

Juridical Review of Pretrial on Repeated Suspect Designation Using Investigation Orders Previously Nullified by Court Decisions

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Abstract

This study examines the phenomenon of repeated suspect designation in Indonesia's criminal justice system, particularly following the annulment of a previous suspect designation through pretrial mechanisms. Pretrial processes aim to test the legality of law enforcement actions such as arrests, detentions, and suspect designations to safeguard human rights. However, legal issues arise when investigators again designate someone as a suspect after their status has been annulled, raising questions about the legality of such actions and potential violations of the *ne bis in idem* principle, which prohibits trying someone for the same matter more than once. The research seeks to analyze investigators' authority to issue new investigation orders after annulment and its implications for suspects' rights and applicable legal principles such as justice and legal certainty. Using a normative juridical approach, the study identifies legal gaps in regulations governing repeated suspect designation post-annulment. It also explores comparative applications of the *ne bis in idem* principle in international and Indonesian law and evaluates oversight mechanisms for investigator authority. Findings indicate significant revisions are needed in Indonesia's legal system to clarify legal boundaries on repeated suspect designations and strengthen law enforcement oversight. The study offers recommendations to improve regulations, enhance transparency in legal processes, and provide training for law enforcers to better safeguard human rights at all judicial stages. Thus, this research contributes to the development of a fairer, more efficient criminal justice system and boosts public trust in Indonesia's legal integrity.

Keyword: Pretrial; suspect designation; criminal procedure law; human rights; legal certainty

INTRODUCTION

Pretrial is a crucial mechanism in Indonesia's criminal justice system, designed to protect human rights by examining the legality of actions taken by law enforcement officials. This mechanism provides an opportunity for aggrieved parties, particularly suspects, to obtain legal protection during the initial stages of the criminal process, including arrest, detention, and suspect designation. In this context, pretrial proceedings not only function as a form of oversight but also serve as an instrument to ensure that no abuse of authority occurs by the relevant authorities. However, in practice, legal issues often arise that require greater attention, one of which is the repeated designation of suspects despite a prior annulment of such designation through pretrial proceedings.¹ This phenomenon raises critical issues regarding legal certainty and justice in the criminal justice process. *Ne bis in idem* is a fundamental principle in criminal law that stipulates no person can be tried more than once for the same offense. When investigators issue a new investigation order after a prior suspect designation has been annulled, it casts doubt on the legality of such actions and whether the rights of the individuals involved are adequately protected. Such situations underscore the importance of an in-depth examination of investigators' authority and the boundaries that must be upheld in utilizing pretrial mechanisms to prevent abuses of power that disadvantage suspects.²

Investigators often justify repeated suspect designations by citing new evidence or differing perspectives on the substance of the case. However, it is crucial to explore the validity and relevance of

¹ Anzhari, Anzhari., Sunardi, Sunardi., Moh., Muhibbin. "Detention Of Suspects Under The Indonesian Criminal Law." International Journal of Law, Environment and Natural Resources, undefined (2024). doi: 10.51749/injurlens.v3i2.56

² E., T., Alimkulov. "Problems of ensuring the rights of the suspect during the pre-trial investigation." Habarşy - Ąl-Farabi atyndagy ąazak memlekettik ulttyk universiteti.Zań seriâsy, undefined (2023). doi: 10.26577/japj.2023.v106.i2.012

such new evidence within the framework of applicable criminal law.³ Do the legal procedures followed embody principles of justice for suspects and respect their fundamental rights? Moreover, this invites further discussion on how criminal procedural law must be consistently implemented to avoid inconsistencies in judicial processes that may create legal uncertainty. Therefore, it is essential to scrutinize existing regulations carefully and consider their potential impact on suspects' rights.

Although some studies have addressed pretrial mechanisms, few focus specifically on this issue: repeated suspect designation following annulment through pretrial proceedings. Existing literature primarily examines the general functions of pretrial mechanisms without delving into the specific legal issues arising from such investigative actions. Addressing this gap, this research aims to fill the void and provide significant contributions to understanding a more equitable and transparent legal procedure. It will offer an in-depth analysis of the legal basis for repeated suspect designation and its implications for Indonesia's prevailing legal principles.⁴

This study aspires to present new perspectives on the legality of investigators' actions in such cases and provide recommendations for improving the legal system to uphold justice more firmly. It will offer a more comprehensive understanding of how Indonesia's criminal procedural law can be strengthened to protect individual rights without compromising the effectiveness of law enforcement. Thus, this research not only contributes to the development of legal theory but also offers practical solutions to enhance public trust in Indonesia's criminal justice system.⁵

METHOD

This study adopts a normative juridical approach aimed at exploring the legal norms related to the repeated designation of suspects through new investigation orders after annulment by pretrial proceedings. As a doctrinal study, this approach focuses on analyzing primary legal materials, such as legislation, jurisprudence, legal doctrines, and relevant academic literature. The research is designed to deeply interpret the legal framework to understand its implications for the principles of legality, justice, and legal certainty.

This descriptive-analytical research aims to provide an in-depth understanding of the legal issues at hand and critically analyze them. The legal materials utilized are categorized into two main types: primary and secondary legal sources. Primary legal sources include the constitution, the Indonesian Criminal Procedure Code (KUHAP), legislation related to pretrial proceedings, and relevant court decisions. Secondary legal sources encompass doctrines, books, journal articles, and other academic studies that support both theoretical and practical discussions.⁶

Data collection is conducted through library research, utilizing authoritative sources such as legal databases, scientific publications, and court decision archives. The collected data is processed using juridical-qualitative analysis methods, where legal materials are organized, classified, and interpreted based on their relevance to the legal issues under study. This method aims to identify gaps in existing regulations and formulate practical and innovative legal solutions to support better justice enforcement.⁷

The research stages include searching for legal materials, conducting in-depth reviews of legal theories, and critically analyzing relevant regulations. This study ensures validity by prioritizing credible and up-to-date legal sources while applying an objective and unbiased approach. Through this

³ Kazimierz, Pawelec. "Zakazy dowodowe, tajemnice zawodowe i inne oraz próby ich omijania podczas czynności operacyjno-rozpoznawczych i procesowych." *Cybersecurity and Law*, undefined (2024). doi: 10.35467/cal/188574

⁴ Amir, Giri, Muryawan. "Putusan praperadilan yang menyimpang secara fundamental." undefined (2021). doi: 10.51749/JPHI.V2I2.30

⁵ Nurbaedah, Nurbaedah. "Juridical Study of Reforming the Criminal Procedural Law System regarding Pretrial Institutions after Constitutional Court Decision in Indonesia." *Jurnal Akta*, undefined (2022). doi: 10.30659/akta.v9i2.21530

⁶ Fitriah, Faisal. "Due Process of Law: Pre-trial and Preliminary Examination Judge on Indonesian Criminal Procedure Law." *Scholars international journal of law, crime and justice*, undefined (2023). doi: 10.36348/sijlcj.2023.v06i03.003

⁷ Randika, Fitrah, Darmawan., Slamet, Sampurno, Soewondo., Sabir, Alwi. "Penggunaan Asas Beban Pembuktian Terbalik sebagai Penyelesaian Perkara Kesalahan yang Dilakukan Oleh Dokter." undefined (2021). doi: 10.47268/SASI.V27I2.426

methodology, the research is expected to provide substantive contributions to strengthening Indonesia's criminal procedural law system, particularly in ensuring the consistent implementation of pretrial mechanisms aligned with principles of justice and the protection of individual rights.

