



Free Requisitoir to Achieve Justice, Certainty and Benefit in Criminal Cases

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ABSTRACT

In the Indonesian justice system, the requisitoir of acquittal is crucial, especially in cases where public prosecutor demands acquittal because evidence does not meet the minimum requirements. This method is closely related to three legal objectives: justice, certainty and expediency. In this study, normative juridical is used. This examines laws and regulations such as the Prosecutor's office Law, Attorney General's Guidelines number 3 of 2019 and the Criminal Procedure Code, as well as the concept of *dominus litis* which is the basis for prosecutors to determine prosecution actions. In addition, this case study analyzes the decisions of the Andoloo District Court No. 104/Pid.Sus/2024/PN Adl and the Denpasar District Court No. 809/Pid.Sus/2024/PN Dps to learn how demands for acquittal are applied in practice. The results of this study show that when used to prevent conviction without sufficient evidence, requisitoir of acquittal can be professional and objective tool. It also demonstrates the role prosecutors as gatekeepers in running the criminal justice system. Furthermore, demands of acquittal also influence public perceptions of the credibility of the prosecution and the relevance of implementing the principle of legal certainty. For demands for acquittal to truly support substantive justice, legal certainty and benefit society, this study confirms the need strengthening standards, transparency and reforming prosecution policies.

ABSTRAK

Dalam sistem peradilan di Indonesia, requisitoir bebas sangat penting, terutama dalam kasus dimana jaksa penuntut umum (JPU) menuntut pembebasan karena bukti tidak memenuhi syarat minimum. Metode ini sangat berhubungan dengan tiga tujuan hukum: keadilan, kepastian dan kemanfaatan, dalam penelitian ini, yuridis normatif digunakan. Penelitian ini memeriksa peraturan perundang-undangan seperti UU Kejaksaan, pedoman jaksa agung nomor 3 tahun 2019 dan KUHP, serta konsep dominus litis yang merupakan dasar bagi jaksa untuk menetapkan tindakan penuntutan. Selain

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itu, studi kasus ini menganalisa putusan PN Andoloo no. 104/Pid.sus/2024/PN Adl dan PN Denpasar no. 809/Pid.Sus/2024/PN Dps untuk mempelajari bagaimana tuntutan bebas diterapkan dalam praktik. Hasil penelitian ini menunjukkan bahwa ketika digunakan untuk mencegah pemidanaan tanpa bukti yang cukup, requisitoir bebas dapat menjadi alat profesional dan objektif. Ini juga menunjukkan peran jaksa sebagai penjaga pintu dalam menjalankan sistem peradilan pidana. Terlepas dari itu, tuntutan bebas juga menimbulkan persepsi masyarakat terhadap kredibilitas lembaga penuntutan dan relevansi penerapan asas kepastian hukum. Untuk tuntutan bebas benar benar mendukung keadilan substantif, kepastian hukum dan manfaat bagi masyarakat, penelitian ini menegaskan bahwa penguatan standar, transparansi, dan rekonstruksi kebijakan penuntutan diperlukan.

A. INTRODUCTION

1. Background

The submission of a free requisitoir raises a significant doctrinal question concerning the proper exercise of prosecutorial authority within Indonesia's criminal adjudication process, particularly when the evidence established at trial no longer supports the accusation initially advanced against the defendant.¹ Although such a prosecutorial position may be legally justified when the evidentiary process fails to establish the defendant's guilt beyond the required threshold, its application raises broader questions concerning the institutional function of prosecution. The controversy becomes particularly significant in cases involving substantial public attention, where an acquittal request submitted by the same prosecutorial institution that initially brought the defendant before the court may appear internally contradictory.² Consequently, the legitimacy of a free *requisitoir* cannot be assessed exclusively from the sufficiency of evidence at trial; it must also be examined in relation to whether prosecutorial reasoning remains consistent with the pursuit of substantive justice and the fundamental objectives of criminal adjudication.¹

Legal certainty constitutes another essential dimension in evaluating this prosecutorial practice. Under the principle of *dominus litis*, the public prosecutor

¹ SH Rudi Margono, *Beban Pembuktian Terbalik Pada TPPU: Teknik Jaksa Mematahkan Dalil Kepemilikan Harta Terdakwa* (books.google.com, 2026), https://books.google.com/books?hl=en&lr=&id=jgbwEQAAQBAJ&oi=fnd&pg=PP1&dq=%22requisitoir%22+and+%22hukum%22&ots=O8Y5nJV-_-&sig=nhMdg3JXNbxP3rWUXGVXg8niZzL.

² BS Manggala et al., "Analisis Yuridis Peran Digital Forensik Dalam Pembuktian Kasus Penipuan Berkedok Investasi Online (Studi Kasus Doni Salmanan)," *Media Hukum ...*, no. Query date: 2026-08-24 23:00:15 (2024), <https://ojs.daarulhuda.or.id/index.php/MHI/article/view/368>.

occupies a central position in determining and controlling the prosecution of a criminal case. Such authority necessarily entails an obligation to exercise prosecutorial discretion according to predictable, objective, and legally defensible standards. Inconsistent approaches to free *requisitoir* may generate uncertainty for defendants, victims, and other participants in criminal proceedings, particularly where there are no sufficiently precise criteria explaining the circumstances under which an acquittal should be requested. A coherent prosecutorial framework is therefore required to prevent free demands from being perceived as arbitrary institutional choices or as decisions excessively dependent upon the individual assessment of prosecutors handling particular cases.

The issue is equally relevant from the perspective of legal utility. A free *requisitoir* may contribute to procedural efficiency where evidence presented during trial no longer provides an adequate basis for maintaining the accusation. Continuing to seek punishment despite evidentiary insufficiency may unnecessarily consume judicial resources and contradict the prosecutor's obligation to pursue a legally justified outcome.³ Nevertheless, the same mechanism may generate adverse consequences when its reasoning is inadequately communicated or institutionally inconsistent. Controversial acquittal requests may prolong litigation through subsequent legal remedies, intensify victims' dissatisfaction, and undermine public confidence in prosecutorial institutions. The utility of a free *requisitoir*, therefore, should not merely be measured by procedural efficiency but also by its capacity to produce legitimate, accountable, and socially acceptable outcomes within the criminal justice system.

Existing legal scholarship has examined free *requisitoir* from various perspectives, but the discussion remains conceptually dispersed and has yet to produce a comprehensive analytical framework. Studies concerning the Valencia case, for instance, have demonstrated the difficulties encountered by prosecutors in balancing substantive justice with legal certainty when deciding whether to maintain or reconsider

³ SH Rudi Margono, *Dampak Transisi KUHP Terhadap Perkara Pidana Yang Sedang Berjalan* (books.google.com, 2026), <https://books.google.com/books?hl=en&lr=&id=n5XOEQAQAQBAJ&oi=fnd&pg=PP1&dq=%22requisitoir%22+and+%22hukum%22&ots=4s772so-OY&sig=qoOHA-rn6f8X0qRq073suvUBZk>.

a prosecutorial demand.⁴ However, these analyses have largely been confined to the factual and legal characteristics of individual cases rather than establishing general normative parameters for the legitimate use of free *requisitoir*. Other studies have concentrated on structural and technical deficiencies in the preparation of prosecutorial documents, showing that weaknesses in indictments and demands may affect the fairness and reliability of criminal adjudication. Although these contributions are significant, the relationship between procedural deficiencies and the broader normative responsibilities of prosecutors has not been sufficiently explored.

