

The Politics of Prosecutorial Independence in Anti-Corruption Policy

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Abstract

The independence of the Attorney General's Office in Indonesia remains weak due to persistent political influence, as the Attorney General is appointed by the President. Despite reform initiatives since 2000, including the establishment of reform teams, these efforts have yet to create a professional and independent institution, particularly in the prosecution of corruption. This study analyzes the institutional position of the Prosecutor's Office and propose new legal policy directions to enhance its independence in combating corruption. Using a normative legal method with statutory and comparative approaches, the research examines prosecutorial systems in various countries to identify best practices. The findings reveal that prosecutors' law permits executive intervention because of the absence of clear constitutional provisions defining the Attorney General's Office. Its ambiguous status between the executive and judiciary weakens professionalism and accountability. Therefore, a constitutional amendment is necessary to establish the Prosecutor's Office as an independent state institution, with explicit regulations on its authority, accountability, appointment and dismissal procedures, and qualifications and tenure of the Attorney General. Strengthening the Prosecutor's role as *dominus litis* within an integrated justice system also requires enhancing transparency, public participation, reforming internal legal culture, and adopting international best practices.

Keywords: Corruption; Independent; Policy; Prosecutorial;



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Introduction

The 1945 Constitution's Article 1, paragraph (3) affirms Indonesia's status as a country founded on the rule of law. Power is exercised by the law rather than solely based on power (*machstaat*).¹ The principle of legal certainty based on the characteristics of a country derived from the principle of an independent judiciary, as per Scheltema. The law is designed to ensure that the dynamics of community life are predictable by achieving legal certainty

¹ Reza Octavia Kusumaningtyas and James Kalimanzila, 'The Impact of Tax Incentive on Increase Foreign Direct Investment', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.2 (2023), 51–63 <https://doi.org/10.53955/jsderi.v1i2.7>

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and high predictability. Consequently, the principles of legality, constitutionality, and the supremacy of law are inextricably linked.²

Article 24 of the 1945 Constitution established a normative foundation for implementing judicial authority to realize the principle of an independent judiciary, thereby ensuring the continued existence of Indonesia as a country based on law. The 1945 Constitution's Article 24 paragraph (3) mandates that other entities associated with judicial authority are subject to legal oversight, including the Prosecutor's Office. The 1945 Constitution does not mention the Prosecutor's Office; however, its function is associated with judicial authority. Article 38, paragraph (2) of Law Number 48 of 2009 on judicial power is another regulation governing other judicial control bodies.³ The regulation defines "other bodies related to judicial power" as those performing investigative, prosecutorial, enforcement, legal aid, and extra-judicial dispute resolution functions.⁴

The Prosecutor's Office of the Republic of Indonesia (hereinafter referred to as the Prosecutor's Office) is a law enforcement institution component of the Integrated Criminal Justice System. According to Article 30 paragraph (1) of Law Number 16 of 2004, the Prosecutor's Office is a law enforcement institution responsible for conducting prosecution, executing judges' decisions with permanent legal force, and investigating specific criminal acts as prescribed by the law. The Prosecutor's Office hold legal authority to investigate specific criminal offenses, including corruption cases, as stated in the explanation of Article 30 paragraph (1). The Prosecutor's Office and Bank Indonesia as non-part of the cabinet structure; they have evolved into two distinct institutions that fulfill their responsibilities.⁵

The President prioritized the independence of Bank Indonesia to strengthen the national economic conditions. Governor of Bank Indonesia was removed from the cabinet structure, due to the economic and political conditions of the era as regulated in Article 23D of the 1945 Constitution. The independence of the Prosecutor's Office was not affected by this constitution. The concept of incorporating regulations regarding the Prosecutor's Office into the Draft Amendment to Chapter IX of the 1945 Constitution concerning Judicial Power was developed, but it did not receive support. The concept of

² Fitri Nur Aini Prasetyo and Abdul Kadir Jaelani, 'The Changing of Environmental Approval Administrative Law Perspective', *Journal of Human Rights, Culture and Legal System*, 2.3 (2022), 191–208 <https://doi.org/10.53955/jhcls.v2i3.55>

³ Jenifer Sevilla, Asianto Nugroho, and Arida Turymshayeva, 'The Effectiveness of Accelerating Stunting Reduction Policy', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.2 (2024), 132–47 <https://doi.org/10.53955/jsderi.v2i2.31>

⁴ Abdul Kadir Jaelani and Resti Dian Luthviati, 'The Crime Of Damage After the Constitutional Court's Decision Number 76/PUU-XV/2017', *Journal of Human Rights, Culture and Legal System*, 1.1 (2021) <https://doi.org/10.53955/jhcls.v1i1.5>

⁵ Gengrui Zhang and Hans-Arno Jacobsen, 'Prosecutor: An Efficient BFT Consensus Algorithm with Behavior-Aware Penalization against Byzantine Attacks', in *Proceedings of the 22nd International Middleware Conference* (New York, NY, USA: ACM, 2021), pp. 52–63 <https://doi.org/10.1145/3464298.3484503>

independence was revived during the law's drafting in the Prosecutor's Office. However, it was not successfully implemented in the regulations of the appointment and dismissal of the Attorney General, as the case with the Chief of the Indonesian National Police. The regulation's weakness is the abstract provisions, which the implementation is heavily reliant on the commitment of the President and the Attorney General. Specifically, the Attorney General's Office can operate independently of the President's political interests and interference. Additionally, the Attorney General's accountability report must be submitted to the President by Article 37, paragraph (2) of Law Number 16 of 2004.⁶

