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Legal Politics of Investigation Authority in Criminal Offences Under the Draft Criminal Procedure Code (RKUHAP)

Panca Sarjana Putra[1], Fahrizal S.Siagian[2*], Brimob Ritonga[3], Saied Firouzfar[4], Dedi Kurniawan[5]

[1,3,5] University of Islam North Sumatra, Indonesia
[2] University of North Sumatra, Indonesia
[4] Islamic Azad University, Iran
**correspondence email :* fahrizalsiagian@students.usu.ac.id

Abstract

The aim of investigative research is a pro justisia stage that serves to gather two pieces of evidence to find the perpetrator of a criminal act after an investigation. This process is known as due process of law, which is contained in the Criminal Procedure Code (KUHAP). The renewal of criminal procedure law is to balance the pre-enactment of the 2026 Criminal Law. Therefore, several research objectives were obtained, namely to explain the authority of investigation in criminal acts in the 1981 KUHAP. Then, another objective is to explain the legal policy review related to the authority of investigation in criminal acts based on the Draft National Criminal Procedure Code.

The method used in this study is normative juridical research combined with empirical data, through a conceptual approach, a legislative approach, and a case approach.

Novelty This study is novel in that criminal procedure law, particularly dominus litis authority, cannot be expanded and the portion of investigation must remain with the state police investigators. This refers to the effectiveness and efficiency of law enforcement and the principles of human rights.

The results of this study show that the authority to investigate criminal acts in Law No. 8 of 1981 on Criminal Procedure is vested in the Indonesian National Police. The legal policy review regarding investigative authority in criminal cases based on the Draft National Criminal Procedure Code aims to prioritize the prosecutorial authority of the public prosecutor in the handling of criminal cases. However, this situation may lead to undesirable issues in the future, such as violations of human rights and the inefficiency of the criminal justice process.

The conclusion of this study is that the expansion of the authority of public prosecutors as criminal investigators is dangerous. Therefore, in terms of efficiency, effectiveness, and the enforcement of human rights, the expansion of the authority of public prosecutors in investigations under the Draft Criminal Procedure Code has the potential to undermine the sense of legal justice.

Keywords : Investigation; Law; Politics; RKUHAP.

Abstrak

Tujuan Penelitian *Penyidikan merupakan suatu tahapan pro justisia yang berfungsi mengumpulkan dua alat bukti untuk menemukan pelaku daripada suatu tindak pidana setelah melalui penyelidikan. Proses ini dikenal dengan due process of law yang dimuat dalam Kitab Undang-undang Hukum Acara Pidana (KUHAP). Pembaharuan hukum acara pidana untuk menyeimbangkan pra berlakunya Hukum Pidana Materil Tahun 2026. Maka dari itu diperoleh beberapa tujuan penelitian yakni menjelaskan kewenangan penyidikan dalam tindak pidana dalam KUHAP Tahun 1981. Kemudian, tujuan lainnya yakni menjelaskan kajian politik hukum terkait kewenangan penyidikan dalam tindak pidana berdasarkan Rancangan Kitab Undang-undang Hukum Acara Pidana Nasional.*

Metode Penelitian *yang digunakan dalam penelitian ini adalah penelitian yuridis normatif dikombinasikan dengan data empiris, melalui konsep pendekatan konseptual, pendekatan perundang-udangan dan pendekatan kasus.*

Kebaruan *Penelitian ini memiliki kebaruan bahwa hukum acara pidana, khususnya kewenangan dominus litis, tidak boleh diperluas dan porsi penyidikan harus tetap diberikan kepada penyidik kepolisian negara. Hal ini mengacu pada efektivitas, efisiensi penegakan hukum, dan prinsip hak asasi manusia.*

Hasil Penelitian *ini yakni bahwasanya kewenangan penyidikan dalam tindak pidana dalam Undang-undang Nomor 8 Tahun 1981 Tentang Hukum Acara Pidana memberikan kewenangan penyidikan ialah pada Kepolisian Negara Republik Indonesia. Kajian politik hukum terkait kewenangan penyidikan dalam tindak pidana berdasarkan Rancangan Kitab Undang-undang Hukum Acara Pidana Nasional adalah untuk mengedepankan dominus litis kejaksaan dalam proses penanganan perkara pidana. Namun, melalui kondisi ini akan menyebabkan terjadinya permasalahan yang tidak diinginkan kedepannya yakni terkait pelanggaran hak asasi manusia dan ketidakefektifan proses penegakan hukum pidana.*

Kesimpulannya *perluasan kewenangan penuntut umum sekaligus penyidik pidana ini berbahaya. Oleh karena itu, dalam kaitannya dengan efisiensi, efektivitas, dan proses penegakan hak asasi manusia, perluasan kewenangan penuntut umum dalam penyidikan menurut Rancangan KUHAP berpotensi mencederai rasa keadilan hukum.*

Kata Kunci: *Hukum; Penyidikan; Politik; RKUHAP.*

1. INTRODUCTION

Investigation is the process of carrying out investigations that function to find the perpetrators of criminal offences.[1] This process is an advanced stage of the investigation which proceeds to the investigation stage. Where an investigation is a stage to test whether an event is a criminal offence or not. If it is declared to fulfil sufficient preliminary evidence, it is said that the event is a criminal offence. Once the event is a criminal offence, then efforts will continue to find out who the perpetrator of the criminal offence actually is.

