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CRIMINAL PROCEDURE LAW REFORM: AGAINST INDONESIA'S PRE-TRIAL RULING

REFORMA DA LEI DE PROCESSO PENAL: CONTRA A DECISÃO PRÉ-JULGAMENTO DA INDONÉSIA

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Abstract

The reform of Indonesia's criminal procedure law emphasizes effective supervision of law enforcement through the pretrial stage. However, this study identifies fundamental weaknesses in the current system: limited judicial authority, the finality of decisions without appeal mechanisms, and the high subjectivity of single-judge trials. While the Constitutional Court expanded the scope of pretrial objects, this development has triggered legal uncertainty and procedural debates rather than resolving systemic issues. Using a normative juridical approach, this research analyzes legal gaps in existing regulations. The study argues that merely extending examination periods or shifting to a panel of judges is insufficient. Consequently, this paper proposes a critical reconstruction of Article 164 paragraph (1) of the Criminal Procedure Code to allow all pretrial rulings to be appealed to the High Court. This reform aims to ensure judicial accountability, provide equal rights protection for all parties, and strengthen the integrity of the Indonesian criminal justice system.

Keywords: Pretrial. Criminal Procedure Law Reform. Judicial Supervision. Legal Uncertainty. Appeal Mechanism. Criminal Justice System.

Resumo

A reforma da lei de processo penal da Indonésia enfatiza a supervisão eficaz da aplicação da lei durante a fase pré-julgamento. No entanto, este estudo identifica deficiências fundamentais no sistema atual: autoridade judicial limitada, caráter definitivo das decisões sem mecanismos de recurso e elevada subjetividade dos julgamentos por juiz único. Embora o Tribunal Constitucional tenha ampliado o âmbito dos objetos pré-julgamento, essa evolução provocou incerteza jurídica e debates processuais, em vez de resolver questões sistémicas. Utilizando uma abordagem jurídica normativa, esta investigação analisa as lacunas jurídicas nas regulamentações existentes. O estudo argumenta que apenas prolongar os períodos de exame ou mudar para um painel de juízes é insuficiente. Consequentemente, este artigo propõe uma reconstrução crítica do artigo 164.º, n.º 1, do Código de Processo Penal, para permitir que todas as decisões pré-julgamento sejam objeto de recurso para o Tribunal Superior. Esta reforma visa garantir a responsabilização judicial, proporcionar proteção igualitária dos direitos de todas as partes e reforçar a integridade do sistema de justiça penal indonésio.

Palavras-chave: *Pré-julgamento. Reforma do Direito Processual Penal. Supervisão Judicial. Incerteza Jurídica. Mecanismo de Recurso. Sistema de Justiça Penal*

1 INTRODUCTION

The reform of the criminal procedure law in Indonesia has raised an important discourse on the need for effective oversight of law enforcement officials, such as the police and prosecutors, especially to prevent abuse of authority and human rights violations.(UPR, 2022) One of the instruments provided by the legal system for the supervisory function is the pretrial institution(Darwin & Suhaimi, 2019) regulated in Chapter XI, Part One, Articles 158 to 164 of Law 20/2025: Criminal Procedure Code (KUHAP). However, the limited pretrial authority and its inadequate regulatory framework have created the problem of legal uncertainty.(Fadilah & Atthahara, 2023) A number of previous studies have shown fundamental weaknesses, such as the final nature of pretrial decisions without a legal remedy mechanism, the potential for abuse of authority by a single judge, and the absence of an adequate check and balance mechanism. Although the Constitutional Court has expanded the object of pretrial justice through several of its decisions, these developments have actually given rise to various perceptions and debates related to procedural justice.(Waluyadi et al., 2025) Based on this condition, this study takes a critical position by proposing an appeal legal mechanism as the final decision on all types of pretrial ruling in order to realize justice, and equal protection of rights for all parties.

In the framework of criminal procedure law reform, one of the issues that emerged was corrective actions against law enforcement officials who abused their authority or acted beyond the limits of the law.(Zen Abdullah, n.d.) Human rights violations often occur due to the arbitrary use of power, for example through illegal arrest.(Hutabalian, 2023) Therefore, a built-in control mechanism is needed both vertically and horizontally to ensure law enforcement accountability.(Wibowo et al., 2018) Pretrial is designed as one of the horizontal control instruments against coercive acts, but in practice it has not been able to provide optimal legal protection.(Kusumastuti, 2018) In a pretrial hearing, only cases that have not yet entered the material stage are examined and decided, so it is not in the form of a criminal case decision, but only concerns the legality of the actions of officials involved in the investigation and prosecution.(Andi Sofyan, 2017)

The pretrial institution is not an independent entity, but is attached to the District Court.(Lian & Purba, 2017) When there is a pretrial application, the Chief Justice of the

District Court appoints a judge who examines and decides the case. This condition poses a risk of lack of independence, because the appointment of judges can cause conflicts of interest or affect the objectivity of the examination process. Furthermore, pretrial cannot be carried out on the initiative of the judge. The trial is only conducted if there is a party who submits an application. Consequently, even if there is a clear and significant violation of the procedure of coercion, the pretrial judge cannot conduct an examination without a request from the right party. This situation creates a void of substantive oversight and weakens the original purpose of pretrial as a protector of human rights in the criminal justice process.

Along with developments, the Constitutional Court has expanded the object of pretrial through several of its decisions. four important decisions: Constitutional Court Decision Number 21/PUU-XII/2014 which stipulates the determination of suspects as pretrial objects. Constitutional Court Decision No. 102/PUU-XIII/2015 which regulates the provisions for the disqualification of pretrial applications. Constitutional Court Decision Number 109/PUU-XIII/2015 which limits the scope of pretrial material law. and Constitutional Court Decision Number 130/PUU-XIII/2015 regarding the provisions for the submission of SPDP.(Faisal, 2023) Although this expansion is intended to strengthen legal protection, in practice it has given rise to different perceptions among legal practitioners. The high number of pretrial applications after the Constitutional Court's decision reflects dissatisfaction with the existing legal mechanism, but also raises concerns about the potential abuse of pretrial as a strategy to avoid substantive legal processes.

Abdaud's study shows that the great authority possessed by the pretrial single judge creates vulnerability to abuse, especially when the determination of the suspect is canceled even though the investigator already has two valid evidence. The absence of a check and balance mechanism makes investigators lose the opportunity to defend their evidence, so in order to continue the case, investigators must issue a new investigation warrant and look for at least two new pieces of evidence that are different from the previous one.(Abdaud, 2018) In practice, many pretrial ruling are controversial and contrary to the purpose of criminal procedure law. For example, when the material truth has not been revealed but the legal process must be stopped due to a pretrial decision, this

creates a serious problem because the Criminal Code does not regulate legal remedies against the decision.(Sari & Sazali, 2025)

Muryawan emphasized that pretrial decisions cannot be submitted for legal remedies, both ordinary and extraordinary, in accordance with the Constitutional Court Decision Number 6/PUU-IX/2011. In his consideration, the constitutional judge argued that the pretrial was a quick event that did not require an appeal. This is emphasized by Article 83 paragraph (2) of the Criminal Procedure Code which limits legal remedies against pretrial decisions. In fact, a review (PK) cannot be carried out, as stipulated in Article 3 paragraph (1) of Perma No. 4 of 2016. This condition raises new problems, especially when pretrial decisions deviate fundamentally from the principles of justice and criminal procedural law.(Muryawan et al., 2023) Perma No. 4 of 2016 concerning Supervision of Pretrial Decisions only authorizes the Supreme Court to supervise, reprimand, or instruct pretrial judges if egregious errors are found. However, such supervision is administrative and does not invalidate or correct the judgment that has been handed down.(Hutagalung & Seregig, 2025) As a result, a substantially legally flawed judgment will remain in effect, creating legal uncertainty and potential permanent injustice for the affected parties.

