

## The Role of the Prosecutor's Office in Eradicating Criminal Acts of Corruption in Aceh Tamiang Regency

Fakhrur Razi<sup>1</sup>, Dr. T. Riza Zarzani, S.H., M.H.<sup>2</sup>

Universitas Pembangunan Panca Budi, Indonesia

\*Correspondence Email: tengkuriza@umsu.ac.id

### Abstract

This study examines the role of the Attorney General's Office in combating corruption in Aceh Tamiang, Indonesia. Corruption poses a significant threat to societal welfare, undermining economic stability and eroding public trust in government institutions. The research emphasizes the critical functions of the Attorney General's Office, particularly in their capacity as both prosecutors and investigators in corruption cases. It highlights the legal framework governing their authority and outlines specific initiatives aimed at preventing and addressing corrupt practices. The study reveals that challenges persist, including the complexity of cases, lack of cooperation from witnesses, and the influence of powerful actors shielding corrupt individuals. Furthermore, the findings indicate that successful corruption eradication requires collaborative efforts among law enforcement agencies, increased public awareness, and robust legal instruments. This paper contributes to the understanding of legal mechanisms in anti-corruption efforts and suggests actionable recommendations to enhance the effectiveness of the Attorney General's Office in Aceh Tamiang. Ultimately, it underscores the necessity of a comprehensive approach involving multiple stakeholders to restore integrity and transparency within public administration.

**Keywords:** Corruption, Attorney General's Office, Law Enforcement.

### INTRODUCTION

Corruption is a violation of the social and economic rights of the community. Corruption has become an extraordinary crime. Likewise, efforts to eradicate it can no longer be carried out in a normal way, but are demanded in an extraordinary way. Furthermore, it is proven that

there is a link between corruption and other forms of crime, especially organized crime (terrorism, human trafficking, smuggling of illegal migrants, etc.)

others) and economic crimes (money laundering). So that corruption is a crime that is very detrimental to the state.<sup>1</sup>

Like an octopus, corruption is increasingly wrapping around and gripping the joints of this country. Post-reform, corruption has spread, become massive and numerous, compared to the New Order and Old Order, corruption was centralized (centered) on certain parties and their cronies, while in the reform era it was marked by decentralization, everyone used their position and time to gain as much profit as possible. This happened from the central level to the lowest level.<sup>2</sup>

<sup>1</sup>Abdul Haris, Umar Ma'Ruf, And Sri Kusriyah, "Role And Function Of Attorney In Order To Optimize The Prevention Of Corruption Through Establishment Of Tp4p/D (Case Studies In State Attorney Of Grobogan)", Journal of Daulat Hukum Volume 2 Issue 4 , December 2019, p. 127

<sup>2</sup>Made Agus Mahendra Iswara and Ketut Adi Wirawan. "The Role of the Prosecutor's Office in Eradicating Criminal Acts of Village Corruption in Indonesia". Kertha Wicaksana Journal: Communication Facilities for Lecturers and Students Volume 14, Number 1 2020, page 70

Corruption does not have to directly contain elements that harm state finances or the country's economy, such as bribery. What constitutes a despicable act is abuse of power, discriminatory behavior by providing financial benefits, breach of trust, damage to the mentality of officials, dishonesty in competition and others. Realizing the complexity of the problem of corruption in the midst of a multidimensional crisis and the real threat that will definitely occur, namely the impact of this crime. Therefore, corruption can be categorized as a national problem that must be faced seriously through firm and clear steps by involving all potentials in society, especially the government and law enforcement officers.

Law enforcement basically involves all Indonesian citizens, where in its implementation it is carried out by law enforcers. The law enforcement is carried out by authorized officers. The state apparatus authorized in examining criminal cases are the Police, Prosecutors and Courts. The Police, Prosecutors and Judges are three elements of law enforcement.

laws, each of which has duties, authorities and obligations in accordance with applicable laws and regulations (Saragih, 2017).

As one of the law enforcement agencies that has the authority to eradicate criminal acts of corruption, based on Article 2 paragraph (1) of the Republic of Indonesia Law Number 16 of 2004 concerning the Republic of Indonesia Attorney General's Office, the Republic of Indonesia Attorney General's Office is given the authority not only to prosecute criminal acts of corruption but also has several other authorities that function in efforts to eradicate criminal acts of corruption.

The Prosecutor's Office as one of the law enforcement institutions is required to play a greater role in upholding the supremacy of law, protecting public interests, enforcing human rights, and eradicating corruption. The function of the Prosecutor is one of the links in the law enforcement process in dealing with crimes or criminal acts that occur in society, where this function cannot be separated from the process of investigation, inquiry, prosecution, trial and execution.<sup>3</sup>

In Article 1 point 6 of the Criminal Procedure Code it states:

1. A prosecutor is an official who is authorized by this law to act as a public prosecutor and to implement court decisions that have permanent legal force;
2. The public prosecutor is a prosecutor who is authorized by this law to carry out prosecutions and implement legal decisions.

