Indonesia's Criminal Justice System: A Case Study of Inter-Agency Conflict and the Fight for Power

Aristo Pangaribuan (aristo@ui.ac.id)

Abstract

This article examines systemic rivalry between Indonesian criminal justice agencies, highlighting the inherent tensions that arise when actors with distinct values and priorities interact. It argues that analysing these conflicts reveals underlying power dynamics that hinder the system's effectiveness. Indonesia serves as a compelling case study, where the source of conflict transcends procedural differences and stems from a power struggle driven by institutional self-preservation. Utilising interviews, court decisions, media reports and legislative analysis, this article delves into the power struggle between the police, prosecutors, and the Anti-Corruption Agency (KPK). The analysis reveals the police at the centre of this conflict, resisting reforms that threaten their institutional survival. This article offers a nuanced analysis of the conflict, focusing on the underlying motivations of the actors and its consequences. Additionally, it proposes potential solutions to mitigate this conflict.

Keywords: Criminal justice, inter-agency conflict, Indonesia, power competition, organisational approach of criminal justice; administration of criminal justice

I. Introduction

Since the 1960s, particularly within the U.S. context, criminal justice scholarship has witnessed a growing emphasis on the interactions and conflicts that arise between different agencies (Blumberg, 1967; Jacob and Eisenstein, 1977; Feeley, 1973; Rossum, 1978; P. F. Nardulli, 1978; Williams and Gray, 1980; Hagan, 1989). This shift towards an interdisciplinary approach stemmed from a critical need to understand the system's true functionality beyond a unified, monolithic model of organisation. Previously, the criminal justice literature was dominated by normative models for tackling crime, and consequently, it depicted the criminal justice system as a system where actors worked harmoniously towards an abstract goal, namely justice (Jacob and Eisenstein, 1977; Burstein, 1980).

With this new approach, scholars began conceptualising the criminal justice system as a "loosely coupled" organisation.[1] This framework posits that criminal justice agencies, such as police, prosecutors, and correctional facilities, operate with a degree of autonomy and potentially divergent priorities, as well as occupational culture. Consequently, when these agencies interact, there is a potential for conflict due to overlapping roles and divergent goals. This approach has proven valuable in illuminating internal complexities and conflicts within the American system. For example, the rise of plea bargaining in the 1970s in the U.S. exposed tensions between these agencies due to their differing priorities and perspectives on case outcomes (O'Leary and Newman, 1970; Rossum, 1978, 48; McDonald, 1982). Additionally, this framework has facilitated scholars' comprehension of the resistance exhibited by local enforcement agencies when interacting with federal law enforcement entities (Williams and Gray, 1980).

However, the application of this framework outside the U.S. context in academic literature remains relatively underexplored, especially in Asia. This article argues that studying the criminal justice system during periods of inter-agency conflict provides a unique lens to reveal the underlying dynamics of the entire legal and political system. These periods of conflict expose not only how the system functions under pressure but also how political forces respond and potentially influence these tensions. In contrast, studying the criminal justice system under seemingly "normal" conditions risks providing a limited understanding of how the system truly operates.

Developing nations, many of which face challenges with weak institutional capacity, like Indonesia, provide a compelling case study in this regard. In these environments, competition for power, fueled by a combination of self-serving personal ambitions and the need to secure institutional survival, can erupt into intense conflicts. While existing scholarship on developing countries (beyond Indonesia) explores power struggles, the focus often leans toward broader political and military dynamics, neglecting the intricate power struggles within the criminal justice system itself (Abioye and Alao, 2020; Samuel, 2014). By examining these internal clashes, we can gain a deeper understanding of how such institutional weaknesses impede effective law

[1] The term "loosely coupled" organisation can be traced back to the work of Karl Weick, a renowned organisational theorist. He posits that educational organisations exhibit characteristics such as limited coordination and high levels of autonomy. This concept has since been borrowed and adapted by scholars from various fields, including law and society scholars who apply an organisational approach to understanding the criminal justice system. See Weick (1976). With this approach, the term "system" is then characterised as the output arising from the interaction among criminal justice agencies when processing criminal cases.

enforcement and contribute to the broader issues of corruption and impunity that plague these nations.

Despite the prevalence of inter-agency conflict within Indonesia's criminal justice system, Indonesian legal scholarship offers limited analysis of this power competition. Notably, Lev's seminal work in 1965 shed light on the historical competition for power and prestige among police, prosecutors, and judges following Indonesia's formal independence from the Dutch in 1949, as these institutions vied to fill the vacuum left by the departing colonial government (Lev, 1965). However, most recent publications in the Indonesian literature tend to focus only on specific incidents (mainly involving the police and the KPK) without systematically tracing their historical context or identifying the root causes of the conflict (Butt, 2011; 2010; Choi, 2011; Butt, 2018; A'yun and Mudhoffir, 2019). Meanwhile, several studies delve into the organisational structures and cultures of individual institutions like the police, prosecutors, and the KPK (Choi, 2011; Baker, 2012; Schütte, 2012; Muradi, 2014; Afandi, 2021). After Lev's foundational work, contemporary inter-agency conflicts remain underexplored in recent academic publications, particularly those in English.

This article seeks to enrich the discussion on systemic rivalry between criminal justice agencies by offering a systematic analysis of the underlying power dynamics, utilising Indonesia as its case study. Focusing on the police as a central figure in these tensions, it delves into two key conflicts: first, the ongoing friction between the police and prosecutors, and second, the clash between the police and the KPK. Both conflicts share a central theme – the police's resistance to any shift in the power dynamic and their desire to maintain the status quo amid growing pressure for criminal justice reform. Through a nuanced analysis, this article explores the causes and consequences of these conflicts while also examining the role of higher political forces in either strategically navigating or potentially exacerbating these tensions.

To achieve this understanding, the article employs a triangulated data collection approach. This includes semi-structured interviews with key figures directly involved in pivotal events, such as criminal justice actors and parliamentarians. The methodology incorporates both in-person interviews conducted from 2019 to 2021 and analysis of previously published public interviews

with these key players.[2] The study also examines the legislative process behind relevant laws and analyses court decisions to pinpoint the underlying sources and motivations of the conflict. Lastly, media reports were also used to provide context and detail regarding the conflict.

When reading this article, readers may observe a potential risk of oversimplification in treating criminal justice institutions as coherent actors. Indeed, criminal justice institutions may have internal divisions among their members. However, this article reveals the tendency that, when faced with external pressure, Indonesian criminal justice institutions unite against such pressure, as it threatens their institutional existence and their most valuable asset, criminal justice power. Although internal divisions may exist in responding to such threats, these divisions at least do not formally translate into formal institutional behaviour. Readers will also observe how Indonesian criminal justice institutions can respond to such threats as a collective unit, orchestrating their formal power as a defence mechanism. This phenomenon is common in the organisational literature and is often described as the "circling the wagons" phenomenon.[3] In criminal justice literature, this phenomenon was also observed in the U.S. during the 1970s when widespread public pressure arose against the police due to police brutality. At that time, Sykes found that the police displayed "institutional intransigence" amidst the growing public pressure for reform.[4] Furthermore, in the U.K., Shiner reveals that the English police vehemently defended their organisational ego in the aftermath of public criticism stemming from their racist policy implementation in the Stephen Lawrence murder investigation (Shiner, 2010). Both incidents reveal the tendency that, when facing external pressure, organisations can act as a unified entity, driven by their shared goal of self-preservation and the maintenance of their power base.

To lay the groundwork for understanding the intricate dynamics of inter-agency conflict within Indonesia's criminal justice system, this article begins by establishing an overview of the existing power structure. This context is crucial for understanding the dynamics of the conflicts explored

[2] This article draws on nine interviews with key actors in Indonesia's criminal justice system reform efforts. These include representatives from the reform team, police, prosecutors, the Corruption Eradication Commission (KPK), and members of parliament. Seven interviews were conducted by the author between 2019 and 2021 as part of a larger project. To enrich the analysis, two additional interviews, previously published in media sources, were also included. To ensure confidentiality, the identities of all interview subjects are protected, except for those whose interviews were already publicly available.

[3] The term "to circle the wagons" is an English idiom. The concept is widely discussed in the literature, essentially positing that external threats can trigger a collective defence mechanism. See Janis (1982), pp. 35–36; Thompson (2003) pp. 25–40).

[4] Sykes found that police officials resisted because they felt that they knew best, better than anybody, how to do the fieldwork in eliminating crimes. See Sykes (1985).

later. Subsequently, the article delves into detailed descriptions of two key conflicts: the one between the police and prosecutor and the other between the police and the KPK. Following these descriptions, the focus shifts to an analysis aimed at uncovering the true motivations behind these conflicts – as explained previously, what each agency is fighting for and how the higher political forces respond to such a fight. Lastly, it endeavours to offer potential solutions to mitigate the conflict, drawing on lessons from other jurisdictions.

II. Power Structure Within Indonesian Criminal Justice Agencies: The KUHAP and the Struggle for Power

The current power structure within Indonesia's criminal justice system is governed by the Indonesian Criminal Procedure Code (KUHAP), a legal framework widely perceived as a relic of Soeharto's authoritarian military regime, enacted in 1981 (Strang, 2008; Lamchek, 2019; Butt and Lindsey, 2020). Its very creation was a battleground. A minority of lawmakers championed democratic ideals, seeking a balance between state power and individual rights, echoing the principles of the International Covenant on Civil and Political Rights (ICCPR). But the majority prevailed, arguing for broad discretionary powers for state apparatus to combat crime (Pangaribuan, 2025).

