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Comparison Of Prosecutorial Authority In Investigation Between The Indonesian Model And The French Direction De L'enquête

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Abstract

This study examines the juridical problem regarding the position of the Public Prosecutor as controller of investigations within Indonesia's criminal justice system, a position that tends to be illusory. Although the principle of dominus litis is doctrinally recognized, implementation of the Principle of Functional Differentiation under the Indonesian Criminal Procedure Code (KUHAP), including Law No. 20 of 2025, frequently reduces the Prosecutor's role to that of a mere file examiner, which results in inefficient coordination with police investigators. This study aims to analyze a comparison between Indonesia's model of investigative control and France's Direction de l'Enquête model in order to formulate an ideal functional relationship. The research method employed is normative juridical research using a comparative approach and a statute approach. The results show that Article 41 of the French Code de procédure pénale grants explicit instructional authority to the Procureur de la République to direct the judicial police, in contrast to Indonesia, which remains trapped within pre-prosecution bureaucratic compartments. The study's conclusion calls for a reconstruction of Indonesian criminal procedural law regulations by adopting elements of prosecutorial centrality in order to realize a more accountable and effective integrated criminal justice system.

Keywords: Dominus Litis, Investigation, Prosecutor, Direction de l'Enquête, Comparative Law.

INTRODUCTION

Criminal law enforcement is a manifestation of the state's obligation to protect the legal interests of society while simultaneously maintaining a balance between state power (staatstuur)

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and individual human rights. As a fundamental pillar of the legal system, criminal procedural law functions as a "second constitution" that establishes the formal procedures for law enforcement officials to seek, gather, and prove criminal acts before the court. In Indonesia, the dynamics of criminal procedural law have entered a new chapter with the enactment of Law Number 20 of 2025 concerning the Criminal Procedure Code (KUHAP), which replaces the outdated regulation inherited from the 1981 era. Philosophically, the formation of this new KUHAP aims to create a justice system that upholds human rights, realizes a simple, swift, and low-cost judicial process, and affirms the role of law enforcement officials working within one integrated unit.[1] However, these lofty ideals still face major challenges at the implementation level, particularly at the pre-adjudication stage, which is often the "weak link" in the criminal justice chain.[2]

The root of the problem in modern criminal law enforcement often lies not in the absence of substantive norms, but in the failure of synchronization and coordination between the investigative and prosecutorial functions.[3] Theoretically, the success of a case at trial depends heavily on the quality of the investigation conducted at the initial stage. Comparative legal studies serve as a crucial methodological instrument for analyzing how civil law countries manage this functional relationship to achieve effective law enforcement.[4] Indonesia, which historically shares a close legal tradition with continental European countries, continues to seek the ideal format for designing the relationship between the Indonesian National Police (Polri) and the Indonesian Attorney General's Office (Kejaksaan) in order to create harmonization that is functional, not merely administrative.[5]

It is important to understand that although Indonesia formally claims to adhere to the Integrated Criminal Justice System (ICJS), which views investigation, prosecution, and adjudication as one inseparable unit, there exists an internal contradiction in the form of the adoption of the Principle of Functional Differentiation.[6] This principle creates a very sharp division of duties, with almost no functional overlap: the Police hold the sole mandate to conduct investigations, while the Prosecutor's Office holds the sole mandate to conduct prosecutions. In practice, however, this

[1]Amalia Syauket & Dwi Seno Wijanarko, Buku Ajar Tindak Pidana Korupsi (Malang: Pt. Literasi Nusantara Abadi Grup (Litrüs), 2024), p. 33.
[2]Ibid.
[3]Wirjono Prodjodikoro, Asas-Asas Hukum Pidana di Indonesia (Bandung: Eresco, 1983), p. 45.
[4]J.E. Sahetapy, Suatu Tinjauan Mengenai Sistem Peradilan Pidana (Bandung: Citra Aditya Bakti, 1996), p. 78.
[5]Andi Hamzah, Hukum Acara Pidana Indonesia (Jakarta: Sinar Grafika, 2018), p. 120.
[6]Lilik Mulyadi, Asas-Asas Hukum Acara Pidana Indonesia (Jakarta: Prenadamedia Group, 2017), p. 55.

