



The Role of the Public Prosecutors in Providing Lifetime Criminal Prosecutions Against the Criminal Acts of Violent Theft (Study of Gorontalo Prosecutors Office)

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Abstract

According to article 365 paragraph 4 of the Criminal Code, criminal sanctions for life for the defendant are expected to provide a deterrent effect, but on the contrary, based on the facts on the ground, the purpose of implementing this article has not been effective because the crime of theft with violence is still rife. The purpose of writing in this study is to find out the role of the public prosecutor in giving lifelong criminal charges to the perpetrators of the crime of theft accompanied by acts of violence, the study of Gorontalo Prosecutor's Office, and what factors hinder and encourage public prosecutors in providing life imprisonment against perpetrators of the crime of theft with violence. Study of Gorontalo Prosecutor's Office. The type of research used is empirical research which is a legal research method that uses empirical facts taken from human behavior, both verbal behavior obtained from interviews and real behavior through direct observation. The role of the Gorontalo District Attorney in the case of theft with violence can be divided into 3 (three) things, namely the normative role, the ideal role and the factual role, then the obstacles faced were limited to the uncooperative attitude of the defendant, while in substance the implementation of the demands was encountered, namely at the coordination stage. with the leadership within the Gorontalo City Public Prosecutor's Office.

Keywords: Prosecutor's Office; Prosecution; Violent Theft.

A. Introduction

Indonesia as a country that is carrying out the process of development activities to become one of the developed countries, is actively carrying out several development programs in various fields of the economy, improving the government system, science, and technology, as well as developing in the field of law as the main focus, due to the need more and more people (Lemy et al., 2019).

In practice, in the social environment, to support the effectiveness of the law, self-awareness is needed from all circles of society, to minimize all cases of crime that exist during the current economic crisis, which forces some people to fulfill their daily needs. In a state of economic crisis like today, it can lead to several crimes that are rampantly carried out by several groups of people to meet the needs of their lives which are the function of law enforcement officers to prevent the occurrence of crimes that occur on the streets (street crime) (Zehr, 2019). With the existence of law enforcement agencies or officers, it is hoped that the problem of crime in the

community can be minimized, while some crimes that often occur in the community are the crime of theft of property accompanied by acts of violence (Zehr, 2019).

Some of the factors that cause the frequent occurrence of a theft crime can not be separated from the economic conditions and science which is low, therefore some people are forced to commit the crime of theft to meet the needs of their respective lives (Tyas & Rodiyah, 2020). Based on the statutory provisions which prevent and regulate the criminal act of theft which is qualified by its consequences, it is listed in the statutory regulations "Article 365 of the Criminal Code" and their weights (Muhajirin & Ismail, 2020). The crime of theft of one's property often occurs in conjunction with acts of violence, to facilitate the theft process carried out by the perpetrator (Boman & Gallupe, 2020).

The more processes of crime that occur in the community, therefore the existence of an applicable legal regulation can prevent and minimize these problems (Rosado Marzan, 2020). With the existence of legal regulations and institutions or apparatus that have the authority to enforce the law, it is hoped that it can provide a sense of security to all circles of society, create good conditions and peace in the social environment of the community that is preventing, eradicating, and taking action due to violations of legal regulations.

Efforts to enforce and control crime can be carried out using criminal law with criminal sanctions, to run a criminal justice system that requires the role of law enforcement (Brey, 2017) The part of law enforcement in the judicial process is the prosecutor's agency/institution. The Prosecutor's Office is an agency/institution that carries out the participation of the authorized party in carrying out prosecutions related to criminal matters. In the judicial process, especially in the field of prosecution, the prosecutor as the authorized party not only takes into account matters relating to the rights of a person who is a victim but must also take into account the parties of the accused, which in this case is his right, because it will result in not achieving a sense of belonging. justice between the two parties (Meuer & Wößner, 2018).

