

Analysis of The Authority of Wire breaking by The Prosecutor's Office in The Process of Enforcement of Corruption Law

Whisnu Abhiseka ¹⁾ & Andri Winjaya Laksana ²⁾

¹⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: whisnuabhiseka.std@unissula.ac.id

²⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: andri.w@unissula.ac.id

Abstract. *This research analyzes the authority of wiretapping by the Indonesian Attorney General's Office in the process of enforcing corruption criminal law, especially following the amendments in Law Number 11 of 2021. Indonesia, as a state based on law, mandates professional and integrity-driven law enforcement, where the Attorney General's Office plays a crucial role in prosecutors and other authorities. The amendments to the attorney general's law grant additional authorities, including wiretapping, which has sparked debate among the public, particularly concerning potential human rights violations. Evidence in criminal cases is a critical stage requiring valid evidentiary tools. Wiretapping, as a form of electronic evidence, holds significant potential in uncovering corruption crimes, yet its regulations are still overlapping and not fully detailed. This study aims to reconstruct the regulations concerning the Attorney General's Office's wiretapping authority, identify existing weaknesses, and formulate an ideal future regulatory framework for wiretapping in handling corruption cases. Employing a normative legal research method and a statutory approach, this research analyzes relevant laws and regulations, theories of authority, rule of law, evidence, and law enforcement. The analysis reveals that although the ITE Law and Constitutional Court decisions have expanded the recognition of electronic evidence, gaps remain in the technical regulations and oversight of wiretapping implementation by the Attorney General's Office. Regulatory reconstruction is necessary to ensure that wiretapping authority aligns with the principles of due process of law and the protection of privacy rights, thereby strengthening the effectiveness of evidence in corruption cases.*

Keywords: *Attorney General's Office; Corruption Crime; Electronic Evidence; Law Enforcement; Regulation; Wiretapping.*

1. Introduction

The Republic of Indonesia is a state of law, as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The provisions of this article in the constitution mean that in the Unitary State of the Republic of Indonesia, law is the lifeblood of all aspects of community life. To realize the principles of a state of law, both legal norms and statutory regulations are needed, as well as law enforcers who are professional, have high integrity and discipline supported by legal facilities and infrastructure and legal behavior. Law enforcers who are professional and have high integrity can minimize the occurrence of criminal acts committed by individuals in society.¹

The Prosecutor's Office as a law enforcement agency has the authority to prosecute and exercise other powers in criminal acts that occur. Article 2 paragraph (1) of Law of the Republic of Indonesia Number 16 of 2004, as amended by Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia is a government institution that exercises state power in the field of prosecution and other powers based on law. This article gives the Prosecutor's Office of the Republic of Indonesia the authority not only to prosecute criminal acts, but also has several other powers that function in efforts to enforce criminal law in society.

According to Law Number 11 of 2021, it states that the Prosecutor's Office has duties and authorities in the criminal law realm as regulated in Article 30 Paragraph (1) which states that the Prosecutor's duties and authorities in the criminal realm are:

- a) Conducting Prosecution;
- b) Implementing Judge's Decisions and Court Decisions that have obtained permanent legal force;
- c) Supervise the implementation of conditional criminal decisions, supervised criminal decisions, and conditional release decisions;
- d) Conducting investigations into certain criminal acts based on the law;
- e) Complete certain case files and for this purpose can carry out additional examinations before being submitted to the court, the implementation of which

¹Marwan Effendy, 2002, *The Indonesian Attorney General's Office, Its Position and Functions from a Legal Perspective*, Jakarta, PT. Gramedia Pustaka Utama, p. 2

is coordinated with investigators.

Amendments to the Prosecutor's Office Law from Law Number 16 of 2004 into Law Number 11 of 2021, also impacted changes to the duties and authorities of the Prosecutor's Office. According to Law Number 11 of 2021, there are additional articles related to the duties and authorities of the Prosecutor's Office, namely the addition of Article 30A, Article 30B and Article 30C. One of the additional duties and authorities of the Prosecutor's Office that is interesting to discuss is related to wiretapping carried out by the Prosecutor's Office.

The wiretapping authority granted to the Prosecutor's Office is regulated in Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. The wiretapping conducted by the Prosecutor's Office has generated much controversy among various groups, one of which relates to the Prosecutor's Office's authority to conduct wiretapping related to a criminal act. This wiretapping authority by the Prosecutor's Office, according to some parties, is considered an excessive action, one of which comes from Non-Governmental Organizations (NGOs) and Human Rights (HAM) activists. These groups argue that wiretapping is contrary to Human Rights, and there has even been an initiative to amend the articles related to wiretapping, to review wiretapping, both from the procedures and the authority granted to the relevant institution, in this case the Prosecutor's Office of the Republic of Indonesia.