Constitutional amendments must be implemented to establish the independent Prosecutor's Office and enhance its function and status. To ensure the freedom of the Prosecutor's Office, the 1945 Constitution and its organic laws are reformulated to establish the Prosecutor's Office as a law enforcement instrument.⁷ The Prosecutor's Office success in conducting investigations, prosecutions, and implementing court decisions that have permanent legal force for corruption crimes in Indonesia is significantly influenced by the legal substance and culture of the system of law enforcement institutions, the Prosecutor's Office.⁸

The legal substance subsystem is showed through the legal norms of the Prosecutor's Office Law to fulfill its responsibilities and enforce the law on corruption offenses. The legal structure subsystem encompasses the availability of prosecutors as investigators, public prosecutors, executors of judges' decisions, the availability of support for administrative staff, the adequacy of the budget for case management, the adequacy of support for facilities, infrastructure in the process of investigation, prosecution, and the execution of judges' decisions that have permanent legal force. The legal culture subsystem comprises the doctrine, values, and code of ethics of prosecutors, which serve as guidelines for the conduct of prosecutors in the execution of their responsibilities and the authority to conduct investigations, inquiries, prosecutions, and the execution of judges' decisions that have permanent legal force in corruption cases.⁹

⁶ Kay Levine and Ronald F. Wright, 'Models of Prosecutor-Led Diversion Programs in the United States and Beyond', *SSRN Electronic Journal*, 2020 <https://doi.org/10.2139/ssrn.3601930>

⁷ Ponco Hartanto and others, 'Corruption Policy Challenges in Combating Land Mafia: Experiences from Several Countries', *Journal of Human Rights, Culture and Legal System*, 4.3 (2024), 521-654 <https://doi.org/10.53955/jhcls.v4i3.233>

⁸ Asep Bambang Hermanto and Bambang Slamet Riyadi, 'Constitutional Law on The Discretionary of Prosecutor's Power Against Abuse of Power Implications of Corruption Culture in The Prosecutor's Office Republic of Indonesia', *International Journal of Criminology and Sociology*, 9 (2022), 763-72 <https://doi.org/10.6000/1929-4409.2020.09.71>

⁹ Jawade Hafidz and others, 'The Corruption Reduction with an Administrative Law Approach: Evidence from Australia', *Journal of Human Rights, Culture and Legal System*, 4.3 (2024), 822-41 <https://doi.org/10.53955/jhcls.v4i3.396>

The recent research on Model Anti-Corruption in Prosecutor Countries, such as Ukraine, has established anti-corruption laws that govern the National Anti-Corruption Bureau of Ukraine (NABU), the National Agency for the Prevention of Corruption (NACP), and the Supreme Anti-Corruption Court (SAC) ¹⁰. In contrast, certain countries, such as the European Union, have implemented a more comprehensive approach, which involves the integration of anti-corruption laws with broader legal frameworks to guarantee coherence and efficacy. These laws provide the legal foundation for investigations and prosecutions and define the scope of anti-corruption initiatives. ¹¹ The effectiveness of prosecutorial institutions is also significantly influenced by their organizational structure. For example, certain countries have implemented hybrid models that incorporate components of both single and multiple agency models ¹². This approach allows for flexibility and adaptability, but it requires strong coordination mechanisms to ensure effectiveness.

Accountability mechanisms are essential for ensuring that prosecutorial institutions remain effective and free from corruption. Key mechanisms include Internal oversight mechanisms, such as internal audits and ethics committees, which are crucial for maintaining accountability within prosecutorial institutions. For example, the ACRC in South Korea has established internal oversight mechanisms to ensure transparency and accountability.¹³ External oversight mechanisms, such as parliamentary committees and civil society organizations, provide an additional layer of accountability. In Ukraine, civil society organizations have played a significant role in monitoring the activities of anti-corruption agencies, and transparency in the operations of prosecutorial institutions is another essential accountability mechanism. For instance, the use of electronic systems for public procurement and property management in Ukraine has enhanced transparency and reduced corruption. ¹⁴.

¹⁰ Maksym Komarov, 'COMPARATIVE ANALYSIS OF ANTI-CORRUPTION LEGISLATION OF UKRAINE AND EU COUNTRIES: IMPLEMENTATION AND ADAPTATION OF BEST PRACTICES', *Modern Scientific Journal*, 4.2 (2024), 50–56 <https://doi.org/10.36994/2786-9008-2024-4-7>

¹¹ Dmytro S. Melnyk and others, 'Practice of the Member States of the European Union in the Field of Anti-Corruption Regulation', *Journal of Financial Crime*, 29.3 (2022), 853–63 <https://doi.org/10.1108/JFC-03-2021-0050>

¹² Marjorie Marona and Fábio Kerche, 'From the Banestado Case to Operation Car Wash: Building an Anti-Corruption Institutional Framework in Brazil *', *Dados*, 64.3 (2021) <https://doi.org/10.1590/dados.2021.64.3.244>

