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The Meaning of the Integrity Zone in the Prosecutor's Office: A Study of Legal Hermeneutics

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Abstract

Integrity Zone is proposed to improve the quality of public services, and as an effort to realize clean government and good government, even it is still hard to fully realize in specific law enforcement agencies, such as the Prosecutor's Office of the Republic of Indonesia. For that purpose, the implementation of the related Law should be accompanied by an understanding that humans are the prominent people in realizing the norms contained in the integrity zone. The potential for abuse of duties and authority by individual Prosecutors that can at least be categorized as illegal acts should be appropriately addressed. A qualitative approach with the hermeneutic method was employed in this study to explore and examine the legal meanings behind the phenomena in the integrity zone through correct interpretation. It is concluded that there is a limitation in regulating the integrity zone within the attorney's office and not referring to the correct interpretation of the correlated Law. The legal hermeneutic perspective in building an integrity zone at the Prosecutor's office must be built based on a culture of zero tolerance for any illegal act, which refers to planting and strengthening the roots of human conscience within the Prosecutor's office.

Keywords: Integrity Zone; Bureaucracy; Prosecutor.

Introduction

The Integrity Zone is still difficult to fully realize in specific law enforcement agencies, such as the Prosecutor's Office of the Republic of Indonesia. Its realization cannot be separated from the implementation of the law that is not accompanied by an understanding that humans are prominent entities in realizing the norms contained in the integrity zone.¹ This can be seen from the fact that there have

¹ Rizky Aji Shiddiqy, 'Membangun Zona Integritas Sebagai Upaya Pemberantasan Korupsi' (2013) 2 Jurnal Ilmiah Mahasiswa FEB.[37].

been various forms of e-government in the construction of integrity zones in applications and websites, and various applicable laws and regulations related to integrity, such as the 1945 Constitution of the Republic of Indonesia, Law No. No. 19 of 2019 concerning the Second Amendment to Law No. 30 of 2002 concerning the Corruption Eradication Commission; Law no. 31 of 1999 in conjunction with Law no. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption (Corruption Law); Law Number 30 of 2014 concerning Government Administration (Government Administration Law), Government Regulation Number 53 of 2010 concerning Discipline of Civil Servants, Presidential Regulation Number 55 of 2012 concerning the National Strategy for Prevention and Long-Term Eradication of Corruption in 2012-2025 and Medium-Term in 2012-2014, and Regulation of the Minister of State Apparatus Empowerment and Bureaucratic Reform Number 10 of 2019 concerning Amendments to the Regulation of the Minister of State Apparatus Empowerment and Bureaucratic Reform Number 52 of 2014 concerning Guidelines for the Development of Integrity Zones toward Corruption-Free Regions and Territories Clean and Serving Bureaucracy in Government Agencies. However, there is still (potential) abuse of duties and authority carried out by unscrupulous prosecutors who tarnish the good name of the Prosecutor's Office of the Republic of Indonesia.² This can be seen, among others, that there are still several prosecutors who are being tried for corruption, accepting bribes, and extortion, there are still many prosecutors who are subject to disciplinary sanctions (as many as 174 throughout 2019 and as many as 130 throughout 2020), and there are still many reports of complaints on Prosecutor's Commission of the Republic of Indonesia.³

Individual prosecutors' potential abuse of duties and authority should at least be categorized as illegal acts. Regarding this concern, as Sinaga, Samekto, and Emirzon have emphasized, illegal acts are the actions of everyone 'that is not

² Vellyadana Tiwisia, Andrie Wahyu Setiawan and Agus Triono, 'Bureaucratic Reform of Indonesia Attorney: Building Integrity of Law Enforcement and Improving Public Trust' (2020) 10 International Journal of Humanities and Social Science.[125].

³ Suramin Suramin, 'Indonesian Anti-Corruption Law Enforcement: Current Problems and Challenges' (2021) 2 Journal of Law and Legal Reform. [225].

only limited to acts that violate the law but also acts that violate morals, propriety, thoroughness, and caution that someone in social life' should own.⁴ Hence, it is necessary and urgent to conduct a legal hermeneutic study regarding the Integrity Zone for the Prosecutor's office. Therefore, this study seeks to answer two main problems that arise. First, how is the integrity zone set in the current Prosecutor's Office? Second, what is the perspective of legal hermeneutics in building an Integrity Zone at the Prosecutor's Office?.