Proof is a provision that regulates the means of evidence permitted by law and regulates the evidence that may be used by a judge to prove the guilt of a defendant charged in a trial. Proof refers to the process of gathering evidence, presenting it, and presenting it in court. Proof is a crucial stage for a judge in rendering a verdict.

Evidence in a trial can be said to be central to the courtroom examination process. Evidence is central because the parties' arguments are tested through the evidentiary stage to determine the applicable law (*rechtoepasing*) or the law found (*rechtvinding*) in a particular case.² While the purpose of proof is to establish the legal relationship between the two parties in the case in court to be able to provide certainty and confidence to the Judge regarding the arguments accompanied by evidence submitted in court, at this stage the Judge can consider the decision of the case that can provide a truth that has the value of legal certainty and justice.³

² Achmad Ali, *Uncovering Legal Theory and Judicial Prudence: Including Legislative Interpretation*. First Edition, Third Printing; Jakarta: Kencana, 2009. p. 17

³ Achmad Ali and Wiwie Heryani, *Principles of Civil Evidence Law*. Jakarta: Prenada Media, 2013. p. 20

Wiretapping is essentially a prohibited activity. Some regulations even impose criminal penalties for wiretapping. However, this does not mean that wiretapping cannot be carried out at all. In fact, the authority to conduct wiretapping is granted by law to the Indonesian Attorney General's Office. There are at least three purposes for granting wiretapping authority:

- 1) To maintain and uphold the honor, dignity and behavior of judges
- 2) For the benefit of state intelligence
- 3) For the purposes of criminal justice

Regarding the wiretapping mechanism, there is currently no law specifically regulating wiretapping. Several laws already regulate wiretapping, but none specifically address it. The various laws governing wiretapping have different authorities, including investigators from the Indonesian National Police (Polri), the National Narcotics Agency (BNN), and the Corruption Eradication Commission (KPK). The mechanisms for wiretapping vary; some require court permission, while others require no permission, meaning the wiretapping can be carried out immediately. The duration of the wiretapping also varies.

The laws and regulations governing wiretapping still have several weaknesses, including the lack of limits on wiretapping carried out by authorized agencies to wiretap an individual, thus harming that person because personal information can be known by the wiretapper and can be misused by irresponsible parties. Regulations on the authority to wiretap corruption crimes currently lie with several state institutions, including the Police, the Prosecutor's Office, and the Corruption Eradication Commission (KPK). This makes the authority to wiretap in handling corruption crimes vulnerable to abuse. In addition, the results of wiretapping used as evidence in court cannot be challenged, because there is no unified mechanism that regulates it clearly and firmly. The laws and regulations governing wiretapping only have their own mechanisms in each institution and do not have a strong legal basis.

Wiretapping methods in Indonesia are regulated by various laws and regulations. Not all of these regulations use the term "wiretapping," although the actions carried out share the same goal: to obtain telecommunications data for analysis and/or evidence in law enforcement and intelligence functions.

Based on the provisions contained in several laws in force in Indonesia, the use of wiretapping can be categorized for 2 different purposes, namely:

- 1) Wiretapping for law enforcement purposes, namely the wiretapping mechanism carried out for the purposes of providing evidence in court,

wiretapping must be carried out in accordance with existing provisions and based on a fair legal process (due process of law) so that the results of the wiretapping can be declared valid as evidence in court.

2) Wiretapping for intelligence purposes is wiretapping carried out for the benefit of state intelligence, namely detecting, identifying, assessing, analyzing, interpreting, and presenting intelligence information in order to provide early warning to anticipate various possible forms and natures of potential and real threats to the safety and existence of the nation and state as well as opportunities that exist for national interests and security. So that the activities carried out by intelligence officers are only of a surveillance nature or monitoring of the communications that occur, not to be used as evidence in court but only for intelligence purposes.

