Elements of Article Law Number 1 of 2023 concerning the Criminal Code

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Abstract

It is considered that Law Number 1 of 2023 concerning the Criminal Code still contains articles inherited from colonialism and is prone to being used as a means of criminalization. For example, the contents of the article on treason. Article 192 of the new Criminal Code states that anyone who commits treason with the intention that part or all of the territory of the Unitary Republic of Indonesia falls to foreign powers or to separate themselves from the Unitary State of the Republic of Indonesia shall be punished with death penalty, life imprisonment, or a maximum imprisonment of 20 years. Article 193 paragraph (1) stipulates that anyone who commits treason with the intention of overthrowing the government, shall be punished with a maximum imprisonment of 12 years. Meanwhile, Article 193 paragraph (2) states that leaders or organizers of treason are subject to imprisonment for a maximum of 15 years. Elements of Article Law Number 1 of 2023 Concerning the Criminal Code To find out whether an act in a legal event is a crime, an analysis can be carried out regarding whether the act has fulfilled the elements regulated in a particular criminal law article. For this reason, adjustments or matches (parts/events) of the incident must be made to the elements of the offense being charged. If it turns out to be suitable, then it can be determined that the incident is a criminal act that has occurred for which (can) be held criminally responsible to the perpetrator subject.

1. INTRODUCTION

The Criminal Code is 104 years old, it was formed during the Dutch colonial administration and was influenced by the values that developed, especially those who formed it. It's been more than a hundred years, of course, there are developments.

If it is drawn to the human rights aspect related to the death penalty, it is still in the Criminal Code, but if it refers to the 1945 Constitution, the right to life cannot be revoked. Even though it can't be revoked, he said there are restrictions. The boundaries he refers to are the reasons behind his crimes. As long as there is an objective reason,

for example, if he committed genocide or let it go, that is an issue that will always be debated. The Criminal Code does have pros and cons. As a government apparatus, we still have to approach, we have to respect different views, and we are directing them to express their views formally. For example, anyone who is noisy and disturbs neighbors at night is threatened with a fine of IDR 10 million under Article 265 of Law Number 1 of 2023 concerning the Criminal Code (KUHP).

Another example is the punishment in the form of a fine of the same amount, which also applies to those who scribble in public spaces. The perpetrators of this case are usually school children, and that will definitely inconvenience the parents of the perpetrators, especially those from the "thin wallet". Indeed, the Criminal Code, which was just passed by the Indonesian Parliament on Tuesday, December 6, 2022, regulates crimes involving delinquency, such as scribbling in public spaces to making noise at night. Criminal acts related to delinquency are regulated in Article 331. In this article, it is explained that perpetrators of delinquency can be punished with category II fines or a maximum of IDR 10 million. Whoever in a public place commits an unlawful act against a person or object which may cause harm, loss or distress, is threatened with a maximum fine of Category II," reads Article 331. In the explanation section of the article, it is stated that the example of delinquency in question is scribbled on the walls of public roads.

Any person who in a public place commits delinquency against people or goods, which can cause harm, loss, or distress, shall be punished with a maximum fine of category II, Article 331 reads. Even so, the perpetrators of delinquency cannot be sentenced to prison, because the offense is included in the criminal category II. Article 82 paragraph 1 of the Criminal Code explains that a fine can be replaced with a prison sentence if it is classified as a crime above category II.

Apart from delinquency, the Criminal Code also stipulates punishment for people who are noisy at night. The provisions are regulated in Article 265. The sentence imposed is the same as a criminal delinquency. The following reads the article: Punished with a maximum fine of category II, Everyone who disturbs the peace of the environment by:

a. Making uproar or noisy neighbors at night; or

b: Making false alarm calls or signs.

These are two of the many out of a total of 624 articles that fulfill the subjective and objective elements in Law number 1 of 2023 concerning the Criminal Code which is considered controversial but has already been passed into law by the DPR. Based on the description above, the formulation of the problem is:

1) What articles in Law Number 1 of 2023 concerning the Criminal Code still contain Dutch colonial legacies?
2) What are the elements of Article Law Number 1 of 2023 concerning the Criminal Code?

