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Dominus Litis and the Finality of Acquittals: A Legal-Philosophical Analysis of Supreme Court Circular Letter No. 4 of 2026

Dominus Litis dan Finalitas Putusan Bebas: Analisis Filsafat Hukum terhadap Surat Edaran Mahkamah Agung Nomor 4 Tahun 2026

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ABSTRACT

Supreme Court Circular Letter No. 4 of 2026 prohibits appellate and cassation review of acquittals under Indonesia's 2025 Criminal Procedure Code. This raises a jurisprudential question: to what extent may dominus litis and prosecutorial independence operate once a court has acquitted the accused? This article examines the Circular's normative status, evaluates the finality of acquittal through Gustav Radbruch's triad of legal certainty, justice, and purposiveness, and defines the lawful boundary of prosecutorial independence. It uses prescriptive doctrinal legal research with statutory, conceptual, philosophical, case-law, historical, and comparative approaches, using Singapore and South Korea as functional comparators. The study argues that the Circular is legitimate only insofar as it interprets and operationalizes statutory rules; if treated as an autonomous source of restrictions, it risks exceeding the Supreme Court's regulatory authority. Comparative analysis confirms that finality is a legislative policy choice, not a universal procedural model. In Indonesia, the closure of ordinary remedies lawfully limits dominus litis. Finality is an intra-procedural bar to ordinary review, whereas ne bis in idem protects against re-prosecution after finality. The article proposes bounded dominus litis: robust prosecutorial autonomy before and during trial, constrained by finality, due process, judicial independence, and post-finality double-jeopardy protection.

Keywords: Acquittals, Appeals, Dominus Litis, Independence, Prosecutorial.

ABSTRAK

Surat Edaran Mahkamah Agung Nomor 4 Tahun 2026 menegaskan tidak tersedianya banding dan kasasi terhadap putusan bebas dalam rezim KUHAP 2025. Perkembangan ini menimbulkan pertanyaan filosofis: sampai di manakah dominus litis dan independensi penuntutan dapat bekerja setelah pengadilan menjatuhkan putusan bebas? Artikel ini menilai kedudukan normatif SEMA, menganalisis finalitas putusan bebas berdasarkan triad Gustav Radbruch—kepastian hukum, keadilan, dan kemanfaatan—serta merumuskan batas yang sah bagi independensi penuntutan. Penelitian menggunakan metode hukum doktrinal preskriptif dengan pendekatan peraturan perundang-undangan, konseptual, filosofis, kasus, historis, dan perbandingan, dengan Singapura dan Korea Selatan sebagai pembanding fungsional. Hasil penelitian menunjukkan bahwa SEMA sah sepanjang menafsirkan dan mengoperasionalkan norma undang-undang; apabila diperlakukan sebagai sumber mandiri pembatasan baru, SEMA berisiko melampaui kewenangan pengaturan Mahkamah Agung. Perbandingan menunjukkan bahwa finalitas merupakan pilihan kebijakan hukum, bukan model universal. Dalam rezim Indonesia, penutupan upaya hukum biasa membatasi dominus litis secara sah. Finalitas bekerja sebagai penghalang intraprosedural terhadap banding dan kasasi, sedangkan ne bis in idem melindungi dari penuntutan ulang setelah putusan final. Artikel mempertahankan konsep bounded dominus litis: otonomi penuntutan yang kuat sebelum dan selama persidangan, tetapi tunduk pada finalitas, due process, independensi hakim, dan perlindungan terhadap penuntutan ganda.

Keywords: Dominus Litis, Independensi, Penuntutan, Putusan Bebas, Upaya Hukum.

1. Introduction

An acquittal is the most sensitive point in the relationship between prosecutorial and judicial powers. For prosecutors, an acquittal may be viewed as a result that still needs review when there is suspicion of an erroneous application of the law. For the defendant, an acquittal is the state's declaration that the charges have not been proven and, therefore, their freedom must not continue to be threatened by criminal proceedings. This tension took on a new form following the enactment of Law No. 20 of 2025 on the Code of Criminal Procedure (KUHAP 2025) on January 2, 2026. KUHAP 2025 explicitly states that a cassation appeal cannot be filed against an acquittal (2025 Code of Criminal Procedure, 2025).

