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Striking a Balance: Navigating Peace, Justice, and Restorative Justice in Indonesian Prosecutorial Process

Mencari Keseimbangan: Antara Kedamaian, Keadilan, dan Pendekatan Restoratif dalam Proses Penuntutan Jaksa di Indonesia

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Abstract

This paper connects with the principles of restorative justice by highlighting the intricate dynamics of prosecutorial decision-making in post-conflict Indonesia. Restorative justice emphasizes repairing harm and rebuilding relationships in the aftermath of conflict, aligning with the challenges faced by prosecutors in balancing peace and justice. In the Indonesian legal landscape, the delicate task of reconciling the need for accountability with the goals of reconciliation is evident. The study's focus on specific cases and the examination of factors influencing prosecutorial choices underscore the importance of a comprehensive understanding of the complexities surrounding the peace versus justice dilemma. Restorative justice principles often emphasize dialogue, inclusion, and community engagement, which can be crucial in societies dealing with the aftermath of conflict. The multi-dimensional approach employed in the research, integrating legal, ethical, and socio-political perspectives, resonates with the holistic nature of restorative justice. By shedding light on the challenges prosecutors face in navigating this delicate balance, the paper contributes to the broader discourse on transitional justice. Restorative justice seeks to address the root causes of conflict and promote healing within communities, and this paper's insights into the nuanced considerations of prosecutors offer a valuable contribution to both academic discussions and a deeper understanding of the challenges inherent in balancing peace and justice within the Indonesian legal context. Ultimately, the study aligns with the restorative justice framework by emphasizing the importance of a thoughtful and inclusive approach to justice in post-conflict societies.

Abstrak



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Artikel ini menganalisis prinsip-prinsip keadilan restoratif dengan menyoroti dinamika rumit pengambilan keputusan oleh penuntut umum di Indonesia. Keadilan restoratif menekankan perbaikan kerugian dan pembangunan kembali hubungan-hubungan setelah konflik, sejalan dengan tantangan yang dihadapi oleh penuntut umum dalam menjaga keseimbangan antara perdamaian dan keadilan. Di lanskap hukum Indonesia, tugas yang rumit untuk mendamaikan kebutuhan pertanggungjawaban dengan tujuan rekonsiliasi sangat jelas. Fokus studi pada kasus-kasus tertentu dan pemeriksaan faktor-faktor yang memengaruhi pilihan penuntut umum menekankan pentingnya pemahaman menyeluruh terhadap kompleksitas seputar dilema perdamaian versus keadilan. Prinsip-prinsip keadilan restoratif sering menekankan pada dialog, inklusi, dan keterlibatan masyarakat, yang dapat menjadi krusial dalam masyarakat yang berurusan dengan pasca konflik. Pendekatan multi-dimensi yang digunakan dalam penelitian, mengintegrasikan perspektif hukum, etika, dan sosio-politik, sesuai dengan sifat holistik keadilan restoratif. Dengan menggarisbawahi tantangan yang dihadapi penuntut umum dalam menavigasi keseimbangan yang rumit ini, artikel ini memberikan kontribusi pada wacana lebih luas tentang keadilan transisi. Keadilan restoratif berupaya mengatasi akar konflik dan mempromosikan penyembuhan di dalam masyarakat, dan wawasan artikel ini terhadap pertimbangan nuansa penuntut umum memberikan kontribusi berharga pada diskusi akademis serta pemahaman yang lebih mendalam terhadap tantangan-tantangan yang melekat dalam menyeimbangkan perdamaian dan keadilan dalam konteks hukum Indonesia. Pada akhirnya, studi ini sejalan dengan kerangka keadilan restoratif dengan menekankan pentingnya pendekatan yang berpikir matang dan inklusif terhadap keadilan dalam masyarakat pasca konflik.

A. INTRODUCTION

1. Background

Prosecutorial decision-making stands at the crossroads of justice and peace¹, navigating a delicate path within the intricate legal landscape of Indonesia. This paper delves into the complex realm of decisions made by prosecutors, with a specific focus on the challenging balance between pursuing peace and seeking justice in contentious cases. The Indonesian legal system, in the aftermath of conflicts and human rights violations, presents a unique terrain where prosecutors grapple with a profound dilemma—how to reconcile efforts for societal healing with the imperative to hold individuals accountable for alleged offenses.²

¹ Cox, Jennifer, Jane C. Daquin, and Tess MS Neal. "Discretionary prosecutorial decision-making: Gender, sexual orientation, and bias in intimate partner violence." *Criminal Justice and Behavior* 49.11 (2022): 1699-1719.

² Sudirdja, Rudi Pradisetia, Topo Santoso, and Febby Mutiara Nelson. "Independence of the Prosecutor in Conducting Prosecutions Viewed from the United Command Principle." *Journal of Namibian Studies: History Politics Culture* 33 (2023): 532-548; Rony, Muhammad, Erna Dewi, and H. S. Tisnanta.

The post-conflict context in Indonesia has added layers of complexity to prosecutorial decisions, requiring a nuanced approach that considers both the individual responsibility for human rights violations and the broader societal need for reconciliation. This paper aims to unravel the intricacies surrounding the peace versus justice dilemma by conducting a comprehensive analysis of specific controversial cases. Through an academic lens, it scrutinizes the factors influencing prosecutorial choices in these situations, drawing on legal, ethical, and socio-political perspectives.³

In understanding the challenges faced by prosecutors, it becomes imperative to explore the multifaceted dimensions of decision-making. This research employs a multi-dimensional approach to shed light on the intricacies involved, contributing to the broader discourse on transitional justice.⁴ By weaving together legal principles, ethical considerations, and socio-political dynamics, this study seeks to provide a holistic understanding of the prosecutor's role in post-conflict societies.⁵ As we embark on this exploration, it becomes evident that the decisions made by prosecutors not only shape the fates of individuals but also play a pivotal role in shaping the trajectory of justice and peace within the Indonesian legal context.

In the realm of prosecutorial decision-making in Indonesia, several controversial cases underscore the multifaceted challenges faced by prosecutors. One such case involves the alleged human rights abuses in Timor-Leste during 1999, where prosecutors grappled with the task of balancing justice and reconciliation. The decisions made in these cases reverberated internationally, influencing diplomatic relations and sparking debates on the national and global stages about the intersection of justice and peace.⁶

"Prosecution Paradigm in the Indonesian Criminal Justice System." *Russian Law Journal* 11.5 (2023): 3078-3085.

³ Sjarief, Rifqi. "Criminal Sentencing in Indonesia: Disparity, Disproportionality and Biases". *Dissertation* (Melbourne: Melbourne University, 2020); Leksono, Sony Cipto, Hadi Purnomo, and R. A. S. Hernawati. "Criminal Justice System in the Perspective of Integration." *International Journal of Asia Pasific Collaboration* 1.3 (2023): 82-90.

⁴ Wahyuningroem, Sri Lestari. "Towards Post-Transitional Justice." *Journal of Southeast Asian Human Rights* 3.1 (2019): 124-154; Kent, Lia, Joanne Wallis, and Claire Cronin. *Civil Society and Transitional Justice in Asia and the Pacific*. (Canberra: ANU Press, 2019); Jamar, Astrid. "The crusade of transitional justice tracing the journeys of hegemonic claims." *Violence and Democracy* (2019): 53-59.

⁵ Faried, Femmy Silaswaty. "Mainstreaming Restorative Justice in Termination of Prosecution in Indonesia." *Journal of Human Rights, Culture and Legal System* 2.1 (2022): 66-77; Agustin, Syahreni, Ismansyah Ismansyah, and Aria Zurnetti. "Implementation of the Regulation of the Prosecutor of the Republic of Indonesia Number 15 of 2020 Concerning Termination of Prosecutions Based on Restorative Justice in the Jurisdiction of the High Prosecutors of West Sumatra." *International Journal of Multicultural and Multireligious Understanding* 8.11 (2021): 506-520.

⁶ Siahaan, Hendrikson, Yusuf Setyadi, and Romainur Romainur. "Analisa Yuridis Kasus Pelanggaran Ham Berat Timor-Timur Dan Upaya Penyelesaian Oleh Komisi Nasional Hak Asasi Manusia." *Journal of Islamic and Law Studies* 5.1 (2021); Firmandiaz, Viddy, and Jadmiko Anom Husodo. "Penyelesaian Kasus Pelanggaran Hak Asasi Manusia Berat di Indonesia Oleh Komisi Nasional Hak Asasi Manusia Ditinjau

Another case, the religious violence in Poso, Sulawesi, presents another intricate scenario. Prosecutors were confronted with the delicate challenge of addressing interfaith conflicts while fostering community reconciliation. The decisions made by prosecutors in these cases extended beyond legal considerations, delving into the complexities of socio-political dynamics and the fragile fabric of communal relations. These cases illuminated the integral role of prosecutors in shaping not only individual destinies but also the broader social cohesion within conflict-ridden regions.⁷

Corruption cases involving high-profile political figures also represent a persistent challenge for prosecutors in Indonesia. The decisions to prosecute or drop charges in these cases are fraught with political implications, requiring careful navigation of legal principles, ethical considerations, and potential socio-political consequences. The outcomes of such cases have far-reaching effects on public trust in the legal system and perceptions of accountability within the political sphere.⁸

Furthermore, the prosecution of case related to religious intolerance and blasphemy laws exemplifies the intricate path prosecutors must tread. Striking a balance between upholding freedom of religion and expression while preventing social tensions necessitates nuanced decision-making. The choices made by prosecutors in these cases contribute significantly to the societal narrative, influencing perceptions of justice and contributing to either the fostering of a tolerant society or the exacerbation of existing divisions.

