

STRENGTHENING THE POSITION AND ROLE OF THE PROSECUTION COMMISSION IN IMPROVING THE QUALITY OF THE PROSECUTOR'S PERFORMANCE IN THE FIELD OF PROSECUTION

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Abstract

This research aims to determine and analyze the duties of prosecutors in law enforcement, especially in the field of prosecution. Apart from that, we want to know the role of the prosecutor's commission in carrying out supervision in order to create professional prosecutors. The research method used is normative juridical by collecting secondary data through literature study. The results of the research show that there are various crimes committed by individual prosecutors in carrying out their duties as law enforcers, such as prosecutors accepting bribes, prosecutors being involved in corruption crimes and prosecutors being involved in narcotics crimes which ultimately results in law enforcement duties in the field of prosecution not being carried out optimally. The position and role of the prosecutor's commission in improving the quality of prosecutors' performance at the prosecutor's office will certainly be very necessary in creating professional prosecutors with integrity. There must be strengthening of the role, duties and responsibilities of the prosecutor's commission in order to create professional prosecutors.

Key words: Prosecutor Commission, performance quality, prosecution.

INTRODUCTION

In a country ruled by law, the role of prosecutors is extremely important. It is within the prosecutor's power to refer a criminal case to a court for trial and have a judge determine the guilt or innocence of the crime or the perpetrator of the crime.

The judge's decision which has permanent legal force will then be implemented by the authorized party or commonly known as execution (prosecutor), so that the case that has been decided has permanent legal force and there are no further legal remedies for the convict whose decision contains a decision that contains a crime.¹

The presence of the Prosecutor's Office in the world of justice is divided into several things; First, as a preventive measure that limits, reduces or prevents the power of the government or state

¹I Wayan Edi Kurniawan, Anak Agung Sagung Laksmi Dewi, I Made Minggu Widyantara, Jaksa Selaku Eksekutor Dalam Putusan Pengadilan Tindak Pidana Pembunuhan, *Jurnal Preferensi Hukum*, Vol. 1, No. 2, 2020, p. 154-155.

administration (Rechstaat concept) which is thought to be arbitrary which can harm both the people and the government itself, even so that Collusion, Corruption and Nepotism (KKN) does not occur. Meanwhile, the repressive effort is to crack down on government or state administration arbitrariness and KKN practices. Second, the Prosecutor's Office should be placed in an independent and independent position and function to carry out law enforcement in order to realize a fair and independent judiciary (the concept of The Rule of Law). Third, maintaining the harmony of the relationship between rights and obligations between the government and the people through the task of prosecution (law enforcement) in the judicial process (the concept of the Indonesian rule of law).²

As part of law enforcement, prosecutors are the key to upholding the law in the field of prosecution. When carrying out all duties, functions and authorities, the prosecutor is guided by the provisions of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. Prosecutors must submit and comply with all provisions contained in the law while still adhering to the existing code of ethics.³ With clear legitimacy as stated in the law, the performance of prosecutors is expected to be able to create good legal supremacy in people's lives.

The Prosecutor's Office, in carrying out its duties and responsibilities, upholds the supremacy of law and makes this supremacy an important part of building a legal state based on the principles of justice for all parties. This can be done by upholding and implementing the law according to applicable regulations. Therefore, in law enforcement there must be no intervention from any party. In law enforcement, prosecutors must not play with the law and ignore applicable laws. Playing with and ignoring the existence of intervention from several parties will weaken the function of law enforcement itself and this will increasingly show the unprofessional attitude of law enforcers. This is of course dangerous, because law enforcement will reflect the realization of a just and prosperous society. Therefore, when law enforcement officers are able to enforce the law properly and correctly, order and legal certainty will be created in society. This is the true concept of Indonesia as a rule of law country.

² Marwan Effendy, *Kejaksaan RI Posisi dan Fungsinya dari Perspektif Hukum*, Penerbit Gramedia Pustaka Utama, Jakarta, 2005, p. 53.

³ Gibran Aldi Nasrullah; Muhammad Ahnaf; Dai Ramadhan; Akmal Haedar, Moral, Etika Dan Kode Profesi Jaksa Sebagai Penegak Hukum, *Nusantara: Jurnal Pendidikan, Seni, Sains Dan Sosial Humanioral*, (2023) 1:1, p. 4..

Law enforcement is purposed to improve order and legal certainty in society.⁴ To create law enforcement, it is important that the supremacy of law is implemented by referring to existing legal provisions. The rule of law should not just be a slogan with all the rules available, but should actually be realized and become part of law enforcement. Prosecutor must uphold the principle that the law has the highest position and must be accepted as a reference and guide in various matters. The rule of law guarantees that all people without exception must obey the law and no one may commit unlawful acts. By creating the supremacy of law, certainty, justice and security will be realized in society.

Upholding the supremacy of law means placing the law as the highest benchmark for behavior in social life and in the administration of state government, where the state with its power is subject to the law, and every legal subject, both person and legal entity, has the same position before the law, is obliged to obey and uphold the law without exception.⁵ Once again at this point it is very important that the rule of law be implemented by the prosecutor, because the prosecutor is one of the state's law enforcers. As law enforcers in Indonesia, it is the prosecutor who has full authority over cases that can be examined in court by a judge.

