

PRETRIAL AS A MECHANISM FOR GUARANTEEING HUMAN RIGHTS PROTECTION IN THE INDONESIAN CRIMINAL JUSTICE SYSTEM

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Abstract: *Pretrial proceedings, as a legal mechanism within the Indonesian criminal justice system, play a strategic role in ensuring the protection of human rights for suspects, particularly during the initial stages of investigation. This function was strengthened by Constitutional Court Decision No. 21/PUU-XII/2014, which expanded the scope of pretrial proceedings to include testing of suspect determination, searches, and seizures. However, the effectiveness of this institution remains hampered by various obstacles, such as a formalistic approach by judges, limited time for examinations, low public legal literacy, and a lack of assistance for vulnerable groups. This study uses a normative approach to evaluate the effectiveness of pretrial proceedings as a human rights instrument and examines the urgency of procedural law reform to ensure the substantive and inclusive functioning of pretrial proceedings. The findings indicate that without structural and institutional reforms, as well as synergy between the judiciary, legislature, executive branch, and civil society, pretrial proceedings will remain merely a formal procedure that fails to fulfill its constitutional role. Therefore, strengthening the function of pretrial proceedings must be a priority in criminal law reform in Indonesia.*

Keywords : *Pretrial, Human Rights Protection, Due Process of Law, Criminal Procedure Code Reform*

I. INTRODUCTION

Pretrial proceedings are a form of preventive legal protection in the Indonesian criminal justice system. This institution is enshrined in Articles 77 to 83 of the Criminal Procedure Code (Law No. 8 of 1981) as a forum for testing the legality of arrests, detentions, termination of investigations or prosecutions, and requests for compensation or rehabilitation for arbitrary actions by law enforcement. Its existence is vital because it theoretically embodies the principle of due process of law within the national legal system. Through pretrial proceedings, the state ensures that coercive actions by law enforcement officers are not carried out arbitrarily and that respect for the human rights of suspects or defendants is maintained. According to Sutomo (2023), pretrial proceedings serve as a counterbalance to law enforcement powers, preventing them from straying beyond the bounds of law and human rights.

Over time, pretrial proceedings have experienced a strengthening of their function through Constitutional Court Decision No. 21/PUU-XII/2014, which expanded the scope of pretrial proceedings to include the validity of suspect determination, searches, and seizures. This decision is considered a significant turning point because it provides suspects with greater opportunities to protect their rights before the main case is examined. In practice, this expansion of scope opens up greater scope for control over the actions of law enforcement officials, which are often carried out unilaterally and behind closed doors. According to Sumadi (2021), the Constitutional Court's decision strengthens the function of pretrial proceedings as an accountability mechanism in criminal investigations. However, the reality on the ground shows that the effectiveness of this institution is still often questioned due to various limitations in terms of legal substance, technical implementation, and apparatus capacity.

The main obstacles to the implementation of pretrial proceedings lie in inconsistent judicial decisions, untimely filing, and procedures that tend to be formal. In some cases, pretrial motions are futile because the main case has already begun trial, thus dismissing the petition. This demonstrates systemic weaknesses in the synchronization of the stages of the criminal process. Research by Aprilia et al. (2023) found that despite the openness of the pretrial process, in practice, applicants often encounter administrative obstacles and confusing procedural law. Furthermore, the civil procedural law approach applied in the pretrial process is problematic because it does not align with the unique needs of the more dynamic and repressive criminal law.

Another challenge is the limited understanding of some judges regarding the nature and purpose of pretrial proceedings as human rights protection. Several studies indicate that most judges tend to be passive and overly formalistic, thus failing to pursue substantive justice in the pretrial process. The limited seven-day pretrial hearing period is considered a major obstacle to the applicant's thorough examination of evidence and preparation of adequate legal arguments (Sukono & Santoso, 2024). This situation often results in pretrial motions not being thoroughly examined or even being rejected without substantial consideration, which ultimately contradicts the spirit of the constitution, which guarantees the protection of individual rights from the initial stages of the criminal justice process.

