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AUTHORITY AND FUNCTIONS OF PROSECUTORS IN INDONESIAN CRIMINAL JUSTICE

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Abstract

Indonesia is a state based on law. The 1945 Constitution of the Republic of Indonesia, as amended 4th, as the constitution of the Unitary State of the Republic of Indonesia, is the highest positive law applicable in the Indonesian legal system. Discussing the Indonesian legal system means discussing the systemic law applicable in Indonesia. The criminal justice system contains a systemic movement of its supporting subsystems, namely the police, prosecutors, courts, and correctional institutions, which as a whole and constitute a unity (totality) strive to transform inputs into outputs that are the goal of the criminal justice system, namely, overcoming crime or controlling the occurrence of crime so that it is within the limits of tolerance that can be accepted by society. This study aims to determine the authority and function of prosecutors in the criminal justice system in Indonesia according to the Criminal Procedure Code. The method used in this study is the normative juridical method, namely the addition method by adhering to applicable legal norms or rules. The results of the study show: The prosecutor's office in Indonesia has quite limited authority compared to prosecutors in the Netherlands, England, or America. In addition to being listed in the Criminal Procedure Code, the duties and authorities of the prosecutor's office in carrying out its function as a subsystem/component of law enforcement of the Indonesian criminal justice system are listed in Law Number 16 of 2004 concerning the prosecutor's office. The prosecutor's office is a non-departmental institution, which means it is not under any ministry, the peak of the prosecutor's office leadership is held by the attorney general who is responsible to the president. The criminal justice process can be interpreted as all stages of examining criminal cases to uncover criminal acts that have occurred and take legal action against the perpetrators. By going through various institutions, the criminal justice process starts from the Police institution, continues to the Prosecutor's Office, to the Court Institution and ends at the Correctional Institution.

Keywords: ***Authority, Function, Prosecutor, Indonesian Criminal Justice System***

A. INTRODUCTION

Indonesia is a state based on the rule of law. The application of the concept of the rule of law in Indonesia is a concrete manifestation of the constitutional mandate. The 1945 Constitution of the Republic of Indonesia, as amended by the Fourth Amendment, serves as the constitution of the Unitary State of the Republic of Indonesia and is the highest positive law applicable in the Indonesian legal system. A state based on law is a state founded on law and justice for its citizens. This means that all authority and actions of state apparatus or authorities are based solely on law, or in other words, regulated by law. This reflects justice in the social life of its citizens. The concept of a state based on law, which was previously perceived as adhering to the rule of law, has now been neutralized to simply a state based on law, without the "rechtsstaat" label placed in parentheses. The neutralization of this sentence is not unimportant because it embodies the prismatic concept of the rule of law, namely the combination of good elements from various different concepts into a unified (integrative) concept whose implementation is adapted to the demands of development. Thus, legal policy in Indonesia should adopt the concept of a rule of law that contains good elements from the rechtsstaat and the rule of law, and even other legal systems simultaneously. The Indonesian legal system refers to a systematic discussion of the laws applicable in Indonesia. Systemically, law is viewed as a whole, with elements, subsystems, or elements interrelated, mutually influencing, and mutually reinforcing or weakening one another. The criminal justice system is also one of the most important social issues today, as it has been throughout history. In fact, the criminal justice system is perhaps the most important mirror of society. With the exception of how a society chooses its leaders, no human activity more clearly demonstrates the values, behavior, civilization, and character of a nation than the processes within the criminal justice system. The criminal justice system as a system is basically an open system, in the sense that the criminal justice system in its movement will always experience interface (interaction, interconnection and interdependence) with its environment in the levels of society: economic, political, educational, and technology, as well as the subsystems of the criminal justice system itself (subsystem of criminal justice system). The criminal justice system has three main components: law enforcement, courts, and corrections. The main components referred to here are not merely components of the criminal justice system; the criminal justice system certainly has its own objects of study. Although it borrows heavily from other disciplines, such as psychology, sociology, political science, and so on, the objects of study of the criminal justice system are certainly not the same as the objects of study of the sciences that influenced the establishment of these disciplines.

