

The constataion of the prosecutor's role as *dominus litis* in the optimal evidentiary system based on *ius constitutum* for the achievement of legal objectives in indonesia

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Abstract: This abstract discusses the importance of strengthening the *dominus litis* principle within Indonesia's criminal justice system. The research problem arises from the still limited role of prosecutors, who are only involved after the investigation is declared complete, resulting in the prosecutorial control function not operating optimally. This study aims to analyze the essence of the *dominus litis* principle in the existing criminal procedural law, the urgency of prosecutorial authority during the evidentiary stage, and the concept of strengthening the prosecutor's role in the reform of the Criminal Procedure Code (*KUHAP*). The research employs a normative legal research method using statutory and conceptual approaches through the examination of primary and secondary legal materials. The findings indicate that the involvement of prosecutors from the early stages of criminal proceedings is necessary to ensure the quality of evidence, the integrity of law enforcement, and the achievement of justice-oriented legal objectives. The study further emphasizes that the *dominus litis* principle needs to be progressively reinterpreted by positioning prosecutors as substantive actors in the construction of criminal cases. Therefore, reform of the Criminal Procedure Code is an urgent necessity in order to establish a modern, integrative, and accountable criminal justice system.

Keywords: *dominus litis* principle; prosecutor's authority; criminal procedure reform.

INTRODUCTION

The Attorney General's Office of the Republic of Indonesia, hereinafter referred to as the Prosecutor's Office, is a government institution whose functions are related to judicial power and which exercises state authority in the field of prosecution as well as other authorities based on statutory law. The Prosecutor's Office holds a central position in the law enforcement process and serves as the sole institution authorized to

determine whether a criminal case may be brought before the Court based on lawful evidence in accordance with Criminal Procedure Law (Yusuf, 2010). Therefore, in theoretical terms, the Prosecutor's Office is recognized as the controller of the criminal case process (*Dominus litis*).

In addition to bearing the role of *Dominus litis*, the Prosecutor's Office also represents the sole institution authorized to execute criminal judgments (*executive ambtenaar*) (Effendy, 2005). Based on the principle of *Dominus litis*, the Prosecutor's Office has the primary duty of balancing the applicable legal rules (*rechtmatigheid*) with interpretations grounded in objectives or the principle of expediency (*doelmatigheid*) when determining whether a case should proceed to or be examined before the Court.

The principle of *Dominus litis* affirms that no institution other than the Public Prosecutor has the right to conduct prosecutions, as this authority is absolute and monopolistic in nature (Surachman, 2011). The sole institution vested with the authority to prosecute and resolve criminal cases is the Public Prosecutor within the Prosecutor's Office. Judges cannot independently request that criminal cases be brought before them, as judges act passively and await charges submitted by the Public Prosecutor. By virtue of this principle, the Public Prosecutor automatically bears responsibility for the case. This means that the decision to prosecute a criminal case that has been completed by investigators rests entirely in the hands of the Public Prosecutor (Adji, 2011).

In Indonesia's criminal justice system, which adheres to the civil law tradition, the role of the Prosecutor as *Dominus litis*, which literally means "master of the case," constitutes a fundamental pillar in ensuring the effectiveness of law enforcement and the achievement of substantive justice. This concept positions the Prosecutor as the principal actor who exercises control over the direction and continuation of the prosecution process, including determining whether a case is appropriate to be brought before the court or not.

However, in practice under the *ius constitutum* (the currently applicable positive law), the dominant role of the Prosecutor within the evidentiary system has not yet been fully optimized. The Criminal Procedure Code (*KUHAP*) limits the Prosecutor's authority solely to the prosecution stage, while the investigation process is entirely under the authority of police investigators. This creates fragmentation in coordination and has the potential to weaken the integrity of the evidentiary process, since the Prosecutor only becomes involved after the case file has been submitted.

The constation of the Prosecutor's role (Paususeke, 2018) as *Dominus litis* in this context signifies the recognition and reaffirmation that the Prosecutor should possess substantive authority from the very beginning of the criminal process. In an ideal legal system, the Prosecutor should not merely function as an administrative complement, but rather as the controller of the case who ensures the validity of evidence, procedural consistency, and the protection of the principle of *in dubio pro reo* (when in doubt, in favor of the accused). Optimizing this role requires a more integrative reform of criminal procedural law, in which Prosecutors are granted the authority to supervise or even participate in investigations. This is consistent with practices in countries such as the Netherlands, Austria, and Japan, where Prosecutors play an active role from the initial stages of the legal process (Surachman & Maringka, 2015).