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separation actually creates a significant gap. The relationship between investigators and public prosecutors, which should be one of strategic cooperation for the sake of evidentiary interests, often shifts into a formalistic, even adversarial, relationship.[7] Sectoral ego between institutions often emerges as a consequence of an overly rigid interpretation of each law enforcement institution's sphere of authority.[8]

Prominent legal scholars such as Andi Hamzah and Lilik Mulyadi have consistently criticized the overly sharp separation between investigation and prosecution in the KUHAP as a step backward compared to the spirit of unification that existed during the era of the Herziene Inlandsch Reglement (HIR).[9] Doctrinally, investigation should be viewed as an inseparable part of prosecution (ancillary to prosecution). This is based on the principle that it is the public prosecutor who will "fight" at trial, and therefore should have full control over the quality of evidence collected from the outset.[10] This concept culminates in the principle of Dominus Litis, which positions the Prosecutor as the master of the case. However, the reality in Indonesia shows that the Prosecutor's position as Dominus Litis is merely illusory. The Prosecutor's role is limited to a passive "pre-prosecution" stage, namely merely examining the case file and issuing a P-19 instruction after the investigation is deemed complete or nearly complete by the police.[11] The limited authority to actively control the investigation from the moment the Notice of Commencement of Investigation (SPDP) is issued results in a suboptimal horizontal oversight function over potential abuse of authority by investigators.[12]

Conversely, if we examine legal practice in continental European countries, particularly France, we find a starkly contrasting model. France, as the principal model of the civil law tradition, explicitly positions the Public Prosecutor (Procureur de la République) as the supreme commander in directing the activities of the judicial police (Police Judiciaire). This control is known as the concept of Direction de l'Enquête, which is not merely passive coordination but active and instructional direction.[13] Under Article 41 of the French Code de procédure pénale, the Prosecutor has the authority to "direct the activity of the officers and agents of the judicial police" (il dirige

[7]Ibid.
[8]Soesilo, Kitab Undang-Undang Hukum Acara Pidana (KUHAP) dan Peraturan Pelaksanaannya (Bogor: Politeia, 1992), p. 89.
[9]Andi Hamzah, Op.Cit., p. 125.
[10]Eddy O.S. Hiariej, Teori dan Hukum Pembuktian (Jakarta: Erlangga, 2012), p. 210.
[11]Sudikno Mertokusumo, Mengenal Hukum: Suatu Pengantar (Yogyakarta: Liberty, 2005), p. 95.
[12]Adnan Buyung Nasution, Peradilan Bebas dan Negara Hukum (Jakarta: Sinar Harapan, 1999), p. 185.
[13]Muladi & Barda Nawawi Arief, Teori-Teori dan Kebijakan Pidana (Bandung: Alumni, 2010), p. 205.

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l'activité des officiers et agents de la police judiciaire).[14] This phrase provides legal legitimacy for French prosecutors to issue direct orders regarding investigative actions, searches, and even detentions, to ensure that the case file built has a flawless quality of evidence to bring before the court.[15]

This French model offers a solution to the dualism of leadership that often occurs in handling criminal cases in Indonesia. In France, prosecutors already have a complete picture of the legal construction from the start of the investigation, thereby minimizing disparities in views between investigators and prosecutors.[16] This is very different from the situation in Indonesia, where the phenomenon of case files being "shuttled back and forth" has become an open secret in judicial practice. Files repeatedly returned by prosecutors to police investigators indicate a chronic failure of functional communication.[17] This inefficiency not only wastes state resources but also violates the rights of suspects by creating legal uncertainty and prolonging detention without substantial justification.[18]

A further consequence of weak investigative control by prosecutors in Indonesia is the frequent occurrence of witnesses or defendants retracting their statements recorded in the Examination Report (BAP) during trial proceedings.[19] The reasons for such retractions are often related to allegations of intimidation or pressure during the police investigation process. Given that, within our system of evidence, witness testimony given at trial carries greater evidentiary weight than the BAP, such retractions often collapse the entire body of evidence that the prosecutor has constructed.[20] Empirical evidence shows that many acquittals (Vrijspraak) are triggered by the poor quality of BAPs that were not directly supervised by the public prosecutor from the outset.[21] Supreme Court Decision Number 997 K/PID/2016 stands as an important precedent highlighting just how vulnerable a case's evidentiary value becomes when coordination at the pre-adjudication stage is ineffective.[22]

