

## The Prosecution Independence in the Resolution of Inheritance Legal Disputes Involving State Assets or Public Interests

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**Abstract.** *The independence of the prosecutor's office is crucial in resolving inheritance law disputes involving state assets or public interest, in order to prevent abuse of authority and potential state losses. Prosecutors often face external pressure when handling strategic inheritance cases that concern public interest. Therefore, this study aims to analyze the extent to which prosecutorial independence is maintained and how its role can be optimized in resolving inheritance disputes with broad impacts. This research is a normative legal study that seeks to identify legal rules, principles, and doctrines through literature review to address the legal issues examined. The research was prescriptive and explanatory in nature, providing systematic and comprehensive explanations and solutions to the legal issues. The approaches used include statutory, conceptual, comparative, and futuristic approaches, with secondary data collected through library research and analyzed qualitatively using a deductive reasoning method. The results show that the independence of the prosecutor's office in resolving inheritance disputes involving state assets or public interest is not yet fully ensured due to external intervention and pressure. The absence of technical guidelines and limited interagency coordination hinder the prosecutor's office from optimally protecting the interests of the state.*

**Keywords:** Asset; Independence; Inheritance; Prosecutor.

### 1. INTRODUCTION

The Prosecutor's Office of the Republic of Indonesia (RI) is a state body (*state organ*) that existed before independence, as did the rules (Tresna, 1998). Meanwhile, the legal basis for the prosecutor's office to carry out its duties and authority is entirely based on *Revised Indonesian Regulations* (HIR), which is expanded with *Regulation Stb—1922 No. 522*. HIR was later changed to RIB (*Rules Renewed Indonesia*) (Djamali, 2013). Even though Indonesia is independent and has a Constitution (UUD), which was ratified on August 18, 1945, it has become the Attorney General's Office. The legal basis for using colonial legacy regulations is the provisions of Article II of the 1945 Constitution Transitional Regulations, which state that "All existing state bodies and regulations are still in effect, as long as new ones have not been created according to this Constitution."

In carrying out its functions in the criminal justice system, the Prosecutor's Office's duties and functions are regulated in Articles 14 and 15 of the Criminal Procedure Code (KUHP). The prosecutor's office has a very dominant function as a proponent of principles *the owner of the suit* controller of the case process who determines whether or not a person can be declared a defendant and brought to court based on valid evidence according to law, as well as *executive officer* or implementing court decisions and decisions in criminal cases (Hamzah, 1994). Apart from the duties and authority of prosecutors as public prosecutors, prosecutors also play a role in public order and peace. In addition, prosecutors with extraordinary powers of attorney can act outside and inside the court for and on behalf of the state or government in civil and state administrative cases.

Several parties always link the issue of prosecutorial independence to its position in the Indonesian constitutional system and law enforcement. The law has relevance to judicial power, but the prosecutor's office in the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) is not placed as the implementer of judicial power. The prosecutor's position as a judicial and executive institution raises classic questions still being debated today, namely, related to the independence of the prosecutor's office in law enforcement.

In dealing with the issue of prosecutorial independence, the Indonesian state has made efforts by issuing Law of the Republic of Indonesia Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia (abbreviated to Law No. 11 of 2021). When this law was drafted, the issue of independence also became a concern based on *United Nations Guidelines on the Rule of Procedure* (UN GRP) and *the International Association of Prosecutors* (IAP).

Meanwhile, juridically, strengthening the independence of the prosecutor's office is necessary to overcome the legal vacuum. Existing legal regulations do not yet firmly strengthen the independence of prosecutors in Indonesia. Article 24 of the 1945 Constitution of the Republic of Indonesia stipulates that judicial power is independent to administer justice and uphold law and justice. The Prosecutor's Office is also an institution whose function is related to judicial power, so it is deeply rooted. These functions must be independent. This is also confirmed in Law no. 11 of 2021, which states that the prosecutor's office operates independently in carrying out its functions related to judicial power. The word independence here refers to the independence of the prosecutor's office when carrying out its functions related to judicial power.

