

Challenges of State Attorney's Authority in Handling Civil and State Administrative Cases in Indonesia

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Abstract

Prosecutors have an important role in law enforcement in society that has a strategic role and position, because they act as a filter in the investigation and examination process in court. The purpose of this study is to find and analyze the regulation of the authority of state attorneys in handling civil and state administrative cases today, to find and analyze the weaknesses of the regulation of the authority of state attorneys in handling civil and state administrative cases today, to find a reconstruction of the regulation of the authority of state attorneys in handling civil and state administrative cases based on the value of justice. The research method uses the constructivism paradigm, with a sociological legal approach method, and a descriptive research type. The types and sources of data use secondary data in the form of primary legal materials, secondary legal materials, and tertiary legal materials. The data collection method uses literature, and qualitative analysis methods. The results of the study are: 1). The regulation of the authority of state attorneys in handling civil and State Administrative cases is not yet fair, namely in the current era, there will be many activities that involve the active role of the government, both legal entities and State Administrative officials, in relations with the community. It is not uncommon for the authority of the government to be disturbed so that efforts are needed to protect and uphold the authority of the government; 2). The weaknesses of the regulation of the authority of state attorneys in handling civil and State Administrative cases currently consist of weaknesses in the aspects of legal substance, legal structure and legal culture. The weakness of the legal substance aspect is the absence of a legal statute that specifically and firmly regulates state attorneys, considering that the authority of the Prosecutor as a State Attorney in the civil field is increasingly important. The weakness of the legal structure aspect is the lack of synergy that causes overlapping authority. The weakness of the legal culture aspect is that in the current technological era, crimes can be committed through technology/electronics.

Keywords: Authority, Prosecutor, State Attorney, Civil, State Administration.

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A. BACKGROUND

The Prosecutor's Office is a law enforcement agency that has a strategic role and position, because it acts as a filter in the investigation and examination process in court, so its existence is considered to be competent in law enforcement. Law enforcement is a process of activities or activities, one of which is carried out by law enforcers (Sri Endah Wahyuningsih, Rismanto, 2015). The existence of the prosecutor's office in Indonesia is regulated in Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. The law states that the authority to exercise state power in the field of prosecution is carried out by the prosecutor's office. In addition to playing a role in criminal justice, the prosecutor's office also has other roles in the field of civil law and state administration,

namely representing the state and government in civil and state administrative cases. (Fahmi *et al.*, 2021)

The law enforcement system applied in Indonesia, specifically in the realm of criminal law, is known as the Integrated Criminal Justice System (ICJS), which consists of four components of law enforcement actors, namely judges, prosecutors, advocates, and police. Integrated criminal justice system is a criminal justice system that regulates how criminal law enforcement is carried out. This system regulates how the process of a case runs from investigation to correctional.

State Attorney (JPN) is a prosecutor who represents the government and state institutions in

various civil cases, including handling legal disputes that may involve government entities, state-owned companies, or other government agencies (Adiguna, 2021). However, these State Attorneys are often faced with challenges related to the unclear regulations that underlie their role in the civil and state administrative law systems in Indonesia (Yanto *et al.*, 2019).

According to research conducted by Kemal (2023), the legal system in Indonesia shows a gap between regulations and practices applied in the field, especially in handling cases involving public interests in the realm of state administration. In the law enforcement system, several main components need to be considered, namely legal substance, legal structure, and legal culture. Based on the theory of the legal system by L.M. Friedman, the effectiveness of a regulation is greatly influenced by these three components which support each other (Rustamaji & Mantri, 2024).

Several previous studies have stated that the challenges of state attorneys include the absence of specific and comprehensive legal substance to regulate the function of the JPN in handling civil and state administrative cases (Hermanto & Riyadi, 2020). In some cases, State Attorneys only work based on limited powers of attorney, which can limit their ability to act independently in the interests of the state (Sudirdja & Santoso, 2023). With inadequate legal substance conditions, JPNs encounter obstacles in carrying out their duties at full capacity, especially in dealing with cases with broad implications for state finances or the public interest. Another weakness that hinders the effectiveness of the JPN's role is the legal structure that does not fully support synergy between law enforcement agencies. In Indonesia, law enforcement agencies such as the prosecutor's office, police, and courts often have overlapping jurisdictions. This hampers the process of fast and efficient law enforcement (Ali *et al.*, 2021). According to research by Suyanto and Nugroho (2020), without effective collaboration between institutions, there are often delays or even conflicts in handling cases involving more than one legal institution. The legal culture in Indonesia currently does not fully support adaptation to technological developments, especially in the use of electronic evidence in civil or state administrative cases. Electronic evidence is often not recognized in court because the legal system still relies on traditional evidence such as physical documents and direct testimony (Dewi *et al.*, 2023). According to research by Naibaho *et al.*, (2021), to realize an efficient law enforcement system, recognition of electronic evidence and the development of procedures that support digital evidence are very important.