¹³ Chu Li, 'Addressing Public Interest Violation Through Independent Anti-Corruption Bodies -A Case Study of the Anti-Corruption and Civil Rights Commission in South Korea', *Lecture Notes in Education Psychology and Public Media*, 21.1 (2023), 42–51 <https://doi.org/10.54254/2753-7048/21/20230046>

¹⁴ Oleksandr Kotukov and others, 'The Effectiveness of the National Anti-Corruption Policy of Ukraine', *Revista Amazonia Investiga*, 12.66 (2023), 304–13 <https://doi.org/10.34069/AI/2023.66.06.28>

Improvements can be proposed for the structure and governance of prosecutorial institutions. The modular approach to anti-corruption enforcement, as seen in South America, allows for flexibility and adaptability in addressing corruption. This approach can be adopted in other regions to enhance the effectiveness of anti-corruption efforts. Political will is a critical factor in the success of anti-corruption efforts. For instance, Singapore and Hong Kong have demonstrated strong political commitment to combating corruption, which has been instrumental in their success. The capacity of anti-corruption institutions should be enhanced through training, resources, and technology. The use of advanced investigative tools and techniques has significantly improved the effectiveness of anti-corruption agencies in Brazil. Civil society organizations play a crucial role in monitoring and supporting anti-corruption efforts. Their involvement should be encouraged and supported through legal frameworks and institutional mechanisms.¹⁵

The Prosecutor's Office level of public trust is lower than that of the Corruption Eradication Commission (KPK). The Prosecutor's Office is perceived as not being independent by specific individuals because the Attorney General, a member of a particular political party, serves as its leader. The public perception of the effectivity of Prosecutor's Office in combating corruption is exacerbated by this circumstance. The public perception that the Prosecutor's Office has not functioned effectively and efficiently in eradicating corruption, which has led to the perception that the office performance in eradicating corruption is not optimal, is a highly relevant and intriguing research object from a scientific perspective. Consequently, to guarantee the effectiveness and integrity of anti-corruption enforcement, establishing an institutional paradigm for the prosecutor office is imperative to ensure professionalism and independence.¹⁶ This study evaluates and develops an optimal institutional framework for the prosecutor's office that facilitates its function as an independent and professional law enforcement agency dedicated to eradicating corruption.

Methodology

Qualitative sociological and legal knowledge encompasses all Indonesian national laws and regulations.¹⁷ In non-doctrinal research, the law is not a set of rules but regulations in the domain of experience or everyday life. This investigation is a problem-solving approach that is designed to enumerate and subsequently clarify existing issues, as indicated by the research

¹⁵ Oleksandra Zakharova and others, 'Comparative Legal Analysis of the Anti-Corruption Policy in Ukraine and Poland', *Cuestiones Políticas*, 39.69 (2021), 91-114 <https://doi.org/10.46398/cuestpol.3969.05>

¹⁶ Yogi Yasa Wedha and others, 'Unraveling the Complex Policies Regulating Conflicts of Interest and Criminal Corruption', *Journal of Human Rights, Culture and Legal System*, 5.1 (2025), 33-59 <https://doi.org/10.53955/jhcls.v5i1.486>

¹⁷ Ahmad Dwi Nuryanto and Abdul Kadir Jaelani, 'The Role of State Official Wealth Report in Realizing the Principles of Maqashid Sharia', *Legality: Jurnal Ilmiah Hukum*, 32.1 (2024), 155-81 <https://doi.org/10.22219/ljih.v32i1.32879>

objectives that are to be accomplished.¹⁸ The study constitutes prescriptive-evaluative research on the institutional model of the prosecutor's office as a professional and independent state institution in prosecuting corruption offenses. Qualitative methods intend to generate descriptive data in written or spoken words from individuals and observed behavior. The qualitative approach is applying to pursue the development of their perspectives, which are meticulously examined and formed through comprehensive words and images.¹⁹

Results and Discussion

Urgency of Prosecutorial Empowerment in Combating Corruption

Since the reform's inception in 2000, initiatives have been implemented to reform the Prosecutor's Office and initiate the change process. This initiative studies various issues and presents recommendations for changes to the Prosecutor's Office. Various parties conduct the research and receive occasional support from the Prosecutor's Office leadership. The Audit of Governance in the Prosecutor's Office of the Republic of Indonesia (2001), the Agenda for (2003), the Blueprint for Reform (2005), and the Assessment of the Agenda for Reform (2005 and 2007) are among the numerous significant documents in the reform process that demonstrate the Prosecutor's Office dedication to reform. In addition, the Prosecutor's Office Reform Team is an entity responsible for coordinating the reform process within the Prosecutor's Office, as established by the Attorney General's Office.²⁰

Nevertheless, the reform process has become increasingly intricate due to various factors. The operational budget of the Prosecutor's Office has been further reduced due to the deteriorating economic situation in Indonesia, and prosecutors are not receiving sufficient compensation. Furthermore, the Prosecutor's Office is confronted with inadequate resources to satisfy the minimum infrastructure and service requirements necessary for the office to operate effectively. Even though the Prosecutor's Office has been engaged in bureaucratic reform for an extended period, these efforts have not yet addressed the office's lack of professionalism and independence in prosecuting corruption cases. The Prosecutor's Office has not demonstrated

