

Reforming Justice: Unpacking the Pre-Judication and Post-Judicate Dynamics of the Sarpin Case in Law and Practice in Indonesia

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Abstract

This paper critically examines the Sarpin case within the context of Indonesia's criminal justice system, focusing on the legal reformation of pretrial procedures and their impact on the protection of suspects' human rights. Indonesia's criminal justice system adheres to the principle of *presumption of innocence*, which underscores the importance of safeguarding individual rights throughout the legal process. The introduction of the *pretrial* institution under the Criminal Procedure Code (KUHAP) has introduced significant shifts in judicial practices, particularly in evaluating coercive measures such as arrest, detention, and the termination of investigations. This research addresses three key questions: first, how pretrial procedures are regulated from the perspective of criminal law; second, how the reform of pretrial practices has been influenced by Judge Sarpin's landmark decision; and third, the broader implications of his

ruling on the protection of human rights within the Indonesian criminal process. The paper utilizes a normative research method, analyzing relevant statutes and legal concepts through a statutory approach. In the Sarpin case, Judge Sarpin ruled that the investigation warrant used to initiate proceedings against Budi Gunawan was invalid, highlighting a critical legal interpretation of pretrial powers. This ruling not only questioned the procedural foundation of the case but also demonstrated the significant role of pretrial in defending the rights of suspects. Article 77 of KUHAP grants district courts the authority to examine the legality of coercive actions, providing a vital safeguard against potential abuses. The paper evaluates how Judge Sarpin's decision has reshaped legal practices in Indonesia, emphasizing its potential to reform both judicial attitudes and the protection of fundamental rights.

KEYWORDS *Legal Efforts, Pre-trial, Criminal Justice System, Presumption of Innocence*

Introduction

In a state governed by law, such as Indonesia, individuals found guilty of an offense are subject to punishment in accordance with legal provisions. The rule of law, in its essence, refers to a system where both the government and its citizens operate within the framework of law, ensuring that actions are guided by established legal principles and preventing arbitrary decisions by either party. Law enforcement serves as a crucial mechanism for setting clear guidelines that govern the behavior of individuals, especially in their legal interactions within both societal and national contexts.¹

¹ Utari, Indah Sri, and Ridwan Arifin. "Law Enforcement and Legal Reform in Indonesia and Global Context: How the Law Responds to Community Development?." *Journal of Law and Legal Reform* 1, no. 1 (2020): 1-4; Arifin, Ridwan. "Legal Services and Advocacy in the Industrial Revolution 4.0: Challenges and Problems in Indonesia." *Indonesian Journal of Advocacy and Legal Services* 1, no. 2 (2020): 159-162. Furthermore, it is highlighted in Indonesia, law enforcement addresses a wide range of crimes, including corruption, human trafficking, drug-related offenses, and violent crimes such as murder and terrorism. Through institutions like the police, the prosecution, and the judiciary, law enforcement works to uphold justice by investigating, prosecuting, and adjudicating these offenses. The coordinated actions of these agencies ensure that individuals adhere to legal frameworks, preventing arbitrary actions and protecting the rule of law. Effective law enforcement thus fosters a sense of security, supports social stability, and reinforces public

The concept of the rule of law and law enforcement assumes particular significance when analyzed through the lens of the Sarpin case. The pre-judication and post-judication dynamics in this case expose the inherent challenges and complexities within Indonesia's legal system, underscoring the urgent need for reform to ensure fairness, transparency, and consistency in the administration of justice.²

The interdependence of legal institutions in Indonesia's criminal justice system, as discussed previously, is particularly evident in the functioning of law enforcement. This interconnectedness underscores the importance of each element—the police, prosecution, and judiciary—in ensuring the integrity of the legal process. The enactment of the Code of Criminal Procedure (KUHP) and subsequent amendments, such as Act No. 8 of 1981, introduced significant reforms to the system, including the establishment of pre-judicial bodies.³ These bodies, though previously unregulated, play a crucial role in the pre-trial phase, protecting the fundamental rights of suspects and ensuring that investigations and prosecutions comply with legal standards. In this context, the pre-judication process serves not only as a safeguard against potential abuses but also as an essential component of the broader criminal justice system's functioning. By addressing these concerns, the pre-judicial mechanism contributes to the need for systemic reform, which is crucial for enhancing the fairness and transparency of Indonesia's legal system, as highlighted in the Sarpin case.⁴

trust in the legal system, which is essential for societal progress and national development. See also Utari, Indah Sri, et al. "Social Controls and Trends Juvenile Delinquency: Criminology Study about Complexity of Child Delinquency In Society." *1st International Conference on Education Social Sciences and Humanities (ICESSHum 2019)*. Atlantis Press, 2019; Sumardiana, Benny. "Reversal Evidence Policy on Corruption as Specialization of Criminalization." *Indonesian Journal of Criminal Law Studies* 2, no. 2 (2017): 155-167.

² Tambunan, Jonathan Hiero. "Persepsi Hakim Pengadilan Negeri Pontianak Terhadap Pembebasan Tersangka Budi Gunawan oleh Hakim Sarpin dalam Praperadilan di Pengadilan Negeri Jakarta Selatan." *Jurnal Fatwa Hukum* 2, no. 3 (2019). See also Rumadan, Ismail. "Membangun Hubungan Harmonis Dalam Pelaksanaan Fungsi Pengawasan Hakim Oleh Mahkamah Agung dan Komisi Yudisial dalam Rangka Menegakkan Kehormatan, Keluhuran Dan Martabat Hakim." *Jurnal Hukum dan Peradilan* 5, no. 2 (2016): 209-226.

³ See also Irawati, Arista Candra. "The Formal Criminal Law Renewal: Due Process of Law in Pre-trial for Legal Assurance." *International Conference on Law, Economics, and Health (ICLEH 2022)*. Atlantis Press, 2023.

⁴ See Butt, Simon. "What makes a good judge? Perspectives from Indonesia." *Asian Journal of Law and Society* 8, no. 2 (2021): 282-323. See also Saputra, Cokky Wijaya. "The pre-trial application granted in the case of Budi Gunawan." *Jurnal Hukum Volkgeist* 4, no. 1

It is important to note that pre-trial efforts are aimed at resolving criminal cases in Indonesia, in the context of law enforcement when the rights of suspects are violated. One way to create order, security, and peace in society is through law enforcement.⁵ Law enforcement uses the rules in force as a basis for eradicating, preventing, and dealing with violations. This process is carried out in accordance with the legal purpose of the criminal case, namely to find and obtain the truth about a criminal case by applying the legal provisions of the crime case accurately and honestly.

