

Conference Paper

Intelligence Function in Preventing Corruption: Indonesian Prosecutor's Office and Strategic Development Security

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The prevention of corruption crimes involves both repressive and preventive measures. The Indonesian Public Prosecutor's Office implements preventive efforts through various stages of intelligence functions. To enhance these efforts, the Attorney General's Office of Indonesia introduced the Security for Strategic Development - Regional Investment program. This study aims to determine the legal status and certainty of the technical guidelines on security for strategic development and regional investments in the context of anti-corruption measures. It is a prescriptive legal study that employs descriptive analysis and a legal approach, considering various laws and regulations. Data collection includes library and field research surveys, documentary studies, and interviews. Qualitative analysis reveals that the strategic development and technical guidelines for security of local investments align with Law No. 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, Law No. 17 of 2011 concerning State Intelligence, and the Regulation of the Attorney General No. PER-006/A/JA/07/2017 concerning the organization and work procedure of the Indonesian Prosecutor's Office. However, the authority to prevent corruption was not explicitly stated in the 2004 Attorney General's Law, and thus, adjustments were made through B-484/D/Dpp/03/2020, dated March 12, 2020, based on Law No. 11 of 2021 concerning the Indonesian Attorney General's Office to ensure legal certainty in anti-corruption efforts.

Keywords: attorney, intelligence function, strategic development security

1. INTRODUCTION

The legal system comprises regulations that define mandatory and forbidden actions. According to Achmad Ali, law is a compilation of regulations or provisions framed to determine the permissible and prohibited behaviors of citizens in social contexts. These laws originate from society and other legitimate authoritative sources endorsed by influential members and the community at large. Violation of these regulations empowers the highest authority to impose external penalties.[1]

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The Complete Indonesian Dictionary provides a definition of law as “*a rule established by authority or custom, recognized as valid by and for the people; laws and regulations that govern social life in society; provisions, rules, and standards; judgments rendered by judges.*”[2] The legal system’s objectives encompass not only individuals who violate the law but also encompass legal procedures and the state’s adherence to the law. Operating as a means of enforcing the law, the legal system encompasses various types of legal studies, among which criminal law holds significant importance.[3] According to Hazewinkel-Suringa, criminal law consists of a set of legal regulations that impose prohibitions and mandatory requirements, with individuals who breach them facing criminal sanctions or legal penalties.[4]

Criminal law can be classified into two categories: material criminal law, which involves defining criminal acts, and formal criminal law, which deals with the state’s procedures in enforcing material law through its officials. Violations of these regulations are known as criminal acts. Among the remarkable crimes is corruption, which is considered an “*extraordinary crime.*” The United Nations (UN) in Vienna defined corruption as an offense committed by influential and authoritative individuals, targeting victims of significant importance.[5]

The classification of corruption as an “*extraordinary crime*” is evident from its significant impact on the nation, such as the challenges in poverty eradication and limited access to public facilities, leading to rising prices of goods and services. Additionally, the increase in corruption cases in Indonesia influences fluctuations in criminal activities within society, fostering a perception of government inefficiency and encouraging some people to resort to anarchic actions to deliver their own form of justice against perpetrators without granting them a fair opportunity. This extensive impact highlights the collective responsibility of all stakeholders to address the issue.[6]

The responsibility to combat corruption is not only assigned to the Corruption Eradication Commission (KPK) but also to other independent anti-corruption law enforcement agencies, namely, the Indonesian National Police and the Indonesian Attorney General’s Office. This duty is mandated by the Corruption Law, which includes Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption and its amendment, Law No. 20 of 2001. Nevertheless, eradicating corrupt practices is a collective responsibility involving all relevant stakeholders, including law enforcement agencies and the community. The investigation of corruption crimes falls under the purview of the police, as outlined in the Memorandum of Understanding (MoU) between the National Police, the KPK, and the Attorney General’s Office, as documented in the Joint Agreement Between the Indonesian Attorney General’s Office, the Police, and the Corruption Eradication Commission with reference numbers: KEP-049/A/J.A/03/2012, No. B/23/III/2012, and No. SP3-39/01/03/2012 on the Optimization of Corruption Eradication.[7]

