Pre-Trial: A Study and Analysis of the Protection of the Rights of Suspects in Creating Legal Certainty

Arista Candra Irawati
(aristacandrairawati@unw.ac.id)
Universitas Ngudi Waluyo
Email Correspondence : aristacandrairawati@unw.ac.id

Abstract. Pretrial Institutions are regulated in a limitative manner in the Criminal Procedure Code (KUHAP) in the form of horizontal oversight with a judicial procedural mechanism to examine, prosecute the implementation of coercive measures carried out by investigators in the investigative process with a quick examination procedure. Its development, after the decision of the Constitutional Court Number 21/PUU-XII/2014 dated 28 April 2015 has affected the pretrial institutions regulated in Article 77 letter a of Law Number 8 of 1981 concerning Criminal Procedure Code (KUHAP) in order to achieve the protection of the basic rights of suspects. optimal. This study aims to find out and analyze the implementation of the protection of the rights of suspects after the Constitutional Court Decision Number 21/PUU-XII/2014. The research method uses normative juridical with empirical juridical approaches, research uses secondary data in the form of primary, secondary and tertiary legal materials. The results of the study show that the Pre-trial provisions in Article 77 letter a of the Criminal Procedure Code in order to realize upholding the law and protecting human rights as suspects in investigative examinations have not been achieved. The coercive efforts carried out by investigators are felt to have not been able to achieve legal certainty. Limited supervision of coercive measures, compared to the broad authority of investigators to collect sufficient initial evidence, cannot be assessed by the Pre-trial Judge. Constitutional Court Decision Number 21/PUU-XII/2014 dated 28 April 2015 has expanded/added pre-trial authority. The expansion of new legal norms of pre-trial authority has changed the authority of pre-trial in Article 77 a of the Criminal Procedure Code. Giving the right to someone to fight for the rights of those who feel aggrieved to examine and try whether: (i) Arrest; (ii) Detention; (iii) Termination of Investigation; or (iv) Termination of Prosecution; (v) Determination of suspects; (vi) search; (vii) Foreclosure. In line with the considerations of the Constitutional Court Judges in every act of coercion, especially the "determination of suspects" there must be a fulfillment of "at least two pieces of evidence" as contained in Article 183 of the Criminal Procedure Code. Article 184 of the Criminal Procedure Code as the embodiment of the principle*due process of law* to protect human rights in the criminal justice process optimally.

Keywords : Protection of the suspect's human rights; Pretrial; Legal certainty.

Introduction

The pre-trial institution as the protection of human rights is reflected in the Criminal Procedure Code in the current era, which has undergone changes, there has been an expansion of the authority to try this institution. Pre-trial is one of the systems in Indonesian criminal justice.

The birth of the Criminal Procedure Code which is regulated in Law Number 8 of 1981 concerning Criminal Procedure Code as a replacement*The Harziene Native Rules*(*State paper*Year 1941 Number 44) a Dutch colonial product, in accordance with the wishes of the Indonesian nation so that society lives up to its rights and obligations to protect human dignity in accordance with their basic rights and obligations, and to improve the attitude of law enforcement officers in accordance with their respective authorities towards upholding law and justice, as well as legal certainty for the implementation of a rule of law in accordance with Article 1 paragraph (3) of the 1945 Constitution.[1]

KUHAP as a form of embodiment of the provisions of Article 28I paragraph (5) of the 1945 Republic of Indonesia Law which guarantees and protects human rights. Protection of human rights as horizontal oversight in pre-trial institutions in the provisions of the Criminal Procedure Code as a test of coercive measures as a reflection of the implementation of*asas presumption of innocent* (presumption of innocence) so that each person named as a suspect has gone through a reasonable initial process and received protection for the dignity of the Pre-trial Institution is a test tool for whether a person has gone through the initial process of arrest and detention by lawful investigators according to law or one detention and or arrests that contain defects.[1] there are 3 (three) agreement

instruments, namely (1)*The International Covenant on Civil and Political Right The International Covenant on Economic;* (2) *Social and Cultural Right*; (3) *The Optional Protocol The International Covenant on Civil and Political Right*, emphasized the existence of the three agreement instruments, the certainty of the implementation of human rights is stronger, not only from a moral point of view, but also legally binding for the countries that ratify this agreement.[2]

The purpose of the Pre-trial Institution is expected to be a part of the justice system mechanism which gives rights to suspects under the law to supervise the course of a forced effort in the investigation and/or prosecution process, but in practice it is far from expectations because of the provisions of pretrial law in the formulation of Article 1 number 10 and Article 77 of the Criminal Procedure Code regulate narrow supervision, namely only administrative/formal supervision.

