PRE-TRIAL: THE SUSPECTS' ULTIMATE WEAPON AND CORRECTION TOOL FOR INVESTIGATORS TO BE MORE PROFESSIONAL FROM THE PERSPECTIVE OF LEGAL EXPEDIENCY

Albertus Luter[1]*, Ramlani Lina Sinaulan[2], Mohamad Ismed[3]
[1,2,3] Magister Ilmu Hukum, Universitas Jayabaya, Jakarta
E-mail: [1)] albertusluter91@gmail.com

Abstract

This study aims to determine the practice of holding pretrial hearings in Indonesia changed in the aftermath of the 2014 constitutional court ruling 21 / PUU-XII / 2014 as well as legal expediency accrue from pre-trial actions against suspects' determinations, both for the suspect himself and for the suspect. This study is a descriptive qualitative research with the use of normative legal research with primary data collection namely Court Decisions, Legislations which are analyzed using Legislative approaches, Case Approaches and Analytical Approaches. The findings reveal that Pretrial hearings were implemented in Indonesia following the constitutional court's decision Number: 21 /PUU-XII/2014, creating a new legal phenomenon in which suspects flocked to file pretrial legal efforts, which naturally clogged up relevant state institutions such as POLRI, KPK, the Prosecutor's Office as well as the District Court, where pretrial which had previously been viewed as a less popular legal effort, was instantly weakened as if it Advocates defending suspects and on the other hand, related institutions can prepare themselves by enacting a series of regulations requiring increased prudence in determining suspects in order to "survive" the new weapons of suspects known as Pretrial. However, when viewed through the lens of legal expediency, it is a positive thing for investigators because it means that Pretrial can be used as a tool of correction.

Keywords: *Implementation of Pretrial Sessions, Constitutional Court Decisions, Legal Expediency of Determining Suspects*

1. INTRODUCTION

On April 28, 2015 the Constitutional Court of the Republic of Indonesia read out the decision on case Number: 21/PUU-XII/2014 which was submitted by a person named Bachtiar Abdul Fatah through his team of attorneys, in the decision it was written the job of the applicant as an employee of PT. Chevron Pacific Indonesia, the Constitutional Court institution and the Constitutional Justices themselves took a very long time to decide the case, this can be seen from the data contained in the decision stating that the case was received on 17 February 2014 and registered by the Constitutional Court on 26 February 2014 was then officially accepted by the Registrar of the Constitutional Court on April 1, 2014, thus this decision of the Constitutional Court took more than a year and through this decision the determination of the suspect became the object of pretrial in Indonesian positive law, in which the Constitutional Court ruled that the object Pretrial which is regulated in the provisions of Article 77 letter (a) of the Criminal Procedure Code, namely the validity of the determination of suspects, searches and seizures, which previously were only limited to the

validity of arrest, detention, termination of investigation or termination of prosecution (Pangaribuan et al., 2017).

Since the Constitutional Court officially opened the door for suspects to file pretrial legal remedies in mid-2015, suspects have flocked to relevant state institutions such as the POLRI, KPK, the Prosecutor's Office, and the District Court. Pretrial, which was previously regarded as an unpopular legal remedy, has quickly transformed into the ultimate weapon for advocates defending suspects and on the other hand, related institutions are preparing themselves by making a series of regulations to be more careful in dealing with suspects to determine the suspect in order to be "survived" from the suspects' new weapon (Pretrial).

The following concerns will be covered in this paper: To begin, how has the practice of holding pretrial hearings in Indonesia changed in the aftermath of the 2014 constitutional court ruling 21 / PUU-XII / 2014? Besides that, what legal expediency accrue from pre-trial actions against suspects' determinations, both for the suspect himself and for the suspect?.

2. RESEARCH METHOD

In this paper, the writing uses a descriptive qualitative methodology with the research method used in this paper is normative legal research with primary data collection namely Court Decisions, Legislations which are analyzed using Legislative approaches, Case Approaches and Analytical Approaches.

