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Defective Indictments: Legal Certainty, Defendant Rights, and The National Criminal Procedure Code

Implikasi Yuridis Kesalahan Surat Dakwaan dalam KUHAP Nasional Terhadap Perlindungan Hak Terdakwa

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Abstract

Law Number 20 of 2025 introduces pleading standards, nullity sanctions, and corrective mechanisms for indictments, yet prior scholarship treats them in isolation, leaving their combined effect on legal certainty and defendant rights unclear. This study analyzed the juridical implications of indictment drafting errors and formulated normative strengthening under the 2025 Criminal Procedure Code. It employed doctrinal research with statutory and conceptual approaches, interpreting primary and secondary legal materials. Nullity by operation of law attaches only to a defective material description of the offense and must be distinguished from evidentiary acquittal and substantive dismissal. Pre-trial refinement and post-nullity amendment are separate, single-use remedies requiring delivery of copies to defendants. The article argues that legal certainty rests on three pillars: standardized pre-transfer dossier verification, separation of pre-prosecution from refinement, and compliance with statutory limits. This integrated framework offers a model for balancing prosecutorial discretion and due process in criminal procedure reform worldwide.

Abstrak

Undang-Undang Nomor 20 Tahun 2025 memperkenalkan standar penyusunan, sanksi kebatalan, dan mekanisme koreksi surat dakwaan, tetapi kajian terdahulu memperlakukannya terpisah sehingga dampak gabungannya terhadap kepastian hukum dan hak terdakwa belum jelas. Penelitian ini menganalisis implikasi yuridis kesalahan penyusunan surat dakwaan dan merumuskan penguatan normatif berdasarkan Kitab Undang-Undang Hukum Acara Pidana 2025. Penelitian menggunakan metode doktrinal dengan pendekatan perundang-undangan dan konseptual, menafsirkan bahan hukum primer dan sekunder secara sistematis. Batal demi hukum hanya melekat pada uraian materiil tindak pidana yang cacat dan harus dibedakan dari putusan bebas serta putusan lepas. Penyempurnaan prapersidangan dan perbaikan pascakebatalan merupakan upaya terpisah sekali pakai yang mewajibkan penyampaian salinan kepada terdakwa. Artikel ini berargumen bahwa kepastian hukum bertumpu pada tiga pilar: verifikasi berkas terstandar sebelum pelimpahan, pemisahan prapenuntutan dari penyempurnaan, dan kepatuhan pada batas undang-undang. Kerangka terpadu ini menawarkan model untuk menyeimbangkan diskresi penuntut dan proses hukum yang adil dalam pembaruan hukum acara pidana secara global.

A. INTRODUCTION

1. Background

An indictment constitutes the primary charging instrument within the criminal justice system, establishing both the jurisdictional basis for the public prosecutor to bring a case before the court and the outer boundaries of judicial examination regarding the conduct attributed to the defendant. Precision in drafting an indictment not only governs the scope of evidentiary proceedings at trial, but also determines the defendant's ability to comprehend the nature of the accusation and prepare an adequate defense. Consequently, indictment formulation does not merely represent a routine administrative task of prosecution; rather, it is a formal legal act governed by strict standards of legality, statutory specificity, and procedural due process.[1] Ambiguities in the factual narrative of the offense, misapplication of penal statutes, or the omission of essential statutory elements introduce procedural defects that compromise the integrity of the adjudicative process. Within this framework, the legal sufficiency of an indictment functions as a baseline requirement for maintaining an accountable criminal process, preventing arbitrary adjudication, and ensuring legal certainty for the litigants.[2] Contemporary doctrinal scholarship further indicates that upholding procedural regularity and effective legal assistance during the initial stages of adjudication is necessary to preserve equality before the law and prevent miscarriages of justice.[3]

The normative parameters governing charging instruments underwent substantial revision following the enactment of Law Number 20 of 2025 concerning the Criminal Procedure Code (hereinafter the 2025 Criminal Procedure Code or *KUHAP Nasional*), which entered into force on January 2, 2026. This statutory reform requires a doctrinal reassessment of the rules governing indictment preparation previously established under Law Number 8 of 1981.[4] Under Article 75 paragraph (1) of the 2025 Criminal Procedure Code, the public prosecutor must transfer the case file and the accompanying indictment

[1] Ismi Ramadhoni et al., "Akuntabilitas Jaksa Penuntut Umum Sebagai Dominus Litis Atas Kesalahan Materiil Surat Dakwaan yang Berujung pada Putusan Bebas," *QOSIM: Jurnal Pendidikan Sosial & Humaniora* 4, no. 4 (2026): 1145–54, https://doi.org/10.61104/jq.v4i4.8944.
[2] Eko Ponco, Dwi Wachidiyah Ningsih, and Ika Ayudiyanti, "Kedudukan Putusan Bebas Dalam Penegakan Hukum Pidana di Indonesia," *Arus Jurnal Sosial dan Humaniora* 6, no. 1 (2026): 856–63, https://doi.org/10.57250/ajsh.v6i1.2491.
[3] Erwin Susilo and Muhammad Rafi, "Bantuan Hukum dan Kebenaran (Veritas): Membongkar Norma yang Destruktif dan Menetapkan Rekonstruksi," *Jurnal Hukum IUS QUIA IUSTUM* 33, no. 2 (2026): 387–412, https://doi.org/10.20885/iustum.vol33.iss2.art6.
[4] Erwin Susilo, "Meneropong Kepastian Penetapan Status Tersangka Dalam KUHAP Baru," *Al-Adl: Jurnal Hukum* 18, no. 1 (2026): 206–25, https://doi.org/10.31602/al-adl.v18i1.18487.

to the district court within a maximum period of fourteen days. Article 75 paragraph (2) enumerates the mandatory components of an indictment: the date of signing and the complete identity of the suspect or defendant; a careful, clear, and complete description of the charged offense specifying the time (*tempus delicti*) and place (*locus delicti*) of its commission; the specific statutory provisions alleged to have been violated; and the signature of the public prosecutor. Article 75 paragraph (3) expressly stipulates that an indictment failing to satisfy the material description requirements under paragraph (2) subparagraph (b) is null and void by operation of law (*batal demi hukum*). Simultaneously, the statute introduces structured corrective mechanisms. Where a court declares an indictment null and void, Article 75 paragraph (4) grants the public prosecutor a single opportunity to amend and resubmit the charging instrument, while paragraph (5) provides that subsequent defense objections to the amended indictment are adjudicated concurrently with the merits in the final judgment. Moreover, prior to the judicial determination of the trial date, Article 76 authorizes the public prosecutor either to discontinue the prosecution or to refine the indictment once—no later than seven days before the commencement of the trial—subject to the mandatory delivery of revised copies to the investigator, the defendant, and legal counsel. These provisions demonstrate that evaluating an indictment under the current statutory regime requires examining not only its substantive drafting standards, but also the statutory consequences of non-compliance and the procedural limits governing prosecutorial cure.

