

Legal Sanctions Against Perpetrators Criminal Persecution That Resulted Serious Injury (Case Study Medan District Court Decision No. 000/ Pid.Sus/2022/Pn.Mdn)

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Abstract

Criminal acts of persecution it is a form of action that can harm others that is against the physical. One of them that can cause serious injury or it can even cause loss of life somebody. The act occurred the factors include less public behavior well controlled due to low level of education and environmental influences, less Association good that eventually resulted disputes both personal and groups. Problems that appointed in this study are how is the application of criminal law against the crime of persecution this resulted in severe injuries in The Samarinda District Court and what to consider judge's decision to drop verdict against criminal acts the resulting persecution serious injuries in court (Case Study Medan District Court Decision No. 000/ Pid.Sus/2022/Pn.Mdn)

Keywords: Sanction; Persecution, Criminal

1. INTRODUCTION

Legal protection can be interpreted every effort government to guarantee there is legal certainty for provide protection to the Criminal Law in Indonesia become one of the guidelines which is very important in creating a Justice. Book of laws Criminal law (Penal Code) is strong foundation in order determine which actions are prohibited and have sanctions strict for those who break it. General provisions of Article 351 of the code- Criminal Law of the Criminal Code. Persecution is punished with prison sentence for two years eight months or a fine as many as four thousand five hundred dollars. If the deed it caused severe injuries, the guilty are threatened with the last five years of prison year. If it results in death, punishable by imprisonment seven years at most. With persecution equated its citizens to their rights as a citizen it's not broken, and it's broken sanctions for someone who breaking the crime up with violation into three parts the importance of being in Penal Code.¹

Criminal provisions against crime or offense the attack itself has been contained in the Criminal Code in Article 351 S / d Article 358 The criminal

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¹ Muhammad Mariadi, Penerapan Hukum Terhadap Pelaku Tindak Pidana Penganiayaan Yang Mengakibatkan Luka Berat di pengadilan Negeri Samarinda, Journal Of Law, Vol. 7, No. 2, 2021, pp.3

code that confirms that on intentionally damaging health. Experiment to committing this crime is not convict.

In Article Article 351 s / d article 358 of the criminal code governing about persecution, provisions acts of violence are also in Article 170 of the criminal code confirms that the offense intersect with persecution and violence what a person does against others even against things though to be someone's reason must take responsibility his deeds.²

In general, the action intersecting with deeds persecuted as intended, fit for known and applied with good by law enforcement officers in order to create a that justice wanted. So with pay close attention and compared to the elements matching deeds delinquent formula with deeds done by the perpetrator can be the first step in creating a sense of justice for everyone in the case with criminal acts persecution.

2. RESEARCH METHOD

The research method in this paper is carried out with a normative juridical approach, namely by analyzing problems through the approach of legal principles and knowing the legal norms contained in the law.³

3. RESULT AND ANALYSIS

The defendants were arrested from October 18, 2021 to October 19, 2021 and then the defendants were detained in detention by: investigators from October 19, 2021 to November 7, 2021; extension by the public prosecutor from November 8, 2021 to December 17, 2021; briefly on February 3, 2022, the submission of their case files to the medan court and the determination of the chairman of the Medan District Court number 214/Pid.Sus/2022/PN Mdn dated January 27, 2022 on the appointment of the panel of judges; The verdict of the judge in the trial process stated that defendant 1 and Defendant 2 were found guilty of committing the crime of molestation which resulted in serious injury to the child victim named Arif Rahman Zebua.

Furthermore, the chairman of the Medan District Court decision, dated April 8, 2022, number: 000/Pid.Sus/2022 / Fr.Mdn, the amar reads as follows: 1. States Defendant 1 and Defendant 2 mentioned above, legally and convincingly proven guilty of committing criminal acts of participating in violence against children resulting in serious injury, as in the first alternative charges; 2. Impose a penalty on the defendants therefore with imprisonment for 1 (one) year and 6 (six) months respectively and a fine of Rp.50.000.000,00. (fifty million rupiah) with the provision that if the fine is not paid, replaced imprisonment for 3 (three) months each; 3. Establish the