As a State Attorney, the role of the prosecutor is to protect state assets and public interests in various legal disputes. Research by Panjaitan and Mawuntu (2022) highlights that the Prosecutor's Office has an

important role in maintaining state finances and preventing abuse of authority in cases involving state interests. However, there are major obstacles in this effort due to the lack of clear regulatory support regarding the role of various state representatives in civil trials. And state administration.

B. PROBLEM FORMULATION

1. What are the challenges of the authority of the State Attorney in exercising their authority in civil and state administration cases in Indonesia?
2. What are the weaknesses of the regulation of the authority of the State Attorney in exercising their authority in civil and state administration cases in Indonesia?

C. RESEARCH METHOD

1. Research Paradigm This research uses the post-positivist paradigm, which is a research approach that emphasizes the importance of subjective interpretation in understanding legal phenomena. This paradigm focuses on the understanding that truth in legal research is not only objective, but also involves social, cultural aspects, and dynamic values of justice. The post-positivist approach allows this study to consider the social and cultural context in reconstructing JPN regulations.
2. Approach Method the approach used in this study is a normative legal approach. This method involves the analysis of library materials, laws and regulations, and legal documents related to the authority of the JPN in civil and state administrative cases. Normative legal research allows for an in-depth analysis of the structure and substance of the law underlying the duties and authorities of the JPN, while identifying aspects that need to be reconstructed in order to achieve justice.
3. Type of Research This study uses a descriptive-analytical legal research type. This type of research aims to describe and analyze the current state of JPN regulations, as well as identify weaknesses that hinder the effective implementation of JPN authority. With a descriptive-analytical approach, this study can present factual data that supports recommendations for improving regulations based on justice values.

4. Types and Sources of Data

- a. Primary Data: Primary data was collected through interviews and direct observation of legal practitioners, especially prosecutors who work in the civil and state administrative fields. This interview aims to gain a direct perspective on the obstacles faced by the JPN in carrying out its functions.

- b. Secondary Data: Secondary data includes primary legal materials, such as laws and regulations related to JPN's authority, as well as secondary legal materials that include books, journals, and other legal research documents.

5. Data Collection Methods

Data collection in this study was carried out through observation, interviews, and literature studies. Observation allows researchers to directly observe practices in the field, while interviews with prosecutors and legal practitioners provide insight into operational constraints in the implementation of JPN authority. Literature studies are used to research relevant literature and strengthen the theoretical basis in this study.

6. Data Analysis Method

The data that has been collected is analyzed using descriptive qualitative analysis. This method allows researchers to describe the data obtained from the results of interviews, observations, and literature, then compare them with existing theories. Through this descriptive analysis, the study can describe in detail the current regulatory conditions and provide relevant recommendations for the reconstruction of justice-based regulations.

D. RESEARCH RESULTS AND DISCUSSION

1. Regulation of the Authority of State Attorneys in Handling Civil and State Administrative Cases is Not Yet Just

With the motto "learning by doing" the State Attorneys will continue to gain knowledge and experience from experts, universities and law firms and conduct comparative studies to countries where the prosecutor's office has duties and functions in the civil field. The results of the work carried out by the work unit of the Deputy Attorney General for Civil and State Administrative Affairs have provided benefits that can be felt, both by state institutions or governments, departments, state-owned enterprises or regional-owned enterprises or agencies through legal services, both legitimation and non-litigation. Currently, in the organization of the Deputy Attorney General for Civil and State Administrative Affairs, the idea is being developed to make the organization of the Deputy Attorney General for Civil and State Administrative Affairs a "learning organization", namely an organization that continuously learns in order to improve and develop its work capabilities and capacities. A "learning organization" is an organization that must learn from the shortcomings and mistakes it has made and improve its performance deficiencies in order to achieve organizational goals properly.

In accordance with the reform era to eradicate corruption in order to save state finances or assets, the Deputy Attorney General for Civil and State Administrative Affairs work unit was formed to

participate in saving and restoring state finances or assets through law enforcement based on justice and truth, including by using civil and state administrative law instruments in accordance with Article 34 c of Law Number 3 of 1971, Article 18 Paragraph (1) 11 Ibid.h.6 letter b and Articles 32,33,34 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001.

