Media Iuris Vol. 8 No. 3, October 2025 p-ISSN: 2721-8384
DOI: 10.20473/mi.v8i3.77425 e-ISSN: 2621-5225

Article history: Submitted 13 August 2025; Accepted 22 October 2025; Available online 24 October 2025.
How to cite: Febby Mutiara Nelson and Abni Nur Aini, 'Bridging the Gap of Ineffective Coordination in Indonesia: A Comparative Study on the Functional Differentiation and *Dominus Litis* Principle' (2025) 8 Media Iuris.

Bridging the Gap of Ineffective Coordination in Indonesia: A Comparative Study on the Functional Differentiation and *Dominus Litis* Principle

Febby Mutiara Nelson[1], Abni Nur Aini[2]
[1] Faculty of Law, Universitas Indonesia, Indonesia. E-mail: febymutiara.n2@gmail.com
[2] Faculty of Law, Universitas Indonesia, Indonesia. E-mail: abninuraini26@gmail.com

Keywords:
Criminal Procedure Code; Coordination; Criminal Justice System.

Abstract
The ongoing reform of the Indonesian Criminal Procedure Code ("KUHAP") seeks to align with the new Criminal Code ("KUHP 1 Tahun 2023"), which will take effect in 2026. A central issue in this reform concerns the coordination mechanism between investigators and public prosecutors, particularly the tension between functional differentiation and the principle of dominus litis. While functional differentiation separates the roles of investigators and prosecutors, dominus litis positions the prosecutor as the main authority responsible for controlling the progress of criminal cases. This study employs doctrinal legal research combined with a comparative approach to examine coordination practices in the Netherlands, France, China, and Thailand. The findings reveal that functional differentiation under the 1981 KUHAP limits the prosecutor's role as dominus litis (from the Latin term meaning "controller of the case"), resulting in disharmony in coordination between investigators and prosecutors. This lack of harmony leads to inefficiencies in the pre-prosecution process, including the recurring exchange of case files (bolak-balik perkara). In contrast, universal practice shows that early prosecutorial involvement during the investigation stage fosters mutual understanding and ensures accurate supervision, thereby minimizing procedural delays.Furthermore, by referring to Article 132 of the 2023 Criminal Code, this paper argues that the principle of functional differentiation should no longer apply in Indonesia. The new provision strengthens the prosecutor's role as dominus litis, affirming that investigation is an inseparable part of prosecution.

Introduction

Criminal procedure law reform in Indonesia enters a new chapter with the inclusion of the revised Criminal Procedure Code ("KUHAP") in the 2025-2029 National Legislation Program (Prolegnas). KUHAP, which has been in effect for over four decades, is considered no longer adaptable to legal dynamics, the need for human rights protection, and the complexities of modern criminal cases.[1] One of the

[1] Rizki Perdana Waruwu, 'Urgensi Pembaruan KUHAP: Mengapa Kita Membutuhkannya' (*MARI News*, 2025) <https://marinews.mahkamahagung.go.id/berita/urgensi-pembaruan-kuhap-mengapa-kita-membutuhkannya-0z> accessed 16 June 2025; Oyuk Ivani Siagian, 'Wemenkumham: Suka Tidak Suka, RUU KUHAP Harus Disahkan Tahun Ini' (Tempo, 31 May 2025) <https://www.tempo.co/hukum/wemenkumham-suka-tidak-suka-ruu-kuhap-harus-disahkan-tahun-ini-1602829> accessed 16 June 2025; Institute for Criminal Justice Reform, 'Surat Terbuka: Pembaruan KUHAP Harus Dilakukan Secara Komprehensif' (ICJR, 10 February 2025) <https://icjr.or.id/surat-terbuka-pembaruan-kuhap-harus-dilakukan-secara-komprehensif/> accessed 16 June 2025.

critical points in the revision of the KUHAP concerns the coordination mechanism between law enforcement agencies, especially between investigators and prosecutors. The lack of strategic and effective coordination between investigators and prosecutors has been a recurring theme in various discussions regarding the revision of KUHAP, particularly at the pre-trial stage.[2]

The definition of pre-trial itself is not regulated in detail in the KUHAP 1981. Instead, the Criminal Procedure Code only mentions the term of 'pre-trial' once, in Article 14 letter b concerning the authority of the public prosecutor to conduct pre-trial if there are deficiencies in the investigation by providing guidance in order to improve such. Pre-trial is expected to bridge the coordination between investigators and prosecutors before the case is finally transferred to court by the prosecutor as the representative of the state in the prosecution function in court.

The KUHAP's recognition of the need for public prosecutors to be involved from the investigation stage is reflected in Article 109 Paragraph (1) regarding the regulation of the submission of notification of the commencement of investigation (SPDP) by investigators to public prosecutors. Unfortunately, this article is considered problematic because it does not explicitly state that the submission of the SPDP is an obligation, and there is no clarity regarding the deadline by which investigators must notify the public prosecutor of the SPDP. In its development, Indonesia Constitutional Court attempted to address this issue by issuing *Putusan Mahkamah Konstitusi No. 130-PUU-XIII/2015*, which states that the SPDP must be submitted by the investigator no later than seven days after the issuance of the investigation warrant to the public prosecutor, the reported party, and the victim/reporter.[3] In this decision, the Constitutional Court disagreed with the petitioner's request for consistency in determining the maximum time limit for the number of times a case can be sent back and forth between the investigator and the public prosecutor, because, according to

[2] Jefferson Hakim, 'Diferensiasi Fungsional Dalam KUHAP: Masih Relevan Atau Menjadi Sumber Masalah' (*hukumonline.com*, 2025) <https://www.hukumonline.com/berita/a/diferensiasi-fungsional-dalam-kuhap--masih-relevan-atau-menjadi-sumber-masalah-lt6751e3743b726?page=all> accessed June 16, 2025.

[3] Constitutional Court Decision Number 130/PUU/XIII-2015.

the Constitutional Court, sending the case file back and forth is a necessity in order for the public prosecutor to provide guidance so that the investigation can produce accurate data for the prosecution process in court.[4]

On the other hand, the KUHAP only regulates the time limit for the public prosecutor to study and examine the case files and provide instructions to the investigator to complete any deficiencies, as specifically stated in Article 138 KUHAP.[5] However, there are no provisions limiting the frequency of returning case files, which causes potential delays in transferring cases to court.[6] The Jessica Wongso case or more familiarly known as the 'ice cold case' is a clear example of this problem, where the case files were returned five times by the Jakarta High Court to investigators from the Metro Jaya Regional Police.[7] In addition to Jessica's case, the back-and-forth of case files was also seen in the case of SHGB document forgery in the Tangerang sea fence area.[8] Furthermore, data from the Indonesian Attorney General's Office Case Management System in 2022 show that of the total 165,936 SPDPs received by the Attorney General's office for general crimes, there were 36,283 SPDPs and case files that were not proceeded to trial without any explanation.[9] The data indicate that there is a possibility that 36,283 of these cases could be left pending unless an SP3 (case closure) has been explicitly issued. The data are presented in the following table:

[4] ibid.

[5] Andin Wisnu Sudibyo and Ade Saptomo, 'Problematika Hukum Prapenuntutan Dalam Pengembalian Berkas Acara Pemeriksaan Oleh Penuntut Umum Kepada Penyidik' (2025) 2 Konstitusi: Jurnal Hukum, Administrasi Publik, dan Ilmu Komunikasi 234-245.

