The Special Power Concept Of State Attorney General In Preventing The Governmental Product/Service Procurement-Related Crime In Indonesia

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Abstract
The basic duty of RI’s General Attorney in Special Crime Division is to undertake repressive function. In addition, preventive strategy is an action taken to prevent the product/service corruption crime by Civil and State Administration Division of RI’s Attorney General (DATUN). This study aims to analyze the construction of JPN authorization based on RI’s Attorney General Law. The method used in this study was juridical normative one. The result of research shows that the textual meaning with grammatical interpretation related to the attorney’s duty and authority in civil and state administration function based on Article 30 clause (2) of RI’s Attorney General Law in the terms of acting for and on behalf of state or government, the prosecutor in civil and state administration area should have special power. This article mentions firmly 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 Attorney General Law to be State General Attorney is found in Republic of Indonesia Attorney General’s Regulation. However, in the concept of norm constructed, this authority should be preceded with a demand. The translation of JPN in the context of function provides a legal deliberation that on the one hand the absence of special power of attorney facilitates the role of JPN in the attempt of preventing corruption crime, but on the other hand an inconsistent application of rule occurs.

Keywords: The Special Power; State Attorney; Related Crime.

Introduction
Basically, a constitutional state aims primarily to give its people the law protection. Philipus M Hadjon states that law protection to people from the governmental action builds on two principles: human rights and constitutional state. The implication

1 Philipus M. Hadjon, Perlindungan Hukum Bagi Rakyat Di Indonesia (Bina Ilmu 2005).[71].
of constitutional state’s ideal is that the organization of state life should entirely be based on law, including the one related to product and service provision conducted by government through tender or direct designation, as the attempt of sufficing the people’s needs in order to achieve the people welfare as the national goal, as included in the Preamble of UUD NRI 1945 (RI’s 1945 Constitution). Product and service provision conducted by government is the manifestation of state’s duty and function implementation in providing public services originating from State Income and Expenditure Budget (APBN) or through Regional Income and Expenditure Budget (APBD) for local government, in order to be accountable for.

In organizing the state life, the government is required to promote public welfare with social justice to all Indonesian people. To bring it into reality, the government should obligatorily provide people’s need in varying forms such as product (commodity), service, and infrastructure development. In addition, government, in its governance, also needs product and service; therefore, product and service provision is required. Product and service provision generates corruption cases in Indonesia. It is because a large amount of fund is allocated to one of those governmental expenditure posts. Corruption is caused by, among others, closed- or non-transparent or non-publicly announced auction. Various methods are used to restrict the information on auction, for example, by posting counterfeit advertisement on newspaper or tender arisan, in which the participants of auction have been organized first by the provision committee or the association, related to the winner of auction. It is this deviation that stimulates mark-up and corruption.

One of law enforcing intuitions with an authority of eradicating corruption crime is Republic of Indonesia’s Attorney Office (thereafter called Kejaksaan RI). Republic of Indonesia’s Law Number 16 of 2004 about Republic of Indonesia’s Attorney General (State Gazette of 2004, Number 67, Supplement to State Gazette Number 4401; thereafter called UU Kejaksaan or Attorney Law) is a governmental institution implementing the state power in prosecution area and other authorities.

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2 Yohanes Sogar Simamora, ‘Prinsip Hukum Kontrak Dalam Pengadaan Barang Dan Jasa Oleh Pemerintah’ (Universitas Airlangga 2005).[1].
based on the Law. Article 2 clause (1) authorizes the Kejaksaan RI not only to prosecute corruption crime but also to do other actions functioning in the attempt of eradicating corruption crime. People’s common impression about Attorney General Institution is, so far, that the institution serves as public prosecutor only, although UU Kejaksaan concerns civil and state administration area. Special power is given to Kejaksaan to act both inside and outside the Court for and on behalf of state or government. It is this duty and authority is called State Attorney General (Indonesian: Jaksa Pengacara Negara or JPN). Attorney, in relation to the implementation of its duty and function, needs integration and synchronization between subsystems. Muladi mentioned that “structural, substantial, and cultural synchronizations are required”. Closely studied, the mechanism of giving power as mentioned in the power of attorney includes two legal areas. Viewed from the object aspect, the handover of power belongs to private legal area, while the one receiving power (State Attorney General) and the one giving power (governmental institution/State- 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 certain interest”.

The problem existing is related to some government institutions still not giving special power of attorney or asking Republic of Indonesia’s Attorney Institution for dealing civil and state administration affairs, including the function of preventing corruption crime in governmental product/service provision. Such condition can indicate that government institution has not put attorney institution to be the one contributing to law enforcement and maintaining government’s authority in civil and state administration areas, as mentioned in Article 30 clause (2) of Attorney Law.

Considering the background elaborated above, this research raises a central issue: “What is the construction of special power of State Attorney General in coping with corruption crime related to governmental product/service provision as ius constitutendum?”.
The method used in this study was juridical normative one. Legal science is the one that is prescriptive and applied in nature or sui generis. The typical characteristic of legal science is normative. Considering the prescriptive character, this research is a legal study, 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 prescription in solving the problem encountered. The approaches used were statute and conceptual approaches.