In its development, the Constitutional Court in its Decision Number 21/PUU-XII/2014 dated 28 April 2015 stated that "Article 77 letter a Law Number 8 of 1981 concerning Criminal Procedure Law (State Gazette of the Republic of Indonesia of 1981, Number 76, Supplement to the State Gazette of the Republic of Indonesia Number 3209) does not have binding legal force as long as it is not construed as including the determination of suspects, searches and confiscations".

The Constitutional Court focused on its decision with considerations stating: ……"Based on the provisions of Article 1 paragraph (3) of the 1945 Constitution, Indonesia is a constitutional state, it must uphold "according to due process of law" respect human rights (HAM). Determination of suspects is an investigative process that deprives human rights (HAM) which can be requested for protection through legal efforts of pretrial institutions "...." The Court stated the phrases "preliminary evidence", "sufficient initial evidence", and "sufficient evidence" contained in Article 1 point 14, Article 17, and Article 21 paragraph (1) of the Criminal Procedure Code must be interpreted as "at least two pieces of evidence" contained in Article 184 of the Criminal Procedure Code. [1]

The implementation of the protection of the suspect's basic rights based on the explanation above is a necessity in realizing the protection of the suspect's human rights optimally if in the process of law enforcement when the public does not have the ability to know and utilize legal remedies, especially the human rights of suspects who are ignored as well as law enforcers, especially investigators and investigators. The Examining Judge of the Case did not carry out with full care and fairness, objectively in the process of examining the Pretrial case.

For this reason, this paper tries to provide an analysis of the expansion of the legal norms of pretrial authority in practice in order to achieve optimal legal certainty.

Research Method

This research method is normative juridical (legal research) and empirical juridical approach (field research) and empirical juridical approach (field research), namely the application at the level of the Police and Courts in a normative juridical approach (legal research) is to answer the problem of how to protect human rights The suspect and statutory provisions after the decision of the Constitutional Court Number 21/PUU-XII/2014 dated 28 April 2015.

Specifications in analytical descriptive research. A research that attempts to describe legal issues, the legal system, laws and regulations and examines or analyzes them according to reality. The legal events that apply at a certain time are very dependent on the situation and the dynamics of the society that is developing.

The types and sources of data used in this study are:

Secondary legal material

Namely data obtained through a literature study, namely literature on the Protection of Human Rights for the Determination of Suspects, the Criminal Procedure Code, Supreme Court Regulation No. 4 of 2016 and Perkap Number 6 of 2019 and other related regulations;

Primary legal materials are legal materials obtained directly from research subjects by means of observation, interviews, questionnaires (open or closed questionnaires, face to face), samples and so on. . It is hoped that the questionnaire data can be processed to explain the extent of the implementation of the Protection of the Rights of the Suspect in pre-trial institutions in Indonesia

Tertiary legal material

Namely supporting legal materials that provide instructions and explanations of primary legal materials and secondary legal materials, namely legal dictionaries, journals, websites.

Data collection techniques used in order to obtain accurate data in this study are as follows:

Primary Data

The primary data in this study were obtained by direct observation of the research subjects.

Secondary Data

The secondary data is the interview.

Furthermore, through this research the author will analyze and conclude using qualitative data analysis methods. Qualitative data analysis, namely the data obtained, then arranged systematically to be analyzed qualitatively to achieve clarity of the problem to be discussed. After the data is collected and complete, it is selected and systematically arranged to then draw conclusions from the discussion of the problem.