On 19 August 2026, the Supreme Court issued Supreme Court Circular Letter (SEMA) No. 4 of 2026. The Circular addresses three distinct procedural matters: first, it confirms that acquittals (putusan bebas/vrijspraak) are not open to appeal or cassation; second, it regulates appeals against judgments releasing an accused from all legal charges (putusan lepas/onslag van alle rechtsvervolging), for which the public prosecutor may appeal; and third, it prescribes the handling of appellate or cassation petitions that fail formal requirements, including the TMSF mechanism ("*Tidak Memenuhi Syarat Formil*", or failure to satisfy formal requirements). This distinction is central to the present article because the finality rule concerns acquittals, not judgments releasing an accused from all legal charges (Supreme Court's Circular Letter 4/2026, 2026).

This change breaks the continuity of the 1981 Criminal Procedure Code (KUHAP) regime, which for years had allowed the public prosecutor to file a cassation appeal against an acquittal. Constitutional Court Decision No. 114/PUU-X/2012 even ruled that the phrase "except for acquittal verdicts" in Article 244 of the 1981 Criminal Procedure Code was inconsistent with the 1945 Constitution and had no binding legal force. At that time, the Court emphasized the Supreme Court's role in ensuring that law and justice are upheld. The 2025 Criminal Procedure Code (KUHAP) adopts a different legal-political choice: it now explicitly enshrines the prohibition on appeals against acquittals at the statutory level (Constitutional Court Verdict Number 114/PUU-X/2012, 2012).

This legislative choice directly intersects with the thesis of the Public Prosecutor's Office's independence and the principle *of dominus litis*. Indonesian legal literature interprets *dominus litis* as the public prosecutor's role as the case controller, particularly in assessing the adequacy of investigative findings, determining charges, continuing or discontinuing prosecution, and using alternative dispute resolution mechanisms permitted by law. However, "dominus litis" does not equate to the public prosecutor's sovereignty over the entire criminal process. The 2025 Criminal Procedure Code (KUHAP) actually maintains a functional differentiation between investigation, prosecution, court proceedings, and the enforcement of judgments. Recent legal literature also cautions that *"dominus litis"* must be interpreted alongside checks and balances to ensure that integrating the criminal justice system does not devolve into a concentration of authority within a single institution (Huda et al., 2025; Mulya et al., 2022).

On the other hand, the independence of the Attorney General's Office remains an institutional problem. The Attorney General's Office Act designates the Attorney General's Office as a government institution whose functions relate to judicial power. It affirms that these functions are exercised independently. However, the Attorney General's appointment and dismissal by the President, the culture of a single chain of command, and the lack of comprehensive guarantees of functional independence mean prosecutorial independence is constantly at risk of structural intervention. A study by Mufrohim and Herawati shows that the Attorney General's Office, as *a legal structure*, occupies a strategic position but is vulnerable to influence from the government and other powers (2021 Amendment of Prosecutor's Office Law, 2021, p. 11; 2004 Prosecutor's Office Law, 2004, p. 16; Mufrohim & Herawati, 2020).

The issue of Supreme Court Circular Letter No. 4 of 2026, therefore, cannot be understood merely as a technical matter of legal proceedings. It is a matter of legal philosophy concerning the limits of state power. Does closing legal avenues after an acquittal diminish the public prosecutor's independence as dominus litis, or is it, on the contrary, a necessary restriction to ensure prosecutorial power remains within the rule of law? This question leads the research to the classic antinomy between legal certainty, justice, and utility. Gustav Radbruch identified these three values as fundamental legal principles that cannot always be realized simultaneously and therefore require balancing in concrete situations (Radbruch et al., 2006).

Previous research falls into three streams. First, studies on the independence of the Attorney General's Office have focused on its position within the constitutional structure and the risk of subordination to the executive branch. Second, studies *on the "dominus litis"* have focused on the relationship between prosecutors and investigators, as well as the strengthening of prosecutorial authority. Third, recent research following the 2025 Criminal Procedure Code (KUHAP) has begun to discuss the finality of acquittal rulings. It assesses that the combination of Article 244, Article 299, and the transitional provisions precludes legal challenges against *a vrijspraak*. Little research has linked the newly issued Supreme Court Circular Letter No. 4 of 2026, published on August 19, 2026, to the legal philosophy of prosecutorial independence. This article addresses this research gap (Khumaerah & Ishaq, 2026).

