



STRENGTHENING THE *DOMINUS LITIS* PRINCIPLE AND SINGLE PROSECUTION SYSTEM IN LAW ENFORCEMENT IN INDONESIA

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ABSTRACT

This research discusses the strengthening of the *dominus litis* principle and the principle of single prosecution system in the criminal justice system in Indonesia, with a focus on the strategic role of the Attorney General's Office of the Republic of Indonesia as the sole controller of prosecution (single prosecutor). This principle places the Attorney General as the highest public prosecutor who controls all prosecution policies in order to maintain unity, consistency and legal certainty. However, reality shows that there are overlapping authorities, especially with the Corruption Eradication Commission (KPK) and the Military Oditurat, which have the potential to reduce the effectiveness of the application of this principle. The research method used is normative legal research with statutory and conceptual approaches. The results of the analysis show that strengthening the *dominus litis* principle and the principle of a single prosecution system requires regulatory reformulation that reaffirms the role of the Prosecutor's Office as the sole prosecutorial institution, strengthening the capacity and professionalism of prosecutors, and optimising internal and external supervision. With a clear regulation and the support of qualified resources, the Prosecutor's Office is expected to be able to realise an integrated, effective, efficient and fair criminal justice system.

Keywords: *Dominus Litis, Single Prosecution System, Criminal Justice System.*



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A. INTRODUCTION

Criminal law in a broad sense consists of material criminal law and formal criminal procedure law, which are included in the realm of public law. Criminal procedural law regulates how the state uses its right to enforce the law, with a narrower scope of seeking material truth by institutions such as the Police, Prosecutor's Office, and Court

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in order to create order, welfare, and justice. Historically, Indonesia used the *Herziene Inlandsch Reglement* (HIR) during the Dutch colonial era until it was replaced by Law Number 8 Year 1981 on Criminal Procedure Law (KUHAP) which regulates the entire criminal justice process.

KUHAP regulates stages ranging from investigation, arrest, detention, to execution. In the prosecution process, Indonesia adopts a single prosecution system where only the Public Prosecutor's Office is authorised to do so. Article 1 point 1 of Law Number 11 of 2021 defines the Public Prosecution Service as an institution that exercises state power in the field of prosecution. The structure of the Public Prosecutor's Office consists of the Attorney General's Office, the High Prosecutor's Office, and the District Attorney's Office.

The Public Prosecutor (JPU) has the authority to prosecute, refer cases to court, and carry out executions. The prosecutor's authority is regulated in KUHAP, including the preparation of indictments and the submission of cases. Prosecutors not only master criminal law but also civil and administrative law. Historically, the term prosecutor comes from the word *adhyaksa*, meaning high royal judge, which evolved during the colonial period and Indonesian independence. Based on the oldest spelling, during the VOC reign it was written with the word *jaxa*. Until the Dutch colonial government in 1942, the word *jaxa* was changed to *djaksa* which was used to refer to native officials who were almost the same as magistrates. Then, during the Japanese colonial period, the term *djaksa* began to be used to refer to law enforcers who were authorised to prosecute criminal cases.⁵

Prosecutors as public prosecutors must be interpreted as the implementation of the principle of a single prosecution system in the criminal justice system. The term is the true meaning of the principle of one and inseparable (*een en ondeelbaar*) as reflected in Article 2 paragraph (2) of Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia, as the basis for the implementation of prosecutorial duties aimed at maintaining the unity of prosecutorial policies that display distinctive characteristics that are integrated into the mindset, behaviour and work procedures of the prosecutor's office.⁶

The principle of a single prosecution system is reflected in the principle of "one and inseparable" (*een en ondeelbaar*) which places the Attorney General as the highest public prosecutor and controller of law enforcement policies. The *dominus litis* principle confirms the prosecutor as the sole controller of the case, so that only the prosecutor determines whether or not the case should be submitted to the court. This principle is

⁵R.M. Surahman & Andi Hamzah. 1996. *Jaksa Di Berbagai Negara, Peranan Dan Kedudukannya*. Jakarta : Sinar Grafika.

⁶Jan S. Maringka. 2017. *Reformasi Kejaksaan Dalam Sistem Hukum Nasional*. Jakarta : Sinar Grafika, hlm .39-40.
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also recognised internationally through the *United Nations Guidelines on the Role of Prosecutors*.

This means that the Attorney General is not only the highest leader in the Public Prosecution Service but also the highest leader in the field of prosecution in any institution authorised by law. According to this Law, the Public Prosecutor's Office is a government institution that exercises state power in the field of prosecution and other authorities based on the Law. The state power referred to is exercised independently without interference from any party.⁷ In terms of prosecution, it is carried out independently regardless of the influence of government power and the influence of other powers. The Attorney General's Office as one of the law enforcement agencies is required to play a greater role in upholding the rule of law, protecting the public interest, upholding human rights, and eradicating corruption.⁸

However, there are exceptions to this system, such as the prosecution of corruption cases by the KPK and military cases by the military court. The KPK, which is independent, has the authority to investigate, prosecute and prosecute corruption cases in accordance with Law No. 30/2002. This creates the potential for overlapping authority, especially since prosecutors at the KPK come from the Attorney General's Office but are under the command of the KPK.