Considering that the object of this study is a text (law) related to the Integrity Zone, this study is adequate by using a qualitative approach with the hermeneutic method. Data in the form of thoughts and ideas related to law and integrity are collected based on a literature review. In the hermeneutic sense, the essential function of language in human life is understood as the structure and meaning and its use in life and the function of language that describes the entire human reality. So, with the hermeneutic method, this study will explore and examine the legal meanings behind the phenomena in the Integrity Zone through interpretation.

Integrity Zone Overview

There are various definitions of integrity. Even when stated that 'integrity is simply used as a substitute for the good or the right' or 'acting with integrity is the same as acting ethically or morally', integrity must be understood according to its original meaning. Its original meaning is 'integral', which means it represents the whole.⁵ Wholeness in question will always imply the existence of parts, so integrity requires wholeness and correct relationships among the parts of the whole. The relationship between the parts and the whole offers various meanings of integrity, including integrity as consistency, relational awareness, inclusion, and the pursuit of a worthy goal.⁶

⁴ Henry Dianto Pardamean Sinaga, FX Adji Samekto and Joni Emirzon, 'Ideal Corporate Criminal Liability for The Performance and Accreditation of Public Accountant Audit Report in Indonesia' (2019) 7 International Journal of Economics and Business Administration.[451].

⁵ HM Soerya Respatono, 'Penyelenggaraan Pemerintahan Yang Bersih Menuju Zona Integritas Wilayah Bebas Korupsi' (2013) 42 Masalah-Masalah Hukum.[114].

⁶ *ibid.*

In the context of the bureaucracy in Indonesia, integrity is based on the Regulation of the Minister of State Apparatus Empowerment and Bureaucratic Reform Number 10 of 2019, which focuses on the development of the Integrity Zone as one of the sub-actions in the law enforcement sector and bureaucratic reform. Integrity Zone development is a role model for bureaucratic reform in upholding the integrity and quality services.⁷ Furthermore, Regulation of the Minister of State Apparatus Empowerment and Bureaucratic Reform Number 10 of 2019 and Regulation of the Minister of State Apparatus Empowerment and Bureaucratic Reform Number 52 of 2014 have defined Integrity Zone as a predicate given to government agencies whose leaders and staff are committed to realizing a Corruption-Free Area and Clean and Serving Bureaucratic Region through bureaucratic reform, especially in terms of preventing corruption and improving the quality of public services. The Corruption-Free Area is determined by the ministry, institution, or region leadership. In contrast, the Clean and Serving Bureaucratic Region is determined by the Minister of State Apparatus Empowerment and Bureaucratic Reform, where the fulfilment of the Corruption-Free Area and Clean and Serving Bureaucratic Region predicate is always evaluated every year.⁸

The Integrity Zone development process implements the Change Management program, Management Arrangement, Human Resource Management Arrangement, Strengthening Supervision, Strengthening Performance Accountability, and improving the quality of concrete public services.⁹ Then, after the work unit proposed as Integrity Zone toward a Corruption-Free Area and Clean and Serving Bureaucratic Region has been determined, it is necessary to determine two types of components that must be built, namely the lever component (60%) and the yield component (40%). Change Management Program (5%), Management Arrangement

⁷ Andhi Sukma Hanafi and Mugi Harsono, 'Pelaksanaan Reformasi Birokrasi Dengan Pembangunan Zona Integritas Pada Kementerian Perindustrian' (2020) 4 Jurnal Informasi dan Komunikasi Administrasi Perkantoran 1.

⁸ Kejaksaan Republik Indonesia, *Buku Pedoman Pembangunan Zona Integritas Menuju WBK/WBBM Di Lingkungan Kejaksaan Republik Indonesia* (Badan Penerbitan Kejaksaan Republik Indonesia 2020).[45].

⁹ Shiddiqy (n 1).

