

*Conceptual Article***Pretrial as Supervisory Mechanism for Protecting Suspects' Human Rights**Tongat^{1*}, Muhamad Helmi Md Said², Umi Rozah³¹Faculty of Law, Universitas Muhammadiyah Malang, Indonesia²Faculty of Law, Universiti Kebangsaan Malaysia, Malaysia³Faculty of Law, Universitas Diponegoro, Indonesia

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ABSTRACT

Although coercive measures in the investigative and prosecutorial processes are essentially legitimate, the line between necessary detention and violations of individual freedoms and human rights is often blurred in practice. Therefore, a control mechanism is essential. This paper aims to analyse two main issues: first, the use of pretrial as a mechanism for monitoring the implementation of suspects' human rights protection during the investigation and prosecution process; and second, the need to consider material aspects in pretrial. Using conceptual, legislative and comparative approaches, this paper reaches at least two conclusions. Firstly, as its focus is limited to the formal procedural process, the pretrial process, as set out in Law Number 8 of 1981 concerning the Criminal Procedure Code, has failed to fulfil its function as a control mechanism for ensuring the protection of suspects' human rights during the investigation and prosecution process. Secondly, the absence of provisions for examining material aspects in pretrial further confirms that it is unable to control the use of coercive measures in the investigative and prosecutorial processes.

Keywords: Pretrial; Supervisory Mechanism; Protection; Suspects' Human Rights; Investigation And Prosecution.

A. INTRODUCTION

One of the fundamental issues in the law enforcement process through the criminal court mechanism is the use of coercive measures by law enforcement officers, particularly investigators and public prosecutors (Erbaş, 2021); (Rosello, 2022); (Zhang, 2025). The authority of investigators and public prosecutors to carry out coercive measures during the investigative and prosecutorial processes is, in essence, a necessity and an integral part of the legal procedures stipulated in Law No. 8 of 1981 Concerning the Code of Criminal Procedure (Kalsum, Badaru & Baharuddin, 2020). However,

initially legitimate and legally permissible coercive measures may lead to serious human rights violations and become crucial problems in criminal law enforcement when implemented in a manner that does not align with applicable legal norms (Farida, Prabandari & Rahayu, 2020). At this point, monitoring of coercive measures conducted by law enforcement officers, particularly during the pre-trial stage, becomes very urgent (Nurahman, Maroni & Fardiansyah, 2024).

Law enforcement should not only think about whether or not the actions are legal, but

also about how strong the actions were. It is easy to say that the actions were in line with legal procedures that protect human rights (Parikesit, Soponyono, & Sukinta, 2017); (Rahayu et al., 2024) but how strong they really were. This is what it's all about (Dhami & van den Brink, 2022); (Martufi & Peristeridou, 2020); (Stevenson & Mayson, 2022). As a result, arguments about whether police use coercive measures should not end with "empty" arguments about whether "procedural" coercive measures are valid or not. It is easy to say that something is "being procedural," especially in the tradition of positivism, which has controlled and hegemonized the way that law is applied. As a result, every law rule must exist as a positive rule in its true form (Soemadiningrat, 2009).

In reality, pretrial motions tend to be procedurally formal as a mechanism for monitoring coercive measures taken by law enforcement officials, and resistance from suspects claiming otherwise is almost always defeated. For example, data from the Institute for Criminal Justice Reform shows that, of the 80 pretrial motions analysed, only two resulted in a verdict in favour of the applicant (Eddyono et al., 2014). This profiling analysis leads to the initial conclusion that there are fundamental problems in the trial process resulting in judges denying most pretrial motions. Some research and scientific works, the main focus of which is pretrial, demonstrate this.

In his research titled "Pergeseran Paradigma Dalam Praperadilan: Menyongsong Keadilan Prosedural Yang Substantif", concluded that the Constitutional Court, as one of the elements of judicial power alongside the Supreme Court, has shifted the paradigm in the pretrial examination process, moving from a pattern of procedural passivity reasoning towards a substantive procedural justice paradigm. However, this shift in paradigm has not yet become the norm (Wijaya, 2022). In their article 'Peranan dan Fungsi Praperadilan Dalam Penegakan Hukum Pidana di Polda Jateng', Dodik Hartono and Maryanto deduced, among other things, that the main aim of the pretrial process is to enforce and protect law enforcement and human rights during the investigation and prosecution (Hartono & Maryanto, 2018). Similarly, Muntaha, in his research titled "Pengaturan Praperadilan dalam Sistem Peradilan Pidana di Indonesia", came to the same conclusion. According to Muntaha, the purpose of pretrial is to protect the human rights of each suspect so that they are not treated arbitrarily (Muntaha, 2017).

