



ENFORCEMENT OF STATE LAW BY THE REPUBLIC OF INDONESIA ATTORNEY GENERAL'S OFFICE IN THE PERSPECTIVE OF LAW NUMBER 16 OF 2004

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ABSTRACT

KEYWORDS

Enforcement of Constitutional Law, Attorney General's Office of the Republic of Indonesia, Law Number 16 of 2004

The Republic of Indonesia is a country with a constitutional system that is governed by the Indonesian Constitution. It is an independent and effective law enforcement agency in Indonesia. This paper aims to explore the enforcement of state law by the Prosecutor's Office of Indonesia (Kejaksaan RI) in the perspective of Law Number 16 of 2004. It focuses on the mechanisms, practices, and effectiveness of this enforcement from a legal and procedural standpoint. The research may offer insights into the interpretation and application of this law, identify challenges, and suggest potential improvements or reforms in the enforcement process. It provides a solid legal foundation for the Attorney General's office of Indonesia to carry out its duties as a policing in upholding justice and legal sovereignty in Indonesia's established framework. It emphasizes the crucial role of the Penal Service of Indonesia in constitutional law enforcement, including prosecuting crimes that harm the interests of the state or the public. Ensuring constitutional law enforcement is crucial for maintaining legal stability, eradicating corruption, improving governance, and strengthening public trust. Indonesia can achieve effective enforcement through strengthening regulations, coordination between legal institutions, and government, and by enhancing capacity and resources through training, education, professional development, interagency cooperation, and transparency and accountability.

INTRODUCTION

The Head legal officer's Office of the Republic of Indonesia is an essential piece of the legal framework in Indonesia, with the essential obligation regarding arraignment, policing, lawful assurance of the interests of the state and society. First and foremost, the presence of the Principal legal officer's Office of the Republic of Indonesia is unequivocally managed in the 1945 Constitution of the Republic of Indonesia. Article 24B passage (1) of the 1945 Constitution expresses that the principal legal officer's office is a free state foundation entrusted with practicing state power in the field of arraignment in court. This affirms that the Principal legal officer's Office of the Republic of Indonesia has a reasonable and significant situation in Indonesia's established framework. Also, in completing its obligations, the Principal legal officer's Office of the Republic of Indonesia has expansive power directed in Regulation Number 16 of 2004 concerning the Head legal officer's Office of the Republic of Indonesia. Article 5 of the law makes sense of that the Head legal officer's Office of the Republic of Indonesia is entrusted with practicing state power in the field of public criminal arraignment and helping policing, well as doing different obligations and specialists given by regulation (Rachman, 2008).

The Head legal officer's Office of the Republic of Indonesia likewise has the power to manage examinations led by the police. According to Article 30 of Law No. 16 of 2004, the Attorney General's Office of the Republic of Indonesia has oversight authority over police investigations. This exhibits the place of the Principal legal officer's Office of the Republic of Indonesia as an autonomous supervisor of policing Indonesia. As a free state establishment,

the Head legal officer's Office of the Republic of Indonesia likewise assumes a part in giving legitimate contemplations to the public authority. According to Article 31 of Law No. 16 of 2004, the Attorney General's Office of the Republic of Indonesia offers legal considerations for any government policy plans that call for legal considerations (Hendarman, 2005). In doing its obligations, the Principal legal officer's Office of the Republic of Indonesia (*Kejaksaan RI*) is straightforwardly responsible to the Leader of the Republic of Indonesia. Article 6 of Regulation Number 16 of 2004 states that the Principal legal officer's Office of the Republic of Indonesia is an organization straightforwardly responsible to the President. It shows that the Principal legal officer's Office of the Republic of Indonesia is essential for the official arrangement of administration in Indonesia.

The implementation of protected regulation by the Principal legal officer's Office of the Republic of Indonesia (*Kejaksaan RI*) is a pivotal part of maintaining legitimate sway and equity in Indonesia. Regulation Number 16 of 2004 concerning the Principal legal officer's Office of the Republic of Indonesia fills in as the essential establishment controlling the job and authority of *Kejaksaan RI* in completing its obligations with regards to protected policing. The law provides a strong legal basis for *Kejaksaan RI* to carry out its law enforcement functions. As an independent law enforcement institution, *Kejaksaan RI* has clear authority to prosecute legal violations that harm the interests of the state and society. The law provides a framework for *Kejaksaan RI* to investigate and prosecute crimes such as corruption and other offenses that harm the state. This is in line with the government's commitment to eradicate corruption and ensure justice for all Indonesian citizens (Diokomulya, 2012).