1. Statute approach was conducted to study law and regulation pertaining to legal issues. This approach was used to analyze, to prescribe, to systematize, and to interpret Indonesian national legal instrument concerning “Republic of Indonesia’s Attorney ad State Attorney General in preventing corruption crime related to governmental product/service provision”. This approach was used to find legis ratio and ontological foundation of the issuance of Republic of Indonesia’s Law Number 16 of 2004 about Republic of Indonesia’s Attorney, in which Article 30 clause (2) governs the duty and authority in Civil and State Administration area.

2. Conceptual approach departs from perspectives and doctrines developing in legal science. This approach is used to find philosophy and characteristic of the State Attorney General’s duty and function in preventing corruption crime related to governmental product/service corruption through the special power of State Attorney General

**Special Power Concept as the foundation of State Attorney General’s Authority**

The concept of authorization is known in the normative frame of authorization agreement (lastgeving) as regulated in Articles 1792-1819 of Title

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3 Peter Mahmud Marzuki, *Penelitian Hukum* (Prenada Media 2006).[26].  
4 Philipus M. Hadjon and Tatiek Sri Djamiat, *Argumentasi Hukum* (Gadjah Mada University Press 2005).[1].  
5 *ibid*.  
6 Peter Mahmud Marzuki (n 3).[35].  
7 *ibid.*[93].  
8 *ibid.*[93].
XVI Book III of Civil Code (KUHPer/BW). Authorization is a legal action found widely within society. In addition, it is a very fundamental and important deed in both legal and non-legal relation process, in the case of an individual wants another represents him/her self to be his/her attorney, to implement anything belonging to the authorizer’s interest, including in the relations with others than his/her attorney. According to the provision of article, there are two parties in the authorization agreement:
1. Authorizer;
2. Attorney-in-fact or Attorney, instructed or mandated to do anything for and on behalf of authorizer.

The term lastgeving, as mentioned in Article 1792 of Civil Code (KUHPerdata), is translated into “authorization” by R Subekti and R Tjitrosudibio stating that Authorization is an agreement by which an individual authorizes another who receives and on behalf of his/her name deals with an affair.9 From the limitation above, the aspect to be considered necessarily is that authorization should be in the form of “dealing with an affair”, in the sense of doing certain legal action that will lead to certain legal consequence. Another aspect of the limitation of authorization is the presence of the acts of representation implicitly, as characterized with the sentence “for his name….”, meaning that there is an individual representing another in doing a certain legal action. In the case of an attorney receiving the authority from the authorizer in internal relation only between the authorizer and attorney, in which the attorney is not entitled to represent the authorizer to establish relation with the third party, this authorization agreement does not bring out a representation. However, from the limitation mentioned in Article 1792 of Civil Code, it can be seen that all authorization agreements will bring out representation, or in other words, the attorney can represent the authorizer to do certain legal deed or action for and on the behalf of authorizer.

9 Translated by R Subekti and R Tjitrosudibio (ed), Kitab Undang-Undang Hukum Perdata (Burgerlijk Wetboek) (Pradnya Paramita 1992).[Article 1792].
Article 1793 of Civil Code mentions the ways and forms of authorization, including:

a. Authority can be given and received in the form official deed, such as notarial deed, the one legalized in the clerk of court, the one prepared by official and etc, and can also be given with underhand letter, ordinary letter and orally.

b. Authorization can also occur silently, meaning that an authorization occurs incidentally without any approval first.

The word “approval” indicates the authorization following a concept of agreement (lastgeving), in which the provision concerning the preconditions of a legitimate agreement and fundamental legal principles, including consensual, freedom of contracting, and binding power, apply to the authorization agreement. The phrase “for and on behalf of” is interpreted as follows “the authorization agreement always brings out representation, leading to the enactment of lastgeving provision to the authorizer resulting in representation (volmacht). Authorization and representation have 2 (two) different meanings in each of legal relation. Achmad Ichsan said that there are 3 (three) legal conditions related to legal relation of the authorizer and the authority of representing: (a) authorization followed with the authority of representing, bringing out representation based on (lastgeving and volmacht); (b) authorization not followed with the authority of representing, not bring out representation (lastgeving) and (c) authority of representing without authorization (volmacht).

By its content, an authorization is divided into some types, based on Article of Law:

a. Special Authorization (1775 KUHPer)
   It is the authorization to do something or some certain things.

b. General Authorization
   It is the authorization to do any actions related to dealing with the authorizer’s property, including all interests of the authorizer.

c. Extraordinary Authorization (1776)
   It is a very special authorization firmly mentioning one by one the actions to do by the attorney.