In the context of human rights, the role of pre-trial is very important because it concerns the protection of the right to personal freedom, physical and psychological integrity, and the principle of presumption of innocence. However, reality shows that in many cases, law enforcement officers continue to make arbitrary arrests or detentions under the pretext of needing evidence. However, according to Cahyani et al. (2023), without a control mechanism such as a pretrial hearing, investigators can easily abuse their authority for pragmatic or even political gain. This aligns with the opinion of Ekawardani et al. (2020), who emphasize that pretrial hearings play a fundamental role in ensuring the accountability of law enforcement officers' actions, particularly in balancing state power and individual rights. Therefore, it is crucial to make pretrial hearings a truly effective forum for challenging coercive investigators' actions.

The current pretrial model is also considered to still not provide optimal access to justice, especially for the poor or suspects from vulnerable groups. The lack of legal assistance and complex procedures mean that the right to file a pretrial motion is often only available to parties with strong financial capacity and legal access. From a constitutional perspective, every individual has the right to fair and non-discriminatory legal protection. In the context of criminal justice, this protection must be implemented from the earliest stages, including during investigations and arrests. The existence of pretrial motions guarantees these

principles, but still requires support in the form of institutional strengthening, improving the quality of judges, and adjusting procedural law. Based on a normative analysis by Cahyani et al. (2023), updating pretrial regulations must be a priority for future legislation to adapt to developments in human rights and the challenges of modern law enforcement.

Furthermore, it is crucial to broaden public understanding of the function of pretrial proceedings so that the public can actively exercise their rights as a check on state power. Low legal literacy remains a major challenge to the effectiveness of legal protection in Indonesia. Many individuals are unaware of their basic rights in the criminal process, including the right to file a pretrial motion. Therefore, public legal education must also be part of the national strategy to strengthen human rights protection through the pretrial mechanism. Without public participation, this institution will struggle to develop into an effective control tool.

Therefore, through this research, the author seeks to re-examine the strategic role of pretrial proceedings as a human rights protection mechanism in the Indonesian criminal justice system. The analysis focuses on the effectiveness of this institution in addressing various issues in law enforcement practices, from normative, structural, and cultural perspectives. This research is expected to contribute to the development of a more just, transparent, and accountable criminal law policy strategy.

II. RESEARCH METHOD

This research uses a normative legal method, namely research that focuses on written legal norms that apply as a basis for analyzing legal problems. This research is carried out through several approaches, namely the statutory approach, the factual approach, and the conceptual approach. The statutory approach is carried out by examining relevant laws and regulations, both those established by state institutions and authorized officials and are generally binding, particularly those related to the pretrial mechanism in the criminal justice system in Indonesia. Meanwhile, the factual approach is intended to understand actual practices that occur in society or judges' decisions related to pretrial, by examining the facts revealed in practice and the history of its implementation.

The conceptual approach is used to convey an analysis of the resolution of legal problems based on relevant legal theories or concepts, both from an academic perspective and the legal values contained in the legal norms. The sources of legal materials used in this study consist of primary legal materials, namely laws and regulations, court decisions, and other official legal documents, as well as secondary legal materials, such as scientific journals, books, and opinions of legal experts. The technique of collecting legal materials is carried out through documentation studies, namely by tracing, citing, and analyzing legal documents related to the focus of the study, especially regarding the effectiveness and challenges of pretrial in ensuring the protection of human rights in the Indonesian criminal justice system.

III. RESULTS AND DISCUSSION

The Effectiveness of Pretrial Procedures in Ensuring the Protection of Human Rights of Suspects

Pretrial proceedings in Indonesia play a strategic role as a preventive mechanism that allows suspects to review the legality of authorities' actions, including arrest, detention, searches, and seizures. Sukono & Santoso (2024) found that pretrial proceedings provide formal legal space to review authorities' actions and enforce due process, thereby preventing arbitrary action. Ekawardani et al. (2020) also emphasized that pretrial proceedings serve as

the sole forum for suspects to seek compensation or rehabilitation if authorities are proven to have violated the law. Therefore, the fundamental function of pretrial proceedings is to safeguard the suspect's human rights from the earliest stages of the legal process.

