

# THE POSITION OF THE PROSECUTOR'S OFFICE AS A SINGLE PROSECUTOR IN INDONESIA'S CRIMINAL JUSTICE SYSTEM

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**Abstract:** *This study aims to critically examine the institutional position of the Public Prosecutor's Office as the sole prosecutorial authority (single prosecutor) within the Indonesian criminal justice system. The core legal issue addressed concerns the authority and functional role of the Prosecutor's Office as the exclusive body responsible for prosecution, particularly as mandated in Article 1 of Law No. 11 of 2021, which amends Law No. 16 of 2004 on the Public Prosecutor's Office of the Republic of Indonesia. Employing a normative legal research method, this study focuses on the analysis of normative ambiguity, using both statutory and conceptual approaches. The findings indicate that the single prosecutor concept normatively reinforces the centralization of prosecutorial powers in the hands of the Public Prosecutor's Office. Nonetheless, ambiguities persist regarding the interpretation of the limits of this authority, especially in its interactions with other law enforcement agencies and in the practical implementation of the dominus litis principle. Therefore, a comprehensive legal interpretation is imperative to prevent overlapping jurisdictions and to uphold the coherence and consistency of Indonesia's criminal justice system.*

**Keywords:** *Public Prosecutor's Office; single prosecutor; criminal justice system.*

## 1. INTRODUCTION

The role of the public prosecutor must be understood as an embodiment of the single prosecution system principle within the criminal justice system. This concept reflects the true meaning of the "een en ondeelbaar" (one and indivisible) doctrine, as articulated in Article 2 paragraph (2) of Law No. 11 of 2021 concerning the Public Prosecutor's Office of the Republic of Indonesia. This provision serves as the foundation for the execution of prosecutorial duties, aimed at preserving the unity of prosecutorial policy, which is characterized by coherence in prosecutorial reasoning, behavior, and institutional work patterns (Marungjan, 2017).

The principle of the single prosecution system is reflected in Article 2 paragraph (2) of Law No. 11 of 2021 concerning the Public Prosecutor's Office of the Republic of Indonesia, which affirms that the institution is "one and indivisible" (een en ondeelbaar). This provision underscores that prosecutorial authority must be

centralized in a single institution namely, the Public Prosecutor's Office to maintain the unity of prosecution policy, characterized by coherence in institutional reasoning, conduct, and operations.

Internationally, the application of the single prosecution system principle is reflected in Article 11 of the United Nations Guidelines on the Role of Prosecutors, which stipulates that prosecutors shall actively participate in criminal proceedings, including conducting prosecutions and, where permitted by law or practice, taking part in investigations, supervising the legality of investigative acts, monitoring the enforcement of court decisions, and performing other functions as representatives of the public interest.

Within the Indonesian legal system, the Prosecutor's Office holds a dominant position as the bearer of the *dominus litis* principle, acting as the key authority in controlling criminal cases. This role includes determining whether a suspect can be lawfully prosecuted before a court based on admissible evidence, and serving as executive *ambtenaar*, responsible for implementing judicial decisions in criminal matters. Beyond the role of public prosecutor, the institution is also tasked with promoting public order and general peace.

The single prosecution system requires that all prosecutorial functions remain within one institutional framework. Thus, the phrase "prosecutors shall conduct prosecutions" must be interpreted as a manifestation of the single prosecution system within the criminal justice framework.

However, the implementation of this principle faces significant challenges, particularly in the context of corruption crimes. The once-absolute prosecutorial authority of the Public Prosecutor's Office, under the direct command of the Attorney General, has shifted, appearing to be bifurcated with the Corruption Eradication Commission. In corruption cases, prosecutorial powers have effectively been transferred to prosecutors seconded to the Corruption Eradication Commission, who operate under the authority of the Corruption Eradication Commission leadership, rather than under the Attorney General.

This duality in prosecution, wherein prosecutors handling corruption cases, the Corruption Eradication Commission operates outside the hierarchical command of the Attorney General, raises substantial legal and structural concerns. The implementation of both the *dominus litis* doctrine and the single prosecution system necessitates a coordinated prosecutorial structure in which all prosecutorial activities fall under the leadership and oversight of the Attorney General. Consequently, arguments have emerged suggesting that such dualism in prosecutorial authority risks creating inequities in the administration of justice and undermining the coherence of Indonesia's criminal justice system.

