

Substantive Review of Indictments in Exception in Kotamobagu District Court Case and Comparative Perspective

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Article	Abstract
<p>Keywords: Judicial control; Indictment annulment; Indictment drafting; Objection stage; Comparative criminal justice system;</p> <p>Article History: Received: 20/06/2025 Reviewed: 26/06/2025 Accepted: 27/06/2025 Published: 05/08/2025</p> <p>DOI: (to be assigned upon DOI activation)</p>	<p>The accuracy of indictment substance plays a crucial role in defining the clarity of criminal charges and the scope of fair adjudication. This article examines the substantive review of indictments at the objection stage based on a case study involving the annulment of an indictment by a court in Indonesia, complemented by a comparative analysis of indictment review practices in several other legal systems. The research employs a normative-doctrinal method with a case study approach expanded through comparative examination. The findings reveal that Indonesian judges in the analyzed case did not merely assess the formal presence of elements within the indictment but also evaluated the consistency between factual narratives and investigative findings to ensure clear charges from the outset of proceedings. Significant inconsistencies between the indictment narrative and investigative facts were deemed as substantive defects, leading to annulment of the indictment to protect the defendant's right to defense. This study underscores the relevance of strengthening judicial control over indictment substance during the objection stage as a safeguard for defendants' rights, while highlighting the importance of prosecutorial professionalism in drafting indictments. The comparative perspective shows that early substantive indictment review is also emphasized in various jurisdictions as part of fair criminal trial principles.</p>
Artikel	Abstrak
<p>Kata Kunci: Kontrol yudisial; Pembatalan dakwaan; Surat dakwaan; Eksepsi; Perbandingan sistem peradilan pidana;</p> <p>Riwayat Artikel: Diterima: 20/06/2025 Ditinjau: 26/06/2025 Disetujui: 27/06/2025 Diterbitkan: 05/08/2025</p> <p>DOI: (akan ditetapkan setelah aktivasi DOI)</p>	<p>Ketepatan substansi dakwaan berperan penting dalam menentukan kejelasan tuduhan pidana dan ruang lingkup pembuktian yang adil. Artikel ini mengkaji pengujian kelengkapan isi dakwaan pada tahap eksepsi berdasarkan studi kasus pembatalan dakwaan oleh pengadilan di Indonesia, serta memperkaya pembahasannya melalui telaah perbandingan dengan praktik pengujian dakwaan di beberapa sistem hukum negara lain. Penelitian menggunakan metode normatif-doktrinal dengan pendekatan studi kasus yang diperluas secara komparatif. Hasil kajian menunjukkan bahwa hakim di Indonesia dalam perkara yang dikaji tidak hanya memeriksa keberadaan formal unsur-unsur dalam dakwaan, tetapi juga menilai konsistensi uraian fakta dengan hasil penyidikan untuk menjamin kejelasan tuduhan sejak tahap awal proses peradilan. Ketidaksesuaian signifikan antara narasi dakwaan dengan fakta penyidikan dipandang sebagai cacat materiil yang berujung pada pembatalan dakwaan demi perlindungan hak pembelaan terdakwa. Temuan ini memperlihatkan relevansi penguatan pengawasan yudisial substansi dakwaan pada tahap eksepsi sebagai instrumen perlindungan hak asasi terdakwa, sekaligus mengonfirmasi pentingnya profesionalisme penuntut umum dalam penyusunan dakwaan. Perbandingan dengan beberapa sistem hukum menunjukkan bahwa pengujian substansi dakwaan sejak awal proses juga mendapat perhatian di berbagai yurisdiksi sebagai bagian dari prinsip peradilan pidana yang adil.</p>

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Introduction

In the Indonesian criminal justice system, the indictment plays a pivotal role as the initial foundation that determines the scope and direction of case examination before the court (Imanuel Landy Karamoy et al., 2022). Beyond functioning as a mere administrative document to initiate trial proceedings, the indictment serves as a normative instrument that formally delineates the substance of the criminal charge, making the entire trial process contingent upon the clarity and precision of its formulation from the outset (Imani, 2016). The clarity and accuracy in drafting the indictment are not solely aimed at fulfilling formal requirements but constitute essential preconditions for ensuring a fair trial in accordance with the principle of due process of law. Indonesian procedural law explicitly mandates this obligation, requiring that indictments contain detailed, systematic, and comprehensive descriptions of the alleged acts, including specifications of the time and place of the offense. This obligation simultaneously reflects a normative acknowledgment of the defendant's right to be fully informed of the charges brought against them, as part of the protection of human rights that are constitutionally guaranteed and recognized both in national law and various international human rights instruments ratified by Indonesia (Aniek Periani & Rusito, 2022).

