



The Effectiveness of Fair Pre-Prosecution: Solutions to Current Law Enforcement Problems

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Abstract—The implementation of law enforcement in Indonesia is currently regulated in Law No. 8 of 1981 concerning the Criminal Procedure Code, which still causes various problems, especially in the pre-prosecution stage, which involves the relationship between the investigator and the Public Prosecutor. To resolve cases quickly, precisely, accurately, and fairly, it is necessary to integrate the principle of functional differentiation in resolving cases between investigators and the Public Prosecutor. This research uses a normative juridical approach to examine the application of the Criminal Procedure Code in the criminal justice system in Indonesia. It compares it with the criminal justice systems in South Korea, the United States, the Netherlands, and Germany. Data was collected through secondary data collection techniques (library research). The research results show that implementing the principle of functional differentiation in Indonesia's criminal justice system has been ineffective and often creates legal uncertainty. Comparisons with other countries show that better integration between investigators and Public Prosecutors can speed up the legal process and increase accuracy and fairness. This discussion emphasizes revising the KUHP to accommodate this integration and involve various stakeholders, especially lawmakers, to create more effective and efficient laws and regulations. In conclusion, reform of the criminal justice system in Indonesia is needed by adopting best practices from other countries to achieve fairer law enforcement for society.

Keywords— Criminal Law Enforcement; Pre-Prosecution; Principles of Functional Differentiation.

I. INTRODUCTION

The evolution of Indonesian criminal law, marked by efforts to decolonize and recodify norms, entered a transformative phase with the enactment of the Criminal Law (KUHP).[1] However, the criminal procedural law used in Indonesia's criminal law enforcement process is still guided by Law Number 8 of 1981 concerning the Criminal Procedure Code. The criminal justice system in the Criminal Procedure Code is integrated (Integrated Criminal Justice System).[2] This system is based on the principle of functional differentiation between law enforcement officers by the authority process granted by law. So it can be interpreted that each law enforcer, in this case, the Indonesian Police Agency or PPNS investigators who act as investigators in the Criminal Procedure Code, the Prosecutor's Office as Public Prosecutor, the Courts, and Correctional Institutions each work by their respective authorities.

The meaning of the functional differentiation principle, as interpreted in Indonesia today, makes each law enforcement agency only carry out its duties by its authority and makes law enforcement in Indonesia disharmonious or can be said to be fragmented between law enforcement agencies, especially between investigative agencies and Prosecution agencies.[3] The success of a case prosecution at trial is the result of an investigation, so this investigation stage is essential and most important in order to prove a case at trial later. However, what is currently happening in Indonesia is that many problems arise at this pre-prosecution stage, starting from the SPDP, which is not followed by the submission of case files so that case handling becomes

unclear, termination of investigations carried out unilaterally by investigators without being based on statutory regulations—invitations and case file facts sent by investigators as a basis for the trial. Sometimes, the facts in the case file are different from the facts in the trial, as well as classic problems in the form of case files going back and forth or what is commonly known as P-19, due to the Prosecutor who will Carrying out pre-prosecution without being confident about the results of the investigation carried out by investigators has also become a classic problem for criminal law enforcement in Indonesia today.

The problems above, of course, apart from causing the handling of cases to take a very long time so that they become ineffective and inefficient, can also harm a person's human rights if investigators have determined the person's status as a suspect and have even been detained, whereas if the status is pre-prosecution What is done by investigators and prosecutors when handling a case is unclear and tends to drag on, this can cause legal uncertainty and impact the fate of the status of a person who is in a lawsuit, especially someone who has been named a suspect and even more so when coercive measures have been taken against that person in the form of detention.[4] This is inversely proportional to the law enforcement process that occurs in various countries, both those that adhere to the civil law legal system, in this case, South Korea, and countries that adhere to the continental European legal system, such as the United States, the Netherlands, France, and Germany.[5] In disclosing cases at the investigation stage, prosecutors and investigators collaborate starting from the initial stage of disclosing the case so that from the start of handling a case, it can be known whether the case can be escalated to the trial stage. Apart from that, the Prosecutor, as the party who will carry out the Prosecution before the trial, also knows the ins and outs of the anatomy of the case that will be prosecuted at the trial because he has been involved in handling the case from the start.