RESULTS AND DISCUSSION

A. Juridical Analysis of the Pretrial Process

1. The Role and Function of Pretrial in Indonesia's Criminal Justice System

Pretrial proceedings play a vital role in Indonesia's criminal justice system as a mechanism for overseeing the actions of investigators and public prosecutors. Normatively, pretrial aims to ensure that all actions taken by law enforcement authorities comply with applicable legal procedures and do not violate the suspect's human rights. According to Article 77 of the Indonesian Criminal Procedure Code (KUHP), pretrial encompasses the scope of examining the legality of arrests, detentions, termination of investigations, and suspect designations. This function underscores that pretrial is not merely a formality but an integral part of the criminal justice system designed to safeguard procedural justice.⁸

As an oversight instrument, pretrial proceedings not only protect individual rights but also enhance the legitimacy of the legal system. The suspect's right to file a pretrial motion guarantees that investigations and inquiries are conducted transparently and in accordance with the law. This is crucial to preventing arbitrary actions, including suspect designations not supported by substantial evidence. Consequently, pretrial serves as a critical counterbalance in ensuring equilibrium between state power and citizens' rights.⁹

In practice, pretrial often faces challenges, particularly in the consistent application of justice principles. Cases still exist where pretrial decisions are not fully adhered to by law enforcement officials. This indicates the need to strengthen legal institutions to ensure that the roles and functions of pretrial proceedings operate effectively. By clarifying the boundaries of authority and related procedures, pretrial can play a more significant role in enhancing the integrity of Indonesia's criminal justice system.¹⁰

1. Legal Provisions Regarding Pretrial Authority to Annul Suspect Designations

The authority of pretrial proceedings to annul suspect designations has been affirmed through various regulations and judicial decisions. Under Article 1, paragraph 10 of the Indonesian Criminal Procedure Code (KUHP) and Constitutional Court Decision Number 21/PUU-XII/2014, pretrial judges have the authority to examine the validity of suspect designations based on the adequacy of evidence. This provision aims to ensure that every suspect designation is conducted in compliance with legal procedures, thereby preventing law enforcement actions from violating the principle of legality. Judges are required to ensure that suspect designations are supported by at least two valid pieces of evidence as stipulated in Article 184 of KUHP.¹¹

This examination is not merely formal but also substantive. It means that pretrial judges must ensure that the evidence used has sufficient legal strength to support the alleged criminal act. Thus, pretrial proceedings provide legal protection to individuals from potential unwarranted criminalization. The decision to annul a suspect designation reflects the importance of the principle of *due process of law* in the criminal justice system.¹²

However, this authority presents challenges in its implementation, particularly when facing differing legal interpretations among law enforcement officials. These gaps are often exploited to take legal

⁸Wibowo, Moch Adhitya Rifka, and Sunarto Sunarto. "Analisa Yuridis Peran Pra Peradilan Dalam Penegakan Hukum Pidana Di Indonesia." *Terang: Jurnal Kajian Ilmu Sosial, Politik dan Hukum* 1.1 (2024): 306-320..

⁹ Claudia, N., Anderson., Joshua, C., Cochran., Andrea, N., Montes. "How punitive is pretrial? Measuring the relative pains of pretrial detention." undefined (2023). doi: 10.1177/14624745231218702

¹⁰ Abraham, Gunawan, Wicaksana. "Rekonstruksi ruang lingkup kewenangan praperadilan dalam sistem peradilan pidana indonesia." undefined (2022). doi: 10.37303/magister.v10i2.35

¹¹ Nurul, Widhanita, Y., Badilla. "Implementasi pasal 184 kuhp terhadap penanganan tindak pidana penganiayaan yang sulit ditemukan barang bukti (studi kasus di kepolisian resort merauke)." *Jurnal Komunikasi Hukum*, undefined (2022). doi: 10.23887/jkh.v8i2.51744

¹² Mustawa, Nur., Siti, Zubaedah., Abdul, Hamid. "Singkronisasi sistem pemberitaan pers dalam menerapkan prinsip due process of law." *Indonesian journal of legality of law*, undefined (2023). doi: 10.35965/ijlf.v5i2.2203

steps that contradict pretrial decisions, such as issuing new investigation orders without addressing the deficiencies that led to the annulment. Therefore, regulatory strengthening is necessary to ensure the effectiveness of pretrial authority in protecting suspects' rights while maintaining the credibility of the justice system.¹³

1. Evaluation of Procedures Followed in the Related Pretrial Case

The pretrial procedures in this case reveal complexities in implementation, particularly in balancing the principles of justice and legal certainty. After the annulment of the suspect designation by the pretrial judge, investigators issued a new investigation order to re-designate the suspect. This action raises fundamental legal questions regarding the extent of investigators' authority to repeat legal processes that have been annulled. In this context, it is essential to evaluate whether such actions align with the spirit of criminal procedural law.

An evaluation of these procedures highlights ambiguities in the regulations regarding follow-up actions after pretrial decisions. The Indonesian Criminal Procedure Code (KUHP) does not explicitly regulate mechanisms for addressing the annulment of suspect designations, thereby allowing broad interpretation by law enforcement officials. Consequently, the investigators' step of issuing a new investigation order may be seen as an abuse of authority, particularly if it is not supported by relevant new evidence.¹⁴

In such situations, it is crucial to strengthen oversight of the implementation of pretrial decisions to prevent legal actions that conflict with principles of justice. This includes the need for clearer technical guidelines on post-pretrial procedures to ensure that suspects' rights are protected without compromising the effective enforcement of the law. By doing so, pretrial procedures can function optimally in guaranteeing justice and legal certainty.¹⁵

1. Kepatuhan Hakim Praperadilan terhadap Prinsip Keadilan, Kepastian Hukum, dan Perlindungan Hak Tersangka

Hakim praperadilan memiliki tanggung jawab besar dalam menjamin prinsip keadilan dan kepastian hukum melalui putusan-putusan yang diambilnya. Dalam kasus ini, keputusan hakim untuk membatalkan penetapan tersangka mencerminkan upaya untuk melindungi hak-hak tersangka dari tindakan hukum yang tidak sah. Namun, keberhasilan ini hanya akan memiliki dampak nyata jika aparat penegak hukum mematuhi putusan tersebut secara konsisten.¹⁶