Today, pre-justice is an important part of the law enforcement process in Indonesia. Before a case is brought to court, the actions of investigators, prosecutors, and judges may violate human rights. Unauthorized detention, which deprives a person of his liberty, is one example. The primary focus of pre-trial checks is to determine whether the officer has committed a mistake or broken the law. Thus, human rights can be protected from violations that should not have occurred.⁶

In early 2015, the law in Indonesia was again tested, starting with the establishment of Komjen Budi Gunawan as a suspect by the Anti-Corruption Commission (KPK). This case has raised a lot of controversy and speculation that is still ongoing to this day, known as the term *Crocodile Cockroaches*.⁷ Before the Budi Gunawan case, the concept of pre-justice was still foreign to most Indonesians. However, after the case broke out, pre-judicial proceedings became more known and considered an alternative to those identified as suspects, especially in cases of corruption. This symptom emerged after the

(2019): 63-69; Kusuma, I. Made Wisnu Wijaya, and Ni Made Sukaryati Karma. "Upaya Hukum Praperadilan dalam Sistem Peradilan Pidana di Indonesia." *Jurnal Interpretasi Hukum* 1, no. 2 (2020): 73-77.

⁵ See Faisal, Fitriah. "Due Process of Law: Pre-Trial and Preliminary Examination Judge on Indonesian Criminal Procedure Law." *Scholars International Journal of Law, Crime and Justice* 6, no. 3 (2023): 154-158; Setiawan, Agus. "Reconstruction of Judge Authorities on Pretrial in Indonesia Based on Justice Value." *Scholars International Journal Law Crime Justice* 4, no. 1 (2021): 11-18.

⁶ Septilawati, Frischa Kurnia Dwi, and Engrina Fauzi. "Dasar Pertimbangan Hakim Atas Gugurnya Permohonan Praperadilan (Studi Putusan Praperadilan Nomor: 02/Pid. Pra/2023/Pn. Pnn)." *Jurnal Kajian Hukum Dan Kebijakan Publik* 1, no. 2 (2024): 228-237; Kusumastuti, Ely. "Penetapan Tersangka Sebagai Obyek Praperadilan." *Yuridika* 33, no. 1 (2018): 1-18.

⁷ For further discussion, *please also see* Quah, Jon ST. "Combating police corruption in Indonesia: cleansing the buaya (crocodile)." *Asian Education and Development Studies* 9, no. 2 (2020): 129-143; Isra, Saldi, Feri Amsari, and Hilaire Tegnau. "Obstruction of justice in the effort to eradicate corruption in Indonesia." *International Journal of Law, Crime and Justice* 51 (2017): 72-83.

victory of Budi Gunawan's Commander in a pre-trial hearing in the South Jakarta State Court led by the sole judge Sarpin Rizaldi, who granted the lawsuit filed by Budi Gunawan. Budi Gunawan was previously identified as a suspect by the Anti-Corruption Commission (KPK) in cases of alleged corruption of receiving prizes or promises during his tenure as Chief of the Career Building Bureau (*Karobinkar*) Deputy Polri Human Resources during the period 2003-2006 and in other positions in the Police.⁸ According to the law, requests that may be submitted in the pre-trial examination not only cover the validity or non-validity of the arrest, detention, suspension of the investigation or termination of the prosecution, as well as the claim for damages and/or rehabilitation of a person whose case is terminated at the level of the inquiry or the prosecutions (as regulated in Article 77 of the KUHAP), but also cover other actions expressly specified in Article 95 of the KUHAP.

In the case involving Budi Gunawan, several actions are outlined that raise concerns regarding legal procedures and the treatment of the applicant. First, the jurisdiction provides an explanation of the actions taken by the investigator and public prosecutor, including search, arrest, and the establishment of an individual as a suspect. Specifically, the act of designating a person as a suspect, particularly in cases of corruption, can have significant legal consequences, such as the deprivation of personal rights and dignity. When the applicant was identified as a suspect without following the proper legal procedures outlined in the Covenant, it resulted in the unjust harm to his reputation and freedom. This failure to adhere to legal protocols caused harm not only to the applicant's personal standing but also to the reputation of the police institution, which is considered a legitimate state agency under Article 30 of the 1945 Constitution of the Republic of Indonesia.

Further, the actions of the public prosecutor, including publicizing the applicant's status as a suspect, violated the principle of the presumption of innocence. These actions were disseminated to the media before the allegations were confirmed or even investigated. The media coverage prematurely identified the applicant as a suspect, despite the fact that the witnesses in the case had not yet been questioned.

⁸ Darwin, Darwin, Dahlan Dahlan, and Suhaimi Suhaimi. "Analisis Yuridis Putusan Praperadilan dalam Perspektif Sistem Peradilan Pidana." *Jurnal Mercatoria* 12, no. 1 (2019): 68-79. See also Jaya, Nyoman Serikat Putra, and Elisabeth Bethesda Sukinta. "Tinjauan Yuridis Terhadap Putusan Praperadilan Atas Penetapan Tersangka Budi Gunawan dalam Perkara Tindak Pidana Korupsi." *Diponegoro Law Review* 5, no. 2 (2016): 19064.

Moreover, the legal actions taken against the applicant were marked by defects in jurisprudence, which became evident in the proceedings initiated on January 12, 2015. On that day, a Corruption Criminal Prosecution Report was filed, followed by the issuance of an investigative order. The very next day, the applicant was publicly identified as a suspect, which raised concerns about the legal validity of the process. This rapid sequence of events highlighted the failure to follow due process, as essential steps in the investigation were either overlooked or rushed, causing significant moral and material harm to the applicant, whose losses are difficult to quantify but include reputational damage and financial loss of approximately Rp. 1,000,000.

Against Budi Gunawan's pre-trial suit, the judge Sarpin Rizaldi stated that the suspect's status was invalid in accordance with the provisions of the law, triggering the pros and cons in law enforcement, especially in the fight against corruption. Proponents of the decision regarded it as a legal breakthrough, as it allowed the suspect to seek justice through pre-trial. However, opponents view it as a legal regression, fearing that all suspects will apply to pre-trial, making corruption more difficult to eradicate. Judge Sarpin is deemed to have exceeded his authority.⁹

The ruling of Judge Sarpin is a new historic milestone in Indonesian law, as previous pre-trial cases filed by suspects are often rejected. Budi Gunawan's victory was an inspiration and a fresh wind for other perpetrators of corruption cases, creating a trend known as the *Sarpin Effect*.¹⁰ This phenomenon is marked by an increasing number of suspects filing pre-trial lawsuits, such as former Minister of Religious Affairs Suryadharma Ali, Chairman of the Municipal People's Representative Council Bangkalan Fuad Amin, Bupati Sabu Raijua Marthen Dira Tome, and Mukti Ali, a cow trader in Banyumas, who tried Polres Banyumas for his establishment as a suspect in a case of social assistance corruption (*Bansos* case). This trend is expected to continue, with hundreds to thousands of other suspects taking similar steps.¹¹

⁹ See also Nandani, Afrizia Aditya. "Tinjauan Yuridis Atas Putusan Praperadilan dalam Perkara No. 04/Pid. Prap/2015/PN. Jkt. Sel. (Studi Kasus Putusan Praperadilan untuk Tidak Sahnya Status Tersangka Budi Gunawan atas Kasus Korupsi)." *Novum: Jurnal Hukum* 2, no. 2 (2015): 107-115; Syariefudin, Iqbal. "Formation of Special Anti-Corruption Detachments and its relation to the potential for dualism in the eradication of corruption in Indonesia." *Lex Scientia Law Review* 2, no. 1 (2018): 105-118.