3. RESULT AND DISCUSSION

3.1. Pretrial Legal Efforts for Suspects in terms of Legal Expediency

The writers obtain various considerations from the Constitutional Court's judges in Decision No. 21/PUU-XII/2014, namely: To begin, Article 1 paragraph (3) of the 1945 Constitution establishes Indonesia as a legal state. In a state of law, the notion of due process of law as an expression of the criminal justice system's respect of human rights is a principle that must be upheld by all parties, particularly law enforcement organizations. Thereby, the state, particularly the government, is obligated to protect, promote, enforce, and fulfill human rights by adopting a balanced stance consistent with applicable legal standards, including during the judicial process, particularly for suspects, defendants, and convicts in defending their rights in a fair way (Herlinda, 2019).

Secondly, law enforcement must adhere to applicable Pancasila and 1945 Constitutional requirements. The law must be enforced in order to create and realize the Unitary State of the Republic of Indonesia's national goals, which are clearly stated in the fourth paragraph of the 1945 Constitution, namely to protect the entire Indonesian nation, to promote the general welfare, to educate the nation's children, and to participate in the establishment of an orderly world ideals of freedom, lasting peace, and social justice. Furthermore, the Criminal Procedure Code's system is accusatur-based, which means that a suspect or a suspect the defendant is positioned as a human being with the same value, dignity, and position before the law. Moreover, the Criminal Procedure Code lacks a check and balance system for investigators' determination of suspects because it does not recognize a mechanism for validating evidence acquisition and does not apply the exclusionary principle

to evidence obtained illegally, as it does in the United States (Choiruddin & Nyoman United Putra Jaya, 2016).

Fifth, the purpose of pre-trial institutions is to serve as a mechanism for monitoring and objecting to the law enforcement process, which is inextricably linked to ensuring the protection of human rights, and thus pre-trial rules were regarded as part of the masterpiece of the Criminal Procedure Code at the time. However, it is discovered along the road that the pre-trial institution cannot function optimally since it is incapable of resolving the pre-trial process's concerns. The court's role in monitoring pre-trial institutions is merely post facto, meaning that it does not end with the institution's inquiry and testing, and the testing is only formal, establishing an objective aspect while leaving the subjective portion unsupervised (Kaligis, 2000).

Sixth, when the Criminal Procedure Code was enacted in 1981, determining the identity of the suspect had not yet become a critical and contentious issue in the Indonesian people's lives. Presently, the method of coercion has evolved or been modified in various ways, one of which is the "stipulation of a suspect by investigators," which is carried out by the state in the form of labeling or assigning the status of a suspect to a person without a clear time limit, forcing the person to accept the status of a suspect without the opportunity to challenge the legality and purity of the purpose of the determination. As a consequence, law enforcement must adhere to the precautionary principle.

Seventh, the pretrial process's objectives are to uphold the law and protect suspects'/defendants' human rights during investigations, investigations, and prosecutions, while taking into account the human rights values set forth in Law No. 39 of 1999 on Human Rights and the protection of human rights established forward by Chapter XA of the 1945 Constitution, due to the possibility of arbitrary actions by investigator (Prasetyo, 2015).

Eighth, if Article 1 point 2 of the Criminal Procedure Code is implemented optimally and effectively, no pretrial institution is necessary. However, the issue is what happens if it is not done properly and optimally. Because establishing a suspect is a step in the investigation process that results in the confiscation of human rights, the investigator should treat the suspect as an object that can be protected through pre-trial law efforts. This is merely to protect a person from the arbitrary actions of investigators that are likely to occur when someone is identified as a suspect; even if an error is discovered throughout the process, there is no other institution capable of examining and deciding save the pretrial institution. The inclusion of the validity of suspects as pretrial institutions ensures that the criminal process treats each suspect as a human being with the same dignity, integrity, and position before the law.