In the Memorandum of Understanding between the National Police, the Indonesian Attorney General's Office, and the KPK No. KEP-049/A/J.A/03/2012, No. B/23/III/2012, and No. SP3-39/01/03/2012 Concerning Optimization of Corruption Eradication, dated 29 March 2012, as for the second part concerning the handling of corruption cases, in Article 8, that: *First*, If the parties investigate the same target, to avoid duplicating investigations, the agency that must continue the investigation will be determined either by the agency that issued the investigation warrant first or by mutual agreement of the parties. *Second*, the progress of investigations conducted by the prosecutor's office and the POLRI will be reported to the KPK within 3 (three) months. *Third*, the Corruption Eradication Committee will receive a monthly summary of investigative activities conducted by the Attorney General's Office and the National Police. *Fourth*, the transfer of investigation and investigation of criminal acts of corruption between the parties can be conducted according to the provisions of the legislation, following a case attended by the parties, as stated in the Minutes.

Effective collaboration is vital between the Corruption Eradication Commission (KPK), the Attorney General's Office of the Republic of Indonesia, the National Police, and the community in combating corruption. The Attorney General's Office of the Republic of Indonesia, as a law enforcement agency, plays a crucial role in eradicating corruption. Authorized under Law No. 16 of 2004 on the Prosecutor's Office of the Republic of Indonesia, it is responsible for prosecuting and investigating corruption cases, as stated in Article 2 paragraph (2) of the same law. The Attorney General's Office not only takes measures to prosecute corrupt individuals and recover state funds but also plays a significant role in preventing corruption. However, relying solely on repressive measures has proven ineffective in preventing and addressing corruption, leading to issues such as budget absorption problems and project delays due to fear among economic actors and government officials. Moreover, aggressive law enforcement encounters normative and juridical challenges arising from conflicting norms. Therefore, the Attorney General's Office is adopting a progressive approach to law enforcement that considers not only legal certainty but also the overall benefits, as emphasized by H.M. Prasetyo.[8]

Additionally, it is important to highlight that the Attorney General's Office holds the exclusive role as the executive authority for implementing criminal decisions ("*executive ambtenaar*").[9] Besides its involvement in criminal cases, the Attorney General's Office also takes on additional duties in Civil and State Administrative Law,[10] where it represents the government as a State attorney in relevant cases.[11] As the executor of this mandate, the prosecutor is vested with the authority of a public prosecutor to enforce court decisions and exercise other legal powers.[12]

H.M. Prasetyo mentioned that the Attorney General's Office had established the Government Security and Development Team (TP4) to supervise development and

prevent state losses.[13] Nevertheless, the TP4 program promoted by the Indonesian Attorney General’s Office has now been terminated and replaced with Security for Strategic Development and Regional Investment (PPS-ID) as a measure to prevent corruption. For strategic development projects falling within the national scope, security responsibilities will rest with the Attorney General of the Republic of Indonesia or the High Prosecutor’s Office, while in regional contexts, the State Attorney’s Office will be responsible. In cases where the project is not deemed as a national/regional strategic one, legal assistance can be sought from the Civil and State Administration (Datun) department.

Data on corruption cases that were tried at the Tipikor Court at the Medan District Court from 2019 to.d. 2021, can be seen in the table below:

TABLE 1: Data on Corruption Cases Tried at the Corruption Criminal Court At Medan District Court [2019–2021]

Year	Remainder of Last Year's Dec	Entry Case	Finished Over	Minutation
2019	40	4	2	2
2020	35	5	6	0
2021	26	7	4	1
Apr-22	34	7	8	5

Source: Medan District Court Case Tracking Information System, April 2022.

Based on the data on the corruption case, the incoming cases and the cases being resolved are very disproportionate. The trial of corruption cases took a very long time because the witnesses who gave testimony before the trial had to be confronted by one another. In terms of costs, it is also not small, so that to complete one case register takes 3-6 months. In addition, North Sumatra Province is the 2nd most corrupt area in Indonesia.[14]

Noteworthy corruption cases within the jurisdiction of the North Sumatra High Prosecutor’s Office, which have garnered public attention, include:

1. The Corruption Case involving Equity Participation Funds in Regional Development Companies (PD) and TA's Various Businesses in 2014, totaling Rp. 500 million;[15]
2. The Corruption Case related to the Procurement of Bandwidth or Internet Services at the Office of Communication and Information of the City of Pematangsiantar in 2017, resulting in a state loss of Rp. 450 million;[16]
3. The Operation Catch and Detain (OTT) case of the Regent of Labuhan Batu, North Sumatra, Pangonal Harahap at Soekarno-Hatta Airport, Tangerang, Banten, on Tuesday, July 17, 2018;[17]

4. The Alleged Budget Corruption Case involving PT. North Sumatra Plantation (PT. PSU) from 2007 to 2019, causing a state financial loss of Rp. 109 billion.[18]

The four cases were disclosed around 2021 to 2022, if TP4D could run well in the regions, these cases should not have happened because assistance had been carried out by the District Attorney's Office in the area under the supervision of the North Sumatra High Prosecutor's Office.

Law enforcement efforts in eradicating criminal acts of corruption are not only repressive efforts but also preventive efforts.[19] The preventive effort is to make the corruption prevention function effective with the aim of encouraging a corruption-free society. In this case, the Attorney General's Office of the Republic of Indonesia in carrying out its intelligence function has made several preventive efforts, namely: conducting legal briefings, legal counseling, school admissions (JMS), and other legal innovation efforts so that people are more familiar with the law. But so far, the public's view of the role of the Indonesian Attorney General's Office in the field of prosecution of criminal acts of corruption has had good results. Meanwhile, the efforts of the Attorney General's Office of the Republic of Indonesia in implementing the intelligence function related to the implementation of the PPS-ID Program for the prevention of criminal acts of corruption, whether optimal results have been obtained, or not so that the public can feel them directly.

The role of the Indonesian Attorney General's Office in implementing the PPS-ID program. Is the prevention of criminal acts of corruption effective, or is it the same as the previous program which 'in fact' only provided legal assistance, but corruption still occurs? Expected prevention can never be implemented properly.

The preventive effort referred to in eradicating criminal acts of corruption is to streamline the function of preventing corruption to encourage a corruption-free society. The Attorney General's Office of the Republic of Indonesia carries out the intelligence function to carry out preventive efforts in several steps, namely: carrying out legal information activities, legal counseling, School Entry Prosecutors (JMS), and other legal innovation efforts, so that people are more familiar with the law. But so far, the public's view of the role of the Indonesian Attorney General's Office in the field of prosecution of criminal acts of corruption has had good results. Meanwhile, the efforts of the Attorney General's Office of the Republic of Indonesia in implementing the intelligence function related to the implementation of the PPS-ID Program for the prevention of criminal acts of corruption, whether optimal results have been obtained, or not so that the public can feel them directly.

A previous study conducted at the Buleleng District Attorney's Office examined the prosecutor's intelligence role in exposing corruption cases through empirical

legal research with a statutory approach. The study analyzed the effectiveness of a regulation in practice. According to the study's findings, several obstacles hinder the prosecutor's intelligence in its efforts to combat corruption in Indonesia. These challenges include the increasingly sophisticated methods of operation and the ease with which evidence can be destroyed, making it difficult to locate evidence. Additionally, there are constraints related to limited operational costs, insufficient human resources, uncooperative information sources, opposition to intelligence operations, a lack of information on the assets of corrupt individuals that have been transferred to third parties, and the impact of the Covid-19 pandemic.[20]

In this study, we will examine and analyze how to regulate the PPS-ID technical guidelines for the Attorney General's Office of the Republic of Indonesia in preventing corruption in terms of legal certainty. based on this, the purpose of this study was to examine and analyze *"Intelligence Function in Preventing Corruption: Indonesian Prosecutor's Office and Strategic Development Security"*.

2. METHODOLOGY/ MATERIALS

This paper uses the normative legal research method. The normative legal research method is carried out by referring to the legal norms contained in legislation and court decisions to analyze legal issues and formulate arguments based on the applicable legal provisions. A legal approach is used as the data is subject to various laws and regulations. Data collection is carried out through library research and field research surveys accompanied by documentary study and interviews.

