

Analysis of the Fulfillment of Human Rights in Pretrial Mechanisms According to the Criminal Justice System Perspective

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Article Info	Abstract
Received: December 9, 2023 Revised: January 12, 2024 Online available: February 07, 2024 Keywords: Pretrial; Human Right; Criminal Justice System	This article discusses the effectiveness of pretrial in protecting human rights in the justice system in Indonesia. Pretrial is an important legal mechanism in realizing justice and protection for individuals who are considered to have the potential to become victims of human rights violations in the legal process. This article uses a normative type research method with descriptive analysis methods to understand in depth how pretrial works in protecting human rights. The legal source material for this article was collected through literature study and analysis of the latest legal developments related to pretrial and human rights. The research results show that pretrial proceedings have played an important role in protecting human rights, especially when there are indications of procedural errors, abuse of authority, or potential violations of human rights in the judicial process in Indonesia. Pretrials have provided an opportunity for individuals to have their cases reviewed before they are decided by the court. Pretrial has great potential in protecting human rights in the justice system. Considering the cases of human rights violations that occur in the Indonesian justice system, can pretrials demonstrate effectiveness in ensuring that the human rights of every individual are maintained and respected in the legal process.

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INTRODUCTION

Human rights are a fundamental basis for sustainability a society that is just, democratic and has a culture of law. Recognition and protection of human rights are the main principle that must be adhered to firmly a justice system that has integrity, transparency and respects values humanity (Kumala Sari & Budoyo, 2019). However, in reality, human rights violations still often occur in legal proceedings. This includes cases such as abuse of authority by law enforcement officials, injustice in the courts, or violations of individual rights during the legal process. For example, some forms of rights violations human rights in the context of justice include detention without fair process, torture or inhumane treatment of detainees, use of evidence obtained illegally, as well as restrictions on freedom of speech and organization (Toweula, 2022).

The importance of protecting human rights in a judicial context cannot be ignored exaggerated. Human rights are basic principles that must be respected by all parties involved in the legal process, including law enforcement officials, judges, and lawyers (Ali & Farhana, 2023). Society, the judiciary and the government must work together to ensure that individual rights are respected and protected in every legal process stage.

In an effort to guarantee the protection of human rights and prevent abuse of the judicial process, pretrial appears as a legal mechanism what is important and relevant. Pretrial offers an opportunity for individuals to submit a request for review of a case before it is decided by the court, with the aim of ensuring that the judicial process runs fairly and in accordance with applicable legal provisions (Durahman, 2017).

Pretrial has the main objective of maintaining and protecting human rights human suspect during the investigation process. This mechanism is considered a form horizontal supervision of suspects' rights in the initial investigation stage (Moeliono, 2015) In principle, any coercive action taken, such as arrest, searches, confiscations, detentions and prosecutions that violate provisions the law is considered a violation of human rights. Therefore, Pretrial plays an important role in ensuring that the legal process in criminal cases runs in accordance with applicable legal regulations and to protect human rights man.

This article aims to investigate the extent to which pretrials have been successful in protecting human rights and providing wider access to justice for individuals facing legal proceedings. In this analysis, the author will explores the role of pretrial as an important instrument in maintaining the integrity of the system justice, as well as identifying the challenges and opportunities faced in implement human rights principles in the pretrial process.

Therefore, this article explores the following research question; What are the pretrial arrangements in the Indonesian legal system? And how Pretrial effectiveness in protecting human rights in the justice system Indonesia?

METHOD

In this article the author uses a normative type research method, However, it is more often known as legal research in the literature. This research uses the technique of reviewing existing library materials on a basis law as a norm (Jonaedi Efendi dan Johnny Ibrahim, 2018). The legal research carried out only uses studies literature alone without using field data. Sources of legal materials used in this research are primary legal materials and secondary legal materials. Sources of primary legal materials are legal materials that have binding and binding properties given directly to the author, in this case the statutory regulations applicable. Sources of secondary legal materials, namely legal materials obtained from library studies such as books, articles, legal journals, theses, theses, materials from internet media, as well as publications related to this research. As for the technique. The collection of legal materials used is library research). Library or literature studies are carried out using reading mechanisms note down, quote, summarize, explain and describe the information obtained through sources of legal materials related to the core of the problem. The sources of legal material that have been collected are then arranged systematically through descriptive-analytical presentation, namely by explaining legal material first systematically and then analyze using interpretive analysis techniques and using arguments based on deductive-inductive legal logic (Susanto & B., 2016)

RESULTS AND DISCUSSION

The legal research carried out only uses studies literature alone without using data fields. Sources of legal materials used in this research are primary legal materials and secondary legal materials. Sources of primary legal materials are legal materials that have binding

and binding properties given directly to the author, in this case the statutory regulations applicable. Sources of secondary legal materials, namely legal materials obtained from library studies such as books, articles, legal journals, theses, materials from internet media, as well as publications related to this research. As for the technique The collection of legal materials used is library research research). Library or literature studies are carried out using reading mechanisms, note down, quote, summarize, explain and describe the information obtained through sources of legal materials related to the core of the problem. The sources of legal material that have been collected are then arranged systematically through descriptive-analytical presentation, namely by explaining legal material first regularly and then analyze using interpretive analysis techniques and using arguments based on deductive-inductive legal logic. protection of human rights and consistency in the duties of law enforcement officers. Through this pretrial institution, Law Number 8 of 1981 concerning Procedural Law Criminal law creates a supervisory mechanism that aims to monitor how law enforcement officers carry out their duties in the criminal justice process.