[6] ibid.

[7] Alfani Roosy Andini, 'Bolak-Balik Berkas Perkara Jessice Menuju Meja Hijau' (*CNN Indonesia*, 2016) <https://www.cnnindonesia.com/nasional/20160615091759-12-138246/bolak-balik-berkas-perkara-jessica-menuju-meja-hijau> accessed October 5, 2025.

[8] Norbertus Arya Dwiangga Martiar, 'Bolak-Balik Berkas Kasus Pagar Laut, Tinggal Tunggu Waktu Kasus Ditutup?' (*kompas.id*, 2025) <https://www.kompas.id/artikel/bolak-balik-berkas-kasus-pagar-laut-tinggal-tunggu-waktu-kasus-ditutup> accessed October 5, 2025.

[9] Zet Tadung Allo, Ulil Amri and Syarif Saddam Rivannie Parawasana, 'Inovasi Konsep Prapenuntutan Dalam Penanganan Perkara Pidana Berdasarkan Asas Contante Justitie' (2024) 2 The Presecutor Law Review 95-116.

Table 1. Data of General Criminal Cases *Kejaksaan RI* in 2022.[10]

Description	Number of Cases
Notification of SPDP received by Prosecutors	165,936
Submission of Case File- Stage I	138,068
Submission of Case File- Stage I	129,653
Investigation Terminated	413
Case File Transferred to Court	115,790
Acquitted by the Court	360
Not Proceeded to Court	36,283

Meanwhile, more than a decade ago, a joint research conducted by the Judicial Monitoring Society of the Faculty of Law, University of Indonesia (MaPPI FHUI), and the Jakarta Legal Aid Institute (LBH Jakarta), based on data from criminal case files between 2012 and 2014, revealed that out of 353,500 investigation files submitted to public prosecutors, approximately 44,273 could not be completed by investigators in accordance with prosecutorial instructions.[11] This irony was also highlighted by former Deputy Attorney General (2010–2014) Basrief Arief, who stated that, from the enactment of the 1981 Criminal Procedure Code (KUHAP) until 2005, around 110,000 case files were returned by prosecutors to investigators.[12] He further emphasized that the recurring exchange of case files represents a persistent problem that should be urgently addressed in the upcoming revision of the KUHAP.[13] These data collectively indicate that the number of unresolved cases at the pre-prosecution stage remains considerably high, undermining the rights of suspects, defendants, and even victims as justice seekers, and contravening the principles of a simple, speedy, and low-cost trial within Indonesia's

[10] These data are taken from the article "Innovation of Pre-Prosecution Concepts in Handling Criminal Cases Based on the Principle of Contante Justitie," published in The Prosecutor Law Review in 2024 by Zet Tadung Allo and others. Due to limited access to the primary data sources, this article could not independently verify the original dataset and therefore relied on the curated information presented in the aforementioned publication. This citation is made without any intention to discredit or diminish the contribution of the original authors, but solely to acknowledge the source and ensure academic transparency.

[11] Ichsan Zikry, Adery Ardhan and Ayu Eza Tiara, 'Prapenuntutan Sekarang, Ratusan Ribu Perkara Disimpan, Puluhan Ribu Perkara Hilang: Penelitian Pelaksanaan Mekanisme Prapenuntutan Di Indonesia Sepanjang Tahun 2012-2014' (2016).

[12] Ali, 'RUU KUHAP Harus Tuntaskan Kebiasaan Bolak-Balik Berkas Perkara' (*hukumonline.com*, 2014)<https://www.hukumonline.com/berita/a/ruu-kuhap-harus-tuntaskan-kebiasaan-bolakbalik-berkas-perkara-lt4bc5f1455d6a9/?page=2> accessed October 5, 2025.

[13] ibid.

criminal justice system.[14]

The phenomenon of case file "ping-pong" is widely believed by Indonesian criminal law scholars to stem from the absence of strategic and effective communication as well as the dominance of institutional ego among law enforcement agencies. Several previous studies have explored the interplay between the principles of *dominus litis* and functional differentiation within this context of sectoral ego. One notable example is the doctoral dissertation by Fachrizal Afandi (2021), titled "Maintaining Order: Public Prosecutors in Post-Authoritarian Countries, the Case of Indonesia" which adopts a socio-legal approach to analyze the evolving role of public prosecutors across various governmental regimes in Indonesia, particularly in the post-authoritarian era following the 1998 Reform.[15]

A subsequent doctoral dissertation (2022) entitled "Cooperation and Non-Cooperation in Indonesia's Criminal Case Processing: Ego Sektoral in Action" similarly critiques the persistent sectoral ego among law enforcement institutions. It also highlights how the design of the 1981 KUHAP creates broad interpretative ambiguities regarding coordination between investigation and prosecution, thereby affecting justice seekers and defense lawyers—actors often overlooked in the criminal justice process.[16] Another relevant study by Zet Tadung Allo and others, published in The Prosecutor Law Review under the title "Innovation of the Pre-Prosecution Concept in Criminal Case Handling Based on the Principle of Contante Justitie," argues that the absence of clear time limits in the pre-prosecution process undermines the contante justitie principle and weakens the suspect's right to defense.[17]

In light of these issues, there is an urgent need to re-examine the respective roles of investigators and prosecutors in the pre-prosecution process to minimize the recurrence

[14] Ni Made Esthi Rahayu Pratidina and I Gusti Nyoman Krinadi Yudiantara, 'Akibat Hukum Ketidaklengkapan Berkas Penyelidikan Yang Dilakukan Tim Penyidik Dalam Proses Pra-Penuntutan Berdasarkan Perspektif Asas Peradilan Cepat, Sederhana, Dan Biaya Ringan' (2025) 3 Jurnal Media Akademik <https://doi.org/10.62281/v3i7.2648>.

[15] Afandi Fachrizal, 'Maintaining Order: Public Prosecutors in Post-Authoritarian Countries, The Case of Indonesia' (Leiden University 2021).

[16] Aristo Marisi Adiputra Pangaribuan, 'Cooperation and Non-Cooperation in Indonesia Criminal Case Processing: Ego Sektoral in Action' (University of Washington 2022).

[17] Allo, Amri and Parawasana (n 9).

of file returns through clear and coherent regulation in the 2025 KUHAP revision. Accordingly, this article seeks to address the following research questions: (1) How do the principles of *dominus litis* and functional differentiation shape sectoral ego within investigative and prosecutorial institutions? (2) How are these principles implemented in comparative jurisdictions? and (3) How should coordination between investigators and prosecutors be strengthened in the draft of the RKUHAP revision?.

Research Method

This article employs a doctrinal legal research method complemented by a comparative approach. The doctrinal analysis focuses on relevant statutory provisions, academic literature, and legal doctrines to examine the coordination between investigators and public prosecutors in Indonesia's pre-prosecution process. Within this framework, the research explores the competing narratives of functional differentiation and *dominus litis* to understand how these principles influence coordination, efficiency, and accountability in criminal case handling.