2. THEORY REVIEW

1) Considerations for the Passing of Law Number 1 of 2023 concerning the Criminal Code (KUHP)

Several considerations for the formulation of Law Number 1 of 2023 concerning the Criminal Code (KUHP) are: To realize the national criminal law of the Unitary State of the Republic of Indonesia which is based on Pancasila and the 1945 Constitution of the Republic of Indonesia as well as recognized general legal principles people of nations, it is necessary to draw up a national criminal law to replace the Criminal Code inherited from the Dutch East Indies colonial government.

The national criminal law must be adapted to legal politics, conditions, and developments in the life of society, nation, and state which aim to respect and uphold human rights, based on Belief in One Almighty God, just and civilized humanity, Indonesian unity, a

led by wisdom in deliberations/representation, and social justice for all Indonesian people.

National criminal law material must also regulate the balance between public or state interests and individual interests, between the protection of perpetrators of criminal acts and victims of criminal acts, between elements of action and mental attitudes, between legal certainty and justice, between written law and the law that lives in society. , national values and universal values, as well as between human rights and human obligations. Based on the considerations referred to in letters A, b, and c, it is necessary to enact a Law on the Criminal Code.

The primary function of a criminal law is to follow up on a crime prevention action, this is expected to create a deterrent effect for perpetrators, while the secondary function is to act as supervision for government officials and law enforcers in tackling crime to carry out their duties following what has been regulated in a criminal law.

The function of coping with crime, criminal law is part of criminal politics, nonpenal efforts

on that effort. Given that function, the formation of criminal law will not be separated from the review of the effectiveness of law enforcement.

Criminal law reform is related to a problem part of the Criminal Code which is dogmatic. Teachings, principles or principles and concepts of mindsets and norms

substantive, both as stated explicitly as well as the thought of the concept of the formation of the Criminal Code. This reform, renewal includes three factors of the criminal law order

positive need urgent updating. The first positive criminal law covers the challenge of regulating the basic aspects of society's life today. It is a positive order inherited from Dutch colonial law adapted to the adaptation of Indonesian society.

Second, several changes were made to some provisions of the positive criminal law which were deemed unable to be adapted to the spirit of reform which upholds the values of freedom, justice, independence, human rights, and democracy.

Third, the application of criminal law provisions that are detrimental to the people, especially political activists, human rights, and democratic life in this country, changes and reviews of the concepts contained in criminal law are carried out.

Criminal law reform must refer to the three orders and synergize with the interests of the party's

law enforcer. The policy includes inclusion criteria for criminalization laws that are stipulated in the criminal law so that it is profitable and does not cause strong opposition from the wider community.

Criminal law reform is closely related to the existence of criminal procedural law. Indonesia already has legislation that regulates criminal law which is characterized and has a national character. The making of a National Criminal Code should be done first so that we can determine a concept to determine how the procedures or procedures for enforcing, implementing, and defending the material criminal law through criminal procedural law.

The provisions contained in the National Criminal Code are focused on procedures for convicts to have a deterrent effect and redirect them to the right path while still providing security and tranquility for the wider community. The formulation of criminal objectives in the National Criminal Code, in addition to protecting the community, also pays attention to the interests of the convict.

In regulating the interests of convicts it influences the interests of society, where if convicts finish serving their sentences they still behave badly, which will disturb the peace and security of society, this matter is the main idea that must be contained in the legislation of criminal law.

Another understanding contained in the needs of the Indonesian nation's Criminal Code which has changed, needs to pay attention to the characteristics of criminal law with the characteristics of community life and national ideology of Indonesia, namely Pancasila.

It is necessary to look for a new draft or concept in criminal law that is familiar to the Indonesian people. The provisions of the criminal law can be extracted from unwritten law or customary law with two conditions, namely: First, he must live in Indonesian society; Second, it will not hinder the development of a just and prosperous society, namely that unwritten legal rules must be accompanied by criminal threats. The existence of criminal threats in the unwritten law is intended so that the customary regulations that apply to people's lives will expand to become national law so that law enforcers have the authority to determine as a criminal act an event that occurs in the customary rules of the community.

This is expected to replace the previous understanding of a sentence, the previous sentence implies an act of retaliation for a crime that occurred at a certain time and place, which is considered as an appropriate goal of a criminal process is prevention.

anti-social behavior. Based on the opinion put forward by Muladi, there are several theories about the purpose of sentencing.[1]

2) Systematics and Mission of Law Number 1 of 2023 concerning the Criminal Code

Another fundamental thought that influenced the drafting of this Law was the development of science on victims of crime (victimology) which developed after

[1] Muladi dan Barda Nawawi Arief, Teori-teori dan Kebijakan Pidana, PT Alumni, Bandung, 2018, hlm. 49-51.