A further strand of scholarship has addressed the connection between the quality of indictments, prosecutorial demands, and the protection of legal certainty within criminal proceedings.⁵ These studies provide an important foundation for understanding how prosecutorial decision-making affects the legal position of defendants, victims, and other parties. Nevertheless, legal utility has generally received less attention than procedural legality and certainty. Other theoretical studies have conceptualized justice, legal certainty, and legal utility as interconnected objectives of law, yet they have rarely applied these three values specifically to free *requisitoir* as an exercise of prosecutorial discretion.⁶ Likewise, studies examining judicial reasoning at later stages of criminal proceedings tend to focus on the court's response after a prosecutorial demand has been submitted, leaving the normative foundations and professional considerations underlying the prosecutor's initial decision comparatively underexamined.

This fragmentation identifies an important gap in the existing literature. Previous research has generally approached prosecutorial demands through distinct analytical dimensions, including procedural compliance, evidentiary adequacy, judicial reasoning, and particular objectives of law. These perspectives have rarely been integrated to

⁴ SH Rudi Margono, *Hukum Acara Khusus Tindak Pidana Korupsi: Panduan Teknis Tahap Pra-Penuntutan Hingga Eksekusi Bagi Jaksa Tindak Pidana Khusus* (books.google.com, 2026), <https://books.google.com/books?hl=en&lr=&id=H-7TEQAAQBAJ&oi=fnd&pg=PP1&dq=%22requisitoir%22+and+%22hukum%22&ots=fXe9YfvB70&sig=m9nPydx4gVnKbQO0dnMufq-j6qg>.

⁵ Acep Saepudin and Geofani Milthree Saragih, *Eksistensi Advokat Dalam Penegakan Hukum Pidana Dan Ketatanegaraan Indonesia* (Jakarta: Rajawali Pers, 2023).

⁶ M. H. Pulungan and M. Situmorang, "Restorative Justice in the New Criminal Procedure Code: Between Legal Certainty and the Discretion of Law Enforcement Officers," *De Jure Legal Research Journal* 26, no. 1 (2026).

explain how justice, legal certainty, and legal utility should simultaneously guide prosecutorial decisions when evidence established during trial no longer provides an adequate basis for conviction.⁷ Addressing this gap is particularly significant because free *requisitoir* involves more than evidentiary assessment alone; it directly concerns the boundaries of prosecutorial discretion, the protection of defendants' rights, the interests of victims, and the accountability of prosecution institutions.

The principles of transparency and accountability further strengthen the need for a more systematic examination of free *requisitoir*.⁸ As holders of public authority, prosecutors must be capable of providing legally reasoned explanations for decisions that substantially influence the direction and outcome of criminal proceedings. A decision to request an acquittal should therefore demonstrate why the evidence established during trial no longer supports the factual or legal construction originally formulated in the indictment. Such justification is essential because the prosecutor simultaneously exercises significant procedural authority and represents the public interest in criminal proceedings. Without transparent and legally structured reasoning, an otherwise legitimate free *requisitoir* may generate uncertainty and weaken public confidence in the integrity of prosecution.

Recent developments in constitutional adjudication have also changed the legal environment within which prosecutorial authority operates. Changes concerning legal remedies against acquittal require the prosecutor's position at the requisition stage to be understood in connection with the subsequent procedural consequences of an acquittal.⁹ The prosecutorial demand is therefore not an isolated procedural act but an important component of the broader architecture of criminal proceedings. These developments provide a compelling basis for reconsidering the scope, limitations, and

⁷ HA Ilma, "Tantangan Mekanisme Non-Conviction Based Asset Forfeiture Dalam Rancangan Undang-Undang Perampasan Aset Di Indonesia," *Ma'mal: Jurnal Laboratorium Syariah Dan Hukum*, no. Query date: 2026-06-22 16:58:43 (2024), <https://jurnalfsh.uinsa.ac.id/mhs/index.php/mal/article/view/373>.

⁸ VM Tasuan and DR Manane, "Partisipasi Masyarakat, Transparansi, Dan Akuntabilitas Dalam Pengelolaan Dana Desa Lada Mese, Kabupaten Manggarai Timur, Provinsi Nusa Tenggara Timur," *Public Management and Accounting ...*, no. Query date: 2026-05-17 23:46:47 (2024), <https://www.dhsjournal.id/index.php/PMAR/article/view/127>.

⁹ Mohd Yusuf Dm et al., "Peranan Kejaksaan Sebagai Penegak Hukum Dikaitkan Dengan Faktor Penegak Hukum Dalam Perspektif Sosiologi Hukum," *Jurnal Pendidikan dan Konseling* 5, no. 2 (2023).

institutional consequences of prosecutorial discretion in submitting a free *requisitoir* under contemporary Indonesian criminal procedural law.

The issue is equally relevant to the broader transformation of prosecution policy. Modern prosecution should not be evaluated solely according to its capacity to obtain convictions. Prosecutorial authority must also ensure procedural fairness, evidentiary reliability, protection of defendants' rights, recognition of victims' legitimate interests, and the effective administration of justice. From this perspective, examining the circumstances that justify a free *requisitoir* provides an opportunity to develop clearer standards capable of distinguishing legitimate reconsideration arising from evidentiary developments at trial from situations caused by inadequate investigation, defective case preparation, or weaknesses in prosecutorial decision-making.

The societal dimension of free *requisitoir* further emphasizes the importance of such standards. An acquittal-oriented prosecutorial demand may be misunderstood as inconsistency, institutional failure, or even an attempt to avoid criminal accountability, particularly where the reasons for changing the prosecutorial position are not adequately communicated.¹⁰ Public perceptions become especially problematic when a case has attracted substantial attention and the prosecution ultimately reaches a conclusion different from the expectations created at the beginning of the proceedings. The legitimacy of prosecutorial institutions therefore depends not merely upon the final demand submitted before the court, but also upon whether the decision is supported by coherent evidence, transparent reasoning, and a legally defensible justification.

Against this background, a comprehensive analysis of free *requisitoir* is necessary to establish the normative conditions under which prosecutors may legitimately request an acquittal and to evaluate whether the exercise of such authority corresponds with justice, legal certainty, and legal utility. In contrast to approaches that examine these legal values independently, this study integrates them into a unified framework for evaluating prosecutorial discretion. Free *requisitoir* is therefore conceptualized not merely as a procedural response to insufficient evidence, but as an exercise of public

¹⁰ HY Mulyana et al., *Pengantar Sistem Peradilan Pidana* (books.google.com, 2025), <https://books.google.com/books?hl=en&lr=&id=ptlYEQAQBAJ&oi=fnd&pg=PP1&dq=%22requisitoir%22+and+%22hukum%22&ots=arUq1yoI9i&sig=bD0iG-MpjsbWxtkUqJ4YLjjYYhc>.

prosecutorial authority that must satisfy substantive, procedural, evidentiary, and institutional requirements.¹¹ Through this integrated approach, the study seeks to contribute to the development of clearer standards of prosecutorial discretion and to strengthen transparency, accountability, and fairness within the Indonesian criminal justice system.

