

Legal Certainty in the Reconstruction of the Dominus Litis Principle Concerning Connectivity Cases in the Criminal Justice System

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Abstract

The criminal justice system is a law enforcement mechanism aimed at achieving legal certainty, justice, and the protection of human rights. This study aims to examine: (1) how the *dominus litis* principle should be reconstructed regarding the prosecutor's authority in koneksitas cases; and (2) the certainty of the prosecutor's authority as the Public Prosecutor in relation to Article 170 of the Criminal Procedure Code (KUHP) within the context of koneksitas cases. This study employs a socio-legal (juridical-empirical) research method. The study concludes the following: (1) The dominus litis principle serves as the legal foundation for the authority of the Public Prosecution Service within the criminal justice system, positioning the Public Prosecutor as the authority responsible for determining the viability of referring a case to court based on valid evidence. Thus, the dominus litis principle ensures a fair, consistent, and accountable prosecution process, as reinforced by the KUHP. (2) Prosecutors hold the position of case controllers (dominus litis), as affirmed in Article 18 paragraph (1) of Law Number 11 of 2021 concerning the Public Prosecution Service of the Republic of Indonesia, which designates the Attorney General as the supreme public prosecutor. However, the practice of handling koneksitas cases such as a murder case involving a prospective Indonesian Navy non-commissioned officer still reveals a separation of judicial proceedings between civilian and military perpetrators; this creates legal uncertainty and fails to reflect the optimal application of the dominus litis principle by prosecutors.

Keywords

Connected Criminal Cases, Dominus Litis, Prosecutor



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INTRODUCTION

The criminal justice system is a process of criminal law enforcement, therefore the criminal justice system is very closely related to the criminal laws and regulations themselves, both substantive criminal law and criminal procedural law. It is said that this is because the criminal law is basically an in abstracto law enforcement that will be realized in criminal law enforcement in concerto. According to Mardjono, the Criminal Justice System (SPP) or Criminal Justice System (CJS) is a system in a society

to overcome crime problems and can distinguish the meaning between the Criminal Justice Process (CJP) and the Criminal Justice System (CJS). The Criminal Justice Process (CJP) is every stage of a verdict that exposes a suspect to a process that leads to a criminal determination. Meanwhile, the Criminal Justice System (CJS) is an interconnection between the decisions of each agency involved in the criminal justice process.

The criminal justice system as part of government administration is essentially also bound by provisions, namely the implementation of the judicial process by the components of the criminal justice system must be based on the authority possessed by each component in moving the management of criminal justice administration must receive serious attention not only because of the issue of the validity of the actions of law enforcement officials, but more substantially because every action of law enforcement officials that has no basis in authority will give birth to violations of human rights, in carrying out its duties and functions must really have a strong legal basis because it is related to human rights.

Law enforcement is certainly highly dependent on the role of Law Enforcement Officers, hereinafter referred to as APH, in carrying out the law in order in Indonesia. APH in a broad sense is a law enforcement institution. Meanwhile, in a narrow sense, APH is a police, prosecutor, and judge who refers to the profession and not to the institution. As a government institution that exercises state power in the field of prosecution and other duties based on laws and regulations, the Prosecutor's Office requires a single mindset, conduct and work procedures of the Prosecutor by remembering norms, religion, morals, politeness and paying attention to the sense of justice and human values in society.

Normatively (*das sollen*) the duties and obligations of the prosecutor's office can be said to be perfect, covering quite a wide range of things. The prosecutor's office or especially the prosecutor has a position as a representative of the State in the judicial field. The definition of a prosecutor is a functional official who is authorized by law to act as a public prosecutor and the implementation of court decisions that have obtained permanent legal force and other authorities based on the law. The functional position of the prosecutor is a position of technical expertise in the organization of the prosecutor's office which because of its function allows the smooth implementation of the prosecutor's duties. The prosecutor is appointed and dismissed by the Attorney General who is the leader and the highest person in charge of the prosecutor's office, controlling the implementation of the duties and authorities of the prosecutor's office.

In the case of criminal cases, the position of the Prosecutor's Office is decisive because it is a bridge that connects the investigation stage with the examination stage in the court session. A new case can be tried if there is a criminal charge from the Public Prosecutor (JPU), because only the Public Prosecutor has the authority to make charges, this is also known as the principle of *dominus litis*. In accordance with this principle of *dominus litis*, the determination and control of prosecution policies is only in one hand, namely the Prosecutor's Office.

