



RESEARCH ARTICLE

The Role of the Attorney General's Office in Conducting Wiretapping for Corruption Eradication in Indonesia: A Normative Juridical Analysis

Haedar^{1*}, M. Syukri Akub², Maskun³, Amir Ilyas⁴

¹Doctoral Student in Doctoral Program in Faculty of Law Hasanuddin University, Indonesia

^{2,3,4} Law lecturer, Department of Law, Hasanuddin University Makassar, Indonesia

ARTICLE INFO	ABSTRACT
Received: Apr 24, 2024	Act Criminal Corruption includes extraordinary crimes or, more known, crime collar white, so for its eradication, the need effort is not usually one of them via Tapping. As one of the law enforcers, the attorney owns authority in the matter and does tapping. Research methods used in writing This is juridical normative. Conclusion writing This is an attorney carrying out his authority in the matter. Does tapping in eradication follow criminal corruption? Not yet Can do tapping independently where in law Number 11 of 2021 concerning Change on Constitution Number 16 of 2004 concerning attorney Republic of Indonesia Article 30C letter i Not yet based justice. Even though the given authority will not yet use his authority, that's because there is a constitutional special governing procedural law implementation tapping.
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*Corresponding Author:	
haedarhae44@gmail.com	

INTRODUCTION

Enforcement law eradicating Corruption carried out by the Police, Prosecutor's Office, and Commission Eradication Corruption (KPK) makes the difference between the Police and the Corruption Eradication Committee. Prosecutor's Law grants "privileges" to attorneys to do investigations to follow criminal certain based on the Constitution ". Authority This expands the authority attorney in the Prosecutor's Law besides task prosecution as " primary " duties of the Prosecutor's Office. The norm is not just to expand the authority of the Prosecutor's Office, but it also does not provide enough answers to the attorney in law enforcement.

The role of the prosecutor's office is very central because the prosecutor's office in the criminal justice system is the institution that determines whether the court should examine a person or not. The prosecutor's office as an institution and the prosecutor as a representative of the prosecutor's office decides whether a person will be sentenced through the quality of the indictment and prosecution. Made. The position of the prosecutor's office as an institution for the law enforcement process is so important that this institution must be filled by professional people with high integrity (Bachri, 2020). The prosecutor's office in Indonesia is regulated in the Republic of Indonesia Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia; this law states

that the prosecutor's office carries out the authority to exercise state power in the field of prosecution. Apart from playing a role in criminal justice, the prosecutor's office also has a role in civil law and state administration, representing the state and government in civil and state administration cases (Migano et al., 2024; Kanval et al., 2024).

Explanation Law No. 16 of 2004 concerning the Prosecutor's Office (next called the Prosecutor's Law) has changed with Constitution Number 11 of 2021 Concerning Prosecutor's Office (next called the Prosecutor's Law Change) mentions that attorney as one of the institution enforcer law sued for more role in straighten up supremacy law, protection interest general, enforcement right basic humans, as well eradication corruption, collusion and nepotism.

Corruption Law Enforcement in Indonesia includes investigating and arresting perpetrators of corruption and recovering state losses resulting from these crimes. Law Number 20 of 2001 (amended to become Law Number 31 of 1999) regulates sanctions for payments of fines and compensation for acts of corruption committed by individuals and legal entities. Compensation money is considered an additional criminal act. If the convict does not pay it within one month after the court's decision becomes permanent, his property can be confiscated and auctioned to cover the compensation money. If the convict lacks the assets to pay replacement money, he can be imprisoned for a maximum of the principal penalty, determined by a court decision. The definition of replacement money is not regulated in the Corruption Law and its explanation (Saragih et al., 2024; Waheed et al., 2010).

One of the efforts to investigate and dismantle Corruption as a systemic crime is tapping (interception). Tapping is strategically attempting to unpack systemic and *interstate* crime, including corruption. The wiretapping in question here naturally is lawful by regulation legislation and criminal procedural law, so there is no violation of basic human (*human rights*), which are also protected by international law and several international. Article 28J of the 1945 NRI Constitution determines that restrictions to basic rights must arranged in the Constitution to ensure confession as well as respect for the rights and freedoms of others. Wiretapping is mandated by law and can be given in frame enforcement law, supported by tools that prove quite a start by the decision of Court Constitution Number 21/PUU-XII/2014.

Crime is growing, and corruption is happening. This is more massive and worrying. On the other hand, the Prosecutor's Office has been alone until now. This still has various limitations when handling corruption cases. Fine from facet means infrastructure supporters, source Power humans, and limited authority do tapping. However, on the other hand, the modus operandi of corruption is more advanced. It will involve official *high-ranking officials*, the public, and circles of businessmen.