In the future, improving the criminal justice system and criminal procedural law in Indonesia is necessary. This is in addition to ensuring that law enforcement carried out by relevant law enforcement officers can be carried out professionally in a fast, precise, accurate, effective, and efficient manner in disclosing the handling of a case. Apart from that, we can also quickly decide about the fate of a person who will be accused of being guilty, whether the case will be prosecuted before the court or stopped at that time because there is insufficient evidence that will be accused him so that this can speed up the process of completing the handling of criminal cases in Indonesia in the future.

II. LITERATURE REVIEW

A. *Criminal Law System*

The evolution of Indonesian criminal law, marked by efforts to decolonize and recodify norms, entered a transformative phase with the enactment of the Criminal Law (KUHP).[6] However, the criminal procedural law used in Indonesia's criminal law enforcement process is still guided by Law Number 8 of 1981 concerning the Criminal Procedure Code. The criminal justice system in the Criminal Procedure Code is integrated (Integrated et al.). This system is based on the principle of functional differentiation between law enforcement officers by the authority process granted by law. So it can be interpreted that each law enforcer, in this case, the Indonesian Police Agency or PPNS investigators who act as investigators in the Criminal Procedure Code, the Prosecutor's Office as Public Prosecutor, the Courts and Correctional Institutions each work by their respective authorities.

The meaning of the functional differentiation principle as interpreted in Indonesia today basically makes each law enforcement agency only carry out its duties in accordance with its authority.[7] This interpretation, however, has led to a disharmonious and fragmented law enforcement system in Indonesia, especially between investigative agencies and the Prosecution agency. The success of a case prosecution at trial is the result of an investigation, making this stage essential and most important.[6] However, what is currently happening in Indonesia is that there are many problems that arise at this pre-prosecution stage, starting from the SPDP which is not followed by the submission of case files so that case handling becomes unclear, termination of investigations carried out unilaterally by investigators without being based on statutory regulations. invitations, as well as case file facts sent by investigators as a basis for the trial. Sometimes the facts in the case file are different from the facts in the trial, as well as classic problems in the form of case files going back and forth or what is commonly known as P-19, due to the Prosecutor who will Carrying out pre-prosecution without being confident about the results of the investigation carried out by investigators has also become a classic problem for criminal law enforcement in Indonesia today.

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It is imperative to improve the criminal justice system in criminal procedural law in Indonesia in the future. This is not only to ensure that law enforcement carried out by relevant law enforcement officers can be carried out professionally in a fast, precise, accurate, effective and efficient manner in disclosing the handling of a case, but also to quickly decide about the fate of a person who will be accused of being guilty. Whether the case will be prosecuted before the court or stopped at that time because there is insufficient evidence that will be accused of him, so that this can speed up the process of completing the handling of criminal cases in Indonesia in the future.

B. Legal Transplantation

Legal transplantation is an exciting concept in legal science that refers to adopting or transferring a legal system from one country to another. This process can involve substantial changes in the law and impact various aspects of people's lives. Theories in legal transplantation explain the reasons and mechanisms behind a country's adoption of foreign law. First, imitation theory states that countries adopt foreign laws because they consider them efficient or successful in their home country.[9] For example, Country A might adopt the criminal justice system of Country B because Country B's success rate in reducing crime is very high. Second, modernization theory argues that countries adopt foreign laws for modernization and development. For example, Country C might adopt the environmental laws of Country D to address pollution problems. These two theories provide different perspectives on the motivations behind legal transplantation. Essential concepts in legal transplantation include cultural and social context and legal harmonization.[10] First, it is essential to understand the cultural and social differences between countries involved in legal transplantation because these contexts influence the implementation and effectiveness of the laws adopted. Second, legal transplantation must lead to harmonization with the existing legal system in the recipient country. Conflicts between adopted laws and local laws should be minimized. Thus, paying attention to the cultural and social context and ensuring legal harmonization is the key to success in legal transplantation.

The legal basis that supports legal transplantation involves international agreements and national laws. Some international treaties regulate legal transplantation, such as human rights or international trade treaties. In addition, the receiving country must have a legal basis that allows the adoption of foreign law. The legislative and implementation process must be by national laws. These two elements ensure that legal transplantation can be carried out legally and legitimately. Legal transplantation is a complex phenomenon that requires careful consideration.[11] According to Lawrence M. Friedman, the legal system consists of various forms, roots, and customs. A comparison of legal systems in the world shows various legal systems, such as Islamic Law, Common Law, and Civil Law, which give rise to complexity in understanding justice. These differences in legal systems result in different law enforcement tools in each country. By understanding these differences, we can apply compelling aspects of other countries' legal systems to Indonesia through legal transplantation. Legal transplantation comes from botany and describes the grafting of plant organs onto other plants to produce new varieties.