In carrying out its duties and authorities, the Prosecutor's Office is in a central position with a strategic role in strengthening national resilience. Because the Prosecutor's Office is at the axis and becomes a filter between the investigation process and the prosecution process.

examination in court and also as the implementer of court decisions and rulings. Thus, the Prosecutor's Office is the controller of the case process (*dominus litis*), because only the

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<sup>3</sup>Yasmirah Mandasari Saragih. "The Role of the Prosecutor's Office in Eradicating Criminal Acts of Corruption in Indonesia After Law Number 20 of 2001 Concerning the Eradication of Criminal Acts of Corruption". *Al'adl Journal* Vol Ix Number 1, January-April 2017, p.55

Prosecutor's Office institution can determine whether a case/matter can be submitted to the Court or not based on valid evidence according to Criminal Procedure Law.

The role of the prosecutor as a single public prosecutor or single prosecution system which is a foundation for the implementation of the prosecutor's duties which aims to maintain the unity of the prosecution policy which displays the characteristics that are united in the behavior, mindset, and work procedures of the prosecutor's office. What must be possessed by the prosecutor's office is a professional expertise, both in terms of understanding and comprehension. This is one of the efforts of the prosecutor's office so that the eradication of criminal acts of corruption can be successful. The characteristics typical of perpetrators of corruption crimes in general are carried out for the community upper class and have jobs that are often known as white collar crimes or can be called white collar crimes.<sup>4</sup>

In handling corruption crimes, the prosecutor acts as an investigator and also as a public prosecutor. So his role in eradicating corruption crimes by means of a penalty is very dominant, meaning that by means of a penalty is the eradication of a crime that uses criminal law in its handling. In addition to handling criminal acts by means of a penalty, non-penal handling is also known, namely using non-criminal law means, for example with administrative law.<sup>5</sup>

In an effort to find and collect evidence to shed light on the crimes that have occurred and to find the suspects, it is certainly inseparable from the investigation process, the prosecutor is one of the functional officials who has the authority to conduct investigations into corruption. Viewed from the aspect of criminal law policy (penal policy), the target of criminal law is not only to regulate the actions of citizens in general, but also to regulate the actions of the authorities or law enforcement officers.<sup>6</sup>

To carry out the task of eradicating corruption, the Prosecutor's Office cannot work alone by relying on the capabilities of the prosecutor's office without cooperation with other agencies. According to applicable regulations, investigators of corruption crimes are the Prosecutor and the Police, so cooperation is needed between these two law enforcers who must support and help each other for the success of the investigation of corruption crimes. Cooperation is often a weakness in eradicating criminal acts.

Therefore, the role of the Prosecutor in Aceh Tamiang Regency is very necessary in handling corruption. It is expected that the prosecutor can make initiatives so that corruption, especially in Aceh Tamiang Regency, does not occur. Based on the background above, the author has chosen the title of this research, namely: ***"The Role of the Prosecutor's Office in Eradicating Corruption in Aceh Tamiang Regency"***.

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<sup>4</sup>Jan. S. Maringka, 2017, *Prosecutorial Reform in the National Legal System*, Sinar Grafika, Jakarta, p. 49.

<sup>5</sup>Oky Riza Wijayanto. "The Role of the Prosecutor's Office in Handling Corruption Cases in Banjarnegara Regency". Faculty of Social Sciences, Semarang State University 2007, page 4

<sup>6</sup>Agustinus Dian Leo Putra. "The Role of the Prosecutor's Office in Handling the Eradication of Corruption in the Jurisdiction of the Blora District Attorney's Office". Master of Law Program, Sultan Agung Islamic University, Semarang 2021, page 9

### **Formulation of the problem**

The main problems in this research are:

1. How The Role of the Prosecutor's Office in Eradicating Corruption in Aceh Tamiang Regency?
2. How are the obstacles of the Prosecutor's Office in Eradication of Corruption in Aceh Tamiang Regency?

### **Research purposes**

The objectives of this research are:

1. To know and study The Role of the Prosecutor's Office in Eradicating Criminal Acts of Corruption in Aceh Tamiang Regency
2. To find out and study the obstacles faced by the prosecutor's office in Eradication of Corruption in Aceh Tamiang Regency

## **LITERATURE REVIEW**

### **Definition of Corruption**

Corruption comes from the Latin word "corruptio" or "corruptus" which means damage, ugliness, depravity, dishonesty, can be bribed, and immoral purity. And then appeared in English and French "Corruption" which means abusing his authority, to benefit himself. Meanwhile, according to the complete dictionary "Web Ster's Third New International Dictionary" the definition of corruption is an invitation (from a political official) with improper considerations (eg bribes) to commit a violation of duty.<sup>7</sup>

Corruption is a crime that is carried out with great calculation by those who actually feel like they are educated and learned. Corruption can also occur in situations where someone holds a position that involves the distribution of financial resources and has the opportunity to misuse it for personal gain. corruption as behavior that deviates from formal duties as a public employee to gain financial gain or increase status. In addition, material, emotional, or symbolic benefits can also be obtained.<sup>8</sup>