From the perspective of Law Number 16 of 2004, the Attorney General's Office of the Republic of Indonesia (*Kejaksaan RI*) plays a crucial role in providing legal considerations to the government regarding policies that require in-depth legal analysis. This reflects the importance of *Kejaksaan RI* as a legal advisor to the government in making decisions related to legal aspects. The law also regulates the authority of *Kejaksaan RI* to oversee investigations conducted by the police. Thus, *Kejaksaan RI* can ensure that the investigation process is carried out transparently, professionally, and by applicable law. Through Law Number 16 of 2004, *Kejaksaan RI* is granted the authority to carry out its duties independently and autonomously without interference from other parties. It is important to ensure that law enforcement is conducted objectively and is not influenced by political interests or specific parties. Therefore, *Kejaksaan RI* can fulfill its role as an effective and professional law enforcement agency in the context of Indonesia's constitutional system (Abraham, 2007).

The authorization of sacred regulation by the Principal legal officer's Office of the Republic of Indonesia (*Kejaksaan RI*) by Regulation Number 16 of 2004 mirrors the state's obligation to maintaining equity, lawful sway, and assurance of the interests of the state and society. Article 1 Section (1) of Regulation Number 16 of 2004 characterizes *Kejaksaan RI* as a free state establishment entrusted with practicing state power in the field of arraignment in court. It gives serious areas of strength for a to *Kejaksaan RI* to complete its obligations as a policing with a reasonable situation in Indonesia's constitutional system. Article 5 of the law asserts that *Kejaksaan RI* is tasked with exercising state power in public criminal prosecution, assisting law enforcement, and carrying out other duties and authorities provided by law. It emphasizes the crucial role of *Kejaksaan RI* in constitutional law enforcement, including prosecuting crimes that harm the interests of the state.

Article 30 of Law Number 16 of 2004 grants authority to *Kejaksaan RI* to oversee investigations conducted by the police. Thus, *Kejaksaan RI* can ensure that the investigation process is conducted objectively, transparently, and by applicable legal provisions. Article 31 of the law regulates that *Kejaksaan RI* provides legal considerations for any government policy plans that require legal considerations. It indicates that *Kejaksaan RI* plays a role as a legal advisor to the government in decision-making related to legal aspects. Article 6 of Law Number

16 of 2004 confirms that *Kejaksaan RI* is an institution directly accountable to the President (Isra, 2010). It indicates that the Attorney General's Office of the Republic of Indonesia (*Kejaksaan RI*) operates within the context of a presidential system of government in Indonesia, where its existence and performance support the effective and efficient functioning of governance. Thus, through these regulations, the Indonesian General Attorney's Office has a strong foundation in carrying out its role as a law enforcement agency from the perspective of Indonesia's constitutional system.

The implementation of protected regulation by the Head legal officer's Office of the Republic of Indonesia (*Kejaksaan RI*) is upheld by different arrangements in the Lawbreaker Code (KUHP) and different guidelines administering the obligations and specialists of *Kejaksaan RI*. For instance, the Criminal Code's Article 1 paragraph 1 states that anyone who commits a crime on Indonesian soil is subject to Indonesian law. This gives a legitimate premise to *Kejaksaan RI* to indict culprits of violations that hurt the interests of the state. Article 22 of the Criminal Code regulates the authority of *Kejaksaan* in criminal prosecution. According to this article, *Kejaksaan* has the authority to prosecute crimes that harm public interests, including corruption and other crimes that harm the state. This provides a clear legal basis for *Kejaksaan RI* in enforcing constitutional law.

Besides, different guidelines, for example, Regulation Number 31 of 1999 concerning the Annihilation of Defilement and Regulation Number 20 of 2001 concerning Revisions to Regulation Number 31 of 1999 concerning the Destruction of Debasement likewise order *Kejaksaan RI* to arraign instances of defilement that damage state funds. Different guidelines, for example, Regulation Number 5 of 1999 concerning the Denial of Syndication Practices and Out of line Business Contest award position to *Kejaksaan RI* to make a move against culprits of restraining infrastructure rehearses and unjustifiable business rivalry that hurt the interests of the state and society. *Kejaksaan RI* has a solid legal foundation for enforcing constitutional law thanks to a number of regulations and provisions in the Criminal Code. This ensures that *Kejaksaan RI* can effectively and efficiently carry out its responsibilities in the fight against crime and to safeguard society's and the state's interests (Balbeid & Suantra, 2017).

