

The Authority of the Prosecutor's Office as a Single Prosecution System in Corruption Crime Cases

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Abstract. *The purpose of this study is to examine and analyze the presence of the Attorney's single prosecution system in the prosecution of corruption crimes. The approach method used in this paper is normative juridical. The specification of this writing is descriptive analytical. The authority attached to the Attorney General's position as the controller of prosecution policy, is in accordance with the principle of a single prosecution system (single prosecution system), as well as placing him as the Highest Public Prosecutor in a country. The position of the Attorney General's Office in affirming the principle of the Single Prosecution System in the criminal justice system in Indonesia, where this aims to avoid disparities in prosecution in handling corruption cases. This is important to minimize the occurrence of confusion in law enforcement which can lead to injustice for justice seekers. The role of the prosecutor as a single public prosecutor or single prosecution system which is a cornerstone of the implementation of the prosecutor's duties which aims to maintain a unified prosecution policy that displays unified characteristics in the behavior, mindset, and work procedures of the prosecutor's office. What the prosecutor's apparatus must have is a professional expertise, both regarding understanding and understanding. This is one of the efforts of the prosecutor's apparatus so that the eradication of corruption can be successful.*

Keywords: Attorney; Corruption; Prosecution.

1. Introduction

To realize the principles of a rule of law, both legal norms and statutory regulations are needed, as well as professional law enforcers with high integrity and discipline supported by legal facilities and infrastructure as well as legal behavior.¹The creation of justice and welfare of citizens is the goal of law in a country. Whether

¹Sri Praptini, Sri Kusriyah, and Aryani Witasari, Constitution and Constitutionalism of Indonesia, International Journal of Sovereign Law, Volume 2 Number 1, (2019), p.7

the law can work properly or not apart from the government's strict role in imposing legal sanctions, public awareness to be able to comply with all applicable legal rules, and supported by the attitude of law enforcers in enforcing the applicable law.¹

According to Soerjono Soekanto, law and law enforcement are some of the factors that cannot be separated because law enforcement cannot achieve what is expected by law enforcement.² Law can play a good and right role in the midst of people's behavior if the implementation instrument is accompanied by the authorities of law enforcers¹, one of which is the Attorney General's Office of the Republic of Indonesia. The Attorney General's Office of the Republic of Indonesia is one of the bodies whose functions are related to judicial power and a government institution that exercises state power in the field of prosecution and other authorities which are carried out independently by the Attorney General, High Court and District Attorney in accordance with the applicable laws of state power.

The new Attorney Law explains that the Attorney General's Office of the Republic of Indonesia as a state institution that exercises state power in the field of prosecution must carry out its functions, duties and authorities independently, regardless of the influence of government power and the influence of other powers. In the criminal justice system in Indonesia, the position of the Attorney General is as the sole public prosecutor (*single prosecution system*) as well as the sole executing agency for criminal decisions (*executive ambtenaar*). In its development it has been increasingly neglected, bearing in mind that currently there are several other institutions that carry out prosecution and execution functions but are not controlled by the Attorney General, for example against Corruption Crimes committed by the Corruption Eradication Commission (KPK) as well as against perpetrators of crimes within the military court environment which carried out by the Military Auditor, the High Military Auditor and the Indonesian National Armed Forces Auditor.³

Affirmation of the principle of the Single Prosecution System in the criminal justice system in Indonesia, where it aims to avoid prosecution disparities in handling corruption cases. This is important to minimize the occurrence of confusion in law enforcement which can lead to injustice for justice seekers.

From this background is formed the purpose of writing the author is to examine and analyze the existence of the single prosecution system of the Attorney

²Soerjono Soekanto, 1983, *Factors Influencing Law Enforcement*, Jakarta: Rajawali, p.5.