The law carried out by law enforcers must based on their respective duties and functions for every person who commits acts that are contrary to the law in order to achieve legal justice for society. By enforcing the law, the sanctions and norms contained in each regulatory provision will be increasingly obeyed by the community. Therefore, as one of the law enforcers, of course prosecutors carry out their duties referring to existing regulations and must not deviate from them. In this way, there will no longer be any prosecutors who carry out prohibited acts in various existing regulations.

Based on the description above, this article will then look at strengthening the position and role of the prosecutor's commission in improving the quality of the performance of the Republic of Indonesia's prosecutor's office in the field of prosecution. The position and role of the Prosecutor's Commission is very important to review and analyze in order to supervise the

⁴ Sanyoto, Penegakan Hukum di Indonesia, *Jurnal Dinamika Hukum*, Vol. 8 No. 3 September 2008, p. 99.

⁵ Darmono, Peningkatan Profesionalisme dan Etika Hukum”, <https://www.esaunggul.ac.id/Peningkatan-Profesionalisme-Dan-Etika-Hukum-Dr-H-Darmono-Wakil-Jaksa-Agung-Ri/>, diakses Tanggal 28 Juni 2023.

performance of the prosecutor's office in carrying out its duties and authority in the field of prosecution.

The existence of prosecutors who are involved in actions that are contrary to the law is regrettable. Prosecutors are still involved in existing legal games and do not respect the concept of the rule of law properly and correctly. Because the law should be respected, upheld and implemented well.

Just look, for example, in recent years there have been various cases involving prosecutors from various prosecutors' offices in Indonesia, especially in corruption cases. Corruption cases committed by individual prosecutors in recent years have increasingly worsened the integrity of prosecutors. Moreover, the arrest of prosecutors on suspicion of criminal acts of corruption has not happened once or twice. Event after incident seemed to keep repeating itself. Even though the Attorney General changes in every existing government.

Just look, for example, the functional prosecutor and member of the Yogyakarta District Prosecutor's Office of the Guard, Government and Regional Development Team (TP4D), Eka Safitra, was sentenced to 4 years in prison, a fine of IDR 100 million, subsidiary to 3 months in prison by the Panel of Judges at the Yogyakarta Corruption Court. Eka is considered proven to have accepted bribes related to the clean water channel rehabilitation project on Jalan Dr Supomo, Yogyakarta which was auctioned by the Department of Public Works, Housing and Residential Areas of Yogyakarta City for the 2019 fiscal year.⁶ Furthermore, the former Assistant for General Crimes at the DKI Jakarta High Prosecutor's Office, Agus Winoto, was sentenced to 5 years in prison and a fine of IDR 200 million, subsidiary to 3 months in prison by a panel of judges at the Jakarta Corruption Crime Court.⁷ There are cases involving prosecutors in corruption crimes. The latest case relates to Djoko Tjandra. This case then became hot news in various mass media.

If we look further back, we was shocked by the actions of prosecutors. Case of prosecutor Urip Tri Gunawan being arrested and tried for involvement in a bribery case. This incident tarnished the face of the Adhyaksa Corps. Moreover, at that time prosecutor Urip was the best prosecutor the prosecutor had. However, the acts of corruption with which he was charged have tarnished the face of the prosecutor's office in the eyes of the public.

⁶<https://www.liputan6.com/news/read/4259743>, diakses tanggal 3 Mai 2024.

⁷<https://nasional.kompas.com/read/2020/02/24/21311331>, diakses tanggal 4 Mai 2024.

Regarding corruption that has been carried out by prosecutors, Indonesia Corruption Watch (ICW) has recorded at least three patterns of corruption that are often carried out. First, the suspect was lured into providing a Notice of Termination of Investigation (SP3) and a Certificate of Termination of Prosecution (SKP2). This stage is the beginning of the potential for corruption to occur, because however the prosecutor will try to ensure that the case does not go to trial. Second, the selection of articles in the indictment that is more favorable to the defendant, or the sentence is lighter. This section is carried out when entering the trial stage. Meanwhile, the indictment is a limitation for the judge when he wants to hand down a verdict against the defendant. Therefore, buying and selling articles often occurs during the trial process. Third, reading the letter of indictment which provides a lighter sentence for the defendant. This point is the point where corruption most often occurs because the reading of the demands will also influence the decision that will be handed down by the judge. Moreover, the demand letter can be said to be the law enforcer's conclusion regarding the evidentiary process in the trial regarding the crime committed by the defendant.⁸

In practice, there are many legal cases involving prosecutors and this incident has clearly tarnished the face of law enforcement, so the President formed a commission which we know as the prosecutor's commission, of course this commission was formed in order to improve the performance of prosecutors. Once formed, this commission will carry out the task of supervising the performance and behavior of prosecutors both inside and outside of official duties.