Recent scholarship demonstrates an increasing academic interest in the legitimacy of acquittal demands submitted by public prosecutors, although the existing studies remain predominantly case-oriented and have not established an integrated theoretical framework for evaluating such prosecutorial discretion. A 2023 study examining the alteration of the prosecutor's demand in the Valencya case primarily addressed the legality of changing a previously submitted prosecutorial demand into an acquittal request during the *replik* stage. The study concluded that such alteration could be justified by considerations of justice, conscience, and the values prevailing in society, while also identifying prosecutorial sensitivity as an important factor in the decision-making process.¹² More recently, Naratama and Sitompul (2024) examined the same Valencya controversy from the perspective of criminal law policy and focused on the legal basis and examination of the acquittal demand.¹³ In another significant development, Rony's 2024 doctoral research specifically proposed a construction of acquittal demands by public prosecutors oriented toward the achievement of justice.¹⁴ These studies represent important contributions to the discourse on free *requisitoir*; nevertheless, they predominantly emphasize legality, prosecutorial authority, justice, or the reconstruction of prosecution policy. They have not comprehensively examined free *requisitoir* through the simultaneous interaction of justice, legal certainty, and legal utility, particularly as evaluative parameters for determining the legitimacy and limits of

¹¹ JAN Nabila, *PERTIMBANGAN HUKUM HAKIM TERHADAP PUTUSAN ULTRA PETITA DALAM PERKARA KORUPSI (STUDI PUTUSAN NOMOR: 8/Pid. Sus-TPK/2023/PN Yyk)* (digilib.uin-suka.ac.id, 2026), <https://digilib.uin-suka.ac.id/id/eprint/76277/>.

¹² A. M. Pudja Adjie Sudoso, "Legalitas Perubahan Tuntutan Penuntut Umum Dalam Replik Pada Kasus Valencya Di Karawang (Studi Di Biro Hukum Kejaksaan Agung Republik Indonesia)" (Undergraduate Thesis, Universitas Katolik Soegijapranata, 2023).

¹³ Tantri Naratama and Rina Melati Sitompul, "Rekonstruksi Politik Hukum Pidana Terhadap Eksaminasi Tuntutan Bebas Dalam Kasus Valencya," *Law Journal* 4, no. 2 (2024).

¹⁴ Muhammad Rony, "Konstruksi Tuntutan Bebas Oleh Jaksa Penuntut Umum Demi Keadilan" (PhD Thesis, Universitas Lampung, 2024).

prosecutorial discretion. This unresolved dimension constitutes the principal research gap addressed by the present study.

The novelty of this research therefore lies not merely in reconsidering whether a public prosecutor is legally permitted to submit a free *requisitoir*, but in developing an integrated normative framework for assessing free *requisitoir* through the triadic relationship between justice, legal certainty, and legal utility. Unlike previous studies that predominantly concentrate on the legality of changing prosecutorial demands, individual controversial cases, or justice-oriented reconstruction of prosecutorial authority, this research conceptualizes free *requisitoir* as an exercise of prosecutorial discretion that must simultaneously satisfy substantive, procedural, and institutional standards. The study consequently shifts the analytical question from *whether* prosecutors may request an acquittal to under what legal conditions, evidentiary circumstances, and normative standards such discretion can be considered legitimate. Through this approach, the research seeks to formulate measurable parameters for distinguishing a legally justified free *requisitoir* arising from developments in evidentiary examination from one resulting from deficiencies in indictment construction, prosecutorial inconsistency, or inadequate case preparation. This conceptual distinction represents the principal contribution of the study to contemporary Indonesian criminal procedural law.

The urgency of this research is reinforced by the continuing occurrence of acquittal demands in contemporary prosecution practice and the absence of sufficiently clear normative boundaries governing their application. The issue is no longer confined to the Valencya case. In 2024, for example, the public prosecutor requested the acquittal of Supriyani before the Andoolo District Court after concluding from the facts established at trial that the element of criminal responsibility could not be proven.¹⁶ This development demonstrates that free *requisitoir* has evolved from an exceptional controversy into a recurring prosecutorial issue capable of arising whenever courtroom evidence develops differently from the assumptions underlying the initial prosecution. At the same time, contemporary legal criticism has questioned whether prosecutorial guidelines concerning acquittal or release demands are fully compatible with the architecture of the Indonesian Code of Criminal Procedure, thereby indicating an

unresolved normative tension between prosecutorial discretion and procedural legality.¹⁷ Without clear parameters, free *requisitoir* risks being applied inconsistently, producing uncertainty for defendants and victims while simultaneously affecting the institutional credibility of the prosecution service. Establishing a coherent legal framework is therefore urgent not only for doctrinal clarification, but also for ensuring that prosecutorial discretion remains accountable, predictable, evidence-based, and compatible with the objectives of justice, legal certainty, and legal utility within the Indonesian criminal justice system.

2. Research Questions

Based on the legal issues identified above, this study examines the prosecutorial use of free *requisitoir* within the Indonesian criminal justice system by focusing on two judicial decisions: Andoolo District Court Decision Number 104/Pid.Sus/2024/PN Adl and Denpasar District Court Decision Number 809/Pid.Sus/2024/PN Dps. The analysis places particular emphasis on the prosecutor's position as *dominus litis* and evaluates the exercise of prosecutorial discretion through the principles of justice, legal certainty, and legal utility. Accordingly, the main research question is: "How is the role of the public prosecutor in submitting a free *requisitoir* in Andoolo District Court Decision Number 104/Pid.Sus/2024/PN Adl and Denpasar District Court Decision Number 809/Pid.Sus/2024/PN Dps, viewed from the principles of justice, legal certainty, and legal utility?."

3. Research Methods

This study employs a normative legal method to examine the use of free *requisitoir* within the Indonesian criminal justice system, focusing on the authority of public prosecutors as *dominus litis* and its conformity with the principles of justice, legal certainty, and legal utility.¹⁵ The analysis is based on relevant criminal procedural and prosecutorial regulations and is strengthened through a case-based examination of Andoolo District Court Decision No. 104/Pid.Sus/2024/PN Adl and Denpasar District Court Decision No. 809/Pid.Sus/2024/PN Dps. These decisions are comparatively assessed to determine the legal reasoning underlying prosecutors' requests for acquittal

¹⁵ Abintoro Prakoso, *Teori Hukum (Legal Theory)* (Yogyakarta: LaksBang Justitia, 2020).

and the extent to which such prosecutorial discretion reflects the fundamental objectives of law. The study further situates free requisitoir within the functional differentiation of Indonesia's integrated criminal justice system to evaluate the relationship between prosecutorial independence, institutional accountability, and procedural safeguards.¹⁶ This approach provides a normative framework for assessing whether the exercise of prosecutorial discretion in requesting an acquittal is legally justified, professionally accountable, and consistent with the protection of individual rights.

B. DISCUSSION/ ANALYSIS

1. The Role of the Prosecutor in Free Requisitoir: Decision Number 104/Pid.Sus/2024/PN Adl

Decision Number 104/Pid.Sus/2024/PN Adl, concerning Supriyani, S.Pd., illustrates how prosecutorial judgment may evolve in response to facts established during judicial examination. The importance of the proceedings extends beyond the prosecutor's eventual request for an acquittal. More fundamentally, the case demonstrates that an accusation considered legally sustainable when the indictment was formulated may require reconsideration once witnesses, documentary materials, and other evidence have been subjected to adversarial examination before the court. Although the case had proceeded through investigation and prosecution on the assumption that sufficient grounds existed to bring the defendant to trial, the evidentiary record ultimately failed to sustain the prosecution theory with the degree of coherence required to justify a conviction-oriented demand. The prosecutor's subsequent reassessment therefore reflects a conception of prosecution in which institutional responsibility is directed toward the lawful and evidence-based administration of criminal justice, rather than toward preserving the initial accusation or obtaining punishment irrespective of developments arising during trial.¹⁷ Rather, it constitutes a continuing legal assessment in which the initial construction of the case must remain open to reconsideration in light of facts established during trial.