As a result, robust procedural safeguards for individuals were seen as obstacles to effective crime fighting. Human rights conventions like the ICCPR were dismissed as incompatible with Indonesia's state ideology of "Demokrasi Pancasila," which prioritises communal harmony over individual liberties.[5] This ideological foundation serves as a platform for Indonesian criminal justice system, granting the state apparatus extensive discretionary criminal justice power with minimal checks and balances especially in pre-trial investigative stage.[6]

This effectively empowers those holding pre-trial investigative powers with broad discretion in handling criminal cases, acting as gatekeepers of the system. Formally, during the New Order regime, this power resided with the police. However, as the police were integrated into the military

[5] The extensive discussion about the legislative process of KUHAP can be found in Pangaribuan (2025).

[6] It is important to note that, during the legislative process of the KUHAP, the military faction was the second strongest faction in the Indonesian parliament after the Karya Pembangunan faction. This faction was also loyal to the military regime of Soeharto. That is why it is unsurprising when the KUHAP grants them wide discretionary power.

(ABRI), they were, in practice, subordinate to the military and thus lacked independence in exercising their formal authority (Baker, 2012, pp. 37–41; Yulianto, 2023, pp. 4–6).[7]

The winds of change swept through Indonesia with the 1997 Asian financial crisis and the subsequent *Reformasi* movement, culminating in the fall of Suharto's regime in 1998. With the waning of military influence over Indonesian society, the police force, once subservient, seized the opportunity to assert their autonomy (Muradi, 2014; Yulianto, 2023). This stemmed from public pressure demanding that internal security be handled by civilian authorities, not the armed forces. This led to the separation of the military and the police, with the latter gaining civilian status.

Consequently, they ascended to a position of dominance within the criminal justice system, effectively becoming its gatekeepers and filling the void left by the military's retreat. This is largely because the reformasi movement, even to this day, has been unable to replace the KUHAP.[8] In other words, the reformasi movement, intended to dismantle the authoritarian system, has ironically created an environment where only the faces at the helm of the criminal justice system have changed, not the system itself.

The multifaceted nature of Reformasi is key to understanding this paradox because the movement also inadvertently ignited a quest for power realignment within the criminal justice system. The unchecked pre-trial criminal justice power, which encompasses critical decisions such as the establishment of charges, arrest, search and seizure, becomes the precious assets that trigger competition, as will be further explored in the next section of this article. Under Soeharto's military regime, the competition was suppressed; the police were integrated into the military structure, the chief prosecutor was often hailed from military ranks, and the KPK did not yet exist.[9] The collapse of the military as a centralised authority created a vacuum, and competition intensified.

[7] Baker reveleaed the hierarchy within ABRI as follows: First the army, then the navy, then the air force, and finally to the "littlest child," the police. Moreover, during the New Order regime, the government was keen to establish centralised authority over criminal justice agencies, encompassing both the police and the prosecutor, through bodies such as Kopkamtib (Operational Command for the Restoration of Security and Order) or Bakostranas (Coordinating Agency for National Stability). These institutions were led by military generals, effectively acting as gatekeepers within the system. Following the military's withdrawal from civilian affairs, this position was assumed by the police, who took on the role of the dominant civilian force within the criminal justice system. The implications of this shift in power dynamics will be discussed in detail in Part 3, which focuses on the police-prosecutor rivalry. A detailed discussion of this shift can be seen in Baker (2012); Muradi (2014) p. 102.

[8] After the reformasi, there were several attempts to change the KUHAP, but these failed. The main reason was that the different parts of the justice system could not agree on how to share power. See the discussion on the police vs. prosecutor for more details.

[9] During the New Order regime, the Attorney General's position was mostly held by two-star or three-star military generals, which underscored its subordinate status compared to the heads of both the police and the military, who held four-star ranks.

Marginalised by the old regime, prosecutors saw an opportunity to claim their dominance over investigative power, a power they once held during the Dutch colonial era. Meanwhile, the police, realising their newfound dominance is under attack, activate their self-defence mechanism to shield their criminal justice power.

Further complicating the landscape, the establishment of the powerful and independent KPK in 2002 added another player to the power game. This bold move by Indonesian lawmakers acknowledged the failure of existing institutions to combat deeply entrenched corruption, with both the police and the prosecutor being implicated in Indonesia's pervasive corruption problem. The KPK's arrival disrupted the status quo, challenging the established power dynamics.

With the KUHAP's current design, as mentioned previously, pre-trial investigative power is the ultimate prize, granting broad discretion with minimal oversight. Within this landscape, the exercise of this power can be easily utilised for both personal and institutional goals. That is why any threat to this power invariably triggers a simmering power struggle. As the following discussion will demonstrate, the stage is set for a high-stakes drama. The legacy of authoritarianism, the aspirations for democracy, and the competition for power are the intertwined forces that shape and fuel the inter-agency conflict within the Indonesian criminal justice system.

III. The Police versus the Prosecutor: From Partner to Rival

As explained earlier, the rivalry between the Police and the Prosecutor in Indonesia centres on controlling the pre-trial investigation process. This is particularly critical in an inquisitorial system, where the pre-trial stage is the cornerstone of criminal case construction. Here, crucial decisions like arrests, searches, and seizures are made, shaping the case files (known as case dossiers or *Berkas Perkara*) that become the centrepiece of a trial. Unlike adversarial systems emphasising oral arguments in court, inquisitorial trials primarily confirm the pre-trial investigation documented in the case files.[10]

These files compile written records of all investigative and enforcement actions, including warrants, interrogation minutes, and investigator opinions. Due to this reliance on the case files, the principle of oral arguments in court, common in adversarial systems, holds little weight. In

[10] This reliance on case files built during the pre-trial investigation is a common feature of countries with inquisitorial legal systems such as Italy and France. See Grande (2000); Hodgson (2009).

simpler terms, whoever controls the pre-trial investigation controls the entire criminal justice process.

Their competition over pre-trial investigation power has been a significant battleground since Indonesia's formal independence in 1949, following the departure of the Dutch colonial administration. Under the old colonial legal framework, the police served as assistants to the prosecutor (known as "hulp-magistraat") in resolving criminal cases.[11] During this period, the prosecutor operated within the judiciary, assuming the role of "magistraat," a common feature in inquisitorial legal systems like that of the Dutch. In simple language, under the colonial legal framework, prosecutors held a superior position to the police, wielding a combination of executive and judicial authority. However, with the withdrawal of the colonial government, these vacated positions triggered a return to a state of flux in the power dynamics between the police and prosecutors.

The conflict culminated in 1961 with the enactment of separate prosecutorial and police laws, ultimately favouring the police. As a result, the police became integral to national security as a military force, wielding full criminal justice powers without being answerable to the prosecutor.[12] Meanwhile, the prosecutor's investigative authority diminished, restricted to conducting additional investigations (following investigations by the police) and fulfilling prosecutorial duties during court proceedings.[13] However, these two laws did not operationalise in detail the working relationship between them. For instance, a key point of contention persists regarding the prosecutor's authority during additional investigations: whether they have the power to directly conduct inquiries and carry out enforcement actions such as arrests, searches, and seizures. This ambiguity regarding the division of power and responsibilities between police and prosecutors continues to spark debate whenever criminal procedure regulations are discussed, as the following examples will illustrate.

The period between 1979 and 1981 saw renewed scrutiny of the working relationship between Indonesian police and prosecutors during parliamentary discussions on the KUHAP. Concerns arose due to the ambiguity of the 1961 laws, which led to overlapping roles between these two agencies (Badjeber and Rosjadi, 1979, p. 250; Pangaribuan, 2025). KUHAP aimed to address this

[11] Under Article 38 of the old Dutch criminal procedure code (HIR), prosecutors functioned as judicial figures.
[12] In 1962, the Indonesian police aligned themselves with the military during a period of political upheaval. See Lev (1965); Tanumidjaja (1971).
[13] Article 2 of the 1961 prosecutorial law specifically allows for this type of working relationship.

by establishing a rudimentary communication channel, the pre-prosecution process, where police are required to submit investigation results to prosecutors for review. However, the code provides limited details on the scope of this review and imposes a tight timeframe (7-14 days). Failure by prosecutors to meet this deadline automatically renders the investigation complete.[14] This legal framework effectively grants dominance to the police, relegating prosecutors to the role of presenting police case files in court. This shift towards distinct roles for police and prosecutors within the criminal justice process was formalised in the "functional differentiation" doctrine.[15] As the title suggests, the doctrine separates the function of the police and the prosecutor, granting the police significant autonomy in conducting pre-trial investigations without mandatory collaboration with the prosecutor. As a consequence of this doctrine, the prosecutor was relegated to a passive role in the pre-trial investigation process. Indonesian legal scholarship often refers to prosecutors under this system as mere "postmen" for the police, simply delivering case documents to the courts (Afandi, 2019). The enactment of KUHAP further cemented this dynamic, diminishing the prosecutor's influence within the power hierarchy of the criminal justice system.