The discussion of prosecutorial decisions in the context of addressing controversial issues reveals a connection to the principles of restorative justice. The decisions made by prosecutors are portrayed not merely as isolated legal judgments but as integral

Dari Kewenangannya (Studi Kasus Timor-Timur)." *Res Publica* 4.1 (2020): 92-105; Budiman, Eren Arif, and Yulianus Pabassing. "Prapenuntutan dalam Praktek Pemeriksaan Perkara Tindak Pidana Korupsi oleh Penyidik Tipikor Kepolisian Resort Nabire." *Jurnal Hukum Ius Publicum* 4.1 (2023): 51-67.

⁷ Tampubolon, Soritua Agung, et al. "Penghentian Penuntutan Tindak Pidana Penganiayaan Berdasarkan Pendekatan Keadilan Restoratif." *Locus Journal of Academic Literature Review* (2023): 193-202; Kusuma, Ganes Adi, and Suprpto Suprap. "Eksistensi Kejaksaan dan Relasinya dengan Komnas HAM dalam Penanganan Perkara Pelanggaran Hak Asasi Manusia." *Banua Law Review* 3.2 (2021): 162-179; Kleden, Kristoforus Laga. "Pendekatan Viktimologi Meminimalisir Disparitas Pidana." *Jurnal Hukum Magnum Opus* 2.2 (2019): 206-216.

⁸ Koto, Ismail. "Kewenangan Jaksa Dalam Melakukan Penggabungan Perkara Korupsi Dan Money Laundering (Studi Kejaksaan Tinggi Sumatera Utara)." *IURIS STUDIA: Jurnal Kajian Hukum* 2.2 (2021): 156-162; Iswara, Dina Aprilia. "Optimalisasi Pengawasan Komisi Kejaksaan dalam Mengawasi Pelanggaran Kode Etik Kasus Korupsi pada Jaksa." *Jurnal Hukum Lex Generalis* 1.4 (2020): 1-12; Wahyudi, Dimas Indianto, Nyoman Serikat Putra Jaya, and Pujiyono Pujiyono. "Implementasi Dasar Pertimbangan Jaksa Penuntut Umum Dalam Menentukan Berat Ringannya Tuntutan Pidana Terhadap Terdakwa Kasus Tindak Pidana Korupsi (Studi Di Kejaksaan Negeri Semarang)." *Diponegoro Law Journal* 10.1 (2021): 96-107.

components within the intricate interplay between justice and peace in Indonesia. This perspective aligns with restorative justice, which emphasizes a holistic approach to resolving conflicts and fostering healing within communities.

The multi-dimensional approach adopted in this study mirrors the principles of restorative justice by acknowledging the complexity of the issues at hand. Restorative justice recognizes that addressing conflicts requires a comprehensive understanding of the social, political, and ethical dimensions involved. Similarly, the study aims to unravel the intricacies surrounding prosecutorial decisions, providing a nuanced understanding of the prosecutor's role in post-conflict societies.

Furthermore, the study contributes to the broader discourse on transitional justice, a concept closely related to restorative justice. Transitional justice seeks to address the legacies of human rights abuses in societies transitioning from conflict to peace. The insights offered by this study shed light on the challenges inherent in finding a delicate balance between individual accountability and the broader imperatives of societal healing within the specific context of the Indonesian legal system. By exploring the interconnectedness of prosecutorial decisions with the pursuit of justice and peace, this study aligns with the principles of restorative justice. It underscores the importance of a comprehensive and nuanced understanding in addressing the complexities of post-conflict situations, emphasizing the need for a balanced approach that considers both individual accountability and the broader goals of societal healing and reconciliation.

2. Research Problems

This research endeavors to explore the complexities of prosecutorial decision-making in post-conflict Indonesia, with a particular focus on the intricate balance between pursuing peace and justice, framed within the context of restorative justice principles. At its core, the primary question guiding this study is how prosecutorial decisions navigate this delicate equilibrium and the implications for the application of restorative justice in the Indonesian legal landscape.

The study will dissect the various factors influencing prosecutorial choices when confronted with cases involving alleged human rights violations. Central to the inquiry is the examination of the extent to which the pursuit of individual accountability aligns with or diverges from the imperatives of societal healing within the unique socio-political milieu of Indonesia. A crucial element of this research lies in understanding how the multi-dimensional approach employed contributes to unraveling the intricacies of prosecutorial

decision-making, specifically within the context of restorative justice principles. Furthermore, this study aims to shed light on the broader implications of prosecutorial decisions, exploring their impact on the discourse surrounding transitional justice in Indonesia. It seeks to unravel the ways in which legal, ethical, and socio-political perspectives intertwine to shape the decision-making process of prosecutors grappling with post-conflict scenarios.⁹

In a comparative vein, the research will draw parallels between prosecutorial approaches in Indonesia and those in other post-conflict societies that incorporate restorative justice principles. Additionally, the study will delve into specific cases of prosecutorial decision-making to provide concrete insights into the practical application of restorative justice principles and their tangible effects on societal healing.¹⁰

As a forward-looking aspect, the research will also investigate the potential long-term consequences of prosecutorial decisions that prioritize either peace or justice, considering the overarching goals of restorative justice within the Indonesian legal context. Through this comprehensive inquiry, the study aims to contribute nuanced perspectives to the ongoing discourse on transitional justice, offering insights into the intricate dynamics of balancing peace with justice in post-conflict societies, specifically within the Indonesian legal framework.

3. Method

To investigate the intricacies of prosecutorial decision-making in post-conflict Indonesia concerning the delicate balance between peace and justice within the framework of restorative justice principles, a mixed-methods research approach will be employed. The study will combine qualitative and quantitative methods to provide a comprehensive understanding of the multifaceted factors influencing prosecutorial choices. Qualitative data will be gathered through in-depth case analyses and interviews with legal experts, prosecutors, and relevant stakeholders to explore the nuanced perspectives and contextual intricacies surrounding decision-making.

⁹ McConville, Mike, ed. *Research Methods for Law*. (Edinburgh: Edinburgh University Press, 2017); Budianto, Agus. "Legal research methodology reposition in research on social science." *International Journal of Criminology and Sociology* 9.1 (2020): 1339-1346; Berring, Robert C. "Legal research and legal concepts: where form molds substance." *California Law Review* 75.1 (1987): 15-27.

¹⁰ Tan, David. "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum." *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 8.8 (2021): 2463-2478; Benuf, Kornelius, and Muhamad Azhar. "Metodologi penelitian hukum sebagai instrumen mengurai permasalahan hukum kontemporer." *Gema Keadilan* 7.1 (2020): 20-33.

Additionally, a quantitative analysis will involve the examination of statistical data related to prosecutorial outcomes in post-conflict cases, providing a broader perspective on patterns and trends. This mixed-methods approach aims to triangulate findings, offering a robust and nuanced exploration of the peace versus justice dilemma in the Indonesian legal context.¹¹

B. RESULT AND DISCUSSION

1. Restorative Justice: Challenges in Prosecutorial Process in Indonesian

Restorative Justice, is a legal concept that diverges from traditional punitive approaches by focusing on the restoration of relationships and the atonement for wrongdoing within a community. In essence, it is a process that encourages the perpetrator, along with their family, to engage in a meaningful dialogue with the victim and their family. The objective is not merely punitive but rather aims at achieving reconciliation and peace outside the formal courtroom setting.¹²

This approach seeks to address the aftermath of criminal acts by providing an alternative path to resolution. It emphasizes the voluntary participation of all concerned parties in order to reach a consensus on how best to repair the harm caused. The central idea is to foster a sense of responsibility in the offender, allowing them to take meaningful steps towards making amends and rehabilitating their relationship with the victim and the wider community.¹³

By facilitating open communication and understanding between the involved parties, Restorative Justice strives to go beyond the traditional legal framework. It aims to create a space where collective agreement and mutual understanding can lead to a more comprehensive and holistic resolution of legal issues arising from criminal acts. Ultimately, this approach envisions a system of justice that prioritizes healing, reconciliation, and community restoration alongside the pursuit of accountability.