(5%), Human Resource Management System Arrangement (15%), Performance Accountability Strengthening (10%), Strengthening Supervision (15%), and Public Service Quality Improvement (10%) are components levers that are expected to produce two government targets, namely a clean government and free of corruption, collusion and nepotism and improving the quality of public services. Then, each of these components has several targets that must be achieved.¹⁰

Going Beyond Legal Positivism in Integrity Zone Development

Positivism and legal modernity, although necessary in countries that adhere to a civil law system within the framework of the state's obligation to protect and safeguard the interests of its people,¹¹ can be a challenge in the implementation of the Integrity Zone, given the excessive dependence on professionals (both legal and bureaucratic) on texts. In regard to law in implementing Integrity Zone development, Rahardjo has stated that the written method of law makes people fixated on reading the rules, which poses a significant risk of marginalizing justice and matters of reason.¹² Regulations are not the only determining factor for legal certainty and law enforcement because there are other factors, such as tradition and behavior.¹³ In addition, it must be realized that regulation can cause doubts, reducing the value of the certainty because, in the world of legislation, a regulation can conflict with other regulations.¹⁴

The Integrity Zone as a predicate given to government agencies because they have a Corruption-Free Area and Clean and Serving Bureaucratic Region commitments shows that various meanings can affect every human resource.¹⁵

¹⁰ Setia Untung Arimuladi, *Zona Integritas: Konsep Penegakan Dan Penerapan Asas Umum Pemerintahan Yang Baik Untuk Mewujudkan Good Governance and Clean Government* (Setara Press 2021).[52].

¹¹ Ruth Gavison, 'Natural Law, Positivism, and the Limits of Jurisprudence: A Modern Round' (1982) 91 *The Yale Law Journal*. [1250].

¹² Sadjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia* (1st edn, Genta Pub 2009).[34].

¹³ Aidul Fitriadi Azhari, 'Negara Hukum Indonesia: Dekolonisasi Dan Rekonstruksi Tradisi' (2012) 19 *Jurnal Hukum Ius Quia Iustum*. [489].

¹⁴ N Huda, *Negara Hukum, Demokrasi & Judicial Review* (UII Press 2005).[34].

¹⁵ Arimuladi (n 10).[4].

For example, every employee committed to corruption will carry out every rule correctly, thus implying that employees will work rigidly because legal positivism is value-free and prioritizes procedural justice.¹⁶ On the other hand, if the benchmark of public services provided by an employee is to satisfy all stakeholders, of course, consciously or unconsciously, it has the potential to ignore several procedures whose justification does not lead to corruption but can lead to collusion or nepotism in any name and form.¹⁷

Another example of meaning is in the framework of a Corruption-Free Area, where the word corruption itself involves the word ‘can’ with ‘harming state finances’ containing various meanings.¹⁸ Article 1 number 15 of Law no. 15 of 2004 concerning the Supreme Audit Agency and Article 1 number 22 of the State Treasury Law states ‘state or regional losses’ as a shortage of money, securities, and goods, which are natural and definite in amount as a result of unlawful acts, either intentionally or negligently.¹⁹ Meanwhile, the Elucidation of Article 32 paragraph (1) of the Anti-Corruption Law states that what is meant by actual state financial losses are state losses whose amount can be calculated based on the findings of the authorized agency or appointed public accountant. Then, the Decision of the Constitutional Court No. 0003/PUU-IV/2006 dated July 24, 2006, stated that the relationship between the words ‘can’ and ‘harm the state finances’ is depicted in two extreme relationships, namely those that harm the state or are likely to cause losses, which refers to expert considerations in finance - State, the country’s economy, and an expert in analysing the relationship between actions and losses.²⁰ Of course, the spirit that every government agency is free from corruption is not only addressed through legal positivism. The cult of positivism and modernity regarding corruption-free areas will only become a scourge for state administrators in carrying out their

¹⁶ *ibid.*[64].

¹⁷ *ibid.*[16].

¹⁸ *ibid.*[85].

¹⁹ M Najibur Rohman and Daud Rismana, ‘Kebijakan Pemangkasan Struktur Birokrasi Di Indonesia’ (2021) 4 *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi*. [221].