¹⁰ See also Rustamaji, Muhammad. "Simulacra Asas Praduga Tidak Bersalah dalam Ingsutan Kewenangan Praperadilan." *Yustisia* 5, no. 2 (2016): 435-447.

¹¹ See Prakasa, Satria Unggul Wicaksana. "Analisis Keadaan Tertentu Tentang Penerapan Pidana Mati: Studi Kasus Korupsi Bansos Covid-19." *Jurnal Komunikasi Hukum (JKH)* 8, no. 2 (2022): 173-198; Mulyadi, Mulyadi, et al. "Penanggulangan

The pre-trial decision of the South Jakarta State Court in the case of Budi Gunawan v. KPK not only raises the pros and cons but also draws the attention of the Judicial Commission (KY). As a supervisory body, KY has the authority to examine and prosecute judges who are considered controversial. A judge's wrong decision can lead to injustice, and this must be prevented in order to preserve integrity and justice in the Indonesian legal system.

Based on the analysis of the legal discovery, Judgment No. 04/Pid.Prap/2015/PN.Jkt.Cel submitted in public in the trial between Budi Gunawan and KPK involved interpretation of the law. In this judgment, Judge Sarpin made interpretations of some clauses clearly regulated in the Law No. 2 of 2002 on the State Police of the Republic of Indonesia, Act No. 30 of 2002 about the Anti-Corruption Commission, and KUHAP. Sarpin argued that a pre-trial hearing could decide on the validity of a person's identification as a suspect, arguing that KPK has no authority to establish Budi Gunawan as suspect. This view is considered to deviate from the interpretation made by Arief Sidharta. Under article 77 of the Constitution, the pre-trial court has only jurisdiction to examine the validity of the arrest, detention, suspension of the investigation, termination of the prosecution, as well as the claim for damages and rehabilitation for a person whose case has been terminated at the level of the inquiry or prosecution. The opinion put forward by Judge Sarpin in his ruling has sparked controversy among legal experts, as the ruling could potentially serve as a precedent and guide for judges in dealing with similar cases. This objection demonstrates the importance of legality in a pre-trial court that has the authority to determine the status of a suspect.¹²

The duty of the judge not only covers the application, establishment, and discovery of law, but also involves a deep understanding of existing law and its relevance in the context of society. It becomes the basis for judges to decide on a case, because the law is often influenced by factors beyond the purely legal aspects, such as political, economic, social, cultural, and so on. This concept is in line with the theory put forward by Philippe Nonet and Philip Selznick, who identified three types of law based on the recognition that law is formed in relation to political power.¹³

Tindak Pidana Korupsi Dana Bantuan Sosial Pada Saat Bencana Alam." *AL-MANHAJ: Jurnal Hukum dan Pranata Sosial Islam* 5, no. 2 (2023): 1551-1566.

¹² Amdani, Yusi. "Implikasi penafsiran undang-undang oleh hakim praperadilan dalam perkara tindak pidana korupsi." *Mimbar Hukum* 27, no. 3 (2015): 459-471.

¹³ Zhafran, Dzaky Muhammad, and Ade Mahmud. "Penetapan Status Tersangka oleh Komisi Pemberantasan Korupsi (KPK) yang Diajukan Praperadilan." *Jurnal Riset Ilmu Hukum* 4, no. 2 (2024): 69-76.

Law enforcement is a serious challenge for Indonesia. Making law enforcement a nation-wide effort is the collective obligation of all components of society, which affirms that the law must be enforced fairly without the view of the class. As the times change, emerging cases become more diverse and complex, therefore, appropriate legal adjustments are needed to address current and future challenges. In addition, pre-justice development continues to evolve. According to the law, if a matter has been brought before the State Court and the pre-trial proceedings have not been completed, then the pre-trial is deemed to be void.

This study employs normative legal methods, utilizing a legislative, factual, and conceptual approach to analyze the legal issues surrounding the pre-judicial legal efforts in Indonesia's criminal justice system. The legislative approach involves a comprehensive examination of all relevant legal regulations formed by state institutions or authorized officials, which have general binding authority. The factual approach focuses on uncovering the facts and historical truths related to the issue at hand, shedding light on the real-world application of these laws. The conceptual approach, on the other hand, engages with legal concepts to analyze the underlying solutions to the research problems, considering the normative background and the values embedded within the law.

The legal materials utilized in this study include both primary and secondary sources, which are collected through documentation studies. This approach involves quoting and reviewing relevant legal texts to provide a thorough analysis of the subject matter, specifically regarding pre-judicial procedures within Indonesia's criminal justice system. By combining these methodologies, this study aims to offer a deeper understanding of the challenges and reform needs in the context of Indonesia's legal practices, particularly in relation to pre-judicial processes.

Pre-Trial Procedures in the Context of Criminal Law

A. Pre-Trial History

The right to habeas corpus in the Anglo-Saxon legal system served as a significant inspiration for the establishment of pre-judicial institutions. In this legal framework, habeas corpus is a fundamental human right, particularly safeguarding the right to liberty¹⁴. This right enables individuals to challenge

¹⁴ Habeas corpus is a legal principle that protects an individual's right to challenge unlawful detention. It allows individuals to petition a court to review the legality of their imprisonment, ensuring that they are not held without lawful justification. Originating in the Anglo-Saxon legal system, the writ of habeas corpus requires authorities to present

their detention by police or prosecutors under the Habeas Corpus Act, requesting that a court review the lawfulness of their detention. The court is tasked with determining whether the detention is lawful and in compliance with relevant legal provisions. The primary purpose of habeas corpus is to ensure that human rights and applicable legal safeguards are properly respected when a suspect or accused person faces deprivation or restriction of liberty.

A habeas corpus order can be invoked by any individual and is issued by a court directing the detaining authority (such as the police or prosecutor) to present the detainee before the court and justify the legality of the detention. This process is designed to be straightforward and transparent, ensuring that detention procedures are conducted fairly and in accordance with the law. By offering this legal recourse, habeas corpus provides essential protection against potential abuses of power by law enforcement agencies.