Meanwhile, in another context, law is inseparable from our daily lives, encompassing various aspects such as family, education, work, and community

¹¹ Benuf, and Azhar

¹² Van Ness, Daniel W., et al. *Restoring justice: An introduction to restorative justice*. (London: Routledge, 2022); Marshall, Christopher D. "Restorative justice." *Religion Matters: The Contemporary Relevance of Religion* (2020): 101-117; Lanni, Adriaan. "Taking Restorative Justice Seriously." *Buffalo Law Review* 69.3 (2021): 635.

¹³ Garcia, Virginia, Hari Sutra Disemadi, and Barda Nawawi Arief. "The enforcement of restorative justice in Indonesia criminal law." *Legality: Jurnal Ilmiah Hukum* 28.1 (2020): 22-35; Hadi, Adwi Mulyana, Anik Iftitah, and Syahrul Alamsyah. "Restorative Justice Through Strengthening Community Legal Culture in Indonesia: Challenges and Opportunity." *Mulawarman Law Review* (2023): 33-45.

interactions. It is a pervasive force shaping societal norms and behaviors. In every nation, laws are implemented to regulate the conduct of its citizens, and Indonesia is no exception. Our constitution explicitly declares Indonesia as a legal state, as articulated in Article 1, Paragraph (3) of the 1945 Constitution. This highlights the foundational role of law in governing the diverse aspects of our lives, ensuring order, and upholding the principles that guide our collective existence.¹⁴

The affirmation of constitutional provisions signifies that all aspects of societal, national, and governmental life must consistently adhere to the law. The existence of law holds profound importance for a nation, serving as the fundamental basis for governing the course of administration. The presence of legal frameworks is anticipated to establish justice. Law is often conceptualized as a set of norms or regulations governing human behavior. This aligns with the viewpoint of Hans Kelsen, who regards law as a system of norms, where norms emphasize the aspect of "*ought to be*" or *das solen*, accompanied by several regulations specifying what ought to be done.

Moreover, law can be construed as both written and unwritten rules capable of regulating society and imposing sanctions for violations. Being subject to the law extends beyond mere compliance with statutes; it constitutes a system interconnecting laws, institutions responsible for their enforcement, and the society itself. Therefore, law is a complex network wherein legislation, executive bodies, and the populace are mutually interconnected.

In the further discussion, the statement underscores the multifaceted nature of law, encompassing both explicit legal statutes and implicit societal norms that collectively regulate human behavior. Written laws, such as statutes and regulations, form a tangible part of the legal system, providing a framework for governance and prescribing consequences for transgressions. However, the concept of law transcends a mere adherence to explicit rules; it involves a broader and interconnected system.¹⁵

Being subject to the law goes beyond compliance with statutes. Instead, it entails participation in a complex network where laws, the institutions tasked with their

¹⁴ Azhar, Ahmad Faizal. "Penerapan konsep keadilan restoratif (restorative justice) dalam sistem peradilan pidana di Indonesia." *Mahkamah: Jurnal Kajian Hukum Islam* 4.2 (2019): 134-143; Akbar, Muhammad Fatahillah. "Pembaharuan Keadilan Restoratif dalam Sistem Peradilan Pidana Indonesia." *Masalah-Masalah Hukum* 51.2 (2022): 199-208.

¹⁵ Sumirat, Iin Ratna. "Penegakan Hukum Dan Keadilan dalam Bingkai Moralitas Hukum." *Al Qisthas Jurnal Hukum dan Politik* 11.2 (2020): 86-100; Rahim, Abdul. "Perlindungan Hukum Terhadap Ahli Dalam Proses Peradilan." *The Prosecutor Law Review* 1.2 (2023): 36-66; Rinaldi, Ferdian. "Proses Bekerjanya Sistem Peradilan Pidana Dalam Memberikan Kepastian Hukum Dan Keadilan." *Jurnal Hukum Respublica* 21.2 (2022): 179-188.

enforcement, and the society at large are interwoven. This interconnectedness emphasizes the symbiotic relationship between the legal framework, the executive bodies responsible for upholding it, and the populace. Society is not just a passive recipient of legal dictates; rather, it actively engages with the legal system through the institutions that implement and enforce laws. This dynamic interaction between laws, enforcement bodies, and the community reflects the intricate nature of legal systems.

Connecting this to restorative justice, the notion of law as an interconnected system aligns with the restorative justice principles that emphasize community engagement and dialogue. In a restorative justice framework, the focus is not solely on punitive measures dictated by written laws; it involves a more holistic understanding of justice. Restorative justice encourages active participation of the community in addressing wrongdoing, seeking reconciliation, and collectively determining appropriate responses to violations. Therefore, the complex network described in the statement resonates with the restorative justice approach, which considers the interplay between legal structures, enforcement institutions, and the community in fostering a more comprehensive and participatory system of justice.

Restorative Justice holds significant relevance in contemporary legal discourse, particularly within the Indonesian context. This framework prioritizes reconciliation, community engagement, and healing over mere punishment, seeking to address the complexities arising from criminal acts. In Indonesia, a nation marked by its diverse cultural landscape and historical challenges, the application of Restorative Justice introduces a unique set of considerations. The delicate balance between pursuing individual accountability and fostering societal healing within the Indonesian legal system presents distinct challenges, further compounded by the post-conflict context in which these dynamics unfold.¹⁶

This study delves into the nuances of Restorative Justice in Indonesia, shedding light on the intricate interplay between the pursuit of peace and justice. By examining specific cases that have ignited public debate, this study aims to unravel the factors influencing prosecutorial decisions in post-conflict scenarios. The research adopts a comprehensive, multi-dimensional approach, integrating legal, ethical, and socio-political perspectives to

¹⁶ Lasmadi, Sahuri, Ratna Kumala Sari, and Hari Sutra Disemadi. "Restorative Justice Approach as an Alternative Companion of the Criminal Justice System in Indonesia." *International Conference on Law, Economics and Health (ICLEH 2020)*. Atlantis Press, 2020; Nasution, Nurul Putri Awaliah, Jubair Jubair, and Abdul Wahid. "The Restorative Justice: Ideality, Reality, and Problems in The Indonesia Criminal Justice System." *Rechtsidee* 11 (2022): 10-21070; Hafizh, Ramdani Abd, et al. "Effectivity of Restorative Justice Meets The Just Nature of Indonesia Society." *Unram Law Review* 5.1 (2021).

discern the complexities faced by prosecutors. This inquiry contributes to the broader discourse on transitional justice, offering valuable insights into the challenges inherent in balancing individual accountability with the imperatives of societal healing within the Indonesian legal framework.

As we navigate through the complexities of Restorative Justice in the Indonesian legal landscape, it becomes evident that the application of this paradigm requires careful consideration of cultural, historical, and socio-political factors. The findings of this study will not only contribute to academic discussions but also provide a deeper understanding of the challenges and opportunities presented by Restorative Justice in a nation seeking to reconcile its past while forging a just and harmonious future.

In the further context—in Criminal Law perspective and sanctions—the evolution of criminal law enforcement reflects a departure from a punitive-centric approach to a more nuanced and comprehensive strategy. Traditionally centered on retribution, the paradigm has shifted to view criminal law not merely as a means of retaliation against those transgressing legal statutes but rather as a dynamic tool aimed at effectively countering criminal activities. This shift in perspective signifies a broader understanding of the role of criminal law, recognizing its potential as a mechanism for crime prevention and societal protection.¹⁷

The contemporary approach to criminal law enforcement, as outlined in the statement, recognizes that the criminal justice system should not solely focus on meting out punishments to wrongdoers but also on addressing the root causes of criminal behavior. Criminal law has assumed a proactive role, functioning as a means to tackle and mitigate criminal activities at their source. This transformation reflects a more sophisticated understanding of the societal implications of criminality and the recognition that preventive measures are integral to fostering a safer and more just community.

The statement further emphasizes that efforts in crime prevention and criminal policy are rational endeavors undertaken by society. This rationality implies a strategic and thoughtful approach to tackling crime, where the community actively engages in developing and implementing measures to prevent criminal activities. The communal efforts in crime prevention underscore a collective responsibility and a shared

¹⁷ Chuasanga, Anirut, and Ong Argo Victoria. "Legal Principles Under Criminal Law in Indonesia Dan Thailand." *Jurnal Daulat Hukum* 2.1 (2019): 131-138; Garcia, Virginia, Hari Sutra Disemadi, and Barda Nawawi Arief. "The enforcement of restorative justice in Indonesia criminal law." *Legality: Jurnal Ilmiah Hukum* 28.1 (2020): 22-35; da Cruz, Carolina. "Legal Aspects Of Justice In Criminal Law Enforcement." *Jurnal Pembaharuan Hukum* 6.3 (2019).

commitment to maintaining public safety, reinforcing the idea that effective criminal law enforcement extends beyond legal retaliation to involve a proactive and rational societal response to crime.

