

The Legal Dilemma between Functional Differentiation and Dominus Litis in the Indonesian Criminal Justice System

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Abstract

Law enforcement is fair and effective in creating legal certainty that respects human dignity. In the context of the criminal justice system, legal dilemmas arising from the tension of functional differentiation between police investigators and public prosecutors, especially related to the dominus litis principle, require a constructive approach. Strengthening the role of investigators, clear separation of authorities, and harmonious collaboration between the two institutions are key to building a modern, elegant, and reliable justice system. By turning these challenges into opportunities for innovation, as well as improving efficiency and transparency through technology and training, it is hoped that public trust in the legal system can be maintained, making justice more *accessible* to the entire community. The role of the police as the frontline in solving cases and arresting criminals is crucial in the criminal justice system. As the first responders in the field, police are responsible for conducting initial investigations, collecting evidence, and identifying suspects. With good investigative skills and a deep understanding of the law, the police play a role in ensuring that every step is taken carefully to build a strong case.

After gathering sufficient evidence, the police coordinate with the public prosecutor to ensure that the perpetrator can be brought to justice. This process not only prioritises law enforcement, but also ensures the protection of human rights for all parties involved. As such, the police act not only as law enforcers, but also as protectors of justice underpinning an effectively functioning legal system. This qualitative research method uses a normative juridical approach by comprehensively examining with a literature study approach and analysing it with a literacy approach, a statutory approach and a conceptual analysis approach.

I. Introduction

In the Indonesian judicial system, a significant legal dilemma has emerged with the tension between *functional differentiation* and the principle of *dominus litis*. Functional differentiation positions the court to play an active role in regulating the litigation process, which sometimes conflicts with the principle of *dominus litis* by autonomous parties when controlling and directing the traffic of a case. The dilemma of tension opens space for challenges to justice in the process of legal system efficiency, when the court must maintain a balance between the involvement of a criminal act to ensure justice to the parties to determine and formulate legal strategies that are enforced. A comprehensive and radical understanding of the interaction between these two principles, goes a long way in enhancing the legitimacy, effectiveness and harmonisation of the criminal justice system in Indonesia.

The criminal justice system is essentially synonymous with the criminal law enforcement system¹ to tackle the problem of organised crime² flexibly charged with protecting society, maintaining order, enforcing the law, identifying overreach, bringing criminals to justice and improving the quality of life of criminal behaviour.³

Jeremy Travis' illustration in Joko Sriwidodo,⁴ that the Criminal Justice System is in the form of a funnel on the number of crimes committed through police operations then proceeds to the prosecutor and enters the court room which ends with prisons and community institutions. This illustration illustrates that the criminal justice system has been carried out according to the role of each institution which has a working relationship that is related and mutually reinforcing.

The criminal justice system cannot stand alone without a complex network and collaborative linkages between various institutions. Each institutional component, from the police to the prosecution to the courts, plays a crucial role in ensuring justice and law enforcement. This cohesion creates synergies that are essential for an effective legal process, where information, evidence and decisions are interconnected. Without harmonious coordination, loopholes in the system can arise, resulting in injustice and weakened public trust in the legal process. Inter-agency synergy is therefore an indispensable foundation in building a well-functioning criminal justice system with integrity

Manuscripts in the Law of the Republic of Indonesia Number 8 of 1981 concerning Criminal Procedure become the basis for the emergence of the principle of functional differentiation in the criminal justice system that each law enforcement officer has been assigned their respective fields and functions. The authority of tasks in each law enforcement agency is determined so that there is no overlap and becomes a *patron* for the running of the *law enforcement* ecosystem and institutional alignment in the criminal justice system.

There has been a continuous discourse between the police and prosecutors in relation to the law enforcement process. The discourse between police and prosecutors involves interaction and communication between two law enforcement institutions that have different roles in the justice system. The police are responsible for the investigation, evidence collection, and arrest of suspects, while prosecutors are tasked with prosecuting cases in court and ensuring that the case can be legally proven.

¹ Arief, Barda Nawawi. (2011). *Capita Selecta Hukum Pidana tentang Sistem Pidana Terpadu (Integrated Criminal Justice System)*, Semarang, UNDIP, pp 34-35.