[1] Nisa Amalina Adlina, "Kewenangan Penyidikan Terhadap Tindak Pidana Di Sektor Jasa Keuangan" 15, no. 4 (2023): 250–69.

Law Number 1 of 1981 on Criminal Procedure Law, Article 1 Point 2, states that an investigation is a set of actions taken by an investigator in a case in accordance with the procedures outlined in this law to find and gather evidence that sheds light on criminal offences that have occurred and to identify the suspect. An essential part of the criminal law enforcement process is the investigation. At this point in its development, criminal law has evolved to the level of material criminal law. The 2023 Criminal Code's Materil Criminal Law replaces the 1946 Wetboek van Strafrecht Criminal Code as the material criminal law. Reforming the criminal code is essential to maintaining equilibrium and improving the system's responsiveness and sustainability. Formal criminal law should preferably be included in any updates to material criminal law reform. The implementation of criminal procedural legislation is expected to avoid the arbitrariness of law enforcement and human rights breaches.

Meanwhile, based on the study of legal history, in the past the process of enforcing criminal procedural law often ignored human rights and ignored the principles of existing criminal law.[2] As a result, criminal procedural law exists to balance human rights and effective law enforcement.[3] Satjipto Rahardjo stated that, a good law is a law that accommodates human rights, accommodates the needs of the people, and a good law is a law that flows with society.[4] The state was forced to amend both the criminal law and the criminal procedure law when the criminal procedure legislation was passed. The criminal procedural laws are found to be in line with the dader strafrecht doctrine, which aims to hold criminals accountable for their crimes.

A number of significant components of the previous Criminal Procedure Code also need to be changed, including the philosophy of punishment, which first acknowledged the dader strafrecht theory before developing into daad dader strafrecht, which places a higher priority on restorative justice and family approaches. An method to justice known as restorative justice involves restoring the parties concerned.[5]

When examining the theory of Criminal Law Reform conveyed by Barda Nawawi Arief, it is concluded that criminal law reform is carried out in order to tackle criminality and suppress crime rates in the community. In the meanwhile, modernising the criminal procedure laws and establishing a just criminal procedure legislation are the objectives of criminal law reform.[6] The Republic of Indonesia's revision of criminal procedural legislation in conformity with contemporary situations has sparked passionate discussion among academics and legal practitioners across the archipelago. The argument was about the contentious extension of the Prosecutor's Office's dominus litis jurisdiction, which included taking over investigation

[2] Achmad Sulchan, *Hukum Acara Pidana Dan Sistem Peradilan Pidana Dalam Praktek Beracara*, n.d.

[3] Lutfil Ansori, "Reformasi Penegakan Hukum Perspektif Progresif," *Jurnal Yuridis* 4, no. 2 (2017): 148, https://doi.org/10.35586/.v4i2.244.

[4] Made Oka Cahyadi Wiguna, "Pemikiran Hukum Progresif Untuk Perlindungan Hukum Dan Kesejahteraan Masyarakat Hukum Adat," *Jurnal Konstitusi*, 2021, https://doi.org/10.31078/jk1816.

[5] M A Hasbullah, "Implementation of Restorative Justice in Handling Cases of Bullying in Schools," *Journal of Positive School Psychology* 6, no. 3 (2022): 9970–78.

[6] Barda Nawawi Arief, *Perbandingan Hukum Pidana* (Jakarta: CV. Rajawali, 1990).

authority from the Police Investigator.[7] The phrase "dominus litis" refers to the owner or controller of the criminal case.[8] Therefore, it would be very detrimental to increase the dominus litis as required by the Criminal Procedure Code. This is governed by Article 12 Paragraph 11 of the controversial RKUHAP.[9]

This research is very important in order to become an order of correction for the government in drafting a law must be in accordance with the will and needs of the people not also on the initiation without purpose. This is because criminal procedure law is a legal device that will be carried out by law enforcement officials to enforce criminal material law and also as a means of seeking justice for the community. So that a regulation should be adjusted to the needs of the community. Not merely without a clear purpose like what exists today. The result of this research is that the criminal procedure law, especially the dominus litis authority, should not be expanded and the portion of the investigation must still be given to state police investigators. This is done to avoid abuse of authority that leads to abuse of power and human rights violations. This refers to the effectiveness, efficiency of law enforcement, and human rights principles. Meanwhile, this research also has a novelty that is found, namely criminal procedural law based on human rights.