3. RESULTS AND DISCUSSIONS

3.1. Hierarchy of Laws and Regulations in the Field of the Republic of Indonesia's Prosecutor's Office in Preventing Corruption Crimes

The topic of discussion is the technical guidelines for PPS-ID of the Indonesian Attorney General's Office in preventing corruption, applying Hans Kelsen's Stufenbau theory to address the issue of legal certainty,[21] as mandated by Law No. 16 of 2004, which requires the Attorney General's Office to play a proactive role in upholding the supremacy of the law, protecting the public interest, safeguarding human rights, and eradicating corrupt practices, collusion, and nepotism.[22]

The prosecution of corruption cases is a crucial responsibility for the prosecutor's office and has been a key mission in line with the call for reform in law enforcement in

Indonesia. The leadership of the Attorney General's Office has continuously released policies and guidelines aimed at promoting and enhancing the handling of corruption cases by prosecutors at all levels throughout Indonesia, in response to the evolving nature and complexity of corruption cases in the country.[23]

Corruption is a problem that affects not only Indonesia but also other nations. To address this issue, the United Nations Convention Against Corruption (UNCAC) was created, and Indonesia ratified it through Law No. 7 of 2006.[24]

When analyzing the issue of corruption, several factors can be identified as contributing to its widespread occurrence. These include: 1) ineffective law enforcement due to low chances of getting caught, prosecuted, and penalized, as well as the influence of the bureaucratic mafia; 2) a bureaucratic system that creates opportunities for corruption (such as licensing, extensive authority, and links within the bureaucracy); 3) low salaries; 4) the availability of opportunities for corruption; 5) salary disparities; and 6) low ethical standards.[25]

Andi Hamzah identified several factors that cause corruption. These factors include: 1) Insufficient salaries for civil servants that do not meet their increasing needs; 2) The Indonesian cultural background that contributes to widespread corruption; 3) Inadequate management and ineffective controls that create opportunities for corruption; and 4) The modernization that fuels corruption.[26]

The Indonesian government has implemented various measures to combat corruption. One of these measures is the issuance of Presidential Instruction No. 2 of 2014 on the Prevention and Eradication of Corruption, which was released on March 21, 2014.[27] Furthermore, the government has fulfilled its commitment to prevent and eradicate corruption as stipulated by RI Presidential Regulation No. 55 of 2012, which outlines the national strategy for corruption prevention and eradication for the long-term (2012-2015) and medium-term (2012-2014) periods.

Another significant regulation is Presidential Regulation of Republic of Indonesia No. 54 of 2018, which pertains to the National Corruption Prevention Strategy. The rationale behind the promulgation of this regulation, as stated in Considering letters a and b, is that corruption prevention efforts need to be optimized, requiring joint and synergistic endeavors from ministries, agencies, local governments, other stakeholders, and the Corruption Eradication Commission to achieve a just, prosperous, and thriving society. To this end, a more focused, measurable, and results-oriented national strategy is essential.

The current legal basis for eradicating corruption in Indonesia is as follows:

1. Law No. 31 of 1999 concerning the Eradication of Corruption as amended by Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning the Eradication of Corruption Crimes.
2. Law No. 28 of 1999 concerns the Implementation of a State that is Clean and Free from Corruption, Collusion, and Nepotism.
3. Law No. 30 of 2002 concerning the Corruption Eradication Commission.
4. Law No. 16 of 2004 concerning the Attorney General of the Republic of Indonesia.
5. The Republic of Indonesia Government Regulation No. 71 of 2000 concerning Procedures for Implementing Community Participation and Giving Awards in the Prevention and Eradication of Criminal Acts of Corruption.

In addition to the aforementioned regulations, the Attorney General's Office of the Republic of Indonesia has issued a Circular that pertains to the investigation of alleged corruption cases, which is detailed in the Attorney General's Circular Letter No. SE-017/A/JA/08/2015.

The theory of legal certainty establishes the order of laws and regulations governing the prevention of corruption in the Indonesian Attorney General's Office. The hierarchy is as follows:

1. Primary Legal Basis:
2. Law No. 16 of 2004 concerning the Attorney General of the Republic of Indonesia;
3. Law No. 28 of 1999 concerning the Implementation of a Clean and Corruption-Free State;
4. Legal Foundation for Corruption Prevention:
5. Law No. 31 of 1999 concerning the Eradication of Corruption;
6. Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning the Eradication of Corruption;
7. Implementing Regulations: Government Regulation No. 71 of 2000 on Procedures for Implementing Community Participation and Granting Awards in Preventing and Eradicating Criminal Acts of Corruption in the Republic of Indonesia.