In its endeavors to destroy opiates violations, the Indonesian Examiner's Office is likewise upheld by Regulation Number 35 of 2009 concerning Opiates which gives the Indonesian Investigator's Office an order to indict culprits of opiates wrongdoings by pertinent guidelines. It shows the job of the Indonesian Examiner's Office in safeguarding the interests of the state and society from the risks of opiates and keeping everything under control and security in Indonesia. Not just that, different guidelines, for example, Regulation Number 32 of 2004 concerning Local Government give the Indonesian Investigator's Office the position to manage the execution of provincial government obligations and give legitimate contemplations to forestall deviations and infringement of regulation that are negative to the interests of the state (Gustina, 2015). This reflects the role of the Attorney General's Office of the Republic of Indonesia (*Kejaksaan RI*) in safeguarding the integrity and effectiveness of local governance across Indonesia. With support from various regulations, *Kejaksaan RI* has a solid legal foundation in carrying out its duties as law enforcement in the context of the constitutional system. The existence of these regulations strengthens the position of *Kejaksaan RI* as an institution responsible for protecting the interests of the state, ensuring justice, and maintaining order and stability in Indonesia.

According to Article 2 paragraph 2, Law No. 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia has ensured the independence of the prosecution in the performance of its duties. However, in subsequent provisions, the position of the prosecution cannot be separated from the executive branch. Thus, in the performance of its duties, the prosecution is often confronted with issues of independence in achieving its tasks, as the prosecution cannot entirely detach itself from the influence of the executive branch. It

often leads to perceptions of being unprofessional prosecution. Besides independence issues, the prosecution is also unresistant from the issue of judicial mafia, and it can even be a promoter of judicial misconduct. Additionally, the prosecution faces threats to itself or even to its family when handling certain cases (Asshiddiqie, 2009). Given such realities, on one hand, the prosecution serves as a law enforcement agency that must be professional and independent in its efforts to uphold the supremacy of the law. However, the function and position of prosecutors, who are under the executive branch, place them in a dilemma when it comes to enforcing the law.

In addition to the regulations mentioned earlier, the Attorney General's Office of the Republic of Indonesia (*Kejaksaan RI*) is also reinforced by various government policies and programs that support efforts to enforce constitutional law. The Indonesian government consistently reaffirms its commitment to strengthening law enforcement institutions to address various legal challenges, both national and international. One example of such policy is the Law and Judiciary Reform Program aimed at enhancing efficiency, accessibility, and fairness within Indonesia's judicial system. *Kejaksaan RI* actively participates in this program by implementing various internal reforms and enhancing the capacity of legal personnel to improve the quality of law enforcement in Indonesia. Collaboration between *Kejaksaan RI* and other law enforcement agencies, such as the Indonesian National Police (Polri) and the National Narcotics Agency (BNN), also plays a crucial role in strengthening constitutional law enforcement (Anwar, 2019). The cross-institutional collaboration enables the exchange of information, coordination of actions, and implementation of joint operations in dealing with various types of crimes that harm the interests of the state and society.

The research aims to explore the enforcement of state law by the Republic of Indonesia attorney general's office in the perspective of Law Number 16 of 2004. Specifically, it aims to explore the mechanisms, practices, and effectiveness of this enforcement from a legal and procedural standpoint. The research may offer insights into the interpretation and application of this law, identify challenges, and suggest potential improvements or reforms in the enforcement process.

RESEARCH METHOD

The sort of examination is Elucidating Exploration. The qualitative and conceptual approaches are the ones taken. The information source utilized is auxiliary information. Data analysis is conducted descriptively and qualitatively (Sugiyono, 2019). The conclusion is conducted using the deductive method, which means concluding the general to the specific, especially those connected with the examination subject, which is the Requirement of Sacred Regulation by the Principal legal officer's Office of the Republic of Indonesia in the Viewpoint of Regulation Number 16 of 2004. Qualitative data analysis is performed when the empirical data obtained consists of a collection of tangible words rather than a series of numbers and cannot be organized into categories. Data can be collected in various ways (observation, interviews, document analysis, and tape recordings) (Moleong, 2007). It is usually processed first before being used in qualitative research, including the transcripts of the interviews, the reduction, analysis, and interpretation of the data, as well as triangulation.

