

The Role of the Prosecutors in Implementing the Eradication of Corruption Crime

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Abstract.

The purpose of this study is to examine and analyze the role of the Prosecutor's Office in eradicating corruption. In this paper, the writer uses the normative juridical method with the specifications of analytical descriptive writing. The Prosecutor's Office has the authority to assess the results of investigations carried out by the police, on the other hand, the Prosecutor's Office is also authorized to carry out or stop prosecutions. Thus, it is no exaggeration to say that the Prosecutor's Office plays a very vital role in the criminal justice system. The Prosecutor's Office is the controller of the case process (dominus litis), and has a central position in law enforcement, because only the Prosecutor's Office can determine whether a case can be brought to court or not based on valid evidence according to the Criminal Procedure Code. The role of the Prosecutor's Office in eradicating criminal acts of corruption begins when the case has not been transferred to the Court until the implementation of the court's decision. However, in the case of corruption, the Prosecutor's Office has the authority to act as a public prosecutor as well as an investigator. The authority of the prosecutor as a special criminal investigator is regulated by Act No. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia in Article 30 paragraph (1) letter d. In addition, in its role in eradicating corruption, the Prosecutor's Office continues to coordinate with the police and the Corruption Eradication Commission.

Keywords: Corruption; Crimes; Eradication; Prosecutors.

1. Introduction

The 1945 Constitution of the Republic of Indonesia (hereinafter referred to UUD 1945¹⁾) describes legal actions for all Indonesian citizens, as in Article 1 paragraph 3 that the State of Indonesia is a legal state (*rechstaat*), and does not based on state power (*machstaat*).¹ This means that the law does not depend on people's behavior but has its own normative character and nature so that the law can control people's behavior (*Sui Generis*).²

This means that all aspects of national and state life must be based on applicable legal provisions. The law that applies as a system can play a good and right role in the community if the implementation instrument is equipped with a role in a field of law enforcement. One of these roles is the Prosecutor's Office of the Republic of Indonesia.³

¹Sulistiyawan Doni Ardiyanto, Eko Soponyono and Achmad Sulchan. (2020). *Judgment Considerations Policy in Decree of the Court Criminal Statement Based On Criminal Destination*, Jurnal Daulat Hukum, 3 (1), p. 179, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/8409/4067>

²Sri Praptini, Sri Kusriyah, and Aryani Witasari. (2019). *Constitution and Constitutionalism of Indonesia*, Jurnal Internasional Daulat Hukum, 2 (1), p. 7, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/4149/2897>

³Ahmad Firmanto Prasedyomukti and Rakhmat Bowo Suharto. (2018). *The Role of Judicial Commission on Supervision of Judge's Crime in Indonesia*, Jurnal Daulat Hukum 1 (4), url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/3931/2793>

Based on Pancasila and the 1945 Constitution, the enforcement of law and justice is one of the absolute requirements in achieving national goals.⁴One of the pillars of the Government that functions in realizing national goals is the Prosecutor's Office of the Republic of Indonesia who is given the task, function, and authority as a Public Prosecutor.

Nowadays, corruption is a topic that is always discussed in forums, and is the main case that is always noticed by the state and the authorities. The Prosecutor's Office is one of the legal instruments that has the right to handle corruption cases in Indonesia, where the Prosecutor's Office is required to be able to work extra in eradicating corruption.

The problem of corruption is no longer a new problem in legal and economic matters for a country, because the problem of corruption has existed since thousands of years ago, both in developed and developing countries, including in Indonesia today.⁵ Corruption has been considered by the public as the most dangerous problem in Indonesia. In fact, the development of the problem of corruption in Indonesia is now so severe and has become a very extraordinary problem because it has spread and spread to all levels of society.⁶

Corruption has occurred a lot in the field of the development process, because along with the rapid progress of development, it is also felt that the leakages of funds for development personnel are increasing, as evidenced in the corruption case which is billions of rupiah.⁷ The development of the problem of corruption in Indonesia has become so severe and a firm action is recommended, so that there is a fear of committing a criminal act of corruption.⁸ Corruption has become a crime that is considered to have damaged the joints of social and state life. State losses caused by corruption have been included in the "dangerous" category.⁹

Corruption in Indonesia is a recurrent or very emergency national problem that the Indonesian nation is currently facing, from time to time in a relatively long period of time, so that the special court for corruption is expected to be able to help resolve a number of past corruption crimes in order to repay the state losses incurred has been taken by the perpetrators of the crime.¹⁰