When examining the potential for human rights violations and abuse of power in the substance of the Draft Indonesian Criminal Procedure Code 2025. It is necessary to examine the politics of law in every policy made by the government. The politics of law will talk about the direction of the rule of law. Just as the presence of criminal procedure law in the beginning was to prevent arbitrariness and the presence of KUHAP in 1981 was to realise the rule of law based on Pancasila and the 1945 Constitution. This is the legal politics of the enactment of KUHAP based on Law Number 8 of 1981. Therefore, the hustle and bustle of the enactment of the KUHAP Bill in 2025, which is controversial, certainly attracts the attention of academics to study it. The controversy includes the expansion of the Prosecutor's authority in the criminal investigation process, which is actually the authority of the Police. Therefore, it is necessary to study the Legal Politics of Investigation Authority in Criminal Acts in the Draft Criminal Procedure Code (RKUHAP). The previous research entitled Renewal of the Criminal Procedure Law System focused on the study of the need for a substantial reform of the criminal procedure law system in a general scope, while this research discusses the study of the Political Law of Investigation Authority in Criminal Acts in the Draft Criminal Procedure Law (RKUHAP). This research certainly examines the opportunity for indications of abuse of power and human rights violations in its implementation in the Indonesian criminal justice system.[10]

The effectiveness and efficiency of law enforcement will thus be impacted if it is put into

[7] Muhammad Hikmat Sudiadi, "Implementasi Asas Dominus Litis Dalam Sistem Peradilan Pidana Modern Di Indonesia," *Mahalisan* Volume 1, no. Nomor 1 (2024): 1–15.

[8] Tiar Adi Riyanto, "Fungsionalisasi Prinsip Dominus Litis Dalam Penegakan Hukum Pidana Di Indonesia," *Jurnal Lex Renaissance* 6, no. 3 (2021): 481–92, https://doi.org/10.20885/jlr.vol6.iss3.art4.

[9] A.Andrian B.S Putra, "Pakar Hukum Pidana FH UISU Dukung RUU KUHAP Dievaluasi," *Viva.Co.Id*, 2025, https://medan.viva.co.id/medan/8560-pakar-hukum-pidana-fh-uisu-dukung-ruu-kuhap-dievaluasi.

[10] Apri Listiyanto, "Pembaharuan Sistem Hukum Acara Pidana," *Rechtsvinding*, 2017, 1–4, https://rechtsvinding.bphn.go.id/view/view_online.php?id=234.

practice. Criminal procedural law ought to safeguard human rights instead of fostering injustice and mistreatment. The existing criminal procedure legislation, therefore, necessitates scientific research under the heading of Political legislation of Investigation Authority in Criminal Offences Based on Draft Criminal Procedure Code (RKUHAP). Several issues arise from the above, including the following: how is the investigative authority for criminal offences? 1983's Criminal Procedure Code? According to the Draft National Criminal Procedure Code, how does the study of legal politics relate to the power to investigate criminal offences?

2. METHOD

This research is a scientific activity including analysis and construction that is conducted methodologically, methodically, and consistently. When discussing technique, it will refer to specific methods or procedures. This study uses normative legal research in addition to empirical data from focus group discussions and correspondence that were gathered on August 22, 2025, at FH UISU. Utilising secondary data collection techniques, normative legal research is conducted using primary, secondary, and tertiary legal materials pertinent to the study of laws and regulations (juridical elements) and how they are applied in society. Meanwhile, legal research is a study approach based on normative legal science or legal dogmatics (normative) and supported by community views through focus group discussion activities that recommend ideal normative concepts for the Indonesian Criminal Procedure Law. Legal research materials are arranged in a systematic structure to be studied and a conclusion is drawn that will answer the problem or research topic.[11]

3. DISCUSSION

3.1 Investigation authority in criminal offences in the 1981 Criminal Procedure Code

In order to determine whether or whether a criminal act happened in an occurrence, an investigation is the first step in the criminal case settlement process. Once the existence of a criminal offence is established, an investigation can be conducted based on the results of the investigation.[12] The act of investigation focusses on the process of searching for and locating an occurrence, whether it is a criminal event or not. If the event is a criminal event, then it will be continued to find out who actually committed the criminal offence. The authority to investigate criminal offences under the 1981 Criminal Procedure Code includes the investigator's right to conduct investigations, collect evidence, and take legal actions such as arrest and detention. Investigators are also authorised to summon witnesses and suspects to clarify events suspected of being criminal offences.[13]

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[11] Margie Gladies et.al Deassy J.A. Hehanussa, *Metode Penelitian Hukum*, ed. Elan Jaelani, *Jurnal Widina Bhakti Persada*, vol. 4 (Bandung: Widina Bhakti Persada Bandung, 2023), https://medium.com/@arifwicaksanaa/pengertian-use-case a7e576e1b6bf%0Ahttps://doi.org/10.1016/j.biteb.2021.100642.

[12] M. Yahya Harahap, *Pembahasan Permasalahan Dan Penerapan KUHAP: Penyidikan Dan Penuntutan* (Jakarta: Sinar Grafika, 2015).

[13] Mochamad Fajar, "Restorative Justice Sebagai Hukum Progresif Oleh Penyidik Polri," *Jurnal Ilmu Kepolisian* 13, no. 3 (2019): 225–38, https://sespim.lemdiklat.polri.go.id/assets/file/1709023724_RESTORATIVE_JUSTICE_KONSEPSI_DAN_URGENSI_DAN_PENERAPANNYA_DI_Indonesia_OLEH_Dr._JEAN_CALVIJN_SIMANJUNTAK.pdf.

