



Judicial Control over Prolonged Criminal Investigations: Pre-trial Remedies in the Light of Progressive Law

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Abstract: The absence of a clear time limit for criminal investigations under the Indonesian Criminal Procedure Code (KUHAP) has frequently resulted in protracted investigations, effectively keeping individuals in a state of perpetual suspecthood. Textually, Article 77 of KUHAP limits the scope of pretrial review (praperadilan) to a closed list, without explicitly including investigation delays as a reviewable matter. This limitation generates legal uncertainty for suspects and impedes the protection of fundamental human rights guaranteed in criminal proceedings. This study examines the urgency of expanding the scope of pretrial review to encompass unduly prolonged investigations. Using a qualitative method with a normative-juridical approach, it analyzes primary, secondary, and tertiary legal materials to identify legal gaps and propose normative solutions. The findings indicate that investigations prolonged without reasonable justification violate human rights and undermine the principles of prompt, simple, and low-cost justice. From a progressive law perspective, pretrial applications challenging undue delay should be admissible to prevent abuse of authority by investigators. Consequently, unreasonably prolonged investigations lacking active and genuine investigative measures should be construed as a form of material termination of investigation. The study recommends that pretrial judges apply progressive legal reasoning (*rechtsvinding*) to accept such applications, thereby ensuring legal certainty and restoring the rights of suspects affected by defective judicial administration.

Keywords: Pretrial Review; Protracted Criminal Investigation; Undue Delay; Progressive Law; Legal Certainty; Human Rights Protection

1. Introduction

When someone has committed an act that is categorized as a crime (*strafbaarfeit*), the Republic of Indonesia Police (POLRI), which is authorized by the state through Article 1 Paragraph 1 and 4 of Law Number 8 of 1981 concerning Criminal Procedure Law, can immediately follow up on the crime, which in criminal procedure law is known as investigation and examination. If the act (*Feit*) can be categorized as a criminal act that has fulfilled the principle of legality in Article 1, then the stage goes up to the investigation stage. Here there is a determination whether the act is categorized as a criminal act or not, which is a process that should not be ignored, considering the risk if the act turns out not to be a criminal act but the stage has gone up to the level of investigation or even prosecution, then of course this can be detrimental to many parties starting from the perpetrator, the victim, to the law enforcement officers concerned. Andi Hamzah, in his book, also said that the principle of legality prevents the authorities from taking arbitrary action against people outside the law (Hamzah, 2017).

The effectiveness of law enforcement in Indonesia is the highest hope for justice seekers who are caught in legal problems, but in reality, many problems with law enforcement in Indonesia are currently encountered that harm justice, such as the proliferation of cases whose status is unclear. The problem of unclear case status is diverse in form, it can be caused by insufficient initial evidence but the case is still forced to continue, or it can also be caused by cases being stopped by law enforcement without a clear

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legal basis, generally based on empirical facts this is often found at the investigation and prosecution levels.(Fani, 2021)

At this stage, a person is designated as a suspect solely based on "sufficient preliminary evidence" obtained from the results of an investigation conducted by an investigator. Essentially, the function of sufficient preliminary evidence can be classified into two categories: (i) as a prerequisite for: (i) conducting an investigation and (ii) determining suspect status for a person suspected of having committed a crime.(Saragih, 2024) Criminal procedural law also recognizes the principle of presumption of innocence, so that a person's human rights must be respected, one of which is realized through the pretrial institution in accordance with Article 77 of the Criminal Procedure Code.(Kusuma Wijaya W.M et al., 2020)

One criticism of the pretrial process is its failure to ensure a fair legal process. The pretrial mechanism is considered dysfunctional because its implementation is considered detrimental to justice seekers, such as complicated procedures, wasted time, high costs, and the potential for intimidation from law enforcement officials (Faisal, 2023). "*Justice delayed is justice denied*," said British politician William Gladstone, illustrating the importance of the principle of speedy justice. A protracted process of resolving cases is tantamount to a disregard for justice itself (Hairi, 2016). Protracted investigations often lead to legal uncertainty and arbitrary law enforcement practices. This is in contrast to the objectives of *due process of law* that respects human rights. Human rights protection has not been effectively understood since the investigation process, creating a separate problem that is at the root of the pretrial motion for social justice for all Indonesians (Ferdinan Manuel & Elmir, 2022).