Prosecutors engaging in restorative justice introduce a paradigm shift in their approach to criminal cases, moving away from the conventional adversarial model. One prominent method employed is victim-offender mediation, where prosecutors facilitate a dialogue between the victim and the offender. In this setting, the prosecutor acts more as a facilitator than an adversary, guiding discussions that allow both parties to express their perspectives, explore the impact of the crime, and collectively determine restitution or community service measures. This approach places an emphasis on repairing harm and fostering a sense of accountability within a framework that extends beyond punitive measures.¹⁸

Another avenue through which prosecutors implement restorative justice is community conferencing. In this model, the prosecutor oversees a gathering involving the offender, victim, and community members. This setting encourages open dialogue about the consequences of the crime, with a goal to collectively determine how the offender can make amends to the victim and the broader community. The prosecutor's role is crucial in guiding this process, ensuring legal considerations are addressed and assisting in reaching a consensus that aligns with restorative justice principles.

Prosecutors may also opt for restorative justice-oriented diversion programs for certain low-level offenses. Instead of pursuing traditional prosecution, offenders are referred to these programs, which often involve restorative measures such as community service, restitution, or educational interventions. The prosecutor oversees the diversion process, ensuring that the agreed-upon measures not only address the legal aspects but also adhere to the principles of restorative justice.

Even in cases where traditional sentencing is unavoidable, prosecutors committed to restorative justice may advocate for its principles within the sentencing process. This could involve incorporating elements like restitution plans, victim impact statements, or community involvement requirements into the sentencing order. In doing so, prosecutors contribute to a more holistic and rehabilitative approach within the criminal justice

¹⁸ Djanggih, Hardianto, Elvi Susanti Syam, and Syahrul Gunawan. "The Prosecutor's Legal Policy in Enacting Restorative Justice on Criminal Case." *Russian Law Journal* 11.3 (2023); Dewandaru, Laksamana Bagas, Jawade Hafidz, and Latifah Hanim. "The Policy of the Prosecutor's Authority in Termination of Prosecutions based on Restorative Justice in Criminal Justice System in Indonesia." *Law Development Journal* 4.3 (2022): 403-415.

system, aiming to balance accountability with opportunities for offender reintegration and community healing. The overarching objective is to move beyond punitive measures, actively involving all stakeholders in a collaborative pursuit of justice that promotes restoration and reconciliation.

In addition, the prevailing criminal justice system in Indonesia has traditionally adhered to the concept of retributive justice, emphasizing punitive measures as responses to legal violations. However, the envisioned aspiration is the adoption of Restorative Justice, an approach that seeks justice in a process wherein all parties involved in a particular criminal act collaborate to address its long-term consequences. Restorative Justice serves as a model for resolving criminal cases, prioritizing the restoration of victims, offenders, and the community. The fundamental principles of Restorative Justice involve active participation from both victims and offenders, with community involvement as facilitators in case resolution, aiming to ensure that individuals, especially minors or offenders, no longer disrupt the established harmony within society.¹⁹

Consequently, the comparison between retributive justice and restorative justice signifies a paradigm shift from an emphasis on punishment as a response to legal violations towards a more holistic and sustainable approach. Restorative Justice acknowledges the significance of collaboration among all parties involved to achieve resolutions that not only consider punitive aspects but also prioritize recovery and reconciliation within the community.

2. Revolutionizing Justice: Unleashing *Dominus Litis* in the Indonesia's Prosecutorial Process

Dominus Litis, a Latin phrase meaning "master of the suit," refers to the principle that the party with a vested interest in a legal action holds control over that action. In legal contexts, it commonly pertains to the plaintiff, who possesses the right to manage the course of litigation, determine legal strategies, and settle or withdraw the lawsuit. The concept underscores the idea that the party bringing a legal claim is the one who

¹⁹ Satriawan, Bambang, et al. "Paradigm Shift in The Principle of Retributive Justice Becomes Restorative Justice with The Concept of Penal Mediation." *Novateur Publications* 2 (2023): 7-12; Susilowati, Christina Maya Indah. "The Philosophy of Sentencing In Indonesia Based on Dignified Justice." *International Journal of Business, Economics, and Law* 22 (2020): 173-179; Padlilah, Padlilah, et al. "Reevaluation and Reorientation of the Philosophy of Retributive Justice to Restorative Justice in Imposing Criminal Sanctions." *Journal La Sociale* 4.2 (2023): 45-51.

ultimately dictates the direction and resolution of the legal proceedings.²⁰

Conversely, when considering the concept of legal justice by prosecutors, the focus shifts to the role of public prosecutors in the criminal justice system. Public prosecutors bear the responsibility of representing the interests of the community and the state in the pursuit of justice. Their pivotal role involves initiating cases in court, investigating evidence, deciding whether to prosecute, and guiding cases through the judicial process. Within the realm of legal justice by prosecutors, several key aspects come to the fore. Firstly, objectivity is paramount. Prosecutors are expected to act impartially, disregarding personal or political considerations and ensuring that justice is prioritized at every stage of the legal process. Secondly, the concept of fair law enforcement is crucial. Prosecutors are obligated to ensure that lawbreakers are justly tried, irrespective of their social, economic, or political standing. Thirdly, they act in the public interest, ensuring that law enforcement benefits not only specific individuals but also society at large. Additionally, some legal systems allow prosecutors to consider restorative approaches, focusing on the restoration and reconciliation between offenders, victims, and the community.²¹

In the similar context, the code of ethics for Prosecutors constitutes a set of norms governing the legal profession of prosecutors in the execution of their duties and responsibilities as legal enforcers in Indonesia. Embedded within the Prosecutor's Code of Ethics are noble values intended to be cultivated within law enforcement officers, particularly prosecutors, as they carry out their tasks, functions, and authorities. Upholding these esteemed values can give rise to morally upright, integrous prosecutors who prioritize a profound sense of justice. This Code serves as a benchmark for the conduct of a collective of legal professionals, specifically prosecutors, and functions as a preventive measure against unethical actions. By adhering to the Prosecutor's Code of Ethics, the legal community can establish a standard by which the actions of its members are measured, fostering a commitment to ethical behavior and contributing to the

²⁰ Riyanto, Tiar Adi. "Fungsionalisasi Prinsip Dominus Litis Dalam Penegakan Hukum Pidana Di Indonesia." *Lex Renaissance* 6.3 (2021): 481-492; Artadinata, Naomi, Sahuri Lasmadi, and Yulia Monita. "Pengaturan Jaksa Penuntut Umum Dalam Penanganan Tindak Pidana Korupsi Berdasarkan Asas Dominus Litis." *PAMPAS: Journal of Criminal Law* 4.3 (2023): 311-321; Sihombing, Dedy Chandra, et al. "Penguatan Kewenangan Jaksa Selaku Dominus Litis Sebagai Upaya Optimalisasi Penegakan Hukum Pidana Berorientasi Keadilan Restoratif." *Locus: Jurnal Konsep Ilmu Hukum* 2.1 (2022): 281-293.

²¹ Rony, Muhammad, Rinaldy Amrullah, and Erna Dewi. "Legal politics against Dominus Litis at the Attorney General's Office in Exercising the Power of Prosecution." *International Journal of Multicultural and Multireligious Understanding* 9.6 (2022): 156-164; Brahmono, Dipto. "Restorative Justice in the Handling of Criminal Acts by the Prosecutor's Office as the Application of the Dominus Litis Principle." *Ratio Legis Journal* 1.4 (2023).

prevention of misconduct.²²

The professional ethics of prosecutors play a crucial role in safeguarding integrity, objectivity, and justice within the legal process. As representatives of public interests, prosecutors bear the responsibility of ensuring that every individual, including perpetrators of crimes, receives fair and lawful treatment. Therefore, it is essential to examine how the implementation of prosecutorial professional ethics serves as the primary gateway to justice within the legal system of the Republic of Indonesia. This evaluation becomes pivotal in upholding the fundamental principles of the legal profession, where prosecutors act as stewards of fairness and adherence to legal norms, thereby fostering a system that prioritizes equity and justice for all.²³

Furthermore, the regulations governing the Indonesian Attorney General's Office are outlined in laws and legal provisions, aspiring to enhance the judicial system in Indonesia, particularly within the Attorney General's purview. Despite being entrusted with upholding the state's credibility in the realm of Indonesian justice, instances of deviations persist within the Attorney General's practices, highlighting the need for continued improvements in professionalism, morality, and performance to ensure equitable justice. The Commission for the Indonesian Attorney General's Office (KKRI) stands as a tangible manifestation of these aspirations, aligning with laws that establish this independent institution, directly accountable to the President of the Republic of Indonesia.²⁴ While legal frameworks exist to regulate its operations, the mechanistic nature of laws alone does not guarantee their flawless execution. The effectiveness of legal systems is significantly influenced by those responsible for enforcing them. Hence, the outcomes obtained by a group analyzing the current implementation, guided by Law

²² Din, Mohd, Asmadi Syam, and Ihdi Karim Makinara. "Termination of Prosecution Based on Restorative Justice from the Perspective of the Dominus Litis Principle." *International Journal of Multicultural and Multireligious Understanding* 10.2 (2023): 24-34; Taher, Tarmizi. "Ethics of the Prosecutor's Profession Related to Legal Fact Engineering in Indonesia." *Jurnal Scientia Indonesia* 5.1 (2019); Suyanto, Heru, and Andriyanto Adhi Nugroho. "Realizing Indonesia Prosecutors Commission Professional and Trustworthy." *International Journal of Multicultural and Multireligious Understanding* 7.5 (2020): 52-60; Idrus, Achmad Musyahid, et al. "Constructive Ethics of Judges in Indonesia; Problems and Strategic Strengthening." *UNTAG Law Review* 6.2 (2022): 68-81.

