




Juridical Analysis of Prosecutor's Error in Adding Articles to the Indictment

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Abstract

This research investigates the procedural legality and judicial consequences of the Public Prosecutor's (JPU) error in adding paragraph norms to the indictment, with a focus on Decision No. 8/Pid.B/2025/PN Smg. In the Indonesian criminal justice system, the indictment serves as the legal basis for the court's decision. Errors in drafting the indictment can violate the rights of the accused and undermine the integrity of the legal system. In this case, the original charges referred to Articles 263(1), 264(1), and 266(1) of the Criminal Code. However, in the second indictment, the prosecutor added a paragraph stating that the defendant committed forgery of an authentic deed under Article 264(1), although this provision was not included in the original indictment. This study focuses on normative juridical research, also known as library or document study, which relies primarily on secondary data available in libraries. The study adopts a qualitative approach. The research found that the prosecutor's error was



caused by a lack of understanding of legal provisions, external pressures, and tight deadlines in preparing the indictment. The addition of the paragraph created legal uncertainty, which could potentially erode public confidence in the justice system. Based on these findings, this research recommends continuous legal training for prosecutors, strengthening oversight mechanisms in the prosecution process, and imposing sanctions for negligence to improve the quality of prosecution, protect defendants' rights, and maintain the integrity of Indonesia's criminal justice system.

Keywords

Juridical Analysis; Public Prosecutor's Errors; Indictment and Charges; Study of Criminal Decision No. 8/Pid.B/2025/PN Smg.

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Introduction

In the Indonesian legal system, the prosecution process plays a crucial role in ensuring law enforcement and justice. According to the 1945 Constitution of the Republic of Indonesia (UUD 1945), law enforcement is essential to achieving national goals.¹ The Prosecutor's Office, as an institution linked to judicial power, has the authority to exercise state power in the field of prosecution, as stipulated in Article 30 Paragraph (1) letter a of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. The role of the Public Prosecutor, as outlined in Article 182 Paragraph (1) of Law Number 8 of 1981 concerning Criminal Procedure (KUHAP), involves submitting criminal charges after the examination is complete, allowing the defendant or legal counsel to present a defense, and responding to defenses through written charges, pleadings, and rebuttals.²

In this context, the Public Prosecutor is required to base their indictment on evidence presented during the trial and follow the guidelines outlined in both the Criminal Procedure Code and the Attorney General's Circular Letter No. 3 of 2019. However, these guidelines do not specifically address changes to the charges during the trial process. The modification of charges, such as adding articles to the indictment, raises critical questions about the procedural integrity of the prosecution. This issue is significant because such errors could affect the fairness of the trial, violate the defendant's rights, and undermine public

¹ Aras Firdaus, "Implementation Of The Prosecution Process In The Criminal Justice System At The Attorney General's Office," *Veteran Law Review* 5, No. 2 (November 2022): 162, <https://doi.org/10.35586/Velrev.V5i2.4349>.

² Armen Wijaya And Faisal Santiago, "Enforcement Of State Law By The Republic Of Indonesia Attorney General's Office In The Perspective Of Law Number 16 Of 2004," *Devotion : Journal Of Research And Community Service* 5, No. 6 (June 2024): 664–71, <https://doi.org/10.59188/Devotion.V5i6.741>.

trust in the legal system.³

The urgency of this topic lies in the juridical implications of prosecutor errors in modifying indictments, which can compromise the integrity of the criminal justice system. Philosophically, justice requires that legal procedures be transparent and fair to ensure the protection of individual rights.⁴ Sociologically, errors in legal proceedings, especially those made by state actors such as prosecutors, can erode public confidence in law enforcement and the justice system as a whole. This study focuses on the juridical analysis of such errors, aiming to provide a deeper understanding of their consequences within the context of Indonesian criminal procedure law.

However, in practice, errors often occur in the preparation of indictments, which can have severe consequences not only for the defendant but also for the integrity of the judicial system as a whole. From a juridical perspective, changes or additions of articles or clauses in the indictment without proper procedures create legal uncertainty and call into question the validity of the prosecution process. This violates the principle of legality, which forms the fundamental basis of the Indonesian criminal justice system, where every indictment must be grounded on clear legal provisions and valid evidence. Non-compliance with these procedures may infringe upon the defendant's right to a fair and transparent legal process.⁵

From a philosophical standpoint, the law must be enforced by

³ Danang Yudha Prawira, Tofik Yanuar Chandra, And Mohamad Ismed, "Legalitas Perubahan Tuntutan Pada Jawaban Penuntut Umum Atas Pledooi Terdakwa Dari Perspektif Hukum Acara Pidana," *Sentri: Jurnal Riset Ilmiah* 3, No. 2 (February 2024): 633–43, <https://doi.org/10.55681/Sentri.V3i2.2303>.

⁴ Anis Widyawati et al., "Dynamics of the Penitentiary System, Transparent and Accountable Handling of Criminal Cases in Criminal Execution Law in Southeast Asia: Convergence and Divergence of International Perspectives," *Indonesia Law Review* 15, no. 1 (2025): 15–35, <https://doi.org/https://doi.org/10.15742/ilrev.v15n1.1>.

⁵ Neil Parpworth, "Consenting To Prosecutions: The Legal Consequences Of Non-Compliance With The Requirement," *The Journal Of Criminal Law* 86, No. 5 (October 2022): 368–71, <https://doi.org/10.1177/00220183221123417>.

upholding the principles of justice, transparency, and accountability. Errors in drafting indictments, especially the addition of provisions without strong justification, contradict moral and ethical legal values. Law is not merely a formal rule but a reflection of justice that must be upheld so that society experiences certainty and protection. Inaccuracies in prosecution processes can undermine the sense of justice, which is foundational to a civilized legal system.⁶

From a sociological perspective, errors committed by the Public Prosecutor in the indictment can erode public trust in judicial institutions and law enforcement. Legal uncertainty and violations of defendants' rights may cause social unrest and foster negative perceptions of the justice system. A society that loses trust in legal processes is vulnerable to social instability and diminished legitimacy of the overall legal system. Therefore, procedural integrity and accuracy in drafting indictments are essential to maintaining social stability and public confidence in justice.⁷

In the case study of the Semarang District Court Decision Number: 8/Pid.B/2025/PN Smg, involving defendant Notary Yustiana Servanda, S.H., M.Kn, an improper amendment was made by adding Article 264 paragraph (1) point 1 of the Criminal Code, which was not originally included in the indictment. This addition raises serious questions regarding the validity of the prosecutor's actions and its impact on the defendant's rights and the fairness of the legal process. Thus, analyzing this phenomenon is crucial not only from a legal standpoint but also in terms of justice values and its broader societal implications.

⁶ Ferlyanto Marasin And Zulkarnein Koto, "Rungkad Hakekat Penuntutan Dalam Penjelasan Pasal 132 Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana (Kuhp Baru) Dan Kegagalan Penyidik/ Penyidik Pembantu Polri," *Jurnal Ilmu Kepolisian* 18, No. 1 (April 2024), <https://doi.org/10.35879/jik.v18i1.439>.