The 1991 prosecutorial law marked another chapter in the ongoing debate about power distribution between police and prosecutors. The government, seeking to reduce these tensions, proposed an "integrated criminal justice" system to foster harmony between the two entities. They argued that any fragmentation within the criminal justice apparatus undermined the shared pursuit of justice. However, these pronouncements rang hollow for prosecutors. When the issue of their investigative authority arose, the government maintained a strict interpretation of KUHAP, limiting the prosecutorial investigation to misdemeanour cases.[16] This essentially reaffirmed the functional differentiation doctrine, relegating prosecutors to a non-dominant role in handling most crimes. As a consolation prize, the government reassured the prosecutor's authority to investigate economic crimes like corruption. Despite this legislative effort, the 1991 prosecutorial law

[14] Although this practice is rarely exercised, it suggests that the prosecutor is subservient to the police. This sentiment was further confirmed during my interview on 13 January 2021, with a high-ranking prosecutor involved in the 2021 reform of prosecutorial law.

[15] The doctrine was formalised in 1982 through a decree by the Minister of Justice. Notably, Awaloedin Djamin, who served as the national police chief during the drafting of the Criminal Procedure Code (KUHAP), also discussed the events leading to its establishment in his autobiography. See (*Sejarah Perkembangan Kepolisian Di Indonesia : Dari Zaman Kuno Sampai Sekarang / Awalloedin Djamin ... [et Al.]* 2007)

[16] According to Article 203(3)(b) of the Indonesian Criminal Procedure Code (KUHAP), the prosecutor's authority to conduct supplementary investigations is limited to misdemeanor offenses.

ultimately failed to deliver any meaningful change in the power dynamic between police and prosecutors.

As previously noted, the tension between the police and prosecutors during Soeharto's military regime (1966-98) was easily suppressed due to the regime's top-down, authoritarian approach. This is exemplified by the fact that military generals occupied most chief prosecutor positions. Furthermore, the regime's emphasis on military-led centralised authority led to the creation of institutions like the Command for Security and Order *(Kopkamtib and Bakostranas)* and coordinated forums that included the police, prosecutors, and judiciary *(Mahkejapol)*. These institutions served the regime's interests, suggesting a lack of true separation of powers. However, as explained earlier, the Reformasi movement in 1998 dramatically altered the power dynamic. Comprehensive reforms took place across the political and legal sectors, including a re-evaluation of the roles of criminal justice agencies such as the Court, the police, and the prosecutor.[17] The police achieved formal separation from the military following the reformasi movement in 1999, subsequently establishing their own legal framework in 2002.[18] Additionally, the 2004 Prosecutorial Law successfully reinstated the prosecutor's authority to conduct additional criminal investigations (as outlined in Article 30 of the law) – a power previously limited by the 1981 KUHAP.

The conflict between the police and the prosecutor reached its new height during the KUHAP reform process between 2007 and 2013. Sensing the momentum brought by the reformasi movement, prosecutors tried to seize the opportunity to strengthen their position within the system. During the drafting process of the new KUHAP, they campaigned for the concept of "dominus litis," citing global trends that argued for prosecutor-led criminal justice systems.[19] Prosecutors asserted that as the ultimate representatives of the case in court, they should be the ones directing pre-trial investigations, not the police.[20] The final draft reflected this push, with significant

[17] Meanwhile, after the reformasi, the judiciary is also independent from the executive power. However, it is beyond the scope of this article to discuss the influence of the judiciary in this power competition. Literature suggests little evidence of their influence since their role under pre-trial investigative power is limited.

[18] The police and the military were formally separated in 2000 through a decree from the People's Consultative Assembly, an upper chamber of the Indonesian parliament (TAP MPR VI/MPR/2000). The continuance of this decree was solidified by the 2002 National Police Law (UU 2/2002), which replaced the 1997 National Police Law.

[19] The literal translation of dominus litis is the "master of the case." By using this term, the Indonesian prosecutors argue that they are the ones who have the power to decide whether to pursue a case, what charges to file and how to conduct the investigation.

[20] Four interviews were conducted in Jakarta, Indonesia, between July 2020 and July 2021, with a high-ranking prosecutor involved in the drafting process. The interviewee revealed this sentiment.

concessions to the prosecutors. It mandated active coordination between police and prosecutors during investigations, requiring police to seek prosecutorial advice. Moreover, the prosecutor can take over the investigation from the police due to the police's perceived passivity or inaction in the investigative process.[21]

The draft also imposed strict time limits on police investigations (60-90 days, depending on suspect detention), empowering prosecutors to assume control if those deadlines were missed. Furthermore, the proposed introduction of a preliminary investigation judge *(hakim pemeriksa pendahuluan)*, borrowed from modern inquisitorial systems, aimed to curtail unchecked police power through judicial oversight of the criminal justice process.

This proposed power shift sparked fierce resistance from the police throughout the drafting process. A high-ranking government official directly involved in the discussions noted the police's vehement opposition *("ngotot"* in his exact words).[22] The police openly contested the draft, asserting their independence and arguing that the functional differentiation doctrine should be used as a platform in governing the relationship between criminal justice actors – a principle they felt the draft violated. They further claimed the problem lay not in legal theory but in the practical implementation of existing laws. Dismissing the prosecutor's reliance on global trends of dominus litis, they argued that the dominant role of police in the system was a matter of political perspective and that legal models beneficial to other countries might not automatically translate to Indonesia.[23] Interviews with high-ranking police officials revealed deep suspicion that the reform was politically motivated, designed to strengthen the prosecutor's role at the police's expense. They pointed to the appointment of Andi Hamzah, a former prosecutor, as head of the reform team as evidence of this bias.[24] Ultimately, the 2013 KUHAP reform efforts were unsuccessful, with the 1981 KUHAP remaining in effect – a failure likely attributed, at least in part, to this resolute opposition from the police (Lamchek, 2019).

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[21] See article 12 of the 2013 draft of the new KUHAP—file on the author.

[22] On 16 July 2020, an interview was conducted with a key member of the criminal justice reform team. He revealed that the drafting process included intense debate, particularly between the police and prosecutors. The police expressed strong reservations about the draft, perceiving it as a reduction in their power due to the proposed expansion of prosecutorial authority.

[23] The police's opposition to the draft is further substantiated by publications authored by police officials involved in the drafting discussions. See Panggabean (2010)

[24] Interviews with high-ranking police officials who were involved in the reform process on 20 November, 2020. When I asked about his suspicion, he explained: "...there is an institution that wants to place the police as their subordinate. Andi Hamzah pushed that effort [through a comparative study to other countries]; it might be because he himself was a former prosecutor. However, the other members and I argued that foreign systems might not work in Indonesia."

The failed reform process ignited further tensions, culminating in high-stakes arguments before the Indonesian Constitutional Court in 2008 and 2016. The 2008 case centred on a former military general, Subarda Miradja. Identified as a corruption suspect in managing the military pension fund (ASABRI) by the prosecutor in 2007, Miradja's situation exposed the power struggle. Previously, in 2004, the police had dismissed the case for lack of evidence, and the Ministry of Defense shielded him from charges. Miradja, facing this impasse, petitioned the Court, claiming his rights were violated based on double jeopardy. More pointedly, he challenged the very foundation of the prosecutor's authority to investigate corruption, arguing it was unconstitutional.

During the litigation process, the police sided with Miradja and defended the dismissal of the case. The police argued that the prosecutor's investigation power created legal uncertainty for the accused. According to the police, if new evidence or circumstances emerge, the prosecutor should notify them and allow them to conduct the investigation. The police further contended that the prosecutor's actions to reinvestigate the case would make them appear unprofessional and imply that the prosecutor was superior in handling corruption investigations.[25] Ultimately, the police requested the Court abolish the prosecutor's investigation power, claiming it violated the functional differentiation doctrine—a core principle of Indonesia's criminal justice system. They argued that granting the prosecutor investigative and prosecutorial authority eliminated checks and balances, concentrating power within a single institution.

In defence of their position, the prosecutor argued their authority to investigate corruption cases had deep roots, predating the KUHAP and extending back to the 1960s. They pointed to historical examples, such as President Soeharto in 1967 establishing an anti-corruption team with investigators under the Attorney General's supervision.[26] Additionally, they bolstered their claims to authority by highlighting their proven track record, citing data from 2003 to 2007 which demonstrated that prosecutors handled a substantial 80% of corruption cases, in contrast to the police's 15% and the KPK's 5%.[27] This statistic, they argued, demonstrated their superior investigative expertise in corruption cases. Further bolstering their position, the prosecutors again cited international norms advocating for a proactive prosecutorial role in the criminal justice

[25] See page 70 of the decision.
[26] See Presidential Decree No. 228/1967. The Attorney General heads this task force, and its members are comprised of the military and the police.
[27] See page 81 of the decision.

process, referencing guidelines and practices from countries like the United States, Portugal, Georgia, Netherlands, and France.

