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The Special Power of the State Attorney General in Preventing Governmental Product/Service Procurement-Related Crime in Indonesia

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Abstract
The basic duty of the Republic of Indonesia's General Attorney in the Special Crime Division is to undertake a repressive function. A preventive strategy includes actions taken to prevent product/service corruption crime by the Civil and State Administration Division of Indonesia's Attorney General (DATUN). This study aims to analyse the construction of JPN authorisation based on Indonesia's Attorney General Law. The method used in this study was a juridical, normative one. The results show that given the textual meaning with a grammatical interpretation related to the attorney's duty and authority in civil and state administration based on Article 30, Clause (2) of Indonesia's Attorney General Law in terms of acting for and on behalf of the state or government, the prosecutor in the civil and state administration area should have special power. The clause emphasises the phrase "special power" but does not mention explicitly the State Attorney General. Nevertheless, the interpretation of special power as mentioned in Article 30, Clause (2) of the Attorney General Law to be State General Attorney is found in the Republic of Indonesia Attorney General's Regulation. However, in the concept of norm constructed, this authority should be preceded by a demand. The translation of JPN in the context of function provides a legal deliberation where, on the one hand, the absence of special power of attorney facilitates the role of JPN in attempting to prevent corruption crime, but on the other hand, causes an inconsistent application of the rule.
Keywords: Special Power; State Attorney; Related Crime.

Introduction

At its core, a constitutional state aims to provide its people with legal protection. According to Philipus M Hadjon, legal protection of people by governmental action builds on two principles: human rights and the constitutional

state.[1] The implication of the constitutional state's ideal is that the organisation of state life should be entirely based on law, including laws related to the provision of products and services conducted by government through tender or direct designation, as the attempt of meeting the people's needs in order to achieve general welfare is the national goal, as reflected in the Preamble of UUD NRI 1945 (RI's 1945 Constitution). Product and service provision conducted by the government is the manifestation of the state's duty and function in providing public services originating from the State Income and Expenditure Budget (APBN) or through the Regional Income and Expenditure Budget (APBD) for local government in order to achieve accountability.

In organising state life, the government is required to promote public welfare with social justice to all Indonesian people. To accomplish this, the government obligatorily meets people's needs in varying forms, such as with products (commodities), services and infrastructure developments.[2] Likewise, the government itself requires products and services in order to function. Product and service provision generates corruption in Indonesia because significant funds are allocated to governmental expenditure posts. This corruption is caused by several factors, including closed, non-transparent or non-publicly announced auctions. Various methods are used to restrict the information on auctions, such as by posting counterfeit advertisements in newspapers or by *tender arisan*, in which the auction participants have been organised first by the provision committee or the association, related to the winner of the auction. It is this deviation that stimulates price markups and corruption.

One of the law enforcement intuitions with the authority to eradicate corruption crime is the Republic of Indonesia's Attorney Office (also called *Kejaksaan RI*). The Republic of Indonesia's Law Number 16 of 2004 regarding Indonesia's Attorney General (State Gazette of 2004, Number 67, Supplement to

[1] Philipus M Hadjon, *Perlindungan Hukum Bagi Rakyat Di Indonesia* (Bina Ilmu 2005).[71].

[2] Yohanes Sogar Simamora, 'Prinsip Hukum Kontrak Dalam Pengadaan Barang Dan Jasa Oleh Pemerintah' (Universitas Airlangga 2005).[1].

State Gazette Number 4401; hereafter called *UU Kejaksaan* or the *Attorney Law*) is a governmental institution implementing the state's power in prosecution and other authorities based on the law. Article 2, Clause (1) authorises the *Kejaksaan RI* not only to prosecute corruption crime but also to perform other functions in attempting to eradicate corruption crime. Public impression about the Attorney General Institution is, so far, that the institution serves only as a public prosecutor, although *UU Kejaksaan* actually concerns civil and state administration areas. Special power is given to *Kejaksaan* to act both inside and outside the Court for and on behalf of the state or government. This duty and authority are called *State Attorney General* (Indonesian: *Jaksa Pengacara Negara* or JPN). The Attorney, in implementing its duty and function, requires that subsystems be integrated and synchronised. Muladi has stated that "structural, substantial, and cultural synchronizations are required". Closely studied, the mechanism of conferring power in the power of attorney includes two legal areas. Viewed from the object aspect, the handover of power belongs to the private legal area, while the one receiving power (the State Attorney General) and the one giving power (governmental institution/state-owned or local-government-owned enterprises) is the subject of public law. Article 1792 of KUHPerdata (Civil Code) can be used to determine the special power of attorney, i.e., an agreement by which an individual authorizes another who receives and on behalf of his/her name deals with an affair related to a certain interest".

The current problem is that some government institutions are still not giving special power of attorney or asking Indonesia's Attorney Institution to deal with civil and state administrative affairs, including preventing corruption crime in the provision of governmental products and services. This may indicate that government institutions have not put attorney institution to be the one contributing to law enforcement and maintaining the government's authority in civil and state administration, as mentioned in Article 30, Clause (2) of the Attorney Law.

Considering this background, the current research raises a central issue: "What is the construction of the special power of the State Attorney General in coping with corruption crime related to governmental product/service provision as *ius constituendum*?"

The method used in this study was a juridical normative one. Legal science is prescriptive and applied[3] in nature, or sui generis.[4] The typical characteristic of legal science is normative.[5] Considering the prescriptive character, this research is a legal study,[6] i.e., a process to find rules, principles and doctrines of law to address the legal issues encountered. This research was conducted to provide new argumentation, theory or concept as a prescription for solving the problem encountered. The approaches used were statutory and conceptual.

1. A statutory approach was conducted to study laws and regulations pertaining to legal issues.[7] This approach was used to analyse, prescribe, systematise and interpret the Indonesian national legal instrument concerning the "Republic of Indonesia's Attorney and State Attorney General in preventing corruption crime related to governmental product/service provision". This approach was used to find *ratio legis* and an ontological foundation of the issuance of the Republic of Indonesia's Law Number 16 of 2004 regarding the Republic of Indonesia's Attorney, in which Article 30, Clause (2) governs the duty and authority in civil and state administration.
2. A conceptual approach departs from the perspectives and doctrines developed in legal science.[8] This approach is used to find the philosophical foundations and characteristics of the State Attorney General's duty and function in preventing corruption crime related to governmental product/service corruption through the special power of the State Attorney General.

