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THE RIGHTS OF THE SUSPECTS IN THE EVIDENCE SYSTEM AN ANALYSIS OF THE FAIR TRIAL PRINCIPLE

Nailah Fellicia Gunawan, Nazwa Sabrina Naslim, Osama Bhinneka Pulungan,
Riduan Hamid Lubis

Islamic Criminal Law, State Islamic University of North Sumatra, Indonesia
nailahfellicia@gmail.com, nazwasabrinanaslim@gmail.com, osamabhinneka941@gmail.com,
ridwanhamid753@gmail.com

ABSTRACT

This study aims to analyze the regulation of suspects' rights in the evidentiary system according to Indonesian criminal procedure law, the application of the principle of fair trial in fulfilling these rights, and various obstacles and efforts in implementing it. The method used in this study is normative legal research with a statutory and conceptual approach based on the analyzed paper material. The results of the study indicate that the regulation of suspects' rights has been comprehensively accommodated in various national regulations such as the Criminal Procedure Code, the 1945 Constitution of the Republic of Indonesia, the Human Rights Law, and international instruments such as the ratified ICCPR. These rights include the presumption of innocence, the right to provide information freely without pressure, the right to legal assistance, and the right to present witnesses and mitigating evidence (a de charge). However, in practice, the implementation of the principle of fair trial still faces several crucial obstacles. These obstacles include the widespread practice of coercing confessions by law enforcement officers through intimidation or physical or psychological violence, limited access to legal aid by underprivileged communities and those in remote areas, low legal understanding of their rights when facing criminal proceedings, and acts of abuse of power during the investigation stage, such as arrests or detentions that do not comply with procedures. To overcome these obstacles, strategic and sustainable efforts are needed, including strengthening oversight mechanisms for law enforcement officers both internally and externally to enforce accountability, as well as optimizing the provision of legal aid through equitable distribution of advocates and expanding the budget for legal aid guarantees by the state. Strengthening the integration of a legal culture that respects human rights is crucial to realizing fair, transparent, and objective criminal justice in Indonesia.

KEYWORDS

Rights of the Suspect;
Evidence System; Fair
Trial; Legal Aid;
Investigation.

Corresponding Author: Nailah Fellicia Gunawan				
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INTRODUCTION

The criminal justice system is an integrated network that serves as the state's primary instrument in enforcing the law, maintaining social order, and realizing true justice for all citizens. Within the criminal law enforcement process, the evidentiary phase or stage holds a very central and fundamental position and role. Why is this? Because evidence is an absolute legal means for a panel of judges to seek, discover, and assess material truth (*materiële waarheid*) in order to objectively determine whether or not a defendant is guilty before the court. The quality and validity of this evidentiary instrument will distinguish a civilized justice system from an arbitrary one. Therefore, the evidentiary system established by a state based on the rule of law (*rechtsstaat*) must not only be rigidly oriented towards punishing the perpetrator (crime control model), but must inherently ensure a strong and proportional balance between the state's repressive interests in enforcing criminal law and the protective interests of individuals facing the law from potential abuse of power (due process model).

One of the main pillars underlying a humane, democratic, and substantive justice system is the fulfillment of the principle of a fair trial, or the right to a fair and honest trial. The concept of a fair trial is not merely a normative slogan or cosmetic legal jargon, but rather an integral part of human rights that are universally recognized throughout the world. The international manifestation of this principle is explicitly reflected in Article 10 of the Universal Declaration of Human Rights (UDHR) and Article 14 of the International Covenant on Civil and Political Rights (ICCPR), which expressly and bindingly states that every individual has the right to a fair, honest, and public hearing by an independent, competent, and impartial tribunal. Indonesia, as a constitutional state that has ratified the ICCPR through Law Number 12 of 2005, has the imperative domestic legal consequence of aligning all its criminal procedural law instruments to comply with these universal standards of a fair trial. Domestically, guarantees of protection for the rights of suspects have actually been proclaimed since the birth of Law Number 8 of 1981 concerning Criminal Procedure Law, popularly known as the Criminal Procedure Code (KUHAP). The birth of the Criminal Procedure Code at that time was often glorified as a "masterpiece" of the Indonesian nation because it succeeded in shifting the colonial legal paradigm of *Inlandsch Reglement*