²³ Butt, Simon. "What makes a good judge? Perspectives from Indonesia." *Asian Journal of Law and Society* 8.2 (2021): 282-323; Setyowati, Herning. "The Judges Ethics and Justice: An Analysis of Law Enforcement in Indonesian Court System." *Law Research Review Quarterly* 7.4 (2021): 403-416.

²⁴ Haq, Ainun Aulia, et al. "Efektivitas Komisi Kejaksaan Republik Indonesia Dalam Pengawasan Dan Penegakan Etika Profesi Jaksa Ditinjau Dari Kasus Jaksa Pinangki." *Das Sollen: Jurnal Kajian Kontemporer Hukum dan Masyarakat* 1.02 (2023); Mazjah, R. Muhamad Ibnu. "Dimensi Pengawasan pada Tindak Lanjut Laporan Pengaduan Masyarakat kepada Komisi Kejaksaan dalam Tinjauan Hukum Progresif." *Negara Hukum: Membangun Hukum untuk Keadilan dan Kesejahteraan* 11.2 (2020): 211-230; Ginting, Yuni Priskila, et al. "Etika Profesi Jaksa Sebagai Gerbang Keadilan Sistem Hukum Republik Indonesia." *Jurnal Pengabdian West Science* 2.08 (2023): 633-645.

Number 11 of 2021 on the Attorney General's Office and the Regulation of the Attorney General of the Republic of Indonesia Number: Per-14/A/JA/11/2012 on the Code of Conduct for Prosecutors, can be critically assessed through a specific case study, such as the Integrity of the Supreme Court in Responding to the Case of Prosecutor Pinangki.²⁵

The issue of ethical code violations within the prosecutorial environment has been on the rise, particularly in the wake of bribery cases involving certain prosecutors. Prosecutors, as legal enforcers, bear the responsibility of upholding the image of both their institution and the nation, and should ideally refrain from involvement in or allowing such malpractices to occur. Integrity is an unwavering value for a prosecutor, and the actions or behavior of law enforcement officials mirror the efficacy of the legal system in a country. Hence, integrity, encompassing attributes like courage, honesty, and justice, must be ingrained in the character of a prosecutor.

The escalation of ethical breaches, notably in instances of bribery implicating members of the prosecutorial office, underscores the urgency of addressing this issue. Prosecutors, as guardians of justice, should exemplify the highest standards of ethical conduct to maintain public trust and preserve the credibility of the legal system. Integrity, constituting the bedrock of a prosecutor's character, ensures that their actions align with the principles of courage, honesty, and justice, essential components for the effective

²⁵ The case involving Prosecutor Pinangki is a notable incident within the Indonesian legal landscape that garnered significant attention due to its implications for the integrity of the legal system. Ni Made Ayu Swari Pinangki, commonly known as Pinangki, was a prosecutor in the Indonesian Attorney General's Office. The case revolves around her alleged involvement in a high-profile corruption scandal and her subsequent arrest in 2019. Pinangki was accused of accepting bribes and misusing her authority to manipulate legal proceedings in favor of certain individuals implicated in corruption cases. The allegations suggested that she compromised the integrity of her role as a prosecutor by engaging in corrupt practices that undermined the principles of justice and fairness. The case raised concerns about corruption within the legal system and the potential for abuse of power by those entrusted with upholding the law. As the case unfolded, it brought to light the challenges faced by the Indonesian legal system in maintaining the ethical conduct of its officials. The incident underscored the importance of enhancing professionalism, ethical standards, and accountability within the Attorney General's Office to prevent similar occurrences in the future. The case of Prosecutor Pinangki served as a wake-up call, prompting a closer examination of the mechanisms in place to ensure the integrity of legal professionals and the overall legal system. This case also prompted broader discussions about the need for reforms and stricter oversight to prevent corruption and misconduct within law enforcement agencies. It highlighted the imperative for continuous efforts to strengthen the legal and ethical foundations of the Indonesian legal system, ensuring that prosecutors and other legal officials adhere to the highest standards of integrity in the pursuit of justice. See Iswardhana, Muhammad Ridha. "Meninjau Kembali Kasus Suap Jaksa Pinangki Berdasarkan Penegakan Hukum Yang Berkeadilan dan Keadilan Sosial." *Jurnal Kewarganegaraan* 7.1 (2023): 1080-1090; Senok, Azalya Kyla Saffanah. "Analisis Yuridis Tindak Pidana Korupsi yang Dilakukan oleh Jaksa Pinangki." *Jurnal Riset Ilmu Hukum* (2022): 41-46; Hidayat, Taufik, and Gunawan Gunawan. "Suap dan Tindak Pidana Korupsi Dalam Perspektif Hukum Pidana Islam: Studi Atas Kasus Djoko Tjandra dan Jaksa Pinangki." *Edulaw: Journal of Islamic Law and Jurisprudence* 5.2 (2023): 36-47; Haq, Ainun Aulia, et al. "Efektivitas Komisi Kejaksaan Republik Indonesia Dalam Pengawasan Dan Penegakan Etika Profesi Jaksa Ditinjau Dari Kasus Jaksa Pinangki." *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat* 1.02 (2023).

functioning of the legal apparatus and the establishment of a just and accountable society.²⁶

In accordance with Law No. 16 of 2004, the Prosecutor's Office, as a law enforcement institution, plays a pivotal role in upholding the rule of law, safeguarding public interests, defending human rights, combating corruption, collusion, and nepotism. The Prosecutor's Office is entrusted with the task of administering state power in the prosecution field and other duties as stipulated by legal provisions. It also oversees the control of administrative and developmental tasks in the legal domain. The duties and authorities of the Republic of Indonesia's Prosecutor's Office, including the Attorney General's Office, are delineated in Chapter III of Law Number 11 of 2021 concerning the Attorney General's Office. The responsibilities encompass investigation and prosecution, the recovery of assets derived from criminal activities both domestically and internationally, victim assistance where prosecutors provide legal aid to crime victims, supervision of investigators, state prosecutors, and other personnel within the prosecutorial environment, as well as matters related to penitentiary affairs, rehabilitation, resolving civil disputes involving state interests, and fostering international collaboration.²⁷

In adapting to current developments and aligning with legal and national objectives, the prosecution has issued legal provisions pertaining to restorative justice in handling criminal cases during the prosecution phase (where the prosecution holds the authority as *Dominus Litis*). The Attorney General, as the highest Public Prosecutor, has pioneered legal innovation through a restorative justice approach, as evident in the Attorney General Regulation No. 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice. This prosecutorial regulation empowers Public Prosecutors to cease prosecution against defendants in specific cases if the parties involved have reconciled, thereby marking a significant stride towards fostering restorative justice principles within the legal system.

Drawing on the etymological meaning of the term *Public Prosecutor* and its association with the role of the Prosecution in a criminal justice system, the Prosecution should be perceived as the *Dominus Litis* (*procuruer die de procesvoering vastselat*), the

²⁶ Rahmaddani, Imam. "Pengawasan Kode Etik Jaksa Oleh Komisi Kejaksaan Guna Terwujudnya Jaksa Yang Profesional dan Berintegritas." *Journal Presumption of Law* 5.1 (2023): 18-34.

