



## **The Authority of the Prosecutor in Conducting Investigations into Corruption Crimes According to Law Number 16 of 2004**

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### **ABSTRACT**

Corruption in Indonesia remains a persistent problem, undermining the government system, economy, and threatening social stability. This study aims to analyze the authority of prosecutors in conducting investigations into corruption crimes based on Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. The research questions in this study include: 1) How is the authority of the prosecutor's office regulated in investigating corruption crimes under Law Number 16 of 2004; 2) What is the mechanism for investigations conducted by prosecutors; and 3) What obstacles are faced by prosecutors in conducting investigations based on this law. This research uses normative and empirical legal methods. To address these issues, an empirical juridical type of research is employed, utilizing semi-structured interviews and the statute approach. The results show that Law Number 16 of 2004 provides a strong legal foundation for prosecutors to investigate corruption crimes. The authority is further regulated under Law Number 31 of 1999 on the Eradication of Corruption Crimes, as amended by Law Number 20 of 2001. This represents a significant challenge for the prosecutor's office and other law enforcement agencies to address. The role of prosecutors is specified in Article 1 point 1 of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, and their duties and functions as investigators of corruption crimes are aligned with the provisions of Article 284 paragraph (2) of the Criminal Procedure Code (KUHP) and Article 17 of Government Regulation Number 27 of 1983. The existence of various regulations granting investigative authority to other institutions also poses obstacles, leading to overlapping jurisdictions and differing perceptions in carrying out the investigative process. These issues form significant challenges to the authority of prosecutors as investigators of corruption crimes.

#### *Keyword:*

Corruption, Prosecutor's Authority, Law Number 16 of 2004.

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## INTRODUCTION

In Indonesia, corruption has become a significant issue affecting the government and society. Corruption cases involving high-ranking state officials, law enforcement officers, and government agencies have eroded public trust in state institutions (Tambunan, 2023). This has led to social unrest and eroded public morality, often resulting in pessimism about the government's ability to eradicate corruption. Furthermore, corruption has significant economic impacts, including ballooning development project costs, reduced efficiency in resource allocation, and hindrance to foreign investment, which can ultimately slow national economic growth (Gründler & Potrafke, 2019; Sabir et al., 2024). According to the Big Indonesian Dictionary (KBBI), corruption refers to the misappropriation or misuse of state funds (by companies, organizations, foundations, etc.) for personal or private gain.

Corruption is often committed by highly educated individuals, often in concert. In other words, these deviant acts, in the form of corruption, can cause misery for the ordinary people within the country (Truex, 2011; Valentina & Putera, 2013). This means that corruption has led to the deprivation of the community's economic, social, and cultural rights, thereby constituting a human rights violation. As we know, research into the criminal justice system, particularly in law enforcement, has been ongoing, focusing on combating corruption. The re-emergence of news coverage of various corruption cases in both central and regional media appears to stem from the weak penalties imposed by the judiciary against corruptors. Since 1957, efforts have been made to eradicate corruption by creating regulations that have subsequently been revised to improve them. However, the results have not met their targets; in fact, corruption continues to persist and tends to increase annually.

The facts are shown by the Indonesian Corruption Watch (ICW), which reported the potential financial losses of the State due to corruption in Indonesia over the past three years (2020-2022) shown by a trend with State losses that continue to increase, where in 2020 the potential loss of the State amounted to 18,615 trillion, with the number of cases handled by law enforcement officers amounting to 444 cases and the number of suspects amounting to 875 suspects. Then, in 2021, the potential loss to the State increased by 29,438 trillion, as did the number of cases handled by law enforcement officers and the number of suspects, specifically 533 cases and 1,173 suspects, respectively. Furthermore, in 2022, the potential loss to the State over the past three years was the largest, amounting to 47,747 trillion, with 579 cases handled by law enforcement officers and 1,396 suspects.

Among the many cases mentioned above, there are those handled by the West Sumatra High Prosecutor's Office. Acting Head of the West Sumatra High Prosecutor's Office (Sumbar), Sugeng Hariadi, stated that the case handling data for the period January to July 22, 2024, at the investigation level was 20 cases. Meanwhile, at the investigation stage, 22 cases were handled. Specifically, during the investigation stage, several cases have been identified as suspects and are being filed. At least in the last few months, there have been three cases at the West Sumatra High Prosecutor's Office Investigation level that have captured the public's attention: the first case is the alleged corruption in the procurement of practical equipment for vocational high school (SMK) students at the West Sumatra Education Office; another case at the investigation stage that attracted attention was the alleged corruption in the procurement of face shields during the COVID-19 pandemic at

the provincial BPBD; and the third case is volume two in the case of land acquisition for the construction of the Padang-Sicincin Toll Road, which is a national strategic project.