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[14]Code de procédure pénale Prancis, Article 41.
[15]H. R. Otje Salman, Filsafat Hukum (Bandung: Refika Aditama, 2010), p. 68.
[16]Roeslan Saleh, Beberapa Aspek Hukum Acara Pidana (Jakarta: Ghalia Indonesia, 1982), p. 115.
[17]Oemar Seno Adji, Hukum Acara Pidana Dalam Praktek Peradilan (Jakarta: Erlangga, 1985), p. 175.
[18]Teguh Prasetyo, Hukum Pidana (Jakarta: RajaGrafindo Persada, 2014), p. 301.
[19]Bambang Waluyo, Penelitian Hukum dalam Praktik (Jakarta: Sinar Grafika, 2002), p. 140.
[20]Loebby Loqman, Hukum Acara Pidana (Jakarta: Balai Pustaka, 1990), p. 58.
[21]R. Soesilo, Pokok-Pokok Hukum Acara Pidana (Jakarta: Pradnya Paramita, 1995), p. 190.
[22]Farhan Willy Grimaldi, "Putusan Bebas Judex Facti Akibat Mengabaikan Alat Bukti Petunjuk Karena Terdakwa Mencabut Keterangan Dalam BAP Penyidik Tanpa Alasan Yang Relevan (Studi Putusan Mahkamah Agung Nomor 997 K/PID/2016)," Verstek, Vol. 6, No. 2 (2020), p. 235.

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Therefore, there is a profound academic urgency to reconstruct the functional relationship between investigators and public prosecutors in Indonesia. A comparative study of the Direction de l'Enquête model in France is not intended as wholesale imitation, but rather to identify principles and regulatory mechanisms that can be adopted to improve Indonesia's integrated criminal justice system.[23] A reinterpretation of the Principle of Functional Differentiation in the new KUHAP must be directed toward strengthening the Prosecutor's role as controller of investigative quality. Only by positioning the Prosecutor as the genuine controller of a case from the earliest stage can accountable, effective, and just law enforcement be realized in Indonesia.[24]

METHOD

This study uses the normative legal research method (doctrinal legal research), which views law as a system of norms consisting of principles, rules, and legislation.[25] Given that the main issue in this study is the synchronization of functions between law enforcement institutions, several legal approaches were used to obtain a comprehensive analysis. First, the *statute approach*, by examining relevant regulations, particularly Law Number 20 of 2025 (the new KUHAP) and the French Code de procédure pénale.[26] Second, the *comparative approach*, carried out by comparing Indonesia's investigative control system, which is based on Functional Differentiation, with the French system, which is based on Direction de l'Enquête, in order to identify the strengths and weaknesses of each model.[27] Third, the *conceptual approach*, which draws on legal views and doctrines, particularly regarding the dominus litis principle and the integrated criminal justice system.[28]

The primary data sources in this study include the formal provisions of the Indonesian KUHAP and the French Code de procédure pénale, while secondary data was obtained through legal literature, scholarly journals, and court decisions relevant to pre-adjudication problems. Legal materials were collected through library research, which was then analyzed qualitatively using a descriptive-analytical method. Through this method, the researcher not only describes the

[23]Komariah Emong Sapardjaja, Pembaruan Sistem Peradilan Pidana (Bandung: Alumni, 2002), p. 165.
[24]Satjipto Rahardjo, Ilmu Hukum (Bandung: Citra Aditya Bakti, 2000), p. 280.
[25]Soerjono Soekanto & Sri Mamudji, Penelitian Hukum Normatif: Suatu Tinjauan Singkat (Jakarta: RajaGrafindo Persada, 2001), p. 13.
[26]Johnny Ibrahim, Teori dan Metodologi Penelitian Hukum Normatif (Malang: Bayumedia Publishing, 2006), p. 300.
[27]Peter Mahmud Marzuki, Penelitian Hukum (Jakarta: Kencana Prenada Media Group, 2005), p. 133.
[28]Ibid., p. 135.

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normative differences between the two countries but also provides juridical interpretation to construct an ideal model of functional relations for Indonesia's criminal justice system.[29]

DISCUSSION AND ANALYSIS

The Dialectic of the Principle of Functional Differentiation and Dominus Litis in the Indonesian Criminal Procedure System

The existence of Indonesian criminal procedural law following the enactment of Law Number 20 of 2025 (the New KUHAP) fundamentally still carries the historical burden of the old paradigm, trapped within a rigid dichotomy between the investigative and prosecutorial functions. On one hand, Indonesia claims to have adopted the concept of the Integrated Criminal Justice System (ICJS), which philosophically views law enforcement as a continuous, unfragmented unity of process (due process of law).[30] On the other hand, our normative structure still grants supremacy to the **Principle of Functional Differentiation**. This principle creates an extremely sharp separation, with almost no functional overlap, between the Police as the sole investigative authority and the Prosecutor's Office as the sole prosecutorial authority. This condition gives rise to a paradox: how can a system be called "integrated" if it is structurally designed to be compartmentalized within rigid institutional bureaucratic boundaries?[31]

