

The Role of Prosecutors in Enforcing Corruption Crimes at the Balangan District Attorney's Office with Legal Certainty

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Abstract: This study aims to determine and analyze the role of prosecutors in enforcing corruption laws at the Balangan District Attorney's Office with legal certainty, as well as obstacles and solutions in enforcing corruption laws at the Balangan District Attorney's Office. This study uses a sociological legal approach method, analytical descriptive research specifications, and uses primary and secondary data. Data collection methods include field studies and literature studies and data analysis methods are qualitative. The theories used in this study are the theory of law enforcement and the theory of legal certainty. Based on the results of the study, it can be concluded that the role of prosecutors in enforcing corruption laws at the Balangan District Attorney's Office has legal certainty, which has been regulated in the Criminal Procedure Code, Law Number 20 of 2001 concerning the Eradication of Corruption, and Law Number 11 of 2021 concerning the Prosecutor's Office. The role of prosecutors as investigators, public prosecutors and executors of decisions is an integral series that ensures the legal process runs as a whole. Obstacles in enforcing corruption law in the Balangan District Attorney's Office are limited human resources, limited budget, obstacles in tracing assets. The solution is to increase the acceptance of CPNS Attorney's Office, allocate a larger budget, and coordinate with related parties in tracing assets and raise funds for the defendant's family to pay compensation according to the court's decision.

Keywords: *Corruption; Enforcement; Prosecutors.*

1. Introduction

Indonesia is a country based on law, as regulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD 1945). This means that everything related to social, national and state life is regulated according to

applicable law.¹ Every citizen and state administrator must comply with applicable legal regulations.² The law determines what is allowed and what is prohibited. One of the prohibited acts is the crime of corruption which is very detrimental to the state.³

Corruption is a term that is now familiar to the ears of the Indonesian people.⁴ Corruption in Indonesia is a problem that has recurred from time to time over a relatively long period of time faced by the Indonesian nation.⁵ Based on research conducted by *Political and Economic Risk Consultancy* (PERC), since 2005 Indonesia has been ranked first as the most corrupt country in Asia.⁶ The problem of corruption in Indonesia is so severe that it has spread and penetrated all levels of society.⁷ Indonesia Corruption Watch (ICW) noted that there were 791 corruption cases in Indonesia throughout 2023 with the number of suspects reaching 1,695 people. The data shows that corruption cases have increased significantly compared to 2022, where there were 579 cases with the number of suspects reaching 1,396.⁸

Law enforcement against corruption crimes requires law enforcement instruments, namely the Indonesian National Police, the Indonesian Attorney General's Office, judicial institutions, correctional institutions, and the Corruption Eradication Commission (KPK).⁹ Based on the provisions of Article 26 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as last amended in Law Number 20 of 2001 (Corruption Law) states that investigation, prosecution, and examination in court of corruption crimes, are carried out based on applicable criminal procedure law, unless otherwise specified. The prosecutor's office is also given the authority to conduct investigations as regulated in Article

¹Haris Fadillah Harahap and Widayati, *The Law Enforcement against the Personnel of Corruption Crime*, Law Development Journal, Volume 2 Issue 4, December 2020, p. 526.

²Widawati, *Law Enforcement in a Democratic Indonesia*, Pledoi (Journal of Law and Justice), Vol 1 No. 1, 2022, p. 21

³Angga Dwi Arifian and Sri Kusriyah, *The Investigation on Criminal Acts of Corruption in the Jurisdiction of Rembang Police*, Law Development Journal, Volume 3 Issue 3, September 2021, p.460.

⁴Teguh Sulista and Aria Zurnetti, 2011, *Criminal Law: New Horizon Post-Reformation*, Jakarta. PT. Raja Grafindo Persada. Jakarta, p.63

⁵Sri Endah Wahyuningsih, Agus Sunaryo, *The Role of Prosecutor Office in the Eradication of Corruption Criminal Acts in Indonesia*, Jurnal Pembaharuan Hukum, Volume IV No. 2 May - August 2017, p. 244

⁶Saldi Isra and Eddy OS Hiariej, 2010, *Legal Perspectives on Eradicating Corruption in Indonesia in Corruption Corrupting Indonesia*, Gramedia, Jakarta, p. 554

⁷Andi Hamzah, 2003, *Corruption in Indonesia: Problems and Solutions*, Gramedia Pustaka Utama, Jakarta, p. 4.

⁸Tatang Guritno, Ardito Ramadhan, *ICW Records 731 Corruption Cases in 2023, Number Increases Significantly*, <https://nasional.kompas.com>, accessed July 1, 2024.

