

**Legal Uncertainty Regarding Pretrial Decisions
Regarding Objects Of Suspect Determination That Have Been
Revoked And Declared Invalid**

**Ketidak Pastian Hukum Putusan Praperadilan tentang Objek Penetapan
Tersangka yang telah Dibatalkan dan Dinyatakan Tidak Sah**

Suparji Ahmad

email: emailpenulis@gmail.com

Universitas Al Azhar Indonesia, Jakarta, Indonesia

R Ardi Wirakusumah

Universitas Al Azhar Indonesia, Jakarta, Indonesia

email: wira.advokat@gmail.com

Abstract

This study examines the phenomenon of repetition of suspect determination in the Indonesian criminal law system, especially after the revocation of suspect determination through the pretrial mechanism. The pretrial process aims to test the legality of the actions of law enforcement officials, such as arrests, detentions, and determination of suspects, in order to protect human rights. However, legal problems arise when investigators again designate a person as a suspect after the determination of the suspect in the case is invalid based on a pretrial verdict, which raises questions about the legality of the act and the potential violation of the principle ne bis in idem, which is the prohibition of prosecuting someone for the same case more than once. This study aims to analyze the authority of investigators in issuing the same investigation warrant after the revocation of the suspect's designation, as well as its impact on the rights of suspects and applicable legal principles, such as justice and legal certainty.

Through a normative juridical approach, this study identifies legal loopholes in the regulations governing the repetition of the determination of suspects after the cancellation of pretrial detention. This study also examines the application of the principle ne bis in idem comparatively in international law and Indonesian law, as well as evaluates the supervisory mechanism for investigator authority. The results of the study show that the Indonesian legal system needs significant revisions to provide legal certainty related to the repetition of the determination of suspects and strengthen supervision of law enforcement officials. The study provides recommendations to improve regulations, increase transparency in the legal process, and propose training for law enforcement officials to ensure better protection of human rights in every pro justitia legal process. Thus, this research contributes to the development of a fairer and more efficient criminal justice system, as well as increasing public trust in the integrity of the Indonesian legal system.

Keywords: *Legal Uncertainty; Pretrial; Determination of Suspects; Legal Certainty; Criminal Procedure Law.*

Abstrak

Studi ini mengkaji fenomena pengulangan penetapan tersangka dalam sistem hukum pidana Indonesia, terutama setelah pencabutan penetapan tersangka melalui

*mekanisme praperadilan. Proses praperadilan bertujuan untuk menguji legalitas tindakan aparat penegak hukum, seperti penangkapan, penahanan, dan penetapan tersangka, guna melindungi hak asasi manusia. Namun, masalah hukum timbul ketika penyidik kembali menetapkan seseorang sebagai tersangka setelah penetapan tersangkanya di nyatakan tidak sah berdasarkan putusan praperadilan, yang menimbulkan pertanyaan tentang keabsahan tindakan tersebut dan potensi pelanggaran prinsip *ne bis in idem*, yaitu larangan menuntut seseorang atas kasus yang sama lebih dari sekali. Penelitian ini bertujuan untuk menganalisis kewenangan penyidik dalam menerbitkan surat perintah penyelidikan yang sama setelah pencabutan penetapan tersangka, serta dampaknya terhadap hak-hak tersangka dan prinsip-prinsip hukum yang berlaku, seperti keadilan dan kepastian hukum.*

*Melalui pendekatan yuridis normatif, penelitian ini mengidentifikasi celah hukum dalam peraturan yang mengatur pengulangan penetapan tersangka setelah pembatalan penahanan praperadilan. Penelitian ini juga mengkaji penerapan prinsip *ne bis in idem* secara komparatif dalam hukum internasional dan hukum Indonesia, serta mengevaluasi mekanisme pengawasan atas kewenangan penyidik. Hasil penelitian menunjukkan bahwa sistem hukum Indonesia memerlukan revisi signifikan untuk memberikan kepastian hukum terkait pengulangan penetapan tersangka dan memperkuat pengawasan terhadap aparat penegak hukum. Studi ini memberikan rekomendasi untuk memperbaiki peraturan, meningkatkan transparansi dalam proses hukum, dan mengusulkan pelatihan bagi aparat penegak hukum untuk memastikan perlindungan hak asasi manusia yang lebih baik di setiap proses hukum *pro justitia*. Dengan demikian, penelitian ini berkontribusi pada pengembangan sistem peradilan pidana yang lebih adil dan efisien, serta meningkatkan kepercayaan publik terhadap integritas sistem hukum Indonesia.*

Kata kunci: Ketidakpastian Hukum; Praperadilan; Penetapan Tersangka; Kepastian Hukum; Hukum Acara Pidana.

INTRODUCTION

Pretrial is one of the important mechanisms in the Indonesian criminal law system, which functions to protect human rights by testing the legality of actions carried out by law enforcement officials. This mechanism provides an opportunity for aggrieved parties, especially suspects, to obtain legal protection in the early stages of criminal proceedings, such as arrest, detention, and determination of suspects. In this context, the pretrial process serves not only as supervision, but also as a tool that ensures the absence of abuse of authority by the authorities. However, in practice, there are often legal issues that require more attention, one of which is the redetermination of the status of the suspect even though the previous determination has been canceled through the pretrial process.¹

This phenomenon raises important problems related to legal certainty and justice in the criminal justice process. *Ne bis in idem* is a basic principle in criminal law that governs that a person should not be tried more than once for the same case. When investigators issued a new search warrant after the previous suspect designation was overturned, it raised doubts about whether the action was legally legal, as well as whether the rights of the individuals involved were properly protected. This kind of situation shows the importance of an in-depth study of investigators' authority and the

¹ Anzhari, Anzhari., Sunardi, Sunardi., Moh., Muhibbin. "Detention of Suspects Based on Indonesian Criminal Law." International Journal of Law, Environment, and Natural Resources, undefined (2024). doi: 10.51749/injurlens.v3i2.56

limitations that should be applied in the use of pretrial mechanisms, in order to prevent abuse of authority that is detrimental to suspects.²

The action of investigators who appoint suspects for a second time is often justified by the existence of new evidence or different viewpoints regarding the substance of the case. However, it is important to examine the extent to which the new evidence is valid and relevant within the applicable criminal law framework.³ Do the formal legal procedures that have been established include the principle of justice for the suspects and do not violate their human rights? In addition, this also triggers further discussion on how criminal procedural law must be applied consistently, so that inconsistencies do not arise in the judicial process that can cause legal uncertainty. Therefore, it is important to carefully examine existing regulations, as well as consider their impact on the rights of suspects. Although there have been some studies related to the pretrial stage, there is still little research that focuses on this specific issue, namely the repetition of the determination of suspects after cancellation by the pretrial stage. The existing literature discusses the function of pretrial more in a more general context, without specifically addressing the legal issues that arise as a result of the actions of investigators.⁴ By looking at these gaps, this study aims to fill them and make an important contribution to our understanding of fairer and more transparent legal procedures. This study will provide an in-depth analysis of the legal basis underlying the determination of the second suspect, as well as its implications for the applicable legal principles in Indonesia.⁵