The numerous cases of uncontrolled corruption will bring disaster not only to the national economy but also to the life of the nation and state. The failure of Indonesia's political elite to make serious efforts to eradicate corruption will endanger the nation's well-being (Fritzen & Dobel, 2018; Hadi et al., 2020). The people will blame government policies for the difficulties they face, even though those difficulties are caused by corruption. Therefore, the public certainly wants corruptors to be eradicated or even destroyed, but today, corruption itself has become a culture within certain groups, making it challenging to eliminate such behavior. Therefore, the practices, habits, and rampant corruption need to be addressed immediately by making efforts to eradicate corruption more effectively. Consistent, firm, and continuous law enforcement processes are required, both through preventive efforts and enforcement.

Various regulations governing the eradication of corruption and the establishment of anti-corruption institutions have, in reality, mainly been ineffective in eradicating corruption. This demonstrates the dysfunctional political-criminal dimension of existing criminal law, particularly those governing corruption (Ramadhani et al., 2022). The stages of law enforcement aimed at eliminating corruption are carried out by law enforcement agencies, including the Police, the Prosecutor's Office, and the Corruption Eradication Commission. The first stage carried out by authorized law enforcement agencies when there is a suspicion of corruption is to conduct an investigation and inquiry.

Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia also indicates that 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 centre and serves as a filter between the investigative process and the judicial examination process, and also as an implementer of court decisions. Thus, the Prosecutor's Office, as the controller of the case process (*Dominus Litis*), is responsible 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 the Criminal Procedure Law. Based on the explanation above, the author wants to examine "The Authority of the Prosecutor in Conducting Investigations on Corruption Crimes According to Law Number 16 of 2004". 1) The limitations of the problem in this writing include: How are the regulations in the authority of the prosecutor's office in conducting investigations into corruption crimes according to Law 16 of 2004; 2) How is the mechanism for implementing investigations carried out by prosecutors in Law 16 of 2004; 3) What do prosecutors face the obstacles or constraints in conducting investigations under Law 16 of 2004?

## RESEARCH METHODS

The research method employed is a combination of normative and empirical studies, which examine the regulations of the Law and the theory of prosecutors' authority in investigating corruption crimes. The approach is legislative (*Statute Approach*). The Statute Approach involves examining regulations relevant to the prosecutor's authority in investigating corruption crimes. The types of data used by the author are 1. Primary Data Type, namely conducting direct interviews with the prosecutor who is the Head of

Investigation of the West Sumatra High Prosecutor's Office, Mr. Lexy Fatharany Kurniawan, S.H.,M.H. 2. The type of Secondary Data used consists of legal materials: 1) Primary Legal Materials Law Number 16 of 2004, Law Number 31 of 1999 in conjunction with Law Number 20 of 2001; 2) Secondary Legal Materials, namely books and scientific journals; 3) Tertiary Legal Materials in the form of online websites.

## **RESULTS AND DISCUSSION**

### **Regulations on the Authority of the Prosecutor's Office in Conducting Investigations into Corruption Crimes According to Law 16 of 2004**

The investigation process is whether an event that occurs is sufficient evidence and constitutes a crime or not, whether the offense meets the elements of criminal provisions or not, so that the final decision or verdict of the judge is also influenced by the process of collecting evidence at the investigation stage, because the error in applying the article will have fatal consequences for the subsequent law enforcement process and the inability to apply normative rules of criminal law to legal events, the concrete law that occurs will have an impact on the bluntness of law enforcement or the rampant crime, so that the dream of upholding the law will be far from hope (Nir & Liu, 2021; Sidorova & Vasilyev, 2024). Therefore, prosecution cannot be carried out before the investigation or inquiry has been conducted. The act of investigating is an effort and action to seek and find the truth about whether a crime occurred, and who committed the act. An investigation or inquiry concludes with a determination of whether a prosecution will be held for the case or not.