According to the Republic of Indonesia Law Number 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, corruption is defined as unlawfully carrying out acts of enriching oneself or others or a corporation that can harm state finances or the state economy. So the elements that must be met so that an act can be considered corruption are:<sup>9</sup>

- a. Unlawfully
- b. Enriching yourself or others
- c. Can be detrimental to the country's finances or economy

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<sup>7</sup>Robert Klitgaard, *Eradicating Corruption*, 2nd Ed., 2nd Printing, Jakarta, Yayasan Obor Indonesia, 2011, p. 29

<sup>8</sup>Nadiatus Salama, *Indonesian Corruption Phenomenon (Study on Motives and Process of Corruption)*, Semarang, IAIN Walisongo Research Center. 2010, page 16

<sup>9</sup>Arya Maheka. *Recognizing and Eradicating Corruption*. Jakarta, Corruption Eradication Commission of the Republic of Indonesia, 2006. p.14

The causes of corruption include:<sup>10</sup>

1. Individual Aspects

Corruption perpetrators When viewed from the perspective of the perpetrator of corruption, the reasons for committing corruption can be in the form of motivation from within himself, which can also be said as his desire, intention, or awareness to do so. The reasons why someone is motivated to commit corruption include the following:

- a) Human Greed
- b) Insufficient Moral Strength Facing Temptation
- c) Income Insufficient to Cover Reasonable Living Needs
- d) Urgent Needs of Life
- e) Consumptive Lifestyle
- f) Lazy or Unwilling to Work Hard
- g) Religious Teachings Not Implemented Correctly

2. Organizational Aspects

Organizations in this case are organizations in a broad sense, including the system of organizing the community environment. Organizations that are victims of corruption or where corruption occurs usually contribute to corruption because they open up opportunities or chances for corruption to occur. Among the causes are

- a, Lack of Role Models from Leaders
- a. Absence of Proper Organizational Culture
- b. Accountability System in Government Agencies is Inadequate
- c. Weaknesses of Management Control Systems
- d. Management Tends to Cover Up Corruption Within Its Organization

3. Community Aspect

Places where individuals and organizations are located include:

- a) The values that apply in society are apparently conducive to corruption.
- b) The public is less aware that the ones most harmed by every corrupt practice are the public itself.
- c) The public is less aware that the public itself is involved in every corrupt practice
- d) The public is less aware that prevention and eradication of corruption will only be successful if the public actively participates in it.

### **Forms and Types of Criminal Acts of Corruption**

From a legal perspective, the definition of corruption has been clearly explained in 13 articles in Law Number 31 of 1999 which has been amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. Based on these articles, corruption is formulated into 30 forms/types of criminal acts of corruption. These articles

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<sup>10</sup>BPKP, National Corruption Eradication Strategy, First Edition, Jakarta, BPKP Education and Supervision Center, 2009, p. 257

explain in detail the acts that can be subject to criminal sanctions for corruption. The thirty forms/types of criminal acts of corruption can basically be grouped as follows:<sup>11</sup>

1. State financial losses
2. Bribery
3. Embezzlement in office
4. Blackmail
5. Fraudulent acts
6. Conflict of interest in procurement
7. Gratification

In addition to the forms/types of criminal acts of corruption that have been explained above, there are still other criminal acts related to criminal acts of corruption as stated in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001. The types of criminal acts related to criminal acts of corruption are:<sup>12</sup>

1. Obstructing the process of investigating corruption cases
2. Do not provide information or provide incorrect information
3. Banks that do not provide information on the suspect's account
4. Witnesses or experts who do not provide information or provide false information
5. A person who holds official secrets does not provide information or provides false information.
6. Witnesses who reveal the reporter's identity

Corruption can be divided into several types or typologies, including:<sup>13</sup>

- a. Transactional Corruption, a type of corruption that refers to a tip-and-pay agreement between the giver and the recipient, where both parties gain a benefit.
- b. Kinship Corruption, a type of corruption involving the abuse of power and authority for various benefits for friends or relatives and their cronies.
- c. Extortionist corruption, usually corruption that is forced upon a party accompanied by threats, terror, pressure on people's interests and things like that.
- d. Incentive Corruption, corruption carried out by providing certain services or goods to another party for future benefits.
- e. Defensive Corruption, namely the injured party is forced to become involved in it or causes certain parties to become trapped or even become victims of corruption.