Thus, the granting of wiretapping authority to the Prosecutor's Office in Law Number 11 of 2021 relates to the purpose of wiretapping, meaning for law enforcement purposes and to establish evidence of criminal acts. This wiretapping is included in electronic evidence. Until now, electronic evidence, particularly wiretapping results, has not been expressly regulated in the Criminal Procedure Code. Evidence in court proceedings is regulated in a limited or restricted manner. However, along with technological developments and human behavior, these have also influenced aspects of the criminal law realm that persist to this day. The enactment of Law Number 11 of 2008 in conjunction with Law Number 19 of 2016 concerning Electronic Information and Transactions (ITE) confirms the recognition of electronic transactions in criminal law, and the use of electronic transcripts as evidence in court. This has had a significant impact on the current development of criminal law evidence. The status of electronic evidence in criminal cases is now seen as no longer necessarily based on the types of evidence that have been limited by statutory regulations. Electronic evidence in criminal cases is currently considered to no longer have to be based on the types of evidence that have been limitedly determined by statutory regulations.

The provisions regarding electronic evidence as legal evidence in Indonesian law are recognized in Article 5 paragraph (2) which states that electronic information and/or electronic documents and/or printouts as referred to in paragraph (1) constitute an extension of legal evidence in accordance with the applicable procedural law in Indonesia. Electronic information and/or electronic documents as an extension of evidence in court, based on Article 5 paragraph (2) can be said to be electronic evidence.⁴

The definition of Electronic Information in the general provisions of Article 1 of

⁴Article 5 Paragraph (2) of Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE).

Law Number 11 of 2008 is stated as one or a collection of electronic data, including but not limited to writing, sound, images, maps, designs, photos, electronic data interchange, electronic mail, telegrams, telex, telecopy or similar, letters, signs, numbers, access codes, symbols, or perforations that have been processed which have meaning or can be understood by people who are able to understand them.⁵In Article 1 paragraph (4) of Law Number 11 of 2008 in conjunction with Law Number 19 of 2016, electronic documents are any electronic information, which is created, sent, received or stored in analog, digital, electromagnetic, optical or similar form which can be seen, displayed and/or heard via a computer or electronic system, including but not limited to writing, images, maps, designs, photos or similar, letters, signs, numbers, access codes, symbols which have a meaning or significance which can be understood by people who are able to understand them.⁶

The characteristics of electronic documents that can be transferred or stored in several forms, make it possible for electronic documents in court cases to not be found in one standard media form, this can be done considering the nature of electronic information and/or electronic documents that can be transferred into several other media forms. In the provisions of Article 6 of Law Number 11 of 2008 concerning information and electronic transactions (ITE) which reads

"In the event that there are provisions other than those regulated in Article 5 paragraph (4) which require that information must be in written or original form, electronic information and/or electronic documents are considered valid as long as the information contained therein can be accessed, displayed, its integrity guaranteed and can be accounted for so that it explains a situation."⁷

The dynamic development of society and the influence of globalization and modernization supported by advances in technology and information have influenced and shaped people's perspectives on life, marked by the dominance of technology, which is the impact of societal dynamism in the context of social change. In the legal world, this digital phenomenon has been responded to by the birth of Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE) in conjunction with Law Number 19 of 2016 concerning Information and Electronic Transactions. Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE Law) is the first law in the field of Information Technology and Electronic Transactions as a much-needed legislative

⁵Article 1 Paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE)

⁶Article 1 Paragraph (4) of Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE)

⁷Article 6 of Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE)

product and has become a pioneer that lays the foundation for regulations in the field of information technology utilization and electronic transactions. However, in reality, the implementation of the ITE Law has encountered problems in its application in court.

In the Constitutional Court decision 20/PUU-XIV/2016, Article 5 paragraph (2) and Article 6 of the ITE Law concerning the validity of evidence, where in principle the authenticity of such evidence can be guaranteed in describing a case. The Constitutional Court decision is indeed based on a criminal case. However, this does not necessarily mean that electronic information and transactions can be used as evidence, there are several conditions that must be met so that the evidence can be used.

From the explanation above, the ITE Law has explicitly determined that electronic information and documents are valid evidence and expands the valid evidence in accordance with the procedural law that has been in force in Indonesia, so that it can be used as evidence in court.⁸To be valid evidence, electronic information and documents must meet formal and material requirements. These formal requirements are regulated in Article 5 paragraph (4) of the ITE Law as follows:⁹

1. A letter which according to the law must be made in written form.
2. The letter and its documents according to the law must be made in the form of a notarial deed or a deed made by the deed-making official.

As evidence in criminal proceedings, it aims to reveal material truth in criminal law. Therefore, the provisions of procedural law governing evidence must comply with the law. However, if the law does not yet accommodate electronic evidence, in practice, many forms of evidence in criminal law have been obtained through electronic evidence, particularly wiretapping. The provision of material truth sought in the realm of criminal law through a closed logical system is interesting to discuss in relation to achieving justice in criminal cases.