In the law enforcement process, investigators are the initial stage in the judicial process; therefore, this investigation process is central and is a key

stage in efforts to enforce criminal law regulations against various incidents that occur (Danil & Daulay, 2018; Sumardiana et al., 2024). Therefore, professional investigators are essential. Thus, the prosecutor's office needs to be able to handle criminal acts of corruption by the laws and regulations applicable in Indonesia (Setiyono, 2018; Susilo et al., 2024). The basis for the prosecutor's office in conducting investigations into corruption cases is stated in Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, which states that the Attorney General's Office is a government institution that exercises state power in the field of prosecution and investigation as well as other authorities based on the law. This is regulated in the Law concerning the Attorney General's Office of the Republic of Indonesia, which states that in the criminal field, the prosecutor's office has the duty and authority to conduct investigations into certain crimes based on the law.

Authority is the right to do something or order others to do or not do something to achieve a specific goal. Authority is usually associated with power. The wise use of authority is a crucial factor in achieving organizational effectiveness. Authority is used to achieve the objectives of the authorized party. Therefore, authority is usually associated with power. Based on the Attorney General's Law, the prosecutor's office must be able to spearhead law enforcement. In Law Number 16 of 2004 concerning the Attorney General's Office, it is regulated in Article 30 paragraph (1) letter d, which states: The duties and authorities of the prosecutor are "to conduct investigations into certain criminal acts based on the law." In its explanation, what is meant by 'certain criminal acts' refers to those regulated by Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, as amended by Law

Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. This is a serious challenge that must be addressed immediately by the prosecutor's office, along with other law enforcement agencies.

In the Law, there are two roles of the prosecutor's office: as a Government Institution (including in the executive field) and as an implementing authority of state power in the field of prosecution and other authorities, based on the Law (including in the judicial field). Let's look again at the text of Article 30 of Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia. It is very clearly stated that in the field of criminal corruption, the prosecutor's office has duties and authorities, including:

1. Conducting prosecution;
2. Implementing judges' decisions and court decisions that have obtained permanent legal force;
3. Conducting supervision of the implementation of conditional criminal decisions, supervision criminal decisions and conditional release decisions;
4. Conducting investigations into certain criminal acts based on the Law and;
5. Complete the case files, and for this purpose, can carry out additional examinations before submitting them to the court in coordination with the investigator.

Based on the above description, since the enactment of Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, the authority of the prosecutor's office in investigating corruption crimes has been established and remains undisputed. Considering that the authority of prosecutors as investigators to handle corruption crimes has a strong legal basis, prosecutors as investigators are indeed required to possess adequate knowledge and skills related to understanding,

comprehending, and mastering legal provisions and technological developments. This mastery is essential for the purpose of eradicating corruption to run optimally, considering that the perpetrators of corruption crimes mostly come from those with higher education.

### **The Mechanism for Implementing Investigations Carried Out by Prosecutors According to Law Number 16 of 2004**

The prosecutor, as a public prosecutor in a criminal case, must clearly understand all the work that the investigator must do from the beginning to the end, all of which must be done by the law. The prosecutor will be responsible for all treatment of the defendant, starting from the suspect being investigated, then having his case examined, then being detained, and finally, whether the charges made by the prosecutor are legal and correct or not according to the law, so that the sense of justice of the community is truly fulfilled. The role of the prosecutor in conducting the investigation and prosecution of corruption crimes by receiving reports from the public, carrying out investigative actions, checking the identity of the suspect, making arrests, detention, confiscation of goods from the suspect related to corruption crimes, bringing in experts in the examination of the case, the role of the prosecutor in the prosecution is receiving files from investigators, making indictments, submitting cases to the corruption court, delivering summonses to suspects and witnesses to come to trial.

The eradication of corruption is linked to the current trend of corruption crimes in Indonesia, which remains a worrying situation. Based on the meaning of Article 6, paragraph (1), letter b of the Criminal Procedure Code, the Prosecutor is given special authority to conduct investigations. The Prosecutor or public prosecutor is an investigator in special



crimes, but only the Prosecutor is authorized to conduct investigations. So, the authority of the Prosecutor is apparent as stipulated in Article 6 paragraph (1) letter b of the Criminal Procedure Code and the transition of HIR to the Criminal Procedure Code in Article 284 paragraph (2). The Prosecutor's function has been determined in Article 1 number 1 of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia and the duties and functions of the Prosecutor as an investigator of corruption crimes are by the provisions of Article 284 paragraph (2) of the Criminal Procedure Code and Article 17 of PP No. 27 of 1983, the Prosecutor is still authorized to conduct investigations into special crimes, and in corruption crimes. The foundation for eradicating corruption is the consistent implementation of Law Number 20 of 2001, which amends Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption.

