

# The Attorney's Role in Saving State Assets as Prevention of Corruption Crimes

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**Abstract.** The Prosecutor's Office, also known as the Attorney General's Office of the Republic of Indonesia, is a government department that, along with other legal authorities, exercises state power in the field of prosecution, has a function connected to the judicial authority, including other legal powers that the Attorney has in the civil and administrative fields. State, the special authority-wielding prosecutor may represent the state or government both inside and outside of court. This research uses a library approach which includes policy documents, jurisprudence documents, scientific journals and books. As a result of not carrying out proper administration and management by the State/Regional/BUMN/BUMD property management unit, these assets are often controlled by other parties which will eventually result in a change in ownership of these assets which were previously owned by the State/Regional Assets/BUMN/ BUMD becomes assets owned by individuals or legal entities without going through the appropriate transfer process. Structuring and managing assets belonging to the State/Region/BUMN/BUMD so that the assets owned by the State/Region/BUMN/BUMD are not managed properly which can later have an impact on the loss or transfer of ownership of these assets can be avoided.

**Keywords:** Attorney, State Assets, Prevention, Corruption.

## 1. Introduction

Corruption is a problem that often harms the state and society.[1] The administration of governmental assets is one area where corruption may happen. State assets such as land, buildings and other state property are often the targets of corrupt actors who wish to make personal gains.[2]

The role of the attorney general's office as a law enforcement agency is essential in avoiding corruption in the management of public resources.[3] Deputy Prosecutor General's Office is empowered to look into, investigate, and prosecute cases of criminal misconduct, including wrongdoing involving the handling of public funds.

Additionally, by monitoring the management of state assets, the prosecutor's office can work to prevent corruption.[4] In addition to taking legal action against parties found to have engaged in corrupt conduct in the administration of public assets, Deputy Prosecutor General's Office can guarantee that the management of state assets is carried out in a transparent and responsible way.[5]

In carrying out its role, Deputy Prosecutor General's Office also cooperates with various related institutions and agencies, such as the Ministry of Finance, the National Land Agency,

and other institutions related to the management of state assets. This collaboration aims to strengthen supervision over the management of state assets and prevent acts of corruption.[6]

In order to guarantee that the administration of state assets is carried out in a transparent and responsible way and to reduce public losses resulting from acts of corruption, the prosecutor's office's involvement in protecting state assets as a corruption prevention strategy is crucial.

## **2. Methods**

In order to analyze legal norms as the subject of research, this study employs a normative legal research methodology.[7] This kind of normative legal research was chosen because it outlines a problem that will be further discussed based on legal theory and then related to relevant laws and rules. The data were then analyzed descriptively by providing explanations based on the field data.

## **3. Discussion**

In recent years, corruption has emerged as a major problem in many nations all over the world. Efforts to eradicate corruption are often focused on three main areas: prevention, eradication, and asset recovery. Asset recovery plays a crucial role in the fight against corruption, as it involves the confiscation and return of assets that were acquired through corrupt means.

The prosecutor's role in protecting state assets as a prevention of corruption is fundamental. Prosecutors play a critical role in preventing corruption by enforcing anti-corruption laws and prosecuting corrupt individuals.[8] Moreover, the prosecutor is responsible for tracking and seizing assets that have been acquired through corrupt activities. In this approach, the prosecutor establishes a strong legal deterrent and a means of punishment for those who engage in corrupt activities.[9] By ensuring that the perpetrators of corruption are held accountable for their actions and that they must return any ill-gotten gains, the prosecutor can help reduce opportunities for corruption in the future. Additionally, the prosecutor's ability to spearhead asset recovery efforts ensures that state losses are restored. This is crucial in the fight against corruption as it sends a clear message that engaging in corrupt activities will not be profitable and there will be serious consequences.

One of the law enforcement agencies that is capable of eradicating criminal acts of corruption is the Attorney General's Office of the Republic of Indonesia, which is why it is referred to as the Attorney General's Office of the Republic of Indonesia. The Examiner's Office of the Republic of Indonesia is an administration organization that activities state expert in the space of indictment as well as different specialists in view of regulation, as per Article 2 passage (1) of regulation of the Republic of Indonesia Number 16 of 2004. This article grants the Attorney General of the Republic of Indonesia the right to pursue criminal prosecutions for acts of corruption as well as a number of other authorities that support efforts to combat such crimes.

