RECONSTRUCTION OF AUTHORITY ATTORNEY GENERAL IN DISCLAIMER OF CASE FOR THE SAKE OF THE PUBLIC INTEREST IN THE CRIMINAL JUSTICE SYSTEM IN INDONESIA

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Abstract – *The exclusion of cases in the public interest by the Attorney General (seponeering) in Indonesia has caused controversy because there needs to be an adequate oversight mechanism. Seponeering can lead to abuse of authority and legal uncertainty for citizens. This study examines the need to reformulate the control mechanism for overriding cases in the public interest to ensure legal certainty and justice. This study used normative legal research methods with a philosophical and analytic approach. The study results a show that judicial control is one of the mechanisms that can be applied to oversee the seponeering by the Attorney General without eliminating his authority to make decisions in the public interest. This judicial oversight needs to be realized in legislation that regulates the pretrial mechanism so that it involves investigators, interested parties, and the wider community in supervising the decisions of the Attorney General. These control mechanisms ensure integrity and fairness in the criminal justice system and increase public confidence. Therefore, it is necessary to reformulate the pretrial mechanism by incorporating the principle of separation as its object, either by challenging legal provisions or by drafting a new Criminal Procedure Code. These control mechanisms ensure integrity and fairness in the criminal justice system and increase public confidence. Therefore, it is necessary to reformulate the pretrial mechanism by incorporating the principle of separation as its object, either by challenging legal provisions or by drafting a new Criminal Procedure Code. These control mechanisms ensure integrity and fairness in the criminal justice system and increase public confidence. Therefore, it is necessary to reformulate the pretrial mechanism by incorporating the principle of separation as its object, either by challenging legal provisions or by drafting a new Criminal Procedure Code.*

Keywords: *Public Interest, Attorney General, Judicial Supervision, Judiciary Criminal.*

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INTRODUCTION

Few deny that one of the functions of criminal Law is to justify punishment. Some claim that this is the only function of criminal Law. Call this the punitive view. In this view, criminal procedure rules and evidence help facilitate the imposition of a justifiable sentence while keeping the risk of an unjustified sentence within acceptable limits. Substantive criminal law rules help give potential

offenders a fair warning that they can be punished. Both rules combat objections to laws that authorize the imposition of willful damages. To combat objections, of course, does not make a positive case for such a bill.[1] The case, in the sentencing view, was made by the justified sentence handed down by the criminal Court. This is not to say anything about what justification for punishment is. This is only to say that criminal Law must be justified in sentencing terms.

Some object that this focus on punishment needs to be found. The main function that criminal Law fulfills in response to crime, according to some, is to hold suspected perpetrators accountable in criminal courts.[2] This view places the Criminal Court as the center, not only of the criminal process but also of criminal Law as a whole.[3] The trial invites defendants to take responsibility for themselves either by denying the accusations they offend or by entering a plea bargain. The prospect of conviction and sentence places the accused under pressure to offer an adequate account. Call this a curial view. It differs from the punitive view in two ways. First, the share of positive cases for criminal Law is independent of criminal convictions. Second, the part of a positive case to impose a criminal sentence depends on the sentence being part of calling for responsibility.

General systems theory has a long tradition in the natural, behavioral, and social sciences, where it adds substantial insights to the understanding of complex phenomena. The general system, however, is generally not used to broaden the understanding of criminal justice. Some jurists, such as Duffee, argue that criminal justice is not a "system" at all, noting the lack of integration between institutions and the differences in institutions that exist in various places. Others, such as Cole, focus on the informal exchange between criminal justice organizations, arguing that these comprise a system. Even among those who argue that criminal justice is a system.[4]

In the criminal justice system context, views on punishment and curative views play an important role in determining the purpose and function of criminal Law. The view of punishment considers that the main purpose of criminal Law is to justify a justified sentence. In contrast, the curial view emphasizes the responsibility of the alleged perpetrator in a criminal court. However, there is also an argument that criminal justice is not a well-integrated system. Some jurists argue that there is insufficient coordination between the institutions involved in the criminal justice process and that there are large differences in the institutions that exist in different places. Meanwhile, another approach, as proposed by Cole,

In the Indonesian context, the Attorney General's Office of the Republic of Indonesia (RI Attorney General's Office) is one of the institutions involved in the criminal justice system. As a public prosecutor, the Attorney General's Office of the Republic of Indonesia has an important role in ensuring that perpetrators of crimes are tried and punished according to the Law. To carry out their duties, the Attorney General's Office of the Republic of Indonesia must pay attention to criminal law principles, including views on punishment and curative views. These principles must be properly integrated into the actions of the Attorney General's Office of the Republic of Indonesia to ensure that prosecutions are conducted fairly and comply with applicable legal standards.

Law enforcement efforts by the Prosecutor's Office, of course, the scope of their authority lies and is regulated in the Laws and Regulations. Structurally, the Public Prosecutor's Office consists of three institutions: the Public Prosecutor's Office, High Prosecutor's Office, and the highest position in the Prosecutor's Office, namely the Attorney General's Office.

The Attorney General's existence, role, and authority after the liberation of the Indonesian nation from the shackles of Dutch and Japanese colonialism has only shown clarity. It is limitedly regulated in Law, both in Law Number 15 of 1961 concerning Main Provisions of the Attorney General's Office of the Republic of Indonesia, which was later replaced with Law Number 5 of 1991 concerning the Attorney General of the Republic of Indonesia, after which it became Law Number 16 of 2004,[5] and when

[1] James Edwards, "Theories of Criminal Law," 6 Agustus 2018, https://plato.stanford.edu/ENTRIES/criminal-law/.

[2] Luís Duarte d'Almeida, *Allowing for Exceptions: A Theory of Defences and Defeasibility in Law* (Oxford University Press, 2015), 16.

[3] R. A. Duff, "Relational Reasons and the Criminal Law," SSRN Scholarly Paper (Rochester, NY, 10 Juli 2012), 196, https://papers.ssrn.com/abstract=2103308.

[4] Thomas J. Bernard, Eugene A. Paoline, dan Paul-Philippe Pare, "General Systems Theory and Criminal Justice," *Journal of Criminal Justice* 33, no. 3 (1 Mei 2005): 203, doi:10.1016/j.jcrimjus.2005.02.001.

[5] Agung Irawan, "Peranan Kejaksaan Dalam Implementasi Penegakan Hukum Peraturan Mahkamah Agung Ri Nomor : 02 Tahun 2012 Tentang Penyesuaian Batasan Tindak Pidana Ringan Dan Jumlah Denda Dalam Kuhp Terhadap Penyelesaian Tindak Pidana Harta Kekayaan (Dalam Sistem Peradilan Pidana Di Indonesia)," *Riau Law Journal* 3, no. 2 (30 November 2019): 44, doi:10.30652/rlj.v3i2.7813.

it became Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia.