Through this research, it is hoped that a new view can be produced regarding the legality of the investigators' actions in this case and provide recommendations to improve the legal system that upholds justice.⁶ This research will provide a more comprehensive understanding of how criminal procedure law in Indonesia can be strengthened to protect the rights of individuals without reducing the effectiveness of law enforcement. Therefore, this research not only contributes to the development of legal theory, but also offers practical solutions that can increase public trust in the criminal justice system in Indonesia.⁷

RESEARCH METHODS

This study adopts a normative juridical approach, which aims to explore the legal norms related to the determination of a second suspect through a new investigation warrant after annulment by a pretrial court. As doctrinal research, this approach focuses on the analysis of key legal materials, such as laws and regulations, jurisprudence, legal

² E., T., Alimkulov. "Problems in guaranteeing the rights of suspects during pretrial investigations." Habarşy - Al-Farabi atyndagy Qazaq memleketik ultiq universiteti. - StuRat (2023), Undefined (2023). doi: 10.26577/japj.2023.v106.i2.012

³ Kazimierz, Pawelec. "Prohibition on evidence, professional secrecy, and attempts to hide it during operational, reconnaissance and procedural activities." Cybersecurity and Law, undefined (2024). DOI: 10.35467/inch/188574

⁴ Baren, Sipayung., No, Wahyudi. "Determination of Pretrial Suspects in Corruption Cases: A Critical Analysis of Judge Sarpin Rizaldi's Decision and Its Implications for Corruption Eradication in Indonesia." undefined (2024). doi: 10.59653/jpills.v2i03.1084

⁵ Amir, Giri, Muryawan. "Fundamentally deviant pretrial decisions." undefined (2021). doi: 10.51749/JPHI.V2I2.30

⁶ Made, Oka, Mulya., Sri, Jaya, Lesmana., Tiara, Ayu, Lestari. "Material Test Related to the Responsibility of Police Investigators in Cases of Unlawful Arrest." International Journal of Law and State Administration, undefined (2024). doi: 10.58818/ijlrsv2i3.147

⁷ Nurbaedah, Nurbaedah. "Legal Study on the Reform of the Criminal Procedure Law System related to Pretrial Institutions after the Constitutional Court Decision in Indonesia." Journal of Acts, undefined (2022). doi: 10.30659/act.v9i2.21530

doctrine, and related academic literature. This research is designed to interpret the legal framework in depth, in order to understand its implications for the principles of legality, justice, and legal certainty.

This research is descriptive-analytical, which aims to provide an in-depth picture of the legal issues that occur and analyze them critically. The legal materials used consist of two main categories: primary and secondary legal materials. Primary legal materials include the constitution, the Criminal Code, laws and regulations related to pretrial, and relevant court decisions. Secondary legal materials include doctrines, books, scientific journal articles, and other academic studies that support theoretical and practical discussions.⁸

Data collection is carried out through library research, utilizing authoritative sources such as legal databases, scientific publications, and court decision archives. The data collected is processed through juridical analysis- A qualitative analysis method, in which legal materials are compiled, classified, and interpreted based on their relevance to the legal issue being studied. This method aims to identify loopholes in existing regulations, as well as formulate practical and innovative legal solutions to support better enforcement of justice.⁹ The research stages include tracing legal materials, in-depth studies of legal theories, and critical analysis of relevant regulations. This research ensures its validity by prioritizing credible and up-to-date legal sources, and applying an objective and bias-free approach. With this methodology, the research is expected to make a substantial contribution to strengthening the criminal procedure legal system in Indonesia, especially in ensuring the implementation of pretrial mechanisms in accordance with the principles of justice and the protection of individual rights.

DISCUSSION

A. Juridical Analysis of the Pretrial Process

1. The Role and Function of Pretrial in the Indonesian Criminal Law System

The pretrial process in the Indonesian criminal law system plays an important role as a monitoring mechanism for the actions of investigators and public prosecutors. Normatively, pretrial aims to ensure that every action of law enforcement officials is carried out in accordance with applicable legal procedures and does not violate the human rights of suspects.¹⁰ Article 77 of the Criminal Code (KUHP) stipulates that pretrial includes the scope of testing the validity of arrest, detention, termination of investigation, and determination of suspects. This function confirms that pretrial is not just a forum of formality, but an integral part of the criminal justice system that aims to protect procedural justice.¹¹

As a tool of supervision, pretrial not only protects the rights of individuals, but also strengthens the legitimacy of the legal system. The suspect's right to file a pretrial provides assurance that the investigation and investigation are carried out transparently and in accordance with the law. This is important to prevent

⁸ Fitriah, Faisal. "Fair Legal Process: Pretrial Judges and Preliminary Examinations in Indonesian Criminal Procedure Law." *International Journal of Law, Crime, and Justice*, undefined (2023). doi: 10.36348/sijlcj.2023.v06i03.003

⁹ Randika, Fitrah, Darmawan., Slamet, Sampurno, Soewondo., Sabir, Alwi. "The Use of the Principle of Reverse Burden of Proof as a Case Settlement for Crimes Committed by Doctors." undefined (2021). doi: 10.47268/SASI. V27I2.426

¹⁰ Claudia, N., Anderson., Joshua, C., Cochran., Andrea, N., Montes. "How Much Is Pretrial Detention? Measuring the Relative Suffering of Pretrial Detention." undefined (2023). doi: 10.1177/14624745231218702

¹¹ Wibowo, Moch Adhitya Rifka, and Sunarto Sunarto. "Juridical Analysis of the Role of the Pretrial Stage in Criminal Law Enforcement in Indonesia." *Bright: Journal of Social, Political, and Legal Studies* 1.1 (2024): 306-320.

arbitrary actions, including the determination of suspects that are not based on strong evidence. Therefore, the Pre-Trial is a crucial balancing effort in ensuring a balance between state power and the rights of citizens.¹²

In practice, pre-trial often faces challenges, especially in the consistent application of justice principles. There are still cases where pre-trial decisions are not fully complied with by law enforcement officers. This shows the need to strengthen legal institutions to ensure that the role and function of pre-trial runs effectively. By clarifying the limitations of authority and related procedures, pre-trial can play a more significant role in improving the integrity of the criminal justice system in Indonesia.¹³ Legal Provisions Regarding Pretrial Authority to Cancel the Determination of Suspects. Pretrial authority in canceling the determination of suspects has been confirmed through various regulations and court decisions. Based on Article 1 paragraph 10 of the Criminal Procedure Code and the Constitutional Court decision Number 21/PUU-XII/2014, pretrial judges have the right to examine the validity of the determination of suspects based on the sufficiency of the evidence.¹⁴ This provision aims to ensure that every determination of suspects is carried out by paying attention to legal procedures, so that the actions of law enforcement officials do not violate the principle of legality. The judge is obliged to ensure that the determination of the suspect is supported by at least two valid pieces of evidence in accordance with Article 184 of the Criminal Code.¹⁴

These trials are not only formal, but also material. This means that the pretrial judge must ensure that the evidence used has the force of law to support the criminal act charged. Thus, pretrial provides legal protection to individuals from the possibility of unfounded criminalization. The decision to cancel the determination of suspects is a reflection of the importance of the principle of due process of law in the criminal justice system.¹⁵

However, this authority faces challenges in its implementation, especially when faced with different interpretations of the law among law enforcement officers. This loophole is often used to take legal steps that conflict with pretrial decisions, such as issuing a new search warrant without fixing the weaknesses that underlie the annulment. Therefore, strengthening regulations is needed to ensure the effectiveness of pretrial authority in protecting the rights of suspects while maintaining the credibility of the justice system.¹⁶ Evaluation of the Procedures Carried out in the Pretrial Decision on the cancellation of the suspect designation.