Discussion

Regulation of the Human Rights of suspects in Pretrial Institutions in Indonesia

The provisions of Law Number 8 of 1981 concerning Criminal Procedure Code (KUHAP) provide additional authority to the District Court in the framework of horizontal supervision as stipulated in Article 1 point 10 of the Criminal Procedure Code in conjunction with Article 77 to examine and try: a. concerning whether or not the arrest, detention, termination of the investigation or termination of the prosecution are legal; b. compensation and or rehabilitation for a person whose criminal case is terminated at the level of investigation or prosecution.

Pre-trial authority is regulated in Article 1 number 10 in conjunction with Article 77 of the Criminal Procedure Code, it is stated that the District Court has the authority to examine and decide on: (a) whether an arrest, detention, termination of investigation or prosecution is legal or not; (b) compensation and/or rehabilitation for a person whose criminal case is terminated at the level of investigation or prosecution. Pre-trial authority arrangements Article 77 to Article 83, and Article 95 of the Criminal Procedure Code with the aim of protecting human rights in accordance with their dignity in the ongoing legal process.

Previously, the limited pre-trial authority regulated in Article 77 a of the Criminal Procedure Code, namely, (i) detention; (ii) detention; (iii) termination of the investigation; (iv) the termination of prosecution is not able to provide freedom for justice seekers in exercising their rights to obtain legal certainty. Pre-trial judges in examinations at trials are limited to assessing requests submitted by parties who are considered to have violated human rights with civil trial procedures guided by the assessment of the fulfillment of documents relating to coercive measures. Not assessing the legitimacy of procedures and procedures in collecting and proving the truth of the acquisition.

The Pretrial Petitioner does not have the discretion to prove that human rights violations have occurred. The extensive discretion of investigators in collecting and obtaining evidence that is not expressly regulated in the Criminal Procedure Code has the effect that the objective of establishing a Pretrial Institution is not achieved. A person who is subject to forced measures of arrest, detention, when and how is determined to be a suspect on a strong suspicion of having committed a crime, even though a person is subject to action of arrest, detention on the basis of a strong suspicion that he has committed a crime.

The investigator's actions in determining the suspect start from the investigation, the investigation cannot be tested through pre-trial. The pre-trial judge evaluates whether there has been a warrant for arrest, a warrant for detention from the authorized official (investigator), if the investigator's actions are fulfilled, it is considered valid under the law. Furthermore, the Petitioner questioned that he had absolutely no knowledge of the basis and reason for being arrested, detained for what criminal act he was suspected of having committed, had never been examined as a witness let alone obtained a Warrant to Begin Investigation (SPDP). Such an issue was assessed by the Pretrial Judge. The Petitioner questioned the determination of the suspect by the Pretrial Judge that the determination of the suspect was not an object of Pretrial authority resulting in the application for pretrial examination by the Judge being rendered with a decision rejected.

The District Court which is the central point of the evaluation and examination mechanism by digging, finding the law values of justice that live in society in guaranteeing legal certainty in judicial practice every test of forceful authority based on Article 77a of the Criminal Procedure Code makes it far from the expectations of society.

The pre-trial gives authority to the District Court to supervise the implementation of coercive measures in the process of investigation and/or prosecution. Pre-trial authority is limited, administrative/formal oversight. Narrow oversight compared to the broad discretion of Investigators in every coercive attempt at someone's alleged crime always intersects with human rights.

The Pre-trial Judge at the request of the suspect, his family or his proxies in his examination is guided by the assessment of the fulfillment of letters related to coercive measures. Not assessing the legitimacy of procedures and procedures in collecting and proving the truth of the acquisition. Judicial practice is far from expectations, due to limited authority. Justice seekers feelthe right to obtain legal certainty has not been realized. The objectives to be upheld and protected pre-trial in order to realize the rule of law and protect human rights as suspects in investigative examinations have not been achieved. it is felt that the application for forced examination has not been able to fulfill the legal certainty of the community. The extensive authority of investigators to collect sufficient preliminary evidence cannot be assessed by the pre-trial judge. thereby significantly influencing the judge in making a decision. Limited and limited pre-trial authority, coupled with coercive measures from law enforcement officials who carry out their duties by prioritizing the fulfillment of formal evidence without being based on material foundations (two legal pieces of evidence), then there is the reluctance of certain pre-trial judges to explore juridical facts, on the basis of the illegitimacy of the coercion that occurred, then the strong political coordination of power among fellow law enforcers, the effectiveness of pre-trial law enforcement was not achieved.