Prinsip keadilan prosedural mengharuskan setiap keputusan praperadilan tidak hanya bersifat deklaratif tetapi juga implementatif. Hakim praperadilan perlu memastikan bahwa keputusannya tidak meninggalkan ambiguitas yang dapat dimanfaatkan oleh pihak-pihak tertentu untuk mengabaikan prinsip hukum yang berlaku. Dalam hal ini, arahan yang jelas dan tegas dalam putusan menjadi penting untuk mencegah pelanggaran terhadap hak tersangka di kemudian hari.¹⁷

Sebagai upaya lebih lanjut, sistem hukum pidana Indonesia harus dilengkapi dengan mekanisme kontrol yang lebih kuat untuk memastikan bahwa keputusan praperadilan dilaksanakan sesuai dengan semangat keadilan dan perlindungan hak asasi manusia. Langkah ini tidak hanya akan

¹³ Ari, Qurniawan., Murdian., Anggraini. "Strengthening the Function of Prejudicial Institutions and the Implementation Concept of the Judges Institution of Commissioners in the Protection of Suspects Rights." undefined (2022). doi: 10.2991/assehr.k.220102.018

¹⁴ Natalia, Nazyrova. "Gaps and Conflicts in Certain Norms of Criminal Procedure Legislation Related to the Final Stage of Pre-Trial Proceedings." *Sibirskie ugovovno-processual'nye i kriminalisticheskie čteniâ*, undefined (2023). doi: 10.17150/2411-6122.2023.1.47-56

¹⁵ Laurensia, Putri. "Effectiveness and Study of the Criminal Law Pretrial System." undefined (2023). doi: 10.61996/law.v1i1.15

¹⁶ Baren, Sipayung., Andi, Wahyudi. "Pretrial Determination of Suspects in Corruption Cases: A Critical Analysis of Judge Sarpin Rizaldi's Decision and Its Implications for Combating Corruption in Indonesia." undefined (2024). doi: 10.59653/jpills.v2i03.1084

¹⁷ Oxana, A., Chabukiani. "Abuse of Procedural Rights and Implementation of Discretionary Rights by Authorities in Pre-Trial Proceedings: Concept and Relationship." *Закон*, undefined (2024). doi: 10.37239/0869-4400-2024-21-4-40-51

meningkatkan kredibilitas sistem praperadilan tetapi juga memperkuat kepercayaan masyarakat terhadap sistem hukum secara keseluruhan.¹⁸

A. Compliance of Pretrial Judges with Principles of Justice, Legal Certainty, and Protection of Suspects' Rights

1. Potential Abuse of Authority by Investigators in Issuing a Second Investigation Order

The repeated designation of a suspect after a prior annulment by pretrial proceedings raises serious concerns about the potential abuse of authority by investigators. When a suspect designation is annulled by a pretrial judge, it is not merely an administrative annulment but also a confirmation that the investigator's actions failed to meet the required legal standards. However, the act of issuing a new investigation order by investigators can be seen as a step that risks violating the principle of justice. In this context, investigators may be perceived as attempting to bypass or exploit loopholes in the legal system to reinstate actions that have already been annulled, even in the absence of relevant new evidence to support such decisions.¹⁹

This phenomenon illustrates a discrepancy between the objectives of criminal procedural law, which emphasize the importance of legal certainty and the protection of individual rights. Investigators acting in this manner tend to exhibit an abuse of power, which not only infringes on the rights of suspects but also erodes public trust in the judicial system. Furthermore, if such actions are undertaken without adequate reevaluation of the existing evidence, they exacerbate the negative perception of law enforcement officials who are expected to uphold the principles of proportionality and transparency in their duties.²⁰

The impact of this abuse of authority extends far beyond the injustice inflicted upon a single suspect. It can create harmful legal precedents for other cases. If law enforcement officials are given the discretion to repeat actions annulled by pretrial judges without substantial justification, the fundamental principle of the criminal justice system—*due process of law*—is at risk. Therefore, strict oversight of investigative actions, along with the enforcement of clear and firm legal provisions, is essential to prevent abuse of authority in such processes.²¹

1. Impact on Human Rights, Including the Right to Personal Freedom and Fair Treatment

The repeated designation of a suspect after annulment by a pretrial judge has significant implications for human rights, particularly concerning the right to personal freedom and fair treatment. Any individual designated as a suspect, whether based on valid grounds or not, is at risk of experiencing restrictions on their personal freedom that may have long-term consequences. Prolonged detention or social stigma resulting from an unjust suspect designation can undermine an individual's right to have their dignity respected. Therefore, the repeated designation of a suspect without solid grounds or new evidence can be categorized as a violation of the right to personal freedom guaranteed by the constitution and international conventions.²²

Furthermore, this process of repeated suspect designation creates legal uncertainty for the individuals involved. The right to fair treatment, as reflected in the principle of a *fair trial* enshrined in Article 14 of the International Covenant on Civil and Political Rights (ICCPR), is jeopardized. A legal process that lacks transparency and is marked by unclear or repetitive procedures risks eroding trust in the judicial system and, worse, creating injustice for those ensnared in it. In this context, the right to fair and equal treatment before the law must take precedence, ensuring that no individual is subjected to unlawful mistreatment under the legal framework.

¹⁸ Elisa, Pitria, Ningsih. "Protection of Human Rights in the Investigation Process Criminal Offenses in Indonesia." undefined (2024). doi: 10.62872/g9297g96

¹⁹ Leo, Katz., Alvaro, Sandroni. "Circumvention of Law and the Hidden Logic behind It." *The Journal of Legal Studies*, undefined (2023). doi: 10.1086/721638

²⁰ Rr., Dijan, Widiyowati., Rynaldo, P., Batubara. "Reconstruction of the Paradigm of Other Actions and Police Discretion to Minimize Potential Disparities in Fair Law Enforcement." *ENDLESS*, undefined (2022). doi: 10.54783/endlessjournal.v5i1.60

²¹ Yuwono, Prianto. "Abuse Of Authority In Complete Systematic Land Registration (CSLP) In Cikupa Village, Cikupa District, Tangerang Regency, Banten." undefined (2022). doi: 10.58451/ijebss.v1i02.50

²² Iskandar, Iskandar. "Pre – Trial Justice Dalam Sistem Peradilan Pidana Untuk Perlindungan Hak-Hak Tersangka." *Maqasidi*, undefined (2023). doi: 10.47498/maqasidi.vi.1947

On a broader level, the phenomenon of repeated suspect designation without valid legal grounds could foster a culture of impunity within the legal system itself. Without adequate controls, investigators and prosecutors may undervalue human rights in performing their duties, ultimately harming the processes of democratization and the advancement of human rights in Indonesia.²³ Therefore, the protection of human rights within the legal system must be a top priority, ensuring that every action taken in the criminal process is based on the principles of justice that benefit not only law enforcement but also protect the rights of the individuals involved.²⁴