The formation of the Prosecutor's Commission as a supervisory organ for the Prosecutor's Office cannot be separated from the conditions of law enforcement that developed after the fall of the authoritarian New Order regime. All elements of society demand openness and democratic life in all aspects of state administration practices. The demand for the presence of a prosecutor's supervision institution means that the performance of the prosecutor's office is still far from the public's expectations. The formation of the Prosecutor's Commission was a response to socio-political conditions in 2004-2005, especially regarding the performance of the Republic of

⁸<https://News.Republika.Co.Id/Berita/Ptw4vz428/> Copylink, diakses tanggal 23 Mai 2024.

Indonesia's Prosecutor's Office. These socio-political conditions developed long before 2004-2005 but received attention and response during the formation of the Prosecutor's Law.⁹

With the formation of the Prosecutor's Commission, the public then hopes that this commission will work well in carrying out its duties of monitoring the performance of prosecutors. This article then tries to strengthen the position and role of the prosecutor's commission in creating professional prosecutors with integrity. However, this article will ultimately not be able to answer the existing problems optimally. However, as a scientific work, the presence of this writing is very important as a means of indirect dialogue with the community.

Based on the description above, the problem formulation can be made as follows: First, has the prosecution law enforcement by prosecutors according to Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia been implemented properly? Second, what is the position and role of the prosecutor's commission in improving the quality of the performance of the Republic of Indonesia's prosecutor's office in the field of prosecution?

RESEARCH METHODS

In this writing, the author uses normative juridical research methods with a study approach through literature. For this reason, the data that the author uses in this research uses secondary data. In the end, the data that has been collected is used to understand, solve and anticipate problems. Understanding means clarifying a problem or unknown information and then becoming aware of it, solving means minimizing or eliminating the problem, and anticipating means trying to prevent the problem from occurring.¹⁰

DISCUSSION

Prosecutor's Office and Law Enforcement Duties

The presence of the Prosecutor's Office in the world of justice is divided into several things; First, as a preventive measure that limits, reduces or prevents the power of the government or state

⁹Hotma P. Sibuea, Elfirda Ade Putri, Dasar Hukum Dan Kedudukan Serta Tugas Maupun Wewenang Komisi Kejaksaan Dalam Bingkai Sistem Ketatanegaraan Indonesia Sebagai Negara Hukum, *Jurnal Hukum Sasana*, Vol. 6 No.2, Desember 2020, p. 135.

¹⁰Sugiyono, *Mentode Penelitian Kuantitatif, Kualitatif Dan Kombinasi (Mixed Methods)*, (Bandung: Alfabeta, 2013), p. 5.

administration (Rechstaat concept) which is thought to be arbitrary which can harm both the people and the government itself, even to prevent Collusion, Corruption and Nepotism (KKN). Meanwhile, the repressive effort is to crack down on government or state administration arbitrariness and KKN practices. Second, the Prosecutor's Office should be placed in an independent and independent position and function to carry out its duties and authority in law enforcement in order to realize a fair, independent and independent judiciary (the concept of The Rule of Law). Third, maintaining harmony in the relationship between rights and obligations between the government and the people through the task of prosecution (law enforcement) in the judicial process (the concept of the Indonesian rule of law).¹¹

As part of law enforcement, prosecutors are the key to upholding the law in the field of prosecution. When carrying out all of his duties, functions and authorities, prosecutors are guided by the provisions of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. Prosecutors must submit and comply with all provisions contained in the law while still adhering to the existing code of ethics.¹² With clear legitimacy as stated in the law, the performance of prosecutors is expected to be able to create good legal supremacy in people's lives.

The rule of law is a very important part of building a legal state based on the principles of justice for all parties. This can be done by applying the law according to applicable regulations while always upholding the values of justice. Therefore, in law enforcement there must be no intervention from any party. Intervention from several parties will weaken the function of law enforcement itself and this will increasingly show the unprofessional attitude of law enforcers. This is of course dangerous, because law enforcement will reflect the realization of a just and prosperous society. Therefore, when law enforcement officers are able to enforce the law properly and correctly, order and legal certainty will be created in society.

The rule of law should not just be a slogan with all the rules available, but should actually be realized and become part of law enforcement. All parties must adhere to the principle that the law has the highest position and must be accepted as a reference and guide in various matters. The

¹¹Marwan Effendy, *Kejaksaan RI Posisi dan Fungsinya dari Perspektif Hukum*, Penerbit Gramedia Pustaka Utama, Jakarta, 2005, p. 53.

¹²Gibran Aldi Nasrullah; Muhammad Ahnaf; Dai Ramadhan; Akmal Haedar, Moral, Etika Dan Kode Profesi Jaksa Sebagai Penegak Hukum, *Nusantara: Jurnal Pendidikan, Seni, Sains Dan Sosial Humanioral*, (2023) 1:1, p. 4.

rule of law guarantees that all people without exception must obey the law and no one may commit unlawful acts. By creating the supremacy of law, certainty, justice and security will be realized in society.