World War II, which paid great attention to fair treatment of victims of crime and abuse of power. The daad-dagger Strafrecht philosophy and victimology will influence the formulation of 3 (three) main issues in criminal law, namely the formulation of unlawful acts, criminal liability or guilt, and sanctions (criminal and actions) that can be imposed along with the underlying criminal law principles.

The drafting of this law is intended to replace Wetboek van Strafrecht or what is referred to as the Criminal Code as stipulated by Law Number 1 of 1946 concerning Criminal Law Regulations which have been amended several times. The substitution is one of the efforts in the framework of developing national law. These efforts are carried out in a directed, integrated, and planned manner so that they can support national development in various fields according to the demands of development as well as the level of legal awareness and dynamics that are developing in society.

In its development, the renewal of this Law which is directed towards a single mission that contains the meaning of "decolonization" of the Criminal Code in the form of "recodification", in the course of the history of the nation in the end also contains a wider range of missions about developments, both national as well as international. The second mission is the mission of "democratization of criminal law". The third mission is the mission of "consolidating criminal law" because since independence, criminal law legislation has experienced rapid development, both within and outside the Criminal Code with its various characteristics, so it needs to be reorganized within the framework of criminal law principles. regulated in Book I of the Criminal Code. In addition, the drafting of this Law was carried out based on the fourth mission, namely the mission of adaptation and harmonization of various legal developments that have taken place, both as a result of developments in the field of criminal law and the development of values, standards, and norms recognized by the nation. - nations in the international world.

The mission is placed within the framework of legal politics by carrying out the preparation of this Law in the form of codification and unification which is intended to create and uphold consistency, justice, truth, order, benefit, and legal certainty by taking into account the balance between national interests, community interests, and the interests of individuals within the Unitary State of the Republic of Indonesia which is based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

Law Number 1 of 2023 concerning the Criminal Code consists of 2 (two) books, namely Book One and Book Two. Book One contains general rules as guidelines for the implementation of Book Two as well as laws other than Law 1/2023, Provincial Regional Regulations, and Regency/City Regional Regulations unless otherwise stipulated by law so that Book One also becomes the basis for the Law. outside of Law No. 1 of 2023. In its development, the renewal of Law no. 1 of 2023 refers to 4 (four) missions, including:

a) Recodification of criminal law;
b) Democratization of criminal law;

c) Consolidation of criminal law; as well as
d) Adaptation and harmonization of various legal developments that occur.

With the enactment of Law No. 1 of 2023, it is hoped that efforts to develop national law will be carried out in a directed, integrated, and planned manner so that they can support national development in various fields by development demands.

3) Elements of Criminal Acts

The term criminal act is a translation of the term strafbaar feit in the Dutch Criminal Code which is currently applied as national law through the principle of concordance with the Criminal Code ("KUHP").

In the Criminal Code, there is no explanation of what exactly is meant by strafbaar feit itself. Criminal acts are usually equated with offenses, which come from Latin, namely from the word delictum.

As explained by S. R. Sianturi in the book Principles of Criminal Law in Indonesia and its Application, in terminology in Indonesia, offense or het strawbale feit has been translated by scholars and has also been used in various formulations of laws with various Indonesian terms as :[2]

a) Actions that can/may be punished;
b) Criminal events;
c) Criminal act;
d) Criminal act.

Thus, strafbaar feit, delict, and delictum have the same equivalent terms as acts that can/may be punished, criminal events, criminal acts, and criminal acts.

S. R. Sianturi in the same book quotes Moeljatno who chose to translate strafbaar feit as a criminal act, namely an act that is prohibited and punishable by punishment for anyone who violates the prohibition.[3]

These actions must be felt by the community as actions that are prohibited or hinder the achievement of the social order that the community aspires to.

The meaning of a criminal act absolutely must be contained in a formal element, namely conforming to the formulation of the law (tatbestandmaszigkeit) and a material element, namely the nature of being contrary to the ideals of social relations or the nature of being against the law (rechtswirdigkeit).

