

Analysis of The Duties and Authorities of The Prosecutor In Handling Criminal Acts of Corruption

Muh. Faozin¹, Hamidah Abdurrachman², Fajar Ari Sudewo³
{Faozin@gmail.com}

Magister of Law, Universitas Pancasakti Tegal, Indonesia

Abstract. The increasing cases of criminal acts of corruption, the more losses the state suffers and the people suffer more because of the consequences of corruptors, in this case it requires very extra handling to handle it, not only within the Police and the Corruption Eradication Commission, even from the past the Attorney General's Office has played an important role in such handling. This study aims to As evidence of disclosure or how corruption is not very good, to find out and show the role of the Prosecutor's Office in dealing with criminal acts of corruption. This study uses the Normative Legal Research Method because it only examines and analyzes. The results of this study show that there are many corrupt practices in Indonesia and law enforcement agencies, especially the Attorney General's Office, must work hard to eradicate them.

Keyword : Prosecutor, Corruption

1 Introduction

If we talk about law in general, what is meant is the whole set of rules or rules in a common life: the whole rules of behavior that apply in a common life, which can be enforced with a sanction. It can be said that in general every legal scholar views law as a collection of regulations. Generally one comes to a law scholar with a legal problem to solve. Law graduates are faced with legal problems. As a legal expert, he is expected to be able to solve and find the law. The law is contained in the legal regulations[1]. Judges, prosecutors, lawyers, law lecturers, notaries, law firm employees of various agencies cannot be separated from legal regulations in finding the law.

Law is a method or tool to achieve non-juridical goals that arise as a result of external stimuli, not a goal in and of itself. Outside factors that affect the law's flexibility[2]. Legal interactions are regulated by the law. The legal relationship consists of ties between people and both society and other people. Rights and duties are a reflection of the bonds. Legal interactions can be regulated in a number of ways. As in criminal law, where obligations make up the majority of the rules, sometimes solely obligations are formulated. On the other hand, the law frequently defines specific circumstances that must occur before legal connections can arise.

In its efforts to regulate, the law tries to strike a balance between granting individuals freedom and defending society against individual freedom. It does this by adapting individual interests to societal interests as far as it can.[3]. There will always be conflicts or tensions between individual interests and between individual interests and the interests of society because society is made up of individuals who interact. The law makes an effort to resolve this tension or contradiction.

Law as a collection of regulations or rules has general and normative content, general because it applies to everyone and normative because it determines what should be done, what

cannot be done or must be done and determines how to implement compliance with the rules [4]. In literature Dutch law the law is called 'objectief recht' objective because it is general in nature, binding on everyone. [5] The word 'recht' in Dutch legal language is divided into two, namely 'objectief recht' which means law and 'subjektief recht' which means rights and obligations.

Today there are often various kinds of legal problems in Indonesia, for example in cases of corruption. [6] Indonesia can be proud as a nation that has a diversity of ethnicities, religions and cultures. Proud to be awarded with charming natural beauty. Maybe also proud of the progress of past civilizations, in the Majapahit or Sriwijaya era. Proud of having succeeded in uniting the nation, fighting together through difficult times and liberating Indonesia. But now, is it still enough for us to be proud of, are there no new things or achievements that we should be proud of?

Ignatius Haryanto in his article in the Kompas daily, invites us to record the achievements of the Indonesian nation. [7] As one country for many years. Countries with corruptors are the most vulnerable to health, because they always get sick every time they want to be examined or tried'. When Dato Param Cumaraswamy, the special rapporteur of the United Nations, came to the conclusion that the corruption in the Indonesian judiciary was among the worst in the world, possibly only similar to Mexico, this nation was imprisoned. Even in the perspective of businesspeople, particularly Asian investors, corruption in Indonesia, specifically corruption in the courts, receives a score of 9.92 on a scale of 1 to 10, where 1 is the best and 10 is the worst. Indonesia's score is just above Vietnam's 8.75 and India's 9.26. [8]

The rupiah exchange rate is so low against the US dollar and other currencies (Yen, Malaysian Ringgit, Sing Dollar and others), where Indonesian workers who are said to be foreign exchange heroes are forced to exchange their hard work abroad by bandits and human traffickers for very low rupiah exchange rate [9]. In the same place, there is another record where human prices are very expensive, because for a family to pick up migrant workers, the most expensive fee in the world is charged [10]. The most extraordinary record is that Indonesia is the most beautiful and safest country for corruptors. In this case, to achieve the desired goals, a good constitutional arrangement is needed in law enforcement agencies. [11]

In line with the changes to the 1945 Constitution of the Republic of Indonesia, Law Number 4 of 2004 concerning judicial power, and several new laws, and based on developments in the legal needs of society and constitutional life, amendments were made to the law on the Attorney General's Office of the Republic Indonesia as a state institution that exercises state power in the field of prosecution must be free from the influence of any party's power, namely those carried out independently regardless of the influence of government power and the influence of other powers. [12]

The Prosecutor's Office as a government institution that exercises state power in the field of prosecution is emphasized even though it is carried out independently [13]. As a result, the prosecutor's office is free from the influence of governmental authority and other powers in the exercise of its responsibilities, duties, and powers. [14]. The attorney general is also in charge of independent prosecutions carried out for the sake of justice grounded in morality and the law. The prosecutor's office is a governmental organization tasked with carrying out prosecutions and carrying out decisions of general court institutions that have been given permanent legal force, hence its existence in the Republic of Indonesia plays a very vital function. [15]. This institutional duty is performed by a person known as the "Prosecutor." A prosecutor is an official designated by this legislation to operate as a public prosecutor and carry out court orders that have been given permanent legal effect, according to Article 1 Paragraph 1 of Law Number 5 of 1991.