⁷ Adinda Isya Handy Putri Et Al., "The Public Trust Impact Of Violations Of Ethical Codes In Constitutional Court Decisions," *Problematika Hukum* 6, No. 2 (March 2024): 106, <https://doi.org/10.33021/ph.v6i2.5162>.

The novelty of this research lies in its focused examination of the addition of paragraphs in indictments, analyzed through both juridical and empirical approaches based on recent and concrete case examples. Procedurally, this study addresses the specific issue of indictment modifications made during the prosecution phase an area that has been largely overlooked in prior literature, which tends to concentrate on the formal validity and substantive content of the original indictment.⁸ Substantively, the research sheds light on how such procedural changes affect defendants' legal rights and the overall fairness of the criminal justice process, aspects insufficiently explored in earlier works.⁹ The legal importance of this focus stems from the potential for unauthorized modifications to generate legal uncertainty, infringe upon procedural guarantees, and ultimately compromise the integrity of the criminal justice system. By bridging this gap, the study provides a significant contribution to the body of knowledge on criminal procedural law in Indonesia, offering insights essential for improving prosecutorial practices and safeguarding defendants' rights.

Method

This study employs a normative juridical method with a case study approach to analyze errors made by the Public Prosecutor in adding paragraphs to the indictment, based on the Semarang District Court

⁸ Khaidir Khaidir, Md Shodiq, And Dedy Ardian Prasetyo, "Review Of The Validity And Legal Justice Of The Prosecutor's Demands In The Corruption Case Number: 2/Pid.Sus.Tpk/2023/Pn.Mks," *Maqasidi: Jurnal Syariah Dan Hukum*, December 2024, 357–66, <https://doi.org/10.47498/Maqasidi.V4i2.3456>.

⁹ Antonius Bangun Silitonga, Marthen Napang, And Amir Ilyas, "Legal Uncertainty In Criminal Justice: A Study Of The Practice Of Changing Charges In Replicas Based On The Criminal Procedure Code," *Journal Of Management World* 2025, No. 2 (January 2025): 133–42, <https://doi.org/10.53935/Jomw.V2024i4.882>.

Decision Number: 8/Pid.B/2025/PN Smg.¹⁰ The data utilized include primary data in the form of court decisions and related indictments, secondary data comprising legal literature such as laws, journals, and books, as well as empirical data obtained through in-depth interviews with relevant legal experts and practitioners. Data collection was conducted through library research, purposive interviews, and the gathering of official documents.¹¹ The data were analyzed qualitatively by examining relevant legal doctrines and triangulating findings from literature review, interviews, and case documents to gain a comprehensive understanding of the procedural errors. Furthermore, a critical analysis was performed on the legal implications and juridical consequences of the paragraph additions, including their impact on defendants' rights and the integrity of the criminal justice system. Data validity was maintained through source and method triangulation to ensure accuracy and consistency of information.

Result and Discussion

A. Legal Context and the Role of Public Prosecutors

Public prosecutors have a central role in the criminal justice system, acting as representatives of the state in the prosecution process.¹² In this regard, the public prosecutor is responsible for drafting the indictment containing the charges against the defendant. The indictment is not just a formality, but is

¹⁰ Febrianto Gunawan Et Al., "Peran Bantuan Hukum Terhadap Tersangka Dalam Proses Penyidikan," *Jurnal Usm Law Review* 7, No. 3 (December 2024): 2043–53, <https://doi.org/10.26623/julr.v7i3.11056>.

¹¹ Madiareni Sulaiman Et Al., "Dataset Untuk Peran Pustakawan Data Dalam Meningkatkan Literasi Dan Kapasitas Pengelolaan Data Penelitian Bagi Komunitas Penelitian Dan Profesional Informasi Di Indonesia," *Baca: Jurnal Dokumentasi Dan Informasi*, December 2024, 43–50, <https://doi.org/10.55981/Baca.2024.7829>.

¹² Dhea Sintya Siahaan And Janpatar Simamora, "The Role And Responsibilities Of Public Prosecutors At The Binjai District Attorney's Office In The Criminal Justice Process," *Golden Ratio Of Data In Summary* 5, No. 1 (December 2024): 07–14, <https://doi.org/10.52970/Grdis.V5i1.805>.

a legal document that underlies the court's actions.¹³ As stipulated in Article 137 of the Criminal Procedure Code (KUHP), the public prosecutor has the right to determine the article to be applied, but this authority must be exercised carefully and based on the existing legal facts.¹⁴ In the context of Decision No: 8/Pid.B/2025/PN Smg, there is a significant change in the paragraph made by the public prosecutor, which needs to be analyzed further.

The Public Prosecutor (JPU) holds absolute authority, known as the principle of *dominus litis*, in conducting prosecutions.¹⁵ This authority is stipulated in Article 1 point 6 letter a of the Indonesian Criminal Procedure Code (KUHP), which states that the prosecutor is an official empowered by law to act as the Public Prosecutor and to execute court decisions that have obtained permanent legal force. Furthermore, Article 1 point 6 letter b of KUHP defines the Public Prosecutor as the prosecutor authorized to carry out prosecutions and implement judicial rulings.¹⁶ This authority places the prosecutor at the core of the criminal justice process, from drafting indictments to executing court verdicts. Therefore, the Public Prosecutor is obligated to perform their duties responsibly and in

¹³ S. Volochii, "On The Concept And Content Of The Prosecutor's Legal Claims In The Administrative Delict Aspect," *Uzhhorod National University Herald. Series: Law* 2, No. 79 (October 2023): 30–34, <https://doi.org/10.24144/2307-3322.2023.79.2.4>.

¹⁴ Himawan Himawan, Kristiawanto Kristiawanto, And Mohamad Ismed, "Peranan Jaksa Sebagai Dominus Litis Dalam Menuntut Uang Pengganti Akibat Tindak Pidana Korupsi Yang Bersinggungan Dengan Tindak Pidana Perpajakan," *Salam: Jurnal Sosial Dan Budaya Syar-I* 9, No. 5 (August 2022): 1421–32, <https://doi.org/10.15408/Sjsbs.V9i5.27506>.

¹⁵ Marjudin Djafar And Tofik Yanuar Chandra, "Kewenangan Penuntut Umum Selaku Dominus Litis Dalam Penghentian Penuntutan Berdasarkan Keadilan Restoratif," *Salam: Jurnal Sosial Dan Budaya Syar-I* 9, No. 4 (June 2022): 1075–86, <https://doi.org/10.15408/Sjsbs.V9i4.26640>.