¹⁶ Ahmad Ali, *Menguak Teori Hukum (Legal Theory) Dan Teori Peradilan (Judicialprudence) Termasuk Interpretasi Undang-Undang (Legisprudence)* (Jakarta: Kencana, 2012).

¹⁷ Dini Mardhatillah and Muhammad Ramdan Al Musthafa, "Perbandingan Hukum Mengenai Kewenangan Penyidikan Perkara Pidana Antara Kejaksaan Indonesia dengan Korea Selatan: (Berdasarkan Kitab Undang-Undang Hukum Acara Pidana dan Criminal Prosedure Act of South Korea)," *Perkara : Jurnal Ilmu Hukum dan Politik* 2, no. 1 (March 2024): 430–42, <https://doi.org/10.51903/perkara.v2i1.1820>.

This prosecutorial orientation is closely connected with the principle of objectivity. Criminal prosecution requires the prosecutor to evaluate both incriminating and exculpatory circumstances rather than selectively maintaining evidence that supports the original accusation. Once a case enters trial, the indictment remains the procedural framework of examination, but its existence does not automatically establish the defendant's criminal responsibility.¹⁸ The prosecutor must continuously determine whether the evidence produced before the court actually corresponds with the factual and legal propositions contained in the indictment. In the Supriyani case, discrepancies emerging from the evidentiary process became particularly important because the reliability of the prosecution depended upon the consistency between witness testimony, documentary or medical evidence, and other relevant circumstances. Where those evidentiary components cannot corroborate one another, maintaining a demand for conviction would risk transforming prosecution from an objective exercise of public authority into a formal attempt to defend an accusation regardless of its evidentiary weaknesses.

The case therefore highlights the importance of evidentiary coherence in criminal prosecution. Evidence cannot be evaluated solely by counting the number of evidentiary sources presented before the court. Its probative value depends on whether the various pieces of evidence establish a logically connected factual narrative capable of proving the essential elements of the alleged offence. Contradictions between witness statements and medical findings, inconsistencies among testimonies, or an inability to establish a reliable causal relationship between the alleged conduct and the resulting harm may substantially weaken the prosecution's case.¹⁹ Under these circumstances, the prosecutor must distinguish between evidence that formally exists and evidence that substantively possesses sufficient probative force. This distinction is fundamental

¹⁸ MZ Ali, "Case Studies to Explore Responsibility within the Shipbreaking Industry—An Analysis of Regulatory Measures of the EU and Its Member States," *Worker Injustices in the South Asian Shipbreaking ...*, no. Query date: 2026-07-17 02:24:46 (2026), https://doi.org/10.1007/978-981-95-8325-6_6.

¹⁹ E. Atieno et al., "Extended Producer Responsibility (EPR) Regulations: A Comprehensive Literature Review for Regulatory Impact Assessment (RIA) in Kenya," ... *of Geoscience and ...*, no. Query date: 2026-04-26 12:39:54 (2026), https://www.researchgate.net/profile/Francis-Ikapel-Omete/publication/400752875_Extended_Producer_Responsibility_EPR_Regulations_A_Comprehensive_Literature_Review_for_Regulatory_Impact_Assessment_RIA_in_Kenya/links/6995fd2f42f94d1212abc018/Extended-Producer-Responsibility-EPR-Regulations-A-Comprehensive-Literature-Review-for-Regulatory-Impact-Assessment-RIA-in-Kenya.pdf.

because criminal responsibility cannot legitimately be constructed from evidence that remains fragmented, contradictory, or incapable of mutual confirmation.

From this perspective, the prosecutor performs a quality-control function within criminal proceedings. The evidentiary assessment undertaken during investigation does not eliminate the need for renewed evaluation at trial. Evidence may acquire a different meaning once witnesses are examined directly, inconsistencies are exposed through questioning, and the relationship between different evidentiary materials becomes clearer. Consequently, a prosecutor who recognizes during trial that the evidentiary foundation of the indictment has substantially weakened is not necessarily contradicting the institution's previous position. Instead, such reassessment may demonstrate professional responsibility because the prosecutor responds to the evidentiary reality established before the court rather than mechanically adhering to conclusions formulated at an earlier procedural stage.

The position of the prosecutor as *dominus litis* further explains the legal significance of this responsibility. The concept should not be interpreted merely as granting the prosecution extensive authority to determine whether a criminal case proceeds to court.²⁰ More fundamentally, *dominus litis* places responsibility upon the prosecutor to ensure that prosecutorial authority is exercised according to law and supported by an adequate evidentiary foundation. Control over prosecution therefore contains both an authoritative and a corrective dimension. The prosecutor has authority to formulate and pursue an accusation, but must simultaneously be prepared to correct the direction of prosecution where developments at trial demonstrate that the initial evidentiary assumptions cannot be sustained.

This corrective dimension is particularly relevant to the relationship between investigation and prosecution within Indonesia's functionally differentiated criminal justice system. Different institutions exercise different procedural functions, but prosecution cannot operate as a passive continuation of investigative conclusions. The prosecutor must independently assess whether the evidentiary construction generated during investigation remains legally defensible after being subjected to judicial

²⁰ Tiar Adi Riyanto, "Fungsionalisasi Prinsip Dominus Litis Dalam Penegakan Hukum Pidana Di Indonesia," *Jurnal Lex Renaissance* 6, no. 3 (July 2021), <https://doi.org/10.20885/JLR.vol6.iss3.art4>.

examination. Where trial proceedings reveal material inconsistencies that were previously unidentified or insufficiently examined, the prosecutor's responsibility as case controller requires a substantive reassessment.²¹ A free *requisitoir* may consequently operate as an internal corrective mechanism that prevents deficiencies originating at earlier stages from automatically resulting in an unjustified request for punishment.

The evidentiary dimension of Decision Number 104/Pid.Sus/2024/PN Adl is equally significant when considered in relation to the burden of proof. The defendant is not required to establish innocence; criminal responsibility must be demonstrated through legally admissible and sufficiently persuasive evidence. This allocation of the burden of proof has consequences for prosecutorial conduct. Where the evidentiary process leaves substantial uncertainty concerning the defendant's commission of the alleged offence, that uncertainty cannot legitimately be resolved by requiring the defendant to disprove the accusation. Instead, it must influence the prosecutor's assessment of whether a conviction remains legally sustainable.²² The decision to submit a free *requisitoir* under such circumstances reflects recognition that prosecutorial authority is limited by the evidentiary threshold required for criminal liability.

This limitation is inseparable from the presumption of innocence. The principle does not function exclusively as an abstract right belonging to an accused person; it imposes operational obligations upon every institution participating in criminal proceedings. For prosecutors, the presumption of innocence requires restraint where the evidentiary basis for conviction remains uncertain. The institutional objective of prosecution cannot override the defendant's right to be treated as not guilty until criminal responsibility has been legally established.²³ A prosecutorial request that does not seek punishment after the evidentiary basis of the accusation has collapsed may

²¹ K. Daniswari and S. Sumriyah, "Analisis 'Prinsip Kesukarelaan' Dalam Penerapan Corporate Social Regulation (CSR) Ditinjau Dari Undang-Undang Perseroan Terbatas," *Jaksa: Jurnal Kajian Ilmu Hukum ...*, no. Query date: 2026-05-21 23:39:25 (2024), <https://journal.stekom.ac.id/index.php/Jaksa/article/view/1612>.