This dialectical tension becomes even sharper when we examine the Prosecutor's position within the discourse of the ***Dominus Litis*** Principle (Master of the Case). In civil law doctrine, the Prosecutor is the personification of the state's interest in prosecuting crimes, which means he must hold control over the case from the moment preliminary evidence exists until the execution stage. In Indonesia, however, the dominus litis status of the Public Prosecutor is merely a "pseudo" normative slogan (pseudo-dominus litis). This is because the control mechanism granted to the Prosecutor by the KUHAP at the pre-adjudication stage is extremely limited and passive-reactive in nature. The Prosecutor has no authority to determine when an investigation begins, how the strategy for gathering evidence is carried out, or to intervene if there are logical legal errors constructed by investigators in the field.[32]

This overly extreme separation of functions produces a socio-legal impact in the form of

[29]Bambang Waluyo, Penelitian Hukum dalam Praktik (Jakarta: Sinar Grafika, 2002), p. 145.
[30]J.E. Sahetapy, Suatu Tinjauan Mengenai Sistem Peradilan Pidana (Bandung: Citra Aditya Bakti, 1996), p. 78.
[31]Lilik Mulyadi, Asas-Asas Hukum Acara Pidana Indonesia (Jakarta: Prenadamedia Group, 2017), p. 60.
[32]Andi Hamzah, Hukum Acara Pidana Indonesia (Jakarta: Sinar Grafika, 2018), p. 135.

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an acute reinforcement of "sectoral ego." From an organizational theory perspective, when two institutions are granted interdependent authority without a clear chain of command, an adversarial relationship emerges. The phenomenon of case files being "shuttled back and forth" is the most concrete empirical evidence of this. Prosecutors are often trapped in the role of "file examiner," merely checking the formal and material completeness of a file after the police consider the investigation complete. If deficiencies are found, the Prosecutor can only issue a static instruction (P-19). On the other hand, investigators often subjectively feel they have fulfilled the elements of the offense, but objectively, under prosecutorial standards, the evidence may not yet meet the beyond reasonable doubt standard.[33] This inefficiency causes case handling to become slow, costly, and in violation of the speedy trial principle, ultimately injuring the constitutional rights of suspects.[34]

More deeply, the failure of prosecutorial control over investigations has implications for the fragility of the evidentiary construction at trial. This problem is clearly visible in the practice of witnesses or defendants retracting statements recorded in the Examination Report (BAP). Because the Prosecutor lacks functional access to supervise the examination process or to conduct "quality supervision" of the interrogation process, allegations of psychological or physical pressure often arise, leading to witness statements being retracted under oath in court. In our system of evidence, which prioritizes direct testimony given at trial, the retraction of a BAP is often a fatal weapon against the Prosecutor, resulting in an acquittal (vrijspraak) or discharge (onslag).[35] Supreme Court Decision Number 997 K/PID/2016 clearly illustrates how weak the prosecution's position becomes when it relies solely on the results of an investigation it did not control from the outset.[36]

Therefore, the existence of the Principle of Functional Differentiation in Indonesia's current KUHAP needs to be deconstructed. Differentiation should not be interpreted as total separation (separation of powers), but rather as a division of labor that remains under a single functional coordination, with the Prosecutor as its leader. Without restructuring that positions the Prosecutor as the active and instructional controller of investigative quality, the ideal of achieving

[33]Oemar Seno Adji, Hukum Acara Pidana Dalam Praktek Peradilan (Jakarta: Erlangga, 1985), p. 180.
[34]Sudikno Mertokusumo, Mengenal Hukum: Suatu Pengantar (Yogyakarta: Liberty, 2005), p. 102.
[35]Loebby Loqman, Hukum Acara Pidana (Jakarta: Balai Pustaka, 1990), p. 65.
[36]Farhan Willy Grimaldi, "Putusan Bebas Judex Facti Akibat Mengabaikan Alat Bukti Petunjuk Karena Terdakwa Mencabut Keterangan Dalam BAP Penyidik Tanpa Alasan Yang Relevan (Studi Putusan Mahkamah Agung Nomor 997 K/PID/2016)," Verstek, Vol. 6, No. 2 (2020), p. 240.

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substantive justice and a genuinely integrated criminal justice system in Indonesia will always be hindered by the unsynchronized bureaucratic walls of law enforcement.[37]

The Formulation of Direction de l'Enquête in the French System: The Centrality of the Public Prosecutor as Controller of Justice Quality