² Yogie Ronaldo Sitepu dkk, Tinjau Yuridis Terhadap Tindak Pidana Pelaku Penganiayaan Yang Mengakibatkan Luka Berat di Bagian Kepala, Jurnal Ilmu Hukum Prima, 2019, pp.11

³ Ariman Sitompul, Metode Penelitian Hukum Normatif (Strategi Praktis Penulisan Skripsi, Tesis & Disertasi), Mazda Media, Malang, 2022, pp. 109 lihat juga Bambang Sunggono, Metodologi Penelitian Hukum, PT Raja Grafindo Perseda, Jakarta, 2009, pp. 41

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period of arrest and detention that has been served by the defendants deducted entirely from the crime imposed; 4. Keeping the defendants in custody; 5. Charging the defendants to pay the costs of each case in the amount of Rp2, 000.00. (two thousand rupiah).

Cases of abuse cases that result in serious injury based on the position of the case and the facts revealed in the trial. The public prosecutor charged with the crime of "intentionally committing violence against children resulting in serious injury" as referred to in the first indictment in violation of Article 80 Paragraph (2) of Article 76 C of the Indonesian law No. 35 of 2014 on amendments to the law no. 23 of 2002 on Child Protection.

The verdict of the judge in the trial process stated that defendants 1 and 2 were guilty of committing the crime of violence against children resulting in serious injury. Therefore, the panel of judges sentenced him to imprisonment for 1 (two) years and 6 (six) months.

According To M. Yahya Harahap, in general, the indictment is interpreted by legal experts in the form of a definition of a letter/certificate containing the formulation of a criminal offense charged to the defendant, the formulation of which is drawn and concluded from the results of the investigation is connected with the formulation of the criminal offense article that was violated and charged to the defendant and the indictment is the basis for consideration for the judge in the court session.⁴

The public prosecutor presented defendants 1 and 2 with the following charges: That he was Defendant 1 and Defendant 2 together with Dimas prosecution terisah, Mahmud (Dpo / not yet caught) on Saturday September 04, 2021 approximately at 22.00 wib or at least at a certain time in 2021, located in the city of Medan precisely in the courtyard of the Al-Ikhlas mosque or at least in a certain place that is included in the legal area of, or participate in violence against children (Arif Rahman Zebua aged 17 years based on Birth Certificate Number 2776/2004) which resulted in serious injury".

The act was carried out by the defendants in the following way : that earlier on Saturday, September 04, 2021 at approximately 22.00 wib, when the victim's child was practicing silat together with his friends in the courtyard of the AL Ikhlas mosque, suddenly the defendant 1 Agil and defendant 2 Wahyudi together with Dimas and Mahmud (Dpo) came to the victim's child's place Andrew answered, " no I hit bang, just kurangkul aja",

⁴ M. Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHAP Penyidikan dan Penuntutan Edisi Kedua*, Jakarta: Sinar Grafika, 2004, pp. 386-387.

then Dimas said, "Why do not you dare so", then M Andreansyah replied again," I'm not not brave bang, I dare but one on one, " then the victim mediates both while saying," what's the problem bang, want to be solved bang", but suddenly the defendant 1 Agil came to say, " so you fencing your martial arts?", while rejecting the victim's child's chest, then the victim's child replied Also by rejecting the defendant's chest 1 Agil, seeing that defendant , Dimas and Mahmud came to attack the victim's child by storming from behind while holding the victim's two hands, so that the victim's child felt helpless and unable to resist, then defendant 1, defendant , Dimas and Mahmud beat the victim's child's face until he finally fell face down, then at that time among the perpetrators turned the victim's child's body by pulling the shirt and hitting the back, after the victim's child's body turned , the defendants hit the victim's child's face again until the nose became injured and deformed, hit the body, head , hands and feet until finally the victim's child was trampled, not much later came residents to stop the incident and help the victim's child until the defendants finally fled;