²² D. Adinda et al., "Konsep Restorative Justice Dalam Penyelesaian Kasus Pidana," *Jimmi: Jurnal ...*, no. Query date: 2026-06-03 16:02:02 (2024), <https://jurnal.fanshurinstitute.org/index.php/jimmi/article/view/136>.

²³ AD Abdullah, MZ Faturrahman, and ..., "Efektivitas Pemidanaan Non-Penjara Dalam Mengurangi Overcrowding Lapas Di Indonesia," *Jurnal Hukum ...*, no. Query date: 2026-07-12 16:02:48 (2025), <https://jurnal.umko.ac.id/index.php/legalita/article/view/2051>.

therefore constitute an affirmative implementation of the presumption of innocence rather than a failure of prosecution.

The case also demonstrates that the prosecutor's institutional success should not be measured exclusively by conviction rates. Such an approach would create an inappropriate incentive structure in which prosecutors might feel compelled to maintain demands for punishment despite significant evidentiary deficiencies. A modern prosecution service must instead be evaluated according to the legality, objectivity, consistency, and fairness of its decision-making.²⁴ The withdrawal of support for an accusation that can no longer be substantiated may represent a stronger manifestation of prosecutorial professionalism than pursuing conviction simply because the case has already reached an advanced procedural stage. In this respect, free *requisitoir* serves as an important indicator that prosecutorial responsibility extends beyond adversarial success.

The principle of substantive justice provides another basis for understanding the prosecutor's position. Substantive justice requires criminal proceedings to seek an outcome consistent with the actual evidentiary circumstances rather than merely preserving the procedural position initially adopted by law enforcement authorities. An indictment that was reasonably formulated at the beginning of prosecution may become unsustainable after evidence is tested before the court. Insisting upon conviction solely to maintain consistency with the original indictment would prioritize institutional formalism over the material truth emerging from judicial examination. The prosecutor's capacity to alter the direction of the prosecutorial demand therefore allows criminal proceedings to remain responsive to developments revealed during trial.²⁵

At the same time, substantive justice must be reconciled with legal certainty. Legal certainty in criminal proceedings should not be interpreted as certainty that every prosecuted person will ultimately be punished. Such an interpretation would fundamentally contradict the nature of judicial examination. Legal certainty instead

²⁴ Zaenal Abdi and Syamsuddin Radjab, "Analisis Putusan Hakim Tingkat Kasasi Terhadap Kasus Baiq Nuril Maknun," *Alauddin Law Development Journal* 3, no. 1 (March 2021): 200–222, <https://doi.org/10.24252/aldev.v3i1.14824>.

²⁵ MNA Dzulfikar, "PENEGAKAN HUKUM TERKAIT DENGAN TUNTUTAN JAKSA DALAM KASUS PEMBUNUHAN BERENCANA BRIGADIR J," *At-Tanwir Law Review*, no. Query date: 2026-08-24 23:00:15 (2024), <https://journal.umgo.ac.id/index.php/Atlarev/article/download/3248/1766>.

requires predictable standards governing when the coercive power of criminal law may legitimately be exercised. Conviction must remain dependent upon the fulfilment of the statutory elements of the offence and the satisfaction of applicable evidentiary requirements. When these conditions cannot be established, declining to request punishment actually reinforces legal certainty because it confirms that criminal sanctions cannot be imposed merely on the basis of suspicion, an indictment, or institutional expectations.

Decision Number 104/Pid.Sus/2024/PN Adl consequently illustrates an important relationship between evidentiary certainty and normative certainty. Evidentiary uncertainty concerning the defendant's responsibility should not be transformed into legal certainty through prosecutorial insistence. Instead, the law provides certainty precisely by establishing limits upon when punishment may be sought and imposed. The free *requisitoir* can perform a protective function within this framework by preventing the continuation of a punitive prosecutorial position where the factual foundation necessary for criminal responsibility has become insufficient.

The dimension of legal utility also deserves consideration. Continuing to seek conviction despite substantial evidentiary weakness may generate unnecessary social and institutional costs. It can prolong proceedings, increase the burden upon defendants and other participants, consume judicial resources, and potentially undermine confidence in the objectivity of law enforcement. Conversely, a prosecutor who acknowledges evidentiary deficiencies can contribute to procedural efficiency while simultaneously preventing the harmful consequences of an unjustified conviction. Legal utility in this context cannot be reduced to administrative efficiency; it encompasses the broader benefit of ensuring that criminal law is directed only toward cases in which the factual and legal grounds for punishment are sufficiently established.²⁶

This becomes particularly important in cases attracting significant public attention. Public pressure may create expectations that prosecution should culminate in punishment, especially where the alleged victim belongs to a vulnerable group.

²⁶ DS ADABALA, "When Technology Lies: Deepfake and Criminal Law in India," *Available at SSRN 6665081*, no. Query date: 2026-05-19 15:33:29 (2026), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6665081.

Nevertheless, the legitimacy of criminal justice depends upon the ability of legal institutions to distinguish social concern from legal proof. Public sensitivity toward an alleged offence cannot substitute for the evidentiary requirements of criminal responsibility. The prosecutor must therefore maintain professional independence and assess the case according to evidence presented in court, even when the resulting prosecutorial position may conflict with dominant public expectations. Such independence constitutes an essential component of prosecutorial integrity.

The Supriyani case accordingly illustrates that protecting vulnerable victims and protecting defendants against unsupported criminal liability are not mutually exclusive objectives. Criminal justice must accommodate both interests through lawful evidentiary procedures. The seriousness of an allegation cannot justify lowering the threshold of proof, just as evidentiary deficiencies should not be interpreted as denying the importance of protecting potential victims.²⁷ The prosecutor occupies a critical position in maintaining this balance. By grounding the prosecutorial demand in evidence rather than external pressure, the prosecution preserves the legitimacy of both victim protection and defendants' procedural rights.

Viewed through the principle of due process of law, free *requisitoir* can also function as a safeguard against the mechanical continuation of criminal proceedings. Due process requires more than compliance with formal procedural stages; it demands fairness in the exercise of state authority throughout the criminal process. The prosecutor must therefore ensure that the demand submitted at the end of trial reflects the evidence actually tested before the court. If material deficiencies become apparent during examination, continuing to seek punishment merely because the case has already passed through investigation and indictment would reduce due process to procedural formality. A reasoned reassessment of the prosecution case instead demonstrates that procedural stages are connected to substantive safeguards.

However, the legitimacy of free *requisitoir* should not result in unlimited prosecutorial discretion. Precisely because the prosecutor possesses significant

²⁷ M. Arafat, "Paradigma Pemidanaan Baru Dalam KUHP 2023: Alternatif Sanksi Dan Transformasi Sistem Peradilan Pidana Indonesia," *Jurnal Ilmu Hukum*, no. Query date: 2026-06-11 23:19:21 (2025), <https://www.putrapublisher.org/ojs/index.php/jjih/article/download/1047/1186>.

authority as *dominus litis*, a request not to convict must be based on transparent, verifiable, and legally structured reasoning. The prosecutor should clearly identify which elements of the offence have not been established, which evidentiary inconsistencies undermine the accusation, and why those deficiencies are sufficiently material to alter the prosecutorial position. Without such reasoning, free *requisitoir* could generate uncertainty and create perceptions of arbitrary or selective prosecution. Prosecutorial discretion therefore acquires legitimacy not merely from institutional authority but from the quality of the legal reasoning supporting its exercise.