The Attorney General's Office is a state body (staatsorgan) that existed before independence, and so do its regulations. Therefore, the Attorney General's Office of the Republic of Indonesia essentially continued what was stipulated in the Indische Staatsregeling, a kind of basic law of the colonial Dutch East Indies, which placed the Attorney General's Office alongside the Supreme Court. Meanwhile, administratively, both the prosecutor's office and the courts are under the Ministry of Justice. That is why, in the PPKI (Preparatory Committee for Indonesian Independence) meeting on August 19, Professor Soepomo reported that the scope of duties of the Ministry of Justice to be established would handle administrative matters of the courts, prosecutors, prisons, marriage, divorce and reconciliation, as well as the handling of waqf and zakat issues. Meanwhile, the legal basis for the Prosecutor's Office to carry out its duties and authorities, as I have said, is entirely based on the Herzeine Indonesich Reglement (HIR), which was expanded by Regering Reglement Stb 1922 No. 522. HIR was later changed to RIB (Reglemen Indonesia Yang Dibenar).

B. FORMULATION OF THE PROBLEM

1. What are the Authorities and Functions of Prosecutors in the Indonesian Criminal Justice System?
2. How Does the Prosecutor's Office Exist in the Indonesian Criminal Justice System?

C. RESULTS AND DISCUSSION

1. The Authority and Function of Prosecutors in the Indonesian Criminal Justice System

Before the HIR was enacted, the position of the prosecutor (prosecutor) was firm, their position was only as an "accomplice" of the "Assistant-Resident", not having their own authority as a public prosecutor like the "OpenbaarManisterie" in the European court. In addition, the prosecutor was under the authority of the regent who could give him orders. The position of the prosecutor as such was seen in practice with limited authority such as: a) Not having the authority to prosecute cases (only the "Assistant-Resident" was allowed to prosecute, namely the head). b) In court hearings, they did not have the authority to request a criminal sentence for the accused (make requisitoir), but could only express feelings and opinions. c) Not having the authority to carry out a court decision (execution), the only one with such authority was the "Assistant-Resident". Thus, the position and authority of the prosecutor before the HIR was enacted seemed very limited, which was clearly only as a subordinate or accomplice of the Assistant-Resident.

The Indonesian Prosecutor's Office has relatively limited authority compared to prosecutors in the Netherlands, England, or America. The purpose of this comparison is to reevaluate the prosecutor's duties and authorities granted by law by considering global developments and related to the idea of amending the Criminal Procedure Code (KUHAP), where the KUHAP is the main instrument in the Indonesian criminal justice system. In addition to being stated in the KUHAP, the prosecutor's duties and authorities in carrying out its function as a subsystem/component of law enforcement in the Indonesian criminal justice system are stated in Law Number 16 of 2004 concerning the Prosecutor's Office.

The Attorney General's Office is a non-departmental institution, meaning it is not under any ministry. The top leadership of the Attorney General's Office is held by the Attorney General, who is responsible to the President. This is certainly different from the organizational structure of the Attorney General's Office in the Netherlands, England, and America, which are generally under the Ministry of Law. The Attorney General's position is at the ministerial level, therefore the Attorney General's Office is not under any ministry. The Attorney General leads the Attorney General's Office, which is divided into jurisdictions ranging from the provincial level (high prosecutor's office) to the district level (district prosecutor's office) throughout Indonesia. This system of division of jurisdictions imitates the territorial division system in the Netherlands, where the Netherlands has 5 high prosecutor's offices, each of which has between 4 and 5 prosecutor's offices equivalent to the district level (district prosecutor's office). The main task of the Attorney General's Office in the Indonesian criminal justice system is prosecution, and conversely, prosecution is the sole authority held by the Attorney General's Office, and not held by any other institution. The authority to prosecute is the dominant authority of the prosecutor's office in Indonesia, the Netherlands, and America, but not in England. In England, prosecution can be filed individually, but in certain cases, individual prosecution can be taken by the public prosecutor of the prosecutor's office. According to Article 1 paragraph (1) of Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, a prosecutor is "a functional official who is authorized by law to act as a public prosecutor and implementer of court decisions that have obtained permanent legal force, as well as other authorities based on law." As stated in Article 30 paragraph (1) to paragraph (3) of Law Number 16 of 2004 concerning the Attorney General's Office. 1) In the criminal field, the prosecutor's office has the following duties and authorities:

a. Conducting prosecution;
b. Implementing judges' decisions and court decisions that have obtained permanent legal force;
c. Supervise the implementation of conditional criminal decisions, supervised criminal decisions, and conditional release decisions;
d. Conducting investigations into certain criminal acts based on law;
e. Complete certain case files and for this purpose can carry out additional examinations before being submitted to the court, the implementation of which is coordinated with investigators.
    1) In the civil and state administrative fields, the prosecutor's office with special powers can act both inside and outside the court for and on behalf of the state or government.
    2) In the field of public order and security, the prosecutor's office also organizes activities.