Investigation is one of the follow-up programmes to the investigation process, which is called the pro-justitia stage.[14] It is called pro-justitia because at this stage two pieces of evidence are needed with the perspective of unus testis nullus testis which then becomes the theoretical basis that two pieces of evidence become evidence, and vice versa one piece of evidence is not evidence. Investigations should ideally be preceded by an enquiry stage. Likewise, an investigation ideally exists if there is a Police Report or Public Complaint (Dumas).[15]

When investigating a person accused of committing a crime, all investigators must follow the presumption of innocence. This principle requires that a person cannot be considered as a truly guilty perpetrator before a court decision states so.[16] Investigators must treat suspects in line with appropriate legislative regulations when carrying out their duties as investigators in order to meet the rights of suspects as stipulated in the Criminal Procedure Code. This is expected to lead to good interaction between the investigator and the suspect, so that the investigator can dig up information in an effort to obtain as much evidence as possible from the examination process he is conducting.

In Law No. 8 of 1981 on Criminal Procedure Law, henceforth referred to as KUHAP. Overall, criminal procedural law begins with police reports, investigations, prosecutions, court trials, and the enforcement of court rulings. Based on existing developments, criminal process law governs four types of entities that collaborate in this system: the police, prosecutors, courts, and correctional facilities.[17] According to KUHAP, the Indonesian National Police has the authority to conduct investigations, which are further controlled by implementing legislation. The applicable law is Government Act Number 27 of 1983 on the Implementing Regulations of the Criminal Procedure Code.[18] However, as it developed, the same authority was granted to public prosecutors and several civil servant investigators (PPNS) under specific ministries, including the Ministry of Maritime Affairs and Fisheries, the Ministry of Forestry, the Ministry of Home Affairs, the Directorate of Taxes, and so on. The Indonesian National Police, as part of the chess nation of law enforcement, have complete control over the inquiry process.

Weaknesses in the implementation of KUHAP 1981 are also often found in the process of investigation, prosecution, and trial in court. For example, in the Vina Cirebon case, how could there be a wrong arrest and wrong suspect determination by the Investigator as stipulated in the 1981 Criminal Procedure Code. In addition, there is also confusion regarding the process of providing restitution to victims of criminal offences, where the 1981 Criminal Procedure Code does not recognise the term restitution as compensation for victims of

[14] Jimmi Depari, Maidin Gultom, and Syawal Amry Siregar, "Peran Kepolisian Dalam Penanganan Tindakpidana Pemalsuan Surat Pasal 263 Kuhp (Studi Di Kepolisian Daerah Sumatera Utara)," *Jurnal Retentum* 3, no. 1 (2021): 99–107, https://doi.org/10.46930/retentum.v3i1.907.

[15] Leden Marpaung, *Proses Penanganan Perkara Pidana (Penyelidikan Dan Penyidikan)* (Jakarta: Sinar Grafika, 2009).

[16] Johansyah Johansyah and Abdul Roni, "Asas Praduga Tak Bersalah Dalam Proses Penyidikan," *Solusi* 21, no. 1 (2023): 17–35, https://doi.org/10.36546/solusi.v21i1.805.

[17] Natalia Orient Laloan, "Kewenangan Penyidik Dan Penuntut Umum Menurut Sistem Peradilan Pidana Dalam Menangani Perkara Pidana Menurut KUHAP," *Lex Crimenrimen* IX, no. 2 (2020): 1–23, https://ejournal.unsrat.ac.id/v3/index.php/lexcrimen/article/view/28550/27899.

[18] Herlyanty Bawole, "Perlindungan Hukum Bagi Korban Dalam Sistem Peradilan Pidana," *Lex Et Societatis* 3, no. 3 (2021): 16–24, https://ejournal.unsrat.ac.id/index.php/lexetsocietatis/article/view/36433/33905.

criminal offences. In fact, restitution is actually one of the softer mechanisms in paying attention to the victim's losses after becoming a victim of a criminal offence.[19] The concept of compensation exists in the Criminal Procedure Code, namely Article 97 and Article 98 of the Criminal Procedure Code. Therefore, the judicial process is often inaccurate in terms of providing compensation for victims of criminal offences. This is the weakness of KUHAP 1981.

The State Police have the authority to investigate for a reason. According to KUHAP Article 1 Point 1, investigators are personnel of the Indonesian National Police or certain Civil Servant personnel who are legally permitted to conduct enquiries.[20] Meanwhile, in Government Regulation of the Republic of Indonesia Number 27 of 1983 concerning Regulations for the Implementation of the Criminal Procedure Code, specifically in Article 2 Paragraph 1, it is stated that investigators are Indonesian State Police officers with at least the rank of second lieutenant of Police. The authority to investigate can be given to certain state institutions with their Civil Servant investigators (PPNS). However, the authority to investigate as intended is only for certain criminal offences and not for all criminal offences as the authority of Polri investigators. Meanwhile, an investigation is a sequence of measures taken by the investigator in the case and in accordance with the procedure prescribed by this legislation to seek and gather evidence with the goal of bringing the criminal crime to light and locating the suspect.