When law enforcement officials' acts violate people' constitutional rights to recognition, protection, and fair legal certainty, as well as their constitutional rights to due process of law, as outlined in Article 28D paragraph (1) and Article 1 paragraph (3) of the 1945 Constitution. Citizens The state has a right to be protected during the course of law enforcement. This is the gap in which citizens may petition the Constitutional Court for a constitutional review.

Based on Article 24C paragraph (1) of the 1945 Constitution, which is confirmed in Article 10 paragraph (1) letters a to d of Law No. 24 of 2003 establishing the Constitutional Court and Law No. 8 of 2011 amending Law No. 24 of 2003 establishing the Constitutional Court. The Constitutional Court was established with two primary responsibilities: to assess the constitutionality of measures that violate the 1945 Constitution. The Constitutional Court

has two primary responsibilities in determining constitutionality: first, to preserve the democratic system's functioning by balancing the legislative, executive, and judicial branches of power. Second, to safeguard individual citizens from state institutions abusing their power in ways that jeopardize their constitutionally granted fundamental rights.

With the submission of a constitutional review, it is clear that the state's role is critical in protecting citizens' constitutional rights to recognition, guarantees, protection, and equitable legal certainty, as well as their constitutional rights to due process of law, as provided for in Article 28D paragraph (1) and Article 1 paragraph (3) of the 1945 Constitution, as well as respect for human rights. According to the author, this is a judicial consideration in the Constitutional Court Decision No. 21/PUU-XII/2014, because the primary element of the rule of law established in the 1945 Constitution is the principle that everyone has human rights, which obligates others, including the state, to respect them. Thus, the state is obligated to protect, enhance, enforce, implement, and respect human rights (Setiadi & SH, 2017), because the presumption of innocence is the bedrock of this concept, which is founded on the concept of individual primacy and the complementary concept of official power limitation, or individuals have the potential to become targets of the state's use of violence (Setiadi & SH, 2017).

The aforementioned notion is intended to rein in and prevent authorities from abusing their power and maximizing their efficiency; in other words, it is intended to safeguard persons who come into direct touch with the criminal process in order to avoid violence and abuse of violence from the state. As a matter of fact, the author believes that including the determination of the suspect as a pretrial object by affirming the principle of due process of law as a manifestation of human rights is appropriate, as the concept of due process of law is based on individuals who may become targets of state abuse of power, particularly law enforcement. As a sense, each operation is critical and should not be overlooked. because the purpose of due process is to safeguard the individual involved in the criminal law enforcement process against governmental aggression and misuse of authority. A person is deemed guilty if his guilt is established in line with applicable procedures and by those having the authority to do so. On the other arm, even if the reality is burdensome, a person cannot be judged culpable if the legal protection offered by the law is not carried out appropriately or in line with applicable rules (Sebayang, 2020).

The inclusion of the suspect as a pretrial object by reaffirming the Criminal Procedure Code's system is an accusatur because the suspect or perpetrator of a crime should not be treated as an object but as a human subject with dignity and worth who has the same standing before the law, namely the right to know and follow each stage of the judicial process, as well as the right to file a rebuttal or argument (file a defense for himself). Notwithstanding of the errors and criminal conduct done, the criminal process must follow the Act's appropriate processes. As can be seen, the Constitutional Court is extremely consistent in carrying out its mandate of protecting and promoting human rights.

The advancement of the pretrial object through the designation of the suspect as the pretrial object also serves as a check in the event of a conflict between individual rights and state power, in this case law enforcement agencies' ability to determine whether someone has been designated as a suspect during the process optimally and correctly in accordance with the Act's regulated processes and stages. Although, if it is not carried out optimally and correctly, and does not follow the processes and stages regulated by the Law, namely the

investigation process to locate and collect evidence (at least 2 (two) pieces of evidence as defined in Article 184 of the Criminal Procedure Code), based on the mandate of the Constitutional Court Decision No. 21/PUU-XII/2014, to bring to light the crime that occurred, locate the suspect, can be submitted to the pretrial institution.