This point distinguishes a legitimate free *requisitoir* from prosecutorial failure. An acquittal-oriented demand should not automatically be celebrated as evidence of objectivity if the evidentiary weakness resulted from preventable deficiencies in investigation, indictment preparation, or prosecutorial case management. The mechanism must therefore be evaluated in two dimensions.²⁸ At the individual-case level, it may protect a defendant against punishment unsupported by evidence. At the institutional level, however, the circumstances leading to the evidentiary failure should still be examined to determine whether improvements are necessary in investigation, coordination, evidentiary assessment, or prosecution strategy. Free *requisitoir* can thus simultaneously serve as a safeguard for individual rights and as an institutional indicator of weaknesses requiring correction.

The analysis of Decision Number 104/Pid.Sus/2024/PN Adl ultimately reveals three interrelated dimensions of contemporary prosecutorial responsibility. First, prosecutorial objectivity requires the Public Prosecutor to reassess the accusation according to the evidence established at trial and to refrain from seeking conviction when the evidentiary structure is materially insufficient. Second, the principle of *dominus litis* places the prosecutor in the position of case controller while simultaneously imposing responsibility to correct an unsustainable prosecutorial position. Third, substantive justice requires the prosecutorial process to protect defendants from unsupported punishment without disregarding the legitimate interests

²⁸ L. Novianti, "Pidana Mati Terhadap Tindak Pidana Terorisme Di Indonesia Dihubungkan Dengan Tujuan Pemidanaan Dalam Perspektif Hukum Positif Dan Hukum Pidana Islam," *Jurnal Syntax Imperatif: Jurnal Ilmu Sosial* ..., no. Query date: 2026-03-26 17:00:44 (2023), <https://www.jurnal.syntaximperatif.co.id/index.php/syntax-imperatif/article/view/221>.

of victims and society. These dimensions operate within the broader requirements of legal certainty and legal utility.

Accordingly, the free *requisitoir* in Decision Number 104/Pid.Sus/2024/PN Adl should be understood as more than a procedural choice concerning the formulation of a prosecutorial demand. It reflects the normative limits governing the exercise of the state's power to prosecute. The prosecutor's authority acquires legitimacy only when it remains responsive to evidentiary developments, respects the presumption of innocence, and subjects the pursuit of punishment to the requirements of material truth and due process. From the perspective of justice, the mechanism prevents punishment unsupported by adequate proof; from the perspective of legal certainty, it confirms that criminal sanctions may only be pursued when statutory and evidentiary requirements are satisfied; and from the perspective of legal utility, it prevents the unnecessary continuation of an unsustainable punitive position. The case therefore demonstrates that the central objective of prosecution is not conviction itself, but the responsible administration of criminal justice through objective, accountable, and evidence-based decision-making.

2. The Role of the Prosecutor in Free Requisitoir: Decision Number 809/Pid.Sus/2024/PN Dps

Decision Number 809/Pid.Sus/2024/PN Dps provides another important perspective on the function of the Public Prosecutor in determining the appropriate direction of prosecution when the evidentiary findings established during trial no longer provide an adequate foundation for maintaining a demand for conviction. The significance of the case does not merely concern the submission of a free *requisitoir*, but rather the prosecutor's institutional responsibility to reassess the accusation after the evidence has been examined before the court.²⁹ In this context, the prosecutorial function cannot be reduced to defending the indictment prepared at the beginning of the proceedings. The Public Prosecutor must continuously evaluate whether the factual circumstances revealed at trial correspond with the elements of the offence and whether

²⁹ SH Rudi Margono, *Teknis Penuntutan Tipikor Korporasi: Strategi Menjerat Subjek Hukum Non-Orang* (books.google.com, 2026), <https://books.google.com/books?hl=en&lr=&id=7cDTEQAAQBAJ&oi=fnd&pg=PP1&dq=%22requisitoir%22+and+%22hukum%22&ots=WfjPmiMfIQ&sig=Db7tF6XSkT005SV6MFu32DJ2Eus>.

the evidence remains sufficiently persuasive to justify the exercise of the State's punitive authority.

The case demonstrates the distinction between the formal validity of an indictment and the substantive sustainability of prosecution. An indictment may provide a lawful procedural basis for bringing a defendant before the court, yet this does not predetermine the outcome of the evidentiary process.³⁰ Criminal responsibility must ultimately be determined according to facts established through judicial examination. Consequently, the prosecutor is required to reassess the relationship between the allegations formulated in the indictment and the evidence actually produced during trial. Where that relationship becomes materially weakened, the prosecutor cannot legitimately treat the initial accusation as an immutable institutional position. The prosecutorial demand must instead reflect the evidentiary reality established before the court.

This responsibility illustrates the principle of prosecutorial objectivity. The Public Prosecutor performs a public function rather than acting solely as an adversarial party whose institutional success is measured by obtaining convictions. Prosecutorial objectivity requires an impartial assessment of both evidence supporting the accusation and circumstances that weaken or contradict it. Evidence favourable to the defendant cannot be disregarded merely because the prosecution has previously asserted criminal responsibility.³¹ When the overall evidentiary structure fails to establish the offence according to the required legal standard, requesting a conviction would risk transforming prosecution into an exercise oriented toward institutional victory rather than the administration of justice.

The evidentiary evaluation underlying a free *requisitoir* must therefore be comprehensive. Criminal evidence cannot be assessed in isolation because its persuasive force depends substantially upon consistency, corroboration, and its relationship with other evidence presented during trial. The prosecutor must examine whether witness

³⁰ Aditya Rezeki Ramadhan, Joko Sriwido, and Kristiawanto, "Pertanggungjawaban Pidana Illegal Minyak Dan Gas Bumi Oleh Nakhoda/Crew Kapal Dalam Sistem Peradilan Pidana Indonesia," *Jurnal Penelitian Hukum Legalitas* 15, no. 1 (2021).

³¹ Felicia Eugenia, Carla Joycellyne Limanto, and Dave David Tedjokusumo, "Tantangan Praktis dalam Proses Pembuktian Perkara Pidana: Kredibilitas Saksi dan Validitas Bukti Elektronik," *IURIS STUDIA: Jurnal Kajian Hukum* 5, no. 2 (2024).

testimony is internally coherent, whether different testimonies corroborate each other, whether documentary or expert evidence supports the alleged factual sequence, and whether a sufficient causal relationship exists between the defendant's conduct and the prohibited consequence. Material inconsistencies within this evidentiary structure may prevent the prosecution from establishing criminal responsibility even where individual pieces of evidence formally satisfy the categories recognized by procedural law.

This distinction between the formal availability and substantive quality of evidence is essential. The mere existence of admissible evidence does not necessarily mean that the burden of proof has been satisfied. A conviction requires an evidentiary construction capable of demonstrating the defendant's criminal responsibility with the degree of certainty demanded by criminal procedure.³² Where substantial doubt remains concerning the occurrence of the alleged conduct, the defendant's involvement, or the fulfilment of an essential element of the offence, the prosecutor must incorporate such uncertainty into the final prosecutorial assessment. A free *requisitoir* under these circumstances constitutes a recognition that the coercive power of criminal law cannot legitimately operate beyond the boundaries established by evidentiary requirements.