¹⁶ Budi Mulya Et Al., "Asas Dominus Litis Bagi Kejaksaan Dalam Penuntutan Tindak Pidana Berdasarkan Undang-Undang," *Wajah Hukum* 6, No. 2 (October 2022): 367, <https://doi.org/10.33087/Wjh.V6i2.950>.

accordance with applicable legal procedures to uphold justice and legal certainty.¹⁷

In the case study of Semarang District Court Decision Number: 8/Pid.B/2025/PN Smg, the Public Prosecutor's authority to draft and submit indictments must be exercised accurately and comply with both formal and substantive legal norms. However, in this case, an additional paragraph was inserted into the indictment that was not present in the original charge. This amendment raises critical questions about the limits of the Public Prosecutor's authority to modify indictment content. Adding paragraphs without clear procedural justification can result in legal uncertainty, potentially violate the defendant's right to a fair trial, and undermine the principles of legality and fairness within the criminal justice system. This situation highlights the importance of monitoring and controlling prosecutorial authority to prevent misuse or procedural errors.¹⁸

Therefore, a thorough examination of the Public Prosecutor's authority in drafting indictments is essential. This study aims to provide practical recommendations such as strengthening internal and external oversight mechanisms and continuous training for prosecutors to enhance their legal understanding and technical skills in indictment preparation. These measures are expected to improve the quality of prosecution, protect defendants' rights, and maintain the integrity of Indonesia's criminal justice

¹⁷ Naomi Artadinata And Sahuri Lasmadi, "Pengaturan Jaksa Penuntut Umum Dalam Penanganan Tindak Pidana Korupsi Berdasarkan Asas Dominus Litis," *Pampas: Journal Of Criminal Law* 4, No. 3 (December 2023): 311–21, <https://doi.org/10.22437/Pampas.V4i3.28637>.

¹⁸ Djafar And Chandra, "Kewenangan Penuntut Umum Selaku Dominus Litis Dalam Penghentian Penuntutan Berdasarkan Keadilan Restoratif."

system. Furthermore, these efforts contribute to sustaining public trust in the enforcement of law and effective, equitable justice.¹⁹

The Public Prosecutor (JPU) holds various powers as outlined in the Indonesian Criminal Procedure Code (KUHAP). One of the key powers of the Public Prosecutor is to receive notifications from investigators after the initiation of a criminal investigation, as stipulated in Article 109 paragraph (1), as well as regarding the cessation of the investigation by law (Article 6 paragraph (1) letter b). The Public Prosecutor is also authorized to receive the case files in the first and second stages from the investigator, in accordance with Article 8 paragraph (3) letters a and b, and to receive the case files directly from the Assistant Investigator in expedited procedures (Article 12). Additionally, the Public Prosecutor may conduct a pre-prosecution review (Article 14 letter b), execute arrests, grant extensions of detention as per Article 20 paragraph (2) and Article 124 paragraph (2), and provide a suspension of detention at the request of the defendant (Article 31 KUHAP). The Public Prosecutor also has the authority to restrict or prohibit the communication between defense counsel and the suspect or defendant if there are concerns about the abuse of rights (Article 70 paragraph (4)).²⁰

In the context of prosecution, the Public Prosecutor has the authority to prepare the indictment, as stipulated in Article 140 paragraph (1) KUHAP, and to issue a Decision on the Cessation of Prosecution (SP3) according to Article 140 paragraph (2). The Public Prosecutor may also amend the indictment before the court sets the trial date, or at the latest

¹⁹ Muhammad Ramzan Kasuri, Ata Ullah Khan Mahmood, And Ghufraan Ahmed, "Proactive Role Of Public Prosecutors In The Administration Of Criminal Justice: A Way Forward For Pakistan," *Global Legal Studies Review* Vi, No. Ii (June 2021): 27–36, [https://doi.org/10.31703/Glsr.2021\(Vi-Ii\).05](https://doi.org/10.31703/Glsr.2021(Vi-Ii).05).

²⁰ Siahaan And Simamora, "The Role And Responsibilities Of Public Prosecutors At The Binjai District Attorney's Office In The Criminal Justice Process."

seven days before the trial begins, as stated in Article 144 KUHAP.²¹ This authority allows the Public Prosecutor to refine or adjust the charges based on the developments in the investigation, ensuring that the indictment presented at trial is aligned with the available evidence and follows due legal procedures. These powers support the Public Prosecutor's role in ensuring that the judicial process is fair and compliant with the applicable law.²²

The criminal procedure process starts from the investigation stage to the Court decision stage which has permanent legal force, but in this case the author will only discuss the criminal procedure process which is the duty of the Public Prosecutor, namely:

1) Indictment

The Criminal Procedure Code (KUHP) does not explain what an indictment is. In simple terms, an indictment is a letter or deed containing the formulation of a criminal offense charged against the defendant which is concluded and drawn from the results of the investigation, and is the basis and foundation for the judge in the examination before the court.²³

The indictment serves as a fundamental document in criminal procedural law, as it forms the basis for case examination by judges in court. According to Harun M. Husein, an indictment is a document signed by the Public Prosecutor containing the defendant's complete identity, a detailed description of the alleged criminal act including its

²¹ Azizul Hakiki, "Surat Perintah Penghentian Penyidikan (Sp3) Yang Diterbitkan Berdasarkan Perdamaian Antara Tersangka Dan Pelapor Dalam Delik Biasa," *Jurnal Riset Rumpun Ilmu Sosial, Politik Dan Humaniora* 1, No. 2 (June 2022): 12–22, <https://doi.org/10.55606/Jurrissh.V1i2.113>.

²² Enio Mateo Totić, "The Role Of The Public Prosecutor's Office Within Criminal Proceedings," *Science International Journal* 3, No. 4 (December 2024): 67–72, <https://doi.org/10.35120/Sciencej0304067t>.

²³ M. Yahya Harahap, *Pembahasan Permasalahan Dan Penerapan KUHAP Penyidikan Dan Tuntutan* (Jakarta: Sinar Jakarta, 2005). Hal 386-387

legal elements, and information on the time and place of the offense.²⁴ This document defines the scope of examination during the trial. The indictment holds critical functions for all parties involved in the criminal justice process: for the Public Prosecutor, it acts as the primary reference in submitting charges, drafting legal documents such as requisitions and replies, and pursuing legal remedies without deviation; for the defendant and legal counsel, it serves as the basis for filing exceptions, defenses, replies, and other legal actions; and for judges, it guides the adjudication process, the assessment of the defendant's guilt, and deliberations for rendering decisions. Therefore, the indictment is not merely a formal legal instrument but also ensures consistency and fairness throughout the criminal justice process.²⁵

An indictment is a crucial document in Indonesia's criminal justice process, serving as the basis for judges to examine and decide cases. According to Article 143 of the Indonesian Criminal Procedure Code (KUHAP), an indictment must fulfill two main requirements: formal and material.²⁶ The formal requirements, as stipulated in Article 143 paragraph (2) letter a of KUHAP, mandate that the indictment include the date of issuance, the complete identity of the defendant such as full name, place and date of birth, gender, nationality, residence, religion, and occupation and must be signed by the Public Prosecutor who drafts the indictment. These formalities are

²⁴ Harun M. Husein, *Surat Dakwaan Teknik Penyusunan, Fungsi Dan Permasalahannya* (Jakarta: Rineka Cipta, 1994). Hal 43

²⁵ Lilia Stadnitchi, "Standards Of The Right To Defense Accusation Submission," *Studii Juridice Universitare*, No. 2 (November 2024): 131–44, <https://doi.org/10.54481/Sju.2023.2.09>.