2. Upholding the Authority of the State or Government

In organizing government, especially in the reform era, there will be many activities that involve the active role of the government, both legal entities and state administrative officials, in relations with the community. It is not uncommon for the authority of the government to be disturbed so that efforts are needed to protect and uphold the authority of the government. In accordance with its position based on positive law, or the JAM DATUN work unit was formed to participate in maintaining the public image and perception through the results of Legal Assistance in dealing with lawsuits for the issuance and/or cancellation of State Administrative Decisions or government actions, handling the dissolution of political parties, handling the Judicial Review of Laws or handling the Judicial Review of Legislation Under the Law, handling General Election Results Disputes or Regional Head Election Results Disputes, and providing Legal Considerations to the State or Government.

3. Protecting Public Interests

It is not uncommon for public interests to be harmed as a result of the actions of a legal entity or individual. With the formation of the Deputy Attorney General for Civil and State Administrative Affairs, it is hoped that the Prosecutor's Office can also play a role in protecting public interests.

The objectives of the Deputy Attorney General for Civil and State Administrative Affairs or the State Attorney Attorney which are the basis and guidelines that must be used as a reference in carrying out the duties and functions of the Deputy Attorney General for Civil and State Administrative Affairs (JAM DATUN) work unit are as follows:

1. Ensuring the Upholding of the Law

As with the objectives of law in general, the objectives of Civil Law and State Administrative Law are to realize justice (philosophical), maintain order and legal certainty (juridical) and protect public interests (sociology), so that the law needs to be enforced so that the objectives of the law can be realized and maintained. In this case, the Deputy Attorney General for Civil and State Administrative Affairs (JAM DATUN) work unit is also responsible for enforcing law in the field of civil and state administrative affairs as a representative or acting for and on behalf of the State, government and public interests.

2. Saving State Assets

In accordance with the demands of the reform era to eradicate corruption in order to save state finances or assets, the Deputy Attorney General for Civil and State Administrative Law (JAM DATUN) work unit was formed to participate in saving and restoring state finances or assets through law enforcement based on justice and truth, including by using Civil and State Administrative Law instruments in accordance with Article 34 c of Law Number 3 of 1971, Article 18 Paragraph (1) letter b and Articles 32, 33, 34 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption.

3. Upholding the Authority of Government

In organizing government, especially in the reform era, there will be many activities that involve the active role of the government, both legal entities and State Administrative officials, in relations with the community. It is not uncommon for the authority of the government to be disturbed so that efforts are needed to protect and uphold the authority of the government.

1. Protecting Public Interests

It is not uncommon for Public Interests to be harmed as a result of the actions of a legal entity or individual. With the establishment of the Deputy Attorney General for Civil and State Administrative Affairs (JAM DATUN) work unit, it is hoped that the Attorney General's Office can play a role in protecting public interests and recovering losses caused by unlawful acts.

The Deputy Attorney General for Civil and State Administrative Affairs (JAM DATUN) work unit has both external and internal characteristics.

1. External Function

Related to the duties of law enforcement authority, legal assistance, legal considerations, legal services and other legal actions, the work unit of the Deputy Attorney General for Civil and State Administrative Affairs (JAM DATUN) has functions including;

- a. Canceling a marriage conducted before an unauthorized civil registrar, an invalid marriage guardian or without the presence of two witnesses (Law Number 1 of 1974). 13 Direction of the Deputy Attorney General for Civil and State Administrative Affairs.
- b. Requesting the court to declare a state of bankruptcy against an individual or legal entity for the public interest (Law Number 4 of 1998).
- c. Filing a lawsuit for payment of compensation for a court decision that has permanent legal force in a corruption case. An example of a case is the case of Dr. Ir. Arie Lastario Kusumadewa, Msc, where the person concerned was sued by the prosecutor's office to pay compensation of

Rp.300,000,000,- (three hundred million rupiah), because based on the Decision of the Supreme Court of the Republic of Indonesia Number 1396/K/Pid/1994 the person concerned was sentenced to pay compensation in the amount of that amount, and never fulfilled his obligation to pay off the compensation.