These statutory developments necessitate a structured distinction between the formal and material validity of an indictment, the legal consequences of defective pleading, and pre-trial corrective procedures. Maintaining this analytical separation prevents the conflation of a defective indictment with an evidentiary failure to prove guilt at trial. A declaration that an indictment is null and void (*batal demi hukum*) addresses the non-fulfillment of mandatory statutory pleading requirements under Article 75 paragraph (2) subparagraph (b), whereas an acquittal (*putusan bebas*) results from the prosecution's failure to establish the defendant's guilt beyond a reasonable doubt during evidentiary proceedings. Conversely, a dismissal of all legal charges (*lepas dari segala tuntutan hukum* or *ontslag van alle rechtsvervolging*) occurs when the alleged acts are proven in fact but do not constitute a punishable criminal offense under substantive law. Because each outcome rests on distinct doctrinal grounds and carries different

procedural effects, each must be evaluated according to specific statutory criteria and, where applicable, the judicial reasoning articulated in relevant court decisions.[5]

Existing legal scholarship has examined the formulation of indictments from several analytical angles. Rahma Eka Fitriani, M. Muhibin Asshofa, and Nisbati Sandiah Humaeroh (2022), in their study titled "Analisis Penetapan Surat Dakwaan Terhadap Suatu Tindak Pidana," evaluated the relationship between indictment formulation and the substantive criminal offense charged. While that study clarifies the function of accurate pleading in criminal prosecutions, its analysis predates the 2025 legislative reform and therefore does not address how statutory pleading standards and remedial mechanisms operate under the 2025 Criminal Procedure Code. Accordingly, the present study extends the scope of inquiry from the application of indictments in isolated offenses to a broader normative examination of indictment drafting and correction under the current procedural statute.[6]

A second line of inquiry is presented by Frilia Shafitri Hardi (2025) in "Akuntabilitas Jaksa Sebagai Dominus Litis dalam Kesalahan Materiil Surat Dakwaan dan Pemulihan Hak Terdakwa". By examining prosecutorial accountability for material errors in indictments and the restoration of defendants' rights, Hardi demonstrates that defective pleading implicates institutional responsibility and procedural fairness rather than mere clerical oversight. Although that work provides relevant context regarding prosecutorial duties under the *dominus litis* principle, the present article adopts a distinct analytical focus by taking the statutory architecture of Articles 75 and 76 of the 2025 Criminal Procedure Code as its point of departure. This distinction is necessary because prosecutorial accountability cannot be evaluated in isolation from the positive procedural rules that govern how charging instruments are drafted, challenged, and amended prior to trial.[7]

Similarly, Pardamean Harahap, Galuh Candra Utami, and Talitha Kamilah (2025), in "Mekanisme Pemeriksaan Perkara Pidana dalam Sistem Peradilan Pidana di Indonesia:

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[5] Rahman Syamsuddin, Muhammad Ikram Nur Fuady, Hasdiwanti, and Hilmiah Hilmiah, "Comparative Study on Institutional Design and Scope of Grounds of Criminal Cases Review Between Indonesia and The United Kingdom," *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)* 13, no. 1 (2026): 125–48, https://doi.org/10.22304/pjih.v13n1.ax.

[6] Rahma Eka Fitriani, M. Muhibin Asshofa, and Nisbati Sandiah Humaeroh, "Analisis Penetapan Surat Dakwaan Terhadap Suatu Tindak Pidana," *Al-Jinayah: Jurnal Hukum Pidana Islam* 8, no. 1 (2022): 38–57. https://doi.org/10.15642/aj.2022.8.1.38-57.

[7] Frilia Shafitri Hardi, "Akuntabilitas Jaksa Sebagai Dominus Litis Dalam Kesalahan Materiil Surat Dakwaan Dan Pemulihan Hak Terdakwa: The Accountability of Prosecutors as Dominus Litis in Cases of Material Errors in Indictments and Restoration of the Accused's Rights," *Jurnal Hukum Pidana Indonesia* 2, no. 2 (2025): 158–79, https://doi.org/10.67468/jhpi.v2i2.48.

Kitab Undang-Undang Hukum Acara Pidana," surveyed the general stages of criminal case examination in Indonesia. While their research situates the indictment within the broader trajectory of criminal adjudication, a general overview of trial procedure differs from a targeted inquiry that treats indictment validity, statutory nullity, and pre-trial refinement as an integrated normative problem. Furthermore, recent comparative scholarship on Indonesian criminal procedure reform emphasizes the necessity of rigorous pre-trial screening mechanisms to ensure that only legally and evidentiary sound charges proceed to full adjudication.[8] The entry into force of the 2025 Criminal Procedure Code thus requires reassessing prior procedural doctrines in light of the specific statutory modifications governing charging instruments and their impact on legal certainty and defense rights.[9]

Against this doctrinal background, prior scholarship remains fragmented, exhibiting a critical blind spot by treating indictment drafting standards, statutory nullity, and corrective procedural mechanisms as isolated phenomena rather than a unified normative framework. Existing studies predominantly analyze prosecutorial accountability or general trial mechanisms in abstract terms, failing to systematically map how the structural intersections of Articles 75 and 76 of the 2025 Criminal Procedure Code operate in practice. Consequently, legal discourse lacks a cohesive doctrinal model capable of resolving the tension between prosecutorial discretion and procedural compliance under the new code.

To address this gap, the legal novelty of this study lies in its introduction of an integrated doctrinal approach that systematically harmonizes formal indictment validity, post-nullity amendment limits, and pre-trial refinement within a single analytical continuum. Rather than merely restating newly enacted statutory text, this research advances a reinterpretation of the prosecutorial corrective framework by establishing clear statutory demarcations between judicial nullification, evidentiary acquittals, and substantive dismissals, while strictly isolating pre-trial refinement from investigative *prapenuntutan* coordination.

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[8] Kukuh Dwi Kurniawan, Pujiyono, Irma Cahyaningtyas, and Hasnan Bachtiar, "Preliminary Examining Judges in Indonesian Criminal Procedure Reform: Lessons from Australia's Committal Hearings," *IJCLS (Indonesian Journal of Criminal Law Studies)* 11, no. 1 (2026): 175–212, https://doi.org/10.15294/ijcls.v11i1.25017.

[9] Pardamean Harahap, Galuh Candra Utami, and Talitha Kamilah, "Mekanisme Pemeriksaan Perkara Pidana dalam Sistem Peradilan Pidana di Indonesia: Kitab Undang-Undang Hukum Acara Pidana," *Jurnal Hukum Lex Generalis* 6, no. 7 (2025): 1–14, https://doi.org/10.56370/jhlg.v6i7.3011.

This manuscript defends the central thesis that legal certainty and the protection of the defendant's rights can only be effectively secured by institutionalizing a rigorous, multi-tiered pre-trial screening standard that restricts arbitrary prosecutorial curing while reinforcing due process guarantees. Ultimately, this study demonstrates that consistent application of the 2025 Criminal Procedure Code's corrective mechanisms provides a viable normative solution to eliminate procedural ambiguity, thereby ensuring that indictments fulfill their fundamental function as balanced instruments of fair administration of justice.