Upholding the supremacy of law means placing the law as the highest benchmark for behavior in social life and in the administration of state government, where the state with its power is subject to the law, and every legal subject, both person and legal entity, has the same position before the law, is obliged to obey and uphold the law without exception.¹³ At this point it is very important that the rule of law be implemented by the prosecutor, because the prosecutor is one of the state's law enforcers.

An effort to administer the law carried out by law enforcers based on their respective duties and functions for every person who commits acts that are contrary to the law in order to achieve legal justice for society. By enforcing the law, the sanctions and norms contained in each regulatory provision will be increasingly adhered to by the community.

When society sees that law enforcement is working well, there are sanctions for those who commit crimes and these sanctions apply to everyone without exception. Then it is certain that society will obey the applicable laws. So as a law enforcer, the prosecutor in the prosecutor's office is in accordance with his duties and responsibilities. If this can be implemented, it will definitely create a better life for society that obeys the law.

Based on what has been described above, has law enforcement by prosecutors according to Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia been implemented properly? Of course, answering this question and looking at several cases involving the prosecutor's office, especially corruption cases, the prosecutor's office as the highest law enforcement institution in the field of prosecution has not implemented it well. There are still prosecutors who are involved in acts that are contrary to existing laws when carrying out their duties, such as in corruption cases that occur.

Therefore, it is very important in the future to build a strong foundation to support the duties and responsibilities of the prosecutor's office in creating good law enforcement. The prosecutor's institution will be stronger if it can carry out its duties and responsibilities by adhering

¹³<https://www.esaungul.ac.id/Peningkatan-Profesionalisme-Dan-Etika-Hukum-Dr-H-Darmono-Wakil-Jaksa-Agung-Ri/>, diakses tanggal 1 Mai 2024.

strictly to existing laws and regulations. If this can be implemented well, not only the prosecutor's office will feel the impact, but the community as justice seekers will also feel it. Fair and good laws must be developed by all parties. The public and law enforcement officers must comply with all applicable regulations. Therefore, fair and dignified laws that uphold human values and justice must be presented by prosecutors everywhere in order to create a safe, comfortable and prosperous nation for all Indonesian people..

Duties as a Public Prosecutor and Corruption Acts

Referring to the Criminal Procedure Code, prosecutors and public prosecutors have different functions and duties. In the trial, there was only one public prosecutor, while the others were team members even though their status was both prosecutors. The prosecutor has the authority to make indictments, attend trials and carry out prosecutions in criminal cases, while the public prosecutor has the authority to carry out the judge's decisions apart from carrying out prosecutions.¹⁴

Looking at the function, duties and authority of the prosecutor's office, of course when a prosecutor is involved in a criminal act such as corruption, then the prosecutor has committed an act detrimental to state finances which can actually be used to alleviate poverty, health and education problems. With acts of corruption that cause financial losses to the state, in the end the community will also be entangled in poverty and will also have difficulty accessing health and education.

This is very important, because the realization of a just and prosperous society is a constitutional mandate, such as easy access to a decent living, work, information, education and health. Corrupt behavior is contrary to Pancasila and the 1945 Constitution. Apart from that, corruption is also contrary to existing law and has violated the code of ethics of the prosecutor's office. When a prosecutor violates the code of ethics, at that time the personality, ethics and morals as well as the integrity of a prosecutor should be questioned.

An example of a case of corruption that violated the prosecutor's code of ethics was a prosecutor named Pinangka Sirna Malasari who was sentenced to 10 years in prison. The panel of

¹⁴<https://www.hukumonline.com/berita/a/perbedaan-jaksa-dan-penuntut-umum-lt62f0e7b48a565/?page=1>), diakses tanggal 6 Mai 2024.

judges stated that there were three charges against Pinangki that had evidence, including criminal acts of corruption, money laundering and criminal conspiracy. Pinangki's sentence was higher than the prosecutor's demand for 4 years in prison. Because, according to the judge, the prosecutor's demands were too light for the Pinangki case. According to the judge, Pinangki deserved serious punishment because he violated his code of ethics as a prosecutor. Then, a case was discovered that Pinangki helped Djoko Tjandra in avoiding a court decision in the Bank Bali case worth IDR 904 billion.¹⁵

Corrupt acts committed by individual prosecutors will ultimately destroy public trust in the prosecutor's institution. Because the prosecutor has committed an act that is contrary to the law, namely abusing his power and authority. Abuse of this authority results in state losses. There is an action carried out by the authority holder, namely an action carried out outside the corridor of authority.

A form of abuse of authority (*detournement de pouvoir*) by public officials in a legal sociology perspective is a person or public official who is given authority in a position and uses it for personal and group interests with the purpose of enriching himself or a certain group and harming many people or the general public.¹⁶ Abuse of authority in the criminal act of corruption is explained in Article 3 of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning criminal acts of corruption, namely; "Any person who, with the purpose of benefiting himself or another person or a corporation, abuses the authority, opportunity or means available to him because of his position or position which could harm the state's finances or the state's economy shall be punished by life imprisonment or a minimum imprisonment of 1 (one) year and a maximum of 20 (twenty) years and/or a fine of at least Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah)."