In the process of living in the community environment to create a good and safe community environment, it is very necessary to have self-awareness from every member of the community, in this case, mutual respect, respect, and not doing things that can disturb others community members (Jennings & Perez, 2020). But in reality, what often happens in the community is not following what is expected as mentioned above. For example, the theft case was accompanied by acts of violence that occurred on Panjaitan Street, Limba U1, South City, Gorontalo City. As a law enforcement agency that represents the government, the prosecutor's office represented by the public prosecutor has carried out a life sentence against the defendant. Life imprisonment for perpetrators of violent theft is indeed accommodated by legal provisions following Article 365 paragraph (4) of the Criminal Code (Martin, 2019). Referring to the article, life imprisonment for the defendant is expected to provide a deterrent effect, but on the contrary, based on the facts in the field, the purpose of implementing the article has not been effective because the crime of theft with violence is still rife (Villafuerte et al., 2020).

Following the description of the background above, the researcher feels the need to study further the role of the public prosecutor's office, namely the Public

Prosecutor in giving death charges to perpetrators of the crime of theft accompanied by violence, as well as the factors that prevent the Public Prosecutor from prosecuting life imprisonment. to the suspect. The author decided to take a study entitled "The Role of the Public Prosecutor in Providing Lifetime Criminal Prosecutions Against the Criminal Acts of Violent Theft. (Study of Gorontalo Prosecutor's Office)"

B. Method

The Prosecutor's Office of the Republic of Indonesia is an institution that is authorized by the State to carry out prosecutions and also other authorities based on the laws in force in Indonesia as contained in Article 2 Paragraph (1) of Law Number 16 of 2004 concerning the Prosecutor's Office (Demirel & Kartal, 2019).

In article 1 point 7 of the Criminal Procedure code it is explained that the prosecution is carried out by a public prosecutor who delegates a case to the PN (District Court) following the applicable laws and regulations and by asking to be examined in a trial and subsequently decided by a judge in a court trial.

Based on the provisions stipulated in Article 365 of the Criminal Code regarding violence, this theft is an act of stealing that coincides with an act of violence against someone which aims to facilitate the theft process carried out by the perpetrator. The elements themselves are the same as those contained in Article 362 of the Criminal Code regarding ordinary theft, except that another element is added, namely violence and threats of violence (Bascañán Rodríguez et al., 2019).

The type of research used is empirical research which is a legal research method that uses empirical facts taken from human behavior, both verbal behavior obtained from interviews and real behavior through direct observation (Patten, 2016).

The types and sources of data in this research will be obtained from primary data, data collection through field research (empirical), especially using the question and answer method or interviews with resource persons related to the problems studied. Secondary data, data collection through a search for academic works in the form of books, journals, court decisions, laws, and regulations related to this research.

The analysis used is qualitative because the data obtained from research results both in the form primary and secondary are qualitative (Sugiyono, 2016). After the data is collected and deemed sufficient, then the data is processed deductively, which is based on general knowledge and then narrowed to a specific problem, from the analysis a conclusion is then drawn.

C. Result and Discussion

1. The role of the public prosecutor's in providing lifetime criminal prosecutions against the criminal acts of violent theft

Referring to the definition of the role is something that is owned by someone who has a certain position in the community. The position in question is a special place that is in a social sphere of society as well as a place that has obligations and privileges. These obligations and privileges are called "roles", therefore individuals who have special positions in the social environment of this community are called people who have roles (Nurhayati et al., 2021).

The author defines rights as an authority in carrying out or not carrying out, while what is meant by obligation is something that is a duty and responsibility. As a state institution that is authorized by the state, the institution is obliged to carry out its role in society because this task has become its obligation.

One of the state institutions that are given the authority to carry out the role of the state or represent the presence of the state in people's lives is the Prosecutor's Office. The prosecutor's office is one of the bodies that function to enforce the law in a country, provide protection and protect the public who have the obligation as law enforcers. "A government institution that exercises state power in the field of prosecution and other powers based on the law" is the definition of the prosecutor's office based on Article 2 paragraph (1) of Law no. 16 of 2004 concerning the prosecutor.