2. Research Questions

To systematically address the doctrinal gaps identified in the preceding analysis, this study formulates the research problem through two central inquiries, which dictate the sequence and line of reasoning for the subsequent results and discussion:

a. How does the 2025 Criminal Procedure Code regulate the formal and material requirements of indictment drafting, and what are the specific juridical implications of pleading defects on both legal certainty and the procedural rights of the defendant?
b. How can the normative framework governing indictment preparation and pre-trial corrective mechanisms be systematically strengthened to prevent arbitrary prosecutorial curing and ensure strict procedural compliance under the new statutory regime?

3. Research Method

This study employs a normative legal research methodology, defined as doctrinal research focused on examining legal norms, principles, and concepts related to the drafting of indictments within the Indonesian criminal justice system.[10] This methodological framework is a standard approach in contemporary legal scholarship for analyzing positive law and procedural transitions.[11] Specifically, this research analyzes the regulation of indictments under Law Number 20 of 2025 concerning the National Criminal Procedure Code (*KUHAP Nasional*). The analysis concentrates on the statutory requirements for indictment preparation, the legal consequences of non-compliance, and

[10] Irwansyah, *Penelitian Hukum (Pilihan Metode & Praktik Penulisan Artikel)*, Revisi Cet 4 (Yogyakarta: Mirra Buana Media, 2021), 93–99.
[11] Fachrizal Afandi and Ladito Risang Bagaskoro, "Judicial Scrutiny Under Indonesia's KUHAP 2025: Transplantation and Institutional Incoherence," *Brawijaya Law Journal* 11, no. 1 (2026): 25–57, https://doi.org/10.21776/ub.blj.2026.013.01.02.

the procedural mechanisms for indictment correction and refinement. Furthermore, the study examines the correlation between these statutory provisions, the principle of legal certainty, and the procedural protection of the defendant's rights.

The research utilizes a statutory approach and a conceptual approach. The statutory approach involves a systematic review of the 2025 Criminal Procedure Code's provisions governing the drafting, correction, and refinement of indictments, alongside other relevant regulations pertaining to prosecutorial authority and the pre-prosecution phase. Analysis of preceding procedural frameworks is conducted strictly to contextualize regulatory amendments, with due regard to transitional provisions and the temporal application of procedural law to ongoing cases. Concurrently, the conceptual approach is applied to analyze the doctrinal frameworks of the indictment, legal certainty, defendants' rights, and procedural justice. These concepts serve as the baseline for evaluating the adequacy and coherence of the current regulatory framework.[12]

The legal materials relied upon comprise primary and secondary legal sources. Primary legal materials consist of Law Number 20 of 2025 concerning the National Criminal Procedure Code and other relevant statutory instruments governing indictment preparation and pre-prosecution procedures. Secondary legal materials encompass criminal procedure treatises, peer-reviewed legal journals, prior empirical and doctrinal research, and authoritative legal opinions relevant to the subject matter. These materials were compiled through comprehensive library research, which involved identifying, inventorying, and categorizing sources based on their relevance to the formulated research questions.[13]

The collected legal materials are analyzed qualitatively through systematic legal interpretation and doctrinal reasoning. Provisions governing indictment requirements are analyzed by correlating them with the statutory consequences of non-compliance. Meanwhile, rules governing indictment correction and pre-prosecution are evaluated to formulate normative recommendations that align with legal certainty and the protection of the defendant's rights. This analysis strictly distinguishes the legal invalidity of an indictment from the evidentiary failure to prove charges, as well as from the factual circumstances underlying a dismissal of charges (*lepas dari segala tuntutan hukum*),

[12] Peter Mahmud Marzuki, *Penelitian Hukum Edisi Revisi* (Jakarta: Kencana, Prenadamedia Group, 2005), 133–77.
[13] Ibid., 81.

ensuring that the legal consequences of each scenario are properly delineated. Based on this analytical framework, the study develops prescriptive arguments and conclusions regarding the application and normative strengthening of indictment drafting regulations under the 2025 Criminal Procedure Code.[14]

B. DISCUSSION

1. Juridical Implications of Indictment Drafting Errors under the 2025 Criminal Procedure Code on Legal Certainty and Defendant Rights

a. The Function of the Indictment and Scholarly Discourse on the Precision of Offense Formulation

An indictment functions as the primary charging instrument in criminal adjudication, establishing the basis for the public prosecutor to delineate the conduct attributed to the defendant while defining the jurisdictional boundaries of judicial examination at trial. Formulating a legally valid indictment requires more than a formalistic citation of the penal statutes alleged to have been violated; it necessitates a clear factual narrative of the conduct that can be comprehended by the defendant and tested through evidentiary proceedings. This requirement aligns with the findings of Tan Nathalie and Ade Adhari (2025), who demonstrate that the legal sufficiency of an indictment depends on the precision with which the material acts are correlated with the statutory elements of the charged offense, rather than the mere enumeration of criminal articles.[15] Clarity in indictment drafting is directly linked to the protection of the defendant's procedural right to understand the accusation and prepare an adequate defense. Consequently, as argued by AuliaRahayu Indah Windiani, Sumardi, and Dadi Waluyo (2025), defects in indictment preparation cannot be treated uniformly, but must be evaluated according to the specific nature of the error, the procedural norm violated, and the resulting legal consequences prescribed by statute.[16]

Prior legal scholarship has examined indictment formulation primarily within the context of isolated criminal offenses under the previous procedural regime. Rahma Eka

[14] Mukti Fajar dan Yulianto Achmad, *Dualisme penelitian hukum*, Cet.5 (Pustaka Pelajar, 2019), 184.
[15] Tan Nathalie and Ade Adhari, "Ketepatan Dakwaan Tindak Pidana Korupsi Dalam Putusan Pengadilan: Analisis Putusan Pengadilan Negeri Semarang Nomor 48/PID.SUS-TPK/2022," *LEXORIA (Jurnal Pluralisme Hukum Indonesia)* 1, no. 1 (2025): 132–37, https://doi.org/10.2025/kg8mfv57.
[16] Aulia Rahayu Indah Windiani, Sumardi, and Dadi Waluyo, "Analisis Yuridis terhadap Surat Dakwaan Penuntut Umum yang dinyatakan tidak dapat diterima dan akibat Hukumnya" *Lex Veritatis* 4, no. 3 (2025): 11–19. https://www.ejournal.unis.ac.id/index.php/JournalMahasiswa/article/view/5415.