³Bolifaar, Andhy Hermawan, and Henry Dianto Pardamean Sinaga, *Managing Evidence of Tax Crime in Indonesia: An Artificial Intelligence Approach in Integrated Criminal Justice System*, *Ayer Journal*, Vol.27 No.1, (2020), p.143

General's Office in the implementation of the prosecution of criminal acts of corruption.

2. Research Methods

To conduct an assessment in this writing the authors use the normative juridical method. Writing specifications are carried out using a descriptive analytical approach. The data used for this writing is secondary data. To obtain the data in this writing, secondary data collection methods were used which were obtained from library books, laws and regulations, as well as the opinions of legal experts. The data that has been obtained is then analyzed with qualitative analysis.

3. Results and Discussion

3.1. Single Prosecution System

Single prosecution system reflected in Article 2 paragraph (2) of Act No. 11 of 2021 concerning Amendments to Act No. 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia which states that the prosecutor's office is one and inseparable (een en ondeelbaar).¹This means that the prosecution must exist in one institution, namely the Attorney General's Office in order to maintain a unified policy in the field of prosecution so that it can display unified characteristics in its thought, behavior and work procedures.

Application of principles *single prosecution system*In the international context, it can be seen in Article 11 of the United Nations Guidelines on the Role of Prosecutors which states that the Prosecutor must take an active role in the process of handling criminal cases, including carrying out prosecutions and if permitted by law or in accordance with local customs, play an active role in investigations, supervision on the validity of the investigation, overseeing the implementation of court decisions and carrying out other functions as a representative of the public interest.

Application of principles *single prosecution system*in the prosecutor's office, is a necessity or obligation in the criminal justice system in Indonesia. This principle provides benefits and understanding that prosecutors in the Indonesian criminal justice system are organized in a state institution called the Attorney General's Office of the Republic of Indonesia. The Attorney General's Office of the Republic of Indonesia is led by the Attorney General. The Attorney General is the chief legal officer and acts as a guardian of the public interest. The Attorney General is the controller of law enforcement and justice policies within the scope of the Attorney's duties and authorities. The Attorney General's authority is carried out with the principle of the Prosecutor's Office as a unit and cannot be separated. So that the Attorney General controls law enforcement and justice policies with a

centralized pattern towards all Prosecutors in all jurisdictions of the Republic of Indonesia.

With the enactment of Act No. 11 of 2021 concerning Amendments to Act No. 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, the authority of the Attorney General as the Highest Public Prosecutor remains as stipulated in Article 18 paragraph (1): "The Attorney General is the leader and insurer the highest responsibility for controlling the implementation of the duties and authorities of the prosecutor's office, the Attorney General is also the highest leader and person in charge in the field of prosecution". This means that the Attorney General is not only the highest leader in the Attorney General's institution but also the highest leader in the field of prosecution in any institution authorized by law.

The arrangement is essentially a reflection of the implementation of the principle *single prosecution system*, which means that there is no other institution that has the right to prosecute unless it is under the control of the Attorney General as the country's highest public prosecutor.

3.2. Presence of the Attorney's Single Prosecution System in the Implementation of Corruption Crime Prosecution

In the criminal justice system in Indonesia, the position of the Attorney General is as the sole public prosecutor (*single prosecution system*) as well as being the only agency executing criminal decisions (executive ambtenaar) in its development is increasingly being neglected, bearing in mind that currently there are several other institutions that also carry out the function of prosecution and execution but are not controlled by the Attorney General, for example against Corruption Crimes committed by the Commission Corruption Eradication Commission (KPK) as well as perpetrators of criminal acts within the military justice environment which were carried out by Military Authorities, High Military Authorities and Indonesian National Armed Forces Auditors.