Theories regarding legal transplantation are divided into three major parts: Autonomous Theory, Mirror Theory, and Hybrid Theory. According to Jonathan M. Miller in "A Typology of Legal Transplant: Using Sociology, Legal History, and Argentine Examples to Explain the Transplant Process," the classification of motivations or goals of legal transplants includes transplants for Cost Saving Transplant, Externally Dictated Transplant, Entrepreneurial, and Legitimacy-Generating. Thus, legal transplantation requires a thorough analysis to ensure that the adaptation of foreign law can provide optimal benefits for the legal system and society in the recipient country.

III. METHOD

The research methodology employed in this study adopts a normative legal research strategy, encompassing three primary approaches: statutory analysis, conceptual analysis, and comparative analysis.[12] This study is based on primary and secondary legal sources and employs prescriptive analytical methods. The process of gathering legal resources is conducted through library research, which include acquiring library items as primary and secondary legal sources. This research seeks to analyze the legal principles and rules that govern the execution of the integrated criminal justice system in Indonesia, using a normative juridical method. This methodology involves a systematic examination of laws, doctrines, and legislation, as well as the comparison of law enforcement procedures in other nations. The objective is to pinpoint inadequacies in law enforcement procedures in Indonesia, propose legal amendments, and offer insightful viewpoints for enhancing law enforcement in the future, including the adoption of regulations suitable for the Indonesian legal framework. This study employs a literature review

and a normative juridical method to assess the regulatory framework for the implementation of criminal law enforcement in Indonesia. The examination encompasses pertinent legislation, such as Law No. 8 of 1981 pertaining to the Criminal Procedure Code (KUHAP), with a specific emphasis on the statutory provisions governing the application of criminal procedural law in Indonesia and its practical execution.

IV. RESULT AND DISCUSSION

A. *Implementation of Law Enforcement at the Pre-Prosecution Stage (Relationship between Investigator and Public Prosecutor) in the Criminal Justice System in Indonesia*

Criminal law enforcement in Indonesia is currently guided by Law Number 8 of 1981 concerning the Criminal Procedure Code, with the implementation process based on an integrated criminal justice system consisting of several law enforcement agencies that carry out their duties and responsibilities based on their respective authorities.[13] The Criminal Procedure Code itself is a national legal product that we should be proud of, considering that for 36 years, the current Criminal Procedure Law has been based on the criminal procedural law product left over from colonial times, HIR (*Het Herziene Inlandsch Reglement*). The enactment of the Criminal Procedure Code provides a new nuance in criminal justice and a new paradigm for national criminal procedural law.

The criminal justice system in the Criminal Procedure Code, which adheres to the integrated criminal justice system, is based on the principle of functional differentiation between law enforcement officers by the authority process granted by law. So it can be interpreted that each law enforcer, in this case, the Indonesian Police Agency or PPNS Investigators who act as investigators in the Criminal Procedure Code, the Prosecutor's Office as Public Prosecutor, the Courts, and Correctional Institutions each work by their respective authorities.[14] The meaning of the functional differentiation principle as interpreted in Indonesia today makes each law enforcement agency only carry out its duties by its authority and makes law enforcement in Indonesia disharmonious or can be said to be fragmented between law enforcement agencies, especially between investigative agencies and Prosecuting institution, which in this case is the Prosecutor's Office. The attainment of a favorable verdict in a court case is a direct consequence of thorough investigative efforts.[15] Bearing in mind that the case files that will be prosecuted by the prosecutor at the trial will be case files resulting from investigations that investigators from both police investigators and PPNS investigators have carried out. This is because the meaning of the principle of functional differentiation is interpreted to only bind each law enforcement agency to the extent of their respective authorities, without any collaboration between investigators and prosecutors as public prosecutors to jointly develop a case starting from the initial stage of disclosing a case (both from reports or findings), so that the egos of each law enforcement agency and differences in viewpoints in disclosing a case can hinder the handling of the case being handled, resulting in the handling of the case being slow and also tending to take a long time. Of course, results in people whose status is reported as being in the investigation stage and whose status could become a suspect will ultimately have their rights seriously harmed because the status of a person as a suspect will have an impact on their life in society, mainly if that person is also carried out. In detention, his rights will automatically be disturbed.

