

ABSTRAK

STUDI PERBANDINGAN MENGENAI PENGATURAN GUGURNYA KEWENANGAN MENUNTUT DAN MENJALANKAN PIDANA MENURUT KUHP DAN KUHP NASIONAL

Oleh

Zenericho

KUHP Nasional merupakan kulminasi dari evolusi masif hukum pidana nasional, sehingga diperlukan penelitian yang mengarah pada terwujudnya pemahaman komprehensif mengenai substansi KUHP Nasional, diantaranya kewenangan menuntut dan menjalankan pidana. Permasalahan yang dikaji yaitu bagaimanakah pengaturan gugurnya kewenangan menuntut dan menjalankan pidana saat ini? serta bagaimanakah pengaturan gugurnya kewenangan menuntut dan menjalankan pidana di masa mendatang.

Jenis penelitian ini adalah penelitian yuridis normatif, yang dilakukan melalui pendekatan perbandingan hukum. Data yang digunakan dalam penelitian ini bersumber dari hasil kajian kepustakaan. Dalam penelitian ini, perbandingan gugurnya kewenangan penuntutan dan pelaksanaan pidana menurut KUHP dan KUHP Nasional dianalisis dengan logika deduktif.

Menurut hasil penelitian, gugurnya kewenangan menuntut saat ini disebabkan oleh *ne bis in idem*, tersangka/terdakwa meninggal dunia, daluwarsa, dan adanya penyelesaian di luar pengadilan. Gugurnya kewenangan menjalankan pidana saat ini terjadi karena terpidana meninggal dunia, daluwarsa, dan adanya grasi. Menurut KUHP Nasional kewenangan menuntut gugur karena *ne bis in idem*, tersangka/terdakwa meninggal dunia, daluwarsa, maksimum pidana denda dibayar dengan sukarela bagi tindak pidana yang diancam pidana denda maksimum kategori II, maksimum pidana denda kategori IV dibayar dengan sukarela bagi tindak pidana yang diancam pidana penjara paling lama 1 tahun atau pidana denda paling banyak kategori III, ditariknya pengaduan, penyelesaian di luar peradilan, serta adanya amnesti atau abolisi. Gugurnya kewenangan pelaksanaan pidana di menurut Pasal 140 KUHP Nasional yakni terpidana meninggal dunia, daluwarsa, adanya grasi atau amnesti, atau penyerahan pelaksanaan pidana ke negara lain.

Diperlukan pemberian pemahaman mengenai gugurnya kewenangan penuntutan dan pelaksanaan pidana, khususnya pada Jaksa. Mengingat adanya pembaharuan hukum KUHP, maka diperlukan harmonisasi dengan hukum pidana formil melalui pengesahan RUU KUHAP.

Kata kunci: Studi Perbandingan, Penuntutan, Pelaksanaan Pidana, KUHP Nasional

ABSTRACT

A COMPARATIVE STUDY REGARDING THE REGULATION OF THE VOID OF THE AUTHORITY TO PROSECUTE AND COMMIT CRIMES ACCORDING TO THE KUHP AND THE NATIONAL CODE

By

Zenericho

The National Criminal Code is the culmination of the massive evolution of national criminal law, so research is needed that leads to the realization of a comprehensive understanding of the substance of the National Criminal Code, including the authority to prosecute and carry out crimes. The problem being studied is what are the current arrangements for the demise of the authority to prosecute and carry out crimes? and what are the arrangements for the cessation of the authority to prosecute and carry out crimes in the future?

This type of research is normative juridical research, which is carried out through a comparative legal approach. The data used in this research comes from the results of a literature review. In this research, the comparison of the loss of prosecutorial authority and the implementation of crimes according to the Criminal Code and the National Criminal Code is analyzed using deductive logic.

*According to research results, the current failure of the authority to prosecute is caused by *ne bis in idem*, the death of the suspect/defendant, expiration, and the existence of an out-of-court settlement. The loss of authority to carry out criminal sentences currently occurs because the convict dies, expires, and a pardon occurs. According to the National Criminal Code, the authority to demand death due to *ne bis in idem*, the suspect/defendant has died, has expired, the maximum fine is paid voluntarily for criminal acts which are threatened with a maximum fine of category II, the maximum criminal fine of category IV is paid voluntarily for criminal acts which are punishable a maximum prison sentence of 1 year or a maximum fine of category III, withdrawal of the complaint, settlement outside the court, and amnesty or abolition. The loss of authority to carry out a crime according to Article 140 of the National Criminal Code means that the convict dies, expires, there is a pardon or amnesty, or the handing over of the execution of the crime to another country.*

It is necessary to provide understanding regarding the invalidation of prosecutorial authority and the implementation of crimes, especially for prosecutors. Considering the legal reform of the Criminal Code, it is necessary to harmonize it with formal criminal law through the ratification of the Draft Criminal Procedure Bill.

Keywords: *Comparative Study, Prosecution, Criminal Implementation, National Criminal Code*