The fundamental concept of habeas corpus is to establish a legal forum that allows individuals subjected to deprivation or restriction of liberty to challenge the validity of governmental actions. These actions, which may include detention, arrest, search, seizure, and the disclosure of documents by the police, prosecution, or other authorities, can be scrutinized through habeas corpus proceedings. The introduction of pre-trial procedures in the Indonesian legal system was driven by frequent violations of suspects' or accused individuals' rights by law enforcement, particularly by detectives and prosecutors.

Pre-trial procedures provide a mechanism through which a suspect or accused can contest the legality of actions taken by law enforcement that infringe upon their fundamental rights. This process allows courts to assess whether arrests, detentions, or other actions were carried out in accordance with the law, offering an essential safeguard against abuse of power by law enforcement agencies. In this context, pre-trial procedures are crucial in

the detainee before a court and provide reasons for their detention. Notable cases such as *R v. Secretary of State for the Home Department* (2004) and *Boumediene v. Bush* (2008) have reinforced the importance of habeas corpus in preventing arbitrary detention and safeguarding individual rights against abuse of power. See Farbey, Judith, Robert J. Sharpe, and Simon Atrill. *The Law of Habeas Corpus*. (Oxford: Oxford University Press, 2011); Yackle, Larry. "Explaining Habeas Corpus." *New York University Law Review* 60, no. 6 (1985): 991; Glass, Albert S. "Historical Aspects of Habeas Corpus." *John's Law Review* 9 (1934): 55; Chemerinsky, Erwin. "Thinking about Habeas Corpus." *Case Western Reserve Law Review* 37, no. 4 (1987): 748. Also see Marpaung, Ramsen, and Tristam Pascal Moeliono. "Perbandingan Hukum antara Prinsip Habeas Corpus dalam Sistem Hukum Pidana Inggris dengan Praperadilan dalam Sistem Peradilan Pidana Indonesia." *Jurnal Wawasan Yuridika* 5, no. 2 (2021): 224-248.

maintaining a balance between state power and human rights, ensuring that law enforcement processes are conducted with fairness and transparency.

The enforcement of these rights has its roots in the Habeas Corpus Act of 1679, which empowers judges to issue orders even during periods when the court is vacant and imposes strict penalties on judges who fail to comply. The scope of habeas corpus was later expanded in the 19th century to cover territories under private authority, and in 1960, a law was enacted to restrict the denial of habeas corpus and to establish new routes for appeals.¹⁵

During the American Revolution, the right to habeas corpus was regarded as a fundamental safeguard of individual freedom in the British colonies of North America. The U.S. Constitution, in Article I, Section 9, Clause 2, guarantees that habeas corpus privileges “*shall not be suspended, except in cases of rebellion or invasion, when the public safety may require it.*” A notable example of suspension occurred in England during the war with France, amidst the French Revolution. In the United States, President Abraham Lincoln suspended the writ of habeas corpus through an executive proclamation at the onset of the Civil War in 1861. This decision was contested by Chief Justice Roger Taney, who, in the *Ex parte Merryman* case, argued that the power to suspend habeas corpus rested solely with Congress.¹⁶

In the 20th century, the use of habeas corpus in the United States expanded, particularly through the U.S. Supreme Court’s broad interpretation of the Constitution, which allowed individuals accused of crimes to file habeas corpus petitions challenging their convictions. Over time, however, both the

¹⁵ See Mayers, Lewis. "The Habeas Corpus Act of 1867: The Supreme Court as Legal Historian." *University of Chicago Law Review* 33, no. 1 (1965): 31-59; Nutting, Helen A. "The Most Wholesome Law--The Habeas Corpus Act of 1679." *The American Historical Review* 65, no. 3 (1960): 527-543.

¹⁶ See Jackson, Jeffrey D. "The Power to Suspend Habeas Corpus: An Answer from the Arguments Surrounding Ex Parte Merryman." *University of Baltimore Law Review* 34 (2004): 11-54; Downey, Arthur T. "The Conflict between the Chief Justice and the Chief Executive: Ex parte Merryman." *Journal of Supreme Court History* 31, no. 3 (2006): 262-278. Furthermore, this case generally emphasized that in *Ex parte Merryman*, Chief Justice Roger Taney ruled that President Abraham Lincoln did not have the authority to suspend habeas corpus unilaterally during the Civil War, asserting that such power resided solely with Congress under the U.S. Constitution. The case arose when Lincoln suspended habeas corpus to detain suspected Confederate sympathizers without trial. Taney's decision emphasized the role of the judiciary in limiting executive power and protecting individual rights, particularly during times of national crisis. Despite Taney's ruling, Lincoln ignored the decision, asserting that his actions were necessary for national security. The case remains a key example of the tension between executive authority and judicial oversight.

Supreme Court and Congress began to narrow the scope of habeas corpus petitions, reflecting a shift in judicial and legislative priorities by the end of the century.¹⁷

Furthermore, at Indonesian context, pre-trial procedures represent a significant development in the Indonesian judicial system, introduced with the enactment of the Criminal Procedure Code (KUHAP). This legal innovation was designed to address the need for judicial oversight in cases where individuals are subjected to coercive measures such as arrest or detention. As outlined in Article 1(10) of the Constitution, pre-trial grants state courts the authority to examine and decide on specific matters, including the legality of arrest and detention at the request of the suspect, their family, or other authorities, the suspension of an investigation or prosecution for the enforcement of justice, and requests for compensation or damages to the suspect.

This shift in the legal framework is particularly significant when compared to the *Herzien Inlandsch Reglement* (HIR), which was established during the Dutch colonial era and structured to benefit the colonizers. The introduction of pre-trial procedures marked a departure from this colonial legacy, reflecting a more equitable approach to criminal justice that emphasizes the protection of individual rights. The concept of pre-trial in Indonesia was influenced by the English Habeas Corpus Act of 1679, which was designed to safeguard personal freedom by providing individuals with the ability to challenge unlawful detention.

In Indonesia, pre-trial now serves a critical function within the criminal justice system, particularly in assessing the legitimacy of coercive actions taken by law enforcement. It provides an essential safeguard against potential abuse of power by law enforcement agencies, ensuring that actions such as arrest, detention, and other legal measures are carried out in accordance with the law. Through pre-trial procedures, Indonesian law aligns with international standards that protect individual liberties while balancing the need for effective law enforcement.