Law Number 16 of 2004 explicitly stipulates that the Prosecutor's Office has the freedom and independence to exercise state power in the field of prosecution. The position of the Prosecutor's Office as a government institution that exercises state power in the field of prosecution, when viewed from the perspective of its position, means that the Prosecutor's Office is an institution that is under the executive power. Meanwhile, when viewed from the perspective of the Prosecutor's authority in carrying out prosecutions, it means that the Prosecutor's Office exercises judicial power. In relation to the meaning of the Prosecutor's power in exercising state power in the field of prosecution independently. The Prosecutor's Office, in carrying out its functions, duties, and authorities, is free from the influence of government power and other powers. This means that the state will guarantee that prosecutors can carry out their profession without intimidation, interference, temptation, inappropriate interference, or unverified disclosures, whether regarding civil, criminal, or other responsibilities. The Prosecutor's Office's position in criminal justice is crucial because it is the bridge connecting the investigation stage with the examination stage in court.

Based on the applicable legal doctrine, the principle is that the Public Prosecutor has a monopoly on prosecution, meaning that every person can only be tried if there is a criminal charge from the Public Prosecutor, namely the prosecutor's office, because only the Public Prosecutor has the authority to bring a person suspected of committing a crime before a court. In 2004, with the enactment of Law Number 16 of 2004, the position of the prosecutor further strengthened the position of the prosecutor as a functional official authorized by law to act as a public prosecutor and implementer of court decisions that have obtained permanent legal force and other authorities based on the law. Thus, the definition of 'prosecutor' in Law Number 16 of 2004 is broader than in Article 1 point 6 a of the Criminal Procedure Code. So, the two authorities of the prosecutor are:

a. As a public prosecutor, and
b. As executor.

Meanwhile, the public prosecutor has the authority to:

Carrying out prosecution. Carrying out judge's orders.

In other words, the prosecutor who handles the case in the prosecution stage is called the 'Public Prosecutor'. The public prosecutor is the one who can carry out the judge's decision. Thus, other prosecutors (who are not public prosecutors) cannot carry out the judge's decision but the public prosecutor can carry out the execution because he is a prosecutor (not a public prosecutor). Article 2 paragraph (1) of Law Number 5 of 1991 contains the following provisions: "The Attorney General's Office of the Republic of Indonesia, hereinafter in this law referred to as the prosecutor's office, is a government institution that carries out state power in the field of prosecution." In the formulation of Article 2 of Law No. 16 of 2004, it is added: 'and other authorities based on the Law'. From the formulation of Article 2 paragraph (1) it can be seen that the prosecutor's office is:

1) A government institution. Therefore, the prosecutor's office is part of the executive branch, not the legislative branch, nor the judiciary.
2) Exercising state power; thus the prosecutor's office is a state apparatus.

The above points need to be understood to understand the position of the Attorney General's Office, both within the government and as a state official. Therefore, the Attorney General, the head of the Attorney General's Office, is not a member of the cabinet. The Attorney General's office is not a minister, but holds the same status as a minister. The composition of the Attorney General's Office is as follows:

a. Attorney General's Office;
b. High Prosecutor's Office;
c. District Attorney's Office.

The Attorney General's Office, led by the Attorney General, is located in the capital city of the Republic of Indonesia, whose jurisdiction covers the territory of the Republic of Indonesia. To carry out his duties, the Attorney General is assisted by several junior attorneys general, each of whom leads a specific field, and experts. Specifically, Article 35 of Law Number 16 of 2004 contains the duties and authorities of the Attorney General, including;

a. Establishing and controlling law enforcement and justice policies within the scope of the prosecutor's duties and authority.
b. To make the law enforcement process provided by law effective.
c. Putting aside matters for the sake of public interest.
d. Submitting an appeal in the interests of law to the Supreme Court in criminal, civil and state administrative cases.
e. Can submit technical legal considerations to the Supreme Court in the cassation examination of civil cases.
f. Prevent or prevent certain people from entering or leaving the Republic of Indonesia due to their involvement in criminal cases in accordance with the law.