Several previous studies have examined the principle of *dominus litis* within the Indonesian criminal justice system. Adi Riyanto, (2021) argues that the functionalization of the *dominus litis* principle is reflected in the Prosecutor's authority to determine the continuation of criminal cases, including through the application of restorative justice mechanisms. However, the study primarily focuses on prosecutorial discretion at the prosecution stage and does not address the Prosecutor's involvement in the evidentiary process during the investigation stage. Likewise, Firmansyah, (2020) analyzes the Prosecutor's authority to conduct additional examinations under the *dominus litis* principle within the framework of the Criminal Procedure Code (KUHAP). Although the study demonstrates the existence of prosecutorial control over criminal cases, it remains limited to the scope of supplementary examinations and does not formulate an integrative model of prosecutorial involvement from the beginning of the criminal process. Furthermore, Sihombing et al., (2023) emphasize the importance of strengthening prosecutorial authority as *dominus litis* to optimize criminal law enforcement through restorative justice. Nevertheless, their analysis concentrates on prosecutorial policies in the prosecution stage and does not specifically explore legal mechanisms that would allow Prosecutors to actively participate in the construction of evidence and case development during investigations.

The review of these studies indicates that existing scholarship predominantly discusses the *dominus litis* principle from the perspectives of prosecutorial authority, additional examinations, and restorative justice policies. However, there remains a significant research gap concerning the formulation of a legal and institutional framework that strengthens the Prosecutor's *dominus litis* function at the evidentiary stage and enables meaningful prosecutorial involvement during investigations while maintaining the principle of functional differentiation among law enforcement agencies. Moreover, previous studies have not proposed a concrete legal mechanism capable of integrating the roles of investigators and Prosecutors in constructing evidence and legal narratives from the earliest stages of criminal proceedings.

This study seeks to fill that gap by examining the urgency of strengthening prosecutorial authority within the evidentiary process and by formulating a model for reinforcing the *dominus litis* principle through a more integrative relationship between investigation and prosecution. Accordingly, the novelty of this research lies not only in reaffirming the Prosecutor's role as the controller of criminal cases but also in proposing a structured and accountable legal mechanism that enables Prosecutors to contribute to the development of evidence and case construction from the outset of criminal proceedings. Through this approach, the *dominus litis* principle is positioned not merely as a formal prosecutorial doctrine but as a functional instrument for realizing substantive justice within Indonesia's criminal justice system.

The sole institution vested with the authority to prosecute and resolve criminal cases is the Public Prosecutor within the Prosecutor's Office (Sinabutar et al., 2024). Judges cannot independently request that criminal cases be brought before them, as judges act passively and await indictments submitted by the Public Prosecutor. By virtue of this principle, the Public Prosecutor automatically bears responsibility for the case. This means that the decision to prosecute a criminal offense that has been completed by investigators rests entirely in the hands of the Public Prosecutor. Article 110 of the Criminal Procedure Code (KUHAP), as amended by Article 61 of the New Criminal

Procedure Code, stipulates: first, after the investigator has completed the investigation, the investigator must immediately submit the case file to the Public Prosecutor. Second, if the Public Prosecutor considers that the results of the investigation are incomplete, the Public Prosecutor shall promptly return the case file to the investigator accompanied by instructions for its completion. Third, after the investigator has completed the required additional investigation, the results shall be resubmitted to the Public Prosecutor.

Furthermore, the principle of *dominus litis* is explicitly and clearly stated in Articles 137 and 139 of the Criminal Procedure Code (*KUHAP*) (Tresna D & Setiawan, 2025), which provide that in carrying out the function of *case owner/case controller*, the Public Prosecutor must promptly determine whether the case file has met the requirements to be submitted to the court or not. Article 137 of the Criminal Procedure Code (*KUHAP*), as amended by Article 69 of the New Criminal Procedure Code, states: "The Public Prosecutor is authorized to prosecute the Defendant within his or her jurisdiction and to submit the case to the competent district court for adjudication." Furthermore, Article 139 of the Criminal Procedure Code (*KUHAP*) stipulates that: (Tampoli, 2016) "After the Public Prosecutor receives or re-receives the complete results of the investigation from the investigator, he shall immediately determine whether the case file has met the requirements to be submitted to the court or not." Thus, by referring to the above provision, it can be clearly interpreted that the Prosecutor, as the holder of the case based on the principle of *dominus litis*, has the authority to decide whether a case file should be brought before the court or not, even if the file has previously been declared complete in both formal and material terms. If the Public Prosecutor decides that the case will not be brought before the court, such a decision in practice must be exercised strictly, based on a thorough assessment, and after fulfilling both subjective and objective requirements, while also taking into account the principles and objectives of law.