KPK's authority includes coordination, supervision, investigation, prosecution, prevention, and monitoring. This authority gives the KPK a strategic position in eradicating corruption, including handling money laundering cases originating from corruption. However, the dualism of authority between the KPK and the Attorney General's Office raises problems, especially related to the principle of a single prosecution system that becomes incomplete.

Dualism in prosecution raises concerns about differences in treatment in law enforcement, potentially violating the principle of equality before the law. Differences in standards or procedures between cases handled by the KPK and the Attorney General's Office can lead to unequal access to justice. This raises the question of how to maintain a balance between the effectiveness of corruption eradication and the principle of legal justice.

Therefore, the principle of a single prosecution system in the prosecutor's authority needs to be evaluated and strengthened. The reformulation of the AGO as a *single prosecutor* aims to restore the AGO's sole role in prosecution, including corruption cases which are currently also under the authority of the KPK. This reformulation has

⁷Husin Husaini dan Muhammad Afdhal Askar. 2020. Kedudukan Kejaksaan dan Pengisian Jabatan Jaksa Agung Dalam Sistem Ketatanegaraan Indonesia. *Jurnal Bertuah*, Vol. 1, No. 2, Oktober 2020, hlm. 81

⁸Ratna Sari Dewi Polontalo. 2018. Independensi Jaksa Sebagai Penuntut Umum Dalam Tindak Pidana Korupsi Menurut Undang-Undang Nomor 16 Tahun 2004 tentang Kejaksaan Republik Indonesia. *Jurnal Lex Crimen*. Vol. 7, No. 6, Agustus, 2018, hlm. 36.
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important philosophical, practical and normative implications for the reform of the criminal justice system in Indonesia.

B. METHODS

In this writing, the author uses a type of normative legal research, namely research that obtains legal material by collecting and analysing legal materials related to the problem to be discussed.⁹ Researchers use several approaches. Statute approach and conceptual approach. The statutory approach is carried out by examining the laws and regulations relating to the legal issues to be answered. The conceptual approach is an approach that is carried out by tracing the legislation and doctrines that have developed in legal science sourced from expert opinions or legislation. In turn, ideas will be found that give birth to legal notions, legal concepts and legal principles that are relevant to the legal issues at hand. The historical approach is carried out by examining the history of the object under study sourced from relevant documents and archives.

C. ANALYSIS

1. The Position of the Prosecutor's Office in the Criminal Justice System in Indonesia in View of the Dominus Litis Principle

Law and society are like two sides of a coin that cannot be separated from one another. The enactment of law is indeed in a social order called society, by the Romans referred to as *ubi societas ibi ius* which illustrates how closely the relationship between law and society. Law enforcement in the macro sense covers all aspects of community life, nation and state, while in the micro sense law enforcement is limited to the litigation process in court, in criminal cases including the process of investigation, investigation, prosecution (examination before the court) to the implementation of court decisions that have permanent legal force.¹⁰

The Prosecutor's Office as the controller of the case process (*Dominus Litis*), has a central position in law enforcement, because only the Prosecutor's Office institution can determine whether a case can be submitted to the Court or not based on valid evidence according to the Criminal Procedure Law. In addition to being the bearer of *Dominus Litis*, the Public Prosecutor's Office is also the only agency implementing criminal decisions (executive *ambtenaar*). The Prosecutor's Law strengthens the position and role of the Indonesian Attorney as a state government institution that exercises state power in the field of prosecution.

As the *Dominus Litis* and the executor of criminal decisions (executive *ambtenaar*), the AGO has a central role in the criminal justice system in Indonesia.

⁹Peter Mahmud Marzuki. 2015. *Penelitian Hukum Edisi Revisi*. Jakarta: Prenadamedia, hlm.83.

¹⁰Mochtar Kusumaatmadja, 2006. *Konsep-Konsep Dalam Pembangunan*, Bandung: PT. Alumni,

The AGO not only functions as a public prosecutor, but also as the guardian of an efficient, transparent and fair law enforcement process. This position gives the Prosecutor great responsibility to ensure that the legal process runs in accordance with the principles of due process of law and protects the interests of the community and the state.

In its position as *Dominus Litis*, the Prosecutor has the authority to assess and determine whether a case can proceed to the court stage. This assessment is not only based on the formal completeness of the evidence, but also on the fulfilment of material standards in accordance with the Criminal Procedure Code and other laws and regulations. As the institution that controls the prosecution process, the Public Prosecution Service is responsible for ensuring that every case brought to court has a strong legal basis, so as to avoid potential prosecution failures that could undermine the principle of justice.

The central role of the Public Prosecution Service is also reflected in its duty as the executor of criminal judgements (*executive ambtenaar*). After a court decision has permanent legal force, the Public Prosecutor's Office is responsible for implementing the decision, whether in the form of imprisonment, fines, or other legal actions. This makes the AGO an important link between the judicial stage and the execution stage, thus ensuring that court decisions are actually realised in practice.