² Reksodiputro, Mardjono. (2007). *Human Rights in the Criminal Justice System. A Collection of Essays*, Jakarta, Centre for Justice and Legal Services, University of Indonesia, pp. 84.

³ Siegel, J. Larry. (2010). *Introduction to Criminal Justice*, Belmont-USA: Wadsworth, pp. 4.

⁴ Sriwidodo, Joko. (2020). *The Development of the Criminal Justice System in Indonesia*, Yogyakarta, Kepel Press, p.4.

Article 1 paragraphs 24 and 25 of the Criminal Procedure Code provide guidelines for each institution to carry out their duties and functions in accordance with their respective authorities. Police authority starting from investigation and investigation is the entrance of a legal process to the court. Of course, before entering the courtroom, the files that have been completed by police investigators will be sent to the prosecutor for further prosecution.

Prosecutors as functional officials are authorised by law as public prosecutors and at the same time as executors of court decisions that have been determined.⁵ Public prosecution in the Criminal Procedure Code is the duty and monopoly authority of the prosecutor which becomes the *dominus litis* principle⁶ by positioning the prosecutor in the middle between the police and judges. The police are upstream of the criminal justice process, the prosecutor is in the middle with full authority to conduct prosecutions and the judge is at the end as the decision maker in the criminal justice system in Indonesia.

Criminal justice is a process that runs and works in several legal institutions. This shows a strong and synergistic relationship between law enforcement agencies that are united in the criminal justice system.⁷ As a system, the law and its mechanisms become *in action* with the involvement of legal elements, namely legal structures, namely processes, legal institutions, namely actors, and legal culture, namely the legal culture itself.⁸

The police and the prosecutor's office form a crucial part of the criminal justice system. The police have direct contact with the perpetrators of criminal offences,⁹ while the prosecutor continues the process of files from the police to conduct public prosecutions to the court room for trial in a court decision by a judge.

The manuscript rules of the Criminal Procedure Code confirm that the *integrated criminal justice system* is the basis for the principle of functional differentiation for law enforcers with all the powers regulated by law according to their main tasks.¹⁰

Barda Nawawi Arief in Andreyani¹¹ explains that there are 4 sub-systems that become an *integrated criminal justice system* as a law enforcement system and judicial power system, namely; 1) the power of investigation by the investigating agency, 2) the power of prosecution by the public prosecutor's office, 3) the power to try or impose a decision by the judicial body, and 4) the power to execute the punishment by the executing apparatus.

In fact, law enforcement agencies, especially between the police and the prosecutor's office, often find *gaps* in handling a criminal case. Although functional differentiation has become the principle of authority in each institution, discommunication always occurs. The dual function of

⁵ See Law of the Republic of Indonesia Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. From here, Law of the Republic of Indonesia Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia was also issued. The Public Prosecutor's Office is a government institution whose functions are related to judicial power that exercises prosecutorial power and other authorities based on the law.

⁶ Hermawan, Theja, Setyawan, Hendra, (2022). *Analysis of the Domitus Litis Principle and Termination of Prosecution Based on Restorative Justice in the Perspective of Government Regulation No. 15 of 2020*, Al-Qānūn: Journal of Islamic Legal Thought and Reform, 25(1): 128-140.

⁷ Husin, Kadri, Husin, Budi Riski. (2016). *Criminal Justice System in Indonesia*, Jakarta, Sinar Grafika, pp. 3.

⁸ Friedmen, M. Lawrence. (1969). *On Legal Developmet*, Rutgers, Law Review, 24-30.

⁹ Santoso, Eddy, Wahyuningsih, Sri Endah. (2018). *The Role of the Police in the Integrated Criminal Justice System Against Gambling Crime*, Journal of Daulat Hukum, 1 (1): 179-190.

¹⁰ Hamanita, Gani. (2023). *The Development of Criminal Justice System in Indonesia*, Journal of Law, Politics and Social Science, 2 (4): 52-64.

¹¹ Andreyani, Bella., Hidayatullah., Suyoto. (2019). *The Authority of Prosecutors as Investigators, Public Prosecutors and Witnesses (Verbalisers) of Corruption in the Perspective of Integrated Criminal Justice*, Journal of Suara Keadilan, 20 (2): 133-160.

the prosecutor's office as investigator and public prosecutor is also an endless legal discussion, although the *dominus litis* principle of the prosecutor's role has made its authority specialised.