2. Research Methods

The type of research used in this legal writing is normative or doctrinal legal research. This type of research refers to the research function according to Peter

⁸ Dewi Asimah, Addressing Obstacles to Proof in the Application of Electronic Evidence, <https://jurnalhukumperatun.mahkamahagung.go.id/index.php/peratun/article/download/159/34/i>, accessed on October 15, 2025 at 12:40 WIB.

⁹Article 5 Paragraph (4) of Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE)

Mahmud Marzuki, namely to find the truth of coherence, namely finding the existence of legal rules that are in accordance with legal norms and finding norms in the form of commands or prohibitions that are in accordance with legal principles and whether a person's actions are in accordance not only with legal rules but also with existing legal norms or legal principles.¹⁰

3. Results and Discussion

3.1. Reconstruction of the Regulation on the Attorney General's Authority to Conduct Wiretapping in an Effort to Prove the Existence of Corruption Crimes

1. Wiretapping Authority by the Prosecutor's Office

The Prosecutor's Office is a law enforcement agency that plays a vital role in the criminal justice system in Indonesia. As stipulated in Article 2 paragraph (1) of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, the Prosecutor's Office is a government agency that exercises state power in the field of prosecution and other authorities based on law. In carrying out these functions, the Prosecutor's Office is required to uphold the supremacy of law, justice, and truth based on law and conscience.

The authority of the Prosecutor's Office is not only limited to prosecution, but also includes investigative activities for certain criminal acts, including corruption as regulated in Article 30 paragraph (1) letter d of Law Number 11 of 2021. In addition, through the provisions of Article 30C letter i of the same law, the Prosecutor's Office is given new authority to conduct wiretapping. This authority is a form of institutional strengthening for the Prosecutor's Office in carrying out its duties to enforce the law in the field of special crimes, especially corruption which is categorized as an extraordinary crime.

Wiretapping is a crucial tool in modern law enforcement, particularly for crimes that are difficult to prove with conventional evidence. Corruption committed through covert means, using sophisticated communications and financial transaction technology, requires law enforcement officers to have the ability to gather evidence electronically.¹¹ Therefore, granting wiretapping authority to the Prosecutor's Office is expected to strengthen the effectiveness of the investigation and prosecution process for corruption crimes.

According to Andi Hamzah, corruption is a systemic crime and involves power structures, so it must be handled with extraordinary measures.¹² Wiretapping, as one form of extraordinary action, serves to uncover secret communications

¹⁰Peter Mahmud Marzuki, 2014. Legal Research. Jakarta: Kencana Purnada Media Group. P. 47

¹¹Mahrus Ali, Criminal Law on Corruption in Indonesia, Yogyakarta: UII Press, 2018, p. 76.

¹²Andi Hamzah, Indonesian Criminal Law, Jakarta: Sinar Grafika, 2019, p. 45.

between criminals that would be impossible to detect through conventional means. In this context, wiretapping has strategic value in supporting evidence of corruption.

The authority to wiretap by the Prosecutor's Office is also closely related to the principle of an integrated criminal justice system, where coordination between law enforcement agencies such as the Police, the Corruption Eradication Commission (KPK), and the Prosecutor's Office is important for the effectiveness of law enforcement.¹³ With the authority to wiretap, the Prosecutor's Office can play a more active role not only as a public prosecutor, but also as an institution capable of carrying out preventive and repressive investigative actions against corruption crimes.

However, the implementation of wiretapping authority by the Prosecutor's Office must also pay attention to the underlying legal principles, such as the principle of legality, the principle of proportionality, and protection of human rights, especially the right to privacy as regulated in Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Therefore, the existence of a strong legal basis and strict supervision is a must so that this authority is not misused and remains within the corridor of just law enforcement.

Thus, the Attorney General's Office's wiretapping authority can be viewed as an expansion of the Attorney General's function and role in criminal law enforcement, as well as an adaptive effort to address the challenges of modern crime. This authority is not intended to expand power without limit, but rather to strengthen the Attorney General's effectiveness in enforcing the law while upholding the principle of the rule of law.

2. Analysis of the Legal Basis and Implementation of Wiretapping by the Prosecutor's Office

Normatively, the Attorney General's Office's wiretapping authority has a strong legal basis following the enactment of Law Number 11 of 2021 concerning the Attorney General's Office of the Republic of Indonesia. Article 30C letter i states that the Attorney General's Office has the authority to conduct wiretapping in the implementation of its duties and functions in law enforcement. This provision marks a significant development in the Indonesian legal system, as previously wiretapping authority was held exclusively by certain institutions such as the National Police, the Corruption Eradication Commission (KPK), and the State Intelligence Agency (BIN).