Meanwhile, abusing the authority contained in the offense formulation of Article 3 of Law no. 31 of 1999 concerning Corruption Crimes in conjunction with Law No. 20 of 2001 concerning PTPK, it is formulated that there is an element of abusing the authority of existing opportunities or facilities, because of position or position.

¹⁵Gibran Aldi Nasrullah; Muhammad Ahnaf; Dai Ramadhan; Akmal Haedar, Moral, Etika Dan Kode Profesi Jaksa Sebagai Penegak Hukum, *Nusantara: Jurnal Pendidikan, Seni, Sains Dan Sosial Humanioral*, (2023), p. 5.

¹⁶Jojo Juhaeni, Penyalahgunaan Wewenang Oleh Pejabat Publik Dalam Perspektif Sosiologi Hukum, *Jurnal Konstituen*, Vol. 3/No. 1, Februari 2021, p. 48.

In terms of "corruption law" it means breaking the law, abusing power, enriching oneself, causing harm to state finances. According to the legal prefective, the meaning of corruption is clearly explained in the Corruption Law no. 31 of 2001 concerning the eradication of criminal acts. Legal definition of corruption. It is a criminal act as intended in the statutory provisions governing criminal acts of corruption. The definition of "corruption" is more emphasized on acts that are deviant and detrimental to the public or society at large for personal interests or groups of corruption, collusion and nepotism. Collusion is a dishonest act, for example giving lubricants to make their work run smoothly, but giving them secretly.¹⁷

Based on the existing law on eradicating criminal acts of corruption, the prosecutor's office as part of the law enforcement agency is clearly required to play a more active role in creating a corruption-free Indonesian state. The question is whether law enforcement in the field of prosecution by prosecutors according to Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia is carried out properly. The answer is, by looking at the existing phenomenon, namely the existence of acts of corruption committed by individual prosecutors, the sense of justice in terms of law enforcement in the field of prosecution has not been implemented optimally by the prosecutor's institution. Prosecutors do not carry out their obligations and responsibilities as confirmed in the holy book. In fact, prosecutors have plunged themselves into a hole of corruption. If prosecutors are able to distance themselves from acts of corruption, they will protect public interests, protect human rights and uphold the supremacy of the law. This problem becomes an urgent need when the public's expectations of the prosecutor's office are very high in law enforcement.

If we look at an existing criminal case, the public prosecutor is tasked with representing the state in prosecuting someone who is a criminal. This means that the prosecutor's office is a state institution that exercises state power, especially in the field of prosecution.¹⁸ The prosecutor's

¹⁷Ali Imron, Peran Dan Kedudukan Empat Pilar Dalam Penegakan Hukum Hakim Jaksa Polisi Serta Advocat Dihubungkan Dengan Penegakan Hukum Pada Kasus Korupsi, *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum Dan Keadilan*, Vol. 6 No.1, Maret 2016, p. 85.

¹⁸Alfitra, *Hapusnya Hak Menuntut Dan Menjalankan Pidana*, Penebar Swadaya Group, Jakarta, 2012, p. 123.

office is part of the legal structure that carries out legal substance, has the duty and authority to carry out prosecutions and other authorities determined according to law.¹⁹

Prosecution according to Article 1 number 7 of the Criminal Procedure Code is the action of the public prosecutor to delegate a case to the competent district court in terms and according to the method regulated in this law with a request that it be examined and decided by a judge at a court hearing.”²⁰

If now the orientation of the implementation of prosecutions is only to achieve procedural justice, it means that all cases must be transferred to court for legal certainty, but if this is related to the orientation of the implementation of prosecutions by transferring cases to trial, it is no longer procedural justice but substantial justice as in accordance with progressive legal thinking. , the purpose of the law is more important to consider than just fulfilling procedures, therefore this means that not all cases have to be referred to the Court.²¹ So the Public Prosecutor is responsible for whether by transferring the case to trial the legal objectives are achieved or not. If it turns out that when the Public Prosecutor delegated the case to the Court, the legal objectives were not achieved, then the Public Prosecutor should have the courage not to delegate the case to the Court and terminate the prosecution.²²

It is very important for the prosecutor's institution to pay attention to the fact that as professional law enforcement officers in the field of prosecution, prosecutors must obey and comply with all existing provisions without exception. Moreover, in our constitution we describe Indonesia as a rule of law country. As a country of law, existing legal provisions must be obeyed by all elements of society, without exception.

¹⁹Ook Mufrohim, Ratna Herawati, Independensi Lembaga Kejaksaan Sebagai Legal Structure Didalam Sistem Peradilan Pidana (Criminal Justice System) Di Indonesia, *Jurnal Pembangunan Hukum Indonesia*, Program Studi Magister Ilmu Hukum, Volume 2, Nomor 3, Tahun 2020, p. 373.

²⁰Achmad Sulchan, Dan Muchamad Gibson Ghani, Mekanisme Penuntutan Jaksa Penuntut Umum Terhadap Tindak Pidana Anak, Ulul Albab : *Jurnal Studi Dan Penelitian Hukum Islam*, Vol. 1, No. 1, Oktober 2017, p. 67.