The nine judges of the Constitutional Court declined to directly address the contentious issue of prosecutorial power. Instead, they dismissed Miradja's petition on technical grounds, citing his lack of legal standing. Their reasoning hinged on the argument that challenges to criminal investigation procedures do not necessarily translate to violations of constitutional rights, as they pertain to specific individuals rather than universally applicable principles. However, the Court did not completely sidestep the issue. While acknowledging the prosecutor's existing legal authority to investigate corruption cases, they issued a strong nudge to legislators. The Court urged them to enact clearer legislation defining the working relationship between the police and prosecutors. This implicit call for reform left open the question of whether the Court itself harboured doubts about the current power dynamics within the criminal justice system. In the end, the police successfully defended their criminal justice power despite fierce attempts from the prosecutor to substantially curtail their investigative authority.

Rekindled in 2016, the debate over pre-trial power flared anew when legal activists petitioned the Court to illuminate the rivalry between police and prosecutors.[28] At its core, the enduring question remained regarding the extent to which prosecutors could influence police investigations, considering the KUHAP's lack of clarity on their power dynamics. The petitioner argued that the pre-prosecution process, with its ambiguous design, fosters an unclear working relationship between police and prosecutors.[29] This ultimately disadvantages those seeking justice. The petitioners, aiming for a more proactive prosecutor and seeking to break the deadlock in the criminal justice system, once again used the term dominus litis to justify their reasoning. To bolster their case, the petitioners not only referenced international norms favouring a robust prosecutorial role in investigations, citing the convention on the role of the prosecutor, but also presented data on the negative impact of the current system. They argued that the lack of clear cooperation between police and prosecutors led to over 600,000 cases going unresolved between 2005 and

[28] The debate centres on several articles of the Indonesian Criminal Procedure Code (KUHAP) relevant to the pre-prosecution process. These include Articles 14b and 138, which concern the pre-prosecution process itself; Article 14i, which defines 'any other actions' that can support the prosecution; and Article 109, which concerns the notification of investigation.

[29] The pre-prosecution process, where the police submit their investigation results (in the form of case files) for review by the prosecutor, is intended as a collaborative forum. However, as previously explained, the ambiguous design of this process, particularly as outlined in Articles 109, 110, 138, and 139 of the KUHAP, has triggered conflict between the police and the prosecutor.

2012. This statistic highlighted how the unclear division of power hindered effective investigations.

In response, the police first challenged the petitioners' legal standing. They argued that the petitioner lacked the direct connection necessary to claim a violation of the articles in question. On the merits of the case, the police reiterated their position regarding the functional differentiation doctrine. They insisted that investigations remained the exclusive domain of the police, while the prosecution process (defined as representing cases before judges) belonged solely to prosecutors. The police emphasised that this doctrine reflected a political consensus established by lawmakers during the KUHAP's creation in the 1980s.

The Prosecutors' Labor Association, *Persatuan Jaksa Indonesia* (United Prosecutors), aligned themselves with the motion. They argued for a more active prosecutorial role in investigations, citing the need to streamline the process and avoid unnecessary bureaucratic delays. Early involvement, they claimed, would allow prosecutors to ensure the completeness of case files, leading to stronger cases and, ultimately, a higher conviction rate.

The Court, once again, sidestepped the core issue. They reasoned that the problem was not the law itself but its implementation. The KUHAP, they argued, already allowed for collaboration between police and prosecutors through the concept of the preliminary prosecution process. In their view, the issue stemmed from the practices of legal institutions, not the law on the books. However, acknowledging the KUHAP's lack of specific timeframes for police notification of investigation, the Court mandated notification to relevant parties (prosecutor, complainant, and suspect) within seven days of investigation initiation. This decision did little to clarify the power dynamics between police and prosecutors.

In 2021, the prosecutor made another bid to solidify their dominance within the justice system.[30] This time, they strategically bypassed a direct confrontation with the police by leveraging Parliament to revise the prosecutorial law. As revealed by a member of Parliament (MP), they initiated the revision to prevent further tension *(gaduh)* between the police and prosecutors. [31] Unsurprisingly, the revision reignited the debate surrounding the prosecutor's role in investigations. A key issue was whether to incorporate the term dominus litis into the law.

[30] Legislative process documents are unavailable online. They were obtained through personal communication with a participant in the drafting process (on file with the author).

[31] An interview was conducted on 18 November 2020 in Jakarta, Indonesia, with a member of parliament who participated in the revision process.

Proponents argued that including the term, even untranslated, would benefit Indonesian legal scholarship. Opponents, however, raised various concerns: one MP felt using a Latin term was unsuitable, while another believed the core principle of dominus litis was already implied since investigations fall under prosecution. In mediating this debate, the meeting chair repeatedly cautioned against using the term due to potential conflict with the police.[32]

Alarmed by Parliament's proposed revisions to the prosecutorial law, the police mobilised their wing organisation, *Ikatan Sarjana dan Profesi Kepolisian* (ISPI or Association of Indonesian Police Scholars and Professionals), to voice their concerns to the public.[33] ISPI's chairman, Sisno Adiwinoto, who also serves as special staff to the police chief, argued that the new law undermines police authority. He and his organisation view the revisions as a regressive step for Indonesia's legal system, claiming they echo an outdated colonial model (Faisal, 2020). Their primary objection centres on the prosecutor's expanded power to conduct independent investigations after the police have completed theirs.

The revised prosecutorial law ultimately did not enshrine the concept of dominus litis or grant prosecutors independent investigative powers. However, it offered several significant concessions. Firstly, prosecutors gained expanded authority in asset recovery and wiretapping during specific criminal investigations. Secondly, they were empowered to utilise "penal mediation," an alternative dispute resolution tool in certain cases. Thirdly, the law brought oversight of military jurisdiction under the purview of the chief prosecutor. Finally, in a symbolic gesture, the revision granted prosecutors the privilege of carrying firearms and utilising special military-style license plates similar to the police.

The revised law reflects a political compromise struck by Indonesia's legal establishment. It preserves the status quo, with the police retaining control over pre-trial investigations and their dominant position within the system. Prosecutors, on the other hand, receive expanded authority without directly challenging police influence. This solution is, at best, a temporary reprieve. By skirting the core issue of power dynamics, Indonesian lawmakers have merely postponed the inevitable conflict, failing to deliver a lasting resolution.

[32] In his exact words, "We need to prevent any misunderstanding with our neighbouring friend [referring to the police]; this is important." See Meeting Minutes 2 December 2021, pp. 38-48—file on author.
[33] Within Indonesia's authoritarian family state structure, where the concept of integration between state and society is emphasized, the police maintain their power through a dedicated mass organization. See Bourchier (2016).

Unsurprisingly, the Tin corruption case in 2024 (PT Timah) further revealed the power struggle between the police and the prosecutor. This time, the conflict transcended beyond argument within the courtroom as the police were able to mobilise their force to siege the Attorney General's office in Jakarta and spied on the Deputy Attorney General who was working on the corruption case. According to credible media reports, this action was triggered because such a corruption case is linked to the involvement of the Police General and the Police's external patron (Tempo, 2024a; Tempo 2024b). In response to this incident, the national police chief only issued a normative statement, essentially saying that his institution had no problem with the prosecutor. Meanwhile, the Deputy Attorney General said the public must ask the police to question their motives for using force against his institution (Kompas Cyber, 2024). Responding to this situation, Mahfud MD, former coordinating minister for law and security (Menkopolhukam), further confirmed this friction, essentially saying that he is aware the national police chief and Attorney general do not want to be in the same room except for cabinet meetings (Kompas, 2024). Ultimately, the police opted not to impose any sanctions on the officers involved in these incidents, a decision that drew significant public criticism.

This current situation clearly demonstrates that the unresolved power struggle has escalated into a direct turf war, with the police mobilising their force against the Deputy Attorney General, the second-highest-ranking prosecutor in the nation. Without political commitment and concrete solutions to mediate this conflict, it is highly likely to resurface in the future, a point that will be further explored in the analysis section of this article.

IV. The Police versus KPK: Battle Between the Crocodile versus Gecko

Before delving into the conflict between the police and the KPK, it is essential to offer a brief overview of the KPK to establish context. In comparison to the police and the prosecutor, the KPK is a relatively new agency established in 2002, born out of the demands of the Reformasi movement to combat systemic corruption. Recognising that existing law enforcement (police and prosecutors) were often entangled in corruption themselves, Indonesian lawmakers empowered the KPK with the ability to prevent, investigate, and prosecute corruption cases, particularly those involving law enforcement and public officials (Butt, 2010; Schütte, 2012). This broad discretionary power reflects the KPK's legitimacy, stemming from the Reformasi movement's

fight for clean governance. The law positions the KPK as the leading force in tackling corruption, granting it authority above the police and prosecutors in such cases.

The KPK leadership structure was established with five commissioners at its helm. This commission comprised a chairperson and four deputy chairs. Notably, the agency's personnel were a unique blend, consisting of seconded police and prosecutors working alongside investigators recruited through a separate, independent process. This distinctive structure, designed to foster impartiality and effectiveness, proved instrumental in the KPK's initial success in combating corruption in Indonesia, as evidenced by widespread praise from both domestic and international commentators (Choi, 2011; Schütte, 2012).