2. Konsekuensi Hukum dari Pengulangan Penetapan Tersangka terhadap Proses Penyidikan dan Penuntutan

Pengulangan penetapan tersangka setelah keputusan praperadilan yang membatalkan penetapan sebelumnya berpotensi membawa konsekuensi hukum yang berat terhadap proses penyidikan dan penuntutan. Dalam sistem hukum Indonesia, setiap tindakan penyidik dan penuntut umum yang dilakukan setelah pembatalan penetapan tersangka harus didasarkan pada kejelasan hukum dan adanya bukti baru yang mendukung tuduhan yang lebih kuat. Jika penyidik mengeluarkan surat perintah penyidikan baru tanpa adanya bukti baru, maka ini dapat dilihat sebagai pelanggaran terhadap asas kepastian hukum. Proses penyidikan yang tidak didasarkan pada bukti yang sah dan cukup bisa mengarah pada penyalahgunaan wewenang dan ketidakadilan yang dapat merugikan proses peradilan secara keseluruhan.²⁵

Di sisi lain, jika langkah penyidik ini diteruskan hingga ke tahap penuntutan, maka akan ada potensi besar bagi sistem peradilan pidana untuk kehilangan arah dalam menegakkan keadilan. Ketidakkonsistenan dalam proses hukum ini dapat menimbulkan kebingungan di kalangan penuntut umum, hakim, dan pihak-pihak yang terlibat dalam kasus tersebut. Bahkan lebih jauh, penuntut umum bisa kehilangan kredibilitas mereka di mata publik karena sering kali menjadi pihak yang memutuskan untuk melanjutkan suatu kasus meskipun tidak ada bukti yang cukup untuk mendukung tuduhan. Akibatnya, pengulangan penetapan tersangka tanpa dasar yang kuat dapat menggagalkan tujuan utama dari sistem peradilan pidana itu sendiri, yaitu keadilan substantif.

Selain itu, pengulangan penetapan tersangka ini akan memperburuk pencapaian dari aspek penegakan hukum yang adil. Hal ini tidak hanya mengganggu kualitas dan kredibilitas proses hukum, tetapi juga merusak tujuan akhir yang ingin dicapai oleh setiap sistem peradilan: yaitu menegakkan hukum dengan cara yang adil dan benar. Sebagai akibatnya, kepercayaan masyarakat terhadap penegak hukum akan tergerus, yang pada gilirannya dapat berdampak pada tingkat kepatuhan hukum masyarakat secara keseluruhan. Oleh karena itu, dalam menghadapi situasi seperti ini, sangat penting bagi sistem hukum untuk memperjelas regulasi terkait mekanisme pengulangan penetapan tersangka serta memperkuat pengawasan terhadap penyidik dan penuntut umum untuk memastikan tidak ada tindakan sewenang-wenang dalam proses peradilan.²⁶

3. Legal Consequences of Repeated Suspect Designation on Investigation and Prosecution Processes

The repeated designation of a suspect following a pretrial decision that annulled a prior designation carries significant legal consequences for investigation and prosecution processes. In Indonesia's legal system, any action taken by investigators and prosecutors after the annulment of a suspect designation must be based on legal clarity and supported by new evidence that substantiates the allegations more strongly. If investigators issue a new investigation order without new evidence, this can be considered a violation of the principle of legal certainty. An investigation process not

²³ Hongwei, Wang. "Research on the "Thin" and "Thick" of Impunity and Its Solution." Habarşy - Ğl-Farabi atyndagy Ğazaĝ memlekettik ũlttyĝ universiteti. Halyĝaralyĝ ĝatynastar ĝene Halyĝaralyĝ ĝuĝyĝ seriâsy, undefined (2023). doi: 10.26577/irilj.2023.v102.i2.07

²⁴ Hartoyo., Noenik, Soekorini. "Application of the Principle of Legality in the Criminal Justice System: Ensuring Justice and Protection of Human Rights." ENDLESS, undefined (2023). doi: 10.54783/endllessjournal.v6i2.174

²⁵ N., S., Neretina. "Interconnection of Investigative, Judicial and Expert Errors." Vestnik Universiteta imeni O. E. Kutafina, undefined (2024). doi: 10.17803/2311-5998.2024.115.3.099-108

²⁶ Puspita, Dwi, Ratnasari. "Legal Protection of the Rights of Suspects in Criminal Case Investigation Process in Human Rights Perspective." International journal of social science and human research, undefined (2022). doi: 10.47191/ijsshr/v5-i11-31

grounded in valid and sufficient evidence risks abuse of authority and injustices that could undermine the overall fairness of the judicial process.

On the other hand, if such investigative actions proceed to the prosecution stage, there is a high likelihood that the criminal justice system will lose its direction in delivering justice. Inconsistencies in the legal process can create confusion among prosecutors, judges, and other parties involved in the case. Furthermore, prosecutors may lose their credibility in the eyes of the public, particularly when they decide to pursue a case despite the absence of sufficient evidence to support the allegations. As a result, repeated suspect designation without a strong foundation may thwart the primary goal of the criminal justice system: achieving substantive justice.²⁷

Moreover, repeated suspect designation exacerbates the failure to uphold fair law enforcement. This not only diminishes the quality and credibility of legal processes but also undermines the ultimate objective of any judicial system: enforcing the law in a fair and just manner. Consequently, public trust in law enforcement officials may erode, which in turn could negatively impact overall societal compliance with the law. To address such situations, it is essential for the legal system to clarify regulations related to mechanisms for repeated suspect designations and to strengthen oversight of investigators and prosecutors to prevent arbitrary actions in judicial processes. By doing so, the integrity and credibility of the justice system can be preserved.²⁸

A. KAlignment Between Legal Practice and the Principle of *Ne Bis In Idem*

1. Definition and Application of the Principle of *Ne Bis In Idem* in Indonesia's Criminal Law

The principle of *ne bis in idem* is a legal doctrine stating that an individual cannot be punished twice for the same act, often referred to as "no double jeopardy for the same offense." This principle serves to prevent the repetition of legal proceedings against a person who has already been tried and adjudicated for the same act. In the context of Indonesian criminal law, this principle is reflected in various legal provisions, including Law No. 8 of 1981 on Criminal Procedure (KUHP), which regulates criminal court procedures. One application of this principle is evident in provisions concerning the resolution of cases already decided by the courts, emphasizing that no legal proceedings should be repeated for matters that have reached a final and binding verdict (*inkracht van gewijsde*).