Case handling data from the Indonesian Attorney General's Center for Legal Information[2], specifically for general crimes from the last 2 (two) years, namely 2022 and 2023, there are still many obstacles that hinder the handling of cases, especially problems at the pre-prosecution stage (the relationship between the investigator and the Public Prosecutor), where from data in 2022 itself, for example from the Notice of Commencement of Investigation (SPDP) received at the Indonesian Attorney General's Office as many as 160,076 (one hundred sixty thousand seventy-six) cases, only 129,365 (one hundred twenty-nine thousand three hundred sixty-five) were case files, and of the case files submitted to the Indonesian prosecutor's office, only 121,685 (one hundred twenty-one thousand six hundred and eighty-five) case files were then declared complete (P-21) and then ready for prosecution in court. Meanwhile, in 2023, from the Notice of Commencement of Investigation (SPDP) received by the Indonesian Attorney General's Office, there were 160,553 (one hundred sixty thousand five hundred fifty-three) cases, only 127,112 (one hundred twenty-seven thousand one hundred twelve) became case files. Of the case files submitted to the Indonesian prosecutor's office, only 119,162 (one nineteen thousand one hundred and sixty-two) case files were later declared complete (P-21). The following are official case handling data sourced from the Indonesian Attorney General's Legal Information Center for general criminal case handling in 2022 and 2023 as follows:

CATEGORY	2022	2023
RESOLUTION USING A RESTORATIVE JUSTICE APPROACH		
Case Approved	1.456	2.407
Case Rejected	65	38

Total House Of Restorative Justice	4.784	4.784
Total Rehabilitation Center	111	111
HANDLING GENERAL CRIMINAL CASES		
SPDP Enter	160.076	160.553
Case Enters Phase I	127.112	127.112
Case Files Declared Complete	119.162	119.162
Case Enters Phase II	117.880	117.880
The Case Was Transferred To Court And A Verdict Was Obtained	107.677	107.677
The Case Has Been Executed	99.224	99.224
Case Enters Appeal	5.408	5.408
Case For Filing Cassation	3.045	3.045

Table 1. Case Handling Data for 2022 and 2023

Based on the case handling data above, in 2022, of the 160,076 Notifications of Investigation Commencement (SPDP) received by the Indonesian Prosecutor's Office (Kejaksaan RI), only 127,112 became case files, meaning around 32,964 case files were not sent by investigators to the prosecutor's office. Additionally, 119,162 case files were declared complete (P-21), indicating that approximately 7,950 case files were returned and declared incomplete by the prosecutor's office. In 2023, from the SPDP received by Kejaksaan RI totaling 160,553 cases, only 127,112 became case files, meaning around 33,441 cases were not sent by investigators to the prosecutor's office. Moreover, 119,162 case files were declared complete (P-21), meaning that approximately 7,950 case files were returned and declared incomplete by the prosecutor's office.

This data reveals a deeply concerning trend in pre-prosecution case handling, where every year, a staggering number of approximately 40,000 SPDPs are left unprosecuted in court by the prosecutor's office.[16] This is not a mere statistic, but a significant issue that demands our attention. My literature study further uncovers that these issues are not isolated incidents, but are influenced by the unilateral cessation of investigations by investigators, often under the pretext of being stopped due to SP-3 (Investigation Termination Letters) or Restorative Justice (RJ) considerations. Additionally, classic issues, such as files being sent back and forth (P-19) due to prosecutors' uncertainty about the investigation results conducted by the investigators, continue to persist.

The process of investigation termination by investigators is essentially governed by Article 109 paragraph (2) of the Indonesian Criminal Procedure Code (KUHAP), where investigators can terminate a case based on three conditions: insufficient evidence, the event not being a criminal act, or the investigation being stopped by law.[17] These three reasons form the legal basis for investigators to terminate a case. However, the data I gathered indicates that many investigators in the field terminate cases under the pretext of being stopped by law through Restorative Justice, although the legal reasons for cessation by law are limited to situations such as the suspect or defendant's death, the case's expiration, or *ne bis in idem* (the case has been prosecuted before). Terminating investigations based on SP-3 without following the above legal mechanisms violates the universally applicable principles of criminal law, as investigative bodies do not have the authority to terminate cases with sufficient evidence. In contrast, based on legal principles, the prosecutor's office has the principle of opportunism, which allows prosecutors not to prosecute someone if doing so would harm the public interest.