The conflict between the police and the KPK transcends mere bureaucratic wrangling or legal technicalities. It runs deeper than the tensions with prosecutors. Since the beginning, we will witness a clash of power and purpose, with each side wielding its criminal justice authority as a weapon in a bitter struggle. Indonesian popular culture aptly captures this dynamic through the "Crocodile versus Gecko" analogy. The entrenched police force, symbolised by the powerful crocodile, perceives the younger, more agile anti-corruption agency (the Gecko) as a threat. This evocative imagery echoes the biblical tale of David and Goliath, highlighting the perceived imbalance between the two institutions. This simmering tension has erupted in three distinct "Gecko versus Crocodile" episodes between 2009 and 2019. In each instance, high-ranking police generals implicated in corruption cases fiercely resisted investigations, prompting the police to mobilise against the KPK in an attempt to obstruct investigations and shield their own.

The first conflict between the police and the KPK occurred in 2009 when the KPK investigated a high-ranking police general, Susno Duadji. Duadji is structurally the third most powerful police official in the nation, holding the position of the chief of the detective unit (Kabareskrim). In May 2009, the KPK investigated Duadji's involvement in several corruption cases. Duadji realised that he was being targeted, and on one occasion, during an interview with the media, when asked to comment about his involvement in the case, he answered:

> …how can they [the KPK] not be stupid if they keep looking for something [Duadji's involvement in the case] that is impossible for them to do? If you compare it, it is like a crocodile here and a gecko there. How can a gecko fight a crocodile? Is the crocodile angry? No, just regretful. The gecko is still stupid. We [the

> Police] are the ones trying to make them [the KPK] smarter, but after all these years, it is still not smart. We give it power, but it just keeps looking for something that it will never get.[34]

It was this interview that sparked the infamous analogy of the Crocodile versus the Gecko. After the interview was published in June 2009, it ignited a massive public outcry against the police. The Gecko, initially garnering substantial public support in its fight against corruption within the police institution, found that this backing did not initially deter the Crocodile from exerting its influence against both the KPK and the public. In response, the police initiated an investigation targeting two KPK deputy chairmen: Bibit Samad Riyanto (a retired police general) and Chandra Hamzah, who reportedly authorised the inquiry into Duadji. Both were named as suspects due to alleged abuse of power and extortion during their investigation of other corruption cases.[35] Seeking to counter the police's actions, in October 2009, the two KPK deputy chairmen filed a petition with the Constitutional Court, requesting a postponement of their dismissal. They argued that the police had levelled baseless allegations against them. However, just a week after this legal move, the police detained both individuals, citing concerns that they might hinder the investigation by mobilising public opinion against law enforcement.

Long story short, the pendulum of power shifted to the KPK when the Constitutional Court decided to publicly hear the wiretapped conversation recordings between corruption suspects investigated by the KPK. These recordings revealed collusion between the suspects, police officials, and high-ranking prosecutors to frame Riyanto and Hamzah. Hours after this revelation, with heightened public and political support, the police were forced to release the two KPK chairmen. Additionally, the then President (Susilo Bambang Yudhoyono) formed an investigative team (Tim 8) to uncover the truth. While the details of their investigation remain classified, it is known that the team concluded the investigation against the KPK deputy chairmen was baseless and recommended the police and prosecutors halt it. The police and the prosecutor were left with no other option but to halt the investigation against Riyanto and Hamzah. In December 2009, both of them were reinstated to their old position. Meanwhile, Duadji was sacked from the police force. Further, in March 2010, he was arrested by the police for corruption cases previously investigated by the KPK. This episode effectively marked a victory for the Gecko against the Crocodile.

[34] Interview with Tempo Media 12 July 2009. The original statement is in Bahasa Indonesia. The author translates it into English. See Tempo (2009).

[35] The police named both individuals as suspects based on a report filed by then-Chairman Antasari Azhar. However, Azhar himself was under arrest at the time, facing charges in a separate murder case.

Four years after the initial conflict, in 2012, tensions between the Police and the KPK resurfaced under similar circumstances. However, the intensity of this second episode was notably lower than that of the first. The conflict emerged in 2012 when the KPK launched an investigation into the involvement of several high-ranking and mid-ranking police officials in a corruption case related to a simulator required for passing the driving license test. More importantly, the KPK also named Djoko Susilo, a two-star police general and head of the traffic police, as a suspect. In response, the police asserted their own investigation, concluding that no foul play had occurred.

During a search conducted by the KPK at the traffic police office in Jakarta, investigators encountered significant obstacles when attempting to enter and exit the premises. Initially met with resistance from police officials, the KPK officials were only granted access after several KPK leaders intervened. However, when the KPK investigators sought to leave the building with evidence, the police insisted that they leave the evidence behind. After seven hours of negotiations, the police finally permitted the KPK officials to depart with the evidence in the early morning (Tempo, 2012b).

Months before the search, the police made a move in an effort to stop the KPK investigation. Novel Baswedan, a key investigator and a former member of the police, was named as a suspect because of allegations of power abuse dating back to 2004, during Baswedan's tenure as a police official. The Police also instructed its officers seconded to the KPK and involved in the Susilo case to resign from the KPK, ostensibly as a display of loyalty to their original institution. Following this instruction, sixteen KPK officials resigned (Tempo, 2012a). Witnessing this power struggle, once again, President Yudhoyono was compelled to intervene in the conflict, publicly declaring that the corruption case involving Djoko Susilo must be handled by the KPK and instructing the Police to revoke its decision to name Baswedan as a suspect (Solopos, 2012). This statement effectively halted the police's investigation. The second episode, though less dramatic, played out similarly. Despite these attempts by the police to obstruct the investigation, the KPK persevered. Their tenacity paid off, as Susilo's 2013 corruption conviction cemented the agency's success in this case.

However, the Gecko's winning streak ended in the third episode of the conflict. This conflict erupted in 2015 when the KPK dared to name Budi Gunawan, a controversial frontrunner for national police chief, as a corruption suspect. The stakes escalated dramatically as the police solidified a powerful coalition with major political forces, turning the tide against the anti-graft

agency. This shift in dynamics was largely due to Gunawan's close affiliation with the ruling party, the Indonesian Democratic Party for Struggle (PDIP).

The saga began in January 2015 when the KPK, led by its chairman Abraham Samad and deputy chairman Bambang Widjojanto, withheld a press conference announcing their decision to name Budi Gunawan as a corruption suspect. According to the KPK, Budi Gunawan was suspected of receiving bribes during his tenure as the head of the development bureau from 2003 to 2006. This move came just a few days after President Joko Widodo (who was also, at that time, a member of PDIP) had nominated Gunawan as the sole candidate for the position of national police chief. However, Gunawan's status as a suspect did not stop the parliament from proceeding with the candidacy. Eight factions of the parliament accepted Gunawan's candidacy, while only two factions wanted to at least postpone the candidacy process.[36]

After Gunawan gained parliamentary approval, several moves were made to delegitimise the KPK and its leaders. First, the romantic photo between Samad and beauty pageant winner Elvira Devinamira went viral in the public and social media. It was not clear who distributed the photo, but it was sent to several national media companies (Detiknews, 2015). Samad, Devinamira, the KPK, and several independent experts claimed that the photo was fake. However, there were also opinions saying that the photo was real (MerdekaNews, 2015).

Second, another attempt to delegitimise Samad came from Hasto Kristiyanto, the secretary general of the PDIP. In an interview, Kristiyanto revealed that he had met Samad privately to discuss the possibility of the KPK chairmen running as a vice president in the 2014 election. Kristiyanto explained that Samad was very eager for the vice presidency and was deeply disappointed when he was not appointed as a vice presidential candidate. Kristiyanto further clarified that Samad blamed Gunawan for his unsuccessful bid (Antaranews, 2015). This interview clearly aimed to delegitimise the KPK, as its decision to name Gunawan was perceived as politically motivated. Additionally, the law prohibits KPK officials from meeting privately with politicians, as it could create a conflict of interest.

The plot thickened further with the police's own counteroffensive. Acting on a complaint from Gunawan's lawyers, they initiated an investigation against the entire KPK leadership – the

[36] On 15 January 2015, a Plenary Meeting of the House of Representatives (DPR) was held. Eight factions supported the decision of the plenary meeting: PDI-P, Golkar, Gerindra, PKS, PKB, Nasdem, Hanura, and PPP. Meanwhile, the Democratic and PAN Factions asked the DPR to postpone approval due to several considerations, including the designation of Budi Gunawan as a suspect by the Corruption Eradication Commission (KPK).

chairman and all four deputies. The basis for this probe was the alleged unauthorised disclosure of a confidential document by KPK officials from the financial transaction report agency (PPATK) concerning the Gunawan case. But the police did not stop there as they went a step further, arresting KPK Deputy Chairman Bambang Widjojanto shortly after he dropped his son off at elementary school. Their justification: alleged evidence that Widjojanto, a former lawyer, fabricated evidence in a 2010 Constitutional Court case.[37] However, these accusations lacked any concrete proof and were widely viewed as a baseless attempt to discredit the two KPK officials. Further reports alleged that the Police lobbied and threatened the KPK's Director of Investigations, who was himself a seconded police officer. Media investigations reportedly revealed that several police officials pressured the Director to terminate the Gunawan investigation (Dyantoro, 2015).