The authority of the Attorney General's Office of the Republic of Indonesia in handling corruption cases is stated in:

1. The combination of TAP MPR-RI No. XI/MPR/1998 on State Administration that is Clean and Free from Corruption, Collusion, and Nepotism, along with Presidential Instruction No. 30 of 1998 on the Eradication of Corruption, Collusion, and Nepotism, issued on December 2, 1998, forms the framework for combating corruption in Indonesia;
2. According to the Criminal Procedure Code, specifically Article 13 in conjunction with Article 284 paragraph (2), as well as Article 17 of Government Regulation of Republic of Indonesia No. 27 of 1983 concerning the Implementation of the Criminal Procedure Code, the investigation of certain criminal acts, which are specifically regulated by certain laws, is conducted by investigators, prosecutors, and other authorized investigating officials appointed in accordance with statutory regulations.[28]
3. Law No. 28 of 1999, enacted on May 19, 1999, deals with the establishment of a clean and corruption-free state. It encompasses the prosecutor's investigative authority, as specified in Article 1, Article 12, Article 17, Article 18, Article 20, Article 21, and Article 22, along with the accompanying explanation; And
4. According to Article 30 paragraph (1) letter d of Law no. 16 of 2004 regarding the Attorney General's Office of the Republic of Indonesia, the prosecutor's office is vested with the power to conduct investigations into specific criminal acts in accordance with the law;
5. Republic of Indonesia Presidential Regulation No. 38 of 2010, subsequently enacted by Regulation of the Attorney General of the Republic of Indonesia No. PER-009/A/JA/01/2011 on January 21, 2011, and most recently updated with RI Attorney General Regulation No. PER-006/A/JA/07/2017, governs the organization and work procedures of the Attorney General's Office of the Republic of Indonesia.

Legally, under Article 14 of the Criminal Procedure Code, the Public Prosecutor has the authority to review and evaluate investigation case files, conduct pre-prosecution reviews, grant extensions of detention, prepare indictments, and present cases to the court. In corruption cases, once the investigator has completed their investigation, they must promptly hand over the case file, suspects, and evidence to the public prosecutor, who acts as both an investigator and a public prosecutor and prepares the charges to be presented in the local district court.[29]

3.2. The Intelligence Function of the Attorney General's Office of the Republic of Indonesia

The legal basis for the main duties and functions of the Intelligence Service Attorney General is stipulated in the Republic of Indonesia Attorney General Regulation No. PER-006/A/JA/2017, which governs the Organization and Work Procedure of the Attorney General's Office of the Republic of Indonesia. The primary tasks and functions of the North Sumatra High Prosecutor's Office for Intelligence in preventing corruption in North Sumatra Province include conducting investigative, security, and fundraising intelligence activities to prevent criminal acts, supporting law enforcement in various fields such as ideology, politics, economy, finance, socio-culture, defense, and security, deterring certain individuals, ensuring public order and peace, and handling criminal acts, civil and state administration within their jurisdiction. Additionally, they provide intelligence support to the Attorney General's Office, cooperate and coordinate with relevant entities, and raise legal awareness among the community in their jurisdiction. In the context of Strategic Development Security, Directorate D within the prosecutor's intelligence sector is responsible for policy formulation, intelligence activities, and operations related to strategic development security.[30]

The strategic development security sector encompasses various areas such as road infrastructure, railways, airports, telecommunications, ports, smelters, water treatment, embankments, dams, agriculture, marine, electricity, alternative energy, oil and natural gas, science and technology, housing, tourism, priority industrial areas or special economic zones, cross-border posts, as well as supporting facilities and other sectors. These areas play a crucial role in supporting the effective functioning of the government and the successful implementation of strategic projects at both national and regional levels.[31]

According to the Attorney General Regulation No. PER-006/A/JA/2017, Directorate D of the Attorney General's Intelligence department holds various functions, including planning, formulating policies, collecting and reviewing laws, analyzing problems, implementing security activities, monitoring and evaluating their implementation, coordinating with relevant ministries and agencies, assessing policies, socializing duties, estimating intelligence state, providing technical guidance, handling administration, and fulfilling other assigned functions by the Deputy Attorney General for Intelligence, all related to government security activities, development projects, and security for strategic development.