In the global landscape of criminal procedural law, the French system is often regarded as a pure prototype of the civil law tradition that prioritizes law enforcement efficiency through functional integration. In stark contrast to Indonesia, which is trapped in the dichotomy of Functional Differentiation, France consistently upholds the principle of **Centrality of the Public Prosecutor**. The philosophical foundation of this system is the understanding that the state should not have two "heads" in a single criminal case. Therefore, from the moment the pre-adjudication phase begins, every instrument of coercive state power exercised by the police must be under the sole control of the judicial authority, namely the Public Prosecutor (Procureur de la République).[38] This centrality is manifested through the concept of ***Direction de l'Enquête*** (Direction of the Investigation), a doctrine that grants full legitimacy to the Prosecutor to mobilize, supervise, and direct the activities of the Judicial Police (Police Judiciaire). The most fundamental normative basis for this authority is found in **Article 41 of the Code de procédure pénale** (the French Criminal Procedure Code). This provision explicitly states: *"Le procureur de la République... dirige l'activité des officiers et agents de la police judiciaire"* (the Public Prosecutor... directs the activity of the officers and agents of the judicial police)[39]. The use of the term *"dirige"* (to direct/lead) does not merely mean passive coordination as understood under Indonesian law, but rather an instructional authority that positions the police as the Prosecutor's "right hand" in the pursuit of material truth.[40]

Technically, Direction de l'Enquête grants the Procureur de la République authority to be actively involved from the very first moment a report or complaint is received. Under the French system, the Prosecutor has the authority to issue direct orders to police investigators (OPJ – Officiers de Police Judiciaire) regarding specific investigative actions to be taken, ranging from interrogation techniques and searches to the use of other coercive measures. This integration ensures that every piece of evidence collected by the police meets the legal qualification

[37]Satjipto Rahardjo, Ilmu Hukum (Bandung: Citra Aditya Bakti, 2000), p. 285.
[38]Muladi & Barda Nawawi Arief, Teori-Teori dan Kebijakan Pidana (Bandung: Alumni, 2010), p. 205.
[39]Code de procédure pénale Prancis, Article 41.
[40]Eddy O.S. Hiariej, Teori dan Hukum Pembuktian (Jakarta: Erlangga, 2012), p. 210.

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standards required to win prosecution before a judge. Here, there is no room for "sectoral ego," because organizationally and functionally, the judicial police are directly accountable to the Prosecutor for the legality and quality of their investigative results.[41]

Furthermore, this French model effectively eliminates the chronic bureaucratic inefficiency phenomenon found in Indonesia, such as case files being shuttled back and forth. Because the Prosecutor "dictates" the content of the file from the outset, the likelihood of disagreement between what the police are seeking and what the prosecutor needs becomes minimal. The Prosecutor in France is not merely a "recipient of files" (as in Indonesia), but rather an "architect of the case." He constructs the indictment simultaneously with the field evidence-gathering process.[42] The advantage of this model is that it guarantees the principle of speedy and low-cost trial, since the process of eliminating cases unfit for prosecution can be carried out early, without going through a drawn-out inter-agency administrative process.[43]

From a human rights protection perspective, the centrality of the prosecutor in investigations in France also functions as an inherent judicial control mechanism. The Prosecutor, who holds status as a member of the magistracy (the judicial corps in a broad sense), bears moral and legal responsibility to ensure that the police do not act arbitrarily during the investigation process. Thus, direction by the prosecutor serves as a preventive filter to avoid procedural violations that could render evidence inadmissible at trial. This explains why, in French judicial practice, cases of mass BAP retraction such as those occurring in Indonesia are rarely found, because the file-building process is under the strict supervision of the prosecuting authority.[44]

In short, the Direction de l'Enquête model in France demonstrates that the effectiveness of criminal law enforcement can only be achieved when there is a clear chain of command between investigation and prosecution. This functional integration not only provides legal certainty for the state in prosecuting offenders but also guarantees protection of individual rights through active judicial oversight from the very beginning of the legal process.[45]

[41]Komariah Emong Sapardjaja, Pembaruan Sistem Peradilan Pidana (Bandung: Alumni, 2002), p. 165.
[42]Roeslan Saleh, Beberapa Aspek Hukum Acara Pidana (Jakarta: Ghalia Indonesia, 1982), p. 115.
[43]H. R. Otje Salman, Filsafat Hukum (Bandung: Refika Aditama, 2010), p. 68.
[44]Andi Hamzah, Hukum Acara Pidana Indonesia (Jakarta: Sinar Grafika, 2018), p. 140.
[45]Sudikno Mertokusumo, Mengenal Hukum: Suatu Pengantar (Yogyakarta: Liberty, 2005), p. 98.

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Reconstructing the Regulatory Model of the Functional Relationship between the Prosecutor and the Police: Toward Optimizing Investigations within the Indonesian Criminal Justice System

The failure of Indonesia's criminal justice system to achieve legal certainty and efficient case handling is rooted in the disharmonious relationship between investigators and public prosecutors at the pre-adjudication stage. As analyzed in the previous chapter, the fundamental weakness lies in the adoption of the Principle of Functional Differentiation, rigidly interpreted as a separation of authority rather than an integrative division of labor. Therefore, a reconstruction of the regulatory model is needed that can bridge this gap by adopting progressive elements from the French Direction de l'Enquête model, while still adapting it to Indonesia's sociological and constitutional characteristics.