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<sup>11</sup>M. Syamsa Ardisasmita. "Definition of Corruption According to Legal Perspective and E-Announcement for More Open, Transparent and Accountable Governance". Kpk, National Seminar on Efforts to Improve the Government Goods/Services Procurement System. Jakarta, August 23, 2006, page 4

<sup>12</sup>Ibid, page 6

<sup>13</sup>Gm. Nurdjana. Corruption in Business Practices Empowering Law Enforcers, Action Programs and Strategies for Overcoming Corruption Problems. Jakarta, Gramedia Pustaka Utama, 2005. p. 72



- f. Autogenic corruption is corruption carried out by one person, without any other person or party being involved in it.
- g. Supportive Corruption, corruption carried out by providing support

### **Definition of Prosecutor's Office**

The prosecutor comes from the Sanskrit word *adhyaksa* which means "superintendent" which means a supervisor or controller of social matters. Law of the Republic of Indonesia Number 11 of 2021 concerning the Attorney General's Office of the Republic of Indonesia, explains that a prosecutor is a functional official who is authorized by law to act as a public prosecutor and implement court decisions that have obtained permanent legal force and other authorities based on law.<sup>14</sup>

In carrying out its duties and authorities, the Prosecutor's Office is led by the Attorney General who oversees six Deputy Attorneys General and the Head of the High Prosecutor's Office in each province. The Prosecutor's Office is in a central position with a strategic role in strengthening national resilience. Because the Prosecutor's Office is at the axis and becomes a filter between the investigation process and the examination process in court and also as the implementer of court decisions and decisions. Thus, the Prosecutor's Office as the controller of the case process (*Dominus Litis*), because only the Prosecutor's Office institution can determine whether a case can be submitted to the Court or not based on valid evidence according to Criminal Procedure Law.

The duties and authorities of the prosecutor's office are regulated in Article 30 of Law of the Republic of Indonesia Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, namely:

1. In the criminal field, the prosecutor's office has the following duties and authorities:
  - a. Conducting prosecution
  - b. Implementing judges' 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 laws
  - e. Complete certain case files and for that purpose can carry out additional examinations before being transferred to the court, the implementation of which is coordinated with the investigator.
2. In the civil and state administrative fields, the prosecutor's office with special powers can act both inside and outside the court for and on behalf of the state or government.
3. In the field of public order and security, the prosecutor's office also organizes the following activities:
  - a. Increasing legal awareness in society

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<sup>14</sup>Rm. Surachman. Prosecutors in Various Countries, Their Roles and Positions, Jakarta, Sinar Grafika, 2022, p.3.

- b. Safeguarding law enforcement policies
- c. Supervision of the circulation of printed goods
- d. Supervision of beliefs that can endanger society and the state
- e. Prevention of abuse and/or blasphemy of religion
- f. Research and development of law and static criminal (Putra, 2021).

The Prosecutor's Office is also the only institution that implements criminal decisions (executive ambtenaar). In addition to playing a role in criminal cases, the Prosecutor's Office also has other roles in Civil Law and State Administration. The Prosecutor as the executor of this authority is given the authority as a Public Prosecutor and to implement court decisions, and other authorities based on the Law.

The function of the Prosecutor's Office includes preventive and repressive aspects in criminal matters as well as State Attorneys in Civil and State Administration. Preventive aspects, in the form of increasing public legal awareness, securing law enforcement policies, securing the circulation of printed money, supervising religious beliefs, preventing abuse and/or blasphemy, legal research and development and criminal statistics. Repressive aspects carry out prosecutions in criminal cases, implement Judge's determinations and court decisions, supervise the implementation of conditional release decisions, complete certain case files originating from Police Investigators or Civil Servant Investigators (PPNS)<sup>15</sup>.

## **METHOD**

### **Types of research**

This type of research is normative legal research, namely by using a statutory regulatory approach. The focus of normative legal research, in accordance with the unique character of legal science, lies in the legal review or legal study of positive law, which includes three layers of legal science, consisting of legal dogmatics review, namely the review carried out on identification in positive law, especially statutes. While at the level of legal theory, a review is carried out on theories that can be used. The type of research in this study is normative legal research that critically and comprehensively examines the legal enforcement of traffic violations.

### **Problem Approach**

The problem approach used in this study is the statutory regulatory approach. The statutory regulatory approach is used because what will be studied is the legal rules related to this study. This approach is carried out by examining all laws and regulations related to police discretion through penal mediation. This approach requires understanding the hierarchy and principles of laws and regulations.

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<sup>15</sup>Adang Yesmil Anwar, Criminal Justice System, 1st ed., Bandung, Widya Padjajaran, 2011, p. 196.



## Source of Legal Material

Primary legal materials consist of laws and government regulations, court decisions that have permanent legal force, other related regulations such as the Criminal Code, Law Number 20 of 2001 concerning the Eradication of Corruption. Secondary legal materials are materials that provide explanations regarding primary legal materials such as research, proceedings related to research. Tertiary legal materials are materials that provide instructions or explanations for primary legal materials and secondary materials such as dictionaries, encyclopedias (wikipedia) and tables related to the object of research.