¹⁸ Sapriani Sapriani, Reza Octavia Kusumaningtyas, and Khalid Eltayeb Elfaki, 'Strengthening Blue Economy Policy to Achieve Sustainable Fisheries', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.1 (2024), 1–19 <https://doi.org/10.53955/jsderi.v2i1.23>

¹⁹ Orin Gusta Andini and Muhammad Riyan Kachfi Boer, 'Indonesia's Safeguarding of Human Rights to Achieve Sustainable Development Goals: Insights from Australia's Experience', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.1 (2025), 1–28 <https://doi.org/10.53955/jsderi.v3i1.53>

²⁰ Kalani C. Johnson and others, 'An Overview of Prosecutor-Led Diversion Programs: A New Incarnation of an Old Idea', *Justice System Journal*, 41.1 (2020), 63–78 <https://doi.org/10.1080/0098261X.2019.1707136>

increased professionalism or autonomy in managing corruption cases despite issuing numerous "law in the books" provisions to reform the office.²¹

The attributive relationship between the 1945 Constitution and Law Number 16 of 2004 concerning the Prosecutor's Office is the source of the legal obstacles to empowering the Prosecutor's Office in handling corruption cases. However, there are substantive weaknesses in Law Number 16 of 2004 concerning the Prosecutor's Office inhibiting factors in eradicating corruption.²² The authority of the Indonesian Attorney General's Office has been explicitly regulated by Law Number 16 of 2004. However, various parties have debated the duties and authority to investigate specific criminal acts based on the law. Nevertheless, some believe this provision can create legal uncertainty because the authority to investigate corruption offenses is vested in the Explanation rather than the norm. Placing the Attorney's authority to investigate corruption offenses in the Explanation also generates debate.²³

Additionally, the Constitutional Court Decision No. 28/PUU-V/2007 affirmed that Article 30 paragraph (1) letter d of Law Number 16 of 2004 regarding the Indonesian Attorney General's Office, which grants the Attorney General's Office investigative as well as prosecutorial authority, is not conflict with the 1945 Constitution. Additionally, in international practice, it is permissible for the Attorney General to supervise the legality of investigations, supervise the execution of court decisions, and perform other duties as advocates for the public interest, as the Attorney General is the primary entity responsible for criminal prosecution. The substantive limitation of Law Number 16 of 2004 regarding the Indonesian Attorney General's Office is not guarantee the principle of independence, in context of combating corruption.²⁴

The lack of professionalism and independence of Attorney General's Office's largely attributable to the absence of constitutional regulation regarding its institutional status, which currently places it under executive control. The prosecutorial power has been granted autonomy by Law Number 16 of 2004 regarding the Attorney General's Office.²⁵ However, the

²¹ Belén Lowrey-Kinberg, Jon Gould, and Rachel Bowman, "Heart and Soul of a Prosecutor": The Impact of Prosecutor Role Orientation on Charging Decisions', *Criminal Justice and Behavior*, 49.2 (2022), 239–58 <https://doi.org/10.1177/00938548211041645>

²² Bambang Sugeng Rukmono, Pujiyono Suwadi, and Muhammad Saiful Islam, 'The Effectiveness of Recovering Losses on State Assets Policy in Dismissing Handling of Corruption', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 299–330 <https://doi.org/10.53955/jhcls.v4i2.259>

²³ Robert C. Davis and others, 'A Multisite Evaluation of Prosecutor-Led Pretrial Diversion: Effects on Conviction, Incarceration, and Recidivism', *Criminal Justice Policy Review*, 32.8 (2021), 890–909 <https://doi.org/10.1177/08874034211000403>

²⁴ Heru Setiawan and others, 'Digitalization of Legal Transformation on Judicial Review in the Constitutional Court', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 263–98 <https://doi.org/10.53955/jhcls.v4i2.263>

²⁵ Cahya Intan Ayuningsekar, Abdul Kadir Jaelani, and Sapto Hermawan, 'Legitimacy Principle of Equality in Collection of Rural and Urban Land Tax', *Journal of Sustainable*

law has a lacuna that allows the government to intervene in the prosecutorial power. This is attributable to the President's authority to appoint and dismiss the Attorney General. This analysis underscores the continuing need to reformulate the legal and regulatory frameworks governing the independence of the Attorney General, as existing provisions have yet to establish an optimal model of prosecutorial autonomy within Indonesia's constitutional system.²⁶ Consequently, it is imperative to establish a system that minimizes the encroachment of executive power into prosecutorial power. The independence of the Attorney General, as outlined in Article 2 paragraph (2) and its explication, may be jeopardized by the Indonesian system of appointing and dismissing the Attorney General by the President. The Prosecutor's Office has frequently been used as a weapon of the ruler's interests since the pre-independence era. Consequently, habit patterns have been established to accept executive interests through legal and illegal interventions.²⁷