Illegal coercive measures conducted by law enforcement officers in the form of either arrest, detention, search, confiscation or determination of suspect do not only become an entry point for human rights violations, but also open up space for procedural violations in the criminal justice mechanism. As a result, such illegal coercive measures conducted by law

enforcement officers cannot be tolerated, they have to be immediately stopped (Blahuta et al., 2024). Pretrial supervision is a means of controlling and supervising the performance of law enforcement officers, especially investigators and public prosecutors (Bauw et al., 2022); (Fröwis et al., 2020); (Hioe, Gunarto & Tarigan, 2020); (Lin & Chen, 2020); (Mulyk, 2022); (Mulyk, 2023); (Prasetyo & Herawati, 2022); (Schul'tz et al., 2021); (Sebayang, 2020); (Taghupia, Pasalbessy & Hehanussa, 2022). The protection of suspects' human rights has become the main parameter by which the performance of investigators and public prosecutors is judged (Hutauruk et al., 2025); (Minervino, Silva Júnior & Corte-Real, 2024); (Prasetyo & Herawati, 2022); (Sari, Gita & Lumbanraja, 2019); (Shodunke et al., 2023); (Wardana, Rahayu & Sukirno, 2024).

Previous studies in various countries show that pretrial proceedings tend to be viewed as an effort to examine formal arrest (Billi et al., 2023), detention (Morgenstern, 2023) and seizure (Alexandrov, Elagina & Kharatishvili, 2020) procedures. Law enforcement officials often win pretrial hearings because they can fulfil administrative requirements (Susilo et al., 2024). However, in practice, not all law enforcement officials act in accordance with the correct procedures for protecting the rights of suspects (Cruz, 2022). Although studies have examined human rights aspects, they have focused more on legal norms (Merkel, 2019).

Furthermore, in her paper 'Digital evidence:

Unaddressed threats to fairness and the presumption of innocence', analyses how contemporary technology-assisted investigations create new risks to suspects' fair trial rights during the pre-trial/investigation stage. She identifies three clusters of threats: the inconsistent or inappropriate use of technology by investigators; legacy procedural safeguards that do not fit digital workflows; and a lack of validation or reliability testing in digital forensics. The paper argues that these gaps make pre-trial review and judicial supervision (including pre-trial remedies) especially important in order to protect the presumption of innocence and prevent wrongful charges based on weak digital evidence (Stoykova, 2021).

In their paper, 'Changes in damages when liability rules change: an empirical study on compensation for the time spent in pretrial detention', Gabriel Doménech-Pascual and Juan Luis Jiménez (2024) empirically study how legal reforms affecting liability/compensation rules change awards to non-convicted pretrial detainees using Spanish court data. They found that (i) legal relaxation broadening eligibility reduced average compensation per case; (ii) daily compensation declined the longer someone was on remand; and (iii) there were systematic disparities across claimant types (Doménech-Pascual & Jiménez, 2024).

Christopher M. Campbell et al. (2020) subsequently expand upon this research in their publication 'Assessing the impact of pretrial

detention on sentencing', offering multi-jurisdictional evidence indicating that pretrial detention correlates with an increased probability of custodial sentences and extended durations of sentences upon conviction. Their quantitative analyses substantiate the assertion that determinations made during the pretrial phase (including those potentially subject to influence from judicial oversight or pretrial review) can yield enduring punitive repercussions, irrespective of whether the defendant is ultimately convicted (Campbell et al., 2020).

In their paper entitled *Preventive Detention on Remand in Pre-Trial Proceedings: Theory and Practice*, Jozef Čentěš and Andrej Beleš (2024) explore the legal theory and national practice of preventive remand detention, focusing on justifications, proportionality, and procedural guarantees. The paper argues that remand detention constitutes the most significant restriction of liberty during the pre-trial phase, emphasising the necessity of effective procedural supervision, including time limits, reasoned decisions, access to counsel, and meaningful judicial review, to ensure compliance with human rights standards. The paper offers doctrinal and practical criteria (necessity, proportionality, alternative measures and expedited review) that a pre-trial supervisory mechanism should incorporate in order to safeguard suspects during the investigative and prosecutorial processes (Čentěš & Beleš, 2024).