The pretrial procedure in this case shows the complexity in its implementation, especially in harmonizing the principles of justice and legal

¹² Claudia, N., Anderson., Joshua, C., Cochran., Andrea, N., Montes. "How severe is the pretrial sentence? Measuring the relative suffering of pretrial detention." Undefined (2023). doi: 10.1177/14624745231218702

¹³ Abraham, Gunawan, Wisdom. "Reconstruction of the scope of pretrial authority in the Indonesian criminal justice system." undefined (2022). doi: 10.37303/magister.v10i2.35

¹⁴ Mustawa, Nur., Siti, Zubaedah., Abdul, Hamid. "Synchronization of media reporting systems in the application of due process of law principles." Journal of Indonesian Legal Validity, undefined (2023). doi: 10.35965/ijlf.v5i2.2203

¹⁵ Ari, Qurniawan., Murdian., Anggraini. "Improving the Function of Pretrial Institutions and the Concept of Implementing the Institution of Commissioner Judges in the Protection of Suspect Rights." undefined (2022). doi: 10.2991/assehr.k.220102.018

¹⁶ Natalia, Nazyrova. "Gaps and Conflicts in Some Norms of Criminal Procedure Legislation Relating to the Final Stages of Pre-Trial Procedures." Sibirskie ugolovno - processual'nye i kriminalističeskie čtenia, undefined (2023). doi: 10.17150/2411 - 6122.2023.1.47-56

certainty.¹⁷ After the cancellation of the suspect determination by the pretrial judge, investigators issued a new investigation warrant to re-establish the suspect. This step raises fundamental legal questions about the extent of the investigator's authority to repeat legal proceedings that have been canceled. In this context, it is important to evaluate whether the act is in accordance with the spirit of the criminal procedure law.

An evaluation of this procedure shows that there is a lack of clarity in the regulations regarding follow-up after a pretrial verdict. The Criminal Procedure Code does not explicitly regulate the mechanism for responding to the cancellation of the determination of suspects, thus providing a wide scope of interpretation for law enforcement officials. As a result, the investigator's move to issue a new investigative warrant may be considered a form of abuse of authority, especially if it is not supported by relevant new evidence.

In this situation, it is important to strengthen supervision of the implementation of pretrial decisions so that legal actions that are contrary to the principles of justice do not occur. This includes the need for clearer technical guidelines on pretrial post-determination procedures, so that the rights of suspects are protected without harming the law effectively. In this way, pretrial procedures can function optimally in ensuring justice and legal certainty.¹⁸ Pre-Trial Judge's Compliance with the Principles of Justice, Legal Certainty, and Protection of Suspects' Rights

Pretrial judges have a great responsibility in ensuring the principles of justice and legal certainty through the decisions they make. In this case, the judge's decision to overturn the suspect's designation reflects an effort to protect the rights of the suspect from unlawful legal action. However, this success will only have a real impact if law enforcement officials comply with the ruling consistently.¹⁹

The principle of procedural justice requires that every pretrial decision be not only declarative but also implementive. The pretrial judge needs to ensure that his or her decision does not leave ambiguity that can be exploited by certain parties to ignore applicable legal principles. In this case, clear and unequivocal directions in the verdict are essential to prevent future violations of the rights of suspects.²⁰

As a further effort, Indonesia's criminal law system needs to be equipped with stronger control mechanisms to ensure that pretrial decisions are carried out in accordance with the spirit of justice and the protection of human rights. This step will not only increase the credibility of the pretrial system but also strengthen public confidence in the legal system as a whole.²¹

B. Legal Implications of the Second Suspect Determination

1. Potential Abuse of Authority by Investigators in Issuing a Second Investigation Warrant

¹⁸ Laurensia, Princess. "Effectiveness and Study of the Pretrial System of Criminal Law." undefined (2023). doi: 10.61996/law.v1i1.15

¹⁹ Baren, Sipayung, No, Wahyudi. "Pretrial Determination of Suspects in Corruption Cases: A Critical Analysis of Judge Sarpin Rizaldi's Decision and Its Implications for Corruption Eradication in Indonesia." undefined (2024). doi: 10.59653/jplls.v2i03.1084

²⁰ Oxana, A., Chabukiani. "Abuse of Procedural Rights and the Exercise of Discretionary Rights by Authorities in Pretrial Proceedings: Concepts and Their Relationships." *Закон*, undefined (2024). doi: 10.37239/0869-4400-2024-21-4-40-51

²¹ Elisa, Pitria, Ningsih. "Protection of Human Rights in the Process of Investigating Acts Crime in Indonesia." undefined (2024). doi: 10.62872/g9297g96

The determination of the suspect's status, which is the second time after previously being canceled through a pretrial hearing, raises serious concerns about potential abuse of authority by investigators. When a suspect's determination is overturned by a pretrial judge, this is not only an administrative annulment, but also an affirmation that the actions taken by the investigator do not meet the established legal standards. However, the action of the investigators to reissue a new investigation warrant can be seen as a step that risks violating the principles of justice. In this context, investigators may be considered to be attempting to circumvent or exploit loopholes in the legal system to update an action that has been overturned, even though there is no relevant new evidence that could be the basis for such a decision.²² This phenomenon illustrates the incompatibility between the goals of criminal procedure law that emphasize the importance of legal certainty and the protection of individual rights. Investigators who act in this way tend to point to abuses of authority, which not only harms the rights of suspects, but also undermines public trust in the justice system. In addition, if this action is taken without an adequate re-evaluation of the available evidence, it further worsens the image of law enforcement officials who are supposed to adhere to the principles of proportionality and transparency in carrying out their functions.²³

The impact of this abuse of authority is far greater than just the injustice to the suspect in one case. This can create a bad legal precedent for other cases. If law enforcement officers are given the freedom to repeat actions that have been overturned by a pretrial judge without a good reason, then the basic principles of the criminal justice system, namely due process, will be threatened. Therefore, strict supervision of the actions of investigators, as well as strict enforcement of legal provisions, is necessary to prevent abuse of authority in this process.²⁴