However, the role of the prosecutor's office in the civil sector is expected to anticipate the development of society, which is increasingly advanced over time, where with increasingly advanced legal thinking, society knows, demands, and defends its rights (Bachri, 2020). This statement was also reinforced by the Attorney General, who emphasized that one of the current sources of state losses is the loss of state property or control of state assets, which is often caused by weak supervision in asset management. Therefore, State Attorneys are asked to play an active role in helping to save state assets. The role and support of State Attorneys are vital in accompanying and fighting for the return of state assets lost or controlled by other parties (Rewabawadewa, 2022).

Previous research conducted by (Putra et al., 2025) explains that the prosecutor's office can act as the state's attorney to protect the state's interests. State Attorneys have a strategic role in upholding legal certainty in society, as regulated in the Attorney General of the Republic of Indonesia Regulation Number 7 of 2021, especially in handling civil cases related to family and inheritance law. (Mustari et al., 2022) also stated that the role of prosecutors as State Attorneys can be further optimized through civil law mechanisms as regulated in the Republic of Indonesia Attorney General Regulation (PERJA) Number: PER-025/A/JA/11/2015 concerning Guidelines for the Implementation of Law Enforcement, Legal Aid, Legal Considerations, Other Legal Actions, and Legal Services in the Civil and State Administrative Sector. In this regulation, the State Attorney is given the authority to file a civil lawsuit to save state assets, even if the elements of the criminal act are not proven, the defendant has died, or has been declared acquitted by the court. Thus, state losses resulting from criminal acts of corruption can still be recovered through civil means.

This research is novel in highlighting the role and independence of prosecutors in resolving inheritance law disputes that directly involve state assets or public interests. This issue has not been explicitly discussed in normative legal studies. So far, the involvement of the prosecutor's office has more often been studied in criminal or general civil cases, while inheritance aspects that impact state interests have rarely received attention. This research aims to analyze the extent to which the independence of the prosecutor's office is guaranteed in handling strategic inheritance cases, as well as formulate recommendations so that the prosecutor's office can play an optimal role and be free from intervention in protecting the interests of the state and the public.

## **2. RESEARCH METHODS**

This type of research was normative legal research, where the construction of normative legal research products is used as a scientific activity to discover legal rules, legal principles, and legal doctrines, using normative legal methods in answering the legal issues being researched. The nature of the research is prescriptive explanatory, namely, trying to explain the researcher's research on the legal issues being studied (Johny, 2006). Thus, normative scientific activities can provide holistic and systematic answers related to the legal issues being studied (Husein, 2003).

Several approaches used in this research include: the legislative approach (*statute approach*), conceptual approach (*conceptual approach*), comparative approach (*comparative approach*), and a futuristic approach (*futuristic approach*). Types and sources of research materials were obtained from secondary data. Research on legal sources is needed to solve legal issues prescriptively, which can be divided into primary legal materials, secondary legal materials, and tertiary legal materials (Peter Mahmud, 2005). Techniques for collecting research materials were obtained through a literature study. After obtaining research materials from the literature study, the materials are processed by systematically reviewing previous research. The analysis of research materials in this study uses qualitative analysis, namely by presenting and explaining the research materials in a quality manner in the form of sentences that are orderly, coherent, and do not overlap and are effective, making it easier to understand and interpret the research materials (Sugiyono, 2023). The technique for concluding this research uses deductive logical thinking, namely a way of thinking where, from general statements, specific conclusions are drawn (Abdul Kadir, 2004).

### 3. RESULTS AND DISCUSSION

The prosecutor's office can be defined as a government body (organization) that exercises judicial power. Draft This is in line with the limitations given by UU No. 16 of 2004 *because* UU No. 11 of 2021 concerns the Prosecutor's Office. According to this law, the prosecutor's office is a government institution whose functions are related to judicial power, which exercises state power in the field of prosecution and other authorities based on law. So, the prosecutor's office is a government institution that acts as an actor of judicial power that exercises prosecutorial authority and other authorities.