Corruption has resulted in substantial financial losses for the state in various sectors. In handling corruption cases, in addition to the Police and the Corruption Eradication Commission, the Attorney General's Office also has the authority to conduct investigations, as stipulated in Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia. The Attorney General's Office has a dual role, acting as both investigator and prosecutor. The Attorney General's Office has procedures for handling corruption cases, which consist of several stages:

1. The pre-investigation phase, in the form of an initial review, is the planning and preparation phase in handling corruption cases. This phase will provide a clear picture of the direction in which the investigation team will proceed with the corruption case.
2. The investigation phase, in the form of investigative actions, is the stage of

building the foundation for handling corruption cases. To achieve a solid foundation, a strong foundation must be established, namely by identifying suspected corruption incidents. This phase will provide a focused description of the core issues in the corruption case being handled.

3. The investigative stage, in the form of investigative actions, is the stage of constructing a complete corruption case file. A series of warrants and minutes containing the actions and evidence obtained reflect the corruption offences with which the suspect is accused.
4. The pre-prosecution and prosecution phases, which provide guidance and opinions regarding the suitability of the investigation case files for submission to the court, are the final stages of the case files generated during the investigation phase. The paradigm developed is not to invalidate the investigation results but to improve and complete the investigation case files so that they are suitable for submission to the court.
5. The trial stage involves the Public Prosecutor presenting evidence in the case file to the court. This stage is essentially a "marketing" stage, so the Public Prosecutor's skill in presenting evidence in the case file is crucial for gaining the judge's confidence and conviction of the defendant.
6. The legal action stage is in the form of the public prosecutor's action to defend his indictment if the court's decision is deemed not to be in accordance with the demands, while in the extraordinary legal action stage, the prosecutor, in the public interest or the state's interest, defends or challenges the court's decision which has permanent legal force.
7. The execution phase involves carrying out court decisions that have become

legally binding. This phase is essentially a "sales" phase, which must satisfy stakeholders with the outcome of the corruption case handling.

However, corruption investigations involve specific deviations in the burden of proof, as the Corruption Law adheres to a limited or balanced burden of proof. The defendant has the right to prove their innocence, while the prosecutor, as the public prosecutor, remains obligated to prove the charges.

#### **Obstacles or Constraints for Prosecutors in Conducting Investigations According to Law No. 16 of 2004**

The prosecutor's authority in resolving corruption crimes is as an investigator and public prosecutor. In carrying out their duties and exercising their authority as investigators, prosecutors face various obstacles and constraints that affect the investigative process. The existence of multiple regulations regarding the authority of other institutions to conduct investigations also presents an obstacle, as it leads to overlapping authority and differing perceptions in carrying out the investigative process, and obstacles to the prosecutor's authority as an investigator of corruption crimes. In handling investigative cases, Investigating Prosecutors often face obstacles during the investigation process of corruption crimes. These obstacles arise because the investigation of corruption cases in the regions is not resolved in the usual way, but rather in an extraordinary way. Research results indicate that the most common obstacles are time management, coordination, and resistance from perpetrators of corruption.

In the process of preventing and eradicating corruption, prosecutors, as one of the law enforcement agencies authorized by law to eliminate and resolve criminal acts of corruption, are required by both the government and the public to carry out

their authority firmly and effectively, so that perpetrators of corruption can be punished according to their actions. When handling a case, law enforcement officers will undoubtedly encounter a problem or obstacle (Barbabela, 2023; Gordon, 2009; Sihombing et al., 2025). The primary obstacle prosecutors face in handling cases, particularly those involving corruption, is the lack of valid evidence. The power to search for and find valid proof is significant for a prosecutor in examining corruption cases. According to the provisions of the law, there are five valid pieces of evidence, namely: a) Witness testimony; b) Expert testimony; c) Letters; d) Instructions; e) Defendant's statement.

Evidence is the most essential thing for prosecutors in investigations, regarding valid evidence. The obstacle faced by prosecutors in investigations is obtaining valid evidence, as evidence is what prosecutors seek and need in their investigations. In handling corruption crimes by prosecutors as investigators, it is related to the strength of valid evidence based on the Criminal Procedure Code (KUHP), which is the basis for continuing a corruption case to the prosecution stage in court. With the existence of valid evidence, it can determine the settlement process and determine the suspect as quickly as possible. Proof is an activity of proving carried out by the Public Prosecutor by using evidence, and in specific ways that, according to the Law, are directed at establishing the alleged crime and are aimed at forming the Judge's belief that the suspected crime has been proven and the defendant is found guilty of committing it.