However, the effectiveness of pretrial proceedings is still hampered by the formalistic nature of the process. Cahyani et al. (2023) showed that judges' decision-makers more often examine the completeness of administrative documents than the substance of the case, resulting in many premature rejections. This situation was exacerbated by a note from Luhut M.P. Pangaribuan (Chairman of the Indonesian Advocates Association), who stated that pretrial proceedings are now merely "administrative requirements fulfillment," rather than an effective tool for upholding human rights. As a result, the substantive function of pretrial proceedings tends to be marginalized. The limited examination period of only seven days under the Criminal Procedure Code often does not provide sufficient space for comprehensive verification of evidence. A study by Cahyani et al. (2023) concluded that this short period prevents pretrial proceedings from delving into the substance of alleged human rights violations by authorities. As a result, potential abuse of authority by investigators is not adequately tested. This weakens the effectiveness of pretrial proceedings as a vehicle for enforcing due process.

Variations in judicial decisions and differing approaches to decision-making often create legal uncertainty for pretrial applicants. Research by Nur (2017) found that most judges in pretrial proceedings exhibit a passive attitude and are overly focused on formal procedural aspects, resulting in inadequate attention to the human rights of suspects. This clearly contradicts the principles of objectivity and independence that should be the basis for assessing the legality of law enforcement actions. Therefore, the persistence of this practice further reinforces the urgency of structural reform in the mechanisms and implementation of pretrial proceedings in Indonesia.

Following Constitutional Court Decision No. 21/PUU XII/2014, the scope of pretrial proceedings was expanded to include the validity of suspect determination, searches, and seizures. The Constitutional Court's decision strengthened the accountability function of pretrial proceedings and provided more space for suspects to challenge the actions of authorities (Albab, 2025). However, in practice, this did not automatically translate into substantive decisions by judges, who often remained bogged down in formalities. This means that the expansion of the scope has not completely transformed the culture of pretrial proceedings. Official accountability also remains a fundamental unresolved issue. A study by Ekawardani et al. (2020) shows that without effective oversight, officials can continue to act arbitrarily even when pretrial mechanisms are in place. In state administration practice, weak internal oversight means that investigators are rarely prosecuted even when procedural violations are discovered. This gives the impression that pretrial proceedings are merely procedural, with no deterrent effect on human rights violators.

Furthermore, administrative barriers and complex legal procedures often burden pretrial applicants. Cahyani et al. (2023) investigated that many suspects experience administrative difficulties, particularly in preparing documents and court procedures. These obstacles are more severe for vulnerable groups and poor suspects, resulting in highly unequal access to justice. As a result, pretrial proceedings tend to be available only to those with adequate legal access. The effectiveness of this mechanism also depends heavily on synchronization between stages of the justice system. A study by Sukono & Santoso (2024) found that the main case often advances to the main hearing stage before the pretrial is completed, resulting in the petition being dismissed. This reflects weak institutional coordination between

investigators, prosecutors, and the courts. Without systemic reform, pretrial proceedings cannot fully implement human rights guarantees.

Overall, the effectiveness of pretrial motions as an instrument for protecting the human rights of suspects in the Indonesian criminal justice system remains suboptimal. Although the institution's existence is legally guaranteed in the Criminal Procedure Code (KUHP) and reinforced by Constitutional Court Decision No. 21/PUU-XII/2014, the reality on the ground shows that its implementation still faces various serious obstacles. Procedural formalities, administrative complexity, and inconsistencies in judges' decisions often cause pretrial motions to lose their essential role as a check on repressive actions by law enforcement officials. Furthermore, weak coordination between institutions in the criminal process exacerbates the situation, as synchronization between the investigation, prosecution, and trial stages has not been carried out systematically and in an integrated manner. As a result, in many cases, pretrial motions are deemed to have been dismissed because the main case has already been tried, clearly undermining the spirit of human rights protection from the outset.