Details of the general duties and authorities of the prosecutor's office can be found in the following table, as regulated in Article 30 of Law Number 16 of 2004:

**Table 1. General Duties and Authorities of the Prosecutor's Office**

No	Duties and Authorities	
1	Criminal Field	<ul style="list-style-type: none"> <li>• Carrying out prosecution;</li> <li>• Carry out judge's determinations and court decisions that have obtained permanent legal force;</li> <li>• Supervise the implementation of conditional criminal decisions, supervised criminal decisions, and conditional release decisions;</li> <li>• Carrying out investigations into certain criminal acts based on law;</li> <li>• Complete certain case files and for this reason can carry out additional examinations before being handed over to court, the implementation of which is coordinated with investigators.</li> </ul>
2	Civil and State Administration Sector	With special powers, they can act both inside and outside the court for and on behalf of the state or government.
3	Order and Peace General	Participate in organizing activities: <ul style="list-style-type: none"> <li>• Increasing public legal awareness;</li> <li>• Securing law enforcement policies;</li> <li>• Supervision of the circulation of printed materials;</li> <li>• Supervision of beliefs that could endanger society and the state;</li> <li>• Prevention of misuse and/or blasphemy of religion;</li> <li>• Research and development of law and criminal statistics.</li> </ul>

After changes to Law no. 16 of 2004 became Law no. 11 of 2021, the Prosecutor's Office received expanded authority, including in asset recovery and the intelligence sector. The Prosecutor's Office can trace, confiscate, and return assets from criminal acts to victims or entitled parties in asset recovery. In the intelligence sector, the Prosecutor's Office performs investigations, security, mobilization for law enforcement, creates safe conditions for development, establishes domestic and foreign intelligence cooperation, prevents KKN, and carries out multimedia monitoring. Apart from that, the Prosecutor's Office also has additional duties such as carrying out criminal statistics, handling serious human rights violations and social conflicts, involving itself in criminal cases involving victims and witnesses, carrying out penal mediation, confiscating executions, providing legal information for public office, and carrying out civil and public functions. However, the authority of the Prosecutor's Office to submit a judicial review has now been revoked because the Constitutional Court, through Decision No. 20/PUU-XXI/2023, states Art 30C letter h UU No. 11 Year 2021 is against the 1945 Constitution and no longer applies.

The prosecutor's office has independence in carrying out its duties and authority. This important principle is the primary foundation for the prosecutor's office to work professionally, objectively, and free from interference. Etymologically, the term "independent" in the Big Indonesian Dictionary is defined as something that stands alone, has a free spirit, and is not bound by other parties (Anita Sinaga, 2020). This meaning emphasizes that an independent institution must have freedom in its institutional position and duties.

Regarding position, the independence of state institutions means that they stand alone and are not part of other institutions with particular political interests or power. Meanwhile, in terms of attitude, independence requires that prosecutors act freely, objectively, and impartially when making decisions, especially in law enforcement matters (Mufrohim & Herawati, 2020). As executor of prosecutorial duties, the prosecutor must be able to make legal decisions based on the law and their conscience without any pressure, coercion, or influence from any party.

This principle is confirmed juridically in Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, which states that the prosecutor's office is a government institution that exercises state power in the field of prosecution independently. The word "independence" refers to the independence of the prosecutor's office from interference from other parties, including the government, political parties, interest groups, or individuals with certain power or influence.

In some instances, such as resolving inheritance legal disputes involving state assets or involving public interests, the role of the prosecutor's independence becomes crucial. In such situations, the Prosecutor's Office is a public prosecutor in criminal cases and acts as a State Attorney (JPN). Based on this capacity, the Prosecutor's Office represents the state or government in civil and state administrative cases to defend public interests and assets. This role emphasizes the dual function of the Prosecutor's Office, which must be carried out independently and professionally. This structural independence is the main support so that the Prosecutor's Office is not trapped in political interests or certain powers, and can carry out the role of law enforcement and legal services to the state and society with high integrity. However, challenges in maintaining independence continue to arise, especially when there is a tug-of-war between the position of the Prosecutor's Office in the constitutional system and the existing political and bureaucratic realities.

Inheritance disputes are generally between heirs over the inheritance of someone who has died (Suwarni et al., 2020). This kind of conflict often occurs due to differences in interpretation of the will, unfair distribution of inheritance, or disagreement regarding who has the right to be the heir. However, not all inheritance disputes involve personal interests between family members. There are several specific cases where the disputed heritage objects may involve assets directly related to state interests or registered as state property.

First, disputes can occur over land or buildings registered as state-owned assets. This can happen, for example, when someone controls or occupies state land during their lifetime, either because of their position or certain permits. After the person dies, the family claims rights to the land or building as part of the inheritance, even though administratively, it has been registered as a state asset (Hayati, 2024). Disputes like this often give rise to legal debates and require clarification through the judicial process.