Before Indonesia's independence, two distinct criminal procedure laws existed: *Strafvordering* (Rv) for Europeans and the Internal Reglement (IR) for indigenous people. These two legal frameworks were subsequently unified and revised into the *Herziene Indische Reglement* (HIR) through Staatsblad No. 44

¹⁷ See Benner, Laurence A., et al. "Criminal Justice in the Supreme Court: A Review of United States Supreme Court Criminal and Habeas Corpus Decisions (October 4, 1999-October 1, 2000)." *California Western Law Review* 37, no. 2 (2001): 239-319; Wert, Justin J. *Habeas Corpus in America: The Politics of Individual Rights*. (Lawrence, Kansas: University Press of Kansas, 2023)

of 1941. The HIR, while a significant reform, was fundamentally shaped by the objectives of Dutch colonial authority, and as such, it lacked provisions for oversight or evaluation of coercive measures aimed at protecting human rights. In response to this gap, pretrial institutions were established to safeguard the rights of suspects, ensuring that legal processes were subject to scrutiny and that individuals' liberties were more effectively protected.¹⁸

Prior to the establishment of pre-trial procedures, the rights of suspects in Indonesia were often disregarded. Notably, there was no fixed limit on the duration of detention, allowing for indefinite extensions every twenty days without judicial review. Furthermore, suspects were not entitled to legal representation during preliminary investigations by law enforcement authorities. The introduction of pre-trial institutions represented a significant reform within the Indonesian legal system, aiming to enhance the protection of individual rights. This development sought to ensure that law enforcement actions are subject to judicial oversight and are conducted in accordance with the principles of justice and the rule of law.

B. Pre-Trial in Indonesia

Pretrial is a relatively new institution in Indonesia and is located within the District Court as an integral part of it, thus it is an exclusive part of the District Court and not an independent entity. In addition, Pretrial is not an extension, neighbor, or parallel institution, but rather an integral part of the District Court with full responsibility for it, with the President of the District Court as its leader. The District Court also shares administrative, staff, financial and equipment resources with the Pre-Trial Chamber. In carrying out its legal functions, the administration of the District Court is integral to the functioning of the judiciary as a whole.¹⁹

The KUHAP places little emphasis on the authority possessed by law enforcement officials. Every suspect or accused has legitimate and legal rights, which are balanced against the powers granted by KUHAP at each level of law

¹⁸ See Sofyan, Andi Muhammad. *Hukum Acara Pidana Suatu Pengantar*. (Jakarta: Prenada Media, 2017); Hamzah, Andi. *Hukum Acara Pidana Indonesia*. (Jakarta: Sinar Grafika, 2010).

¹⁹ See Hidayat, Maskur. "Pembaruan Hukum Terhadap Lembaga Praperadilan Melalui Putusan Pengadilan." *Yuridika* 30, no. 3 (2015); Anditya, Ariesta Wibisono. "Pemeriksaan Sah Atau Tidaknya Penetapan Tersangka oleh Praperadilan dalam Konstelasi Pancasila." *Jurnal Hukum* 34, no. 1 (2018); Anditya, Ariesta Wibisono. "Pemeriksaan Keabsahan Penetapan Tersangka Oleh Praperadilan dalam Konstelasi Pancasila." *Justitia et Pax* 34.1 (2018).

enforcement. It is important for law enforcement officials at all levels to fully understand this principle. The legislator's intent and purpose in preventing the concentration of power is what makes the principle of balance the dominant principle in KUHAP. Pre-trial procedures serve as one of the court's mechanisms to limit the tendency of investigators or prosecutors to abuse their authority. In this regard, examining and determining the validity of arrest or detention made by investigators is the main authority provided for in KUHAP.

Articles 79 and 80 of KUHAP regulate the parties who are entitled to file a pretrial motion. Article 79 states that a suspect, his/her family, or legal counsel may submit a request to the president of the district court, with reasons, to request a hearing on the validity of the arrest, detention, or both. Article 80 provides for a hearing that decides whether the president of the district court will accept a request from the public prosecutor, investigator, or interested third party to stop the prosecution or investigation, along with the reasons. In the same context, the president of the district court may also accept a request to discontinue prosecution or investigation from the public prosecutor or an interested third party, along with the reasons supporting the request.²⁰

Indonesia's criminal justice system is composed of various institutions, including the police, prosecutors, district courts, and correctional facilities, working in an integrated manner to address crime. Article 1(10) of the Criminal Procedure Code (KUHAP) formally recognizes the institution of pretrial, while Article 77 of the same code designates the District Court, as a general court, with additional authority to examine and rule on matters related to pretrial procedures, in accordance with the law.²¹

Pretrial proceedings primarily focus on examining the legality of certain actions, including raids and detentions. In the case of a raid, investigators may need to arrest a suspect, temporarily restricting their freedom. Two conditions must be met for a lawful arrest:

1. *Formal Requirements:* a. The arrest must be carried out by the police under the investigator's orders, accompanied by a complete letter of assignment. b. The investigator's warrant must be presented to the suspect, with a copy provided to the family. c. In cases of arrest, anyone can execute the arrest, except where formal procedures are not followed.

²⁰ See Makarewa, Irene Trinita. "Analisis Penghentian Penyidikan dan Penuntutan Berdasarkan KUHAP." *Lex Crimen* 10, no. 9 (2021); Muslimin, Mokhamad. "Fungsi dan Kewenangan Praperadilan." *Pandecta Research Law Journal* 6, no. 1 (2011): 51-56.

²¹ Zhafran, and Mahmud. "Penetapan Status Tersangka oleh Komisi Pemberantasan Korupsi (KPK) yang Diajukan Praperadilan."

2. *Material Requirements:* a. Sufficient preliminary evidence, as outlined in Article 17 of KUHAP, must be present. b. The duration of the arrest must not exceed 24 hours, as stipulated in Article 19, paragraph (1) of KUHAP.²²

Detention involves placing a suspect in a designated location under the authority of an investigator, prosecutor, or judge. If a suspect believes their detention violates the provisions of Article 21 of KUHAP or exceeds the time limit set in Article 24 of KUHAP, they may file a pretrial motion. It is important to note that detention must comply with specific conditions and procedures; detention without a formal detention order from an investigator, prosecutor, or a judge's decision is considered invalid.

The validity of the termination of an examination or prosecution also falls within the jurisdiction of pretrial proceedings. The pretrial court is empowered to examine and determine whether the termination of an investigation by an examining officer or the cessation of prosecution by a prosecutor is legally justified. Prosecutors have the authority to discontinue an investigation or prosecution if the evidence gathered is insufficient to proceed to court, or if the case has reached its expiration. As such, pretrial procedures serve a critical function in ensuring that such terminations are carried out in accordance with the law, preventing potential abuse of power. Additionally, third parties with a vested interest in the case may file a pretrial application to challenge the legitimacy of the termination, seeking judicial review to ensure that the decision to cease the investigation or prosecution is valid and properly grounded in legal principles.²³

Pretrial proceedings and commissioner judges play crucial roles in overseeing the use of coercive measures against suspects through horizontal supervision mechanisms implemented by investigators and public prosecutors. This function ensures that actions taken by law enforcement are in accordance with legal rules and regulations. Many countries, regardless of their legal systems, have adopted principles akin to Habeas Corpus to protect individual rights, especially the right to liberty. Indonesia, however, stands out as the only

²² Kusuma, I. Made Wisnu Wijaya, and Ni Made Sukaryati Karma. "Upaya Hukum Praperadilan dalam Sistem Peradilan Pidana di Indonesia." *Jurnal Interpretasi Hukum* 1, no. 2 (2020): 73-77.