- d. File a lawsuit for compensation, restoration costs and other legal actions arising from unlawful acts that cause financial losses or state assets. An example is the case of the broken submarine cable in Surabaya belonging to PT. PLN (Persero), where the company that damaged it (the defendant) was punished by paying compensation equal to the losses incurred.
- e. Provision of assistance and legal services to state institutions and government agencies both as plaintiffs and defendants in civil courts and as defendants in state administrative courts.
- f. Fostering cooperation, implementing coordination, providing advice, considerations, guidance and technical instructions in handling civil and State Administration cases with related agencies at the center and in the regions based on laws and regulations and policies set by the Attorney General.
- g. Implementation of legal actions inside and outside the court, representing the civil interests of the state, government and society both based on position and special powers at home or abroad;

2. Internal Function

This internal function is managerial in nature, as an effort so that the duties and authorities of the Deputy Attorney General for Civil and State Administration (JAM DATUN) can be implemented optimally.

- a. Formulation of technical policies for civil and state administration judicial activities in the form of providing guidance and coaching in their field of duty.
- b. Planning, implementing and controlling activities, implementation, implementation, assistance, consideration and legal services, implementation of lawsuits for compensation for court decisions, lawsuits for damages and other legal actions against acts that are detrimental to state finances, representing and defending the interests of the state and government and their administration;
- c. Fostering cooperation, implementing coordination, providing advice, considerations, guidance and technical instructions in handling civil and State Administrative cases by State Attorneys, in accordance with 14 Ibid, p.12 with laws and policies implemented by the Attorney General;

- d. Fostering cooperation with related agencies and investigators and public prosecutors in handling cases that cause financial/economic losses to the State. Implementation of legal actions inside and outside the court, representing the civil interests of the State, government and society, both based on position and special powers at home or abroad.

Regulation of the authority of state attorneys and attorneys in handling civil and state administrative cases is not yet fair, in the current era, there will be many activities that involve the active role of the government, both legal entities and State Administrative officials, in relations with the community. It is not uncommon for the authority of the government to be disturbed so that efforts are needed to protect and uphold the authority of the government. It is not uncommon for the Public Interest to be harmed as a result of the actions of a legal entity or individual. By involving state attorneys in handling civil and state administrative cases, it is hoped that the Prosecutor's Office can play a role in protecting public interests and recovering losses caused by unlawful acts.

3. Challenges of State Attorneys in exercising their authority in civil and state administrative cases in Indonesia

The Prosecutor's Office has independence and independence in exercising state power in the field of prosecution. The position of the Prosecutor's Office as a government institution that exercises state power in the field of prosecution, when viewed from the perspective of position, means that the Prosecutor's Office is an institution that is under the executive power. Meanwhile, when viewed from the perspective of the prosecutor's authority in carrying out prosecution, it means that the Prosecutor's Office exercises judicial power. In relation to the meaning of the Prosecutor's power in exercising state power in the field of prosecution independently. The Prosecutor's Office in carrying out its functions, duties and authorities is free from the influence of government power, and the influence of other powers. This means that the state will guarantee Prosecutors in carrying out their profession without intimidation, interference, temptation, inappropriate interference or disclosure that has not been proven true, both for civil, criminal, and state administrative responsibilities.

The position of the Prosecutor's Office in criminal justice is decisive because it is a bridge that connects the investigation stage with the examination stage in court. Based on the applicable legal doctrine, a principle that the Public Prosecutor has a monopoly on prosecution, meaning that every person can only be tried if there is a criminal charge from the Public Prosecutor, namely the prosecutor's office because only the Public Prosecutor has the authority to bring a suspect of a crime to court. In 2004, with the issuance of Law Number 16

of 2004, the position of the prosecutor further emphasized the position of the Prosecutor as a functional official who is authorized by law to act as a Public Prosecutor and Executor of Court Decisions that have obtained permanent legal force and other authorities based on the Law. Amendments to the 1945 Constitution of the Republic of Indonesia, Law Number 4 of 2004 concerning Judicial Power and several new laws, and based on the development of the legal needs of society and state life, Law Number 5 of 1991 concerning the Prosecutor's Office of the Republic of Indonesia underwent comprehensive changes by forming a new law, namely the Law on the Prosecutor's Office of the Republic of Indonesia. The amendment to the Law on the Attorney General's Office of the Republic of Indonesia further expands the authority of the Attorney General's Office of the Republic of Indonesia as a state government institution that exercises state power. In addition to playing a role in the field of prosecution, it is also given other authority as a plaintiff or defendant in Civil and State Administrative cases which are carried out independently, regardless of the influence of government power and the influence of other powers.