¹³Barda Nawawi Arief, *Anthology of Criminal Law Policy*, Jakarta: Kencana, 2017, p. 132.

3. Legal Basis for Wiretapping Authority

The Attorney General's authority to wiretap can be understood as part of the investigative authority for certain criminal acts, as regulated in Article 30 paragraph (1) letter d of Law Number 11 of 2021. Thus, wiretapping becomes an instrument for gathering evidence in the investigation and prosecution process. In the context of corruption, this is in line with the principle of extraordinary measures in extraordinary crimes, which requires an unconventional legal approach.¹⁴ Apart from the Prosecutor's Office Law, the legal basis for wiretapping can also be found in several other relevant regulations, including:

a) Law Number 11 of 2008 in conjunction with Law Number 19 of 2016 concerning Electronic Information and Transactions (ITE), particularly Article 31 paragraph (3), which permits wiretapping to be carried out by law enforcement agencies based on statutory provisions.

b) Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, which provides the basis for investigators and public prosecutors to use all valid evidence, including electronic evidence.

c) Constitutional Court Decision Number 20/PUU-XIV/2016, which confirms that wiretapping results can be used as valid evidence in criminal cases as long as they are obtained legally and in accordance with the principle of due process of law.¹⁵

Based on these provisions, it can be understood that the Attorney General's authority to wiretap is constitutional and legal. However, the implementation of this authority must still be subject to the principles of proportionality and accountability, so as not to conflict with human rights, especially the right to privacy as guaranteed by Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

4. Purpose and Scope of Wiretapping by the Prosecutor's Office

The primary purpose of wiretapping by the Prosecutor's Office is to support effective law enforcement, particularly in the investigation and prosecution of corruption crimes. Wiretapping serves to obtain electronic evidence in the form

¹⁴Andi Hamzah, *Eradicating Corruption Through National and International Criminal Law*, Jakarta: RajaGrafindo Persada, 2017, p. 89.

¹⁵Constitutional Court Decision Number 20/PUU-XIV/2016 concerning the Judicial Review of Law Number 11 of 2008 concerning Electronic Information and Transactions against the 1945 Constitution.

of communications between parties involved in a crime, including conversations, text messages, and digital data exchanges.¹⁶

The scope of wiretapping conducted by the Prosecutor's Office must be limited to criminal law enforcement purposes. This means that wiretapping cannot be used for purposes outside the legal process, such as political or economic interests. The use of wiretapping as evidence must also be through legal mechanisms, such as being documented in a report and included in the case file.

5. Implementation of Wiretapping Authority by the Prosecutor's Office

In practice, the Attorney General's Office's implementation of wiretapping authority still requires further regulation through an Attorney General's Regulation (Perja) or Government Regulation (PP) governing the procedures, permits, supervision, and duration of wiretapping. Without implementing regulations, the potential for abuse of authority or violation of privacy rights remains wide open.

For comparison, the Corruption Eradication Commission (KPK) has wiretapping procedures stipulated in Corruption Eradication Commission Regulation Number 6 of 2021 concerning Wiretapping Procedures, which regulate, among other things, the legal basis for wiretapping, the authority of the permitting official, the timeframe, and the oversight of wiretapping results. This model can serve as a reference for the Attorney General's Office in developing similar internal regulations.

Furthermore, the implementation of wiretapping authority by the Prosecutor's Office must adhere to the principle of checks and balances among law enforcement agencies, to avoid overlapping authority between the Prosecutor's Office and other institutions such as the Police and the Corruption Eradication Commission (KPK). Inter-agency coordination is essential to ensure effective investigations and prevent violations of the *ne bis in idem* principle in corruption cases.

6. Accountability and Supervision Aspects

Accountability is a crucial element in the exercise of wiretapping authority. Every wiretapping action by the Prosecutor's Office must be legally and administratively accountable. According to Philipus M. Hadjon, every legal action taken by a public official must have legal legitimacy and be subject to review through applicable legal mechanisms.¹⁷ Therefore, in implementing the authority to wiretap, a strict monitoring system is required both internally through the

¹⁶Mahrus Ali, *Criminal Law on Corruption in Indonesia*, Yogyakarta: UII Press, 2018, p. 102.

¹⁷Philipus M. Hadjon, *Legal Protection for the People in Indonesia*, Surabaya: Bina Ilmu, 2005, p. 78.