The principle of *dominus litis* places the position of the Prosecutor as the controller of the case, which has a central position in law enforcement, because only the institution of the Prosecutor's Office can determine whether a case can be submitted to the Court or not based on valid evidence according to the Criminal Procedure Law. The prosecutor in the Criminal Procedure Code (KUHP) is a public prosecutor and not an investigator. This means that the Prosecutor as the public prosecutor controls the case when the case file has been declared complete and transferred to the court for trial.

This issue becomes even more complex when it is associated with the authority of the Attorney General as the highest public prosecutor, as stipulated in Article 18 paragraph (1) of Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia and Articles 170-172 of the Criminal Code, especially in the settlement of connectivity cases between civil and military law subjects. This research is important to analyze philosophically, normatively, and empirically how the principle of *dominus litis* and the authority of the Attorney General can be reconstructed to reflect the legal ideals of Pancasila that are fair, certain, and beneficial to society. Therefore, it is necessary to conduct research on "Legal Certainty in the Reconstruction of the Principle of Dominus Litis for Connectivity Cases in Criminal Justice".

The purpose of this study is to reconstruct the principle of *dominus litis* as the authority of the prosecutor and for the certainty of the authority of the prosecutor as the Public Prosecutor (JPU) if it is associated with article 170 of the Criminal Code in connection cases. The results of this research are expected to provide benefits/benefits for the parties, both theoretically, practically and for other general public.

METHODS

This research method is classified as normative juridical research, namely legal research that conducts law as a system of norms. Research or research means searching, that is, searching for answers to a problem, in research methods are needed as a way or technique in order to realize the research plan. According to Soerjono Soekanto in Zainudin, legal research is a scientific activity based on certain methods,

systematics and thinking, which aims to study one or several general symptoms of certain laws by analyzing them, then trying to find a solution to these problems.

This research is a normative research and also this research is descriptive-comparative. By using the object of research study in the form of existing libraries, relevant books, legislation, Islamic law rules, journals and regulations that have a correlation to the discussion of the problem. The data collection techniques used in this study are Literature Studies and Document Studies. In this study, the analysis used is qualitative which is a research method that produces descriptive data, namely what is stated in writing, using qualitative analysis, after the data is processed then analyzed using qualitative analysis.

FINDINGS AND DISCUSSION

Reconstruction of the Principle of Dominus Litis as the Authority of the Prosecutor

The Prosecutor's Office is a state institution that has the duties and functions of criminal law enforcement that should work independently without the influence of other institutions or powers such as the executive and legislature. In the dependency of the Prosecutor's Office, it is inseparable from the beginning of this institution's establishment. According to Indriyanto Seno Adji, the legalization of the implementation of the authority and function of the Attorney General's Office to fulfill its mandate must be based on a legitimacy on a more acceptable constitutional basis. In carrying out the highest prosecution function, the Attorney General's Office must be given duties and authorities that are independent of the highest executive power.

The authority of the Prosecutor's Office is related to the principle of dominus litis (Ruler of Cases) where the Prosecutor's Office as the controller of the case process has a central position in law enforcement, because only the institution of the Prosecutor's Office can determine whether a case can be submitted to the court or not based on valid evidence as per the criminal procedure law. The principle of dominus litis emphasizes that no other body has the right to prosecute other than the Public Prosecutor which is absolute and monopolistic. The Public Prosecutor is the only institution that owns and monopolizes the prosecution and settlement of criminal cases.

Based on the explanation of the principle of dominus litis that has been stated above, basically the Attorney General's Office has a monopoly on the power not only to prosecute but also as a party that owns the case, who controls or directs the case, and who has an interest in determining the case. Based on this principle, only the Prosecutor's Office has the authority to determine the case.

As a subsystem of criminal law enforcement, what is carried out by the Prosecutor's Office is to carry out the prosecutorial authority that plays an important role in the criminal justice system, namely as a case controller or *dominus litis*, where only the Prosecutor's Office can determine whether a case can be brought to court or not based on strong evidence in accordance with the Criminal Procedure Code and the Prosecutor's Office is also the only executor of criminal judgments in Indonesia. The position of the Prosecutor's Office in Indonesia as one of the subsystems that carry out law enforcement in Indonesia is inseparable from the basic principles that must be adhered to by the Prosecutor in carrying out his professional activities. The Prosecutor as part of the judicial function must be independent without the interference of other institutions or powers, this is proof of the independence of the Prosecutor's Office as a law enforcement institution.