Judges, as law enforcement and justice actors, must be able to keep up with legal developments in society. With their authority, a judge must be able to establish laws that previously did not exist, and this is done using the method of legal discovery (*Legality*) which must be legally accountable. The legal discovery by the Judge in relation to the expansion of the object and scope of the Pretrial is increasingly broad and expanding. Initially, it emerged from the legal discovery by the Pretrial Judge through legal considerations in his decision, and even to date there have been 4 (four) Decisions granted by the Constitutional Court that expand the scope and object of the pretrial (Wahyu Iswantoro, 2018). Currently, the object of pre-trial proceedings has been expanded from that regulated in Article 1 point 10 of the Criminal Procedure Code, this expansion is due to several Constitutional Court Decisions as follows: (a) Constitutional Court Decision Number 21/PUU-XII/2014 (Determination of Suspect as Object of Pretrial); (b) Constitutional Court Decision Number 102/PUU-XIII/2015 (Provisions on the Dismissal of Pretrial Applications); (c) Constitutional Court Decision Number 109/PUU-XIII/2015 (Limitation of the Scope of Material Law of Pre-Trial); (d) Constitutional Court Decision Number 130/PUU XIII/2015 (Provisions for Submission of SPDP).

Despite significant progress, there are no specific regulations governing the lengthy or protracted investigation of suspects as a subject of pretrial motions. It should be noted that the lack of a timeframe for investigations can sometimes lead to lengthy proceedings, leading to concerns about the legal consequences.*de facto* In fact, the investigation has been stopped, but the investigators have not issued a Letter of Order to Stop Investigation (SP3). There are numerous examples of cases where files have been shuttled between investigators and prosecutors due to sectoral selfishness on the part of law enforcement officials (Prastowo, 2013). This condition highlights the institutional need for judicial mechanisms such as pre-trial hearings to provide solutions when investigations are delayed. which is clearly protracted without any active investigative efforts by investigators.

Despite the existence of pretrial mechanisms under Article 77 of the Indonesian Criminal Procedure Code (KUHAP), several specific gaps hinder their effectiveness in addressing the problem of “perpetual suspecthood.” First, the KUHAP does not establish a clear and enforceable timeframe for the completion of criminal investigations, leaving investigators with discretionary power to extend investigations indefinitely. This gap creates legal uncertainty for suspects who may remain in a prolonged state of suspicion without formal charges. Second, Article 77 limits the object of pretrial review to a closed list, such as unlawful arrests or detention, but it does not explicitly include delayed or protracted investigations as a reviewable matter. Consequently, suspects cannot challenge the undue length of investigations through pretrial applications, leaving them vulnerable to potential abuse of authority by law enforcement officials. Third, there is no obligation for investigators to issue formal decisions to terminate investigations (SP3) when cases are inactive or abandoned, which further perpetuates legal limbo and undermines the protection of fundamental human rights. Collectively, these gaps demonstrate that while pretrial mechanisms are intended to safeguard due process and human rights, their current scope is insufficient to prevent or redress the harms caused by prolonged investigations.

This study aims to evaluate the urgency of expanding the scope of pretrial proceedings to include protracted investigations for the protection of human rights. This will ensure effective completion of the investigation process and achieve the principles of a simple, expeditious, and cost-effective justice system.

2. Materials and Methods

This study employs a normative legal research (doctrinal legal research) approach, which systematically examines legal rules, principles, and doctrines to address specific legal issues. (Rijadi, 2022) This method is suitable for an in-depth analysis of criminal procedural provisions, jurisprudence, and regulations related to pretrial decisions, particularly in identifying gaps that allow for protracted investigations and “perpetual suspecthood.”

Data collection was conducted through systematic document studies, including inventorying, reviewing, and tracking relevant legal materials. Primary sources included Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP) and jurisprudence; secondary sources included books, journal articles, and scientific literature; and tertiary sources included legal dictionaries and regulatory indexes (Ariawan, 2013).

Data analysis was conducted qualitatively through several stages: mapping legal materials, grouping them according to regulatory hierarchy, performing content analysis to extract legal norms and principles, and identifying gaps or inconsistencies in the law. This approach enables the study to critically evaluate the adequacy of pretrial mechanisms and propose normative solutions for protecting suspects’ rights and ensuring procedural justice.