The authority to investigate should be borne by the State Police Institution.[21] This is because when talking about the authority of investigation, it will talk about the authority of institutional investigators. Investigators, as provided in Article 6 Paragraph 1 letter a, have the authority to Receive a report or complaint regarding a criminal offence, Take the initial action on the scene, Ordering a suspect to halt and verifying the suspect's identity; Make arrest, detention, search, and seizure; Conducting examination and seizure of letters; Fingerprinting and photographing individuals; Calling persons to be heard and investigated as suspects or witnesses; Inviting more individuals to assist with case examination; To terminate the investigation; Take other legally responsible steps.

Meanwhile, Article 6 Paragraph 2 explains that the investigators referred to in Article 6 Paragraph 1 letter b have authority in accordance with the law that serves as the foundation of their respective laws, and that in carrying out their duties, they are coordinated and supervised by the investigators referred to in Article 6 Paragraph 1 letter a.[22]

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[19] Fahrizal S Siagian, Mahmud Mulyadi, and Rosmalinda, "Criminal Law Policy Concerning Providing Restitution To Victims Of Crimes Of Serious," *Semarang Law Review* 5, no. 2 (2024): 13–36, file:///C:/Users/Administrator/Downloads/39613-98293-1-PB.pdf.

[20] R Soesilo and M. Karyadi, *Kitab Undang-Undang Hukum Acara Pidana (KUHAP) Dengan Penjelasan Resmi Dan Komentar* (BOGOR: Politeia, 2015).

[21] Fahrizal S. Siagian, Susilawati, and Syarifuddin, "Penyidikan Terhadap Tindak Pidana Jual Beli Vaksin Secara Ilegal Dalam Penanggulangan Pandemi Covid-19(Studi Pada Kepolisian Daerah Sumatera Utara)," *Jurnal Hukum Dan Kemasyarakatan Al-Hikmah* 3, no. 2 (2022): 358–67.

[22] Adam Ilyas, Felix Bakker, and Dicky Prasetio, "PLURALISME KEWENANGAN PENYIDIKAN DALAM PEMBERANTASAN TINDAK PIDANA KORUPSI DI INDONESIA," *Kertha Semaya Journal Ilmu Hukum* 10 (December 28, 2021): 150–62.

The Attorney General's Office, pursuant to Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, grants prosecutors the right to act as investigators.[23] However, its jurisdiction is limited to exceptional criminal crimes involving large-scale public financial losses, and it must still coordinate with the Corruption Eradication Commission. According to Article 30 Paragraph 1, the Prosecutor's Office has the obligation and jurisdiction to investigate certain criminal acts under the law. The Public Prosecutor's Office's authority to investigate specific criminal offences is intended to accommodate several provisions of the law that authorise the Public Prosecutor's Office to conduct investigations, such as Law No. 26/2000 on Human Rights Courts and Law No. 31/1999 on the Eradication of the Crime of Corruption, as amended by Law No. 20/2001 on the Eradication of the Crime of Corruption. The authority to examine should ideally be utilised in accordance with fair and decent human ideals. This is because law enforcement should have the ability to bring justice to a large number of individuals.

3.2 Review of legal politics related to the authority of investigation in criminal offences based on the Draft National Criminal Procedure Code

The review of legal politics related to the authority of investigation in criminal offences based on the Draft Criminal Procedure Code needs to be enriched by analysing the actual definition of what legal politics is. Legal politics is the direction of legal policy that regulates where the investigation process is carried out within the scope of the criminal justice system. This concerns the rules, procedures, and principles used by law enforcement officials in collecting evidence, identifying suspects, and ensuring that investigations are carried out by prioritising human rights principles.

The expansion of the authority of investigators to prosecutors, which should have been the authority of the state police, has not yet obtained an overview of the political direction of the policy. As a matter of urgency, the politics of law is very important to examine the extent and direction of the policies enacted. The implementation of the expansion of the prosecutor's dominus litis is in line with human rights and the effectiveness of law enforcement. However, the legal political study of the expansion of the prosecutor's authority as an investigator in general criminal offences and special criminal offences that override the role of the police will certainly give birth to a super power institution and will discuss the principle of integrated criminal justice system, so that it is no longer one cohesive or alias will occur elbowing each other. The direction of investigation should still be given to the Police and the prosecution process should still be given to the Prosecutor. This expansion of authority will cause uncertainty in the investigation process and potentially disrupt the principle of functional differentiation between the police and the prosecutor's office.

Investigation authority is regulated in a draft legislation as part of the legal system. As

[23] Supardi Hamid et al., "Reconstruction Of Authority Attorney General In Disclaimer Of Case For The Sake Of The Public Interest In The Criminal Justice System In Indonesia," *Russian Law Journal* XI, no. 2 (2023): 394–408, https://doi.org/10.30652/rlj.v3i2.7813.2.

stated by Lawrence Meir Freidman, there are three indicators of the legal system, namely substance, structure and legal culture. One of the steps in formal criminal law is to discuss investigatory authority. When studying criminal procedural law, it is vital to have legislation as a legal basis, as indicated in the concept of Nullum delictum nulla poena sine praeve lege poenali, which states that no conduct is considered a criminal offence unless there are laws governing it beforehand. Based on this idea, Article 27 Paragraph 1 of the 1945 Constitution requires legal certainty in the law enforcement process, which is backed by the premise of Indonesia as a state of law. Being a state of law requires that all parts of state life be governed by explicit rules and regulations.