That as a result of the actions of the defendants, the left cheek, right and forehead of the victim's child was bruised, the forehead and face of the victim's witness were injured, the bridge of the victim's nose was broken, the victim's nose was injured, the legs of the victim's thighs were blue bruises, the victim's neck was; 3. That based on the Certificate of Visa Et Repertum from RSU. Windy month number: 09 / KET.VER/RM/RSWW/IX / 2021 on September 08 mber made and signed by dr. Fadliana Mutia SIP.0919 /0791/3.1/0202/02/2019 which explains "abrasions diking size 2x1 cm, abrasions on the left eyebrow size 2x0. 5cm, abrasions on the right eyebrow size 2x0. 5cm,nasal bone shifted towards the left accompanied by abrasions, two (2) abrasions on the back of each size (I. 3x2cm, II. 1x1 cm), 2 (two) abrasions on the right forearm of each size (I. 1x1cm, II. 2x1 cm), two (2) abrasions on the right leg of each size(I. 1x1cm, II. 1x0. 5cm), abrasions on the left leg size 4x0. 5 cm" with the conclusion of being disabled;the actions of the defendant as stipulated and punishable by crime in Article 80 paragraph (2) Jo Article 76 C of UURI No. 35 of 2014 concerning amendments to UURI No. 23 of 2002 concerning child protection;

That he was Defendant 1 and Defendant 2 together with the separated prosecution Dimas, Mahmud (Dpo / not yet caught) at the time and place as described in the first indictment above," blatantly and with joint force using violence against people who cause serious injury " committed by the defendant in the following ways and circumstances : 1. That earlier on Saturday September 04, 2021 at approximately 22.00 wib, when the victim's child was practicing silat together with his friends in the courtyard of the AL Ikhlas mosque, suddenly the defendant 1 Agil and defendant 2 Wahyudi together with Dimas and Mahmud (dpo) came to the place where the victim's child was training and met one of the students who practiced named M

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Andreansyah, “ no I hit bang, just Kurangkul Aja”, then Dimas said, "why do not you dare so", then M Andreansyah replied again “ " I'm not not dare bang, I dare but one on one, “ then the victim mediates between the two while saying,” the problem is what bang, want solved bang“, but suddenly the defendant 1 Agil came to say, " so you fencing your martial arts?” , while rejecting the victim's child's chest, then the victim's child replied Also by rejecting the defendant's chest 1 Agil, seeing this defendant 2, Dimas and Mahmud came to attack the victim's child by storming from behind while holding the victim's two hands, so that Arif Zebua felt helpless and unable to resist, then defendant 1, defendant 2, Dimas and Mahmud beat the victim's child's face until he finally fell face down, then at that time among the perpetrators turned the victim's child's body by pulling clothes and hitting the back, after the victim's child's body turned , the defendants hit the victim's child's face again until the nose became injured and deformed, hit the body, head , hands and feet until finally the victim's child was stepped on- pijak, not how many then came residents to stop the incident and help the victim's child until the defendants finally fled; 2. That as a result of the actions of the defendants , the left cheek, right and forehead of the victim's child were bruised, the eyebrows and faces of witnesses the victim was injured, the bridge of the victim's nose was broken, the victim's nose was injured, the legs of the victim's thighs were blue bruises, the victim's neck was swollen; 3. That based on the Certificate of Visa Et Repertum from RSU. Windy month number: 09 / KET.VER / RM/RSWW/IX / 2021 on September 08, made and signed by dr. Fadliana Mutia SIP.0919 /0791/3.1/0202/02/2019 which explains “abrasions diking size 2x1 cm, abrasions on the left eyebrow size 2x0. 5cm, abrasions on the right eyebrow size 2x0. 5cm,nasal bone shifted towards the left accompanied by abrasions, two (2) abrasions on the back of each size (I. 3x2cm, II. 1x1 cm), 2 (two) abrasions on the right forearm of each size (I. 1x1cm, II. 2x1 cm), two (2) abrasions on the right leg of each size(I. 1x1cm, II. 1x0. 5cm), abrasions on the left leg the size of 4x0. 5 cm” with the conclusion of being deformed; The actions of the defendants as regulated and punishable under Article 170 paragraph (2) 2 of the Criminal Code.