The first step in this reconstruction is to deconstruct the meaning of the Principle of Functional Differentiation within the New KUHAP (Law No. 20 of 2025). Differentiation should not be viewed as an absolute separation of powers, but rather as a division of labor under a single functional coordination led by the Public Prosecutor.[46] Theoretically, if the public prosecutor bears the burden of proof at trial, then logically he must be given the legal instruments to control the quality of evidence from the earliest stage of investigation.

This reconstruction demands a paradigm shift from the Prosecutor as a "file examiner" to the Prosecutor as a "case controller" (prosecutorial-led investigation). This aligns with the spirit of national criminal law reform, which seeks law enforcement that is not only swift but also accountable. By positioning the Prosecutor as the authority that provides strategic (not technical) direction to investigators, the dualism of legal views in handling cases can be minimized. The Prosecutor can issue instructions regarding the direction of evidence-gathering, so that police investigators have clear guidance in collecting witnesses, experts, and documentary evidence relevant to the indictment being constructed.[47]

To provide legal certainty, the principle of Direction de l'Enquête must be explicitly incorporated into Indonesian positive law. We can no longer rely solely on inter-agency memoranda of understanding (MoUs), which often lack strong binding legal force before a judge. Strengthened regulation at the statutory level is needed, granting the Prosecutor the authority to: **Issue Binding Instructions:** The Prosecutor's instruction (P-19) must not be viewed merely as administrative advice, but as a juridical order that investigators are obligated to fulfill within a

[46]Satjipto Rahardjo, Ilmu Hukum (Bandung: Citra Aditya Bakti, 2000), p. 288.
[47]Muladi & Barda Nawawi Arief, Teori-Teori dan Kebijakan Pidana (Bandung: Alumni, 2010), p. 212.

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certain period.[48]

Conduct Direct Supervision of Critical Examinations: To avoid the phenomenon of BAP retraction at trial, the Prosecutor must be granted authority to be present and conduct direct supervision when taking statements from key witnesses or suspects in cases of high complexity or vulnerability to human rights violations.[49]

Authority to Halt Investigations: In line with the dominus litis principle, the Prosecutor must be granted full authority to terminate a case at the investigation stage if the evidence gathered by investigators is genuinely insufficient, thereby avoiding the forced advancement of cases to trial that would only result in acquittal.[50]

This model would create an internal and preventive check-and-balance mechanism. The presence of the Prosecutor as a "quality supervisor" at the investigation stage would compel investigators to work more professionally and within the bounds of procedural law, ultimately increasing public trust in the integrity of the criminal justice system.[51]

In the era of digitalized law enforcement, the reconstruction of the functional relationship between the Prosecutor and the Police cannot be separated from the role of technology. One concrete solution to overcoming coordination deadlock is the optimization of the Integrated Information Technology-Based Criminal Case Handling System (SPPT-TI). Specifically, Indonesia needs to develop a digital case management system that allows the Prosecutor to monitor investigative developments in real time from the moment the SPDP is issued.[52]

With this system, every investigative action (such as seizure or interrogation) is immediately uploaded to a dashboard accessible to the Public Prosecutor. The Prosecutor can provide notes or instructions digitally without having to wait for the physical file to be delivered (Stage I). This mechanism would cut through the bureaucratic chain that has long been the primary cause of inefficiency. This digitalization also functions as an accountability instrument; any delay or disregard of prosecutorial instructions by investigators would be systemically recorded, providing material for institutional performance evaluation.[53]

Finally, this reconstruction cannot proceed without a transformation of legal culture within the

[48]Andi Hamzah, Hukum Acara Pidana Indonesia (Jakarta: Sinar Grafika, 2018), p. 145.
[49]Komariah Emong Sapardjaja, Pembaruan Sistem Peradilan Pidana (Bandung: Alumni, 2002).
[50]Lilik Mulyadi, Asas-Asas Hukum Acara Pidana Indonesia (Jakarta: Prenadamedia Group, 2017), p. 65.
[51]Adnan Buyung Nasution, Peradilan Bebas dan Negara Hukum (Jakarta: Sinar Harapan, 1999), p. 190.
[52]Marwan Effendy, Sistem Peradilan Pidana Indonesia: Suatu Pengantar (Jakarta: Referensi, 2012), p. 88.
[53]Indriyanto Seno Adji, Hukum Pidana dan Strategi Penegakan Hukum (Jakarta: Diadit Media, 2009), p. 142.