The Indonesian criminal justice system is expected to operate through two legal processes, as the Prosecutor's Office controls cases based on the principle of *dominus litis*. This system consists of interrelated components that work together to achieve *due process of law* among the Prosecutor's Office, the Police, and the Courts (Al Amin Siregar, 2016). The position of the Prosecutor as *Dominus litis* during the investigation stage has been affirmed by the provisions mentioned above. Based on the results of the investigation received from the investigator, the Prosecutor has the authority to determine whether a case is suitable to proceed to prosecution or not.. At the prosecution stage, the Public Prosecutor also plays an important role as *Dominus litis*. Accordingly, if the evidence is insufficient, the act does not constitute a criminal offense, or if the case must be closed by law, the Public Prosecutor may terminate the case through a decree (*surat ketetapan*) (Article 140 paragraph (2) of the Criminal Procedure Code, as amended by Article 71 paragraphs (1) and (2) of the New Criminal Procedure Code). However, in the implementation of the Criminal Procedure Code (*KUHAP*), the principle of functional differentiation reduces the meaning and function of the *dominus litis* principle (Huda, 2007). Although the *KUHAP* does not fully implement the Prosecutor's function as *Dominus litis*, the Prosecutor's Office may still exercise horizontal supervision over the investigation process to prevent abuse of power by law enforcement officials that could violate human rights. Currently, the pre-prosecution

institution functions to assist the Prosecutor in collaborating with investigators and conducting horizontal supervision. However, this institution has proven to be ineffective in achieving its objectives, as it only functions operationally and focuses on supervising the performance of investigators. This is one of the consequences of inadequate regulation of pre-prosecution under the positive provisions of the *KUHAP*. The fact that the Public Prosecutor cannot be directly involved in the investigation makes the concept of *dominus litis* in the role of the Public Prosecutor incomplete. Ideally, as *Dominus litis*, the Public Prosecutor should be involved as early as possible in the handling of criminal cases directly, and not merely limited to reviewing case files at the pre-prosecution stage.

Through this approach, the principle of *dominus litis* would no longer remain merely at the level of a normative principle, but would be implemented in a functional and systemic manner. The Prosecutor would become an actor who not only controls the case at the prosecution stage, but also participates in shaping the direction and quality of the case from the very beginning. This is expected to strengthen the integrity of Indonesia's criminal justice system, improve the effectiveness of law enforcement, and ensure the protection of the legal rights of all parties involved in the criminal justice process.

This tracing approach offers novelty in strengthening the role of the Prosecutor, while also encouraging a more integrative criminal procedural law reform oriented toward substantive justice. This research also contributes to the development of legal theory, particularly in actualizing the principle of *dominus litis* within Indonesian criminal law practice in a more progressive and accountable manner.

In the context of Indonesia's criminal justice system, which remains sectoral and procedural in nature, the approach proposed in this study presents a paradigmatic novelty. This novelty does not lie solely in the idea of the Prosecutor's active involvement at the pre-prosecution stage (Ali, 2021), but also in the design of legal instruments that enable such a role to be carried out lawfully, in a structured manner, and in a way that is accountable. In other words, this study does not merely propose a new role for the Prosecutor, but also designs a legal mechanism capable of transforming institutional practices in criminal law enforcement.

This novelty is important because, thus far, the role of the Prosecutor in law enforcement has tended to be interpreted narrowly, limited to the prosecutorial function after the investigation has been completed. In a legal system oriented toward substantive justice, however, the Prosecutor should bear responsibility for the quality of case construction from the outset. This study offers a new approach in which the Prosecutor is not merely a recipient of case files, but also an active partner in the process of developing evidence and legal narratives. This is implemented through the instrument of a joint determination document that is legally binding between investigators and the Prosecutor.

Furthermore, this approach encourages a more integrative reform of criminal procedural law. "Integrative" in this sense means that the investigation and prosecution processes no longer operate separately or in a waiting-and-following relationship, but instead interact and collaborate in building a strong and lawful case. This reform is also oriented toward substantive justice, namely justice that is not only measured by procedural compliance, but also by the quality of the legal substance that is

constructed. With the involvement of the Prosecutor from the earliest stage, the evidentiary process becomes more directed (Uyun, 2025), the evidence is more thoroughly tested, and the legal narrative becomes more consistent, so that the final outcome of the legal process more accurately reflects true justice.

The theoretical contribution of this research cannot be overlooked. In criminal law theory, the principle of *dominus litis* has so far been understood as a formal principle that positions the Prosecutor as the controller of the case at the prosecution stage (Firmansyah, 2020).