Accordingly, this article primarily examines the finality of acquittals under SEMA No. 4 of 2026. The article examines dominus litis as the prosecutorial authority whose lawful boundary is tested by that finality, while Radbruch's triad supplies the evaluative framework. The article maintains the thesis that SEMA No. 4 of 2026 should not be understood as a devaluation of prosecutorial independence, but as an affirmation of the external legal limits of dominus litis after the case has been adjudicated. Its novelty remains the concept of bounded dominus litis: strong prosecutorial autonomy free from improper intervention before and during trial, coupled with a duty to respect the legal finality of an acquittal. This study addresses two questions: first, what is the normative status and legal-philosophical significance of SEMA No. 4 of 2026 within the 2025 Criminal Procedure Code framework; and second, how should the finality of acquittals constrain prosecutorial independence and dominus litis, viewed in light of comparative models in Singapore and South Korea?

2. Method

This study employs prescriptive doctrinal legal research with a descriptive-comparative component. It does not measure officials' empirical behaviors; rather, it identifies, describes, interprets, systematizes, compares, and evaluates legal norms to construct an argument about what the law ought to require. The approaches used are statutory, conceptual, philosophical, case-law, historical, and comparative. The comparative approach is functional and limited to Singapore and South Korea, using four variables: the prosecutor's standing to challenge an acquittal, the appellate court's powers, the procedural point at which an acquittal becomes final, and the relationship between finality and double-jeopardy protection. The comparison illuminates legal-policy choices rather than mechanically transplanting foreign law into Indonesia.

Primary legal materials consist of the 1945 Constitution of the Republic of Indonesia, Law No. 16 of 2004 as amended by Law No. 11 of 2021 on the Prosecution Service of the Republic of Indonesia, Law No. 48 of 2009 on Judicial Power, Law No. 14 of 1985 on the Supreme Court as amended, Law No. 12 of 2011 on the Formation of Laws and Regulations as amended, Law No. 20 of 2025 on the Criminal Procedure Code, SEMA No. 4 of 2026, and Constitutional Court Decision No. 114/PUU-X/2012. Comparative primary materials include Singapore's Criminal Procedure Code 2010 and South Korea's Criminal Procedure Act and Constitution. Secondary legal materials were prioritized from national and international scholarship published mainly between 2020 and 2026 concerning prosecutorial independence, dominus litis, functional differentiation, the finality of acquittals, and prosecutorial accountability. The analysis used qualitative methods, including grammatical, systematic, historical, and teleological interpretation; vertical-horizontal synchronization; comparative description; and prescriptive reasoning (Hutchinson & Duncan, 2012).

3. Results and Discussion

3.1. Normative Analysis of Supreme Court Circular Letter No. 4 of 2026 within the 2025 Criminal Procedure Code Regime

SEMA No. 4 of 2026 arose from implementation issues, not from a legal vacuum entirely devoid of norms. Its preamble states that the Supreme Court found that district court acquittal decisions were subject to

appeals and cassation after the 2025 Criminal Procedure Code (KUHAP) came into effect. To ensure legal consistency, the Supreme Court affirmed that Article 299(2)(a) of the Criminal Procedure Code prohibits cassation against acquittal verdicts and that Article 26(2) of the Judicial Power Act precludes appeals against acquittal verdicts (Supreme Court's Circular Letter 4/2026, 2026).