The independence of Prosecutor's Office is also significantly impacted by the placement of the Attorney General as a cabinet member or a ministerial official from a cultural perspective. To ensure genuine prosecutorial autonomy, it is essential to reconfigure the Prosecutor's Office as an institution separate from the executive branch. This necessitates a comprehensive restructuring through amendments to the 1945 Constitution and its implementing legislation, establishing the Prosecutor's Office as an independent organ of law enforcement.²⁸ The definition of judicial power outlined in the amended 1945 Constitution must be reviewed, as the power of prosecution is a component of judicial power. An integrated criminal law enforcement system is the actual location of judicial authority in criminal law enforcement. This integration mutually influences and controls institutions within the criminal law enforcement system. This reasoning necessitates the inclusion of the investigative and prosecutorial powers in the Judicial Power chapter of the 1945 Constitution in the event of a prospective Fifth Amendment.²⁹

Development and Regulatory Issues (JSDERI), 1.3 (2023), 151-74
<https://doi.org/10.53955/jsderi.v1i3.15>

²⁶ HAMZA SAIFUDDIN and KATIE FITTON, 'CONFLICTS BETWEEN THE DECISIONS MADE BY A DURABLE POWER OF ATTORNEY AND A PATIENT'S MEMORIALIZED ADVANCE DIRECTIVE: A CASE REPORT', *CHEST*, 166.4 (2024), A126-27
<https://doi.org/10.1016/j.chest.2024.06.129>

²⁷ Andrea King and others, 'Ethical and Legal Considerations of Religious Leaders as Medical Power of Attorney', *Journal of Pain and Symptom Management*, 69.5 (2025), e666-67
<https://doi.org/10.1016/j.jpainsymman.2025.02.360>

²⁸ Aylin Aydin-Cakir and Ebru İlter Akarçay, 'When Do Governments Attack the Judiciary? The Explanatory Power of Political Corruption', *International Review of Law and Economics*, 82 (2025), 106248 <https://doi.org/10.1016/j.irle.2025.106248>

²⁹ Xuezheng CHEN and others, 'A Theory of Symbiotic Corruption', *Journal of Comparative Economics*, 52.2 (2024), 478-94 <https://doi.org/10.1016/j.jce.2023.12.005>

The eradication of corruption in Indonesia necessitates not only strong legal instruments but also truly independent and professional law enforcement institutions. The effectiveness of the criminal justice system largely depends on the strategic role of the Prosecutor's Office as a key actor in the prosecution process. However, the current institutional structure and position of the Prosecutor's Office pose substantial challenges, particularly in ensuring its independence from executive influence. In light of the persistent and complex nature of corruption, strengthening the Prosecutor's Office to function with greater autonomy, integrity, and professionalism is not merely desirable but imperative. Reinforcing this institution is essential to establishing a legal framework capable of effectively combating corruption and upholding the rule of law.³⁰

Model Policy for Supporting Independent Anti-Corruption Prosecutors

The ambiguous institutional status of the Indonesian Attorney General's Office has hindered its effectiveness in addressing corruption, as it has yet to function as a fully professional and independent entity.³¹ In practice, the Attorney General's Office remains vulnerable to external interference, particularly from presidential policies, despite Article 2(1) of Law No. 16 of 2004 affirming its independence in prosecutorial authority and the professional standards outlined in the "Guidelines on the Role of Prosecutors" and the International Association of Prosecutors. However, this principle is not effectively implemented within the Indonesian criminal justice system. The regulatory framework of the Attorney General's Office reflects a contradiction, as the authority to independently exercise state power in prosecution is undermined by its institutional attachment to the executive branch, resulting in a dual obligation that compromises its autonomy.³² Consequently, the Attorney General's Office cannot fully exercise its functions and authority independently due to its subordination to the executive branch. This dependency is reinforced by the Attorney General's status as the highest prosecutorial authority, appointed, dismissed, and accountable to the President.³³

The Prosecutor's Office is ambiguous due to Law Number 16 of 2004. The Prosecutor's Office must execute its functions and authorities independently; however, it is also subject to executive power. Due to the institution's

³⁰ Jay S. Albanese, 'Corruption as the Cause, Not the Effect, of Organized Crime?', *Journal of Economic Criminology*, 7 (2025), 100137 <https://doi.org/10.1016/j.jeconc.2025.100137>

³¹ Jason Damm and James E. McNulty, 'Attorney Discipline, the Quality of Legal Systems and Economic Growth within the United States', *The Quarterly Review of Economics and Finance*, 84 (2022), 516–33 <https://doi.org/10.1016/j.qref.2020.10.005>

³² Fabian Teichmann, Sonia Boticiu, and Bruno S. Sergi, 'The Risk of Abuse of Arbitration Proceedings in Jurisdictions Where Corruption Is Pervasive', *Journal of Economic Criminology*, 2 (2023), 100032 <https://doi.org/10.1016/j.jeconc.2023.100032>

³³ Rachmawaty Rachmawaty and others, 'Judges' Philosophical Orientation in Resolving Anti-SLAPP Disputes', *Journal of Human Rights, Culture and Legal System*, 4.1 (2024), 149–68 <https://doi.org/10.53955/jhcls.v4i1.215>

ambivalent position, the President's policies significantly influence the Prosecutor's Office's performance. The Prosecutor's Office will operate at its best when the President is dedicated to maintaining the supremacy of the law. Conversely, if the President is not dedicated, the Prosecutor's Office cannot operate at its best in corruption cases.³⁴