For the DPR, the provisions of Article 24 paragraph (3) must be interpreted to mean that the Prosecutor's Office is "a law enforcement agency that carries out state power in the field of prosecution and must be free from the influence of any party." So the DPR wants this institution to be separate from the realm of executive power and to be completely independent and autonomous. Therefore, regarding the recruitment of the Attorney General, the DPR proposed that the appointment and dismissal of the Attorney General be "officially appointed by the President with the approval of the House of Representatives." Candidates for Attorney General are submitted by the President to the DPR for approval. Once a candidate is approved, the President then inaugurates that candidate as Attorney General.

The Attorney General is a state official (Article 19). The Attorney General's term of office is limited to five years (Article 19D). The government, on the other hand, wishes to maintain the Attorney General's Office's position as a "government institution exercising state prosecutorial power," but to do so "independently within the power structure of law enforcement and justice agencies." Therefore, the government does not wish the Attorney General's Office, which exercises state prosecutorial power, to be removed from the executive branch. The Attorney General is a state official, but is appointed and dismissed by the President (Article 21). However, only Deputy Attorneys General and Junior Attorneys General can be appointed as Attorney General. Therefore, the government wants the Attorney General to be appointed from among career officials to strengthen the professionalism of the Prosecutor's Office. Because the Attorney General is appointed and dismissed by the President, as stipulated in Law No. 5 of 1991, there is no term limit for the Attorney General. The government believes that constitutional conventions will limit the Attorney General's term of office, and therefore do not need to include it in the draft bill. Deliberations on the bill can be completed relatively quickly. Most House factions withdrew their proposal to have an independent Attorney General removed from the executive branch. They also withdrew their proposal to have the Attorney General appointed by the House of Representatives and inaugurated by the President.

2. The Existence of the Prosecutor's Office in the Indonesian Criminal Justice System.

As a legal basis, the judiciary is absolutely necessary because it can accommodate and implement various legal issues in a concrete form. And with the judiciary, legal processes can occur as a form of legitimacy or validation of various behaviors, both in individual relationships and in social groups. From the perspective of the criminal justice system, several law enforcement institutions play a role in the criminal justice process, including the police, prosecutors, courts, and correctional institutions. These four institutions should be able to work together and coordinate well to achieve the goals mentioned above, at the very least, to combat crime or control its occurrence within the limits of tolerance acceptable to society. Although institutionally, these institutions are separate from one another, they remain an inseparable unit within the fabri of the integrated criminal justice system. The criminal justice process can be defined as the entire process of examining a criminal case to uncover the crime and take legal action against the perpetrator. The criminal justice process involves various stages, each managed by an institution with its own structure and authority. Through these various institutions, the criminal justice process begins with the police, continues through the prosecutor's office, and ends with the correctional institution. Each of these institutions is responsible for and operates according to its respective duties.

Based on the applicable laws and regulations, it can be concluded that the process of examining a case by the prosecutor's office includes:

a. Investigation Stage
The definition of investigation is regulated in the Criminal Procedure Code which is contained in Article 1 point I which reads as follows: "Investigators are State Police Officers of the Republic of Indonesia or certain Civil Servant Officials who are given special authority by law to conduct investigations. From the definition of investigators above, in the explanation of the law it is concluded that officials who are authorized to conduct investigations are: State Police Officers of the Republic of Indonesia (POLRI); and Civil Servant Officials who are given special authority by law to conduct investigations. In addition to investigators, in the Criminal Procedure Code there are also assistant investigators, provisions regarding this matter are contained in Article I point 3 of the Criminal Procedure Code, which states that: "Assistant investigators are officials of the State Police of the Republic of Indonesia who because they are given certain authority can conduct investigations as regulated in this law."

Furthermore, regarding the definition of assistant investigators, it is regulated in Article 1 Point 12 of Law No. 2 of 2002, which states that: "Assistant Investigators are officials of the Republic of Indonesia National Police who are appointed by the Head of the Republic of Indonesia National Police based on rank requirements and are given certain authorities in carrying out investigative duties as regulated in the Law." Regarding Civil State Investigators, it is further explained in the explanation of Article 7 paragraph (2) of the Criminal Procedure Code, that "What is meant by investigators in this paragraph are for example customs officials, immigration officials, forestry officials who carry out investigative duties in accordance with the special authority granted by the law which is the legal basis for each of them."