The prosecutor's position as *dominus litis* becomes particularly relevant in this context. *Dominus litis* should not be understood merely as institutional control over whether a case is prosecuted. It also establishes responsibility for ensuring that prosecution remains legally and evidentially justified throughout the proceedings. The prosecutor must therefore exercise continuing control over the prosecution rather than automatically adhering to conclusions reached during the investigative stage.³³ Where evidence examined at trial produces a substantially different factual picture, prosecutorial control necessarily includes the authority and responsibility to reconsider the appropriate legal position.

Such reconsideration should not be interpreted as inconsistency. Criminal proceedings are dynamic, and the evidentiary value of information collected during

³² Arafat, "Paradigma Pemidanaan Baru Dalam KUHP 2023: Alternatif Sanksi Dan Transformasi Sistem Peradilan Pidana Indonesia."

³³ AH Danis, "Konsep Penerapan Wanprestasi Dan Perbuatan Melawan Hukum (PMH): Studi Kasus Putusan Nomor 79/Pdt. G/2023/PN Yyk," *Jaksa: Jurnal Kajian Ilmu Hukum Dan Politik*, no. Query date: 2026-04-26 18:09:31 (2025), <https://journal.stekom.ac.id/index.php/Jaksa/article/view/3015>.

investigation may change after being subjected to examination in open court. Witness testimony may be clarified or contradicted, documentary evidence may acquire a different meaning when contextualized, and relationships between individual pieces of evidence may become weaker or stronger. The prosecutor's willingness to respond to these developments is therefore an indication of professional accountability. Institutional consistency does not require prosecutors to preserve an accusation that has become unsustainable; it requires them to consistently apply legal and evidentiary standards regardless of whether those standards ultimately support conviction or acquittal.

Decision Number 809/Pid.Sus/2024/PN Dps can consequently be situated within the broader relationship between prosecutorial discretion and the integrated criminal justice system. Functional differentiation between investigators, prosecutors, courts, and correctional institutions does not mean that each stage operates independently without substantive evaluation of the preceding stage. The prosecutor occupies a strategic position between investigation and judicial adjudication and must assess whether the investigative product is sufficiently reliable to sustain prosecution. Trial examination provides an additional mechanism for testing that assessment. When the evidence developed before the court reveals deficiencies that undermine the accusation, the prosecutor must respond according to the prosecutor's independent legal responsibility.

In this sense, free *requisitoir* performs a corrective function. It enables the prosecutorial process to respond to weaknesses that become apparent only after the case has entered judicial examination. Without such a corrective mechanism, the prosecutor could become institutionally bound to maintain a punitive position despite recognizing that its factual foundation has substantially deteriorated. Such rigidity would be incompatible with the prosecutor's responsibility to seek a legally justified outcome.³⁴ The capacity to reconsider the prosecutorial demand therefore serves as an important safeguard against the continuation of accusations unsupported by the evidentiary developments at trial.

³⁴ Gisella Tiara Cahyani et al., "Analisis Hukuman Mati Di Indonesia Dalam Perspektif Hak Asasi Manusia Dan Alternatif Penegakan Hukum," *Al-Qisth Law Review* 7, no. 1 (2023).

The corrective character of free *requisitoir* is closely associated with the presumption of innocence. This principle requires the defendant to be treated as not guilty until criminal responsibility has been established according to law. Its practical implications extend beyond judicial decision-making and directly affect prosecutorial conduct. The Public Prosecutor bears responsibility for demonstrating the accusation and cannot transfer the consequences of evidentiary uncertainty to the defendant. Where the prosecution is unable to establish the elements of the offence through adequate evidence, the defendant cannot be required to compensate for those deficiencies by proving innocence.

The presumption of innocence consequently establishes a normative boundary upon prosecutorial discretion. The prosecutor may possess substantial authority in controlling the direction of a criminal case, but that authority cannot be exercised on the assumption that prosecution itself creates a presumption of guilt. A free *requisitoir* becomes relevant precisely where the evidence tested before the court fails to overcome the protection provided by the presumption of innocence. By declining to seek punishment under such circumstances, the prosecutor acknowledges that the legitimacy of criminal sanctions depends upon proof rather than upon the institutional status of the accusation.

The case also provides an important basis for examining substantive justice. A criminal justice system committed exclusively to procedural formalism might treat the submission of an indictment as creating an institutional expectation that the prosecutor must continue seeking conviction. Substantive justice rejects such an approach. It requires prosecutorial decisions to remain responsive to the actual facts established during judicial proceedings. Where those facts do not substantiate the accusation, maintaining a demand for punishment merely to preserve the appearance of consistency would undermine rather than strengthen the legitimacy of prosecution.

Substantive justice nevertheless does not imply that procedural rules can be disregarded whenever a particular outcome appears equitable. The value of a free *requisitoir* lies precisely in its ability to connect substantive justice with procedural legality. The prosecutor reaches the conclusion not to seek punishment through an assessment of evidence conducted within the formal structure of criminal proceedings.

Thus, the pursuit of a substantively fair outcome remains anchored in legally recognized standards of proof, the elements of the alleged offence, and procedural safeguards. The relationship between substantive justice and legality is therefore complementary rather than contradictory.

Legal certainty provides another important analytical dimension. At first sight, changing the prosecutorial orientation from seeking criminal responsibility to requesting an outcome favourable to the defendant might appear to generate uncertainty. However, legal certainty does not require prosecutors to maintain an accusation regardless of evidentiary developments. It requires the consistent application of predetermined legal standards. If criminal liability can only be imposed when the statutory elements of an offence are established through adequate evidence, then declining to seek conviction when those conditions are absent actually reinforces rather than diminishes legal certainty.

Accordingly, legal certainty should be distinguished from certainty of punishment. The function of criminal procedure is not to guarantee that every person brought before a court will be convicted. It is to guarantee that decisions concerning criminal responsibility are produced through lawful procedures and objective evidentiary standards. The possibility of a free *requisitoir* is compatible with this conception because it confirms that the prosecution itself remains subject to legal limitations. State authority cannot legitimately demand punishment solely because an accusation has previously been formulated.

The legal utility of the prosecutorial decision must likewise be evaluated beyond the immediate interests of the parties. Pursuing an evidentially unsustainable conviction can impose significant costs upon the criminal justice system. It may prolong litigation, increase institutional expenditure, intensify the burden experienced by defendants and witnesses, and reduce confidence in the professionalism of prosecution. More seriously, it may contribute to the risk of wrongful conviction. A prosecutorial decision that acknowledges fundamental weaknesses in the accusation can therefore generate legal utility by preventing unnecessary continuation of a punitive position and directing criminal justice resources toward cases supported by an adequate factual foundation.

Legal utility, however, cannot be equated merely with procedural efficiency. An efficient process that sacrifices fairness would not satisfy the broader objectives of criminal justice. The benefit of free *requisitoir* derives from its capacity to combine efficiency with protection against unjustified punishment. By terminating support for an accusation that cannot be sufficiently proven, the prosecutor contributes to the rational allocation of judicial resources while simultaneously protecting the integrity of the criminal process. The resulting utility is institutional, individual, and social.

The case also raises the question of prosecutorial independence. Decisions concerning the final prosecutorial demand may arise in cases accompanied by significant social, institutional, or public expectations. Nevertheless, prosecutorial reasoning must remain grounded in law and evidence. External expectations cannot substitute for the evidentiary threshold required to establish criminal responsibility. The prosecutor must be capable of reaching a conclusion that differs from public expectations when the evidence examined at trial does not legally support conviction. Such independence is essential to maintaining the credibility of the prosecutorial institution.