The Special Power Concept as the Foundation of the State Attorney General's Authority

The concept of authorisation is known in the normative frame of an authorisation agreement (*lastgeving*) as regulated in Articles 1792–1819 of Title

[3] Peter Mahmud Marzuki, *Penelitian Hukum* (Prenada Media 2006).[26].
[4] Philipus M Hadjon and Tatiek Sri Djatmiati, *Argumentasi Hukum* (Gadjah Mada University Press 2005).[1].
[5] *ibid.*
[6] Marzuki (n 3).[35].
[7] *ibid*.[93].
[8] *ibid.*

XVI Book III of the Civil Code (KUHPer/BW). Authorisation is a legal action found widely within society. In addition, it is a fundamental and important concept in both legal and non-legal processes, such as when an individual wants another person to represent him or her and to function as his/her attorney and to implement anything belonging to the authoriser's interests, including in relations with non-attorney others. According to the provisions of the article, there are two parties in the authorisation agreement:

1. Authoriser; and
2. Attorney-in-fact or Attorney, instructed or mandated to do anything for and on behalf of the authoriser.

The term *lastgeving*, as mentioned in Article 1792 of the Civil Code (KUHPerdata), is translated as "authorisation" by R Subekti and R Tjitrosudibio, who stated that an authorisation is an agreement by which an individual authorises another person to receive and deal with affairs on his or her behalf.[9] Given this limitation, the necessary aspect for consideration is that authorisation should be in the form of "dealing with an affair" in the sense of conducting certain legal actions that will lead to certain legal consequences. Another aspect of the limitation of authorisation is the presence of the acts of representation implicitly, as characterised by the sentence "for his name….", signifying that there is an individual representing another in doing a certain legal action. In the case of an attorney receiving authority from the authoriser in an internal relationship solely between the authoriser and the attorney, in which the attorney is not entitled to represent the authoriser or to establish relationships with a third party, this authorisation agreement does not bring out a representation. However, from the limitation mentioned in Article 1792 of the Civil Code, it is apparent that all authorisation agreements will bring out a representation; in other words, the attorney can represent the authoriser to conduct certain legal deeds or actions for and on the behalf of the authoriser.

Article 1793 of the Civil Code defines the means and forms of authorisation:

[9] Translated by R Subekti and R Tjitrosudibio (eds.), *Kitab Undang-Undang Hukum Perdata* (*Burgerlijk Wetboek*) (Pradnya Paramiita 1992) Article 1792.

a. Authority can be given and received in the form of an official deed, such as a notarial deed, one legalised in the clerk of court, one prepared by official and etc, and can also be given with underhand letter, ordinary letter and orally.
b. Authorisation can also occur silently, meaning that an authorisation occurs incidentally without any prior approval.

The word "approval" indicates the authorisation following a concept of agreement (*lastgeving*), in which the provision concerning the preconditions of a legitimate agreement and fundamental legal principles, including consensual nature, freedom of contracting and binding power, apply to the authorisation agreement. The phrase "for and on behalf of" is interpreted as follows: "The authorisation agreement always brings out representation, leading to the enactment of the *lastgeving* provision to the authoriser resulting in representation (*volmacht*). Authorisation and representation have two different meanings in each legal relationship. Achmad Ichsan has said that there are three legal conditions related to the legal relationship of the authoriser and the authority of representing: (a) authorisation followed with the authority of representing, bringing about representation based on *lastgeving* and *volmacht*; (b) authorisation not followed with the authority of representing, not bringing about representation (*lastgeving*); and (c) authority of representing without authorisation (*volmacht*).[10]

An authorisation is divided into several types by its content and is based on Article of Law:[11]

a. Special Authorisation (1775 KUHPer):
   This is the authorisation to do a specific thing.
b. General Authorisation:
   This is the authorisation to undertake any action related to managing the authoriser's property, including all interests of the authoriser.
c. Extraordinary Authorisation (1776):
   This is a very special authorisation firmly denoting each action to be undertaken by the attorney.
d. Intermediary Authorisation:
   This is the authorisation in which the attorney becomes the intermediary or

[10] Achmad Ichsan, *Hukum Perdata IB* (Pembimbing Masa 1969).[224].
[11] M Yahya Harahap, *Segi-Segi Hukum Perjanjian* (Almni 1986).[308–309].

bridge between the authoriser and the third party, with further relations being dealt with by the authoriser and the third party.

e. The legal authority institution is called *authorisation if*:[12]
   1. The authoriser delegates representation or designates the attorney to represent him/her to deal with his/her interest, corresponding to the function and the authority specified in the power of attorney.
   2. Thus, the attorney is fully authorised to take action with respect to the third party representing the authoriser on behalf of the authoriser.
   3. The authoriser is responsible for all of the attorney's deeds, as long as it does not exceed the authority given by the authoriser.
   4. The characteristics of the authorisation agreement are as follows:
      1. The attorney has the capacity to be the authoriser's direct representative.
      2. The authorisation is consensual, as is the authorisation agreement, in the following sense:
         a. The authorisation relationship is a package composed of authoriser and attorney.
         b. The legal relationship is embodied in an authorisation agreement with binding power as the agreement between both parties.
         c. Therefore, the authorisation should be based on a firm Letter of Intent executed by the parties.

      3. Having guarantee-contract character: The measure to determine the binding power of authorisation action is limited only:
         a. When the authority or mandate is given by the authoriser.
         b. If the attorney's actions exceed the scope of the mandate, the authoriser is responsible for only the action corresponding to the mandate given. Any actions exceeding the mandate will be the attorney's responsibility, according to the guarantee-contract principle as explained in Article 1806 of the Civil Code. The authorisation may end due to the following:
            1. The authoriser withdraws it unilaterally;
            2. One of the parties dies; or
            3. The attorney relinquishes the authority.

Building on Article 1797 of the Civil Code, the authoriser is not allowed to take action exceeding the authority given. If an agreement entered into by a third party and the attorney exceeds the authority, the consequences of the agreement are the attorney's responsibility completely, and the authoriser can call for compensation from the attorney or may approve the content of the agreement prepared by the attorney. The third party, in this case, can call for compensation from the attorney

[12] M Yahya Harahap, *Hukum Acara Perdata* (Sinar Grafika 2012).[2].

of the amount exceeding the authority, can require the authoriser to comply with the agreement or can call for the revocation of the agreement.