Based on the statutory provisions regarding investigators and assistant investigators above, it can be seen that in order to carry out investigative duties there must be a grant of authority. Regarding the granting of authority, according to Andi Hamzah, he is of the opinion that: "The granting of authority to investigators is not solely based on power but based on the approach to the obligations and responsibilities they bear, thus the authority granted is adjusted to the position, rank, knowledge and the lightness of the investigator's obligations and responsibilities." The investigative task carried out by the Indonesian National Police Investigator is to be the sole investigator for general crimes, his duties as an investigator are very difficult and require great responsibility, because the investigation is the initial stage of a series of criminal case resolution processes which will later influence the next stage of the judicial process.

Meanwhile, Article I point 2 of the Criminal Procedure Code explains the meaning of investigation, as follows: "Investigation is a series of investigator actions in the case and according to the method regulated in this law to search for and collect evidence with the evidence to clarify the crime that occurred and to find the suspect." In connection with this, Yahya Harahap provides an explanation regarding investigators and investigations as follows: "As explained in the discussion of the general provisions of Article I Points I and 2, Formulating the meaning of investigation which states, investigators are police officers or certain civil servants who are authorized by law. While investigators in accordance with the method regulated in the law to search for and collect evidence, and with that evidence to make or become clear about a crime that occurred and at the same time find the suspect or perpetrator of the crime."

The primary purpose of an investigation is to seek and gather evidence that can shed light on a crime and identify the suspect. This is in accordance with Article I, point 2 of the Criminal Procedure Code. In carrying out investigative duties to uncover a criminal act, investigators, due to their obligations, have the authority as stated in the provisions of Article 7 paragraph (1) of the Criminal Procedure Code (KUHAP) in conjunction with Article 16 paragraph (1) of Law Number 2 of 2002 concerning the Republic of Indonesia National Police, which states that the investigator's authority is as follows:

Receiving a report or complaint from a person about a crime; taking the first action at the scene; ordering a suspect to stop and checking the suspect's identification; making an arrest, detention, search and seizure; fingerprinting and photographing a person; summoning a person to be heard and examined as a suspect or witness; summoning a person to be heard and examined as a suspect or witness; bringing in experts needed in connection with the examination of the case; terminating the investigation; taking other responsible legal actions. The investigation carried out is preceded by notification to the public prosecutor that the investigation of a criminal event has begun. Formally, this notification is conveyed through the mechanism of the Letter of Notification of Commencement of Investigation (SPDP). This is regulated in the provisions of Article 109 of the Criminal Procedure Code. However, the deficiency that is felt to be very hampering is the lack of clarity in the provisions regarding when the investigation must be notified to the Public Prosecutor. If we pay attention to all the provisions in the Criminal Procedure Code, it can be seen that the investigation process carried out by the investigator can be described as follows:

1) It begins with the existence of input material for a criminal act.
2) Take the first action on the scene.
3) Summoning and examining suspects and witnesses.
4) Exercising necessary coercive measures.
5) Preparation of Investigation Reports.

If the investigator has completed the investigation, the investigator is required to immediately submit the case file to the public prosecutor. If the public prosecutor believes the investigation results are incomplete, the public prosecutor must immediately return the case file to the investigator along with instructions for completion. If the public prosecutor does not return the file within 14 days after the investigator submits the investigation results, the investigation is considered complete.