However, in practice, the application of this principle within Indonesia's legal system is not always seamless. For instance, the annulment of a suspect designation in pretrial proceedings raises questions about whether investigators can re-designate someone as a suspect after the initial designation has been nullified by a judge. If the second suspect designation is made without any new evidence, it could be considered a violation of the *ne bis in idem* principle, as its essence lies in preventing repetitive legal actions against individuals who have been declared not guilty or for whom insufficient evidence exists to designate them as suspects.²⁹ Therefore, it is crucial to analyze the extent to which this principle is applied in Indonesia's criminal law practices and how it impacts the justice delivered to individuals involved in the legal process.

The *ne bis in idem* principle is also closely linked to the broader principles of legality and justice, requiring investigators and law enforcement officials to act transparently and in accordance with prevailing laws. Misapplication of this principle risks creating legal uncertainty and undermining public trust in the justice system, as it can give the impression that individuals may be subjected to repeated legal actions without sufficient evidence. Consequently, the review of pretrial practices that annul suspect designations and the repeated legal actions against the same individuals must be conducted with careful adherence to this principle.³⁰

²⁷ Ignacio, Urbina., Vitória, Sgorlon. "1. Fractured Trust: The Spillover Effects of Police Violence on Political Trust and Democracy." undefined (2024). doi: 10.31219/osf.io/c8tys

²⁸ Deassy, Jacomina, Anthoneta, Hehanussa. "Legalitas Penetapan Kerugian Keuangan Negara Oleh Aparat Pengawas Internal Pemerintah (APIP) Sebagai Dasar Memeriksa Perkara Korupsi." *Bacarita Law Journal*, undefined (2023). doi: 10.30598/bacarita.v3i2.8502

²⁹ Enny, Dwi, Cahyani., Gilang, Khalifa, Akbar., Rendi, Verda., Fadia, Rahma, Safitri., Gebi, Emada, Turnip. "Perlindungan hak asasi manusia tersangka melalui praperadilan di pengadilan negeri." undefined (2023). doi: 10.20884/1.slr.2023.5.3.14203

³⁰ Zuman, Malaka. "Telaah Terhadap Banyaknya Permohonan Praperadilan Yang Gagal." *TARUNALAW Journal of Law and Syariah*, undefined (2024). doi: 10.54298/tarunalaw.v2i01.185

2. Perbandingan Comparison with the Application of *Ne Bis In Idem* in International Legal Systems

The principle of *ne bis in idem* is not only recognized within Indonesia's national legal framework but is also widely accepted in international legal systems. At the international level, this principle is enshrined in various legal instruments, such as Article 14(7) of the International Covenant on Civil and Political Rights (ICCPR), which states that "no one shall be liable to be tried or punished again for an offense for which he has already been finally convicted or acquitted." A similar principle applies in the European Union's legal system, where *ne bis in idem* serves as a foundation to protect individuals from double prosecution across multiple jurisdictions. The European Convention on Human Rights (ECHR) also upholds this principle, with the primary aim of safeguarding individuals from unfair or illegitimate legal pursuits.³¹

A comparison of the application of this principle between Indonesia's legal system and international law highlights both similarities and differences. In international legal systems, the principle of *ne bis in idem* is applied more stringently, especially within the context of international courts such as the International Criminal Court (ICC), where an individual cannot be tried twice for the same crime, whether by national or international courts. In contrast, while the principle is also guaranteed under Indonesia's criminal law, its application in certain cases remains questionable—such as in instances of repeated suspect designation following the annulment of an initial designation by a pretrial judge.³² Therefore, it is essential to examine how this principle is implemented in both systems to identify potential gaps or violations of individual rights that need to be addressed within Indonesia's legal practices.

In the context of international law, there is a stronger emphasis on protecting individuals from the possibility of repeated unlawful legal actions. Once a case is concluded and decided by a court, no further proceedings for the same act are permissible at the international level. Meanwhile, in Indonesia, although the principle is codified in its legal framework, the allowance for repeated suspect designation after pretrial annulment reveals potential inconsistencies with international standards. Thus, this comparison is crucial in evaluating how Indonesia's legal system might adapt the principle of *ne bis in idem* to align more closely with stricter international standards.

3. Determining Whether Repeated Suspect Designation Violates the Principle of *Ne Bis In Idem*

The central question in this analysis is whether the repeated designation of a suspect following annulment by a pretrial judge constitutes a violation of the *ne bis in idem* principle. According to this principle, once an individual is declared not guilty or there is insufficient evidence to designate them as a suspect in pretrial proceedings, there is no legal basis to repeat the same legal action without substantial changes in the evidence or circumstances underlying the case.³³ Therefore, a repeated suspect designation is only permissible if new evidence or relevant circumstances emerge that were not previously considered. Without such new evidence, repeated suspect designation may be deemed a violation of the *ne bis in idem* principle, as it conflicts with an individual's right not to be subjected to the same legal action repeatedly without proper justification.

To determine whether such actions violate the principle, the purpose of pretrial proceedings must also be considered. Pretrial exists to provide suspects with a platform to challenge the legality of actions taken against them. If pretrial has already annulled a suspect designation on legitimate grounds, that decision should serve as a foundation for law enforcement to refrain from continuing baseless legal actions. Thus, repeated suspect designation without new evidence or developments in

³¹ T., V., Kozhemyakina. "The role of the ECHR Commissioner in the system of entities that ensure the protection of human and citizen rights and freedoms (administrative-legal aspect)." *Naukovij visnik Užgorods'kogo nacional'nogo universitetu*, undefined (2024). doi: 10.24144/2307-3322.2023.80.1.74

³² Baren, Sipayung., Andi, Wahyudi. "Pretrial Determination of Suspects in Corruption Cases: A Critical Analysis of Judge Sarpin Rizaldi's Decision and Its Implications for Combating Corruption in Indonesia." undefined (2024). doi: 10.59653/jpills.v2i03.1084

³³ Praperadilan, Juliet., Asril, Sebagai., Tersangka, Pidana., Korupsi., Bernandia, Hamsyah, Dinanti., Setiyono. "Praperadilan juliet asril sebagai tersangka pidana korupsi (putusan nomor 3/pid.pra/2021/pn.tpg)." *Amicus curiae*, undefined (2024). doi: 10.25105/amicus.v1i1.19609

the case should not be allowed, as it may violate the *ne bis in idem* principle and undermine the credibility of the justice system³⁴

In the context of criminal law, the *ne bis in idem* principle is also closely tied to the protection of individual rights against arbitrary legal actions. Therefore, repeated suspect designation not grounded in new evidence or significant changes in the legal context must be carefully scrutinized to ensure that individual rights are safeguarded. If investigators re-designate a suspect after annulment without clear justification, this could violate the *ne bis in idem* principle, which aims to prevent oppression of individuals and uphold the integrity of the legal process.³⁵

4. Penilaian Evaluation of How Indonesia's Legal System Can Accommodate the Conflict Between the *Ne Bis In Idem* Principle and the Need for Substantive Justice

Indonesia's legal system faces challenges in accommodating the conflict between the *ne bis in idem* principle and the need to deliver substantive justice, especially in cases involving repeated suspect designations. On one hand, the *ne bis in idem* principle aims to protect individuals from unlawful and unjust repetition of legal actions. On the other hand, there is a need to ensure that substantive justice is achieved, particularly when new and relevant evidence emerges to support a suspect designation.³⁶ Therefore, to reconcile these two principles, Indonesia's legal system must introduce clear and firm mechanisms outlining the conditions for repeated suspect designations following annulment in pretrial proceedings.