Witnessing these tumultuous developments, the public, who largely backed the KPK, called upon President Widodo to step in and address the crisis, echoing the actions taken by his predecessor. In response, President Widodo established a special investigative committee comprised of nine members, known as "Team Nine", to thoroughly examine the matter. This committee ultimately advised the President to withdraw Gunawan's nomination due to the lingering suspicions of corruption. Heeding their counsel, President Widodo revoked Gunawan's appointment as the national police chief. Despite this setback, Gunawan found himself at the centre of further controversy when the South Jakarta Court, in February 2015, quashed his case. The court controversially ruled that the KPK did not possess the requisite jurisdiction to investigate Gunawan, arguing that he did not meet the criteria of a high-ranking government official during the years 2003 to 2006—a decision that provoked widespread scepticism.

In a surprising twist, the following year, Gunawan was rewarded with a significant promotion by the President, who appointed him as a four-star general and the chief of the State Intelligence Agency (BIN), a move that continued to stir debate. Moreover, a year after this incident, in 2017, Baswedan, a key KPK investigator for Gunawan's case and former police official, was attacked with hydrochloric acid, causing permanent blindness. The attackers, two low-ranking police officials, cited Baswedan's work in investigating senior police officials as a reason for the attack. During the trial, the attackers were represented by a police general, raising concerns of institutional bias. In the end, the attackers received a lenient sentence of one-year imprisonment.

[37] The arrest was made on 23 January 2015. See Haryanto (2015).

The blow to the KPK does not end there. The aftermath continued three years after the conflict ended. In 2019, the Indonesian parliament initiated a revision to the KPK law. The legislative process of the law was held behind closed doors amidst protests from civil society and officials from the KPK (Mudhoffir and A'yun, 2021; Butt, 2019). According to the elucidation of the law, the primary reason for the revision is to strengthen coordination among criminal justice agencies. Learning from the previous Crocodile versus Gecko incidents, the lawmakers blamed the previous KPK law as the source of the problem. Moreover, according to the introduction part of the law, there is also the need to increase ethical standards for KPK officials.

The revised KPK law has significantly curtailed the commission's investigative powers. Notably, the law has abolished the previous blanket ban on the KPK, discontinuing investigations and prosecutions, which, in an ideal scenario, could be seen as a positive change.[38] This would allow the KPK to halt proceedings if they recognise an error in their investigation or prosecution, which is a plausible occurrence. The necessity for such a provision stems from the fact that under the old law, once the KPK initiated an investigation, they were compelled to pursue a conviction, regardless of any subsequent realisation of a mistake. However, in a nation grappling with widespread corruption like Indonesia, the ability to terminate an investigation or prosecution could easily become a tool for corruption itself, with decisions potentially being influenced by the highest bidder. This potential for abuse is used to justify why the original KPK legislation did not include a mechanism for halting investigations or prosecutions. In defence of this approach, the KPK has argued that they set an exceptionally high threshold for initiating investigations to minimise the risk of errors.

Furthermore, the once-broad authority of the KPK to conduct wiretaps and other enforcement actions like search and seizure without prior warrants from any other institution has been restricted. Under the new law, the KPK is now required to obtain warrants from the newly established "Supervisory Board." This board oversees the investigation process and evaluates the performance of KPK officials. However, the President appoints the Supervisory Board, placing the once-independent KPK under the executive branch's purview. While a supervision mechanism for criminal justice enforcement can be beneficial in theory, critics view this move by the President as a politically motivated attempt to curtail the KPK's authority (A'yun and Mudhoffir, 2019). The appointment of Police General Firli Bahuri as the new head of the KPK following the legal

[38] See article 40 of the new KPK law

revisions further solidified these concerns. Ironically, in 2023, The Police named Bahuri a suspect due to his involvement in corruption cases.

V. Analysing The Conflict: Patronage Bureaucracy, Criminal Justice Power And *Ladang Hidup*

When analysing the conflict between the police, the prosecutor, and the KPK, my interview with a senior member of parliament responsible for overseeing criminal justice institutions shed light on this matter. When asked about his opinion on the conflict and the attempts by higher political forces to mediate it, he explained:

> "This is a very complicated task. Even strong political will from the president is not enough. A president with high public approval does not automatically command the parliament's support. He must accommodate all political interests. And within the parliament, there are factions who actually benefit from this conflict… In my opinion, this is not a clash of legal ideals; it's more about control over a 'ladang hidup' [literally, a living field]." [39]

This interview reveals two key issues regarding inter-agency conflicts in Indonesia. First, the dominant motives of the conflict are not driven by legal ideals but rather by an ambition for personal gain, which he referred to as *ladang hidup*. Second, it illustrates how the politicisation of law enforcement has compromised the ability of higher political forces to resolve the conflict. The analysis in this section will focus on these two key issues, which, this article argues, offer insights into the fundamental questions surrounding the core conflicts between the police, the prosecutor, and the KPK.

The concept of *ladang hidup* serves as a stark metaphor, illustrating how the criminal justice system is perceived as a fertile ground for exploitation, both for personal enrichment and institutional advancement. To fully grasp the implications of this phenomenon, it is beneficial to examine the intricate relationship between criminal justice power and the deeply entrenched patronage bureaucracy that permeates the occupational culture of both the police and the prosecutor. Moreover, the chronic underfunding of these institutions, which severely hampers their operational capacity, further exacerbates this issue. This combination of factors has fostered a cultural acceptance of corruption within these agencies. Consequently, when conflicts are

[39] Interview with a senior parliament member overseeing law enforcement affairs, who has more than fifteen years of experience in the parliament. The interview was held on 16 November 2020.

primarily driven by the need for self-preservation, their persistence and intensity become readily understandable.

In Indonesia, particularly within the government sector, the practice of patronage bureaucracy is widespread. Scholars have even labelled Indonesia a "patronage democracy" or "neo-patrimonial state," where power is concentrated in the hands of patrons who wield it for their own benefit.[40] Baker's research characterises the Indonesian police as operating under this patronage bureaucracy, with numerous interconnected networks akin to a "rhizome state" (Baker, 2015). Afandi similarly observes a comparable system within the Indonesian prosecutor service, driven by a combination of militaristic culture and unquestioning loyalty, further entrenched by formal regulations.[41] In essence, this system operates on an exchange of favours: senior officers provide support, opportunities, and protection to their subordinates in return for loyalty, bribes, and a share of any illicit gains. These personal and often emotionally charged connections form a network within both the police and the prosecutor's office.[42] In this type of environment, loyalty to the individual and to the institution becomes blurred, intertwining into an inseparable part of their organisational culture.

To maintain such a patronage network, criminal justice power becomes a valuable currency. The ability to exercise this power, often intertwined with practices such as bribery, extortion, selective prosecution, and the politicisation of law enforcement, can be easily leveraged for personal and institutional gain. The detective unit of the police (Reskrim) has long been known as the *basah* ("wet") field because the exercise of such power can be easily monetised.[43] For instance, a report from NGOs revealed this tendency, where an accused is extorted at every stage of the

[40] Instead of being recent phenomenon, patronage have been long standing and essential informal institution in Indonesia. See Peter Blunt, Mark Turner, and Henrik Lindroth, "Patronage's Progress In Post-Soeharto Indonesia: Patronage's Progress In Post-Soeharto Indonesia," *Public Administration and Development* 32, no. 1 (February 2012): 64–81, https://doi.org/10.1002/pad.617.

[41] In his dissertation, Afandi argues that the misinterpretation of the Dutch doctrine of "een en ondelbaar" or "prosecutor as an indivisible whole," which is sanctioned in the prosecutorial law, has led to a culture of blind loyalty to senior officers. Originally, in the Dutch system, this doctrine simply meant that all prosecutors must adhere to the standards and principles set forth in their colleague's indictment. See Afandi (2021).

[42] For instance, within the Indonesian military culture (which still influences the police today), there is a concept of brotherhood called "Kakak asuh dan Adik asuh" (literally meaning "foster older sibling and foster younger sibling"). This concept is primarily designed to strengthen the bond between officials. However, because of such a bond, it is prone to abuse, with the older demanding blind loyalty from the younger. In the infamous case of General Ferdy Sambo, for example, several commentators claimed that Sambo was able to fabricate a case to shield his family in the murder of his bodyguard because of the existence of such a concept. See Hidayat (2012); Kumparan (2022).

[43] "Basah" (literally translated as "wet") is Indonesian slang for a lucrative area where police and prosecutors can illicitly profit from the criminal justice process.

criminal justice system, particularly in the pre-trial process.[44] Furthermore, in 2014, a commissioner from the police's supervisory commission (Kompolnas), Adrianus Meliala, went as far as saying that the detective unit of the police functions as an Automated Teller Machine (ATM) for its top officials.[45]

Meanwhile, ethnographic research by Afandi also revealed similar practices, highlighting the tendency for low-ranking to mid-ranking prosecutors to monetise their criminal justice authorities in order to pay *(setor)* their top officials. Afandi even exposed the prosecutors' justification for obtaining illicit money from the criminal justice process by separating the concept of *rezeki halal* (legitimate money) and *rezeki haram* (illegitimate money). In this context, as long as it does not involve extortion, it can be considered *rezeki halal* and, therefore, acceptable. However, if it does involve extortion, it is not legitimate, hence the term *haram* (Afandi, 2021, p. 103).[46] These two concepts reveal that Indonesian prosecutors have also developed a cultural acceptance of bribery.