Although some studies have addressed the issue of pretrial institution, most have focused on expansion of pretrial objects and the protection of suspects' rights through legal efforts against pretrial ruling. There has not been much research that comprehensively examined the absence of legal remedy for victims and witnesses, specifically when the pretrial judge makes a mistake in interpreting the law or egregious error. Therefore, through the establishment of new criminal procedural law with a pretrial institution that changes its form to a Panel of Judges with legal appeal efforts, it is hoped that human rights and citizens' rights can be realised in the judicial process, as well as to achieve a fair legal process as expected.

This article aims to analyze the legal framework governing the pretrial examination and the use of legal remedy to realize justice. The article further proposes the application of appeal as the first and final legal remedy for all types of pretrial ruling, which is expected to strengthen the integrity of the criminal justice system in Indonesia.

1.1 Statement of the problem

Despite the intended function of the pretrial institution as a mechanism of supervision and protection of human rights within the Indonesian criminal justice system, its current implementation reveals several critical problems:

1. Limited Authority and Structural Weakness. The scope of pretrial authority remains narrowly defined, focusing only on procedural legality rather than substantive justice. This limitation reduces the effectiveness of pretrial as a control mechanism over coercive actions by law enforcement officials. As a result, many potential abuses of power cannot be thoroughly examined, creating gaps in legal protection and weakening public trust in the justice system.
2. Final Nature of Decisions Without Legal Remedies. Pretrial rulings are characterized as final and binding, with no ordinary or extraordinary legal remedies available. This condition eliminates opportunities for judicial correction when errors, misinterpretations of law, or unjust considerations occur. The absence of an appeal or review mechanism generates legal uncertainty and risks permanent injustice, particularly for parties adversely affected by flawed decisions.
3. Judicial Subjectivity and Lack of Check and Balance. The examination of pretrial cases by a single judge increases the potential for subjectivity and abuse of authority. Without a panel system or effective counter-balancing mechanism, decisions may disproportionately depend on individual interpretation. This structural design undermines the principle of impartiality and weakens the accountability framework within judicial proceedings.
4. Expansion of Pretrial Objects and Legal Uncertainty. Although the Constitutional Court has expanded the object of pretrial through several landmark decisions to enhance legal protection, these developments have simultaneously produced multiple interpretations among legal practitioners. Instead of creating clarity, the expansion has led to procedural debates and inconsistent applications, thereby intensifying legal uncertainty in practice.
5. Inequality of Rights Protection for Victims and Witnesses. Existing regulations predominantly emphasize the protection of suspects' procedural rights, while

victims and witnesses often lack equal standing or access to corrective legal mechanisms. This imbalance contradicts the principle of equality before the law and diminishes the broader objective of achieving substantive justice within the criminal justice process.

1.2 Research questions

Based on the identified problems, this study formulates the following research questions:

1. What are the legal and structural weaknesses of the current pretrial institution within the Indonesian criminal procedural law system?
2. How have the Constitutional Court's decisions expanding the object of pretrial affected legal certainty and procedural justice in practice?
3. How can the introduction of an appeal mechanism for pretrial rulings strengthen fairness and the integrity of the criminal justice system in Indonesia?

1.3 Research objectives

In line with the research questions above, this study aims to:

1. Analyze the legal framework and structural weaknesses of the current pretrial institution within the Indonesian criminal procedural law system.
2. Examine the impact of the Constitutional Court's expansion of pretrial objects on legal certainty and procedural justice.
3. Propose the introduction of an appeal mechanism for pretrial rulings in order to strengthen fairness, equal rights protection, and the integrity of the criminal justice system in Indonesia.

1.4 Scope of research

This research is limited to a normative juridical analysis of the pretrial institution within the Indonesian criminal procedural law system. The study focuses on examining statutory regulations, Constitutional Court decisions, Supreme Court regulations, and

relevant legal doctrines concerning pretrial authority, judicial structure, and the availability of legal remedies.

The discussion is confined to legal and conceptual aspects related to the reconstruction of appeal mechanisms for pretrial rulings and does not extend to empirical measurement of court performance or statistical evaluation of case outcomes. Furthermore, this study concentrates on the Indonesian legal context and does not conduct a comparative analysis with other countries' criminal procedural systems, except where necessary for theoretical clarification.

1.5 Significance of the Study

This study is expected to provide both theoretical and practical contributions to the development of criminal procedural law in Indonesia. Theoretically, it contributes to academic discourse by enriching legal scholarship on pretrial institutions, legal remedies, and judicial oversight mechanisms, particularly in relation to the principles of justice, legal certainty, and equality before the law. The study also offers a conceptual framework for reconstructing pretrial regulations within a normative legal perspective.

Practically, this research is intended to serve as a reference for lawmakers, judges, legal practitioners, and policy makers in evaluating and reformulating regulations concerning pretrial proceedings and appeal mechanisms. By proposing a more balanced supervisory structure, the study aims to support the creation of a more accountable and fair criminal justice system. Additionally, it may provide guidance for future legal reforms to ensure stronger protection of rights for suspects, victims, and witnesses within judicial processes.

1.6 Definition of key terms

To avoid ambiguity and ensure conceptual clarity, several key terms used in this study are defined as follows:

1. Pretrial (Praperadilan). A judicial mechanism within the Indonesian criminal procedural law system that functions to examine and decide the legality of

coercive measures and procedural actions taken by law enforcement officials during the investigation and prosecution stages.

2. Legal Remedy (Upaya Hukum). A procedural right granted to parties involved in judicial proceedings to challenge or seek correction of a court decision through mechanisms such as appeal, cassation, or judicial review.
3. Appeal Mechanism. A form of legal remedy that allows a higher court to re-examine a lower court's decision in order to assess its legality, fairness, and accuracy, and to provide judicial correction where necessary.
4. Judicial Oversight. A system of supervision carried out by judicial institutions to ensure that law enforcement actions comply with legal standards, procedural rules, and human rights principles.
5. Criminal Justice System. An integrated framework consisting of law enforcement agencies, prosecution bodies, courts, and correctional institutions that collectively administer criminal law and ensure the enforcement of justice within a state.

2 LITERATURE REVIEW

The discourse on pretrial institutions within criminal procedural law has attracted considerable scholarly attention, particularly in relation to judicial oversight, human rights protection, and legal certainty. Previous studies generally emphasize that pretrial functions as an essential safeguard against arbitrary actions by law enforcement officials, yet its practical effectiveness remains contested.