Prosecutor's Inspectorate, and externally through independent institutions or judicial institutions.

Thus, the legal basis for wiretapping by the Prosecutor's Office meets the principles of legality and constitutionality. However, to effectively and accountably exercise this authority, detailed implementing legal instruments and a transparent oversight mechanism are required.

3.2. Weaknesses and Problems in the Regulation and Implementation of Wiretapping by the Prosecutor's Office

Although Law Number 11 of 2021 grants the Attorney General's Office the authority to wiretap, in practice, significant weaknesses and problems persist, both in terms of normative, institutional, and technical implementation. These weaknesses require in-depth analysis to find solutions and develop a more comprehensive legal framework in the future.

1. Normative Weaknesses in the Regulation of Wiretapping by the Prosecutor's Office

WeaknessFirstThe problem lies in the normative aspect, namely the lack of detailed regulations regarding the implementation of wiretapping by the Prosecutor's Office. While Article 30C letter i of Law Number 11 of 2021 does provide a legal basis for the Prosecutor's Office to conduct wiretapping, the article is an open norm without clear operational details.

The absence of implementing regulations, either in the form of a Government Regulation (PP) or an Attorney General's Regulation (Perja), prevents this norm from being effectively implemented. However, according to the *lex certa* principle in criminal law, any authority that limits citizens' rights must be clearly and firmly regulated in law.¹⁸ In the absence of such regulations, the implementation of wiretapping by the Prosecutor's Office has the potential to result in violations of the principles of legality and human rights.

Furthermore, the Attorney General's Law does not explicitly regulate the mechanism for obtaining wiretapping permits. Unlike the Corruption Eradication Commission (KPK), which requires permission from the Supervisory Board before conducting wiretapping, the Attorney General's Office does not yet have a similar mechanism. As a result, there is the potential for wiretapping to occur without permission from the competent authorities, which could violate the right to privacy as guaranteed in Article 28G paragraph (1) of the 1945 Constitution.

¹⁸Sudarto, Law and Criminal Law, Bandung: Alumni, 1986, p. 47.

2. Structural and Institutional Weaknesses

The next problem lies in the Prosecutor's Office's institutional structure, which is not yet fully prepared to exercise its wiretapping authority professionally and accountably. Unlike the Corruption Eradication Commission (KPK), which has a dedicated task force for information technology and wiretapping, the Prosecutor's Office currently lacks an independent technical unit to handle wiretapping activities.

The absence of this specialized unit has implications for the weak monitoring and security system for wiretapping results. Wiretapping results that are not stored with a high-security system can pose a risk of data leaks and information misuse. Furthermore, the lack of human resources with technical expertise in information technology also hinders the Attorney General's Office in optimizing the exercise of this authority.

Institutional issues are also evident in the coordination between the Prosecutor's Office and other law enforcement agencies. In the practice of handling corruption cases, there is often overlapping authority between the Police, the Prosecutor's Office, and the Corruption Eradication Commission (KPK), particularly during the investigation and prosecution stages.¹⁹ If wiretapping is carried out without proper coordination, this can give rise to institutional conflict and disrupt the effectiveness of the integrated criminal justice system.

3. Technical and Procedural Weaknesses

From a technical and procedural perspective, wiretapping requires strict standard operating procedures (SOPs) to ensure its legality and accountability. However, to date, wiretapping SOPs within the Attorney General's Office have not been formally regulated. Yet, the existence of SOPs is crucial for determining the stages of wiretapping, from requesting permission and technical implementation to the destruction of wiretaps. Without standard SOPs, wiretapping can potentially be misused for purposes beyond law enforcement.²⁰

Another issue that has emerged is the lack of technological equipment and wiretapping infrastructure at the Prosecutor's Office. Wiretapping requires sophisticated communications technology, trained human resources, and a robust digital security system. The lack of these facilities makes it difficult to conduct wiretapping effectively and professionally, and even has the potential to lead to confidential data leaks that could prejudice the judicial process.

¹⁹Mahrus Ali, *Criminal Law on Corruption in Indonesia*, Yogyakarta: UII Press, 2018, p. 156.

²⁰Andi Hamzah, *Eradicating Corruption Through National and International Criminal Law*, Jakarta: RajaGrafindo Persada, 2017, p. 93.

4. Potential Human Rights Violations

Another crucial weakness is the potential violation of human rights, particularly the rights to privacy and freedom of communication. According to Satjipto Rahardjo, the law must protect human dignity and not become a tool of repressive power.²¹ Therefore, wiretapping as an intrusive action against a person's private life must be carried out carefully, with strict supervision and a strong legal basis.