Obstacles related to legislation. Legislation concerning efforts to eradicate corruption has several weaknesses, primarily in the substance of the bill, both in terms of content and technical aspects of its implementation, which allow for inequality in eradicating corruption. This

includes the unclear division of authority between prosecutors, police, and the Corruption Eradication Commission (KPK). With the provisions in Law Number 2 of 2002 concerning the Indonesian National Police, Article 14 (g) states, "in carrying out its main duties, the Indonesian National Police is tasked with: conducting investigations and inquiries into all criminal acts by criminal procedure law and other laws and regulations". Then with the existence of regulations in Law Number 30 of 2002 concerning the Corruption Eradication Commission, which in general provides limitations to the prosecutor's office in conducting investigations, because there is an article that gives the KPK the authority to be able to take over investigations conducted by the prosecutor's office or stop the investigation process by the prosecutor's office when the investigation process by the KPK begins and which is carried out simultaneously by both the KPK and the Prosecutor's Office and the Police, this is by Article 8 paragraph 2 and Article 50 of the Corruption Eradication Commission Law. In addition, prosecutors in carrying out the investigation process have obstacles and constraints, including the following:

1. The weakness and lack of clarity in the witness protection mechanism mean that someone who is deemed to know about financial misappropriation is unwilling to be a witness and give testimony.
2. Lack of transparency of executive and legislative institutions regarding various irregularities in state financial management. The examination mechanism for executive and legislative officials also seems very bureaucratic, especially when it comes to permits for examination of officials suspected of corruption, difficulties in summoning and examining government officials, for example, such as the provisions of Article 36 paragraphs 1 and 2 of Law

Number: 32 of 2004 concerning Regional Government which states: "Investigation and inquiry actions against Regional Heads and/or Deputy Regional Heads are carried out after written approval from the President at the request of investigators." If written approval is not received within 60 (sixty) days from the date of the request, the investigation and inquiry process can proceed. Additionally, investigative actions that result in detention require written approval by the relevant provisions.

3. The moral integrity of law enforcement officers and the availability of facilities and infrastructure to support their success in conducting investigations and efforts to eradicate corruption.
4. Perpetrators of corruption generally possess a high level of education and often hold government positions, allowing them to conceal their actions and destroy evidence.
5. Calling witnesses takes a long time and is often repeated because witnesses frequently relocate, have already done so, or their testimony is complex.
6. It is challenging to find legally valid evidence, as the corruption case occurred a long time ago, and documentary evidence is unlikely to exist, given that confidential documents are likely to have been removed and destroyed.
7. It is challenging for investigators to locate the assets of suspects or their families acquired from the proceeds of corruption, as they must request information from the bank, which requires permission from the Governor of Bank Indonesia.
8. Cultural problems, where some people view corruption as something that is commonly passed down from generation to generation, in addition to the still strong culture of reluctance to implement a culture of shame.



The professionalism of prosecutors in collecting evidence for corruption cases must be meticulous and legally rigorous, without being compromised by aspects that fall outside their jurisdiction. A person with the title of prosecutor is required to provide the best for the nation and state as a form of devotion. Based on various things that can obstruct the prosecutor's authority as an investigator of corruption crimes and obstacles in the investigation process, it is felt that it will not reduce legal certainty to eradicate and ensnare perpetrators of corruption and will not reduce and limit the existence and professionalism of the prosecutor's authority in handling the corruption investigation process so that the Indonesian state can continue to develop regardless of corruption which seriously threatens the economy of the nation and state, so that a prosperous and law-abiding nation will be created.

## CONCLUSION

The Prosecutor's Office has the authority, as stipulated in Law No. 16 of 2004 concerning the Prosecutor's Office, to investigate crimes related to corruption. This authority provides the legal basis for prosecutors to undertake various investigative actions, including gathering evidence and handling corruption cases. However, in practice, several aspects require clarification and coordination with other law enforcement agencies to avoid overlapping authority. The investigative mechanism carried out by prosecutors under Law No. 16 of 2004 involves formal steps, including gathering evidence, examining witnesses, and compiling case files for submission to the court. These procedures are intended to ensure that the investigation process is conducted by legal principles and justice. Although this mechanism is relatively straightforward, its implementation frequently encounters administrative and technical challenges.

Prosecutors face various obstacles in investigating corruption crimes, including limited human resources, a lack of technical support, and obstacles in gathering evidence. Furthermore, intervention from certain parties often hinders prosecutors' independence in carrying out their duties. These obstacles can impact the effectiveness of investigations and the overall law enforcement process.

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