The intelligence sector of the prosecutor's office mainly carries out tasks such as reporting, controlling, and coordinating between different institutions. These tasks are part of intelligence activities aimed at preventing crime and supporting law enforcement

through preventive and repressive measures. These activities cover various fields, including ideology, politics, economy, finance, social culture, defense, and security, with the goal of deterring certain individuals and maintaining public order. Article 145 paragraph (2) of Attorney General Regulation No. PER-006/A/JA/07/2017 outlines the intelligence function of the Attorney General's Office of the Republic of Indonesia, which includes investigative, security, and mobilizing intelligence activities to prevent criminal acts and support law enforcement.

3.3. Technical Guidelines for Safeguarding Strategic Development and Regional Investment (PPS-ID) in Preventing Corruption Crimes

The theory of legal certainty is applied to address the initial issue, which focuses on regulating the Technical Guidelines for PPS-ID of the Attorney General's Office of the Republic of Indonesia in preventing corruption. The theory of legal certainty utilized in this research is Gustav Radbruch's perspective, asserting that the law is based on established facts and is certain, supported by accurate information. It emphasizes the importance of clearly formulating reality (facts) to prevent misunderstandings and facilitate smooth implementation. Additionally, Radbruch emphasizes that positive law should not be easily subject to change.[32]

3.3.1. Philosophical Foundation

The 1945 Constitution of the Republic of Indonesia encapsulates the nation's aspirations, core values, and governing principles. The fourth paragraph outlines the national objectives, which include safeguarding the unity and integrity of the Indonesian nation and its people, advancing public welfare, enhancing the quality of life for the nation, and contributing to the establishment of a world order based on freedom, everlasting peace, and social justice.

Essentially, the Prosecutor's Office serves as a judicial institution with executive functions, protecting the constitution and the rights of the population while upholding state sovereignty in the prosecution domain. Within Indonesia's legal system, it holds a central position, acting as both a case controller (*dominus litis*) and the executor of court decisions with permanent legal force (*executive ambtenaar*). Moreover, the Attorney General's Office has the authority to investigate specific criminal acts, including gross human rights violations, corruption, money laundering, and forest destruction. It also acts as state attorneys both inside and outside the court, participating in activities that promote order and public safety. Additionally, the office contributes to national

development to enhance the well-being of society, the nation, and the state. This underscores its crucial role in law enforcement and justice, encompassing various dimensions of life, including social, economic, cultural, defense, and security.[33]

Philosophically, upholding law and justice requires repositioning and strengthening institutions and authority to reaffirm the Attorney General's Office's independence as a judicial institution with executive functions, free from external influences. This necessitates efforts to revitalize the office, ensuring it operates with dignity, independence, professionalism, and integrity, with a focus on just law enforcement that ensures legal certainty and benefits justice seekers. It also aligns with the pursuit of the state's values based on Pancasila and the 1945 Constitution, aiming to protect the entire Indonesian nation through law enforcement that upholds the rule of law and human rights.[34]

3.3.2. Juridical Foundation

Technical Instructions No. B-484/D/Dpp/03/2020 regarding the Implementation of Strategic Development Security Activities is based on the following legal provisions in Part I Introduction to number 4 of the Technical Guidelines:

1. Law No. 16 of 2004 concerning the Attorney General of the Republic of Indonesia;
2. Law No. 17 of 2011 concerning State Intelligence;
3. Attorney General Regulation No. PER-006/A/JA/07/2017 concerning the Organization and Work Procedure of the Attorney General's Office of the Republic of Indonesia as amended by RI Attorney Regulation No. 6 of 2019 concerning Amendments to Attorney General Regulation No. PER-006/A/JA/07/2017 concerning the Organization and Work Procedure of the Attorney General's Office of the Republic of Indonesia;
4. Prosecutor's Regulation of Republic of Indonesia No. 4 of 2019 concerning the Administration of Intelligence at the Attorney General's Office of the Republic of Indonesia.

Additionally, Article 30B letter b of Law no. 11 of 2021 concerning Amendments to Law no. 16 of 2004 regarding the Prosecutor's Office of the Republic of Indonesia mandates the presence of the Attorney General's Office in creating conditions that support and ensure the implementation of development to enable the people to fully enjoy its benefits.