RESULTS AND DISCUSSION

Implications of Constitutional Law Enforcement by the Prosecutor's Office of the Republic of Indonesia in the Perspective of Law Number 16 of 2004

The ramifications of the implementation of established regulation by the Principal legal officer's Office of the Republic of Indonesia (*Kejaksaan RI*) in the viewpoint of Regulation Number 16 of 2004 are exceptionally huge. This law provides a solid legal foundation for *Kejaksaan RI* to carry out its duties as an independent and effective law enforcement agency

in upholding justice and legal sovereignty in Indonesia. One of the main implications of the enforcement of constitutional law by *Kejaksaan RI* is the creation of legal stability and security in society. With a clear legal foundation through Law Number 16 of 2004, *Kejaksaan RI* can effectively enforce the law and ensure that any legal violations harming the interests of the state and society are addressed firmly and fairly (Rachman, 2008). Furthermore, the enforcement of constitutional law by the Attorney General's Office of the Republic of Indonesia (*Kejaksaan RI*) also has positive implications for combating corruption and other crimes that harm the state. Law Number 16 of 2004 grants authority to *Kejaksaan RI* to prosecute perpetrators of corruption and other crimes, signaling a strong commitment by the state to combat all forms of corruption and crimes that harm the interests of the state and society.

In relation to the Attorney General's Office of the Republic of Indonesia, Law No. 16 of 2004, Article 30 paragraph (2) states that "In civil and state administrative matters, the Attorney General with special authority may act within or outside the court for and on behalf of the state or the government." Based on *Staatsblad* No. 522 of 1922, the Attorney General's Office is tasked with functions in the field of civil law. Furthermore, in the Civil Code (*Burgerlijke Wetboek*), provisions regarding the duties and authorities of the Attorney General in civil matters are included, such as the authority of the Attorney General to submit applications to the Court to order the Estate Office to manage the assets and interests of individuals who have left their place of residence without notifying their new address and without any news (Article 463 of the Civil Code).

The duties and authorities of the prosecution in maintaining public order and tranquility, as well as the general tasks of government and development in the field of law, should be preventive and educative in nature. However, the duties and authorities of the prosecution in the field of intelligence need to be reviewed because the values contained in these regulations do not align with the current development of the Indonesian nation. At present, Indonesia highly values the freedom of its citizens to actualize and express themselves in social and communal life (Soemantri, 1983). The task and authority of prosecutors to create public order and tranquility are misplaced, as these should be the primary responsibilities of the Police, not the Prosecutor's Office.

The enforcement of constitutional law by the Attorney General's Office of the Republic of Indonesia (*Kejaksaan RI*) also has implications for the creation of good governance. By providing legal considerations to the government in every policy plan requiring legal considerations, *Kejaksaan RI* can help ensure that government policies are implemented by legal principles and do not harm the interests of the state and society. Furthermore, another implication is the increase in public trust in the institution of the prosecution. By carrying out its duties by Law Number 16 of 2004, *Kejaksaan RI* can strengthen its image and integrity as a professional, independent, and highly-integrity law enforcement institution in maintaining order and justice in Indonesia (Saragih, 2018). Thus, it can be concluded that enforcement of constitutional law by the Prosecutor's Office of the Republic of Indonesia in the perspective of Law Number 16 of 2004 has very important implications in maintaining legal stability, eradicating corruption, improving good governance, and increasing public trust in the prosecutor's institution.

The Urgency of Constitutional Law Enforcement by the Prosecutor's Office of the Republic of Indonesia in the Perspective of Law Number 16 of 2004

The authorization of protected regulation by the Head legal officer's Office of the Republic of Indonesia (*Kejaksaan RI*) in the viewpoint of Regulation Number 16 of 2004 holds undeniable urgency in maintaining stability, legal sovereignty, and justice in Indonesia. This law provides a crucial legal foundation for *Kejaksaan RI* to fulfill its role as an independent and effective law enforcement institution. First and foremost, this urgency is evident in the

context of safeguarding the legal integrity of the state. Law Number 16 of 2004 provides a solid legal basis for *Kejaksaan RI* to uphold legal regulations and bring about justice within society. Thus, the enforcement of constitutional law through this law becomes an unshakable foundation in ensuring that the law is upheld fairly and impartially. Secondly, this urgency is also related to the eradication of corruption and other crimes that harm the interests of the state. Law Number 16 of 2004 grants broad authority to *Kejaksaan RI* to prosecute perpetrators of corruption and other criminal acts (Syamsudin, 2011). It is very important considering that corruption has become a serious threat to the country's stability and development. With strong enforcement of constitutional law, the Indonesian Prosecutor's Office can give a firm signal that acts of corruption will not be tolerated in the country.