Several scholars argue that the primary objective of pretrial is to provide horizontal control over coercive measures such as arrest, detention, search, and seizure. Kusumastuti (2018) highlights that pretrial is conceptually designed to protect individual liberties by ensuring that investigative actions comply with procedural legality. However, in practice, this mechanism often fails to deliver optimal protection due to narrow jurisdiction and procedural rigidity. Similarly, Andi Sofyan (2017) explains that pretrial hearings are limited to formal legality rather than substantive truth, which restricts the judge's ability to examine broader aspects of justice.

Another stream of literature focuses on the final and binding nature of pretrial decisions. Muryawan et al. (2023) underline that the absence of legal remedies against

pretrial rulings creates a structural imbalance within the criminal justice system. According to this view, the prohibition of appeals or judicial reviews risks perpetuating judicial errors and undermines the principle of legal certainty. This concern is reinforced by Sari and Sazali (2025), who observe that controversial pretrial decisions frequently lead to premature termination of legal processes, even when material truth has not been adequately examined.

Research has also examined the role of the Constitutional Court in expanding the scope of pretrial objects. Faisal (2023) notes that landmark Constitutional Court decisions were intended to strengthen procedural justice by allowing broader challenges, such as the determination of suspects. Nevertheless, Waluyadi et al. (2025) argue that these expansions have produced multiple interpretations among legal practitioners, leading to inconsistency and uncertainty in judicial practice. Rather than resolving systemic weaknesses, the expansion has sometimes intensified procedural debates.

A further concern raised in the literature relates to judicial subjectivity and institutional design. Abdaud (2018) emphasizes that the concentration of authority in a single pretrial judge increases vulnerability to misuse of discretion and weakens the principle of checks and balances. The lack of a panel system or appellate supervision is seen as a significant structural flaw that diminishes accountability within judicial proceedings.

While existing studies have extensively discussed the expansion of pretrial objects and the protection of suspects' rights, relatively few have examined the absence of corrective legal mechanisms for victims and witnesses. Most prior research centers on procedural legality from the perspective of defendants, leaving a gap in the broader analysis of equality before the law. This study positions itself within that gap by proposing an appeal mechanism as a structural reform to enhance fairness, accountability, and balanced rights protection within the Indonesian criminal justice system.

3 RESEARCH METHODOLOGY

This study employs a qualitative method with a normative juridical approach, focusing on the analysis of legal norms, principles, and existing regulations. This approach is selected to evaluate the current framework of Indonesia's criminal procedural

law and propose ideal regulatory alternatives for pretrial legal remedies.(Jidatul Haz et al., 2024) As a normative study, the research relies exclusively on secondary data, categorized as follows:

a) Primary Legal Materials: Law No. 8 of 1981 (Criminal Procedure Code), Supreme Court Regulations, and Constitutional Court Decisions.
b) Secondary Legal Materials: Scientific literature, peer-reviewed journals, and legal textbooks.
c) Tertiary Legal Materials: Legal dictionaries and regulatory indexes.

Data collection was conducted through a systematic document study involving the inventory and review of relevant legal instruments. The data were then analyzed qualitatively through content analysis to identify legal gaps and inconsistencies within the pretrial system. (Home & Armia, 2025) Finally, the results were synthesized to formulate a conceptual framework for reforming pretrial rulings through an appeal mechanism, ensuring the realization of legal certainty and procedural justice (Rannu & Adhari, 2025).

4 RESEARCH FINDINGS AND DISCUSSION

4.1 Theoretical basis: judicial oversight and the urgency of appeal mechanisms

The existence of pretrial hearings in the Indonesian criminal justice system is a manifestation of the doctrine of judicial supervision. Theoretically, judicial supervision functions as a checks and balances mechanism to ensure that every act of coercion by law enforcement officials such as arrest, detention, and the naming of suspects remains within the bounds of the law and respects human rights. This oversight is crucial because without effective judicial control, the considerable authority possessed by investigative agencies has the potential to become arbitrary power.

In legal discourse, judicial oversight ideally works in two directions: horizontally and vertically. Pretrial hearings currently perform a horizontal oversight function, in which judges examine the legality of executive actions (by the police and prosecutors). However, the effectiveness of this function is often hampered by the absence of vertical oversight, namely a mechanism for correction by higher courts through appeals. The

absence of appeals in pretrial rulings creates an anomaly in the principle of the rule of law, in which a decision that has a fatal impact on a person's rights to freedom is based solely on the subjective assessment of a single judge without any opportunity for review.

This gap can be addressed by adopting the Appeal Theory. The essence of this theory is the recognition that judges, as human beings, are not immune to error, both in interpreting the law (error in juris) and in assessing facts (error in facto). Therefore, the appeal mechanism exists to perform a corrective function in order to minimize the risk of substantive injustice. An appeal is not merely a formal procedure, but a constitutional right to obtain a “second look” in order to ensure legal certainty.

Furthermore, the availability of appeals in pretrial proceedings serves to create legal standardization. In practice in Indonesia, there are often disparities in decisions between District Courts on similar pretrial objects. Through the appeal mechanism to the High Court, a unified interpretation of the law can be formed, thereby creating consistency that strengthens the integrity of the criminal justice system as a whole. Thus, the reconstruction of Article 164 paragraph (1) of the Criminal Procedure Code is not merely a technical change, but a theoretical necessity to restore the integrity and accountability of judicial oversight.

Data collection is carried out through systematic document studies, including inventory, review, and tracing of primary legal materials such as Law Number 25 of 2025 concerning the Criminal Procedure Code, Supreme Court regulations, and Constitutional Court decisions. secondary legal materials such as scientific literature, journal articles, and books, and tertiary.

4.2 Pre-trial framework of Indonesian law

4.2.1 The concept of pre-trial in Indonesia

The pretrial institution is one of the important instruments introduced by the Criminal Procedure Code (KUHAP) since the enactment of Law Number 8 of 1981. Pretrial is present as a form of innovation in Indonesia's criminal procedural law system to ensure supervision of the actions of law enforcement officials, especially investigators and public prosecutors, so that they do not conflict with the law and do not violate

individual human rights.(Suhardjo, 2019) Unlike judicial institutions in general, pretrial is not a stand-alone court. It does not have a position on par with the district court or the appellate and cassation courts. Pretrial is fully attached to each district court and is carried out as one of the additional duties given by the Criminal Code.(Munthe et al., 2024)

Structurally, the pretrial is under the supervision and guidance of the Chief Justice of the District Court concerned. All administrative matters, personnel, equipment, and funding are within the scope of the district court.(Widyastuti et al., 2020) This makes the pretrial not a separate entity, but a functional unit that is an integral part of the first-level justice system. This characteristic distinguishes pretrial from special judicial institutions that usually have an independent structure, such as state administrative courts or religious courts. Pretrial can only be found at the district court level and not at the high court or Supreme Court level.