Meanwhile, S. R. Sianturi in the same book also quotes Wirjono Prodjodikoro who defines a crime as an act for which the perpetrator can be subject to criminal punishment and the perpetrator can be said to be the subject of a crime.[4]

Based on the formulation of the definition of a criminal act above, to determine an act as a criminal act, the act must be an act that is prohibited and punishable by punishment to the subject of the crime who commits it or in the formulation of criminal law is called whoever violates the prohibition. In other words, an act that is classified as a criminal act is an act that is prohibited in law which can be threatened with criminal sanctions.

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[2] S. R. Sianturi. *Asas-asas Hukum Pidana di Indonesia dan Penerapan*, Cet. 3. Storia Grafika, Jakarta, 2012, hlm. 204 – 207

[3] *Ibid*, hlm. 208

[4] *Ibid*

According to S. R. Sianturi, briefly the elements of a crime, namely:[5]

a) There is a subject;
b) There is an element of error;
c) Actions are against the law;
d) An action that is prohibited or required by law/legislation and those who violate it are subject to criminal sanctions;
e) In a certain time, place and circumstances.

Referring to the elements of the criminal act above, S. R. Sianturi formulates the notion of a criminal act as an act in a certain place, time and condition, which is prohibited (or violates a requirement) and is punishable by law and is against the law and contains elements mistakes made by someone who is capable of being responsible.[6]

The five elements above, can be simplified into subjective elements and objective elements. The subjective element includes the subject and the element of error. Meanwhile, what is included as an objective element is an act that is unlawful, an act that is prohibited or required by law/legislation and the violator is subject to criminal penalties, and is carried out in a certain time, place and condition.

P. A. F. Lamintang in the book Basics of Indonesian Criminal Law also argues that every crime contained in the Criminal Code can generally be broken down into elements which basically we can divide into two kinds of elements, namely subjective elements and objective elements.[7].

What is meant by subjective elements are elements that are attached to the perpetrator or related to the perpetrator and are included in it, namely everything that is contained in his heart.[8] Meanwhile, what is meant by objective elements are elements that have to do with circumstances, namely in which circumstances the actions of the actor must be carried out.[9]

The subjective element of a crime is:.[10]

a) Intentional (dolus) or unintentional (culpa);
b) Purpose or voornemen on an experiment or poging.
c) Various purposes or ogbrands, such as those contained in the crimes of theft, fraud, extortion, forgery, and others;
d) Planning in advance or voorbedachte raad;
e) Feelings of fear or vrees.

The objective elements of a crime are :

a) The nature of violating the law or wederrechtelijkbeid;
b) The quality of the perpetrator, for example "state as a civil servant" in a crime of office or "state as administrator or commissioner of a limited liability company;

[5] *Ibid*
[6] *Ibid*
[7] P. A. F. Lamintang. *Dasar-dasar Hukum Pidana Indonesia*. PT Citra Aditya Bakti, Bandung, 2013, hlm. 193
[8] *Ibid*
[9] *Ibid*
[10] *Ibid*, hlm. 194

c) Causality, namely the relationship between an action as a cause with something reality as a result.

Wederrechttelijk elements must always be considered as required in every formulation of the offense, even though the legislators do not expressly state that element as one of the elements of the offense in question.

P. A. F. Lamintang then explained that if the element of wederrecttelijk was expressly stated as an element of the offense, then not proving that element in court would cause the judge to decide on a vrijkpraak or acquittal.[11]

If the element of wederrecttelijk is not expressly stated as an element of the offense, then it is not proven that this element in court will cause the judge to decide on an ontslag van alle rechtsvervolging or an "acquittal from all lawsuits".

So, to find out whether an act is a crime or not, the act must fulfill the elements of the offense or crime in question.

According to Moeljatno, the elements of a crime are as follows:

a) The act must be a human act
b) The act must be prohibited and punishable by crime
c) The act is against the law
d) Must be carried out by an accountable person
e) The act must be blamed by the maker.

According to EY Kanter and SR Sianturi, the elements of a crime are:

a) Subject
b) Error
c) Is against the law
d) An act that is prohibited or required by law for its violation is punishable by a crime
e) Time, place and circumstances (other objective elements).

From what was mentioned above, it can be concluded that an act will become a crime if the act:

a) Against the law
b) Detriment to society
c) Prohibited by criminal law
d) The perpetrator will be threatened with a criminal sentence
e) The perpetrators can be accounted for.