The Attorney General's Office, in the perspective of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, is a government institution whose function is related to the judicial power which exercises state power in the field of prosecution and other authorities based on the Law.

Regarding the duties and authorities in Article 30 of Law Number 16 of 2004, which are still considered valid after the issuance of Law Number 11 of 2021, states that:

1. In the criminal field, the attorney general has duties and powers;
    a. Conduct prosecution;
    b. Carry out the determination of judges and court decisions that have obtained permanent legal force;
    c. Supervise the implementation of conditional criminal decisions, criminal supervisory decisions, and parole decisions;
    d. Conducting investigations into certain criminal acts based on the Law;
    e. Complementing certain case files and for that can carry out additional examinations before being delegated to the Court, which in its implementation is coordinated with investigators;
2. In civil and state administration, the Prosecutor with special powers can act inside and outside the Court for and on behalf of the state or Government.

In addition to the above authorities, in the provisions of Article 30C of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Attorney General of the Republic of Indonesia, there are other duties and authorities, namely, among others:

1. Organizing criminal statistics and judicial health activities at the Attorney General's Office.
2. Participate and actively seek the truth in cases of gross human rights violations and certain social conflicts for the sake of justice.
3. participate and be active in handling criminal cases involving witnesses and victims as well as the process of rehabilitation, restitution, and compensation.
4. carry out penal mediation, confiscation of execution for the payment of fines, and substitute punishments and restitution.
5. can provide information as material for information and verification regarding whether or not there is an alleged violation of the Law that is being processed or has been processed in a criminal case to occupy a public position at the request of the competent authority.
6. carry out its functions and authorities in the civil and public fields as stipulated in the Law.
7. carry out confiscation of execution to pay criminal fines and replacement money.
8. apply for review; and
9. conduct wiretapping based on a special law that regulates wiretapping and organizes a monitoring center in the field of criminal acts.

Certain circumstances can affect the Prosecutor regarding the prosecution's authority, as the Public Prosecutor may not carry out the prosecution. This is stipulated in Chapter VIII Articles 76-78 concerning the Criminal Code (KUHP), which consists of nebis in idem, the accused has died, and the time is too long (verjaring).

In addition to certain circumstances that can nullify the prosecution of a person or corporation who is suspected of committing a crime as mentioned above, outside the Criminal Code, other legal authorities can nullify the Prosecutor's rights of prosecution as a public prosecutor, namely Seponeering which is the embodiment of the principle of opportunity. The application of this principle is the exclusive and dominus litis right of the Attorney General to prosecute or not prosecute a person or corporation suspected of having committed a crime, conditionally or unconditionally, in the public interest .[6]

The right of the Attorney General to conduct seponeering includes privileges in the prosecution process. This is because the meaning of the public interest, a formal requirement for the application of

[6] A. Z. Abidin, “Sejarah dan Perkembangan Asas Oportunitas di Indonesia” (Jakarta: Pradnya Paramita, 1980), 90–91.

seponeering in settling a case, is highly dependent on the point of view of the Attorney General, who has authority (dominus litis) in applying the opportunity principle. This is a logical consequence of the absence of firm, clear and limitation boundaries regarding public interest criteria that will be used as a policy reason for setting aside cases in the public interest (seponeering).[7] Thus causing problems and abuse of authority in its application.

In his position, it is clear that the Attorney General is under the Government. Because the Attorney General is appointed by the President as stipulated in Article 19 paragraph (2) of Law Number 16 of 2004 as amended by Law Number 11 of 2021 concerning the Attorney General of the Republic of Indonesia. For this reason, the Attorney General is not completely independent or free from the influence of power, unlike the Court, with its judicial power, which is independent of the executive (Government). The freedom of the Attorney General is based on his assessment of whether an order/instruction from a head of state is against the Law. The problem will not exist if the order/instruction is Applicableble Law.

If examined from a historical perspective, the fear of abuse of authority in the implementation of seponeering emerged during the formulation of the main provisions of the Public Prosecutor's Office of the Republic of Indonesia as stipulated in Law Number 15 of 1961.[8] Therefore, to anticipate the abuse of authority in waiving a case on the grounds of public interest, the drafting team for the Law on the Attorney General formulated that the authority to use seponeering authority was not given to all public prosecutors (prosecutors), but was only a monopoly authority of the Attorney General.

The results of this formulation are then embodied in Article 8 of RI Law No. 15 of 1961 concerning the Main Provisions of the Attorney General's Office of the Republic of Indonesia, which states: "The Attorney General can set aside a case in the public interest." Then in Article 32, letter C, Law Number 5 of 1991, The first amendment to Law Number 15 of 1961 concerning the Attorney General of the Republic of Indonesia states that: "The Attorney General has the duty and authority to set aside cases in the public interest." Likewise in, Article 35, letter c of Law Number 16 of 2004 concerning the Attorney General of the Republic of Indonesia, which is currently in force, states that: "The Attorney General has the duty and authority to set aside cases in the public interest."

The Attorney General has the authority to use seponeering in several cases, such as in the case of M. Yasin and former KPK leaders CHANDRA M HAMZAH and DR. BIBIT SAMAD RIANTO, for reasons of public interest. However, this has drawn criticism and questions about the representation or criteria of the public interest, which are taken into consideration by the Attorney General. This criticism is difficult to answer uniformly because no formal testing facility can be used as a standard in assessing this matter. Therefore, legislation regulating control mechanisms over the Attorney General's authority in overriding a case in the public interest is needed to guarantee legal certainty and justice for every citizen.

Currently, the available form of supervision is only through pretrial institutions, which are limited in several object arrangements and do not include the Attorney General's authority which overrides cases in the public interest. In the context of protecting the rights of citizens who have been harmed over seponeering issued by the Attorney General, it is necessary to have judicial control over seponeering by the Attorney General by the provisions of Article 35 paragraph (1) letter C Law Number 11 of 2021 amendments to the Law Law Number 16 of 2004 concerning the Prosecutor's Office.

The Constitutional Court also outlined this form of concern in decision no. 29/PUU-XIV/2016, which states in the ratio decidendi that:

"There is no clear definition of "the interests of the nation and the state and the interests of the general public," which is regulated in the elucidation of Article 35 letter C Law Number 16 of 2004 so that it can be interpreted broadly by the Attorney General as the seponering authority holder. This authority is very susceptible to being interpreted according to the interests of the Attorney General, even though implementing the Elucidation of Article 35 letter c of Law Number 16 of 2004 states, "after taking into account suggestions and opinions from state power agencies that have a relationship with the problem."