3. Results and Discussion

The qualitative analysis in this study followed a systematic procedure to ensure that the findings are well-supported and relevant to the research objectives. First, legal materials were mapped and categorized based on their source and hierarchy, including primary legal instruments such as the Criminal Procedure Code (KUHAP) and relevant jurisprudence, secondary sources such as books and journal articles, and tertiary sources like legal dictionaries and regulatory indexes. This mapping enabled the identification of the scope, limitations, and intersections of legal norms governing pretrial mechanisms and

criminal investigations. Subsequently, content analysis was applied to extract legal principles, identify inconsistencies or ambiguities, and highlight areas where the law may fail to prevent prolonged investigations or “perpetual suspecthood.”

Through this process, several critical gaps in the legal framework were revealed. For example, the analysis showed that the absence of clear investigative time limits, the closed scope of Article 77 of KUHAP, and the lack of obligations for issuing formal investigation termination letters (SP3) collectively undermine the effectiveness of pretrial mechanisms. By systematically comparing statutory provisions with jurisprudence and legal principles, the study was able to propose normative solutions, such as expanding the scope of pretrial review to include protracted investigations, and emphasizing the role of progressive judicial reasoning (*rechtsvinding*) to protect suspects’ rights. This approach ensures that the recommendations are grounded in both legal doctrine and practical considerations, providing a robust foundation for enhancing procedural justice in Indonesia.

3.1. The Concept of Pretrial Institutions in Indonesia

Pretrial hearings, as a form of legal protection for suspects, have gained legitimacy in the Indonesian justice system and are explicitly regulated in Law Number 8 of 1981 concerning the Criminal Procedure Code. In this regulation, the provisions governing pretrial hearings serve as a normative basis for law enforcement officials—including judges, investigators, and prosecutors—in ensuring and safeguarding the rights of suspects in the criminal justice process, including: (Sunarto & Toerino, 2022) (a) Equal legal treatment for all individuals before the law without discrimination of any kind. (b) Arrests, detention, searches and seizures may only be carried out on the basis of a written order in accordance with the law, and only in circumstances and procedures regulated by law. (c) Every person who is suspected, arrested, detained, tried, or presented at a pretrial hearing is presumed innocent. (d) Individuals who are arrested or detained without clear and legitimate grounds must be provided with compensation and rehabilitation. (e) The examination process in pretrial hearings must be carried out quickly, simply, at low cost, freely, honestly and impartially. (f) In making a pre-trial decision, the judge must act with the utmost fairness, by carefully considering the statements and witnesses presented by both the applicant and the defendant. (g) Pretrial hearings must be open to the public, except in cases otherwise regulated by law.

The International Covenant on Civil and Political Rights (ICCPR), as a legal instrument following on from the Universal Declaration of Human Rights, provides more detailed guidelines regarding control mechanisms against coercive measures. Article 9 paragraph (4) stipulates that: “Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.”

In addition, Article 14 of the ICCPR outlines the rights of individuals in conflict with the law, which are divided into three parts. The first part, which contains the basic principles, covers several essential rights: the right to recognition as a person before the law; the right to a fair and public trial by a competent, independent, and impartial tribunal established by law; and the right to be presumed innocent until proven guilty according to law (Martufi & Peristeridou, 2022).

The second section, which sets out minimum standards, guarantees the following rights: the right to be promptly and in detail informed of the nature and grounds of any charges brought against oneself; the right to adequate time and facilities to prepare one’s defense and to communicate with legal counsel; the right to be tried without unreasonable delay; the right to be present at trial, to defend oneself in person or through legal as-

sistance, and to obtain the appointment of legal assistance; the right to examine or have witnesses examined; the right to have the free assistance of an interpreter if necessary; and the right not to be compelled to testify against oneself or to confess guilt.

The third section, which contains additional provisions, includes the right to special protection if the suspect or defendant is a minor; the right to appeal against a verdict or sentence; the right to compensation in the case of a wrongful conviction; the right not to be tried or punished again for a crime for which a final verdict has been issued or for which an acquittal has been issued; and the right not to be found guilty of an act or omission which, at the time of its commission, did not constitute a crime.