The Prosecutor's Office has a central position in criminal law enforcement, because the Prosecutor's Office can determine whether a case or case can be brought to court or not based on strong evidence in accordance with the Criminal Code. In legal theory, the authority of the Prosecutor's Office in determining a case can be brought to court or not known by the principle of *dominus litis*. As expressed by Fachrizal Afandi:

"Instead of being the *dominus litis* (prosecutor in charge of cases), the prosecutor looks more like a police 'postman' to prosecute almost all criminal case files received from the police. As a result, Indonesia's criminal justice system will be flooded with cases and prisons will become overcapacity."

In accordance with the principle of *dominus litis*, the Prosecutor's Office has the main task of harmonizing between the applicable rules (*rechtmatigheid*) and interpretation based on the principle of purpose or principle of usefulness (*doelmatigheid*) for a case whether the case will be continued to the court or not. In addition to pre-prosecution, other problems that arise are due to the variety of regulations that create disintegration, insynchrony, and disharmony in the relationship between Investigators and Public Prosecutors in the Indonesian criminal justice system as Jan S. Maringka argues: "Institutional conflicts between law enforcement agencies are increasingly opening the way for the structuring of the criminal procedural law which has long been felt to need change. The Criminal Procedure Code does not meet all expectations for the protection of human rights, institutional relations between law enforcement such as the back and forth of cases, and other problems that are felt to interfere with the sense of justice in the implementation of the Criminal Procedure Code".

The principle of *dominus litis* in the Indonesian criminal procedural law system cannot be separated from the institutional construction of prosecution adopted in the

national criminal justice system. Conceptually, *dominus litis* places the public prosecutor as the master of the case, namely the party who has the authority to determine whether a case is worthy of being submitted to the court or not. In the context of positive Indonesian law, this authority is attributively given to the Prosecutor's Office of the Republic of Indonesia as a state institution that exercises state power in the field of prosecution. The meaning of case control in this principle is not just administrative authority, but substantive authority to assess the adequacy of evidence, the relevance of the juridical construction, and the legal interests to be enforced through the criminal justice process.

The normative basis of this principle is explicitly reflected in the Criminal Procedure Code. Article 1 number 9 of the Criminal Procedure Code defines a prosecutor as a civil servant with a functional position that has specificity and carries out his duties, functions, and authorities based on the Law. Article 1 number 10 defines the Public Prosecutor, a prosecutor who is given the authority to prosecute and carry out the determination of judges. Furthermore, Article 69 of the Criminal Procedure Code emphasizes that the public prosecutor is authorized to prosecute defendants within their jurisdiction and delegate cases to the district court with the authority to adjudicate. This norm shows that the public prosecutor is the only entrance to criminal cases before the court.

The centralistic meaning of this authority is further clarified in Article 69 of the Criminal Procedure Code which states that after the public prosecutor receives or re-accepts the results of a complete investigation from the investigator, he immediately determines whether the case file is eligible to be transferred to the court. The phrase "determining whether the case file has been qualified" has the consequence that the evaluative authority lies entirely with the public prosecutor. The investigator does have the authority to conduct an investigation, but the final decision to bring the case to the judicial realm rests with the prosecutor. Thus, the normative construction of the Criminal Procedure Code systematically affirms the existence of the principle of *dominus litis* in the Indonesian criminal procedure law system.

From the perspective of the state of law, this authority must be understood within the framework of the principle of legal certainty. The principle of legal certainty is a logical consequence of Indonesia's character as a state of law as affirmed in the 1945 Constitution of the Republic of Indonesia, especially Article 1 paragraph (3). In addition, Article 28D paragraph (1) of the 1945 Constitution guarantees everyone's right to fair legal recognition, guarantee, protection, and certainty. Legal certainty in the context of prosecution requires clarity of authority, clarity of procedures, and the

existence of a control mechanism for the exercise of this authority. Without legal certainty, the authority of dominus litis has the potential to turn into uncontrollable discretion.