Further exacerbating this situation is the fact that both the police and the prosecutor face budget constraints that limit their operational capacity. This has opened the door to monetise their power. Baker has underscored the police's reliance on off-budget funding to operationalise their activities, going so far as to say that, because of its heavy reliance on off-budget funding, they have lost track of how to accurately calculate their own institutional needs (Baker, 2012, pp. 76–77). Meanwhile, Afandi disclosed that prosecutors consistently feel undervalued by the government regarding the allocation of funds to support their institutional needs (Afandi, 2021, pp. 104–10).

Untung Rajab, a retired police general, vividly illustrates the fierce competition over the monetisation of criminal justice power. He portrays the relationship between the police and the prosecutor as two male tigers within the same cage. When there is "meat" – defined in his own words as "*fulus, rezeki*, and *bunga kota*" (illicit money) obtained from the use of investigative power – the two tigers inevitably fight for it. Rajab also highlights the prosecutor's dissatisfaction, complaining that due to police dominance in the investigation, there is only bone left for them when the meat is finally passed over (Rajab, 2003, p. 199). This collection of literature further

[44] This report is based on field research, involving interviews with accused individuals who are currently navigating the criminal justice process.See Domingo and Sudaryono (2015), pp. 23–31.

[45] Interestingly, after Meliala made such a statement, he was then interrogated by the police for hate speech. Following the interrogation, Meliala withdrew the statement and apologised to the police. Several activists regretted the actions of the police, stating that it was within Meliala's authority as a Kompolnas commissioner to make such remarks. See Kompas (2014).

[46] This concept has also been internalised by the police. Only the name is slightly different. Instead of *halal and haram*, they used the term *ikhlas* (sincere and wholehearted) and *paksa* (forced). See Baker (2012), p. 64.

confirms that the exercise of criminal justice power is closely linked to the concept of ladang hidup – though they substitute the term with "meat" and *rezeki*, respectively.

These facts illustrate that both the police and the prosecutor share an occupational culture deeply ingrained in the interplay of patronage, power, and *ladang hidup*. Influenced by this culture, both police and prosecutors tend to prioritise their own missions, even when collaboration is necessary. This explains the police's fierce resistance in their initial conflict with the prosecutor. When the prosecutor threatened their investigative power through law reform and judicial motions, the police likely perceived such moves as nothing more than a power grab, given their shared occupational cultures. This further illuminates the deep suspicion expressed by a police official involved in the conflict with the prosecutor, as revealed in my interview detailed in the previous section. With this tension unresolved, the conflict escalated into a direct confrontation when the prosecutor investigated the alleged involvement of police patrons in the Tin corruption case. It is plausible that the police, perceiving themselves to be no less driven by self-interest and internal priorities than the prosecutors, felt this was an attack on their institution and thus justified their mobilisation of force against them. This perspective offers a compelling explanation for the lack of further investigation into the incident.

From this perspective, the police's second conflict with the KPK becomes easier to comprehend. As a new player with significant investigative power, the KPK posed a direct threat to the very core of the police's institutional identity, which is deeply rooted in its occupational culture. Consequently, the police perceived the KPK not as an ally in combating corruption, but rather as a rival encroaching on their domain. In contrast to the prosecutor’s institution, which shares a similar occupational culture with the police, the KPK was mandated from its inception to dismantle the culture of institutionalised corruption within the existing criminal justice system, a key objective of the reformasi movement. This explains why, despite being a relatively new institution, the KPK dared to challenge the established police power and garnered massive public support, drawing legitimacy from the widespread desire to eliminate systemic corruption.

Faced with this existential threat posed by the KPK, the police swiftly deployed their criminal justice powers in defence. In the first episode, they leveraged this power to charge two KPK leaders with fabricated corruption allegations. Only through a combination of massive public support and intervention from the Constitutional Court and the President did the KPK prevail. The second episode followed a similar pattern, with the police targeting the KPK's top investigator. The

directive for seconded police officers to resign from the KPK, demonstrating loyalty to their institution when a senior patron was under attack – an instruction duly obeyed – illustrates how these officers retained their police occupational culture. This serves as compelling evidence of the deep internalisation of such a culture within the police institution.

It was in the third episode of the conflict that the KPK could no longer resist. This article posits that this collapse was due to two interconnected factors. Firstly, they targeted the police's main patron, Gunawan, the sole candidate for national police chief, who has a strong political backing. Secondly, they face a substantial decline in public support, a vital asset in their bitter fight.

This political backing can be attributed to the fact that politicians often rely on the police to assist them in achieving electoral success. As we can see previously, most of the parliament members, representing the reality of higher political forces in Indonesia, supported the President's decision to nominate Gunawan as a national police chief—an indication of their vested interest in the conflict. While Gunawan's nomination was ultimately cancelled, he still secured a promotion to head the state intelligence unit (BIN), a position formally equivalent in rank to the national police chief. Meanwhile, the KPK suffered a significant blow. In 2019, its investigative powers were curtailed, and, even more damagingly, the KPK came to be headed by a three-star police general, a move widely seen as subordinating the KPK to the police.

Moreover, there is documented evidence that the police and the prosecutor are being used for electoral purposes to help politicians win elections (Muradi, 2014; Ibrahim, 2018; Siregar, 2023). This creates a situation where the actors who could mediate the dispute are hesitant to intervene, allowing the tensions to persist and escalate. The systemic nature of this quid pro quo arrangement poses significant hurdles for any attempt at intervention, including those initiated by the KPK.

This political backing facilitates a systemic approach to undermining the KPK's public support by propagating the narrative of infiltration by radical Islamic groups, a highly sensitive issue within Indonesia (ICW, 2020; Mudhoffir, 2023, pp. 75–76). The narrative further suggests that this radical Islamic group has evolved into a formidable force within the agency, possessing the power to potentially override the commissioners' authority.[47] Despite the lack of credible evidence, this tactic is likely a deliberate strategy to exploit public anxieties and influence public opinion of the

[47] Interviews with a Senior KPK official with a police background on 16 October 2020. This interview confirms the internal friction within the agency. My source described a faction within the KPK that views itself as morally superior and challenges decisions, even those from superiors.

KPK, which has historically enjoyed solid public backing. A recent public perception survey reveals that public confidence in the KPK ranks below that of the prosecutor and the police (Indikator 2024).

With the combination of these approaches, the police emerged triumphant in this third episode of "Crocodile versus Gecko" through criminal justice power and political manoeuvring. While Gunawan's nomination was ultimately cancelled, he still secured a promotion to head the state intelligence unit (BIN), a position formally equivalent in rank to the national police chief. Meanwhile, the KPK suffered a significant blow. In 2019, its investigative powers were curtailed, and even more damagingly, the KPK came to be headed by a police official. These are the prices the KPK has to pay when challenging the well-established status quo.

VI. Beyond the Status Quo: Rethinking Conflict Resolution in the Indonesian Criminal Justice System

Given the complexities of the conflict between the police, prosecutor, and the KPK, there is no one-size-fits-all solution. Conceptualising the criminal justice system as a loosely coupled organisation provides a valuable perspective, allowing us to understand the actors' interactions as social exchanges, particularly how differing ambitions among the police, prosecutors, and the KPK can lead to conflict. This serves as a fundamental framework in attempting to, at the very least, rethink conflict resolution within the Indonesian criminal justice system. Within this framework, the key to achieving a harmonious relationship lies in establishing stability in these interactions, thus minimising conflict when they work together. Organisational literature offers two models for attaining this state of equilibrium. The first is the natural model, which entails allowing interactions between institutions to persist without intervention from higher or external forces (O'Leary and Newman, 1970; Cole, 1971; Feeley, 1973). The hope is that, within this network of exchange, their working relationship will stabilise over time, and they will eventually establish their own rules of the game for interaction.

In the conflict between the police and the prosecutor, Indonesian political elites have shown a tendency to employ this model, hoping that the relationship between these two entities will improve organically over time through natural adaptation. This approach was evident during the 2021 reform of prosecutorial law, where Indonesian lawmakers consistently emphasised the need to avoid disruption and maintain a harmonious relationship with the police as a "neighbouring

friend". Moreover, political elites have campaigned for the need to resist any display of *ego sektoral* or institutional ego, arguing that both the police and the prosecutor essentially share the same goal in criminal case processing, which is to achieve "justice" for society (Pangaribuan, 2022).

The natural model might prove effective in more developed countries, where power struggles within the criminal justice system may not be as deeply entrenched as in Indonesia. For example, in France, Hodgson observes that the police and prosecutor have achieved a state of equilibrium in their relationship, largely due to a shared belief in the importance of mutual understanding as the glue that binds them together. Hodgson argues that this mutual understanding can be seen in the situation where, although French prosecutors possess the authority to oversee police investigations through visits, extended detention periods, and independent questioning of suspects, this power is rarely exercised due to concerns about being perceived as overly interventionist (Hodgson, 2017, p. 47)

However, in Indonesia, this solution has a high potential for failure as the power struggle transcends mere procedural disagreements and is intrinsically linked to the concept of patronage and *ladang hidup*. As previously established, the conflict between the Indonesian police and prosecutor's office, rooted in historical tensions dating back to the 1950s, demonstrates a persistent and potentially escalating pattern, absent any meaningful intervention. Given the historical and ongoing tensions between these institutions, it is unrealistic to expect that a harmonious working relationship will develop organically without deliberate and targeted interventions. Relying solely on a natural model of cooperation is more than likely a “bridge too far” for Indonesia's current situation.