²¹Ridwan,“Mewujudkan Karakter Hukum Progresif Dari Asas-Asas Umum Pemerintahan Yang Baik Solusi Pencarian Dan Penemuan Keadilan Substantif.” *Jurnal Hukum Pro Justicia* Vol. 26 No.2, (2008), p. 23.

²²Marjudin Djafar, Tofik Yanuar Chandra, Hedwig Adianto Mau, Kewenangan Penuntut Umum Selaku Dominus Litis Dalam Penghentian Penuntutan Berdasarkan Keadilan Restoratif, *Salam: Jurnal Sosial dan Budaya Syar-I*, Volume 9 Nomor 4 (2022), Volume 9 Nomor 4 (2022), p. 1079.

The 1945 Constitution of the Republic of Indonesia (UUD 1945) expressly states that the Indonesian State is a State of Law, therefore recognition of law and justice is an absolute requirement in achieving the establishment of a legal state guaranteed by the constitution.²³

In carrying out law enforcement duties in the field of prosecution, prosecutors are not permitted to carry out actions that tarnish the authority of law enforcement, such as receiving or even giving something to another party who is involved in a legal problem. It is very important that in carrying out this noble task, a prosecutor has maximum commitment and responsibility to carry out the law enforcement function in the field of prosecution. So that the objectives of law will be achieved, namely certainty, justice and benefit.

Legal certainty and justice are conditions sine qua non or absolute requirements in a country based on law. See Niru Anita Sinaga, Code of Ethics as a Guide to the Good Implementation of the Legal Profession.²⁴

What the public as parties who need justice in their lives expect from the prosecutor's institution is certainly very reasonable. Because it cannot be denied that in carrying out their duties, there are also prosecutors who have tarnished the authority of law enforcement. In fact, upholding the law depends on the law enforcement officers.

The implementation of law in society, apart from depending on public legal awareness, is also very much determined by law enforcement officers. Apart from that, the good example and integrity and morality of law enforcement officers must absolutely be good, because they are very vulnerable and open to opportunities for the practice of bribery and abuse of authority. Money can influence the investigation process, prosecution process and the decisions handed down.²⁵

Position and Role of the Prosecutor's Commission in Creating Prosecutors with Professionalism and Integrity

What is the role of the prosecutor in the justice system. It is known that a prosecutor is a law enforcement officer who, according to the provisions of the law, is given the task of serving

²³Abdul Latif, Jaminan UUD 1945 Dalam Proses Hukum Yang Adil, *Jurnal Konstitusi*, Volume 7, Nomor 1, Februari 2010, p. 50

²⁴Niru Anita Sinaga, Kode Etik Sebagai Pedoman Pelaksanaan Profesi Hukum Yang Baik, *Jurnal Ilmiah Hukum Dirgantara*, Fakultas Hukum Universitas Dirgantara Marsekal Suryadarma | Volume 10 No. 2, Maret 2020, p. 4.

²⁵Sanyoto, Penegakan Hukum di Indonesia, *Jurnal Dinamika Hukum*, Vol. 8 No. 3 September 2008, p. 200.

as a public prosecutor and implementing court decisions. In this case, the public prosecutor brings the case to court, where it is then examined and decided by a judge. Next, the prosecutor determines the judge and the court decision which has permanent legal force.

Based on the details of the tasks mentioned above, the Attorney General ordered all his staff throughout the country to carry out; *First*, increase the professionalism of individual and unit capabilities as a provision to anticipate handling and resolving every problem and task that will be and is being faced. *Second*, foster a spirit of solidarity, capable of working together, coordinating and synergizing, upholding the principles and identity somewhat maintained and upheld. *Third*, increase your courage and honesty to realize your own shortcomings and mistakes, accompanied by sensitivity to quickly take corrective and corrective steps. *Fourth*, the nickname *Korsa* soul is the main foundation for the togetherness of *Adhyaksa* people who support each other, remind and strengthen it as a support for the existence of pride, dignity and professional self-respect for the institution to remain upright. *Fifth*, prepare yourself to serve and work wholeheartedly for the advancement of excellence and integrity of the country.

Of the five orders from the Attorney General above, the first point, namely increasing the professionalism of individual and unit abilities as a provision to anticipate handling and resolving every problem and task that will be and is being faced, is certainly an order that must be understood and implemented as well as possible by every prosecutor wherever on duty. The professionalism of a prosecutor will be seen by how the prosecutor works seriously to carry out prosecutions in every legal incident. This includes prosecuting every perpetrator of corruption, even if the perpetrator of corruption comes from within the prosecutor's office itself. A prosecutor must be serious and sincere and courageous in prosecuting anyone who has been processed at the investigation level, because in law it has been determined that the right of prosecution is only available to the public prosecutor, namely the prosecutor who is authorized by Law No. 8 of 1981 concerning Criminal Procedure Law (Articles 13 and 14) in the general justice environment.