According to Constitutional Court Decision No. 21/PUU-XII/2014, a suspect must be established using 2 (two) pieces of evidence, as specified in Article 184 of the Criminal Procedure Code, namely "witness testimony, expert testimony, correspondence, instructions, and the defendant's testimony" (Deddi Diliyanto & Zainal Asikin, 2018). Examining a pretrial application for the determination of a suspect needs not only the sufficiency of two (two) pieces of evidence, but also the validity of the evidence obtained and its relevance to the matter under consideration (Yuristia, 2016). author believes that this can stimulate the use of three evidentiary factors as standards for determining the validity of questionable determinations, which include:

1) Minimum Bewijs, is the minimum amount of evidence so that a person deserves to be designated as a suspect. It is mandatory, investigators must have 2 (two) pieces of evidence before making a suspect determination. Bewijsvoering, is a condition which requires that the investigators legally obtain the 2 (two) pieces of evidence. Not evidence obtained by illegal means (unlawfulllegal evidence), not evidence obtained illegally or tainted evidence, not evidence obtained against the law (exclusionary rules).
2) Bewijskracht, is the strength or relevance of the evidence so that it is related to the alleged crime against the case that is being processed.

The inclusion of the determination of the suspect as an object of pretrial with a minimum of 2 (two) pieces of evidence as mandated by the Constitutional Court's decision, the authors see that this will create legal certainty, because the determination of the suspect who is included as an object of pretrial can answer the juridical problems that arise as a result of the unclear sound of the article in KUHAP, with the confirmation from the Constitutional Court in the Constitutional Court Decision No. 21/PUU-XII/2014 on the phrases “initial evidence”, “sufficient preliminary evidence”, and “sufficient evidence” as specified in Article 1 point 14, Article 17, and Article 21 paragraph (1) of the Criminal Procedure Code must be interpreted at least at least two pieces of evidence contained in Article 184 of the Criminal Procedure Code, because if there is no clarity on the phrases mentioned above, the law will be uncertain and this tends to confuse investigators and it is very possible that the existing confusion can lead to arbitrary actions. With the confirmation of this, it is not impossible to avoid arbitrary actions, especially when determining sufficient preliminary evidence is always used as an entry point for an investigator in determining someone to be a suspect.

Criminal Code (KUHP) itself does not provide an explanation of what is meant by sufficient evidence. The official explanation can only be obtained after the Constitutional Court Decision No. 21/PUU-XII/2014, which interprets that the phrase “sufficient evidence” is at least 2 (two) pieces of evidence contained in Article 184 of the Criminal Procedure Code. For this reason, as a result of not finding 2 (two) pieces of evidence, not only was the suspect not found, but there was also a legal obligation from investigators to issue an Investigation Termination Order (also referred to as SP3).

Determination of a suspect based on 2 (two) pieces of evidence, must also be preceded by an examination of a potential suspect, the goal is to prevent an unreasonable suspicion (adfire prejudice). The suspicion of an investigator who only uses the report of the reporter is very subjective, so in order to make it objective, the investigator is obliged to examine the reported (prospective suspect) first before being designated as a suspect. So that in making a decision, investigators are not in doubt and indecision, whether to determine the suspect and continue the legal process, or make a decision to stop the case (SP3).

The decision to determine the suspect as an object of pretrial through the Constitutional Court Decision No. 21/PUU-XII/2014, it is clear here that after the Constitutional Court's decision the pretrial authority is no longer purely just examining formal (administrative) issues, but has also entered the area of the case material.

Often investigators immediately determine a suspect first without going through the correct investigation process, namely seeking and collecting evidence (at least 2 pieces of evidence contained in Article 184 of the Criminal Procedure Code) in accordance with the mandate of the Constitutional Court Decision No. 21/PUU-XII/2014 in order to make light of the crime, to find the suspect or perpetrator. With the inclusion of the determination of the suspect as an object of pretrial, the function of the pretrial institution will also assess the subjective (individual) element of the determination of the suspect by law enforcement, not just a formal matter (administration) that puts forward an objective element. That way, in dealing with the criminal justice process, individuals can be avoided from arbitrary actions from the state, especially law enforcers in carrying out law enforcement.