As for what is meant by individuals who carry out their functions, duties, and authorities, it is a prosecutor. The definition according to the provisions of the law regarding prosecutors is functional officials who are authorized by law to carry out public prosecutions and carry out court decisions that have permanent legal force and other powers based on statutory regulations.

The role of Gorontalo Prosecutor's Office in cases of theft accompanied by violence can be divided into 3 (three) things:

a. Normative role

Gorontalo Prosecutor's Office in prosecuting the case of theft with violence that caused the loss of a person's life in Case Number 139/Pid.B/2019/PN.Gto with Defendant on behalf of KARTONO alias TONO was carried out based on statutory regulations with due observance of the provisions contained in Article 340, Article 339, Article 338, 354 Paragraph (1) of the Criminal Code. Gorontalo Prosecutor's Office has carried out its normative role following the law and has complied with the laws governing the normative role of the prosecutor's office in prosecuting these crimes. So it can be concluded that the normative role of the prosecutor's office in imposing sentences for these crimes has been carried out by carefully considering the results of the facts of the trial.

In addition, the prosecutor's office has also used his belief and gone through a process of proof by gathering the existing facts. This is very influential in the imposition of a criminal, whether a person should be sentenced with weight or not following Articles 183 and 184 of the Criminal Procedure Code, Law No. 4 of 2004, and the elements contained in the Criminal Code. The punishment according to the indictment read by the Public Prosecutor is Article 340, Article 339, Article 338, 354 Paragraph (1) of the Criminal Code.

b. Ideal Role

What is meant by an ideal role is a role that is carried out by an individual or an institution based on several values that should be carried out according to their position in a system. Thus, the real role of Gorontalo Prosecutor's Office in case no.139/Pid.B/2019/PN.Gto with the suspect KARTONO alias TONO is to increase public legal awareness, especially about a criminal act. This is following Article 30 of the Law of the Republic of Indonesia Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia point c

which explains that in the field of public order and peace, the Prosecutor's Office participates in organizing the following activities:

- a) Increasing public legal awareness.
 - b) Security of law enforcement policies.
 - c) Supervision of circulation of printed matter.
 - d) Supervision the flow of beliefs that can harm society and the state.
 - e) Prevention of abuse and/or blasphemy of religion.
 - f) Research and development of law and criminal statistics.
- c. Factual Role

A factual role is a role by a person or institution that is carried out based on concrete facts in the field or real social life. The ideal role of Gorontalo Prosecutor's Office in prosecuting case Number 139/Pid.B/2019/PN.Gto with the defendant KARTONO alias TONO is carried out by paying close attention to the entire investigative evidence and trial facts. Bearing in mind that the case has caught the public's attention, the public prosecutor has made maximum efforts in synchronizing the chronology of criminal events and the way the defendant committed the crime, leading the public prosecutor to conclude that his actions constituted a crime of murder.

The role of investigation and prosecution by the public prosecutor is following the provisions of the Criminal Procedure Code and the Prosecutor's Law Number 16 of 2004, namely as investigators and public prosecutors.

2. Inhibiting factors and encouraging public prosecutor's in providing lifetime criminal prosecutions against the criminal acts of violent theft

The prosecutor's office has a function as an institution in charge of enforcing the rule of law to create a sense of justice for every community. The prosecutor's office in carrying out the prosecution process against individuals who have been proven to have committed crimes will weigh the actions of the perpetrators so that in the case of prosecution they can provide justice to the perpetrators or other parties because the prosecutor's officers in carrying out their duties are based on statutory regulations and human values in the community environment. Making judgments in prosecuting is not easy, as the obstacles and obstacles for a public prosecutor in carrying out prosecutions other than considering the actions of the defendant, namely the condition of the victim. In this case, in particular, the defendant is quite sadistic in carrying out his actions, it can be seen from the way the defendant was desperate to enter the victim's house by climbing the fence and breaking into the door even when the victim and his family were in the house. Then the actions of the defendant who did not hesitate to injure anyone he saw and felt that it could interfere with his action in committing a crime, the victim of this case was a family of 4 (four) people, of which 2 (two) were killed and 2 (two) were critical.