From the perspective of the hierarchy and sources of law, the central question is whether SEMA No. 4 of 2026 merely administers and interprets existing procedural rules or independently creates a new restriction on prosecutorial competence. Article 79 of the Supreme Court Law authorizes the Supreme Court to regulate matters necessary for the proper administration of justice when the law is insufficiently detailed. In contrast, Article 8(2) of the Law on the Formation of Laws and Regulations recognizes regulations issued by state institutions insofar as they are ordered by higher legislation or issued under lawful authority. These provisions do not, however, authorize a circular to displace an Act of Parliament or create a substantive prohibition contrary to statute. Therefore, the Circular remains within its constitutional boundary only if its directions are anchored in, and remain congruent with, the 2025 Criminal Procedure Code and the Judicial Power Law (2009 Second Amendment of Law of the Supreme Court, 2009, p. 3; 2004 First Amendment of Law of the Supreme Court, 2004, p. 5; Law of the Formation of Laws and Regulations, 2011, p. 12; Law of the Supreme Court, 1985, p. 14; Law of Judicial Power, 2009, p. 48; Supreme Court's Circular Letter 4/2026, 2026).

The ultra vires risk thus depends on how the Circular is construed. If SEMA No. 4 of 2026 were treated as an autonomous norm extinguishing a remedy that the legislature had granted, it would encroach upon the legislative domain. It could indirectly restrict prosecutorial authority without a sufficient statutory basis. Conversely, where the legislature has already withheld cassation and the Judicial Power Law excludes appeals against acquittals, the SEMA serves an interpretive and judicial-administrative function: it consolidates court practice, instructs registries on handling inadmissible petitions, and reduces procedural disparity. Its legitimacy lies in operationalization, not norm creation. This distinction also answers the independence concern: a statutory limit on competence is not external interference with a prosecutor's professional judgment.

SEMA No. 4 of 2026 deliberately distinguishes acquittals from judgments releasing an accused from all legal charges (putusan lepas/onslag van alle rechtsvervolging). Section A confirms that an acquittal is not open to appeal or cassation. By contrast, Section B provides that a judgment of release from all legal charges must order the immediate release of a detained defendant, while allowing the public prosecutor to file an appeal; if such an appeal is filed, authority over further detention shifts to the high court. The earlier formulation of this manuscript incorrectly attributed that appeal mechanism to acquittals. The corrected distinction is doctrinally significant: finality attaches to judgments that the charge has not been proven, whereas appellate review remains available where the conduct is established. Still, the court concludes it does not constitute a punishable offense (Supreme Court's Circular Letter 4/2026, 2026).

SEMA No. 4 of 2026 also strengthens formal discipline in appellate practice. Petitions that fail statutory filing periods, memorandum requirements, or other formal prerequisites are processed under the category Tidak Memenuhi Syarat Formil (TMSF), meaning that the remedy fails the applicable formal admissibility requirements. Under the Circular, specified TMSF files are not forwarded to the higher court, and files already transmitted may be returned or disposed of as inadmissible, depending on their procedural stage. TMSF is therefore a procedural-admissibility mechanism, not a determination of the merits. This is relevant to prosecutorial independence because autonomy means professional decision-making within legally defined competence and procedure, not a freedom to disregard formal conditions for appellate review (Supreme Court's Circular Letter 4/2026, 2026).

3.2. A Paradigm Shift: From Cassation of Acquittal Decisions to Finality

Historically, the 1981 Criminal Procedure Code (KUHAP) faced a tension between the text prohibiting appeals against acquittal rulings and jurisprudential practice that distinguished between "pure acquittal" and "impure acquittal." Constitutional Court Decision No. 114/PUU-X/2012 subsequently removed the phrase exempting acquittal verdicts from Article 244 of the old Criminal Procedure Code. The rationale emphasized that Supreme Court review can serve as an instrument to ensure truth and justice without automatically implying that the defendant will be convicted (Constitutional Court Verdict Number 114/PUU-X/2012, 2012).

The 2025 Criminal Procedure Code shifts that balance. Article 299(2)(a) no longer uses the old legal construction that the Constitutional Court previously struck down. Instead, it establishes a new regime through a new law that explicitly excludes acquittals from the scope of cassation. Thus, it is incorrect to treat Constitutional Court Decision No. 114/PUU-X/2012 as automatically invalidating the 2025 legislative choice. That Constitutional Court decision reviewed the provisions of the 1981 Criminal Procedure Code within a different context, system, and legal policy framework. Legislators are therefore authorized to establish new regulations as long as they do not conflict with the Constitution.