²⁶ Chrysta Kusuma And Ardison Asri, "Pertanggungjaawaban Pidana Pelaku Tindak Pidana Penggelapan (Analisis Putusan Pengadilan Negeri Bekasi Nomor 120/Pid.B/2019/Pn.Bks)," *Indonesian Journal Of Multidisciplinary Sciences (Ijoms)* 3, No. 2 (December 2024): 220–35, <https://doi.org/10.59066/Ijoms.V3i2.1036>.

essential to ensure the indictment's legal validity in court proceedings.²⁷

The material requirements under Article 143 paragraph (2) of KUHAP demand that the indictment contains a precise, clear, and comprehensive description of the alleged criminal act. It must specify the time and place of the offense in detail. Precision means the prosecutor must draft the indictment based on applicable laws while avoiding errors that could invalidate it. Clarity requires that the elements of the alleged crime be clearly formulated, accompanied by a description of the defendant's factual conduct. Completeness implies that all legal elements required by law are fully included in the indictment.²⁸

In practice, several forms of indictments are recognized in Indonesia. A single indictment contains one criminal charge based on a single article of law, such as fraud under Article 378 of the Indonesian Criminal Code (KUHP). An alternative indictment lists multiple charges, but the prosecutor intends to prove only one, for example, theft (Article 362 KUHP) or receiving stolen goods (Article 480 KUHP).²⁹ A subsidiary indictment arranges charges hierarchically from the most severe to the less severe, such as premeditated murder (Article 340 KUHP) and ordinary murder (Article 338 KUHP).³⁰ A

²⁷ Rizki Firdaus Nuryana Basri And Maria Silvy E. Wangga, "Penerapan Syarat Materiil Surat Dakwaan Pidana Pengeroyokan Pada Putusan Nomor : 813/Pid.B/2023/Pn.Sby," *Reformasi Hukum Trisakti* 6, No. 3 (August 2024): 1247–57, <https://doi.org/10.25105/Refor.V6i3.21195>.

²⁸ Husni Fahri Fani And Dini Dewi Heniarti, "Pertanggung Jawaban Hukum Aparat Kepolisian Atas Tindakan Salah Tangkap Di Tinjau Dari Kuhap Dan Peraturan Polri No 14 Tahun 2011 Tentang Kode Etik Profesi Polri," *Bandung Conference Series: Law Studies* 2, No. 2 (August 2022), <https://doi.org/10.29313/Bcsls.V2i2.3032>.

²⁹ Rizki Firdaus Nuryana Basri And Maria Silvy E. Wangga, "Penerapan Syarat Materiil Surat Dakwaan Pidana Pengeroyokan Pada Putusan Nomor : 813/Pid.B/2023/Pn.Sby."

³⁰ Fransiska Khatrine, "Criminal Law Reform Of The Existence Of Article 378 Of The Criminal Code In Land Cases," *Jurnal Indonesia Sosial Sains* 5, No. 04 (May 2024): 859–75, <https://doi.org/10.59141/Jiss.V5i04.1082>.

cumulative indictment involves multiple unrelated offenses committed by the same defendant, like murder and theft. Finally, a combination indictment merges several types of indictments within one charge.³¹ Understanding these requirements and indictment types is vital to ensure a fair and lawful criminal justice process. Properly drafted indictments protect the defendant's rights and guarantee legal certainty for all parties involved.³²

2) Public Prosecutor's Letter of Demand

The Public Prosecutor (JPU) acts as the state's representative responsible for prosecuting individuals accused of criminal offenses.³³ The Attorney General's Office of the Republic of Indonesia, as a state institution, holds specific authority to conduct prosecutions. According to Article 1 point 7 of the Indonesian Criminal Procedure Code (KUHAP), prosecution refers to the action taken by the Public Prosecutor to submit cases to the competent District Court for examination and adjudication by judges in accordance with applicable legal provisions.³⁴

The indictment is a crucial element in the prosecution process. It must be prepared in writing and read aloud in court, as stipulated in Article 182 paragraph (1) letter c of KUHAP. The content of the indictment generally contains the Public Prosecutor's conclusion

³¹ Joelyan Joelyan, "Criminal Against Assistant (Medeplichtige) In Cases Of Embracketing In Office And Fraud (Case Study Of Decision Of Central Jakarta State Court Number 1194/Pid.B/2018/Pn Jkt.Sel)," *Hermeneutika: Jurnal Ilmu Hukum* 7, No. 1 (February 2023): 68, <https://doi.org/10.33603/Hermeneutika.V6i3.8325>.

³² C. A. H. And Frederick R. Coudert, "Certainty And Justice," *Harvard Law Review* 27, No. 5 (March 1914): 498, <https://doi.org/10.2307/1326859>.

³³ Firdaus, "Implementation Of The Prosecution Process In The Criminal Justice System At The Attorney General's Office."

³⁴ Artadinata And Lasmadi, "Pengaturan Jaksa Penuntut Umum Dalam Penanganan Tindak Pidana Korupsi Berdasarkan Asas Dominus Litis."

regarding whether the defendant is proven to have committed the alleged crime. If proven, the indictment specifies the requested sentence; if not proven, it requests the acquittal of the defendant.³⁵ The letter of indictment (*requisitoir*) contains matters concerning:

- a. The criminal act charged;
- b. Facts obtained in the trial;
- c. Legal analysis of the facts to provide a legal construction of the events charged;
- d. Opinion on whether or not the charges are proven;
- e. Request from the Public Prosecutor to the panel of judges.

The indictment (*requisitoir*) contains several essential elements, including the alleged criminal act, facts obtained during the trial, a legal analysis of those facts to construct the legal framework of the incident, an opinion on whether the charges are proven, and the Public Prosecutor's request to the panel of judges.³⁶ In practice, the alleged criminal act is typically copied in full from the indictment and placed at the beginning of the indictment. Trial facts are systematically arranged, starting from witness testimonies, expert witnesses, the defendant's statements, to physical evidence, with an emphasis on accurate and transparent documentation. The legal analysis focuses on constructing the factual circumstances of the case, the legal

³⁵ Jelly Leviza Azwarman, Syafruddin Kalo, Madiasa Ablisar, "Analisis Yuridis Bentuk Surat Dakwaan Jaksa Penuntut Umum Dalam Perkara Tindak Pidana Korupsi (Studi Kasus Korupsi Pada Kejaksaan Negeri Kabanjahe)," *Iuris Studia: Jurnal Kajian Hukum*, September 2021, <https://doi.org/10.55357/Is.V2i3.160>.