Makrun, SH. as the Head of the General Crime Section at Gorontalo Prosecutor's Office in an interview with the researcher said that during the examination and trial process the obstacle faced was the defendant's uncooperative attitude where at first the defendant did not admit that the sharp weapon (knife) used belonged to him but was obtained at the victim's house. Substantially, based on the findings of the trial, it was revealed that the defendant's actions, which tended to be

sadistic and reckless, became one of the considerations for the prosecutor in giving maximum demands, but institutionally representing the state in prosecuting the public prosecutor must coordinate with officials at the highest level. higher in the scope of the prosecutor's office itself.

Coordination is carried out because the public prosecutor needs input and direction as a comparative thought from officials at higher levels within the prosecutor's office. Because even though examining a case is the subjectivity of a prosecutor, coordination is still needed as a supervisory function within the prosecutor's office itself. Especially in dealing with cases that have caught the public's attention like this case (Allen et al., 2020).

Such coordination can be a negative thing if it is associated with intervention by the leadership as the holder of authority within the scope of the prosecutor's office. So far, the public prosecutor has been responsible for his authority following the structural level or in other words, must obey the leadership, so that it is easy to intervene when carrying out his functions both at the investigation and prosecution stages. As a result, the disposition of the leadership came out which in the end led to the non-fulfillment of the sentence in Article 340 of the Criminal Code in the form of a death sentence, but a life sentence.

Explicitly, there are no legal provisions governing coordination or any form of intervention in the scope of prosecution by the state attorney general's office, but in general Article 27 Paragraph (1) of the Law affirms that "The head of the district attorney's office is the head of the state prosecutor who controls the execution of his duties. and the authority of the prosecutor in his jurisdiction". Based on the explanation in the article, it can be interpreted that the head of the state prosecutor's office as the highest leader within the scope of the state prosecutor's office has full authority in terms of managing and controlling the function of the state prosecutor, his authority can fully determine what and how the apparatus in it works, both in the field of prosecution in particular and all matters relating to the public prosecutor's office in general.

Another obstacle related to the disclosure of this case, in general, was found at the police investigation stage, where the defendant had fled after committing the crime and the location of the defendant's arrest was in the jurisdiction of South Sulawesi.

D. Conclusion

The role of Gorontalo Prosecutor's Office in cases of theft accompanied by violence can be divided into 3 (three) things, namely the normative role, the ideal role, and the factual role. The ideal role is to carry out prosecutions based on the provisions contained in Article 340, Article 339, Article 338, 354 Paragraph (1) of the Criminal Code. Then the ideal role is to increase public legal awareness following Article 30 of the Law of the Republic of Indonesia Number 16 of 2004 concerning the Prosecutor's Office. And lastly, the factual role is based on concrete facts in the field or real social life by paying close attention to the entire investigative evidence and trial facts. In addition, the role of the prosecutor must be based on the rule of law and can provide a sense of justice in the social environment of the community, therefore regarding the determination of the sanctions given, a judge must take into account

various points of view the actions of the perpetrators of the crime so that the decisions given are following the consequences of the crime. his deeds.

Technically, in the examination and trial process, the obstacles faced were limited to the defendant's uncooperative attitude, while in substance the implementation of the prosecution encountered obstacles at the stage of coordination with the leadership within Gorontalo Prosecutor's Office. This coordination is intended as a supervisory function in handling a case, but it is vulnerable to intervention because the Head of Gorontalo Prosecutor's Office is the highest authority holder and has full authority in supervising the performance of all devices within Gorontalo Prosecutor's Office.

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