The modus operandi of corruption is increasingly sophisticated, packaged in such a way that it is not known that it is not corruption. Some of the general modus operandi of corruption found in Indonesia are as follows:

- a. Giving Bribes or Kickbacks (Bribery)

Fraud is an illegal conduct that is carried out by individuals who are either inside or outside the business with the goal of gaining individual or collective benefits at the expense of others. In general, the intensity of the occurrence of fraud in the aspects of planning, organizing, implementing activities, and supervising is in the category of "fraud ever occurred". Activities that are significant in terms of the intensity of the emergence of fraud are increasing the budget in submitting activities and using state property for personal gain. The areas of activity identified in the category of "fraud often occur", namely in the areas of licensing, procurement of goods and services, election of regional heads of staffing, maintenance of public facilities, receipt of regional income, supervision and accountability of regional heads.

b. Counterfeiting

Counterfeiting is an unlawful act in which someone intentionally creates, modifies, or uses counterfeit or unauthorized documents or items. This counterfeiting action can be carried out on various kinds of documents or goods, such as identity documents, money, signatures, and certificates. Counterfeiting can be detrimental to many parties, such as individuals, companies, to the state. This is because counterfeiting can be used for illegitimate interests, such as embezzlement, fraud, or breaching security systems. Counterfeiting also undermines public trust and can result in huge financial losses for victims. Therefore, counterfeiting is a very serious act and can be subject to severe criminal sanctions.

c. Extortion

Extortion is an act of forcing someone to pay or give a sum of money or goods or other form in exchange for a public official to do or not do something. These actions can be followed by physical threats or violence.

d. Abuse of Office or Authority

Abuse of office or authority is an act of using the authority one has to take partial or favoritism towards groups or individuals, while being discriminatory towards other groups or individuals.

e. Nepotism

In the Purwadar Minta dictionary it is written that nepotism is giving positions to relatives or friends only, while Jhon M. Echols categorizes it as a noun by prioritizing relatives, especially in granting positions. The term nepotism comes from the Latin word nepos, which means grandson. Nepotism is used as a term to describe the act of prioritizing relatives, close friends, and members of like-minded political parties, without regard to the conditions specified. So, if the family does meet the requirements then it does not include nepotism in that sense.

The office of the attorney general plays a significant part in safeguarding public property and fighting corruption. The prosecutor's office is responsible for more than only prosecuting cases of felony corruption; it also works to prevent and oversee the administration of public funds.

The following are some of the prosecutor's roles in safeguarding state assets to prevent corruption: Investigation, investigation and prosecution of corruption crimes related to the management of state assets. Investigations into criminal acts of corruption connected to the administration of public assets may be carried out by the Attorney General's Office. The prosecutor's office has the authority to bring charges against the culprits if it can be demonstrated that there was a corrupt crime committed.

Corruption in the administration of public resources must be eliminated. By monitoring the administration of state resources, the Attorney General's Office can stop corruption. The

prosecutor's office in this situation has the power to guarantee that the administration of public assets is done so in a transparent and responsible way and to pursue legal action against those who have been shown to have engaged in corrupt behavior.[9]

Supervision and monitoring of the management of state assets. The Attorney General's Office can supervise and monitor the management of state assets. This aims to ensure that the management of state assets is carried out in accordance with applicable regulations and that there are no acts of corruption committed by parties related to the management of state assets.

Collaboration with related agencies. The Attorney General's Office can cooperate with various related agencies, such as the Ministry of Finance, the National Land Agency, and other institutions related to the management of state assets. This collaboration aims to strengthen supervision over the management of state assets and prevent acts of corruption.

Article 284, paragraph (2) of the Criminal Procedure Code (KUHAP) states: " With the impermanent exemption in regards to the extraordinary arrangements for criminal methodology as expressed in specific regulations, until there is a change as well as pronounced at this point not substantial."

Examinations as per the exceptional arrangements for criminal technique as alluded to in certain regulations as alluded to in Article 284 section (2) of the Criminal Method Code are completed by specialists, investigators, and other approved agents in light of legal guidelines, as per Article 17 Unofficial law Number 27 of 1983 concerning the execution of the Criminal System Code.

Based on this clause, the role of the prosecutor as an investigator for special criminal offenses (*lex specialis*) has a legal foundation in the Criminal Procedure Code itself.

This particular provision is in line with the following from Article 26 of Law No. 31 of 1999, as amended by Law No. 20 of 2001, which deals with the eradication of crimes involving corruption: unless otherwise specified in this law, based on the applicable criminal procedure law.