In practice, the annulment of indictments *ex officio* remains a relatively rare occurrence, given that indictments typically undergo multiple layers of internal verification within prosecutorial institutions before being submitted to court (Harianty, 2016)). Nevertheless, judicial rigor in assessing compliance with the material requirements of the indictment remains crucial, particularly during the examination of preliminary objections (*eksepsi*). Errors in drafting that lead to annulment often relate to the problem of *obscur libel*, where the description of the alleged criminal act is presented in a manner that is illogical, disorganized, or unclear, creating substantial uncertainty for the defendant and their counsel in understanding the charges (Kirani & Alfianto, 2024). The complexity intensifies when inconsistencies emerge between the formal elements articulated in the indictment and the factual findings derived from the investigation files. This was manifestly observed in criminal case Number 34/Pid.Sus/2025/PN Ktg, which serves as the focus of analysis in this article.

The present case presents an intriguing dynamic wherein the indictment prepared by the Public Prosecutor was declared null and void by the court through an interlocutory ruling (Pengadilan Negeri Kotamobagu, 2025). The central issue lay in the discrepancy between the *locus delicti* specified in the indictment and the facts established in the investigation records. The indictment stated that the offense occurred in Bolaang Mongondow Timur Regency, while the entire factual narrative contained in the investigation records consistently indicated that the incident took place in Bolaang Mongondow Regency. Although this might initially appear to be a mere administrative discrepancy, it in fact produced serious legal consequences.

The defense counsel filed a preliminary objection (*eksepsi*), arguing that the inaccuracy in specifying the *locus delicti* resulted in substantial ambiguity in the substance of the indictment, directly impairing the defendant's ability to comprehend the precise acts being charged. This situation was deemed to undermine the legal certainty that should underlie a fair trial. Moreover, the lack of clarity regarding the place of occurrence significantly impeded the defendant's capacity to prepare an effective defense, given that the location of the incident constitutes a crucial variable in formulating defense strategies. In contrast, the Public Prosecutor maintained that the formal inclusion of the location in the indictment satisfied the legal requirements, contending that any debate concerning the accuracy of the location should be addressed during the trial proper, not at the preliminary objection stage.

Ultimately, the panel of judges accepted the defense counsel's arguments, finding that the significant disparity in locations constituted a material defect in the indictment, thereby compromising legal certainty for the defendant, and consequently declared the indictment null and

void (Pengadilan Negeri Kotamobagu, 2025). The core issue raised in this case does not merely concern the mention of the *locus delicti*, but rather focuses on the precision and coherence of the entire narrative describing the alleged offense. This ruling reignites an important discourse within procedural criminal law: whether the examination of the material elements of the indictment should be confined solely to administrative formalities, or whether it may extend to substantive review at the preliminary objection stage. Similar issues have been addressed in several prior studies, albeit with varying contexts and analytical perspectives.

Several previous studies have demonstrated the relevance of material examination of indictments, though with differing analytical emphases. Nuddin and Wasahua, for example, examined Simalungun District Court Decision Number 19/Pid.Sus/2015/PN.Sim, which annulled an indictment containing the name of an individual who had never been examined during the investigation nor listed as a person of interest (Nuddin & Wasahua, 2020). Their study underscored the urgency of substantive scrutiny, particularly concerning inconsistencies in the narrative regarding the roles of perpetrators. Nevertheless, their research did not specifically address the accuracy of formal elements such as time and place, which form the primary focus of this article.

In the context of editorial weaknesses in indictments, Basri and Wangga identified issues such as redundant or ambiguous event descriptions as principal sources of obscure libel in Indonesian criminal procedure practice (R. F. N. Basri et al., 2024). They emphasized that a lack of precision in presenting the factual sequence of criminal events from the outset has the potential to create legal uncertainty detrimental to the defendant's ability to mount an effective defense. However, their analysis remains general and does not deeply explore the implications of inaccuracies in formal elements like the *locus delicti*.