Actually, the handling of corruption can also be done by joining the investigation teams, but in this paper the focus is only on the Prosecutor's Office. In criminal law (normative) it has been explained that the provisions contained in

⁴Adhe Ismail Ananda. (2021). *Constitutionalism Concept in Implementation of Indonesian Staten Administration*, Jurnal Daulat Hukum, 4 (2), url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/15696/5559>

⁵Miftah Anshori. (2018). *Investigations of Corruption in Police Resort of Pati*, Jurnal Daulat Hukum 1 (2), url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/5425/3346>

⁶Edy Yunara. (2005). *Korupsi dan Pertanggungjawaban Pidana Korupsi*, Citra Aditya Bakti, Bandung, p. 1

⁷Andi Hamzah. (2005). *Pemberantasan Korupsi Melalui Hukum Pidana Nasional dan Internasional*, Raja Grafindo Persada, Jakarta, p.43

⁸Andi Hamzah. (2003). *Korupsi di Indonesia Masalah dan Pemecahannya*, Gramedia Pustaka Utama, Jakarta, p. 4

⁹Efi Laila Kholis. (2010). *Pembayaran Uang Pengganti dalam Perkara Korupsi*, Solusi Publishing, Jakarta p. 5

¹⁰Imanudin. (2018). *Handling Policy on Corruption Crime in Polres Tasikmalaya*, Jurnal Daulat Hukum, 1 (2), url:<http://jurnal.unissula.ac.id/index.php/RH/article/view/3329/2460>

Article 2 of the Prosecutor's Principal Act No. 15 of 1961 jo. Act No. 5 of 1991 jo. Act No. 16 of 2004 defines the task of the Prosecutor's Office in the judicial field, namely conducting preliminary examinations, which include investigations, further investigations and conducting supervision and coordination of other investigative tools.

In Act No. 8 of 1981 concerning the Code of Criminal Procedure, hereinafter referred to as the Criminal Procedure Code, it clearly separates functions related to investigation and prosecution, although the Prosecutor's Office is still given the authority to conduct investigations into certain criminal acts as stated in Article 284 paragraph (2), but its only temporary. When Act No. 2 of 2002 concerning the Indonesian National Police and Act No. 3 of 2002 concerning the Corruption Eradication Commission were enacted, the functions of investigation and prosecution in handling corruption crimes, which were previously the duties and authorities of the Prosecutor's Office, also underwent changes. Ironically,

2. Research Methods

To conduct a study in this paper, the author uses the normative juridical method, namely the type of approach using the provisions of the legislation in force in a country or the doctrinal legal approach method, namely legal theories and opinions of legal scientists, especially those relating to the issues discussed.¹¹The specifications of the writing were carried out using a descriptive analytical approach. The data used for this writing is secondary data. In order to obtain and collect accurate and complete data, the data collection technique used in this writing is library research. The data that has been obtained is then analyzed by qualitative analysis.

3. Result and Discussion

Commitment to eradicating corruption can be seen from the way in which anti-corruption measures are formulated and implemented. If clear anti-corruption measures are prepared, but on the other hand, they are very weak in implementation, they are called hesitant measures. Likewise, if the anti-corruption measures are weak or unclear, but their implementation is firm and strong, then they are also classified as soft.

In the criminal justice system, the Prosecutor's Office has a very important role. According to the regulations, the Attorney General's Office is tasked with investigating corruption crimes that occur. This task is very important, because the crime of corruption continues to grow, both in quantity and quality. The Prosecutor's Office will not be able to deal with all corruption crimes that occur. With limited human resources and budget, priorities must be determined. Prosecutors must improve their human resources, and have clear guidelines in carrying out their duties. In general, the Prosecutor's Office determines the attitude to carry out or stop the prosecution, sometimes the Prosecutor's Office also has the authority to resolve cases outside the court.

¹¹Soemitro. (1998). *Metodologi Penelitian Hukum dan Jurimetri*, Jakarta, Ghalia Indonesia, p. 24

On the one hand, the Prosecutor's Office has the authority to assess the results of investigations carried out by the police, on the other hand, the Prosecutor's Office has the authority to carry out or stop prosecutions. Thus, it is no exaggeration to say that the Prosecutor's Office plays a very vital role in the criminal justice system.