The AGO is also expected to be the main pillar in realising social justice. One of the efforts made is to prioritise the restorative principle in handling certain cases, such as minor crimes and cases involving children. This principle aims to provide a more humane solution, by prioritising the restoration of relationships between perpetrators, victims and the community. Thus, the Prosecutor's Office not only functions as a law enforcer, but also as a facilitator in creating social harmony.

In the event of an event that should be suspected of being a criminal offence, it is mandatory to immediately take the necessary actions to resolve it, by conducting investigations, investigations, prosecutions and examinations in court. It is the duty and authority of the Public Prosecutor after studying and researching then based on the results of his research, the Prosecutor submits the prosecution to the District Court.

Thus, the Indonesian Public Prosecutor's Office has a strategic position in exercising supremacy in the field of prosecution in an integrated criminal justice system regulated under KUHAP. However, the existence of the prosecutor as a public prosecutor turns out that in judicial practice and law enforcement does not run smoothly as it should. Coordination between the Prosecutor's Office and the Police or the Prosecutor's Office and the Court often does not run smoothly due to various bureaucratic reasons or institutional arrogance, which will affect the prosecution process. Whereas the authority of the prosecutor as *Dominus Litis* is

universal.

With such a position and role, the Indonesian Prosecutor's Office is required not only to be able to carry out its functions properly and correctly, but also to be able to establish its identity as one of the implementing institutions of state power, not a tool of the ruler's power. Therefore, it is only natural that in this era of reform, the AGO needs to reform its existence in order to become more dynamic in order to face today's developments and changes.

The existence or existence of the Prosecutor's Office as an institution that has duties and authority in the prosecution is not so long ago, previously both in Europe (Netherlands, Germany, France, etc.) as well as during the royal period, the times as a colony in Indonesia did not recognise the existence of a prosecution institution, as the current task of the prosecutor's office specifically on behalf of or the public who held criminal charges against the perpetrators of the offence. In those days there was no distinction between civil and criminal matters. The aggrieved party made criminal charges to the judge. "In Indonesia, there used to be a State official called *adhyaksa* which was interpreted as a prosecutor, but in the past his function was the same as a judge because there was no institution of prosecution.

According to the provisions of article 1 number 6 letter a of the Criminal Procedure Code, the prosecutor is an official authorised by this Law to act as a public prosecutor and execute court decisions that have obtained permanent legal force, the public prosecutor also determines whether a case resulting from an investigation is complete or not to be submitted to the district court for trial, this is regulated in article 139 of the Criminal Procedure Code. By the Criminal Procedure Code, the Prosecutor has been placed in a position as a "Prosecutor" agency in the authority to prosecute each case:¹¹

- 1) On the one hand, the prosecutor receives the case file resulting from the investigation from the investigator;
- 2) On the other hand, the case file received is submitted to the judge to be prosecuted and examined in a court session".

To understand the existence of the *Dominus Litis* principle in prosecution, it is possible to examine the regulation in Law No. 16 of 2004, including the previous prosecution law, both in Law No. 5 of 1991 and Law No. 15 of 1961. Looking at the three laws regarding the position of the Indonesian Prosecutor's Office in law enforcement in Indonesia, it is increasingly clear and firm that all three have limitatively formulated the existence of prosecutorial authority residing in the absolute prosecutorial institution, thus confirming that the *Dominus Litis* principle is very present in the implementation of the duties and authority of prosecution of

¹¹M. Yahya Harahap. 2000. *Pembahasan Permasalahan Dan Penerapan KUHAP (Edisi Kedua)* seri : penyidikan dan penuntutan, Jakarta: Sinar Grafika, hlm. 26.
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criminal offences by the Prosecutor as a public prosecutor.

The Dominus Litis principle, which confirms that no other body has the right to carry out prosecution other than the Public Prosecutor, is absolute and monopolistic, because the Public Prosecutor is the only institution that has and monopolises the prosecution and settlement of criminal cases, even judges cannot request that criminal cases that occur be submitted to him, judges in case settlement are only passive and wait for demands from public prosecutors.¹²

The understanding of the formulation of the provisions of Article 14 of the Criminal Procedure Code, which regulates the authority of the Public Prosecutor in the prosecution of criminal cases, is that in addition to his main duty as a public prosecutor, the Prosecutor may directly conduct investigations in certain circumstances.¹³ From the above limitations, it can be stated that the notion of "prosecutor" correlates with the aspect of "position" or "functional official", while the notion of "public prosecutor" correlates with the aspect of "function" in conducting prosecutions and implementing judges' decisions in court. Therefore, starting from the aspect of "position" or "functional official".¹⁴

An understanding of the dominus litis principle in the Indonesian criminal justice system shows the central position of public prosecutors in the law enforcement process. As the only institution authorised to conduct prosecutions, the public prosecutor acts as the main controller of the criminal justice process. This position not only gives prosecutors exclusive authority in the prosecution process, but also ensures that every legal action taken is within the corridors of applicable law.