Several studies and research have touched on this tension and functional differentiation and *dominus litis*, such as Bella Andreyani's study on the Framework Authority of Prosecutors as Investigators, Public Prosecutors and Witnesses (Verbalisers) of Corruption in the Perspective of Integrated Criminal Justice. This study examines and explores the dual role of prosecutors who are authorised to handle a criminal case.

Similar research was also conducted by Hermawan and Theja on the Analysis of the *Domitus Litis* Principle and Termination of Prosecution Based on Restorative Justice in the Perspective of Regulation No. 15 of 2020 by parsing the *dominus litis* principle in the dominant authority of the prosecutor.

However, another study conducted by Santoso explored the role of the police in the Integrated Criminal Justice System against the crime of gambling, which has an important role in revealing and directly arresting the perpetrators of criminal offences. This is because the police are in direct contact with the criminal, tracing the location and exploring the entire series of events that lead to unlawful acts and criminal offences.

These two law enforcement agencies both have the authority to enforce the law, but in the process of bringing the criminal to the court room to be tried by the Judge, there is always a clash of legal views.

This paper explores this tension by looking at it from the perspective of the law, which defines the duties, tasks and functions of each institution.

2. Research Method

This research uses a qualitative method with a *normative juridical* approach by examining concepts collected from secondary, primary and tertiary sources. This data source is approached with *library research* by referring to research results, expert studies, books, scientific papers and converging the experience of *field notes* that have been compiled in this study.

This research is conducted with descriptive analytical *statute* approach and *conceptual* approach.¹²

3. Results and Discussion

a) Tensions and Contradictions in Court Practice

In Indonesian court practice, the tension between the principles of *functional differentiation* and *dominus litis* creates a complex dynamic, where law enforcement objectives often clash with individual rights. This tension not only reflects the conflict between the role of the state and human rights, but also illustrates fundamental contradictions in the application of the law that can hinder the fairness and efficiency of the criminal justice system.

Coordination and communication between law enforcers, especially institutions included in the criminal justice system, is infiltrated by perceptual tensions between the police as investigators who have an equal position with the prosecutor's office as a public prosecutor.¹³ Investigators from the police and public prosecutors often clash on the basis of differences in the perspective

¹² Marzuki, Peter Mahmud. (2013). *Legal Research*, Jakarta, Kencana Prenada Media Group, p. 133.

¹³ Riyanto, Adi, Tiar. (2021). *Functionalisation of Dominus Litis Principle in Criminal Law Enforcement in Indonesia*, *Lex Renaissance*, 3 (6): 481-492

of a criminal case with their own domain.¹⁴ The principle of *dominus litis* for the prosecutor as the authority of the case is very authorised to continue a case to be prosecuted to court.¹⁵

As the foremost law enforcement agency,¹⁶ it is the duty of the police to conduct investigations and inquiries into the context of a case that is being litigated. The police collect evidence, make arrests, identify suspects and prepare investigation reports. In-depth analysis of an investigation requires an audit of documentation, chronology, *deep interviews*, collection of supporting evidence and witness statements. In the midst of the process, police investigators are often subjected to the pressure of intervention from certain parties that can change the objectivity and independence of investigators in ongoing cases. Of course, the results can change the public's perspective on the police institution which blurs the principle of police functional differentiation.

On the other hand, the results of the police investigation are forwarded to the prosecutor who has the authority to determine whether the criminal case can be continued to court or must be silenced without continuing. The *dominus litis* principle of the prosecutor's authority raises the tension that police investigators feel that they have sufficiently completed all forms of files and supporting equipment to bring a suspect to the defendant's room,¹⁷ but the prosecutor with his authority as a public prosecutor may judge the results of the police investigation to be inadequate, or irrelevant, and or not enough files to complete the evidence of a case that can be forwarded to the court room.

In the practice of the criminal justice system, tensions and contradictions often arise between the police and the prosecutor's office. Both have different but interrelated roles in law enforcement. While the police are responsible for investigation and arrest, the prosecution is responsible for prosecution and representation in court. A mismatch in functions and objectives can create tensions that impede a fair trial.