Mistakes in the termination of investigations by investigators in the current criminal law enforcement in Indonesia need to be addressed.[18] Investigative bodies are tasked with gathering evidence. If no evidence is found, they can only stop the investigation based on insufficient evidence or the case not being criminal, as stipulated in Article 109 paragraph (2) of KUHAP. They should not terminate clear-cut cases, such as theft and assault, using the pretext of being closed by law through Restorative Justice, as this deviates from established legal principles. Another factor contributing to the suboptimal law enforcement at the pre-prosecution stage in Indonesia includes two factors:

1. Misinterpretation of the Functional Differentiation Principle

The Functional Differentiation Principle is enshrined in Law No. 8 of 1981 regarding the Indonesian Criminal Procedure Code (KUHAP). This principle divides the authority of each law enforcement agency within the integrated criminal justice system outlined in the KUHAP. This principle aims to facilitate horizontal coordination and mutual checking among law enforcement agencies regarding their institutional jurisdiction boundaries.[19] However, in the current implementation of criminal law enforcement in Indonesia, each law enforcement agency's interpretation of the Functional Differentiation Principle suggests that they operate within their predetermined

jurisdiction as outlined in the KUHAP. For example, investigators focus solely on their investigative tasks without involving prosecutors responsible for prosecuting the investigation results. Consequently, prosecutors need a comprehensive understanding of a case and only rely on case files with knowledge of the investigative process conducted by the investigators. However, according to the *dominus litis* principle, the prosecutor's office, as the case owner, is the only law enforcement agency that can determine whether a case should be brought to court for prosecution. Therefore, the prosecutor's office should oversee the investigation process from the initial report or discovery of a criminal case, allowing prosecutors to understand the anatomy of the case to determine whether it should be brought to court for prosecution. Misinterpretations of the Functional Differentiation Principle significantly hinder Indonesia's criminal law enforcement process, especially in the pre-prosecution stage, as investigators and prosecutors, who should collaborate closely to resolve cases at this stage, instead work independently. This principle ultimately leads to differing interpretations and views on the handled cases, resulting in prolonged case-handling times.

2. Sectoral Ego Among Law Enforcement Agencies

The Functional Differentiation Principle, which grants authority to each law enforcement agency within the criminal justice system, leads each agency to work independently and adhere strictly to their respective tasks, functions, and authorities.[20] However, the essence of the criminal justice system inherently suggests that each law enforcement agency should work as a cohesive system, collaborating and interconnected to ensure the successful handling of criminal cases. Nevertheless, each law enforcement agency operates solely based on its jurisdiction. The relationship between investigators and prosecutors in the pre-prosecution stage is fundamental, as it determines whether a case under investigation can be brought to trial for prosecution. However, in practice, law enforcement in Indonesia operates differently. Due to the Functional Differentiation Principle, investigators and prosecutors only work within their respective jurisdictions. Investigators conduct investigations and send the case files to prosecutors for review while the prosecutor's office passively waits for the investigative case files. This lack of coordination inhibits the resolution of cases as there are differing perspectives and interpretations due to the absence of collaborative efforts to uncover a criminal case's anatomy. Additionally, some investigators believe that their work is complete once the investigative case files are deemed complete by prosecutors (P-21), without considering whether the subsequent prosecution resulting from the investigative case files will be successful in court. The sectoral ego perspectives among law enforcement agencies, especially between investigative and prosecutorial bodies, need to be rectified to accelerate the resolution of criminal cases. This clarification is essential in determining the legal status of individuals, particularly suspects, to ensure that the cases they face are handled swiftly and promptly, whether they proceed to trial based on the available evidence or are terminated and not referred to court due to insufficient supporting evidence for the alleged offenses.

The handling of data from the Indonesian Attorney General's Center for Legal Information for general criminal cases in 2022 and 2023 underscores the challenges at the pre-prosecution stage, with a significant number of cases not progressing to prosecution in court. This achievement indicates systemic issues that need addressing, including unilateral cessation of investigations by investigators and the lack of collaboration between investigators and prosecutors. To improve criminal law enforcement in Indonesia, rectifying these issues and fostering greater collaboration and coordination among law enforcement agencies is imperative. This collaboration and coordination includes ensuring that investigators and prosecutors work together closely from the initial stages of case disclosure to accelerate case resolution and uphold the rights of individuals involved in the justice system.