Without an effective external oversight mechanism, the Attorney General's Office's wiretapping authority has the potential to violate the principles of due process and the rule of law. This situation could lead to public distrust of law enforcement agencies and undermine the Attorney General's Office's moral legitimacy as an institution that upholds justice.

3.3. Reconstruction and Solutions for Arranging Wiretapping Authorities by the Prosecutor's Office in the Future

The Attorney General's authority to wiretap, as stipulated in Article 30C letter i of Law Number 11 of 2021, represents a progressive step in strengthening law enforcement, particularly against corruption. However, to prevent abuse of this authority and to ensure its adherence to the principles of the rule of law and the protection of human rights, its regulation and implementation need to be reconstructed. This reconstruction encompasses the normative, institutional, technical, and ethical aspects of law enforcement, ensuring that wiretapping authority can be used effectively, proportionally, and accountably.

1. Reconstruction of Normative Aspects

The first step that needs to be taken is the development of clear and comprehensive implementing regulations. Law Number 11 of 2021 only provides a general legal basis without specifying the procedures for conducting wiretapping. Therefore, implementing regulations are needed in the form of a Government Regulation (PP) or an Attorney General's Regulation (Perja), which contains:

1. Procedures for obtaining wiretapping permits, including the officials authorized to grant permits and the time period for carrying out the wiretapping.
2. Standard operating procedures (SOP) related to the implementation of wiretapping, starting from requests, implementation, recording, to storage and destruction of wiretapping results.
3. Internal and external oversight mechanisms to prevent abuse of authority and ensure accountability.

²¹Satjipto Rahardjo, *Law and Society*, Bandung: Angkasa, 2006, p. 115.

4. Regulations regarding the protection of data resulting from wiretapping, to ensure the confidentiality and security of the information obtained.¹

With detailed implementing regulations, the Attorney General's Office's implementation of wiretapping authority will have legal certainty and will not conflict with the principle of due process of law. This also aligns with the principle of *lex certa*, which requires legal norms to be clearly formulated and not open to multiple interpretations.²²

2. Strengthening Institutional Aspects

Second, institutional strengthening is needed. The Attorney General's Office needs to establish a special, independent wiretapping unit under the direct supervision of the Deputy Attorney General for Special Crimes (Jampidsus). This unit must be staffed with human resources competent in information technology, criminal law, and wiretapping ethics.

Furthermore, the Prosecutor's Office needs to collaborate with other institutions, such as the National Cyber and Crypto Agency (BSSN), the Ministry of Communication and Information Technology, and the Indonesian National Police, to develop wiretapping technology and digital security systems. This inter-agency collaboration is crucial to ensure the security of communications networks and prevent the leak of wiretapping data that could be misused by certain parties.²³

3. Strengthening Oversight and Accountability Mechanisms

Oversight is a fundamental aspect of wiretapping. To ensure accountability, a multi-layered oversight mechanism, both internal and external, must be established:

1. Internal supervision, carried out by the Prosecutor's Inspectorate, which is tasked with assessing the legality and procedural compliance with each wiretapping action.

2. External supervision, can be carried out by an independent institution, for example the Ombudsman of the Republic of Indonesia or a special institution that functions to oversee the implementation of wiretapping in Indonesia.²⁴

With a transparent oversight system, the public can ensure that wiretapping authority is not used for political gain or in violation of individual rights.

²²Sudarto, *Law and Criminal Law*, Bandung: Alumni, 1986, p. 54.

²³Romli Atmasasmita, *Contemporary Criminal Justice System*, Jakarta: Prenada Media, 2018, p. 89.

²⁴Philipus M. Hadjon, *Legal Protection for the People in Indonesia*, Surabaya: Bina Ilmu, 2005, p. 95.

According to Philipus M. Hadjon, sound oversight is a key element in creating a clean and just government.²⁵

4. Development of Law Enforcement Ethics

In addition to legal and institutional aspects, the reconstruction of wiretapping must also address the ethical dimension of law. Ethical law enforcement is crucial because wiretapping concerns individuals' private lives. Therefore, every prosecutor authorized to conduct wiretapping is obligated to uphold the values of honesty, responsibility, and professionalism.

According to Satjipto Rahardjo, ethical law enforcement is law enforcement that places humanity at its center.²⁶ In this context, wiretapping should not be used as a tool of power to pressure certain parties, but rather as a means to uphold justice and protect the public interest. Therefore, the Prosecutor's Office needs to develop a Wiretapping Code of Ethics that regulates the behavior of its officers in carrying out their duties, including sanctions for prosecutors who violate these ethical principles.