[7] Aris Mustriadhi, "Ratio Legis Tidak Adanya Pengaturan Upaya Hukum Dari Deponering Yang Dikeluarkan Oleh Jaksa Agung," *Yurispruden* 3, no. 1 (31 Januari 2020): 78, doi:10.33474/yur.v3i1.4966.

[8] Dudung Indra Ariska, "Yurisdiksi Asas Oportunitas dalam Sistem Peradilan Pidana Indonesia, deepublish" (Yogyakarta, 2013), 264–65.

With the legal considerations of the Constitutional Court that it is feared that seponeering by the Attorney General could be interpreted by the interests of the Attorney General, then the legal vacuum problem (Vacuum Norm) over the mechanism of control of the Attorney General's authority in overriding cases in the public interest (seponeering) as described above, it is necessary to formulate a judicial control mechanism so that the seponeering authority by the Attorney General still pays attention to the principles of the two process of Law. To guarantee legal certainty and justice for every citizen, it is necessary to formulate a judicial control mechanism over the authority of the Attorney General in setting aside a case in the public interest (seponeering), which can take into account the principles of due process of Law.

1. Formulation Of The Problem

The exclusion of cases in the public interest in the criminal justice system is controversial because it does not have an adequate oversight mechanism. Therefore, it is necessary to reformulate the mechanism for controlling the exclusion of cases in the public interest in order to guarantee legal certainty and justice for citizens. One control mechanism that can be applied is judicial oversight which does not eliminate the Attorney General's authority in making decisions in the public interest which are considered important for the community.

2. Research Methods

This research is categorized into normative legal research based on the issues or themes raised as research topics. The research approach used is philosophical and analytical, namely research that focuses on rational views, critical analysis, and philosophy, and ends with conclusions that aim to produce new findings as answers to the main problems that have been determined.[9] And will be analyzed with the descriptive analytical method, namely by describes the applicable laws and regulations related to legal theory and positive law enforcement practices related to the matter.[10]

DISCUSSION

1. Control Mechanism for Termination of Criminal Case Handling

In the Regulation of the Chief of Police of the Republic of Indonesia (Perkap) Number 12 of 2009 concerning Supervision and Control of the Handling of Criminal Cases within the National Police CHAPTER XI Settlement of cases, Paragraph 1 of Article 117 paragraph (1) considerations for stopping case investigations, namely: a. insufficient evidence; b. the event is not a criminal case and; c. by Law. In paragraph (2), the Termination of a case investigation for the sake of Law, as referred to in paragraph (1) letter c, is: a. the suspect dies; b. the case has exceeded its expiry date; c. complaint is withdrawn for complaint offense and/or; d. nebis in idem (a criminal act obtains a judge's decision that has permanent legal force).[11] The description of the reasons/conditions for stopping the investigation as referred to in the provisions of Article 109 paragraph (2) of Law Number 8 of 1981 concerning Criminal Procedure Code, is as follows:[12]

a. There isn't enough evidence

   Insufficient evidence here means that during the investigation process, the investigator did not find 2 (two) pieces of evidence showing the witness/reported person as a person who is strongly suspected of having committed a crime. The granting of authority to stop an investigation because there needs to be more evidence is intended to foster a professional mental attitude of investigators so that they do not easily remind all the results of the investigations that have been carried out at the prosecution stage without a strong juridical basis. With this provision, it is hoped that investigators will selectively submit cases that meet the evidentiary requirements and not be released on the grounds of insufficient evidence, even though some of the suspect's human rights have been deprived by the apparatus during the examination process.

[9] Ishaq, *Metode Penelitian Hukum Dan Penulisan Skripsi, Tesis, Serta Disertasi*, *ALFABETA, cv*, 2017, 45.
[10] Peter. Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2011), 22.
[11] Imam Suroso, "Hukum Acara Pidana (Karakteristik Penghentian Penyidikan dan Implikasi Hukumnya)" (Yogyakarta. LaksBang Presindo, 2016), 202.
[12] I Suroso, "Harmoni Pengaturan Surat Ketetapan Penghentian Penyidikan Oleh Kepolisian Negara Republik Indonesia," 2018, 112, doi:https://doi.org/10.25139/lex.v3i1.1813.

b. The incident is not a crime
This requirement means that based on the results of investigations and investigations, the report/complaint of the incident is, in fact, not a criminal act but falls within the territory of civil Law, for example, default or broken promises in the Civil Code.

c. Terminated by Law
Regarding the authority of investigators to stop investigations for the sake of Law, the reasons are the same as the reasons for the nullification of the right to prosecute criminal cases as stipulated in Articles 76, 77, and 78 of the Criminal Code. The reasons are: nebis in idem (Article 76 of the Criminal Code), the suspect died (Article 77 of the Criminal Code), and the case was expired (Article 78 of the Criminal Code).

The explanation of some of the reasons for stopping the investigation, as mentioned above, is as follows:[13]

a. Nebis In Idem
This reason is contained in the provisions of article 76, paragraph (1) of the Criminal Code, which reads: "Except in cases where a judge's decision may still be repeated, a person may not be prosecuted twice for an act which an Indonesian judge has tried against him with a decision that becomes permanent." The purpose of this provision is that for actions that have been examined and decided by a court, these actions can no longer be examined a second time during the investigation process. This principle of nebis in idem is one of the human rights that must be protected and, simultaneously, is intended to guarantee legal certainty.

b. The suspect died
This reason is contained in Article 77 of the Criminal Code: "The authority to demand a penalty is nullified if the accused dies." To legal principles that apply universally in the modern age, that is, a person's mistakes are the full responsibility of the perpetrator. This principle is an affirmation of responsibility in criminal Law; where responsibility is delegated to the perpetrator and not transferred to the heirs of the perpetrator, the case investigation must automatically be stopped by the death of the suspect.

c. Expired
This reason is contained in the provisions of Article 78 paragraph (1) of the Criminal Code, which reads: The authority to prosecute a crime is nullified due to expiration:
1) Concerning all the offenses and crimes committed with printing after one year;
2) Regarding crimes that are punishable by fines, imprisonment, or imprisonment for a maximum of three years, after six years.
3) Regarding crimes punishable by imprisonment of more than three years after twelve years.
4) Regarding crimes punishable by death or life imprisonment, after eighteen years.

The purpose of this provision, in connection with stopping the investigation, is that if the reported criminal event has exceeded the specified time limit, it is calculated from the day after the incident/action was committed. So the investigator is legally obliged to stop the investigation. Yahya Harahap said that the reasons for granting the authority to stop the investigation included:[14]

a. To uphold the principle of a fast, short, low-cost trial and simultaneously uphold legal certainty in people's lives. Suppose the investigator concludes that, based on the investigation results, there is insufficient evidence or reason to prosecute the suspect before the trial. Why are they protracted in dealing with the suspect? It is better for the investigator to officially declare the Termination of the investigation so that legal certainty is immediately created for the investigator, especially for the suspect and the public.