The authority to investigate is governed by the Criminal Procedure Code, which is further codified in a specific statute known as the Criminal Procedure Code. This legislation is a political product, thus political procedures will be required throughout the draughting, ratification, and enacting process. The politics of law is defined as the future orientation of law. Satjipto Rahardjo, a national legal expert, defines legal politics as the practice of selecting and implementing methods to attain certain social and legal goals in society. [24] According to him, studying legal politics raises numerous fundamental concerns. Specifically, what aims are to be reached with the present legal system, and which approaches are deemed the best. Furthermore, when the legislation should be altered and how that change should be achieved. Can a standardised and well-established pattern be developed to assist decide on the process of identifying goals and how to attain them properly.

It should also be emphasised that some jurists explain that law is part of politics. Politics has more power than the law. Politics can make and regulate laws that are formed according to their interests and desires. This is consistent with the opinion of Daniel S. Lev, a criminal politics expert at Berkeley University in the United States, who stated that the most important factor in the process of law formation is conception and political power, namely that law is almost always a political tool.[25] The stability of a country's legislation is determined by its political equilibrium. The politics of law will discuss political power, which is the capacity to affect general government policy, both in its formulation and impact, depending on the power bearer.

In terms of the present topic, specifically the draft law on the Criminal Procedure Code (RKUHAP), it has been a source of contention in national discussions. Related to the Attorney General's Office of the Republic of Indonesia's overbroad jurisdiction in the criminal justice process, including acting as an investigator in general and special criminal offences if police investigators have not processed a criminal case within a maximum of 14 days.

This is undoubtedly a concern in the life of academics and practitioners of national law. The history of the formation of criminal procedural legislation is studied as part of the study of legal history in order to avoid human rights violations and law enforcement agents acting

[24] Satjipto Rahardjo, *Ilmu Hukum, Cet. III* (Bandung: Citra Aditya Bakti, 1991).

[25] Didi Jubaidi, "Pengaruh Politik Terhadap Hukum: Interaksi Antara Keputusan Politik Dan Keadilan Hukum," *Al Daulah Jurnal Hukum Pidana Dan Ketatanegaraan* 9, no. 2 (March 25, 2024): 159–75, https://doi.org/10.24252/ad.v9i2.16085.

arbitrarily. The purpose of criminal procedural law is to appropriately implement material criminal law. According to certain authors, formal criminal law is regarded to be necessary for the correct and intelligent enforcement of material criminal law. Meanwhile, the creation of formal criminal law was intended to prohibit law enforcement authorities from acting arbitrarily. As a result, the difficulties with the Draft Criminal Procedure Code, which is deemed preliminary, have become a nationwide trending issue that requires reconsideration.

At the Focus Group Discussion held by the Centre for Legal Studies on Human Rights and Politics of The Faculty of Law, Islamic University of North Sumatra (Pushampol FH UISU) with the theme of Legal Politics of Investigation Authority in Criminal Acts Based on the Draft Criminal Procedure Code (RKUHAP). On this occasion, several important notes were obtained, namely the reform of criminal procedure law, is part of the effort to realise a renewable criminal procedure law. As conveyed by Eka N.A.M. Sihombing who is the Chairperson of the Association of Teachers of Constitutional Law-State Administration Law (APHTN-HAN) of North Sumatra Province, that the Criminal Procedure Code, based on Law Number 8 of 1981, is about 40 years old and requires replacement rules. According to him, the core of good legislation is that it upholds human rights. This is because Aristotle defined the objective of law as the accomplishment of justice. The law that is aspired to be the applicable law must be ratified immediately by referring to various perspectives.

According to Eka N.A.M. Sihombing, actually the direction of policy becomes guidance in the formulation of national legislation is the existence of social, philosophical, and other factors that will affect the quality of a national legislation. A related aspect that must be examined is the politics of criminal procedural legislation in the future, namely how to reorganise law enforcement officials' authorities so that they do not overlap in accordance with societal demands. Meanwhile, the authority granted in KUHAP is called the authority of attribution. Attributive authority (original), which is the authority given directly by the legislation.

Meanwhile, constitutional interests are actually echoed by Jimly Asshiddiqie in Indonesia, which is a special concern in the process of formulating legislation. This needs to be studied and implemented in various national legislation formulation activities. Meanwhile, the RKUHAP has created sectoral ego in the authority of investigation in today's procedural law. The Prosecutor's Office carries out its duties in a single prosecution system, which is absolute in the single prosecution process. This principle requires that the prosecutor is an absolute public prosecutor. This is as explained in Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. This is actually part of legal politics.