The protection of suspects' human rights in the Pretrial Institution after the Constitutional Court Decision Number 21/PUU-XII/2014 dated 28 April 2015 creates legal certainty.

The operation of the law that has been formed is greatly influenced by its operation in society. Every forced effort carried out by law enforcers is part of the reduction of human rights. Pre-trial institutions in accordance with the provisions of Article 77 letter a Law Number 8 of 1981 concerning Criminal Procedure Law administrative supervision alone does not examine how the procedures or processes of investigators, investigators and public prosecutors in terms of seeking and fulfilling the minimum requirements, make weak horizontal supervision possible. The legal norms that exist in the pre-trial program in relation to the State of Indonesia constitutionally as a rule of law state. The basis that reflects Indonesia as a rule of law state in the 1945 Constitution of the Republic of Indonesia, among others, in Article 1 paragraph (3) states that "Indonesia is a state based on law" and Article 28 paragraph (5) reads "to uphold and protect human rights Human rights are guaranteed, regulated and set forth in laws and regulations.

It is undeniable, based on the provisions of the Criminal Procedure Code for pretrial examinations, a person gets a summons as a witness, and after being examined as a direct witness, his status changes to that of a suspect. Furthermore, submitting a pretrial petition at the Semarang District Court for the determination of the suspect was rejected by the Panel of Judges on the grounds that the application did not fall under the authority of the pretrial. However, after the decision of the Constitutional Court Number 21/PUU-XII/2014 dated 28 April 2015, the determination of the suspect as a new source of law. This means that it is a control tool/mechanism for investigators in determining suspects. Provides clarification that a person is declared a suspect, but the file is not raised. No clear status. Is this matter going to be carried out, or how. Legal certainty can be achieved starting from the level of determination of the suspect. Pretrial efforts to determine suspects as a legal breakthrough create legal certainty for justice seekers regarding examination procedures in determining suspects and clarifying the status of suspects.[1]

Based on the decision of the Constitutional Court Number 21/PUU-XII/2014 dated 28 April 2015 a new norm has been established to expand pre-trial authority. Stating that the provisions of Article 77 letter a of Law Number 8 of 1981 concerning Criminal Procedure Code (State Gazette of the Republic of Indonesia of 1981, Number 76, Supplement to the State Gazette of the Republic of Indonesia Number 3209) do not have binding legal force as long as they are not construed as including the determination of suspects, searches and confiscations. The decision of the Constitutional Court has formed a new norm (positive legislature) by expanding, adding to the pre-trial authority, namely, examining (1) the determination of the suspect; (2) search and (3) seizure. The validity of the Constitutional Court's decision affects fundamental aspects of the legal system, the state system. This is because the decision of the Constitutional Court is not only binding on the applicant, but also broadly binding (to all), and is final and binding since it was pronounced in a plenary session which was open to the public. There are 2 (two) legal provisions that apply to pre-trial authority. In line with Gustav Radbruch's view in Langen Richard, “Criminal law reform, reform in a dilemma” say: "Reforming criminal law does not mean improving criminal law, but replacing it with something better”, the renewal of criminal law (not formal law or material law) does not mean merely improving criminal law but must also replace it with a better one.[1] Gustav Radbruch's views put forward 4 (four) basic things related to the meaning of legal certainty: First,

that positive law means legislation;Second, that the law is based on facts means it is based on reality,Third, that facts must be formulated in a clear manner so as to avoid misunderstandings in meaning, in addition to being easy to implement,Fourth, positive law should not be easily changed. [2] Gustav Radbruch's opinion is based on the view that legal certainty is legal certainty itself. Legal certainty is the application of law or more specifically legislation. Gustav Radbruch further argues that law must contain three basic values, namely: the value of justice (philosophical aspect), the value of certainty (juridical aspect); and Usefulness value (sociological aspect). Every legal regulation must be able to restore its validity to these three basic values.[3] The law cannot be implemented simultaneously because as is known, in reality there is often a conflict between legal certainty and benefit, or between justice and legal certainty, between justice there is a conflict with benefit.[4]

