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## STRENGTH-WEAKNESS-OPPORTUNITY-THREATS (SWOT) ANALYSIS OF EXTRAORDINARY LEGAL EFFORTS, EXECUTIONS, AND EXAMINATIONS IN ADDRESSING THE CORRUPTION CHALLENGES IN INDONESIA

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### Abstract:

One of the great expectations for dealing with the challenge of corruption in Indonesia is to strengthen the role of Extraordinary, Execution and Examination Legal Remedies, which are the (legal) structure of the Attorney General's Office. Based on a literature review using the Strength-Weakness-Opportunity-Threats (SWOT) Analysis, it can be concluded that revitalizing the Extraordinary Legal Remedies, Execution, and Examination sections can improve the optimization of the Attorney's performance in dealing with corruption in Indonesia. This revitalization is based on a SWOT analysis which shows that there are still weaknesses and threats, both internally and externally, at the Attorney General's Office. It is necessary to consider the existence of sub-monitoring and evaluation, as well as sub-reporting and analysis to strengthen the duties and functions of Extraordinary Legal Remedies, Execution, and Examination to minimize existing weaknesses and threats.

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### Keywords:

Corruption, Examinations, Executions, Extraordinary Legal Remedies, SWOT analysis

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## A. INTRODUCTION

The state and people have high hopes for law enforcement, one of which is to increase the role and performance of investigations and prosecutions of corruption. One of the essential roles of law enforcement in investigations and prosecutions is carried out by the Extraordinary Legal Remedies, Execution, and Examination section, which is part of the Attorney General's Office.

The need to strengthen the role and increase Extraordinary Legal Measures, Execution, and Examination is inseparable from one of the main tasks and functions of the prosecutor's office in the form of legal remedies, implementation of judge's decisions, and court decisions that have permanent legal force, carrying out examinations and monitoring of the implementation of conditional sentences and

conditional release decisions in exceptional criminal cases and other legal actions.<sup>1</sup> The need to strengthen the role and increase Extraordinary Legal Measures, Execution, and Examination is inseparable from one of the main tasks and functions of the prosecutor's office in the form of legal remedies, implementation of judge's decisions, and court decisions that have permanent legal force, carrying out examinations and monitoring of the implementation of conditional sentences and conditional release decisions in exceptional criminal cases and other legal actions..<sup>2</sup>

The vital role of Extraordinary Legal Remedies, Execution, and Examination is the authority of the Attorney General's Office as a law enforcement institution, and as an organizational structure that contributes to financial and non-financial performance at the Attorney General's Office, including in handling corruption in Indonesia, it is essential to analyze strong, weak bureaucracy Extraordinary Legal Measures, Execution, and Examination at the Attorney General's Office through strengthening the SWOT strategy.

## B. METHOD

This study uses the literature review method to consider the documents, analysis, and conclusion of investigating the particular topic <sup>3</sup>. By using a narrative review, this study begins by selecting and identifying research interests for investigation and then narrowing and refining these interests into research topics. So that this study produces a case conclusion in the form of a thesis statement that answers the questions posed in the interest of this study<sup>4</sup>.

## C. DISCUSSION

### 1) Overview of Extraordinary Legal Measures, Execution, and Examination on the Functions and Authorities of the Attorney General's Office

The Extraordinary Legal Remedies, Execution, and Examination Section at the Attorney General's Office has several essential tasks, such as carrying out legal remedies, implementing judge decisions and court decisions that have permanent legal force, supervising the implementation of conditional sentences, criminal supervisory decisions, parole decisions, and examination in the handling of exceptional criminal cases within the scope of the Attorney General's authority<sup>5</sup> shows that organizationally

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<sup>1</sup> Kejaksaan Republik Indonesia, Annual Report 2016, available at <https://www.kejaksaan.go.id/upldoc/laptah/2017-Laporan%20Tahunan%202016%20Kejaksan%20Republik%20Indonesia-id.pdf>, accessed on 22 September 2018, p. 64.