This tension has led to dissatisfaction among police investigators who feel that their laborious work is underappreciated. The implication is that there are unclear boundaries of responsibility as if the performance of police investigators is under the guidance of prosecutors if a case file can or cannot be forwarded to court. In addition, *public trust* is bound to attack the police institution which is considered to be "*flirting*" with each case that there has been a discrepancy between the facts, investigation and prosecution.

The contradiction between the two institutions is due to weak synergy with work patterns based on different conditions such as how to view a case, complete evidence, different working hours because the police and prosecutors do not work the same time. Prosecutors who are still classified as state civil apparatus (ASN) are bound to work with working hours and holidays. Meanwhile, police investigators must continue to complete the work without being constrained by holidays or holidays. This condition also becomes a crucial issue when police investigators are chased by time for the prosecution of a case, while the research of filings carried out by the public prosecutor (JPU) is still delayed due to holiday time.

The ability and skills of law enforcement figures and law enforcement agencies are a form of professionalism,¹⁸ police and prosecutors as state institutions play an important role in

¹⁴ Surachman, R.M., Andi Hamzah. (1994). *Prosecutors in Various Countries (Their Role and Position)*, Sinar Grafika, Jakarta, 1994, pp. 5.

¹⁵ Surachman, RM. (1996). *Mozaik Hukum I: 30 Selected Languages*, Sumber Ilmu Jaya, Jakarta, 1996, pp. 83.

¹⁶ Rahardjo, Satjipto. (2002). *Civilian Police in Social Change in Indonesia*, Jakarta: Kompas Book Publishing, pp. 25

¹⁷ Adji, Indriyanto Seno. (2011). *KUHAP in Prospective*, Diadit Media, Jakarta, pp. 92.

¹⁸ Ali, Ahmad. (2009). *Uncovering Legal Theory and Judicial Prudence*, Jakarta, Kencana, p. 204. 204.

enforcing the law in providing services, protection to the community in order to uphold and create a just law.

Before entering the courtroom, the police become the main door to reveal and prove the existence of a criminal act. A criminal offence case has at least 3 *triangle* evidence including;¹⁹

- a) Crime scene, which refers to the location where a criminal offence took place, is crucial in the criminal justice system. Crime scenes serve as an important source of information that allows investigators to gather evidence, such as traces, exhibits, and information relevant to the case. Crime scene analysis not only helps in uncovering the facts of the incident, but also in reconstructing the sequence of events. Proper handling of crime scenes is crucial to maintaining the integrity of evidence in court, where mismanagement can affect the outcome of legal proceedings. With the development of technology, crime scenes also now encompass the digital space, where online data and traces become an important element in the investigation. Overall, a good understanding and handling of crime scenes is key to upholding justice and public trust in the legal system.
- b) A victim is a person who is physically or materially harmed by a criminal offender such as a living or dead human victim. In a legal context, it refers to an individual or group that suffers loss, suffering, or negative impact as a result of a criminal offence. The meaning of victim is not only limited to physical or financial aspects, but also includes emotional and psychological impacts that can last long after the incident. In the justice system, an understanding of victims is crucial to ensure the protection of their rights. This includes the right to justice, rehabilitation, and reparation. A sensitive approach to the victim's experience can aid the healing process and reintegration into society. Socially, victims also reflect broader challenges in society, including issues such as violence, discrimination, and injustice. By recognising and understanding the role of victims, we can develop more effective strategies for crime prevention and recovery, and promote awareness of the need for protection for those affected by crime.
- c) Evidence refers to any object, document or information obtained during an investigation and used to support or refute claims in a legal case. The significance of evidence is crucial, as it serves as the basis for proving relevant facts in court. The quality and validity of evidence can affect the outcome of a case, making it important to handle and store evidence with strict procedures. In addition, evidence also plays a role in providing justice for victims and ensuring that the legal process is transparent and accountable. In a broader context, evidence reflects the integrity of the justice system and efforts to enforce the law objectively, protecting the rights of all parties involved

Of the three pieces of evidence, the police still have difficulty unravelling the case, therefore another methodology is needed in unravelling the case, namely through a *forensic* science that is tested in the police *forensic* laboratory.²⁰

The dossier that has been sent by the investigator must be returned or called P19, sometimes

¹⁹ Brahmana, H.S. (2014). *Criminalistics and the Law of Evidence*, Langsa, LKBH Faculty of Law, Universitas Samudra, pp. 18

²⁰ Rachmad, Andi. (2019). *The Role of Forensic Laboratory in Uncovering Criminal Offences at the Investigation Level*, Samudra Keadilan Law Journal, 14 (1): 15-24.

without sufficient information, making it difficult for police investigators to complete additional material to finalise the case file proposed for trial. This condition certainly adds to the *stress of* work and is overwhelming for the investigators themselves. The return of case files from the prosecutor also takes too long so that investigators are hampered by time which can have an impact on the negative view of the public on the performance of investigators.