Pre-trial implementation in Article 77 letter a Law Number 8 of 1981 concerning Criminal Procedure Law after the Constitutional Court Decision Number 21/PUU-XII/2014. The principle that says "where there is society, there is law" (where the company is right there),[1] become the basis for holding legal reforms because the enactment of substantive law always lags behind the development of legal aspects of social (community) life.[2] Law reform and law formation must look to the future, law formation must not only be for today's sake but must predict the possibilities that will occur for the future.[3]

Based on the theory of criminal law renewal (The theory of criminal law reform) expects the formation of law to become a product of legislation whose effect will be optimal, so that betweenthat should (according to the ideal rules) in line withthe existence (which actually is).[1] The enactment of 2 (two) legal provisions on pre-trial authority in accordance with Article 77 letter a of the NRI Law Number 8 of 1981 concerning the Criminal Procedure Code and the Constitutional Court decision Number 21/PUU-XII/2014 dated 28 April 2015 which not immediately codified and unified in 1 (one) statutory provision has the impact of creating legal uncertainty over an implementation of a Law order.

The practice of applying 2 (two) legal provisions as a basis for adjudicating on pre-trial authority, Supreme Court Regulation Number 4 of 2016 concerning Prohibition of Review of Pretrial Decisions and Regulation of the Head of the National Police of the Republic of Indonesia Number 6 of 2019 concerning Investigations of Criminal Acts is linked in the theory of criminal law reform regarding the contribution and influence of the formation of new norms in the Constitutional Court Decision on the expansion of pre-trial authority as an institution that aims to carry out horizontal supervision so that every forced effort carried out by investigators and public prosecutors in the law enforcement process does not conflict with legal provisions in order to achieve legal certainty and justice.

Taking into account, Thus, based on the 1945 Constitution Article 24C paragraph (1) clearly gives full authority to the Constitutional Court to oversee the implementation of the constitution (check an balances). In position, authority and constitutional obligation to maintain or guarantee the implementation of legal constitutionality. Supervising the implementation of the constitution means upholding the constitution as a form of upholding law and justice in the rule of law system. The nature of the decisions of the Constitutional Court is final and binding, meaning that it is no longer possible to have other legal remedies against the decisions handed down. The decision of the Constitutional Court has permanent legal force since it is read out in court. Court decisions that already have legal force still have binding legal force to be implemented. All parties, including state administrators who are related to the provisions decided by the Constitutional Court must obey and submit to the decision.

Decision of the Constitutional Court Number 21/PUU-XII/2014 dated 28 April 2015 made a new norm expanding the pretrial authority to determine a suspect, the Petitioner as a citizen feels that the constitutional rights to determine a suspect are not carried out through the correct procedures and procedures/according to the law, the Criminal Procedure Code does not havecheck and balance sistem for the act of determining the suspect by the investigator so that the pretrial cannot function optimally. The Constitutional Court as a Positive legislator applies the principle of balance, to balance proportionally between legal certainty, justice and expediency to avoid a legal vacuum. Creating a new norm in the classification as a conditional constitutional decision (conditionally constitutional). Poitive legislator not to acquire authority and dominate other institutions, but in the framework of checks and balances. The expansion of the determination of suspects in the pretrial authority on the basis of prior to other forced measures, the starting point is the existence of a suspect label that must be protected from the start as a rule of law in the form of protection of human rights.

Conclusion

Article 77 of the Criminal Procedure Code regulates narrow supervision in contrast to the broad discretion of Investigators in every coercive attempt to suspect someone's crime always intersects with human rights. The Pre-trial Judge at the request of the suspect, his family or his proxies in his examination is guided by the assessment of the fulfillment of letters related to coercive measures. Not assessing the legitimacy of procedures and procedures in collecting and proving the truth of the acquisition. Pre-trial in order to realize law enforcement and protection of human rights as suspects in investigative examination has not been achieved. Not fulfilling legal certainty for the community. Limited supervision of coercive measures, compared to the broad authority of investigators to collect sufficient initial evidence, cannot be assessed by the Pre-trial Judge, significantly influencing the judge in making a decision. Causes justice seekers do not get legal certainty. Limited and limited pre-trial authority, coupled with coercive measures from law enforcement officials who carry out their duties by prioritizing the fulfillment of formal evidence without being based on material foundations (two legal pieces of evidence), then there is the reluctance of certain pre-trial judges to explore juridical facts, on the basis of the illegitimacy of the coercion that occurred, then the strong political coordination of power among fellow law enforcers, the effectiveness of pre-trial law enforcement was not achieved.