Second, inheritance conflicts can also arise over the assets left behind by civil servants or retired ASN who, during their lifetime, were involved in corruption cases or civil cases against the state (Fattati, 2024). In situations like this, the state is interested in recovering losses arising from unlawful acts committed by the deceased. As a result, inherited assets that should be objects of inheritance become the subject of confiscation or state lawsuits, leading to a conflict between the state's rights and the claims of heirs.

Third, there are cases where the family or heirs still dispute assets controlled by the state based on court decisions (Purnama, 2021). For example, assets that are declared confiscated by the state by the court because they are related to a criminal act, but the family still claims that these assets should be part of the family inheritance. In cases like this, the position of the prosecutor's office as State Attorney becomes important, because the prosecutor will represent the state in defending these assets based on a valid legal basis.

In situations where inheritance disputes intersect with state or public interests, the Prosecutor's Office becomes more than just a neutral law enforcer. The Prosecutor's Office must actively present as a defender of state interests, primarily through the function of the State Attorney (JPN) (Rusdianto & Rusdianto, 2017). The Prosecutor's Office carries out administrative or litigation duties in this role. It acts strategically to ensure the public interest is not defeated by private claims that could disrupt public order or hinder development.

To resolve inheritance legal disputes involving state assets or public interests, the independence of the Prosecutor's Office plays a vital and irreplaceable role. First, the independence of the Prosecutor's Office guarantees objectivity at every stage of case handling. When facing a complex and sensitive inheritance dispute, the Prosecutor's Office must not side with one party simply because of the influence of power or social pressure. Through the principle of independence, the Prosecutor's Office is expected to be able to act impartially in collecting evidence, analyzing relevant laws, and providing professional legal considerations. This objectivity is critical so that the legal process is not used to accommodate the interests of specific groups, which can be detrimental to the state and society at large.

Apart from that, the role of the Prosecutor's Office in protecting state assets and public interests is vital in this kind of inheritance dispute. When the disputed inheritance is part of state assets, the Prosecutor's Office must appear as the state's defender (through the State Attorney/JPN). Independence helps the Prosecutor's Office to act firmly and uncompromisingly against parties who try to seize or claim these assets illegally. Thus, the Prosecutor's Office is at the forefront in ensuring that state assets remain in legal control for the benefit of the people.

Furthermore, independence also functions as a bulwark against conflicts of interest. When an inheritance dispute is highly valued and involves many parties, the potential for intervention from interested parties is huge. It can take the form of political pressure, economic inducements, or power relations that try to influence the legal process. In such situations, the Prosecutor's Office must remain firm on legal principles and not get caught in a tug-of-war of interests that could harm justice. This independence will maintain the integrity of the prosecutor's office in the face of temptation and external pressure. Lastly, by acting independently, the Prosecutor's Office helps ensure justice and legal certainty. Legal decisions in resolving inheritance disputes must be based on data, evidence, and

applicable legal provisions, not political pressure, official intervention, or elite influence. Legal certainty built from a clean and independent legal process will provide public trust, while maintaining social stability and preventing prolonged conflict.

Therefore, independence is not just a normative principle within the Prosecutor's Office. This institution's main prerequisite is to carry out its constitutional functions completely and with dignity in defending state interests, upholding the law, and ensuring justice in society. However, although normatively the Prosecutor's Office is referred to as an independent institution in carrying out its duties and functions, maintaining the independence of the Prosecutor's Office in practice is not easy. This institution faces various challenges, especially when dealing with power dynamics and political interests that can influence the law enforcement process, including in strategic cases such as inheritance disputes involving state assets or public interests.

One of the biggest challenges is the potential for interference from the executive and legislative powers. Based on the Indonesian constitutional system, the Prosecutor's Office is often not wholly free from the influence of other powers, especially when handling cases that have a significant political or economic impact. Even though the Prosecutor's Office legally stands as an institution that is not under any branch of power, the factual relationship with the executive branch is still strong. This view can be seen from the mechanism for appointing and dismissing the Attorney General, which is still the prerogative of the President, as regulated in Article 19 paragraph (1) of Law No. 16 of 2004, which is still maintained in Law No. 11 of 2021 concerning Amendments to the Prosecutor's Law.