The Attorney General's Office plays the roles of public prosecutor in a court case and investigator in cases involving corruption. The Criminal Methodology Code just expresses that the Examiner plays out the legal job and contains no extra standards on the place of the Investigator's Office, including regardless of whether it is an augmentation of the specialists.[10]

In accordance with the provisions of Article 18 paragraph 2 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001, the offender must make the replacement payment no later than one month after the court judgment becomes permanent. In light of these arrangements, the examiner as the agent of the court choice (Article 270 of the Criminal Method Code) will make the accompanying strides: 1. The convict will be summoned to discuss the issue of payment of replacement money. 2. Conduct negotiations regarding the willingness to pay replacement money by way of payment made by the convict in stages. 3. Conducting searches and investigations of the convict's property allegedly obtained from corruption. 4. If within the time agreed between the prosecutor and the convict, the payment of compensation money is not carried out by the convict, The prosecution will seize the defendant's property and request permission from the State Receivables and Auction Service Office (KP2LN) to sell the seized items at an execution auction. 5. As state income from the payment of replacement money, the prosecutor deposits the replacement money that has been paid by the convict or the earnings from the following execution auction into the State Treasury Office or the designated bank. 6. After all settlements for payment of replacement money have been carried out by the prosecutor, the prosecutor then makes a report on the settlement of payment of replacement money which is submitted to the court.

If in practice the replacement money has been determined and decided by the court but the defendant cannot carry out the payment of replacement money according to the time specified, then a substitute penalty will be imposed, namely an additional prison sentence in accordance with the calculation of the replacement according to the amount of replacement money that has not been paid. If the convict dies before the replacement money is paid, then the family and heirs of the convict are responsible for returning the convict's replacement money if it is proven that there are assets from the family or heirs that are the result of a criminal act of corruption.

The following information regarding replacement currency was provided to the Minister of Finance of the Republic of Indonesia by the Attorney General of the Republic of Indonesia. The decision to remove replacement currency was made in accordance with Law No. 3 of 1971, which became Law No. 31 of 1999, and underwent additional modifications to become Law 20 of 2001 concerning the Destruction of Defilement Wrongdoings: 1. Warrant for the liquidation of the convict's property; 2. Attach a statement from the lurah, or head of the village, stating that the convict does not possess any property that could be confiscated to pay compensation to the report on the distribution of the convict's property.

For compensation money paid in part by the convict, it is still proposed to abolish it through the Indonesian Attorney General by completing: 1. Receipt of replacement money payment (D3); 2. Evidence of payment of replacement money to the State Treasury; 3. Report on the disbursement of the convict's assets with an attachment to a statement from the village head or village head that the convict does not have any property that can be confiscated to pay compensation.

In the event that a criminal refuses to pay the appropriate replacement amount as determined by Law No. Law No. 31 of 1999 and 20 of 2001 concerning the destruction of defilement violations, then, at that point, there should be evidence that the guilty party has carried out a substitution punishment. This must be proven by the minutes of the implementation of a replacement sentence, if the convict is serving a sentence or has already served a sentence even though the minutes for the implementation of a substitute sentence have not been made, the KAJARI must order the Head of Special Investigation Unit or the Public Prosecutor to coordinate with the Head of the Penitentiary to obtain a statement that the convict has serve a substitute sentence. The certificate must be attached to the case file.

The public examiner is expected to do the execution of the criminal by the installment of substitution cash or substitution discipline in the event that there is no verification that the litigant has finished a substitute sentence. As per RI Unofficial law No. 14 of 2005 Administering Methods for Discounting State/Territorial Receivables, substitution cash end represented by Regulation No. 3 of 1971 and Regulation No. The law is governed by Law Number 20 of 2001 and Law Number 31 of 1999..

#### **4. Conclusion**

In the future, legal arrangements are needed related to the protection of state assets and efforts to prevent corruption based on collaboration between law enforcers in Indonesia. This is very important because attempts to embezzle state assets often occur unexpectedly. This joint effort is certainly a good intention and good faith for mutual justice.

The prosecutor's office needs adequate human resources to fulfill its duties, particularly in terms of legal expertise and knowledge. To stop corruption in the management of state assets, the prosecutor's office must also work with other institutions and the public. As a result, the

prosecutor's office can perform its function of protecting state assets to prevent corruption effectively and efficiently.

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