Constitutional Court Decision Number 21/PUU-XII/2014 dated 28 April 2015 has expanded/added pre-trial authority. There is an expansion and addition of pre-trial authority in Article 77 a of the Criminal Procedure Code, Expansion of new legal norms of pre-trial authority, namely examining and adjudicating whether: (i) Arrest; (ii) Detention; (iii) Termination of Investigation; or (iv) Termination of Prosecution; (v) Determination of suspects; (vi) search; (vii) Foreclosure. The principle of consideration of Constitutional Court Judges in every act of coercion, especially "determination of suspects" must be fulfilled "at least two pieces of evidence" as contained in Article 183 of the Criminal Procedure Code. Article 184 of the Criminal Procedure Code determines that valid evidence is witness statements, expert statements, letters, instructions and statements of the accused as the embodiment of the principle*due process of law* to protect human rights in the criminal justice process optimally.

References

OC Kaligis,Rusdi Nurima,DennyKailimang,1997, *Pra peradilan Dalam Kenyataan*, Djambatan, Jakarta.

James W. Nickel, 1996, *Hak Asasi Manusia; Refleksi Filosofis atas Deklarasi Universal Hak Asasi Manusia*, Terj: Titis Eddy Arini, Gramedia Pustaka Utama, Jakarta.

Muladi, Barda Nawawi Arief, 2010, *Teori-teori dan Kebijakan Pidana*, Bandung, PT.Alumni

Nyoman Serikat Putra Jaya, 2017, *Pembaharuan Hukum Pidana*, Semarang, PT.Pustka Rizki Putra.

Yahya Harahap, 2007, *Penerapan Permasalahan Hukum Pidana*, Sinar Grafika, Jakarta

Marlina, 2009, *Peradilan Pidana Anak di Indonesia*, PT Rafika Aditama, Bandung.

WA Bonger, 1977, *Pengantar Tentang Kriminologi*, Ghalia Indonesia, Jakarta.

Loegman , Loebby, 1987, *Pra Peradilan di Indonesia*, Ghalia Indonesia, Jakarta

Looegman, Loeby, 2002, *Hak Asasi Manusia (HAM) dalam Hukum Acara Pidana (HAP)*, Datacom, Jakarta.

Departemen Pendidikan dan Kebudayaan, *Kamus Besar Bahasa Indonesia*, Balai Pustaka, Jakarta.

Yahya Harahap, 2007, *Pembahasan Permasalahan dan Penerapan KUHAP, Penyidik dan Penuntutan*, Sinar Grafika, Jakarta.

_____, 2006, *Penemuan Hukum Sebuah Pengantar*, Liberty, Yogyakarta

A.C.German et.al, 1970, *Introduction To Law Enforcement and Criminal Justice*, Springfield Illionis

Abdulkadir Muhammad, 2004, *Hukum dan Penelitian Hukum* , Citra Aditya Bakti, Bandung

Adji Samekto, 2015, *Pergeseran Pemikiran Hukum Dari Era Yunani Menuju Postmodernisme*, Konpress, Jakarta

Anak Agung Putu Wiwik Sugiantari, 2015, *Perkembangan Hukum Indonesia dalam Menciptakan Unifikasi dan Kodifikasi Hukum.*

Andi Hamzah, 2008, *Hukum Acara Pidana Indonesia*, Sinar Grafika, Jakarta.

Anggara, et al, 2014, *Pra peradilan di Indonesia Teori, Sejarah dan Praktiknya*, Institute for Criminal Justice Reform, Jakarta.