The institutional position of the prosecutor's office as the holder of the principle of dominus litis is further affirmed in Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia as amended by Law Number 11 of 2021. In the law, it is emphasized that the prosecutor's office is a government institution that exercises state power in the field of prosecution independently. This independence is the main prerequisite for the principle of dominus litis to be carried out objectively and professionally. Without in dependence, the prosecutor's authority is vulnerable to being influenced by political intervention or external pressure which ultimately reduces legal certainty.

Based on the overall analysis, it can be understood that the meaning of the principle of dominus litis in the Indonesian criminal procedure law system is not just a symbol of prosecutorial power, but an institutional instrument to ensure legal certainty. Legal certainty is reflected in the clarity of the division of authority between investigators and public prosecutors, the existence of binding procedural standards, and the availability of supervision mechanisms through pretrial and internal hierarchical systems of the prosecutor's office.

Thus, the principle of dominus litis in the implementation of the prosecution function by the Prosecutor's Office of the Republic of Indonesia conceptually and normatively reflects the principle of legal certainty as guaranteed by the constitution. This authority is not absolute power, but a legal mandate that is limited by rules, supervised by judicial mechanisms, and directed to ensure the enforcement of the law in a fair and certain manner.

Legal certainty of the prosecutor's authority as a public prosecutor (JPU) if it is associated with Article 170 of the Criminal Procedure Code in connection cases

Investigation is one of the methods or methods of the investigative function that precedes other actions, namely action in the form of arrest, detention, search, confiscation, examination, summons, and submission of files to the public prosecutor with the intention and purpose of collecting sufficient preliminary evidence to find the suspect.

The role of the Public Prosecutor in the investigation process is only as a supervisor, because the one who has full authority in conducting the investigation is the police investigator. However, in the general crime itself, the Prosecutor still has the authority to conduct an investigation. In a general criminal act, the Prosecutor is

authorized to conduct additional investigations if the investigator is unable to fulfill the instructions that have been notified by the Prosecutor's Office. From the above explanation, it can be seen that the Prosecutor still does not lose his control as the ruler/controller of the case. However, the Prosecutor's authority in conducting an investigation is if there is a lack of evidence in the case file and the police investigator cannot fulfill the instructions according to the direction of the Public Prosecutor. Actually, the Prosecutor's Office has made efforts in applying the principle of *dominus litis* to the role of the Prosecutor in criminal acts. Minimizing the Back-and-forth of Cases Between Investigators and Public Prosecutors. The Public Prosecutor appointed to follow the progress of the investigation coordinates and consults with investigators in advance in order to complete the investigation quickly, simply, and at a low cost. However, in fact, coordination and consultation between investigators and public prosecutors tend to occur after the transfer of the case file, not before the transfer of the file.

Normatively, Article 18 paragraph (1) of Law Number 11 of 2021 concerning the Attorney General's Office of the Republic of Indonesia emphasizes that the Attorney General is the highest public prosecutor and the controller of cases or *dominus litis* in the criminal justice system. This provision basically states that the Attorney General leads and controls the implementation of the duties and authorities of the prosecutor's office in the field of prosecution and other authorities based on the law. This norm emphasizes the central position of the prosecutor's office as an institution that determines whether a case is worthy of being delegated to the court or not, including in the context of connectivity cases involving perpetrators from the general justice and military justice environments.

The position of the Attorney General as the highest public prosecutor has direct implications for the application of the principle of public interest. In this context, the public interest is not understood narrowly as the interest of the state alone, but includes the protection of the rule of law, the sense of justice of the community, and legal certainty. When a case involves the subject of civil and military law at the same time, the potential for conflict of authority between the judicial environment becomes significant. Therefore, control by the Attorney General is an important instrument to prevent dualism in case handling that can cause legal uncertainty.

Article 170 paragraphs (1), (2), and (3) of the Criminal Procedure Code only regulates the mechanism for resolving connectivity cases. In its normative formulation, Article 170 paragraph (1) basically determines that in the event that a criminal act is committed jointly by those who belong to the general judicial

environment and the military judicial environment, the case shall be examined and tried by the court in the general judicial environment, unless according to a joint decision of the Minister of Defense and Security and the Minister of Justice the case must be examined and tried by the court within the military judicial environment. Paragraph (2) stipulates that if there is a difference of opinion regarding the authorized judicial environment, the determination is carried out through a joint decision mechanism with the authorized official. Paragraph (3) emphasizes that further procedures regarding the examination of connectivity cases are regulated in a separate law. Connectivity is a judicial system that applies to criminal acts in which the suspect or defendant is involved (participating, participating) or participating (mede dader) in a criminal act between civilians and members of the military or the TNI.