The Attorney General's Office as one of the pillars of law enforcement has a very difficult task in upholding the rule of law in Indonesia comprehensively. Comprehensive enforcement of the rule of law is one of the reasons the government issued Law Number 16 of 2004 concerning

the Prosecutor's Office of the Republic of Indonesia which replaced the previous Law Number 5 of 1991. [16] One of the dictum considerations of Law Number 16 of 2004 states that law enforcement and justice are one of the absolute necessities in achieving national goals because the Unitary State of the Republic of Indonesia is a legal state based on Pancasila and the 1945 Constitution of the Republic of Indonesia..[17]

In order to achieve the goal, in terms of handling cases of criminal acts of corruption, various law enforcement agencies are required to handle them. One of them is the Prosecutor, who will focus on the role of the Prosecutor's Office as a law enforcement institution that also plays a major role in eradicating corruption in Indonesia.

2 Method

This type of research is library research. The process of performing library research involves reading secondary data from the literature as the foundation for the investigation and searching for laws and other relevant books. This research uses library research since it only deals directly with sources that are already in the library or ready-to-use data, as well as secondary data. It does not deal directly with field data or through eyewitnesses in the form of events. used.

The type of approach used in this research is empirical normative. Empirical normative is an understanding of law in the sense of norms or rules and the implementation of legal rules in real behavior and is evidence of behavior that is appropriate or not in accordance with normative legal provisions (statutory regulations and other written documents) [18]. This study uses an empirical normative approach because it examines the implementation or implementation of positive legal provisions or legislation and documents in fact (in action) on certain legal events that occur in society, so that interested parties achieve their goals or not.

Secondary data were the source for the research's data. Data sources that indirectly supply information to data gatherers, such as through other individuals or documents, are known as secondary data sources. Because secondary material is easily accessible in written form in books, scholarly journals, and other written sources, it is used as the primary reference in this study.

This research data collection technique was carried out through conventional and online literature searches. Conventional literature searches are carried out by looking for library materials at the library, purchasing books, journals and attending scientific activities (seminars). Online searches are done with a search engine for something via the internet. This research uses conventional and online library search techniques because it is useful for obtaining a theoretical basis by studying and studying books, laws and regulations, documents, reports, archives and other research results both printed and electronic related to the object of study.

The research's approach of data analysis is qualitative. The goal of qualitative data analysis is to comprehend phenomena relating to what research subjects experience, such as behavior, perceptions, motivations, actions, and others, holistically and through verbal and linguistic descriptions, in a specific setting that is natural and with the aid of natural methods. Because the data will be presented in a narrative-descriptive style rather than as figures or numbers, this study uses qualitative data analysis.

3 Discussion

a. Causes of Someone Committing Corruption Crimes

Corruption practices do not only affect developing countries, but also developed countries, such as the United States [19]. However, corruption in developed countries is not as bad as in developing countries like Indonesia. Instruments and the rule of law in developed countries in eradicating corruption are really running as they should because of the seriousness of the legal apparatus which is supported by the political will of the government [20]. The opposite fact in Indonesia, the proliferation of corruption practices, especially during the New Order which was continued in the reform era, did not touch the attention of the government (executive) and people's representatives in parliament (legislature).

The following are three theories of why someone commits a criminal act of corruption according to scientists [21] :

a. Klitgaard's theory

According to Robert Klitgaard's theory, The monopoly of power held by the leadership (monopoly of power), along with the degree of discretion enjoyed by officials and the lack of sufficient oversight (without accountability), is what fuels corruption. The practice of corruption, which was previously solely practiced by the central government (at that time, the power was in the central government), has changed due to the movement in the structure of governance from centralized to regional autonomy, becoming pervasive in the regions (because regional autonomy has given power to leaders in the regions). This is in line with Klitgaard's theory that corruption follows power.

Klitgaard's theory:

$$C=M+D-A$$

C = Corruption

M = Monopoly of Power

D = Discretion of official

A = Accountability

b. The theory of Ramirez Torres

Meanwhile, Ramirez Torrez's theory states that, rather than just being a desire, corruption is a calculated crime. Someone will commit corruption if the result (R_c =Reward) obtained from corruption is higher and greater than the punishment received (P_{ty} =Penalty) and the probability ($Prob$ =Probability) of being caught is relatively small.