Artidjo Alkostar, 2008, *Tantangan Hakim dalam Era Globalisasi*, Varia Peradilan, Jakarta

Azhari, 1995, *Negara Hukum Indonesia*, Analisis Yuridis Normatif Tentang Unsur-Unsurnya, UI.Press, Jakarta

B. Arief Sidharta, 2008, *Meuwissen Tentang Pengembangan Hukum, Ilmu Hukum, Teori Hukum, dan Filsafat Hukum. (Alih bahasa Bab XV, XVI, dan XVII buku: Van Apeldoorns, Inleideng tot de studi van het Nederlans recht, edisi 18 tahun 1985*), Refika Aditama, Bandung

Bambang Waluyo, 2002, *Penelitian Hukum Dalam Praktek*, Sinar Grafika, Jakarta.

Barda Nawawi Arief, 1996, *Bunga Rampai Kebijakan Hukum Pidana*, Cetakan Pertama

Undang-Undang Dasar Negera Republik Indonesia Tahun 1945.

Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana (KUHAP)

Peraturan Mahkamah Agung No. 4 Tahun 2016 tentang Larangan Peninjauan Kembali Putusan Pra peradilan

Peraturan Kepala Kepolisian NRI Nomor 6 Tahun 2019 Tentang Penyidikan Tindak Pidana

Putusan Mahkamah Konstitusi Nomor 21/PUU-XII/2014

Sri Rahayu Wilujeng, "Hak Asasi Manusia: Tinjauan Dari Aspek Historis Dan Yuridis", Fakultas Ilmu Budaya Universitas Diponegoro, https://media.neliti.com/media/publications/5018-ID-hak-asasi-manusia-tinjauan-dari-aspek-historis-dan-yuridis.pdf, (diunduh pada tanggal 21 Desember 2022)

Sudhono Iswahyudi, "Mengkritisi Rancangan Kitab Undang-Undang Hukum Pidana*", Jurnal Legislasi Indonesia*, Vol.1 No.2, Sept 2004.

A. Anugrahni, 2017, *Memahami Kepastian (Dalam) Hukum*, ukum.wordpress.com. diakses pada tanggal 28 Agustus 2022, waktu: 12:50

Bahran, "Penetapan Tersangka Menurut Hukum Acara Pidana Dalam Perspektif Hak Asasi Manusia", Syariah: *Jurnal Ilmu Hukum dan Pemikiran Penetapan Tersangka Menurut*.....220-239 Vol 17, No 2, https://media.neliti.com/media/publications/257140-penetapan-tersangka-menurut-hukum-acara-57b14c41.pdf, (di unduh tanggal 8 Desember 2022, pukul 20.00).

Sidik Sunaryo, 2009, "Ambiguitas Isu Hukum dan Keadilan (Sisi Lain Dari Pemilihan Presiden)", *Jurnal Konstitusi*, Vol. II, No. 1, Juni, halaman 24.

Yuddin Chandra Nan Arif, "Dimensi Perubahan Hukum Dalam Perspektif Sistem Hukum Terbuka *(The Dimension of The Change of Law Viewed From The Erspective of Open Legal System)", Jurnal IUS*, Vol. I, No. 1, April 2013, hlm125. Hukum sebagai sistem yang terbuka (dengan pendekatan berbagai multi disiplin ilmu terhadap domain hukum) khususnya konteks kajian ini (perubahan hukum dan perubahan sosial) harus menjadi dasar pengambilan kebijakan dalam rangka penyusunan pembaharuan hukum nasional Indonesia, hlm. 122.

Zulfi Diane Zaini, 2012, "Perspektif Hukum Sebagai Landasan Pembangunan Ekonomi di Indonesia (Sebuah Pendekatan Filsafat)", *Jurnal Hukum*, Vol. XXVIII, No. 2, Desember 2012, halaman 938.

Bambang Widiyantoro, Evi Rumata Parapat, "*Das Sein dan Das Sollen dalam Sistem Undang-Undang Pokok Agraria (UUPA) di Indonesia*", Majalah Ilmiah Solusi Unsika, Vol. 10, No.20, Sept-Nov 2011, hlm.3

Wawancara dengan Hendra Wijaya, Advokat pada Kantor Hukum Kedai Kopi Law Semarang pada hari Selasa, tanggal 8 November 2022