The task of the Police in unravelling a case so that it can be brought to the courtroom is a very heavy and complex burden. The process involves a series of steps that require rigour, expertise and dedication. *Firstly*, investigators must conduct evidence collection at the scene of the crime, which includes not only taking evidence, but also interviewing witnesses and observing the wider social context. The quality of evidence is crucial and weak or invalid evidence can lead to failure in prosecution. *Secondly*, Polri also faces challenges in terms of time and public pressure. Certain cases, especially those involving serious or public crimes, often receive intense media scrutiny, increasing public expectations for quick and satisfactory results. *Thirdly*, Polri must operate within strict legal and ethical boundaries, ensuring that the investigation process does not violate the rights of the individuals involved. Given these challenges, Polri's dedication to solving cases is not only a test of professionalism, but also reflects their commitment to justice and the integrity of the legal system.

Once the police have finalised the investigation file, the task of the public prosecutor (JPU) becomes crucial in the judicial process. The prosecutor is responsible for carefully reviewing the file, ensuring that all the evidence is strong enough to support charges in court. *Firstly*, the prosecutor must evaluate the quality of the evidence and the appropriateness of the legal procedures followed during the investigation. This includes checking the legality of evidence collection and the validity of witnesses presented. If there are weaknesses, the prosecutor has the authority to return the file to the investigator for correction or additional evidence. *Secondly*, the prosecutor formulates a clear and comprehensive indictment, covering the elements of the criminal offence committed. This is a crucial stage that will determine the direction of the trial. In the trial process, the prosecutor acts as the plaintiff, in charge of presenting arguments, presenting witnesses, and presenting evidence before the judge. *Third*, the prosecutor must also maintain a balance between law enforcement and the protection of human rights, ensuring that the legal process is fair and transparent. With this great complexity and responsibility, the role of the Public Prosecutor not only determines the outcome of a case, but also reflects the integrity of the justice system as a whole.

In the law enforcement process, tensions arise between the police and public prosecutors that can result in contradictions in court practice. These tensions are generally triggered by differences in the focus and priorities of each institution which are underpinned by several tension factors including:

1. *Differences in Objectives*. The police focus on gathering evidence and solving cases quickly, while the prosecutor is more concerned with the quality of evidence and compliance with legal procedures. When the Police rush an investigation, the evidence produced may be inadequate, fuelling the Prosecutor's dissatisfaction.
2. *File Quality*. Often, the files that the Police submit to the Prosecutor do not meet the expected standards. If the file is weak, the Prosecutor may have to return it for correction, which can lead to frustration and arguments between the two parties.
3. *External Pressure*. Pressure from the public and media to resolve certain cases quickly can create tension. The police may feel burdened to arrest suspects quickly, while prosecutors must uphold the principles of justice and legality.

4. *Ineffective Communication.* Lack of coordination and communication between the Police and Prosecutors often leads to misunderstandings. This can result in incomplete or inaccurate information being conveyed in legal proceedings.

These tensions can result in contradictions in court practice, where cases that should have been properly tried are stalled or even cancelled due to problems at the investigation level. Dissatisfaction between the two institutions not only affects public confidence in the legal system, but can also create legal uncertainty for defendants and victims.