One potential solution is to implement stricter procedures in pretrial proceedings, requiring judges to scrutinize more thoroughly whether there are compelling reasons to continue the investigation after a suspect designation is annulled. Repeated suspect designations should be evaluated in the context of new, relevant evidence or significant changes in the facts of the case, rather than as an attempt to prolong legal actions without legitimate grounds. If no new evidence is presented, the *ne bis in idem* principle should take precedence to preserve the integrity and fairness of the legal process.³⁷

Consequently, Indonesia's legal system needs to formulate clearer provisions on how to address conflicts between these two principles, ensuring that the law delivers substantive justice while safeguarding individuals' rights against repeated legal actions. A careful and evidence-based approach to handling cases involving repeated suspect designations will be crucial to maintaining the balance between substantive justice and the protection of individual rights within Indonesia's criminal justice system.

B. Analysis of Weaknesses and Legal Gaps in Pretrial Processes

1. Identification of Regulatory Gaps Regarding Repeated Suspect Designation After Annulment

One major issue in the application of criminal law in Indonesia is the legal gap concerning repeated suspect designation following annulment by a pretrial judge. Theoretically, when a suspect designation is annulled in pretrial proceedings, the suspect's status should be considered invalid. However, in practice, there is no clear regulation that limits or governs the repeated designation of suspects whose status has previously been annulled. This regulatory ambiguity allows investigators to re-designate suspects without presenting new evidence or significant developments in the case.³⁸

Existing regulations do not explicitly outline procedures and requirements for repeated suspect designation after a pretrial decision. This creates legal uncertainty for both the individuals subject to investigation and law enforcement officials. Without clear provisions, repeated suspect designation can be carried out without adequate protection of suspects' rights. This gap could be

³⁴ Moses, Atem, Besong. "Exploring the Ne Bis in Idem principle: Material scope and application in EU law." World Journal Of Advanced Research and Reviews, undefined (2024). doi: 10.30574/wjarr.2024.22.2.1454

³⁵ Iryna, Podrez-Riapolova. "Legal ensuring the integrity of the innovation process in the conditions of Ukraine's approach to membership in the EU." Pravo ta innovacii, undefined (2024). doi: 10.37772/2518-1718-2024-1(45)-6

³⁶ Anthoni, Hatane., S., Nirahua., J., Tjiptabudy., H., Salmon. "Philosophy of Expanding Substantive Justice in Disputes on The Results of The Election of Governors, Regents and Mayors in The Constitutional Court." International journal of scientific and research publications, undefined (2023). doi: 10.29322/ijsrp.13.12.2023.p14439

³⁷ E., T., Alimkulov. "Problems of ensuring the rights of the suspect during the pre-trial investigation." Habarşy - Ál-Farabi atyndagy Qazaq memleketik ulttyq universiteti.Zań seriâsy, undefined (2023). doi: 10.26577/japj.2023.v106.i2.012

exploited to prolong legal processes unjustifiably, undermining the principles of justice in the criminal justice system

To address this issue, more detailed and strict regulations are required regarding suspect designation procedures following annulment in pretrial proceedings. These regulations should include stringent conditions that investigators must meet to re-designate someone as a suspect, such as the presence of significant new evidence or previously unconsidered facts. Such measures would enhance legal certainty for the public and prevent abuse of authority by law enforcement officials.³⁹

2. Lack of Legal Boundaries on the Use of New Investigation Orders

Another critical point is the absence of clear legal boundaries regarding the issuance of new investigation orders after the annulment of a suspect designation in pretrial proceedings. Investigation orders are legitimate tools in the investigative process, but in some cases, they can be used to continue investigations that have been annulled or to repeat legal actions against individuals who have been freed from suspect status. The lack of clear legal boundaries on the use of new investigation orders creates potential for abuse by investigators, who may issue such orders without valid reasons or sufficient evidence.

In practice, there are no clear provisions on when and how new investigation orders may be issued following the annulment of a suspect designation. This opens a legal gap that can be exploited to continue legal actions against individuals despite the prior annulment of their suspect status by a pretrial judge. Without clear boundaries, investigators may issue new investigation orders for non-objective reasons or even on weak grounds. Such actions can create legal uncertainty for the individuals under investigation and undermine the principles of justice in the judicial process.⁴⁰

To address this issue, stricter regulations on the issuance of new investigation orders following annulment in pretrial proceedings are necessary. Such orders must be based on relevant new evidence or genuinely new circumstances, not merely as a means to continue previously annulled investigations. Clearer provisions are essential to prevent abuse of authority by law enforcement officials and to ensure that individuals' rights are protected from unlawful or unfair actions.

3. Kelemahan Weak Control Mechanisms Over Investigators' Authority to Issue Investigation Orders

Another significant weakness in Indonesia's legal system is the lack of effective control mechanisms over investigators' authority to issue investigation orders. Investigators have the authority to issue such orders, which can initiate investigations and designate individuals as suspects. However, oversight of this authority remains weak, leading to the potential for abuse of power. In some cases, this authority may be used for personal interests or non-objective reasons, ultimately harming the individuals being investigated or designated as suspects.⁴¹

The absence of stringent oversight mechanisms allows decisions related to investigation orders to be made with little accountability. For example, investigators may issue new investigation orders following annulment without presenting adequate justification or evidence, yet current mechanisms are insufficient to prevent such abuses. This poses significant risks to individuals involved in the legal process, as they may face repeated legal actions without legitimate grounds.⁴²

To mitigate these risks, stronger control mechanisms must be introduced. These could include more intensive supervision by prosecutors or courts before investigators can issue new investigation orders. This would reduce the potential for abuse of authority and ensure that all decisions are based on strong and objective evidence. By strengthening oversight, the judicial process can operate more fairly, transparently, and with greater respect for individuals' rights.

³⁹ Oren, Gross. "Are Torture Warrants Warranted? Pragmatic Absolutism and Official Disobedience." *Minnesota Law Review*, undefined (2024).