Meanwhile, Santos dkk, in their study published in *Lex Crimen*, offered a different perspective by emphasizing the importance of the judge's active role in scrutinizing the accuracy of the indictment at the preliminary objection stage, as part of safeguarding the defendant's rights (Santos et al., 2021). They argued that early substantive review of the indictment embodies the practical application of the due process of law principle. However, their discussion did not explicitly address the prosecutorial obligation to ensure the formal accuracy of indictments, particularly regarding details of *locus delicti* and *tempus delicti*.

At the international level, Marsudianto and Israhadi highlighted that the validity of indictments is highly dependent on the accuracy of the narrative concerning the time and place of the offense (Marsudianto & Israhadi, 2025). Uncertainty surrounding these elements—particularly in the context of trans-jurisdictional or cybercrimes—may obscure jurisdictional competence and generate obscure libel that ultimately undermines legal certainty and the defendant's right to defense.

Research Method

This research employs a normative legal research method by combining statutory, case study, and comparative approaches (I. P. J. Basri et al., 2023; Negara, 2023). The statutory approach is applied to analyze the provisions of Article 143 of the Indonesian Criminal Procedure Code (KUHAP) along with its underlying legal principles. The case study approach focuses on analyzing the Decision of the Kotamobagu District Court Number 34/Pid.Sus/2025/PN Ktg as an illustration of the application of material indictment requirements in judicial practice.

To strengthen the analysis, this study also adopts a descriptive comparative approach, comparing models of indictment substance review in several other legal systems, referring to the basic principles of comparative legal research methodology as described by (Rafianti & Sinaga, 2023).

The data sources in this study consist of primary and secondary legal materials. Primary legal materials include legislation, court decisions, and investigation documents. Secondary legal materials comprise legal literature, scholarly journal articles, and the opinions of procedural law

experts. All legal materials were collected through a systematic literature review (Rahman et al., 2025).

The data were analyzed qualitatively by applying systematic and grammatical interpretation techniques to the provisions of Article 143 paragraph (2) letter b of KUHAP, as well as examining the judicial considerations in the interlocutory decision (Nykolyna, 2021). The research findings were then compared with the principles of due process of law and legal certainty in evaluating the consistency of legal norm implementation in judicial practice (Putri & Arifin, 2019).

Analysis and Discussion

The Material Substance of Indictment in the Interlocutory Decision Number 34/Pid.Sus/2025/PN Ktg

The indictment, as governed by Article 143 paragraph (2) letter b of the Indonesian Criminal Procedure Code (KUHAP), requires not only the formal inclusion of time and place of the alleged offense, but also demands comprehensive substantive accuracy in the narration of the charged conduct (Imani, 2016; Tendean, 2018). The statutory mandate for a description that is “precise, clear, and complete” is not fulfilled merely by listing the normative elements, but must reflect logical coherence between facts, chronology, location, roles of the parties involved, and the sequence of criminal conduct. Any inconsistency between these formal elements and the factual reality as established during the investigation risks rendering the indictment obscure (*obscurus libel*), as demonstrated in this case.

In Case Number 34/Pid.Sus/2025/PN Ktg, the central issue arose from discrepancies in determining the *locus delicti*. The indictment identified the crime scene as being located in Bolaang Mongondow Timur Regency, while the investigation records consistently indicated that the events took place within Bolaang Mongondow Regency (Pengadilan Negeri Kotamobagu, 2025). This divergence was not merely administrative in nature but carried significant substantive implications for the defendant’s right to prepare an effective defense. The defense argued that such inconsistency obscured the specific allegations being faced, thus impairing the defendant’s ability to properly mount a defense from the outset of the proceedings.

In response, the Public Prosecutor asserted that the mere mention of a location, even in general terms, satisfied the formal requirements, and that the accuracy of the *locus delicti* should only be examined during the evidentiary phase of trial. Conversely, the panel of judges adopted a more proactive judicial control approach by thoroughly reviewing the entire investigation dossier (Berita Acara Pemeriksaan, BAP), including witness and defendant statements, to assess the narrative consistency of the indictment (Pengadilan Negeri Kotamobagu, 2025).

Two mutually contradictory accounts of the crime scene were uncovered. On one hand, the indictment referred to the bathroom of Lisna Mamonto’s residence in Moyongkota Village, Bolaang Mongondow Timur Regency. On the other hand, the BAP indicated that the incident occurred near the defendant’s residence in Mongkoinit Village, Bolaang Mongondow Regency. The court concluded that this inconsistency could not be treated as a mere clerical error but rather constituted a substantive logical contradiction undermining the clarity of the indictment.