<sup>2</sup> Kejaksaan Republik Indonesia, Book II of Annual Report 2021, Jakarta: Kejaksaan Republik Indonesia, p. 84.

<sup>3</sup> Lawrence A. Machi dan Breanda T. McEvoy, *The Literature Review*, California: Corwin, 2022, p. 3.

<sup>4</sup> *Loc.cit.*

<sup>5</sup> Peraturan Jaksa Agung Republik Indonesia Nomor PER-006/A/JA/07/2017 Tentang Organisasi Dan Tata Kerja Kejaksaan Republik Indonesia, Pasal 873 (Regulation of the Attorney General of the Republic of Indonesia Number PER-006/A/JA/07/2017 Concerning the Organization and Work Procedure of the Attorney General's Office of the Republic of Indonesia, Article 873)

the important function must be in order to achieve optimum performance of the Attorney General's Office.<sup>6</sup>

Furthermore, Article 885 of the Regulation of the Attorney General of the Republic of Indonesia Number PER-006/A/JA/07/2017 concerning the Organization and Work Procedure of the Attorney General's Office of the Republic of Indonesia is emphasized that the function of Extraordinary Legal Remedies, Execution, and Examination. The functions of Extraordinary Legal Remedies, Execution, and Examination are also based on the requirements of Article 197 paragraph (1) letter f of the Criminal Procedure Code (KUHP) regarding Indictments, Judge Decisions, Judge Considerations, Examination, and Extraordinary Remedies. Extraordinary legal remedies are legal remedies that can be filed against court decisions that have permanent legal force, consisting of cassation for the sake of law and review.<sup>7</sup>

The importance of the duties and functions of the Extraordinary Legal Remedies, Execution, and Examination, has experienced several obstacles in its implementation, such as:

1. Its organizational structure is only supported by<sup>8</sup> sub-Criminal Act of Corruption and ML and sub-Other Special Crimes. Sub-Corruption Crimes and ML have several tasks, namely preparing materials for program and work plans, materials for technical and administrative policy formulation, and implementation of controls, providing technical guidance, conveying considerations, opinions, and suggestions, coordination and cooperation, data management and presentation information, monitoring and evaluation as well as preparation of reports on the implementation of court decisions that have permanent legal force, supervision of the implementation of conditional sentences, supervision and conditional release of criminal decisions, extraordinary legal remedies, requests for clemency, amnesty, and abolition, and examination in handling criminal cases corruption and money laundering offenses in the jurisdiction of the Attorney General's Office.<sup>9</sup> Other Special Crimes Sub-Offices have several tasks, such as preparing materials for drafting programs and work plans, preparing materials for the formulation of technical and administrative policies, preparing for the implementation of controls, providing technical guidance, conveying considerations, opinions and suggestions, coordination and cooperation, data management and presentation of information, monitoring and evaluation as well as compiling reports on the implementation of court decisions that have permanent legal force, supervision of the implementation of conditional sentences, supervision and conditional release of criminal decisions, extraordinary legal remedies, requests for clemency, amnesty and abolition, as well as examination in handling cases of criminal acts taxation crimes and money laundering crimes, as well as customs, excise and TPPU crimes in the jurisdiction of the Attorney General's Office.<sup>10</sup>

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<sup>6</sup> *Ibid.*, Article 875.

<sup>7</sup> Cica Desi Aristawati and Emmilia Rusdiana, Analisis Yuridis Putusan Nomor 63/PID.SUS/2017/PN BTG Dikaitkan Pasal 197 Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana, *Jurnal Novum*, Vol. 5, No. 2, April 2018, p. 78.

<sup>8</sup> Pasal 886 Peraturan Jaksa Agung Republik Indonesia Nomor PER-006/A/JA/07/2017 (Article 886 Regulation of the Attorney General of the Republic of Indonesia Number PER-006/A/JA/07/2017)

<sup>9</sup> *Ibid.*, Article 887 paragraph (1).

<sup>10</sup> *Ibid.*, Article 887 paragraph (2).