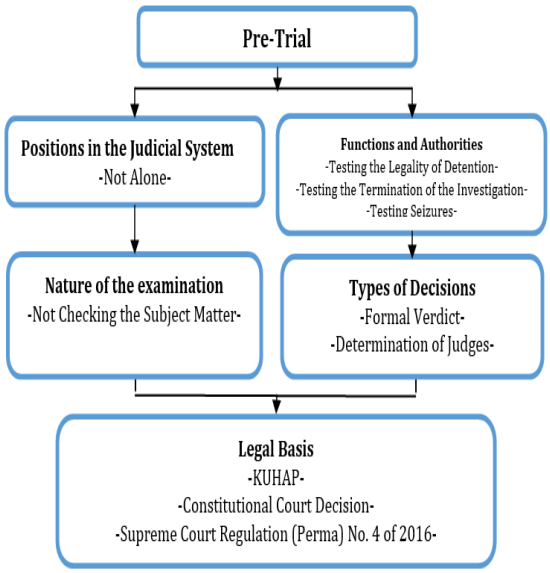
The main function of the pretrial is to examine and decide whether or not the arrest, detention, termination of investigation, and termination of prosecution are legal. After the development of the Constitutional Court's decision, the pretrial authority was expanded to test the validity of the determination of the suspect.(Firmansyah & Farid, 2022) This expansion has an important meaning in the protection of suspects' rights because the process of designating a person as a suspect is often a crucial point that has implications for the restriction of individual freedoms.

The pretrial examination is limited to the formal truth search, which is to ensure that the procedures and provisions of the criminal procedure law have been fulfilled by law enforcement officials(Yunita, 2023). Formal truth is different from material truth which is the focus of the examination of the subject matter of criminal cases. Formal truth assesses whether the actions of the authorities are in accordance with procedures, while material truth assesses the substance of the criminal act itself(Hartono, M. S., & Yuliartini, 2020). This restriction is important so that there is no overlap of authority between the pretrial hearing and the examination of the main case. An example of the application of this principle can be seen in Supreme Court Regulation (Perma) Number 4 of 2016, which emphasizes that the examination of the application for the determination of a suspect is valid or not only includes an assessment of the formal aspect, namely the existence of at least two valid evidence, without entering the case material. This provision prevents pretrial judges from adjudicating the substance of the criminal case, which

should be examined in the main trial of the case. With this model, pretrial becomes an important procedural control mechanism. He ensured that every step taken by investigators and public prosecutors was completely in accordance with the criminal procedure legal procedure. In other words, pretrial is the initial bulwark that protects the principle of legal certainty, protects human rights, and prevents abuse of authority by law enforcement officials.

Figure 1

Hiereraki Pre-Trial Chart in Indonesia



4.2.2 Pre-trial legal regulation

Pretrial arrangements are normatively contained in Articles 158 to 164 of Law 20/2025: Criminal Code. These articles detail the authority of pretrial, examination procedures, the type of decision produced, and the limitation of legal remedies against the decision. In the criminal procedure law system, pretrial ruling are categorized as formal decisions or not final decisions. This means that this decision does not end the examination of the main criminal case. In judicial practice, such decisions are often called "determinations" or "interlocutory decisions" (tussen verdicts), which decide the procedural aspects before the main case is fully examined.

Article 163 Paragraph (2) of the New Criminal Procedure Code requires judges to clearly state the reasons and legal basis in the pretrial ruling. This is important to ensure transparency and accountability, considering that pretrial ruling can have a major impact on the continuation of a criminal case. For example, if the judge decides that the determination of a suspect is invalid, then the suspect's status is null and void, and the investigation process against him must be stopped.

In the context of testing whether or not the determination of suspects is legal, Perma Number 4 of 2016 provides important guidelines. Article 2 paragraph (2) of the Perma states that the judge only assesses the existence of at least two valid evidence, without entering the case material. Furthermore, Article 2 paragraph (4) emphasizes that evidence in pretrial is only related to formal aspects. This regulation confirms that pretrial focuses on the legality of the procedure, not on proving the substance of the alleged criminal act.

Article 83 paragraph (1) of Law 8/1981: Criminal Procedure Code stipulates that an appeal cannot be filed against a pretrial ruling. However, the Criminal Procedure Code previously provided an exception through Paragraph (2), namely in the event that a pretrial ruling declares the termination of the investigation or prosecution invalid, the interested party can submit a final decision to the High Court. This exception was later removed by the Constitutional Court through Decision Number 65/PUU-IX/2011. With this abolition, the space to file legal remedies against pretrial decisions becomes increasingly limited, so that pretrial decisions become final and binding.

The views of legal expert M. Yahya Harahap provide a critical perspective on the regulation of this legal remedy. According to him, although the Criminal Procedure Code allows for appeals for pretrial decisions in certain cases, the nature of the decision is actually final, not the final level that can still be appealed to the cassation. Therefore, calling it an "appeal" is not terminologically correct. This understanding is important because it affects the legal strategies of the parties litigating in the pretrial forum. In terms of legal theory, the position of the pretrial which is final but limited in authority shows a balance between legal certainty and the protection of the rights of suspects. On the one hand, restricting legal remedies to pretrial judgments speeds up the legal process and prevents cases from dragging on. On the other hand, focusing on the formal aspect ensures

that the protection of human rights remains a priority without interfering with the process of examining the main case.

However, pretrial practice in Indonesia also faces challenges. One of them is the disparity in decisions between district courts in examining similar cases, especially related to the testing of suspect determination. Differences in interpretation of the formal aspects often give rise to legal uncertainty. In addition, pretrial authority, which is only limited to formal aspects, is considered by some to be insufficient to provide comprehensive protection for suspects or aggrieved parties.

Overall, pretrial regulations in Indonesia are designed to maintain a balance between the effectiveness of law enforcement and the protection of human rights. Despite its limitations, pretrial remains one of the important pillars in Indonesia's criminal procedure legal system. Going forward, regulatory updates that clarify the scope of authority and strengthen the consistency of implementation in the field will greatly help improve the effectiveness of these institutions

4.3 Pre-trial rivalry in the world

A comparison between pretrial in Indonesia and the mechanism in the Netherlands shows a fundamental difference in orientation and implementation time. In the Netherlands, it is known that the institution of rechter-commissaris or judge commissioner functions to supervise the course of investigations from the early stages. This commissioner judge has preventive authority, namely to inspect and grant permits before law enforcement officials take actions that can limit citizens' rights, such as detention, search, or confiscation(Kripsiaji & Minarno, 2022). Although they are different in form, they have the same function, namely as supervisors of the legality of the actions of law enforcement officials and assessors of the formal correctness of the procedures carried out. The main difference lies in the nature of its implementation, where pretrial in Indonesia is reactive because it is only filed after an action has been taken, while in the Netherlands it is preventive because it is carried out before the action occurs. In addition, the authority of the judge commissioner in the Netherlands is broader because it can supervise the course of the investigation directly(Kripsiaji & Minarno, 2022), while in Indonesia the authority of the pretrial is limited to applications submitted by interested

parties. From an institutional point of view, the commissioner judge in the Netherlands is a special judge who has a specific role, while in Indonesia pretrial is handled by a single judge in a district court without a specialization of position.