The post-2025 Criminal Procedure Code debate has centered primarily on appeals, as the prohibition on appealing acquittal rulings is not formulated in a single article of the Criminal Procedure Code as explicitly as the prohibition on cassation. Analyses emerging within the Supreme Court have systematically interpreted the structure of the Criminal Procedure Code alongside the Judicial Power Act and concluded that acquittal rulings become final upon pronouncement. Research by Khumaerah and Ishaq (2026) also concluded that the 2025 Criminal Procedure Code regime precludes appeals and cassation against acquittal verdicts through a systematic reading of Article 244, Article 299, and the transitional provisions (Pudjoharsoyo, 2026).

At this point, SEMA No. 4 of 2026 serves an important transitional function. It transforms a plurality of interpretations into a uniform operational standard for district courts and high courts. However, to protect the quality *of the rule of law*, consolidation through SEMA should be viewed as an implementational solution, not a permanent substitute for legislative clarity. In future revisions, the prohibition on appealing acquittal rulings should ideally be stated explicitly in the Criminal Procedure Code so that the rights and limits of legal remedies can be derived directly from legislation without relying on judicial circulars.

3.3. Comparative Perspective: Prosecutorial Appeals Against Acquittals in Singapore and South Korea

The Indonesian choice to confer immediate finality on acquittals is not universal. A functional comparison with Singapore and South Korea is useful precisely because both systems retain a prosecutorial route to challenge an acquittal, albeit within different institutional traditions. The comparison does not seek to identify a superior model; it clarifies that the procedural point of finality is a legal-policy choice and helps distinguish appellate correction from post-finality double-jeopardy protection.

Singapore adopts an explicit prosecutorial-appeal model. Section 374(3) of the Criminal Procedure Code 2010 provides that an appeal by the Public Prosecutor may be brought against an acquittal, while section 390(1)(a) authorizes the appellate court to reverse the acquittal, order further inquiry or retrial, remit the matter, or enter a conviction and sentence. At the same time, section 244 separately protects a person previously convicted or acquitted from being tried again on the same facts. Singapore therefore demonstrates the doctrinal distinction at issue in this article: an acquittal may remain reviewable before finality, while the rule against renewed prosecution operates once finality has been reached (Singapore's 2010 Criminal Procedure Code, 2010).

South Korea similarly permits prosecutorial appeals within the ordinary appellate structure. Article 325 of the Criminal Procedure Act governs judgments of not guilty, while Article 338(1) confers the right to appeal on both the prosecutor and the defendant; Article 361-5 then specifies grounds for appellate review. The Korean Constitution separately provides in Article 13(1) that no citizen shall be placed in double jeopardy. As in Singapore, the protection against repeated prosecution is therefore compatible with prosecutorial appellate review because the legal system places finality at a later procedural point (Republic of Korea's Criminal Procedure Act, 2022).

The comparison sharpens the Indonesian thesis. Singapore and South Korea prioritize an additional opportunity for error correction before finality, whereas the 2025 Indonesian regime places greater weight on the certainty and liberty interests generated by a first-instance acquittal. Bounded dominus litis is therefore not presented as a universal prohibition on prosecutorial appeals. It is a prescriptive construction of Indonesia's current positive law: prosecutorial authority should be strong up to the legally defined point of finality. Still, it must cease when the legislature has closed ordinary remedies.

Table 1. Comparative Treatment of Prosecutorial Appeals Against Acquittals

Jurisdiction	Prosecutorial challenge to acquittal	Point of finality	Analytical implication
Indonesia	Appeal and cassation are closed under the 2025 regime as interpreted by SEMA No. 4 of 2026.	At the acquittal for ordinary remedies.	Stronger immediate finality; prosecutorial quality control is front-loaded.
Singapore	Expressly permitted: CPC 2010, s. 374(3); appellate powers in s. 390(1)(a).	After available appellate review is exhausted.	Error correction takes priority over finality; double-jeopardy protection operates separately.
South Korea	The prosecutor has a general right of appeal; no acquittal exclusion appears in art. 338(1).	After ordinary appellate rights are exhausted.	Prosecutorial review coexists with a constitutional double-jeopardy guarantee.

Source: Indonesian, Singaporean, and South Korean primary legal materials.