The authorisation agreement is a consensual one, meaning that the presence of consensus brings about an authorisation agreement binding the corresponding parties. Authorisation is born not only from an agreement but also from the issuance of law, so that if certain legal actions occur without the statement of an authorisation, the authorisation has nevertheless occurred because the law has specified it.[13]

The authorisation generated from the law is also found in the regulation of an attorney's duty and authority, found in Article 30, Clause (2) of the Attorney Law in the civil and state administration venues. The authorisation of an attorney in the normative concept of authorisation as governed in Attorney Law is categorised into special authority, and special authority received by this attorney as State Attorney General authorises giving governmental administrative authority that is attributive in nature. Attributive authority is authority obtained from the law; it is interpreted from the attorney's authority as mentioned in Article 30, Clause (2) of the Attorney Law that an Attorney with Special Authority can take action both inside and outside the court for, and on behalf of, the state or government. Thus, the attorney's authority of taking action for and on behalf of the government, both inside and outside the court, is an attributive authority. Therefore, the Attorney is a governmental (executive) institution, in which its establishment, duty and authority implementation is governed in Law Number 16 of 2004 concerning Indonesia's Attorney.

The authority of the State Attorney General is specified in Article 30 of Law Number 16 of 2004 about Indonesia's Attorney and is divided into three areas:

1. In the criminal arena, the Attorney has the duty and authority
   a. to conduct prosecutions;
   b. to implement the judge's assignment and the court's verdict that has permanent legal force;
   c. to supervise the implementation of conditional sentences, supervisory sentences and conditional discharge verdicts;
   d. to investigate certain crimes based on the law;

[13] Habib Adjie, *Pemahaman Terhadap Bentuk Surat Kuasa Membebankan Hak Tanggungan* (*SKMHT*) (Mandar Maju 2019).[10].

e. to complement certain case documents, and thus can carry out additional examinations before the documents are handed over to the court, the implementation of which is coordinated with the investigator.

2. In civil and state administration areas, the attorney with special power or authority can take action both inside and outside the court for, and on behalf of, the state or government.
3. In the interest of public orderliness and tranquillity, the attorney contributes to the organisation of the following activities:
   a. Improving the people's legal consciousness;
   b. Securing the law enforcement's policy;
   c. Supervising the circulation of printed products;
   d. Supervising the belief (*aliran kepercayaan*) that can harm people and the state;
   e. Preventing religious abuse and/or disgracing;
   f. Conducting legal research and development and criminal statistics.

The authority inherent in JPN to take action in civil and state attorney general matters arises from the legislation enacted. However, some people criticise the foundation of authority with the provision governed in Law Number 18 of 2003 about the Advocate (furthermore called the Advocate Law). Although Article 30, Clause (2) of the Attorney Law authorises with special power the attorney to take action both inside and outside the court for, and on behalf of, the state or government, some believe this contradicts the Advocate Law.

The difference in meaning related to the authority of the Attorney as JPN in contradiction with the Advocate Law is assessed based on the interpretation of:[14]

1) Article 2, Clause (1) of the Advocate Law.
   Considering the provision of Article 2, Clause (1), it is apparent that in assigning the advocate, it is to be the scholar with a strong legal education background who has attended advocate, profession-specific education held by an advocate organisation. Clause (2) directs that the assignment of an advocate is to be conducted by an advocate organisation.
2) Article 3, Clause (2) of the Advocate Law.
   Based on the provision of Article 3, Clause (1) letter c of the Advocate Law, one of the requirements for the assignment of an advocate is that they hold non-civil-servant or non-state-official status.

[14] Muhamad Jusuf, *Hukum Kejaksaan: Eksistensi Kejaksaan Sebagai Pengacara Negara Dalam Perkara Perdata Dan Tata Usaha Negara* (Laksbang Justitia 2014).[185].

The interpretation of the articles above, governing the requirements of advocate assignment, cannot apply specifically to the position and the authority of JPN arising from the Attorney Law. The requirements governed in the Advocate Law apply only to a non-attorney who wishes to be an advocate; thus, the requirement no longer applies to the Attorney. The authority of JPN given by the Attorney Law to take action in civil and state administration areas is *lex specialist*, or special provision. Otherwise, the Advocate Law is *lex generalist*, or the provision generally applying to an individual who wants to be an advocate. Considering the principle of *lex specialist derogate lex generalist*, the provision that applies specifically overrides the one that applies generally as long as it regulates the same matter. Thus, the provision of the Advocate Law based on the legislation no longer applies to the State Attorney General.

The State Attorney General has both external and internal functions. Internal functions are related to duty and authority related to law enforcement, legal assistance, legal deliberation, legal service and other legal actions. The internal function is the managerial one and requires optimal implementation of the authority of the Solicitor General in civil and state administration areas (JAMDATUN).

Legal Consequences of the Authorisation of the State Attorney General in Preventing Corruption Crime Related to Governmental Product/Service Provision

The attorney with special power is authorised in civil areas to take action both inside and outside the court for, and on behalf of, the state or government. This authority in the civil and state administration area becomes the basis for the attorney to provide legal assistance in attempting to solve the case. In the implementation of duty, authority and function, the State Attorney General is different from the public prosecutor. The public prosecutor is essentially the attorney that is implementing the state's power in the criminal case prosecution. Meanwhile, the implementation of the State Attorney General's duty is highly dependent on the provision regulated specifically in the special power of attorney given by the authoriser to the State

Attorney General, which is different from the public prosecutor as regulated generally in the Code of Criminal Procedure (KUHAP).

Structurally, the organisation and the authority of the attorney institution in the civil and state administration area are the responsibility of the Solicitor General in Civil and State Administration area, who is responsible directly to the Attorney General. Article 293 of Presidential Decree Number 38 of 2010 states that:

1) The Solicitor General in the Civil and State Administration area has the duty and authority in implementing the attorney's duty and authority in civil and state administration areas.
2) The civil and state administration area as mentioned in Clause (1) includes law enforcement, legal assistance, legal deliberation and other action to state or government involving state institutions/agencies, central and local governmental institutions, state/local government-owned enterprises in the civil and state administration areas to save and restore state property, to enforce the government and state's prestige and to provide legal service to the community.

In the process of implementing such duty and authority, Article 294 of *Keppres* (Presidential Decree Number 38 of 2010) states that the Solicitor General serves the following functions:

1) Policy formulation in civil and state administration areas;
2) Law enforcement in civil and state administration areas;
3) Coordination and synchronisation of policy implementation in civil and state administration areas;
4) Implementation of work relations to both domestic and foreign institutions;
5) Monitoring, analysis, evaluation and reporting of activity implementation in civil and state administration areas;
6) Implementation of other tasks assigned by the Attorney General.

The implementation of duty, authority and function of the Solicitor General in civil and state administration areas is conducted by the State Attorney General. To undertake the problem-solving function, the following stages and processes are performed:[15]

a) Giving Special Power of Attorney:

Following the demand to the Attorney as indicated by the Attorney General, the Solicitor General in the civil and state administration area, Heads

[15] *ibid*.[17].

of Provincial and District Attorneys, those encountering legal problems submit the problem-solving process in written form to the leader of the attorney. In attempting to confirm the case of a problem encountered by the authoriser, the submission of the problem-solving process should be followed with complete evidence to the local attorney as well as staff designated to solve the problem in the future.