## RESULT AND DISCUSSION

The Prosecutor's Office is the only state institution that is a government apparatus that has the authority to transfer criminal cases, prosecute perpetrators of criminal acts in court and implement the determination and verdict of criminal judges, this power is a characteristic of the Prosecutor's Office that distinguishes other law enforcement institutions or agencies. In special crimes in this case corruption, the Prosecutor acts as an investigator and public prosecutor. As an investigator, special expertise and skills are needed to search for and collect evidence so that the suspect can be found. Basically, the investigation and inquiry of every crime is the beginning in handling every crime, especially corruption.<sup>16</sup>

The role of the prosecutor's office in preventing corruption crimes is in line with the relative theory in sharpening the mechanism of the preventive function. In preventive efforts, a task force (satgas) was formed. In addition, the Prosecutor's Intelligence was also formed including intelligence activities for investigation, security, and mobilization to prevent criminal acts to support law enforcement, both preventive and repressive in the fields of ideology, politics, economics, finance, socio-culture, defense and security, implementing prevention against certain people and/or participating in maintaining public order and security (Iswara, 2020)

The duties and roles of the Prosecutor's Office are regulated in Article 30 of Law Number 16 of 2004 concerning the Indonesian Prosecutor's Office, which states:

- 1) *In the criminal field, the prosecutor's office has the following duties and authorities:*
  - a. *Conducting prosecution;*
  - b. *Implementing judges' 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 that purpose can carry out additional examinations before being transferred to the court, the implementation of which is coordinated with the investigator.*
- 2) *In the civil and state administrative fields, the prosecutor's office with special powers can act both inside and outside the court for and on behalf of the state or government.*

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<sup>16</sup>Yasmira Saragih, Op.Cit, page 57

3) *In the field of public order and security, the prosecutor's office also organizes the following activities:*

- a. Increasing public legal awareness*
- b. Safeguarding law enforcement policies*
- c. Supervision of the circulation of printed goods*
- d. Supervision of religious beliefs that can endanger society and the state;*
- e. Prevention of abuse and/or blasphemy of religion*
- f. Research and development of criminal law and statistics.*

Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia adds 3 additional articles to Article 30 concerning the authority of the prosecutor's office, namely:

**Article 30A**

*In asset recovery, the Prosecutor's Office has the authority to conduct tracing, confiscation and return of assets obtained through criminal acts and other assets to the state, victims or those entitled to them.*

**Article 30B**

*In the field of law enforcement intelligence, the Prosecutor's Office has the authority to:*

- a. Carrying out investigative, surveillance and fundraising functions for the benefit of law enforcement;*
- b. Creating conditions that support and secure the implementation of development;*
- c. Conducting law enforcement intelligence cooperation with other state intelligence agencies and/or intelligence providers, both domestically and abroad.*
- d. Implementing prevention of corruption, collusion, nepotism; and*
- e. Carry out multimedia monitoring.*

**Article 30C**

*In addition to carrying out the duties and authorities as referred to in Article 30, Article 30A, and Article 30B, the Prosecutor's Office:*

- a. Organizing criminal statistics and judicial health activities for the prosecutor's office;*
- b. Participate and be active in seeking the truth regarding serious human rights violations and certain social conflicts in order to achieve justice.*
- c. Participate and be active in handling criminal cases involving witnesses and victims as well as the rehabilitation, restitution and compensation processes.*
- d. Conducting penal mediation, carrying out execution seizures for payment of criminal fines and substitute criminal penalties as well as restitution.*
- e. Can provide information as information and verification material regarding the existence or absence of alleged violations of the law that are being or have been processed in criminal cases to occupy public office at the request of the authorized agency.*
- f. Carrying out its functions and authorities in the field of Civil Affairs and/or other public fields as regulated by law*

- g. Carrying out execution seizure for payment of criminal fines and compensation*
- h. Submit a judicial review; and*
- i. Conduct wiretapping based on special laws that regulate wiretapping and organize a monitoring center in the field of criminal acts.*

Law enforcement is not only concerned with making or implementing the law itself, but also with what law enforcement officers do in anticipating and overcoming problems in law enforcement. Therefore, in law enforcement efforts that occur in society can be done in 3 (three) ways, namely:<sup>17</sup>

1. Preventive

Preventive efforts are law enforcement efforts that focus on prevention efforts before violations of the law occur and indirectly without using sanctions/punishment.

2. Educational

Educational efforts are law enforcement efforts by providing information through educational mechanisms to the public (for example by installing banners, etc.)

3. Repressive

Repressive efforts are one of the law enforcement efforts carried out by law enforcement officers which place more emphasis on eradication/action after a violation of the law has occurred by using sanctions provided by the law itself (statutory regulations).