The Prosecutor's Office is mandated to integrate and synchronize subsystems to fulfill its responsibilities and functions. As a vital component of the criminal justice framework, the Prosecutor's Office operates alongside police agencies, judicial courts, and correctional institutions. These entities collectively form an integral part of a cohesive criminal justice system. In a system, the Prosecutor's Office is one of the elements of law enforcement.³⁵

The function of Prosecutor's Office in law enforcement must be optimized. The Prosecutor's Office is a government institution that exercises state power in prosecution, and other authorities are founded on law, as stated in Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. The Prosecutor's Office serves two functions; as a government institution (including in the executive field) and as an entity that exercises state power in prosecution (including in the judicial field), as dictated by the law standards.³⁶

The Prosecutor's Office, is required to be independence from any party's power. This is stated by the General Explanation of Law Number 16 of 2004, which outlines the duties and functions of the Prosecutor's Office. The Prosecutor's Office must be conducted independently, regardless of the influence of government power or other powers, in the context of renewing the Prosecutor's Office. In the same vein, Article 2, paragraph (2) asserts that state power, as defined in paragraph (1), is exercised independently. It implies that it is not subject to the influence of government power or other powers when performing its functions, duties, and authorities.³⁷ The Prosecutor's Office is an executive component, as evidenced by the institutional position described in Law Number 16 of 2004. However, the Prosecutor's Office exercises judicial power regarding its duties, functions, and authority to prosecute.³⁸

³⁴ Jere Lehtinen and others, 'The Grand Challenge: Effective Anti-Corruption Measures in Projects', *International Journal of Project Management*, 40.4 (2022), 347–61 <https://doi.org/10.1016/j.ijproman.2022.04.003>

³⁵ Benjamin K. Sovacool, 'Clean, Low-Carbon but Corrupt? Examining Corruption Risks and Solutions for the Renewable Energy Sector in Mexico, Malaysia, Kenya and South Africa', *Energy Strategy Reviews*, 38 (2021), 100723 <https://doi.org/10.1016/j.esr.2021.100723>

³⁶ Zayyad Abdul-Baki, Ahmed Diab, and Abdullaheem Olayiwola Kadir, 'Resisting Institutionalized Corruption: The Case of Public Audit in Nigeria', *Journal of Accounting and Public Policy*, 42.6 (2023), 107052 <https://doi.org/10.1016/j.jaccpubpol.2022.107052>

³⁷ Suparto Suparto and others, 'Administrative Discretion in Indonesia & Netherland Administrative Court: Authorities and Regulations', *Journal of Human Rights, Culture and Legal System*, 4.1 (2024), 75–100 <https://doi.org/10.53955/jhcls.v4i1.189>

³⁸ Aris Irawan and others, 'Criminal Penalties for Foreigners Engaged in Illegal Fishing Indonesia's ZEE Impact SDGs', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.1 (2025), 95–120 <https://doi.org/10.53955/jsderi.v3i1.42>

Based on the analysis of the legal policy of the Indonesian government in placing the position of the Prosecutor's Office in the structure of the branches of state power, both in the executive and judiciary. In light of the Prosecutor's Office's role in combating corruption, it is imperative to establish a new legal policy that enhances its professionalism and independence. This includes explicitly incorporating the Prosecutor's Office into the 1945 Constitution as an institution independent from other branches of power, with clear provisions on its functions, authority, accountability mechanisms, appointment and dismissal procedures, term of office, and qualifications of the Attorney General.³⁹ The Prosecutor's Office institution should be legally supported by a distinct chapter in the 1945 Constitution that specifies its regulations. The Prosecutor's Office is an autonomous state institution not affiliated with the Executive or Judiciary. Next, the President appoints and dismisses the Attorney General following approval from the DPR. The Attorney General's qualifications should be explicitly and firmly defined in the law of the Prosecutor's Office.⁴⁰ For example, the attorney general must be a prosecutor, possess a minimum formal education level of a doctorate in law, have experience in the field of law enforcement, have served as the head of the High Prosecutor's Office at a minimum rank, and have a professional and independent track record.

The form of independence is law enforcement independence, which is regulated by a checks and balances mechanism, ensuring no authoritarianism in law enforcement or sectoral hubris. Suppose the investigator's authority during the investigation stage is absolute.⁴² In that case, authoritarianism will undermine public trust in the investigation process and justice for the community, for instance the Novel Baswedan case. Consequently, the Prosecutor's Office should be granted the authority to oversee legal actions during the investigation phase and to offer guidance regarding the decision-making process of investigative actions. The Prosecutor's Office is subject to the court's authority to prosecute. The judge promptly penalizes inaccurate and unaccountable prosecutions with a verdict of acquittal or release from all legal charges.⁴³

³⁹ Vuk Vuković, 'Corruption and Re-Election: How Much Can Politicians Steal before Getting Punished?', *Journal of Comparative Economics*, 48.1 (2020), 124–43 <https://doi.org/10.1016/j.jce.2019.09.002>