2. Impact on Human Rights, Including the Right to Personal Liberty and the Right to Fair Treatment

The determination of suspects for the second time after the decision on the cancellation of the determination of suspects by pretrial judges has a significant impact on human rights, especially related to the right to personal liberty and fair treatment. Anyone designated as a suspect, whether on a legal basis or not, risks experiencing restrictions on personal liberty that can have long-term impacts. Prolonged detention or social stigma resulting from the unlawful designation of suspects can undermine an individual's right to be respected with dignity. Therefore, the repetition of the determination of suspects without a solid basis or new evidence can be categorized as a violation of the right to personal liberty guaranteed by the constitution and international conventions.²⁵ In addition, the process of repeating the determination of suspects for the second time creates legal uncertainty for the individuals involved. The right to fair treatment, which is reflected in the principles of a fair trial as enshrined in Article 14 of the International Covenant on Civil and Political Rights (ICCPR), is threatened. Legal processes that

²² Leo, Katz., Alvaro, Sandroni. "Legal Evasion and the Hidden Logic Behind It." *Journal of Legal Studies*, undefined (2023). doi: 10.1086/721638

²³ Rr., Dijan, Widijowati., Rynaldo, P., Coal. "Reconstructing the Paradigm of Other Actions and Police Discretion to Minimize Injustice in Fair Law Enforcement." *ENDLESS*, undefined (2022). doi: 10.54783/endlessjournal.v5i1.60

²⁴ Yuwono, Prianto. "Abuse of Authority in Complete Systemic Land Registration (CSLP) in Cikupa Village, Cikupa District, Tangerang Regency, Banten." undefined (2022). doi: 10.58451/ijebss.v1i02.50

²⁵ Iskandar, Iskandar. "Pre-trial justice in the criminal justice system for the protection of the rights of suspects." *Maqasidi*, undefined (2023). doi: 10.47498/maqasidi.vi.1947

are not transparent and filled with vague or repetitive procedures have the potential to undermine trust in the justice system, and worse, create injustice for those trapped in the system. In this context, the right to fair and equal treatment before the law must take precedence, ensuring that no person is unlawfully persecuted within the established legal framework.

On a broader level, the phenomenon of repeating the determination of suspects without a legitimate legal basis can create a culture of impunity within the legal system itself. Without adequate oversight, investigators and public prosecutors can disregard human rights in carrying out their duties, which can ultimately harm the process of democratization and promotion of human rights in Indonesia.²⁶

Therefore, the protection of human rights in the legal system must be a top priority, ensuring that any action taken in criminal proceedings must be based on the principle of justice that not only benefits law enforcement, but also protects the rights of the individuals involved.²⁷

3. Legal Consequences of Repeatedly Assigning Suspects to the Investigation and Prosecution Process

The resumption of the determination of suspects after a pretrial decision that annuls the previous determination has the potential to have serious legal consequences for the investigation and prosecution process. In the Indonesian legal system, any action taken by investigators and public prosecutors after the dismissal of a suspect's determination must be based on legal clarity and the presence of new evidence that supports a stronger charge.

If the investigator issues a new investigation warrant without new evidence, this can be considered a violation of the principle of legal certainty. An investigation process that is not based on valid and sufficient evidence can lead to abuse of authority and injustice that can be detrimental to the judicial process as a whole.²⁸

On the other hand, if this investigative step is extended to the prosecution stage, there is a great potential for the criminal justice system to lose its direction in upholding justice. These inconsistencies in the legal process can cause confusion among public prosecutors, judges, and the parties involved in the case. Furthermore, public prosecutors can lose credibility in the eyes of the public because they are often the ones who decide to proceed with a case even though there is not enough evidence to support the charges. As a result, the repetition of the determination of suspects without a solid basis can defeat the primary goal of the criminal justice system itself, namely substantial justice.

In addition, the repetition of the determination of suspects will worsen the achievement in terms of fair law enforcement. This not only undermines the quality and credibility of the legal process, but also undermines the ultimate goal sought by every judicial system, which is to enforce the law fairly and correctly. As a result, public trust in law enforcement will be eroded, which in turn can have an impact on the overall level of law compliance in society. Therefore, in the face of such a situation, it is very important for the legal system to clarify regulations related to the

²⁶ Hongwei, Wang. "Research on "Thin" and "Thick" Impunity and Its Solutions." *Habarşy - Al-Farabi atyndagy Qazaq memlekekt ulttyq university. Halyqaralyq qatynastar žene Halyqaralyq qykyk, seriasy*, undefined (2023). doi: 10.26577/irilj.2023.v102.i2.07

²⁷ Hartoyo., Noenik, Soekorini. "Application of the Principle of Legality in the Criminal Justice System: Ensuring Justice and Protection of Human Rights." *ENDLESS*, undefined (2023). doi: 10.54783/endlessjournal.v6i2.174

²⁸ N., S., Neretina. "The Interconnection of Investigational, Judicial, and Expert Errors." *Vestnik Universiteta imeni O. E. Kutafina*, undefined (2024). doi: 10.17803/2311-5998.2024.115.3.099-108

mechanism for repetition of the determination of suspects and strengthen supervision of investigators and public prosecutors to ensure that there is no arbitrary action in the judicial process.²⁹

4. The Influence of This Case on Public Trust in the Criminal Justice System

The case of repetition of the determination of suspects after the cancellation of the pretrial hearing has a long-term impact on public confidence in the criminal justice system. People who witness inconsistent or seemingly unfair legal proceedings tend to lose faith in the integrity of the legal system. One of the basic principles of the criminal justice system is to ensure transparent and consistent justice, but the repetition of suspects without clear reasons or new evidence can give the impression that the law only applies to those who have certain powers or interests.³⁰ This can ultimately trigger a sense of injustice and public suspicion of the true intentions behind the legal process.

As a result, public trust in state institutions such as the police, prosecutor's office, and courts can be significantly reduced. If people feel that the criminal justice system is being used for illegal or unfair purposes, they tend to withdraw from the legal system and insult the legal process. This loss of trust will hamper law enforcement efforts in the future, as the public tends to be more skeptical of the results of the judiciary and legal processes carried out by the state.³¹

Therefore, it is important for the legal system to increase transparency and accountability at every stage of the criminal justice system. Not only should law enforcement officials be held accountable, but stronger monitoring and evaluation mechanisms should also be introduced to ensure that legal action is always based on true justice, not just on technical procedures. Thus, public trust can be restored, and Indonesia's criminal justice system can operate more effectively and effectively.³²

C. Compatibility Between Legal Practice and Ne Bis In Idem Principle

1. Definition and Application of the Ne Bis In Idem Principle in Indonesian Criminal Law

The principle *ne bis in idem* is a legal principle that stipulates that a person cannot be punished twice for the same act, or better known as "there is no double punishment for the same act." This principle aims to prevent the repetition of legal proceedings against someone who has been tried and convicted for the same act. In the context of Indonesian criminal law, this principle is reflected in various legal provisions, including Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP), which regulates criminal justice procedures.³³ One of the implementations of this principle can be seen in the provisions regarding the

²⁹ Puspita, Dwi, Ratnasari. "Legal Protection of the Rights of Suspects in the Criminal Case Investigation Process from a Human Rights Perspective." *International Journal of Social Sciences and Human Research*, undefined (2022). doi: 10.47191/ijsshr/v5 -i11-31.