Protracted and lengthy judicial processes have the potential effect of legal uncertainty, because speed and efficiency in resolving criminal cases can ensure timely justice.²¹ To overcome public dissatisfaction and legal uncertainty, it is necessary to improve the quality of communication within law enforcement agencies.²²

To ease tensions between the Police and Public Prosecutors, strategic measures focussing on collaboration and communication are necessary. *Firstly*, establishing effective communication channels through regular forums can help both institutions share information and discuss challenges faced, thereby reducing misunderstandings. *Second*, joint training on legal and ethical procedures can improve each party's understanding, strengthening synergies in case handling. *Third*, the development of clear standard operating procedures (SOPs) will ensure consistency in investigations and prosecutions, reducing the risk of errors. *Fourth*, strong management support in encouraging a collaborative culture will strengthen commitment to justice and boost members' morale. With these measures, tensions can be eased, resulting in a fairer and more effective legal process.

d) The Effectiveness of Law Enforcement on the Criminal Justice System

Law enforcement through evidence in criminal cases is very important in determining the settlement of cases.²³ The effectiveness of the criminal justice system to address criminality can be improved through criminal law reform.²⁴

Effective law enforcement is the main pillar in the criminal justice system that serves to maintain justice and social order.²⁵ In this context, the effectiveness of law enforcement is not only measured by the number of cases resolved, but also by the quality of justice delivered.

An effective criminal justice system includes three main components: professional investigations, transparent trials, and fair execution of sentences.²⁶ Good investigations ensure that each case is taken seriously, minimise abuse of power, and protect individual rights. On the other hand, transparent and accountable courts play an important role in increasing public confidence in the legal system, while fair execution of sentences promotes the rehabilitation and reintegration of offenders into society.

One manifestation of the state's duty to enforce the law is by establishing legal institutions in

²¹ Siagian, Rumondang, Putri, et al. (2021). *Juridical Review of the Prohibition of Pretrial Submission by Persons with Wanted List Status*, Journal of Legal Studies Iuris Studia, 2 (8): 581-590.

²² Muksin, Samara, Rastra, Muchlas. (2023). *The Purpose of Punishment in Indonesian Criminal Law Reform*, Journal of Sepientia et Virtus, 8 (1): 225 - 247.

²³ Budianto, Jocelyne Tika, et al. (2024). *The Effectiveness of Evidence Law in the Settlement of Criminal Cases*, Journal of Legal Sciences, 2 (1): 15-20.

²⁴ Taufano, Sebastian Nayaka Arella, Yusuf, Hudi. (2024). *Criminal Law Reform to Improve the Effectiveness of the Justice System in Overcoming Criminality*, Journal of State Intellectuals and Scholars, 1 (2): 2495-2509.

²⁵ Sanyoto. (2008). *Law Enforcement in Indonesia*, Journal of Legal Dynamics, 8 (3): 199-204.

²⁶ Shafira, Maya, et al. (2022). *Criminal Justice System*, Bandar Lampung, Pusaka Media, pp. 72-75.

the criminal justice system that are able to reflect justice.²⁷ Law enforcement that is still perceived as inequality, reflects the existence of welfare and injustice.²⁸ Through the effectiveness of law enforcement in the criminal justice system, it opens up space for parties who are undergoing cases to be given an attitude of not accepting decisions, or defending themselves against decisions that are considered objectionable by taking other legal remedies.²⁹

In an effort to build a just and civilised society, fair and effective law enforcement plays an important role. Law enforcement is not just the application of rules, but also reflects fundamental human values. When the law is enforced in a fair manner, individuals have their rights protected without discrimination, creating a sense of security and public trust in the legal system.

The success of just law enforcement is reflected in legal certainty that prioritises human dignity. This means that every legal decision must consider the social context and human values. Thus, people do not only see the law as an instrument of coercion, but also as a means to achieve social justice.

Through effective law enforcement, human rights can be protected and prioritised. This creates an environment where individuals feel valued, and justice can be achieved. In the long run, this will strengthen the foundations of democracy and support sustainable social development, making law a key pillar in ensuring a dignified life for all citizens.

The effectiveness of the criminal justice system plays a crucial role in overcoming the legal doubts and dilemmas often faced by law enforcement agencies.³⁰ A well-functioning justice system not only provides clear procedures, but also ensures that every legal process is carried out with transparency and accountability.

When the criminal justice system functions optimally, it creates certainty for law enforcement in making decisions. With clear guidelines and regulations in place, law enforcement agencies can carry out their duties without being caught up in uncertainty or conflicts of legal interpretation. This reduces the risk of abuse of power and increases public confidence in the legal process.