The weak existence of the Indonesian Attorney General's Office in resolving corruption cases is apparently due to the many interventions and the lack of independence of the judiciary institution, bearing in mind that the position and role of the Indonesian Attorney General's Office is a state body that is inseparable from the executive branch and the appointment of the Attorney General is also appointed and dismissed by the President with the approval of the DPR. So it is not surprising that prosecutors are often referred to as having "thin ears" so that many cases have not been seriously resolved by the prosecutor's office and the public believes that this has political overtones. For example the case of Ginanjar Kartasasmita, (Former Minister of Mines and Energy/Chairman of Bappenas) , Syahril Sabirin (Governor of Bank Indonesia), and Akbar Tanjung (Chairman of the

DPR RI).⁴

The existence of the KPK's authority in taking over corruption crimes that are being carried out by the police or the prosecutor's office has led to a reduction in the duties and powers of prosecutors in investigations and prosecutions as well as creating a dualism of authority between the KPK as the sole institution for dealing with corruption and the prosecutor's office as the sole prosecution agency (*dominus litis*) which one and inseparable (*een en ondeelbaar*).

Referring systemically, synchronization in the criminal justice system formed from structural, substance and cultural synchronization can be returned to the applicable criminal justice guidelines, namely the Criminal Procedure Code which is regulated through Act No. 8 of 1981 concerning Criminal Procedure Law. Through these guidelines, functional relationships are regulated between investigators and public prosecutors, investigators and courts, public prosecutors and courts, as well as the relationship between courts and prosecutors and correctional institutions.

Ideally, there is a clear separation between the criminal justice sub-systems so that there is no phenomenon of overlapping authority between these sub-systems.¹ For example, in terms of prosecution of corruption, there is overlap in terms of prosecution as stipulated in Act No. 30 of 2002 concerning the Corruption Eradication Commission which authorizes the KPK to carry out prosecutions which should according to Article 13 of the Criminal Procedure Code it is stated that the Public Prosecutor is a prosecutor who is authorized Law to prosecute, and Article 2 of Act No. 11 of 2021 concerning Amendments to Act No. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia which places the Prosecutor's Office as an institution that exercises state power in terms of prosecutions carried out freely without influence from any party.⁵

Integrated Application *Criminal Justice System* actually done to prevent such things which can later lead to disparities in the enforcement of criminal law.¹ Synchronization of criminal justice through the Integrated Criminal Justice System which aims to achieve harmony in criminal law enforcement provides guarantees for achieving sustainable justice by realizing a balance in legal certainty, expediency and fairness. This is in line with Mardjono's opinion in "Criminal Law Politics: Disparities in Judge Decisions in Corruption Crimes" which emphasizes that the interconnection between sub-systems involved in the criminal justice system has an important role in achieving the goal of balanced and sustainable law

⁴Marwan Effendy, 2012. Discretion in Law Enforcement of Corruption Crimes, Malang, p.73

⁵Qotrun Nida, Yulianah, and Asep Hasan Sofwan, Disparity of Authority of Law Enforcement Agencies in Eradicating Corruption Crimes, Untirta Civic Education Journal, Vol. 5 No. 2, (2020), p. 163–181

enforcement.

The authority to investigate and prosecute corruption between the Attorney General's Office and the Corruption Eradication Committee often has conflicts and overlapping authorities. 30 of 2002, namely the specific authority of the KPK in investigations and prosecutions at the Corruption Court, KPK in eradicating corruption does not need permission from the Chairperson of the District Court and cannot issue SP3 (Warranty for Termination of Prosecution), can conduct wiretapping and record conversations and can carry out all other special measures as referred to in Article 12 paragraph (1).⁶

The KPK Law provides qualifications for which acts of corruption can be handled by the KPK. As emphasized in Article 11 of the KPK Law that in carrying out its duties, the KPK has the authority to prosecute criminal acts of corruption. This qualification implies that if an act of corruption is included in the formulation of that article, then the KPK is authorized to carry out prosecution actions. However, in several cases of corruption in Indonesia where the value of state losses is interpreted as being over one billion rupiah and involving state administrators, in this case the government (in accordance with the qualifications of Article 11 of the KPK), Prosecution policies against corruption cases cannot be immediately carried out without the active role of the Attorney General, in this case the holder of full authority, where the Attorney General's Office must gain access to implementing corruption law enforcement within the scope of prosecution which creates synergy between institutions, not without coordination with what is being done. by the KPK. Things like this give rise to ambiguity and legal uncertainty in terms of who actually has the authority to prosecute corruption.¹