Although Constitution Number 19 of 2016 Concerning Information and Transactions Electronics (next called the ITE Law), Article 31 Paragraph (3) allows activity tapping in frame enforcement law on request Police, Prosecutor's Office, or institution others, but at the same time also provide conditions "whose authority set based on Constitution." So based on the chapter, this is the only institution enforcer given law authority to tap into the Constitution, his just Commission Eradication Corruption (KPK). The police are in to Constitution Number 2 of 2002 Concerning Police, no arrange tapping as authority Police. However, Police publish Regulation Head Police Number 5 of 2010 concerning Procedures for Wiretapping (next called Perkap No. 5 of 2010) at the Monitoring Center the National Police, which regulates procedures request wiretapping, implementation operation wiretapping and monitoring, results of wiretapping and surveillance as well as control. Meanwhile, in Constitution Attorney Number 16 of 2004, the Prosecutor's Office is the same, with no arranged tapping as an authority attorney. Authority attorneys do tapping, called in Constitution Number 11 of 2021 (amendment to Law No. 16 of 2004); however, with restrictions "based on Constitution specifically regulated about tapping ...", so attorney No Can direct do tapping in handling follow criminal, incl Corruption, before birth Constitution specifically in question.

Crime corruption at times, and in the future, no one can be free from dynamics, development, business, and economics, conspiring with authority possessed by the official public, with more modes advanced. This increases the attorney's competence to continue managing its capacity as a mover effort to eradicate corruption. For That, there is a big challenge for the attorney. To increase competence and integrity, institutions must make an effort to eliminate corruption systematically and efficiently. He has the authority to minimize potency corruption. This also includes the Prosecutor's Office, which can sort case corruption in the qualifying sector as the source and node main. Corruption harms the state and society (Indonesian Prosecutor's Office Profile Preparation and Socialization Team, 2009). This matter can realize if the attorney has the authority the tapping will be arranged. Then, in the Constitution, tapping is special.

Changing the Constitutional attorney from Constitution Number 16 of 2004 to Constitution Number 11 of 2021 gives hope for strengthening enforcement law and eradicating corruption by attorneys. Article 30C letter i Law Number 11 of 2021 provides authority to the Prosecutor for wiretapping, which is the previous thing Not arranged in Law No. 16 of 2004. Wiretapping will strengthen attorneys' efforts to enforce the law against corruption, in particular, in return, loss of state financial results in crime corruption.

However, *regulations* That arrange an authority attorney to do tapping can only have done in the Constitution, specifically those that regulate wiretapping. Chapter the states that besides carrying out duties and authority as intended in Article 30, Article 30A, and Article 30B, the Prosecutor's Office does tapping based on the Constitution specifically regulates tapping and organizing center monitoring in the field follow criminal. So, it applies *regulations* that do not immediately enable the prosecutor to do so tapping when investigating criminal law. One is corruption; however, one must wait for the publication of "Law Special," which regulates wiretapping first.

The situation, thereby, is difficult for attorneys in optimizing enforcement law eradication corruption. As is known, if corruption is crime collar white (*white collar crime*), Law Eradication Act Criminal Corruption Number 31 of 1999 and its amendments (UU No. 20 of 2001) have classified Corruption as a crime outside normal or "extra ordinary" as does the Law Number 7 of 2006 concerning Endorsement *United Nations Convention Against Corruption* 2003 (Convention United Anti - Corruption Nations). Therefore, eradicating corruption No Can relies on conventional methods, but it is also necessary outside the normal way, one of them through activity regulated wiretapping in the Constitution.

The limited authority of the prosecutor in doing tapping makes it very difficult to enforce corruption, mainly in activity collection tool proof. Whereas tool proof is important in theory, the proof follows technical crime arranged in the Criminal Procedure Code (KUHAP). Activity enforcement corruption by the Prosecutor's Office without being equipped with the authority to do tapping during this is influential in forever investigating case corruption. Proven with many arrears case Corruptors who haven't yet Been resolved. Several verdicts free defendant corruption cases, which were investigated and prosecuted. The prosecutor's office also pointed out weak tools for what evidence is presented and what is not will happen if the attorney has authority tapping.

Research methods

Study This is normative-juridical research (Irwansyah, 2020; Jam et al., 2011), with a normative approach to studying efforts to strengthen enforcement laws following criminal corruption through authority attorney tapping. For a sustain type study, the approach used is the legislative approach (*statute approach*), conceptual approach (*conceptual approach*), and case approach (*case approaches*).

RESULTS AND DISCUSSION

Now, this crime of corruption has occurred more often in Indonesia, where the perpetrator follows corruption in matters and does his actions. This is also supported by progress technology communication used by the perpetrator of corruption to run his actions. Enforcing the law to sniff out the perpetrator's corruption is difficult. That required an outside way to reveal crimes already organized and structured, like corruption, with method tapping. For unpacking cases, catch the culprit and find tool proof so you can drag the culprit to table court.