[13] Louisa Yesami Krisnalita dan Dinda Wigrhalia, "Penghentian Penyidikan Terhadap Delik Biasa atau Laporan Berdasarkan Teori Hukum Progresif," *Binamulia Hukum* 9, no. 2 (2020): 96, doi:https://doi.org/10.37893/jbh.v9i2.124.

[14] Suisno Suisno, Enik Isnaini, dan Ahmad Royani, "Termination Of Accurate Investigations And Restorative Justice," *Jurnal Independent* 10, no. 1 (25 Maret 2022): 36, doi:10.30736/ji.v10i1.157.

b. so that investigators avoid being sued for compensation because if the case is continued, but it turns out that there is not enough evidence or reason to prosecute or convict, it automatically entitles the suspect to demand compensation under Article 95 of Law Number 8 of 1981 concerning Criminal Procedure Code.[15]

Referring to this opinion, it can be concluded that the purpose of stopping an investigation is to protect someone suspected of having committed a crime so that investigators or public prosecutors do not treat them arbitrarily in any examination process. This is in line with the Indonesian criminal justice system which adheres to a "due process of law" or a fair/proper legal process. Termination of investigation has a purpose: legal certainty, expediency, and justice. And among the three, in accordance with the principle of legality adhered to by the provisions of Indonesian criminal Law, legal certainty is prioritized, in addition to considerations of benefit and justice.[16] In practice, the investigators pay little attention to the consideration of ending the investigation in deciding to stop the investigation, but preferring to the aspect of discretionary authority of his position, so that the decision to stop the investigation lacks consideration of sociological values and even lacks strong juridical considerations so that he is unable to realize the demands of society's sense of justice.

With the protection of the rights of suspects, it is hoped that a fair legal process will occur in law enforcement. A person must be prosecuted based on sufficient evidence, not let cases where there is not enough evidence be forced into Court and finally acquitted by the judge. The reality is that many suspects' human rights are restricted during the litigation process. This means that there is authority to stop the investigation process by the principle of protective justice, namely justice that provides assistance and protection to every human being so that a person is not treated arbitrarily.[17]

In connection with legal/policy actions in the form ofß terminating special investigations related to corruption cases, attention still needs to be given to problems that often drag on for the settlement of cases, especially at the investigation and investigation stages so that they conflict with the objectives of law enforcement, especially legal certainty, and demands a sense of justice. Article 50 of Law Number 8 of 1981 concerning the Criminal Procedure Code contains the principle of timeliness in settling cases stating the following:

a. the suspect has the right to be immediately examined by investigators and can then be submitted to the Public Prosecutor;
b. the suspect has the right to have his case immediately brought to Court by the public prosecutor;
c. the suspect has the right to be tried by the Court.

The Termination of an investigation that the suspect feels is fair is not always considered fair by the other party. In corruption cases, the public often questions the decision of the investigator or public prosecutor to stop the investigation of a corruption case. Therefore, people who feel treated unfairly must be allowed to question or challenge this decision. In a democratic country, public participation to exercise control over state administration is a necessity that must be accepted.

It must be remembered that when an investigator issues a Notice of Termination of Investigation (SP3), it is not final. Issuance of this Notice of Termination of Investigation is essentially the subjective judgment of the investigator, so sometimes there is a debate between the investigator and the reporter of a crime. For example, according to investigators, there is not enough evidence for the alleged crime reported, so an SP3 must be issued. However, according to the complainant, this is not true because the witness has been examined, and there is also other evidence (expert statement/letter).

In the circumstances above, it is based on the provisions of Article 1 Number 10 letter b, Jo. Article 77, letter a Law Number 8 of 1981 concerning Criminal Procedure Law, regulates the control mechanism for stopping an investigation carried out by investigators through the institutions of pretrial institutions. Article 1 number 10 letter b Law Number 8 of 1981 concerning Criminal Procedure Law,

[15] M. Yahya Harahap, *Pembahasan permasalahan dan penerapan KUHAP penyidikan dan penuntutan Edisi kedua* (Jakarta: SInar Grafika, 2002), 150.

[16] Nurdin M.A, "Termination of Employment Problems in Indonesia," *Psychology and Education Journal*, 58, no. 2 (2021): 6483.

[17] Femmy Silaswaty Faried, Hadi Mahmud, dan Suparwi Suparwi, "Mainstreaming Restorative Justice in Termination of Prosecution in Indonesia," *Journal of Human Rights, Culture and Legal System* 2, no. 1 (30 Maret 2022): 39, doi:10.53955/jhcls.v2i1.31.

states that Pretrial is the authority of the district court to examine and decide, according to the manner stipulated in this Law, regarding whether or not the Termination of the investigation or the Termination of the prosecution is valid upon request for the upholding of Law and justice. While Article 77 letter states that the District Court has the authority to examine and decide, by the provisions stipulated in this Law regarding whether an arrest is legal or not.[18]

It is stated in article 80 of Law Number 8 of 1981 concerning Criminal Procedure Law that: "Requests to examine whether or not a termination of investigation or prosecution is valid can be submitted by investigators or public prosecutors or interested third parties to the head of the District Court by stating the reasons." The regulation of these provisions is a horizontal control mechanism for law enforcers, especially police investigators and public prosecutors, in carrying out their duties and authorities. Suppose the Termination of the investigation (SP3) carried out by the investigator is contrary to the provisions of the criminal procedural Law. One of the control mechanisms is given to the prosecutor's office, in this case, the public prosecutor, to be able to take legal action against the pretrial institution to assess whether the reasons/conditions for stopping the investigation by the police investigator have been fulfilled or not. Vice versa, if the public prosecutor has made a mistake in issuing a letter of Termination of prosecution (SKPP), police investigators can provide resistance through legal efforts to pretrial institutions related to the invalidity of issuance of the Termination of prosecution (SKP2).

The problem found is that the one who issues the notice of Termination of the investigation (SP3) is the Attorney General's Office investigator because, in its main Law (UU No. 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia), the prosecutor's office is also given the task and authority to conduct investigations. This condition does not allow Police investigators to exercise control over the actions of Attorney investigators who stop investigations (SP3) of criminal cases because the horizontal control mechanism that Police investigators can carry out through Pretrial institutions is only limited to whether the Termination of prosecution by the Public Prosecutor is legal or not, and not to terminate the investigation which is part of its duties and authorities.[19]

Ideally, the mechanism for horizontal control over the Termination of investigations carried out by investigators at the Attorney General's Office, if referring to the provisions of Article 80 Law Number 8 of 1981 concerning Criminal Procedure Law mentioned above, then this horizontal control is the authority of the Public Prosecutor. This will not function effectively because the Attorney Investigators who stopped the investigation and the Public Prosecutor are in the same institution, namely the Attorney General's Office of the Republic of Indonesia.

in that regard, Termination of prosecution is a process that occurs at the end of the prosecution, where based on the facts of a criminal act, the public prosecutor is faced with two (2) choices, continue the prosecution to the Court or stop the prosecution process. After assessing the actions and reviewing all documents related to the alleged crime, both options are made. In the elucidation of Article 30 paragraph (1), the letter of the Law no. 16 of 2004 concerning the Prosecutor's Office, it is stated that: "Pre-prosecution is the action of the prosecutor to monitor the progress of the investigation after receiving notification of the commencement of the investigation from the investigator, instructions to be completed by the investigator to be able to determine whether the file can be transferred or not to the prosecution stage."