Based on the background and problems that have been described, this study is directed to analyze the existence and development of the *dominus litis* principle of the Prosecutor within the Indonesian criminal justice system. Specifically, this research seeks to examine: (1) the essence of the Prosecutor's *dominus litis* principle in the current Criminal Procedure Law (*ius constitutum*) in realizing the objectives of law in Indonesia; (2) the urgency of the Prosecutor's authority in exercising powers at the evidentiary stage under the Criminal Procedure Code (KUHAP) as an effort to optimally support the evidentiary system within the *dominus litis* function; and (3) the constation or formulation of strengthening the Prosecutor's *dominus litis* principle at the prosecution stage in future criminal procedural law (*ius constituendum*). Through these research questions, this study is expected to contribute conceptually and normatively to the development of a more integrated, effective, and justice-oriented criminal procedural law system in Indonesia.

METHODS

This research is a normative legal study examining the regulation of the Prosecutor's *dominus litis* principle within the Indonesian criminal justice system through a normative juridical approach. The study analyzes primary, secondary, and tertiary legal materials consisting of the 1945 Constitution of the Republic of Indonesia, the Criminal Code (KUHP), the Criminal Procedure Code (KUHAP), Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, Government Regulation Number 37 of 2018 concerning Case Control by the Prosecutor, jurisprudence, legal literature, scientific journals, research findings, and other relevant legal materials. Data collection was conducted through library research using document study techniques on various legal sources related to the research focus. The collected data were then analyzed qualitatively through classification, systematization, and legal interpretation to formulate legal arguments and conclusions regarding the strengthening of the Prosecutor's *dominus litis* principle in Indonesian criminal procedural law.

RESULTS AND DISCUSSION

The Essence of the Prosecutor's *Dominus litis* Principle in the Current Criminal Procedure Law (*ius constitutum*) in Realizing the Objectives of Law in Indonesia

The essence of the *dominus litis* principle is the recognition of the Prosecutor as the primary authority responsible for controlling the direction and continuation of criminal proceedings. Within the Indonesian criminal justice system, this principle embodies the Prosecutor's function not only as a public prosecutor but also as the institution

The constation of the prosecutor's role as *dominus litis* ...

responsible for ensuring that every criminal case brought before the court has fulfilled both evidentiary and legal requirements. Therefore, the essence of *dominus litis* lies in the Prosecutor's authority and responsibility to realize legal certainty, justice, and expediency through the control of criminal case management from the prosecution process to the execution of judicial decisions.

Thus, the essence of the Prosecutor's *dominus litis* principle in the current Criminal Procedure Law (*ius constitutum*) in realizing the objectives of law in Indonesia.

The implementation of the *dominus litis* principle in a more substantive manner can improve the quality of prosecution and reduce acquittals or dismissals resulting from weak case building. Therefore, evaluating the role of prosecutors in the pre-prosecution stage becomes a strategic step toward the optimal realization of legal objectives (Attorney General Regulation No. 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice n.d.). To understand the characteristics of the application of *dominus litis*, the author attempts to compare its differences in civil law and common law systems, as follows:

Legal System	Position of Prosecutor	Prosecution	Relationship with Law Enforcement	Weaknesses	Juridical Analysis
<i>Civil Law</i>	The Prosecutor acts as the controller of the entire case process from investigation to execution of judgments	Prosecution is conducted by the state through the Prosecutor	The Police operate under coordination and supervision of the Prosecutor in criminal cases	Potential abuse of authority if not properly supervised	In the Indonesian context, this system provides a strong legal basis for the Prosecutor to control cases (Articles 137–140 of the Criminal Procedure Code/KUHAP). Strengthening can be done by expanding the pre-prosecution function and ensuring full integration within the investigation process
<i>Common Law</i>	The Prosecutor only plays a role after the investigation is completed	Prosecution is not always controlled by the state; private prosecution is possible	The Police are relatively independent, with coordination being more collaborative in nature	Potential inconsistency in law enforcement across regions.	This system limits prosecutorial dominance in favor of investigative independence. However, for Indonesia, this model is less suitable if the goal is to strengthen <i>dominus litis</i> , because early-stage coordination would be limited

Based on the table above, the author argues that the application of the *dominus litis* principle in Indonesia's criminal procedural law system affirms that the prosecutor is the sole controller of the course of criminal cases from the investigation stage through the execution of court decisions. Normatively, this is regulated in Articles 137, 139, and 140 of the Criminal Procedure Code (*KUHAP*), which grant the prosecutor exclusive authority to determine whether a case should be proceeded to court or terminated in the interest of law. This authority is not merely procedural but substantive, as it determines the direction and quality of criminal law enforcement. From the perspective of *ius constitutum*, this position is highly strategic to ensure that the investigation and prosecution processes run in a coordinated, consistent manner without overlapping authorities among law enforcement agencies.