### **The Role of the Prosecutor's Office in Eradicating Criminal Acts of Corruption in Aceh Tamiang Regency**

The legal basis for the authority of the Prosecutor's Office to play an active role in preventing and eradicating criminal acts of corruption in Aceh Tamiang Regency is:<sup>18</sup>

1. Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia
2. Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption.
3. Presidential Regulation Number 55 of 2012 concerning the National Strategy for the Prevention and Eradication of Corruption for the Long Term 2012-2025 and the Medium Term 2012-2014
4. Presidential Instruction Number 1 of 2013 concerning Action to Prevent and Eradicate Corruption in 2013
5. Presidential Regulation Number 38 of 2010 concerning the Organization and Work Procedures of the Attorney General's Office of the Republic of Indonesia
6. Regulation of the Attorney General of the Republic of Indonesia Number: PER-006/A/JA/2017 concerning the Organization and Work Procedures of the Attorney General's Office of the Republic of Indonesia which explains that the Head of the High

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<sup>17</sup>Made Agus Mahendra Iswara, Op.Cit, p. 75

<sup>18</sup>Interview with the Head of the Aceh Tamiang District Attorney's Office, Mr. Joko Wibisono, SH, MH on November 30, 2023

Prosecutor's Office has the task of implementing policies, enforcing the law, justice, both preventive and repressive, and other legal actions.<sup>19</sup>

In general, the role of the Indonesian Attorney General's Office in eradicating criminal acts of corruption is regulated in Article 21 and Article 22 of Government Regulation Number 38 of 2010 concerning the Organization and Work Procedures of the Indonesian Attorney General's Office, which states:

Article 21

- 1) *The Deputy Attorney General for Special Crimes has the duty and authority to carry out the duties and authority of the prosecutor's office in the field of special crimes.*
- 2) *The scope of the special criminal offenses as referred to in paragraph (1) includes investigations, inquiries, pre-prosecution, additional examinations, prosecution, legal efforts, implementation of judges' decisions and court decisions which have permanent legal force, examination and supervision of the implementation of conditional sentences and decisions on conditional release in special criminal offenses and other legal actions.*

Article 22

*In carrying out the duties and authorities as referred to in Article 21, the Deputy Attorney General for Special Crimes carries out the following functions:*

- a. *Policy formulation in the field of special crimes*
- b. *Implementation of law enforcement in the field of special crimes*
- c. *Coordination and synchronization of policy implementation in the field of special criminal acts*
- d. *Implementation of working relations with agencies/institutions both domestically and abroad*
- e. *Monitoring, analysis, evaluation and reporting of the implementation of activities in the field of special crimes*
- f. *Carrying out other duties assigned by the attorney general.*

According to the Head of the Aceh Tamiang District Attorney's Office, Mr. Joko Wibisono, SH, MH, in implementing the prevention of criminal acts of corruption in the Aceh Tamiang Regency area, the Aceh Tamiang District Attorney's Office is carrying out several programs in the form of:<sup>20</sup>

- a. Establishment of a Special Task Force for Handling and Settlement of Corruption Crime Cases (Satgasus P3TPK)

The Head of the Aceh Tamiang District Attorney's Office formed a Team of Prosecutors and Investigators in order to create law enforcement that is professional and clean. In addition to being tasked with handling and resolving corruption cases, the Satgasus P3TPK Team also prevents corruption in the Aceh Tamiang Regency area.

<sup>19</sup>Ismarandy, Alfi Syahrin, M. Hamdan, Rosnidar Sembiring. "The Role of the Prosecutor's Office in Preventing and Handling Criminal Acts of Village Fund Corruption in the Jurisdiction of the High Prosecutor's Office of Sumatra". *Iuris Studia: Journal of Legal Studies*. Volume 2 Number 2, June 2021, page 196

<sup>20</sup>Interview with the Head of the Aceh Tamiang District Attorney's Office, Mr. Joko Wibisono, SH, MH on November 30, 2023

b. Forming a Government and Development Monitoring and Security Team (TP4)

The formation of this team is based on the policy of the Regulation of the Attorney General of the Republic of Indonesia Number PER-014/A/JA/11/2015 concerning the Technical and Administrative Work Mechanism of the Team for Guarding and Securing the Government and Development of the Attorney General's Office of the Republic of Indonesia. The guarding, securing, supporting the government and development are carried out in the following ways:

- 1) Providing legal information within government agencies, BUMN, BUMD and other related parties regarding planning, auctions, work implementation, supervision of work implementation, licensing, procurement of goods and services, administrative order and orderly management of state finances;
- 2) Conducting discussions or debates with government agencies, BUMN/BUMD to identify problems faced in budget absorption and development implementation;
- 3) Providing legal information and counseling, either on the initiative of TP4 or at the request of parties who require it, the place and time of implementation of which is determined based on agreement and according to needs;
- 4) TP4 can involve other agencies or parties that have the capacity, competence and are relevant to the legal information and counseling material that will be delivered to government agencies, BUMN and BUMD.