To make pretrial a truly effective mechanism in guaranteeing the rights of suspects, comprehensive and sustainable reform steps are needed. Steps that can be taken include simplifying pretrial procedures to make them more accessible to the wider public, especially vulnerable groups who have experienced structural barriers. Furthermore, it is necessary to increase the capacity of law enforcement officials and judges through ongoing training that emphasizes an understanding of human rights and the principles of substantive justice, not merely legal formalities. The duration of pretrial hearings also needs to be extended to avoid rushed proceedings and allow the parties to adequately present their arguments. Equally important, a strong oversight mechanism and firm sanctions are needed for officials found to have violated legal procedures during arrests, detentions, or seizures. Thus, simultaneous structural and cultural reforms are essential for pretrial proceedings to develop as a pillar of human rights protection in a just, transparent, and accountable criminal justice system.

Pretrial as an Instrument for Human Rights Protection in Law Enforcement Practices

Pretrial proceedings serve as an important horizontal oversight instrument in law enforcement practices, particularly in addressing the actions of law enforcement officers during the investigation and prosecution stages. This function is evident when pretrial proceedings examine the legality of arrests and detentions, preventing investigators from arbitrarily carrying out coercive processes without accountability. Cahyani et al. (2023) found that in pretrial proceedings, suspects can demand the dismissal of cases if administrative procedures are not followed, as part of a human rights protection mechanism. Ekawardani et al. (2020) emphasized pretrial proceedings as a means of public accountability, allowing the public to monitor repressive actions by law enforcement officers. Thus, pretrial proceedings function as a check and balance on investigators' authority.

Following Constitutional Court Decision No. 21/PUU XII/2014, the scope of pretrial control was expanded and its function became more strategic. Sumadi (2021) explains that the expansion of the object, which now includes the termination of investigations and the determination of suspects, provides suspects with a greater opportunity to demand accountability for the actions of law enforcement officials. In several courts, pretrial proceedings have successfully encouraged officials to revise or revoke illegal actions, such as termination of investigations based on insufficient evidence. This demonstrates the potential of pretrial proceedings as a means of controlling investigators' actions that were previously beyond the reach of other legal instruments. However, in practice, strong obstacles remain

that hinder the role of pretrial proceedings in effectively protecting human rights. A study by Cahyani et al. (2023) states that pretrial judges often disregard material evidence and focus on procedural aspects, and tend to be reluctant to intervene in official decisions if they appear formally legitimate. This approach deprives the pretrial process of its value as a forum for substantive protection of suspects. In fact, in some cases, pretrial decisions have not yet become a reference for reforming practices by law enforcement.

Inequality in access to pretrial proceedings is also a serious problem that reduces their effectiveness as a human rights instrument. Cahyani et al. (2023) found that suspects from disadvantaged groups often struggle to prepare documents and undergo legal assistance, making them less likely to fully utilize this right. This is exacerbated by the lack of legal assistance from Legal Aid Institutions (LBH), often due to limited funding and reach of legal aid organizations. Therefore, pretrial proceedings have not practically become an inclusive instrument capable of reaching all levels of society. Another problem is the inconsistent views of judges on the role of pretrial proceedings. According to Sumadi (2021), some judges still view pretrial proceedings as a technical administrative right, not a forum for substantive review or in-depth human rights analysis. This mentality of judges leads to conservative decisions that are less responsive to the substantive protection needs of suspects. As a result, investigators who violate formal procedures can escape prosecution simply by fulfilling administrative requirements.