²⁷ Triadi, Putri Aulia, and Elga Suci Anjani. "Implementasi Peraturan Jaksa Agung RI No. Per-014/A/JA/11/2012 Tentang Perilaku Jaksa." *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat* 1.02 (2023); Mukhtar, Adriansya, and Muhammad Fachri Said. "Kedudukan Jaksa Selaku Pelaksana Mewakili Negara Dalam Sistem Peradilan Pidana." *Journal of Lex Generalis (JLG)* 3.4 (2022): 828-845.

controller of the legal process from the initial stages of investigation to the execution of a verdict. The principle of Dominus Litis is universally recognized, as outlined in Article 11 of the Guidelines on the Role of Prosecutors, which was also adopted by the Eighth United Nations Congress on The Prevention of Crime during the Crime Prevention Congress in Havana in 1990. This principle has been explicitly acknowledged in Indonesia through Constitutional Court Decision Number 55/PUU-XII/2013.²⁸

Furthermore, additional Constitutional Court decisions reinforce the Prosecutor's role as Dominus Litis. This is evident in Constitutional Court Decision Number 130/PUU-XIII/2015 dated January 11, 2017, where investigators are mandated to submit a Notice of Commencement of Investigation (SPDP) to the Public Prosecutor within 7 (seven) days of issuing the SPDP. This decision emphasizes that the Dominus Litis principle is exclusively held by the Prosecutor, providing further legal clarity on the unique role and authority of the Prosecutor in the criminal justice process.²⁹

However, in reality, the Dominus Litis principle has been diminished in meaning and function by the Indonesian Code of Criminal Procedure (hereinafter as KUHAP) itself through the principle of functional differentiation, resulting in the compartmentalization of the investigation and prosecution subsystems. Even though the KUHAP does not fully and comprehensively apply the public prosecutor's role as Dominus Litis, the Prosecution is still allocated a limited role to exercise horizontal oversight over the investigation process. This oversight aims to prevent the misuse of authority by law enforcement officials that may potentially violate human rights. The current implementation of horizontal oversight is manifested through pre-prosecution institutions, acting as a coordination tool between public prosecutors and investigators. However, these pre-prosecution institutions have proven to be ineffective in achieving their goal of serving as a functional coordination tool and simultaneously overseeing the public prosecutor's performance in investigating cases. This inefficiency is partly due to the suboptimal regulation of pre-prosecution in the positive norms of the KUHAP.

²⁸ Pratiwi, Lia, et al. "Coordination of Ability of Prosecutors in The Criminal Jurisdiction System in Indonesia." *PalArch's Journal of Archaeology of Egypt/Egyptology* 18.4 (2021): 8012-8023; Ali, Raymond. "Restructuring the Termination of Prosecution in the Criminal Jurisdiction System of Indonesia." *Sch Int J Law Crime Justice* 4.2 (2021): 27-33; Dewandaru, Laksamana Bagas, Jawade Hafidz, and Latifah Hanim. "The Policy of the Prosecutor's Authority in Termination of Prosecutions based on Restorative Justice in Criminal Justice System in Indonesia." *Law Development Journal* 4.3 (2022): 403-415.

²⁹ Aldi, Gibran, et al. "Moral, Etika dan Profesi Jaksa Sebagai Penegak Hukum." *Nusantara: Jurnal Pendidikan, Seni, Sains dan Sosial Humaniora* 1.01 (2022); Sumelang, Christy Paskahlis. "Kedudukan Spdp dalam Prapenuntutan Berdasarkan KUHAP (Kajian Putusan MK Nomor 130/PUU-XIII/2015 Tentang Surat Pemberitahuan Dimulainya Penyidikan (Spdp))." *Lex Crimen* 7.3 (2018).

The Prosecutor's limited involvement in the investigation process hinders the complete and comprehensive realization of the essence of Dominus Litis in the Prosecutor. Ideally, the Prosecutor as Dominus Litis should be engaged as early as possible in the criminal case handling process, directly participating and not merely reviewing case files during the pre-prosecution stage. This early involvement is crucial for implementing a positive and targeted criminal justice system.³⁰

The termination of prosecution based on restorative justice through the reconciliation of victims and suspects is an integral part of the law enforcement process. Law enforcement is defined as the activity of harmonizing the relationships of values outlined in established norms and manifesting in attitudes and actions as a culmination of the final stage of elaborating values. This process aims to create, maintain, and preserve the integrity of societal interactions.³¹

Prosecutorial Regulation Number 15 of 2020 regarding the termination of prosecution based on restorative justice legitimizes prosecutors as public prosecutors to carry out law enforcement oriented towards restorative justice. This regulation aligns with the broader definition of law enforcement, emphasizing the pursuit of justice through restorative means, wherein the focus shifts from punitive measures to fostering reconciliation between the parties involved.

The implementation of restorative justice in Indonesia has, in fact, been practiced by communities long before the issuance of Prosecutor Regulation Number 15 of 2020, which specifically addresses the termination of prosecution based on restorative justice. This practice is evident and has been applied within customary legal systems in several regions of Indonesia, where disputes are traditionally resolved through customary channels leading to reconciliation.³²

Prosecutor Regulation Number 15 of 2020 serves as legal legitimacy for prosecutors to engage in efforts to terminate prosecution based on restorative justice. Prosecutors, as

³⁰ Widodo, Prayogi. "Hambatan-Hambatan Penerapan Penghentian Penuntutan Perkara Tindak Pidana Berdasarkan Restorative Justice." *Jurnal Hukum Ius Publicum* 4.2 (2023): 1-16.

³¹ Anandia, I. Gusti Agung Ayu Sita, I. Made Arjaya, and Ni Made Sukaryati Karma. "Kewenangan Penyelesaian Berkas Perkara Pidana dalam Tahap Pra Penuntutan." *Jurnal Analogi Hukum* 1.2 (2019): 181-186; Irabiah, Irabiah, Beni Suswanto, and Muhammad Ali Alala Mafing. "Penerapan Restorative Justice Pada Tingkat Penuntutan (Studi Kasus Di Kejaksaan Negeri Kotamobagu)." *Perspektif* 27.2 (2022): 131-138.

³² Agustin, Syahreni, Ismansyah Ismansyah, and Aria Zurnetti. "Implementation of the Regulation of the Prosecutor of the Republic of Indonesia Number 15 of 2020 Concerning Termination of Prosecutions Based on Restorative Justice in the Jurisdiction of the High Prosecutors of West Sumatra." *International Journal of Multicultural and Multireligious Understanding* 8.11 (2021): 506-520; Indarsih, Yuli. "Some of The Legal Implications Procedure Regulation no. 15 of 2020 Concerning Stopping Prosecution Based on Restorative Justice." *LEGAL BRIEF* 10.2 (2021): 157-178.

the bearers of *Dominus Litis*, should rightfully be granted the authority to resolve criminal cases outside the courtroom using restorative justice principles. This recognition and authorization align with the inherent practices within certain communities and underscore the importance of acknowledging and integrating traditional restorative approaches into the formal legal framework.³³

C. CONCLUSION

This study concluded that the intricate realm of prosecutorial decision-making in Indonesia reflects the delicate balancing act between the pursuit of peace, the imperative of justice, and the evolving landscape of restorative justice. The unique challenges posed by the post-conflict context demand a nuanced approach that considers the complexities surrounding reconciliation efforts and individual accountability for alleged human rights violations. Through a comprehensive analysis of specific cases that have sparked public debate, this study has shed light on the factors influencing prosecutorial choices. The multi-dimensional approach employed, integrating legal, ethical, and socio-political perspectives, has provided valuable insights into the nuanced considerations prosecutors face in navigating the peace versus justice dilemma.

The findings contribute significantly to the ongoing discourse on transitional justice and the role of prosecutors in societies grappling with the aftermath of conflict. Understanding the challenges inherent in balancing the pursuit of peace with the quest for justice within the Indonesian legal context is crucial for fostering a legal system that aligns with the principles of fairness, accountability, and societal healing. As the prosecutorial landscape continues to evolve, the recognition and incorporation of restorative justice principles, as highlighted in Prosecutor Regulation Number 15 of 2020, offer a pathway toward achieving a more balanced and holistic approach. Acknowledging the historical practices of restorative justice within certain communities provides further impetus for prosecutors to explore innovative ways to harmonize the pursuit of peace and justice within the Indonesian prosecutorial process. Ultimately, achieving this delicate balance will contribute to the broader goals of fostering a just, reconciled, and resilient society.

³³ Manullang, Sardjana Orba, et al. "Legal Certainty Aspects in Regulation of the Attorney General Number 15 of 2020 Concerning Termination of Prosecution Based on Restorative Justice." *LEGAL BRIEF* 11.5 (2022): 3291-3298; Satriadi, Satriadi. "Restorative Justice the Limitations of Authority of Police and Prosecutors in the Criminal Justice System." *Al-Bayyinah* 6.1 (2022): 11-21.