The judges further emphasized that the Public Prosecutor’s obligation to verify the results of the investigation, as mandated by Articles 138 and 140 of KUHAP, demands logical consistency between investigative findings and the indictment’s formulation. The Prosecutor’s attempt to introduce flexibility by including the alternative clause “*atau setidaknya-tidaknnya pada tempat lain dalam wilayah hukum Pengadilan Negeri Kotamobagu*” (“or at another place within the jurisdiction of the Kotamobagu District Court”) was deemed insufficient to satisfy the principle of due diligence. Such flexibility must still adhere to substantive coherence that is both logical and factually grounded.

This model of substantive examination at the exception (preliminary objection) stage, as employed by the judges in this case, is consistent with the principle of due process of law, where the defendant's right to clear knowledge of the charges is a fundamental component of human rights protection (Nasution et al., 2024). Ambiguity regarding the crime scene is not merely a technical defect but has the potential to distort the entire evidentiary process. Therefore, early substantive review of the indictment during the exception stage should be viewed as a vital preliminary control instrument to ensure the validity of the indictment and preserve the integrity of the judicial process.

Doctrinal Reassessment of the Scope of Substantive Indictment Review in Preliminary Objections

The interlocutory ruling No. 34/Pid.Sus/2025/PN Ktg, issued by the Kotamobagu District Court, reflects a significant corrective stance toward the common prosecutorial practice that tends to interpret preliminary objections (eksepsi) merely as a formal administrative review of the indictment's completeness. In this case, the court firmly asserted that the examination of an indictment should not be limited to verifying the formal elements alone but must also consider the coherence of the indictment's substance with the facts established during the investigation (Herman et al., 2024). Thus, the judge's involvement in examining the substance of the indictment at the preliminary stage does not constitute an encroachment on the merits of the case but rather represents an initial formal-substantive judicial control over the validity of the indictment (Riyanto, 2019). A defective indictment from the outset can seriously impair the defendant's right to mount a proper defense and undermine the fairness of the entire criminal process.

From a doctrinal perspective, the findings of this case expand the interpretation of the material examination of indictments as stipulated in Article 143 of the Indonesian Code of Criminal Procedure (KUHAP). Merely stating the elements of time and place is insufficient; instead, the indictment must present a rational, logical, sequential, and consistent narrative encompassing the identity of the perpetrator, chronology of events, location, witness involvement, and the detailed conduct being charged. Any internal logical inconsistency between the narrative of the indictment and the investigative findings constitutes a material defect that legally invalidates the indictment (I. P. J. Basri et al., 2023; Imani, 2016).

In this case, the prosecutor sought to introduce a flexible formulation regarding the place of occurrence by inserting the phrase "or at another place within the jurisdiction of the Kotamobagu District Court." Theoretically, such flexibility in determining locus delicti is recognized when the exact location cannot be established due to limitations in investigative evidence. M. Yahya Harahap emphasizes that even in cases of alternative formulations, precision, clarity, and consistency with the facts presented in the investigation record (BAP) remain essential. In this instance, the court found that the alternative designation only amplified the substantive contradictions, as the alternative location was never established in the investigative findings. Consequently, this flexibility failed to meet the material accuracy standard required of an indictment (Pengadilan Negeri Kotamobagu, 2025).

This interlocutory ruling simultaneously serves as a critical corrective reminder for prosecutorial institutions to exercise greater diligence in verifying investigative results prior to formulating indictments. Drafting an indictment is not merely an administrative requirement for initiating proceedings but constitutes the legal foundation upon which the entire evidentiary process rests (Immanuel Landy Karamoy et al., 2022). Therefore, the public prosecutor's professional responsibility demands thorough coherence between investigative findings and the indictment narrative (Saifuddin, 2017), ensuring the alignment of investigative and prosecutorial stages in achieving substantive justice within Indonesia's criminal justice system.