A study by Ekawardani et al. (2020) shows that without continued oversight, pretrial decisions are often not implemented effectively by investigators or prosecutors. Authorities sometimes proceed with detention or seizure proceedings despite pretrial orders to the contrary, due to weak enforcement mechanisms. This highlights that pretrial proceedings, while serving as a forum for oversight, must be supported by strong executive power and strong institutional coordination. Otherwise, pretrial proceedings become mere formal discourse without any substantive impact. Furthermore, strategic litigation and legal advocacy are essential to ensure that pretrial proceedings serve not only as a single forum but also as a pathway to progressive jurisprudence. Cahyani et al. (2023) recommend the presence of a team of human rights lawyers and academics assisting in the pretrial process to strengthen substantive arguments, including the use of international human rights analysis. This approach has been shown to improve the quality of decisions and broaden their impact on reforming law enforcement practices. Without strategic litigation efforts, pretrial proceedings remain in a neutral zone without encouraging substantial reform.

Access to pretrial decisions is also a crucial component of transparency and accountability in the judicial system. Sumadi (2021) revealed obstacles to public access to documents and judges' deliberations, making it difficult for the public and academic research to understand how judges decide pretrial cases. This secrecy results in minimal public pressure or academic assessment of the quality of decisions, resulting in stagnant legal progress. By opening this access, judges' performance can be measured and practices of intimidation or intervention by law enforcement officials can be highlighted. The role of the media and civil society in supporting pretrial proceedings also plays a crucial role. Ekawardani et al. (2020) noted several cases in which media scrutiny forced law enforcement officials to comply with pretrial decisions, as reputations were at stake. The publication of decisions sensitive to procedural and substantive quality creates moral and political pressure for reforms. This demonstrates that pretrial proceedings can be a powerful non-judicial human rights instrument if supported by a legal ecosystem and a critical legal culture.

Overall, pretrial proceedings have significant potential as an instrument for protecting human rights in Indonesian law enforcement. As a legal mechanism aimed at testing the

legality of authorities' actions before the main case is examined, pretrial proceedings are normatively intended to balance state power over individuals, particularly in the context of protecting personal freedom, the right to justice, and protection from arbitrary action. However, the reality of their implementation shows that pretrial proceedings remain far from ideal. Structural challenges such as a formalistic legal culture, a lack of competence and sensitivity of judges to human rights issues, and weak coordination between law enforcement agencies have rendered pretrial proceedings' oversight function less effective in preventing human rights violations from the early stages of the criminal process. This situation is exacerbated by minimal oversight of the implementation of pretrial decisions and limited public access to trial proceedings and judges' legal reasoning, which should be a crucial element of the principles of transparency and accountability in the judicial system.

To ensure that pretrial proceedings function substantively as a tool for protecting human rights, comprehensive and sustainable reform measures are needed. Procedural law reforms are needed to simplify the process, clarify evidentiary standards, and extend trial periods to allow for in-depth and thorough examinations. Ongoing education and training for law enforcement officials, particularly judges and investigators, should be directed toward strengthening the perspective of human rights and substantive justice, rather than simply adherence to formal procedures. Furthermore, strategic litigation assistance by legal aid institutions and collaboration with academics and civil society organizations are crucial for strengthening legal arguments and guiding pretrial proceedings as a precedent for criminal law reform. Furthermore, active media and public involvement in monitoring pretrial proceedings and decisions also plays a crucial role in encouraging a more transparent and accountable legal system. Without a shared commitment from all elements of the criminal justice system, pretrial proceedings will remain stagnant as a legal formality with little impetus for change and genuine human rights protection.

The Urgency of Pretrial in the Indonesian Criminal Law System

Pretrial proceedings play a crucial role as a judicial scrutiny mechanism to ensure that any use of coercive measures, such as arrest, detention, search, and seizure, is conducted in accordance with the constitutional principle of habeas corpus and the right to a fair trial. According to the ICJR (2025) study, although pretrial proceedings were once cited as a manifestation of the principle of habeas corpus in Indonesia, in practice, this function only occurs after authorities have acted, not as a preventative measure. This demonstrates the urgency of expanding the function of pretrial proceedings so that they can be effective from the moment authorities take action.

