

Juridical Analysis of the Position of the Prosecutor's Office as Dominus Litis in the Indonesian Criminal Justice System

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ABSTRACT

Objective: This research aims to analyze the position of the Prosecutor's Office as dominus litis and the obstacles encountered in prosecution practices, as well as to analyze the regulation of the position and authority of the Prosecutor's Office as dominus litis based on positive law in Indonesia. **Method:** This research employs normative legal research using a statutory approach and a conceptual approach. The legal materials consist of primary, secondary, and tertiary legal materials obtained through library research. The legal materials are analyzed descriptively and qualitatively. **Results:** The results show that the position of the Prosecutor's Office as dominus litis is manifested through its authority at the pre-prosecution and prosecution stages, including the examination of case files, provision of instructions to investigators, determination of case-file completeness, receipt of suspects and evidence, preparation of indictments, and submission of cases to the court. The regulation of the position and authority of the Prosecutor's Office as dominus litis has a legal basis in the Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia and Law Number 20 of 2025 concerning the code of criminal procedure. Ambiguity of legal norms concerning the limits of authority and the binding force of instructions issued by public prosecutors has the potential to cause differences in interpretation in the process of handling criminal cases. **Novelty:** Strengthening regulations and coordination between investigators and public prosecutors is necessary to achieve legal certainty and optimize the position of the Prosecutor's Office as dominus litis.

INTRODUCTION

The Prosecutor's Office occupies a central position within the criminal justice system as it operates at a stage that determines the continuation of a criminal case from the investigation phase to trial proceedings [1], [2]. This positioning establishes the Prosecutor's Office not merely as an institution representing the state in prosecutions, but also as a body that controls the completeness of case files, assesses the sufficiency of evidence, and verifies the application of penal provisions before a case is brought to court [3]. Consequently, the Prosecutor's Office serves as the primary bridge connecting police investigation processes with judicial examinations conducted by judges [4], [5]. Rather than acting as a passive administrative entity that simply forwards files, the Prosecutor's Office actively reviews file completeness, evaluates evidentiary sufficiency, and decides whether a case is fit for trial [6], [7]. This extensive authority reflects the Latin legal doctrine of dominus litis, meaning the master or owner of the case [8], [9].

The prosecution phase is far more than an administrative step; it represents a critical quality-control stage ensuring that cases submitted to court fulfill statutory criminal elements and rigorous standards of proof [10], [11]. The institutional standing of the Prosecutor's Office is legally reinforced under Law No. 11 of 2021 [12], which affirms that

the 1 Prosecutor's Office is a government body executing state authority in prosecution independently, free from external interference. This statutory protection guarantees institutional independence, dictating that prosecutorial decisions must be rooted strictly in law and justice rather than political pressure or external interests [13], [14]. Nevertheless, normative and practical ambiguities persist. A primary challenge concerns vague legal norms regarding the precise boundaries of the Prosecutor's Office as dominus litis relative to police investigators [15], [16]. Although the Code of Criminal Procedure (KUHAP) authorizes prosecutors to examine case files and issue binding instructions, it lacks detailed provisions on the extent to which prosecutors can control investigations when their instructions are not fully implemented [17]. In practice, this gap creates divergent interpretations between investigators and public prosecutors regarding criminal elements and evidentiary thresholds [18].

Normative ambiguities also impact modern criminal law developments, particularly following the implementation of restorative justice mechanisms [19]. Under Prosecutor's Regulation No. 15 of 2020, prosecution termination via restorative justice requires specific criteria: first-time offenders, offenses punishable by less than five years, full restitution of damages, and mutual settlement between victim and perpetrator [20], [21]. However, the parameters for exercising this authority remain inconsistently understood across various regions [22]. Such inconsistency runs the risk of creating legal disparities, as interpretations of public interest, victim harm, and termination requirements vary among individual prosecutors [23], [24]. Ongoing updates to national criminal law necessitate an evaluation of the Prosecutor's Office's role [25]. This study holds academic and practical urgency: academically, it contributes to criminal jurisprudence regarding prosecutorial standing; practically, it highlights the need for statutory reforms so that case-control authority is exercised clearly, effectively, and with legal certainty [26], [27]. Therefore, this study analyzes the normative position of the Prosecutor's Office, identifies legal ambiguities, and examines the urgency of reinforcing prosecutorial authority to foster a fair criminal justice system [28], [29].

RESEARCH METHOD

Data Collection Techniques

Legal material collection in this study relied on library research as the primary method in normative legal research [30]. Gathering legal materials from various sources related to the research object served to establish the normative and theoretical foundation required to analyze the legal issues under investigation [31].

Library Research

Library research was conducted by examining relevant primary, secondary, and tertiary legal materials [32]. Primary legal materials included the 1945 Constitution of the Republic of Indonesia [33], the Code of Criminal Procedure (KUHAP) [34], Law No. 11 of 2021 on the Prosecutor's Office of the Republic of Indonesia [12], Law No. 1 of 2023 on the Criminal Code [35], and Law No. 20 of 2025 on the Code of Criminal Procedure [36]. Secondary legal materials comprised legal textbooks, academic journal articles, research

reports, and scholarly opinions pertaining to rule of law theory, authority theory, and the dominus litis concept [37], [38].