Dominus litis is not merely a procedural instrument, but also has a philosophical dimension that must be directed toward the achievement of legal objectives. This principle has great potential to strengthen the position of the prosecutor as the guardian of balance between legal certainty, justice, and expediency. However, it also highlights the risk of abuse of power if *dominus litis* is not accompanied by strong accountability mechanisms. Therefore, it suggests that reform of the Criminal Procedure Code (*KUHAP*) should not only expand the authority of prosecutors but also strengthen external oversight mechanisms (Tresna D & Setiawan, 2025). Thus, *dominus litis* as an instrument of legal objectives must be understood in three dimensions: legal certainty, justice, and expediency; as the role of prosecutors in maintaining fairness, consistency, and efficiency; and as an evolving academic concept as reflected in various doctoral research studies. The integration of *dominus litis* with the objectives of law will ultimately determine the quality of Indonesia's future criminal justice system.

The *dominus litis* principle, which positions the prosecutor as the controller of cases, must be directed to balance these three fundamental values in the practice of criminal law enforcement. These include:

First, *dominus litis* can be understood as a means of maintaining consistency in law enforcement. Through the Prosecutor's singular authority, the criminal process is directed through an official and measurable pathway, thereby preventing struggles over authority between institutions. This centralization provides procedural certainty and fosters public trust in the justice system (Muhammad Hikmat Sudiadi, 2024). However, in practice, overly rigid legal certainty often leads to formalism, for example in minor criminal cases that are still brought to court even though they do not provide substantive benefits. Thus, *dominus litis* must be operationalized not merely to maintain procedural certainty, but also to be directed toward the achievement of substantive justice.

Second, *dominus litis* must be understood within the framework of justice. Through the *dominus litis* principle, the Prosecutor plays a role in ensuring that every criminal case is not only processed formally, but also fairly for all parties involved (Hamzah, 2006). Justice in this context includes the rights of the suspect to receive fair treatment, the rights of victims to obtain remedies or restoration, and the rights of society to be protected from crime. Justice cannot be achieved solely by prioritizing the principle of legality, but must be combined with the principle of opportunity (*opportunitateitsbeginse*). Thus, the Prosecutor may exercise discretion to discontinue a case when its continuation would instead lead to injustice.

Third, dominus litis also functions as an instrument of expediency. In Radbruch's perspective, law should not be an end in itself, but must provide benefits to society. The prosecution of criminal cases that are inefficient or that merely burden the justice system without providing benefits to victims or society will reduce the legitimacy of the law (Effendy, 2005).

The Urgency of the Prosecutor's Authority in Exercising Powers at the Evidentiary Stage under the Criminal Procedure Code (KUHAP) to Optimally Support the Evidentiary System within the *dominus litis* Function

The involvement of the prosecutor from the investigation stage is not merely a technical option, but a fundamental necessity in the design of the criminal justice system. The starting point of this can be seen in the obligation of investigators to submit a Notification of the Commencement of Investigation (*Notice of Commencement of Criminal Investigation/SPDP*) to the public prosecutor, which according to Constitutional Court Decision Number 130/PUU-XIII/2015 must be done no later than seven days after the investigation begins. This decision significantly changes the initial construction of the investigator-prosecutor relationship, as it affirms that from the issuance of the SPDP, the prosecutor has legally become part of the case process. The relevance of this ruling lies in strengthening the *dominus litis* function, because without the prosecutor's involvement from the outset, potential procedural deviations and substantive weaknesses in the investigation would be difficult to correct at a later stage. The involvement of the prosecutor from the investigation stage is a concrete implementation of the constitutional mandate to ensure legal certainty and the protection of citizens' rights.

The Criminal Procedure Code (*KUHAP*) indeed places the investigation stage under the domain of the police. However, the Prosecutor's authority in prosecution requires that he or she has juridical control from the outset, so that case building does not stop at the technical level of investigation (*KUHAP* (UU No. 8 Tahun 1981), n.d.). The Indonesian criminal justice process is structured as a hierarchical and sequential system, where each procedural stage is linked to and forms the basis for the subsequent stage (Poernomo, 1984). Indonesia's criminal procedure law is designed as a hierarchical system, in which each stage is connected to the next. Thus, the involvement of the Prosecutor from the investigation stage is not a form of overlapping authority, but rather a logical consequence of this tiered structure. Without the presence of the Prosecutor from the beginning, a gap arises between investigation and prosecution, which causes the judicial process to lose its continuity.

The Criminal Procedure Code (*KUHAP*) also states that the police may conduct preliminary investigations independently, without supervision or control from the public prosecutor. At this stage, the police are not authorized to apply coercive measures such as arrest and seizure (Regulation of the Chief of the State Police of the Republic of Indonesia Number 14 of 2012 on Criminal Investigation Management). The *KUHAP* only grants the police the authority to arrest and detain a person suspected of committing a criminal offense for a period of one day (Article 16 of the *KUHAP*). If the police do not designate the arrested person as a suspect, they must release him or her. Initially, the *KUHAP* designed this stage as an initial filter to determine whether a case could proceed to investigation based on criminal law provisions (Indonesian National Police.