Tapping in the Big Indonesian Dictionary (KBBI) is a process, method, and action tap. Which means listening to (recording) information (secret, conversation) of other people on purpose without the knowledge the person (Kristian, 2013).

The KPK Institution has used implementation tapping as one of the efforts to enforce external law normally in case corruption involved Setya Novanto and Freeport officials, recording conversations in case they become proof action intercepts obtained from results tapping communication with permission from the leadership of the Corruption Eradication Commission business find sufficient evidence For implementation investigation, p thereby caused action tapping Because exists conjecture strong that somebody or corporation has do follow criminal corruption (Munandar et al., 2023).

Rule-related action tapping only limited authority apparatus enforcer law, no related mechanism tapping, and protection to right privacy-related action tapping, so action tapping is very vulnerable to violating the right privacy of citizens carried out by the authorities' enforcer law. Where communication by citizens is a matter personally must protected by law, so tapping is forbidden. Such thing aligned with load Article 28G of the 1945 Constitution of the Republic of Indonesia Article 28G paragraph 1 that "*everyone has the right on protection self-personal, family, honor, dignity and property the thing below his power, as well entitled for a sense of security and protection from threat afraid for door No do something which is right human rights.*"

However, from an angle of the constitution, wiretapping reveals something crime as an exception and can be justified. Article 28G paragraph 1 of the 1945 Constitution of the Republic of Indonesia is not an article that cannot be diverted in circumstances. This means tapping Can done in frame reveal deed criminal on base provision special laws its nature or often known *lex specialis derogate legi generali*.

Legislation tapping Already, there are several regulation legislations; however, no arrange to tap in a way detailed. Several governing law-related authority state apparatuses for tapping, as follows:

1. Constitution Number 36 of 1999 concerning Telecommunication;
2. Constitution Number 19 of 2016 concerning Changes to the Law Number 11 of 2008 concerning Information and Transactions Electronic;
3. Constitution Number 17 of 2011 concerning Intelligence Country;
4. Constitution Number 11 of 2021 concerning Change on Constitution Number 16 of 2004 concerning attorney Republic Indonesia;
5. Constitution Number 19 of 2019 above Change second to Constitution Number 30 of 2002 concerning Commission Eradication Act Criminal Corruption;
6. Constitution Number 5 of 2018 above Change Constitution Number 15 of 2003 Concerning Determination Regulation Government Replacement Constitution Number 1 of 2002 Concerning Eradication Act Criminal Terrorism;
7. Constitution Number 35 of 2009 concerning Narcotics;
8. Constitution Number 5 of 1997 concerning Psychotropic;

9. Constitution Number 8 of 2010 concerning the Prevention and Eradication Act Criminal Money Laundering.

Governing regulations action wiretapping in Indonesia at the moment, this is already loaded in several regulations. Diversity governing rules in the same object can give rise to various interpretations from corner enforcer law to the public (Manthovani, 2015). Efforts To keep natural information confidential from other people or other parties for personal interests are not new but have developed since long ago (Bryandono, 2021).

From various governing laws assembled, different powers are available for wiretapping: investigator police, National Narcotics Agency (BNN), and Commission Eradication Corruption (KPK). Apart from that, those who have the authority To wiretap on the case follow criminal; that is, The prosecutor's office also has the authority to handle criminal corruption based on the explanation contained in Article 30 Letter I of Law Number 11 of 2021 concerning Changes to the Law Number 16 of 2004 concerning attorney Republic of Indonesia, that "*Prosecutor's Office own authority in do tapping based on Constitution specifically regulated about tapping and organizing center monitoring in the field follow criminal.*"

Regulation attorney latest open gap for the Prosecutor's Office with give right more tapping wide No regardless from function prosecutor as part from apparatus enforcer fair and independent law. Expansion authority wiretapping is carried out by the Prosecutor's Office not only in stages of investigation but also in stages of investigation, prosecution, execution, and search for fugitives.

Wiretapping carried out by the Prosecutor's Office can made as tool proof in form electronically during the evidentiary process in court. Because with existing tools, proof can disclose something incidentally criminal. If it was before, tapping Still used the ability of man mo., known as a spy, but, along with development technology, wiretapping can be done using technology.