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10 Achmad Ichsan, Hukum Perdata IB (Pembimbing Masa 1969).[224].
11 M. Yahya Harahap, Segi-Segi Hukum Perjanjian (Alumni 1986).[308-309].
d. Intermediary Authorization
   It is the authorization in which the attorney becomes the intermediary or bridge
   between the authorizer and the third party, while further relation will be dealt
   with by the authorizer and the third party.

e. The legal authority institution is called authorization if: 12
   1. The authorizer delegates representation or designates the attorney 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 authorized completely to take action on the third party
      representing the authorizer for and on behalf of the authorizer.
   3. The authorizer is responsible for all of the attorney’s deeds, as long as it
      does not exceed the authority given by the authorizer.
   4. The characteristics of authorization agreement are as follows:
      1. The attorney has a capacity to be the authorizer’s representative directly.
      2. The authorization is consensual, and so is the authorization agreement,
         the one based on consensus, in the sense of:
         a. The authorization relation is a package composed of authorizer and
            attorney.
         b. The legal relation is put into an authorization agreement, with
            binding power as the agreement between both of them (the parties).
         c. Therefore, the authorization should be based on the firm Letter of
            Intent made by the parties.
      3. Having guarantee-contract character

   The measure to determine the binding power of authorization action is
   limited only:
   a. When the authority or mandate is given by the authorizer;
   b. If the attorney acts exceeding the border of mandate, the authorizer is responsible
      for only the action corresponding to mandate given. The one exceeding it will
      be the attorney’s responsibility, according to the guarantee-contract principle as
      explained in Article 1806 of Civil Code.

   The authorization may end due to the followings:
   1. The authorizer withdraws it unilaterally;
   2. One of parties dies;
   3. The attorney relinquishes the authority.

Building on Article 1797 of Civil Code, the authorizer is not allowed to take action

12 M.Yahya Harahap, *Hukum Acara Perdata* (Sinar Grafika 2012).[2].
exceeding the authority given. If an agreement entered into by third party and the attorney exceeding the authority, the consequence of the agreement is the attorney’s responsibility completely, and the authorizer can call for compensation from the attorney or the authorizer may approve the content of agreement prepared by the attorney. The third party, in this case, can call for compensation from the attorney that exceeds the authority or can require the authorizer to comply with the agreement or call for the revocation of agreement.

Authorization agreement is the consensual one, meaning that the presence of consensus brings out an authorization agreement binding the corresponding parties. Authorization is born not only from an agreement but also from the issuance of Law, in the sense of certain legal actions without the statement of an authorization, the authorization has occurred because the Law has specified it.13

The authorization born from the Law is also found in the regulation of attorney’s duty and authority in Article 30 clause (2) of Attorney Law in Civil and State Administration area. The authorization of attorney in the normative concept of authorization as governed in Attorney Law is categorized into special authority, and special authority received by this attorney as State Attorney General belongs to the act of giving governmental administration authority that is attributive in nature. Attributive authority is the one obtained from the Law; it is interpreted from the attorney’s authority as mentioned in Article 30 clause (2) of Attorney Law that Attorney with Special Authority (power) can take action both inside and outside the court for and on behalf of state or government. Considering this, the attorney’s authority of taking action for and on behalf of government, both inside and outside the court, is an attributive authority. Thus, Attorney is a governmental (executive) institution, in which its establishment, and duty and authority implementation is governed in Law Number 16 of 2004 about RI’s Attorney.

The authority of State Attorney General is specified in Article 30 of Law Number 16 of 2004 about RI’s Attorney divided into 3 (three) areas:

13 Habib Adjie, Pemahaman Terhadap Bentuk Surat Kuasa Membebankan Hak Tanggungan (SKMHT) (Mandar Maju 2019).[10].
1. In criminal area, the attorney has duty and authority:
   a. to do prosecution;
   b. to implement the judge assignment and the court’s verdict that has obtained permanent legal force;
   c. to supervise the implementation of conditional sentence, supervisory, and conditional discharge verdicts;
   d. to investigate certain crimes based on the Law;
   e. to complement certain case documents and for that reason can do additional examination before the documents are handed over to the court, the implementation of which is coordinated with the investigator.

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

3. In public orderliness and tranquility, the attorney contributes to the organization of the following activities:
   a. Improving the people’s legal consciousness;
   b. Securing the law enforcement policy;
   c. Supervising the circulation of printed products;
   d. Supervising the belief (aliran kepercayaan) that can harm people and state;
   e. Preventing religion abuse and/or disgracing;
   f. Legal research and development, and criminal statistics.

The authority inherent to JPN to take action in civil and state attorney general is born from the legislation enacted. However, some people criticize the foundation of authority with the provision governed in Law Number 18 of 2003 about Advocate (furthermore called Advocate Law). Although Article 30 clause (2) of Attorney Law gives authority with special power by which the attorney can take action both inside and outside the court for and on behalf of state or government, according to some people this is in contradiction with Advocate Law.

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

1) Article 2 clause (1) of Advocate Law
Considering the provision of Article 2 clause (1), it can be seen that the one that can be assigned to be advocate is the scholar with legal high education background and having attended advocate profession-specific education held by advocate organization. Furthermore, from clause (2), it can be seen that the assignment of advocate is conducted by advocate organization.

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14 Muhamad Jusuf, *Hukum Kejaksaan: Eksistensi Kejaksaan Sebagai Pengacara Negara Dalam Perkara Perdata Dan Tata Usaha Negara* (Laksbang Justitia 2014).[185].
2) Article 3 clause (2) of Advocate Law

Based on the provision of Article 3 clause (1) letter c of Advocate Law, one of requirements for the assignment of advocate is non-civil servant or -state official status.