⁹Joko Kris Sriyanto and Bambang Tri Bawono, *Effectiveness of Performance of Prosecutor's Office in Preventing Corruption Crime after the Team's Disbandment*, Law Development Journal, Volume 2 Issue 4, December 2020, p.610

284 of the Criminal Procedure Code. So that the prosecutor's office has dual authority, namely conducting investigations, prosecutions and executing criminal decisions.

The dual authority of the prosecutor's office is prone to abuse due to the lack of control in carrying out both authorities. The implementation of the prosecutor's role in enforcing the law on corruption crimes must be supported by supporting factors such as implementing regulations, case resolution management, professional human resources, sufficient costs and facilities. In practice, not all of these supporting factors are met, due to limitations.

This study aims to determine and analyzing the role of prosecutors in enforcing the law on corruption crimes at the Balangan District Attorney's Office which has legal certainty as well as obstacles and solutions.

2. Research methods

This study uses a sociological legal approach method based on normative legal science and the working of the law in society. The research specification is descriptive analytical. The type of data uses primary data and secondary data. The research method uses field studies and literature studies. The data analysis method uses qualitative analysis.

3. Results and Discussion

3.1. The Role of Prosecutors in Enforcing Corruption Crimes at the Balangan District Attorney's Office with Legal Certainty

The position of the Prosecutor's Office in criminal justice is decisive because it is a bridge that connects the investigation stage with the examination stage in court. The public prosecutor has a monopoly on prosecution, meaning that every person can only be tried if there is a criminal charge from the Public Prosecutor.¹⁰In addition, the prosecutor's office also has the authority to investigate corruption crimes. Granting authority to prosecutors to investigate corruption crimes is expected to eradicate corruption much more effectively than handling similar cases separately as regulated in the Criminal Procedure Code.¹¹Thus, in enforcing the law against criminal acts of corruption, the prosecutor acts as an investigator, public prosecutor and also as the executor of the decision.

The role of the prosecutor in enforcing the law against corruption in the Balangan District Attorney's Office is as an investigator, public prosecutor and as an executor of the decision. As an investigator, the prosecutor has carried out his role by conducting investigations and inquiries into reports received related to alleged corruption. In this case, the investigating prosecutor has made investigative efforts, namely by following up on reports received related to alleged corruption

¹⁰Yudi Kristiana, 2006, Independence of the Prosecutor's Office in Corruption Investigations, PT Citra Aditya Bakti, Bandung, p. 52.

¹¹Fachrizal Afandi, Constitutionality of Prosecutors as Corruption Crime Investigators, <https://kejati-sulawesiutara.kejaksaan.go.id>, accessed November 1, 2024.

by conducting investigations, namely collecting initial data and working with the BPK to conduct financial audits. From the results of the investigation, evidence was obtained that a criminal act of corruption had occurred, so that it was raised to the investigation stage. In the investigation process, the prosecutor collects evidence as regulated in Article 184 paragraph (1) of the Criminal Procedure Code, namely by requesting statements from witnesses, experts, letters, instructions, statements from the defendant and the results of the state loss audit from the BPK. If the evidence is sufficient, the investigating prosecutor determines the suspect and summons him for questioning. The investigating prosecutor also examines witnesses and expert witnesses. In the investigation process, the investigating prosecutor carries out searches and confiscations of evidence, and the last is to compile and complete the case files to be submitted to the public prosecutor.

The role of the prosecutor as a public prosecutor in enforcing the law against corruption crimes is after receiving the transfer of case files from investigators, the public prosecutor completes the formal and material completeness of the case files, after being complete, receives the transfer of suspects and evidence from investigators, then the public prosecutor prepares an indictment based on the results of the investigation case files and submits it to the indictment to the court for trial. The public prosecutor follows the course of the trial by presenting evidence at trial. In the event that the examination process at trial has been completed, the public prosecutor prepares a letter of indictment that is submitted to the court.

The role of the prosecutor as the executor of the decision in enforcing the criminal law against corruption in the Balangan District Attorney's Office is to execute the judge's decision that has permanent legal force. What is meant by legally binding is that when the decision is read by the Panel of Judges, neither the defendant nor the Public Prosecutor appeals or thinks about the decision of the panel of judges. For the decision that has permanent legal force, the execution of the decision is immediately carried out by the Public Prosecutor.

The implementation of decisions in corruption crimes consists of implementing decisions on corporal punishment (prison sentences) and criminal compensation for state losses.