The reviewed studies collectively

demonstrate that pre-trial proceedings largely focus on assessing the formal legality of investigative measures such as arrest, detention and seizure. This often results in law enforcement success due to procedural compliance rather than the substantive protection of suspects' rights. Although normative human rights frameworks exist, their practical effectiveness is limited, particularly with regard to safeguarding due process. Recent scholarship highlights new risks arising from technology-driven investigations, particularly the use of digital evidence, which can undermine fairness and the presumption of innocence in the absence of effective judicial supervision. Furthermore, empirical findings show that pretrial detention has lasting punitive consequences, influencing sentencing outcomes and revealing systemic weaknesses in compensation mechanisms for wrongful detention. Overall, these studies emphasise the urgent need for robust, substantive pretrial supervisory mechanisms to effectively protect suspects' human rights during the investigation and prosecution stages.

The difference lies primarily in focus and level of abstraction. This research presents a normative and conceptual framework, emphasizing the role of pretrial institutions as an ideal supervisory mechanism for ensuring human rights protection. In contrast, previous studies have focused more on the empirical and practical realities of pretrial proceedings. These studies have shown that pretrial review often functions

merely as a formal legality check. It is also challenged by technological developments and produces tangible punitive consequences, such as prolonged detention and harsher sentencing.

This study will focus on the other side of pretrial as a mechanism for monitoring suspects' human rights in the performance of investigators and public prosecutors, distinguishing it from previous research. This study aims to analyse two main issues. Firstly, it considers pretrial proceedings as a mechanism for monitoring the protection of suspects' human rights during the investigation and prosecution process. Secondly, it aims to highlight the importance of examining material aspects in the pretrial process.

B. DISCUSSION

1. Pretrial as Monitoring of the Implementation of Protection of Suspects' Human Rights in the Investigation and Prosecution Process.

This article rejects the view that pretrial is a testing mechanism in *an sich* (Kamus Hukum Online Indonesia, 2016) for the formal and procedural aspects of coercive measures in investigation and prosecution (Sengi, 2022). This rejection is based on the following thoughts. Firstly, the fundamental principles and initial intent behind the establishment of pretrial institutions are to monitor coercive measures in the investigative and/or prosecutorial processes. The basic idea is universally derived from the judicial scrutiny originating from the Magna Carta issued

by the English on 15 June 1215 (Lovina & Dirga, 2022). Subsequent developments saw the concept of judicial scrutiny incorporated into the Habeas Corpus Act of 1679. In the 19th century, it was formalised in the international context through the Universal Declaration of Human Rights (UDHR) of 1948. Article 9 of the UDHR states that no one shall be subjected to arbitrary arrest, detention or exile. Article 9 of the Universal Declaration of Human Rights is further regulated in Article 9 of the International Covenant on Civil and Political Rights (ICCPR), which aims to uphold human rights (Lovina & Dirga, 2022). Article 9 of the Universal Declaration of Human Rights is further regulated in Article 9 of the International Covenant on Civil and Political Rights (ICCPR), which aims to uphold human rights (Lovina & Dirga, 2022). Secondly, an examination of the formal and procedural aspects of coercive measures in investigation and prosecution, which are more directed towards administrative monitoring, opens up a very wide and permissive space for human rights violations. Thirdly, the main function of the pre-trial process, in line with the initial ideas and spirit of its establishment, is to ensure that suspects' honour, dignity and human rights are upheld throughout the investigative and prosecutorial processes. Therefore, the main objective of the pre-trial process is to uphold the human rights of suspects during the investigation and/or prosecution process (Sipayung & Wahyudi, 2024). In other words, the purpose of the pre-trial stage is to

verify the validity of the actions taken by investigators or public prosecutors before the court hearing (Kripsiaji & Minarno, 2022); (Reksodiputro, 2010).

Essentially, on the basis of such thoughts, this article interprets the term 'pretrial' as the monitoring of the implementation of suspects' human rights during the investigative and prosecutorial processes. Pretrial monitoring is the main mechanism for ensuring the protection of suspects' rights during the investigation and prosecution process (Orlovskiy & Kozak, 2024); (Saknohsiwiy, Titahelu & Latupeirissa, 2022); (Sharma, Stolzenberg & D'Alessio, 2022). It ensures that suspects are protected from unlawful actions by law enforcement officers, such as torture, intimidation, and arrest and detention without a valid warrant (Dragojlović & Prica, 2022); (Ilin, 2023); (Prabowo & Iriawan, 2022). This is the essence and main objective of establishing pretrial institutions in Indonesia's criminal justice system.