The urgency of this research lies in the pivotal role played by the Public Prosecutor's Office in ensuring the effectiveness, integrity, and fairness of the Indonesian criminal justice system. As the sole authority granted the power to prosecute criminal cases, the Prosecutor's Office holds a central position in bridging

law enforcement and the judiciary. However, this monopolistic role raises critical legal, institutional, and practical questions—particularly concerning accountability, checks and balances, and the protection of due process.

In light of ongoing reforms in Indonesia's legal and judicial sectors, it is essential to reexamine and evaluate the extent to which the exclusive prosecutorial power aligns with democratic principles, legal certainty, and human rights standards. Furthermore, increasing public scrutiny over law enforcement practices and the prosecution of high-profile cases highlights the need for an in-depth academic analysis of the prosecutorial institution's legal framework, independence, and performance.

Therefore, this research is not only timely but also necessary to provide a comprehensive understanding of the prosecutorial system in Indonesia, and to offer recommendations for strengthening legal institutions in support of justice and good governance.

Therefore, the need to reformulate the regulatory framework governing the Public Prosecutor's Office as the single prosecutor within Indonesia's criminal justice system constitutes a critical issue in the broader context of legal reform and the enhancement of law enforcement quality. The concept of a single prosecutor refers to a structural transformation in the prosecution system, whereby the Public Prosecutor's Office assumes a singular or dominant role in the prosecution of criminal offenses, including those which, in practice, have been prosecuted outside its institutional authority. Accordingly, the research problem addressed in this study is how the institutional position of the Public Prosecutor's Office as the single prosecutor is conceptualized and implemented within Indonesia's criminal justice system.

## 2. METHODS

This study employs a normative legal research method (Yanova et al., 2023), which involves the collection and analysis of legal materials relevant to the concept of the single prosecutor within the criminal justice system. The specific type of legal research conducted focuses on normative ambiguity, particularly as found in Article 1 of Law No. 11 of 2021, which amends Law No. 16 of 2004 on the Public Prosecutor's Office of the Republic of Indonesia. Legal sources in this research include: The Indonesian Code of Criminal Procedure, and Law Number 11 of 2021 concerning the Amendment to Law Number 16 of 2004 on the Public Prosecutor's Office of the Republic of Indonesia. Two legal approaches are utilized in this research: the statute approach and the conceptual approach. The statutory approach involves an in-depth examination of laws and regulations about the legal issue of the single prosecutor system. Meanwhile, the conceptual approach entails a systematic review of legal doctrines and relevant statutory provisions to understand the theoretical underpinnings and conceptual framework surrounding the single prosecutor issue. Legal materials are analyzed using qualitative-descriptive

techniques, emphasizing logical interpretation and doctrinal reasoning. The study particularly focuses on identifying inconsistencies or overlaps in legal norms and evaluating them within the framework of the national legal system. The goal is to provide a comprehensive and coherent interpretation that supports the effective implementation of the single prosecution system in Indonesia.

### **3. RESULTS AND DISCUSSION**

#### **3.1. The Position of the Attorney General's Office in Indonesia's Criminal Justice System Viewed from the Principle of Dominus Litis**

The Public Prosecutor's Office bears the responsibility for executing final and binding court decisions as the executor within Indonesia's criminal justice system. In this role, the prosecution ensures that every criminal verdict, whether involving imprisonment, fines, or other forms of punishment, is carried out in accordance with the applicable legal provisions. This function is essential for upholding legal certainty and fostering a sense of justice within society.

As the controller of the prosecution process (Dominus Litis), the Public Prosecutor's Office (Berryessa et al., 2023) occupies a central position in law enforcement, as it is the sole institution authorized to determine whether a criminal case should proceed to trial, based on legally admissible evidence under the Criminal Procedure Code. In addition to this prosecutorial authority, the Prosecutor's Office is also the only institution mandated to execute criminal judgments, further strengthening its institutional standing within the justice system.

The Prosecution Law reinforces this dual role by affirming the status of the Public Prosecutor's Office as a government institution entrusted with the exercise of state authority in the field of prosecution. As both Dominus Litis and executive *ambtenaar*, the Prosecutor's Office holds a strategic role in ensuring the integrity, efficiency, transparency, and fairness of the criminal justice system in Indonesia.