(2018). Circular Letter of the Chief of the Indonesian National Police Number 7/VII/2018 concerning the Termination of Preliminary Investigation.). The *KUHAP* only provides the police with the authority to initiate preliminary investigation. Criminal law experts argue that this provision gives the police a monopoly during the investigation phase, because the *KUHAP* stipulates that every investigation process must begin at this stage. Therefore, other criminal investigators, such as prosecutors, cannot initiate an investigation before the preliminary investigation has been carried out by the police. However, in practice, despite the provisions of the *KUHAP*, prosecutors and investigators may investigate a case without a preliminary investigation stage (Lihat Pasal 1 (4) *KUHAP*, n.d.).

Several special laws allow state institutions to conduct preliminary investigations into certain criminal offenses, such as the National Narcotics Agency of Indonesia, the National Commission on Human Rights, and the Corruption Eradication Commission (Regulation of the Chief of the National Police (PERKAP) Number 6 of 2010 concerning the Management of Investigations by Prosecutors). This means that the police are no longer the only party authorized to conduct preliminary investigations. In addition, as discussed in the previous chapter, the Attorney General's Office may also conduct preliminary investigations in corruption cases. Due to these developments, the government is considering removing the preliminary investigation stage from the new Criminal Procedure Code (*KUHAP*) (RFQ, 2014).

The Prosecutor's Office has two regulations concerning preliminary investigations: Attorney General Regulation 039/A/JA/10/2010 on Standard Operating Procedures for Handling Special Crimes, and Attorney General Regulation 037/A/J.A/09/2011 on Standard Operating Procedures for Intelligence. These two regulations have created competition between the Intelligence Division and the Special Crimes Division in handling corruption cases. In practice, the Prosecutor's Intelligence Division argues that its preliminary investigation is independent, meaning it is not connected to the Special Crimes Division. As a result, the Head of the Special Crimes Division does not receive information regarding preliminary investigations conducted by the Prosecutor's Intelligence Division. In addition, special crime prosecutors repeat the procedures when receiving preliminary investigation files from the Prosecutor's Intelligence Division, because the court only recognizes evidence presented in the official investigation dossier.

This function is also closely related to the principle of human rights protection. Investigation is the most vulnerable stage in the criminal process, as it involves the use of coercive measures such as arrest, detention, search, seizure, and intensive interrogation. Without prosecutorial supervision from the outset, the risk of abuse of authority becomes greater, ranging from arbitrary detention to the use of unlawfully obtained evidence. Lilik Mulyadi states that the involvement of prosecutors at the early stage functions as a safeguard to ensure that due process is not violated from the very beginning of a case (Mulyadi, 2007). This does not mean that the prosecutor replaces the judicial oversight function of the judge, but rather serves as an internal supervisor ensuring that every investigative action remains within the legal framework. In this way, the prosecutor not only controls the case for evidentiary purposes, but also safeguards the legitimacy of the judicial process from a human rights perspective. Examples from court cases show how critical the absence of prosecutors at the early

stage can be. In several decisions, judges acquitted defendants not because they were innocent, but because the evidence was deemed procedurally defective. For instance, electronic evidence obtained without proper forensic procedures is declared inadmissible even if its substance is strong (Decision of the Supreme Court of the Republic of Indonesia No. 1846 K/Pid.Sus/2016 (2016)). When prosecutors only discover such issues at the pre-prosecution stage, correction is no longer possible because the evidence has already been compromised at the source. With the involvement of prosecutors from the beginning, such evidentiary failures can be prevented, as prosecutors can direct investigators to follow proper procedural standards.

Early involvement of prosecutors also accelerates law enforcement processes and reduces social burdens. Several studies indicate that cases involving prosecutors from the outset tend to be resolved more quickly compared to cases where prosecutors are only involved at the end of the investigation stage (Yanlua et al., 2025). This is logical because good coordination from the upstream stage prevents repetitive back-and-forth exchanges of case files. In addition, the early presence of prosecutors also enables the state to make more rational legal decisions: whether a case should proceed to trial, be diverted to a restorative justice mechanism, or be discontinued in the interest of law. Such decisions are more difficult to make when prosecutors only enter the process at the pre-prosecution stage, because at that point they do not yet have a complete picture of the dynamics of the case from the beginning.