Fitriani, M. Muhibin Asshofa, and Nisbati Sandiah Humaeroh (2022) analyzed the determination of indictments in relation to specific criminal acts, confirming that accurate pleading is a prerequisite for effective prosecution.[17] However, because their study was conducted prior to the 2025 legislative reform, it does not address how statutory validity requirements, nullity sanctions, and remedial mechanisms operate as an interconnected system under the current code. Moving beyond offense-specific analyses, contemporary doctrinal scholarship by Mayhardy Indra Putra et al. (2026) emphasizes that the exercise of prosecutorial authority under the *dominus litis* principle must be strictly aligned with institutional accountability and legal certainty to prevent procedural arbitrariness.[18] Similarly, Erwin Susilo and Muhammad Rafi (2026) observe that safeguarding the right to legal assistance and procedural clarity from the preliminary stages of adjudication is necessary to uphold equality before the law and establish material truth.[19] Building upon these scholarly perspectives, the present analysis shifts the focus from case-specific pleading errors to a systemic normative evaluation of indictment validity and its juridical implications under the 2025 Criminal Procedure Code.

b. Regulatory Transition and Indictment Validity Standards under Article 75 of the 2025 Criminal Procedure Code

The enactment of Law Number 20 of 2025 concerning the Criminal Procedure Code (*KUHAP Nasional*), which entered into force on January 2, 2026, establishes a revised normative framework for evaluating the preparation of indictments, superseding Law Number 8 of 1981. As noted by R. Firman Adi Soeryo Bhawono (2026), this legislative transition alters the procedural obligations of law enforcement officials and reinforces statutory protections for suspects and defendants.[20] From a temporal standpoint, Article 362 of Law Number 20 of 2025 expressly repeals Law Number 8 of 1981, while the transitional provisions under Article 361 stipulate that ongoing criminal cases already

[17] Rahma Eka Fitriani, M. Muhibin Asshofa, and Nisbati Sandiah Humaeroh, "Analisis Penetapan Surat Dakwaan Terhadap Suatu Tindak Pidana," *Al-Jinayah: Jurnal Hukum Pidana Islam* 8, no. 1 (2022): 38–57, https://doi.org/10.15642/aj.2022.8.1.38-57.
[18] Mayhardy Indra Putra, Adwani Adwani, Riza Nizarli, and Joelman Subsidi, "Aligning Prosecutorial Responsibility and Authority: Strengthening the Dominus Litis Principle in Indonesia," *Jurnal Ilmiah Peuradeun* 14, no. 2 (2026): 311–36, https://doi.org/10.26811/peuradeun.v14i2.2340.
[19] Erwin Susilo and Muhammad Rafi, "Bantuan Hukum dan Kebenaran (Veritas): Membongkar Norma yang Destruktif dan Menetapkan Rekonstruksi," *Jurnal Hukum IUS QUIA IUSTUM* 33, no. 2 (2026): 387–412, https://doi.org/10.20885/iustum.vol33.iss2.art6.
[20] R. Firman Adi Soeryo Bhawono, "Penerapan KUHAP Baru: Implikasi UU No. 20 Tahun 2025 Bagi Aparat Penegak Hukum, Tersangka, Dan Terdakwa," *REPOSITORY CV INDONESIA IMAJI* 2, no. 3 (2026), https://repository.indonesiaimaji.com/rcii/article/view/75.

transferred to the court prior to the statute's effective date—in which the examination of the defendant has not yet commenced—must be examined, adjudicated, and decided under the provisions of the 2025 Criminal Procedure Code. Under Article 75 paragraph (1) of the 2025 Criminal Procedure Code, the public prosecutor is required to transfer the case file and the indictment to the district court within a maximum period of fourteen days. Furthermore, Article 75 paragraph (2) specifies the mandatory elements of an indictment, comprising the date of signing and the defendant's complete identity; a careful, clear, and complete description of the charged criminal offense specifying the time (*tempus delicti*) and place (*locus delicti*) of its commission; the statutory penal provisions violated; and the signature of the public prosecutor. These provisions establish dual formal and material validity standards that must be satisfied before an accusation can be lawfully examined at trial.

These statutory requirements directly serve the principle of legal certainty. A precise factual description enables the defendant to identify the specific conduct at issue, while the mandatory inclusion of the time, place, and violated penal provisions restricts the scope of judicial inquiry to the boundaries of the indictment. Conversely, ambiguity in describing the alleged offense creates procedural uncertainty regarding which factual allegations must be contested by the defense and proven by the prosecution. An indictment drafted in a careful, clear, and complete manner ensures that trial proceedings remain confined to the specific charges formulated by the public prosecutor.

The juridical consequence of failing to satisfy these pleading standards is governed strictly by Article 75 paragraph (3) of the 2025 Criminal Procedure Code, which provides that an indictment failing to fulfill the requirements of Article 75 paragraph (2) subparagraph (b) is null and void by operation of law (*batal demi hukum*). By its express statutory terms, the sanction of statutory nullity is exclusively linked to the non-fulfillment of the material requirement to provide a careful, clear, and complete description of the offense, including its time and locus. Consequently, this provision cannot be broadly construed to mean that every clerical or formal error automatically renders an indictment null and void. Legal evaluation must first identify the precise category of the defect and determine whether it violates the material threshold of Article 75 paragraph (2) subparagraph (b). This statutory design indicates that the 2025 Criminal Procedure Code does not treat indictment formulation as a purely administrative prosecutorial routine; rather, the substantive quality of the indictment determines the

legitimacy of the trial examination itself, functioning as a normative mechanism to balance prosecutorial authority with the defendant's right to a fair defense.

c. Juridical Demarcation between Statutory Nullity, Evidentiary Acquittal, and Dismissal of All Charges

In assessing the legal implications of indictment defects, a strict doctrinal distinction must be maintained between an indictment declared null and void by operation of law (*batal demi hukum*), an acquittal (*putusan bebas* or *vrijspraak*), and a dismissal of all legal charges (*putusan lepas dari segala tuntutan hukum* or *ontslag van alle rechtsvervolging*). Statutory nullity concerns the failure of the charging instrument to satisfy the material pleading requirements prescribed by criminal procedural law under Article 75 paragraph (2) subparagraph (b). By contrast, an acquittal pertains to the evidentiary outcome of the trial, occurring when the defendant's guilt regarding the charged offense is not proven lawfully and convincingly. Meanwhile, a dismissal of all legal charges applies when the alleged acts are proven to have been committed by the defendant, but those acts do not constitute a criminal offense under substantive law. Comparative procedural scholarship by Rahman Syamsuddin et al. (2026) underscores that preserving clear institutional and doctrinal boundaries between pre-trial procedural validity and substantive adjudication on the merits is necessary to prevent miscarriages of justice.[21] Because these three legal outcomes rest on distinct statutory foundations and produce different legal effects, they cannot be applied interchangeably. The specific normative parameters differentiating these three categories are summarized in Table 1.