The interpretation of articles above, governing the requirements of advocate assignment aforementioned, cannot apply specifically to the position and the authority of JPN born from Attorney Law. The requirements governed in Advocate Law apply only to an individual who wants to be an advocate and is not an attorney; thus the requirement no longer applies to the Attorney. The authority of JPN given by Attorney Law to take action in civil and state administration area is *lex specialist* or special provision. Otherwise, Advocate Law is *lex generalist* or the provision generally applying to an individual who want to be an advocate. Considering the principle of *Lex specialist derogate lex generalist*, the provision applying specifically overrides the one applying generally as long as it regulates the same matter. Thus, the provision of 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 function is related to duty and authority related to law enforcement, legal assistance, legal deliberation, legal service and other legal action. Meanwhile, the internal function is the managerial one as the attempt of making the authority of Solicitor General in Civil and State Administration area (JAMDATUN) implemented optimally.

**Legal Consequence of the Authorization of State Attorney General in Preventing Corruption Crime Related to Governmental Product/Service Provision**

The attorney with special power is authorized in civil area to take action both inside and outside the court for and on behalf of state or government. This authority in Civil and State Administration area becomes the basis for the attorney to give legal assistance in the attempt of solving the case. In the frame of duty, authority and function implementation, state attorney general is different from public prosecutor. Public prosecutor is essentially the attorney implementing the state’s
power in the criminal case prosecution. Meanwhile, the implementation of state attorney general’s duty is highly dependent on the provision regulated specifically in the special power of attorney given by the authorizer to the state attorney general, different from the public prosecutor as regulated generally in Code of Criminal Procedure (KUHAP).

Structurally, the organization and the authority of attorney institution in civil and state administration area are the responsibility of 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) Solicitor General in Civil and State Administration area has duty and authority of implementing the attorney’s duty and authority in civil and state administration area.

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 institution/agency, central and local governmental institution, State-/Local Government-Owned Enterprise in the civil and state administration area to save and to restore the state property, to enforce government and state’s prestige, and to provide legal service to community.

In the attempt of implementing such duty and authority, Article 294 of Keppres (Presidential Decree Number 38 of 2010) mentions that Solicitor General in the civil and state administration area serves the following functions:

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

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

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15 ibid.[176].
a) Giving Special Power of Attorney

Following up the demand to the Attorney as indicated by Attorney General, Solicitor General in civil and state administration area, Heads of Provincial and District Attorneys, those encountering legal problem submits the problem solving process in written form to the leader of attorney. In the attempt of confirming the case of problem position encountered by the authorizer, the submission of problem solving process should be followed with complete evidence to local attorney as well as staffs designated to solve the problem in the future.

Following up the submission of problem solving process, the authorizer having the problem then prepared Special Power of Attorney with substitution right to the leader of attorney. This Special Power of Attorney here is essentially defined as a letter of agreement by which an authority is given to the leader of attorney to solve legal problem, so that the leader of attorney for and on behalf of the authorizer will solve the problem based on the power or authority given. This special power of attorney authorizes the leader of attorney to take action representing the interests of authorizer both inside and outside court.

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

b) Designation of State Attorney General

The designation of State Attorney General by the leader of attorney to deal with 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 attorney. It is because the special power of attorney on behalf of the corresponding state attorney general is essentially defined as:

1) Legal foundation for all actions taken by the State Attorney General in the attempt of solving the problem it represents.
2) Limitation of State Attorney General’s duty and authority in dealing with the problem it represents. Therefore, the State Attorney General should know and realize 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 should obligatorily secure the authorizer’s secret as an ethic to be maintained well. Thus, any explanation, information and etc 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 finding obtained by the State Attorney General concerning the case are then presented to the leader of attorney that gives assignment and the corresponding leader of attorney. The State Attorney General’s disclosure before the leader and staffs of attorney designated by the authorizer is a formal statement expressed by the State Attorney General based on evidence or realities existing, from which the State Attorney General will get input. Having gotten input from the leader and staffs of attorney and the leader of authorizer, the next measure to be taken by the State Attorney General is to do the case resolution process.

c) Case Resolution Process

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

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

The State Attorney General is a functional attorney authorized to undertake its duty and function as specified in the special power of attorney by those related like central or local institutions, state-/local government-owned enterprises, state officials, and people for the sake of public interest. *Jaksa Pengacara Negara* (State Attorney General) grammatically consists of 3 words: *jaksa*, *pengacara*, and *Negara*. Attorney Law has authorized the State Attorney General to implement its duty and function according to its role as the state attorney, the role of state attorney as the state’s front guard to restore the state loss. There are two ways taken by State Attorney General to save the state property: by restoring and by saving the state property.

The publication of Republic of Indonesia Attorney General’s Decree Number KEP-152/A/JA/10/2015 on October 1, 2015, about the establishment of Government and Development Supervising and Safeguarding Team (*Tim Pengawal dan Pengaman Pemerintah dan Pembangunan*, thereafter called TP4) authorizes the attorney with new task. If so far the attorney’s task is usually to do prosecution or investigation on certain crime, or to implement the judge’s stipulation and the court’s verdict that has obtained permanent legal force, now it gets new additional task to serve to be supervisor and safeguard of Governmental infrastructure project from central to local level.