Progressive legal literature also supports this argument, such as Satjipto Rahardjo, who emphasizes that law should be viewed as a means to achieve the living sense of justice in society, rather than merely a set of procedural norms (Rahardjo, 2018). If prosecutors only become involved after the case file is complete, the orientation of prosecution tends to become more formalistic, merely ensuring that administrative requirements are fulfilled. Conversely, if prosecutors are involved from the beginning, they can act as agents of progressive law who direct cases to truly address substantive justice. This early involvement enables prosecutors to encourage penal mediation or restorative justice (RJ) for certain cases, so that the function of law as an instrument of expediency can be realized.

The role of the prosecutor cannot be reduced merely to a formal function of forwarding case files to court. The Criminal Procedure Code (*KUHAP*) explicitly positions the prosecutor as the only party authorized to prepare an indictment, meaning that this authority also constitutes a form of juridical discretion that determines the direction of proof. Article 143 paragraph (2) of the *KUHAP* stipulates that the indictment must be precise, clear, and complete, a requirement that is not merely administrative but substantive, as it is directly related to the defendant's right to prepare a defense. If the indictment is vague or weak, the judge may declare it null and void, which means the entire prosecution process becomes invalid. In this position, the prosecutor has the discretion to determine the appropriate form of indictment single, cumulative, alternative, or subsidiary depending on the quality of evidence and the complexity of the criminal act. This discretionary function cannot be regarded as arbitrary freedom, but rather as a constitutional responsibility within the framework of *dominus litis* to ensure that cases brought before the court genuinely meet juridical standards of validity. Without such discretion, the prosecutor would merely act as a conveyor of

investigative results, whereas the role of case controller requires the prosecutor to assess, examine, and filter evidence before it is presented in court. Thus, discretion in drafting indictments affirms that *dominus litis* is not merely a monopoly of authority, but also a mandate to safeguard the integrity of the criminal justice process.

The professionalism of prosecutors in drafting indictments becomes particularly relevant in money laundering cases. A strong indictment does not only function as a “crown” in the trial, but also as an instrument to construct the linkage between the predicate crime and the complex act of money laundering. Therefore, the preparation of a precise indictment serves as an important bridge between the prosecutor’s *dominus litis* function and the effectiveness of proof in enforcing the Anti-Money Laundering Law (*UU TPPU*). The *UU TPPU* generally does not stand alone, but is closely related to predicate crimes such as corruption, narcotics offenses, or human trafficking. Accordingly, proving money laundering cases presents a particular challenge, where prosecutors are required to have strong prosecutorial strategies to uncover criminal networks that are transnational, systematic, and complex (Law No. 8 of 2010 on Money Laundering Crimes, n.d.). The *UU TPPU* requires the prosecutor’s *dominus litis* role not only to prosecute the main perpetrators, but also to trace and prove the financial engineering hidden behind the predicate crimes. One of the distinctive features of the *UU TPPU* is the reverse burden of proof mechanism regulated under Article 77. Under this provision, the defendant is required to prove that his or her assets are not derived from criminal activity. This principle constitutes an exception to the presumption of innocence in general criminal law, while also serving as a legislative strategy to overcome evidentiary difficulties faced by law enforcement authorities. For prosecutors, the existence of reverse burden of proof actually strengthens the prosecution’s position because it allows the burden of proof to be shared with the defendant. However, reverse burden of proof does not mean that the prosecutor is absolved of responsibility, as the prosecutor remains obliged to prove the existence of the predicate crime and the linkage between financial flows and the criminal act (Article 77 of Law No. 8 of 2010, n.d.). This mechanism demonstrates that *dominus litis* in money laundering cases is a combination of an offensive state strategy and the principle of caution, ensuring that the rights of the defendant are not ignored.

The urgency of prosecutorial evidentiary strength becomes even clearer when money laundering cases involve cross-border financial transactions regulated under Article 68 of the Anti-Money Laundering Law (*UU TPPU*), which grants prosecutors the authority to utilize international cooperation in gathering evidence, such as Mutual Legal Assistance (MLA) or extradition treaties. In practice, prosecutors are required not only to master national law, but also international legal instruments and mechanisms of cooperation between global financial institutions.

The Ideal Concept of District Court Authority in Ensuring Legal Certainty

The constatation of strengthening the Prosecutor’s *dominus litis* principle reflects a legal affirmation indicating a growing tendency to reinforce the Prosecutor’s authority within the modern criminal justice system. This strengthening is particularly evident in the centralization of prosecutorial authority, where the Prosecutor is projected to become the primary controller of criminal cases. Although investigators continue to conduct investigations, the Prosecutor increasingly holds decisive authority in determining case completeness, deciding whether a case is eligible to proceed before the court,

terminating prosecutions, and implementing restorative justice. These developments demonstrate that the prosecution stage functions as the principal filter for safeguarding legal certainty and protecting human rights within the criminal justice process.