⁴⁰ Y.I., Horinetsky, I.A., Nesterova, N.M., Replyuk. "Problems of protecting the rights of a person whose actions are under pre-trial investigation before being notified of suspicion." *Analitično-porivnāl'ne pravoznavstvo*, undefined (2024). doi: 10.24144/2788-6018.2024.03.91

⁴¹ Rocky, Marbun., Debby, Monica, Sinaga. "Prinsip kehati-hatian dalam menetapkan tersangka sebagai parameter pengujian tindakan penyidik melalui praperadilan." *Ensiklopedia Education Review*, undefined (2022). doi: 10.33559/eer.v4i2.717

⁴² Akbar, Sanjaya. "2. Kajian yuridis mengenai upaya hukum dan akibat hukum terhadap penetapan tersangka tanpa bukti yang cukup." *Jurnal Hukum Mimbar Justitia*, undefined (2022). doi: 10.35194/jhmj.v8i1.2457

4. Challenges in Implementing Comprehensive Reforms to the Pretrial Legal System

Despite awareness of the need to reform the pretrial legal system in Indonesia, the implementation of such changes faces numerous obstacles. One of the primary challenges is the limited resources and capabilities of legal institutions to carry out comprehensive reforms. Most proposed legal updates are often hindered by slow bureaucratic processes and a lack of deep understanding among law enforcement personnel about the importance of pretrial principles and the protection of suspects' rights.⁴³ Furthermore, changes to the legal system often require effective coordination among various state institutions, such as the police, prosecutors, and courts, which in practice, do not always operate as efficiently as expected.

Another challenge is resistance to change from within the judicial system itself. Some parties accustomed to existing procedures may feel comfortable with the status quo and fail to see the urgency for reform.⁴⁴ This can slow down the legal reform process, even though swift and comprehensive updates are essential to ensure a more just and transparent judicial system. Consequently, while there may be goodwill to improve the pretrial legal system, structural obstacles and the entrenched work culture within Indonesia's legal framework often become major barriers.

As a strategic step to overcome these challenges, more intensive education and outreach efforts are needed for all parties involved in pretrial processes, along with capacity-building initiatives for law enforcement officials to better understand and apply existing principles. Additionally, improved collaboration among state institutions is necessary to ensure the effective implementation of legal reforms. These updates must include strengthening oversight mechanisms, increasing transparency in legal processes, and enforcing strict accountability for violations of suspects' rights.⁴⁵

C. Recommendations for Improving the Legal System

1. Refining Regulations on the Limitations of Repeated Suspect Designations in the Criminal Procedure Code (KUHP)

An essential step in improving the legal system is refining the regulations governing repeated suspect designations in Indonesia's Criminal Procedure Code (KUHP). Current provisions do not clearly define whether investigators can re-designate an individual as a suspect after their status has been annulled in pretrial proceedings. Therefore, KUHP must include detailed rules on the procedures and conditions under which a second suspect designation is permissible, ensuring compliance with applicable legal principles.⁴⁶

Such refinements are crucial to providing legal certainty for both law enforcement and the public. It is recommended that regulations mandate significant new evidence or substantial changes in the case's circumstances before allowing a suspect to be re-designated. This ensures that repeated suspect designations are not arbitrary and remain consistent with substantive justice principles.⁴⁷ Moreover, these refinements will prevent potential abuse of authority by investigators, who might otherwise force suspect designations without a solid basis.

Additionally, the regulations should set a time limit between the annulment of a suspect designation and any subsequent re-designation. This measure is intended to avoid prolonged or unlawful legal actions that could infringe upon the rights of individuals involved in the legal process.

⁴³ Faturhman, Faturhman., Alvy, Anggreini., Revina, Tri, Deasti. "Membangun Sistem Hukum Pancasila Yang Merdeka Dari Korupsi Dan Menjunjung Hak Asasi Manusia (Ham)." Aladalah, undefined (2024). doi: 10.59246/aladalah.v2i3.873

⁴⁴ Willen, Vimelia., Arel, Agila., Agung, Prabowo. "Reactualizing Indonesia's Legal System: A Comprehensive Critique and Proposals for Reform." The International Journal of Humanities, Law, and Politics, undefined (2024). doi: 10.46336/ijhlp.v2i1.85

⁴⁵ Violation of the rights of the suspect (accused) in criminal proceedings (analysis of ECtHR practice)." undefined (2023). doi: 10.24144/2307-3322.2023.77.2.42

⁴⁶ Anna, Landina., Armen, Nersesian. "Ensuring certain rights and freedoms of suspects (accused) in criminal proceedings: problems of theory and practice." Pravova deržava, undefined (2022). doi: 10.33663/1563-3349-2022-33-498-506

⁴⁷ E., Andreeva., E.V., Bykadorova., Ilona, Viktorovna, Tertychnaya. "Certain aspects of ensuring the legitimate interests of the suspect in the process of criminal prosecution." Юридический вестник Дагестанского государственного университета, undefined (2022). doi: 10.21779/2224-0241-2022-41-1-154-159

Refining these regulations is essential to create a more just and transparent criminal justice system in Indonesia, protecting the rights of all parties involved.

2. Enhancing Oversight and Accountability of Investigators to Prevent Abuse of Authority

Strengthening oversight of investigators' authority is a critical aspect of improving Indonesia's criminal justice system. Weak oversight creates opportunities for abuse of power, especially in cases of repeated suspect designation after annulment in pretrial proceedings. Therefore, it is crucial to reinforce internal oversight mechanisms within the police, prosecution, and other law enforcement institutions. One proposed solution is to involve external oversight bodies, such as the Prosecutorial Commission or the Police Commission, with the authority to review investigative actions, including the issuance of investigation orders and suspect designations.⁴⁸

Accountability must also be strengthened by implementing more transparent systems for decision-making. For instance, investigators should be required to provide clear and legally justifiable reasons for suspect designations or issuing investigation orders. Oversight should not only be conducted internally but also involve independent external bodies to ensure objective supervision free from potential conflicts of interest.

Effective oversight reduces the potential for abuse of authority and ensures that every decision made by investigators adheres to principles of justice and human rights. Therefore, reforming the oversight system, including introducing transparent reporting mechanisms and involving multiple stakeholders, is vital to guarantee the accountability of every action taken by investigators.

3. Developing Technical Guidelines for Pretrial Judges in Handling Similar Cases

Developing technical guidelines for pretrial judges is crucial to ensure they have clear and structured directives when handling cases involving repeated suspect designations after annulment. Such cases can be highly complex, and without clear guidance, judges may struggle to deliver appropriate and fair decisions. These guidelines would provide a framework to help judges assess whether there is sufficient evidence to support a second suspect designation following annulment in pretrial proceedings.⁴⁹

The technical guidelines should include clear procedures for evaluating the validity of new evidence, assessing whether the new suspect status is justified based on emerging facts, and prioritizing the protection of suspects' rights. Additionally, the guidelines should offer advice on balancing individual rights with broader legal interests, including justice for society and the state. With clear guidance, judges can deliver more consistent and directed decisions.⁵⁰

It is important to involve legal experts and relevant institutions in drafting these guidelines, including academics and legal practitioners experienced in pretrial proceedings. This collaborative approach ensures that the guidelines are theoretically robust and align with judicial practices in Indonesia. Consequently, this effort will improve the quality of pretrial judges' decisions in cases involving repeated suspect designations.