b. Prosecution Stage

This prosecution stage is the stage within the jurisdiction of the prosecutor's office, granting full authority to the public prosecutor to conduct the prosecution. Prosecution is the public prosecutor's action to transfer a criminal case to the competent district court in the manner and circumstances stipulated by law, with a request that it be examined and decided by a judge in court. Prosecution of a case can be conducted in various ways. This method depends on the severity of the case. If a case is a regular case with a criminal penalty of more than one year, then prosecution can be conducted according to the usual method. Prosecution of a case using the usual method is characterized by the presence of a complete and complex case file, which contains various minutes compiled by the investigator. The main characteristic of this prosecution is that it is always accompanied by an indictment that is carefully and completely prepared by the public prosecutor who submits the case file himself and must also be present at the court hearing. In addition to the usual prosecution, prosecution can also be carried out in a short manner. This prosecution is carried out if the case carries a lighter penalty, namely no more than 1 year in prison. The case file is usually not complicated, however, the public prosecutor still prepares and submits a simple indictment. In this type of prosecution, the public prosecutor directly delivers the case file to the court which is then registered in the register book by the court clerk. The public prosecutor, after receiving the file/investigation results from the investigator, immediately appoints a prosecutor to study and research it, then based on the results of the research, the prosecutor submits suggestions to the Head of the District Attorney's Office, including:

1) Returning case files to investigators because they are incomplete, along with instructions for the investigators to follow. This is referred to as "pre-prosecution" under Article 14 of the Criminal Procedure Code.
2) Merge or split files
3) The results of the investigation are complete, but there is insufficient evidence or the incident does not constitute a crime and it is further recommended that the prosecution be stopped.
4) The investigation results are complete and can be submitted to the district court. In this case, the Head of the Indonesian Prosecutor's Office issues a letter appointing a Public Prosecutor. In this case, the public prosecutor prepares a completed indictment and then prepares a letter of transfer of the case to the District Court.

Regarding the prosecution policy, it is the public prosecutor who determines whether a case resulting from an investigation is complete or not to be submitted to the District Court for trial. This is regulated in Article 139 of the Criminal Procedure Code. If according to the public prosecution's considerations, there is insufficient evidence to be forwarded to the Court or the case does not constitute a crime, the public prosecutor makes a decision regarding this (Article 140 paragraph (2) point b (Criminal Procedure Code). Regarding the authority of the public prosecutor to close a case by law as stated in Article 140 (2) point a (Criminal Procedure Code), the Implementation Guidelines for the Criminal Procedure Code explain that "Case closed by law" is interpreted in accordance with Book I of the Criminal Code, Chapter VIII regarding the elimination of the right to sue as regulated in Articles 76; 77; 78 and 82 of the Criminal Procedure Code.

The prosecution of a case is carried out by the public prosecutor, in the context of carrying out the prosecutorial duties he/she is entrusted with. The public prosecutor is the prosecutor authorized by this law to prosecute and appoint judges. In carrying out the prosecution under his/her authority, the public prosecutor immediately prepares an indictment based on the results of the investigation. If the public prosecutor finds that there is insufficient evidence or the incident is not a criminal incident or the case is closed by law, the public prosecutor will stop the prosecution, which will be stated in a decree. If the suspect is in detention, while a decree has been issued, the suspect must be immediately released from detention. Furthermore, the decree in question is released from detention. Next, the suspect is notified of the decision letter. Copies of the decision letter are sent to the suspect, his family, legal counsel, state detention center officials, investigators, and judges. Based on this decision letter, a pretrial motion may be filed, as stipulated in Chapter X, Part One of the Criminal Procedure Code. If new grounds are subsequently discovered, the public prosecutor may prosecute the suspect.

If a criminal case has been prosecuted, the case is submitted to the court. The crime will then be examined, tried, and decided by a panel of judges and a District Court consisting of 3 (three) people. Once the panel of judges has been determined, the trial date will be determined. Notification of the trial date will be delivered by the public prosecutor to the defendant at his residence or delivered at his last residence if his residence is known. In this case, the summons letter contains the date, day, and time and for what case he was summoned. The summons letter is delivered no later than three days before the trial begins. The evidentiary system adopted by the Criminal Procedure Code is a system of evidence based on negative law (Negatif wettelijk). This can be concluded from Article 183 of the Criminal Procedure Code. Article 183 of the Criminal Procedure Code states: A judge may not impose a sentence on a person unless, with at least two valid pieces of evidence, he is convinced that a crime has actually occurred and that the defendant is guilty of committing it. Based on this statement, it is clear that proof must be based on the evidence stated in the law accompanied by the judge's belief in the evidence presented at trial, which consists of:

1) Witness testimony;
2) Expert Statement;
3) Letters; Instructions; and
4) Defendant's statement.