Following the submission of the problem-solving process, the authoriser having the problem should then prepare the special power of attorney with substitution right to the leader of attorney. This special power of attorney is essentially defined as a letter of agreement by which an authority is given to the leader of the attorney to solve a legal problem, so that the leader of the attorney for and on behalf of the authoriser will solve the problem based on the power or authority given. This special power of attorney authorises the leader of the attorney to take action representing the interests of the authoriser both inside and outside the court.

The attachment of the substitution right to the special power of attorney means that the power of attorney can then be delegated when the authorisation is followed with the right to delegate. Therefore, this power of attorney gives substitution rights, and when the corresponding power of attorney has been delegated completely to another party designated by the attorney, the former attorney is no longer entitled to function in the trial and to sign documents or make conclusions in the case. Having entered into the stage of giving the special power of attorney to the leader of the attorney, the next stage is to designate the State Attorney General by the leader of the attorney.

b) Designation of State Attorney General

The designation of the State Attorney General by the leader of the attorney to deal with the civil case should be followed with the special power of attorney with substitution to the corresponding State Attorney General. This special power of attorney should be present in the designation of state Attorney General by the leader of the attorney. This is because the special power of

attorney on behalf of the corresponding State Attorney General is defined as:

1) Legal foundation for all actions taken by the State Attorney General in the attempt to solve the problem it represents.
2) Limitation of the State Attorney General's duty and authority in dealing with the problem it represents. Therefore, the State Attorney General should know and realise fully that its duty and authority as the representative is limited to what is written explicitly and implicitly in the special power of attorney on behalf of it, so that the State Attorney General is obliged to secure the authoriser's secret as an ethic to be maintained well. Thus, any explanation or information received by the corresponding State Attorney General is used according to what is mentioned in the special power of attorney only and cannot be used for other purposes.

Data and findings obtained by the State Attorney General concerning the case are then presented to the leader of the attorney that gives the assignment and the corresponding leader of attorney. The State Attorney General's disclosure before the leader and staff of attorney designated by the authoriser is a formal statement expressed by the State Attorney General based on evidence from which the State Attorney General will receive input. Having received input from the leader and staff of attorney and the leader of the authoriser, the next measure to be taken by the State Attorney General is to complete the case resolution process.

c) Case Resolution Process

In this stage, based on the special power of attorney, the State Attorney General will first consider solving the problem through a non-litigation avenue, and if this mechanism is impossible to implement or has been implemented but does not resolve the case, the litigation mechanism will be taken. Non-litigation case resolution is performed by the State Attorney General in these stages:[16]

[16] *ibid*.[179].

1) Negotiating;
2) Signing a Memorandum of Understanding (MoU);
3) Formulating a Peace Agreement;
4) Signing a Peace Agreement;
5) Implementing the content of the agreement.

The State Attorney General is a functional attorney authorised to undertake its duty and function as specified in the special power of attorney by related central or local institutions, state/local government-owned enterprises, state officials and people for the sake of the public interest. *Jaksa Pengacara Negara* (State Attorney General) grammatically consists of three words: *jaksa*, *pengacara*, and *negara*. The Attorney Law has authorised the State Attorney General to implement its duty and function according to its role as the state attorney, including the role of the state attorney as the state's front guard to restore any loss incurred by the state. There are two ways taken by the State Attorney General to save the state's property: by restoring and by saving the property.

The publication of the Republic of Indonesia Attorney General's Decree Number KEP-152/A/JA/10/2015 on October 1, 2015, regarding the establishment of the Government and Development Supervising and Safeguarding Team (*Tim Pengawal dan Pengaman Pemerintah dan Pembangunan*, hereafter called TP4), authorises the attorney to perform this new task. The attorney's task had been to prosecute or investigate certain crimes or to implement the judge's stipulation and the court's verdict that has obtained permanent legal force; now it has been tasked with supervising and safeguarding the governmental infrastructure project from the central to the local level.

The establishment of the TP4 of RI Attorney departed from President Joko Widodo's Instruction Number 7 of 2015 regarding "Corruption Preventing and Eradicating Actions", published on May 6, 2015. The President sees that the corruption eradication conducted to date by law enforcement has had a preventive impact. Many officials have become the leaders of a project reluctantly because of the risk of being called and examined continuously by law enforcement from the KPK (Corruption Eradication Commission), Attorney General (*Kejagung*), Provincial

Attorney (*Kejati*), District Attorney (*Kejari*), Mabes Polri (RI Police Headquarters) or Polda (Regional Police), through Polres (Resort Police). Consequently, the budget absorption is low because the officials do not persevere in continuing the project due to the fear of being criminalised. The government prioritises the preventive aspect of the eradication of corruption rather than the repressive one that in fact did not reduce the corruption rate.

President Joko Widodo's Instruction Number 7 of 2015 regarding the Corruption Preventing and Eradicating Actions was then followed with RI's Attorney General by establishing TP4 of RI's General Attorney based on Republic of Indonesia Attorney General's Decree Number: KEP-152/A/JA/10/2015 on October 1, 2015.

However, TP4D was dismissed in 2020 because of many abuses in its field application. Nevertheless, the development and supervision of the development project remains to be implemented with the requirement of the presence of the assignment of activity as a national or local strategic project.

Since December 2019, the Republic of Indonesia's Attorney General officially removed the Local Government and Development Supervising and Safeguarding Team (TP4D) program, corresponding to the Attorney General's Decree Number 345 of 2019. In normative frame, the dismissal of TP4D has been an appropriate measure, as without this program establishment the function of the State Attorney General as specified in Article 30, Clause (2) of the Attorney Law should have represented the government in the attempt of preventing corruption crime, particularly related to governmental product/service provision as the part of development project safeguard and supervision. The implementation regulation of Article 30, Clause 2 of the Attorney Law regulates the duty and authority of the attorney in civil and state administration areas and divides it into five categories:

1) Legal assistance;
2) Legal deliberation;
3) Legal Service;
4) Law Enforcement;
5) Other legal actions.

Without the establishment of TP4D in the attempt of undertaking the function of State Attorney General in civil and state administration areas, the fifth function has been able to authorise it to prevent corruption crime, particularly in governmental product/service provision.