Based on the international legal instruments mentioned above, it is clear that countries around the world have recognized the situations faced by individuals in conflict with the law, particularly when they are subjected to coercive measures imposed by law enforcement officials. This concern arises from the potential arbitrary application of such measures, which could result in violations of the fundamental rights of suspects or defendants. (Septian Joddie Dwianur Sukono & Bambang Santoso, 2024) Particular attention is paid to individuals arrested or detained by law enforcement officials, emphasizing the importance of providing them with an "effective opportunity" to challenge the lawfulness of such coercive measures before a judge or through judicial mechanisms established under positive law. The purpose of this judicial oversight is to review and assess the lawfulness of the coercive measures taken. If it is found that such measures were carried out arbitrarily by law enforcement officials, the process must be stopped immediately, and the suspect or defendant must be provided with just compensation for the harm suffered (Zahrulswendar, 2022).

In summary, the existence of a pretrial detention institution provides legal guarantees for the imposition of restrictions on a suspect's liberty, ensuring that such restrictions are not imposed arbitrarily. Conversely, if these guarantees fail, it can result in human rights violations. Nevertheless, the pretrial process is an integral part of the legal system, and the law itself is an object of legal policy (Firmansyah & Farid, 2022). However, an analysis of legal provisions, judicial practices, and empirical data reveals structural imbalances in the pretrial process regarding access to legal remedies. Although the pretrial mechanism is formally designed to control the exercise of coercive power by law enforcement officials, it largely excludes witnesses and victims from the right to challenge or respond to pretrial decisions. This exclusion becomes a serious problem when a pretrial decision annuls a suspect's status or halts an investigation, outcomes that often have direct and detrimental consequences for witnesses and victims.

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 the Indonesian criminal procedure law system to ensure supervision of the actions of law enforcement officers, especially investigators and public prosecutors, so that they do not conflict with the law and do not violate human rights (Suhardjo, 2019). Unlike most judicial institutions, pretrial proceedings are not standalone courts. They do not have equal standing with district courts or courts of appeal or cassation. Pretrial proceedings are fully integrated with each district court and are carried out as one of the additional duties assigned by the Criminal Code. (Munthe et al., 2024) This institution is provided as a means of supervision with the aim of enforcing law, justice and truth horizontally (Kadri Husin and Budi Rizki Husin, 2022)

Structurally, the pretrial phase is under the supervision and guidance of the Chief Justice of the relevant District Court. All administrative matters, personnel, equipment, and funding fall within the purview of the district court. (Widyastuti et al., 2020) This

makes the pretrial hearing not a separate entity, but rather a functional unit that is an integral part of the first-instance judicial system. This characteristic distinguishes the pretrial hearing from specialized judicial institutions that typically have an independent structure, such as state administrative courts or religious courts. Pretrial hearings are found only in district courts and not in high courts or the Supreme Court.

The main function of a pretrial hearing is to examine and decide whether the arrest, detention, termination of investigation and termination of prosecution are legal (Lian & Purba, 2017) Following the development of the Constitutional Court's decision, the authority of pretrial hearings was expanded to test the validity of determining someone as a suspect (Firmansyah & Farid, 2022). This expansion has an important meaning in protecting the rights of suspects because the process of determining someone as a suspect is often a crucial point that has an impact on limiting individual freedom.

Pre-trial examination is limited to formal truth-finding, which aims to ensure that the procedures and provisions of criminal procedural law have been complied with by law enforcement officials (Yunita, 2023). Formal truth differs from material truth, which is the focus of examination of the substance of a criminal case. Formal truth assesses whether the actions of the authorities are in accordance with procedures, while material truth assesses the substance of the crime itself. Hartono, M. S., & Yuliartini, 2020). This limitation is crucial to prevent overlapping authority between the pretrial hearing and the main case hearing. 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 a request to determine whether a suspect is valid or not only includes an assessment of formal aspects, namely the presence of at least two valid pieces of evidence, without delving into the material aspects of the case. This provision prevents the pretrial judge from deciding on the substance of the criminal case, which should be tested in the main case hearing. With this model, the pretrial becomes an important procedural control mechanism. It ensures that every step taken by investigators and public prosecutors is fully in accordance with criminal law procedures. In other words, the pretrial is an initial bulwark that protects the principle of legal certainty, protects human rights, and prevents abuse of authority by law enforcement officials.