The Criminal Procedure Code also adheres to a minimum of proof (minimum bewijs), as stated in Article 183. Minimum proof means that in deciding a criminal case, the judge must decide based on a number of pieces of evidence. The Criminal Procedure Code provides a minimum limit on the use of evidence, namely a minimum of two pieces of evidence accompanied by the judge's conviction. This stage of examining a criminal case in court is carried out after the preliminary examination stage is completed. This examination is based on the Accusatoir system or model, and begins with the submission of the case file to the Public Prosecutor. The examination before the court begins with a notification to come to the court hearing which is conducted legally according to the law. In this case, Article 154 of the Criminal Procedure Code has provided limitations on the legal requirements in the case of Article 154 of the Criminal Procedure Code has provided limitations on the legal requirements regarding the summons to the defendant, with the provisions. The summons to the defendant is delivered at his residence or if his residence is unknown, delivered at his last place of residence. If the defendant is not at his last place of residence, the summons is delivered through the village head in the jurisdiction of the defendant's residence or last place of residence. If the defendant is in detention, the summons is delivered to him through the state detention center official. Receipt of a summons by the defendant himself or another person or through another person, is done with a receipt if the place of residence or last place of residence is unknown, the summons is posted on the announcement place in the court building that has the authority to try the case.

D. CLOSING

Conclusion

1. The position and function of a prosecutor in criminal justice is as a functional official who is authorized by law to act as a public prosecutor and implementer of court decisions that have obtained permanent legal force, as well as other authorities based on law.
2. Based on the applicable laws and regulations, it can be concluded that the process of examining a case by the prosecutor's office includes the investigation stage, the prosecution stage and examination in court.

Suggestion

1. It is hoped that prosecutors as functional officials who are given authority by law will increase their professionalism in carrying out their assigned duties, so that they can interpret the law not only dogmatically, but also sociologically and theoretically.
2. To expedite the implementation of the task of resolving cases in the criminal justice system, there needs to be positive cooperation that is institutional in nature or functional in nature and that each individual has a good relationship, which will then expedite the case resolution process.

REFRENCES

A. BUKU

Abdul aziz hakim, Negara hukum dan Demokrasi di Indonesia, Pustaka Pelajar, Yogjakarta 2011.

AdityaRakatama, Peran Komisi Kejaksaan Sebagai Perwujudan Partisipasi Publik Dalam Rangka Pengawasan Lembaga Kejaksaan,SinarGrafika, Jakarta 2008

Andi Marlina, Sistem Peradilan Pidana Indonesia dan Sekilas Sistem Peradilan Pidana di Beberapa Negera, CV. Eureka Media Aksara,Purbalingga 2022

IlhamiBisri, Sistem Hukum Indonesia, PT. Raja Grafindo Persada, Jakarta 2004

Laden Marpaung, Proses Penanganan Perkara Pidana, Sinar Grafika, Jakarta 2009

Rusli Muhammad, Sistem Peradilan Pidana Indonesia, UII Pres, Yogyakarta 2011

Tolib Effendi, Sistem Peradilan Pidana Perbandingan Komponen dan Proses

Sistem Peradilan Pidana di Beberapa Negara, Pustaka Yutisia, Surabaya 2013

WirjonoProdjodikoro, Asas-asas Hukum Pidana di Indonesia, RefikaAditama, Bandung 2003.

Yusril Ihza Mahendra, Kedudukan Kejaksaan Dan Posisi Jaksa Agung Dalam Sistem Presidensial Di Bawah UUD 1945

B. Undang-Undang/Peraturan

Undang-undang tentang Kekuasaan Kehakiman, UU Nomor 4 Tahun 2004, LN.No.8 Tahun 2004

Undang-undang Nomor 16 Tahun 2004 tentang Kejaksaan RI

Keputusan Presiden tentang Susunan Organisasi dan Tata Kerja

KejaksaanRepublik Indonesia, Keppres No. 86 Tahun 1999

Kompas, Mampukah mengembalikan kepercayaan,2004

Pidato Jaksa Agung pada peringatan HBA ke 48, tanggal 24 Juli 2008 di Kejaksaan Agung

E. Internet

www.kejaksaan.go.id/prosespemeriksaan-perkara-pidana-indonesia. Diakses pada tanggal 07 Juni 2025

httpss//:hukumkompasiana//pemeriksaankejaksaan.co.id Diakses pada Tanggal 07 Juni 2025