The current Criminal Procedure Code (KUHAP) only permits pretrial motions after authorities have taken action, and the trial lasts only seven days. If the main case is initiated first, the petition can be automatically dismissed under Article 82(1)(d) of the KUHAP (Thea, 2025). This creates legal uncertainty and makes pretrial proceedings less effective as an initial control measure. Therefore, the urgency of reforming the KUHAP is increasingly clear to address these procedural weaknesses by extending the timeframe and separating the trial stages. The 2025 Criminal Procedure Code (KUHAP) Bill still maintains the formalistic nature of pretrial proceedings, without expanding their jurisdiction and still allowing authorities to evade responsibility (ICJR, 2025). As a result, investigators are often absent from pretrial hearings without legal consequences. Thea (2025) reports this issue as one of the "structural weaknesses" that urgently need to be addressed in the revised KUHAP.

Since the issuance of Constitutional Court Decision No. 21/PUU-XII/2014, the scope of pretrial proceedings has been significantly expanded, including testing of suspect determination, searches, and seizures. However, the implementation of this expansion has not been fully consistent at the court level. A study by Nazarudin (2020) in his thesis at Sultan Agung Islamic University showed that despite the expansion of the scope, many judges at the Batang District Court still decide pretrial cases using a formalistic approach without considering the substantial aspects of justice. Meanwhile, Subangun (2019) in his research at Sebelas Maret University emphasized that the inconsistency of judges in applying the Constitutional Court Decision has created legal uncertainty and disparities in the treatment of pretrial applicants. These two findings emphasize the importance of reforming pretrial procedural law so that the Constitutional Court's decision can be implemented effectively and evenly across all court jurisdictions.

The lack of consistency in the application of Constitutional Court decisions by pretrial judges is inextricably linked to a weak understanding of the principle of substantive justice, which should be the primary basis for assessing coercive actions by law enforcement officers. Most judges remain trapped by a rigid and formal approach to procedural law, thus neglecting the protection of suspects' human rights during the brief seven-day examination process. In his study, Chairul Huda (2022) noted that the lack of technical and substantive training for judges has resulted in a loss of judicial sensitivity to human rights violations during the investigation process. Zulkarnain (2023) similarly emphasized that without ongoing legal education and institutional reform, judges' capacity to uphold the principle of due process through pretrial proceedings will continue to lag.

Empirical evidence suggests that pretrial judges often focus solely on formal administrative aspects without delving into the substance of the case. Research by Uli et al. (2024), which analyzed South Jakarta District Court Decision No. 33/Pid.Prap/2020, concluded that judges' considerations are still dominated by procedural regulations, while justice and legal certainty are often neglected. This situation has the potential to erode the function of pretrial as a guarantor of the suspect's human rights during the initial examination stage. Therefore, procedural reform and capacity building of judges, particularly training in assessing the substance of material and evidence, are essential for pretrial proceedings to function in accordance with the principle of due process of law comprehensively from the initial phase of criminal justice.

Pretrial reform is increasingly urgent through the implementation of the principle of due process of law, which requires judges to conduct material examinations, not merely procedural formalities. A recent normative legal study by Pradana & Wahyudi (2025) emphasized that pretrial must be viewed as a substantive forum capable of guaranteeing initial justice for suspects, not merely fulfilling administrative requirements. Research by Nasution et al. (2024) noted that judges in several regions have begun to apply this principle, but it has not been standardized nationally due to a lack of technical guidelines for judges. Thus, the urgency of updating the Criminal Procedure Code and issuing judicial guidelines is increasingly crucial to ensure the principle of due process is applied equally. Furthermore, public access to pretrial forums needs to be strengthened through adequate legal assistance, especially for vulnerable groups. Data from the 2021 Access to Justice Index shows that access barriers remain high, particularly in terms of legal assistance and processing costs (BAPPENAS, 2021). This aspect indicates that suspects' rights cannot be fully realized without the support of the state and non-state agencies, such as LBH (Legal Aid Institute) or other legal aid institutions. Therefore, a free assistance scheme and simplification of pretrial procedures need to be immediately included in the criminal justice system reform plan.