4. Proposed Revision to Criminal Procedure Law to Address Legal Gaps in Pretrial and Repeated Suspect Designations

Revising Indonesia's criminal procedure law, particularly concerning pretrial proceedings and repeated suspect designations, is a crucial step to close existing legal gaps. The current ambiguity in criminal procedure provisions regarding repeated suspect designations creates uncertainty and injustice in the legal process. Therefore, a comprehensive revision of the articles in the Criminal

⁴⁸ I., Made., Wahyu, Chandra, Satriana., Ni, Made., Liana, Dewi., Ni, Putu., Ari, Seni, Antari. "Authority Of The Internal Investigating Prosecutor Make Arrest And Detention Performers Of Criminal Acts Of Corruption." *Journal of Sustainable Development Science*, undefined (2023). doi: 10.46650/jsds.5.2.1487.39-46

⁴⁹ Roger, S., Haydock., David, F., Herr., Jeffrey, W., Stempel. "Fundamentals of Pretrial Litigation." undefined (1985).

⁵⁰ Ali, Mukni., Elfrida, Ratnawati, Gultom. "Putusan sela dalam perkara gugatan perdata tentang masuknya pihak ketiga tanpa permohonan intervensi." *Ensiklopedia Education Review*, undefined (2024). doi: 10.33559/eer.v6i1.2567

Procedure Code (KUHP) that regulate suspects' rights in pretrial proceedings and the procedures to be followed by investigators and prosecutors is necessary.⁵¹

This revision should include clearer restrictions on the procedures for repeated suspect designations following annulments in pretrial proceedings. For instance, investigators should only be permitted to re-designate someone as a suspect if significant and relevant new evidence exists. Additionally, the revision must establish clear procedures for restarting investigations after a suspect designation has been annulled, including stricter oversight of every step taken by law enforcement officials. With these revisions, Indonesia's criminal justice system would become more effective and prevent unlawful suspect designations. Furthermore, the revisions would reinforce the principles of justice, legal certainty, and the protection of individual rights in criminal proceedings.⁵²

5. The Importance of Training Law Enforcement on Principles of Justice and Human Rights Protection

Training for law enforcement officers, including police, prosecutors, and judges, is a vital component of improving Indonesia's legal system. In cases of repeated suspect designation, law enforcement officials must be trained to thoroughly understand the principles of justice embedded in the criminal justice system. Additionally, they need a deep understanding of human rights protection, particularly regarding the rights of individuals involved in legal processes.⁵³

The training should include a comprehensive understanding of how suspects' rights must be safeguarded and respected, as well as strategies for law enforcement to avoid abuse of authority in investigations and suspect designations. It should also emphasize the importance of transparency and accountability in every decision made by law enforcement officers. With a stronger grasp of these principles, law enforcement officials will be better equipped to exercise their authority wisely and respond to the demands of justice for all parties.

Various stakeholders should be involved in organizing this training, including legal education institutions, non-governmental organizations, and international organizations experienced in promoting human rights. This collaboration ensures that the training is both comprehensive and relevant to the challenges currently facing Indonesia's legal system.

CONCLUSION

From the analysis of the repeated suspect designation phenomenon conducted by investigators using investigation orders previously annulled in pretrial proceedings, it can be concluded that there are several legal gaps that urgently need to be addressed in Indonesia's criminal justice system. Repeated suspect designation based on the same grounds and annulled investigation orders creates legal uncertainty and infringes upon the rights of the individuals involved. While pretrial proceedings aim to protect the rights of suspects and ensure legal certainty, such practices highlight a discrepancy between legal theory and its practical application. Pretrial processes that are not followed by the renewal of evidence or substantial changes may lead to violations of justice principles, which mandate the protection of human rights and the prevention of abuse of authority by law enforcement officials. The relevance of this research is significant in the context of legal reforms aimed at establishing a more transparent and accountable legal system. Law enforcement must

⁵¹ E., Andreeva, E.V., Bykadorova, Ilona, Viktorovna, Tertychnaya. "Certain aspects of ensuring the legitimate interests of the suspect in the process of criminal prosecution." *Юридический вестник Дагестанского государственного университета*, undefined (2022). doi: 10.21779/2224-0241-2022-41-1-154-159

⁵² Natalia, Nazyrova. "Gaps and Conflicts in Certain Norms of Criminal Procedure Legislation Related to the Final Stage of Pre-Trial Proceedings." *Sibirskie ugovolno-processual'nye i kriminalističeskie čteniâ*, undefined (2023). doi: 10.17150/2411-6122.2023.1.47-56

⁵³ E., T., Alimkulov. "Problems of ensuring the rights of the suspect during the pre-trial investigation." *Habarşy - Âl-Farabi atyndagy Qazaq memlekettik ulttyq universiteti.Zaň seriâsy*, undefined (2023). doi: 10.26577/japj.2023.v106.i2.012

be more rigorous in ensuring that every suspect designation complies with clear legal procedures and is based on valid evidence. Therefore, it is essential to revise criminal procedural laws governing repeated suspect designations and strengthen oversight of investigators to prevent abuse of authority. With these reforms, Indonesia's legal system is expected to achieve greater legal certainty and enhance the protection of individual rights in every judicial process. Based on the findings of this research, several key recommendations are proposed to enhance Indonesia's criminal justice system. First, a comprehensive revision of the Criminal Procedure Code (KUHP) is urgently needed, particularly to address the provisions governing repeated suspect designations after annulment in pretrial proceedings. This revision should establish clear criteria for permitting a second suspect designation, such as the presence of valid new evidence or significant changes in the case, ensuring legal certainty for suspects and preventing illegitimate actions that may harm individual rights. Second, strengthening oversight mechanisms for investigators is crucial, with intensified external supervision by independent bodies like the Prosecutorial Commission or the Police Commission to ensure accountability in all investigative actions. Third, continuous training and education for law enforcement officials are essential to enhance their understanding of justice principles, human rights, and transparency, fostering a culture of fairness and accountability in legal practices. Lastly, clear technical guidelines for pretrial judges must be established to ensure consistent and fair rulings, upholding justice uniformly across the judicial system. Implementing these measures will enable Indonesia's criminal justice system to better reflect the principles of justice and effectively safeguard human rights.⁵⁴

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⁵⁴ Yulia, Dessani., Bella, Afrilia., Sismi, Nelwati. "Building Pillars of Justice and Order: Uncovering the Challenges and Solutions of Equitable Law Enforcement in Indonesia." *Hakamain*, undefined (2023). doi: 10.57255/hakamain.v2i1.319

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