Furthermore, the comparative component analyzes the institutional roles of prosecutors and investigators in France, the Netherlands, Thailand, and China. France and the Netherlands were chosen as examples of systems that fully adopt the *dominus litis* principle, granting prosecutors primary control over investigations. Conversely, Thailand and China represent models where prosecutors play a less dominant role within a more compartmentalized structure. By comparing these jurisdictions, the study seeks to determine whether full implementation of *dominus litis* enhances procedural efficiency or whether a balanced, compartmentalized model is more effective. The findings are expected to inform policy recommendations for strengthening coordination mechanisms in the forthcoming Draft KUHAP 2025.

Analysing the Roles of Investigation and Prosecution and the Challenges of Coordinating these Functions in Indonesia

Generally, criminal justice systems around the world consist of key actors such as the police, prosecutors, court, and correctional institutions. This subchapter will discuss the functions of investigation and prosecution in Indonesia and the problems in their enforcement.

The Role of Investigation and Prosecution

A. The Role of Investigation

The definition of investigation can be found in Article 1 Number (2) of the 1981 Criminal Procedure Code, which means "a series of investigative actions in the manner and form prescribed by this law to seek and collect evidence that clarifies the criminal act that has occurred and to find the suspect." There is a difference in the wording of the definition of investigation in the 1981 Criminal Procedure Code and the 2025 Criminal Procedure Code, where the 2025 Criminal Procedure Code refers to investigation as "a series of investigative actions to seek and collect evidence to clarify criminal acts and identify suspects." Looking at both definitions, the difference lies in the use of the phrases " *bukti*" (evidence) and "*alat bukti*" (legal evidence), but in essence the meaning of investigation remains the same, namely the process whereby, after it is known that an event is a criminal act, the investigator, through a series of actions, seeks and finds at least the following: (1) what criminal act has been committed; (2) when the criminal act was committed; (2) where the criminal act was committed; (3) how or with what the criminal act was committed; (3) why the criminal act was committed; and (3) who committed the criminal act.

Investigative functions are carried out by investigators. Article 1(1) of the 1981 Criminal Procedure Code defines investigators as "officers of the Indonesian National Police or certain civil servants who are granted special authority by law to carry out investigative functions." In addition to the police investigators and civil servants mentioned in the code, the law also grants authority to the Corruption Eradication Commission (KPK) and the Prosecutor's Office to conduct investigations in special cases.

B. The Role of Prosecution

Prosecution is defined in in Article 1 Point 7 KUHAP 1981 as "the action of the public prosecutor to transfer a criminal case to the competent district court in accordance with the provisions of this law, with a request that it be examined and decided by a judge in court." The function of prosecution is carried out by the public prosecutor, who is authorized by the KUHAP to prosecute and enforce court decisions that have obtained final and binding legal force.

Alongside the KUHAP, the responsibilities and powers of the Attorney General's Office are delineated in Law Number 16 of 2004, as revised by Law Number 11 of 2021 regarding the Attorney General's Office of the Republic of Indonesia (*UU Kejaksaan*). In carrying out prosecution, there is a principle of opportunity inherent in the Attorney General's Office, specifically the Attorney General, in the form of the authority not to prosecute in cases where public interest needs to be considered (*seponeering/deponeering*), as regulated in Article 35 letter c of the Attorney General's Office Law.

In international instruments, it is generally recognized that the role of prosecutors is not limited to prosecution but extends to broader functions. As stated in the United Nations Guidelines on the Role of Prosecutors, adopted at the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/Conf.144/28/Rev.1 at 189 (1990), prosecutors may, "... *where authorized by law or consistent with local practice, [participate] in investigations, supervise the execution of court decisions, and exercise other functions as representatives of the public interest*."[18] This principle affirms that the prosecution service, as the controller of criminal proceedings (dominus litis), is the sole authority empowered to determine whether a case is suitable to be brought before the court.

Furthermore, the United Nations Office on Drugs and Crime (UNODC) and the International Association of Prosecutors (IAP) emphasize that the prosecutor occupies a central position within the criminal justice system, particularly in the prosecution process. This is reflected in the prosecutor's primary function to decide whether or not to proceed with prosecution and to represent the public interest during trial

[18] Mardian Putra Frans and Yudhistira Buana Cipta Ismara, 'Rekonstruksi Hukum Acara Penyidikan Di Bawah Kejaksaan Berdasarkan Prinsip Dominus Litis' (2025) 23 Proceedings of Seminar Nasional Kebaharuan KUHP Nasional dan Urgensi Pembaharuan KUHAP.

proceedings.[19] The IAP, in Article 4.2 of the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors, further states that prosecutors' active roles in prosecution also extend to the investigative stage. Hence, the prosecutor is understood as dominus litis, indicating that prosecutors should play an active and leading role from the earliest stages of criminal case handling. It also explained in Article 11 of the *Guideline on the Role of Prosecutors* that emphasizes that prosecutors involved are required to play an active role in criminal justice, including conducting and supervising investigations, overseeing the execution of court decision, and performing other functions related to the public interest. The prosecutorial powers recognized under those international instrument should serve as a foundation for every state to grant prosecutors sufficient authority to effectively carry out their functions.

Analysis of the Problem of Coordination between Investigator and Prosecutor

The Evolution of Functional Differentiation and *Dominus Litis* from HIR to KUHAP 1981

Yahya Harahap defines functional differentiation as the institutional division of duties and authorities among the sub-systems of the criminal justice system.[20] The concept of functional differentiation was developed to establish the principles of "clarification" and "modification" of the respective functions and powers of each law enforcement institution, while maintaining the necessary correlation and coordination in the interrelated and continuous process of law enforcement — from the initial stage of investigation by the police to the execution of court judgments by the public prosecutor's office.[21] Hopefully within this framework, a continuous functional relationship is maintained, creating a mechanism of mutual oversight or "checking" among law enforcement authorities within an integrated criminal justice system.[22]

[19] United Nations Office on Drugs and Crime and International Association of Prosecutors Guide, 'The Status and Role of Prosecutors' (2014).

[20] M Yahya Harahap, *Pembahasan Permasalahan Dan Penerapan KUHAP: Pemeriksaan Sidang Pengadilan, Banding, Kasasi, Dan Peninjauan Kembali* (Sinar Grafika 2021).

[21] ibid.

[22] M Yahya Harahap, *Pembahasan Permasalahan Dan Penerapan KUHAP: Penyidikan Dan Penuntutan* (Jakarta Ghalia 2014).

The emergence of the functional differentiation principle cannot be separated from the historical development of the Criminal Procedure Code (KUHAP) and the earlier period under Het *Herziene Indonesisch Reglement* (HIR). According to Yahya Harahap, prior to the enactment of KUHAP, under the HIR, the prosecution service held extensive investigative powers, positioning prosecutors as the *dominus litis* or controllers of criminal cases.[23] Articles 38 and 39 of the HIR granted prosecutors authority over a wide range of functions — from investigation, arrest, detention, search, examination, and preparation of investigation reports, to criminal prosecution and execution of final court judgments. Etymologically, the term "prosecution" itself derives from the Latin prosecutus, consisting of pro (before) and sequi (to follow), denoting a process that continues from beginning to end.[24]

The role of prosecutors underwent a fundamental shift with the enactment of the 1981 KUHAP, under which prosecutors no longer possessed the authority to investigate general crimes stipulated in the Criminal Code. The 1981 KUHAP confined investigative powers to police investigators and certain authorized civil servants. Nevertheless, Article 284 paragraph (2) of KUHAP allows for an interpretation that prosecutors retain limited investigative authority in specific cases, such as economic crimes under Law No. 7 of 1955, corruption offenses under Law No. 3 of 1971, and other particular offenses, thereby preserving a residual form of prosecutorial investigation in Indonesia's legal system.