B. Relationship between Investigators and Prosecutors in Law Enforcement in Several Countries

The Criminal Procedure Code (KUHAP) is the guideline used as the basis for criminal law enforcement in Indonesia today. The implementation of criminal law enforcement regulated in the KUHAP is the enforcement of law based on the principle of an integrated criminal justice system with the principle of functional differentiation adopted by each law enforcement institution in carrying out its duties and functions by its authority.[3] In the case disclosure stage of a case during the investigation phase, the Investigative Institution, whether it be the police or PPNS investigators, is tasked with conducting investigative activities to gather evidence to perfect the investigation results. Subsequently, based on the investigation results, they can determine suspects from the investigation. However, during the investigation process conducted by investigative agencies in Indonesia, the investigation process carried out by these agencies does not involve prosecutors at all. In Indonesia's criminal procedural law mechanism, during the pre-prosecution stage, prosecutors who will later bring the case files and defendants to trial only have a passive role. At the same time, the investigation process is ongoing, merely waiting for the case files sent by the investigators and subsequently correcting the case files based on the investigation results conducted by the investigators to determine whether the case files sent by the investigators meet the formal and material requirements of the case, without prosecutors knowing the overall anatomy of the case they are handling.

This law enforcement is certainly different from the mechanism in the investigation stage in some countries, both those adhering to the continental European legal system (common law) such as the Netherlands, the United States,

and Germany, or civil law systems like that adopted by Indonesia, which in this case is South Korea, where each of these countries has specific characteristics in carrying out criminal law enforcement in their respective countries, including[21]:

1. Netherlands

The law enforcement process in the Netherlands is based on the principle that the prosecutor is the *dominus litis* or the owner of a case. Prof. Jan Crijns, Professor of Criminal Law at Leiden University in the Netherlands, describes the prosecutor as the *dominus litis* closely related to the relationship between law enforcement actors in the criminal justice system. In this context, the public prosecutor is the dominant party, more likely characterized as an asymmetric legal relationship with the legal authority of the prosecutor's office and the obligation to conduct a fair and impartial judicial process.

2. Germany

In Germany, the law enforcement process is viewed from the perspective of a prosecutor who acts as both a prosecutor and an investigator. This can be seen in the *Strafprozessordnung* (StPO/German Criminal Procedure Code), particularly in the *Ermittlungsgeneralclausel* (General Rules on Investigation), which serves as the basis for prosecutors' conducting investigations.

3. United States

The United States adopts the Adversarial Common Law system, where conceptually, public prosecutors in criminal procedural law in the Anglo-American system serve two main functions: "investigation," which focuses on gathering evidence, and "prosecution," which is aimed at presenting evidence in court. In the adversarial system, the prosecutor is an official authorized to present arguments before the judge on whether the suspect can be released on bail.

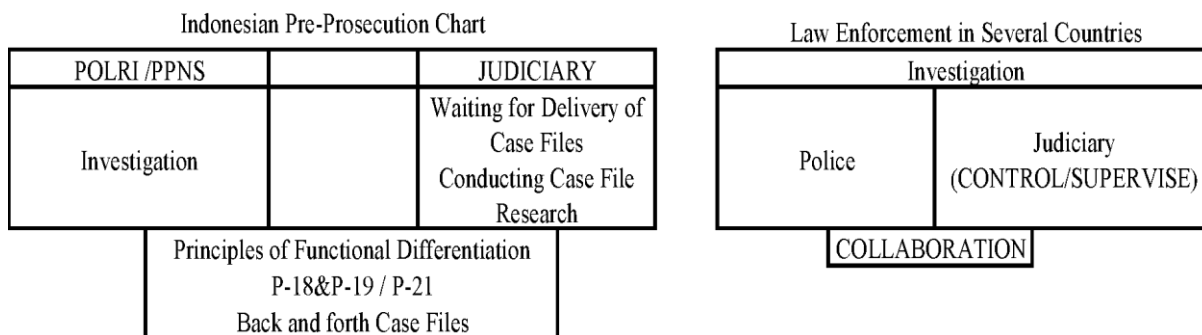
4. South Korea

South Korea follows a civil law system similar to that of Indonesia. The law enforcement mechanism in South Korea can be seen in the Criminal Procedure Act (CPA). It can be concluded that in the process of uncovering a criminal case, prosecutors can be actively involved from the initial stage of the investigation, either by taking control of the case as a whole by conducting their investigation or simply by overseeing the investigation conducted by the police as the investigators of the crime.