3.4. The Legal Philosophy of Acquittal: Finality, Ne Bis in Idem, Certainty, Justice, and Utility

Gustav Radbruch identifies legal certainty, justice, and *purposiveness*—or utility—as the three elements of the concept of law. These three can conflict. Certainty demands that positive law be predictable and end at some point; justice demands equal and fair treatment; while utility demands that the law achieve social goals. In the context of acquittal rulings, this conflict is evident: allowing further legal proceedings may expand opportunities to correct errors, but prolongs uncertainty for those acquitted; closing legal proceedings provides finality, but risks leaving errors in the first-instance ruling uncorrected (Radbruch et al., 2006).

The value of legal certainty in Supreme Court Circular Letter No. 4 of 2026 appears to be the most dominant. Once a case has been examined, the charges tested, the evidence evaluated, and the court has declared the charges not proven, the state establishes a definitive end to criminal prosecution through the ordinary legal remedies. This finality is not merely a matter of administrative efficiency. It protects the defendant's personal status from recurring uncertainty and limits the state's ability to repeatedly restart the process until it obtains the desired verdict.

Finality and ne bis in idem are closely related but analytically distinct. Finality is an intra-procedural rule: it identifies the point at which the same line of criminal proceedings may no longer be continued through ordinary appellate or cassation review. Under the current Indonesian regime, an acquittal bars those ordinary remedies. Ne bis in idem, by contrast, operates after finality as an external, forward-looking safeguard against a new prosecution of the same person for the same offense. Article 14(7) of the International Covenant on Civil and Political Rights protects a person who has been finally convicted or acquitted from being tried or punished again for the same offense. The distinction matters because a legal system may permit prosecutorial appeal before a judgment becomes final and still prohibit re-prosecution after finality. Accordingly, the bar on ordinary remedies under SEMA No. 4 of 2026 should not itself be equated with ne bis in idem, even though both doctrines limit repeated state coercion at different procedural stages (United Nations Human Rights Committee, 2007).

From a justice perspective, two interests must be balanced: the defendant's and the public interest/victims. Justice for the defendant demands a process that does not devolve into repeated trials until the state secures a conviction. Justice for victims and society demands serious, professional prosecution—free from interference and supported by adequate evidence. SEMA shifts the focus of achieving public justice from "the opportunity to retry a case after an acquittal" to "the quality of the case before the verdict." This shift requires *the dominus litis* to work to the fullest extent. At the same time, the prosecutor still has lawful control over prosecutorial decisions, not after the court has concluded the case with an acquittal.

Efficiency also supports finality. The judicial system has limited resources and cannot allocate unlimited energy to re-examine cases that have already resulted in an acquittal. Finality encourages investigators and public prosecutors to improve coordination, case selection, evidence validation, and the construction of indictments from the outset. However, practicality must not be used as a reason to disregard the possibility *of*

a miscarriage of justice. Therefore, restrictions on legal remedies must be balanced by ethical mechanisms, disciplinary measures, investigations into alleged judicial corruption, oversight of prosecution quality, and transparency regarding the rationale behind prosecutorial decisions.

3.5. Supreme Court Circular Letter No. 4 of 2026 and Prosecutorial Independence as Dominus Litis

Under international standards, prosecutorial independence is not freedom without accountability. UN guidelines require prosecutors to carry out their duties free from intimidation, interference, pressure, or improper intervention; at the same time, UNODC literature emphasizes that independence does not mean prosecutors are entirely autonomous and accountable to no one. Accountability can arise through internal hierarchies, the courts, parliament, ethical mechanisms, and the public (United Nations, 1990).

This framework aligns with the evolution of thinking regarding the independence of the Attorney General's Office in Indonesia. Afandi emphasizes the need to strengthen prosecutors' independence and impartiality, both institutionally and functionally. At the same time, Sudirdja, Santoso, and Nelson point to tension between the independence of public prosecutors and the principle of a single chain of command within the Attorney General's Office (Afandi, 2025; Rudi Pradisetia Sudirdja et al., 2023).