The Issue of Coordination between Investigator and Prosecutor in Pre-Trial Stage

As discussed in the introduction, the coordination between investigators and public prosecutors under the 1981 Criminal Procedure Code (KUHAP) begins with the Notification of Commencement of Investigation (Surat Pemberitahuan Dimulainya Penyidikan or SPDP) sent by the investigator to the public prosecutor pursuant to Article 109(1) of KUHAP. Once the investigation is completed, evidence is collected, and a suspect has been identified, the investigator must carefully assess whether sufficient

[23] Harahap (n 20).

[24] Sudibyo and Saptomo (n 5).

evidence exists to submit the case to the public prosecutor. The SPDP serves as the point of entry for prosecutors to monitor the progress of the investigation through an appointed Research Prosecutor (Jaksa Peneliti). Subsequently, the public prosecutor reviews the completeness of the investigation conducted by the investigator—this stage is referred to as pre-prosecution (prapenuntutan).

Although the term pre-prosecution is not explicitly defined in KUHAP, it is elaborated in the elucidation of Article 30(1)(a) of Law No. 16 of 2004 on the Prosecution Service, which states: "Pre-prosecution is the action of the prosecutor to monitor the progress of an investigation after receiving the notification of commencement of investigation from the investigator and to provide instructions to be completed by the investigator in order to determine whether the case file is ready for prosecution or not."[25] Furthermore, Article 14(b) of KUHAP authorizes the prosecutor to conduct pre-prosecution, providing guidance to investigators regarding deficiencies in the investigation results, as stipulated in Article 110(3) and (4) of KUHAP. In conjunction with Articles 8(3) and 139 of KUHAP, which regulate the submission of case files from investigators to prosecutors, two stages of interaction can be identified between the two institutions. The coordination between investigators and prosecutors within the scope of an integrated criminal justice system reflects the principle of functional differentiation, as emphasized in the ratio decidendi of the Constitutional Court in Decision No. 28/PUU-XXI/2023. The Court stated that "... *the granting of investigative authority to other law enforcement agencies, apart from the National Police, is permissible as long as such authority is clearly and explicitly regulated and properly coordinated among law enforcement agencies to avoid overlapping functions*."[26]

The Constitutional Court reaffirmed this position in Decision No. 25/PUU-XXII/2024, asserting that "*The Constitution does not explicitly stipulate that the National Police is the sole or exclusive investigative authority. Therefore, investigative powers may be granted to other institutions insofar as such authority is regulated by law and the institution*

[25] Alfajri Firmansyah, "Tinjauan Hukum Kewenangan Jaksa Dalam Pemeriksaan Tambahan Menurut Asas *Dominus Litis* Bedasarkan KUHAP" (2020) 2 Jurnal Hukum Jurisdictie.

[26] Constitutional Court Decision No. 28/PUU-XXI/2023.

performs a judicial function as mandated by Article 24(3) of the 1945 Constitution, including the Prosecution Service."[27] The prosecution service thus holds broad supervisory authority over investigations based on the principle of opportunity, granting discretion to determine whether a case should be brought before the court.

Nevertheless, the prosecutorial authority to conduct or direct investigations independently has been indirectly delegitimized by the provisions of KUHAP, particularly Articles 110 and 138. In practice, the recurrent exchange of case files between investigators and prosecutors generally arises from material discrepancies—specifically, differing legal interpretations regarding the sufficiency of evidence.[28] Investigators often deem evidence sufficient, while prosecutors consider it inadequate.[29] According to the Attorney General's Guidelines No. 24 of 2021 on the Handling of General Crimes, such cases are administratively closed by deleting case data from the registry after a certain period.[30] However, in practice, some case files returned by prosecutors after providing instructions are never resubmitted by investigators, nor is a formal decision to terminate the investigation (SP3) issued. This situation leaves cases in legal limbo, potentially harming the parties involved and creating legal uncertainty in criminal case handling.

This reality underscores the need to strengthen prosecutorial authority so that differences of opinion between investigators and prosecutors do not merely result in administrative deletion or unresolved cases, but instead lead to a formal decision by the prosecutor as the dominus litis—the controller of criminal proceedings.[31] Otherwise, in accordance with the fruit of the poisonous tree doctrine developed in the common law system, if evidence is obtained unlawfully (illegal evidence), then all investigative results derived from such evidence become legally invalid.[32]

---

[27] Constitutional Court Decision No. 25/PUU-XXII/2024.
[28] Frans and Ismara (n 18).
[29] ibid.
[30] ibid.
[31] ibid.
[32] ibid.

Coordination Models of Investigation and Prosecution: A Comparative Study in France, the Netherlands, China, and Thailand

Despite the various problems faced in the practice of investigation and prosecution relationship within the criminal justice system in Indonesia, it is not impossible to strive better for changes. One approach to analyzing legal issues is to use the method of comparative law, which involves comparing several legal systems to identify both similarities and differences, as well as the implementation of a law in various countries. In the following discussion, this paper will attempt to present the coordination mechanism between law enforcement agencies in the criminal justice system, specifically at the investigation and prosecution stages for four countries: France, the Netherlands, China, and Thailand.

Coordination of Investigation and Prosecution in France

The French Code de procédure pénale (CPP) is the Criminal Procedure Code that is currently in force after replacing the the Code d'Instruction Criminelle 1808.[33] The law enacted during Napoleon's reign was seen as strengthening the influence of executive power in law enforcement for the sake of national stability needed during the revolution.[34] This later became a reference for several European countries to strengthen the authority of state prosecution.[35] However, Ploscowe identified several protections of individual rights and freedoms regulated in the French Criminal Procedure Code of 1808, particularly in court proceedings.[36]

The regulations governing the duties and powers of French law enforcement officials currently in force are contained in the French Code de procédure pénale (CPP) of 2000, with several amendments in 2006 and 2020.[37] During the investigative or pre-trial phase, prosecutors play an increasingly important role due to their key position as

[33] Morris Ploscowe, 'Development of Inquisitorial and Accusatorial Elements in French Procedure' (1932) 23 Journal of Criminal Law and Criminology.

[34] ibid.

[35] ibid.

[36] ibid.