The establishment of Government and Development Supervising and Safeguarding Team (TP4) of RI Attorney departed from President Joko Widodo’s Instruction Number 7 of 2015 about “Corruption Preventing and Eradicating Actions” published on May 6, 2015. The President sees that the corruption eradication

\[16 \text{ibid.}[179].\]
conducted so far by the law enforcers instead has an impact on the development retardation. Many officials become the leader of project reluctantly because the risk of being called and examined continuously by law enforcers from KPK (Corruption Eradication Commission), Attorney General (Kejagung), Provincial Attorney (Kejati), District Attorney (Kejari), Mabes Polri (RI Police Headquarters), Polda (Regional Police), through Polres (Resort Police). Consequently, the budget absorption is low because the officials do not take the risk bravely to continue the project due to the fear of being criminalized. Government wants the eradication of corruption prioritizes preventive aspect rather than repressive one that in fact did not reduce the corruption rate.

President Joko Widodo’s Instruction Number 7 of 2015 about Corruption Preventing and Eradicating Action was then followed with RI’s Attorney General by establishing Government and Development Supervising and Safeguarding Team (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 the field application. Nevertheless, development and the supervision of development project remain to be implemented with the requirement of the presence of the assignment of activity as national/local strategic project.

Since December 2019, Republic of Indonesia’s Attorney General officially removed Local Government and Development Supervising and Safeguarding Team (called 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 State Attorney General as specified in Article 30 clause (2) of Attorney Law should have had 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 the Article 30 clause 2 of Attorney Law regulates duty and authority of attorney in civil and state administration area and divides it into 5 (five):
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 area, the fifth function has been able to authorize it to prevent corruption crime, particularly in governmental product/service provision.

The concept of authority in State Administration Law relates to legality principle, in which this principle is one of basic principles underlying each government and state organization in every constitutional state, particularly in the ones adhering to 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 onderworpen, or government is subjected to the law. This principle is a principle in a constitutional state. The authority as public law concept consists of at least three components: effect, legal foundation, and legal conformity.

1. Effect component is that the use of authority is intended to control the subject of law’s behavior;  
2. Legal foundation component is that the legal foundation of an authority can always be indicated;  
3. Conformity component is defined as the presence of standard authority or common standard (all types of authority) and special standard (for certain type of authority).

In line with the basic pillar of a constitutional state is legality (legaliteits beginselen or wetmatigheid van bestuur) principle, the governmental authority

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17 Nur Basuki Winarno, *Penyalahgunaan Wewenang Dan Tindak Pidana Korupsi* (Laksbang Mediatama 2008).[66].
originates from legislation. In administration law-related literature, there are two ways to obtain governmental authority: attribution and delegation; sometimes there is also mandated positioned distinctively to obtain authority. Authority has important position in the State Administration Law or administration law study. This authority is so important that F.A.M. Stroink and J.G Steenbeek state: “Het Begrip bevoegdheid is dan ook een kembegrip in het staats-en administratief recht”. From this statement, it can be summarized that authority is the core concept of constitutional law and state administration law. The term kewenangan or wewenang (Indonesian) is paralleled to authority in English and “bevoegdheid” in Dutch. 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 legality principle, constituting one of basic principles underlying every government and state organization in constitutional states, particularly those adhering to 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 onderworpen, or government is subjected to the law. This principle is a principle in a constitutional state.

Similarly, each of governmental deed is presupposed to build on the legitimate authority. A state administration official or body cannot perform a governmental deed, without the legal authority. The legitimate authority is an attribute to each official or body. The legitimate authority, viewed from its source, consists of three categories: attributional, delegative, and mandatory, as explained below:

1. Attributive Authority

Attributive authority usually originates from the distribution of power by

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18 ibid.[65].
19 ibid.[70].
20 ibid.[77].
legislation. This attributive authority is implemented by official or body itself as specified in its basic regulation. In relation to attributive authority, the responsibility and the accountability will fall down to the official or the body as specified in the basic regulation.

2. Delegative Authority

Delegative authority originates from the delegation of a governmental organ to another based on legislation. In the term of delegative authority, responsibility and accountability are transferred to the authorized and the delegated one.

3. Mandatory Authority

Mandatory authority is the one originating from the process or procedure of delegating from the higher official or body to the lower one. Mandatory authority is present in the routine relation between superior and subordinate, unless it is prohibited firmly.

In relation to attributive, delegative, and mandatory concepts, J.G. Brouwer and A.E. Schilder stated that: 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 is not derived from a previously non existent power and assigns them 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 its own name.

3. With 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 attributive concept, authority is given to an administrative body by an independent legislative body. This authority is original, not taken from the preexisting one. Legislative body creates independent authority

21 ibid.[74].
rather than the previous one and gives it to the competent one. Delegation is transferred from attributive authority from one administrative body to another, so that delegator/delegans (the authorizing body) can examine the authority on behalf of it. In mandatory, there is no transfer of authority, but the one giving mandate (mandans) authorizes other body (mandataris) to make a decision or to take an action on behalf of it.

There is another fundamental difference between attributive and delegative authorities. In attributive concept, the authority is ready to be transferred, but it is not in delegative concept. In relation to the legality principle, the authority is not delegated massively, but perhaps only under a condition that rule of law determines the potential delegation.