Meanwhile, when compared to the United States, pretrial in Indonesia has a significantly different character. In the common law legal system in the United States, it is known as a preliminary hearing or probable cause hearing mechanism, which aims to assess whether there is sufficient preliminary evidence to bring a criminal case to trial(Afandi, 2016). This examination is conducted by a judge and may include an evaluation of material evidence in the early stages of the judicial process. Similar to pretrial in Indonesia, this mechanism provides an opportunity for suspects to challenge the legality of law enforcement actions, and both can affect the continuation of criminal cases. However, there are differences in the scope of the examination, where a preliminary hearing in the United States can examine both the formal and some material aspects, while the pretrial in Indonesia only examines the formal aspect. In terms of the burden of proof, prosecutors in the United States are obliged to convince the judge that there is sufficient evidence to proceed with the case(Kadir, 2024), whereas in Indonesia the proof is limited to whether legal procedures have been met. In addition, the nature of the trial in the United States is more similar to the initial trial of a criminal case that is integrated into the judicial process, while in Indonesia the pretrial is a separate trial that does not examine the subject matter.

Table 1

Pre-Trial Rivalry in The World.

Comparative	Indonesia (Pretrial)	Netherlands (Rechter-Commissaris)	United States (Preliminary Hearing / Probable Cause Hearing)
Nature of Inspection	Reactive, carried out after law enforcement action has been taken, such as detention or confiscation(Rahman et al., 2023)	It is preventive, carried out before law enforcement actions, such as detention, search, or seizure.	It is semi - preventive and evaluative, namely assessing the feasibility of the case and preliminary evidence before entering a criminal trial.
Main Functions	Testing the legality and suitability of the	Supervise the investigation from the	Determine whether there is sufficient

	procedures for the actions of law enforcement officials in accordance with the Criminal Code.	beginning, as well as give permission for actions that restrict citizens' rights.	preliminary evidence to proceed the case to trial.
Scope of Examination	Limited to the formal aspect, without entering the examination of the case subject matter.	It includes formal aspects and part of supervision of the substance of the investigation.	Includes formal aspects and some material aspects, especially assessments Preliminary evidence (probable cause).
Authority	Limited to examination based on the request of interested parties.	Have broader authority, including giving approval before legal action is taken.	The judge assesses the merits of the case and the preliminary evidence. the decision can stop the criminal process.
Institutional Structure	Handled by a single judge at the District Court.	It is handled by special judges (rechter-commissaris) in the Dutch judicial system.	It is handled by judges in the common law system as part of the criminal trial process.
Burden of Proof	The applicant must prove a violation of the criminal procedure.	Law enforcement officials must convince the commissioner judge that legal action is necessary.	The prosecutor is obliged to convince the judge that there is sufficient evidence to continue the case (probable cause).
Impact on the Main Case	It does not examine or decide the case substance, only tests the formal procedure.	It does not decide the main case, but it can affect the course of the investigation.	Can stop the case process if the preliminary evidence is considered insufficient.

Source: Research results 2025

4.4 criminal procedure law reform model: pretrial examination and the use of legal remedy

Pretrial is a legal instrument regulated in the Criminal Procedure Code (KUHAP) to protect the rights of suspects, defendants, and victims from arbitrary actions by law enforcement officials, especially in relation to coercive efforts such as arrest, detention, and confiscation.(Rusman Sumadi, 2021) However, the current provisions leave a number of fundamental weaknesses that have implications for the inhibition of the

purpose of pretrial as a control mechanism for the power of investigators and public prosecutors. Based on the results of the construction study, weaknesses, and reconstruction proposals as shown in the table, there are at least three crucial aspects that underlie the urgency of legal reform.

First, the regulation in Article 159 paragraph (2) of Law 20/2025: Criminal Procedure Code which places pretrial under the authority of a single judge has the potential to cause high subjectivity. The resulting decisions are often greatly influenced by the individual perspective of the judge so that the quality of the verdict in cases involving one's freedom is less than optimal. The proposed reconstruction is a change in the composition of a single judge to a panel of judges. The panel of judges is believed to be able to present more objective, collective, and comprehensive considerations, while minimizing the potential for personal bias in the judicial process.

Second, the provisions of Article 163 letter c of Law 20/2025: Criminal Procedure Code, which limits the examination time to only seven days, are considered inadequate. In practice, the time limitation makes judges often make decisions based on minimal data and consideration, while the party being examined is still legally innocent. As a result, the function of the pretrial as a forum for testing the validity of the act of coercion is less than optimal. The reconstruction proposal by extending the examination period to fourteen days is expected to provide sufficient space for the judge to delve into the facts, hear all parties, and produce a more mature and fair verdict. Third, Article 164 Paragraph (1) of the Criminal Code currently closes the possibility of appealing against pretrial ruling. This condition has the potential to result in injustice due to legal uncertainty when the pretrial ruling is felt to have not considered the substance of the case adequately. By opening up the space for appeals for final decisions in the High Court, the judicial system can guarantee a higher correction mechanism to avoid erroneous error or unfair rulings.(Hariri & Arifin, 2023)

Overall, the reconstruction of pretrial arrangements is not only a technical juridical issue, but also a strategic step to strengthen the protection of human rights, improve the quality of judicial decisions, and maintain a balance between legal certainty, justice, and legal utility. The reformulation of the rule will make pretrial in Indonesia function optimally as an instrument of supervision for law enforcement officials as well as a last bastion for the protection of citizens' rights in the criminal justice process.

Table 2

Reconstruction of Pretrial Examination and the Use of Legal Remedy under KUHAP

No.	Construction	Debilitation	Reconstruction
1	Article 159 paragraph (2) of Law 20/2025: Criminal Procedure Code, pretrial is presided over by a single judge appointed by the chief judge of the district court and assisted by a court clerk.	There is a potential for the subjectivity of judge.	Article 159 paragraph (2) of Law 20/2025: Criminal Procedure Code, pretrial is presided over by a panel of judges determined by the chief of the district court and assisted by a clerk.
2	Article 163 letter c of Law 20 /2025: Criminal Procedure Code, the examination shall be conducted immediately and within a maximum period of 7 (seven) days from the date the motion is read out, the judge must have made a decision.	A single judge has the potential to make the wrong decision based on minimal consideration in a short trial.	Article 163 letter c of Law 20/2025: Criminal Procedure Code, the examination shall be conducted immediately and within a maximum period of 14 (fourteen) days from the date the motion is read out, the judge must have made a decision.
3	Article 164 paragraph (1) of Law 20/2025: Criminal Procedure Code, the pretrial ruling on the motion referred to in Articles 16O to 162 cannot be appealed.	Does not accommodate justice for defendants and victims.	Article 164 paragraph (1) of Law 20/2025: Criminal Procedure Code, the pretrial ruling on the motion referred to in Articles 160 to 162 can be requested for an appeal.