The challenge for the Prosecutor's Office and the public's expectations of the Prosecutor's Office to carry out their duties professionally and responsibly, as mandated by Act No. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, Article 2 paragraph (1) emphasizes that "The Attorney General of the Republic of Indonesia is a government agency that exercises power state in the field of prosecution and other authorities based on law" and in Article 30, it is stated, among other things, that the Prosecutor's Office is the controller of the case process (*dominus litis*), and has a central position in law enforcement, because only the Prosecutor's institution can determine whether a case can be prosecuted submitted to the court or not based on valid evidence according to the Criminal Procedure Code.

The new Law on the Prosecutor's Office is seen as stronger in determining the position and role of the Prosecutor's Office of the Republic of Indonesia as a state government agency that carries out investigation and prosecution duties. The government has actually worked hard to eradicate corruption, this can be seen from the many regulations issued by the government together with the DPR, including Act No. 31 of 1999, which in detail regulates the problem of reverse proof for perpetrators of corruption and also the imposition of more severe sanctions for criminals. Recently, this law has also been seen as weak and has led to the escape of corruptors because there is no transitional rule in the law.¹²

With the condition of corrupt practices that still occur massively, systematically and structured in the Executive, Legislative, and Judicial institutions as well as State-Owned Enterprises (BUMN) and BUMD, Financial Services and Banking Institutions as well as in various other people's lives. Law enforcers and the government actually continue to work with various actions, including preventive measures such as socialization and counseling so that the number of cases of criminal acts of corruption decreases, although the hope to be achieved is to eliminate or eliminate all forms of corruption in Indonesia.

Furthermore, based on the brief explanation above, that to achieve the desired goals, 6 (six) strategies are designed, namely; prevention, law enforcement, harmonization of laws and regulations, international cooperation and preservation of assets resulting from corruption, anti-corruption cultural education, and reporting mechanisms for the implementation of corruption eradication.

The Prosecutor's Office of the Republic of Indonesia as described above has a strategic role in efforts to eradicate corruption both through preventive and repressive efforts, both those carried out by the Attorney General's Office, the High Attorney's Office and the District Attorney's Office have shown maximum results, both in terms of qualitative actors and the amount of state losses, as well as in terms of quantitative still has been superior to the other two law enforcement agencies.

¹²Nurdjana. (2005). *Korupsi dalam Praktik: Bisnis Pemberdayaan Penegakan Hukum, Program aksi dan Strategi Penanggulangan Masalah Korupsi*, Gramedia Pustaka Utama, Jakarta, p.56

As it is known that prosecutors are officials who are authorized by law to act as public prosecutors and carry out court decisions that have permanent legal force. In addition, the prosecutor also has the authority to investigate certain criminal acts, this is intended to accommodate several provisions of the law that authorizes the Prosecutor's Office to conduct investigations such as the law on corruption, the law on human rights courts, and so on. Meanwhile, public prosecutors are prosecutors who are authorized to carry out prosecutions and carry out legal determinations.¹³

The role of the Prosecutor's Office in corruption cases starts from when the case has not been transferred to the court until the implementation of the court's decision. The authority of the public prosecutor before the case is transferred to the court includes receiving notifications, examining case files, conducting pre-prosecutions, making detentions, making indictments, closing cases, and delegating cases to court. Furthermore, the role of the prosecutor during the examination process in court includes bringing the defendant to trial, reading the indictment, presenting witnesses, preparing evidence, reading out the indictment, and carrying out court decisions. Especially in relation to the handling of criminal acts of corruption, we always coordinate with the Police and the Corruption Eradication Commission.

Prosecutors as law enforcement officers are also given the authority to conduct investigations on certain criminal acts, one of which is corruption. In handling corruption crimes as ordered by Act No. 31 of 1999, if it is considered that there is a corruption crime that is difficult to prove, the prosecutor can be involved in the investigation. In addition, this is also emphasized in Act No. 16 of 2004 concerning the Prosecutor's Office, which stipulates that the authority of the Prosecutor's Office to conduct investigations of certain criminal acts is intended to accommodate several provisions of the law that give authority to the Prosecutor's Office to carry out investigations, for example, the Act on human rights courts, law on criminal acts of corruption, and various other laws.¹⁴

Related to the authority of the prosecutor as an investigator in corruption. Based on the provisions of Article 27 of Act No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, it is determined that "in the event that a corruption crime is found that is difficult to prove, a joint team can be formed under the coordination of the attorney general. This is also confirmed in the provisions of Article 39 which states that; the attorney general coordinates and controls the investigation, investigation, and prosecution of criminal acts of corruption carried out jointly by people who are subject to the general court and the military court.