Article 1 Paragraph (7) of the Criminal Procedure Code reads: "Prosecution is the action of the public prosecutor to transfer a criminal case to the competent district court in the terms and according to the method regulated in this law with a request that it be examined and decided by a judge at a court hearing." The person in charge of prosecuting is the public prosecutor as determined in Article 13 Paragraph (6) of the Criminal Procedure Code which basically reads:

"The public prosecutor is a prosecutor who is authorized by this law to carry out prosecutions and carry out the judge's determination."

In carrying out their duties, a prosecutor is required to be professional in carrying out law enforcement functions. In an effort to increase professionalism, a prosecutor must of course continue to strive to improve his abilities, broaden his knowledge, so that his work productivity will be better in an effort to bring criminals to justice. Because basically all perpetrators of criminal acts who are prosecuted before a criminal court are all dependent on the public prosecutor. Although in general or specifically the law determines the elimination or abolition of prosecution in certain cases. However, for cases where there are no exceptions, the task in the field of law enforcement, especially in the field of prosecution, will be a tough task for prosecutors in the midst of several legal events that occur in the community, including legal events that occur within the highest prosecution institution. For example, a prosecutor is involved in a corruption case or a prosecutor is involved in narcotics abuse and the like. If there is a legal case that occurs within the prosecutor's institution which is carried out by prosecutors, then the leadership of the prosecutor's office and all prosecutors in the prosecutor's institution must be able to enforce the law fairly. Of course, this task is not easy for the prosecutor to carry out, but as part of the law enforcement apparatus, this must be done in order to create legal authority, legal certainty and justice for the community.

Prosecutors wherever they work will always be required to maintain public trust in creating fair law enforcement and supremacy. Prosecutors will always be required to be legal officers who carry out their duties with high professionalism in the field of prosecution. To produce prosecutors who are professional and have integrity, of course very strict supervision is needed. One of these supervisions is carried out by the Prosecutor's Commission which carries out the task of controlling, supervising and assessing the performance and behavior of prosecutors in their duties.

Presidential Regulation Number 18 of 2011 as a refinement of Presidential Regulation Number 18 of 2005 stipulates that the Prosecutor's Commission is tasked with supervising, monitoring and assessing the performance and behavior of Prosecutors and/or Prosecutor's Office Employees in carrying out their duties and authority in accordance with statutory regulations, codes of ethics, both in within and outside of official duties, and also monitor and assess organizational conditions, work procedures, completeness of facilities and infrastructure, as well as human resources within the Prosecutor's Office. The Prosecutor's Commission, in accordance

with Presidential Regulation Number 18 of 2011, has expanded authority in handling complaints from the public, namely that apart from being able to take over examinations, it also has the authority to carry out re-examinations or additional examinations of examinations that have been carried out by the Prosecutor's internal supervisory apparatus if there is evidence or information. new matters that have not been clarified in previous examinations and/or require further clarification, or examinations by the Prosecutor's Office's internal supervisory apparatus have not been previously coordinated with the Prosecutor's Commission. The Prosecutor's Commission also has the authority to propose the formation of a Prosecutor's Code of Conduct Council.²⁶

The Prosecutor's Commission is basically a state institution that exists from the aspirations of the community, which wants supervision over the behavior of prosecutors, and should be independent like a State Auxiliary Agency. The existence of the Prosecutor's Commission can be analyzed using John Alder's thinking concept. John Alder classifies these types of state bodies or commissions into two parts, namely regulatory, whose role is to create regulations and exercise control in the context of private relations, and advisory, whose role is to provide suggestions or constructive criticism to the state.²⁷

Article 3 letters a and letter b of Presidential Regulation Number 18 of 2011 concerning the Republic of Indonesia Prosecutor's Commission regulates the duties of the Republic of Indonesia Prosecutor's Commission (KKRI) which consists of two objects. The first object is supervision, monitoring and assessment of the personnel (individuals) of the prosecutor's office, namely prosecutors and prosecutor's employees, hereinafter referred to as administrative employees. The second object is monitoring and assessing the prosecutor's office as an institution. The scope of the KKRI's duties for supervision, monitoring and assessment of personnel includes aspects of performance and behavior in carrying out duties and authority as regulated in statutory regulations and codes of ethics, as well as behavior inside and outside of official duties.²⁸

In its role as a commission, the Prosecutor's Commission has a very important position to change the face of the prosecutor's office in producing prosecutors who have integrity and can

²⁶ <https://komisi-kejaksaan.go.id/sekilas-kkri/>, diakses tanggal 27 Juli 2023.

²⁷ Jimly Asshiddiqie, *Perkembangan dan Konsolidasi Lembaga Negara Pasca Reformasi*, (Jakarta: Setjend MK), p. 182.