4.4.1 Reconstruction of the composition of judges in pretrial

Article 159 paragraph (2) of the Criminal Code currently stipulates that the pretrial is presided over by a single judge appointed by the chief of the district court and assisted by a clerk. The results of the study show that this construction has a fundamental weakness, namely the potential for very high subjectivity in the decision-making process. A single judge has full control over legal interpretation, fact-finding, and dismissal, so the risk of personal bias is greater. This weakness is also reflected in several controversial pretrial ruling, where the decisions taken are considered not to represent the interests of all parties, but rather to one of the parties to the case. The principle of collective justice that is usually accommodated through a panel of judges has been lost, so the quality of decisions has the potential to decline.(Arifin, 2021)

The proposed reconstruction is to forge the middle ground by changing the pretrial structure from a single judge to a panel of judges determined by the chief of the district

court and assisted by a clerk. This change will present a deliberation mechanism in the decision-making process, which in turn can reduce personal bias and improve the quality of legal considerations. With the existence of a panel of judges, each member can correct and strengthen legal arguments, so that the resulting verdict will be more objective, comprehensive, and accountable. In addition, the presence of a panel of judges can strengthen public trust in the judiciary. The public will see that decisions are made through a collective process that involves discussion and consideration from more than one perspective, not just the results of a judge's thoughts. In the context of protecting the rights of suspects, defendants, and victims, this is very relevant to ensure that all parties receive fair treatment.

4.4.2 Reconstruction of the pretrial examination period

Article 163 letter c of the Criminal Procedure Code stipulates that the pretrial examination must be carried out quickly and no later than within seven days the judge must make a decision. Theoretically, this time restriction aims to provide legal certainty quickly, especially since pretrial often concerns a person's right to liberty that should not be deprived of for too long without certainty. However, the findings of the study show that this seven-day period is actually an obstacle to the quality of the examination. Judges tend to make decisions based on limited data and evidence because the time available is too short to examine all aspects of the case in depth. In practice, time constraints often cause judges to ignore certain witnesses or evidence, or even rely on documents and arguments from one side without conducting adequate testing of the other. This condition poses serious problems because the function of the pretrial as a forum for testing the legitimacy of the act of coercion or not is not optimal. Hasty decisions have the potential to not meet the sense of justice and can even reinforce the arbitrary actions of law enforcement officials.(Arifin, 2020)

Therefore, the proposed reconstruction is to extend the period of examination to fourteen days. With this extension of time, the judge has a wider opportunity to examine the evidence, listen to all witness statements, and consider the legal arguments of both sides in depth. This change is expected to produce a more mature, balanced verdict, and in accordance with the principles of due process of law. In addition, the addition of

examination time also allows courts to utilize electronic trial technology (e-court) or online hearings to speed up the administrative process, without sacrificing the quality of the examination of case materials. Thus, this reconstruction not only improves the quality of the verdict, but also maintains the principle of speed and efficiency which is one of the characteristics of the pretrial.

4.4.3 Reconstruction of the appeal mechanism against pretrial rulings

Article 164 paragraph (1) of the Criminal Procedure Code currently closes the possibility of an appeal against all pretrial rulings in the case referred to in Articles 160 to 162. However, with regard to pretrial decisions regarding the invalidity of the termination of investigations and prosecutions, a final decision may be requested from the High Court. However, based on Constitutional Court Decision Number 65/PUU-IX/2011, which annulled Article 83 paragraph (2) of Law No. 8 of 1981 on Criminal Procedure Code, as it is contrary to the 1945 Constitution of the Republic of Indonesia and therefore has no legal binding force. This means that the pretrial ruling is final and binding without any room for correction from a higher court. The findings of the study show that this condition creates injustice when the pretrial ruling is considered not to adequately consider the substance of the case or there are errors in the application of the law. Without a correction mechanism, a legally defective verdict has the potential to permanently harm one of the parties, especially when the case concerns a person's freedom or the legitimacy of the investigation process.

The functions of pretrial hearing doctrinally require limitations on legal remedy against a pretrial ruling. However, law or legal institutions must not be understood merely in definitional terms, let alone as purely normative constructions. Law must be tested against its overarching purposes and social utility, rejections based solely on normative grounds risk undermining the credibility of the judiciary by portraying courts as unresponsive to the objective demands of society.(Tornado, 2018) This is in line with the theory of justice according to progressive law, where the justice sought is substantive justice.(Mahmud et al., 2021)

In formulating the reconstruction of Article 164 paragraph (1) of the Criminal Procedure Code (KUHAP), a fundamental question arises regarding the extent of the

High Court's authority in reviewing pretrial appeals. This study proposes that the appeal mechanism should be restricted to errors in the application of law (judex juris) and procedural formal violations, rather than allowing a full de novo review of material facts or the core merits of the criminal case. This approach is strategically chosen based on several critical considerations.

First, the nature of a pretrial hearing is an administrative-juridical examination of the legality of coercive measures, not a determination of the suspect's guilt. Therefore, the High Court’s role is to ensure whether the lower court judge erred in interpreting the "minimum two pieces of evidence" standard or misapplied existing legal norms. Second, this limitation serves as a direct solution to concerns regarding the potential increase in judicial workload. By confining the review to legal and procedural aspects, the examination process at the High Court can be conducted more efficiently and expeditiously. This prevents case backlogs that could otherwise hinder timely access to justice. Third, to prevent the abuse of the appeal mechanism as a delaying tactic, strict procedural safeguards must be established, including:

1. Strict Timelines: The appeal must be filed within a maximum of 3 days after the ruling, and the High Court must deliver a decision within 7 working days.
2. Nature of Examination: The review should primarily be conducted through a document-based study (dismissal process) without the mandatory presence of the parties, unless the appellate judge deems it necessary for clarification.
3. Limitative Grounds: An appeal should only be admissible if there are strong indications of constitutional rights violations or manifest legal errors in the first-instance ruling.

By defining these boundaries, the appeal mechanism will not become a burden on the judicial system. Instead, it will function as a vital "safety valve," ensuring that the subjectivity of a single judge at the district level remains subject to accountable and transparent judicial oversight.

One of the primary concerns regarding the introduction of an appeal mechanism in pretrial rulings is the potential for an increased judicial workload, which could lead to case backlogs at the High Court level. Critics argue that allowing appeals for every pretrial decision might overwhelm the appellate courts and hinder the principle of a

"speedy trial." However, this study contends that these risks can be mitigated through several strategic measures.

First, by limiting the scope of the appeal to errors in law (judex juris) and procedural violations rather than a full factual review, the examination process will be significantly more streamlined. Appellate judges would focus on whether the lower court's legal reasoning aligns with constitutional standards and existing statutes, which requires less time than a comprehensive re-evaluation of evidence. Second, the implementation of a dismissal or filtering process can prevent frivolous appeals from clogging the system. The High Court should have the authority to summarily dismiss appeals that clearly lack legal merit or fail to point out a specific legal error. This ensures that only cases with substantive legal questions proceed to a full review. Third, it is crucial to recognize that the "cost" of a slightly increased workload is outweighed by the long-term judicial efficiency gained from legal certainty. Currently, the finality of pretrial rulings often leads to repetitive legal maneuvers or conflicting lower court decisions that create confusion for law enforcement. A definitive ruling from the High Court would harmonize legal interpretations, ultimately reducing the number of future disputes and strengthening the overall integrity of the criminal justice system.