The role of the prosecutor as the sole public prosecutor *orsingle prosecution system* which is a cornerstone of the implementation of the prosecutor's duties which aims to maintain a unified prosecution policy that displays unified characteristics in the behavior, mindset, and work procedures of the prosecutor's office. What the prosecutor's apparatus must have is a professional expertise, both regarding understanding and understanding. This is one of the efforts of the prosecutor's apparatus so that the eradication of corruption can be successful.⁷

The KPK Law does not provide a definition of prosecution, thus the notion of prosecution refers to the Criminal Procedure Code as a general law of criminal procedure. The KPK Law only regulates the KPK's authority to carry out prosecutions, which is carried out by the Public Prosecutor at the KPK who is

⁶Hutahaean, Armunanto and Erlin Indarti, Investigating Institute in the Integrated Criminal Justice System in Indonesia, Journal of Indonesian Legislation, Volume 16 Number 1, (2019), p.371

⁷Jan. S. Maringka, 2017. Attorney Reform in the National Legal System, Jakarta: Sinar Graphic, p. 49.

appointed and dismissed by the KPK. The Public Prosecutor in question is the Public Prosecutor who carries out the function of prosecuting corruption.

As is also true in many countries that adhere to the Continental European system, the Court consists of several judges, each of whom counts as 1 (one) judge. However, the Prosecutors present at the court, although they consist of several Prosecutors, are one unit and only count 1 (one) Prosecutor under the Head of the Prosecutor's Office. This meaning is actually contained in the principle of "*een en ondelbaar*" namely the Attorney General's Office is one and cannot be separated. In fact, this principle speaks of the existence of a unified prosecution policy under the Attorney General as the Supreme Public Prosecutor.¹ The regulation of the principle of "*een en ondelbaar*" is none other than to maintain a unified prosecution policy that displays a unified characteristic in the mindset, behavior and work procedures of the Attorney General's Office.

Therefore, it is necessary to reaffirm the principle *Single Prosecution System* in the criminal justice system in Indonesia, where it aims to avoid prosecution disparities in this case the handling of Corruption Crime cases. The principle of the single prosecution system which forms the basis for the development of the judicial environment, ultimately focuses on coordination, collaboration and synchronization, both substantial synchronization, structural synchronization and cultural synchronization. This is important, because when there are subsystems that are out of sync in the implementation of the criminal justice system, it does not only show that it is not integrated with the spirit of judicial power, but will have implications for achieving the goals of law enforcement and justice itself.

4. Conclusion

Ideally, there is a clear separation between the criminal justice sub-systems so that there is no phenomenon of overlapping authority between these sub-systems. For example, in terms of prosecution of corruption, there is overlap in terms of prosecution as stipulated in Act No. 30 of 2002 concerning the Corruption Eradication Commission which authorizes the KPK to carry out prosecutions which should according to Article 13 of the Criminal Procedure Code it is stated that the Public Prosecutor is a prosecutor who is authorized Law to prosecute, and Article 2 of Act No. 11 of 2021 concerning Amendments to Act No. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia which places the Prosecutor's Office as an institution that exercises state power in terms of prosecutions carried out freely without influence from any party. The implementation of the Integrated Criminal Justice System is actually carried out to prevent such things from causing disparities in the enforcement of criminal law. The role of the prosecutor as a single public prosecutor or single prosecution system which is a cornerstone of the

implementation of the prosecutor's duties which aims to maintain a unified prosecution policy that displays unified characteristics in the behavior, mindset, and work procedures of the prosecutor's office.

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