The urgency of pretrial proceedings is also related to the need for transparency and accountability in the judge's decision-making process. According to Sutrisna (2023), due process requires not only the presumption of innocence but also open access to the judge's legal process and reasoning. This transparency is crucial so that pretrial decisions can be criticized and used as a basis for improving criminal law policy. If pretrial decisions are not systematically published, this forum will remain closed, without public oversight or academic evaluation. Research published by Amin (2023) highlights the importance of expanding the scope of subjects and authorities of pretrial proceedings to provide broader legal control over the actions of officials. This aligns with the reform discourse that pretrial proceedings need to target not only officials' actions at the initial stage of stigma, but also strategic policies that can have broad impacts, such as the termination of investigations or other administrative decisions. Therefore, the Criminal Procedure Code (KUHAP) needs to be amended to ensure flexible oversight and responsiveness to legal dynamics and new investigation technologies, without sacrificing the principle of justice.

In general, the urgency of strengthening pretrial proceedings in the Indonesian criminal justice system is now very high. This is due not only to the increasingly complex forms of human rights violations during the investigation process, but also to the low effectiveness of internal control mechanisms within law enforcement institutions. In practice, coercive measures such as arrest and detention are often carried out without a strong legal basis and are not accompanied by adequate external oversight. Therefore, pretrial proceedings must be positioned as the first line of legal protection for every individual facing state power, particularly in the early phases of the criminal justice system. Through a combination of procedural law reform, the development of clear judicial guidelines, increased public legal literacy, and expanded rights of access and legal representation, pretrial proceedings can be transformed into a substantive oversight forum that guarantees the constitutional rights of suspects in real terms, rather than merely as a procedural symbol.

Without comprehensive structural reform and strong legal policy support, pretrial proceedings will continue to be trapped in their formalistic function and unable to fully implement the principle of due process of law as guaranteed by the constitution. Synergy is needed between the main elements of the justice system: the judiciary through the Supreme Court and general courts, the legislative branch in the process of developing and revising the adaptive Criminal Procedure Code (KUHAP), and the executive branch through the Ministry of Law and Human Rights in ensuring the implementation of human rights standards throughout the criminal justice process. Furthermore, the active participation of civil society, academics, and legal aid institutions also needs to be strengthened to ensure optimal horizontal oversight of law enforcement officials. With support from all these components, pretrial proceedings will be able to fulfill their role as a substantive mechanism that not only legally oversees the actions of investigators but also upholds the principles of justice and human rights protection at every stage of the criminal justice process.

IV. CONCLUSION

Pretrial proceedings play a crucial role in ensuring the protection of human rights in Indonesia, particularly against coercive actions by law enforcement officials in the early stages of the criminal process. Despite being normatively strengthened through Constitutional Court Decision No. 21/PUU-XII/2014, the implementation of pretrial proceedings still faces substantial challenges, such as inconsistent judges, procedural formalities, limited trial time, and unequal accessibility. These inequalities indicate that pretrial proceedings have not fully

implemented the principle of due process of law. Therefore, procedural law reform, updated judicial guidelines, and increased competence of judges in understanding the substantive context of human rights are needed. Furthermore, the active involvement of civil society, academics, the media, and legal aid institutions is crucial to expand access, strengthen oversight, and foster a legal culture responsive to justice. With multi-stakeholder synergy and progressive policy support, pretrial proceedings can be transformed into an effective, accountable, and inclusive judicial oversight forum to uphold justice and protect the human rights of every citizen who comes into contact with the criminal justice system.