The enforcement of material criminal law, which is guarded and framed by the norms of the legislation which is the area of procedural criminal law, can be brought closer to the principles and substance of law enforcement while at the same time upholding justice and useful law enforcement.

If the law in the procedural criminal area no longer functions properly, it is not impossible that the community unit will be disturbed because the community doubts the law and at the same time doubts the institutions and law enforcers because their duties and authorities are not in accordance with what has been regulated in the law. For this reason, the importance of the precautionary principle is increased so that law enforcement can run ideally and correctly, using its authority in accordance with the procedures regulated in the Act. So that the integrated criminal justice system can be implemented properly in accordance with the principle of the rule of law with the principle of due process of law as a manifestation of the protection of human rights and also one of the requirements or characteristics of the rule of law is the protection and promotion of human rights (Teslatu, 2019).

The inclusion of the determination of the suspect as an object of pretrial is seen as a fair decision decided by the Constitutional Court because as a state of law the most important thing is to protect individual interests from arbitrary actions from the state, thereby protecting individual rights in dealing with the criminal justice process, can also realize the protection and promotion of human rights, emphasize more on law enforcers that in carrying out their duties and responsibilities in law enforcement the principle of due process of law must be upheld, the importance of the precautionary principle is further enhanced so that in law enforcement can run ideally and correctly.

3.2. The Role of Investigators in Pretrial Legal Efforts

Pretrial is an effort that can be made by someone who has been designated as a suspect, if the suspect feels that there are formal legal violations related to the process of establishing himself as a suspect, the Pretrial Institution is inspired by the existence of the Habeas Corpus principle in the Anglo Saxon Court system. Habeas Corpus provides fundamental guarantees for the protection of human rights, especially in terms of the rights of independence. Basically, Habeas Corpus is a guarantee and security for personal independence through a simple, direct and open procedure that can be used by anyone. Based on this principle, one can sue an official, through a subpoena,

In Europe such institutions are known, but their function is really to carry out preliminary examinations. Thus, the function of the Judge Commissioner (Rechter Commissaris) in the Netherlands and the Judge d'instruction in France can truly be called Pretrial, because apart from determining the validity of an arrest, detention, confiscation, it also conducts a preliminary examination of a case. In the United States, there is also a Pre Trial institution with 3 process processes which include Arraignment (the allegation is read out before a judge and asked about the attitude, guilty or not) Pereliminay Hearing (there is a strong reason the suspect has committed a crime) and Pre Trial Conference (Planning a court hearing), including litigation and evidence rights).

In principle, the function of pretrial is as a means of control over investigators or public prosecutors in the event of abuse of the authority given to them. The opening of the Pretrial faucet for the determination of suspects by the Constitutional Court in 2015 automatically became the suspects' ultimate weapon to formally examine the process of determining the suspect against him, the process was carried out in a trial forum at the District Court where the domicile of the Respondent (Investigator Who Determines the Suspect) was , in his position as the Respondent of course the attitude and behavior of the investigator who was present at the Pretrial hearing is very different from the attitude and behavior of the investigator when he was at the investigation table in front of the suspect, in his position as a Pretrial Respondent, of course, the investigators must prepare answers to the arguments of the application from the Applicant (Suspect) for alleged violations of the formal law to convince the Pretrial Judge that the arguments are not true and the investigation is in accordance with the law of the event, in the Pretrial forum the position between the investigator and the suspect changed positions to The Respondent and the Applicant.