Article 30B letter b of Law no. 11 of 2021 concerning Amendments to Law no. 16 of 2004 concerning the Attorney General of the Republic of Indonesia, that the Attorney General's Office has the authority in the field of law enforcement intelligence.

In Indonesia, the State Intelligence encompasses several intelligence operations, including the State Intelligence Agency, the Indonesian National Armed Forces Intelligence, the Intelligence of the Indonesian National Police, the Intelligence of the State Attorney of the Republic of Indonesia, and the Intelligence Ministries and Government Agencies. The Attorney General's Intelligence is a component of the state intelligence, as specified in Article 9 of Law No. 17 of 2011.[35]

In accordance with the Law on the Prosecutor's Office, particularly Article 30B letter b, the Attorney General's Office of the Republic of Indonesia possesses the authority to support and ensure the implementation of development in the field of law enforcement intelligence. Utilizing this power as the foundation, the Attorney General's Office of the Republic of Indonesia formulated the PPS-ID Technical Guidelines with the goal of establishing conducive conditions for the execution of development efforts.

Law no. 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia outlines the responsibilities and powers of the attorney general in three main areas. In the criminal domain, the Attorney General's Office holds various tasks and authorities, including prosecuting cases, selecting judges and court decisions, supervising conditional and parole decisions, conducting investigations on specific criminal acts, and preparing case files for further examination. In the realm of civil and state administration, the Attorney General is authorized to represent the State or the Government with special powers, both within and outside the court. Lastly, in the sphere of public order and security, the Attorney General's Office is involved in activities such as promoting legal awareness, safeguarding law enforcement policies, supervising the circulation of printed material, preventing harmful beliefs that may impact society and the state, preventing the abuse and/or defamation of religion, conducting legal research and development, and compiling criminal statistics.

The Directorate of Security for Strategic Development (PPS) operates within the Attorney General's Office of the Republic of Indonesia and falls under the supervision of the Deputy Attorney General for Intelligence. Formerly known as the Government Security Guard and Regional Development Team (TP4D), the unit underwent a name change under the leadership of Attorney General ST Burhanuddin and was subsequently rebranded as the Directorate of Security for Strategic Development.

The District Attorney's Office within the High Court terminated the TP4D on November 22, 2019. This directorate was initially established and reinforced through a Presidential Instruction (Inpres). At the national level, the Director of PPS is in charge of the PPS within the Attorney General's Office of the Republic of Indonesia, whereas at the regional level, the Section Head of PPSD holds the position. Consequently, the Indonesian Attorney General's Office is prepared to offer security assistance if any parties, particularly regional governments, need it.[36]

As per Amir Yanto, the Intelligence Sector of the Attorney General's Office of the Republic of Indonesia, together with other units like the High Court, State Prosecutor's Office, and District Attorney's Branch, plays a crucial role in the National Strategic Development project (PSN) through the Directorate of Strategic Development Security (Directorate D). He revealed that the total budget allocated to the Attorney General's Office and its staff for the nationwide 2021 Strategic Development Security (PPS) project is Rp. 252 trillion. Additionally, the total budget for Strategic Development Security (PPS) up until March 2022, involving the Attorney General's Office and all High Courts throughout Indonesia, amounts to Rp. 50.1 trillion. Their primary responsibility is to ensure the security of national strategic projects, as mandated by Article 30B letter b of Law no. 11 of 2021, which requires the Attorney General to create conditions that support and safeguard the implementation of development to ensure the full benefit of the people.[37]

3.3.3. Sociological Basis

In line with the theory of legal certainty, the connection between the Government Security Guard, Regional Development Team, and Security for Strategic Development represents a policy by the Indonesian Attorney General's Office to support national development initiatives carried out by the executive branch (Government). This shift in the attorney general's duties and powers implies a transition from being solely prosecutors and executors to becoming guardians of national development.[38] Consequently, the Indonesian Public Prosecutor's Office Intelligence Division is authorized to foster favorable conditions for national development.