REFERENSI

- Albab, B. M. (2025). Mengenal Lebih Dekat Dengan Praperadilan Dalam RUU KUHAP.
- Amin, A. (2023). Praperadilan Sebagai Sarana Perlindungan Atas Hak Korban Tindak Pidana. *Jurnal Madani Hukum*, 1(2), 103.
- Aprilia, S. S. ... Munandar, T. I. (2023). Perlindungan Hukum Terhadap Hak Tersangka Melalui Upaya Praperadilan. *PAMPAS: Journal of Criminal Law*, 4(1), 16–32. <https://doi.org/10.22437/pampas.v4i1.24097>
- BAPPENAS. (2021). INDEKS AKSES TERHADAP KEADILAN DI INDONESIA TAHUN 2021.
- Cahyani, E. D. ... Verda, R. (2023). PERLINDUNGAN HAK ASASI MANUSIA TERSANGKA MELALUI PRAPERADILAN DI PENGADILAN NEGERI. *Soedirman Law Review*, 90.
- Ekawardani, R. ... Sutiarnoto. (2020). ANALISIS PENGATURAN PRAPERADILAN BERDASARKAN KUHAP DALAM PROSES PENEGAKAN HUKUM HAK ASASI MANUSIA. 7(4), 845–855.
- ICJR. (2025). Sembilan Masalah dalam RUU KUHAP. Institute For Criminal Justice Reform. https://icjr.or.id/sembilan-masalah-dalam-ruu-kuhap/?utm_source=
- Nasution, R. P. ... Chandra, A. (2024). Praktek Due Process Of Law dalam Sistem Peradilan Pidana Indonesia di Tinjau Dari Putusan Pengadilan Negeri Medan Tahun 2022-2023. *Jurnal Begawan Hukum (JBH)*, 2(1), 117–128.
- Nazarudin, M. I. (2020). PERBANDINGAN PELAKSANAAN PROSES PRAPERADILAN SEBELUM DAN SESUDAH PUTUSAN MAHKAMAH KONSTITUSI NOMOR: 21/PUU-XII/2014 DI PENGADILAN NEGERI BATANG.
- Nur, E. R. (2017). Eksistensi Praperadilan Bagi Penegakan Hukum Dalam Mencapai Keadilan Substantif di Indonesia. *Jurnal Hukum Ekonomi Syariah*, 9(2), 103–111. <http://103.88.229.8/index.php/asas/article/view/3244/pdf>
- Pradana, M. A., & Wahyudi, S. (2025). Problematika penetapan tersangka dalam kasus praperadilan pegi setiawan dalam perspektif hukum progresif di indonesia. *Jurnal Ilmiah Galuh Justisi*, 13(2), 64–84.

- Subangun, A. (2019). Penerapan Perluasan Objek Praperadilan Penetapan Tersangka Pasca Putusan Mk Nomor. 21/Puu-Xii/2014 dalam Perspektif Kepastian Hukum.
- Sukono, S. J. D., & Santoso, B. (2024). Analisis Efektivitas Praperadilan Dalam Melindungi Hak Asasi Manusia Di Sistem Peradilan Indonesia. *Verstek*, 12(1), 68–76. <https://doi.org/10.20961/jv.v12i1.78978>
- Sumadi, R. (2021). Praperadilan Sebagai Sarana Kontrol Dalam Melindungi Hak Asasi Manusia (HAM) Tersangka. *Jurnal Hukum Sasana*, 7(1), 149–162. <https://doi.org/10.31599/sasana.v7i1.597>
- Sutomo, D. (2023). Lembaga Praperadilan Sebagai Instrumen Pengawasan Horizontal Hakim Dalam Praktik Peradilan Pidana. *Jurnal Fakta Hukum*, 1, 69–80.
- Sutrisna, M. D. (2023). Criminal Procedure Code: Application “Due Process Of Law.” *JIHAD: Jurnal Ilmu Hukum Dan Administrasi*, 5(2), 33–44. <http://ejournal.mandalanursa.org/index.php/JIHAD/>
- Thea. (2025). RUU KUHAP Perlu Benahi 4 Kelemahan Praperadilan. <https://www.hukumonline.com/berita/a/ruu-kuhap-perlu-benahi-4-kelemahan-praperadilan-lt6848fcf825128/>
- Uli, G. I. ... Harjati, E. (2024). Analisis Pertimbangan Hakim Praperadilan Putusan 33/Pid.Prap/2020/PN.JKT.SEL Tentang Penetapan Tersangka Tidak Sah dalam Keadilan Kepastian Hukum. *RechtJiva*, 1(1), 44–61. <https://doi.org/10.21776/rechtjiva.v1n1.3>