³⁶ Darmadi Djufri, "Proses Pemeriksaan Perkara Di Muka Persidangan Pada Dakwaan Tindak Pidana Dan Benda Sitaan Dalam Proses Peradilan," *Solusi* 20, No. 1 (January 2022): 49–63, <https://doi.org/10.36546/Solusi.V20i1.527>.

interpretation of those facts, and drawing conclusions from both constructions to establish the validity of the charges.³⁷

A well-prepared indictment (*requisitoir*) must contain an objective, accurate, and clear legal construction that illustrates the relationship between facts and the law. Such clarity enables the drawing of a correct legal conclusion regarding whether the alleged crime is proven, the defendant's culpability, and their capacity to bear criminal responsibility for the incident. Accurate conclusions grounded in legal doctrine and supported by social sciences reflect the professionalism and quality of the Public Prosecutor. Furthermore, the prosecutor must consider the role and circumstances of the defendant in the offense when determining the severity of the charges. Ultimately, the judge's decision takes into account the prosecutor's demands in sentencing or acquitting the defendant.³⁸

B. Legal Analysis of the Error in Adding Paragraph Norms in the Prosecutor's Letter of Demand

In the case of the Semarang District Court Decision, No: 8/Pid.B/2025/PN Smg, the Public Prosecutor (JPU) of the Central Java High Prosecutor's Office M. Agus, S.H and Lilik Andrianto. S.H., M.H, in their indictments read out at the first trial, still remain as based on the Prosecutor's Letter of Delegation on Wednesday, January 8, 2025, with the Letter of Delegation Number: B-82/M.3.10/Eku.2/01/2025, in their indictments the prosecutor stated that the actions of the Defendant Yustiana Servanda, S.H., M.Kn. as regulated and subject to the first criminal

³⁷ Prawira, Chandra, And Ismed, "Legalitas Perubahan Tuntutan Pada Jawaban Penuntut Umum Atas Pledooi Terdakwa Dari Perspektif Hukum Acara Pidana."

³⁸ Di. Silalahi And Khamim Khamim, "Analisis Yuridis Tindak Pidana Penggelapan Berdasarkan Pasal 372 Kitab Undang-Undang Hukum Pidana," *Hukum Dan Demokrasi (Hd)* 24, No. 4 (July 2024), <https://doi.org/10.61234/Hd.V24i4.68>.

penalty of Article 263 paragraph (1) of the Criminal Code. Or the second actions of the defendant Yustiana Servanda, SH., M.Kn. as regulated and threatened with criminal penalties according to Article 264 paragraph (1) of the Criminal Code. Or the three actions of the defendant Yustiana Servanda, SH. MKn Bin Suwartono Siswodarsono as regulated and threatened with criminal penalties according to Article 266 paragraph (1) of the Criminal Code. If observed carefully, there is no clause using the norm of paragraph 1 to 1 of the Criminal Code.

In the initial indictment presented by the Public Prosecutor, there was no clause referring to the use of Article 1 of the Criminal Code (KUHP). However, in the indictment read on Thursday, March 13, 2025, the Public Prosecutor of the Central Java High Prosecutor's Office clearly added this clause. The prosecutor's demand stated that "the defendant, Yustiana Servanda, S.H., M.Kn, was legally and convincingly proven guilty of committing the aggravated crime of document forgery, specifically the forgery of authentic deeds as regulated and punishable under Article 264 paragraph (1) point 1 of the KUHP in the second indictment." This addition marked a significant change to the initial indictment, creating uncertainty regarding its validity.

According to Article 144 of the Indonesian Criminal Procedure Code (KUHAP), the Public Prosecutor has the authority to amend the indictment before the court sets the trial date or at the latest seven days before the trial begins. This article ensures that any amendment is made within a specified time frame to guarantee legal certainty.³⁹ However, in this case, the addition of the legal clause was made outside of the time period set by Article 144 KUHAP, violating the procedural requirements. As a result, this amendment to the indictment was not in compliance with the

³⁹ Eleni Sava, "The Change In The Legal Classification Of The Criminal Offense And The Right To Defense In The Trial," *Academic Journal Of Business, Administration, Law And Social Sciences* 10, No. 2 (July 2024): 33–40, <https://doi.org/10.2478/Ajbals-2024-0013>.

established legal procedure, which could potentially undermine the fairness of the judicial process and the defendant's right to a transparent legal process.⁴⁰

This can be seen in Decision No.: 8/Pid.B/2025/PN Smg, which was decided in the deliberation session of the Panel of Judges of the Semarang District Court, on Monday, March 24, 2025, with the Chairperson of the panel being Novrida Diansari, SH, MH, Kukuh Kalinggo Yuwono, SH, MH, Setyo Yoga Siswantoro, SH, MH, each as Member Judges, which was pronounced in an open session for the public on Wednesday, March 26, 2025, in the trial assisted by Utama, S.H., Substitute Clerk at the Semarang District Court. In its verdict, the panel of judges stated that the Defendant Yustiana Servanda, S.H., M.Kn. above, was proven legally and convincingly guilty of committing the crime of "*Forgery of Authentic Letters*" as referred to in the second indictment.

The addition of the article in the indictment directly impacts the severity of the sentence imposed on the defendant. Article 264 paragraph (1) of the Criminal Code (KUHP) introduced in the amended indictment stipulates a maximum prison sentence of six years for the forgery of authentic documents, which is more severe compared to the previous articles cited in the indictment, such as Article 264 paragraph (1) point 1 KUHP. By adding Article 264 paragraph (1) point 1 KUHP, the prosecution's demand for a harsher penalty was justified. Additionally, this change increases the burden of proof for the Public Prosecutor, as they must now prove that the defendant's actions meet the elements of a more serious criminal offense under Article 264 paragraph (1) KUHP. In other words, the Public Prosecutor must provide sufficient evidence to

⁴⁰ Prawira, Chandra, And Ismed, "Legalitas Perubahan Tuntutan Pada Jawaban Penuntut Umum Atas Pledooi Terdakwa Dari Perspektif Hukum Acara Pidana."

demonstrate that the defendant committed the forgery of documents in accordance with the requirements outlined in the newly included article.

If we look closely, the contradictory clause can be seen from the considerations of the panel of judges stated on page 175 of 180 in decision Number: 8/Pid.B/2025/PN Smg. Where in its considerations the panel of judges stated that after reading the indictment, the panel of judges was of the opinion that the Public Prosecutor was inconsistent between the considerations and the demands of the sentence itself. Another consideration is that the Public Prosecutor believes that the losses incurred are only potential losses, and only because he considers the Defendant to be convoluted and does not feel guilty and does not admit his actions, the Defendant is charged with a fairly high sentence (namely a prison sentence of 3 (three) years), while in fact the Defendant's involvement in making the deed was not the defendant's wish, then the losses due to the making of the deed were not clearly disclosed in the trial, so that regarding this situation, the panel of judges is of the opinion that the criminal charges filed by the Public Prosecutor are not appropriate against the Defendant.

Procedural errors in amending indictments can result in the indictment being declared invalid. Legal provisions regulating indictment amendments, such as deadlines and the obligation to notify the defendant or their legal counsel, must be strictly observed. Failure to comply with these requirements may create legal uncertainty, harm the defendant's rights, and disrupt the smooth administration of justice. Therefore, adherence to formal procedures in indictment amendments is crucial to maintain the integrity of the criminal justice system and to ensure legal protection for all parties involved.⁴¹ This violates the provisions of Article 144 paragraph (1) of the Criminal Procedure Code which states: "*The*

⁴¹ Erwin Susilo Et Al., "Legalized Injustice In Indonesia: Violation Of The Defendant's Right To Be Heard Last At Trial," *Journal Of Management World* 2025, No. 1 (January 2025): 753–58, <https://doi.org/10.53935/Jomw.V2024i4.794>.

public prosecutor may change the indictment before the court determines the trial date, either with the aim of perfecting or not continuing the prosecution".