²⁰ Diana Yusyanti, ‘Strategi Pemberantasan Korupsi Melalui Pendekatan Politik Hukum, Penegakan Hukum Dan Budaya Hukum’ (2015) 1 *E-Journal WIDYA Yustisia*. [87].

duties and responsibilities in state finances.²¹ Such understanding can hinder the running of public services due to concerns about ‘floating’ the meaning of state losses, such as setting sentences due to negligent acts and or which can enrich certain parties and or groups.²²

The existence of various applicable laws and regulations related to integrity makes it clear that all matters of integrity must be based on laws and regulations, even though progressive Law cannot be separated from the diversity of policies and laws that are by the character of the community, where every decision-making is carried out not only by elements of the community.²³ The top of the country involves all components that exist in every government agency in which every legal action of the apparatus must be carried out responsibly.²⁴

The cult of positivism and modernity in the ideology of legal certainty has had unfavorable implications in implementing the Integrity Zone. Efforts are needed to go beyond positivism and modernity through the realm of the social sciences, which is indeed a human social area, an area that is internalized, considering that all processes of positivism are driven by a particular cognitive interest (technical interest), which is rooted in the area of the sciences.²⁵ Nature has to deal with natural phenomena so that various elements of subjectivity must be removed to find causal links that are necessary through controlled and manipulative actions. The orientation of positivism is only sufficient in natural science to succeed in anticipating, directing, predicting, operating technically natural processes.²⁶ Meanwhile, mutual understanding and mutual understanding are required in social areas through a dynamic process among legal subjects, which mere statutory regulations should not

²¹ Mark Turner, Eko Prasajo and Rudiarto Sumarwono, ‘The Challenge of Reforming Big Bureaucracy in Indonesia’ (2019) 43 Policy Studies.

²² Bambang Waluyo, ‘Optimalisasi Pemberantasan Korupsi Di Indonesia’ (2014) 1 Jurnal Yuridis.[169].

²³ Rahardjo (n 12).[76].

²⁴ Edi Setiadi, ‘Penegakan Hukum Pidana Terhadap Kasus-Kasus Korupsi Dalam Menciptakan Clean Government’ [2000] Mimbar. [305].

²⁵ Sri Wahyuni, ‘Pengaruh Positivisme Dalam Perkembangan Ilmu Hukum Dan Pembangunan Hukum Indonesia’ (2008) 1 Fakultas Syari’ah dan Hukum UIN Sunan Kalijaga Yogyakarta.[98].

²⁶ Mario Julyano and Aditya Yuli Sulistyawan, ‘Pemahaman Terhadap Asas Kepastian Hukum Melalui Konstruksi Penalaran Positivisme Hukum’ (2019) 1 Jurnal Crepido.[14].

objectify, such as speaking, asking, responding, concluding, capturing changes, and following all with self-awareness.

Development of an Integrity Zone within the Prosecutor's Office

The development of the Integrity Zone within the Prosecutor's Office cannot be separated from an understanding of the duties and authorities of the Prosecutor's Office considering that there is inherent power that is sensitive but should gain legitimacy in the eyes of building existence and supporting the smooth running of policies and tasks carried out by the Prosecutor's Office.²⁷

Article 1 number 6 letter b of the Criminal Procedure Code, Article 13 of the Criminal Procedure Code, Article 1 number 2, and Article 30 of the Law of the Republic of Indonesia Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia (Prosecutor Law) have confirmed that the duties and the Prosecutor's Office includes the criminal, civil and state administration fields, as well as public order and peace. The Prosecutor's Office has the following duties and authorities in the criminal field: a. carry out prosecutions; b. carry out judges' decisions and court decisions with permanent legal force; c. supervise the implementation of conditional criminal decisions, criminal supervisory decisions, and parole decisions; d. conduct investigations into certain criminal acts based on the law; e., complete specific case files and for that purpose can carry out additional examinations before being transferred to the court, which in its implementation is coordinated with investigators.²⁸ Within civil and administrative courts, prosecutors with special powers can act outward and inward in the court for and on behalf of the state or government. In the field of public order and peace, the Public Prosecutor's Office also organizes the following activities: a. increasing public legal awareness; b. safeguarding law enforcement policies; c. supervision of the circulation of printed goods; d. supervising the flow of beliefs that can harm society and the state;

²⁷ Arimuladi (n 10).[45].