³⁰ Sinda, Eria, Ayuni. "Legal Certainty of Criminal Verdicts Not Based on Public Prosecutor's Indictments." undefined (2022). doi: 10.37303/magister.v13i2.68

³¹ Ignacio, Urbina., Victoria, Sgorlon. "1. Divided Beliefs: The Chain Impact of Police Violence on Political Trust and Democracy." undefined (2024). doi: 10.31219/osf.io/c8tys

³² Deassy, Jacomina, Anthoneta, Hehanussa. "The validity of the determination of state financial losses by the Government Internal Supervision Apparatus (APIP) as a basis for investigating corruption cases." *New York: Routledge, Undefined* (2023). doi: 10.30598/bacarita.v3i2.8502

³³ The criminal law arrangement in Indonesia is related to review." *Russian Journal of Law*, unspecified (2023). doi: 10.52783/rlj.v11i3.1835

settlement of cases that have been decided by the court, which affirm that there should be no repetition of legal proceedings against cases that have a permanent verdict or have permanent legal force (*inkracht van gewijsde*).

However, in practice, the application of this principle in the Indonesian legal system does not always go smoothly. The invalidation of a person's designation as a suspect in a pretrial process, for example, raises the question of whether investigators can redesignate a person as a suspect after a previous designation has been overturned by a judge. If the determination of the suspect is carried out for the second time without the development of new evidence, then this can be said to violate the principle of *ne bis in idem*, since its essence is to avoid the repetition of legal action against individuals who have been declared innocent or do not have enough evidence to be made a suspect.³⁴

Therefore, it is important to analyze more deeply the extent to which this principle is applied in Indonesian criminal law practice, as well as how it affects the justice provided to individuals involved in the legal process.

The principle *ne bis in idem* is also closely linked to the broader principles of justice and legality, where investigators and law enforcement officials are expected to act transparently and in accordance with applicable law. The misapplication of this principle risks creating legal uncertainty and undermining the sense of justice in the eyes of the public, as it can create the impression that a person can be subjected to repeated legal actions without supporting evidence. Therefore, it is necessary to conduct a review of pretrial practices that invalidate the determination of suspects and the repetition of legal actions against the same person by paying close attention to this principle.³⁵

2. Comparison of the Application of the Ne Bis In Idem Principle in the International Legal System

The principle *ne bis in idem* is not only recognized in Indonesia's national legal system, but is also widely accepted in the international legal system. At the international level, this principle is enshrined in various legal instruments, such as Article 14 Paragraph 7 of the International Covenant on Civil and Political Rights (ICCPR) which states that "no one shall be tried or convicted of the same crime more than once."

The same principle also applies in the EU legal system, where *ne bis in idem* is the basis for protecting individuals from double trials by more than one country. The European Convention on Human Rights (ECHR) also regulates this principle, with the main aim of protecting the rights of individuals from unfair or illegal hunting.³⁶

A comparison of the application of this principle between the Indonesian legal system and the international legal system provides an overview of the similarities and differences in their arrangements. In the international legal system, the principle *ne bis in idem* is applied more strictly, especially in the context of international courts, such as the International Criminal Court (ICC), where a person cannot be tried twice for the same crime, by both national and international courts.

³⁴ Enny, Dwi, Cahyani., Gilang, Khalifa, Akbar., Rendi, Verda., Fadia, Rahma, Safitri., Gebi, Emada, Turnip. "Protection of the human rights of suspects through the pretrial stage in the District Court." undefined (2023). doi: 10.20884/1.slr.2023.5.3.14203

³⁵ Zuman, Malacca. "Analysis of the number of rejected pretrial applications." *TARUNALAW Journal of Law and Sharia*, undefined (2024). doi: 10.54298/ tarunalaw.v2i01.185

³⁶ T., V., Kozhemyakina. "The role of the ECHR Commissioner in the system of entities that guarantee the protection of human rights and citizens' freedoms (administrative-legal aspects)." *Scientific Journal of Užgorod National University*, unspecified (2024). doi: 10.24144/2307- 3322.2023.80.1.74

On the other hand, in Indonesian criminal law, although this principle is also guaranteed, its application in some cases is still questionable, such as in the case of the determination of the suspect for the second time after the annulment of the first determination by a pretrial judge.³⁷

Therefore, it is important to compare how the principle *ne bis in idem* is applied in both legal systems, to see if there are gaps or potential violations of individual human rights that need to be addressed in national legal practice.

In the context of international law, there is a stronger emphasis on the protection of individuals in the face of the possibility of repetition of unlawful legal actions. At the international level, when a case has been resolved and decided by a court, there is no room for another country or another court to repeat the legal process against the same action. On the other hand, in Indonesian law, although this principle is enshrined in law, there is room to refile the designation of a suspect against a person whose determination has been overturned in the pretrial stage, indicating potential inconsistency with international standards. Therefore, this comparison is important to evaluate the extent to which the Indonesian legal system needs to adapt the principle *ne bis in idem* in accordance with stricter international standards.

3. Determination of the Limit of Whether the Recurrence of the Determination of the Suspect violates the principle of *ne bis in idem*

The main question in this analysis is, can the repetition of the determination of suspect status after cancellation by a pretrial judge be considered a violation of the principle of *ne bis in idem*? According to this principle, once a person has been found innocent or there is insufficient evidence to grant suspect status in the pretrial stage, there is no legitimate basis for repeating the same legal action in the absence of a significant change in the underlying evidence or circumstances.³⁸

Therefore, a repetition of the determination of suspect status can only be carried out if there is new evidence or relevant circumstances that were previously unknown. has never been considered before. In the absence of new evidence, the repetition of the determination of the suspect can be considered a violation of the principle of *ne bis in idem* both formally and materially on Evidence as Article 184 of the Criminal Procedure Code, because it is contrary to the right of individuals not to be subjected to the same legal action repeatedly without a valid basis.

To determine whether this action violates this principle, it is also necessary to consider the purpose of the pretrial hearing itself, which aims to provide a space for the suspect to test the validity of the legal action taken against him. If the pretrial hearing has canceled the determination of the suspect for legitimate reasons, then the decision should be the basis for law enforcement officials not to continue with unfounded legal actions. Therefore, the repetition of the determination of suspects that are not based on new evidence or developments in the case should not be allowed, as this may violate the principle of *ne bis in idem*

³⁷ Baren, Sipayung., No, Wahyudi. "Pretrial Determination of Suspects in Corruption Cases: A Critical Analysis of Judge Sarpin Rizaldi's Decision and Its Implications for Corruption Eradication in Indonesia." undefined (2024). doi: 10.59653/jplls.v2i03.1084

³⁸ Pretrial, Juliet., Asril., As., Suspect, Criminal., Corruption., Bernandia, Hamsyah, Dinanti., Setiyono. "Juliet Asril's pretrial as a suspect in the corruption case (decision number 3/pid.pra/2021/pn.tpg)." *Amicus curiae*, undefined (2024).

and undermine the credibility of the judicial system.³⁹

In the context of criminal law, the principle of *ne bis in idem* is also related to the protection of individual rights against arbitrary legal actions. Therefore, the repetition of the determination of suspects that are not based on new evidence or significant changes in the legal situation must be carefully analyzed, to ensure that the rights of individuals remain protected.⁴⁰

If investigators re-designate a suspect after a disqualification without a clear basis, this could potentially violate the principle of *ne bis in idem*, which aims to prevent the oppression of individuals and maintain the integrity of the legal process.