The findings of this case contribute novel conceptual insights to the development of criminal procedural law, particularly in broadening the scope of substantive indictment review at the preliminary objection stage. While prior studies have largely emphasized obscure libel issues in

general terms, this analysis specifically demonstrates that a glaring inconsistency in *locus delicti vis-à-vis* the investigative facts can provide legal grounds for annulment of the indictment from the outset. Accordingly, this discussion reinforces the importance of the judge's role as a substantive control mechanism in safeguarding procedural and substantive justice through the lens of progressive legal theory (Hartoyo, 2022).

Furthermore, this case illustrates how the judges went beyond merely reviewing the editorial formulation of the indictment, engaging in a comprehensive examination of the entire case file, including the statements of witnesses and the defendant recorded in the investigation files (BAP), to verify the coherence of the *locus delicti* narrative. This model of substantive control during the preliminary objection stage reflects a progressive form of judicial control within criminal procedure. When material inaccuracies are identified early, substantive review at the preliminary stage serves as a preventive instrument, protecting the defendant's rights while avoiding unnecessary expenditure of judicial resources on fundamentally defective prosecutions (Al Amin Siregar, 2016; Chaerudin et al., 2025).

Comparative Models of Substantive Indictment Review in Other Legal Systems

The substantive examination of indictment requirements, as practiced in the Kotamobagu District Court, while still relatively rare within Indonesian criminal proceedings, proves highly relevant when compared to indictment review models adopted in several other legal systems. In many modern jurisdictions, judges are granted broader authority to conduct substantive assessments of indictments actively, even at the pre-adjudication stage.

In the United States legal system, indictment review is strictly regulated within the framework of pretrial motions, particularly through the mechanism of a motion to dismiss indictment. Judges operating within this adversarial system are authorized not only to assess the formal sufficiency of the prosecution but also to determine whether the indictment is grounded upon factual allegations that clearly support the essential elements of the alleged offense (Federal Rules of Criminal Procedure, 2024).

Similarly, in the practice of England and Wales, the abuse of process doctrine empowers judges at the pretrial stage to evaluate whether the indictment has been drafted in a fair, rational manner and whether it avoids fundamental contradictions that could jeopardize the fairness of proceedings (Helm, 2023; Vogler, 2021). The principle of fair trial serves as a strong normative basis for such substantive judicial intervention, ensuring a balance between the state's prosecutorial power and the defendant's right to clear and comprehensible charges.

Substantive review of indictments at the initial stage also features prominently in the legal systems of several Southeast European countries. In Kosovo, for example, courts are obligated to conduct an indictment confirmation hearing prior to the commencement of trial as an independent mechanism for controlling the material validity of the indictment. Comparable models exist in Albania, North Macedonia, and Montenegro, where judges are authorized to reject or order revisions to indictments when substantive deficiencies are identified (Hasani & Leka, 2022).

Thus, this comparative study demonstrates that strengthening the substantive review of indictments at an early procedural stage is not only highly relevant within the Indonesian criminal procedure framework but also consistent with progressive judicial oversight practices in several other legal systems, all of which aim to protect the defendant's human rights and guarantee due process of law.

Conclusion

The substantive review of the material elements of the indictment in Case Number 34/Pid.Sus/2025/PN Ktg at the Kotamobagu District Court demonstrates that the judges did not merely assess the formal presence of indictment components but actively examined their

substantive accuracy by directly referencing the results of the investigation. This review was conducted at the preliminary objection (eksepsi) stage, where the panel of judges engaged directly with and scrutinized the Berita Acara Pemeriksaan (BAP), assessing the consistency of the locus delicti narrative contained in the indictment. The fundamental inconsistency between the location stated in the indictment and the investigation findings was qualified as a substantive defect, warranting annulment of the indictment by law.

These findings underscore the importance of strengthening substantive indictment review at the earliest procedural stages as part of a progressive model of judicial control that ensures not merely administrative correctness but also protects the defendant's right to a clear and precise accusation. The proactive role of judges in conducting substantive examinations during the preliminary objection stage aligns with the principle of due process of law while simultaneously preventing unnecessary judicial proceedings based on fundamentally flawed indictments.

The comparative perspective shows that similar models of substantive indictment review have developed in several other legal systems, such as the United States and England, where judges are empowered to intervene substantively at pre-adjudication stages to ensure clarity, rationality, and factual coherence in the indictment before the case proceeds to trial. Thus, reinforcing similar practices within Indonesia's criminal procedural framework represents a relevant and timely step toward reforming the concept of eksepsi and advancing a more substantively just system of criminal adjudication.

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