As one of the connectivity cases, namely the murder case of the Chassis of the Navy Officer from Nias, Iwan Sutrisman, Telaumbanua carried out by Serda Adan Aryan Marsal, a member of the Military Police of the Nias Navy Base (Lanal), and Muhammad Alfin Andrian, where the legal process against Serda Adan Aryan Marsal was handled by the Military Police Detachment of the Main Base of the Indonesian Navy II Padang, while Muhammad Alfian Andrian as a civilian had his legal process under the Sawahlunto Resort Police.

In this case, it was resolved with a connection case mechanism, because it involved members of the TNI and also civil society. Where Serda Adan Aryan committed the murder assisted by several civilians, one of which was Brother Alpin who was subject to the general court. Both of them had committed the crime of murder against the Chassis of Navy Officer Iwan Sutrisman Telaumbanua. The two perpetrators were prosecuted separately. Where Serda Adan Aryan was tried at the Military Court while Alpin was tried at the General Court.

However, in the above case, even though the criminal act was committed by members of the military and civil society, the case should have been resolved by the mechanism of a connection case, in accordance with what is explained by Article 170 of the Criminal Code, but in practice this case was still prosecuted separately. Where Serda Adan Aryan was prosecuted under the Military and Alpin Courts, he was tried in the General Court.

Withdrawing the position of the special authority of the Prosecutor, namely dominus litis. The position of the prosecutor as the public prosecutor as a dominus litis that has an important role in the criminal justice system. The public prosecutor is seated as the owner of a case that has a real interest so that a case is prosecuted, examined, and tried in court. In addition, the Constitutional Court also considers that

as a party with a real interest, the public prosecutor can also stop the prosecution so that a case is not prosecuted, examined, and tried in court.

In the perspective of the principle of legal certainty, the application of Article 18 paragraph (1) of Law Number 11 of 2021 must be understood as a constitutional mandate to ensure that every case, including connectivity cases, is processed through a clear, transparent, and non-discriminatory mechanism. Legal certainty requires that civilian and military law subjects involved in a criminal act are not treated differently without a rational basis that can be legally accounted for.

The Deputy Attorney General for Military Crimes is a position that can be filled by Civil Servants or soldiers of the Indonesian National Army who have competence and expertise in accordance with the provisions of laws and regulations. At the provincial level, it is led by the Military Criminal Assistant (Aspidmil) who has the task of carrying out the management of public reports and complaints, investigation of connectivity cases, management of security and escort of prisoners, research on the results of investigations, additional examinations, giving legal opinions to the officer who submitted the case, submission of the case, closing the case, termination of prosecution, prosecution, resistance, legal remedies, implementation of the appointment of judges and court decisions that have obtained permanent legal force, management of security and escort of convicts, examination, supervision of the implementation of conditional criminal judgments, supervision of criminal judgments, and parole decisions, and other legal actions in the field of technical coordination of prosecution carried out by the Prosecutor's Office and handling of connectivity cases in the jurisdiction of the High Prosecutor's Office.

In carrying out duties as referred to in Article 908A of the Attorney General's Regulation 1 of 2021, the Assistant for Military Crimes. carry out the coordination and synchronization functions of the technical implementation of prosecutions carried out by the Oditurat, law enforcement in handling connectivity cases at the High Prosecutor's Office as well as coordinating and cooperating in the management of security and escort of prisoners and convicts in the field of technical coordination of prosecutions carried out by the prosecutor's office and handling connectivity cases at the High Prosecutor's Office.