However, these institutions do not function effectively. In fact, it must be acknowledged that the existing pretrial system, as set out in Law No. 8 of 1981 on the Code of Criminal Procedure, is more geared towards administrative monitoring. Pretrial judges tend to focus more on examining formal documents such as arrest warrants, detention notifications and other supporting documents (Uli, Djatmika & Harjati, 2024). Meanwhile, monitoring the protection of suspects'

rights during the investigation and prosecution process is vital for several basic reasons:

a) As a form of protection of human rights

Monitoring ensures that suspects' human rights are respected and protected throughout the legal process. Investigative and prosecutorial actions, such as arrest, search and confiscation, have the potential to threaten suspects' basic freedoms and rights (Afandi, 2016); (Aziz & Muzakkir, 2024); (Gunawan, 2020). Tight monitoring of the investigation and prosecution processes helps to prevent human rights violations, such as torture or inhumane treatment during arrest and search and seizure, which are contrary to applicable norms (Kondowe, 2020); (Renzulli, 2022).

b) As a guarantee of a fair legal process

The presence of pretrial as a mechanism for monitoring the investigation and prosecution process helps ensure that the legal process runs fairly. Monitoring through pretrial avoids any possibility of misusing power and arbitrary actions conducted by legal enforcement officers such as falsifying evidence or unlawful detention as well as ensuring that the suspect is justly treated and is not discriminated (Ismail, Hapsoro, & Rezaldy, 2023).

c) As an effort to prevent abuse of power

A lot of information shows that violence and abuse of power at the level of investigation often happen (Abidin & Rosando, 2023); (Ismail, Hapsoro, & Rezaldy, 2023); (Kurniawan, 2018); (Raharjo & Angkasa, 2011); (Sinaulan, 2016);

(Sitoresmi, 2019); (Tongat, 2024). Physical or mental violences are often used to coerce a confession from the suspect or to obtain intended information. Therefore, pretrial as the main mechanism of monitoring of coercive measures carried out by investigators or public prosecutors becomes urgent. Although monitoring against coercive measures carried out by investigators and public prosecutors cannot fully prevent coercive measures, at least it can reduce greater loss for suspects and legal process as a whole.

d) As an effort to improve transparency and accountability

Monitoring through a pretrial mechanism greatly helps ensure that legal process especially at the level of investigation and prosecution happens transparently and accountably. Through this monitoring mechanism, all actions made by legal enforcement officers especially investigators and public prosecutors can be recorded and examined as a whole. Pretrial becomes a central mechanism to help build public trust in the criminal justice system (Flynn & Freiberg, 2018); (Indermaur & Roberts, 2009); (Ismail, Hapsoro, & Rezaldy, 2023); (Manikis & De Santi, 2020); (Turner, 2018); (Waqar, Iqbal, & Kazmi, 2022).

e) As an effort to help uphold justice

Monitoring through pretrial mechanisms ensures that legal enforcement officers, especially investigators and public prosecutors, uphold justice values during the investigation and prosecution process (Rumadan, 2017); (Tornado,

2018). Through a pretrial mechanism, it is also ensured that suspects have the opportunity to defend themselves, and that all legal procedures are correctly followed..

f) As an effort to reduce miscarriage of justice

Monitoring through pretrial mechanisms may also reduce the risk of miscarriages of justice, such as unfounded detention or prosecution (Rustamaji, 2016); (Saknoshiwy, Titahelu & Latupeirissa, 2022). Monitoring through pretrial mechanisms may also serve to evaluate and correct the legal process. Therefore, monitoring through a pretrial mechanism can help to identify the outcome of a case.

g) As an effort to give legal certainty

Legal certainty as one of the main parameters in legal enforcement becomes an important part (Aswandi & Roisah, 2019). Monitoring provides legal certainty to suspects by ensuring that all actions taken by investigators and public prosecutors are within the limits of the law (Putri, 2023). It also provides certainty that suspects' rights will not be arbitrarily violated (Abdaud, 2018); (Taghupia, Pasalbessy, & Hehanussa, 2022); (Yuherawan, 2020).

h) As a guarantee of the right to obtain legal assistance

One of suspects' the most fundamental rights is rights to get legal assistance, which in the context of law enforcement is often neglected. Pre-trial mechanisms provide space

for suspects during the legal process including at the investigation and prosecution stage it can be ensured that suspects get an adequate access to legal assistance, including rights to be accompanied by a lawyer. This is important so that suspects can effectively defend their rights and understand the ongoing legal process (Prasetyo & Herawati, 2022); (Sebayang, 2020).

i) Restoration of rights.