The provisions of Article 14 of the Criminal Procedure Code that regulates the authority of the Public Prosecutor emphasise the dual function of the prosecutor, namely as a public prosecutor who brings cases to court and as an executor of judges' decisions in the context of law enforcement. In carrying out this task, prosecutors not only perform a technical role in the courtroom, but also function as guardians of justice. As guardians of justice, prosecutors must ensure that the entire legal process runs according to the principles of justice, both for victims, suspects, and the community.

Supervision by public prosecutors, as set out in Article 37 of the Criminal Procedure Code, adds an additional dimension to the role of prosecutors in the criminal justice system. This supervisory function includes the responsibility to

¹²*Ibid*, hlm. 32.

¹³Andi Hamzah. 1984. *Pengantar Hukum Acara Pidana di Indonesia*, Jakarta: Ghalia Indonesia, hlm. 77

¹⁴Lilik Mulyadi. 2007. *Hukum Acara Pidana Normatif, Teoritis, Praktik Dan Permasalahannya*, Bandung: PT. Alumni, hlm. 63.

monitor the conduct of investigations by investigators to ensure that they are in accordance with applicable laws. In this way, the prosecutor is not only passively waiting for the results of the investigation, but also actively ensuring that the investigation proceeds correctly and does not violate the rights of the suspect. This oversight is an integral part of creating a transparent and accountable criminal justice system.

From an organisational perspective, a prosecutor is a functional official who carries out law enforcement duties under the law. Meanwhile, the function of a public prosecutor refers to the specific duties of the prosecutor in bringing cases to court. This correlation between position and function shows that prosecutors' duties are not only limited to the courtroom, but also cover various other aspects of law enforcement, including providing legal considerations to the government, protecting the public interest, and carrying out other tasks regulated by law.

The position of the prosecutor as the holder of the *dominus litis* principle also reinforces the concept of prosecutorial monopoly, which aims to maintain the unity of law enforcement policy in Indonesia. With this monopoly, every criminal case must go through one centralised prosecution channel, so that there is no overlapping authority or inconsistency in case handling. The monopoly also ensures that the entire law enforcement process is under the control of one institution, the Attorney General's Office of the Republic of Indonesia.

In the context of the relationship between prosecutors and judges, the *dominus litis* principle emphasises the clear role distinction between the two. Judges are passive and only wait for cases to be filed by public prosecutors. This is in accordance with the principles of criminal justice, where judges act as neutral and impartial assessors. In contrast, the prosecutor is fully responsible for proving the charges before the judge. This role places a great burden on the prosecutor to present sufficient evidence and witnesses to convince the judge of the veracity of the charges. Furthermore, the *dominus litis* principle reflects the supremacy of law and justice at the core of the criminal justice system. In carrying out their duties, prosecutors are not only bound by applicable legal provisions, but must also consider moral values and professional ethics. This ensures that every prosecutor's action is not only lawful, but also fair and beneficial to society.

Overall, the *dominus litis* principle is a key pillar in maintaining the integrity and effectiveness of the criminal justice system in Indonesia. By granting prosecutors exclusive authority in prosecution, the system ensures that the enforcement of the law is consistent, integrated and justice-orientated. In carrying out their role, prosecutors are not only the executors of the law, but also the guardians of justice who are responsible for ensuring that every citizen receives fair treatment before the law.

Meanwhile, the Prosecution Phase is conducted when the Public Prosecutor is of the opinion that prosecution can be conducted, the Public Prosecutor immediately prepares an indictment. Article 137 of the Criminal Procedure Code states that the Public Prosecutor has the authority to prosecute anyone charged with a criminal offence by submitting the case to the court. So, the authority to determine whether to prosecute or not to prosecute is not given to the police, but to the prosecution. However, if the public prosecutor is of the opposite opinion, the public prosecutor can stop the prosecution, but it must be There are three circumstances that can cause the Public Prosecutor to make a decision to stop the prosecution of a criminal case for technical reasons or a decision to stop prosecution as stated in Article 140 paragraph 2 point a of the Criminal Procedure Code, namely:

- a. If there is not enough evidence;
- b. If the event is not a criminal offence; and
- c. If the case is closed for the sake of law

Thus, the role of the Public Prosecutor in terms of evidence is very important, because proving a criminal case before the court is the responsibility of the Prosecutor as the Public Prosecutor. In this case, the system of evidence in criminal procedure law in almost all countries in the world does place the burden of proof on the shoulders of the Public Prosecutor.

2. Reformulation of the Ideal *Single Prosecution System* and *Dominus Litis* Principles in the Future

The existence of a criminal justice system is strongly correlated with efforts to uphold justice through criminal law mechanisms.¹⁵ The system in this discourse is strongly correlated with the process of justice enforcement in which all components of law enforcement, including court institutions to correctional institutions, have the same responsibility in the context of tackling, controlling and preventing all forms of crime in society in a country. Synergy and synchronisation between law enforcement sub-systems must be established with the understanding that each sub-system has different duties, authorities and responsibilities. Specifically in the criminal justice system, this synergy and synchronisation is represented by the concept of *Integrated Criminal Justice System* (ICJS) which can be understood in 2 (two) important meanings, namely as a process and as a system.