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Police and the Prosecutor's Office. The problem of "sectoral ego" often arises from a perception that one institution is subordinate to another. It is therefore important to emphasize that the subordination being built is functional subordination within the judicial sphere, not institutional subordination.[54]

Organizationally, Indonesia could consider establishing joint task forces for handling special or complex criminal cases, in which investigators and public prosecutors operate under a single working coordination from day one. This model has proven effective in various developed countries in cutting through communication barriers and accelerating the prosecution process. Through close collaboration, any potential weakness in evidence can be detected and corrected early, ensuring a complete and integrated judicial process in line with the values of social justice.[55] In a broader discourse, the functional reconstruction between the Prosecutor and the Police represents the embodiment of a criminal law policy oriented toward the substantive protection of human rights. Emphasizing the Prosecutor's role as the "gatekeeper" of the justice system is not merely a matter of technical efficiency, but constitutes a judicial control mechanism against potential arbitrary power that may arise during the closed investigation phase.[56] From the perspective of the sociology of law, the discretion held by police investigators often operates within a "dark" procedural space with minimal public oversight, making the strengthening of the Prosecutor's authority to conduct supervision from the moment the SPDP is issued a fundamental form of procedural transparency.[57] This ensures that every coercive measure, from arrest to seizure, is carried out solely for the purpose of obtaining legally valid evidence, rather than being driven merely by the pragmatic target of case closure.[58] This integration also addresses criticism regarding the phenomenon of "administrative justice" in Indonesia, in which a suspect's fate is often determined solely on paper (the BAP) without rigorous judicial testing before reaching the courtroom.[59]

Furthermore, viewed through the lens of Economic Analysis of Law, this reconstruction would have a significant impact on the efficiency of state budget expenditure, which has long been

[54]H. R. Otje Salman, Filsafat Hukum (Bandung: Refika Aditama, 2010), p. 72.
[55]Barda Nawawi Arief, Bunga Rampai Kebijakan Hukum Pidana (Jakarta: Kencana, 2011), p. 195.
[56]Romli Atmasasmita, Sistem Peradilan Pidana Kontemporer (Jakarta: Kencana, 2010), p. 112.
[57]Muladi, Kapita Selekta Sistem Peradilan Pidana (Semarang: Badan Penerbit Universitas Diponegoro, 1995), p. 45.
[58]Satjipto Rahardjo, Ilmu Hukum (Bandung: Citra Aditya Bakti, 2000), p. 290.
[59]Lilik Mulyadi, Asas-Asas Hukum Acara Pidana Indonesia (Jakarta: Prenadamedia Group, 2017), p. 68.

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wasted due to law enforcement bureaucratic inefficiency.[60] The phenomenon of case files being shuttled back and forth not only undermines legal certainty but also represents a massive waste of state resources, from redundant investigative operational costs to ballooning detention costs caused by unclear legal status.[61] By adopting elements of prosecutorial centrality as practiced in France, Indonesia can systemically reduce transaction costs in the criminal justice process.[62] This efficiency is achieved by eliminating unnecessary coordination barriers, allowing the Prosecutor to conduct early case screening to halt cases that are materially weak, so that the court's workload is not burdened by forced cases.[63]

Another fundamental aspect that needs to be strengthened in this reconstruction is the harmonization of sectoral regulations, which often pose a stumbling block to the implementation of the Integrated Criminal Justice System (ICJS). The existence of the Police Law and the Prosecutor's Office Law, which are often interpreted partially, must be placed within the same constitutional framework, namely as one complete and unified judicial function of the state.[64] Reconstructing the ideal regulatory model must be able to eliminate institutional ego-centrism by emphasizing that the Prosecutor's authority under Direction de l'Enquête does not diminish the police's investigative function, but rather elevates the police's investigative duties so that the results are unassailable at trial.[65] This requires curriculum reform within both institutions through integrated judicial training to align intellectual standards regarding international evidentiary norms.[66]

Internationally, the shift toward a model of prosecutorial-led investigation is a globally recognized trend acknowledged in the United Nations Guidelines on the Role of Prosecutors.[67] These guidelines emphasize that prosecutors must play an active role in criminal procedure, including supervising the legality of investigations to guarantee the rights of suspects.[68] By aligning Indonesia's system with these global standards, the credibility of Indonesia's criminal justice