[37] French Code of Criminal Procedure 1958.

a central link (hub) in the criminal justice process.[38] Prosecutors oversee investigations and control the flow of cases from investigation to prosecution in court. In supervising investigations, prosecutors have the authority to grant detention, extend detention, and examine suspects. Prosecutors also determine whether to prosecute a suspect or discontinue prosecution against the suspect.[39]

The police, in carrying out their duties, are under the direction of the district prosecutor (Article 12 CFP). The police are responsible for recording reports of crimes, collecting evidence, and searching for suspects (Article 14 CFP), and are required to immediately notify the prosecutor of serious crimes (Article 54 CFP). The prosecutor is responsible for investigating and prosecuting criminal cases, and, in carrying out these duties, the prosecutor provides guidance to the police and supervises detentions carried out by them. The decision to detain someone is made by senior police officers, but must then be notified to the prosecutor as soon as possible (Article 63 CFP).[40]

In France, district prosecutors are authorized to receive reports of alleged criminal offenses and initiate all necessary actions within their authority to investigate and prosecute criminal offenses by coordinating the work of investigators in their jurisdiction. The prosecutor also has the authority to supervise coercive measures carried out by investigators, such as by visiting detention facilities. The prosecutor has the authority and prerogative inherent in the authority of investigators as provided for in Part II Chapter I of the CFP and other criminal laws (Article 41 CFP).[41]

In more serious and complex criminal cases, the prosecutor processes the case and the judge d'instruction is responsible for the investigation. The judge d'instruction is a key element in the inquisitorial system and can even be considered the most influential and authoritative party in criminal proceedings in France.[42]

---

[38] Jacqueline Hodgson, 'Guilty Pleas and the Changing Role of the Prosecutor in French Criminal Justice' (2010) 15 Warwick School of Law Research Paper.

[39] ibid.

[40] Jacqueline Hodgson, 'The Police, the Prosecutor and the Juge D'Instruction: Judicial Supervision in France, Theory and Practice' (2001) 41 The British Journal of Criminology 342.

[41] French Code of Criminal Procedure.

[42] Antoine J Bullier, "How The French Understand The Inquisitorial System" (2001) 29 AIAL Forum.

The prosecutor will request this judge to approve the commencement of the investigation and provide instructions regarding the case under review. The investigating judge will then collect, select, and present evidence, examine witnesses, and determine whether a case proceeds to trial.

Although investigations into most serious criminal cases must be led by a judge d'instruction, the authority to determine whether a criminal case is serious or not lies with the prosecutor. With the authority to determine the type of criminal offense to be charged, the prosecutor can determine that a criminal case is not a serious crime in order to avoid instructions from the judge (judge d'instruction). This judge also cannot initiate an investigation into a serious criminal case because it depends on the prosecutor filing the case. Even when other serious criminal cases are discovered during the investigation stage, the judge also depends on the prosecutor's decision whether to investigate and prosecute it as a serious criminal offense or not.[43]

In the history of French criminal procedure law, the judge d'instruction was responsible for investigating serious criminal cases, as stipulated in theFrench Criminal Procedure Code of 1808, which was enacted during the reign of Napoleon Bonaparte. The judge d'instruction at this time had very broad powers, such as: (1) examining witnesses and suspects, and confronting their statements; (2) conducting searches of premises and seizing evidence, whether at the suspect's residence or that of a third party; (3) requesting expert assistance in the investigative process; and (4) detaining and restricting the suspect's freedom[44] Although the function remains the same—to investigate serious criminal cases—the authority of the judge d'instruction has undergone changes. Previously, the judge of instruction had the authority to detain someone during the investigation. However, this authority was transferred to the judge of freedoms and detention after 2001.[45] This judge is not accountable to the Prosecutor General, and the police are under his instructions to carry out the main duties of the investigating judge in the field of investigation. This judge does not play

[43] Hodgson (n 38).
[44] Ploscowe (n 33).
[45] ibid.

a role in examining the merits of the case in court because they only have a role and authority in the investigation (Article 49 CFP).

Coordination of Investigation and Prosecution in the Netherlands

The main actors authorized in the criminal justice system in the Netherlands are the police, the public prosecutor's office, and the courts.[46] The police primarily function as goalkeepers of order, and, in the domain of criminal law enforcement, the police cannot independently carry out investigative functions. This is because in carrying out the function of investigation, the police must be under the supervision of the public prosecutor or act as a support for the prosecutor's duties. This means that the public prosecutor in the Netherlands is the *dominus litis* or controller of the case. The public prosecution service is responsible for investigating and prosecuting anyone who commits a criminal offense.[47] Article 10 of the Dutch Criminal Procedure Code states that the public prosecutor is authorized to conduct investigations and may delegate this authority to public prosecutors in the area where the investigation will be carried out.[48]

Formally, the prosecutor is a senior investigator and must ensure that the investigation by the police is conducted according to procedures and laws. In practice, investigators handle most cases without prior consultation with the prosecutor due to limited resources of the prosecutor's office and the increasing expertise of investigators in investigation techniques and tactics.

In ordinary circumstances, coordination often occurs at a general level, such as determining policies and guidelines for investigating certain criminal offenses using specific tactics or techniques, for example, using undercover purchases for narcotics offenses. This often leads to investigators controlling the course of the investigation, and most cases that go to trial are limited to the facts and evidence investigated and

[46] Renze Salet and Jan Terpstra, "Criminal Justice As A Production Line: ASAP and The Managerialization of Criminal Justice in The Netherlands" (2020) 17 Eouropean Journal of Criminology. [826].

[47] "Execution of the Decision Taken by the Public Prosecution Service upon Seizure under Criminal Law" <https://english.domeinenrz.nl/topics/execution-of-the-decision-taken-by-the-public-prosecution-service> accessed June 28, 2025.

[48] Dutch Code of Criminal Procedure 1926.

collected by the investigators.[49] The police must report all investigative efforts to the prosecutor so that the prosecutor can ensure the investigation is conducted in accordance with regulations.[50] The prosecutor receives cases from police investigators, but not all cases dismissed by the investigators receive attention from the prosecutor. This is because investigators have the authority to dismiss cases without the involvement of the prosecutor, such as cases involving children, cases where the perpetrator is a first-time offender, or cases involving minor offenses. Police investigators can also mediate a resolution between the perpetrator and the victim. The authority to stop or resolve this case is limited to the guidelines issued by the Board of Prosecutors General, the highest prosecutorial authority in the Netherlands.[51]

In serious cases, the prosecutor is directly involved in the investigation. In practice, prosecutors routinely make various strategic decisions with the police regarding the scope of investigations, the implementation of coercive measures, and the examination of individuals involved in the investigation.[52] The role of prosecutors in directly participating in investigations is also present when the investigation is conducted by institutions other than the police, such as the Fiscal Intelligence and Investigation Service. Additionally, prosecutors are also involved in specific and sensitive cases that require decisions that consider the characteristics of the case, such as cases with sensitive political issues like terrorism and white-collar crime.[53]

Prosecutors in the Netherlands are civil servants under the Ministry of Justice. However, although they are accountable to the Minister of Justice, prosecutors in the Netherlands are part of the judiciary, receive most of their training from the courts, and work independently in handling criminal cases.[54] The highest authority in investigation and prosecution rests with the Board of Prosecutors General, a body composed of three to

[49] Peter JP Tak, 'The Dutch Prosecutor: A Prosecutinng and Sentencing Officer', *The Presecutor in Transnational Perspective* (Oxford University Press Inc 2012).

[50] Henk van de Bunt and Jean-Louis van Gelder, 'The Dutch Prosecution Service' (2012) 41 The University of Chicago Press Journals 117.

[51] ibid.

[52] ibid.

[53] ibid.[128].