According to Andi Hamzah, pre-prosecution feels awkward because giving instructions to investigators to complete an investigation is called pre-prosecution. Things like this in the old rules (HIR) included follow-up investigations. He said the instructions for completing the investigation were part of a follow-up investigation. Because investigation and prosecution cannot be separated sharply.[20] According to M. Yahya Harahap, regarding this pre-prosecution, he did not use the term pre-prosecution but instead used the term "relationship between investigators and public prosecutors" when there are points of connection that are:[21]

[18] Hendri Jayadi Pandiangan, "Perbedaan Hukum Pembuktian Dalam Perspektif Hukum Acara Pidana Dan Perdata," *To-Ra* 3, no. 2 (11 September 2017): 565, doi:10.33541/tora.v3i2.1154.

[19] Suroso, "Harmoni Pengaturan Surat Ketetapan Penghentian Penyidikan Oleh Kepolisian Negara Republik Indonesia. | Lex Journal," 238.

[20] Andi Hamzah, op. cit, p. 158

[21] Eddy. Hiariej OS, Op,cit, page 3.3.

a. notification of commencement of investigative action by the investigator to the public prosecutor (Article 109 paragraph 1);
b. notice of Termination of investigation (Article 109 paragraph 2); And
c. detention extension.

According to Eddy OS Hiariej, pre-prosecution is the process of completing the case file based on the instructions of the public prosecutor to investigators. From this understanding, pre-prosecution is the return of the case file accompanied by a request to the investigator to complete it by carrying out additional investigations according to the provisions of the applicable Law. .[22] HMA Kuffal stated that based on grammatical interpretation (grammatical interpretative/Grammatical Interpretation) and interpretation according to the purpose (Teleologische Interpretatie/Teleological interpretation) it can be concluded that the meaning or what is meant by Pre-prosecution is "the authority of Public Works to complete the case files resulting from investigations by carrying out additional investigations by investigators based on instructions from the public prosecutor or in other words, pre-prosecution is "PU's authority to complete BP investigation results by giving instructions to investigators to conduct additional investigations".[23]

After the investigator has made improvements based on the instructions of the public prosecutor, the investigator returns to submit the case file to the public prosecutor. Based on Article 8, paragraph (3) of the Criminal Procedure Code, the submission of case files can be carried out in two stages:

a. in the first stage, the investigator only submits the case files;
b. if the investigation is complete, the investigator hands over the responsibility for the suspect and evidence to the public prosecutor.

For case files or results of investigations in the letter and above, they can only be transferred to the Court if they fulfill the following formal and material requirements:

a. Formal Equipment
    1) every action outlined in the minutes must always be made by an authorized official on the strength of the oath of office and signed by all parties involved in the said action and given a date (Article 75 jo. 121 KUHAP);
    2) rank requirements for assistant investigators;
    3) the actions of the investigator or auxiliary investigator in certain matters must be based on the permission of the competent authority, and the permit must be attached to the file along with the Investigation Order;
    4) for complaint offenses, there must be a complaint from the victim/interested party;
    5) complete identity (Article 143 paragraph (2) sub a Criminal Procedure Code), including full name, place of birth, age or date of birth, gender, nationality, place of residence, religion, and occupation of the suspect;
    6) for evidence submitted voluntarily by the witness/suspect, a Minutes of Acceptance shall be prepared, and the approval of the Head of Court shall be sought;
    7) the physical condition of the victim (in cases of violent offenses) and laboratory examinations are attached to the file, either in the form of a visum et report or the results of other laboratory examinations (cases of drugs, psychotropics, fires, environmental pollution);
    8) other actions justified by Law that are made with an official report must be attached to the case file (destroying evidence of narcotics/psychotropics, auctioning evidence of perishable evidence, and so on).
b. Material equipment
    1) there is an unlawful act according to the alleged offense;
    2) there was an error, whether intentional or negligent, by the elements of the alleged offense and supported by at least two pieces of evidence;
    3) evidence showing place delicti and locus delicti

[22] *ibid.*,p. 3.5.
[23] HM Alam Kuffal, *Penerapan KUHAP dalam praktik hukum* (Malang: Universitas Muhammadiyah Malang, 2003), 194.

The provisions of Article 110 of Law Number 8 of 1981 concerning the Criminal Procedure Code state that:

Paragraph (1): "If an investigator has finished carrying out an investigation, the investigator is obliged to immediately submit the dossier of the case to the public prosecutor.

Paragraph (2): "If the public prosecutor is of the opinion that the investigation results are still incomplete, the public prosecutor shall immediately return the case file to the investigator accompanied by instructions to complete it."

Paragraph (3): "If the public prosecutor returns the results of an investigation to be completed, the investigator is obliged to immediately carry out additional investigations by the instructions of the public prosecutor.

Paragraph (4): "An investigation is deemed to have been completed if within fourteen days the public prosecutor does not return the results of the investigation or if before the deadline has expired, there has been a notification regarding this matter from the public prosecutor to the investigator.

From the provisions of Article 110 paragraph (4) of Law Number 8 of 1981 concerning the Criminal Procedure Code above, the pre-prosecution is considered complete if:

a. Within fourteen days, the public prosecutor does not return the results of the investigation; or
b. Before the 14-day deadline, there has been a notification to the investigator that the case file is complete (P-21).

After the two conditions above, the next step is to conduct the prosecution process. Regarding the definition of prosecution, it is stated in Article 1 number 7 of Law Number 8 of 1981 concerning the Criminal Procedure Code, which also has the same meaning as Article 1 number 4 of Law Number 11 of 2021 concerning the Attorney General's Office of the Republic of Indonesia, namely the actions of the public prosecutor to transfer a criminal case to the competent district court in matters and according to the method stipulated in the criminal procedure law with a request to be examined and decided by a judge at trial.