4. An Assessment of How the Indonesian Legal System Can Accommodate the Conflict between the Ne Bis In Idem Principle and the Need for Substantial Justice

Indonesia's legal system faces challenges in accommodating the conflict between the principle of *ne bis in idem* and the need to provide substantive justice, especially in cases involving repeated appointments of suspects. On the one hand, the *ne bis in idem* principle aims to protect individuals from the repetition of unlawful and unjust legal actions, while on the other hand, there is a need to ensure that substantial justice is still achieved, especially if there is relevant new evidence that could support the determination of a suspect.⁴¹

Therefore, to accommodate these two principles, the Indonesian legal system needs to introduce a clear and unambiguous mechanism regarding the conditions for the resumption of the determination of suspects after the cancellation in the pretrial stage.

One solution that could be considered is to introduce a stricter procedure in the pretrial stage, where the judge must carefully check whether there are urgent reasons to continue the investigation process after the cancellation of the suspect's designation.

The redetermination of suspect status should be viewed in the context of relevant new evidence or significant changes in the facts of the case, not simply an attempt to pursue legal action without a legitimate basis. If there is no new evidence, then the principle of *ne bis in idem* must take precedence, in order to maintain the integrity and fairness of the legal process.⁴²

Therefore, the Indonesian legal system needs to formulate clearer provisions on how to resolve conflicts between these two principles, in order to ensure that the law can provide substantial justice without neglecting the right of individuals not to be subjected to repeated acts of violence. A careful and evidence-based approach to handling cases involving the repeated appointment of suspects will be

³⁹ Moses, Atem, Besong. "Exploring the Ne Bis in Idem Principle: Its Material Scope and Application in EU Law." *World Journal Of Advanced Research And Reviews*, undefined (2024). doi: 10.30574/wjarr.2024.22.2.1454

⁴⁰ Iryna, Podrez-Riapolova. "The application of the law to ensure the integrity of the innovation process in the context of Ukraine's approach to EU membership." *Pravo ta innovacii*, undefined (2024). doi: 10.37772/2518-1718-2024-1(45)-6

⁴¹ Anthoni, Hatane., S., Nirahua., J., Tjiptabudy., H., Salmon. "The Philosophy of Expanding Substantive Justice in Disputes over the Results of the Election of Governors, Regents, and Mayors at the Constitutional Court." *International Scientific Journals and Research Publications*, unspecified (2023). doi: 10.29322/ijsrp.13.12.2023.p14439

⁴² E., T., Alimkulov. "Problems in guaranteeing the rights of suspects during pretrial investigations." *Habařy - Al-Farabi atyndagy Qazaq memlekettik ultiq universiteti. - StuRat* (2023), Undefined (2023). doi: 10.26577/japi.2023.v106.i2.012

key to maintaining a balance between substantial justice and the protection of individual human rights in Indonesia's criminal justice system.

D. Analysis of Legal Weaknesses and Loopholes in the Pretrial Process

1. Identification of regulatory gaps related to the recurrence of suspect determination after cancellation

One of the main problems in the application of criminal law in Indonesia is the existence of legal loopholes related to the repetition of the determination of suspects after cancellation by pretrial judges. Theoretically, if the suspect's determination is overturned by a pretrial judge, then the suspect's status should be considered invalid. However, in practice, there are no clear rules that limit or regulate the repetition of suspect designations against individuals whose status has been previously revoked. The ambiguity of this regulation opens up opportunities for investigators to re-establish suspects in the absence of new evidence or significant developments in the case.

Existing regulations do not explicitly regulate the procedures and conditions for repeating the determination of suspects after a pretrial verdict. This creates legal uncertainty, both for the individuals who are the object of investigation and for the law enforcement officers themselves. Without proper regulations regarding the determination of suspects, it can be carried out without adequate protection of the rights of suspects. This is a loophole that can be used to implement a prolonged legal process without a legitimate legal basis, thereby undermining the principle of justice in the criminal justice system.

To address this, more detailed and strict regulations are needed regarding the procedure for determining suspects after cancellation in the pretrial stage. The rules must include strict requirements for investigators to be able to redesignate a person as a suspect, including significant new evidence or new facts that have not been considered in a previous determination. Thus, the legal system can provide better legal certainty for the community and prevent abuse of authority by law enforcement officers.⁴³

2. No Legal Restrictions on the Use of New Investigation Warrants

What really needs to be considered is the lack of legal restrictions on the use of new investigation warrants after the revocation of suspect status in the pretrial stage. An investigation warrant is a legitimate tool in the investigation process, but in some cases, it can be used to resume an investigation that has been canceled or to repeat legal proceedings against individuals who have been released from previous suspect status. Unclear legal limitations on the use of these new search warrants could lead to potential abuse by investigators, who may issue search warrants on invalid grounds or without sufficient evidence.

In practice, there are no clear provisions on when and how a new investigation warrant can be issued after the revocation of the suspect's status. This opens a legal loophole that can be used to continue the legal process against a person even though the determination of the suspect's status has previously been declared invalid by the pretrial judge. Without clear limitations, investigators can issue new investigative warrants on non-objective grounds or even on weak grounds. This kind of action can create legal uncertainty for the individuals who are the subject of the investigation, as well as undermine the principle of justice

⁴³ Oren, Gross. "Is a Torture Warrant Necessary? Pragmatic Absolutism and Official Non-Compliance." *Minnesota Law Review*, unspecified (2024).

in the judicial process.⁴⁴

To overcome this, stricter regulations are needed regarding the issuance of investigation warrants after the cancellation of the determination of suspects in the pretrial stage. Issuance of a new investigation warrant must be based on relevant new evidence or entirely different new circumstances, not just to continue an investigation that has previously been canceled. Stricter provisions on this matter are important to prevent abuse of authority by law enforcement officials and to ensure that the rights of individuals are protected from unlawful or unjust actions.

3. Weaknesses of the Supervision Mechanism on the Authority of Investigators in Issuing Investigation Warrants

Another very significant weakness in the Indonesian legal system is the lack of effective oversight mechanisms for investigators' authority to issue investigative warrants. Investigators have the authority to issue an investigation warrant that can initiate an investigation and designate a person as a suspect. However, the mechanism for monitoring this authority is still very weak, so it has the potential to cause abuse of authority. In some cases, such authority can be used for personal gain or non-objective reasons, ultimately to the detriment of the examined party or the suspect.⁴⁵

The absence of strict supervision of the investigator's decision in the event of the issuance of an investigation warrant may result in unfair or arbitrary legal proceedings. For example, if an investigator issues an investigation warrant after the revocation of a suspect's status in the absence of new evidence, then the current control mechanisms are insufficient to prevent such abuse. This is especially risky for individuals involved in legal proceedings, as they can be subjected to repeated legal actions without a legitimate reason.⁴⁶

As a solution, it is necessary to introduce stricter control mechanisms, such as more intensive supervision by prosecutors or courts, before investigators can issue new investigative warrants. This can reduce the potential for abuse of investigator authority and ensure that decisions are always based on strong and objective evidence. With better supervision, the judicial process can run more fairly, transparently, and prioritize individual rights.