A claim is an indictment that the public prosecutor considers to meet the elements to be sentenced based on a pre-trial examination, by the public prosecutor the claim is read in advance of the trial after the examination of witnesses and evidence is completed. From Decision No.000 / Pid.Sus/2022 / Pn.Mdn then the demands put forward by the public prosecutor are as follows:

1. Declare defendant 1 and Defendant 2 legally and convincingly guilty of committing a criminal offense “intentionally commit violence against children resulting in serious injury” as referred to in the first indictment in violation of Article 80 Paragraph (2) Jo Article 76 C of the Indonesian law No. 35 of 2014 on amendments to the law no. 23 of 2002 on Child Protection;
2. Impose a penalty on the defendant defendant 1 and Defendant 2 in the form of imprisonment for: 2 (two) years reduced while the defendants are in custody, with orders to remain in custody, a fine of Rp50, 000, 000.00 each. (fifty million rupiah), subsidiary 6 (six) months confinement;
3. Stipulate that each of the defendants pay a case fee of Rp2, 000.00. (two thousand rupiah)

Considering that the defendant has been charged by the Public Prosecutor with alternative charges, so that the panel of judges, taking into account the above-mentioned legal facts, directly selects the first alternative charge as stipulated in Article 80 paragraph (2) Jo. Article 76C of Law No. 35 of 2014 on amendments to Law No. 23 of 2002 on Child Protection (Child Protection Amendment law).

Considering that what is meant by violence under Article 1 number 15a of the Child Protection Amendment law, is any act against a child that results in the emergence of misery or suffering physically, psychologically, sexually, and/or neglect, including threats to commit acts, coercion, or unlawful deprivation of Liberty.

That in accordance with the legal facts found in the trial, the tribunal held that the defendants had been proven to have committed violence against the victim's child because the actions of the defendants who repeatedly hit and stepped on the victim's child had caused physical suffering to the victim's child.

That the actions taken by the defendants jointly so that according to the Assembly of the actions of the defendants included in the kua 1 Number 1 of the Child Protection Amendment Act, every person whose age is not more than 18 (eighteen) years is categorized as a child; that based on legal facts found at the trial, it turns out that when the victim's child experiences physical violence committed by the defendants, the victim's child's age is 17 (seventeen) years 5 (five) months, so it still belongs to the category of children; considering, that based on the description of the above considerations, this second element has been fulfilled according to law and belief.

Based on the indictment of the public prosecutor and the decision of the panel of judges, it can be analyzed by outlining the analysis of the indictment and verdict as follows: 1. Indictment Analysis District Court Decision No. 000 / Pid.Sus/2022 / Fr.Mdn, starting from the indictment

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prepared by the public prosecutor and also on the demands of the Prosecutor General, which is no different from the indictment.

For this reason, the author begins to analyze the verdict from the indictment of the Public Prosecutor. The indictment made by the public prosecutor is a type of alternative indictment, for that it is better for the author to explain at a glance about the alternative indictment. The form of an alternative indictment is the same as the subsidiary indictment, the alternative indictment also consists of several layers of charges arranged in layers with the intention that one layer serves as a substitute for the previous layer.

Systematic layers are arranged in order starting from crimes that are threatened with the highest or heaviest sentence to crimes that are threatened with the lowest/lightest crime in the same type of crime group. So, the purpose of the alternative indictment is that the judge examines the primair indictment first, and if the primair indictment is not proven, then the subsidiary indictment is further examined and if it is still not proven, then the alternative is examined. In practice, alternative charges are often called subsidiary charges, because in general the charges are prepared by the public prosecutor according to the subsidiary form, which means they are composed of primair and subsidair. And the similarity with alternative charges is that only one charge will be proven, while the difference is in the system of arranging layers of charges and evidence that must be done sequentially starting from the first layer to the layer that is considered proven. Any layer that is not proven must be expressly stated accompanied by a demand to be released from the indictment in question.

The public prosecutor with alternative charges, so that the panel of judges, taking into account the legal facts mentioned above, directly chooses the first alternative charge as stipulated in Article 80 paragraph (2) Jo. Article 76C of Law No. 35 of 2014 on amendments to Law No. 23 of 2002 on Child Protection (Child Protection Amendment law) In the facts of the trial it has been sufficiently proven that the defendant has committed a criminal offense with witness statements that have proven that the defendant has committed a violent crime that resulted in serious injury, and the defendant's actions have also been proven at the trial and the defendant admitted to the actions of the defendant. Given that the Public Prosecutor uses the alterantive indictment, of course the Public Prosecutor must prove the defendant's actions by first examining the primair indictment. From the demands of the public prosecutor's indictment in the form of a subsidiary indictment, the judge determined that the defendant was subject to criminal sanctions in accordance with the primary indictment, namely Article 80

paragraph (2) Jo. Article 76C Law No. 35 of 2014 on amendments to Law No. 23 of 2002 on protection.