According to Wirjono Prodjodikoro, prosecuting a defendant before a criminal judge is handing over the case of a defendant with his case file to the judge, with a request for the judge to examine and then decide on the criminal case against the defendant.[24] If the public prosecutor does not forward the criminal case to be examined and decided by a court judge, the public prosecutor has the authority to stop the prosecution by issuing a Decision Letter on Termination of Prosecution (SKPP). Regarding the Termination of prosecution, it is regulated in Article 140 paragraph (2) of Law Number 8 of 1981 concerning the Criminal Procedure Code, which states that "the public prosecutor can stop the prosecution of a case." In a sense, the results of the examination of criminal acts submitted by investigators, are not delegated by the public prosecutor to the trial court.

Understanding this "interested third party" shows that in legal practice, it is important to provide a clear understanding of who has the right to object through pretrial to the Termination of prosecution by the Public Prosecutor. In this context, it should be noted that supervision and control over the Termination of prosecution by the Public Prosecutor are very important to maintain integrity and justice in the criminal justice system. The pretrial mechanism allows investigators, interested third parties, and the general public to ensure that the Public Prosecutor's decision to stop prosecution is based on valid legal reasons and is not caused by abuse of power or manipulation.

In addition, with this control mechanism, it is hoped that the Public Prosecutor will be more careful and thorough in making decisions regarding the Termination of prosecution so that justice can be guaranteed and the public has greater trust in the criminal justice system. Overall, the basis for stopping prosecution by the Public Prosecutor must be based on valid legal reasons and consider various existing aspects, including the interests of the parties involved and the wider community. The pretrial mechanism as control over the Termination of the prosecution is important to ensure that the criminal justice process runs fairly, transparently, and accountable.

[24] Rusli Muhammad, *Hukum acara pidana kontemporer* (Bandung: Citra Aditya Bakti, 2007), 76.

2. Reconstruction of Mechanism Arrangements for Waiver of Cases In The Public Interest

Reconstruction of control mechanism arrangements for excluding cases in the public interest involves analyzing various legal, administrative, and political aspects. This is important to ensure that the process of dismissing cases is carried out fairly, transparently, and responsibly and to create an effective and efficient system. The following are several aspects that need to be analyzed in the reconstruction of these control mechanisms:

a. Criteria and Basis for Waiver of Cases As a first step, clear criteria and grounds must be established regarding situations where a waiver of cases can be carried out in the public interest. This criterion must be based on objective and non-discriminatory legal principles.
b. Establishment of an Oversight Body To ensure an effective control mechanism, it is necessary to have an independent oversight body with the authority to oversee dismissing cases. This institution must be free from political influence and have the authority to investigate and take action if violations or abuse of authority are found.
c. Transparency and Accountability Transparency and accountability are important principles in setting aside cases. Every decision must be documented and made accessible to the community, thus enabling monitoring and evaluation of the decision. In addition, oversight agencies must publicly report the results of investigations and actions taken.
d. Education and Training Building the capacities of officials involved in the set-aside process is important to ensure they understand relevant legal principles, ethics, and policies. Quality education and Training will help promote integrity and professionalism within the justice system.
e. Community Participation: The community must be involved in setting aside cases through public consultations, filing complaints, or disseminating relevant information. This public participation will increase transparency and accountability and ensure the public interest is represented in the process.
f. Continuous Evaluation and Improvement Reconstruction of control mechanisms against case waives should involve periodic evaluations to identify weaknesses and opportunities for improvement. This evaluation will ensure that the system remains responsive to changes in the legal environment and societal needs.

By analyzing the above aspects, the reconstruction of control mechanism arrangements for excluding cases in the public interest can result in a more just, transparent, and accountable system. This will ensure that the waiver process is carried out with integrity and fairness and protects the rights of individuals and communities.

The further analysis begins with the internal regulation of seponeering authority by the Attorney General, which has long been recognized; even in the three previous Attorney Laws, it was regulated, both in Law Number 15 of 1961, Law Number 5 of 1991, Law Number 16 of 2004, included in the latest Law, namely Law Number 11 of 2021, the existence of the sponsoring authority is still recognized. This authority still needs to be owned by the Attorney General's Office as a law enforcer because, based on the principle of discretion, every law enforcer needs to have the authority to set aside cases in the public interest. It's just that signs need to be given so that in the future, the seponeering authority is not issued arbitrarily.[25]

Andi Hamzah explained that the authority to set aside cases in the public interest was not given to ordinary prosecutors, this was because they did not trust them to carry out such an important matter.[26] JM van Bemmelen reminded that there are disadvantages attached to the application of the opportunity principle (seponeering), namely if it is applied arbitrarily it will benefit other people and in general can lead to abuse.[27] With these considerations, a strict control mechanism is needed so that the implementation of this policy is not used for certain purposes.

Suppose you look at beleidsepot in the Netherlands. In that case, the Dutch openbaar ministerie is responsible for recording it in the PPS (Public Prosecution Service) register. There is no obligation to seek approval for beleidsepot from the perpetrator or victim or request a ruling from the court. From

[25]Darmono, op, cit, Pg 49.
[26]Ibid., p. 60.
[27]A. Karim Nasution, paper entitled "Public Interest as the Basis for Case Waiver", presented at the symposium on Opportunity Principle Problems, Ujung Pandang, 1981, p. 55.

this, it can be said that the beleidsepot institution belonging to the Dutch openbaar ministerie is very independent in carrying out its function as a sentencing dominus litis because it is not dependent on other factors other than the assessment of its public Prosecutor.[28]

Internally, during the Old Order era, the Prosecutor's Office issued several rules regarding the exclusion of cases, including:[29]

Instruction of the Minister/Attorney General Number 7/Ins/Secr/1962 concerning setting aside a case dated 7 June 1962. This instruction contains a notification that the authority to set aside a case is based on the following:

a. Expired (Article 78 Criminal Code)
b. Withdrawal of Complaint (Article 75 Criminal Code)
c. Loss of the right to sue because of the death of the accused (Article 77 of the Criminal Code)
d. There is no reason to sue the accused (Article 83 k (4) a RIB)

The Instruction of the Minister/Attorney General in 1961 gave authority to the High Attorney/Head of the State Prosecutor's Office to set aside cases based on the opportunity principle by first requesting permission from the Attorney General for certain cases. The Attorney General's Decree in 1967 confirmed that cases of administrative violations of Article 29 of the Customs Ordinance would not be prosecuted in court. However, in practice at the Attorney General's Office of the Republic of Indonesia, there are no regulations or guidelines governing the procedures and mechanisms for implementing the opportunity principle, which shows the Attorney General's unpreparedness in exercising his exclusive rights.[30]

To guarantee legal certainty in the application of seponeering by the Attorney General, including the delegation of this authority to the Public Prosecutor, it is necessary to have legal media that regulate technically internal procedures and mechanisms, which also function as a vertical control mechanism against the use of the opportunity principle by the Prosecutor. Great. Arrangements for technical guidelines for implementing this authority can be further formulated through the Attorney General's Regulation.