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

For the implementation of Attorney’s authority in civil and state administration area, the Republic of Indonesia Attorney General’s Regulation Number PER-018/A/J.A/07/2014 is published, concerning Standard Operating Procedure for the Solicitor General in civil and state administration area (PERJA No. PER-018/A/J.A/07/2014). Considering 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 area, and service to stakeholders and community. This regulation is the substitute for Attorney General’s Regulation Number 040/A/J.A/12/2010 about Standard Operating Procedure (SOP) of the implementation of Task, Function, and Authority in Civil and State Administration area that is considered as no longer compatible to the need and the development of condition and situation.

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 Area (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 Standard Operating Procedure contains the work procedure in the work unit of Solicitor General in Civil and State Administration Area (Jamdatun), Provincial Attorney and District Attorney throughout Indonesia in the process of handling civil and state administration cases conducted by State Attorney General. In addition, this Standard Operating Procedure contains the procedure of attorney’s task, function, and authority implementation in Civil and State Administration area by emphasizing on the effectiveness and efficiency of case resolution, using both litigation and non-litigation methods, from preparatory, implementation, to reporting stages.

Saving the state asset through preventing the corruption case in governmental product/service provision by the attorney as the state attorney general is a part of an attempt of enforcing and maintaining the principles existing in the governmental product/service provision as specified in Presidential Regulation Number 16 of 2018 about the governmental product/service provision, as follows:

1. **Efficient**
   The principle of efficiency means that product or service should be attempted using limited cost and effort to achieve the specified target in as short as possible time and can be accountable for.

2. **Effective**
   The principle of effectiveness means that the provision of product and service should build on the need specified (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 requisite of provision administration, evaluation method, evaluation result, assignment of potential product and service supplier, that is transparent to the participants interested to supplying product and service, and to the public in general.

4. Opened
The opened principle in the product and service provision means to provide entire information and all stipulations concerning product and service provision, including technical requisite of provision administration, evaluation method, evaluation result, assignment of potential product and service supplier, that is transparent to the participants interested to supplying product and service, 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 fulfill the requirements specified to offer their product and service based on the enacted ethics and norms of provision, and no fraud and corruption, collusion, and nepotism practice occurs.

6. Fair/non-discriminative
The term fair/non-discriminative in product and service provision means to treat equally all potential suppliers of product and service suppliers interested in following the product and service provision, and not tending to benefit certain party in any way and/or any reason.

7. Accountability
Accountability means that there is an accountability of product and service provision implementation (reporting) to those related and community based on ethic, norm, and stipulation of legislation enacted, in the sense that the provision of product and service should achieve the target, either physically or financially, or the advantage of provision to the governmental general task and/or community service according to principles and stipulations enacted in 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 about Product and Service Provision 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 to improve service public and national and local economic development. To realize Product/Service provision as intended, a regulation of Product/Service provision is required to fulfill the value for money and to contribute to increasing the use of domestic product, improving the role of Micro-, Small-, and Medium-scale enterprises and sustainable development.

The product/service provision policy implemented through the process specified in legislation, in fact, can influence bureaucrat and community’s behavior; therefore JPN plays an important role in preventing the corruption crime from occurring in its implementation. In undertaking its position as the one dealing with civil and state administration case, the attorney as the State Attorney General undertakes its task according to the authority delegated to it through 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 can be seen clearly that legal consequence to the State Attorney General that will undertake the function of preventing corruption crime related to product/service provision is that it should get special power of attorney first as regulated in Article 30 clause (2) of Attorney General.

Special power in the attempt of undertaking function of preventing corruption crime from occurring in the governmental product/service provision is the requirement to be able to implement the function of attorney in civil and state administration area. This stipulation as mentioned in Article 30 clause (2) of Attorney Law stating that in civil and state administration area, the attorney with

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22 Muhammad Yusuf et al, ‘Kedudukan Jaksa Sebagai Pengacara Negara Dalam Lingkum Perdata Dan Tata Usaha Negara’ (2018) 21 Jurnal Yustika.[24].
special power of attorney can take action both inside and outside the court for and on behalf of state or government. In the attempt of preventing the 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 in the term of giving legal deliberation.

Legal deliberation as regulated in this attorney regulation is the State Attorney General’s task to provide *legal opinion* (LO) and or Legal Assistance in Civil and State Administration area based on the request of state institution, central/local governmental institution, BUMN/BUMN (State-/Local Government-Owned Enterprise), the implementation of which is conducted based on writ of JAM DATUN, KAJATI, KAJARI. Although in this rule there is inconsistency with Article 30 clause (2) of Attorney Law, as it needs only the writ of JAM DATUN, KAJATI, and KAJARI rather than special power of attorney, the main duty and function of State Attorney General could be implemented in the attempt of preventing the corruption crime from occurring in governmental product/service provision. However, this function of attorney in preventing corruption crime should be asked for first by the state institution, central/local governmental institution, or BUMN/BUMD.