[54] ibid.

fiveprosecutors general. The Board of Prosecutors is the leader of the prosecution service in the Netherlands and has the authority to oversee the implementation of investigation and prosecution policies by issuing various technical regulations related to investigation and prosecution.[55] This body meets regularly with the Minister of Justice and consults regularly with various parties such as prosecutors and senior police officials to discuss serious crimes that are developing and to create prosecution guidelines. One example is the investigation and prosecution policy that tolerates certain drug offenses meeting the criteria of the guidelines they agreed upon.[56]

In the pre-trial phase in the Netherlands, there is a preliminary examining judge who has two functions: (1) to determine the extension of detention for up to 10 days and (2) to further investigate the alleged criminal offense. This judge has authority that investigators and prosecutors do not, such as examining witness objections (appeals) and making court records of witness examinations. The judge can also order a psychiatric examination of the suspect, involve experts, or request a DNA test. If the prosecutor deems that the investigation of a case requires such efforts to gather evidence, the prosecutor must request the court to initiate a judicial preliminary investigation. Additionally, investigators or prosecutors must also request the judge if they wish to intercept communications and the sending of letters/goods, as well as search a house/building.[57] This judge can conduct further investigations with the assistance of investigators, such as opening data on computers and examining witnesses before the judge. However, in reality, only a few cases are processed in court through the preliminary investigation stage conducted by the judge.[58]

Coordination of Investigations and Prosecution in China

As a civil law country like Indonesia, the People's Republic of China ("PRC") recognizes the codification of laws and regulations, including its criminal procedure law. Since its first enactment in 1979, the China Criminal Procedure Code ("CPC") has been

[55] Dutch Judicial Organization Act 2020.
[56] Tak (n 49).
[57] ibid.
[58] ibid.

amended three times, most recently in 2018.[59] These three amendments have focused on different core content changes each time the law was amended.

The first version of the Criminal Procedure Law of the People's Republic of China (PRC) was in 1979, as promulgated on January 1, 1980, and consisted of 164 articles. At a glance, the first version of the PRC Criminal Procedure Law extensively addressed the fundamental rights of suspects and defendants, such as the right to legal assistance (Article 26 CCP 1979), the requirement for arrest warrants and notification to family members (Article 50 CPC 1979), the limitation of initial detention periods during the investigation stage (Article 92 CPC 1979), as well as the principle of public trial (Article 110 CPC 1979) and other progressive regulations at the time.[60] Subsequently, in the 1996 amendment, there were several changes. One of the provisions in the 1979 PRC Criminal Procedure Law that was deleted in the 1997 PRC Criminal Procedure Law revision was the practice of prosecution by analogy, as it contradicted the universally recognized principle of legality.[61] Prosecution by analogy is a practice where a person can be prosecuted for a crime if their actions are considered similar to other specifically prohibited behaviors, even if the offense is not regulated in the criminal code.[62]

The time between the second and third revisions of the Criminal Procedure Law of the People's Republic of China (CPL PRC) is relatively short, leading some Chinese scholars to believe that there are no comprehensive and significant changes distinguishing the 2012 version of the CPL PRC from the 2018 version. Nevertheless, the 2012 CPL PRC revision is still intended to improve criminal procedure law with distinct Chinese characteristics, promote modernization in national governance, and deepen

[59] The Criminal Procedure Law of the People's Republic of China (PRC) was first enacted at the Second Session of the Fifth National People's Congress on July 1, 1979. It was subsequently amended for the first time at the Fourth Session of the Eighth National People's Congress on March 17, 1996, amended again at the Fifth Session of the Eleventh National People's Congress on March 14, 2012, and most recently revised at the Sixth Session of the Standing Committee of the Thirteenth National People's Congress on October 26, 2018.

[60] Hungdah Chiu, 'China's New Criminal & Criminal Procedure Codes' (1980) 6 Maryland Series in Contemporary Asian Studies.

[61] Ira Belkin, 'China's Criminal Justice System: A Work in Progress' (2000) 61 Wahington Journal of Modern China.

[62] ibid.

judicial reform.[63] Key changes that can be highlighted from the 2018 Criminal Procedure Law of the People's Republic of China are the shift in sentencing toward a less punitive approach, or known as restorative justice.

After tracing the historical background of the Criminal Procedure Law of the People's Republic of China (PRC), it is important to explore how the provisions regarding the authority of law enforcement officers in the PRC Criminal Procedure Law, particularly the authority of investigation and prosecution, are addressed. Prosecutor Public prosecutors in the People's Republic of China are called renmin jiancha yuan (People's procuratorate).[64] Historically, the existence of prosecutors can be traced back 2000 years to the time of the Chinese empire.[65] The Chinese emperor appointed an official with the title of Yu Shi, often translated as 'imperial censor' or 'imperial secretary', whose duties were to be the eyes and ears of the Emperor and report any violations or corruption committed by government officials.[66] Over time, this position evolved into the role of a public prosecutor for cases involving crimes committed by government officials.[67] Yu Shi also oversaw the judiciary to ensure that judges acted in accordance with the law.[68]

In the current Chinese constitution, the Prosecutor General is one of the five government institutions under the authority of the National People's Congress. The other four institutions under the same umbrella are the Presidency, the State Council led by the Prime Minister, the Judiciary, and the Military. In theory, the prosecutor's office is responsible for ensuring that other civil branches of government, namely the executive branch and the judiciary, function in accordance with the law. In addition to its supervisory role over all aspects of civil government, the Procuracy is fully responsible for deciding whether someone should be formally arrested (dai bu) and formally charged (qi song).

[63] Haiqing Peng, 'Dialectical Analysis of Amandement to The Criminal Procedure Law of China in 2018' (2021) 12 Vestnik of Saint Petersburg University Law 384.
[64] Belkin (n 61).
[65] ibid.
[66] ibid.
[67] ibid.
[68] ibid.

Unlike the more dominant oversight by the prosecutor during the investigation phase, as is the case in France and the Netherlands, the prosecutor's oversight in China tends to be more passive and operates on an "after-event model".[69] This means that the majority of investigations of cases conducted by the police are carried out entirely by investigators. The Public Prosecutor will only become involved in the case after the police have completed their investigation and submitted the case file to the prosecutor's office.[70] Subsequently, the Public Prosecutor can issue further directions and guidance to the investigator, and if necessary, can grant permission for an extension of the investigation period, for example, to search for related evidence at the investigation stage.[71] Such procedures shorten the oversight that can be carried out by the Public Prosecutor, which further impacts the absence of direct supervision by external parties over the investigation stage conducted by the police.[72] Instead of overseeing how the investigation process is carried out, the Public Prosecutor's oversight tends to focus on the final product produced by the investigators, largely through examining investigation files and interrogating suspects. It is also possible for the Public Prosecutor to gather evidence independently by interviewing victims and witnesses, but this is limited to certain cases only.[73]

Coordination of Investigations and Prosecution in Thailand

In 1934, Thailand first established its Criminal Procedure Code, which officially came into effect on October 1, 1935, under the reign of King Rama VII. To understand the Thai criminal justice system, it is first important to understand that the form of Thailand's legal system is a mixture of adversarial and inquisitorial systems.[74]

In the criminal justice system in Thailand, the actors involved are generally the same as in Indonesia, namely the Police (the Royal Thai Police), the Prosecutor's Office

[69] Yu Mou, 'Overseeing Criminal Justice: The Supervisory Role of The Public Prosecution Service in China' (2017) 44 Journal of Law and Society 620.
[70] ibid.
[71] ibid.
[72] ibid.
[73] ibid.
[74] Samasjai Samasaed, 'The Importance of Fact-Finding in Criminal Trials: A Study of Judges,Work in The Courts of Justice in Thailand' (2022).