Thirdly, the urgency of enforcing constitutional law by the Attorney General's Office of the Republic of Indonesia (*Kejaksaan RI*) is related to the development of good governance. Through its authority to provide legal considerations on government policies, *Kejaksaan RI* helps ensure that every decision made aligns with legal principles and does not contradict the interests of the state and society. It supports the creation of a transparent, accountable, and efficient government. Additionally, this urgency is reflected in efforts to strengthen public trust in the institution of the prosecution. By carrying out its duties by Law Number 16 of 2004, *Kejaksaan RI* can enhance its image and integrity as a clean, professional, and highly-integrity law enforcement institution. It is essential to ensure that the public feels safe and confident that the law is enforced fairly and without discrimination (Jati & Trilaksana, 2013). Therefore, it can be concluded that the enforcement of constitutional law by the Attorney General's Office of the Republic of Indonesia in the perspective of Law Number 16 of 2004 is of utmost importance in maintaining the legal integrity of the state, combating corruption, promoting good governance, and strengthening public trust in the institution of the prosecution.

The enforcement of constitutional law by the Attorney General's Office of the Republic of Indonesia (*Kejaksaan RI*) in the perspective of Law Number 16 of 2004 has undeniable urgency, supported by various articles and provisions in the Criminal Code (KUHP). Articles in the Criminal Code provide a strong legal basis for *Kejaksaan RI* to enforce the law in the context of constitutional law. One example is Article 107 of the Criminal Code, which regulates the crime of corruption. This article provides a legal basis for *Kejaksaan RI* to prosecute perpetrators of corruption that harm the interests of the state. Thus, *Kejaksaan RI* can effectively combat corruption, which poses a serious threat to the stability and development of the country. Additionally, Article 111 of the Criminal Code regulates the crime of fraud that harms the finances of the state or the public (Sumadi, 2016). This article provides a legal basis for the Attorney General's Office of the Republic of Indonesia (*Kejaksaan RI*) to prosecute perpetrators of fraud that harm the interests of the state or the public. This is important in ensuring that law enforcement is carried out comprehensively to protect the interests of the state and society.

However, in practice, challenges still exist, including uncertainty in the interpretation of laws and differences of opinion among courts in Indonesia. It emphasizes the importance of consistency and clarity in law enforcement. By strengthening regulations and improving coordination between legal institutions, the government, and relevant parties, Indonesia can ensure effective law enforcement in the implementation of foreign arbitration decisions. By overcoming these challenges and strengthening the legal infrastructure supporting the resolution of business disputes through arbitration, Indonesia can enhance investor confidence, attract foreign investment, and promote sustainable economic growth. It will have significant positive impacts on overall economic stability and international trade growth (Andriansyah, 2014).

Strengthening law enforcement in implementing foreign arbitration decisions in Indonesia also requires concrete steps to strengthen existing regulations and legal

infrastructure. Article 218 of the Criminal Code (KUHP) is also relevant in the context of constitutional law enforcement, which regulates embezzlement that harms state finances or the property of others. *Kejaksaan RI* can use this article as a legal basis to prosecute perpetrators of embezzlement that harm the interests of the state or society. Furthermore, various other articles in the Criminal Code such as Article 263 on embezzlement of state funds, Article 364 on theft or destruction of state property, and Article 405 on abuse of authority also provide a legal basis for *Kejaksaan RI* in enforcing constitutional law. With the support of various articles in the Criminal Code, *Kejaksaan RI* has a strong legal basis to carry out its duties in enforcing constitutional law. This provides confidence that law enforcement is carried out fairly, effectively, and transparently for the benefit of the state and society (Gunawan, 1994).

CONCLUSION

The Principal Legal Officer of the Republic of Indonesia (Kejaksaan RI) is responsible for enforcing constitutional law, which is vital for the country's sustainable development and societal welfare. However, the prosecutor's office faces freedom issues due to its presidential branch location, which may make it appear amateurish. To improve Kejaksaan RI's performance, three recommendations should be made: strengthening capacity and resources through training, education, and professional development, enhancing interagency cooperation with other law enforcement agencies, and improving transparency and accountability. These measures will help strengthen public trust in the institution and ensure its professional, independent, and integrity operations.

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