The public Prosecutor (JPU) researches the case files, evidence, and the suspect from investigators to determine whether the files meet the material and formal requirements to be transferred to court. If the requirements are not fulfilled, the case dossier is returned to the investigator for completion. If the requirements are met, the public Prosecutor must transfer the case to court (the principle of legality). However, in certain circumstances, the public Prosecutor can submit a request to the Attorney General to be set aside in the public interest (opportunity principle). The Attorney General will analyze the opinion of the Public Prosecutor and ask for the opinion of other state power agencies. If the formal requirements are met, the Attorney General will issue a decree setting aside the case in the public interest.[31]

To be more adequate for cases set aside in the public interest by the Attorney General, after obtaining the views or considerations from the state power bodies as referred to above, the Attorney General, together with the Prosecutor who requested seponeering, must conduct internal discussions at the Attorney General's Office. With the joint case title model, to decide carefully whether the case is set aside in the public interest (sponeering) or not, and then the results of the joint case title are made in the form of a decision letter to stop prosecution, the contents/material of which describes considerations in the public interest.

In addition to internal arrangements, it is important to view this reconstruction from a horizontal control perspective, namely pretrial arrangements and preliminary examining judges. Updating the substance of the pretrial object in the future is also the author's orientation in reformulating the control mechanism for excluding cases in the public interest (seponeering) by including seponeering, which is the Attorney General's authority as the object of pretrial in the future. Updating the pretrial object in the criminal procedural Law by including the Attorney General's authority in overriding cases in the public interest (Seponeering) as a pretrial object can be carried out using two (2) different mechanisms, namely: First, the elucidation of Article 77 of Law Number 8 of 1981 concerning Criminal Procedure Law,

[28] Yodi Nugraha, "Optimalisasi Asas Oportunitas Pada Kewenangan Jaksa Guna Meminimalisir Dampak Primum Remedium Dalam Pemidanaan," *Veritas et Justitia* 6, no. 1 (28 Juni 2020): 225, doi:10.25123/vej.v6i1.3882.

[29] Tofik Yanuar Chandra, *Deponeering Dalam Hukum Pidana Indonesia* (Jakarta: Sangir Multi Media, 2022), 163–65.

[30] Dudung Indra Ariska, op, cit, page 277.

[31] Ibid., p. 279.

which confirms that, "termination of prosecution does not include the exclusion of cases in the public interest which are the authority of the Attorney General." Regarding the elucidation of the article, which narrows down the object of the pretrial termination of the prosecution, efforts must be made to review it through a judicial review mechanism to the Constitutional Court to request that the explanatory phrase of Article 77 be annulled and declared contrary to the 1945 Constitution of the Republic of Indonesia or conditional constitutional as long as it is interpreted as the phrase, "termination of prosecution includes the exclusion of cases in the public interest which are the authority of the Attorney General." "Terminating prosecution does not include the exclusion of cases in the public interest which are the authority of the Attorney General."

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Second, in drafting the Criminal Procedure Law (RUU KUHAP) in the future, it is necessary to reformulate the object of pretrial as referred to in Article 77 of Law Number 8 of 1981 concerning Criminal Procedure Code, by adding pretrial objects, including the exclusion of cases in the public interest (seponeering), which is the authority of the Attorney General. With the addition of these pretrial objects, in the future for pretrial objects in the Criminal Procedure Code (KUHAP), the editorial formulation will be as follows:

"The District Court has the authority to examine and decide, by the provisions stipulated in this Law regarding:

a. Whether or not the arrest, detention, termination of the investigation, and prosecution are legal based on legal interests and public interest (seponeering).
b. Whether the determination of the suspect is valid or not.
c. Whether or not the search and seizure are legal.
d. Compensation and rehabilitation for a person whose criminal case is terminated at the level of investigation or prosecution

In addition, it is important to carry out this reformulation with the presence of Preliminary Examining Judges aimed at guaranteeing the protection of human rights starting from the preliminary examination stage. Namely to ensure the formal and material legitimacy of legal actions carried out by law enforcement officials. The existence of the Preliminary Examining Judge is very helpful, especially in efforts to strengthen judicial professionalism that can be legally justified. In addition, its existence will provide more control and control over deviations or procedural errors by officers in the field.

With the Preliminary Examining Judge, it is hoped that the objectives of criminal procedural Law can be achieved, namely the due process of Law or behoorlijk procesrecht. The purpose of criminal procedural Law is to seek objective truth and protect the human rights of suspects or defendants so that innocent people are sentenced to a crime, in addition to paying attention to victims of crime.

Presently, the control mechanism through pretrial institutions needs to be fixed because, in its implementation, it is considered detrimental to justice seekers, such as complex procedures, wasted time, and high costs. There is also the possibility of intimidation from law enforcement officials. The pretrial contained in the current Criminal Procedure Code has departed from the initial concept of establishing the Criminal Procedure Code because the pretrial does not accommodate a preventive

authority in an illegal forced attempt to be carried out. This is because the pretrial examination is carried out after the forced effort has been completed.[32]

Based on the above, the authors highlight the importance of internal regulation and horizontal control, including pretrial arrangements and preliminary examining judges. The author also suggests updating the substance of the pretrial object by including seponeering as a future pretrial object. To achieve this goal, the authors propose two different mechanisms: judicial review to the Constitutional Court or drafting a new Criminal Procedure Code (RUU KUHAP).

In addition, the author highlights the importance of a Preliminary Examining Judge to guarantee the protection of human rights and ensure the legitimacy of legal action by law enforcement officials. The presence of these judges is expected to strengthen judicial professionalism that can be legally accounted for and to control irregularities or procedural errors by officers in the field. The author also highlights problems in the current pretrial implementation which are considered ineffective and detrimental to justice seekers. Therefore, the government plans to replace the pretrial system with a new system, namely the Preliminary Examining Judge to overcome problems in monitoring the use of force and provide justice and legal certainty.

Overall, the author's analysis proposes various suggestions and recommendations for reforming the control mechanism for excluding cases in the public interest in criminal procedural Law. The author highlights the importance of internal regulation and horizontal control, the existence of Preliminary Examining Judges, and changes to the substance of pretrial objects to achieve the objectives of criminal procedural Law, namely seeking material truth and protecting human rights.