According to Lamintang, there is an objective element related to circumstances, namely the circumstances in which the action of the actor must be carried out. The objective elements include:

a. Human actions are divided into positive and negative actions that cause a criminal offense. Sometimes positive and negative actions are firmly contained in criminal law norms known as formal offenses. Where in formal offenses that are threatened with punishment are the actions, whereas sometimes in an act alone the punishment is punishable while the method of causing the effect is not further elaborated, an offense like this is referred to as a material offense.

[11] *Ibid*, hlm. 195

b. The consequences of human actions, namely the consequences consisting of damaging or endangering legal interests which, according to criminal law norms, need to exist in order to be punished. Nature is against the law and can be punished. The act is against the law if it is against the law. The nature of being punishable means that the act must be punished with a crime, by a certain criminal norm.

3. METHOD

The research method is analytical descriptive in nature, namely describing the problems and facts that occur based on positive legal norms, namely the laws related to this research. Approach method with normative juridical namely using positive legal norms related to the elements of article of law number 1 of 2023 concerning the criminal code. Data analysis was carried out qualitatively, meaning without using numbers and statistical formulas.

4. DISCUSSION OF ELEMENTS OF LAW NUMBER 1 OF 2023 CONCERNING THE KUHP.

The Criminal Code is considered to still contain articles of colonial heritage and is vulnerable to being used as a means of criminalization. These articles include:

a. Humiliation of the President

Article 218 (1) Any person who in public attacks the honor or dignity of the President and/or vice president shall be punished with imprisonment for a maximum of 3 (three) years or a maximum fine of category IV. (2) Does not constitute an attack on the honor or dignity as referred to in paragraph (1), if the act is carried out in the public interest or self-defense.

Article 219 Everyone who broadcasts, shows, or attaches writing or pictures so that they are visible to the public, plays recordings so that they are heard by the public, or disseminates by means of information technology containing attacks on the honor or dignity of the President and/or Vice-President with the intention that the contents of which are known or more publicly known, shall be punished with imprisonment for a maximum of 4 (four) years or a maximum fine of category IV.

This article regarding insulting the president was revoked by the Constitutional Court (MK) through Decision Number 013-022/PUU-IV/2006. At that time, the Constitutional Court assessed that Article 134, Article 136, and Article 137 of the Criminal Code could create legal uncertainty because their interpretations were very vulnerable to manipulation.

b. Treason Article

Article 192 of the new Criminal Code states that anyone who commits treason with the intention that part or all of the territory of the Unitary Republic of Indonesia falls to foreign powers or to separate themselves from the Unitary State of the Republic of Indonesia shall be punished with death penalty, life imprisonment, or a maximum imprisonment of 20 years.

Article 193 paragraph (1) stipulates that anyone who commits treason intending to overthrow the government, shall be punished with a maximum imprisonment of 12

years. Meanwhile, Article 193 paragraph (2) states that leaders or organizers of treason are subject to imprisonment for a maximum of 15 years.

c. Contempt of State Institutions

Article 240 Any person who in public commits an insult against the government resulting in riots in society, shall be punished with imprisonment for a maximum of 3 (three) years or a maximum fine of category IV. Article 241 Everyone who broadcasts, shows, or attaches writing or pictures so that they are seen by the public, plays recordings so that they are heard by the public, or disseminates using information technology containing insults to the government to make the contents of the insults known to the public which results in riots in society, shall be punished with imprisonment for a maximum of 4 (four) years or a maximum fine of category IV.

If the elements of the article mentioned above are examined, to find out whether the act in a legal event is a crime, an analysis can be carried out regarding whether the act has fulfilled the elements regulated in a particular criminal law article.

For this reason, adjustments or matches (parts/events) of the incident must be made to the elements of the offense being charged. If it turns out to be suitable, then it can be determined that the incident is a criminal act that has occurred for which (can) be held criminally responsible to the perpetrator subject. However, if one of these elements does not exist or is not proven, then it must be concluded that the crime has not or has not occurred. This is because, maybe an action has occurred, but it is not an act that is prohibited by law against which a criminal offense is threatened. It is also possible that an action has occurred by the formulation of the action in the relevant article, but there is no fault of the perpetrator, and/or the action is not unlawful.

