooperative with officers. However, not all trials for criminal acts of terrorism are closely guarded by security forces, only if the defendant is very influential in the community. Only terror events that have occurred in Indonesia will be closely guarded to prevent undesirable things from happening due to mobs or supporters of the defendant whom the security forces have not detected (Syahrani, Pujiyono, and Rozah 2019).

Apart from that, there are several other obstacles to handling the process of proving criminal acts of terrorism carried out by the prosecutor's office, namely the existence of terror, which makes every citizen anxious in the digital era, causing a longer process to collect all evidence of criminal acts of terrorism in this era. Digital.

Conclusion

Prosecutors as Public Prosecutors have the primary task and role of prosecuting various criminal cases and carrying out judge's determinations and court decisions, which have permanent legal force. This terrorism case is classified as an ordinary examination procedure. The prosecution process in this rape case must be based on an indictment that is proven in court and ends with a legal complaint (Requisitoir) as regulated in Law Number 8 of 1981, the Criminal Procedure Code (KUHAP) and the procedures for criminal prosecution must be guided by the Circular Letter issued by the Attorney General's Office, namely Circular Letter Number: SE-003/JA/8/1988 which has been updated with Circular Letter Number: SE. 001/JA/4/1995 Concerning Guidelines for Criminal Charges. The prosecutor's office must be more professional and accurate in collecting material requirements and the prosecution process so that every action or treatment receives equal justice before the law.

Lack of fulfillment of formal and material requirements in the investigator's Investigation Report (BAP). So, the BAP has to go back and forth from the prosecutor to the investigator to be completed until it meets the requirements to be submitted to trial. There are so many court visitors or spectators at trials in terrorism cases that the prosecutor's office coordinates with the Police regarding security matters. There is a lack of human resource facilities in the process of legal supervision of terrorist crimes in digital media, which nowadays are changing times, so several digital programs are required to be created by law enforcers, including the Prosecutor's Office, in the monitoring process to overcome the occurrence of criminal acts of terrorism. So these things become obstacles for the prosecutor's office as a public prosecutor in criminal acts of terrorism.

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