Structurally, Aspidmil oversees 3 (three) sections, namely: 1) Enforcement Section 2) Prosecution Section 3) Execution Section of Extraordinary Legal Remedies and Examination Section The Enforcement Section has the task of preparing materials for the preparation of plans and programs, implementation and control in the management of reports and complaints, investigation of cases of connection to

corruption crimes, money laundering crimes, and other criminal acts based on the provisions of laws and regulations, and coordination of investigations carried out by investigators within the Indonesian National Army and other investigators as well as the management of evidence and the security and escort of prisoners in the jurisdiction of the High Prosecutor's Office. The Prosecution Section has the task of coordinating, implementing, and controlling research actions resulting from investigations, pre-prosecution, additional examinations, giving legal opinions to the officer submitting the case, handing over the case, closing the case, stopping the prosecution, prosecution, resistance, ordinary legal remedies, implementation of the determination of judges, management of evidence and securing and escorting prisoners in connection cases and criminal cases whose prosecution is carried out by the prosecutor in the jurisdiction of the High Prosecutor's Office.

The Execution, Extraordinary Legal Remedies, and Examination Section has the task of preparing materials for the preparation of plans and programs, implementation and control in the implementation of court decisions that have obtained permanent legal force, optimizing the return of state financial losses and settlement of loot, supervision of the implementation of conditional criminal judgments, supervision criminal judgments, and parole decisions, applications for clemency, amnesty, and abolition, extraordinary legal remedies, examination, and management of security and escort of convicts, connectivity cases and criminal cases whose prosecution is carried out by the prosecutor in the jurisdiction of the High Prosecutor's Office. Aspidmil plays an important role as a mediator or facilitator in handling connectivity cases involving elements of the TNI and civilian (general) elements, namely by facilitating between the Public Prosecutor and the Military Prosecutor. In this case, the Public Prosecutor coordinates with the Military Prosecutor regarding the handling of connectivity cases. Based on the results of the interview, it is known that the implementation of functional coordination between the Public Prosecutor and the Military Prosecutor can be seen from the perspective of the legal system and the coordination system. The legal system is a total of aspects and elements that are arranged as an integrated unit of law.

CONCLUSION

Based on the discussion in the previous chapter, the following conclusions can be drawn; The principle of dominus litis is the foundation of the authority of the Prosecutor's Office in the Indonesian criminal justice system, which places the Public Prosecutor as the only party authorized to determine whether a case is worthy of being delegated to the court based on the adequacy of valid evidence. However, this

authority is not unlimited power. Although the Prosecutor's Office performs its functions freely as affirmed by Law No. 11 of 2021 concerning the Prosecutor's Office, this freedom is still controlled through an internal hierarchical system, accountability mechanism, and judicial control through pretrial, in line with the principle of legal certainty in Article 1 paragraph (3) and Article 28D paragraph (1) of the 1945 Constitution. The reconstruction of the Principle of *Diminus Litis* as the authority of the prosecutor in connectivity cases is a crucial legal issue that occurs in Indonesia because it often causes dualism of prosecution control between the Prosecutor as the Public Prosecutor and the Military Inspector General, so that to reconstruct the Principle of *Dominus Litis* must be seen from the point of view of harmonizing regulations, strengthening institutions and separating judicial functions clearly. Thus, the principle of *dominus litis* functions as an institutional instrument that ensures that the criminal prosecution process runs fairly, consistently, and accountably as it is now strengthened in the Criminal Code.

That the Legal Certainty of the Prosecutor's Authority as the Public Prosecutor in Connectivity Cases in a Formal Juridical manner Article 170 of the Criminal Procedure Code actually provides legal certainty that the Prosecutor is the Public Prosecutor in Connectivity cases. This position is also normatively strengthened through Article 18 paragraph (1) of Law No. 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia, which affirms the Attorney General as the highest public prosecutor as well as the controller of cases in the criminal justice system, including in connectivity cases involving perpetrators from the general and military judicial environments at the same time. In particular, Article 170 paragraphs (1)–(3) of the Criminal Procedure Code regulates the mechanism for resolving connectivity cases, where cases involving civilian and military elements are in principle tried in the general judicial environment, unless otherwise determined through a joint decision of the Minister of Defense and the Minister of Justice. This provision is an important instrument to prevent dualism in case handling while ensuring legal certainty, as reflected in the case of the murder of the *Casis Bintara Navy* where perpetrators from military and civilian elements are tried separately in military courts and general courts according to the connectivity mechanism regulated in the Criminal Code. However, this does not reflect the legal certainty of *dominus litis* owned by the Prosecutor as the holder of control over the prosecution.

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