In addition, the effectiveness of the justice system also contributes to the reduction of crime rates, as there is confidence that lawbreakers will be dealt with fairly and firmly. As such, law enforcement agencies can operate in a more conducive and proactive environment, supporting the creation of a safer and more orderly society. Through effective law enforcement, complex legal dilemmas can be better addressed, making the judiciary a tool that not only upholds justice, but also strengthens the integrity of the legal system as a whole.

e) Analysing the Legal Dilemma Between the Position of the Police and Prosecutors

The police are a subsystem of the criminal justice system that has direct contact with criminals and the public. The responsibility of the police is much greater, especially in solving cases and

²⁷ Dahlan. (2017). *Problematics of Justice in the Application of Punishment for Narcotics Abuse*, Yogyakarta, Deepublish, pp. 2.

²⁸ Mahfud MD, Moh. (2006). *Building Legal Politics, Upholding the Constitution*, LP3ES Library, Jakarta, 2006, pp. 187-188.

²⁹ Ridha, Muhammad. (2021). *The Effectiveness of Cassation in the Interest of Law in the Criminal Justice System*, Lex Renaissance Journal, 1(6): 42-56.

³⁰ Mawardi, Chalik, Al Akhdloriy, Abdurrahman. (2024). *Modern Challenges in Maintaining Judge Integrity: Overcoming Threats to Professional Dignity*, Jatijajar Law Review, 3(1): 15-24.

also ensuring their main duties and functions as enforcers of security, public order, implementing the law and providing protection of public services. The position of the police is regulated in Law Number 2 of the Republic of Indonesia of 2002.³¹

Prosecutors are also a subsystem of the criminal justice system with their authority as public prosecutors who must receive and examine investigation case files from investigators. This authority of the Prosecutor is regulated in Law Number 16 of 2004.³² Initially, the authority to investigate was owned by the Prosecutor's Office, and the police were positioned as assistants to the Prosecutor, but after the implementation of the Criminal Procedure Code regulated in Article 5 to Article 7, the authority of the police became focused and specialised as investigators.³³

The attitude of blaming each other is often reflected from these two institutions in handling cases,³⁴ although it is recognised that achieving the objectives of the criminal justice system is not easy because it requires the expertise and skills of law enforcement officers, especially investigators and public prosecutors, to mature a case so that it is suitable for trial.³⁵

In an effort to create an effective and equitable legal system, it is important to emphasise the authority between law enforcement agencies, such as the police and the prosecutor's office.³⁶ Each agency has specific roles and responsibilities in the law enforcement process, and a clear separation between them will avoid the potential for *sectoral egos* that can hinder collaboration and effectiveness.

The police serve as the frontline in maintaining public security and order, conducting investigations, and collecting evidence. Meanwhile, the prosecution is tasked with prosecuting and ensuring that the legal process runs in accordance with the principles of justice. By emphasising their respective authorities, these two institutions can complement and support each other, creating a positive synergy in law enforcement.

In addition, clear separation also helps prevent overlap in duties and functions, allowing each institution to operate more efficiently and focused. This will improve accountability, transparency and public trust in the justice system. Thus, affirming the authority between the police and the prosecutor's office is not only important to avoid *sectoral ego*, but is also a strategic step in building the integrity and effectiveness of a justice system that is oriented towards justice and the protection of human rights.

The role of police investigators in the criminal justice system is crucial, making them the spearhead in the disclosure and arrest of criminal cases. Investigators are not only responsible for collecting evidence, but also serve as guardians of justice at the initial level of the legal process. Strengthening the role of investigators is a must, given the increasingly complex challenges in the field of crime today.

³¹ Shafira, et al. (2022). *Opcit*, p, 60.

³² *Ibid*, p. 67.

³³ *Ibid*, pp. 60.

³⁴ Gunakaya, Widiaya. (2011). *Solution to Investigation Problems in the Framework of Criminal Justice System Effectiveness and Recommendations for the Establishment of Advanced Investigation Institutions in the Renewal of KUHAP*, Journal of Legal Insights, 24 (1): 269-297.

³⁵ Wulandari, Sri. (2012). *The Effectiveness of the Prisoner Development System in Correctional Institutions towards the Purpose of Punishment*, Journal of Law and Community Dynamics, 9 (2): 131-142.