The Attorney General's Office as one of the law enforcement institutions is required to play a greater role in carrying out its professional duties, will submit to and obey the oath or promise, as well as the prosecutor's code of ethics. This code of ethics is a guideline or instruction in carrying out its daily duties which are commonly called "Tri Krama Adhyaksa".

According to Liliana Tedjosaputro, "Tri Krama Adhyaksa" is the foundation of the soul of every Adhyaksa citizen in achieving their noble ideals, embedded in the "trapsila" called "Tri Krama Adhyaksa" which includes three krama, namely First, *Stya*, meaning loyalty that is based on a sense of honesty both towards God Almighty, towards oneself and family and towards fellow human beings. Second, *Adhy*, meaning perfection in carrying out duties which is mainly based on a sense of responsibility towards God Almighty, family and fellow human beings. Third, *Wicaksana*, meaning wise in speech and behavior, especially in the application of power and authority. Based on the Law on the Attorney General's Office of the Republic of Indonesia, it is clear that the function of the attorney general's office is to uphold the supremacy of law, protect public interests, enforce human rights, and eradicate corruption, collusion, and nepotism. Therefore, it is necessary to organize the attorney general's office to adapt to the changes that occur by giving special authority, in carrying out its functions, duties, and authority, the Attorney General's Office of the Republic of Indonesia as a government institution that exercises state power in the field of prosecution must be able to realize legal certainty, legal order, justice and truth based on law and respect religious norms, politeness, and morality, and

must explore the values of humanity, law and justice that live in society.

The Prosecutor's Office must also be able to be fully involved in the development process, including by helping to create conditions that support and secure the implementation of development to realize a just and prosperous society (welfare state) based on Pancasila, and is obliged to help maintain and uphold the authority of the government and state and protect the interests of the community. A comparison of regulations regarding the duties and authorities of the Republic of Indonesia Prosecutor's Office can be seen normatively in several provisions of the Republic of Indonesia Prosecutor's Office Law. The authority of the prosecutor's office as stated in Article 30 is:

1) In the criminal field, the Prosecutor's Office has the following duties and authorities:

- a) Carrying out prosecutions;
 - b) Carrying out the determination of judges and court decisions that have obtained permanent legal force;
 - c) Carrying out supervision of the implementation of conditional criminal decisions, supervisory criminal decisions, and conditional release decisions;
 - d) Carrying out investigations into certain crimes based on the law;
 - e) Completing certain case files and for that purpose can carry out additional examinations before being transferred to the court, the implementation of which is coordinated with investigators;
- 2) In the field of Civil and State Administration, the Prosecutor's Office with special powers can act inside and outside the court for and on behalf of the state or government;

3) In the field of public order and security, the Prosecutor's Office also organizes the following activities:

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

Article 33 of the Indonesian Prosecutor's Office Law stipulates that, in carrying out its duties and authorities, the Prosecutor's Office also fosters cooperative relations with law enforcement and justice agencies and other state agencies or agencies. Then Article 54 stipulates that the Prosecutor's Office can provide considerations in the legal field to other government agencies. In the Explanation of the Law on

the Attorney General of the Republic of Indonesia, it is stated that the things that have been improved include:

- 1) The Attorney General's Office as a government institution that exercises state power in the field of prosecution, it is emphasized that the state's power is exercised independently. Therefore, the Attorney General's Office in carrying out its functions, duties, and authorities is free from the influence of government power and other powers. Furthermore, it is determined that the Attorney General is responsible for the prosecution carried out independently for the sake of justice based on law and conscience. Thus, the Attorney General as the head of the Attorney General's Office can fully formulate and control the direction and policy of handling cases for the success of the prosecution;
- 2) To form a professional prosecutor, various levels of education and experience must be taken in carrying out functions, duties, and authorities. In accordance with the professionalism and function of the prosecutor's office, it is determined that the prosecutor is a functional position. Thus, the retirement age for prosecutors which was originally 58 (fifty-eight) years is set to 62 (sixty-two) years;
- 3) The authority of the Prosecutor's Office to conduct investigations into certain crimes is intended to accommodate several provisions of laws that give the Prosecutor's Office authority to conduct investigations, for example Law Number 26 of 2000 concerning the Human Rights Court, Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended by Law Number 20 of 2001, and Law Number 30 of 2002 concerning the Corruption Eradication Commission;
- 3) The Prosecutor's Office is a government institution that exercises state power in the field of law enforcement by adhering to laws and regulations and policies set by the government. Thus, the Attorney General is appointed and dismissed by the President and is responsible to the President; and
- 4) In the field of civil and state administration, the Prosecutor's Office has the authority for and on behalf of the state or government as a plaintiff or defendant, which in its implementation not only provides considerations or defends the interests of the state or government, but also defends and protects the interests of the people.