In the facts of the trial it has been sufficiently proven that the defendant has committed a criminal offense with witness statements that have proven that the defendant has committed a violent crime that resulted in serious injury, and the defendant's actions have also been proven at the trial and the defendant admitted to the actions of the defendant. Given that the Public Prosecutor uses an alternative indictment, of course the Public Prosecutor must prove the defendant's actions by first examining the primair indictment. From the demands of the public prosecutor's indictment in the form of an alternative indictment, the judge determined that the defendant was subject to criminal sanctions in accordance with the primair indictment, namely Article 80 paragraph (2) Jo. Article 76C of Law No. 35 of 2014 on amendments to Law No. 23 of 2002 on protection. For this reason, the author has the opinion that the primair indictment is appropriate because of all the elements of Article 80 paragraph (2) Jo. Article 76C of Law No. 35 of 2014 has been fulfilled, and because the defendant has been found guilty of committing a criminal offense as in the primair indictment, the subsidiary indictment does not need to be considered.

In Article 137 of the Criminal Procedure Code, it is determined that the public prosecutor has the authority to prosecute anyone who is charged with committing a crime in his legal area to delegate the case to a court authorized to prosecute. The letter of claim is a letter made by the Public Prosecutor after the end of the examination of the case in the trial that contains the criminal acts of the accused, the facts obtained in the trial and legal analysis of these facts, and his opinion on whether or not the criminal acts of the accused have been proven or not (what) against the accused. So, the letter of demand contains the following:⁵

- a) What is the nature of the accused;
- b) Facts obtained in the trial;
- c) Legal analysis of the facts to form a legal construction of the alleged event;
- d) Opinion matters proven or not the indictment;
- e) Public Prosecutor's request to the panel of judges

The charges filed by the Public Prosecutor stated that defendants 1 and 2, were found guilty of committing violent crimes that resulted in serious injuries as stipulated in Article 80 paragraph (2) Jo. Article 76C of Law No. 35 of 2014 on amendments to Law No. 23 of 2002 on protection.

⁵ Adami Chazawi, *Kemahiran & Keterampilan Praktik Hukum Pidana*, Malang: Bayumedia, 2005, pp. 151.

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According to the author, the claim filed by the public prosecutor has been appropriate, namely by demanding that the defendant has violated Article 80 paragraph (2) Jo. Article 76C of Law No. 35 of 2014 on amendments to Law No. 23 of 2002 on protection., so that there is no possibility for the defendant to escape the charges brought by the public prosecutor. where the public prosecutor demanded imprisonment for 2 (two) years, according to the author of the prosecution imprisonment of 2 (three) years has been appropriately imposed on the defendant, so that the defendant gets a deterrent effect on the actions he committed even though the maximum penalty reaches 5 years.

Looking at the facts of the trial, the authors assume that the victim was a child who had been subjected to criminal violence on him that resulted in serious injuries. Therefore, based on Article 80 paragraph (2) of law 35/2014, the perpetrator is threatened with imprisonment for a maximum of 5 (three) and/or a fine of at most Rp 100 million.

4. CONCLUSION

District Court Decision No. 000 / Pid.Sus/2022 / Fr.Mdn is in accordance with Article 80 paragraph (2) Jo. Article 76C of Law No. 35 of 2014 on amendments to Law No. 23 of 2002 on Child Protection on violence resulting in serious injury in this case participate in violence against children resulting in serious injury and based on the testimony of witnesses, the defendant's testimony and based on the facts revealed at the hearing, and with the conviction of the judge, the verdict handed down in this case is imprisonment for 1 (one) year 6 (six) months, a fine of Rp. 50.000.000,00. (fifty million rupiah) provided that if the fine is not paid, the imprisonment shall be replaced for 3 (three) months each; stipulate that the detention period that the defendant has served is deducted entirely from the crime imposed, ordering that the defendant remain in custody. Thus it was decided in a consultative meeting of the panel of judges in passing this decision, the author considered appropriate because it had fulfilled the elements of the article.

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