In addition, as stipulated in Article 144 paragraph (2) of the Criminal Procedure Code, it states: *"Changes to the indictment may be made only once no later than seven days before the trial begins"* Article 144 paragraph (3) of the Criminal Procedure Code *"In the event that the public prosecutor changes the indictment, he/she shall submit a copy of it to the suspect or legal counsel and investigator."*

Moreover, the defendant through his attorney from the Ultra Pettita Semarang law firm, Evarisan, S.H.,M.H, in his plea and duplicate firmly stated that he had never received the changes to the public prosecutor's indictment. As explained by the author, the existence of a crime formulation indicates what must be proven according to law, so everything listed in the crime formulation must be proven according to criminal procedure law. In the provisions of Article 1 Paragraph 1 of the Criminal Code, it is stated that: *"No act can be punished except based on the strength of criminal provisions in previously existing legislation."* This is reinforced by the view in the book by Anselm von Feuerbach which contains the legal adage *"Nullum delictum, nulla poena sine praevia lege poenali"*: This means *"An act that is not prohibited by law cannot be considered a crime, and therefore cannot be punished."*⁴²

To convict someone of a crime, all elements of the offense must be clearly alleged and proven. In this case, Article 264 paragraph (1) point 1 of the Criminal Code (KUHP), which was included in the Public Prosecutor's demand, should have been explicitly stated in the indictment from the

⁴² Suhandry Aristo Sitanggang, Tajul Arifin, And Ine Fauzia, "Kebebasan Berpendapat Dan Jerat Digital: Analisis Nullum Crimen Sine Lege Dalam Pasal 27 Ayat (3) Undang-Undang ITE Dan Relevansinya Dengan Pasal 19 Deklarasi Universal Hak Asasi Manusia," *As-Syar I: Jurnal Bimbingan & Konseling Keluarga* 7, No. 1 (January 2025): 267–77, <https://doi.org/10.47467/As.V7i1.6423>.

outset. However, this was not done, and the indictment was not amended accordingly.

Furthermore, the element of intent or mens rea must also be proven in relation to the defendant's conduct.⁴³ According to H.L.A. Hart in his book *The Concept of Law*, a criminal act is not only an act prohibited by law but also one that must be morally and legally accountable.⁴⁴ Therefore, in the case of the defendant Yustiana Servanda, the prosecutor must prove that the defendant knowingly and intentionally forged authentic deeds as stipulated in Article 264 paragraph (1) point 1 of the KUHP. Without establishing this element of intent, the indictment is incomplete and difficult to uphold in court. It is therefore essential that the element of intent is clearly stated and proven during the trial.

In line with Hart's opinion in the book *Basics of Criminal Law*, criminal law expert Gerry J. Simpson stated that a crime consists of human actions that are bound within the scope of the formulation of the crime contained in the law. Simson emphasized that for an action to be categorized as a crime, the action must be against the law and can be reprimanded by society, and the perpetrator must be legally accountable (contain an element of error).⁴⁵ Strengthened by another opinion in his classic work *Introduction to Criminal Law*, Prof. Soedarto explained that every criminal act consists of two main elements: human actions (*actus reus*) that are carried out intentionally or due to negligence, and errors (*mens rea*) which include elements of being against the law and can be

⁴³ Sri Ayu Irawati, "Perbedaan Sengaja Dan Tidak Sengaja Dalam Hukum Pidana," *Ideas: Jurnal Pendidikan, Sosial, Dan Budaya* 10, No. 4 (November 2024): 1137, <https://doi.org/10.32884/Ideas.V10i4.1973>.

⁴⁴ Richard A. Wasserstrom, "H. L. A. Hart And The Doctrines Of Mens Rea And Criminal Responsibility," *The University Of Chicago Law Review* 35, No. 1 (1967): 92, <https://doi.org/10.2307/1598949>.

⁴⁵ Muhammad Ridho Akbar, Zainab Ompu Jainah, And Melisa Safitri, "Pertanggungjawaban Pidana Tanpa Hak Membawa Dan Menguasai Senjata Api Dan Amunisi," *Pampas: Journal Of Criminal Law* 4, No. 1 (February 2023): 129–40, <https://doi.org/10.22437/Pampas.V4i1.23456>.

reprimanded. Soedarto also emphasized that actions that are considered criminal acts are those that have a bad effect on society and must be accounted for by the perpetrator based on the principles of criminal law.⁴⁶

To add or change the indictment either on the initiative of the Public Prosecutor or on the advice of the panel of judges is legally permitted by the provisions of the explanation of Article 30 paragraph (1) Letter e of Law No. 16 of 2004 in relation to the material provisions of Article 144 of the Criminal Procedure Code which reads:⁴⁷

- a. Article 30 paragraph (1) Letter e: in the event that the indictment does not meet the requirements, the prosecutor must pay attention to the suggestions given by the panel of judges before the examination at the trial begins.
- b. Article 144 of the Criminal Procedure Code reads "The public prosecutor may change the indictment before the court determines the trial date. Either with the aim of perfecting or not continuing the prosecution".
- c. However, the change in the indictment can be done once no later than seven (7) days before the trial begins, in this case the public prosecutor changes the indictment, the Public Prosecutor submits the changes to the suspect or his attorney and the police. Additions and changes to the indictment in the *Herzien Inlandsch Reglement* (H.I.R) system can occur when during the trial examination

⁴⁶ David Ormerod And Karl Laird, "3. The Elements Of A Crime: Mens Rea," In *Smith, Hogan, And Ormerod's Criminal Law* (Oxford University Press, 2021), 88–135, <https://doi.org/10.1093/He/9780198849704.003.0003>.

⁴⁷ 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 (June 2022): 38–57, <https://doi.org/10.15642/Aj.2022.8.1.38-57>.

The indictment in the HIR system can occur when during the trial examination it is discovered that several things are not charged in the indictment, but according to the law there are reasons to increase the sentence. So the indictment can be added with these punishments. Changes in *cusu* can occur if the Head of the District Court is of the opinion that the indictment needs to be changed even though as a result of the change, acts that cannot be punished become acts that can be punished carelessly. These changes do not conflict with Article 76 of the Criminal Code. In general, the Criminal Code or KUHP recognizes three types of grounds for increasing the sentence, namely:⁴⁸

- 1) The position of the offender as a civil servant.
- 2) The act committed is a combination of several criminal acts (*samenloop*) Article 63 – 71 of the Criminal Code.
- 3) The perpetrator of the crime is a recidivist (Article 486-488) of the Criminal Code, specifically the aggravation of the sentence can be found in the formulation of the crime itself. For example, Article 325 paragraph (2) Article (2,3), 340, 363, 373 of the Criminal Code.