(IR) or Herziene Inlandsch Reglement (HIR) which tended to position suspects only as passive objects of examination and vulnerable to physical and psychological violence. The Criminal Procedure Code revolutionarily changed this position by positioning suspects as independent legal subjects who have dignity, honor, and the right to self-defense that are strictly guaranteed by law. Within the pages of the Criminal Procedure Code, various fundamental rights are scattered, such as the right to be immediately examined, the right to know the type of accusation clearly, the right to provide information freely without pressure from any party, the right to obtain legal assistance from a legal advisor of one's choice, the right to be considered innocent before a final and binding decision (presumption of innocence), and the right to present witnesses or evidence that can mitigate one's legal position (a de charge). All of these normative rights are the embodiment of fair trial values designed to prevent the emergence of arbitrariness by law enforcement officers who hold the authority of the monarchical power of investigation. The provisions above affirm that, in the modern concept of human rights protection, the rights of suspects are not privileges voluntarily granted by the state, but rather inherent human rights that must be fulfilled to maintain the purity of the law itself. When the state ignores the rights of a suspect, it is actually undermining its own legitimacy as a just legal entity. Unfortunately, the dominant paradigm widely prevalent among the general public often falls into the mistaken belief that defending the rights of suspects is a form of defense or justification for the criminal act. This collective distortion ultimately creates social ignorance regarding the various forms of procedural oppression experienced by suspects in the criminal justice system, which can gradually affect anyone without exception. Viewed from a historical-philosophical perspective, the tension between law enforcement and the protection of individual human rights is always rooted in how law enforcement officials view the status of evidence. If evidence is merely interpreted as a mechanical process of gathering confessions to satisfy the formal demands of case files, then investigations will tend to be destructive and manipulative. The need to provide fair evidence demands a shift in perspective, from the initial coercive pursuit of unilateral confessions to the search for material evidence based on objective, transparent, and universally accountable scientific methods. Without a solid guarantee of protection for the suspect's rights from the very beginning of the legal process, the evidentiary system implemented in court is at great risk of becoming a stage for

formality that sacrifices truth for a false sense of certainty.

However, the wide gap between the world of *das Sollen* (what should be according to law) and the world of *das Sein* (what actually happens on the ground) remains a frightening specter in the Indonesian criminal justice system. In the empirical reality and daily practice of criminal procedural law enforcement, the public is still frequently presented with a concerning phenomenon that has the potential to harm, ignore, or even blatantly violate the basic rights of suspects in the process of proving criminal cases. Various reports from non-governmental organizations, state commissions, and court decisions in pretrial cases show the continued occurrence of coerced confessions through intimidation, verbal violence, and physical torture. Furthermore, the problem of limited access to legal counsel, fabricated evidence, and the use of unlawfully obtained evidence still haunts the face of our justice system. This anomalous condition not only undermines legal integrity and violates human rights, but also opens up a very wide opportunity for fatal errors in criminal law enforcement that lead to the conviction of innocent people (miscarriage of justice or error in persona). This systemic failure will ultimately undermine the level of public trust and the credibility of the judicial institution as a whole. Therefore, conducting an in-depth, critical, and comprehensive legal study of the rights of suspects in the evidentiary system from the perspective of the principle of fair trial is very urgent, important, and relevant. This comparative and synchronized analysis is needed to precisely map the extent to which the protection of suspects' rights is not merely a dead text on paper in the law, but is truly alive and functional in the practice of enforcing criminal procedural law. By identifying existing structural, cultural, and substantial obstacles, this study is designed to formulate solutions and reconstruct ideas for improving the national criminal justice system that is not only effective in reducing crime rates, but also graceful, transparent, accountable, and fully committed to respecting human rights. Based on this background, this scientific article will focus on three main issues: the regulation of suspects' rights in Indonesian criminal procedural law, the concrete implementation of the principle of fair trial in fulfilling these rights in the evidentiary process, and various real obstacles along with

solution strategies that can be taken to realize complete legal justice in Indonesia.

METHOD

The research method used in this study is doctrinal legal research. This approach was chosen deliberately because the main characteristics of the problem raised in this article focus on the analysis of legal texts, regulatory synchronization, and philosophical-doctrinal studies regarding the protection of the rights of suspects in the evidentiary system based on the principle of fair trial. Normative legal research is not intended to quantitatively test social hypotheses in the field, but rather to examine, critique, and conceptualize the consistency of written legal norms, legal principles, and legal doctrines that exist in national and international jurisprudence and academic literature. Through this normative method, law is viewed as a comprehensive, closed and logical system, where every rule of criminal procedure must be assessed for its validity based on higher norms (stufenbau theory) and the values of universal justice contained in human rights instruments.