(the Office of Attorney General), the Courts (the Court of Justice), and the Ministry of Justice.[75] In brief, the criminal justice process in Thailand recognizes the existence of private prosecution, where the victim of a crime can file a report with the police for subsequent investigation, the results of which will be submitted to the prosecutor.[76] After receiving the case file from the police, the prosecutor will forward it to the court, where the judge will conduct an examination to determine whether a person is guilty or not. Interestingly, in response to the high number of criminal reports received by the police, the Thai government then allowed victims to hire legal counsel so they could file cases directly in court, rather than reporting to the police first.

In 1983, the Office of the Attorney General of Thailand was established to handle public prosecutions. The Thai Public Prosecutor's Office decided to prosecute solely based on the evidence presented by the police in the investigation file, as the Public Prosecutor has no authority whatsoever in the investigation process, whether to initiate, control, or supervise the investigation. Based on the criminal justice system in Thailand, there is almost a complete separation between investigation and prosecution, as the investigation function is entirely under the authority of the police.

The Thai Public Prosecutor makes the decision to prosecute solely based on the evidence submitted by the police in the investigation file, as the Public Prosecutor had no authority whatsoever in the investigation process, neither to initiate, control, nor supervise the investigation.[77] Based on the criminal justice system in Thailand, there is almost a complete separation between investigation and prosecution, as the investigation function is entirely under the authority of the police.[78]

Based on this separation, the police have absolute power in issuing and executing arrest warrants or other types of warrants, or in granting bail to suspects during the investigation phase, without any screening procedure by the courts or the Public Prosecutor. Senior police officers, from the rank of Second Lieutenant as head of a sub-police unit upwards, can issue arrest or search warrants themselves. Additionally,

[75] Peng (n 63).
[76] ibid.
[77] ibid.
[78] Thailand Criminal Procedure Code 1934.

warrantless arrests and searches are also permitted for the police in certain circumstances. What's interesting is that court involvement in Thailand has been included since the investigation stage, as seen in Section 87 of the Criminal Procedure Code as amended in 1996, which states that the police can temporarily arrest a suspect for a maximum of three days. After that, if an extension is desired, the investigator must seek permission from a judge.[79]

Public prosecutors in Thailand cannot give any direction to police officers conducting investigations since the criminal report was filed, a provision that distinguishes Thailand from other civil law countries.[80] The role of the Public Prosecutor only begins in all types of cases, regardless of how serious or influential the case is, only after the investigation is complete and the police send the investigation file to be considered for prosecution.[81]

A 'weak' position in enforcing the criminal justice process is felt to be a serious enough obstacle by prosecutors in Thailand. For this reason, the Attorney General's Office insisted for years on fighting to gain a role in the investigation process.[82] Thai prosecutors acknowledged that it was not necessary for them to take over the investigation stage from the police for all cases, but only for large, complex cases that were in the public eye. In this regard, prosecutors hoped to play a supervisory role.[83] Unfortunately, this was not achieved due to significant and influential political opposition and pressure from the police.[84]

Recommendations: Eliminating Functional Differentiation to Strengthen Coordination Between Investigators and Prosecutors

After examining various problems in investigation and prosecution practices in Indonesia, it is time to shift focus toward improving the coordination between investigators and public prosecutors, rather than merely debating the theoretical aspects

---

[79] ibid.

[80] Somjai Kesornsiricharoen, "The Role and Function of Public Prosecutors in Thailand," *107th Training Course Participants' Papers* (2020).

[81] ibid.

[82] ibid.

[83] ibid.

[84] ibid.

of strengthening functional differentiation or dominus litis. Ultimately, the essence of a criminal justice system lies in safeguarding human rights, not in preserving institutional or sectoral ego.

The Need to Reinstate the *Dominus Litis* Role of the Prosecution Service.

The lengthy settlement of cases due to the repeated exchange of case files underscores the essential role of public prosecutors in criminal proceedings. Without undermining the investigative authority of the police, the involvement of prosecutors—who are responsible for prosecuting and presenting cases before the court—should be prioritized from the earliest stage of investigation. This ensures that prosecutors fully comprehend the substance of a case from the outset. Such early involvement fosters a shared understanding between investigators and prosecutors and enables a synergistic coordination model, similar to that practiced in the Netherlands and France.

Article 132 of the new Criminal Code (Law No. 1 of 2023) regulates the extinguishment of prosecutorial authority over a case. The article lists several grounds for the termination of prosecution, including ne bis in idem, the death of the suspect or defendant, and the statute of limitations. Interestingly, the provision also introduces additional grounds—such as the imposition of amicable fines (denda damai) and the settlement of cases outside the judicial process, including amnesty and abolition. The normative content of Article 132(1)(g) justifies that the authority to settle cases outside the judicial process lies entirely with the prosecution service, as explicitly affirmed in Articles 30C(d) and 34A of the Law on the Prosecution Service. Although these powers were already recognized under the Prosecution Law, their reaffirmation in the new Criminal Code further strengthens the prosecutorial mandate. Notably, the elucidation of Article 132 states that investigation is, in principle, part of the prosecutorial function.

This explanation indicates that the new Criminal Code effectively eliminates the compartmentalized system or functional differentiation within Indonesia's criminal justice system. The implications of this provision lead to the realization of a prosecutorial system that restores the position of the Public Prosecutor as dominus litis—a supervisory authority over investigations, and potentially, an institution authorized to conduct investigations in certain criminal cases, reflecting the legal policy direction embedded in Article 132 of the Code.

Finally, the forthcoming revision of the Criminal Procedure Code (RKUHAP) should regulate the maximum number of times case files may be returned between investigators and prosecutors to prevent delays that undermine the principles of simplicity, expediency, and affordability in justice. It should also include specific provisions governing case review meetings (gelar perkara), mandating the involvement of all relevant parties, including suspects and their legal counsel. This proposal is supported by several criminal procedure law scholars and practitioners, as reflected in the 2025 Elite Survey by the Indonesian Survey Institute (LSI), which involved respondents from both legal academia and practice. The survey revealed that 57.4% agreed that gelar perkara serves as a key coordination mechanism where prosecutors have the authority to determine case outcomes; 33.7% agreed that determining case status should be conducted through gelar perkara involving both investigators and prosecutors; and 8.9% did not respond. Moreover, 71.3% of respondents believed that the KUHAP revision should regulate joint investigation mechanisms involving prosecutors and investigators, especially for complex or protracted cases, as a follow-up to the gelar perkara process.

Conclusion

Based on the findings of this research, this article concludes that the principle of functional differentiation regulated under the 1981 Criminal Procedure Code (KUHAP) has been one of the primary factors contributing to the emergence of sectoral ego between investigators and public prosecutors. In fact, achieving an integrated criminal justice system requires strong and strategic collaboration from the earliest stages of inquiry and investigation. Therefore, reinforcing the *dominus litis* principle is essential and should be reaffirmed in the revision of the 1981 KUHAP, as this is consistent with Article 132 of the new Criminal Code (Law No. 1 of 2023), which legitimizes the notion that investigation constitutes an inseparable part of prosecution.