Technical Instructions No. B-484/D/Dpp/03/2020, focusing on the Implementation of Strategic Development Security Activities, outlines the objective of Directorate D as the identification of Threats, Disturbances, Barriers, and Challenges that could arise in national development projects. The institutional structure of the Attorney General's Office of the Republic of Indonesia is further reinforced by the existence of the Intelligence Division, particularly Directorate D, which is responsible for Security for Strategic Development.

According to the Technical Instructions No. B-484/D/Dpp/03/2020 issued on March 12, 2020, the legal basis used is derived from the 2004 Prosecutor's Office Law. Article 1 point 2 and number 3 of the 2004 Prosecutor's Law are incorporated into the legal basis alongside the Criminal Procedure Code, granting the prosecutor's office the authority to investigate criminal acts of corruption, serve as public prosecutors, and execute court decisions.[39] However, neither the 2004 Prosecutor's Law nor the Criminal Procedure Code provides the Indonesian Attorney General's Office with the authority to prevent

acts of corruption.[40] The prevention of criminal acts of corruption, based on the Corruption Law, is instead addressed in Article 41 and Article 42, focusing on community participation, specifically by reporting criminal acts of corruption.

The power to prevent corrupt activities is newly granted to the Attorney General's Office by the 2021 Attorney Law, which was enacted on December 31, 2021. Article 30B of the 2021 Attorney Law specifies that the Attorney General's Office has the following authorities in the field of law enforcement intelligence: conducting investigations, ensuring security, and fundraising for law enforcement purposes; establishing supportive conditions for the implementation of development; engaging in law enforcement intelligence cooperation with other state intelligence agencies both domestically and internationally; preventing corrupt practices such as collusion, nepotism, and corruption; and conducting multimedia monitoring.

Article 30B letter d of the 2021 Attorney Law clearly states that in the field of law enforcement intelligence, the prosecutor's office has the authority to prevent corruption. The authority to prevent corruption has just appeared in the 2021 Prosecutor's Law, while the prevention of corruption is not found in the 2004 Prosecutor's Law. The prosecutor's authority is based on statutes as positive law. Technical Instructions that are only regulated based on a Deputy Attorney General for Intelligence Letter cannot be categorized as a law. Based on Article 7 paragraph (1) of Law no. 12 of 2011 concerning Formation of Legislation as amended by Law no. 15 of 2019 concerning Amendments to Law no. 12 of 2011 concerning the Formation of Legislation, states that: The various types and hierarchical levels of Legislation include: the 1945 Constitution of the Republic of Indonesia, Decree of the People's Consultative Assembly, Laws/Government Regulations instead of Laws, Government regulations, Presidential decree, Provincial Regulation, and District/City Regional Regulations.

The laws and regulations mentioned above are hierarchically binding, as per the provisions in Article 7 paragraph (2) of Law no. 12 of 2011, which state that "*The legal force of Legislation is determined by the hierarchy referred to in paragraph (1).*"[41]

According to Technical Instructions No. B-484/D/Dpp/03/2020 issued on March 12, 2020, the said Technical Instructions have non-binding power since there is no legal mandate that enforces them in a mandatory manner. The 2021 Attorney Law was promulgated on December 31, 2021, while the Technical Instructions were issued earlier, on March 12, 2020, and were dependent on Law No. 16 of 2004 concerning the Attorney General of the Republic of Indonesia.

When dealing with criminal acts of corruption, based on the theory of criminal policy, the prosecutor serves as both an investigator and a public prosecutor. Hence, their role in eradicating criminal acts of corruption is primarily penal, focusing on the use of criminal law means in handling such cases.[42] On the other hand, for non-penal efforts

(preventive measures) in combating criminal acts of corruption, the prosecutor does not possess preventive authority.[43]

4. CONCLUSION AND RECOMMENDATION

The Technical Guidelines for Safeguarding Strategic Development and Regional Investment (PPS-ID) of the Attorney General's Office of the Republic of Indonesia does not have the authority to prevent criminal acts of corruption based on the 2004 Prosecutor's Law and the 2011 State Intelligence Law. It is suggested that the legal basis for Technical Instructions No. B-484/D/Dpp/03/2020 be revised to adjust to the prevention norms in Article 30B letter d of Law No. 11 of 2021 concerning Amendments to Law No. 16 of 2004 to provide legal certainty to the Indonesian Attorney General's Office in preventing corruption.

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