Armed with empirical experience, the author as an advocate considers that the pretrial process for determining suspects can be interpreted as a tool to make open corrections to the investigation process which is very closed in nature regarding whether the investigation process, especially the determination of suspects has been carried out in accordance with procedural law or not, in practice it is difficult to deny that there are still unscrupulous investigators who seem antipathetic to the pretrial legal effort, even some investigators anticipate that the pretrial application be aborted by not attending the first trial to buy time while speeding up the submission of files to the prosecutor so that the case is immediately tried, this problem is actually a classic problem .

Senior advocate OC Kaligis in his book entitled “Pretrial Practices From Time to Time” stated: “As a legal practitioner, I have noted various weaknesses when conducting pretrials. For example, if we apply for a pretrial, the investigator immediately submits it to the public prosecutor, such a case needs the attention of the judge”, the experience felt by OC Kaligis

and which was also experienced directly by the author shows that pretrial is not interpreted by investigators as a dialectical process but investigators prioritize their subjectivity and personal ego and then forget their position as law enforcers in the context of pretrial as formal law enforcers.

In general, investigators prioritize the closed principle in conducting investigations, concrete examples are how difficult it is to obtain administrative investigations such as the derivative of the Investigation Report (also referred to as BAP) which is the right of the suspect. Ramlani Lina Sinaulan, SH., MH. MM. from Jayabaya University, Jakarta, in the conclusion of his research entitled "Understanding the Violent Behavior of Police Investigators against Suspects at the Pre-Adjudication Stage (A Study of Normative Legal Studies With a Legal Psychology Approach in the Criminal Justice System)" describes that "almost certainly, a Police Investigator In carrying out its duties and functions, it will never be separated, in fact, it is still stuck with the inquisatoir principle in conducting investigative examinations".

From a psychological point of view, the author provides a hypothesis that it is possible that most investigators are not ready and accustomed to being the respondent who are required to disclose the facts of the investigation which form the basis of the process of determining suspects before a trial which is open to the public and there are still many investigators who are not ready and accustomed to dealing with dialectical processes in pretrial trial forums because the pattern of education received is of course more focused on being investigators who will carry out a series of examinations that are one-way (the investigator examines the reported) and tends to be closed where the climax is the determination of a person to be a suspect, in general investigators are more put forward the principle of closedness in conducting investigations, concrete examples are how difficult it is to obtain administrative investigations such as a derivative of the Investigation Report (BAP) which is the right of the suspect, the closed attitude of this investigator seems to be in line with research from Dr. Ramlani Lina Sinaulan, SH., MH. MM. from Jayabaya University, Jakarta, in the conclusion of his research entitled "Understanding the Violent Behavior of Police Investigators against Suspects at the Pre-Adjudication Stage (Normative Legal Studies Study With a Legal Psychology Approach in the Criminal Justice System)" describes that "almost certainly, a Police Investigator In carrying out its duties and functions, it will never be separated, in fact, it is still stuck with the inquisatoir principle in conducting investigative examinations".

From a practical point of view, the author sees that there is a phenomenon that the Pretrial forum becomes an arena for "law and existence wars" between a suspect and a certain institution. Indonesia has also become a hot topic of discussion by legal practitioners, namely the case of Komjen Pol. Budi Gunawan, whose name was sent to the Indonesian House of Representatives as the sole candidate for the National Police Chief by President Joko Widodo, was later named a suspect by the Corruption Eradication Commission (KPK) related to the alleged corruption in question when he served as Head of the Career Development Bureau of the Deputy for Human Resources of the Indonesian National Police for the period 2003-2003. 2006, where the pretrial application was granted by the Judge through Decision: 04/Pid.Prap/2015/PN.Jkt.Sel, dated February 16, 2015, from the case above it is clear that there is a phenomenon that each party through representatives, both spokespersons and attorneys have a war of opinion through the mass media, according to the

author's own observations, this decision has become a pretrial breakthrough in Indonesia so that it has become phenomenal among legal practitioners and academics, but it is very unfortunate if the pretrial forum is only used as a battlefield for existence, not seeing the purpose of the law itself, especially law expediency.