²⁸ R. Muhamad Ibnu Mazjah, Dimensi Pengawasan pada Tindak Lanjut Laporan Pengaduan Masyarakat kepada Komisi Kejaksaan dalam Tinjauan Hukum Progresif, *Negara Hukum*: Vol. 11, No. 2, November 2020, p. 212.

avoid acts that are contrary to the law, such as criminal acts of corruption. This matter must be of serious concern to the Prosecutor's Commission. Because, whether law enforcement by a prosecutor is good or bad will be more or less determined by the existence of the Prosecutor's Commission as an official institution tasked with supervising the behavior of prosecutors wherever they work. Even though the Prosecutor's Commission was formed by the President, the Prosecutor's Commission is part of a government agency to carry out its duties in law enforcement efforts. The Prosecutor's Commission must be able to work independently and independently and objectively in viewing legal cases that occur within the prosecutor's office.

If the Prosecutor's Commission is influenced by interests that can hinder the process of law enforcement, then the supremacy of law in Indonesia will never be realized and in the end the goal of law will never be achieved, namely the existence of certainty, justice and the benefit of law in the midst of people's lives.

If we look back, the Prosecutor's Commission was first formed in 2005 with the issuance of Presidential Regulation Number 18 of 2005 concerning the Prosecutor's Commission. The Prosecutor's Commission has seven members consisting of a chairman and a deputy chairman who is also a member and five members. However, the commission which was first formed to be a partner for the Prosecutor's Office in improving its performance could not do much. In fact, several incidents related to alleged bribes received by prosecutor officials seem to be proof that this commission actually does not have strong enough authority.²⁹

The legal basis for the formation of the Prosecutor's Commission begins with Article 38 of Law no. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia which states "To improve the quality of the performance of the prosecutor's office, the President can form a commission whose composition and authority are regulated by the President". The legal basis for the formation of the prosecutor's commission is further contained in Presidential Regulation (Perpres) No. 18 of 2005 in conjunction with Presidential Decree No. 8 of 2011 concerning the Prosecutor's Commission

This is certainly very unfortunate, because public expectations of the Prosecutor's Commission are very high. This can be seen from the high level of public participation in

²⁹Sulis Setyowati, Guntarto Widodo, Efektivitas Rekomendasi Komisi Kejaksaan Republik Indonesia Dalam Penanganan Laporan Pengaduan Masyarakat, *Prosiding Seminar Nasional Enhancing Innovations for Sustainable Development : Dissemination of Unpam's Research Resul*, 2019, p. 2.

monitoring the performance of the prosecutor's office through the complaints mechanism at the Prosecutor's Commission. Moreover, the people who report are very diverse. This is proof that the public wants a prosecutor who is able to provide legal services in a transparent, fair manner and uphold justice. The public wants the prosecutor's office to work professionally by prioritizing law enforcement efforts in order to uphold the honor and dignity of the prosecutor's office as a law enforcement institution. It seems that it will be very important in the future to strengthen the role of the Prosecutor's Commission at the forefront of the agenda in order to create a better prosecutorial institution.

The public as seekers of justice certainly wants the role and position of the Prosecutor's Commission to be better in carrying out its duties. Therefore, it is very important to do this in the future, namely; there is a special law that further details the position, duties, responsibilities and authority. With the existence of a special law, the scope of supervision carried out becomes very clear and broad, both in terms of developing human resources within the commission and regarding the planning that will be carried out. Apart from that, in the future the role of the Prosecutor's Commission must be strengthened in the supervision process carried out.

So far, the supervision carried out by the commission by issuing recommendations and following up with the Attorney General through the Deputy Attorney General. Supervision does not have a binding nature and there is no obligation for the prosecutor's office to implement these recommendations. Even though recommendations were given and not implemented, no sanctions were given. Therefore, recommendations issued by the Prosecutor's Commission in the future must be followed up immediately and must not be ignored in order to create law enforcement that is in line with society's expectations of justice. And in the end it will create prosecutors who have integrity and professionalism and will no longer have individual prosecutors who do not uphold the supremacy of existing law.

CONCLUSION AND RECOMMENDATIONS

There are various crimes committed by individual prosecutors in carrying out their duties as law enforcers, such as prosecutors accepting bribes, prosecutors being involved in corruption crimes and prosecutors being involved in narcotics crimes, ultimately resulting in law enforcement duties in the field of prosecution not being carried out optimally. Therefore, when a prosecutor is

involved in a crime, it is certain that the prosecutor has committed a disgraceful act and that means the prosecutor's duties as a public prosecutor are not being carried out properly.

The position and role of the prosecutor's commission in improving the quality of prosecutors' performance at the prosecutor's office will certainly be very necessary in creating professional prosecutors with integrity. Able to produce prosecutors who can stay away from unlawful acts. Therefore, it is very necessary for a prosecutor's commission to continuously supervise the duties and responsibilities of prosecutors in carrying out law enforcement duties in the field of prosecution. There must be strengthening of the role, duties and responsibilities of the prosecutor's commission in order to create professional prosecutors.

In order to improve the future performance of prosecutors who are influential, have high professionalism, are clean and authoritative, the Republic of Indonesia Prosecutor's Commission must always carry out more optimal supervision regarding the attitudes and behavior of prosecutors. Then prosecutors who excel can be given awards ('rewards') and prosecutors who commit violations while on duty must be recommended to be given strict sanctions, so that the professionalism, integrity and performance of existing prosecutors will be further increased.

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