2. The limited number of staff in this significant section of the Attorney General's Office can cause difficulties and obstacles in carrying out daily tasks which are fundamentally vital, including handling the challenge of corruption in Indonesia.
3. As the jurisdiction of the Prosecutor's Office is quite broad, covering the entire territory of the Unitary State of the Republic of Indonesia, the distance between each of these regions is quite far, which makes it difficult to supervise, especially since there is no budget to carry out routine supervision activities at each of the Attorney General's Office and its Branches of State Attorney. This causes a lack of attention in efforts to settle arrears. It greatly influences the high number of arrears in the execution of the state prosecutor's office. In practice, execution control, both current and arrears, can only be carried out from the high prosecutor's office utilizing email, telephone and WhatsApp.
4. An adequate database and information system to monitor the amount of data on overdue execution cases (body, fines, replacement money, evidence, and case costs). So far, the data collection process has only been based on the requested data, so the veracity of the data is still being determined.
5. The regions are still only focused on working on many arrears in investigations and observations because, generally, the achievements of specific crimes are only seen from the number of investigations and observations handled.
6. The need for more budget to be used in validating data and increasing the number of teams in the regions.

The existence of several obstacles in one of the Attorney General's organizational structures shows that theoretically, what was concluded by Janicijevic, which states that organizational structure and culture influence each other and will have a strong influence on organizational performance,<sup>11</sup> and Hatch and Cunliffe, who emphasized that organizational culture must be represented by structure and interrelated to one another,<sup>12</sup> is sufficient to apply in practice. In this case, the Extraordinary Legal Remedies, Execution, and Examination must be responsive to changes and the culture surrounding the organizational environment, because there are always social consequences and influences on the legal structure in the Attorney General's Office. Or in other words, a fairly large area, too wide a span of control (the Attorney General's Office and the District Attorney's Branch), inadequate information technology/systems, very small funding/budget, and very minimal number of human resources and capabilities, indicating that the Extraordinary Legal Remedies, Execution, and Examination section must always be transformed through bureaucratic reform in order to resolve all obstacles and problems faced. The phenomenon of "change" referred to here can be in various forms, such as reorganization, rationalization, restructuring, which in essence is an attempt to change the form of an organization in a better direction.<sup>13</sup> As for these transformation efforts, one of them still has to go through a learning process that is not only aimed at making adjustments

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<sup>11</sup> N. Janicijevic, 2013, The Mutual Impact of Organizational Culture and Structure, *Economic Annals*, LVIII No. 198, p. 58.

<sup>12</sup> M. J. Hatch dan A. L. Cunliffe, 2013, *Organization Theory*, Oxford: Oxford University Press.

<sup>13</sup> Nils Brunsson, 2009, *Reform as Routine: Organizational Change and Stability in the Modern World*, Oxford dan New York: Oxford University Press, p. 6

but must be at creating new things that are responsive to a standard or targets that can be achieved.<sup>14</sup>

## **2) Section of Extraordinary Remedies, Execution and Examination of Ideals within the Reform Framework**

As the Extraordinary, Execution and Examination Sub-Remedies must be able to transform, one of which is through a learning process aimed at making adjustments, as well as the creation of new things that are responsive to a standard or common goals can be achieved, then the existing configuration framework in the structure of the Extraordinary Legal Remedies, Execution and Examination sections must synergize with other organizational structures both within the Attorney General's office. This needs to be observed because this part is a social reality with a totality of problems in it, such as legitimacy, culture, technology, leadership, strategy, power sharing, and so forth.<sup>15</sup>

A management strategy is needed because management is expected to reach the organization itself, make the organization internally consistent, and solve any problems that can arise at any time in various forms.<sup>16</sup> One strategy that is still feasible to implement in reforming the Extraordinary Legal Remedies, Execution, and Examination Section is first to conduct a SWOT (Strength-Weakness-Opportunity-Threats) analysis. This SWOT is adequate to be used in planning a strategy that is carried out by evaluating the strengths, weaknesses, opportunities, and threats contained in the structure of the Extraordinary Legal Remedies, Execution, and Examination section. Its application is how the Extraordinary Legal Remedies, Execution, and Examination must be able to increase its strengths in taking advantage of existing opportunities, able to overcome existing weaknesses through exploiting opportunities, and able to turn threats into opportunities for organizations to achieve optimum performance.