At the same time, prosecutorial independence cannot be understood as unrestricted personal discretion. The authority to submit a free *requisitoir* must remain accountable through clear legal reasoning. The prosecutor should be able to explain which elements of the offence were not established, which evidentiary deficiencies affected the viability of the accusation, and why those deficiencies justify a position that does not seek conviction. The stronger the prosecutorial discretion involved, the greater the need for transparent justification. Accountability therefore functions as the institutional counterpart of independence.

This requirement is particularly significant because free *requisitoir* may otherwise generate public misunderstanding. Members of society may perceive an acquittal-oriented demand as evidence that the prosecution has abandoned its responsibility or that the defendant has received preferential treatment. Such perceptions are more likely to emerge when the legal reasoning underlying the prosecutor's decision is insufficiently communicated. Transparency is therefore necessary to demonstrate that the change in prosecutorial position results from an objective evidentiary assessment rather than arbitrary intervention. The legitimacy of free *requisitoir* ultimately depends not only

upon the correctness of the conclusion but also upon the rationality and transparency of the process through which it is reached.

From a due process perspective, Decision Number 809/Pid.Sus/2024/PN Dps demonstrates that prosecution must remain subject to continuous legal evaluation. Due process cannot be satisfied merely because investigation, indictment, trial, and judgment occur sequentially according to formal procedure.³⁵ Each exercise of public authority within those stages must remain substantively justified. If trial proceedings expose significant weaknesses in the accusation, the prosecutor has an obligation to incorporate those developments into the final prosecutorial position. Maintaining a demand for conviction without sufficient evidentiary support would undermine the substantive dimension of due process even where formal procedural requirements had been observed.

The free *requisitoir* may therefore operate as a safeguard against prosecutorial tunnel vision. Once law enforcement institutions have invested substantial time and resources in constructing a case, there is an institutional risk of interpreting subsequent evidence primarily in a manner that confirms the original accusation. Objective prosecution requires resistance to such confirmation bias. The prosecutor must remain capable of recognizing evidence inconsistent with the prosecution theory and adjusting the legal conclusion accordingly.³⁶ The willingness to submit a free *requisitoir* where justified demonstrates that prosecution is an evaluative process rather than an irreversible institutional commitment.

Nevertheless, the use of free *requisitoir* must also trigger institutional reflection. If an accusation ultimately becomes unsustainable because of weaknesses that should reasonably have been identified before prosecution, the acquittal-oriented demand cannot by itself resolve the broader problem. The prosecution service must distinguish

³⁵ UC Ajuzieogu, *Due Process in Automated Government Benefit Determination: A Constitutional Framework for Algorithmic Governance in the Administrative State*, no. Query date: 2026-06-24 14:38:06 (2025), https://www.researchgate.net/profile/Uchechukwu-Ajuzieogu/publication/395703184_Due_Process_in_Automated_Government_Benefit_Determination_A_Constitutional_Framework_for_Algorithmic_Governance_in_the_Administrative_State/links/68cfd1eda8689b51bd6154a5/Due-Process-in-Automated-Government-Benefit-Determination-A-Constitutional-Framework-for-Algorithmic-Governance-in-the-Administrative-State.pdf.

³⁶ A. Prayogi, MS Maulana, and ..., "Constitutional Limits on State Digital Surveillance in Indonesia: A Proportionality Test of Privacy and Due Process," *Recht: Journal of Legal ...*, no. Query date: 2026-06-24 14:38:06 (2026), <https://ejournal.lpkhtrisakti.org/index.php/recht/article/view/12>.

between evidentiary developments genuinely emerging during trial and deficiencies attributable to inadequate case screening, poor coordination with investigators, or insufficient examination of evidence before indictment. Such differentiation is necessary to prevent free *requisitoir* from functioning as a routine remedy for avoidable prosecutorial deficiencies.

This produces a dual function of free *requisitoir*. At the individual level, it protects defendants against the continuation of unsupported demands for punishment. At the institutional level, it provides an evaluative indicator of the quality of investigation and prosecution. Cases culminating in free *requisitoir* should therefore contribute to institutional learning by identifying weaknesses in evidence assessment, case construction, coordination, and prosecutorial decision-making. Such an approach transforms the mechanism from a purely reactive procedural measure into an instrument for improving the quality of criminal law enforcement.

When evaluated through the relationship between justice, legal certainty, and legal utility, the prosecutor's role in Decision Number 809/Pid.Sus/2024/PN Dps demonstrates the interdependence of these three legal values. Justice requires that no individual be subjected to punishment when the accusation cannot be adequately substantiated. Legal certainty requires the prosecutor to consistently apply statutory and evidentiary standards rather than maintain an accusation solely because prosecution has already commenced. Legal utility requires the criminal process to avoid unnecessary continuation of unsustainable cases and to minimize the institutional and individual consequences associated with unjustified prosecution. These objectives should not be treated as competing considerations; they collectively determine the legitimacy of prosecutorial discretion.

The analysis therefore reveals three principal dimensions of the Public Prosecutor's role. First, prosecutorial objectivity requires continuous reassessment of the evidentiary basis of the accusation and recognition of both incriminating and exculpatory circumstances. Second, *dominus litis* establishes the prosecutor as controller of prosecution while simultaneously imposing responsibility to correct a prosecutorial position that can no longer be legally sustained. Third, substantive justice and due process require the prosecutor to ensure that the State's punitive authority is exercised

only where criminal responsibility is supported by adequate and legally persuasive evidence. These dimensions must operate alongside transparency, accountability, and professional independence.

Accordingly, the free *requisitoir* reflected in Decision Number 809/Pid.Sus/2024/PN Dps should not be regarded simply as a departure from the original prosecutorial position. It represents a mechanism through which prosecution can respond to the evidentiary reality established during judicial examination. Its legitimacy derives from the principle that prosecutorial authority is directed toward the proper administration of justice rather than the pursuit of conviction as an end in itself. When supported by transparent legal reasoning and an objective assessment of evidence, free *requisitoir* reinforces rather than weakens the criminal justice system. It demonstrates that the authority of the prosecutor as *dominus litis* is inseparable from responsibility: responsibility to respect evidentiary limits, to protect the presumption of innocence, to correct unsustainable accusations, and ultimately to ensure that the exercise of criminal prosecution remains consistent with justice, legal certainty, and legal utility.

C. CONCLUSION

The analysis of Decision Number 104/Pid.Sus/2024/PN Adl and Decision Number 809/Pid.Sus/2024/PN Dps demonstrates that the submission of a free *requisitoir* reflects the prosecutor's broader responsibility as *dominus litis* to ensure that criminal prosecution remains objective, evidence-based, and consistent with the fundamental purposes of law. In both cases, the prosecutorial function cannot be reduced to securing convictions, but must include a continuing reassessment of whether the evidentiary structure established at trial is sufficient to sustain criminal liability. Where material inconsistencies, evidentiary deficiencies, or failures of corroboration prevent the elements of the offence from being proven, the prosecutor is legally and ethically required to adjust the prosecutorial position accordingly. From the perspective of justice, free *requisitoir* protects defendants from punishment unsupported by adequate proof; from the perspective of legal certainty, it reinforces the principle that criminal sanctions may only be pursued when statutory and evidentiary requirements are satisfied; and

from the perspective of legal utility, it prevents the unnecessary continuation of unsustainable prosecutions while preserving institutional credibility. Accordingly, free requisitoir should be understood not as a weakness of prosecution, but as a corrective mechanism that strengthens due process, prosecutorial accountability, the presumption of innocence, and the substantive legitimacy of the Indonesian criminal justice system.

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