Still many governmental bodies/institutions not giving special power of attorney to attorney institution in handling civil and state administration case indicates that those governmental body/institution have not put yet 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 condition indicates that governmental body/institution has not put yet 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 Attorney Law.
The formulation of Special Authorization to State Attorney General in coping with corruption crime related to Governmental Product/Service Provision

Republic of Indonesia’s Attorney is a governmental organ implementing the state’s power independently, particularly in implementing duty and authority in prosecution area and investigation and prosecution of corruption crime and severe Human Right infringement cases and other authorities based on the law. Attorney is a central institution in law enforcement owned by all states adhering to rule of law.23 The rule of law concept is provided by some scholars. A.V.Dicey, as cited in Miriam Budharjo, stated that the rule of law should fulfill certain elements: (1) Supremacy of law, (2) Equality before the law and (3) Constitution based on human right. The supremacy of law intended can be defined as the one having highest power in the state is law (law 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 attorney in civil and state administration area is compatible to the vision and mission of 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 attorney, the state attorney general’s objectives being the guideline in implementing duty and function of Solicitor General work unit in Civil and State Administration area (JAM DATUN) are as follows: (1) to prevent the 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 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 amount. To maximize the restoration of corruption result asset, the state should keep promoting the legal effort civilly. Attorney is authorized not only to be plaintiff or defendant but also to give deliberation or to defend the

23 Miriam Budiarjo, Dasa-Dasar Ilmu Politik (Gramedia 1999).[25].
state or government’s interest, and to defend and to protect the public interest. Such duty and authority include, among others, preventing the corruption crime from occurring in governmental product/service corruption.

Republic of Indonesia’s Presidential Regulation Number 16 of 2018 about Governmental Product/Service Provision mentions that the Governmental Product/Service Provision is an activity of providing product/service conducted by Ministry/Institution/Local Apparatus using APBN/APBD (State/Local Government Income and Expense Budget) fund, the process of which include identifying need and giving the outcome of work.

The governmental product/service provision is essentially an attempt taken by government that is represented by Commitment Preparing Official (Pejabat Pembuat Komitment, thereafter called PPK) and committee to get product/service wanted using method and process as specified in order to achieve consensus concerning price, time, and product/service quality. For the provision of product/service to be implemented as well as possible, the parties (PPK, committee, and product/service supplier) should refer to the principles of product/service provision.

The product/service provision is one of stages in project cycle needed by governmental institution, the process of which starts from need planning to the completion of all activities to obtain product and service between the parties corresponding to the contract. Indonesian Big Dictionary defines Pengadaan barang dan jasa (product and service provision) as an offer to propose price and to take all of works related to product/service provision.24 Product is every object, both tangible and intangible, either movable or immovable, that can be traded, worn, used, or utilized by the users of product.25

The definition of service refers to three basic definitions: industry, output or offer, and process. In the context of industry, the term service is used to represent a variety of subsectors in economic activity categorization such as transportation, financial, retail trading, personal service, health, education, and public service. In

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24 Abu Sopian, Dasar – Dasar Pengadaan Barang/Jasa Pemerintah (In Media 2014).[81].  
25 ibid.[1].
the offering scope, service is viewed as intangible product, the output of which is more activity than physical object. As a process, service reflects the delivery of main service, personal interaction, performance in broad sense, and service experience.\textsuperscript{26} Kotler defines service as an action or activity that can be offered by one party to another basically intangible in nature and not leading to any ownership.\textsuperscript{27} Product and service provision is essentially the users’ attempt of obtaining or realizing product or service they want, using certain method and process in order to achieve consensus in the term of price, time, and others.\textsuperscript{28} The philosophy of product and service provision is an attempt of obtaining product and service wanted conducted based on logical and systematic thinking (the system of thought), following norms and ethics prevailing based on standard provisioning method and process.

The types of governmental product and service include product provision, construction job, consultation service, and others.\textsuperscript{29} Governmental product and service provision is actually a very important part in the process of implementing development. To government, the provision of product and service in every government institution will be the determinant of task and function implementation of each work unit. The implementation of governmental task will be disturbed and will not achieve the maximum result without adequate infrastructure.\textsuperscript{30} The governmental product/service provision is an activity of providing product/service with APBN/APBD fund, conducted in self-management scheme or by product/service provider.\textsuperscript{31} Product and service provision still becomes the source of corruption cases in Indonesia, because a large amount of fund is allocated to one of those governmental expenditure posts. Corruption is caused by, among others, closed- or non-transparent or non-publicly

\textsuperscript{26} Fandy Tjiptono and Gregorius Chandra, \textit{Service, Quality & Satisfaction} (Andi Offset 2011).[13].  
\textsuperscript{27} Fandy Tjiptono, \textit{Pemasaran Jasa} (Andi Offset 2014).[26].  
\textsuperscript{28} LKPP, ‘Pelatihan Pengadaan Barang Dan Jasa Pemerintah’, \textit{Modul Pengadaan Barang dan Jasa Pemerintah} (Lembaga Kebijakan Pengadaan Brang dan Jasa Pemerintah 2010).[8-10].  
\textsuperscript{29} Ahmad Wiki, ‘Pengadaan Barang/Jasa Pemerintah/Metode/Cara Pemilihan Pengadaan’ \textit{(Wiki Ahmad)} <https://ahmad.fandom.com/id/wiki/Pengadaan_Barang/Jasa_Pemerintah/Metode/Cara_Pemilihan_Pengadaan> accessed 11 December 2020.  
\textsuperscript{30} Abu Sopian (n 24).[1].  
\textsuperscript{31} Rocky Marbun, \textit{Tanya Jawab Seputar Tata Cara Pengadaan Barang/Jasa Pemerintah} (Visimedia 2010).[1].
announced auction. Various methods are used to restrict the information on auction, for example, by posting counterfeit advertisement on newspaper or tender arisan, in which the participants of auction have been organized first by the provision committee or the association, related to the winner of auction. It is this deviation that stimulates mark-up 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 asking for. This deliberation stage implies the definition of prevention aiming to prevent the corruption crime. If prevention function through deliberation can be maximized, the objective of preventing the corruption crime will be achieved. Unfortunately, these duty and function are not performed by institutions that implement the governmental product/service provision.