Based on the brief description of the SWOT analysis, it needs to be translated into an organizational structure (Extraordinary Legal Remedies, Execution, and Examination Section) through the following SWOT matrix:

### **1. Strength**

Strength includes internal and external Attorneys. The internal prosecutor's office extends to the authority inherent in the standard operating procedure (SOP) and a higher hierarchy than the Attorney General's Office and the District Attorney's Branch. In contrast, the external prosecutor's office refers to carrying out court decisions that have been *inkracht*.

### **2. Weakness**

Weakness includes internal and external Attorney. Attorney General's Office: i) only a few sub-sections with a low number of employees; ii) budget for evaluation and direct monitoring does not exist; iii) covering a very broad legal area; iv) inadequate technology and information systems. While the external prosecutor's office includes: i) does not have the power to give direct sanctions

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<sup>14</sup> Andreas Budihardjo, 2014, Organisasi: Menuju Pencapaian Kinerja Optimum, Jakarta: Prasetya Mulya Publishing, hlm. 37.

<sup>15</sup> Gudono, 2015, Teori Organisasi, Yogyakarta: BPFE-Yogyakarta, hlm. 167.

<sup>16</sup> M.V. Assen, G. V. D. Berg, dan P. Pietersma, 2009, Key Management Models, Harlow, UK: Prentice Hall, hlm. 158.

to staff at the Attorney General's Office or the District Attorney's Branch who do not carry out the recommendations of the Extraordinary, Execution, and Examination Sections of Legal Remedies; ii) work that is like coordination with other sections or departments or other institutions so that the results of Extraordinary Legal Remedies, Execution, and Examination may be leaked to parties who have no interest; iii) intervention of "stronger" powers or institutions; iv) the working relationship with the Attorney/Cabjari is only limited to WhatsApp, telephone; v) not directly involved (as a team) when there is a process of inquiry, investigation, and prosecution in which one must anticipate compensation money for potential convicts.

3. Opportunity

Opportunity includes respected and respected law enforcement institutions, which have the supremacy of prosecution.

4. Threats

Treaths include internal and external Attorney. Threats related to the internal affairs of the Attorney General's Office, including the very high remaining uncollected compensation payments, all cases that have been inkraht cannot be executed entirely in the same year, and cases that require public attention that must be examined in depth<sup>17</sup>. Threats related to the external prosecutor's office, including i) potential threats from convicts or backing related to convicts when executions are carried out, ii) lack of cooperation and even resistance from other institutions which under various pretexts do not support when billing for payment of uncollected replacement money is carried out.

## D. CONCLUSION

Based on the SWOT analysis, strengthening Extraordinary, Execution, and Examination Legal Remedies is one of the Attorney's tools in dealing with the challenges of corruption in Indonesia. The Attorney General's Office needs to consider revitalizing the Extraordinary Legal Remedies, Execution and Examination sections, bearing in mind that there are still weaknesses and threats, both internally and externally, which are feared to hinder the optimization of the Attorney's performance, especially in dealing with corruption in Indonesia. Need to minimize weaknesses and threats by considering the presence of sub-monitoring and evaluation, as well as sub-reporting and analysis to strengthen the duties and functions of Extraordinary Legal Remedies, Execution, and Examination, especially in dealing with corruption in Indonesia.

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<sup>17</sup> Ristu Darmawan, Upaya Hukum Luar Biasa Peninjauan Kembali terhadap Putusan Bebas dalam Perkara Pidana, Suatu Tesis Pada Program Pascasarjana Ilmu Hukum Universitas Indonesia, Jakarta, 2012, available at <https://lib.ui.ac.id/file?file=digital/20300586-T30375-Upaya%20hukum.pdf>, pp. 83-86.

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