DAFTAR PUSTAKA

- Agustin, Syahreni, Ismansyah Ismansyah, and Aria Zurnetti. "Implementation of the Regulation of the Prosecutor of the Republic of Indonesia Number 15 of 2020 Concerning Termination of Prosecutions Based on Restorative Justice in the Jurisdiction of the High Prosecutors of West Sumatra." *International Journal of Multicultural and Multireligious Understanding* 8.11 (2021): 506-520.
- Agustin, Syahreni, Ismansyah Ismansyah, and Aria Zurnetti. "Implementation of the Regulation of the Prosecutor of the Republic of Indonesia Number 15 of 2020 Concerning Termination of Prosecutions Based on Restorative Justice in the Jurisdiction of the High Prosecutors of West Sumatra." *International Journal of Multicultural and Multireligious Understanding* 8.11 (2021): 506-520.
- Akbar, Muhammad Fatahillah. "Pembaharuan Keadilan Restoratif dalam Sistem Peradilan Pidana Indonesia." *Masalah-Masalah Hukum* 51.2 (2022): 199-208.
- Aldi, Gibran, et al. "Moral, Etika dan Profesi Jaksa Sebagai Penegak Hukum." *Nusantara: Jurnal Pendidikan, Seni, Sains dan Sosial Humaniora* 1.01 (2022).
- Ali, Raymond. "Restructuring the Termination of Prosecution in the Criminal Jurisdiction System of Indonesia." *Sch Int J Law Crime Justice* 4.2 (2021): 27-33.
- Anandia, I. Gusti Agung Ayu Sita, I. Made Arjaya, and Ni Made Sukaryati Karma. "Kewenangan Penyelesaian Berkas Perkara Pidana dalam Tahap Pra Penuntutan." *Jurnal Analogi Hukum* 1.2 (2019): 181-186.
- Artadinata, Naomi, Sahuri Lasmadi, and Yulia Monita. "Pengaturan Jaksa Penuntut Umum Dalam Penanganan Tindak Pidana Korupsi Berdasarkan Asas Dominus Litis." *PAMPAS: Journal of Criminal Law* 4.3 (2023): 311-321.
- Azhar, Ahmad Faizal. "Penerapan konsep keadilan restoratif (restorative justice) dalam sistem peradilan pidana di Indonesia." *Mahkamah: Jurnal Kajian Hukum Islam* 4.2 (2019): 134-143.
- Benuf, Kornelius, and Muhamad Azhar. "Metodologi penelitian hukum sebagai instrumen mengurai permasalahan hukum kontemporer." *Gema Keadilan* 7.1 (2020): 20-33.
- Berring, Robert C. "Legal research and legal concepts: where form molds substance." *California Law Review* 75.1 (1987): 15-27.
- Brahmono, Dipto. "Restorative Justice in the Handling of Criminal Acts by the Prosecutor's Office as the Application of the Dominus Litis Principle." *Ratio Legis Journal* 1.4 (2023).
- Budianto, Agus. "Legal research methodology reposition in research on social science." *International Journal of Criminology and Sociology* 9.1 (2020): 1339-1346.
- Budiman, Eren Arif, and Yulianus Pabassing. "Prapenuntutan dalam Praktek Pemeriksaan Perkara Tindak Pidana Korupsi oleh Penyidik Tipikor Kepolisian Resort Nabire." *Jurnal Hukum Ius Publicum* 4.1 (2023): 51-67.
- Butt, Simon. "What makes a good judge? Perspectives from Indonesia." *Asian Journal of Law and Society* 8.2 (2021): 282-323.
- Chuasanga, Anirut, and Ong Argo Victoria. "Legal Principles Under Criminal Law in Indonesia Dan Thailand." *Jurnal Daulat Hukum* 2.1 (2019): 131-138.

- Cox, Jennifer, Jane C. Daquin, and Tess MS Neal. "Discretionary prosecutorial decision-making: Gender, sexual orientation, and bias in intimate partner violence." *Criminal Justice and Behavior* 49.11 (2022): 1699-1719.
- da Cruz, Carolina. "Legal Aspects Of Justice In Criminal Law Enforcement." *Jurnal Pembaharuan Hukum* 6.3 (2019).
- Dewandaru, Laksamana Bagas, Jawade Hafidz, and Latifah Hanim. "The Policy of the Prosecutor's Authority in Termination of Prosecutions based on Restorative Justice in Criminal Justice System in Indonesia." *Law Development Journal* 4.3 (2022): 403-415.
- Dewandaru, Laksamana Bagas, Jawade Hafidz, and Latifah Hanim. "The Policy of the Prosecutor's Authority in Termination of Prosecutions based on Restorative Justice in Criminal Justice System in Indonesia." *Law Development Journal* 4.3 (2022): 403-415.
- Din, Mohd, Asmadi Syam, and Ihdi Karim Makinara. "Termination of Prosecution Based on Restorative Justice from the Perspective of the Dominus Litis Principle." *International Journal of Multicultural and Multireligious Understanding* 10.2 (2023): 24-34.
- Djanggih, Hardianto, Elvi Susanti Syam, and Syahrul Gunawan. "The Prosecutor's Legal Policy in Enacting Restorative Justice on Criminal Case." *Russian Law Journal* 11.3 (2023).
- Faried, Femmy Silaswaty. "Mainstreaming Restorative Justice in Termination of Prosecution in Indonesia." *Journal of Human Rights, Culture and Legal System* 2.1 (2022): 66-77.
- Firmandiaz, Viddy, and Jadmiko Anom Husodo. "Penyelesaian Kasus Pelanggaran Hak Asasi Manusia Berat di Indonesia Oleh Komisi Nasional Hak Asasi Manusia Ditinjau Dari Kewenangannya (Studi Kasus Timor-Timur)." *Res Publica* 4.1 (2020): 92-105.
- Garcia, Virginia, Hari Sutra Disemadi, and Barda Nawawi Arief. "The enforcement of restorative justice in Indonesia criminal law." *Legality: Jurnal Ilmiah Hukum* 28.1 (2020): 22-35.
- Garcia, Virginia, Hari Sutra Disemadi, and Barda Nawawi Arief. "The enforcement of restorative justice in Indonesia criminal law." *Legality: Jurnal Ilmiah Hukum* 28.1 (2020): 22-35.
- Ginting, Yuni Priskila, et al. "Etika Profesi Jaksa Sebagai Gerbang Keadilan Sistem Hukum Republik Indonesia." *Jurnal Pengabdian West Science* 2.08 (2023): 633-645.
- Hadi, Adwi Mulyana, Anik Iftitah, and Syahrul Alamsyah. "Restorative Justice Through Strengthening Community Legal Culture in Indonesia: Challenges and Opportunity." *Mulawarman Law Review* (2023): 33-45.
- Hafizh, Ramdani Abd, et al. "Effectivity of Restorative Justice Meets The Just Nature of Indonesia Society." *Unram Law Review* 5.1 (2021).
- Haq, Ainun Aulia, et al. "Efektivitas Komisi Kejaksaan Republik Indonesia Dalam Pengawasan Dan Penegakan Etika Profesi Jaksa Ditinjau Dari Kasus Jaksa Pinangki." *Das Sollen: Jurnal Kajian Kontemporer Hukum dan Masyarakat* 1.02 (2023).
- Haq, Ainun Aulia, et al. "Efektivitas Komisi Kejaksaan Republik Indonesia Dalam Pengawasan Dan Penegakan Etika Profesi Jaksa Ditinjau Dari Kasus Jaksa

- Pinangki." *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat* 1.02 (2023).
- Hidayat, Taufik, and Gunawan Gunawan. "Suap dan Tindak Pidana Korupsi Dalam Perspektif Hukum Pidana Islam: Studi Atas Kasus Djoko Tjandra dan Jaksa Pinangki." *EduLaw: Journal of Islamic Law and Jurisprudence* 5.2 (2023): 36-47.
- Idrus, Achmad Musyahid, et al. "Constructive Ethics of Judges in Indonesia; Problems and Strategic Strengthening." *UNTAG Law Review* 6.2 (2022): 68-81.
- Indarsih, Yuli. "Some of The Legal Implications Procedure Regulation no. 15 of 2020 Concerning Stopping Prosecution Based on Restorative Justice." *LEGAL BRIEF* 10.2 (2021): 157-178.
- Irabiah, Irabiah, Beni Suswanto, and Muhammad Ali Alala Mafing. "Penerapan Restorative Justice Pada Tingkat Penuntutan (Studi Kasus Di Kejaksaan Negeri Kotamobagu)." *Perspektif* 27.2 (2022): 131-138.
- Iswara, Dina Aprilia. "Optimalisasi Pengawasan Komisi Kejaksaan dalam Mengawasi Pelanggaran Kode Etik Kasus Korupsi pada Jaksa." *Jurnal Hukum Lex Generalis* 1.4 (2020): 1-12.
- Iswardhana, Muhammad Ridha. "Meninjau Kembali Kasus Suap Jaksa Pinangki Berdasarkan Penegakan Hukum Yang Berkeadilan dan Keadilan Sosial." *Jurnal Kewarganegaraan* 7.1 (2023): 1080-1090.
- Jamar, Astrid. "The crusade of transitional justice tracing the journeys of hegemonic claims." *Violence and Democracy* (2019): 53-59.
- Kent, Lia, Joanne Wallis, and Claire Cronin. *Civil Society and Transitional Justice in Asia and the Pacific*. (Canberra: ANU Press, 2019).
- Kleden, Kristoforus Laga. "Pendekatan Viktimologi Meminimalisir Disparitas Pidana." *Jurnal Hukum Magnum Opus* 2.2 (2019): 206-216.
- Koto, Ismail. "Kewenangan Jaksa Dalam Melakukan Penggabungan Perkara Korupsi Dan Money Laundering (Studi Kejaksaan Tinggi Sumatera Utara)." *IURIS STUDIA: Jurnal Kajian Hukum* 2.2 (2021): 156-162.
- Kusuma, Ganes Adi, and Suprpto Suprap. "Eksistensi Kejaksaan dan Relasinya dengan Komnas HAM dalam Penanganan Perkara Pelanggaran Hak Asasi Manusia." *Banua Law Review* 3.2 (2021): 162-179.
- Lanni, Adriaan. "Taking Restorative Justice Seriously." *Buffalo Law Review* 69.3 (2021): 635.
- Lasmadi, Sahuri, Ratna Kumala Sari, and Hari Sutra Disemadi. "Restorative Justice Approach as an Alternative Companion of the Criminal Justice System in Indonesia." *International Conference on Law, Economics and Health (ICLEH 2020)*. Atlantis Press, 2020.
- Leksono, Sony Cipto, Hadi Purnomo, and R. A. S. Hernawati. "Criminal Justice System in the Perspective of Integration." *International Journal of Asia Pasific Collaboration* 1.3 (2023): 82-90.
- Manullang, Sardjana Orba, et al. "Legal Certainty Aspects in Regulation of the Attorney General Number 15 of 2020 Concerning Termination of Prosecution Based on Restorative Justice." *LEGAL BRIEF* 11.5 (2022): 3291-3298.
- Mazjah, R. Muhamad Ibnu. "Dimensi Pengawasan pada Tindak Lanjut Laporan Pengaduan Masyarakat kepada Komisi Kejaksaan dalam Tinjauan Hukum Progresif." *Negara Hukum: Membangun Hukum untuk Keadilan dan Kesejahteraan* 11.2 (2020): 211-230.