Based on the provisions of Article 144 of the Criminal Procedure Code, changes to the indictment by the Public Prosecutor are indeed strictly regulated to ensure that the charges filed through the court are in accordance with applicable regulations, as well as fair and clear to the accused. Changes to the addition of articles or paragraphs in indictments and demands are consistent with Sudikno Mertokusumo's view that the indictment may be amended by the Public Prosecutor within clearly defined limits. Such amendments may include correcting errors related to

⁴⁸ Iwan Darmawan, Roby Satya Nugraha, And Alfies L. Sihombing, "The Development Of Punishment In Indonesian Criminal Law," *Jurnal Akta* 11, No. 4 (December 2024): 1198, <https://doi.org/10.30659/Akta.V11i4.41309>.

the time and place of the offense, refining the wording of the indictment for clarity, and changing a single indictment to an alternative indictment, provided that the changes still pertain to the same act in accordance with Article 144 of the Criminal Procedure Code (KUHAP).⁴⁹

The cancellation of the indictment is a manifestation of a condition/behavior that does not heed/ignore the provisions of Article 143 Paragraph (2) b of the Criminal Procedure Code as a material requirement for the indictment by the Public Prosecutor. The provisions of Article 143 paragraph (3) of the Criminal Procedure Code in Express verbs have threatened that an indictment that does not contain complete material requirements will result in the indictment being null and void by law. So that an indictment that does not meet the material requirements is an indictment that is "*null and void*".⁵⁰

A criminal act is a human action that fulfills all the written elements of an offense, is unlawful, and blameworthy. However, in this case, something not initially charged in the indictment suddenly appeared in the prosecution demand and was accepted as valid by the panel of judges. Article 264 paragraph (1) point 1 of the Criminal Code (KUHP) concerns a crime with an element of intent (*mens rea*), meaning all elements must be proven for a conviction.⁵¹

Based on the facts presented in court, there is doubt whether the defendant truly committed forgery. The meeting forming the basis of the deed was physically attended by all shareholders, the deed was read aloud, registered at the Ministry of Law, and signed completely with fingerprints

⁴⁹ Rizki Firdaus Nuryana Basri And Maria Silvy E. Wangga, "Penerapan Syarat Materiil Surat Dakwaan Pidana Pengeroyokan Pada Putusan Nomor : 813/Pid.B/2023/Pn.Sby."

⁵⁰ Rizki Firdaus Nuryana Basri And Maria Silvy E. Wangga.

⁵¹ Welisa Tryana, Vivi Arfiani Siregar, And Feni Puspita Sari, "Analisis Hukum Terhadap Tindak Pidana Korupsi Dengan Penyalagunaan Jabatan Dalam Bentuk Penyuapan Aktif," *Selodang Mayang: Jurnal Ilmiah Badan Perencanaan Pembangunan Daerah Kabupaten Indragiri Hilir* 10, No. 3 (December 2024): 233–40, <https://doi.org/10.47521/Selodangmayang.V10i3.406>.

and attendance lists. Furthermore, the signatures were authenticated with identical results and acknowledged by the parties in court. Given these conditions, it is difficult to assert that the defendant forged or falsified an authentic deed. Moreover, Notary Yustiana Servanda received a fee of only IDR 3,500,000, which raises questions about whether the defendant truly had the criminal intent (*mens rea*) alleged by the prosecution and affirmed in the court's decision.

In the Reply of the Public Prosecutor on page 6, line 9, there is a rebuttal argument which reads: "*Based on the presentation of the facts in the documents reviewed, the defendant has been proven to have falsified an authentic deed by making a Deed of Minutes of the Extraordinary General Meeting of Shareholders (EGMS) of PT. Mutiara Arteri Property Number 13 dated December 23, 2020, the contents of which do not correspond to the actual facts*".

The existence of this argument actually shows that the Public Prosecutor seems to be forcing the charges and demands, especially the application of changes by adding to the norm of Article 264 paragraph (1) 1 of the Criminal Code, so as to separate the phrases "*Making a Fake Authentic Deed*" (*meaning from nothing to something*) and "*Falsifying an Authentic Deed*" (*meaning that there is already an original deed but the contents have been changed*).⁵² This adds to the list of ambiguities carried out by the Public Prosecutor who has argued that the defendant has been proven to have "*falsified an authentic deed*". Thus, the Public Prosecutor should first present evidence in the form of a deed authentic alleged in the indictment or demand is used as a comparison. Adding to the list of odd legal arguments because in this case, evidence of authentic deeds could not

⁵² Anzil Rahmahdila And Arfi Exza Dheo Renova, "Pelanggaran Prinsip Miranda Rule Pada Proses Penyidikan Perkara Pidana Di Indonesia (Tinjauan Kasus Pengamen Cipulir Jakarta Selatan 2013)," *Presidensial: Jurnal Hukum, Administrasi Negara, Dan Kebijakan Publik* 1, No. 3 (August 2024): 25–33, <https://doi.org/10.62383/Presidensial.V1i3.63>.

be presented by the Public Prosecutor at the trial, so it is not clear "*which deed was falsified by the defendant? and which is the original authentic deed as a comparison*". The Public Prosecutor's actions were not able to present evidence of the alleged falsified deed as in the indictment and demand and never presented the original authentic deed as a comparison. It should have caused the quality of the defendant's criminal acts in the indictment and demand of the case to be unclear. Moreover, with the change in the addition of the norm of the paragraph in the demand to Article 264 paragraph (1) ke-1 of the Criminal Code, it further adds to the list of invalid charges of the public prosecutor, but the existing error was actually agreed to by the panel of judges.⁵³

The addition of a paragraph to the indictment may represent an attempt by the Public Prosecutor to align the charges with the available evidence. However, without transparency and adequate explanation, such changes can raise doubts about the integrity of the legal process. It is essential to consider whether the amendment infringes upon the defendant's rights, particularly regarding the principle of due process.⁵⁴ In this case, the amendment involved changing the charges initially stated under Articles 263(1), 264(1), and 266(1) of the Criminal Code (KUHP). If forced, this change could harm the defendant's rights and lead to unfair criminalization.

According to Article 144 of the Indonesian Criminal Procedure Code (KUHAP), amendments to the indictment are permitted before the trial begins, including changes to the formulation of the offense, such as adding paragraphs or articles. However, such changes must relate to the same act and not alter the essence of the charges. If the amendment results in a

⁵³ Firman Amir Et Al., "Implementation Of The Legality Principle In The Criminal Justice System Of Indonesia," *Journal Of Political And Legal Sovereignty* 1, No. 4 (October 2024): 123–29, <https://doi.org/10.38142/Jpls.V1i4.139>.