3.2. Pre-trial Legal Regulations

Pretrial proceedings are normatively regulated in Articles 77 to 83 of the Criminal Code. These articles explain the pretrial authority, examination procedures, types of decisions produced, and limitations on legal remedies against those decisions. In the criminal procedural law system, pretrial decisions are categorized as formal or non-final decisions. This means that these decisions do not end the examination of the main criminal case. In judicial practice, these types of decisions are often referred to as "determinations" or "interim decisions" (tussen verdicts), which decide procedural aspects before the main case is fully examined.

Article 82 Paragraph (2) of the Criminal Procedure Code requires judges to clearly state the reasons and legal basis for pretrial decisions. This is important to ensure transparency and accountability, considering that pretrial decisions can have a significant 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 becomes invalid, and the investigation process against him must be stopped.

In the context of testing whether the determination of a suspect is legally valid, Supreme Court Regulation Number 4 of 2016 provides important guidance. Article 2 paragraph (2) of the Supreme Court Regulation states that judges only assess the existence of at least two valid pieces of evidence, without entering into the material of the

case. Furthermore, Article 2 paragraph (4) emphasizes that evidence in the pretrial stage relates only to formal aspects. This provision emphasizes that the pretrial stage focuses on the validity of the procedure, not on proving the substance of the alleged crime.

Article 83 paragraph (1) of the Criminal Procedure Code stipulates that an appeal cannot be filed against a pretrial decision. However, the previous Criminal Procedure Code provided an exception through paragraph (2), namely that in the event that the pretrial decision declared the cancellation of the investigation or prosecution invalid, the interested party could submit a final decision to the Supreme Court. This exception was later removed by the Constitutional Court through Decision Number 65/PUU-IX/2011. With this removal, the room for filing legal action against the pretrial decision became increasingly limited, so that the pretrial decision became final and binding.

In pretrial only examine and decide what is not included in the material of the case, so it is not in the form of a criminal case decision, only regarding the legality or otherwise of the actions of officials involved in the investigation and prosecution examination. Meanwhile, according to Article 224 of the Criminal Procedure Code, that "a request for cassation can only be submitted against a court decision in the form of a "criminal case decision", then the pretrial decision is truly outside the scope of Article 224 of the Criminal Procedure Code because it is "not a criminal case decision", so it cannot be requested for cassation (Andi Sofyan, 2017).

Regarding the limits of a judge's authority in overseeing the actions of law enforcement officers, each country has its own regulations. In the United States legal system, for example, a single judge (magistrate judge) has a dual role as both an investigating judge and an examining judge. This differs from the pretrial system in Indonesia, as stipulated in the Criminal Procedure Code (KUHAP), where the pretrial judge only performs the function of examining judge, namely limited to testing the legality of actions against individual rights such as arrest, detention, or confiscation without substantive authority regarding the status of property rights themselves because there has not been a final court decision (Tornado, 2018).

In the system preliminary hearings judges play a crucial role in ensuring that the charges filed by prosecutors are based on verifiable facts. Furthermore, judges are also tasked with investigating the background or causes of the crime before the case is referred to the next level of court. In contrast, in the Indonesian criminal procedure system, as stipulated in the Criminal Procedure Code (KUHAP), pretrial judges do not have the authority to determine whether a case is worthy of proceeding to trial. The decision to continue or discontinue prosecution rests entirely with the Public Prosecutor.

One aspect that needs to be used as evaluation material within a comparative framework is the absence of pretrial judges' authority in assessing the substance of the case. In practice, pretrial judges only examine whether the formal administrative requirements for implementing coercive measures have been met. They only examine whether the formal requirements have been met and do not examine the material requirements at all, even though the latter are the most important consideration when law enforcement officers apply coercive measures to a person (Tornado, 2018).

Article 95 of the Criminal Procedure Code (KUHAP) expands the rights of individuals, particularly suspects, to seek redress and rehabilitation if they are victims of unlawful legal action. These rights apply in a variety of circumstances, including unlawful arrest without a valid legal basis, unlawful detention that does not comply with legal procedures, unfounded prosecution, trials that violate human rights, or other legal actions that conflict with applicable laws and regulations. This provision ensures that suspects who experience legal injustice have a formal mechanism to redress their rights and seek redress for the losses they have suffered. Article 77 of the KUHAP, as amended

by Constitutional Court Decision No. 21/PUU-XII/2014, expands pretrial authority beyond the review of arrest and detention to include the legality of suspect determination, searches, and seizures. This strengthens legal protection and judicial oversight.