That in fact the Pretrial legal remedies proposed by the suspects will ultimately provide great legal benefits for the process of improving the formal law, especially the procedural law of the investigators themselves as formal law enforcers, in the Indonesian National Police, for example, based on the author's observations as legal practitioners during their practice. As an advocate, seeing the phenomenon that after the 2015 Constitutional Court decision and the many investigation processes, especially the determination of suspects who were declared invalid by the Pretrial Judge, the Indonesian National Police made adjustments to the internal investigation regulations so that investigators were more careful with concrete examples, for example seen from the National Police Chief Regulation No. 6 of 2019 concerning Criminal Investigations (Pujiantoro, n.d.), which regulates the stages of the process from the Police Report, Investigation Stage and Investigation Stage to Determination of Suspects so that investigators clarify first to the complainant and the reported party before carrying out a more in-depth investigation and investigation process and at this time when we (the public) make a police report the author feels that the process is so difficult to go through to improve the reported case from the investigation stage to the investigation stage, the the reporter and his witnesses must be examined back and forth and then the case can be escalated to the investigation stage, this phenomenon according to the author is the result of the 2015 Constitutional Court decision so that the investigation process becomes better, so in terms of the legal benefits of prosecuting Pretrial ice clearly makes investigators more professional.

Philosophically, we are reminded of Jeremy Bentham's phrase "The greatest good for the greatest number," in the context of Pretrial against the suspected author. The greatest good obtained from Pretrial is the opening of opportunities for the justice-seeking community, which is quite large, to make corrections to law enforcement in the future. Investigators are becoming more cautious and professional in establishing a person as a suspect (Baker, 2002; Drew et al., 2017). This professionalism will undoubtedly result in justice seekers obtaining their human rights as envisioned by the principle of Habeas Corpus. Indeed, Pretrial is a tool for reforming the management of investigations that have appeared closed and creepy to society at large for the last few decades.

Practically speaking, the author's empirical experience indicates the following benefits of a suspect submitting a pretrial effort: A suspect may be cleared of suspicion and released from detention if he is detained and is able to establish through the trial process that the investigator's process of deciding the suspect was improper or violated the applicable procedural law. The suspect has the right to know freely and transparently about the legal foundation and facts of the inquiry that the investigator uses to establish him as a suspect, such as the evidence gathered by investigators, fact witnesses, and the investigative process itself. By understanding the legal framework and facts underlying the investigation that the Investigator uses to establish himself as a suspect, such as the evidence he used and who the fact witnesses and expert witnesses are, the Suspect will undoubtedly be better prepared to face the main trial if the pretrial application is denied, cannot be accepted, or terminated.

As for the investigators themselves, the benefits obtained from the pretrial process

according to the author, include: With the suspect's right to file a pretrial, automatically investigators will be more careful and professional in carrying out their duties, thus investigators will also be avoided from ethical problems that arise. can be processed at the Investigation Supervision (*Wasidik*) or Division of Profession and Security (*Propam*).

Whereas in practice there is often intervention from superior investigators, seniors or external parties who have influence where in practice the term "attention" is known, pretrial can be a tool or answer for investigators to go straight to upholding the law because when a suspect submits a pretrial, the investigation process can be declared invalid by the Pretrial Judge, then what is at stake is the reputation of the institution, automatically the party who wants to intervene will step back regularly and let the investigators enforce the law straightly.

4. CONCLUSION

The implementation of the pretrial trial following the Constitutional Court's decision became very popular among justice seekers, and suspects, through their attorneys, flocked to file efforts Pretrial law to the District Court, and even at this time, Pretrial has become the suspect's ultimate weapon in the face of the determination of the suspect by the investigative agency. The Constitutional Court's decision on the pretrial trial was issued on April 28, 2015. This phenomenon represents the physical manifestation of the Habeas Corpus principle.