⁵⁴ Khaidir, Shodiq, And Prasetyo, "Review Of The Validity And Legal Justice Of The Prosecutor's Demands In The Corruption Case Number: 2/Pid.Sus.Tpk/2023/Pn.Mks."

heavier or lighter charge, the principle of “ne bis in idem” must be observed, meaning a person cannot be tried or punished twice for the same offense.⁵⁵ In this case, the defendant’s legal counsel from Ultra Pettita Law Office in Semarang clearly stated in the pleadings and duplications that they never received notification of such amendments. Suddenly, the charges were amended to include Article 264 paragraph (1) point 1 of the KUHP. Therefore, this amendment should be considered invalid and unlawful, and the charges and demands should have been dismissed rather than upheld by the panel of judges.⁵⁶

C. Impact of Prosecutor's Error on the Defendant's Rights

Errors in accurately determining the appropriate article or paragraph in the indictment can significantly harm the defendant’s rights. Criminal law principles guarantee that every individual is entitled to a fair trial and must not face charges inconsistent with the facts. When a prosecutor amends the charges without clear justification, it may cause legal uncertainty and weaken the defendant’s position.⁵⁷ Barda Nawawi Arief emphasizes that justice in law enforcement must be upheld, and all legal actions should be based on fair considerations without disadvantaging any party.⁵⁸ Particularly, if such amendments result in heavier or lighter charges without proper explanation, it constitutes a violation of justice principles. Therefore, the Public Prosecutor must provide detailed reasons for any changes to the charges to ensure that all parties understand the legal basis.

⁵⁵ Darmawan, Nugraha, And Sihombing, “The Development Of Punishment In Indonesian Criminal Law.”

⁵⁶ Amir Et Al., “Implementation Of The Legality Principle In The Criminal Justice System Of Indonesia.”

⁵⁷ Susilo Et Al., “Legalized Injustice In Indonesia: Violation Of The Defendant’s Right To Be Heard Last At Trial.”

⁵⁸ Khaidir, Shodiq, And Prasetyo, “Review Of The Validity And Legal Justice Of The Prosecutor’s Demands In The Corruption Case Number: 2/Pid.Sus.Tpk/2023/Pn.Mks.”

Several factors may contribute to prosecutorial errors in amending paragraphs within indictments. A primary cause is often insufficient understanding of applicable legal provisions. Many prosecutors may lack adequate experience or training to handle complex cases, making them prone to mistakes. External pressures from the public, media, or government institutions may also influence prosecutors, compelling them to act hastily to meet public expectations.⁵⁹ Additionally, strict time constraints in case handling often hinder prosecutors from conducting thorough legal analysis. Such prosecutorial errors can undermine public confidence in the justice system, making it imperative to strengthen oversight mechanisms and enforce prosecutorial codes of ethics. Furthermore, enhancing training and professional development for prosecutors is essential to improve their understanding of the law and best practices in indictment drafting, thereby minimizing errors and promoting fair justice.⁶⁰

This study reveals that errors committed by the Public Prosecutor in adding paragraphs to the indictment significantly affect the rights of the defendant, particularly regarding legal protection and procedural certainty. Juridically, additions made in violation of Article 144 of the Indonesian Criminal Procedure Code (KUHAP) render the indictment procedurally defective and potentially subject to annulment. This situation harms the defendant by creating legal uncertainty that disrupts their right to a fair trial and a transparent legal process.

Furthermore, such errors violate the principles of legality and due process of law, whereby the defendant has the right to clearly and precisely

⁵⁹ Haniyah Haniyah, "Legal Reconstruction Of Error In Persona Cases: Justice Enforcement Challenges Based On Due Process Of Law Principle," *Reformasi Hukum* 28, No. 3 (December 2024): 168–86, <https://doi.org/10.46257/Jrh.V28i3.1039>.

⁶⁰ Vivi Elizabeth And Ade Adhari, "Kepastian Hukum Akibat Kelalaian Jaksa Penuntut Umum," *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam* 16, No. 1 (May 2024): 99–114, <https://doi.org/10.32505/Jurisprudensi.V16i1.5735>.

understand the charges they face and be given sufficient opportunity to prepare an effective defense. Amendments to the indictment without adequate notification to the defendant or their legal counsel directly diminish the effectiveness of the right to defense. Therefore, this study emphasizes the critical importance of strict adherence to juridical regulations in drafting and amending indictments to safeguard defendants' rights and maintain the integrity of Indonesia's criminal justice system. Building upon the juridical analysis, it is also essential to understand the impact of errors made by the Public Prosecutor from a philosophical standpoint, which emphasizes justice as the fundamental value underpinning the criminal justice system. Errors in adding paragraphs to the indictment affect not only formal legal aspects but also moral and ethical principles that uphold respect for the defendant's human rights.

From a philosophical perspective, the legal system aims not only to enforce rules but also to ensure social justice and uphold human dignity. Therefore, every action within the judicial process, including the preparation of indictments, must prioritize ethical and moral values that guarantee fair treatment for all parties involved. Procedural errors in adding paragraphs to the indictment can result in the denial of the defendant's right to fair, transparent, and dignified treatment, thereby undermining the core value of justice that forms the foundation of legal philosophy.

Furthermore, actions that disregard legal procedures risk eroding public trust in the criminal justice system, which in turn weakens the legitimacy of the law and social stability. Legal philosophy teaches that justice must be experienced not only formally but also substantively by society at large, including defendants who face legal proceedings. Consequently, this study emphasizes that the integrity and moral responsibility of the Public Prosecutor are crucial to ensuring that the

principle of justice is not merely theoretical but is effectively realized in criminal justice practice in Indonesia.

From a sociological perspective, errors made by the Public Prosecutor in adding paragraphs to the indictment not only affect the individual defendant but also have broader consequences for public trust in the criminal justice system. Such procedural errors can undermine public confidence in the integrity and objectivity of judicial institutions, thereby damaging the overall legitimacy of the law. In societies where trust in law enforcement diminishes, the potential for social conflict and instability increases.⁶¹ Therefore, this study underscores the importance of transparency, accountability, and professionalism in the prosecution process as essential measures to maintain social stability and strengthen public confidence in the justice system.

Conclusion

This study reveals that errors by the Public Prosecutor (JPU) in adding paragraph norms to the indictment, as exemplified in Decision No. 8/Pid.B/2025/PN Smg, are primarily caused by insufficient understanding of applicable legal provisions. This underscores the urgent need to enhance the legal knowledge and professional skills of prosecutors to ensure indictments are drafted accurately and in accordance with the facts. Improper addition of paragraphs can undermine the rights of the defendant and create legal uncertainty, negatively affecting the integrity and fairness of the criminal justice system.

⁶¹ Anis Widyawati et al., "Supervision in Integrated Justice: Legal Reform and Constructive Enforcement in the Criminal Justice System," *Journal of Law and Legal Reform* 5, no. 2 (2024): 433–58, <https://doi.org/https://doi.org/10.15294/jllr.vol5i2.3886>.

Furthermore, the study highlights the critical importance of strengthening oversight mechanisms over the prosecution process to minimize errors and hold prosecutors accountable for their decisions, thereby enhancing accountability within the justice system. As a concrete measure, continuous training and professional development programs for prosecutors are recommended to improve their capacity to handle complex legal matters.

Moreover, to address these issues systemically, institutional reforms are necessary, including the implementation of stricter and more transparent indictment review mechanisms prior to trial submission. Such mechanisms should involve independent evaluations to ensure that any changes or additions to indictments comply with legal procedures and do not infringe upon defendants' rights. These reforms are expected to improve the quality of prosecutions, ensure effective justice, and strengthen public trust in the criminal justice system.

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