The proposed reconstruction is to open up space to seek a final ruling in the High Court. This change will provide an opportunity for the aggrieved party to apply for a re-examination of the pretrial ruling, so that the judicial system can guarantee that the resulting verdict truly meets the principles of justice and legal certainty. This mechanism will also increase the accountability of pretrial judges as their decisions can be evaluated by higher judicial agencies. On the other hand, the existence of this legal remedy can encourage pretrial judges to work more carefully and carefully in deciding cases, because every decision will be open to re-examination.

5 CONCLUSIONS AND RECOMMENDATIONS

5.1 Conclusions

Pretrial in Indonesia, although designed as a monitoring mechanism for law enforcement officials, has fundamental weaknesses that hinder its function. The limitation

of authority, the nature of the final decision without an appeal mechanism, and the potential subjectivity of a single judge create legal uncertainty and are vulnerable to abuse of authority. This condition is exacerbated by short examination times, so that the verdict is often suboptimal and has the potential to ignore procedural justice. Compared to systems in other countries such as the Netherlands and the United States, pretrial in Indonesia has a reactive nature and a narrower scope, which makes it less effective in providing comprehensive legal protection.

Therefore, a thorough reconstruction of the pretrial arrangement is needed. The paper proposes three key changes: replacing a single judge with a panel of judges to increase objectivity, extending the time of the hearing to fourteen days to make the verdict more mature, and most importantly, implementing an appeal mechanism to the High Court. These changes aim to create a more balanced, fair, and accountable justice system, where the protection of human rights and justice can go hand in hand with the effectiveness of law enforcement. Thus, pretrial will function optimally as the last bastion for the protection of citizens' rights in the criminal justice process.

5.2 Strategic recommendations

Based on the findings of this study, several recommendations can be proposed to strengthen the effectiveness and fairness of the pretrial institution within the Indonesian criminal justice system:

1. Legislative Reform. Lawmakers are encouraged to revise the provisions governing pretrial within the Criminal Procedure Code by explicitly regulating the composition of a panel of judges, extending the examination period, and introducing an appeal mechanism to the High Court. Clear and detailed statutory regulation is necessary to avoid multiple interpretations and ensure legal certainty.
2. Judicial Institutional Strengthening. The Supreme Court should develop technical guidelines and procedural standards for pretrial examinations, including criteria for judicial reasoning, time management, and transparency of decisions. This step is important to maintain consistency and reduce disparities among courts.
3. Capacity Building for Judges and Law Enforcement Officials. Continuous legal education and professional training should be provided to judges, prosecutors, and

investigators regarding human rights principles, procedural justice, and ethical standards. Strengthening competence and integrity will minimize subjectivity and potential abuse of authority.

4. Balanced Protection of Rights. Future regulatory frameworks should not only emphasize the rights of suspects but also ensure adequate legal standing and protection for victims and witnesses. A balanced approach will enhance equality before the law and reinforce public trust in the justice system.
5. Further Academic and Empirical Research. Subsequent studies are recommended to conduct empirical evaluations of pretrial implementation after regulatory reforms are introduced. Quantitative and comparative analyses can provide measurable indicators of effectiveness and help refine policy decisions in the long term.

5.3 Future research directions

Future studies are encouraged to expand the scope of research on the pretrial institution beyond normative legal analysis by incorporating empirical and comparative approaches. Empirical research involving court data, interviews with judges, prosecutors, lawyers, and litigants can provide measurable insights into how pretrial mechanisms operate in practice and how proposed reforms affect judicial efficiency, fairness, and public trust.

In addition, comparative legal studies examining pretrial or judicial review mechanisms in other jurisdictions such as civil law and common law countries would be valuable in identifying best practices and adaptable models for Indonesia. Such comparisons may offer a broader perspective on balancing human rights protection with effective law enforcement.

Further research may also explore the impact of appellate mechanisms on judicial workload, case duration, and legal certainty, as well as the role of technology and digital court administration in improving transparency and accountability in pretrial proceedings. These directions will contribute to a more comprehensive understanding of institutional reform and support evidence-based policy making in the criminal justice system.

REFERENCES

Abdaud, F. (2018). Upaya Hukum Pascaputusan Praperadilan Dalam Rangka Menegakkan Hukum Dan Keadilan. Jurnal Al-'Adl, 11(2), 1–13.

Afandi, F. (2016). Perbandingan Praktik Praperadilan Dan Pembentukan Hakim Pemeriksa Pendahuluan Dalam Peradilan Pidana Indonesia. Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada, 28(1), 93. https://doi.org/10.22146/jmh.15868

Andi Sofyan. (2017). Hukum Acara Pidana Suatu Pengantar (2nd ed.). Prenada Media.

Arifin, S. (2020). perlindungan Hukum terhadap Anak dalam Tindak Pidana terorisme. Jurnal Panorama Hukum, 5(1), 49–62.

Arifin, S. (2021). Pertanggungjawaban pidana terhadap anak sebagai kurir narkotika. Justitia Jurnal Hukum, 5(1).

Darwin, D., & Suhaimi. (2019). Analisis Yuridis Putusan Praperadilan dalam Perspektif Sistem Peradilan Pidana. JURNAL MERCATORIA, 12(1), 68–79. https://doi.org/10.31289/MERCATORIA.V12I1.2363

Fadilah, L. N., & Atthahara, H. (2023). IMPLEMENTASI KEBIJAKAN PEMERINTAH TERKAIT PENANGANAN PERNIKAHAN DI INDIA DAN JEPANG. Jurnal Sains Sosio Humaniora, 7(1), 116–140. https://doi.org/10.22437/JSSH.V7I1.23928

Faisal, F. (2023). Pre-Trial in Indonesia: Why it Should be Reformed. Jurnal Jurisprudentie, 10(2), 71. https://doi.org/10.24252/jurisprudentie.v10i2.43678

Firmansyah, S. H., & Farid, A. M. (2022). Politik Hukum Praperadilan sebagai Lembaga Perlindungan Hak Tersangka Ditinjau dari Putusan Mahkamah Konstitusi Nomor 21/PUU-XII/2014 mengenai Penetapan Tersangka. Jurnal Penegakan Hukum Dan Keadilan, 3(2), 90–103. https://doi.org/10.18196/jphk.v3i2.15195

Hariri, A., & Arifin, S. (2023). Analysis Of Local Government Policy Model In Preventing Corruption In A Village Government Sector. JCH (Jurnal Cendekia Hukum), 8(2), 290–300.

Hartono, M. S., & Yuliartini, N. P. R. (2020). Penggunaan Bukti Elektronik Dalam Peradilan Pidana. Jurnal Komunikasi Hukum (JKH), 6(1), 282.