The implementation of attorney institution’s task and function as the state attorney general in its practice is conducted through cooperation agreement in civil and state administration law area between government and local government (including BUMN/D, in this case). The form of cooperation is conducted through providing legal deliberation related to legal issues and if necessary followed with special authorization to attorney to resolve legal issues encountered by related body/institution. In other words, the attorney as the State Attorney General undertakes its duty and obligation corresponding to the authority delegated to it through special power of attorney. The formulation of authorization 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 legal document, by means of ascertaining the meaning of words or the manifestation of other wish. The interpretation of legal text is an activity of finding the appropriate meaning of legal text in order to be applied to certain case.

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32 ibid.[25].
33 Bryan A Garner, Black's Law Dictionary (10th ed., Thompson Reuters 2014).[837].
34 C. M Germain, ‘Approaches to Statutory Interpretation and Legislative History in France’ (2003) 13 Duke Journal of Comparative & International Law.[201-202].
Generally, it can be conceived that 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 to the difficulty in its application to the concrete 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 conjunction “both…and…”. Thus, the meaning can be divided into two:

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

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

The textual meaning can be interpreted grammatically. The attorney’s duty and authority in civil and state administration function mentioned in the complex sentence in the article means that in taking action for and on behalf the state and government, the attorney in civil and state administration area should be equipped with special power of attorney. This article mentions firmly the special power of attorney, but does not mention explicitly 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 Republic of Indonesia Attorney’s Regulation Number PER-018/A/ J.A/07/2014 about Standard Operating Procedure (SOP) of Duty, Function, and Authority implementation in Civil and State Administration area.

Attorney General’s Regulation translates Article 30 clause (2) of Attorney Law in civil and state administration function into the State Attorney General that can represent 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 the attempt of preventing corruption crime in governmental product/service provision, the duty of giving deliberation to governmental institution or BUMN/BUMD (State- or Local Government-Owned Enterprises) belongs to this authority. However, in the concept of norm constructed, this authority should be preceded with a demand. Studied further, SOP regulated in this Attorney General’s Regulation has provided a breakthrough by not interpreting that each of JPN’s authorized action 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 authorizes the attorney in certain condition no longer referring completely to the stipulation of Article 30 clause (2) but to the implementation of tasks and functions of 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 on not only governmental institution’s demand. 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 rule itself.
Endicott defines obscure norm as the one leaving the ones to which the norm is enacted without the stipulation on how they should behave in certain cases, and the heart of norm is to guide behavior. Obscure norm in norm system does not determine the limitation to the authority responsible for implementing the norm or resolving the dispute, and a part of norm system to organize the behavior of the one to which the system gives normative power.\(^{35}\n
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**

Normative concept of *Jaksa Pengacara Negara* (State Attorney General) is not found explicitly in “Article 30 clause (2) of Attorney Law, this concept has been just mentioned in Attorney General’s Regulation Number PER-018/A/ J.A/07/2014 about Standard Operating Procedure in Solicitor General of Civil and State Administration area. The task regulated in the Attorney General’s Regulation includes the function of 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 belongs to attributive authority born from the Law. The role of State Attorney General in preventing corruption crime in the 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 the form of implementation of article 30 clause (2) of Attorney Law by the attorney in civil and state administration area with special power to represent for and on behalf of state/government outside the court. The textual meaning of Special Power of

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\(^{35}\) Dyah Ochtorina Susanti and A’an Efendi, ‘Memahami Teks Undang-Undang Dengan Metode Interpretasi Eksegetikal’ (2019) 41 Jurnal Kertha Patrika.[141-154].
Attorney in “Article 30 Clause (2) of Attorney Law in further elaboration regulation through the Attorney General’s Regulation is called State Attorney General. The prevention of corruption crime in the governmental product/service provision can refer to the State Attorney General’s duty and authority in the function of giving legal deliberation based on the writs of JAM DATUN, KAJATI and KAJARI”. The implementation of State Attorney General’s authority in the attempt of giving 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 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 the corruption crime. Practically, this regulation is fairly effective but is not used optimally by governmental institution and BUMN/BUMD, because the function of State Attorney General here is passive, working based on demand only. Meanwhile viewed from 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 function can be done by removing the norm concept of special power to make the attorney, as State Attorney General, have the authority of representing state/government particularly outside the court in the attempt of implementing the prevention of corruption crime effectively, particularly in the governmental product/service provision.

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