The second model for achieving a harmonious working relationship is the rational model, as exemplified by Weber's work, which views organisations as instruments designed to achieve specific goals efficiently (Cole, 1971; Feeley, 1973). With this design, the roles of criminal justice actors are precisely regulated, eliminating any overlap and aiming for a predictable and controlled process. In contrast to the natural model, the utilisation of this framework necessitates intervention from higher external forces, namely the Indonesian lawmakers. With this intervention, a harmonious relationship can theoretically be created, as the law mandates a precise distribution of criminal justice power, leaving no room for potential overlap. On paper, this approach might sound effective. In fact, in the U.S., during a period of conflict between the police and the prosecutor in

the 1960s to 1980s, the U.S. Federal government mandated a policy recommendation to establish procedures allowing the police and the prosecutor to check each other's exercise of power. Moreover, the federal government also recommended improving internal procedures to enhance coordination (McDonald, 1982). Since the severity of conflict in the U.S. is not as intense as in Indonesia, such solutions have proven effective, as the relationship between police and prosecutors is generally more cooperative and less adversarial.

Nevertheless, in Indonesia, where the stakes of the conflict are intensely high, this solution would likely prove ineffective, especially without the political commitment from higher authorities to enforce it. Indeed, the Indonesian government has made numerous similar attempts, ranging from creating Memorandums of Understanding between the police, prosecutor, and the KPK to establishing task forces comprising these agencies (Dony, 2017; Joint Regulation between Police, Prosecutor and Judge, 2010). Unfortunately, when those in higher political power have vested interests in maintaining the status quo, they are unlikely to sanction clear and precise policies that could disrupt it. Consequently, such policies tend to be vague and ineffective, as the primary consideration when drafting them is to avoid *gaduh* among institutions.

As explained previously, this hesitance stems from the pervasive politicisation of law enforcement in Indonesia. When this occurs, elected politicians become indebted to these institutions, further compromising their ability to intervene impartially when necessary. For instance, although independent oversight bodies exist for the Police (Kompolnas) and the Prosecutor (Komjak), their effectiveness is hampered as the law only grants them advisory powers. Despite calls to strengthen such commissions, lawmakers are hesitant to take bold action due to their compromised positions. Furthermore, as we have seen, the establishment of the KPK initially offered a glimmer of hope for improvement. However, the KPK itself ultimately came to be viewed as a disruption to the well-established status quo, leading Indonesian political elites to perceive the need to neutralise the institution.

These facts underscore that, given the deeply entrenched nature of the issue, resolving this conflict is a formidable challenge, potentially requiring radical solutions. Crucially, there must be an acknowledgement that the inter-agency conflict, driven by patronage, power struggles, and the concept of *ladang hidup*, has far-reaching consequences for the entire government. It operates as a malignancy within the state, eroding public trust and embodying a form of rent-seeking behaviour within Indonesia's criminal justice system. Recent surveys indicate a decline in public

confidence in law enforcement, while Transparency International's Corruption Perception Index consistently ranks Indonesia poorly.[48] Ultimately, it also jeopardises Indonesia's aspiration to become a developed nation, as the principle of the rule of law risks becoming a mere empty slogan.

Furthermore, considering that the power struggle is closely linked to patronage and *ladang hidup,* it is crucial to lower the stakes of the conflict by narrowing the discretion of criminal justice actors, particularly when exercising enforcement actions such as establishing charges, arrests, searches, and seizures. It is precisely the exercise of these powers that is often monetised for personal gain. Therefore, substantial checks and balances on this power are necessary. With this approach, the patronage bureucracy can be dismantled, as the wide discretion of criminal justice power that acts as its currency will lose significant value. This is where intervention from higher political forces, as required in the rational model, can be effectively applied. Only then can both the natural and rational models be effectively introduced to mitigate the conflict, along with normative approaches such as adopting a merit-based recruitment system, increasing funding for operationalisation, and introducing a robust oversight system.

Indonesian lawmakers may find valuable lessons in the experience of Georgia, a post-Soviet country whose criminal justice system was similarly plagued by patronage and corruption. In 2003, following the Rose Revolution, the Georgian police and prosecutor's office underwent a radical transformation. Over 30,000 police officers, representing 90% of the existing force, were dismissed (primarily from the traffic police and detective units), paving the way for a massive recruitment drive to bring fresh personnel and dismantle entrenched corruption and patronage networks (Devlin, 2010). The prosecutor's office also underwent significant reforms, albeit less dramatic than the police overhaul. The primary focus was enhancing transparency, accountability, and professionalism within the institution. Observers have lauded the radical approach taken by Georgia's political elites, citing it as a success story in transforming a corrupt system (O'Shea, 2022). In fact, Georgia's success has been informally discussed by Indonesian legal and political elites, though met with resistance from the Indonesian police, who deem such a solution too drastic for their country (CNN Indonesia, 2022).

[48] Indonesia scored 34 in the 2023 Corruption Perception Index (CPI), placing it 115th out of 180 countries and lower than its regional neighbours, with surveyors highlighting that efforts to weaken justice systems were a primary factor behind the stagnation in the fight against corruption. See https://www.transparency.org/en/countries/indonesia

Another success story in combating patronage bureaucracy and corruption can be found in American history. In the 1980s, the Federal Bureau of Investigation (FBI) launched one of its largest operations, code-named "Operation Greylord," in Cook County, Chicago, where corruption and patronage were deeply ingrained in the system. This operation led to a complete overhaul, resulting in three suicides and over 70 indictments against corrupt judges, prosecutors, defence lawyers, and their intermediaries (Hake and Klatt, 2015; Nardulli, 1986, p. 383). The experiences of countries like Georgia and the United States demonstrate that even deeply entrenched systems can be reformed. Indonesia can learn from these examples and forge its own path.

VII. Conclusions: Fragile Future of Indonesia's Criminal Justice System

Examining the systemic rivalry among Indonesia's police, prosecutors, and the KPK reveals that the competition extends far beyond mere procedural disagreements. Unlike more developed nations, where such rivalry might be less intense, the Indonesian context exposes a fierce power struggle for control over the criminal justice system, deeply intertwined with the pursuit of personal gain or *ladang hidup.* Therefore, normative analyses alone fall short; a more nuanced approach, as exemplified in this study, is necessary for a comprehensive understanding of the behaviour of these criminal justice actors.

The findings of this article underscore a central theme: the police's unwavering opposition to any perceived threat to their core institutional identity, characterised by power, patronage, and *ladang* hidup. While the conflict between the police and the prosecutor's office initially manifested within legislative and judicial arenas, this article reveals a recent escalation into a tangible, real-world conflict reminiscent of the police's previous clashes with the (KPK). Without decisive intervention from higher political authorities, the Indonesian criminal justice system risks being further destabilised by inter-agency turf wars.

This article contends that this conflict is highly likely to resurface, as Indonesian lawmakers have merely treated the symptoms, not the underlying causes. Only when higher political forces fully realise that this conflict endangers the nation can it be mitigated. Radical solutions, similar to those implemented in Georgia and the U.S., may be needed to combat the patronage system and lower the stakes of conflict by reducing the flexibility of criminal justice pre-trial power.

Meanwhile, the KPK's role as a disruptor to established power dynamics must be restored to provide a substantial check and combat systemic corruption pervasive within the police and prosecutor's offices – an aspiration that emerged from the democratic movement of reformasi.

To do this, both the police and prosecutors need to demonstrate a willingness to relinquish some of their power, fostering an environment of transparency and accountability. For example, Indonesian prosecutors must embrace checks and balances exercised by defence lawyers and the judiciary when asserting their role as dominus litis. This transparency would distinguish them from the police and bolster public trust. Conversely, the police must show a similar commitment to transparency and accountability, even if it means sacrificing some power to external oversight. At the same time, the KPK must also refrain from exploiting their public support for the sake of popularity, as this could also raise suspicions among their counterparts regarding their true motives. Again, intervention from higher political forces is crucial here.

However, the outlook for Indonesian criminal justice reform appears bleak. Several factors contribute to this pessimism. First, the system's complexities guarantee resistance to change, particularly from the police, who have solidified their dominance over the past decade. Police personnel now occupy key civilian bureaucratic positions, further entrenching their influence. Relinquishing this control and submitting to checks and balances would necessitate a profound shift in mindset and practice, one that can likely only be achieved through intervention from higher political forces.

Secondly, such commitment seems unlikely under the current administration. The recent 2024 election results, with Prabowo Subianto—a former military general and ex-son-in-law of Suharto—at the helm, suggest a continuation of the status quo. Moreover, the police's alleged involvement in contributing to Prabowo's electoral success could also compromise his position to mediate the conflict, as it carries the inherent risk of undermining the police's criminal justice power, a crucial asset for their institutional survival.

Facing this fragile future, this article can only call for further scholarly investigation into the criminal justice system when it faces internal strain. For instance, this article has yet to explore the conflict between the prosecutor and the KPK in cementing the dominance over combating corruption. This is because the system's effectiveness hinges heavily on the motivations and actions of its human actors. By delving deeper into these internal conflicts, we gain a more nuanced

understanding of the challenges and opportunities that shape the criminal justice system, ultimately paving the way for its improvement.

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