⁴⁰ Bagus Hanindyo Mantri, . Hartiwingsih, and Muhammad Rustamaji, 'Termination of Prosecution by Public Prosecutor in Corruption Crime in Indonesia: A Comparison with Various Countries', *Journal of Ecohumanism*, 3.8 (2025) <https://doi.org/10.62754/joe.v3i8.5645>

⁴² Bona Fernandez Martogi Tua Simbolon and others, 'Juridical Review of Comparative Prosecution Systems in Indonesia and the United States of Prosecutors Based on Restorative Justice', 2022 <https://doi.org/10.2991/assehr.k.220204.014>

⁴³ Raymond Ali and others, 'Restructuring the Termination of Prosecution in the Criminal Jurisdiction System of Indonesia', *Scholars International Journal of Law, Crime and Justice*, 4.2 (2021), 27–33 <https://doi.org/10.36348/sijlcj.2021.v04i02.001>

To enhance the Prosecutor's Office's ability and to establish an institutional paradigm for eradicating corruption, cultural empowerment is necessary from the perspective of legal culture. Although the Code of Ethics and the Code of Conduct for the Prosecutor's Office were intended to establish guidelines for Prosecutors to consistently act professionally and independently in the prosecution of corruption crimes. It has been demonstrated that there are numerous instances of professional deviations within the prosecutor's profession, some of which are criminal.⁴⁴ The numerous prosecutors, processed by the KPK and the Prosecutor's Office due to their bribery practices in handling cases, are evidence of professional deviations in the prosecutor's profession, which can be classified as criminal acts.⁴⁵ A critical factor in the professional and independent management of corruption crimes by the Prosecutor's Office is the level of public awareness and concern regarding the subsystem of legal culture that supports the process of corrupt crime investigation. To bolster public confidence in the Prosecutor's Office ability to address corruption crimes. The Prosecutor's Office is required to actively and intensively engage the community and collaborate with the power of civil society, specifically interest groups and non-governmental organizations. Establishment of a new paradigm emphasizes the significance of community participation in optimizing the Attorney General's Office's management. The Attorney General's Office apparatus must receive ongoing coaching.⁴⁶

In the interim, the legal structure may be strengthened by institutional reform of the Prosecutor's Office, enhancing the prosecutor professionalism, and transparently improving the accountability system of Prosecutor's Office.⁴⁷ The lack of transparency and accountability within the Prosecutor's Office has led to law enforcement practices that fall short of upholding truth and justice. This deficiency stem from the lack of public access to monitor mechanism in the Prosecutor's Office of corruption cases. Consequently, the professionalism and performance quality of prosecutors have declined, increasing the risk of systemic misconduct.⁴⁸ Consequently, enhancing the legal framework requires strengthening the Prosecutor's Office by improving the professionalism and establishing transparent, accountable institutional

⁴⁴ I Gusti Ayu Ketut Rachmi Handayani and Jasurbek Rustamovich Ehsonov, 'Governing Illegal Settlements: Housing Policy in Singapore and Australia', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.2 (2024), 86–107 <https://doi.org/10.53955/jsderi.v2i2.44>

⁴⁵ Retno Dewi Pulung Sari and others, 'State Financial Losses as a Result of Environmental Damage', *Journal of Human Rights, Culture and Legal System*, 4.1 (2024), 121–48 <https://doi.org/10.53955/jhcls.v4i1.136>

⁴⁶ Vuković.

⁴⁷ Agung Nugroho Santoso and Sri Kusriyah, 'Role Of Public Prosecutors In Corruption Crime Prosecution', *Law Development Journal*, 3.2 (2021), 198 <https://doi.org/10.30659/ldj.3.2.198-204>

⁴⁸ Andy Sasongko and others, 'Do Prosecutors Have The Authority To Realize The Restorative Justice? An Indonesian Case', *Audito Comparative Law Journal (ACLJ)*, 6.1 (2025), 39–47 <https://doi.org/10.22219/aclj.v6i1.38457>

system. This ensure public oversight in corruption cases and promotes fair, truth-oriented law enforcement. To enhance the structural aspect, fortifying the prosecutor's office's independence as a *dominis litis* in prosecuting corruption crimes is possible.⁴⁹ This can be achieved by designating the Prosecutor's Office as a central organ of public prosecutor within the criminal justice system. The public prosecutor should posses the authority to control and direct investigations, decide the initiation of legal rights of interested parties, including perpetrators, victims, and the broader community.⁵⁰

To establish a professional and independent Prosecutor's Office, it is crucial to comprehend how other countries develop, regulate, and position the Prosecutorial institution within their system. The objective of this institutional comparison is to gain a comprehensive understanding of how model of appointment, accountability, and structural position on the independence of the prosecutor's institution, particularly in combating corruption cases. Drawing on best practices from other jurisdictions, Indonesia can formulate more effective legal policy directions to strengthen the Prosecutor's Office as an impartial and integrated law enforcement institution.⁵¹

