



The Independence of State Attorney Prosecutors in Civil and Administrative Cases (Involving Madiun District Local Government)

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Abstract- This research seeks to clarify the law on the Prosecutor's independence as a State Attorney in local government civil and administrative proceedings. In this study, how does legal substance affect the Prosecutor's independence as a State Attorney in civil and state administrative proceedings involving local governments? Second, is the State Attorney responsible for resolving local official legal issues, and what challenges does he confront in arguing for local governments? This research uses normative juridical, which uses legislation (statute approach) as a positive legal norm and durable court rulings. Then, legal facts related to the difficulties studied are linked to it. The research found that Article 30 paragraph (2) of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia regulates the Prosecutor's position as a state lawyer and that the Prosecutor's function in civil and state administration is to ensure the rule of law, save state assets, maintain government authority, and protect state interests. The second research finding is that State Attorneys may advocate for legal matters through litigation or non-litigation and comprehend civil or constitutional law sufficiently and officially.

Keywords- Independence; State Attorney; Civil Case; State Administrative Case

I. INTRODUCTION

The Indonesian Attorney General's Office (AGO) is a governmental institution vested with authority in the domains of prosecution, civil and state administration, and other spheres delineated by legal provisions. The Attorney General's Office (AGO) represents the state or government in legal affairs.[1] The Attorney General's Office (AGO) is under the leadership of the Attorney General, who is assisted by six Deputy Attorney Generals and 31 Chief Prosecutors, each representing a province. As per the provisions outlined in Law No. 16/2004, the Prosecutor's Office is pivotal in bolstering the nation's resilience. The entity above functions as an intermediary between the stages of investigation and court examination, implementing court rulings. The Attorney General's Office (AGO) oversees the case process since it possesses exclusive authority to ascertain the admissibility of a case before the court, contingent upon the presence of credible evidence, under the provisions outlined in the Criminal Procedure Law.[2]

When fulfilling its responsibilities and exercising its powers, the Auditor General's Office (AGO) is under the leadership of the Attorney General. The Attorney General supervises six Deputy Attorneys General and 31 Chief Prosecutors, each serving in a different province. Law No. 16/2004 concerning the Prosecutor's Office of the Republic of Indonesia also suggests that the Prosecutor's Office holds a pivotal position with a crucial function in enhancing the nation's resilience.[2] This is due to the Prosecutor's Office serving as a central entity that acts as an intermediary

between the investigative and judicial phases in court proceedings and is responsible for implementing court rulings and decisions. The case procedure, *Dominus Litis*, is under the jurisdiction of the Prosecutor's Office. This institution possesses the exclusive authority to assess the admissibility of a case before it can be presented to the Court. This determination is made based on legitimate evidence stipulated by the Criminal Procedure Law.[3]

The Public Prosecution Service, endowed with specific authorities, can exercise its functions within and outside the confines of the judicial system, representing and acting on behalf of the state or government. When fulfilling its obligations and using its powers, the Prosecutor's Office assumes the role of a legal representative for the state, effectively acting as an advocate on behalf of the authorized entity or agency. The individuals responsible for executing this duty are State Attorneys (JPN). As autonomous entities, local governments frequently encounter legal challenges on policy matters and civil rights, assuming the roles of both plaintiffs and defendants. Local governments can engage the services of State Attorneys and professional lawyers to address legal matters while still acknowledging the significance of the Legal Bureau/Section within the local government structure.[4]

The Attorney General's Office of the Republic of Indonesia stands to gain advantages from the enhanced utilization of this state attorney institution. Furthermore, the State Attorney's role in maintaining a favorable perception of the prosecutor's office can yield various advantages, including cost savings in state or regional expenditures and the potential generation of non-tax state revenue through the recovery of state losses or payment of state receivables.[5] Moreover, it is stipulated in Article 32 of Regulation No. 12 of 2014 issued by the Minister of Home Affairs, which pertains to the Guidelines for Case Handling within the Ministry of Home Affairs and Local Government, that the State Attorney is authorized to handle civil and state administrative cases, alongside the Legal Bureau of the Ministry of Home Affairs, the Provincial Legal Bureau, and the Municipal District Legal Section. Concerning the contextual backdrop of the topic, the researcher is inclined to delve into matters on the autonomy and functions of the State Attorney in resolving civil and state administrative disputes involving local governmental entities.