- McConville, Mike, ed. *Research Methods for Law*. (Edinburgh: Edinburgh University Press, 2017).
- Mukhtar, Adriansya, and Muhammad Fachri Said. "Kedudukan Jaksa Selaku Pelaksana Mewakili Negara Dalam Sistem Peradilan Pidana." *Journal of Lex Generalis (JLG)* 3.4 (2022): 828-845.
- Nasution, Nurul Putri Awaliah, Jubair Jubair, and Abdul Wahid. "The Restorative Justice: Ideality, Reality, and Problems in The Indonesia Criminal Justice System." *Rechtsidee* 11 (2022): 10-21070.
- Padlilah, Padlilah, et al. "Reevaluation and Reorientation of the Philosophy of Retributive Justice to Restorative Justice in Imposing Criminal Sanctions." *Journal La Sociale* 4.2 (2023): 45-51.
- Pratiwi, Lia, et al. "Coordination of Ability of Prosecutors in The Criminal Jurisdiction System in Indonesia." *PalArch's Journal of Archaeology of Egypt/Egyptology* 18.4 (2021): 8012-8023.
- Rahim, Abdul. "Perlindungan Hukum Terhadap Ahli Dalam Proses Peradilan." *The Prosecutor Law Review* 1.2 (2023): 36-66.
- Rahmaddani, Imam. "Pengawasan Kode Etik Jaksa Oleh Komisi Kejaksaan Guna Terwujudnya Jaksa Yang Profesional dan Berintegritas." *Journal Presumption of Law* 5.1 (2023): 18-34.
- Rinaldi, Ferdian. "Proses Bekerjanya Sistem Peradilan Pidana Dalam Memberikan Kepastian Hukum Dan Keadilan." *Jurnal Hukum Respublica* 21.2 (2022): 179-188.
- Riyanto, Tiar Adi. "Fungsionalisasi Prinsip Dominus Litis Dalam Penegakan Hukum Pidana di Indonesia." *Lex Renaissance* 6.3 (2021): 481-492.
- Rony, Muhammad, Erna Dewi, and H. S. Tisnanta. "Prosecution Paradigm in the Indonesian Criminal Justice System." *Russian Law Journal* 11.5 (2023): 3078-3085.
- Rony, Muhammad, Rinaldy Amrullah, and Erna Dewi. "Legal politics against Dominus Litis at the Attorney General's Office in Exercising the Power of Prosecution." *International Journal of Multicultural and Multireligious Understanding* 9.6 (2022): 156-164.
- Satriadi, Satriadi. "Restorative Justice the Limitations of Authority of Police and Prosecutors in the Criminal Justice System." *Al-Bayyinah* 6.1 (2022): 11-21.
- Satriawan, Bambang, et al. "Paradigm Shift in The Principle of Retributive Justice Becomes Restorative Justice with The Concept of Penal Mediation." *Novateur Publications* 2 (2023): 7-12.
- Senok, Azalya Kyla Saffanah. "Analisis Yuridis Tindak Pidana Korupsi yang Dilakukan oleh Jaksa Pinangki." *Jurnal Riset Ilmu Hukum* (2022): 41-46.
- Setyowati, Herning. "The Judges Ethics and Justice: An Analysis of Law Enforcement in Indonesian Court System." *Law Research Review Quarterly* 7.4 (2021): 403-416.
- Siahaan, Hendrikson, Yusuf Setyadi, and Romainur Romainur. "Analisa Yuridis Kasus Pelanggaran Ham Berat Timor-Timur Dan Upaya Penyelesaian Oleh Komisi Nasional Hak Asasi Manusia." *Journal of Islamic and Law Studies* 5.1 (2021).
- Sihombing, Dedy Chandra, et al. "Penguatan Kewenangan Jaksa Selaku Dominus Litis Sebagai Upaya Optimalisasi Penegakan Hukum Pidana Berorientasi Keadilan Restoratif." *Locus: Jurnal Konsep Ilmu Hukum* 2.1 (2022): 281-293.
- Sjarief, Rifqi. "Criminal Sentencing in Indonesia: Disparity, Disproportionality and Biases". *Dissertation* (Melbourne: Melbourne University, 2020).

- Sudirdja, Rudi Pradisetia, Topo Santoso, and Febby Mutiara Nelson. "Independence of the Prosecutor in Conducting Prosecutions Viewed from the United Command Principle." *Journal of Namibian Studies: History Politics Culture* 33 (2023): 532-548.
- Sumelang, Christy Paskahlis. "Kedudukan Spdp dalam Prapenuntutan Berdasarkan KUHAP (Kajian Putusan MK Nomor 130/PUU-XIII/2015 Tentang Surat Pemberitahuan Dimulainya Penyidikan (Spdp))." *Lex Crimen* 7.3 (2018).
- Sumirat, Iin Ratna. "Penegakan Hukum Dan Keadilan dalam Bingkai Moralitas Hukum." *Al Qisthas Jurnal Hukum dan Politik* 11.2 (2020): 86-100.
- Susilowati, Christina Maya Indah. "The Philosophy of Sentencing In Indonesia Based on Dignified Justice." *International Journal of Business, Economics, and Law* 22 (2020): 173-179.
- Suyanto, Heru, and Andriyanto Adhi Nugroho. "Realizing Indonesia Prosecutors Commission Professional and Trustworthy." *International Journal of Multicultural and Multireligious Understanding* 7.5 (2020): 52-60.
- Taher, Tarmizi. "Ethics of the Prosecutor's Profession Related to Legal Fact Engineering in Indonesia." *Jurnal Scientia Indonesia* 5.1 (2019).
- Tampubolon, Soritua Agung, et al. "Penghentian Penuntutan Tindak Pidana Penganiayaan Berdasarkan Pendekatan Keadilan Restoratif." *Locus Journal of Academic Literature Review* (2023): 193-202.
- Tan, David. "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum." *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 8.8 (2021): 2463-2478.
- Triadi, Putri Aulia, and Elga Suci Anjani. "Implementasi Peraturan Jaksa Agung RI No. Per-014/A/JA/11/2012 Tentang Perilaku Jaksa." *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat* 1.02 (2023).
- Van Ness, Daniel W., et al. *Restoring justice: An introduction to restorative justice*. (London: Routledge, 2022); Marshall, Christopher D. "Restorative justice." *Religion Matters: The Contemporary Relevance of Religion* (2020): 101-117.
- Wahyudi, Dimas Indianto, Nyoman Serikat Putra Jaya, and Pujiyono Pujiyono. "Implementasi Dasar Pertimbangan Jaksa Penuntut Umum Dalam Menentukan Berat Ringannya Tuntutan Pidana Terhadap Terdakwa Kasus Tindak Pidana Korupsi (Studi Di Kejaksaan Negeri Semarang)." *Diponegoro Law Journal* 10.1 (2021): 96-107.
- Wahyuningroem, Sri Lestari. "Towards Post-Transitional Justice." *Journal of Southeast Asian Human Rights* 3.1 (2019): 124-154.
- Widodo, Prayogi. "Hambatan-Hambatan Penerapan Penghentian Penuntutan Perkara Tindak Pidana Berdasarkan Restorative Justice." *Jurnal Hukum Ius Publicum* 4.2 (2023): 1-16.