In order to analyze the draft problem holistically, this study applies four types of complementary legal approaches, namely:

1. Statute Approach: This was done by carefully reviewing the entire hierarchy of Indonesian laws and regulations directly related to the suspect's defensive rights and the law of evidence. This review included the 1945 Constitution of the Republic of Indonesia, the Criminal Procedure Code (KUHP), the Human Rights Law, and internal technical regulations of the police and prosecutors.
2. Conceptual Approach: Building on the doctrines, views, and ideas of leading legal experts to build a strong analytical foundation, this approach is used to examine abstract concepts such as due process of law, the exclusionary rule, the fruit of the poisonous tree, and the presumption of innocence.
3. Analytical Approach: Functions to open, test, and explain the meaning of legal terms, articles of evidence, and law enforcement procedures in order to determine whether there is ambiguity, normative conflict, or legal vacuum (leemten in het recht) in the protection of the suspect's rights.
4. Comparative Approach: Applied in a limited way, this involves comparing domestic criminal procedural standards with international legal instruments ratified by Indonesia, particularly the International Covenant on Civil and Political Rights (ICCPR). This comparison aims to assess the extent to which

Indonesian positive law meets or lags behind globally recognized minimum standards of fair trial.

The data sources used in this normative legal research come purely from secondary data which are grouped hierarchically into three types of legal materials, as follows:

- **Primary Legal Materials:** It is a legal material that has legally binding and authoritative force. The primary legal materials in this research include the 1945 Constitution of the Republic of Indonesia, the Criminal Procedure Code (Law No. 8/1981), Law No. 39/1999 concerning Human Rights, Law No. 12/2005 concerning the Ratification of the ICCPR, and Constitutional Court Decisions relevant to the expansion of pretrial objects and the fulfillment of suspects' rights.
- **Secondary Legal Materials:** Serves to provide explanations, analyses, and critical interpretations of primary legal materials. These secondary legal materials consist of textbooks on the law of evidence, drafts from reputable national and international scientific journals, scientific articles resulting from previous research, legal seminar papers, and drafts of advocacy guidelines from human rights non-governmental organizations.
- **Tertiary Legal Materials:** Acts as supporting material that provides guidance and meaningful explanations of primary and secondary legal materials, which in this case include legal dictionaries (Black's Law Dictionary), encyclopedias, the Big Indonesian Dictionary (KBBI), as well as drafts of official data releases from judicial supervisory bodies.

The legal material collection technique in this research was conducted through library research. This process began with a digital and physical inventory of regulations, literature, and draft legal documents relevant to the keywords "suspect's rights," "evidence system," and "fair trial." After the legal material was collected, classification, reduction, and categorization were carried out based on the predetermined problem formulation to ensure a structured and focused analysis.

Furthermore, the legal material analysis technique applied is a qualitative analysis method with a deductive logic reasoning model. Deductive logic is used by drawing conclusions from general premises (namely the universal principle of fair trial and

constitutional norms) to specific premises (namely the articles of evidence in the

RESULTS AND DISCUSSION

RESULTS

1. Theoretical Confrontation: Crime Control Model Versus Due Process Model in the Indonesian Evidence System

If all the normative findings regarding the regulation and practice of protecting the rights of suspects in Indonesia are analyzed in depth using the analytical knife of criminal justice system theories developed by Herbert L. Packer, a very sharp, chronic, and fundamental ideological clash will be seen within our law enforcement body. In his monumental classic work, Packer divides two extreme models that are contradictory and competing in viewing the course of criminal justice: the Crime Control Model (CCM) and the Due Process Model (DPM).

- *Crime Control Model*(CCM):Based on the proposition that crime suppression, efficiency, and speed are the primary functions of criminal justice, this model places great emphasis on administrative certainty, minimizes procedural obstacles perceived as delaying case resolution, and implicitly believes in the doctrine of the "presumption of guilt" inherent in the initial work of police investigations.
- *Due Process Model*(DPM):On the contrary, this model views criminal justice as an obstacle course deliberately designed by law to limit the scope of state power in order to maximally protect individual human rights through the fulfillment of strict legal formalities (legal guilt).