Muladi emphasised the meaning of *Integrated Criminal Justice System* as a synchronisation step between sub-systems in the criminal justice system. The synchronisation consists of structural synchronisation within the framework of relationships between law enforcement agencies; substantial in relation to positive law; and cultural in the understanding, appreciation, attitude and philosophy

¹⁵Edi Setiadi, 2017. *Sistem Peradilan Pidana Terpadu dan Sistem Penegakan Hukum di Indonesia*, Jakarta: Prenada Media, hlm. 54.
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towards the process of law enforcement in the criminal justice system. The synchronisation emphasised by Muladi is basically aimed at maintaining a balance of interest protection that includes the interests of the state, society, and individuals, both as perpetrators of criminal acts, and as victims of crime.¹⁶

Ideally, there is a clear separation between criminal justice sub-systems so that there is no phenomenon of overlapping authority between these sub-systems. For example, in the case of corruption prosecution, there is an overlap in terms of prosecution as regulated by Law Number 30 of 2002 concerning the Corruption Eradication Commission which gives the KPK the authority to conduct prosecutions, which should be according to Article 13 of the Criminal Procedure Code which states that the Public Prosecutor is a prosecutor authorised by law to conduct prosecutions, and Article 2 of Law Number 16 of 2004 concerning the Indonesian Prosecutor's Office which places the prosecutor's office as an institution that exercises state power in terms of prosecution which is carried out freely without influence from any party. The implementation of the *Integrated Criminal Justice System* is actually done to prevent such things that can later lead to disparities in criminal law enforcement.

Disharmony in the criminal justice system at the level of investigation, pre-prosecution and prosecution. Disharmony in terms of the law enforcement process can certainly affect the development of the legal system, whereas to be able to lead to the development of a harmonious legal system must be able to integrate basic issues in the field of law which includes *legal planning, law making process, law enforcement and legal awareness*.¹⁷

Legal development is expected not only to form law in the sense of structure, substance and good legal culture, but can construct and refunction law and legal institutions so that they can meet the needs of not only the government but also the community. It has become a common and universal thing that the act of prosecuting a criminal case is always in a government institution called the "Prosecutor's Office" and is led by the Attorney General. The exercise of this authority is always accompanied by a legal principle covering it, namely "*Dominus Litis*", which means that no other body has the right to do so, except the Prosecutor.

With the enactment of Law Number 11 of 2021 Concerning the Amendment to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, the authority of the Attorney General as the Highest Public Prosecutor remains attached as stipulated in Article 18 paragraph (1): "The Attorney General is the highest leader and person in charge who controls the implementation of the

¹⁶Muladi, 1997. *Hak Asasi Manusia, Politik dan Sistem Peradilan Pidana*, Semarang: Badan Penerbit Universitas Diponegoro, hlm. 133.

¹⁷Lukman Hakim, *Upaya Harmonisasi Hukum terhadap Perlindungan Pengetahuan Tradisional (Traditional Knowledge) Di Indonesia*, Jurnal Yustika: Media Hukum dan Keadilan, Vol.12 No.2, 2009, hlm.178
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duties and authority of the prosecutor's office, so the Attorney General is also the highest leader and person in charge in the field of prosecution". This means that the Attorney General is not only the highest leader in the Attorney General's Office but also the highest leader in the field of prosecution in any institution authorised by law.

For this reason, it is not surprising that Law No. 31/1997 on Military Justice *expressively* states that the Attorney General is the highest public prosecutor. The elucidation of Article 57 (1) of the Law states: "The Oditur General in carrying out duties in the technical field of prosecution is responsible to the Attorney General of the Republic of Indonesia as the highest public prosecutor in the Republic of Indonesia through the Commander, while in the implementation of the Oditurat's guidance duties is responsible to the Commander".

The regulation is essentially a reflection of the implementation of the *single prosecution system* principle, which means that no other institution has the right to conduct prosecution except under the control of the Attorney General as the state's highest public prosecutor.

In the criminal justice system in Indonesia, the position of the Attorney General's Office as the sole prosecutor (*single prosecution system*) as well as the sole agency for executing criminal decisions (*executive ambtenaar*) is increasingly neglected, considering that currently there are several other institutions that also carry out the functions of prosecution and execution but are not controlled by the Attorney General, for example against Corruption Crimes carried out by the Corruption Eradication Commission (KPK) as well as against criminal offenders in the military justice environment carried out by the Military Oditurate, High Military Oditurate and Oditurate of the Indonesian National Army.

With the enactment of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, the position of the Attorney General is increasingly emphasised as the supreme leader who controls the implementation of prosecutorial duties, including in the field of prosecution. As stated in Article 18 paragraph (1), the Attorney General has the responsibility to control all aspects of the implementation of prosecutions throughout the jurisdiction of Indonesia. This principle aims to ensure that the prosecution process is conducted uniformly and based on the same legal standards, without any disparity between different regions or prosecutors.