[60]Richard A. Posner, Economic Analysis of Law (New York: Aspen Publishers, 2014), p. 210.
[61]Ahmad Ali, Menguak Teori Hukum dan Teori Peradilan (Jakarta: Kencana, 2009), p. 125.
[62]Peter Mahmud Marzuki, Penelitian Hukum (Jakarta: Kencana Prenada Media Group, 2005), p. 145.
[63]Indriyanto Seno Adji, Hukum Pidana dan Strategi Penegakan Hukum (Jakarta: Diadit Media, 2009), p. 142.
[64]Jimly Asshiddiqie, Konstitusi dan Konstitusionalisme Indonesia (Jakarta: Sinar Grafika, 2010), p. 215.
[65]Bagir Manan, Sistem Peradilan Pidana Terpadu (Yogyakarta: FH UII Press, 2005), p. 34.
[66]Shidarta, Hukum Penalaran dan Penalaran Hukum (Jakarta: Genta Publishing, 2013), p. 76.
[67]United Nations Guidelines on the Role of Prosecutors, Havana, Cuba, 1990.
[68]Andi Hamzah, Hukum Acara Pidana Indonesia (Jakarta: Sinar Grafika, 2018), p. 150.

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system in the eyes of the international community would increase, which in turn would provide legal certainty for the investment climate.[69] This reconstruction must also consider witness and victim protection as an integral part, in which the Prosecutor, as the representative of public interest, ensures that witnesses receive adequate protection during the investigation process from threats that could undermine the integrity of their testimony.[70]

Finally, the urgency of this reconstruction culminates in the achievement of dignified justice, in which procedural law is viewed not merely as a procedural formality but as a means of humanizing individuals within the legal process.[71] A harmonious functional relationship between the Prosecutor and the Police will minimize the occurrence of wrongful arrests or wrongful prosecutions (miscarriages of justice), which often haunt fragmented justice systems.[72] This synergy will produce an ideal orchestration of law enforcement, in which justice is no longer perceived as something difficult to attain, but rather as the tangible presence of the state in protecting every citizen.[73] With this strong philosophical and technical foundation, Indonesia's criminal justice system, following Law No. 20 of 2025, will be able to stand alongside the legal systems of developed nations, realizing genuine, sustainable, and transparent rule of law.[74]

CONCLUSION

Based on the comparative analysis and in-depth discussion presented above, this study draws the following fundamental conclusions:

First, the position of the Public Prosecutor as holder of the dominus litis principle within Indonesia's criminal justice system, following the enactment of Law No. 20 of 2025, remains illusory (pseudo-dominus litis). This is caused by the persistence of the Principle of Functional Differentiation, rigidly interpreted, which sharply separates the investigative and prosecutorial functions. This structural imbalance results in the Prosecutor functioning only as a passive "file examiner" at the pre-prosecution stage, with implications for inefficient coordination, the phenomenon of files being shuttled back and forth, and low evidentiary integrity due to weak judicial control from the earliest stage of investigation.

[69]Komariah Emong Sapardjaja, Pembaruan Sistem Peradilan Pidana (Bandung: Alumni, 2002), p. 175.
[70]Bambang Waluyo, Penelitian Hukum dalam Praktik (Jakarta: Sinar Grafika, 2002), p. 150.
[71]Teguh Prasetyo, Keadilan Bermartabat: Perspektif Teori Hukum (Jakarta: Nusa Media, 2015), p. 89.
[72]Oemar Seno Adji, Hukum Acara Pidana Dalam Praktek Peradilan (Jakarta: Erlangga, 1985), p. 185.
[73]Sudikno Mertokusumo, Mengenal Hukum: Suatu Pengantar (Yogyakarta: Liberty, 2005), p. 110.
[74]Marwan Effendy, Sistem Peradilan Pidana Indonesia (Jakarta: Referensi, 2012), p. 90.

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Second, the French legal system, through the concept of Direction de l'Enquête, offers a robust model of functional integration, in which Article 41 of the Code de procédure pénale grants instructional authority to the Prosecutor (Procureur de la République) to direct the judicial police. This model demonstrates that the centrality of the public prosecutor in investigations is not intended to negate the technical independence of the police, but rather to ensure that the entire evidence-gathering process aligns with prosecutorial needs and human rights protection standards. This comparison shows that effective law enforcement can only be achieved through a unity of command in case handling.

Third, the reconstruction of an ideal regulatory model in Indonesia demands a reformulation of procedural law that positions the Prosecutor as an active and instructional controller of investigative quality. This includes granting the Prosecutor authority to issue legally binding instructions, conduct direct supervision of critical examinations to prevent BAP retraction, and strengthen technology-based integration through e-MPDP. This reconstruction aims to transform the paradigm from a formalistic-adversarial relationship into a coordinative-functional one, in order to realize a genuinely accountable, efficient, and dignified integrated criminal justice system.

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