The strengthening of the Prosecutor's authority is also closely related to the development of the integrated criminal justice system concept. In this framework, the Prosecutor is no longer merely positioned as the executor of prosecution, but also as the coordinator of criminal case handling. The Prosecutor plays a strategic role in controlling the direction of criminal cases, supervising the quality of investigations, ensuring the legality of evidence, and guaranteeing the effectiveness of law enforcement. Consequently, the *dominus litis* principle serves as an important instrument for synchronizing the functions of law enforcement institutions within the criminal justice system.

In addition, the implementation of restorative justice policies further demonstrates the strengthening of the Prosecutor's role in criminal case resolution. Through restorative justice mechanisms, Prosecutors are granted authority to assess the interests of victims, consider social harm, maintain a balance between justice and legal certainty, and determine the settlement of cases outside judicial proceedings. This model positions the Prosecutor as the central actor in realizing a more humane and balanced criminal justice system that prioritizes substantive justice over purely punitive approaches.

The future reformulation of Indonesia's Criminal Procedure Code (KUHAP) also indicates a tendency to strengthen the Prosecutor's position. Several proposed reforms include enhancing prosecutorial supervision over investigations, introducing plea bargaining mechanisms, expanding prosecutorial discretion, and allowing termination of prosecution based on public interest considerations. These reform directions illustrate that the Prosecutor will hold an increasingly dominant role in determining the effectiveness and efficiency of the criminal justice system in the future.

Nevertheless, the strengthening of the Prosecutor's *dominus litis* principle must be balanced by strong accountability mechanisms. Such authority should be accompanied by integrity, professionalism, transparency, and effective internal as well as external supervision. Without adequate oversight, excessive prosecutorial dominance may lead to abuse of power, criminalization, and procedural injustice. Therefore, the strengthening of prosecutorial authority must remain within the framework of the rule of law in order to uphold legal certainty, justice, expediency, human rights protection, and democratic legal principles.

The principal novelty of this study lies in the formulation of a joint determination document as a legal mechanism that enables active prosecutorial involvement at the evidentiary stage, thereby strengthening the implementation of the *dominus litis* principle within Indonesia's criminal justice system in a more integrated, accountable, and substantive justice-oriented manner.

CONCLUSIONS

The role of the prosecutor as *dominus litis* finds its actualization at the evidentiary stage. The Criminal Procedure Code (KUHAP) through Article 143 regulates the requirements for the validity of an indictment, while Article 182 affirms the prosecutor's position in presenting the prosecution. These provisions indicate that the prosecutor is

not merely a continuation of the investigative file, but also acts as a quality controller who determines the direction and legitimacy of the judicial process. However, this study finds that *dominus litis* under the *KUHAP* remains reactive in nature, as it only operates after the investigation has been completed. As a result, many weak cases are still brought to court. This condition contrasts with practical needs, particularly in special criminal cases such as narcotics (Law No. 35 of 2009), forestry crimes (Law No. 18 of 2013), terrorism (Law No. 5 of 2018), and money laundering (Law No. 8 of 2010), which require the prosecutor's involvement from the outset to design case construction and strengthen the evidentiary system. With proactive involvement, *dominus litis* can function more broadly than merely a monopoly of prosecution, becoming a strategic mechanism that ensures consistency, proportionality, and accountability in law enforcement.

The strengthening of the constation of the *dominus litis* principle from the perspective of *ius constituendum* should be directed from merely a normative authority into a substantive, strategic, and operational instrument. The required legal construction is to provide space for prosecutors to act as strategic case architects from the earliest stage through collaboration with investigators, formalized in a Joint Determination Document (JDD) and reinforced normatively through a Joint Standard Operating Procedure (SOP) between the Attorney General and the Chief of the National Police.

Harmonization of law in the form of a joint regulation functions as an intermediary norm that bridges the separation between the investigation and prosecution regimes under the Criminal Procedure Code (*KUHAP*), while also ensuring that the *dominus litis* principle is implemented consistently within an integrated criminal justice system framework. Furthermore, the digital era demands a transformation of *dominus litis* through the implementation of e-prosecution, the integration of an e-Case Management System (e-CMS) covering investigation, prosecution, and execution stages, as well as the utilization of big data analytics to maintain uniformity in prosecution policies. It also includes the application of digital traceability and AI-based decision support systems to accelerate evidence analysis and enhance the objectivity of prosecutorial assessment. With a combination of clear legal construction, strong institutional harmonization, and modern technology-based digitalization, *dominus litis* will function optimally as a case control instrument that ensures transparency, accountability, and legitimacy in law enforcement within a democratic rule-of-law state.

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