The provisions mentioned above are carried out to facilitate the process of investigating, prosecuting, and examining criminal acts of corruption, this law regulates the authority of investigators, public prosecutors, or judges in accordance with the level of case handling to be able to directly request information about the financial condition of a suspect or defendant to the bank by submit the matter to the Governor of Bank Indonesia. Furthermore, the authority given to the prosecutor as

¹³Seno Adjie. (2007). *Kendala Administrative Penal Law sebagai Tindak Pidana Korupsi & Pencucian Uang*, Paper, Jakarta, p.105

¹⁴Efi Laila Kholis. (2010). *Pembayaran Uang Pengganti dalam Perkara Korupsi*, Solusi Publishing, Jakarta, p.134

an investigator as stated in the explanation of Article 26 is the investigator's authority also includes the authority to conduct wiretapping.

In the event of an alleged criminal act of corruption in the Prosecutor's Office, always coordinate with relevant agencies such as the police and the KPK to jointly conduct investigations. As an institution that has a supervisory function, the KPK always monitors the progress of handling corruption cases carried out by the Prosecutor's Office.

In eradicating criminal acts of corruption, the Attorney General's Office should be involved. This is because the number of corruption crimes that occur in Indonesia is very unlikely for the KPK to handle corruption crimes without involving the relevant agencies. In addition, this is also intended to restore the existence of the Prosecutor's Office as a law enforcement officer, especially corruption. As it is known that the presence of the KPK is a manifestation of the weakness of the Prosecutor's Office and the Police in dealing with criminal acts of corruption. With the cooperation in handling corruption cases carried out by the KPK with the Police and the Prosecutor's Office, it is hoped that it will be able to restore the existence and professionalism of the Police and the Prosecutor's Office in dealing with corruption.¹⁵

Act No. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia provides a strong legal basis for carrying out investigations and their follow-up regarding certain criminal acts, including corruption. Therefore, the Prosecutor's Office is highly demanded for its ability and responsibility to carry out the demands of the wishes and expectations of the community. In other words, the field of special crimes must improve good performance by evaluating the implementation of tasks, solving problems that arise in all stages from investigation, prosecution to legal remedies and execution.¹⁶

As it is known that based on Act No. 16 of 2004, the Prosecutor's Office is one of the sub-systems in criminal justice, but has another role, namely in civil law and state administration, namely being able to represent the state and government in civil and state administrative cases, and can represent the public interest. Given such a crucial role in the legal system, the prosecutor is required not only to master the discipline of criminal law, but also to master other legal disciplines. Prosecutors are not only required to master general positive law (*lex generalis*), but are also required to have special abilities (*lex specialist*) as well as professionally trained.

4. Conclusion

Prosecutors as law enforcement officers are also given the authority to conduct investigations on certain criminal acts, one of which is corruption. In handling corruption crimes as ordered by Act No. 31 of 1999, if it is considered that there is a corruption crime that is difficult to prove, the prosecutor can be involved in the investigation. In addition, this is also emphasized in Act No. 16 of 2004

¹⁵Firman Wijaya. (2008). *Peradilan Korupsi Teori dan Praktik*, Penaku dan Maharini, Jakarta, p.54

¹⁶Rustanto and Sri Endah Wahyuningsih. (2019). *The Element Of State Financial Losses In Corruption Offenses In The Process Of Procuring Sugarcane Seeds (Case Study on Case No. 100 / Pid.Sus-TPK / 2017 / PN.Smg)*, Jurnal Daulat Hukum 2 (2), url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/5416/5091>

concerning the Prosecutor's Office, which stipulates that the authority of the Prosecutor's Office to conduct investigations of certain criminal acts is intended to accommodate several provisions of the law that give authority to the Prosecutor's Office to carry out investigations, for example, the Act on human rights courts, law on criminal acts of corruption, and various other laws. The integration and coordination of law enforcement officers, be it the Prosecutor's Office, Police, KPK, PPATK, and LPSK is very important. Considering the eradication of corruption is a coordination and seriousness in handling it, so that all law enforcement officers must also be supported effectively by PPATK and LPSK. PPATK will clearly monitor the flow of funds from corruptors, as we know PPATK once announced fat accounts for police officers and a few days ago PPATK also announced that there were several accounts belonging to lower-class civil servants who were suspected of being corrupted because they amounted to billions of rupiah and many other things that have been discovered or monitored by PPATK. Optimizing LPSK is also important to maximize community participation in eradicating corruption.

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