The concept of authority in State Administration Law relates to the legality principle, which is one of the basic principles underlying each government and state organisation in every constitutional state, particularly in the ones adhering to the continental European legal system. This principle is called statute power (*de heerschappij van de wet*). This principle is also known in the criminal law (*nullum delictum sine previa lege peonale*), meaning that there is no punishment without law. In the State Administration Law, this legality principle is defined as *dat het bestuur aan wet is onderworpnen*, or that government is subjected to the law. This principle is a principle in a constitutional state. The "authority as a public law" concept consists of at least three components:[17] effect, legal foundation and legal conformity.

1. The effect component dictates that the use of authority is intended to control the behaviour of the subject of the law.
2. The legal foundation component dictates that the legal foundation of an authority can always be indicated.
3. The conformity component is defined as the presence of standard authority or a common standard (all types of authority) and special standard (for certain types of authority).

In line with the basic pillar of a constitutional state is the legality principle (*legaliteits beginselen* or *wetmatigheid van bestuur*), that the governmental authority originates from legislation. In the administration of law-related literature, there are two ways to obtain governmental authority: attribution and delegation. There can also be mandated authority. Authority holds an important position in State Administration Law and study. This authority is so important that FAM Stroink

[17] Nur Basuki Winarno, *Penyalahgunaan Wewenang Dan Tindak Pidana Korupsi* (Laksbang Mediatama 2008).[66].

and JG Steenbeek have stated: "*Het Begrip bevoegdheid is dan ook een kembegrip in he staats-en administratief recht*".[18] From this statement, it can be summarised that authority is the core concept of constitutional law and state administration law. The terms *kewenangan* or *wewenang* (Indonesian) and *bevoegdheid* (Dutch) parallel the English meaning of authority. *Authority* in Black's Law Dictionary is defined as *legal power; a right to command or to act; the right and power of public officers to require obedience to their orders lawfully issued in scope of their public duties*. The concept of authority in state administration law is related to the legality principle, constituting of basic principles underlying every government and state organisation in constitutional states, particularly those adhering to the continental European legal system. This principle is called statutory power (*de heerschappij van de wet*).[19] It is also recognised in criminal law as *nullum delictum sine previa lege peonale*, meaning that there is no punishment without law. In state administration law, this legality principle is defined as *dat het bestuur aan wet is onderworpnen*, which means that government is subject to the law. This is a principle in a constitutional state.

Similarly, all governmental deeds are presupposed to build on this legitimate authority. A state administration official or body cannot perform a governmental deed without legal authority. This legitimate authority is an attribute of each official or body. The legitimate authority, viewed from its source, consists of three categories: attributive, delegative and mandatory:[20]

1. Attributive Authority

   Attributive authority usually originates from the distribution of power by legislation. This attributive authority is implemented by an official or body itself as specified in its basic regulation. The responsibility and accountability will attach to the official or the body as specified in the basic regulation.

2. Delegative Authority

   Delegative authority originates from the delegation of a governmental

[18] *ibid*.[65].
[19] *ibid*.[70].
[20] *ibid*.[77].

organisation to another based on legislation. Responsibility and accountability are transferred to the authorised and delegated body.

3. Mandatory Authority

   Mandatory authority originates from the process or procedure of delegating from the higher official or body to the lower one. Mandatory authority, unless specifically prohibited, is present in the routine relationship between superior and subordinate.

In relation to the attributive, delegative, and mandatory concepts, J.G. Brouwer and A.E. Schilder have stated:[21]

1. *With attribution, power is granted to an administrative authority by an independent legislative body. The power is initial* (*originair*), *which is to say that it is not derived from a previously non-existent power and assigned to an authority*.
2. *Delegation is the transfer of an acquired attribution of power from one administrative authority to another so that the delegate* (*the body that has acquired the power*) *can exercise power in its own name*.
3. *With a mandate, there is no transfer, but the mandate-giver* (*mandans*) *assigns power to the other body* (*mandataris*) *to make decisions or take action in its name*.

Brouwer argues that in the attributive concept, authority is given to an administrative body by an independent legislative body. This authority is original; it is not taken from the pre-existing one. The legislative body creates independent authority and gives it to the competent one. Delegation is transferred from attributive authority from one administrative body to another, so the delegator/ *delegans* (the authorising body) can examine the authority on behalf of it. With a mandate, there is no transfer of authority, but the one giving the mandate (*mandans*) authorises the other body (mandataris) to make a decision or to take an action on behalf of it.

[21] *ibid*.[74].

There is another fundamental difference between attributive and delegative authorities. In the attributive concept—but not in the delegative concept—the authority is ready to be transferred. In relation to the legality principle, the authority is not delegated without restriction, but perhaps only under a condition that the rule of law determines the potential delegation.

The construction of authorisation born from the law is found in the regulation of the attorney's task and authority in Article 30, Clause 2 of the Attorney Law in the Civil and Administration area. The authorisation of the attorney, in normative terms, is the one as specified in the Attorney Law belonging to special authority or power, and this special authority received by the attorney as the State Attorney General belongs to the attributive authorisation in the governmental administration area. Attributive authority is obtained from the law, as interpreted from the authority of the attorney regulated in Article 30, Clause (2) of the Attorney Law, stating that the attorney with special power should take action both inside and outside the court for and on behalf of the state or government. Considering this, the attorney's authority of taking action both inside and outside the court is attributive in nature. Thus, the Attorney is an (executive) governmental institution, and the implementation of the establishment, duty and authority is governed in Law Number 16 of 2004 about the Republic of Indonesia's Attorney.

For the implementation of the Attorney's authority in civil and state administration areas, the Republic of Indonesia Attorney General's Regulation Number PER-018/A/J.A/07/2014 is published, concerning Standard Operating Procedure (SOP) for the Solicitor General in civil and state administration areas (PERJA No. PER-018/A/J.A/07/2014). The preamble explains that this regulation (PERJA No. PER-018/A/J.A/07/2014) is formulated to control the implementation of basic duty, function, and authority in civil and state administration areas, and as a service to stakeholders and the community. This regulation is the substitute for the Attorney General's Regulation Number 040/A/J.A/12/2010 regarding the SOP of the implementation of task, function and authority in the civil and state administration area that is considered to be no longer compatible with the needs and

the development of conditions and situations.

The scope of PERJA No. PER-018/A/J.A/07/2014 includes (1) Task and function of Secretariat in Solicitor General in civil and state administration areas (*Jamdatun*); (2) Task and function of Civil Director in Jamdatun; (3) Task and function of State Administration Director in Jamdatun; and (4) Task and function of the Director of Right Restoration and Protection in Jamdatun. This SOP contains the work procedure in the work unit of Solicitor General in civil and state administration areas (*Jamdatun*), Provincial Attorney and District Attorney throughout Indonesia in the process of handling civil and state administration cases conducted by the State Attorney General. In addition, this SOP defines the attorney's task, function and authority implementation by emphasising the effectiveness and efficiency of case resolution, using both litigation and non-litigation methods, in the preparatory, implementation and reporting stages.