Table 1. Juridical Demarcation of Indictment Nullity, Evidentiary Acquittal, and Substantive Dismissal under the 2025 Criminal Procedure Code

Analytical Parameter	Null and Void by Operation of Law (Batal Demi Hukum)	Evidentiary Acquittal (Putusan Bebas / Vrijspraak)	Dismissal of All Legal Charges (Putusan Lepas / Ontslag)
Primary Legal Basis	Article 75 paragraph (3) in conjunction with Article 75 paragraph (2) subparagraph (b) of the 2025 Criminal Procedure Code.	Provisions governing final evidentiary judgments on the merits under the 2025 Criminal Procedure Code.	Provisions governing final substantive judgments on criminal liability under the 2025 Criminal Procedure Code.
Object of Judicial Evaluation	The formal and material validity of the indictment's	The sufficiency and probative value of trial evidence in	The substantive legal qualification of the proven acts and the

[21] Rahman Syamsuddin, Muhammad Ikram Nur Fuady, Hasdiwanti, and Hilmiah Hilmiah, "Comparative Study on Institutional Design and Scope of Grounds of Criminal Cases Review Between Indonesia and The United Kingdom," *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)* 13, no. 1 (2026): 125–48, https://doi.org/10.22304/pjih.v13n1.ax.

	factual description, time, and locus of the offense.	establishing the defendant's culpability.	presence of criminal liability.
Nature of the Defect or Finding	Procedural defect in formulating a careful, clear, and complete description of the charged offense.	Evidentiary failure to prove the elements of the charged offense and the defendant's guilt at trial.	The alleged act is factually proven, but the conduct does not constitute a punishable criminal offense.
Procedural Stage of Determination	Preliminary examination prior to the adjudication of the merits (or resolved in the final judgment upon subsequent objection).	Conclusion of full evidentiary examination in the final judgment (*putusan akhir*).	Conclusion of full evidentiary examination in the final judgment (*putusan akhir*).
Juridical Consequence	The indictment is declared invalid; the prosecutor is granted one opportunity to amend and resubmit the indictment under Article 75 paragraph (4).	The defendant is acquitted of the charges on the merits; prosecution on the same facts is barred.	The defendant is discharged from criminal prosecution because the proven conduct is non-criminal.

As demonstrated in Table 1, maintaining this analytical separation is necessary to prevent legal conclusions that lack support in judicial reasoning. The prosecution's failure to prove a statutory element of an offense during evidentiary proceedings does not retroactively establish that the indictment was drafted obscurely or negligently. Conversely, an acquittal cannot be cited automatically as evidence of a defective indictment without examining the court's legal reasoning and the specific grounds of the judgment. Any doctrinal assessment of a concrete criminal case must rely directly on the official copy of the judgment, examining in sequence the formulation of the indictment, the facts established during trial examination, the court's legal considerations (*pertimbangan hukum*), and the dispositive holding (*amar putusan*). In the absence of such analysis, a causal relationship between a drafting error in the indictment and the final disposition of the case cannot be substantiated as a valid legal conclusion.

d. Post-Nullity Amendment (Article 75) and Pre-Trial Refinement (Article 76) Mechanisms and Their Implications for Defendant Rights

Beyond defining validity standards, the 2025 Criminal Procedure Code establishes structured mechanisms for addressing defective indictments. Pursuant to Article 75 paragraph (4), when a judge declares an indictment null and void by operation of law, the court grants the public prosecutor a single opportunity to amend and resubmit the indictment to the district court. Furthermore, Article 75 paragraph (5) stipulates that if the defendant or their legal counsel files a subsequent objection (*keberatan*) against the amended indictment, the judge does not issue a separate interlocutory ruling, but examines and decides that objection concurrently with the merits of the case in the final

judgment. This statutory structure demonstrates that the consequence of statutory nullity operates within a bounded procedural continuum rather than functioning as an absolute bar to prosecution.

In addition to post-nullity amendment, Article 76 paragraph (1) of the 2025 Criminal Procedure Code authorizes the public prosecutor to refine the indictment (*menyempurnakan surat dakwaan*) or discontinue the prosecution prior to the court establishing the trial date. Under Article 76 paragraph (2) and paragraph (3), this pre-trial refinement may be executed only once, no later than seven days before the scheduled commencement of the trial, with mandatory delivery of the revised indictment copies to the investigator, the defendant, and legal counsel. This provision reflects the broader modernization of prosecutorial case management under the new criminal procedure regime, which—as analyzed by Henin Dyah Syafrina et al. (2026) in the context of plea bargaining and procedural efficiency—seeks to resolve charging inaccuracies early while preserving statutory safeguards.[22]

Articles 75 and 76 thus govern related yet distinct corrective mechanisms. Article 75 paragraph (4) regulates remedial amendment triggered by a judicial declaration of nullity, whereas Article 76 governs unilateral prosecutorial refinement or termination of prosecution prior to the setting of the trial date. Preserving the boundary between these two provisions is essential to avoid conflating post-ruling judicial remediation with pre-trial prosecutorial refinement. In this regard, Clara Panggabean (2026) raises a critical concern regarding whether prosecutorial remedies following a declaration of nullity undermine legal certainty and substantive fairness for the defendant by prolonging criminal jeopardy.[23] Similarly, while Pardamean Harahap, Galuh Candra Utami, and Talitha Kamilah (2025) situate the indictment within the general sequence of trial examination, the specific interplay between Article 75 paragraph (4), Article 75 paragraph (5), and Article 76 introduces a new procedural dynamic that requires strict

[22] Henin Dyah Syafrina, Slamet Sudi Illahi, Bintang Pramadhani Hariadi Putra, and Naura Tsurayya Hasnaa, "Model Pengaturan Plea Bargaining Dalam Pembaharuan Hukum Acara Pidana Indonesia," *Jurnal USM Law Review* 9, no. 1 (2026): 361–80, https://doi.org/10.26623/julr.v9i1.13391.
[23] Clara Panggabean, "Upaya Hukum Jaksa terhadap Dakwaan yang Batal Demi Hukum: Tidak Memberikan Kepastian Hukum dan Keadilan bagi Terdakwa?," *Sudut Pandang*, 2026, https://sudutpandang.id/upaya-hukum-jaksa-terhadap-dakwaan-yang-batal-demi-hukum-tidak-memberikan-kepastian-hukum-dan-keadilan-bagi-terdakwa/.

limitation.[24] Specifically, the statutory cap of a single amendment opportunity and the mandatory seven-day pre-trial deadline serve as normative constraints preventing the public prosecutor from exercising unlimited corrective discretion at the expense of the accused.

From the perspective of protecting the defendant's rights, the execution of indictment correction mechanisms must comply strictly with the right to receive timely notice of the charges and to prepare an effective defense. The statutory requirement under Article 75 paragraph (6) and Article 76 paragraph (3) to deliver copies of the initial and refined indictment to the investigator, the defendant, and legal counsel is not a mere administrative formality; rather, it constitutes a procedural due process guarantee ensuring that any modification to the scope of the accusation is communicated to the defense prior to adjudication. Consequently, the public prosecutor's authority to amend or refine an indictment is legally conditioned upon strict compliance with statutory deadlines, the single-correction limit, and mandatory notification rules.

Synthesizing the foregoing analysis, the regulation of indictments under the 2025 Criminal Procedure Code establishes a structured correlation between legal certainty, procedural regularity, and the protection of the defendant's rights. The drafting requirements under Article 75 paragraph (2) establish the threshold for an accusation's admissibility for judicial examination, while the rules governing statutory nullity and corrective procedures define the precise legal consequences and remedial limits applicable when pleading defects occur. Ultimately, the juridical implications of an indictment error cannot be assessed through generalized assumptions, but must be determined according to the specific nature of the defect, the statutory provision violated, and the procedural stage at which the defect is addressed—forming the analytical foundation for examining the normative strengthening of indictment preparation and pre-prosecution mechanisms in the subsequent subsection.