The principle of a *single prosecution system* also reflects the unity of the Prosecutor's Office, which is not separated in carrying out its duties. Each prosecutor acts on behalf of the state, not on behalf of individuals or other institutions, creating a centralised and organised coordination. In this regard, the Attorney General acts as the controller of prosecutorial policy, the supervisor of prosecutors' duties, and the strategic decision-maker in important cases, especially those of national scale or of

broad public interest.

This system provides significant benefits to Indonesia's criminal justice system. Firstly, a centralised system ensures consistency in the application of the law across Indonesia. With one control, there is no difference in the legal treatment of the same case in different regions, thus creating an equal sense of justice for the community. Secondly, this system increases operational efficiency in handling criminal cases. With clear coordination between the centre and the regions, the implementation of prosecution duties can be carried out more quickly, precisely, and in accordance with applicable procedures.

In addition, this principle also guarantees legal certainty. With one institution fully responsible for the implementation of prosecution, the public has confidence that every case is handled professionally and transparently. In this context, the Attorney General not only acts as an administrative leader, but also as a *guardian of public interest*. As a guardian of the public interest, the Attorney General ensures that the prosecution process does not only focus on legal aspects, but also considers the impact on society and the public interest.

The principle of a *single prosecution system* also strengthens accountability in the implementation of prosecutorial duties. With a clear hierarchy, every legal decision made by prosecutors can be traced and accounted for to the highest leader, the Attorney General. This creates an effective oversight mechanism and prevents abuse of authority. The Attorney General also has the authority to provide technical guidance to prosecutors on specific cases, ensuring that every step taken is in line with national policy and the principles of justice.

The transformation of the *Prosecution System* towards a *Single Prosecution System* is a major step in creating a more coordinated and efficient criminal justice system. By consolidating prosecutorial authority under one unified system, it is hoped that the legal process can run more consistently and reduce the possibility of conflicts of interest between law enforcement institutions.

Meanwhile, the transformation of the Attorney General's Office of the Republic of Indonesia as the *Advocaat Generaal* marks a change to a more strategic role for the AGO in the national legal system. This concept reflects the strengthening of the AGO as an institution that is not only tasked with prosecuting criminal cases, but also providing comprehensive legal views to the government, including in policy formation. This change aims to improve the quality of law enforcement while supporting equitable national development.

Furthermore, the principle of unity in the AGO is also in line with the principle of the rule of law as mandated in Article 1 paragraph (3) of the 1945 Constitution. As a state of law, Indonesia prioritises law enforcement that is structured, transparent and fair. In this system, the Prosecutor's Office acts as an institution that maintains

the integrity of the legal system, protects human rights, and ensures that every citizen is treated equally before the law.

Under the *single prosecution system*, the Attorney General has a major responsibility to ensure that the Public Prosecution Service performs its duties effectively and in a justice-orientated manner. This includes the supervision of all prosecutors at various levels, the application of uniform legal policies, and the non-discriminatory enforcement of the law. In practice, the system also helps to strengthen coordination between the Prosecutor's Office and other law enforcement agencies, such as the Police and the Corruption Eradication Commission (KPK), to prevent overlapping authority and conflicts of interest.

Overall, the application of the *single prosecution system* principle in the Public Prosecution Service of the Republic of Indonesia is not only a necessity, but also an obligation that supports the realisation of a just, consistent and accountable legal system. With this system in place, the AGO can play its role optimally as the main pillar in law enforcement in Indonesia. This also emphasises the position of the Attorney General as the main controller of prosecutorial policy and guardian of the public interest in the criminal justice system.

As is also the case in many countries that follow the Continental European system, the Court consists of several judges, each of whom counts as 1 (one) judge. However, the Prosecutor in the court, although consisting of several Prosecutors, is a single unit and only counts as 1 (one) Prosecutor under the Chief Prosecutor. This is the meaning of the principle "*een en ondelbaar*", which means that the Public Prosecution Service is one and not separate. Indeed, the principle speaks of the unity of prosecutorial policy under the Attorney General as the Supreme Public Prosecutor. The principle of "*een en ondelbaar*" is set out to maintain the unity of prosecutorial policy that displays the characteristics that are integrated into the mindset, behaviour and work procedures of the Public Prosecution Service.

The principle of a *single prosecution system*, which is the cornerstone of the development of the judicial environment, is ultimately aimed at coordination, collaboration and synchronisation, both substantial synchronisation, structural synchronisation and cultural synchronisation. This is important, because when there are subsystems that are not in sync in the implementation of the criminal justice system, it not only shows the incoherence with the spirit of judicial power, but will have implications for the achievement of the goals of law enforcement and justice itself.

There are no clear rules regarding coordination in handling criminal offences, for example corruption offences between the KPK and the Indonesian Attorney General's Office. KPK cannot work alone, it must coordinate with other law enforcers, starting from investigation, investigation, prosecution to verdict. This

coordination is certainly based on the role and approval of the leaders in each law enforcement institution, including the police, prosecutors, and courts. The application of the *dominus litis* principle and the principle of *a single prosecution system* requires coordination in the field of prosecution between the KPK and the Attorney General's Office, where the command of controlling cases and prosecution is the Attorney General as the highest leader in the field of prosecution.