The politics of law will adapt to the demands of the local community, therefore in the case of the present RKUHAP, it should be noted that the law must be in agreement with the desire of the community. So, if there is disagreement and/or the substance of the legislation is not supported by the national community, it must be repealed. Satjipto Rahardjo once stated that a good law is one that is in harmony with the desire of society; if it is not, the law is

deemed flawed.

The Constitutional Law expert noted that the prosecutor's office has prosecutorial authority under the premise of a single prosecution system, which is regarded highly important in the law enforcement process. Meanwhile, to enhance the integrated criminal justice system institution, it must establish a constitutional stance that confirms the power of investigators under the Criminal Procedure Code. Meanwhile, the Criminal Procedure Code requires strong functional separation. According to the report offered by Constitutional Law Experts, legislation must adapt existing principles, and laws and regulations that violate public justice principles are inappropriate.[26] The opinions given by constitutional and state administration law experts are consistent with those conveyed by criminal law experts Rina Sitompul and Indra Gunawan Purba.

Criminal Law Experts explained in a criminal perspective about the importance of changes related to our current Criminal Procedure Law. The material law has been enacted in 2026. Therefore, the enactment of the formal law should be adjusted to the ratification of the material law in 2023. Actually, this opinion has also been conveyed by Constitutional Law Experts from the University of Muhammadiyah Sumatera Utara (UMSU), that ideally the enactment of formal law must go hand in hand with the enactment of material law.

Based on the study of legal history, in the Netherlands, the concept of humanity of punishment in the Netherlands is different from that in Indonesia, for example the Netherlands has abolished the death penalty considerably. In contrast to Indonesia, which still uses the death penalty as an alternative punishment. This is actually a reference that Indonesia needs to revise its national criminal procedure law by reflecting on developed countries that are relevant to Indonesia. However, this needs to be studied and adjusted to the culture of Indonesian society. Because actually not all rules applied in foreign countries can be applied in Indonesia.[27]

Unlike in Indonesia, which is still thick and impressed by the classic theory or dader strafrecht. According to him, there is a need for dehumanisation in the RKUHAP and it is necessary to examine more deeply the philosophy of the expansion of the dominus litis principle in the RKUHAP which is very worrying for the national law enforcement climate.[28] Dominus litis mandates the prosecutor as the owner of the case so that everything related to the case being processed, the prosecutor is institutionally authorised to conduct investigations and determine whether the case can be continued or not.[29] Previously, this dominus litis

[26] Pushampol UISU, "Focus Group Discussion Tentang Politik Hukum Kewenangan Penyidikan Tindak Pidana Dalam RKUHAP" (Medan, 2025).

[27] Muhammad Zuhal, Qolbu Lathof, and Surastini Fitriasih, "Proyeksi Konsep Pedoman Pemidanaan Dalam Sistem Peradilan Pidana Di Indonesia : Telaah Perbandingan Hukum Dengan Amerika Serikat," *Nagari Law Review* 7, no. 3 (2024): 466–85, http://nalrev.fhuk.unand.ac.id/.

[28] Lalu Panca Tresna, Amiruddin Amiruddin, and Ufran Ufran, "Implementation of the Principle of Dominus Litis in Positive Law in Indonesia," *International Journal of Multidisciplinary Research and Analysis* 05, no. 11 (2022): 3123–31, https://doi.org/10.47191/ijmra/v5-i11-20.

[29] Ardyansyah and Dahlan, "The Application of the Principles of Dominus Litis by the Prosecutor in the Narcotics Criminal Act," *IOSR Journal Of Humanities And Social Science (IOSR-JHSS)* 25, no. 3 (2020): 31–35, https://doi.org/10.9790/0837-2503053135.

principle was enacted in KUHAP in accordance with Article 144 Paragraph 1 of KUHAP. However, the authority was only at the stage of criminal prosecution, not expanded as in the current RKUHAP where the dominus litis principle is extended to the investigation stage. This needs to be clarified again as to what the direction of law enforcement is from the expansion of the prosecutor's dominus litis as explained in Article 12 Paragraph 11 of the Criminal Procedure Code. [30] Dominus litis is implemented by prioritising positive law as well as unwritten law.[31]

Regarding the RKUHAP which has become controversial, that there is no nomenclature of investigation in the RKUHAP so that later it has the potential to not maximise the law enforcement process. The absence of investigation in the Criminal Code becomes very dangerous in the future if this is enacted, so this must be corrected. The authority of the investigator becomes very special, it should be. Article 12 Paragraph 11 of the Criminal Procedure Code has the potential to disrupt the integrated criminal justice system, rendering it ineffective in the future. As a result, the extension of the prosecutor's jurisdiction in the inquiry must be reconsidered in order to avoid disagreement among law enforcement officers. If a disagreement happens, it will result in disintegration between. The prosecutor's office and the police are on the same level, and there is no superiority. So that no attempt is made to foment disagreement among law enforcement authorities, resulting in discord.