The prosecutor can act for and on behalf of the state as a result of the expansion of the authority of the Prosecutor's Office as the State Attorney, if the state becomes a party to a civil lawsuit and if a citizen or legal entity asks a state administrative judge to test whether the administrative action taken against him by a government official is valid or lawful.

The authority of the Prosecutor as a State Attorney in the civil field is increasingly important. Where one of the efforts to return assets resulting from corruption is based on civil law, played by the Prosecutor with the title of State Attorney. Assets resulting from corruption are state assets or wealth that are threatened with the right to be returned to the state through the State Attorney (JPN). State assets or wealth include all state rights that can be valued in money, other objects, both movable and immovable, which can be formulated in the form of the State Revenue and Expenditure Budget (APBN) and the Regional Revenue and Expenditure Budget (APBD), and also includes Non-Tax State Revenue (PNBP).

The State Attorney is authorized to act to defend the rights of the state, to seize wealth or assets resulting from corruption, is not a new problem or thing because it has become law based on the Koninklijk Besluit dated April 27, 1922, it is not clear why until 1977 this function was forgotten. Thanks to the strict case screening policy (refusing to become a defender of weak cases), so far the Prosecutor has almost always won in civil cases. Thus the prosecutor can act as a plaintiff and also as a defendant.

The provisions regarding other bodies are emphasized in Article 38 of Law Number 48 of 2009 concerning Judicial Power. Provisions regarding other bodies whose functions are related to judicial power include the Indonesian National Police, the Republic of Indonesia Prosecutor's Office and other bodies regulated by law. Furthermore, Law of the Republic of Indonesia Number 16 of 2004 concerning the Republic of Indonesia Prosecutor's Office Article 2 states that: "A Prosecutor is a functional official who is appointed and dismissed by the Attorney General. In carrying out the task of prosecution, the Prosecutor acts for and on behalf of the state, with conviction based on valid evidence and for the sake of justice and truth based on the Almighty God.

In carrying out his duties and authorities, the prosecutor always acts based on the law and respects religious norms, decency, and morality and is obliged to explore the values of humanity, legal values and values of justice that exist in society."

Observing the contents of Article 2 of Law Number 16 of 2004 above, several things can be identified, namely: 1) The Prosecutor's Office as a government institution; 2) The Prosecutor's Office exercises power (authority) in the field of prosecution and other authorities based on the Law; 3) The power (authority) is exercised independently; 4) The Prosecutor's Office is one and inseparable. Law Number 5 of 1991 concerning the Prosecutor's Office of the Republic of Indonesia, Article 2, emphasizes that: 1) The Prosecutor's Office of the Republic of Indonesia

hereinafter in this Law is referred to as the Prosecutor's Office, is a government institution that exercises state power in the field of prosecution; 2) The Prosecutor's Office is one and inseparable in carrying out From the provisions of Article 2 Paragraph (1) and (2) of Law Number 5 of 1991, several things can be concluded, namely: 1. The Prosecutor's Office as a government institution; 2. The Prosecutor's Office exercises power (authority) in the field of prosecution; 3. The Prosecutor's Office is one and inseparable. The explanation in Article 2 Paragraph 1 of this Law explains that the Prosecutor's Office is the only government institution implementing state power that has duties and authorities in the field of prosecution in enforcing law and justice in the general court environment.

Then the Explanation of Article 2 Paragraph (2) states that what is meant by "The Prosecutor's Office is one and inseparable" is the basis for implementing its duties and authorities in the field of prosecution which aims to maintain the unity of policy in the field of prosecution, so that it can display characteristics that are united in the mindset, behavior, and work procedures of the prosecutor's office. Therefore, the prosecution activities in court by the Prosecutor's Office will not stop just because the prosecutor who was originally on duty is prevented. In such a case, the prosecution duties by the Prosecutor's Office will still be carried out even by a Substitute Prosecutor.