²⁸ Wahyu Nugroho, 'Rule Breaking and Progressive Law Enforcer's Integrity In the Effort of Eradicating Corruption Committed by Local Officials' (2014) 7 Jurnal Yudisial.[70].

e. prevention of abuse and blasphemy of religion; f. research and development of law and criminal statistics.²⁹ In addition, Article 32 of the Prosecutor's Law also stipulates that the Prosecutor's Office can be entrusted with other tasks and powers based on the law, such as conducting investigations into criminal acts of corruption as stipulated in the Corruption Eradication Commission Law and the Anti-Corruption Law.

The magnitude of the task and authority of the Prosecutor's Office shows that the Prosecutor's Office needs the development of an Integrity Zone so that its vision is to become a law enforcement agency that is clean, effective and efficient, transparent, and accountable to be able to provide excellent service in realizing the rule of law in a professional, proportional and dignified manner based on justice, truth and propriety values that can be realized to the fullest.³⁰ The Prosecutor's Office as the holder of the supremacy of prosecution and at the same time as one of the institutions conducting investigations into criminal acts of corruption in Indonesia, must have a sense of zero tolerance for any illegal activity in carrying out its duties and authorities, including abusing the authority, opportunities or facilities available to them due to their position or position which can harm state finances or the state economy.³¹

In building the Integrity Zone, it is hoped that the Prosecutor's Office must be free from corruption, collusion and nepotism, disciplinary violations, deviations from standard operating procedures, ineffective and efficient use and utilization of budgets, provide careless services, and the existence of self-interest is based on the Corruption-Free Area and Clean and Serving Bureaucratic Region predicate for service work units that are strongly committed to eradicating corruption and implementing bureaucratic reform.³² Several actions and strategies that the leadership

²⁹ Nani Widya Sari, 'Kewenangan Kejaksaan Dalam Penegakan Hukum Tindak Pidana Korupsi Dihubungkan Dengan Undang-Undang Nomor 16 Tahun 2004 Tentang Kejaksaan Republik Indonesia' (2017) 4 *Dinamika Masalah Hukum dan Keadilan*. [174].

³⁰ *ibid.*

³¹ Bening Hadilinatih, 'Collaborative Governance Dalam Pemberantasan Korupsi' (2018) 2 *Jurnal Enersia Publika*. [1].

³² Arimuladi (n 10). [34].

has carried out in the Prosecutor's Office include a) conducting several assessments and monitoring of employees periodically, by announcing exemplary employees who meet the criteria in the form of employees who perform well, have integrity, and have a high commitment in carrying out their duties, responsibilities and obligations; b) the process of developing artificial intelligence-oriented information technology; c) creating a command centre to facilitate communication and command; d) building information technology that is connected to all applications that can be accessed by all levels of the Prosecutor's Office; e) building an intelligent system that has extensive specifications data high-performance analytic workflow; and f) implementing One-Stop Services.³³

It is hoped that the development of the Integrity Zone that the Prosecutor's Office is carrying out will not be merely ceremonial to get the Corruption-Free Area and Clean and Serving Bureaucratic Region predicate on the work units at the Prosecutor's Office and/or to carry out the applicable laws and regulations. Because, since the last decade, the government has issued many laws and regulations related to codes of ethics, integrity, bureaucratic reform, and corruption.³⁴ Even internally, the Prosecutor's Office has regulated the Prosecutor's Code of Conduct as formulated in PER-014/A/JA/11/2012. That is, that the laws and regulations related to the code of ethics, integrity, bureaucratic reform, and corruption, especially in PER-014/A/JA/11/2012, and the rights and obligations and prohibitions against prosecutors are carried out correctly. Full of integrity, the work unit at the Prosecutor's Office will always obtain the title of Corruption-Free Area and Clean and Serving Bureaucratic Region. However, in reality, in the current Corruption-Free Area and Clean and Serving Bureaucratic Region predicate era, there are still several violations by prosecutors who have been caught. There are still prosecutors who have been arrested for narcotics and illegal drugs cases and

³³ *ibid.*[24].