Saving state assets through preventing corruption in governmental product/service provision by the attorney as the State Attorney General is part of an attempt to enforce and maintain the principles existing in the governmental product/service provision as specified in Presidential Regulation Number 16 of 2018:

1. Efficient
   The principle of efficiency means that a product or service should be procured using limited cost and effort to achieve the specified target in as short as possible time, and that it can be accounted for.
2. Effective
   The principle of effectiveness means that the provision of products and services should build on the need specified (the target to be achieved) and can give high benefit and is actually appropriate to the target intended.
3. Transparent
   The principle of transparency in product and service provision means to provide entire information and all stipulations concerning product and service provision, including technical requirements of provision administration, evaluation method, evaluation result and the assignment of potential product and service suppliers, and that it is transparent to the participants interested in supplying products and services and to the public in general.
4. Open
   The open principle in product and service provision means to provide entire information and all stipulations concerning product and service provision, including technical requirements of provision administration, evaluation method,

evaluation result and the assignment of potential product and service suppliers, and that it is transparent to the participants interested in supplying products and services and to the public in general.

5. Competitive
   The principle of fair competition in product and service provision is related to giving equal opportunity to all product and service suppliers that fulfil the requirements specified to offer their product or service based on the enacted ethics and norms of provision, and no fraud or corruption, collusion or nepotism practice occurs.
6. Fair/non-discriminative
   The term fair/non-discriminative in product and service provision means to treat equally all potential product and service suppliers and not tending to benefit certain parties in any way or for any reason.
7. Accountable
   Accountability means that there is an accountability of product and service provision implementation (reporting) to related parties and the community based on ethics, norms, and stipulation of legislation enacted, in the sense that the provision of products and services should achieve the target, either physically or financially, or the advantage of provision to the governmental task/and or community service according to principles and stipulations enacted in the product and service provision.

The previous regulation about product and service provision referred to Presidential Regulation (*Perpres*) Number 54 of 2010. This regulation has been amended four times. Some amendments to Presidential Regulation Number 54 of 2010 are as follows:

1. Perpres Number 35 of 2011.
2. Perpres Number 70 of 2012.
3. Perpres Number 172 of 2014.
4. Perpres Number 4 of 2015.

Governmental product/service provision plays an important role in implementing national development goals of improving public service and national and local economic development. To realise the product/service provision as intended, a regulation of the provision is required to fulfil the value for money and to contribute to increasing the use of the domestic product, improving the role of micro-, small-, and medium-scale enterprises and achieving sustainable development.

The product/service provision policy implemented through the process specified in legislation, in fact, can influence bureaucratic and community behaviour;

therefore, JPN plays an important role in preventing corruption crime from occurring in its implementation. In undertaking its position as the entity dealing with civil and state administration cases, the attorney as the State Attorney General undertakes its task according to the authority delegated to it through the special power of attorney given first to it. RM Surachman and Andi Hamzah (1995) stated that "Attorney Law also regulates and confirms some other roles and tasks of attorney, including supervising the implementation of conditional discharge verdict and the authority of being State Attorney General when the state becomes one of parties in civil lawsuit and when a citizen or corporate ask the Judge of State Administration for trialing whether or not the administration action taken by the governmental official against it (citizen or corporate) is effective or legitimate according to the law".[22] Thus, from the existing regulation, it is clear that legal intent for the State Attorney General who will undertake the function of preventing corruption crime related to product/service provision is that it should receive special power of attorney first, as regulated in Article 30, Clause (2) of the Attorney General.

Granting special power in the attempt to prevent corruption crime from occurring in the provision of governmental products and services is a requirement to be able to implement the function of attorney in the civil and state administration area. This stipulation, as mentioned in Article 30, Clause (2) of the Attorney Law, states that in civil and state administration areas, the attorney with special power of attorney can take action both inside and outside the court for, and on behalf of, the state or government. In the attempt of preventing corruption crime from occurring in the governmental product/service provision, the attorney as State Attorney General with duty and authority, as regulated in the Republic of Indonesia Attorney's Regulation Number PER-018/A/J.A/07/2014, can undertake its function by providing legal deliberation.

Legal deliberation as defined in this attorney regulation is the State Attorney General's task to provide a *legal opinion* and/or legal assistance in civil and state

[22] Muhammad Yusuf et al., 'Kedudukan Jaksa Sebagai Pengacara Negara Dalam Lingkum Perdata Dan Tata Usaha Negara' (2018) 21 Jurnal Yustika.[24].

administration at the request of a state institution, central/local governmental institution or BUMN/BUMN (state/local-owned or government-owned enterprise), the implementation of which is conducted based on a writ of JAM DATUN, KAJATI, KAJARI. Although there is inconsistency with Article 30, Clause (2) of the Attorney Law, as it needs only the writ of JAM DATUN, KAJATI and KAJARI rather than a special power of attorney, the main duty and function of the State Attorney General could be implemented by attempting to prevent corruption crime from occurring in governmental product/service provision. However, this function of the attorney in preventing corruption crime should be first requested by the state institution, central/local governmental institution or BUMN/BUMD.

That many governmental institutions are not giving special power of attorney to the attorney institution in handling civil and state administration cases indicates that those governmental bodies have not yet put the attorney institution or State Attorney General that represents the state or governmental institution in preventing the corruption crime related to the governmental product/service provision following the dismissal of TP4D. This indicates that the governmental institution has not yet put the attorney institution to be the one contributing to law enforcement and maintaining the government's prestige in civil and state administration areas, as mentioned in the stipulation of Article 30, Clause (2) of the Attorney Law.

The Formulation of Special Authorisation to the State Attorney General in Coping With Corruption Crime Related to Governmental Product/Service Provision

The Republic of Indonesia's Attorney is a governmental body independently implementing the state's power, particularly in implementing duty and authority in prosecution and investigation of corruption crime and severe Human Rights infringement cases based on the law. The Attorney is a central institution in law

enforcement owned by all states adhering to the rule of law.[23] The rule-of-law concept has been described by several scholars. AV Dicey, as cited in Miriam Budharjo, stated that *the rule of law* should fulfil certain elements: (1) *supremacy of law*, (2) *equality before the law* and (3) *constitution based on human rights*. The supremacy of the law intended can be defined as the one having the highest power in the state (legal sovereignty). It is the equality in law sovereignty to everybody. The constitution is not the source of human rights, and if the human rights are put into the constitution, it serves only to confirm that the human rights should be protected. Closely observed, the duty of the attorney in civil and state administration areas is comparable to the vision and mission of the state Attorney General, as follows: (1) saving the state property, (2) enforcing the government's prestige and (3) protecting the public interest. Considering the duty and authority of the attorney, the state Attorney General's objectives being the guidelines in implementing the duty and function of the Solicitor General work unit in the civil and state administration area (JAM DATUN) are as follows: (1) to prevent a legal dispute from occurring within society; (2) to maintain the government's prestige; (3) to save the state property; and (4) to protect the public interest.