II. METHOD

The research methodology employed in this legal study is normative juridical research. Normative legal research refers to a research methodology that involves collecting and analyzing data primarily derived from library materials, sometimes called secondary data sources.[6] The research employs inductive logic as its analytical approach. The process of logic, namely the inductive technique, encompasses the scientific method, wherein a particular set of premises is utilized to derive a sequence of conclusions or responses. The constituents of this process encompass observing, engaging in systematic research, categorizing, and documenting, with the ultimate aim of ensuring accuracy and value. Using the inductive methodology involves employing a method that aims to derive general conclusions based on specific occurrences.[4] The progression is from the specific to the general. The inductive approach is extensively employed in scientific inquiry due to its aim of deriving general conclusions from specific or concrete occurrences under investigation.

III. RESULT AND DISCUSSION

Based on the provided background information, the author of this scholarly journal aims to investigate the correlation between legal substance and the autonomy of the Prosecutor acting as a State Attorney when dealing with Civil and State Administrative cases that involve local governments.[7] Furthermore, it is imperative to examine the responsibilities of the State Attorney in addressing legal matters on local officials, as well as the challenges encountered by the State Attorney while arguing for the interests of local governments.

The Prosecutor's Office is a law enforcement agency responsible for upholding the rule of law, safeguarding the public interest, and protecting human rights. These objectives are achieved through the processes of investigation and prosecution. According to Article 30 Paragraph (2) of Law No. 16 of 2004, the Deputy Attorney General for Civil and Administrative Affairs possesses specific authority to represent the State or government in legal matters, both within and outside the court. This authority encompasses the responsibility to act on behalf of the State or government in both judicial and non-judicial settings.[8]

This paper aims to discuss the responsibilities associated with the role of the Deputy Attorney General for Civil and State Administration. According to Article 24 of Presidential Regulation No. 38 of 2010, which pertains to the Organization and Work Procedure of the Attorney General's Office of the Republic of Indonesia, the Deputy Attorney General for Civil and State Administration serves as a supplementary component of the leadership structure

responsible for executing the duties and powers of the Attorney General's Office in the realm of Civil and State Administration. The topic of discussion is the State Administration. The utilization of the Presidential rule of the Republic of Indonesia No. 38 Year 2010 and the rule of the Attorney General No. Per-025/A/JA/11/2015 on the guidelines for implementing Law Enforcement, Legal Aid, and State Administration is observed. Implementing law enforcement, legal assistance, legal consideration, other legal actions, and legal services within the realm of civil and state administration is paramount.[9]

Functionalize the implementation of the prosecutor's authority in the Civil and State Administration field, such as the functionalization or law enforcement process in general, involves at least 3 (three) interrelated factors: statutory factors, law enforcement apparatus/agency factors, and legal awareness factors. The division of these three factors can be related to the division of the legal system's three components: legal substance, legal structure, and legal culture.[10]

The Prosecutor's Office is entrusted with a crucial mission that is essential for the progress of the nation and state. This mission involves safeguarding and upholding Pancasila as the guiding philosophy of the nation, as well as ensuring legal certainty, order, justice, and truth in accordance with both legal and moral principles.[11] Furthermore, the Prosecutor's Office is obligated to delve into the societal values, laws, and justice that prevail within the community. Reside within a societal framework.

IV. CONCLUSION

New legislation, Article 18 Paragraph 2 of Law of the Republic of Indonesia Number 11 of 2021 Concerning the Amendment to Law No. 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, has amended the Prosecutor's status as a State Attorney as defined in Article 30 Paragraph (2) of that same law. The amendment forms an affirmation of the term "State Attorney." State institutions and government agencies at the central/regional level, as well as State-Owned Enterprises (BUMN) and Region-Owned-Owned Enterprises (BUMD), have the authority to have the Prosecutor's Office act on their behalf. Plaintiffs and defendants are State-Owned Enterprises (BUMN) or Region-Owned Enterprises (BUMD), with the latter operating as legal counsel or defendants' representatives. The plaintiff and the defendant are government representatives or legal representatives acting as a legal entity with extraordinary power of attorney. The government, functioning as a legal entity endowed with extraordinary power of attorney, effectively executes its responsibilities, thereby safeguarding and promoting the interests of the people and ensuring that the interests of the state or government are duly considered and defended.

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