[24] Pardamean Harahap, Galuh Candra Utami, and Talitha Kamilah, "Mekanisme Pemeriksaan Perkara Pidana dalam Sistem Peradilan Pidana di Indonesia: Kitab Undang-Undang Hukum Acara Pidana," *Jurnal Hukum Lex Generalis* 6, no. 7 (2025): 1–14, https://doi.org/10.56370/jhlg.v6i7.3011.

2. Normative Strengthening of Indictment Preparation and Pre-Trial Corrective Mechanisms under the 2025 Criminal Procedure Code

a. *Dominus Litis* Accountability and Pre-Trial Case Screening

Strengthening the normative framework governing indictment preparation serves the dual purpose of maintaining the integrity of the prosecutorial process and safeguarding the procedural rights of the defendant. Within the architecture of Indonesian criminal procedure, the public prosecutor exercises case control under the *dominus litis* principle, acting as the primary institutional filter between police investigation and judicial adjudication. In analyzing this prosecutorial role, Frilia Shafitri Hardi (2025) demonstrates that material defects in formulating an indictment are not merely technical or clerical oversights, but directly implicate the institutional accountability of the public prosecutor as *dominus litis* and require mechanisms for restoring the prejudiced rights of the accused.[25] This perspective is reinforced by Ismi Ramadhoni et al. (2026), who observe that material inaccuracies in indictment drafting that result in evidentiary failure or procedural invalidation reflect a deficit in prosecutorial quality control prior to court transfer.[26] However, evaluating prosecutorial accountability in the abstract is insufficient unless it is anchored to the specific positive rules governing how indictments are screened, drafted, and corrected before trial examination commences.

From a comparative procedural perspective, preventing defective indictments from reaching the trial stage requires structured pre-trial screening mechanisms. Kukuh Dwi Kurniawan, Pujiyono, Irma Cahyaningtyas, and Hasnan Bachtiar (2026) emphasize that incorporating rigorous preliminary case screening—analogous to committal hearings—is necessary within Indonesian criminal procedure reform to verify the sufficiency of evidence and the validity of charges before a defendant is subjected to full adjudication.[27] Concurrently, Fachrizal Afandi and Ladito Risang Bagaskoro (2026) note that the

[25] Frilia Shafitri Hardi, "Akuntabilitas Jaksa Sebagai Dominus Litis Dalam Kesalahan Materiil Surat Dakwaan Dan Pemulihan Hak Terdakwa: The Accountability of Prosecutors as Dominus Litis in Cases of Material Errors in Indictments and Restoration of the Accused's Rights," *Jurnal Hukum Pidana Indonesia* 2, no. 2 (2025): 158–79, https://doi.org/10.67468/jhpi.v2i2.48.
[26] Ismi Ramadhoni et al., "Akuntabilitas Jaksa Penuntut Umum Sebagai Dominus Litis Atas Kesalahan Materiil Surat Dakwaan yang Berujung pada Putusan Bebas," *QOSIM: Jurnal Pendidikan Sosial & Humaniora* 4, no. 4 (2026): 1145–54, https://doi.org/10.61104/jq.v4i4.8944.
[27] Kukuh Dwi Kurniawan, Pujiyono, Irma Cahyaningtyas, and Hasnan Bachtiar, "Preliminary Examining Judges in Indonesian Criminal Procedure Reform: Lessons from Australia's Committal Hearings," *IJCLS (Indonesian Journal of Criminal Law Studies)* 11, no. 1 (2026): 175–212, https://doi.org/10.15294/ijcls.v11i1.25017.

institutional transition under the 2025 Criminal Procedure Code (*KUHAP Nasional*) requires coherent judicial and prosecutorial scrutiny to prevent procedural fragmentation during the pre-trial phase.[28] Similarly, Mayhardy Indra Putra et al. (2026) argue that the consolidation of prosecutorial authority under the *dominus litis* principle must be counterbalanced by strict normative standards of responsibility to ensure legal certainty.[29] Advancing these scholarly findings, the present study binds prosecutorial accountability directly to the statutory boundaries of Articles 75 and 76 of Law Number 20 of 2025, treating pre-trial case review and bounded corrective procedures as a unified normative standard.

b. Standardization of Juridical Case File Review Prior to Court Transfer

In the criminal justice process, an indictment does not merely articulate formal charges; it legally connects the factual findings of the preliminary investigation with the scope of judicial examination at trial. Consequently, the substantive validity of an indictment depends on the accuracy with which the alleged conduct is identified and correlated with the applicable penal provisions. Normative strengthening is therefore required to ensure that indictment preparation extends beyond administrative compliance and produces a legally measurable accusation capable of objective evidentiary verification in court.

Law Number 20 of 2025 concerning the Criminal Procedure Code establishes the primary normative benchmark for this process through Article 75 paragraph (2), which requires a careful, clear, and complete description of the charged offense specifying the time (*tempus delicti*) and place (*locus delicti*) of its commission. Using this provision as an evaluative standard, the public prosecutor is normatively obligated to verify the alignment between the investigation record, the underlying legal facts supporting prosecution, the statutory elements of the selected criminal offense, and the factual narrative articulated in the indictment. Maintaining strict correspondence across these four components prevents internal contradictions in the pleading, eliminates overly generalized allegations, and clarifies the precise conduct for which the defendant is held accountable. Recent empirical-juridical research by Ivander Juahta, and Ujuh Juhana

[28] Fachrizal Afandi and Ladito Risang Bagaskoro, "Judicial Scrutiny Under Indonesia's KUHAP 2025: Transplantation and Institutional Incoherence," *Brawijaya Law Journal* 11, no. 1 (2026): 25–57, https://doi.org/10.21776/ub.blj.2026.013.01.02.

[29] Mayhardy Indra Putra, Adwani Adwani, Riza Nizarli, and Joelman Subsidi, "Aligning Prosecutorial Responsibility and Authority: Strengthening the Dominus Litis Principle in Indonesia," *Jurnal Ilmiah Peuradeun* 14, no. 2 (2026): 311–36, https://doi.org/10.26811/peuradeun.v14i2.2340.

(2026) confirms that recurring defects in indictment drafting frequently stem from divergent evidentiary standards between investigators and prosecutors regarding element-by-element factual narration in examination dossiers.[30]

To mitigate these deficiencies, normative strengthening should be institutionalized through a standardized juridical review of the case dossier prior to its transfer to the district court. This pre-transfer review must evaluate four objective parameters: the completeness of factual information regarding the criminal event; the sufficiency of evidence supporting each statutory element of the charged offense; the logical and legal consistency between the description of the defendant's conduct and the penal statutes invoked; and the accuracy of the defendant's formal identity. Pursuant to Article 100 of the 2025 Criminal Procedure Code, any transfer of a case to trial must also rest upon a verified minimum standard of valid evidence as a baseline eligibility filter. Formulating this four-part review represents a prescriptive normative recommendation derived directly from the pleading requirements of the 2025 Criminal Procedure Code, rather than an empirical assertion that such review is already uniformly executed by all public prosecutors. Grounding pre-transfer verification in explicit statutory criteria enables prosecutorial compliance to be evaluated objectively prior to adjudication.

c. Strict Demarcation between Pre-Prosecution (*Prapenuntutan*) and Pre-Trial Indictment Refinement under Article 76