²³ See Marbun, Rocky, and Iskandar Muda Sipayung. "Shift in Procedural Law for Examining Pretrial Applications." *KnE Social Sciences* (2022): 219-231. See also Maringka, Jan Samuel, and Henry Yoseph Kindangen. *Penahanan Prapersidangan di Indonesia: Pre-Trial Detention in Indonesia*. (Jakarta: Sinar Grafika, 2023); Mann, Tim. "Pretrial hearings: Safeguarding human rights or a gift to corruptors?." In *Crime and Punishment in Indonesia*. (London: Routledge, 2020), pp. 93-123.

country that incorporates Habeas Corpus within its pretrial procedures as part of its criminal law framework.

Legal transplantation, or “*grafting*,” refers to the adoption of legal concepts from one jurisdiction to another, often under differing social, political, and legal conditions. In this context, Habeas Corpus, originating from the Anglo-Saxon legal system, has been integrated into Indonesia's legal system through the pretrial process, with the aim of safeguarding human rights. The principles of Habeas Corpus, which provide critical protections for individuals’ liberty, motivated the adoption of pretrial provisions in Indonesia’s Criminal Procedure Code (KUHAP) on December 31, 1981.

When comparing the pretrial system in Indonesia to that of other countries, such as the Netherlands, one observes notable differences. In the Netherlands, the Commissioner Judge plays a key role in the criminal justice process, particularly in assessing the legality of detention before prosecution occurs. The Commissioner Judge’s authority is broader than that of Indonesia’s pretrial judges, whose role is confined to examining the legality of specific coercive measures such as arrest and detention. While the pretrial system in Indonesia is similar to the Commissioner Judge's role in certain respects, it lacks the comprehensive responsibilities associated with the Dutch system.

Indonesia's pretrial institution was influenced by both the Anglo-American and Continental European systems, marking the evolution of its legal framework. While Indonesia initially followed a European-Continental model, elements of the Anglo-Saxon system, including the pretrial mechanism, were incorporated over time. This integration of diverse legal traditions is reflected in the differing roles of judges across jurisdictions. For example, in the United States, a magistrate serves both as an investigative court and a trial court judge, whereas pretrial judges in Indonesia, under KUHAP, are strictly confined to acting as a court of inquiry focused solely on assessing the legality of arrests.

While pretrial procedures in Indonesia are largely limited to evaluating the lawfulness of specific coercive actions, the evidentiary system in preliminary hearings allows for broader flexibility in accepting evidence. In contrast, pretrial proceedings in Indonesia are constrained by more rigid legal guidelines, underscoring the differences between the evidentiary systems in various legal frameworks. Thus, the Indonesian pretrial system represents a unique adaptation of international legal principles, balancing the protection of individual rights with the need for effective law enforcement.

The Impact of Judgment Number 04/Pid.Prap/2015/PN.Jkt.Sel on Indonesia's Legal Reforms

The case between Budi Gunawan and the Corruption Eradication Commission marked a crucial moment in Indonesian criminal law, particularly concerning pre-trial procedures. Judge Sarpin's decision to partially grant Budi Gunawan's pre-trial motion and declare the determination of his status as a suspect and the related investigation invalid was met with both support and controversy. This ruling led to several significant changes within Indonesia's legal framework.²⁴

Firstly, the decision has prompted calls for revisions to the Criminal Procedure Code (KUHAP) to better protect suspects and ensure that pretrial procedures align with principles of justice. Historically, KUHAP has been criticized for its insufficient safeguards for suspects. This decision has accelerated efforts to update the KUHAP, thereby providing clearer guidelines for law enforcement agencies, including police, prosecutors, and courts. These updates aim to enhance transparency, accountability, and the protection of human rights throughout the legal process, reinforcing the integrity of Indonesia's criminal justice system.

Additionally, the ruling emphasized the need for greater monitoring and evaluation of pretrial procedures to enhance transparency and accountability. Law enforcement agencies are now tasked with ensuring that all pretrial actions are executed with full compliance with the law, preventing abuses of power. The decision also led to the introduction of more intensive training for law enforcement officials, focusing on human rights and pretrial procedures. Such training aims to strengthen the professionalism of officers and ensure that they uphold justice at every stage of legal proceedings. With stricter monitoring and improved education, law enforcement is expected to better protect suspects' rights and foster public trust in the justice system.²⁵

²⁴ See Sahid, Asep Abdul. "Konflik KPK ss Polri Jilid III: Kontestasi Kuasa dalam Penegakan Hukum di Indonesia." *Asy-Syari'ah* 18, no.1 (2016): 139-148. See also Prasetyo, Aditya, and Harun Joko Prayitno. "Daya Pragmatik di Balik Pernyataan Pejabat KPK vs Polri". *Dissertation* (Surakarta: Universitas Muhammadiyah Surakarta, 2015).

²⁵ Lubis, Arief Fahmi. "The right to a fair trial: Comparative analysis of international human rights standards." *The Easta Journal Law and Human Rights* 1, no. 3 (2023): 116-126; Hariyanto, Hariyanto, Herlambang Fadlan Sejati, and Puneet Iyer. "The Principle of Justice as a Judges' Considerations in the Concept of Third-Party Responsibility Against Cooperative Legal Action." *The Digest: Journal of Jurisprudence and Legisprudence* 4, no. 1 (2023): 65-94.

To further bolster pretrial procedures, some regions are establishing specialized institutions or units dedicated solely to handling pretrial cases. These specialized bodies are designed to manage the increasing volume of pretrial cases, ensuring that competent and well-trained personnel are responsible for these sensitive matters. The capacity building of these institutions, with adequate resources and trained staff, is critical to improving the efficiency and fairness of the pretrial process. These efforts are anticipated to strengthen the overall justice system, enhance public confidence, and provide better protection of individual rights during legal proceedings.