Therefore, how difficult it is to get tool proof, so required ways new that is use tool proof electronic specifically, tool proof results acknowledged wiretapping as one of the proof instructions in following criminal corruption matters, thereby aligned with load Constitution Number 20 of 2001 concerning Change Constitution Number 31 of 1999 concerning Act Criminal Corruption Article 26 A which read, that:

"Legitimate evidence in form instruction as intended in Article 188 paragraph 2 of the Law Number 8 of 1981 concerning Criminal Procedure Law, specifically for follow criminal Corruption is also possible obtained from:

- a. Other evidence is information spoken, sent, received, or saved in an electronic with optical equipment or similar, and
- b. Documents, that is, every data recording or information available seen, read, and or heard issued with or without help something means, whether stated on paper or recorded in a way electronics, in the form of writing, sound, images, maps, designs, photos, letters, signs, numbers or information that has meaning."

The explanation chapter shows that tool-proof instructions inside follow criminal corruption, which are also possibly obtained through information electronics and document electronics that have the same position as tool-proof information witnesses, letters, and statements defendants as compiler tool-proof instruction. Tapping is a predisposition telling in investigating criminals against the development of crime modes in matter. This follows criminal corruption. Wiretapping uses effective technology to disclose systematic crimes, such as corruption or other crimes (Fachrunisa, 2021).

Prosecutor's authority to tap formerly only limited role as investigator just to No criminal certain. It's legally obligatory. If one wants to use tapping techniques to reveal something, the case criminal must get permission from the Chairman District Court (Fachrunisa, 2021). Typically, prosecutors to

tap, with Syara, must get legality permission from the Chairman Court that there is no legality permission that, then impossible tapping can be done to eradicate something that is criminal.

The problem is that because of the consequence, the expansion authority of the attorney exists based on Constitution Number 11 of 2021 concerning the change in Constitution Number 16 of 2004 concerning attorneys. The Republic of Indonesia needs to be arranged carefully and completely. To fulfill incident law results in blurriness regulations that can give rise to existing uncertainty laws and norms is not clear. Problem authority attorneys in the matter tapping in eradicate criminal corruption is something complicated thing, so needs clear and firm legislation (Kurnia et al., 2021).

Legislation-related tapping moment: The leave to has yet to approve this. Even the design of the Constitution about the expected intercept accommodates Article 31 paragraph (4) of Law Number 11 of 2008 concerning ITE, which the Court has canceled. Neither does the Constitution confirm. At the same time, deed perpetrators follow criminal corruption in today's digital era. This uses modern technology. So that method is also needed. Enforcement of laws to eradicate corruption requires sophisticated methods. Remember, the old countermeasures are not capable of revealing corruption. Moreover, Again, If bribery is in the form of bribes.

The current prosecutor's office has competent facilities, infrastructure, and a source Power certified human. He can use his authority in the matter of tapping. This will thereby slow down the decline of the criminal corruption in Indonesia.

In general, an attorney is an investigator who taps into criminal corruption to look for proof. However, limitations on authority tapping for attorneys become an obstacle in the investigation process. To reveal perpetrators, follow criminal bribery. So Can said that tapping is an effort forced in the justice system criminal because It doesn't matter if tapping is arranged for another outside context criminal.

Tapping violates act law and human rights, so there must be a clear trajectory for using enforcement law. Thereby tapping vulnerable misused. Moreover, If legislation underlying it does not have an umbrella law that refers to the governing law tapping in a way special. Updated laws about legislation tapping must be resolved with a method finish; moreover, the design wiretapping law (RUU) formerly. (Jayanti et al., 2022) . Where is the discussion? The wiretapping bill is the mandate of 3 (three) decisions of the Court Constitution, namely:

1. Decision Court Constitution Number 006/PUU-I- 2023;
2. Decision Court Constitution Number 012-016-019/PUU-IV/ 2006;
3. Decision Court Constitution Number 5/PUU-VIII/2010.

Based on the 3 Constitutional Court decisions, it is hoped that arrangement about tapping will be arranged in a way especially accommodating all regulations existing wiretapping. Rule-related tapping becomes very important because, in line with development technology, method tapping naturally will become increasingly popular and useful for revealing the increasing sophistication of crime. So, legislation wiretapping in the future must arranged in a way clear in regulation legislation for certainty legal and necessary formulation norm in detail, clear and complete related authority attorney do tapping so that No potential *abuse of power*.

CONCLUSION

attorney in carry out his authority in the matter do tapping in eradication follow criminal corruption Not yet Can do tapping independently where in the law Number 11 of 2021 concerning Change on Constitution Number 16 of 2004 concerning attorney Republic of Indonesia Article 30C letter i “ *do tapping based on Constitution specifically regulated related tapping and organizing center monitoring in the field follow criminal* ” yet based justice. Even though given authority will Not yet can use his authority, there is a Constitution special governing procedural law implementation tapping. Absence

of standard settings related to tapping, so there is a possible deviation in implementation, so the need exists. A Constitution specifically regulates wiretapping in general, down to procedures tapping for each authorized institution, one of them is an attorney so that in the matter tapping does not potential harm the constitutional rights of citizens in general.

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