This institutional role entrusts prosecutors with a profound responsibility to uphold the principles of due process of law, while simultaneously safeguarding the interests of both the public and the state. In its capacity as Dominus Litis, the Prosecutor's Office has the discretion to assess whether a case is eligible to proceed to court, not only based on the formal sufficiency of evidence, but also on the material legal standards required by the criminal procedure code and other relevant laws and regulations.

As a law enforcement institution, the Public Prosecutor's Office must operate independently, free from external interference. While structurally part of the executive branch under the President as the holder of executive power the Prosecutor's Office must perform its functions autonomously as a law enforcement agency. This dual character places the institution in a unique position: functioning both within the executive framework and simultaneously exercising independent legal authority in the enforcement of justice (Mufrohim & Herawati, 2020).

Article 30 paragraph (1) letter a of Law No. 16 of 2004, in conjunction with Article 14 letter b of the Indonesian Criminal Procedure Code, stipulates that the Public Prosecutor's Office (prosecutor) holds the authority to conduct pre-prosecution activities. These activities involve the prosecutor monitoring the progress of investigations after receiving notification of the commencement of investigation from the investigators, reviewing or examining the completeness of investigation case files received from the investigators, and providing directives for the investigators to complete the files to determine whether the case files can be submitted to the prosecution stage.

In Constitutional Court Decision No. 130/PUU-XIII/2015, the Court considered that pre-prosecution serves as a control mechanism for the prosecutor over the investigative work, ensuring that the investigation process remains accountable and under the prosecutor's supervision during trial proceedings (Hartanto, 2017).

Article 30 paragraph (1) letter b of Law No. 16 of 2004, in conjunction with Article 270 of the Indonesian Criminal Procedure Code essentially states that the prosecutor is the sole executor (the only one) of criminal court decisions. In line with the principle of *zonder bevoegdheid geen verantwoordelijkheid* ("no responsibility without authority"), the prosecutor bears the full responsibility for executing criminal court rulings and is accountable to the judge. This accountability arises because the judge will inevitably require the prosecutor to explain and justify the implementation of the court's decision. Consequently, embedded within the prosecutor's authority as the executor of court decisions is an inherent supervisory function, whereby the prosecutor is empowered to oversee the execution of court rulings to ensure that they are carried out correctly and by legal requirements (Kurniawan et al., 2020).

The principle of *Dominus Litis* has been universally recognized and is explicitly reflected in Article 2 of Law No. 16 of 2004 concerning the Public Prosecutor's Office of the Republic of Indonesia. This article states that the Public Prosecutor's Office is a government institution that exercises state authority in the field of prosecution as well as other authorities granted by law, carried out independently. In line with the principle that the Prosecutor's Office is one and indivisible (*een en ondeelbaar*), no other government institution is authorized to perform prosecutorial duties on behalf of the state.

The principle of *Dominus Litis* asserts that no other body except the Public Prosecutor holds the absolute and exclusive authority to conduct prosecution. The Public Prosecutor is the sole institution possessing and monopolizing the power to prosecute and resolve criminal cases. Even judges do not have the authority to request that a criminal case be brought before them; rather, judges play a passive role in case resolution, merely awaiting charges brought forward by the public prosecutor (Harahap, 2000).

The understanding of the principle of *Dominus Litis* within the Indonesian criminal justice system highlights the central position of the public prosecutor in law enforcement processes. As the sole institution vested with the authority to conduct

prosecutions, the public prosecutor acts as the primary controller of the criminal justice process. This position not only grants exclusive prosecutorial powers to the prosecutor but also ensures that all legal actions taken remain within the bounds of applicable law.

Article 14 of the Indonesian Criminal Procedure Code, which regulates the authority of the public prosecutor, underscores the dual function of the prosecutor as both the public accuser bringing cases to court and the executor of judicial decisions in the interest of law enforcement. In performing these duties, the prosecutor's role extends beyond technical courtroom functions to that of a guardian of justice. As a guardian of justice, the prosecutor must ensure that the entire legal process adheres to principles of fairness, both for the victims, the suspects, and society at large.

The prosecutor's position as the holder of the *Dominus Litis* principle also reinforces the concept of prosecutorial monopoly, aimed at maintaining a unified policy in law enforcement throughout Indonesia. This monopoly mandates that every criminal case must follow a centralized prosecution pathway, preventing overlapping jurisdictions or inconsistencies in case handling. It also guarantees that the entire law enforcement process is controlled by a single institution the Public Prosecutor's Office of the Republic of Indonesia.