Judge Sarpin's ruling also set an important precedent, influencing future pretrial cases in Indonesia. Lawyers and law enforcement officials have increasingly referred to this decision when asserting the rights of suspects, particularly with regard to the fairness of legal procedures. The decision has fostered a shift in the approach of law enforcement, with greater caution now exercised in applying coercive measures and a heightened awareness of respecting the rights of suspects. These developments have contributed to an improvement in the quality of law enforcement and an increase in public confidence in the fairness and transparency of Indonesia's justice system.²⁶

Moreover, the impact of Judge Sarpin's decision extends to legal practice, as it has established a crucial jurisprudential foundation. Following the ruling, other suspects, such as Sutan Bhatoegana, have filed pretrial motions challenging the legality of their status as suspects and the investigations against them.²⁷ However, the application of this decision has not been uniform across all cases. For example, a court in Purwokerto, Central Java, rejected a pretrial motion related to corruption allegations in the Ministry of Agriculture's social assistance fund, citing different legal considerations than those employed by Judge Sarpin. This highlights the ongoing evolution of pretrial jurisprudence in Indonesia and the nuanced application of the law across various cases.

²⁶ Ginting, Dandy Alfayed, et al. "The Court's Ruling on the Determination of Suspect Status by a Pretrial Judge as a Development in Indonesian Criminal Procedure Law." *International Journal of Nusantara Law and Policy* 1, no. 2 (2023): 83-92.

²⁷ Nugroho, Hernawan Satrio. "Kewenangan Lembaga Pengadilan dalam Menetapkan Sah Atau Tidaknya Status Tersangka Kasus Korupsi di Sidang Praperadilan." *Verstek* 8, no. 1 (2020); Amdani, Yusi. "Implikasi penafsiran undang-undang oleh hakim praperadilan dalam perkara tindak pidana korupsi." *Mimbar Hukum* 27, no. 3 (2015): 459-471.

Impact of Judge Sarpin's Judgment on the Protection of the Rights of Suspects in Criminal Legal Proceedings

Human rights protection related to victims of unfair trials is outlined in Indonesia's Criminal Procedure Code (KUHAP) No. 8 of 1981. Under this legal framework, individuals who have been subjected to injustice within the judicial system are entitled to seek remedy through pretrial motions. Articles 95 to 101 of KUHAP provide a mechanism for claiming compensation and rehabilitation of one's reputation. Specifically, these provisions allow suspects, defendants, or convicted persons to request compensation for actions taken without legal justification, such as arrest, prosecution, or trial, or due to errors related to the individual or the law applied.

In the context of the justice system, the terms *suspect* and *defendant* are distinct designations that reflect the stage and level of legal proceedings. As per KUHAP, a suspect is an individual suspected of committing a criminal offense based on sufficient preliminary evidence. This status is defined in Article 1, point 14 of KUHAP, which places the individual within the investigation phase. On the other hand, a defendant refers to a suspect who has been formally charged and is undergoing prosecution, examination, and trial in court, as specified in Article 1, point 15 of KUHAP. The legal distinction between these two terms highlights the progression of an individual's involvement in the criminal justice process and underscores the protections available to individuals throughout the stages of investigation and trial.

In the context of Indonesian law, once a verdict is issued that imposes a sentence and becomes final with permanent legal force (known as "*vonis in kracht van gewijsde*"), the individual is referred to as a convict or prisoner. A convict is defined as someone who has been sentenced based on a court decision that has gained permanent legal force, while a prisoner is a convict who is serving their sentence through the deprivation of freedom in a correctional institution. This distinction is outlined in Article 1, points 6 and 7 of Law Number 12 of 1995 on Correctional Institutions.²⁸

Indonesian legislation provides clear regulations regarding the rights and humane treatment of suspects and defendants, ensuring that legal protections and human rights are upheld throughout the judicial process. The system aims to balance the enforcement of the law with the fundamental rights of individuals, guaranteeing that suspects and defendants are treated fairly, with

²⁸ Waluyo, Bambang. *Pidana dan Pemidanaan*. (Jakarta: Sinar Grafika, 2000).

respect for their dignity and legal protections during all stages of the criminal justice process. This comprehensive framework is crucial in maintaining justice and safeguarding human rights within the legal system.

Human rights, particularly those of suspects and defendants, are safeguarded through the pretrial mechanism in Indonesia's criminal justice system. The right to liberty is fundamental and encompasses various additional rights, all of which must be protected. When an individual is designated as a suspect or defendant, the state acquires the authority to potentially infringe upon their liberty through coercive measures such as arrest, detention, search, and seizure. These actions must be meticulously regulated by law to ensure that they comply with legal standards. This includes defining the necessary conditions for their application and ensuring that they are carried out in a manner that respects the rights and dignity of the individual. The pretrial system plays a crucial role in overseeing the legitimacy of these coercive measures, ensuring that they are not applied arbitrarily or in violation of human rights.²⁹

Legislation is necessary because, in a state of law that respects and guarantees human rights, restrictions on those rights can only be made through a clear legal framework. From the perspective of a suspect or defendant, pretrial proceedings under the Criminal Procedure Code (KUHAP) serve as a counterweight to the authority of law enforcement to use coercive measures in the investigation and prosecution of criminal offenses. Therefore, two things must be ensured: first, the coercive measures taken must be strictly for the purpose of investigating the alleged or charged criminal offense; and second, the measures must be taken in accordance with the applicable laws and regulations.

According to Article 83 paragraph (1) of KUHAP in conjunction with Article 45A of Law Number 5 of 2004 in conjunction with Supreme Court Regulation Number 4 of 2016, the intention of the legislator (original intent) is that the pretrial decision is final and binding. In other words, there are no legal

²⁹ See Fitzpatrick, Daniel. *Culture, Ideology and Human rights: The case of Indonesia's Code of Criminal Procedure*. (Sydney: Indonesian Law and Society Federation Press, 1999); Babikov, Oleksandr, et al. "Ensuring procedural guarantees and the right to a fair trial during the examination of motions to conduct covert investigations." *Via Inveniendi et Iudicandi* 18, no. 2 (2023): 95-111; Santoso, Bambang, and Muhammad Rustamaji. "Reconstruction of the Pretrial Regulation in Code of Criminal Procedure in the Framework of Law Enforcement Reflecting Inclusive Law." *International Conference on Environmental and Energy Policy (ICEEP 2021)*. Atlantis Press, 2021. See also Pratiwi, Sahira Jati, Steven Steven, and Adinda Destaloka Putri Permatasari. "The Application of E-Court as an Effort to Modernize the Justice Administration in Indonesia: Challenges & Problems." *Indonesian Journal of Advocacy and Legal Services* 2, no. 1 (2020): 39-56.

remedies that can be taken to overturn a pretrial decision.³⁰ In addition, Judge Sarpin's decision in a pre-trial case has had a significant impact on the protection of suspects' human rights in the criminal legal process in Indonesia. The decision affirms the importance of protecting human rights, particularly the right to liberty, for suspects at every stage of the criminal process. By strengthening the pretrial mechanism, the decision ensures that suspects have the right to be protected from arbitrary actions, such as unlawful detention or arrest without clear and valid reasons.