Reflecting on the demands of legal developments, the object of pretrial motions has evolved from what is stipulated in Article 1 number 10 in conjunction with Article 77 of the Criminal Procedure Code. This began with the legal findings by the pretrial judge of the South Jakarta District Court in Decision Number 38/Pid.Prap/2012/PN.Jkt.Sel (Determination of Suspect as Object of Pretrial), then turned out to be a precedent for several subsequent pretrial decisions, legal discoveries by pretrial judges through the following decisions: (a) Judge of the South Jakarta District Court in Decision Number 38/Pid.Prap/2012/PN.Jkt.Sel. (Determination of Suspect as Object of Pretrial); (b) South Jakarta District Court Judge in Decision Number 04/Pid.Prap/2015/PN.Jkt.Sel. (Determination of Suspect as Object of Pretrial); (c) South Jakarta District Court Judge in Decision Number 97/Pid.Prap/2017/PN.Jkt.Sel. (Determination of Suspect as Object of Pretrial); (d) Judge of the Ende District Court, Class II, Flores NTT in Decision Number 02/Pid.Prap/2018/ PN.End (Termination of Investigation as the object of Pretrial).

3.3. As Pretrial Application Against the Protracted Investigation Process by the Suspect

The basis for a pretrial motion based on the protracted investigation process can be explained from two legal perspectives, namely from a positive and progressive legal perspective.

a. According to the Positive Legal Perspective

The law is not made to burden, trouble, deceive, inferiorize, destabilize and disturb the community, whether from a physical, material or psychological aspect so that (KUHAP) is aimed at protecting the community from the arbitrariness of the authorities, meaning that the procedures for handling criminal acts in the KUHAP are aimed at protecting the community from the arbitrariness of the authorities.

One of the stages in handling a material criminal case is the investigation. The official authorized to handle it is the investigator. In this "jurisdiction," the investigator is required to conduct the investigation while observing human rights, specifically the rights of the suspect, who is recognized by the Criminal Procedure Code as a human being who has not been "honored" as guilty. The status of a person involved in a legal case while still a suspect means they must be treated as individuals free from the stigma of being a perpetrator of a crime. Suspects are legal subjects who test the level and quality of professionalism of law enforcement (investigators) in carrying out their duties. The human rights of "illegitimate" suspects are violated by empowerment practices stemming from power and the dramatization of cases.

Unfortunately, the empirical reality within the "work area" of investigations has not yet aligned with the ideals formulated by the Criminal Procedure Code. We still frequently hear and read in the mass media about practices that violate the ideals of the Criminal Procedure Code, meaning that the investigative process is not yet absolutely normatively guided by correct and fair investigative rules. (Tornado, 2018) As in the case-In this case, the suspect's status remains in limbo following a pretrial ruling declaring him legally a suspect. It is unclear when the suspect's case will be submitted to the court for expedited trial. This has implications for the suspect's human rights, such as negative stigma from the public and even his family, being prevented from traveling abroad, losing the right to hold public office, and so on.

Article 8 paragraph (3) b of the Criminal Procedure Code states that "In the case where the investigation is considered complete, the investigator hands over

responsibility for the suspect and evidence to the public prosecutor". Jo articles 108, 109, 110. When the investigation process begins, how long it takes and is completed by the police, this is not specifically explained regarding the time period, the completion of the investigation is only guided by the fact that all material evidence has been fulfilled, then the investigation is considered complete and then handed over to the public prosecutor. That this is clearly the Criminal Procedure Code does not have the spirit that the implementation of law enforcement is fast and guarantees the rights of someone who is strongly suspected of committing a crime.

In the Criminal Procedure Code (RKUHAP), the new provisions regarding pretrial proceedings do not yet authorize the pretrial institution to determine the time limit for investigations, but are regulated separately in the investigation chapter, stating that investigations are limited. The validity or otherwise of the termination of an investigation is one of the objects of examination in pretrial proceedings. Requests for submission are limited only to investigators, public prosecutors, or third parties, in this case, witnesses, victims/reporters. There is no roomA suspect can request or propose termination of an investigation if the investigation drags on, especially if it lasts more than five years, and this harms the suspect's rights. Under the current Criminal Procedure Code, the termination of a suspect's status is achieved by terminating the investigation.