Furthermore, the *Dominus Litis* principle reflects the supremacy of law and justice that lies at the heart of the criminal justice system. In executing their duties, prosecutors are bound not only by applicable legal provisions but also by professional, moral and ethical values. This ensures that every prosecutorial action is not only legally valid but also just and beneficial for society.

### **3.2. The Prosecutor's Office as the Single Prosecutor in Indonesia's Criminal Justice System**

The concept of a single prosecutor system positions the Public Prosecutor's Office as the sole institution authorized to conduct prosecutions in criminal cases on behalf of the state. In the context of Indonesia's criminal justice system, this concept is explicitly reflected in Article 1 number 1 of Law No. 11 of 2021 concerning the Amendment to Law No. 16 of 2004 regarding the Public Prosecutor's Office of the Republic of Indonesia, which states that "The Public Prosecutor's Office is a government institution that exercises state authority in the field of prosecution."

The implementation of the single prosecution (Mitsilegas, 2021) system principle aims to integrate the law enforcement process into a coordinated system. Within the criminal justice context, this principle supports synergy between the stages of investigation, prosecution, and trial. By designating the Public Prosecutor's Office as the sole institution with prosecutorial authority, it is expected that there will be no overlap or inconsistency in case handling. For example, investigations conducted by the police or other agencies must undergo a pre-prosecution process supervised by the public prosecutor. This aims to ensure that investigations have

been conducted by criminal procedural law and meet the required evidentiary standards to proceed to prosecution. Thus, the Public Prosecutor's Office acts as a controller of the legal process, not only ensuring procedural compliance but also maintaining a balance between protecting the suspect's human rights and the interests of justice.

However, the implementation of the single prosecution system also faces practical challenges. One major challenge is the need for improved coordination between the Public Prosecutor's Office and other sub-systems within the criminal justice system, such as the police, courts, and correctional institutions. Poor coordination can cause obstacles throughout the case handling process, from investigation to the execution of verdicts. Therefore, strengthening inter-agency cooperation is key to ensuring the optimal application of this principle.

The single prosecution system principle is not only vital for maintaining uniformity in law enforcement but also for creating equitable justice across Indonesia. In this centralized system, legal policies implemented by the Public Prosecutor's Office can be aligned with societal needs and the state's objectives in law enforcement. The presence of a single, independent, and professional prosecutorial institution guarantees that every legal process is conducted fairly and by the principles of the rule of law. In the long term, the application of this principle is expected to strengthen the overall criminal justice system. By vesting prosecutorial authority solely in the Public Prosecutor's Office, Indonesia can establish a more organized, consistent, and transparent legal system. Public trust in the legal system will also increase when it is perceived that law enforcement processes are conducted fairly and without discrimination.

The single prosecution system principle serves as the main foundation for the Public Prosecutor's Office in fulfilling its role as a guardian of justice and protector of public interest. The success of implementing this principle requires support from all parties, including other subsystems within the criminal justice system and the wider community. With a strong commitment to maintaining integrity and professionalism, this principle can become a cornerstone in realizing a just legal system in Indonesia.

#### **4. CONCLUSION**

The position of the Attorney General's Office as the sole prosecutor within Indonesia's criminal justice system currently lacks absolute legal certainty. Although the single prosecutor system is designed to centralize prosecutorial authority under the Attorney General as the highest prosecutorial official, practical implementation reveals persisting ambiguities. Such ambiguities often arise when prosecutorial functions are exercised by institutions outside the Attorney General's Office, particularly in cases involving other agencies, leading to confusion regarding the legitimate prosecuting party. Consequently, the ideal single prosecutor framework remains unrealized, and challenges persist in ensuring prosecutions are conducted

effectively and correctly without jurisdictional overlaps or disputes among relevant institutions.

To overcome these legal uncertainties and jurisdictional overlaps, it is imperative to strengthen regulatory frameworks that explicitly affirm the Attorney General's Office as the exclusive prosecutorial authority. Clarifying and reinforcing the Attorney General's paramount role will contribute to a more structured, coherent, and unambiguous prosecution system. Furthermore, enhancing inter-agency coordination among law enforcement bodies is essential to mitigate confusion and guarantee consistent and effective prosecution processes. Such measures are critical for upholding the principles of legal certainty, accountability, and justice within Indonesia's criminal justice system.

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