³⁶ Sihombing, Dedy Chandra, et al. (2023). *Strengthening the Authority of Prosecutors as Dominus Litis as an Effort to Optimise Restorative Justice-Oriented Criminal Law Enforcement*, Locus: Journal of Legal Science Concepts, 3(2): 63-75.

To improve the effectiveness of investigators, there is a need for more in-depth training in investigation techniques, case analysis, and up-to-date understanding of the law. This will ensure that investigators have sufficient competence to deal with various situations encountered in the field. In addition, adequate technological support, such as information systems and forensic tools, is essential to speed up the process of data collection and analysis.

Strong and well-trained investigators will be able to perform their duties better, so as to reveal the truth and resolve criminal cases effectively. This not only increases the success rate in handling cases, but also builds public confidence in the police institution as law enforcement.

Thus, strengthening the role of police investigators is a strategic step in creating a more responsive, effective and justice-orientated criminal justice system. This will contribute to the creation of a safer and more orderly society, where law enforcement can take place in a consistent and equitable manner.

The legal dilemmas arising from tensions between police and prosecutors should not be viewed as obstacles, but rather as challenges that trigger innovation in creating a more modern, elegant, reliable and comprehensive criminal justice system. These tensions, if managed well, can be a catalyst for deep reforms in law enforcement practices.

In the face of these challenges, it is important to build stronger collaboration between the two agencies. By improving communication and mutual understanding, police and prosecutors can work together more effectively, formulating holistic strategies in handling criminal cases. This team-based approach will encourage the exchange of ideas and experiences, and strengthen accountability in the legal process.

Modernising the criminal justice system also requires the application of innovative technologies, such as digital case management systems and data analytics, to improve efficiency and transparency. Thus, every step in the law enforcement process can be carried out more quickly and accurately, giving the public confidence that justice is served with integrity.

Finally, this challenge also presents an opportunity to strengthen education and training for members of both institutions, so that they are prepared for the changing dynamics of the law. By utilising this legal dilemma as a momentum for transformation, we can create a criminal justice system that is not only responsive, but also able to provide true justice for the entire community.

Recommendation

Addressing the legal dilemmas that arise from the tension of *functional differentiation* between police investigators and public prosecutors requires a *strategic* and *collaborative* approach. One of the key recommendations is to strengthen inter-agency communication and coordination. By establishing effective communication mechanisms, both parties can understand each other's roles and responsibilities, reducing potential overlaps or conflicts of interest that could arise.

In addition, it is important to establish clear guidelines regarding the *dominus litis* principle, which emphasises that investigators have a role in gathering evidence while prosecutors have the authority to determine the feasibility of prosecution. Joint training between investigators and prosecutors could be conducted to improve understanding of each other's functions and boundaries, and strengthen teamwork in case handling.

Strengthening oversight and accountability systems should also be considered. With clear oversight mechanisms in place, every decision in the legal process can be evaluated to ensure that there is no abuse of power, and that justice always comes first.

Through these measures, it is hoped that tensions between investigators and prosecutors can be minimised, creating a more harmonious working environment. This will not only improve the effectiveness of law enforcement, but will also strengthen public confidence in the criminal justice system as a whole.

4. Conclusion

The conclusion of this discussion confirms that equitable and effective law enforcement is key in creating legal certainty that respects human dignity. In the context of the criminal justice system, legal dilemmas arising from the tension of *functional differentiation* between police investigators and public prosecutors, especially related to the *dominus litis* principle, need to be addressed with a constructive approach.

Strengthening the role of police investigators as the frontline in evidence collection and law enforcement must be balanced with a clear understanding of the prosecutor's authority as the controller of the prosecution process. A clear separation of the functions of each institution, accompanied by good communication and harmonious collaboration, can encourage the creation of a modern, elegant and reliable justice system.

The implementation of effective communication mechanisms and joint training between the two agencies will strengthen synergies, allowing investigators and prosecutors to work in a complementary manner in handling criminal cases. By utilising advanced technology and information systems, the efficiency and transparency of the legal process can be improved.

By turning this dilemma into a challenge, we can facilitate innovation in law enforcement, build public trust, and ensure that justice is accessible to all. A shared commitment to continuous learning and adaptation will be a strong foundation for a better criminal justice system in the future, where every individual can feel safe and protected in a fair legal process.

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