³⁴ Eko Prasajo and Teguh Kurniawan, 'Reformasi Birokrasi Dan Good Governance: Kasus Best Practices Dari Sejumlah Daerah Di Indonesia' (2008) Symposium A Quarterly Journal In Modern Foreign Literatures.[1].

there are still prosecutors who are proven to have abused their authority.³⁵ Thus, other efforts are needed through the role of interpreting legal hermeneutics in the development of an Integrity Zone within the Prosecutor's Office, considering that current Integrity Zone development efforts tend to be just like a competition to get the Corruption-Free Area and Clean and Serving Bureaucratic Region predicate in the work units at the Prosecutor's Office.

The Meaning of Legal Hermeneutics on the Development of Integrity Zones in the Prosecutor's Office

Integrity is concerned with wholeness, which implies the existence of parts, so that integrity requires not only wholeness but also correct relationships among the parts of the whole. The relationship between the parts offers various meanings of integrity, including consistency, relational awareness, inclusion, and the pursuit of worthy goals.³⁶

In the context of integrity within the Prosecutor's Office, the whole meaning of this integrity will refer to zero tolerance for any illegal act referring to humans involved in the Prosecutor's Office as one of the government institutions that must take responsibility for treating all equally based on the same care and respect for all citizens. Moreover, the principle requires that the government treat all those responsible somewhat based on the distribution of existing resources. Then, integrity is supported by information, communication, and technology strategies in supervising the running of the duties and authorities of this very broad and powerful Prosecutor will automatically lead the Prosecutor's institution to a transparent and accountable culture so that the Prosecutor's Office becomes a public institution that has a critical role and an authoritative statement of public trust.³⁷

Cultivating a culture of zero tolerance for any illegal act within the Prosecutor's Office is a social area that cannot be separated from mutual understanding. In the

³⁵ Widya Sari (n 29).

³⁶ Kejaksaan Republik Indonesia (n 8).[24].

³⁷ Arimuladi (n 10).[104].

context of Integrity Zone development, it does not only rely on formal-legislative thinking and or its interpretation as a system of rules that are *lex scripta*, *lex certa*, and *lex stricta*, considering that law is a social construction in its form in the form of a text, discourse, or argument that must always be observed and interpreted continuously. Concerning this assumption, the correct interpretation of legal texts must refer to the rule of law, both express and implied.³⁸ Implied or between the sound of the law and the spirit of the law. The correct interpretation is needed to anticipate the misuse of laws and regulations related to codes of ethics, integrity, bureaucratic reform, and corruption as weapons of the corps, ‘protection’ from public scorn from the efforts and strong desire of the wider community to clean law enforcement institutions from dirty elements.³⁹ Therefore, integrity is needed, which must continue to make continuous adjustments to the limitations of laws and regulations in achieving its goals, considering that integrity concerns humans who have the inherent capacity of conscience.

The existence of planting and strengthening the roots of conscience capacity within the Prosecutor’s Office will make the Prosecutor’s institution a role model for Integrity Zone development which is necessary in obtaining the Corruption-Free Area and Clean and Serving Bureaucratic Region predicate based on the capacity of conscience, which includes honesty, empathy, dedication, and spiritual quotient in carrying out each task. And authority. As for the spiritual quotient, as meant by Zohar and Marshall, this is in the form of meaningful intelligence (meaning-giving), thinking in context and transformative, creative, insightful, and intuitive.

Conclusion

There are two conclusions in this study. First, the regulation of the Integrity Zone within the attorney general’s office is still limited to obtaining the Corruption-Free Area and Clean and Serving Bureaucratic Region predicate for service work

³⁸ Agustin Widjiastuti, ‘Peran AAUPB Dalam Mewujudkan Penyelenggaraan Pemerintahan Yang Bersih Dan Bebas Dari KKN’ (2017) 22 Perspektif.[96].

³⁹ Respationo (n 5).

units at the Prosecutor's Office. Law implementation is not referring to the correct interpretation of the sound of the law and the spirit of the laws and regulations related to the code of ethics, integrity, bureaucratic reform, and corruption that have been widely applied to date. The incorrect interpretation of law will only continue to prosper violations that the prosecutors are still carrying out. Second, the legal hermeneutic perspective in building an Integrity Zone at the Prosecutor's Office must be built based on a culture of zero tolerance for any illegal act, which refers to planting and strengthening the roots of human conscience within the Prosecutor's Office.

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