Ramirez Torres Theory :

$$R_c > P_{ty} \times Prob$$

R_c = Reward

P_{ty} = Penalty

$Prob$ = Probability

c. Jack Bologne Theory (GONE)

According to Jack Bologne's (GONE) theory, there are 4 (four) root causes of corruption, namely :

- 1) Greedy, related to greedy behavior that potentially exists in every person;
- 2) Opportunity, related to the state of the organization or institution or society in such a way that an opportunity is opened for someone to commit corruption;
- 3) Need, related to the factors needed by individuals to support their lives;
- 4) Exposures, related to actions or punishments that do not have a deterrent effect on the perpetrators or society in general.

b. The Role of the Prosecutor's Office in Handling Corruption Crime Cases

Understanding the regulations and duties of the prosecutor's office normatively can be seen from several statutory provisions regarding the prosecutor's office, the latest in law number 16 of 2004, Article 30 :

(1) In the criminal field, the Public Prosecution Service has the following duties and powers :

- a. Conduct prosecution;
- b. Make decisions of judges and court decisions that have obtained permanent legal force;
- c. Supervise conditional criminal decisions;
- d. Supervision criminal verdict and conditional release decision;
- e. conducting legal inquiries on specific criminal acts;
- f. completing specific case files and, in order to do so, performing extra investigations prior to delegation to the court, whose execution is coordinated with investigators;

In the results of the interview that was conducted by Mr. Muhammad Amirudin, SH as the Prosecutor at the Brebes District Attorney, emphasized that the role of the prosecutor in handling corruption cases is :

- 1) Inquiry
- 2) Investigation
- 3) Prosecution
- 4) Execution
- 5) Implement judicial decisions and rulings from courts that have enduring legal standing..

This is justified in Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, article 30 paragraph (1), which contains, as follows:

Article 30

(1) In the criminal field, the prosecutor's office has the following duties and power :

- a. Conduct prosecution;
- b. Carry out the determination of judges and conditional criminal decisions, criminal supervision decisions, and parole decisions;
- c. oversee the execution of parole, supervision-related, and conditional criminal decisions;
- d. Investigate specific criminal offenses in accordance with the law;
- e. completing some case files, and in order to do so, doing further examinations before being delivered to the court, whose execution is coordinated with investigators;

In public order and orderliness, the Attorney General's Office also participates, this is also justified in Article 30 paragraph (3), Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, which contains the following :

Article 30

(3) In the field of public order and security, the Attorney General's Office participates in carrying out activities :

- a. Increased public legal awareness;
- b. Safeguarding law enforcement policies;
- c. Supervision of circulation of printed matter;
- d. Supervision of beliefs that can be harmful;

If we look at the role of the prosecutor's office, its duties and responsibilities are really very heavy, apart from the duties and responsibilities of the prosecutor's office in dealing with corruption cases, there must be obstacles, this was truly acknowledged by Mr. Hendro Purwoko, SH, MH as a prosecutor at the Brebes District Attorney's Office, he said: "Whereas the position of the trial for corruption crimes committed at the high court and the position of the high court was in the provincial capital, namely Semarang, while the distance from Brebes to Semarang was far, it took time and cost a lot and it was unimaginable the situation of the Prosecutor's Office which located on the outer islands of Java where access is still difficult, maybe they have to take an airplane as a medium to go to the location of a corruption trial. This is very contrary to the 'principle of simple justice, fast and low cost' and this principle has been formulated in Article 4 paragraph (2) of the Basic Law on Justice Number 48 of 2009 which requires that justice must be simple, fast, and low cost and sometimes the value of losses caused by corruption is not worth the costs of justice.

However, in this obstacle, the Brebes District Prosecutor's Office always shows its existence in handling corruption cases. in Indonesia. The number of investigations was 1,815 cases, investigations 1,537 cases, prosecutions (prosecutor's investigations 1,352 and Polri's investigations 873). The KPK data for 2013 included investigations of 81 cases, and investigations of 73 prosecution cases, and the state losses that were successfully secured at that time amounted to IDR 1.196 trillion. Meanwhile, the Brebes District Prosecutor's Office also took part in handling corruption cases, counting since 2013 until now there have been 13 cases that have been handled.

4 Conclusion

Based on the research and discussion above, the writer can conclude that in articles 30 to 34 in the Law on the Prosecutor's Office of the Republic of Indonesia, the duties and powers of the prosecutor's office are as follows : In the field of the prosecutor's office has duties and powers :

- a. Conduct prosecution;
- b. Make decisions of judges and court decisions that have obtained legal force;
- c. Monitoring the execution of parole decisions, supervisory criminal decisions, and conditional criminal decisions;
- d. Conducting investigations into certain criminal acts based on the law;
- e. completing specific case files and, in order to do so, performing extra investigations prior to delegation to the court, whose execution is coordinated with investigators.

In point d mentioned above, it shows that the prosecutor's office has been given special authority in handling corruption cases, but in practice the Brebes State Attorney's Office also experiences problems in handling corruption cases. The location of the corruption court that has the authority to try is the high court which is located in the provincial capital, while the distance between Brebes and Semarang is far and this requires a lot of transportation costs and sometimes the value of state losses caused by corruption cases is not worth the cost to judge.

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