CONCLUSION

The problem with the control mechanism for terminating investigations by the Attorney General's Office is that there needs to be an effective horizontal control mechanism that Police investigators can carry out through the Pretrial (pretrial) process. This is because the pretrial process only covers the legality of the Attorney's decision to end the prosecution and not terminate the investigation within the Attorney's jurisdiction. According to Article 80 of the Criminal Procedure Code, the ideal control mechanism is the Public Prosecutor's responsibility. However, this is ineffective because the Public Prosecutor and the Investigator are part of the same institution, namely the Attorney General's Office. It is very important to have control mechanisms in place to ensure the integrity and fairness of the criminal justice system. The pretrial mechanism allows investigators, interested parties,

In addition, having control mechanisms ensures that the Public Prosecutor is careful and diligent in making decisions regarding the termination of prosecution. This ensures that justice is upheld and that the public trusts the criminal justice system more. The basis for terminating the prosecution must be lawful and consider the interests of all parties involved. Therefore, it is necessary to have a strict control mechanism to ensure that the application of the Seponeering principle (cessation of prosecution in the public interest) is not used for certain purposes. Internal regulations are also important to ensure technical procedures and mechanisms for implementing Seponeering. Therefore, it is necessary to reformulate the pretrial mechanism by incorporating the separation principle as its object.

REFERENCES

[1] *Abidin, A. Z. "Sejarah dan Perkembangan Asas Oportunitas di Indonesia." Jakarta: Pradnya Paramita, 1980.*

[2] *Almeida, Luís Duarte d'. Allowing for Exceptions: A Theory of Defences and Defeasibility in Law. Oxford University Press, 2015.*

[3] *Ariska, Dudung Indra. "Yurisdiksi Asas Oportunitas dalam Sistem Peradilan Pidana Indonesia, deepublish." Yogyakarta, 2013.*

[4] *Bernard, Thomas J., Eugene A. Paoline, dan Paul-Philippe Pare. "General Systems Theory and Criminal Justice." Journal of Criminal Justice 33, no. 3 (1 Mei 2005): 203–11. doi:10.1016/j.jcrimjus.2005.02.001.*

[5] *Chandra, Tofik Yanuar. Deponeering Dalam Hukum Pidana Indonesia. Jakarta: Sangir Multi Media, 2022.*

[6] *Duff, R. A. "Relational Reasons and the Criminal Law." SSRN Scholarly Paper. Rochester, NY, 10 Juli 2012. https://papers.ssrn.com/abstract=2103308.*

[32] Semuel Hutauruk, Dr. Prija Djatmika, dan Dr. Faizin Sulistio, "Urgensi Hakim Pemeriksa Pendahuluan Dalam Sistem Peradilan Pidana Di Indonesia" (Sarjana, Universitas Brawijaya, 2021), 6–7, http://repository.ub.ac.id/id/eprint/188946/.

[7] Edwards, James. "Theories of Criminal Law," 6 Agustus 2018. https://plato.stanford.edu/ENTRIES/criminal-law/.
[8] Faried, Femmy Silaswaty, Hadi Mahmud, dan Suparwi Suparwi. "Mainstreaming Restorative Justice in Termination of Prosecution in Indonesia." Journal of Human Rights, Culture and Legal System 2, no. 1 (30 Maret 2022). doi:10.53955/jhcls.v2i1.31.
[9] Harahap, M. Yahya. Pembahasan permasalahan dan penerapan KUHAP penyidikan dan penuntutan Edisi kedua. Jakarta: SInar Grafika, 2002.
[10] Hutauruk, Semuel, Dr. Prija Djatmika, dan Dr. Faizin Sulistio. "Urgensi Hakim Pemeriksa Pendahuluan Dalam Sistem Peradilan Pidana Di Indonesia." Sarjana, Universitas Brawijaya, 2021. http://repository.ub.ac.id/id/eprint/188946/.
[11] Irawan, Agung. "Peranan Kejaksaan Dalam Implementasi Penegakan Hukum Peraturan Mahkamah Agung Ri Nomor : 02 Tahun 2012 Tentang Penyesuaian Batasan Tindak Pidana Ringan Dan Jumlah Denda Dalam Kuhp Terhadap Penyelesaian Tindak Pidana Harta Kekayaan (Dalam Sistem Peradilan Pidana Di Indonesia)." Riau Law Journal 3, no. 2 (30 November 2019): 244–60. doi:10.30652/rlj.v3i2.7813.
[12] Ishaq. Metode Penelitian Hukum Dan Penulisan Skripsi, Tesis, Serta Disertasi. ALFABETA, cv, 2017.
[13] Karim Nasution, paper entitled "Public Interest as the Basis for Case Waiver", presented at the symposium on Opportunity Principle Problems, Ujung Pandang, 1981
[14] Krisnalita, Louisa Yesami, dan Dinda Wigrhalia. "Penghentian Penyidikan Terhadap Delik Biasa atau Laporan Berdasarkan Teori Hukum Progresif." Binamulia Hukum 9, no. 2 (2020): 93–106. doi:https://doi.org/10.37893/jbh.v9i2.124.
[15] Kuffal, HM Alam. Penerapan KUHAP dalam praktik hukum. Malang: Universitas Muhammadiyah Malang, 2003.
[16] M.A, Nurdin. "Termination of Employment Problems in Indonesia." Psychology and Education Journal, 58, no. 2 (2021).
[17] Mahmud Marzuki, Peter. Penelitian Hukum. Jakarta: Kencana Prenada Media Group, 2011.
[18] Muhammad, Rusli. Hukum acara pidana kontemporer. Bandung: Citra Aditya Bakti, 2007.
[19] Mustriadhi, Aris. "Ratio Legis Tidak Adanya Pengaturan Upaya Hukum Dari Deponering Yang Dikeluarkan Oleh Jaksa Agung." Yurispruden 3, no. 1 (31 Januari 2020): 78. doi:10.33474/yur.v3i1.4966.
[20] Nugraha, Yodi. "Optimalisasi Asas Oportunitas Pada Kewenangan Jaksa Guna Meminimalisir Dampak Primum Remedium Dalam Pemidanaan." Veritas et Justitia 6, no. 1 (28 Juni 2020): 213–36. doi:10.25123/vej.v6i1.3882.
[21] Pandiangan, Hendri Jayadi. "Perbedaan Hukum Pembuktian Dalam Perspektif Hukum Acara Pidana Dan Perdata." To-Ra 3, no. 2 (11 September 2017): 565–82. doi:10.33541/tora.v3i2.1154.
[22] Suisno, Suisno, Enik Isnaini, dan Ahmad Royani. "Termination Of Accurate Investigations And Restorative Justice." Jurnal Independent 10, no. 1 (25 Maret 2022): 32–42. doi:10.30736/ji.v10i1.157.
[23] Suroso, I. "Harmoni Pengaturan Surat Ketetapan Penghentian Penyidikan Oleh Kepolisian Negara Republik Indonesia," 2018. doi:https://doi.org/10.25139/lex.v3i1.1813.
[24] Suroso, Imam. "Hukum Acara Pidana (Karakteristik Penghentian Penyidikan dan Implikasi Hukumnya)." Yogyakarta. LaksBang Presindo, 2016.