The authority of the Attorney as the State Attorney General in taking over the corruption result asset is implemented by the state through the State Attorney General in very small amounts. To maximise the restoration of assets resulting from corruption, the state should continue to promote the legal effort civilly. The attorney is authorised not only to be a plaintiff or defendant but also to provide deliberation or defend the state or government's interests, and to defend and protect the public interest. Such duty and authority include, among others, preventing corruption crime from occurring in governmental product/service provision.

The Republic of Indonesia's Presidential Regulation Number 16 of 2018 stated that governmental product/service provision is an activity conducted by the Ministry/Institution/Local Apparatus using the APBN/APBD (State/Local

[23] Miriam Budiarjo, *Dasar-Dasar Ilmu Politik* (Gramedia 1999).[25].

Government Income and Expense Budget) fund, the process of which includes identifying needs and providing the outcome of work.

The governmental product/service provision is essentially an attempt by the government that is represented by the Commitment Preparing Official (*Pejabat Pembuat Komitment*, hereafter called PPK) and committee to procure products or services using methods specified in order to achieve consensus concerning price, time and product/service quality. For the provision of products or services to be implemented as effectively as possible, the parties (PPK, the committee and the product/service supplier) should refer to the principles of product/service provision.

The product/service provision is one of many stages within the project cycle; this process starts with need planning and proceeds through to the completion of all activities needed to obtain the product or service between the parties corresponding to the contract. The Indonesian Big Dictionary defines *Pengadaan barang dan jasa* (product and service provision) as an offer to propose a price and to take all of the work related to the product or service provision.[24] *Product* is defined as every object, both tangible and intangible, movable or immovable, that can be traded, worn, used or utilised by the users of the product.[25]

The definition of *service* refers to three underlying definitions: industry, output or offer, and process. In the context of industry, the term *service* is used to represent a variety of subsectors in the category of economic activity, such as transportation, financial matters, retail trading, personal service, health, education and public service. In the offering scope, service is viewed as an intangible product, the output of which is more of an activity than a physical object. As a process, service reflects the delivery of a main service, personal interaction, performance in a broad sense and service experience.[26] Kotler defines *service* as an action or activity that can be offered by one party to another, basically intangible in nature

[24] Abu Sopian, *Dasar – Dasar Pengadaan Barang/Jasa Pemerintah* (In Media 2014).[81].
[25] *ibid*.[1].
[26] Fandy Tjiptono and Gregorius Chandra, *Service, Quality & Satisfaction* (Andi Offset 2011).[13].

and not leading to any ownership.[27] Product and service provision is essentially the users' attempt to obtain or realise a product or service they want, using certain methods and processes in order to achieve consensus in terms of price, time and other factors.[28] The philosophy of product and service provision is an attempt to obtain a desired product or service that is conducted based on logical and systematic thinking (the system of thought), following norms and ethics prevailing based on standard provisioning methods and processes.

Types of governmental products and services include product provision, construction jobs and consultation services.[29] Governmental product and service provision is actually a very important part in the process of implementing development. To government, the provision of products and services in every government institution will be the determinant of task and function implementation of each work unit. The implementation of governmental tasks will not achieve the maximum result without adequate infrastructure.[30] The governmental product/service provision is the activity of providing a product or service with the APBN/APBD fund, conducted in a self-management scheme or by a product/service provider.[31] Product and service provision still becomes the source of corruption cases in Indonesia because a large amount of funds are allocated to one of those governmental expenditure posts. Corruption is caused by, among other things, closed, non-transparent or non-publicly announced auctions. Various methods are used to restrict the information on an auction, such as by posting counterfeit newspaper advertisements or by *tender arisan*, in which the participants of the auction have been organised first by the provision committee or the association, predetermining the winner of the auction. It is this deviation that stimulates markup

[27] Fandy Tjiptono, *Pemasaran Jasa* (Andi Offset 2014).[26].

[28] LKPP, 'Pelatihan Pengadaan Barang Dan Jasa Pemerintah', *Modul Pengadaan Barang dan Jasa Pemerintah* (Lembaga Kebijakan Pengadaan Brang dan Jasa Pemerintah 2010).[8–10].

[29] Ahmad Wiki, 'Pengadaan Barang/Jasa Pemerintah/Metode/Cara Pemilihan Pengadaan' (*Wiki Ahmad*) <https://ahmad.fandom.com/id/wiki/Pengadaan_Barang/Jasa_Pemerintah/Metode/Cara_Pemilihan_Pengadaan> accessed 11 December 2020.

[30] Abu Sopian (n 24).[1].

[31] Rocky Marbun, *Tanya Jawab Seputar Tata Cara Pengadaan Barang/Jasa Pemerintah* (Visimedia 2010).[1].

and corruption. As explained in previous sections, JPN's duty and authority in the attempt of preventing corruption crime from occurring in governmental product/service provision is to give legal deliberation to the institution requesting it. This deliberation stage implies the definition of prevention aiming to prevent the corruption crime. If prevention through deliberation can be maximised, the objective of preventing corruption crime will be achieved. Unfortunately, these duties and functions are not performed by institutions that implement the governmental product/service provision.

The implementation of the attorney institution's task and function as the State Attorney General in its practice[32] is conducted through a cooperation agreement in the civil and state administrative law area between government and local government (including BUMN/BUMD, in this case). The cooperation is conducted through providing legal deliberation related to legal issues and is, if necessary, followed by special authorisation to the attorney to resolve legal issues encountered by the related institution. In other words, the attorney as the State Attorney General undertakes its duty and obligation corresponding to the authority delegated to it through a special power of attorney. The formulation of authorisation to JPN in the frame of Attorney Law in this research will use interpretation in reading the legal text grammatically.

Interpretation is the process of determining what the form is, particularly in law or in a legal document, by means of ascertaining the meaning of words or the manifestation of a wish.[33] The interpretation of legal text requires finding the appropriate meaning of the legal text in order to be applied to a certain case.[34] Generally, it can be conceived that a legislator does not anticipate any situations and difficulties potentially resulting from the application of legal text. The meaning of legal text is not always clear; sometimes the unclear meaning of legal text will lead

[32] *ibid*.[25].