Beyond internal prosecutorial review, the structural relationship between the investigative stage and the prosecutorial stage requires clear procedural demarcation. Because the factual material formulated in an indictment originates from the preceding investigation, any ambiguity regarding the relevant facts, the fulfillment of offense elements, or the completeness of the dossier must be resolved before the case is transferred to the district court. Within this pre-transfer phase, the pre-prosecution (*prapenuntutan*) mechanism functions as the formal arena for institutional coordination and dossier completion between the investigator and the public prosecutor in accordance with applicable statutory procedures.[31] However, the legal basis, scope, and procedural

[30] Ivander Juahta, and Ujuh Juhana. "Investigator–Prosecutor Coordination in Indictment Drafting Under Indonesia's New Criminal Procedure Code: A Juridical Analysis at Purwakarta District Prosecutor's Office," *International Journal of Law, Crime and Justice* 3, no. 2 (2026): 1–10, https://doi.org/10.62951/ijlcj.v3i2.944.
[31] Ivander Juahta, and Ujuh Juhana. "Investigator–Prosecutor Coordination in Indictment Drafting Under Indonesia's New Criminal Procedure Code: A Juridical Analysis at Purwakarta District Prosecutor's Office," *International Journal of Law, Crime and Justice* 3, no. 2 (2026): 1–10,

posture of pre-prosecution must be strictly distinguished from the public prosecutor's authority to refine an indictment under Article 76 of the 2025 Criminal Procedure Code.

Maintaining this distinction is necessary because pre-prosecution and Article 76 refinement operate at different procedural stages and involve different legal mechanisms. Pre-prosecution governs inter-agency coordination between the investigator and the public prosecutor to rectify incomplete investigation files prior to the declaration that a dossier is complete. Conversely, Article 76 paragraph (1) of the 2025 Criminal Procedure Code governs the unilateral authority of the public prosecutor to refine an already drafted indictment (*menyempurnakan surat dakwaan*) or discontinue prosecution prior to the court establishing the trial date. Under Article 76 paragraph (2), this pre-trial refinement may be performed only once and no later than seven days before the scheduled commencement of the trial. Furthermore, Article 76 paragraph (3) obligates the public prosecutor to deliver copies of the refined indictment to the investigator, the defendant, and legal counsel. Consequently, indictment refinement under Article 76 is not an unrestricted prosecutorial power, but a statutorily bounded authority constrained by timing, frequency, and mandatory notice requirements.

In addition to pre-trial refinement under Article 76, Article 75 paragraph (4) of the 2025 Criminal Procedure Code provides a separate corrective mechanism by granting the public prosecutor a single opportunity to amend and resubmit an indictment after a judge declares it null and void by operation of law under Article 75 paragraph (3). While this provision demonstrates that the 2025 Criminal Procedure Code accommodates procedural remediation for defective indictments, the existence of a post-nullity amendment opportunity does not diminish the prosecutor's primary obligation to exercise diligence during initial drafting. Rather, Article 75 paragraph (4) must be interpreted alongside the validity standards of Article 75 paragraph (2) so that post-nullity amendment functions strictly as an exceptional corrective mechanism rather than a substitute for thorough initial preparation. The distinct statutory parameters governing pre-prosecution, pre-trial refinement under Article 76, and post-nullity amendment under Article 75 paragraph (4) are compared in Table 2.

https://doi.org/10.62951/ijlcj.v3i2.944; Afifatus Ummaroh and Gelar Ali Ahmad, "Kewenangan Jaksa Penuntut Umum Sebagai Pengendali Perkara (Dominus Litis) Tahap Pra-Penuntutan: Perbandingan Indonesia dan Korea Selatan," *Indonesian Journal of Contemporary Law* 2, no. 6 (2026): 1–15, https://journal.unesa.ac.id/index.php/ijcl/article/view/56479.

Table 2. Comparative Parameters of Pre-Prosecution, Pre-Trial Refinement, and Post-Nullity Amendment

Procedural Parameter	Pre-Prosecution (Prapenuntutan)	Pre-Trial Refinement (Article 76)	Post-Nullity Amendment (Article 75(4))
Procedural Stage	Pre-transfer investigation phase	Post-transfer before trial date setting	Preliminary trial examination post-ruling
Primary Legal Actors	Investigator and public prosecutor	Public prosecutor unilaterally	Public prosecutor upon judicial order
Object of Correction	Incomplete investigation dossier	Drafted indictment prior to trial	Indictment declared null and void
Correction Quota	Bounded by statutory pre-prosecution timelines	Maximum of one refinement	Maximum of one amendment
Statutory Deadline and Notice	Prior to formal case transfer	Seven days pre-trial; copies to defense	Post-interlocutory ruling; subject to objection

As structured in Table 2, separating these three mechanisms prevents procedural overlap and restricts arbitrary prosecutorial curing. Pre-prosecution addresses investigative insufficiency before the public prosecutor assumes full adjudicative responsibility through case transfer.[32] Once the indictment is formulated, Article 76 provides a narrow pre-trial window for unilateral prosecutorial refinement, whereas Article 75 paragraph (4) operates solely as a judicially triggered remedy following a declaration of statutory nullity. Adhering to the specific boundaries of each mechanism ensures that prosecutorial discretion remains subject to verifiable statutory limits throughout the pre-trial and preliminary trial phases.

d. Three Pillars of Normative Strengthening and Procedural Justice Guarantees for the Defendant

Normative strengthening of the indictment framework must concurrently prioritize the protection of the defendant's rights throughout any amendment or refinement process. The statutory requirement to deliver copies of a refined or amended indictment to the defendant and legal counsel ensures that the accused is formally apprised of the exact formulation of the charges that will govern the trial examination. Timely receipt of the charging instrument is a prerequisite for maintaining certainty regarding the scope of the case and enabling the defense to prepare an adequate legal response.[33] Therefore, the exercise of prosecutorial authority to refine or amend an indictment must comply strictly

[32] Ibid
[33] Erwin Susilo and Muhammad Rafi, "Bantuan Hukum dan Kebenaran (Veritas): Membongkar Norma yang Destruktif dan Menetapkan Rekonstruksi," *Jurnal Hukum IUS QUIA IUSTUM* 33, no. 2 (2026): 387–412, https://doi.org/10.20885/iustum.vol33.iss2.art6.

with the defendant's right to informational transparency and cannot deviate from the procedural limits established by the 2025 Criminal Procedure Code.

From the standpoint of legal certainty, the interplay between Article 75 and Article 76 establishes an objective benchmark for evaluating prosecutorial conduct and the validity of corrective measures when pleading defects arise. Article 75 paragraph (2) defines the substantive baseline for indictment sufficiency, while Article 75 paragraph (4) and Article 76 establish the exclusive procedural channels for post-nullity amendment and pre-trial refinement. Interpreting these provisions systematically prevents two erroneous extremes: the assumption that any indictment error can be amended indefinitely at the prosecutor's discretion, and the assumption that any minor clerical defect automatically renders an indictment null and void. Legal assessment must consistently proceed from the specific nature of the error, the statutory provision violated, and the procedural stage at which the issue occurs.