Home, R. K., & Armia, M. S. (2025). Decolonising Israel/Palestine: an Approach To the Legal History of the Middle East. Petita: Jurnal Kajian Ilmu Hukum Dan Syariah, 10(1), 1–15. https://doi.org/10.22373/petita.v10i1.805

Hutabalian, M. (2023). Tinjauan Hukum Terhadap Sah Tidaknya Sebuah Penangkapan, Penahanan, dan Penetapan Tersangka Berdasarkan Putusan Praperadilan: Legal Review of the Legitimacy of an Arrest, Detention, and Determination of a Suspect

Based on a Pretrial Decision. Reformasi Hukum, 27(1), 51–58. https://doi.org/10.46257/JRH.V27I1.563

Hutagalung, R. T., & Seregig, I. K. (2025). Pertimbangan Hakim Terhadap Pembatalan Tersangka Karena Objek Perkara Kewenangan Aparat Pengawas Intern Pemerintah (APIP) (Studi Putusan Nomor :2/Pid.Pra/2024/PN.Kbu). Innovative: Journal Of Social Science Research, 5(1), 4659–4666. https://doi.org/10.31004/INNOVATIVE.V5I1.18020

Jidatul Haz, M. A., Wathoni, L. M. N., Zulkarnain, Maghfurrahman, M., & Baldan Haramin, F. (2024). RESTORATIVE JUSTICE: A NEW APPROACH TO RESOLVING DOMESTIC VIOLENCE. Jurnal Al-Dustur, 7(2), 198–210. https://doi.org/10.30863/ALDUSTUR.V7I2.7399

Kadir, Z. K. (2024). Menulis Ulang Keadilan: Bagaimana Doktrin Suppression of Evidence dalam Preseden Amerika Serikat Menata Kembali Prosedur Peradilan Pidana. Jaksa : Jurnal Kajian Ilmu Hukum Dan Politik, 2(4), 1–18.

Kripsiaji, D., & Minarno, N. B. (2022). Perluasan Kewenangan dan Penegakan Hukum Praperadilan di Indonesia dan Belanda. Al-Mazaahib: Jurnal Perbandingan Hukum, 10(1), 29. https://doi.org/10.14421/al-mazaahib.v10i1.2573

Kusumastuti, E. (2018). Penetapan Tersangka Sebagai Obyek Praperadilan. Yuridika, 33(1), 1–18. https://doi.org/10.20473/YDK.V33I1.7258

Lian, T., & Purba, D. (2017). Praperadilan sebagai Upaya Hukum Bagi Tersangka. Papua Law Journal, 1(2), 253–270.

Mahmud, A., Firman, Z. C. A., Syawali, H., Rizki, & Weganisa. (2021). Keadilan Substantif Dalam Proses Asset Recovery Hasil Tindak Pidana Korupsi. Jurnal Suara Hukum, 3(2), 227–250. https://doi.org/10.26740/JSH.V3N2.P227-250

Munthe, D. M. S. G., Gaol, S. L., & Sudarto. (2024). KEPEMILIKAN TANAH HAK MILIK BEKAS BARAT (EIGENDOM VERPONDING) SETELAH BERLAKUNYA UNDANG-UNDANG NOMOR 5 TAHUN 1960 TENTANG PERATURAN DASAR POKOK-POKOK AGRARIA. IBLAM LAW REVIEW, 4(2), 158–166. https://doi.org/10.52249/ILR.V4I2.505

Muryawan, A. G., Mashdurohatun, A., Sri, & Wahyuningsih, E. (2023). LEGAL RECONSTRUCTION OF PRETRIAL PROCEDURE ON THE RIGHTS OF THE APPLICANT OR THE APPLICANT ASSOCIATED WITH JUSTICE VALUE-BASED REMEDY. Journal of Law, Policy and Globalization, 132(0), 56–66. https://doi.org/10.7176/JLPG/132-06

Rahman, Hakis, Syahputra, D., & Yakir, J. (2023). Problematics of Contemporary Problems and Cultural Poverty Challenges. Journal International Dakwah and Communication, 2(2), 83–96. https://doi.org/10.55849/jidc.v2i2.190

Rannu, D. A., & Adhari, A. (2025). MULTIPLICITY OF CRIMES IN INDONESIAN LAW: REGULATION AND DETERMINATION OF CONCURSUS REALIS. Jurnal Al-Dustur, 8(1), 1–13. https://doi.org/10.30863/ALDUSTUR.V8I1.8633

Rusman Sumadi. (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

Sari, S. W. N., & Sazali, A. (2025). STUDI PUTUSAN PRAPERADILAN NOMOR 04/PID.PRAP/2015/PN.JKT.SEL DALAM TINJAUN YURIDIS DAN FILOSOFIS TERHADAP PENETAPAN TERSANGKA SEBAGAI OBJEK GUGATAN PRAPERADILAN PADA SISTEM PERADILAN PIDANA INDONESIA. SULTAN ADAM: Jurnal Hukum Dan Sosial, 3(2), 149–159. https://doi.org/10.71456/SULTAN.V3I2.1381

Suhardjo. (2019). Kewenangan Praperadilan Dalam Menentukan Tersangka Pelaku Tindak Pidana. Jurnal Reformasi Hukum, 2, 132–148.

Tornado, A. S. (2018). PRAPERADILAN : Sarana Perlindungan Tersangka Dalam Sistem Peradilan Pidana Indonesia (Ifrani (ed.)). Penerbit Nusa Media.

UPR, I. C. S. I. (2022). Police Violence and Criminal Procedure Law Issues. Institute for Criminal Justice Reform Rumah Cemara Submission for UPR Indonesia.

Waluyadi, Muslikhah, & Mariana, M. (2025). UNDERSTANDING JUDGE'S DECISIONS THAT ARE BEST FOR THE CHILD POST THE FAILURE OF DIVERSION. PETITA: JURNAL KAJIAN ILMU HUKUM DAN SYARIAH, 10(1), 404–418. https://doi.org/10.22373/PETITA.V10I1.455

Wibowo, R. A., Yuniza, M. E., Widyaningtyas, R. S., & Noor, H. J. (2018). WACANA PEMERINTAH UNTUK MEREPOSISI KELEMBAGAAN INSPEKTORAT: TINDAK LANJUT, TANGGAPAN, SERTA INISIASI KEDEPAN. Jurnal Hukum & Pembangunan, 48(4), 716–742. https://doi.org/10.21143/jhp.vol48.no4.1800

Widyastuti, I. A. W., Dewi, A. A. S. L., & Sugiartha, I. N. G. (2020). Kewenangan Pengadilan Negeri Memutus Perkara Praperadilan Mengenai Tidak Sahnya Penetapan Tersangka. Jurnal Analogi Hukum, 2(3), 351–355. https://doi.org/10.22225/ah.2.3.2519.351-355

Yunita, N. (2023). Ratio Decidendi Terhadap Penetapan Tersangka Putusan Praperadilan Pengadilan Negeri Serang (STUDI PUTUSAN PRAPERADILAN NO 11/PID.PRA/2023/PN.SRG). Jurnal Ilmiah Hukum Dan Keadilan, 12(2), 13.

en Abdullah, M. (n.d.). Urgensi Perlunya Pembaharuan Hukum Acara Pidana Nasional di Indonesia yang Lebih Responsif. 20(1), 281–287. https://doi.org/10.33087/jiubj.v20i1.885

Authors' Contribution

All authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

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