Law Number 15 of 1961 concerning the Main Provisions of the Republic of Indonesia Prosecutor's Office, Article 1 Paragraph (1) confirms that the Republic of Indonesia Prosecutor's Office, hereinafter referred to as the Prosecutor's Office, is a state law enforcement apparatus whose main duty is as a Public Prosecutor. Paragraph 2 states that the Prosecutor's Office in carrying out its duties always upholds the basic rights of the people and state law. Article 3 stipulates that the Prosecutor's Office is one and cannot be separated. Looking at the provisions of Article 1 and Article 3 of the law, several important things can be drawn, namely: 1. The Prosecutor's Office as a state law enforcement tool 2. The main task of the Prosecutor's Office is as a public prosecutor 3. The Prosecutor's Office must uphold the basic rights of the people and the law of the state 4. The Prosecutor's Office is one and cannot be separated The General Explanation of the Law explains that the Indonesian Prosecutor's Office, like other state tools, is a tool of revolution to carry out national development that plans to achieve a just and prosperous society based on Pancasila or an Indonesian Socialist society that fulfills the mandate of the people's suffering, because the Republic of Indonesia is a country of law, all actions taken by the Prosecutor's Office to uphold the basic rights of the people and the law of the state. The Explanation of Article Paragraph 2 states that the term "uphold" includes the meaning of "providing protection". Meanwhile, in the Explanation of Article 3

Paragraph 1 it is stated that in carrying out their duties, Prosecutor's Office officials must respect the hierarchical relationship in their work environment. If the three Laws regarding the position of the Indonesian Prosecutor's Office in law enforcement in Indonesia above are compared, there appear to be some similarities but there are also differences, namely: 1. The similarities of the three Prosecutor's Office Laws (Law No. 16 of 2004, Law No. 5 of 1991, and Law No. 15 of 1961) relating to the position of the Prosecutor's Office are first, the Prosecutor's Office exercises the main power (authority) in the field of prosecution; 2. The similarities of Law No. 16 of 2004 and Law No. 5 of 1991, namely that the Prosecutor's Office is a government institution that exercises state power in the field of prosecution. Different from the provisions of Law No. 15 of 1961 which emphasizes that the Prosecutor's Office is a state law enforcement tool that primarily serves as a public prosecutor; 3. The difference between Law No. 16 of 2004 and Law No. 5 of 1991 and Law No. 15 of 1961 lies in the element that "power (authority) is exercised independently". Law No. 16 of 2004 explicitly stipulates that the prosecutor's office has independence and autonomy in exercising state power in the field of prosecution, while Law No. 5 of 1991 and Law No. 15 of 1961 do not regulate this; 4. Another difference is that Law No. 15 of 1961 explicitly states that the prosecutor's office must uphold the basic rights of the people and state law, while Law No. 16 of 2004 and Law No. 5 of 2004 and Law No. 5 of 1991 do not emphasize this. According to the explanation above, in relation to the meaning of the Attorney's power in exercising state power in the field of prosecution independently, the explanation of Article 2 Paragraph 1 of Law No. 16 of 2004 explains that the Attorney's Office in carrying out its functions, duties, and authorities is free from the influence of government power and the influence of other powers. This provision aims to protect the profession of Attorney as outlined in the "Guidelines on the Role of Prosecutors and the International Association of Prosecutors". Furthermore, in the General explanation of Law Number 16 of 2004, it is stated, among other things, that the enactment of this Law is for the renewal of the Attorney's Office, so that its position and role as a government institution are more solid and can carry out the power of 26 States in the field of prosecution, which is free from the influence of the power of any party. In other words, the Prosecutor's Office, in carrying out its duties, should be independent and free from the influence of government and other powers in its efforts to realize legal certainty, legal order, justice and truth by respecting religious norms, decency and morality, and must explore the values of humanity, law and justice that exist in society.

If the position of the Prosecutor's Office as a government institution is associated with the authority of the Prosecutor's Office to exercise state power in the field of prosecution independently, there is a