The function of TP4D is regulated in Point 3 paragraph 2-5 KEP-152/A/JA/10/2015, namely:

- 1) Can provide legal assistance in every stage of the development program from start to finish, in the form of:
  - a) Legal discussion from the perspective of implementing regulations, laws and regulations, mechanisms and procedures with budget management officials regarding problems faced in terms of budget absorption.
  - b) Legal opinions in the planning, auction, implementation, supervision stages of work implementation and procurement of goods and services, both on behalf of TP4 and on behalf of requests from agencies and parties requiring them.
- 2) Coordinate with the Government Internal Supervisory Apparatus to prevent deviations that have the potential to hinder, thwart and cause losses to state finances,
- 3) Jointly monitor and evaluate the implementation of development work and programs
- 4) Carrying out repressive law enforcement when sufficient preliminary evidence is found after coordination with the Government Internal Supervisory Apparatus regarding the occurrence of unlawful acts and/or other acts that result in losses for the state.

c. Implementing the Prosecutor Enters the Village Program, Prosecutor Friend of the Village and Prosecutor Guard the Village (Guarding the Village)

The Aceh Tamiang District Attorney's Office has formed the Prosecutor Enters the Village, Prosecutor Friend of the Village and Prosecutor Guard Village (Guard the Village) programs, which are tasked with providing assistance and supervision to the distribution and management of village funds to avoid deviations and misuse and to

provide legal awareness to village communities regarding the potential for corruption that occurs in the village.

The village guard prosecutor program is an implementation of the instructions of the Deputy Attorney General for Intelligence in implementing the cooperation agreement between the Attorney General's Office and the Ministry of Villages, Development of Disadvantaged Regions, and Transmigration in order to oversee the distribution and utilization of village funds. The Village Guard application is an effort by the Attorney General's Office to be able to reach all villages in Indonesia. The village guard program helps village officials not to do other things (deviations), so that village officials become brave and not afraid to implement the village fund program because of the clarity through this assistance.

- d. Optimizing corruption handling using the Corruption Impact Assessment (CIA) method
- One form of implementation of handling corruption crimes carried out by the Prosecutor's Office is to coordinate with the local government by describing in the form of a notification letter regarding the problem points that have occurred in government agencies that have committed corruption, so as not to make the same mistakes in budget management. This is called the Corruption Impact Assessment (CIA). A new approach to eradicating corruption, namely the paradigmatic one formulated in CIA, means not only punishing the perpetrators of corruption but no less important is to repair the damage or root of the problem so that corruption does not happen again.

According to the Head of the Aceh Tamiang District Attorney's Office, Mr. Joko Wibisono, SH, MH, in the Process of Handling Corruption Crimes in the Aceh Tamiang Regency area, the Aceh Tamiang District Attorney's Office carries out several stages, namely:<sup>21</sup>

1. Investigation

In special criminal acts, the prosecutor acts as an investigator as regulated in Article 30 paragraph (1) letter d of Law Number 16 of 2004 concerning the Indonesian Attorney General's Office. In contrast to general crimes where initial data is obtained from reports or complaints, criminal acts of corruption originate from:

- 1) Vice President
- 2) Minister/Inspector General/Inspector of Prop/Inspector of Cooperatives and Regional Government
- 3) Intelligence apparatus
- 4) DPR (which is the result of the BPK audit) (Wijayanto, 2007)

After the initial data is available, an "Investigation Order" is issued to determine whether or not there is a criminal act of corruption that has occurred. If sufficient initial evidence is not obtained, the investigation will not be continued. If sufficient initial evidence is found, the investigation will be escalated to the investigation stage, and then an Investigation Order will be issued.

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<sup>21</sup>Interview with the Head of the Aceh Tamiang District Attorney's Office, Mr. Joko Wibisono, SH, MH on November 30, 2023



## 2. Investigation

Corruption crime investigators will begin their investigation after receiving an investigation warrant from the Head of the District Attorney's Office. Investigators who carry out the duties in the Warrant, immediately make an "Investigation Plan" (Rendik) by understanding the results of the investigation and regulations related to the corruption crime being investigated so that they can determine the deviations that have occurred and the evidence supporting the deviations so that the modus operandi can be determined.

Not all corruption cases that are investigated can be escalated to the prosecution stage. If one of the elements is not supported by evidence, or there are excusing reasons based on Jurisprudence, because the unlawful nature is not proven, then the case is issued a Letter of Order to Stop Investigation (SP3). If the investigation has been completed, and from the results of the investigation evidence is obtained regarding the crime that occurred, then the results of the investigation are stated in the case file. The investigation has been completed if the public prosecutor does not return the results of the investigation within seven days or before that time the public prosecutor has notified the investigator that the investigation case file is complete. If the investigation has been completed and the files are received by the public prosecutor, the public prosecutor, based on the results of the investigation, prepares an indictment and then carries out the prosecution.

## 3. Prosecution Stage

After the public prosecutor receives the case files from the investigator, and according to the public prosecutor the files are complete and can be prosecuted, then the public prosecutor will make an indictment as soon as possible. The public prosecutor conducts careful research. Especially on all elements of the crime to be charged, whether they have been supported by evidence, and the applicable formal requirements. If in his opinion there are still deficiencies, then they can be completed by himself or returned to the investigator to be completed. If after the improvements are made it turns out that there are elements that are not proven or there are things that indicate that the suspect cannot be blamed, then a Letter of Termination of Prosecution (SKPP) is issued.