Based on this, it can be concluded that from a positive perspective, a pretrial motion based on the protracted investigation process cannot be used as a basis for a pretrial motion because there are no legal regulations governing this matter.

b. According to the Progressive Law Perspective

Termination of an investigation does not have to be accomplished through a Letter of Order to Terminate an Investigation (SP3). Prolonged handling of a case without justifiable reason can also be categorized as a form of termination of an investigation. As in the case ofThe corruption of a former member of the Boyolali Regency DPRD who attended the plenary session to approve changes to the 2004 Boyolali Regency Regional Budget regarding the Approval of the Determination of Changes to Regional Regulation No. 4 of 2004, whose investigation process was protracted, can be categorized as an illegal termination of the investigation. Cases in the prosecution process have an expiration limit, while when someone becomes a suspect or is in the investigation process there is no time limit, so if the suspect status is attached to someone who continues or is left in limbo without legal clarity.

The legal performance of investigators from 2006 to 2012 was non-existent, thus it can be constructed as a form of material termination of the investigation. The investigator's authority in investigating a crime will be legally flawed by the existence of a protracted investigation process. The unlimited time of investigation is one of the factors driving the protracted investigation process. Protracted investigations while there is no time limit on the investigation period will result in human rights violations for the suspect, because there is no clarity about the next legal process for the suspect, it is possible that the suspect status can hold someone's legal status hostage to become an "eternal suspect".

The author's view of this case leans more toward a progressive legal perspective. Progressive law rejects the view that law is merely a closed normative text and instead positions law as an instrument for protecting human dignity.(Muh. Ridha Hakim, 2016)Protracted investigations reflect the failure of the law to protect individuals from state arbitrariness. Therefore, pretrial judges—in the spirit of progressive law—have the moral and legal legitimacy to make interpretive breakthroughs to ensure that legal objectives are achieved. The progressive interpretation of Article 77 of the Criminal

Procedure Code is not intended to create new law, but rather to further empower the pretrial institution as a check on law enforcement and as a manifestation of justice responsive to real injustice.

Justice and legal certainty are prioritized first and foremost, namely legal justice. In the current era, Indonesian law has reversed the principle of justice and legal certainty, prioritizing legal certainty over legal justice. The rationale for prioritizing legal justice is that it must be balanced among all individuals, without favoring any particular group. Once justice is achieved, legal certainty can be achieved as expected by the people of the nation and state. (Putri & Arifin, 2019)

4. Conclusions

This study concludes that the absence of clear statutory time limits for criminal investigations under the Indonesian Criminal Procedure Code (KUHAP) has created structural vulnerabilities that allow protracted investigations, resulting in legal uncertainty and serious violations of suspects' human rights. The restrictive formulation of Article 77 KUHAP, which limits the object of pretrial review to formal and enumerated actions, has proven inadequate to address the phenomenon of undue delays in investigations, leaving suspects trapped in a prolonged and indefinite legal status.

From a progressive law perspective, prolonged investigations conducted without active, concrete, and genuine investigative efforts should not be treated merely as administrative inefficiency but should be construed as a form of material termination of investigation. Such conditions reflect abuse of authority and contradict the principles of due process, the presumption of innocence, and the constitutional mandate of prompt, simple, and low-cost justice. Accordingly, pretrial mechanisms should be repositioned as effective judicial control instruments capable of preventing arbitrary law enforcement practices.

To address these gaps, it is recommended that lawmakers introduce clear statutory time limits for each stage of criminal investigation, with explicit provisions for extensions that are strictly regulated, limited in duration, and subject to judicial review by pretrial judges. Investigators should also be required to submit regular progress reports to the prosecutor, who has the authority to monitor, accelerate, or terminate inactive cases. In cases of unreasonably prolonged investigations despite active oversight, pretrial judges should be empowered to treat the delay as material termination, thereby safeguarding suspects' rights and upholding due process. Recognizing undue delay as a justiciable object of pretrial review is essential to restore the balance between state authority and individual rights, ensuring legal certainty, justice, and human dignity within Indonesia's criminal justice system.

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