4. Obstacles in the Implementation of Comprehensive Reform of the Pretrial Legal System

While there is an awareness of the need to reform Indonesia's pretrial legal system, the implementation of these changes faces various obstacles. One of the main obstacles is the limited resources and ability of legal institutions to implement comprehensive reforms. Most proposed legal reforms are often hampered by slow bureaucracy, as well as a lack of a deep understanding among law enforcement officers of the importance of pretrial principles and the protection of suspects'

⁴⁴ Y.I., Horinetsky., I.A., Nesterova., N.M., Replyuk. "Issues of Protection of the Rights of an Individual whose Actions Are Being Investigated Before Receiving Suspected Notification." *Analitično-porivnâlnâ pravoiznavstvo*, undefined (2024). doi: 10.24144/2788 - 6018.2024.03.91

⁴⁵ Rocky, Marbun., Debby, Monica, Sinaga. "The principle of prudence in determining suspects as a parameter to test the actions of investigators through pretrial." *Encyclopedia Education Review*, undefined (2022). doi: 10.33559/eer.v4i2.717

⁴⁶ Akbar, Sanjaya. "2. Juridical study of legal remedies and legal consequences in the determination of suspects without sufficient evidence." *Justitia Mimbar Law Journal*, undefined (2022). doi: 10.35194/jhmj.v8i1.2457

rights.⁴⁷ In addition, changes in the legal system also often require good coordination between various state agencies, such as the police, prosecutors, and courts, which in practice sometimes do not work as well as expected.

Another obstacle is resistance to change that comes from the justice system itself. Some who are already familiar with the existing procedures may be comfortable with the status quo and do not see the urgency to make changes.⁵⁰ This may slow down the process of necessary legal reform, although to ensure a fairer and more transparent justice system, reforms must be carried out quickly and thoroughly. Therefore, despite the good intentions to improve the pretrial legal system, structural barriers and work culture that exist in the Indonesian legal system are often the main obstacles.⁴⁸

As a strategic step to overcome these obstacles, more intensive counseling efforts are needed to all parties involved in the pretrial process, as well as increasing the capacity of law enforcement officials to better understand and apply existing principles. In addition, better cooperation between state institutions is needed to ensure that legal system reform can run effectively. This reform should involve strengthening oversight mechanisms, increasing transparency in the legal process, and strict enforcement of violations of the rights of suspects.⁴⁹

E. Recommendations for Improving the Legal System

1. Improvement of Regulations on Restrictions on the Recurrence of Suspect Determination in the Criminal Code

One of the important steps in improving the legal system is the improvement of regulations that regulate the repetition of the determination of suspects in the Criminal Procedure Code (KUHAP). Current regulations do not provide clear limits on whether investigators can re-designate a person as a suspect after their status is revoked in the pretrial stage. Therefore, more detailed provisions are needed in the Criminal Code regarding procedures and conditions that must be met so that the determination of the second suspect is valid and in accordance with applicable legal principles.⁵⁰

This increase in regulation is important to provide legal certainty, both for law enforcement officials and the public. One of the proposals is to require significant new evidence or substantial changes in the circumstances of the case that would allow the suspect to be re-assigned to that status.⁵¹ Thus, the redetermination of the status of suspects is not carried out arbitrarily and still prioritizes the principle of substantial justice. In addition, these improvements can prevent abuse of authority by investigators, which may force a redetermination of suspect status without a solid basis. Increased Oversight and Accountability of

⁴⁷ Faturhman, Faturhman., Alvy, Anggreini., Revina, Tri, Deasti. "Building a Corruption-Free Pancasila Legal System and Upholding Human Rights (HAM)." Aladallah, undefined (2024). doi: 10.59246/aladallah.v2i3.873

⁴⁸ Willen, Vimelia., Arla, Aglia., Agung, Prabowo. "Re-Actualizing the Indonesian Legal System: A Comprehensive Critique and Reform Proposals." The International Journal of Humanities, Law, and Politics, undefined (2024). doi: 10.46336/ijhlp.v2i1.85

⁴⁹ Violation of the rights of suspects (defendants) in criminal proceedings (analysis of the practice of the European Court of Human Rights)." undefined (2023). doi: 10.24144/2307 - 3322.2023.77.2.42

⁵⁰ Anna, Landina., Armen, Nersesian. "Guaranteeing certain rights and freedoms for suspects (defendants) in criminal proceedings: a matter of theory and practice." Pravova deržava, undefined (2022). doi: 10.33663/1563-3349-2022-33-498-506

⁵¹ E., Andreeva., E.V., Bykadorova., Ilona, Viktorovna, Tertychnaya. "Certain aspects in ensuring the legitimate interests of the defendant in the criminal prosecution process." Journal of Law of Dagestan State University, undefined (2022). doi: 10.21779/2224 -0241-2022-41-1-154- 159

Investigators to Prevent Abuse of Authority

Increasing supervision of investigator authority is an important aspect in improving Indonesia's criminal justice system. Weak oversight can open up loopholes for abuse of authority, especially in the case of reappointment of suspects after a revocation in the pretrial stage. Therefore, it is important to strengthen internal oversight mechanisms in the police, prosecutor's office, and other law enforcement agencies. One solution that can be implemented involves oversight from outside parties, such as the Prosecutor's Commission or the Police Commission, which has the authority to assess every step taken by investigators, including the issuance of an investigation warrant and the determination of suspects.

In addition, the accountability of investigators must be strengthened by implementing a more transparent system in every decision taken. For example, investigators must be able to explain clear and accountable legal reasons whenever they decide to designate someone as a suspect or issue an investigation warrant. This supervision is not only carried out by internal institutions, but can also involve independent external institutions so that the legal process that occurs can be monitored objectively and without potential conflicts of interest.⁵²

Effective oversight not only reduces potential abuses of authority, but also ensures that any decisions taken by investigators are based on the principles of justice and human rights. Therefore, it is important to reform this oversight system by introducing a more transparent reporting system and oversight involving various parties to ensure accountability for any actions of investigators.