Pretrial is the district court's authority to examine and decide according to the method regulated in this law regarding:

- a. Whether or not an arrest and/or detention is legal upon request the suspect or his family or other parties on behalf of the suspect;
- b. Whether or not the termination of the investigation or prosecution is valid requests for the upholding of law and justice;
- c. Request for compensation or rehabilitation by the suspect or his family or other parties on their behalf whose cases have not been submitted to court.

Pretrial institutions do not exist as separate entities, but are additional authority given to district courts. Purpose of giving this authority is to ensure law enforcement and justice simple, fast, and economical, with the aim of restoring dignity, ability, and position, as well as compensating victims who feel aggrieved (Purba, 2018).

The purpose of establishing a pretrial is to control or supervise the implementation of criminal procedural law in order to protect the rights of suspects. Form of the controls in question include: (Rusman Sumadi, 2021)

- a. vertical control, namely control from top to bottom; and
- b. horizontal control, namely sideways control, between investigators and lead public prosecutors back and the suspect, his family or other parties.

Pretrial is just a new institution whose characteristics and existence include: (Dinda et al., 2021)

- a. Exists and is an entity attached to the District Court, and as judicial institutions, only found at the District Court level as a unit duties that are not separate from the District Court;
- b. Pretrial is not outside or next to or parallel to District Court, but is only a division of the District Court, administratively justice, personnel, equipment and finances are united with the District Court and is under the leadership and supervision and guidance of the Chief Justice The country itself.

A pretrial can be filed by the suspect or someone who is considered to have it interests (for example, the suspect's family) who feel their human rights have been violated by actions of investigators or prosecutors. The pretrial aims to test the legitimacy arrest, detention or search deemed unlawful or violate human rights. It is also used to test whether the suspect has been fulfill the requirements as a suspect in a case.

The pretrial process involves submitting a petition to the court to be held review whether the actions of investigators or prosecutors have violated the law. Court The pretrial will examine the evidence and arguments submitted by the applicant and public prosecutor

(prosecutor). If the court finds a violation of law or human rights people, they can order the defendant's release or change of status suspect (Kartadinata, 2023).

There are several conditions that must be met to apply for pretrial, such as there must be sufficient preliminary evidence of a violation of the law or human rights violations. Pretrial courts must be independent and objective in carrying out its duties to examine pretrial cases. If the court pretrial determines that the investigator's or prosecutor's actions violated the law or human rights, they can issue a compensation order for the applicant.

The effectiveness of pretrial in protecting human rights in the system justice may vary depending on the implementation and context of each law each country. However, in general, pretrial can provide benefits significant in protecting human rights. Pretrial provides an opportunity to test cases before they reach the main court stage. This is possible initial examination of evidence and actions taken by enforcement officials law. If there is a violation of human rights or abuse of process, pretrial can detect it early.

One of the important roles of pretrial justice is to protect individuals from detention which is illegal or protracted without sufficient evidence. If detention is considered illegal, the pretrial court may order immediate release. Pretrial can help prevent torture and inhumane treatment of detainees by examining detention conditions and evidence of their existence

torture (Darwin et al., 2019).

Pretrial allows testing the validity of the evidence presented by the prosecution general. If the evidence is obtained illegally or violates human rights man, a pretrial court may decide not to use it in the main trial. Pretrial can test the court's authority to adjudicate a case. If the court is deemed to have no authority, pretrial can terminate the previous judicial process.

Pretrial can help prevent legal errors that could be detrimental individual human rights. If any legal issues arise during pre-trial, the court can provide clarification (Firmansyah & Farid, 2022). Just by existing pre-trial, law enforcement officials and the courts will be more careful in carry out their duties in accordance with the law and human rights. They know that their actions can be independently checked. If there is abuse of authority by law enforcement officers, pretrial can be used to contest the action and seek compensation for the victim.

However, pretrial effectiveness can also be influenced by various factors, including the independence and integrity of the judiciary, the quality of legal representation, and access individual to pretrial mechanisms. Additionally, it is important to remember that pretrial is only one element in the broader justice system, and its effectiveness may depend on how it is integrated within the system context judiciary as a whole.

In practice, pretrial can be a powerful tool in protecting rights human rights in the justice system, but also sustained efforts are needed to ensure that this mechanism functions properly and efficiently. This can includes training for law enforcement officers and lawyers, legal awareness for individuals, as well as legal reforms that strengthen human rights principles in the justice system.

The importance of pretrial in preventing human rights violations and maintaining justice is that it provides an opportunity for correction and prevent injustice that may occur during the legal process. Pretrial becomes a very important mechanism in a justice system that functions with kind and respect individual rights.

CONCLUSION

Pretrial arrangements in the Indonesian legal system are clearly regulated in Article 77 to Article 83 of Law Number 8 of 1981 concerning Criminal Procedure Law. Pretrials allow individuals to test their cases before reaching the main court stage, with the aim of ensuring that the judicial process runs fairly and in accordance with applicable law. A

number of Important points related to pretrial arrangements in Indonesia include who is who can submit, pretrial objectives, process, conditions, independence pretrial courts, and the possibility of compensation in cases of human rights violations human or process abuse is discovered. This arrangement is an effort that important in maintaining justice, preventing human rights violations, and ensure that law enforcement takes place with integrity and transparency.

Overall, pretrial has a significant role in protecting human rights in the justice system. Pretrial provides a mechanism that concrete measures to test and detect potential human rights violations beforehand reached the primary court stage. The effectiveness of pretrial in this case is very depends on the independence of the pretrial court, the availability of evidence adequate, and its ability to stop unlawful or legal proceedings violate human rights. However, pretrial success also depends on effective application and implementation in practice. To maximize the role pretrial in protecting human rights, the justice system must ensure that the pretrial process runs transparently, fairly and efficiently, and that the resulting decision can have a real protective effect on rights individual human rights.

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