P. A. F. Lamintang further explained that if the judge believes that the accused cannot be held responsible for his actions, then the judge must acquit the accused from all lawsuits, or in other words, the judge must decide an ontslag van alle rechtsvervolging, including when there is doubt about one of the elements , then the judge must acquit the accused from all lawsuits.[12]

The elements of the offense are listed in the formulation of the offense which the public prosecutor must include in the letter of accusation (indictment) and must be proven in court.[13] If it turns out that one or more parts cannot be proven, then the judge must acquit the accused or in other words must decide a vrijspraak.

In preparing an indictment, the elements of a criminal act must be complete, clear, and careful to avoid failure of the prosecution. In addition, the preparation of the indictment must be made as simple as possible so that it is easily understood and understood by the defendant. However, in reality on the ground the preparation of the indictment was incomplete, unclear, and not accurate and not as simple as expected.

Applying the elements in the indictment by integrating and adjusting the juridical qualifications (elements) of the crime, with the facts of the incident, then the public prosecutor must prove the indictment in court. Obstacles that arose in the application of the elements of a crime by the prosecutor in the indictment and in the

[12] *Ibid*, hlm. 197
[13] *Ibid*, hlm. 195-197

evidence in the indictment include "hesitating to apply the articles that must be used in drafting the indictment; the criminal act fulfills the elements of the article regulated in the Criminal Code and other laws; The investigator is no longer able to complete the case files as requested by the public prosecutor; The testimony of the witness in the BAP is not the same as the statement given by the witness in court; The evidence mentioned in the BAP is not the same as the evidence shown at trial; In special crimes, the information provided by expert witnesses is not supported by existing evidence.

The efforts made include "holding a case or exposure by the prosecutors, from this exposure an agreement will be drawn from the prosecutors; The prosecutor must refer to the principle of lex specialist derogat lex generalis; The prosecutor can change the article charged against the defendant; The prosecutor must direct witnesses in giving testimony in court; The prosecutor must ask the defendant whether the item is evidence; the prosecutor may not refer to the information provided by the expert witness. The efforts made by the public prosecutor in overcoming these obstacles are in accordance with the provisions in the Criminal Procedure Code and the principles of positive law in Indonesia. In addition, it is necessary to increase the credibility of prosecutors in order to improve the quality and quality of prosecution.[14]

5. CLOSING

Conclusion

1) It is considered that Law Number 1 of 2023 concerning the Criminal Code still contains articles inherited from colonialism and is prone to being used as a means of criminalization. For example, the contents of the article on treason. Article 192 of the new Criminal Code states that anyone who commits treason with the intention that part or all of the territory of the Unitary Republic of Indonesia falls to foreign powers or to separate themselves from the Unitary State of the Republic of Indonesia shall be punished with death penalty, life imprisonment, or a maximum imprisonment of 20 years. Article 193 paragraph (1) stipulates that anyone who commits treason with the intention of overthrowing the government, shall be punished with a maximum imprisonment of 12 years. Meanwhile, Article 193 paragraph (2) states that leaders or organizers of treason are subject to imprisonment for a maximum of 15 years.
2) Elements of Article Law Number 1 of 2023 concerning the Criminal Code To find out whether an act in a legal event is a crime, an analysis can be carried out regarding whether the act has fulfilled the elements regulated in a particular criminal law article. For this reason, adjustments or matches (parts/events) of the incident must be made to the elements of the offense being charged. If it turns out to be suitable, then it can be determined that the incident is a criminal act that has occurred for which (can) be held criminally responsible to the perpetrator subject. However, if one of these elements does not exist or is not proven, then it must be concluded that the crime has not or has not occurred. This is because, maybe an action has occurred, but it is not an act that is prohibited by law against which a criminal offense is threatened. It is also possible that an action has

[14] https://mill.onesearch.id/Record/IOS4666. 109796/TOC/diakses pada tanggal 5 Januari 2023

occurred in accordance with the formulation of the action in the relevant article, but there is no fault of the perpetrator and/or the action is not unlawful.

Suggestion

1) The judge must decide an ontslag van alle rechtsvervolging, including if there is doubt about one of the elements, the judge must acquit the accused from all lawsuits.
2) Application of the elements of a crime in the indictment by integrating and adjusting the juridical qualifications (elements) of the crime, with the facts of the incident, then the public prosecutor must prove the indictment in court.

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