Documentation

Documentation involved collecting and recording legal materials retrieved from written sources, including statutory regulations, scientific literature, and official legal documents [39]. This systematic documentation facilitated the retrieval and verification of legal materials throughout the qualitative analysis [40].

Processing and Analysis Techniques

Legal materials were systematically classified, inventoried, and structured based on their relevance to the research questions [41]. Analysis employed a qualitative descriptive approach, logically and systematically interpreting statutory norms alongside rule of law and authority theories to clarify the execution of prosecutorial power and its systemic implications [42], [43].

RESULTS AND DISCUSSION

Results

The exercise of prosecutorial authority during pre-prosecution and prosecution phases represents the concrete implementation of the dominus litis principle [28], [44]. This demonstrates that prosecutors do not merely receive investigative files administratively, but perform substantive legal assessments [6]. The dominus litis function begins during pre-prosecution, where prosecutors examine case files to assess formal and material requirements, evaluate evidence, check investigation legality, and verify criminal charge applications [7], [45]. When deficiencies are identified, prosecutors return the files with written directions via the P-19 mechanism, exercising quality control over investigative output to ensure cases meet evidentiary standards before trial [17], [18].

Upon file completeness certification (P-21), prosecution officially commences with the transfer of suspects and physical evidence (Phase II) [15]. Public prosecutors draft formal indictments based on verified evidence, establishing the legal boundary for trial proceedings [26]. Prosecutors bear the burden of proving guilt beyond a reasonable doubt by presenting witnesses, expert testimony, documentary evidence, and physical items in court [10], [46]. Following trial completion, prosecutorial authority extends to executing final and binding court judgments (*inkracht van gewijsde*), including custodial sentences, fines, and asset confiscations [1], [47].

During formal examinations, prosecutors verify investigation warrants, procedural compliance, and official interview records (BAP) [48]. Administrative errors, incorrect suspect identities, or mismatched dates can compromise trial validity and lead to procedural dismissals [23]. By acting as legal supervisors over investigations, prosecutors ensure procedural legality and administrative order [14], [49]. However, external factors such as public media pressure and political scrutiny can threaten prosecutorial independence in high-profile cases [13], [50]. Furthermore, statutory ambiguities in Law No. 11 of 2021 and KUHAP regarding the strict boundary between police investigation

and prosecutorial direction often lead to inter-agency conflicts and repeated file returns, requiring systemic reforms and improved coordination frameworks [12], [36], [51].

Discussion

Positioning the Prosecutor's Office as dominus litis ensures centralized control over criminal proceedings from pre-prosecution through court trial [8], [28]. This framework prevents arbitrary prosecutions by establishing an internal mechanism of checks and balances prior to judicial adjudication [52]. The pre-prosecution workflow – encompassing file review, P-19 instructions, P-21 certification, and Phase II transfers – functions as an essential filter to eliminate weak or unlawful cases [17], [44]. Proper indictment drafting is particularly crucial, as technical defects can render charges null and void [26]. Strengthening statutory rules regarding the binding nature of P-19 instructions and clarifying inter-agency coordination are vital steps to achieving legal certainty and optimizing the dominus litis mandate within Indonesia's criminal justice system [12], [36], [42].

CONCLUSION

Fundamental Finding : The position of the Prosecutor's Office as dominus litis in the Indonesian criminal justice system is crucial for controlling case progression from pre-prosecution to the execution of court judgments, as grounded in Law Number 11 of 2021 and Law Number 20 of 2025; however, its practical implementation faces significant obstacles, including normative ambiguities regarding the binding force of prosecutorial instructions (P-19), repeated case file returns, and differing evidentiary interpretations between investigators and public prosecutors. **Implication :** Necessitating clear statutory harmonization and strengthened inter-agency coordination to ensure legal certainty, institutional independence, and effective justice administration. **Limitation :** This study is limited by its primarily normative and juridical approach, which focuses on the legal framework governing the Prosecutor's Office as dominus litis without comprehensively examining its practical implementation across different prosecution offices. The analysis may also be constrained by variations in the interpretation and application of prosecutorial instructions (P-19), evidentiary standards, and coordination practices between investigators and public prosecutors. Consequently, the findings may not fully capture the institutional, operational, and regional factors influencing the effectiveness of the dominus litis function in practice. **Future research :** should employ empirical and comparative approaches to examine the implementation of the dominus litis principle across different prosecution offices and investigative institutions in Indonesia. Further studies should assess the effectiveness of P-19 instructions, mechanisms for resolving differences in evidentiary interpretation, and inter-agency coordination between investigators and public prosecutors. Research should also explore statutory harmonization between relevant criminal procedure regulations to strengthen prosecutorial authority, institutional independence, legal certainty, and the efficiency of criminal justice administration.

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