Pretrial has a significant impact in protecting the human rights of suspects. Through the pretrial system, suspects obtain legal certainty before the court process begins. Judge Sarpin's decision will encourage clearer and more transparent mechanisms in the arrest, detention and investigation process. With this ruling, suspects have a stronger right to file a pretrial motion if they feel their human rights have been violated, such as in cases of unlawful detention or arrest without sufficient grounds.³¹

Pre-trial proceedings are also recognised as an important mechanism for monitoring and correcting the actions of law enforcement agencies, such as investigators and prosecutors, in the use of coercive measures. It aims to ensure that such actions are carried out in accordance with the law and only for the purposes of criminal investigation. Judge Sarpin's ruling also emphasized that the pre-trial decision was final and binding, providing legal certainty to the suspect that no other legal attempt could overturn the decision, thereby providing stronger legal protection against arbitrary action during the investigation and prosecution process.

In addition, the ruling encourages updates to the Code of Criminal Procedure Law to reflect better protection of human rights in pre-trial proceedings, as well as providing more detailed guidelines for law enforcement agencies to ensure their actions are lawful and respect the rights of suspects. By clarifying the functions and roles of pre-justice in the criminal justice system, Judge Sarpin's ruling helped make it an effective tool for protecting the rights of suspects and raising legal awareness among law enforcement agencies and the

³⁰ See Pattiruhu, Fransina, Salmun Adu, and Jeremia Alexander Wewo. "Analisis Terhadap Perkara Praperadilan Yang Tidak Dinyatakan Gugur Sesuai Putusan Mahkamah Konstitusi." *Jatiswara* 35, no. 1 (2020): 1-18; Iswantoro, Wahyu. "Penemuan Hukum Oleh Hakim dan Implikasi Terhadap Perkembangan Praperadilan." *Majalah Hukum Nasional* 48, no. 1 (2018): 45-56.

³¹ Sanjaya, Wawan. "Proses Penyidikan Setelah Status Penetapan Tersangka Dinyatakan Tidak Sah dalam Putusan Praperadilan." *Jurnal de Jure* 9, no. 2 (2017): 1-11.

public about the importance of Pre-Justice as a human rights protection mechanism.

However, the enforcement of these judgments is not always uniform throughout Indonesia, and some regions may face difficulties in implementing standard pre-trial procedures. Lack of resources, both human and financial, is also an obstacle to effective and efficient pre-justice enforcement. Nevertheless, the judgment of Judge Sarpin continues to have a significant positive impact on the protection of the rights of suspects and contributes to better protection of their rights in Indonesia.

The verdict also affects the public's confidence in the law in Indonesia. Because the Decision reaffirms the need to protect human rights and the rights of suspects in criminal legal proceedings, which is an important step in strengthening the principle of justice. By highlighting the importance of pre-justice as a mechanism for monitoring the actions of law enforcement agencies, the ruling shows that the Indonesian legal system has tools to correct arbitrary actions and ensure justice for all parties. As a result, the public sees a serious effort by the justice system to respect and protect individual rights, which in turn increases public confidence in the integrity and credibility of the law. Although the challenges in implementation remain, the commitment to protect the rights of suspects and ensure transparent and accountable justice brings new hope to the society, strengthening the belief that the law can serve as a guardian of justice and a protector of human rights.

This decision is also one of the legal processes in Indonesia, the reform of criminal law itself according to Prof. Muladi has several reasons, namely political, sociological and practical reasons. Political reason is rooted in the idea that an independent state must have its own laws of a national nature for the sake of national pride. The sociological reason is that there is a law that reflects the cultural values of a nation, while the practical reason is, among other things, that the former colonial states usually inherit the law that colonized them in their original language, which is then largely incomprehensible to the young generation of the newly independent country. This is because usually such a newly-independent country wants to make its own language as a language of unity so that the language of its colonizing country is owned only by the colonized generation.³²

The increasing prevalence of crime necessitates the development of an effective legal system capable of addressing both ordinary and extraordinary

³² Kartadinata, Andriansyah. "Pembaharuan Hukum Pidana Terhadap Pertimbangan Hakim Praperadilan." *Viva Themis: Jurnal Ilmu Hukum dan Humaniora* 6, no. 1 (2023): 55-73.

crimes. To combat the evolving tactics of extraordinary crimes, it is essential to establish a specialized legal framework built on the principle of presumption of guilt. This framework should be designed to specifically tackle the unique characteristics of such crimes. Consequently, the legal system must remain adaptive and responsive to the emerging complexities of criminal activity. By doing so, law enforcement can operate more effectively and efficiently, ensuring the maintenance of public security and the administration of justice in a constantly changing landscape.³³

Conclusion

In conclusion, the Sarpin case marks a pivotal moment in the evolution of Indonesia's criminal justice system, particularly in the realm of pretrial proceedings. The decision brought significant legal reforms, emphasizing the protection of individual rights within the judicial process, specifically through the presumption of innocence. By allowing pretrial courts to assess the legality of coercive measures such as detention, arrest, and the suspension of investigations, the Sarpin judgment helped foster a more transparent and accountable legal system. The case's impact led to key revisions in the Criminal Procedure Code (KUHAP), enhancing protections for suspects and ensuring that pretrial procedures align with principles of justice and human rights, marking a critical shift in Indonesia's legal landscape.

This study underscores the contributions of the Sarpin case to the strengthening of pretrial mechanisms in Indonesia, providing a clear framework for challenging unlawful actions by law enforcement. By incorporating elements of both Anglo-Saxon and continental legal traditions, the case reflects the growing sophistication of Indonesia's criminal justice system. Moving forward, further research could explore the long-term impact of these reforms on judicial practice and the protection of suspects' rights, as well as draw comparisons with

³³ See Hidayat, Shubhan Noor, Lego Karjoko, and Sapto Hermawan. "Discourse on Legal Expression in Arrangements of Corruption Eradication in Indonesia." *Journal of Indonesian Legal Studies* 5, no. 2 (2020): 391-418; Yunus, Nur Rohim, et al. "Corruption as an extra-ordinary crime: Elements and eradication efforts in Indonesia." *Journal of Creativity Student* 6, no. 2 (2021): 131-150; Hanif, Sultan Fauzan. "Broaden The Authority of The Corruption Criminal Act Courts in Order to Eradicate Corruption, Colusion and Nepotism." *Pandecta Research Law Journal* 17, no. 1 (2022): 58-68; Pahlevi, Reza, and Yazid Bustomi. "Legal reform against the conflict of norms in the corruption eradication commission law." *Journal of Law and Legal Reform* 4, no. 2 (2023): 255-270.

similar reforms in other countries to better understand the broader implications for human rights within criminal law.

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