As part of the government structure, the Attorney General's Office is encouraged to organise and uphold *good governance*. The United National Development Programme (UNDP) formulates the characteristics of good governance, according to Sadjijono:

- 1) *Participation*;
- 2) *Rule of law*;
- 3) *Transparency*;
- 4) *Responsiveness*;
- 5) *Consensus*;
- 6) *Equality*;
- 7) *Effective and Efficient*;
- 8) *Accountability*;
- 9) *Strategic Vision*.

In the midst of increasing demands to curb corruption, the Indonesian Attorney General's Office, which is rivaled by the KPK in handling corruption, must quickly introspect. This is to prevent more widespread destruction of the country's economy, an attitude and mentality that glorifies hedonism, and amidst the nation's concerns about corruption suspects who do not feel guilty. According to Sidharta¹⁸ it is necessary to look at and pay attention to Tri Atmaka or the three traits and characteristics, namely: single, independent, and capable; as well as Tri Karma Adyaksa which contains the characteristics of Satya, Adhy, and Wicaksana. However, in the current phenomenon in some aspects is often deviated. The professionalism of prosecutors in terms of dealing with and making charges against perpetrators of corruption must be continuously improved. Corruptors are always looking for legal loopholes to be circumvented to benefit from parties who have the intention and opportunity to commit corruption. As it is very strategic in eradicating corruption, the ranks of the Indonesian Attorney General's Office absolutely need resources that are professional, disciplined, obedient to principles, and consistent with the interests of the nation and state. As a common concern, according to Satjipto Rahardjo¹⁹ good Indonesian humans lack the opportunity to appear as leaders and

¹⁸Sidharta, 2006. *Moralitas Profesi Hukum Suatu Tawaran Kerangka Berfikir*, Bandung: Refika Aditama, hlm.182-183

¹⁹Satjipto Rahardjo, 2006. *Membedah Hukum Progresif*, Jakarta: Kompas Buku, 2006, hlm. 27.
<http://shariajournal.com/index.php/IERJ/>

regulators of society. In order to restore our country and nation to its current state of decline, let us unite to promote and bring up good people.

One of the main reasons why *prosecutors* should act as *single prosecutors* is to maintain legal certainty. In this context, the centralised system implemented by the prosecutor's office ensures that criminal cases are handled uniformly and consistently throughout Indonesia's jurisdiction. When the prosecutor's office is the only institution authorised to conduct prosecutions, the potential for overlapping authority or abuse of the legal process is minimised.

Legal certainty requires clarity on who is responsible for the prosecution stage, so that the public can understand the applicable legal mechanisms without confusion. If prosecutorial authority is divided or given to several parties, there is a high risk of different interpretations of the law, which could ultimately lead to injustice.

With one institution in full control of the prosecution process, coordination between law enforcement officials becomes more efficient. The *prosecutor* as a *single prosecutor* is not only responsible for the prosecution process in court, but also oversees the legal process from investigation to execution of the decision. This system ensures that every step taken is in accordance with applicable legal procedures. In addition, having the prosecutor as the sole public prosecutor allows for greater accountability as legal responsibility is fully under the control of one institution.

If the prosecution function is divided between several agencies or institutions, there is a risk of conflicts of authority that can hamper the law enforcement process. In some cases, overlapping authority is often the cause of slow resolution of criminal cases. By making the *prosecutor a single prosecutor*, this potential conflict can be avoided, so that the legal process runs more smoothly.

The role of the *prosecutor* as a *single prosecutor* is one of the main pillars in the Indonesian criminal justice system that ensures legal certainty, efficiency and accountability. The mandate of the law has provided a solid legal foundation for prosecutors to carry out this task professionally and independently. Thus, this system must be maintained and continuously strengthened in order to realise law enforcement that is just and in accordance with the principles of the rule of law.

The existence of prosecutors in Indonesia's criminal justice system is a vital element that has a strategic function as the executor of state power in the field of prosecution. As an independent state institution, the AGO not only acts as a case controller at every stage of the criminal process, but also as an institution that maintains a balance between the interests of the state, society and individuals. In the context of *ius constituendum*, the idea of making the AGO as the *single prosecutor* in the criminal justice system is a progressive legal step that aims to create justice that is more consistent, integrated, and in accordance with the principles of the rule of

law.

The *single prosecutor* principle, which places the *prosecutor's* office as the only institution with exclusive authority in prosecution, is based on the concept of *een en ondeelbaar* (one and inseparable). This concept emphasises that prosecutors throughout Indonesia are part of a single unit that cannot be separated, both in structural and functional aspects. This means that although prosecutors are assigned to different regions or agencies, they remain under the control and coordination of the Attorney General as the supreme leader of the prosecution. This ensures that every prosecutorial action is conducted in a coordinated manner, unaffected by political interests or particular groups, and in accordance with national law enforcement policies.