On that basis, the prohibition on appeals and cassation against acquittal rulings cannot automatically be characterized as weakening the independence of the Attorney General's Office. Independence addresses the question "who may influence a prosecutor's decision," whereas jurisdiction and legal remedies address the question "what authority does the law grant to a prosecutor." A prosecutor may be fully independent when deciding to prosecute, but remains without the authority to file a cassation appeal if the law precludes such an appeal. The absence of authority is not an intervention; it is a legal limit on competence.

The 2025 Criminal Procedure Code (KUHAP) actually expands the relevance *of dominus litis* in the early stages. Coordination between investigators and prosecutors, case file review, guidance on supplementing the case, and mechanisms for resolving assessment differences strengthen the prosecutor's role before a case is adjudicated. A study by Huda et al. concludes that *"functional differentiation"* and *"dominus litis"* can be reconciled: investigators establish factual guilt, while public prosecutors evaluate legal guilt and the merits of prosecution (Huda et al., 2025; Nelson & Aini, 2025).

SEMA No. 4 of 2026 therefore shifts the practical meaning of dominus litis from control over a case's indefinite fate to professional responsibility for the quality of prosecution before finality attaches. The narrower the opportunity for correction after an acquittal, the greater the prosecutor's responsibility to test evidentiary sufficiency, legal theory, charge construction, and procedural readiness before and during trial. Independence is not diminished; its center of gravity shifts earlier in the process, and its accountability burden increases.

3.6. "Bounded Dominus Litis" as a Prescriptive Synthesis

This article presents bounded dominus litis as a synthesis between prosecutorial independence and the finality of acquittals. The concept has four layers of limits. First, the vertical limit: prosecutors must be free from unlawful political directives, economic pressure, and external intervention. Second, the horizontal limit: dominus litis must respect functional differentiation between investigation, prosecution, and adjudication, including judicial independence. Third, the procedural limit: prosecutorial discretion remains subject to statutory time limits, formal requirements, the rights of suspects and defendants, and judicial control. Fourth, the finality limit: when positive law confers finality on an acquittal, dominus litis no longer authorizes ordinary appellate or cassation review of that judgment.

This concept distinguishes "independence" from "impunity of authority." International studies on *prosecutorial independence* show that healthy prosecutorial autonomy is always paired with reasoning behind decisions, professional standards, oversight, and mechanisms to correct abuses. In other words, what must be protected is the freedom to make decisions based on the law, not the freedom to achieve a specific outcome (UNODC, 2015).

From Radbruch's perspective, *a bounded dominus litis* enables value reconciliation. Legal certainty is realized through the finality of independent judgments; justice through fair processes, professional prosecution, and the prohibition against indefinite criminal pressure; and public benefit through concentrating resources on improving the quality of investigations and prosecutions before judgment. If any

one of these values dominates absolutely, the system becomes unbalanced. *A "dominus litis"* without finality risks giving rise to *prosecutorial persistence* that suppresses individual freedom; finality without independent prosecution risks protecting cases influenced by political interests from the outset.

Because finality narrows the scope for post-acquittal correction, the integrity of prosecutorial decision-making before judgment becomes more important, not less. Safeguards against improper intervention, conflicts of interest, and unreasoned hierarchical direction remain relevant only insofar as they protect the legality and professional quality of prosecution before finality attaches. The point is not to transform this article into a program of organizational reform, but to ensure that stronger finality is paired with genuinely independent and accountable prosecution at the stages where dominus litis lawfully operates (Afandi, 2025).

Table 2. Philosophical Matrix of Restrictions on Dominus Litis

Dimension	Risks if Unrestricted	Value Protected by the Indonesian Finality Regime	Implications for the Prosecutor's Office
Legal certainty	The case may proceed even after the defendant is released	Finality and predictability	Cases must be prepared as thoroughly as possible before a verdict
Justice	The state may repeat the process until a conviction is obtained	Protection of freedom and *equality before the law*	Discretion is focused on the quality of evidence, charges, and prosecutions
Utility	Resources are depleted by repeated litigation	Efficiency and concentration of resources	Strengthening coordination between investigators and prosecutors
Independence	Independence is misinterpreted as absolute authority	Freedom from intervention within the limits of jurisdiction	Prohibition of interference, written instructions, recusal, and accountability
Dominus litis	Control of a case with no end in sight	*Bounded dominus litis*	Strong pre-decision control; subject to post-decision finality

Source: Author's philosophical synthesis of SEMA No. 4 of 2026 and the bounded dominus litis framework.