This article also finds that, in universal practice—as observed in the four comparative jurisdictions examined—the *dominus litis* principle rests with the Public Prosecutor, who serves as the representative before the court. Coordination between investigators and prosecutors in these jurisdictions proves to be more effective in managing criminal cases, as prosecutorial involvement from the outset ensures both substantive understanding of the case and accurate supervision throughout the investigation process.

Acknowledgments

-

Disclosure Statement

The authors report no potential conflicts of interest.

Funding

-

References

Ali, 'RUU KUHAP Harus Tuntaskan Kebiasaan Bolak-Balik Berkas Perkara' (*hukumonline.com*, 2014) <https://www.hukumonline.com/berita/a/ruu-kuhap-harus-tuntaskan-kebiasaan-bolakbalik-berkas-perkara-lt4bc5f1455d6a9/?page=2> accessed October 5, 2025.

Allo ZT, Amri U and Parawasana SSR, 'Inovasi Konsep Prapenuntutan Dalam Penanganan Perkara Pidana Berdasarkan Asas Contante Justitie' (2024) 2 The Presecutor Law Review.

Andini AR, 'Bolak-Balik Berkas Perkara Jessice Menuju Meja Hijau' (*CNN Indonesia*, 2016) <https://www.cnnindonesia.com/nasional/20160615091759-12-138246/bolak-balik-berkas-perkara-jessica-menuju-meja-hijau> accessed October 5, 2025.

Belkin I, 'China's Criminal Justice System: A Work in Progress' (2000) 61 Wahington Journal of Modern China.

Bullier AJ, 'How The French Understand The Inquisitorial System' (2001) 29 AIAL Forum Bunt H van de and Gelder J-L van, "The Dutch Prosecution Service" (2012) 41 The University of Chicago Press Journals.

Chiu H, 'China's New Criminal & Criminal Procedure Codes' (1980) 6 Maryland Series in Contemporary Asian Studies.

'Execution of the Decision Taken by the Public Prosecution Service upon Seizure under Criminal Law' <https://english.domeinenrz.nl/topics/execution-of-the-decision-taken-by-the-public-prosecution-service> accessed June 28, 2025.

Fachrizal A, 'Maintaining Order: Public Prosecutors in Post-Authoritarian Countries, The Case of Indonesia' (Leiden University 2021).

Firmansyah A, 'Tinjauan Hukum Kewenangan Jaksa Dalam Pemeriksaan Tambahan Menurut Asas *Dominus Litis* Bedasarkan KUHAP' (2020) 2 Jurnal Hukum Jurisdictie.

Frans MP and Ismara YBC, 'Rekonstruksi Hukum Acara Penyidikan Di Bawah Kejaksaan Berdasarkan Prinsip Dominus Litis' (2025) 23 Proceedings of Seminar Nasional Kebaharuan KUHP Nasional dan Urgensi Pembaharuan KUHAP.

Hakim J, 'Diferensiasi Fungsional Dalam KUHAP: Masih Relevan Atau Menjadi Sumber Masalah' (*hukumonline.com*, 2025) <https://www.hukumonline.com/berita/a/diferensiasi-fungsional-dalam-kuhap--masih-relevan-atau-menjadi-sumber-masalah-lt6751e3743b726?page=all> accessed June 16, 2025.

Harahap MY, *Pembahasan Permasalahan Dan Penerapan KUHAP: Penyidikan Dan Penuntutan* (Jakarta Ghalia 2014).

——, *Pembahasan Permasalahan Dan Penerapan KUHAP: Pemeriksaan Sidang Pengadilan, Banding, Kasasi, Dan Peninjauan Kembali* (Sinar Grafika 2021).

Hodgson J, 'The Police, the Prosecutor and the Juge D'Instruction: Judicial Supervision in France, Theory and Practice' (2001) 41 The British Journal of Criminology.

——, 'Guilty Pleas and the Changing Role of the Prosecutor in French Criminal Justice' (2010) 15 Warwick School of Law Research Paper.

Kesornsiricharoen S, 'The Role and Function of Public Prosecutors in Thailand' *107th Training Course Participants' Papers* (2020).

Martiar NAD, 'Bolak-Balik Berkas Kasus Pagar Laut, Tinggal Tunggu Waktu Kasus Ditutup?' (*kompas.id*, 2025) <https://www.kompas.id/artikel/bolak-balik-berkas-kasus-pagar-laut-tinggal-tunggu-waktu-kasus-ditutup>.

Mou Y, 'Overseeing Criminal Justice: The Supervisory Role of The Public Prosecution Service in China' (2017) 44 Journal of Law and Society.

Pangaribuan AMA, 'Cooperation and Non-Cooperation in Indonesia Criminal Case Processing: Ego Sektoral in Action' (University of Washington 2022).

Peng H, 'Dialectical Analysis of Amandement to The Criminal Procedure Law of China in 2018' (2021) 12 Vestnik of Saint Petersburg University Law.

Ploscowe M, 'Development of Inquisitorial and Accusatorial Elements in French Procedure' (1932) 23 Journal of Criminal Law and Criminology.

Pratidina NMER and Yudiantara IGNK, 'Akibat Hukum Ketidaklengkapan Berkas Penyelidikan Yang Dilakukan Tim Penyidik Dalam Proses Pra-Penuntutan Berdasarkan Perspektif Asas Peradilan Cepat, Sederhana, Dan Biaya Ringan' (2025) 3 Jurnal Media Akademik <https://doi.org/10.62281/v3i7.2648>.

Salet R and Terpstra J, 'Criminal Justice As A Production Line: ASAP and The Managerialization of Criminal Justice in The Netherlands' (2020) 17 Eouropean Journal of Criminology.

Samasaed S, 'The Importance of Fact-Finding in Criminal Trials: A Study of Judges,Work in The Courts of Justice in Thailand' (2022).

Sudibyo AW and Saptomo A, 'Problematika Hukum Prapenuntutan Dalam Pengembalian Berkas Acara Pemeriksaan Oleh Penuntut Umum Kepada Penyidik' (2025) 2 Konstitusi: Jurnal Hukum, Administrasi Publik, dan Ilmu Komunikasi.

Tak PJP, 'The Dutch Prosecutor: A Prosecutinng and Sentencing Officer', *The Presecutor in Transnational Perspective* (Oxford University Press Inc 2012).

United Nations Office on Drugs and Crime and International Association of Prosecutors Guide, 'The Status and Role of Prosecutors' (2014).

Waruwu RP, 'Urgensi Pembaruan KUHAP: Mengapa Kita Membutuhkannya' (*MARI News*, 2025) <https://marinews.mahkamahagung.go.id/berita/urgensi-pembaruan-kuhap-mengapa-kita-membutuhkannya-0z> accessed June 16, 2025.

Zikry I, Ardhan A and Tiara AE, "Prapenuntutan Sekarang, Ratusan Ribu Perkara Disimpan, Puluhan Ribu Perkara Hilang: Penelitian Pelaksanaan Mekanisme Prapenuntutan Di Indonesia Sepanjang Tahun 2012-2014" (2016).

Constitutional Court Decision No. 25/PUU-XXII/2024.

Constitutional Court Decision No. 28/PUU-XXI/2023.

Constitutional Court Decision Number 130/PUU/XIII-2015.

Dutch Code of Criminal Procedure 1926.

Dutch Judicial Organization Act 2020.

French Code of Criminal Procedure 1958.

Thailand Criminal Procedure Code 1934.

--This page is intentionally left blank--