5. Synergy Between Law Enforcement Agencies

The reconstruction of wiretapping authority also needs to be directed at improving synergy between law enforcement agencies. In an integrated criminal justice system, coordination between the Prosecutor's Office, the Police, and the Corruption Eradication Commission (KPK) is crucial for efficient law enforcement and to prevent duplication of authority.

Synergy can be achieved through the establishment of an inter-agency wiretapping coordination forum, which serves to standardize technical standards, licensing procedures, and mechanisms for exchanging wiretapping data. According to Romli Atmasasmita, collaboration between law enforcement agencies is one way to effectively implement the principles of an integrated criminal justice system.²⁷

4. Conclusion

1. Based on the provisions of Article 30C letter i of Law Number 11 of 2021 concerning the Attorney General's Office of the Republic of Indonesia, the Attorney General's Office is given the authority to conduct wiretapping in the context of law enforcement interests. This authority is a progressive step (*ius constituendum*) in strengthening the position of electronic evidence in the

²⁵*Ibid.*, p. 96.

²⁶Satjipto Rahardjo, *Progressive Law: A Synthesis of Indonesian Law*, Yogyakarta: Genta Publishing, 2009, p. 91.

²⁷Romli Atmasasmita, *Legal Reform, Human Rights, and Law Enforcement*, Bandung: Mandar Maju, 2017, p. 74.

process of proving corruption crimes in the digital era. However, at the level of *ius constitutum*, the existing regulations are still general and do not provide adequate normative clarity. Therefore, a regulatory reconstruction is needed so that the authority to wiretap has legal certainty and concrete implementation procedures. This reconstruction includes: affirming the scope and limitations of "certain criminal acts" that can be the object of wiretapping, the preparation of detailed, standard, and measurable procedures and mechanisms for implementing wiretapping; the establishment of an independent supervisory institution to ensure accountability; and harmonization with the provisions on electronic evidence as regulated in the Criminal Procedure Code (KUHP). Thus, the regulatory reconstruction is in line with the theory of authority which emphasizes that every government organ must act based on a clear legal basis, firm limitations, and an effective supervisory mechanism to prevent abuse of power.

2. Normatively, the regulations regarding the Attorney General's Office's wiretapping authority still have several substantial weaknesses. First, there is a lack of clarity regarding the phrase "certain criminal acts" as stipulated in the law, thus opening up room for broad interpretation and potential for abuse. Second, there is no standard operating procedure (SOP) that regulates in detail the procedures, timeframes, and mechanisms for obtaining wiretapping permits, which can result in the invalidity of wiretapping results before the law. Third, there is no strong external oversight mechanism, which results in the risk of violations of privacy and human rights as guaranteed by the constitution. Fourth, there is a fragmentation of wiretapping authority between the Attorney General's Office, the Police, and the Corruption Eradication Commission (KPK) without integrated coordination, which leads to overlapping authority and inefficiencies in law enforcement. Fifth, the status of wiretapping results as evidence under the Criminal Procedure Code (KUHP) has not yet been legally certain, although it has been recognized to a limited extent in the Electronic Information and Transactions Law (UU ITE) and Constitutional Court Decisions. Sixth, there are no provisions for firm criminal sanctions for law enforcement officers who abuse their wiretapping authority. Thus, it can be concluded that these weaknesses stem from the absence of a specific law on comprehensive wiretapping and the lack of systemic integration of electronic evidence regulations in national criminal procedural law.

3. As a measure of *ius constituendum*, the direction of future legal development needs to focus on the creation of a specific law regarding wiretapping that is comprehensive, comprehensive, and in line with the principles of the rule of law. This law should clearly regulate the scope and limitations of law enforcement officials' wiretapping authority, procedures and timeframes, licensing mechanisms through an independent judicial institution, a monitoring system by an independent external institution, accountability obligations, and criminal sanctions for any form of abuse of authority. This direction of legal development needs to be based on the principle of balance between effective law

enforcement and human rights protection. Furthermore, it is important to strengthen collaboration between law enforcement agencies (the Prosecutor's Office, the Police, and the Corruption Eradication Commission) and to increase the capacity of human resources and digital legal technology. Thus, the regulation of wiretapping authority by the Prosecutor's Office in the future is expected to produce an effective, accountable, proportional, and equitable legal system for wiretapping, and to serve as a legitimate tool in eradicating corruption without neglecting constitutional principles and the fundamental rights of citizens.

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