By comparing the institutional systems of the Prosecutor's Office in several countries, such as England & Wales, the United States, the Netherlands, China, and the United Arab Emirates, it is evident that most countries consider the Prosecutor's Office to be a component of the executive branch. The appointment of the Attorney General is typically carried out by the executive branch or with its approval.⁵² The degree of independence of the Prosecutor's Office varies significantly across countries, depending on their respective political and legal systems. Despite the presence of a robust legal system, the Prosecutor's Offices in England and Wales, as well as in the United States, remain vulnerable to political interference, whether through partisan influence, as observed in the United States, or through structural integration within the government, as seen in the United Kingdom. The Minister of Justice supervises a more transparent mechanism in the Netherlands, but it remains under executive control.⁵³ The Chinese

⁴⁹ Abdul Rahim, 'The Redefinition of Prosecution Power in Indonesia', 2023, pp. 3–11 https://doi.org/10.2991/978-2-38476-096-1_2

⁵⁰ Ahsanur Rijal and others, 'Prosecutor's Professionalism in the Internal Investigation Process Eradication of Corruption (Study at the Aceh Besar District Prosecutor's Office)', *Jurnal Pengabdian Nusantara*, 3.2 (2025), 68–73 <https://doi.org/10.32832/jpn.v3i2.67>

⁵¹ Elfrida Ratnawati and others, 'Is the Master Civil Liable Based on Sea Freight Arrangements in Indonesia?', *Journal of Human Rights, Culture and Legal System*, 4.1 (2024), 209–36 <https://doi.org/10.53955/jhcls.v4i1.194>

⁵² Armalia Berlinda Irawan, Rahayu Subekti, and Bobur Baxtishodovich Sobirov, 'Legal Protection in Land Acquisition for Public Interest: A Dilemma Between State Regulation and Social Welfare', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.2 (2024), 148–68 <https://doi.org/10.53955/jsderi.v2i2.38>

⁵³ Didik Kurniawan, Heni Siswanto, and Dini Nurina Chairani, 'Principle of Prosecutors Independency in Deponering Criminal Cases for Public Interest in Indonesia', *Scholars*

Communist Party has complete control over the prosecutor's function, where China exhibits the lowest level of independence. Conversely, the United Arab Emirates conveys the impression that both the judiciary and the prosecution fall under the jurisdictional authority of the judicial branch. However, the executive maintains control over the judiciary through the appointment and confirmation process. This comparison demonstrates the critical importance of structural reform in ensuring the independence and professionalism of the Attorney General's Office, particularly in the context of corruption eradication, which necessitates institutional neutrality and autonomy from political pressure.⁵⁴

In terms of legal substance, the Attorney General's Office remains significantly feeble as a law enforcement institution authorized to conduct investigations, inquiries, prosecutions, and executions of corruption cases. The regulation distinctly delineates the Attorney General's Office within a separate chapter of the 1945 Constitution. This provision is subject to modification to facilitate several substantive changes.⁵⁵ This initiative to delineate the institution from the executive and judicial branches of government is clearly evident. Additionally, the Attorney General's reaffirmation of its role as the sole prosecutor (*dominus litis principle*) and the architect of an integrated prosecution system indicates significant changes in the Indonesian criminal law system. Moreover, the legal framework is reinforced by provisions delineating the qualifications and requirements for the Attorney General. These regulations explicitly empower the Attorney General's Office to oversee legal actions during the investigation phase, a power that was previously ambiguous in the national legal framework.⁵⁶ The significance of revising the legal substance aspect to guarantee the professionalism, independence, and institutional accountability of the Indonesian Attorney General's Office in enforcing fair Law is underscored by these points.

Conclusion

The independence of the Attorney General's Office remains weak due to political influence, particularly because the Attorney General is appointed and accountable to the President. Although reform efforts have been initiated

International Journal of Law, Crime and Justice, 5.4 (2022), 161–68
<https://doi.org/10.36348/sijlcj.2022.v05i04.002>

⁵⁴ Saldi Isra and others, 'Obstruction of Justice in the Effort to Eradicate Corruption in Indonesia', *International Journal of Law, Crime and Justice*, 51 (2017), 72–83
<https://doi.org/10.1016/j.ijlcj.2017.07.001>

⁵⁵ Waluyo Waluyo, Hilaire Tegnau, and Noni Oktiana Setiowati, 'Aligning State Finance Regulations with SOE Bankruptcy Policy: Evidence from the United States', *Journal of Human Rights, Culture and Legal System*, 5.1 (2025), 246–78
<https://doi.org/10.53955/jhcls.v5i1.470>

⁵⁶ Aditia Syapriah and Fuad Shehab Shyyab, 'Legislative Framework for Decentralized Administration in Addressing River Pollution', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.1 (2025), 55–77 <https://doi.org/10.53955/jsderi.v3i1.39>

since 2000, including forming reform teams, these efforts have yet to produce a professional and independent institution, especially in handling corruption cases. The main challenges include limited resources and weak legal foundations in Law Number 16 of 2004, which still allow executive intervention. The ambiguous institutional positioning between the executive and judicial branches further exacerbates the erosion of its independence. To ensure institutional autonomy and accountability, a new legal policy is needed. This should include constitutional amendments that explicitly define the Prosecutor's Office as an independent state institution, along with clear provisions on its function, authority, accountability, appointment procedures, and the qualifications and term of the Attorney General. Strengthening the Prosecutor's Office as *dominus litis* in an integrated justice system also requires transparency, public engagement, and internal cultural reform, supported by adopting best practices from other countries.

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