3.7. Direction of Legal Harmonization

Legal harmonization should focus primarily on criminal procedure and the hierarchy of norms. First, a future amendment or authoritative legislative clarification should expressly state, at the statutory level, whether an acquittal is excluded from both appeal and cassation, thereby strengthening lex certa and reducing dependence on a judicial circular. Second, SEMA No. 4 of 2026 should remain an interpretive and administrative instrument that operationalizes statutory rules, not an autonomous source of new restrictions on legal remedies. Third, prosecution guidelines should respond to the finality regime by requiring documented pre-trial and trial-stage assessments of evidentiary sufficiency, the legal theory of the case, charge construction, and procedural readiness before the state commits to prosecution.

Institutional safeguards are secondary but still relevant to this procedural design. Internal and external oversight should focus on improper intervention, conflicts of interest, and abuse of hierarchy that may distort prosecutorial decisions before judgment, without substituting an oversight body's view for lawful prosecutorial discretion. Where a judge, prosecutor, counsel, witness, or other participant is suspected of bribery, forgery, obstruction of justice, or another distinct offense, those allegations may be investigated and prosecuted independently; they do not justify reopening a final acquittal in a manner inconsistent with ne bis in idem. This preserves both the defendant's finality and the integrity of the justice system (United Nations, 1990; UNODC, 2015).

The resulting harmonization is therefore narrow but consequential: statutory clarity should determine the availability of remedies; SEMA should ensure uniform court administration within that statutory framework; and prosecutorial practice should shift resources toward pre-judgment quality control. In this design, bounded dominus litis links strong prosecutorial autonomy to a legally defined stopping point rather than to a power to perpetuate litigation until a preferred outcome is reached.

4. Conclusion

Supreme Court Circular Letter No. 4 of 2026 marks a significant shift in Indonesian criminal procedure. The

2025 Criminal Procedure Code expressly excludes acquittals from cassation, while SEMA No. 4 of 2026 reads that rule together with the Judicial Power Law to affirm that acquittals are also not subject to appeal. The Circular further establishes procedures for remedies that are Tidak Memenuhi Syarat Formil (TMSF), namely appeals or cassation petitions that fail applicable formal admissibility requirements. Normatively, the SEMA is legitimate insofar as it operates as an interpretive and judicial-administrative guideline implementing statutory law; it would become problematic if treated as an autonomous source of restrictions lacking a legislative basis.

From the perspective of Gustav Radbruch's philosophy of law, the finality of an acquittal balances legal certainty, justice, and utility. Legal certainty requires a stopping point; justice protects the liberty of the acquitted person while demanding serious, professional prosecution in the public interest; and utility favors concentrating state resources on the quality of investigation and prosecution before judgment rather than repeated litigation afterward. The comparison with Singapore and South Korea confirms that no universal procedural model exists. Both jurisdictions permit prosecutorial appeals from acquittals, whereas Indonesia has chosen stronger immediate finality for ordinary remedies. That choice does not diminish prosecutorial independence because independence concerns freedom from improper interference within lawful competence, not an entitlement to unlimited procedural authority.

Bounded dominus litis remains the prescriptive synthesis this study proposes. Prosecutors should possess robust autonomy in coordinating case preparation, evaluating files, constructing charges, and presenting the prosecution before and during trial; that autonomy is nevertheless bounded by defendants' rights, judicial independence, functional differentiation, formal procedure, and the finality of acquittals. Finality and ne bis in idem must also remain distinct: the former closes ordinary review within the same proceeding, while the latter prevents renewed prosecution after finality. Bounded dominus litis is therefore not a devaluation of prosecutorial authority, but a paradigm shift from post-judgment litigation to pre-judgment quality control. In this model, dominus litis is the responsibility to bring only meritorious, lawful, and fair prosecutions on behalf of the state, and to recognize when the law requires prosecutorial power to stop.

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6. Conflict of Interest
The author declares no conflict of interest regarding the research, authorship, or publication of this article.

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