If a violation is found, pretrial can order restoration, such as release from unlawful detention or return of violated rights.

j) Guaranteeing the principle of due process of law

Pretrial functions to ensure that the legal process runs according to the principle of procedural justice (due process), provides legal certainty in the investigation and determination of suspects, and guarantees a fast but fair legal process.

k) Implementation of the Habeas Corpus principle

Pretrial is closely related to the Habeas Corpus principle which protects a person from detention without legitimate grounds and ensures that they are immediately brought to court

l) The Role of Pretrial as a Mechanism for Human Rights Protection

Pretrial serves as an essential mechanism to uphold and protect the human rights of suspects and defendants during the criminal justice process. By providing judicial oversight at the early stages of investigation, pretrial ensures

that actions taken by law enforcement such as arrest, detention, or termination of an investigation (SP3) comply with legal standards and constitutional guarantees. This supervisory function becomes particularly significant in cases involving corruption (Sunaryo & Al-Fatih, 2022), where the potential for abuse of power is high, and in instances where an investigation is prematurely discontinued. Furthermore, pretrial embodies horizontal supervision, complementing vertical institutional checks and incorporating community involvement as an element of external oversight. Thus, pretrial strengthens transparency, accountability, and the rule of law, ensuring that the rights of individuals are not undermined by the arbitrary or unlawful actions of state authorities.

Although pretrial is very important for suspects, they often face obstacles when trying to make effective use of it. These obstacles can include the following, among others. Firstly, judges often exhibit passive behaviour during the pretrial hearing process. While this behaviour may be understandable given that pretrial procedural law tends to use civil procedural law (Uli, Djatmika & Harjati, 2024), it is still a significant obstacle for suspects. The judges' attitudes cause inefficiency in the pretrial hearing process (Aprilia, Siregar & Munandar, 2023); (Budiyanto, Kaplele & Hadiyanto, 2023) and lead to suboptimal pretrial decisions. Secondly, a large number of pretrial requests are rejected due to procedural errors; for example, 15 out of 40 cases were rejected. A

battle of interpretations between law enforcement officers, suspects and/or legal advisors as applicants and respondents, or public prosecutors and examining judges, often contributes to such conditions occurring. In many cases, this battle of interpretations in the pretrial process places suspects and/or their attorneys in a weak position. Thirdly, suspects often find it difficult to obtain competent legal advice. This issue is exacerbated by high attorney fees and a lack of legal knowledge (Budiyanto, Kaplele & Hadiyanto, 2023). This acute situation clearly does not benefit suspects, especially those considered economically marginal, although the state has sometimes intervened to address this issue. Fourthly, almost all detention centres in Indonesia are overcrowded, which negatively impacts prisoners' conditions (Lovina & Dirga, 2022). Such conditions not only impede services to detainees, such as health services, but also hinder effective communication with their lawyers (Baylor, 2015). Fifthly, trauma resulting from the conditions of detention, including the possibility of stress and/or violence while in custody, can affect decision-making abilities and further complicate the pretrial process (Baylor, 2015). In legal tradition, pretrial has so far been considered an effort to 'denude' law enforcement officers.

Although the mechanisms for monitoring coercive measures employed in various countries differ, a common thread emerges. Continental European countries tend to adopt a system of oversight of specific officials within the criminal

justice system, whereas the United States implements judicial oversight as set out in the Habeas Corpus Act (Lovina & Dirga, 2022). Under the Habeas Corpus Act, a person in the United States has the right to sue an authorised official who has deprived them of their civil liberties, and the court will decide whether the deprivation of liberty was lawful or unlawful (Lovina & Dirga, 2022). In the Netherlands, meanwhile, the Rechter-Commissaris can act not only as an examining judge (carrying out executions), but also as an investigating judge (examining witnesses and suspects) (Lovina & Dirga, 2022). During the preliminary examination process overseen by the investigating judge, the defendant's defence team is granted the right to attend every hearing, as the principle of equality of arms is emphasised, providing the defence team with the opportunity to play an active role (Lovina & Dirga, 2022).