Within the *ius constituendum* framework, the application of the *single prosecutor* principle aims to strengthen the role of the prosecution in an integrated criminal justice system. Currently, the criminal justice system in Indonesia often faces challenges in the form of overlapping authority, disharmony between law enforcement sub-systems, and disparity in law enforcement. The *Prosecutor's Office* as a *single prosecutor* is expected to be the main controller that ensures every legal process runs consistently and harmoniously, from the investigation stage to the implementation of court decisions.

As *dominus litis* (case controller), the prosecution has the authority to determine whether a case can proceed to court or be terminated. This authority provides a strategic position for the AGO to ensure that law enforcement is not only repressive, but also pays attention to the principles of justice, legal certainty and expediency. From a *ius constituendum* perspective, this principle must be regulated more explicitly in legislation to avoid different interpretations of prosecutorial authority.

In addition, the *single prosecutor* principle is also relevant to efforts to build an *integrated criminal justice system* (ICJS) in Indonesia. ICJS refers to a criminal justice system that is integrated and coordinated between sub-systems such as the police, prosecution, courts, and correctional institutions. In this system, the prosecution as a *single prosecutor* acts as a liaison between the investigation stage conducted by the police and the examination stage in court. With the exclusive authority to prosecute, the prosecution can ensure that every case handling process is carried out efficiently and without overlapping authorities.

Furthermore, the *ius constituendum* should also include strengthening the role of the prosecution in supervising police investigations. In practice, the pre-prosecution process often faces obstacles in the form of mismatches between the results of investigations and the need for evidence required for prosecution. As the *single prosecutor*, the *prosecutor's* office has the responsibility to ensure that investigations are conducted in accordance with the criminal procedure law and

meet the standards of evidence. Thus, this principle can reduce the risk of prosecutorial errors that can harm the rights of suspects or defendants.

On the other hand, strengthening the role of the prosecution as a *single prosecutor* must also be supported by regulatory reforms that are harmonious with the principles of the rule of law. In the *ius constituendum*, it is necessary to rearrange the laws and regulations related to prosecutorial authority, so that there is no longer dualism or conflict of authority between the prosecutor's office and other law enforcement agencies. The affirmation that the *prosecutor's* office is the only institution that has the authority to prosecute must be expressly regulated in the law to prevent different interpretations that can weaken the principle of a *single prosecutor*.

In addition to regulatory aspects, strengthening the *single prosecutor* principle must also be accompanied by capacity building and professionalism of prosecutors. As a *ius constituendum*, strategic steps are needed to improve the competence of prosecutors in various aspects, including an understanding of criminal procedure law, the application of restorative justice principles, and the ability to handle complex cases. This capacity building is important to ensure that every prosecutor is able to carry out the prosecution function with high standards of professionalism and in accordance with the values of justice.

The implementation of the *single prosecutor* principle in the criminal justice system also has important implications in the context of accountability and transparency. As the institution that holds the monopoly of prosecutorial authority, the prosecution must be able to demonstrate that every decision taken is based on objective law and facts. In *ius constituendum*, it is necessary to strengthen internal and external oversight mechanisms of the prosecution's performance to ensure that this principle is consistently applied and not abused for certain interests.

Overall, the *ius constituendum* that makes the *prosecutor's office the single prosecutor* is a strategic step towards creating a more effective, efficient and equitable criminal justice system. This principle not only strengthens the role of the prosecution in case control, but also supports the creation of a harmonious and integrated legal system. With clear regulations, strengthened prosecutorial capacity, and increased accountability, this principle can become the main pillar in realising a legal system that is in accordance with the ideals of the rule of law in Indonesia.

D. Conclusion

Based on the description above, it can be concluded that strengthening the *dominus litis* principle and the principle of a *single prosecution system* are important foundations in maintaining consistency, legal certainty, and unity of prosecution policy in Indonesia. The *Prosecutor's Office*, as the *single prosecutor*, has a strategic role not only as the executor of the prosecution, but also as the guardian of the integrity of an integrated criminal justice system. The application of this principle ensures that there is no overlap

of authority between institutions, avoids disparities in law enforcement, and ensures that every prosecution process runs professionally, independently, and in accordance with applicable law. Therefore, the existence of the *dominus litis* principle and *single prosecution system* must be maintained and strengthened through strict and harmonised regulations.

As a recommendation, it is necessary to reformulate regulations that reaffirm the position of the Prosecutor's Office as the only institution that has prosecutorial authority, including rearrangement of the authority of other institutions such as the KPK and the Military Oditurat to be in line with the principle of *a single prosecution system*. In addition, strengthening the capacity of human resources within the Prosecutor's Office is a strategic step that must be taken, through increasing the competence, professionalism and integrity of prosecutors. Internal and external supervision also needs to be optimised to ensure transparency and accountability in every stage of prosecution. With these steps, it is hoped that the Prosecutor's Office can optimally carry out its role as the main controller of the law enforcement process for the realisation of an effective, efficient and fair criminal justice system.

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