Termination of prosecution may occur if the public prosecutor is of the opinion that:

1. Insufficient evidence in the case
2. The incident turned out not to be a criminal act.
3. The case is closed by law

This termination of prosecution is carried out by the Public Prosecutor by making a letter of determination to terminate the prosecution. In the event that the prosecution is terminated, then the suspect who is in detention must be released, if later there are new reasons obtained by the public prosecution from the investigator, which come from witness statements, objects or clues, then it does not rule out the possibility of carrying out a prosecution.

## **Obstacles in the Prosecutor's Office Eradication of Corruption in Aceh Tamiang Regency**

Corruption is a complicated crime to uncover along with the increasing development of technology and the increasingly sophisticated modus operandi, so that law enforcers, including the Prosecutor's Office, often encounter obstacles in efforts to uncover and eradicate corruption that occurs. These obstacles make it increasingly difficult to uncover corruption cases, so that it takes a long time and special methods in handling them.

According to the Head of the Aceh Tamiang District Attorney's Office, Mr. Joko Wibisono, SH, MH, the obstacles faced by the Aceh Tamiang District Attorney's Office in terms of investigation and prosecution are as follows:<sup>22</sup>

1. Criminal acts of corruption are generally carried out by several people who mutually enjoy the benefits of the results of their actions so that they will cover up or protect each other because they do not want to implicate their friends or are even afraid of being involved and made suspects by law enforcement;
2. Corruption perpetrators generally have a relatively high level of education and have expertise in their field so that early on, corruption perpetrators hide or cover up their actions and eliminate evidence related to their actions. This will clearly complicate the investigation carried out by the Prosecutor's Office.
3. The perpetrators of corruption are generally superiors/leaders (officials) so that the perpetrators are protected by the corps/agency, in addition, the witnesses are subordinates/staff, while the suspects/defendants are their superiors so that sometimes in court witnesses are reluctant to give true testimony and only say they forgot or don't remember anymore, and it is not uncommon for witnesses to withdraw statements that were given during the investigation stage. This happens because they have been influenced or pressured or threatened or even rewarded so that the evidence is obscured and the proof is weakened.
4. The difficulty in obtaining legally valid evidence and materials in uncovering corruption cases, perpetrators of corruption and witnesses and people involved in it deliberately remove or hide evidence and materials so that investigators / public prosecutors will have difficulty in uncovering corruption cases.
5. In criminal acts of corruption, there is still intervention from government/state officials or political party figures who have power and many people who try to defend or free the accused from criminal responsibility, either by using the authority of their position or through family means.
6. The lack of witnesses supporting the evidence of corruption cases. Because witnesses in corruption cases do not feel disadvantaged, they do not have any interests or material expectations for the handling and eradication of corruption that occurs. Even if it is still possible, they avoid being used as witnesses in corruption cases on the grounds of increasing the burden of responsibility, wasting time that should be used for work or even

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<sup>22</sup>Interview with the Head of the Aceh Tamiang District Attorney's Office, Mr. Joko Wibisono, SH, MH on November 30, 2023

- being afraid of being suspected of being involved and being named a suspect in a case that is being investigated by the Prosecutor's Office.
7. The difficulty that arises is in terms of investigators to find the suspect's or his family's property obtained from the proceeds of corruption to be confiscated as evidence. This confiscation is very important in nature, namely to return state finances that have been corrupted, to then be used to carry out development. Basically, handling corruption is prioritized to return state finances
  8. Limited facilities and infrastructure in eradicating corruption, The facilities and infrastructure owned by the Prosecutor's Office are currently not sufficient to support efforts to eradicate corruption as a whole. The Prosecutor's Office also does not have the facilities and infrastructure related to testing physical work, for example, a coror drill measuring tool that can be used to take samples of the volume and quality of physical work carried out by partners. What has been done by the Prosecutor's Office in testing physical work is by asking experts to check and renting the equipment, which costs quite a lot and the availability of time for technical experts is also very limited so that the investigation activities carried out by the Prosecutor's Office are not optimal.

## CONCLUSION

In corruption cases, the Prosecutor's Office has the authority as a public prosecutor as well as an investigator. The prosecutor's authority as an investigator in special crimes is regulated by Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, especially in Article 30 Paragraph 1 letter d. Handling of corruption cases carried out by the Prosecutor's Office, both at the central and regional levels, focuses more on corruption cases with a fairly high loss value in line with the Deputy Attorney General's Instructions for Special Crimes, which states that handling corruption cases is prioritized on disclosing cases that are big fish (large scale, seen from the perpetrators and/or the value of state financial losses) and still going on (corruption cases that are carried out continuously or sustainably).

Criminal law enforcement, especially corruption crimes, prioritizes the return of state losses from perpetrators of corruption. Efforts to return state losses from perpetrators of corruption will be successful if there is cooperation between law enforcement officers (Police, Prosecutors or the Corruption Eradication Committee) to uncover corruption, especially in efforts to return state losses. Without such cooperation, it will be difficult to return state losses.

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