2. The Need for Testing the Material Aspects in Pretrial.

As previously mentioned, the existing pretrial process, as set out in Law No. 8 of 1981 regarding the Code of Criminal Procedure, tends to result in administrative monitoring. According to Article 77 of Law No. 8 of 1981, pretrial is essentially an institution with the authority to examine and decide, in accordance with the provisions set out in this law, on the validity of an arrest and whether it should be cancelled. It is also responsible for investigating or settling a summons and for providing compensation and/or

rehabilitation in cases where the sentence is stopped at the opening or cancellation level. Pretrial judges tend to focus more on examining formal documents such as arrest warrants, detention orders and notifications to families. From a hegemonic positivist perspective, judges seem to justify disregarding extralegal factors in their legal practice. According to this perspective, legal norms must exist objectively as positive norms, thus separating them from moral aspects such as justice and humanity (Sistyawan et al., 2024). Therefore, in order to realise the basic idea and initial spirit of its establishment, pretrial should be given the authority to investigate formal and material aspects in an integrated fashion. There is an urgent need to test the material aspects in pretrial.

Firstly, philosophically speaking, the tendency for pretrial examinations to focus on formal procedural aspects contradicts the fundamental principles and initial objectives of their establishment, namely the protection of suspects' human rights (Eddyono et al., 2014); (Uli, Djatmika & Harjati, 2024).

In order to protect suspects' human rights and avoid arbitrary actions by law enforcement officers, especially investigators and public prosecutors, it is necessary to give pretrial judges the opportunity to investigate material aspects. It is impossible for pretrial to protect suspects' human rights when it merely investigates formal documents in the investigation and prosecution process.

Secondly, by merely focusing on the examination of formal procedural documents in investigations and prosecutions, pretrial institutions will always make biased decisions. This bias can be seen in the fact that, in every pretrial application, the investigator and/or public prosecutor tends to win. Meanwhile, the suspect or their representatives are always in a weak and defeated position. For example, a study by the Institute for Criminal Justice Reform showed that of 80 pretrial decisions analysed, only two applications were accepted, equating to around 3% (Eddyono et al., 2014). This is understandable, since pretrial judges tend to focus on examining formal documents, whereas examining material aspects in pretrial is vital to ensure real access to the materials of the investigation and/or prosecution, and to give pretrial judges real chances to examine evidence (Kusumastuti, 2018).

Thirdly, in order to determine whether evidence or statements have been obtained illegally (Eddyono et al., 2014), it is unthinkable for pretrial judges to merely examine formal documents during the investigation. To reach such a conclusion, pretrial judges must examine material aspects; for example, they must examine witnesses.

Fourthly, to prove that an investigation or prosecution has been conducted for illegal purposes (Eddyono et al., 2014), resulting in violations of human rights, it is also impossible for pretrial judges to merely examine formal

documents. In the latter case, it is implausible to do this without pretrial judges examining witnesses (carrying out material tests).

From the above descriptions, it can be concluded that the existing pretrial system, which is intended to protect suspects' human rights, is not functioning as it should. The root of the problem is that the existing pretrial examination, as stipulated in Law No. 8 of 1981 regarding the Code of Criminal Procedure, focuses solely on formal procedural aspects. Consequently, pretrial examinations should not only focus on procedural validity, but also allow for material examination. This dual focus is required to fulfil suspects' rights and ensure that justice is served (Taghupia, Pasalbessy & Hehanussa, 2022). A comprehensive examination is also intended to ensure that pretrial decisions are made on the basis of strong evidence and facts, thereby avoiding bias in pretrial decisions. Moreover, a comprehensive examination that considers not only formal procedures but also substantive issues can ensure that pretrial serves its main function of horizontal monitoring among criminal justice components, rather than merely demonstrating the systemic weaknesses of pretrial itself.

C. CONCLUSION

Based on the above study, some conclusions can be drawn briefly as follows.

Firstly, while coercive measures in the law enforcement process are legitimate, they often have very complex and crucial impacts when

implemented. Juridically, coercive measures in the law enforcement process, especially at the investigation and prosecution stage, are legally valid actions. However, formal legal considerations of coercive measures are inadequate. While detention by the police during the investigation stage is essentially a legal action, carrying out detention merely by proving that the conditions for a detention warrant have been met without adhering to the required detention limits is an illegal act that violates individual freedom and human rights. Thus, the pre-trial process, which should supervise the protection of suspects' human rights during the investigation and prosecution process, has not functioned according to its intended purpose.

Secondly, given the huge potential for contraventions of individual freedoms and human rights in coercive measures at the investigation and prosecution stages, examining material aspects in pretrial proceedings is necessary. Examining these aspects in the pre-trial process will prevent potential violations of individual freedoms and human rights from occurring repeatedly in the law enforcement process.

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