[33] Bryan A Garner, *Black's Law Dictionary* (10th ed., Thompson Reuters 2014).[837].

[34] CM Germain, 'Approaches to Statutory Interpretation and Legislative History in France' (2003) 13 Duke Journal of Comparative & International Law.[201–202].

to difficulty in its application to a specific event. Thus, interpretation is needed to find the meaning and the scope of unclear text.

Article 30, Clause (2) of RI's Law No. 16 of 2004 about Republic of Indonesia's Attorney states that: "In civil and state administration area, attorney with special power can take action both inside and outside the court for and on behalf of state or government". The normative concept in this article grammatically uses conjunctions "both…and…". Thus, the meaning can be divided into two:

1) In the civil and state administration area, the attorney with special power can take action inside the court for and on behalf of the state or government.
2) In the civil and state administration area, the attorney with special power can take action outside the court for and on behalf of the state or government.

The textual meaning can be interpreted grammatically. The attorney's duty and authority in its civil and state administration function mentioned in the complex sentence in the article means that, in taking action for and on behalf of the state and government, the attorney in the civil and state administration area should be equipped with special power of attorney. This article explicitly mentions the special power of attorney but does not mention the *Jaksa Pengacara Negara* (State Attorney General). The meaning of special power is interpreted as State Attorney General, as found in the concept of civil law. The interpretation of special power of attorney in Article 30, Clause (2) of Attorney Law into State Attorney General is found in the Republic of Indonesia Attorney's Regulation Number PER-018/A/J.A/07/2014 about SOP of duty, function, and authority implementation in the civil and state administration area.

The Attorney General's Regulation translates Article 30, Clause (2) of Attorney Law in civil and state administration functions into the State Attorney General that can represent the state/government both inside and outside the court with the duty and authority of:

1) Law Enforcement;
2) Legal Assistance;
3) Legal Service;
4) Legal Deliberation;
5) Other legal actions.

In attempting to prevent corruption crime in governmental product/service provision, the duty of giving deliberation to a governmental institution or BUMN/BUMD (state-owned or local-government-owned enterprises) belongs to this authority. However, in the concept of the norm constructed, this authority should be preceded by a demand. Studied further, the SOP regulated in this Attorney General's Regulation has provided a breakthrough by not interpreting that each of JPN's authorised actions should always be with special power of attorney.

In the context of corruption-crime prevention in governmental product/service provision, the task of giving legal deliberation based on the governmental institution's request or demand only, rather than on special power of attorney, indicates that the state authorises the attorney in certain conditions no longer referring completely to the stipulation of Article 30, Clause (2) but to the implementation of tasks and functions of the Solicitor General work unit in civil and state administration (JAMDATUN) conducted by JPN, including: (1) preventing the legal dispute from occurring within society; (2) maintaining the government's prestige; (3) saving the state property; and (4) protecting the public interest.

If the word *attorney* is interpreted consistently into state attorney general, and the phrase *special power of attorney* is used consistently, JPN with the function of giving legal deliberation, in this case representing the state/government outside the court, should be based not only on the governmental institution's demand. Having no explicit regulation about JPN in Article 30, Clause (2) has resulted in norm obscurity in its implementation; the translation of JPN in the context of giving legal deliberation without special power of attorney on the one hand facilitates the role of JPN in the attempt of preventing corruption crime, but on the other hand, inconsistency occurs in the application of the rule itself.

Endicott defines an *obscure norm* as one leaving the ones to which the norm is enacted without clarification on how they should behave in certain cases, and the heart of a norm is to guide behaviour. An obscure norm in a norm system does not determine the limitation of the authority responsible for implementing the norm or

resolving the dispute, and a part of the norm system is to organise the behaviour of the ones to which the system gives normative power.[35]

Considering the elaboration of regulation due to the vague concept of norm related to the definition of *Jaksa Pengacara Negara* (State Attorney General) in Attorney Law, it is time for the state to change and to adjust the regulation with the need for the State Attorney General's duty and authority, one of which is to prevent the corruption crime in governmental product/service provision.

Conclusions

The normative concept of *Jaksa Pengacara Negara* (State Attorney General) is not found explicitly in "Article 30, Clause (2) of the Attorney Law; this concept has been just mentioned in Attorney General's Regulation Number PER-018/A/J.A/07/2014 about the Standard Operating Procedure of the Solicitor General of the Civil and State Administration area. The task regulated in the Attorney General's Regulation includes the function of the State Attorney General in: 1) law enforcement; 2) legal assistance; 3) legal service; 4) legal deliberation; and 5) other legal actions. Thus, the authority given to the Attorney in the function of State Attorney General is attributive authority born from the law. The role of the State Attorney General in preventing corruption crime in governmental product/service provision can be given based on its duty and authority in giving legal deliberation". The role of preventing corruption crime in this governmental product/service provision is in the form of implementation of Article 30, Clause (2) of the Attorney Law by the attorney in the civil and state administration area with special power to represent for, and on behalf of, the state/government outside the court. The textual meaning of special power of attorney in "Article 30, Clause (2) of the Attorney Law in further elaborating regulation through the Attorney General's regulation is called the State Attorney General. The prevention of corruption crime in governmental product/service provision can refer to the State Attorney General's duty and authority in the

[35] Dyah Ochtorina Susanti and A'an Efendi, 'Memahami Teks Undang-Undang Dengan Metode Interpretasi Eksegetikal' (2019) 41 Jurnal Kertha Patrika.[141–154].

function of giving legal deliberation based on the writs of JAM DATUN, KAJATI and KAJARI". The implementation of the State Attorney General's authority in attempting to give legal deliberation based on the superior's write, when studied further using grammatical interpretation, does not belong to the stipulation of Article 30, Clause (3) of the Attorney Law formulating normatively the civil and state administration authority with special power of attorney. Nevertheless, it is the state's breakthrough or innovation in the attempt of preventing corruption crime. Practically, this regulation is fairly effective but is not used optimally by governmental institutions and BUMN/BUMD because the function of the State Attorney General here is passive, working based on demand only. Viewed from a policy aspect, the State Attorney General in the preventive function performs less effectively because it does not give sanction to the non-requesting institution.

The reformulation of attorney regulation with civil and state administration functions can be accomplished by removing the norm concept of special power to grant the attorney, as State Attorney General, the authority of representing the state/government, particularly outside the court in attempting to implement the prevention of corruption crime effectively, particularly in the area of governmental product/service provision.

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