3.2. Obstacles and Solutions in Enforcing Corruption Crimes at the Balangan District Attorney's Office

Law enforcement against corruption is different from the resolution of general crimes because corruption is a special crime where some of the material and formal provisions are outside the Criminal Code and Criminal Procedure Code. In law enforcement against corruption, there are exceptions where the prosecutor's office (prosecutor) is given the authority to conduct investigations in addition to

being a public prosecutor and executor of the decision. Prosecutors as one of the law enforcement officers have an important role in enforcing corruption.¹²

In the practice of enforcing corruption crimes, prosecutors can act as investigators, public prosecutors and decision implementers. However, due to several limitations, in carrying out these roles there are times when they face several obstacles. The obstacles faced by prosecutors in enforcing corruption crimes at the Balangan District Attorney's Office are:¹³

1. Limited human resources

The number of prosecutors in Indonesia is currently approximately 11,000 people, where each district/city only has around 14 prosecutors including the Head of the District Attorney's Office. In the Balangan District Attorney's Office, in 2024 the number of prosecutors is 13 people consisting of the Head of the District Attorney's Office, 6 Section Heads and 6 functional prosecutors. In the special criminal field there are only 3 prosecutors consisting of 1 Section Head and 2 functional prosecutors.

This condition occurs because the number of prosecutors is still very lacking, so that filling all District Attorney's Offices in Indonesia is still limited, while the authority and responsibility of prosecutors are increasingly complex. This can hamper the performance of prosecutors, especially in the special criminal field, one of whose duties is to enforce the law on corruption. The lack of personnel makes the law enforcement process slower, because the ratio between the number of cases and the number of law enforcement officers is not balanced.

The solution to overcome these obstacles is to assign prosecutors to other areas in enforcing corruption crimes, for example by being included as an investigation team, investigation, prosecution, up to the execution of the verdict. In addition, it is hoped that the government will increase the acceptance of CPNS Attorney General's Office every year, so that the District Attorney's Office will also get additional personnel, so that it is expected to support the implementation of the duties and authorities of prosecutors in enforcing criminal law.

2. Budget constraints

At the Balangan District Attorney's Office, the budget for corruption case costs each year is Rp830,000,000 (eight hundred thirty million rupiah) which is allocated for handling 2 corruption cases starting from the investigation, inquiry, prosecution to the implementation of the verdict. In the event that the prosecutor handles more than two corruption cases in one year, the budget given to the Balangan District Attorney's Office will not be sufficient.

This condition can hamper the role of prosecutors in efforts to enforce corruption laws, considering that the costs of enforcing corruption laws are not small. The

¹²Ibid., p. 64.

¹³Results of an interview with Fandy Andriansyah, as Head of the Special Crimes Section of the Balangan District Attorney's Office, November 4, 2024.

budget is used to support various operational and technical needs required in the process of investigation, inquiry, prosecution, and execution of decisions. These costs include the collection of evidence (documents, witnesses, evidence, etc.), field operations including supervision and arrest of suspects, as well as honorariums for investigators and prosecutors. In addition, there are also costs for investigative audits that often collaborate with the BPK, expert fees, transportation and accommodation costs, especially for handling cases that require out-of-town travel, costs at trial and costs for executing decisions.

The solution to overcome these obstacles is to submit a request for additional budget costs to superiors to be forwarded to the relevant authorities.

3. Barriers to asset tracing

Prosecutors in tracing assets in corruption crimes often face obstacles that make the process of tracing assets more complicated. For example, perpetrators of criminal acts use the names of third parties to disguise assets or use money from corruption to invest in invisible assets. In the legal process, corruption crimes take a long time, giving perpetrators the opportunity to move their assets. On the other hand, prosecutors have limited time to disclose or confiscate assets, thus narrowing the chances of success in tracing assets. The less than optimal tracing of assets belonging to suspects and their immediate families at the investigation stage resulted in efforts to return compensation for state losses. In this case, convicts prefer a subsidiary prison sentence rather than returning state finances.

The asset tracing process that was not optimal at the investigation stage resulted in the return of compensation for state financial losses, where convicts preferred the subsidiary of imprisonment rather than returning state financial losses.

The solution to overcome these obstacles is to conduct asset tracing at the investigation stage carried out by the special Criminal Division and Intelligence Division through coordination with the Samsat, BPN, Dispendukcapil regarding assets owned by the suspect and the immediate family. In addition, the prosecutor can also raise funds from the defendant's family to pay compensation which will later be decided by the panel of judges.

4. Conclusion

The role of prosecutors in enforcing corruption crimes in the Balangan District Attorney's Office has legal certainty, which has been regulated in the Criminal Procedure Code, the Corruption Crime Law, and the Prosecutor's Law. In implementing its role, there are several obstacles both internal and external. Therefore, it is necessary to increase the number of prosecutors and there is a need to increase the competence of prosecutors related to asset tracking.

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