When discussing changes to the Attorney General's Law, a proposal emerged that the election of the Attorney General be carried out more democratically and transparently, not only through direct appointment by the President. Several countries, such as South Korea and Ireland, have implemented a more participatory electoral system, for example, involving parliament or an independent body, to maintain the integrity and independence of the prosecutor's office. Unfortunately, in Law no. 11 of 2021, these recommendations have not been adopted, thus opening up space for executive power intervention in the highest leadership positions within the Prosecutor's Office.

Apart from that, Law no. 11 of 2021 also does not regulate the Attorney General's age limit and term of office, including objective and procedural dismissal criteria. The Attorney General can still be dismissed at any time by the President during his term of office without a transparent or accountable mechanism. This condition could place the Attorney General in a vulnerable position to political pressure, which could disrupt the institutional independence of the Prosecutor's Office, especially if cases touch the interests of elites or power.

This reason is something new that does not exist in the provisions of Law no. 16 of 2004, and is not clear, so it is feared that it could become a tool for the President to dismiss the Attorney General without clear reasons. If not strictly regulated, this provision could become a tool of the President's power to dismiss the Attorney General unilaterally, without an accountable and transparent process. As a result, the position of the Attorney General, which should be independent, becomes vulnerable to political pressure and loses its durability as a free and independent law enforcer.

Prosecutors also face serious challenges from the influence of specific interest groups with considerable economic, political, or social resources. These groups often try to

influence the course of the legal process, either directly or indirectly, to protect personal or corporate interests. In significant cases such as disputes over state assets or national strategic projects, this kind of pressure can be powerful and endanger the objectivity of law enforcement. According to (Rinaldi et al., 2024), prosecutors are currently accountable for their structural authority to superiors in the institutional hierarchy. This problem makes prosecutors vulnerable to intervention, because decisions taken in carrying out prosecutorial duties can be influenced by the structure of their superiors, not purely based on legal considerations.

Therefore, it is time for the Prosecutor's Office to be repositioned from its position as an institution under executive power to become a power that stands in the judicial realm independently. Suppose the Prosecutor's Office continues to be part of the executive. In that case, its independence in carrying out law enforcement duties will continue to be in the shadow of political intervention and the interests of those in power. In fact, in law enforcement, especially in sensitive cases such as inheritance disputes involving state assets or public interests, independence is a fundamental aspect to guarantee justice and legal certainty.

To strengthen this structural independence, the Prosecutor's Office needs to have a more democratic and transparent mechanism for appointing and dismissing the Attorney General, which is not entirely under the authority of the President. The involvement of legislative or judicial elements in this process can guarantee accountability and avoid potential abuse of power by the executive. Apart from that, strengthening independence must also touch on aspects of budget management. The prosecutor's office should have an independent budget, not depend on executive policy, so that the law enforcement process can occur professionally and not be disturbed by political pressure or the interests of certain groups. Thus, the structural independence of the Prosecutor's Office is the primary key to ensuring that this institution can carry out its prosecution and law enforcement functions objectively, by the law, and free from external intervention. This condition will strengthen the Prosecutor's Office's integrity and build public trust in the national criminal justice system.

Therefore, the independence of the Prosecutor's Office is an absolute prerequisite in resolving inheritance law disputes involving state assets or public interests. Without strong independence, the objectivity, impartiality, and ability of the Prosecutor's Office to protect public interests will be vulnerable to being eroded by political interests and power. Even though various challenges in maintaining the independence of the Prosecutor's Office continue to arise, efforts to strengthen it must continue to be encouraged as part of the state's commitment to upholding the law and realizing substantive justice in society.

#### **4. CONCLUSION**

Based on the discussion, it can be concluded that the independence of the Prosecutor's Office is a crucial element in ensuring the resolution of inheritance law disputes involving state assets or public interests objectively, fairly, and free from external intervention. However, in reality, this independence still faces various structural and political challenges, mainly because the mechanism for appointing and dismissing the Attorney General is still within the full authority of the President. Apart from that, the absence of clear technical guidelines and weak coordination between institutions also hamper the effectiveness of the Prosecutor's Office in carrying out its role as protector of public and state interests. Therefore, there is a need for comprehensive institutional reform,

including revising regulations regarding the process of appointing and dismissing the Attorney General, strengthening independent internal structures, and increasing synergy with other institutions to ensure that the Prosecutor's Office can work professionally and impartially in every case, especially those involving the state's strategic interests.

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