2. Development of Technical Guidelines for Pretrial Judges in Handling Similar Cases

The development of technical guidelines for pretrial judges is essential to ensure that they have clear and structured guidelines in place in handling cases that involve the repetition of a suspect's determination after a dismissal. Cases like these can be very complex, and without clear guidelines, judges may struggle to make an informed and fair decision. These technical guidelines will provide a framework that assists the judge in assessing whether there is sufficient evidence to base the determination of a second suspect after the pretrial annulment.⁵³

Technical guidance should include clear procedures for checking whether new evidence is valid, whether the status of new suspects can be justified based on evolving facts, and how the protection of suspects' rights should be prioritized. In addition, the guidelines should also provide direction on how judges should balance individual rights with broader legal interests, including justice for society and the state. With clear guidance, judges can make more consistent and more targeted decisions.⁵⁴

3. Proposed Revision of the Criminal Procedure Law to Close Legal Loopholes Related to Pretrial and Repeated Determination of

⁵² I., Made., Wahyu, Chandra, Satriana., Ni, Made., Liana, Dewi., Ni, Putu., Ari, Seni, Antari. "The Authority of the Internal Investigation Prosecutor to Arrest and Detain Perpetrators of Corruption Crimes." *Journal of Sustainable Development Sciences*, undefined (2023). doi: 10.46650/jsds.5.2.1487.39-

⁵³ Roger, S., Haydock., David, F., Herr., Jeffrey, W., Stempel. "Dasar -Dasar Litigasi Praprosidangan." undefined (1985).

⁵⁴ Ali, Mukni., Elfrida, Ratnawati, Gultom. "Interim ruling in a civil lawsuit case regarding the entry of a third party without an application for intervention." *Encyclopedia Education Review*, undefined (2024). doi: 10.33559/eer.v6i1.2567

Suspects

The revision of the Indonesian Criminal Procedure Code, especially related to the pretrial stage and the repetition of the determination of suspects, is an important step to close the existing legal loophole. Currently, the unclear provisions in the Criminal Procedure Code regarding the repetition of the determination of suspects can cause uncertainty and injustice in the legal process. Therefore, it is necessary to make an in-depth revision of the articles in the Criminal Procedure Code that regulate the rights of suspects in the pretrial stage, as well as the procedures that must be followed by investigators and prosecutors.⁵⁵

This revision should include clearer restrictions on the procedure for re-establishing suspects after pretrial cancellation. For example, only in the presence of significant and relevant new evidence can investigators designate a person as a re-suspect. In addition, the revision should also set out clear procedures for restarting investigations after the rescinding the designation of suspects, including stricter oversight of any steps taken by law enforcement officers.

With this revision, Indonesia's criminal justice system will become more effective and can prevent the illegal determination of suspects. This revision will also strengthen the principles of justice, legal certainty, and the protection of individual rights in the criminal justice process.⁵⁶ *The Importance of Training for Law Enforcers on the Principles of Justice and Protection of Human Rights*

Training for law enforcers, both police, prosecutors, and judges, is a very important aspect in improving Indonesia's legal system. In cases of repeated suspect determination, law enforcement must be trained to have a good understanding of the principles of justice contained in the criminal justice system. In addition, law enforcement also needs to have a deep understanding of human rights protection, especially related to the rights of individuals involved in legal proceedings.⁵⁷

This training should include a better understanding of how to protect and respect the rights of suspects, as well as how law enforcement officials avoid abuse of authority in the investigation and determination process. The training should also emphasize the importance of transparency and accountability in every decision taken by law enforcement officials. With a better understanding of these principles, law enforcement officials can be more prudent in using their authority, as well as more responsive to the need for justice for all parties.

It is important to involve a wide range of stakeholders in the implementation of this training, including legal educational institutions, non-governmental organizations, and international organizations that have experience in promoting human rights. Thus, the training provided will be more comprehensive and relevant to the challenges faced by the current Indonesian legal system.

CONCLUSION

From the analysis of the phenomenon of repeating the determination of suspects

⁵⁵ E., Andreeva., E.V., Bykadorova., Ilona, Viktorovna, Tertychnaya. "Certain aspects in ensuring the legitimate interests of suspects in the criminal prosecution process." *Journal of Law of Dagestan State University*, undefined (2022). doi: 10.21779/2224 -0241-2022-41-1-154- 159

⁵⁶ Natalia, Nazyrova. "Gaps and Conflicts in Some Norms of Criminal Procedure Law Relating to the Final Stage of Pretrial Trials." *Sibirskie ugovolno - processual'nye i kriminalisticheskie čtenia*, undefined (2023). doi: 10.17150/2411 - 6122.2023.1.47-56

⁵⁷ E., T., Alimkulov. "Problems in guaranteeing the rights of suspects during pretrial investigations." *Habarşy - Al-Farabi atyndagy Qazaq memleketik ultiq universiteti. Sci. Scott*, Undefined (2023). doi: 10.26577/japj.2023.v106.i2.01

carried out by investigators using an investigation warrant that has been canceled in the pretrial stage, it can be concluded that there are a number of legal loopholes that need to be immediately corrected in the Indonesian criminal justice system. The designation of a second suspect on the same basis and a rescinded investigation warrant may create legal uncertainty and harm the rights of the individuals involved. Although pretrial aims to protect the rights of suspects and ensure legal certainty, this kind of practice shows the incompatibility between legal theory and practice in the field.

That the determination of a second suspect that is not followed by an update of evidence or substantial changes may lead to a violation of the principles of justice, which requires the enforcement of human rights and the prevention of abuse of authority by law enforcement officials. The relevance of this research is very great in the context of legal reform efforts aimed at creating a more transparent and accountable legal system. Law enforcement needs to be more assertive in ensuring that any suspect designation meets clear legal procedures and is based on valid evidence. Therefore, it is important to revise the criminal procedure law that regulates the repetition of suspect determinations, as well as strengthen supervision of investigators to prevent abuse of authority. With this update, the Indonesian legal system is expected to create better legal certainty and strengthen the protection of individual rights in every judicial process.

Based on the findings in this study, there are several suggestions that can be proposed to improve Indonesia's criminal justice system. First, a revision of the Criminal Procedure Code (KUHAP) is urgently needed, especially related to the provisions governing the redetermination of suspects after the cancellation of the pretrial. The revision should include clear provisions regarding the conditions for determining a second suspect, such as the presence of valid new evidence or significant changes in the case.

This aims to provide legal certainty for suspects and prevent the appointment of illegal suspects that have the potential to harm individual rights. Second, strengthening the supervision mechanism for investigator authority is very urgent to prevent abuse of authority in the process of determining suspects. External oversight from independent agencies, such as the Public Prosecution Commission or the Police Commission, needs to be improved so that every step of the investigator can be held⁵⁸ accountable. In addition, ongoing training and education are needed for law enforcement officials to strengthen their understanding of the principles of justice, human rights, and transparency in every decision taken. Having clear technical guidance for pretrial judges in handling similar cases will also help create consistent and fair decisions. With these measures, it is hoped that the criminal justice system in Indonesia can better reflect the principles of justice and protect human rights effectively⁵⁹

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⁵⁸ Viktor, V, Horodovenko., Alexander, Shandula., Mariya, Dmytriyeva. "Legal Certainty in Law Enforcement Through the Lens of the European Court of Human Rights (ECtHR) Judgment." *Amazon Investigative Journal*, undefined(2022). doi: 10.34069/ai/2022.59.11.4

⁵⁹ Yulia, Dessani., Bella, Afrilia., Sasmi, Nelwati. "Building the Pillars of Justice and Order: Uncovering Challenges and Solutions for Fair Law Enforcement in Indonesia." *Hakamain*, undefined (2023). doi: 10.57255/hakamain.v2i1.319

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