The legal expediency that can be gleaned from the Constitutional Court's opening of the Pretrial faucet for suspects is that the more professional investigators are in determining someone to be a suspect, as evidenced by the issuance of various regulations by relevant agencies such as the POLRI and the Prosecutor, which ultimately forces investigators to exercise greater caution in determining someone to be a suspect. The pretrial application benefits the suspect directly and indirectly by reducing the violation of the suspect's human rights, which is frequently referred to as criminalization, and practically, the pretrial application is extremely beneficial to the suspect regardless of whether the application is rejected or not; at the very least, the suspect will know precisely what evidence the investigator has in establishing him as a suspect.

REFERENCES

Baker, E. (2002). The greatest good to the greatest number. *Cardiology in the Young*, *12*(3), 209–210.

Choiruddin, R. R., & Nyoman Serikat Putra Jaya, S. (2016). Tinjauan Yuridis Penetapan Status Tersangka Sebagai Perluasan Objek Praperadilan Pasca Putusan Mahkamah Konstitusi Nomor 21/PUU-XII/2014. *Diponegoro Law Journal*, *5*(2), 1–19.

Deddi Diliyanto, S. H., & Zainal Asikin, S. H. (2018). Perluasan Wewenang PRaperadilan Pasca Putusan Mahkamah Konstitusi Nomor 21-PUU-XII-2014. *Jurnal Ilmiah Hukum DE'JURE: Kajian Ilmiah Hukum*, *3*(1), 28–55.

Drew, B. T., González-Gallegos, J. G., Xiang, C.-L., Kriebel, R., Drummond, C. P., Walked, J. B., & Sytsma, K. J. (2017). Salvia united: The greatest good for the greatest number. *Taxon*, *66*(1), 133–145.

Herlinda, H. (2019). Tinjauan Yuridis Terhadap Kewenangan Hakim Praperadilan Dalam Memustukan Permohonan Praperadilan Dengan Objek Menetapkan Tersangka. *Badamai Law Journal*, *4*(1), 164–183.

Kaligis, O. C. (2000). Praktik Pra peradilan Dari Waktu Ke Waktu. *Otto Cornelis Kaligis & Associates, Jakarta, Tahun*, 109–110.

Pangaribuan, A. M. A., Mufti, A., & Zikry, I. (2017). Pengantar Hukum Acara Pidana Di Indonesia, Jakarta: PT. *Raja Grafindo*.

Prasetyo, R. E. (2015). Hukum Acara Pidana. *Bandung: Pustaka Setia*.

Pujiantoro, B. (n.d.). Manajemen Penyidikan Tindak Pidana Di Lingkungan Kepolisian Daerah Kalimantan Barat Dalam Upaya Penyidikan Tindak Pidana Pertanahan (Analisis Terhadap Peraturan Kapolri Nomor 6 Tahun 2019 Tentang Penyidikan Tindak Pidana). *Jurnal NESTOR Magister Hukum*, *3*(3).

Sebayang, S. (2020). Praperadilan Sebagai Salah Satu Upaya Perlindungan Hak-Hak Tersangka Dalam Pemeriksaan Di Tingkat Penyidikan (Studi Pengadilan Negeri Medan). *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Hukum Dan Masyarakat*, *19*(2), 329–383.

Setiadi, H. E. (2017). *Sistem Peradilan Pidana Terpadu dan Sistem Penegakan Hukum di Indonesia*. Prenada Media.

Teslatu, L. C. M. (2019). Penetapan Tersangka Sebagai Objek Praperadilan Dalam Putusan Mk No. 21/Puu/Xii/2014 Sebagai Pemenuhan HAM Dan Tercapainya Sistem Peradilan Pidana Terpadu. *Jurnal Ilmu Hukum: ALETHEA*, *2*(2), 131–144.

Yuristia, R. (2016). Pengaruh Putusan Mahkamah Konstitusi Nomor 21/PUU-XII/2014 Terhadap Pengajuan Praperadilan Mengenai Penetapan Status Ongky Syahrul Ramadhona Sebagai Tersangka. *Verstek*, *4*(3).