contradiction in its regulation (Dual Obligation). Linked in this way, it is impossible for the Prosecutor's Office in carrying out its functions, duties, and authority to be independent of other power regulators, because the position of the Prosecutor's Office is under the executive power. This conclusion is further strengthened by the position of the Attorney General, as the leader and highest person responsible in the field of prosecution, as a State Official who is appointed and dismissed by and is responsible to the President. In the context of Government Management Science, the Attorney General, as a subordinate of the President, must be able to do three things, namely: 1. Describe instructions, directions, and various other forms of policies from the President in his duties and authorities in the field of law enforcement. 2. Implement the instructions, directions, and various policies of the President that have been described. 3. Secure the instructions, directions, and various policies of the President that are temporary and have been implemented. The dedication, loyalty, and credibility of the Attorney General before the President are measured by the extent to which the Attorney General is able to do these three things, what is certain is that the Attorney General must try to do these three things to show his dedication, loyalty, and credibility as the bearer of state power in the field of law enforcement. This is where the tendency of the Attorney General's Office to not be independent in carrying out its functions, duties, and authorities lies. The implication is that justice, legal certainty, and the usefulness (benefit) of the law which are the Legal Ideals of the Indonesian nation, as well as the objectives of the law which should be realized in the life of the nation and state, are only ideals and far from reality. Based on the explanation above, it can be said that Law Number 16 of 2004 places the Attorney General's Office in an ambiguous position. On the one hand, the Attorney General's Office is required to carry out its functions and authorities independently, on the other hand, the Attorney General's Office is 28 shackled because its position is under the executive power. This is where, among other things, the weaknesses of this law lie. If the government (President) is truly committed to upholding the supremacy of law in Indonesia, it is not a problem if the Prosecutor's Office remains within the executive branch, as long as the Prosecutor's Office is empowered by being given broad and large but professional authority and responsibility. If the Government does not have such a commitment, it would be better if the Prosecutor's Office, as one of the law enforcement institutions, was positioned as an independent and autonomous "state agency" rather than a government institution that is not under executive power, or under other powers, so that the Prosecutor's Office is independent and free, in the sense that it is not influenced and/or influenced, in implementing law enforcement in Indonesia.

The weakness in terms of legal substance is the absence of a legal statute that specifically and firmly

regulates state attorney prosecutors, considering that the authority of the Prosecutor as a State Attorney in the civil field is increasingly important. Where one of the efforts based on civil law is played by the Prosecutor with the title of State Attorney Prosecutor.

D. CONCLUSION

1. The regulation of the authority of state attorneys in handling civil and state administrative cases is not yet fair because in the current era, many activities involve the active role of the government, both legal entities and state administrative officials, in relations with the community. It is not uncommon for the authority of the government and the public interest to be harmed as a result of the actions of a legal entity or individual so that efforts are needed to protect and uphold the authority of the government. With the involvement of state attorneys in handling civil and state administrative cases, it is hoped that the Prosecutor's Office can also play a role in protecting the public interest and recovering losses caused by unlawful acts.
2. The weaknesses of the regulation of the authority of state attorneys in handling civil and state administrative cases currently consist of weaknesses in the aspects of legal substance, legal structure and legal culture. The weakness in the aspect of legal substance is the absence of a legal umbrella that specifically and firmly regulates state attorneys, considering that the authority of the Prosecutor as a State Attorney in the civil field is increasingly important. Where one of the efforts based on civil law is played by the Prosecutor with the title of State Attorney. The weakness in the aspect of legal structure is the lack of synergy that causes overlapping authority. The State Attorney is a prosecutor with special powers who has prosecutorial duties and authorities on behalf of the state or government in the fields of civil and state administrative. Only prosecutors who are structurally and functionally able to become state attorneys. In Presidential Regulation of the Republic of Indonesia Number 38 of 2010 concerning the Organization and Work Procedures of the Attorney General of the Republic of Indonesia Article 24 paragraph (2) there are duties and authorities of the junior attorney general for civil and state administration which explain: "The scope of the Civil and State Administration sector as referred to in paragraph (1) includes law enforcement, legal assistance, legal considerations, and other legal actions to the state or government, including state institutions/agencies, central and regional government institutions/agencies,

State/Regional Owned Enterprises in the field of civil and state administration to save, restore state assets, uphold the authority of the government and state and provide legal services to the community." The weakness of the legal culture aspect is that in the development of the current technological era, crimes can be committed through technology/electronics, so that the evidence must also experience progress, namely in electronic form which must go through various proof mechanisms. It can be said that in terms of legal culture in Indonesia, in terms of proof, this weakness includes the evidence used in criminal proof is still limited to the Criminal Procedure Code and the culture of law enforcement in Indonesia is still positivistic.

3. The government together with the legislative institution should reconstruct Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia in Article 18 Paragraph 2, and reconstruct the Regulation of the Attorney General's Office of the Republic of Indonesia Number 7 of 2021 concerning Guidelines for the Implementation of Law Enforcement, Legal Aid, Legal Considerations, Other Legal Actions, and Legal Services in the Civil and State Administrative Fields Article 1 Paragraph 1.
4. In carrying out duties as a state attorney in terms of legal counseling and mediation steps for civil cases, it should be more active considering that many people still do not know the role and existence of state attorneys.

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