Based on the explanations of implementing the criminal law enforcement mechanism in several countries above, it can be concluded and understood that the relationship between prosecutors and investigators is fundamentally essential in uncovering a criminal case. In the investigation process in the countries above, the role of prosecutors is very active in the initial evidence collection process, and prosecutors are directly involved in the investigation process, considering that they will later bring the case to be prosecuted before the judge. Therefore, collaboration between the police and prosecutors in conducting investigations and gathering initial evidence is crucial. This law enforcement is certainly very different from what exists in Indonesia.

C. *Reconstruction of the Middle Way for Law Enforcement in the Pre-Prosecution Stage (Relationship between Investigator and Public Prosecutor) in the Future*

Based on the principle of functional differentiation, criminal law enforcement in Indonesia leads to the implementation of duties by each law enforcement agency based on its authority. However, errors in understanding the principle of functional differentiation have resulted in high sectoral egos among these institutions. This type of law enforcement is because each institution feels that it has its authority. Even though there is an understanding that the law enforcement system in the Criminal Procedure Code adopts an integrated criminal justice system, meaning that every law enforcement agency with authority is connected to each other, this system often does not work as expected.[22] There are obstacles, especially in the pre-prosecution stage, which is the most fundamental stage in disclosing a criminal case. The prosecutor will bring the investigation results and evidence to trial for prosecution. However, the prosecutor who will often carry out the prosecution must fully understand the details of the case that will be prosecuted at trial. This sectoral ego attitude needs to be more coordinated between prosecutors and investigators to conduct investigations or inquiries to collect evidence to complete case files. This problem causes losses for various parties. First, for victims who feel that their case was not handled properly because the process took too long, statements emerged in the community with the jargon "it's useless to report to the police." Second, it also impacts the reported person in the investigation and investigation stage, especially if their status has been made a suspect and detained, who feel that the investigation or inquiry process takes a long time, resulting in the fate of their status being unclear. Improvements to the pre-prosecution stage system in the criminal justice system in Indonesia need to be carried out immediately. This case is because the pre-prosecution stage system in the Criminal Procedure Code is currently not optimal and still has several weaknesses that need to be corrected.



Picture 1. Differences in the Law Enforcement process in Indonesia and other countries

This law enforcement is different from other countries, as the author mentioned, for example, in the previous discussion, such as the Netherlands, the United States, Germany, and South Korea. Even though each country has a different legal system, in enforcing criminal law at the evidence collection stage at the investigation stage, each country makes a rule that in the context of collecting evidence at the investigation stage, collaboration between the police and prosecutors is regulated in detail. Moreover, it is complete because it is the prosecutor who will later bring the investigative evidence to trial, so the prosecutor must know the ins and outs of the anatomy of the case that he will bring to court for prosecution later.

Improvements to The pre-prosecution stage system in the mechanism for collecting evidence at the investigation stage needs to be immediately improved so that the pre-prosecution stage process in resolving criminal cases in the future can run effectively and efficiently and does not require a protracted process. Transplanting the investigation process in other countries to make collecting evidence more effective at the investigation stage needs to be imitated. In Indonesia itself, the process of cooperation between investigators and public prosecutors has also been implemented in some law enforcement, such as in the process of law enforcement in election cases, where in Bawaslu election cases, the police (as investigators) and prosecutors are members of GAKKUMDU, from the initial stage. reports or findings collaborate to carry out investigations to collect evidence. Later, at the conclusion stage, will determine whether the report or findings will be escalated into a case or not, with collaboration between investigators and prosecutors in carrying out investigations to collect evidence, in addition to shortening The time to resolve the case also ensures that the prosecutor who will bring the case to court has fully complied with the anatomy of the case he is handling and the available evidence.

V. CONCLUSION

The Pre-Prosecution Stage is a crucial stage of the process, considering that it is at this stage that the process of collecting evidence is collected to determine whether a person is guilty or not at the trial stage later. Collaboration between investigators and prosecutors is essential when collecting evidence for making this case file because if the prosecutor knows the entire process of collecting evidence at this stage, apart from being able to expedite the process of handling the case, it will also have an impact on the success of the prosecution of the case later, remembering that at the trial stage, the prosecutor already knows the entire anatomy of the case he is handling and the available evidence.

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