Synthesizing the foregoing doctrinal analysis, the normative strengthening of indictment preparation under the 2025 Criminal Procedure Code rests upon three prescriptive pillars. First, public prosecutors must consistently fulfill the substantive and formal pleading requirements stipulated in Article 75 paragraph (2) through standardized pre-transfer dossier verification. Second, institutional coordination between investigators and public prosecutors must be structured within clear statutory boundaries that strictly separate pre-prosecution dossier completion from pre-trial indictment refinement under Article 76. Third, corrective mechanisms under Article 76 and Article 75 paragraph (4) must be executed in strict compliance with statutory deadlines, the single-correction quota, and the mandatory delivery of indictment copies to the investigator, the defendant, and legal counsel. These three pillars derive directly from the normative structure of the 2025 Criminal Procedure Code, providing an objective framework that does not rely on speculative empirical assumptions regarding law enforcement performance. To illustrate how these three prescriptive pillars operate sequentially to safeguard both prosecutorial regularity and defendant rights, the integrated screening and correction workflow is presented in Figure 1.

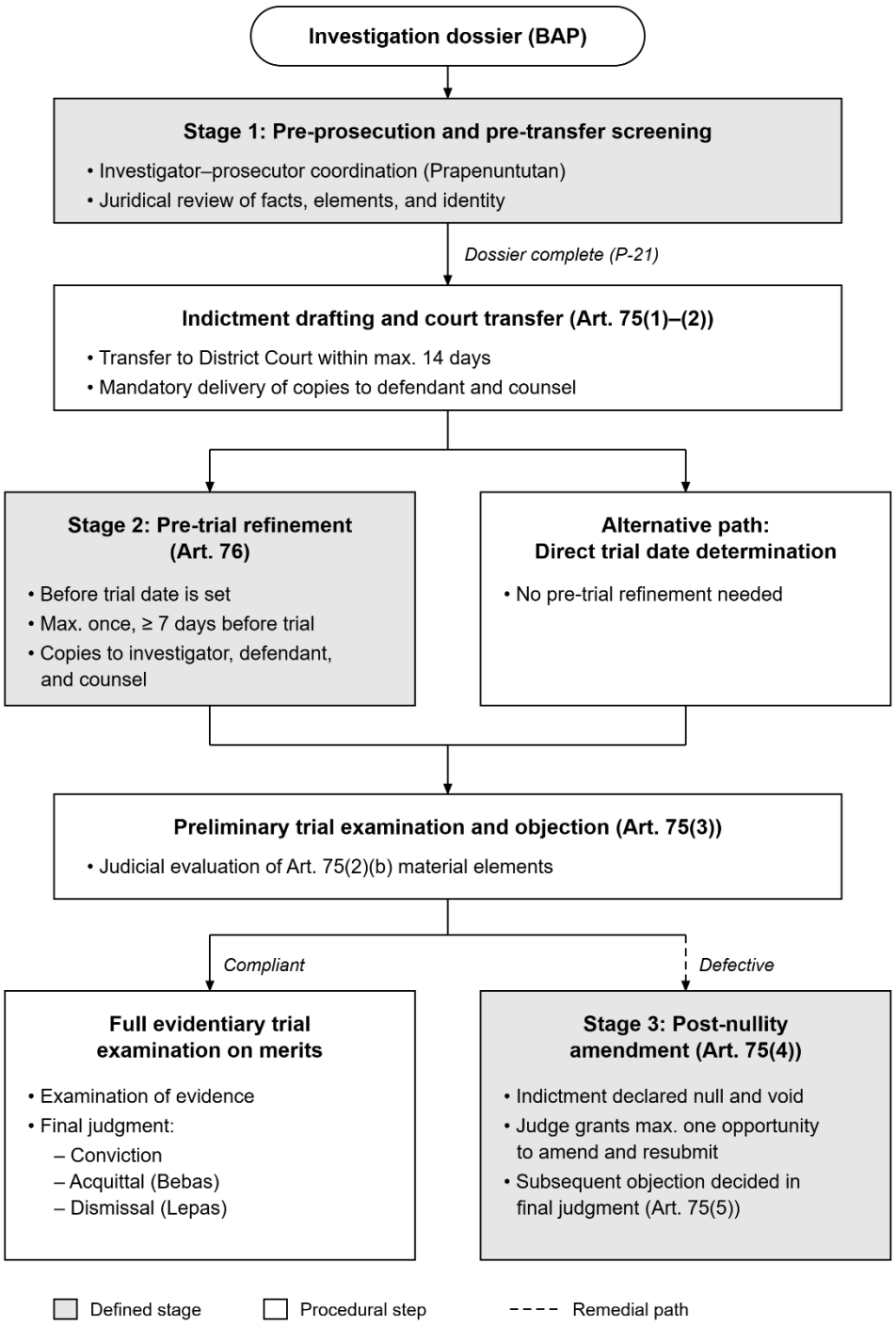

Figure 1. Schematic Flowchart of Pre-Trial Screening and Indictment Correction Mechanisms under the 2025 Criminal Procedure Code

As illustrated in Figure 1, the effectiveness of indictment regulation under the 2025 Criminal Procedure Code depends not only on the existence of statutory text, but on the consistent enforcement of procedural boundaries across each stage of case handling. While the statute provides explicit validity requirements and bounded remedial

mechanisms for evaluating and correcting charging instruments, the primary normative challenge lies in ensuring that law enforcement officials apply each mechanism strictly within its designated procedural scope. By enforcing pre-transfer juridical screening at Stage 1, restricting unilateral refinement to the seven-day pre-trial window at Stage 2, and confining judicial remediation to a single post-nullity opportunity at Stage 3, drafting errors can be systematically minimized and resolved through predictable legal procedures. Through this multi-tiered normative structure, the indictment fulfills its dual function as the foundational basis for criminal adjudication and an effective safeguard for legal certainty and the procedural rights of the defendant.

C. CONCLUSION

The 2025 Criminal Procedure Code regulates indictment drafting through the formal and material requirements of Article 75 paragraph (2) and attaches nullity by operation of law only to non-fulfillment of the material description of the offense, so pleading defects must be assessed by their nature, the provision violated, and the procedural stage, and kept distinct from evidentiary acquittal and substantive dismissal. These rules protect legal certainty and the defendant's rights by confining trial examination to the charged conduct and by requiring that copies of any refined or amended indictment reach the investigator, the defendant, and legal counsel. Normative strengthening therefore rests on three pillars: standardized pre-transfer dossier verification, strict separation of pre-prosecution coordination from pre-trial refinement under Article 76, and corrective mechanisms under Article 76 and Article 75 paragraph (4) that observe statutory deadlines, the single-correction limit, and mandatory notice. Applied consistently, these pillars restrict arbitrary prosecutorial curing and secure a fair criminal process.

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CRediT authorship contribution statement. N.S.H.: Conceptualization, Methodology, Formal analysis, Investigation, Writing – original draft. S.Y.I.: Supervision, Validation, Writing – review & editing. A.A.: Supervision, Validation, Writing – review & editing.

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