The findings of this study clearly demonstrate that Indonesia's written legal system (both in the 1945 Constitution of the Republic of Indonesia and the contents of Chapter VI of the Criminal Procedure Code) has actually ideally adopted the values contained in the Due Process Model. The existence of a guarantee of the right to silence, the right to free legal assistance from the beginning of the arrest, and the imperative obligation for investigators to obtain at least two valid pieces of evidence before determining the status of a suspect, are reflections of the law's noble desire to reject arbitrary police authority. National criminal procedure law is designed in such a way that the state does not easily throw its citizens into prison without going through a clean and legal evidentiary procedure (due process of law).

However, a major irony arises when these normative values are applied to the empirical realm or sociological practice of law enforcement in the field. The legal culture that exists within the investigative rooms of the sector police (Polsek) and resort police (Polres) in Indonesia is still heavily dominated by repressive traits stemming from the Crime Control Model. The paradigm of "target-driven" case resolution, the culture of glorifying confession as the queen of evidence, and the exploitation of public legal ignorance to extort confessions through intimidation and violence, demonstrate that law enforcement officials often prioritize efficiency over procedural justice. When investigators torture or ignore a suspect's right to an advocate, they are positioning themselves as loyal adherents of the Crime Control Model, which justifies any means to achieve the goal of punishing the perpetrator. This clash of legal civilizations is what gives Indonesia's criminal justice system the impression of ambivalence and hypocrisy: it has laws that promote human rights, but enforces them with an iron fist that disregards humanity.

DISCUSSION

1. Practical and Policy Contributions

In practical terms, this research provides very concrete and operational recommendations for policymakers—such as the House of Representatives (DPR) and the Government—who are currently conducting intensive discussions on the draft revision or Codification of the Criminal Procedure Code (RUU KUHAP). This research offers a draft formulation of a new norm that requires the explicit adoption of the exclusionary rule doctrine into the national evidence article, as well as the expansion of the authority of the pretrial institution or the establishment of a "Commissioner Judge" institution that has full judicial authority to cancel case files from the investigation stage if there is evidence of a violation of the suspect's basic rights.

2. Social Contribution of Empowerment

For civil society and legal aid organizations, this research can serve as a guide for tactical legal advocacy to conduct more aggressive and substantive defense in the courtroom. By utilizing the analysis table of fair trial effectiveness presented in this study, public advocates have a measurable reference parameter for challenging the

credibility of evidence presented by public prosecutors, thereby enhancing social control over the performance of law enforcement officers to realize a humanistic rule of law in Indonesia.

CONCLUSION

Based on the entire series of discussions, juridical-normative analysis, and empirical mapping regarding the rights of suspects in the evidentiary system reviewed from the principle of fair trial, this scientific article formulates the following conclusions: The regulation of suspects' rights within Indonesia's positive legal system has actually been designed in a comprehensive, multi-layered, and civilized manner within various applicable national and international legal instruments, such as the 1945 Constitution of the Republic of Indonesia, the Criminal Procedure Code, the Human Rights Law, and the ICCPR. This legal framework firmly positions suspects as independent legal subjects with inherent human rights that must be respected in every aspect of the criminal law enforcement process. However, the effectiveness of these normative guarantees in practice still faces systemic obstacles and severe distortions in the field. The principle of fair trial has not been fully grounded in the culture of law enforcement in Indonesia due to the persistent investigative mentality that seeks confessions through violence, limited access to legal aid for marginalized groups, low public legal literacy, and weak judicial oversight of abuse of authority by officials.

Furthermore, systemic failures to maintain the integrity of the evidence-gathering process not only violate individual constitutional rights but also undermine the objectivity and validity of the material truth sought by the courts. When the rights of suspects are ignored, the integrity of the entire criminal justice chain is automatically compromised, opening the door to miscarriages of justice and eroding public trust in law enforcement institutions. Therefore, the principle of a fair trial should no longer be viewed as merely a procedural formality or a shield for perpetrators, but rather as an instrument for the protection of humanity and legal certainty itself. As an urgent solution, the government and the legislature need to immediately undertake total institutional reform by strengthening internal and external oversight mechanisms based on transparency technology (such as CCTV recording of interrogations that cannot be manipulated), expanding the reach and funding of legal aid for the poor by the state equally, and adopting the strict exclusionary rule doctrine by the panel of judges in court to reject all evidence obtained through methods that violate human

rights. In addition, it is necessary to restructure the investigative paradigm at the police level to shift completely towards scientific investigation methods (scientific crime investigation) that no longer rely on extracting verbal confessions from suspects. Only with this shared commitment and radical change in legal culture can the face of Indonesian criminal justice mutate into a noble, transparent, objective, authoritative system, and fully committed to upholding essential, humanistic justice.

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