Based on concrete facts in the scope of Indonesian criminal justice, according to the old KUHAP, there have been various acts of arbitrariness of law enforcement officials. As a result, the RKUHAP fails to reflect the ideal of fair and civilised humanity, as well as an integrated criminal judicial system. The reality of criminal law enforcement (criminal procedural law) in Indonesia, in addition to being founded on the legal system, includes numerous human rights violations, despite the fact that the state constitution stipulates that Indonesia, as a state of law, shall always prioritise human rights as a moral humanity. Meanwhile, the Criminal legislation Expert said that the criminal procedural legislation marked the beginning of a truly outstanding achievement in 1981. This material criminal law will probably certainly be established in 2026, thus an ideal criminal procedure legislation must accompany it. One of the reasons for reforming criminal procedure legislation is to address issues in the previous Criminal Procedure Code, but the change must be done correctly and prudently.

Indonesian criminal justice has begun to shift towards the family model which was previously a due process model.[32] Meanwhile, the functions of criminal procedural law are preventive and punitive (repressive). Meanwhile, criminal procedural law is essentially to prevent violations of human rights and prevent an unobjective law enforcement process.[33] The

[30] Pushampol UISU, "Focus Group Discussion Tentang Politik Hukum Kewenangan Penyidikan Tindak Pidana Dalam RKUHAP."

[31] Soehartono et al., "The Establishing Paradigm of Dominus Litis Principle in Indonesian Administrative Justice," *Sriwijaya Law Review* 5, no. 1 (2021): 42–55, https://doi.org/10.28946/slrev.Vol5.Iss1.603.pp42-55.

[32] Pushampol UISU, "Focus Group Discussion Tentang Politik Hukum Kewenangan Penyidikan Tindak Pidana Dalam RKUHAP."

[33] Dany Try Hutama Hutabarat et al., "Pentingnya Hak Asasi Manusia (Ham) Dalam Bernegara," *Jurnal Riset Pendidikan Dan Pengajaran* 1, no. 2 (2022): 80–91, https://doi.org/10.55047/jrpp.v1i2.213.

ideal criminal procedure law is a humanist criminal procedure law that is more useful. So, if the law does not provide a sense of justice, then the law is considered bad. The RKUHAP must be considered from aspects that should not cause injustice to the community. The absence of investigation nomenclature in the RKUHAP is very dangerous for justice in society. All law enforcement processes will not be objective and there will be arbitrariness.

Meanwhile, when analysing performance efficacy, the increase of investigative authority assumed by the prosecutor's office and the RKUHAP is deemed ineffectual in the law enforcement process. This is owing to worries that the prosecutor's office may cause problems, reducing the effectiveness of the law enforcement process. Furthermore, the extension of the prosecutor's dominus litis in the RKUHAP causes tensions between institutions with competing egos. As a result, the way it is implemented causes unfairness.

So, if enacted, this RKUHAP will result in duplicate law enforcement processes and authority. The existence of this RKUHAP is thought to induce ambiguity and sectoral ego, resulting in turmoil in the law enforcement process. Meanwhile, there is substance in this Criminal Code that includes military institutions in the process of investigating and prosecuting criminal acts since their authority is not in question. However, military institutions participating in law enforcement processes that are not in accordance with procedures will cause problems. The law enforcement process should ideally be in harmony and harmonisation between institutions and should not cause problems in the future.

The study of legal politics connected to the power of investigation in criminal offences based on the Draft National Criminal Procedure Code is an expansion of the Prosecutor's Office's dominus litis, which is intended to increase the Prosecutor's Office's authority in a case. However, when it comes to legal clarity and law enforcement efficacy, the increase of dominus litis is expected to have a negative impact. This is due to the fact that the prosecutor's office and the police have restricted and distinct roles and responsibilities. As a result, each institution already has its own role, and if one institution's power is assumed by another, the law enforcement process will be rendered ineffectual. As a result, it is acceptable for each institution to carry out its responsibilities in a reasonable and prudent manner. Legal and political research on expanding the prosecutor's investigative authority in criminal cases must be reviewed. Allow the police to investigate and the Attorney General's Office to prosecute, with the exception of exceptional criminal crimes, where the Attorney General's Office has institutional jurisdiction to conduct investigations. This is designed to standardise the criminal procedure and law enforcement procedures in the future.

4. CONCLUSION

In summary, the authority to investigate criminal offences in the 1981 Criminal Procedure Code should ideally be delegated to the Indonesian National Police, and this provision has been implemented nationally to date. As a suggestion, the RKUHAP that will be updated should accommodate provisions that can still be used and are relevant as stipulated in the 1981 Criminal Procedure Code. The legal political study related to the authority of investigation in criminal offences under the Criminal Procedure Code is the expansion of the prosecutor's

authority in a dominus litis manner which is feared to damage the harmonisation of criminal law enforcement. The effectiveness and efficiency of law enforcement is also feared to be disturbed by the expansion of the prosecutor's authority in terms of criminal investigations. So it is ineffective and inefficient if the authority to investigate is given to the Attorney General's Office, so that the authority should be given to aspects of special criminal offences that require special attention. RKUHAP 2025 must pay attention to sociological and philosophical aspects in accommodating important aspects in a national legislation in order to harmonise an integrated and harmonious criminal law enforcement process.

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