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PROTECTION OF THE RIGHTS OF SUSPECTS DURING THE DETENTION PROCESS BASED ON THE CRIMINAL PROCEDURE CODE

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Abstract

As a nation governed by the rule of law, Indonesia has an obligation to guarantee the protection of human rights for every citizen, including those facing criminal proceedings, particularly during the detention phase, which constitutes the most intrusive form of coercion against individual liberty. This study aims to examine the regulations governing the rights of suspects during the detention process as specified in the Criminal Procedure Code and to analyze the forms of legal protection provided for these rights. This study employs a normative legal research method using both a statutory and a conceptual approach, with primary legal sources consisting of Law No. 20 of 2025 on the Criminal Procedure Code, the 1945 Constitution of the Republic of Indonesia, Law no. 48 of 2009 on Judicial Power, and the International Covenant on Civil and Political Rights. The research findings indicate that the New Criminal Procedure Code comprehensively regulates the rights of suspects in Article 142, covering the right to legal counsel from the arrest and detention stages, the right to contact family members, the right to health care, and the right to file a pretrial motion—the scope of which (both in terms of subject matter and eligible parties) has been significantly expanded—accompanied by stricter detention requirements through three cumulative conditions: objective, subjective, and formal criteria, including the mandatory appointment of a Preliminary Examination Judge. As for the forms of legal protection for the rights of suspects based on Philipus M. Hadjon's theory, they encompass two dimensions: preventive protection, realized through the mandatory appointment of a Preliminary Examination Judge, the guarantee of legal aid from the outset of the investigation, an absolute prohibition on torture as a non-derogable right, and a multi-layered oversight system through internal and external channels, as well as repressive protection realized through the strengthening of pretrial proceedings—whose scope of application has been significantly expanded—and mechanisms for compensation and rehabilitation, which are now regulated in a separate chapter. Collectively, these reflect a paradigm shift in Indonesia's criminal justice system toward one that genuinely upholds the protection of suspects' human rights.

Keywords: Human Rights, Rights of Suspects, Detention, Criminal Procedure Code (KUHAP), Legal Protection

INTRODUCTION

Indonesia as a state of law based on Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia has a constitutional obligation to guarantee the protection of human rights for every citizen, including those facing criminal legal proceedings. This guarantee is explicitly stated in Article 28D paragraph (1) which guarantees the right to fair legal certainty, Article 28G paragraph (1) which guarantees the right to personal protection and freedom from torture, and Article 28I paragraph (1) which emphasizes that the right not to be tortured is a right that cannot be reduced under any circumstances or what is known as non-derogable rights. In the context of a state of law, human rights protection is an important aspect that must be guaranteed by the national legal system, where the state has an obligation to use legal, social, and public policy instruments so that human rights are not only recognized but also effectively protected (Lia et al., 2025). In the realm of criminal law, this constitutional guarantee is realized through the regulation of the rights of suspects in the detention process which is the stage most vulnerable to human rights violations because it involves restrictions on a person's freedom before a court decision has permanent legal force (Mulyadi, 2024). Detention, as the most intrusive coercive measure against individual freedom, must meet strict and limited requirements stipulated by law, be proportionate, and be carried out within a measurable timeframe. Restrictions on freedom that do not comply with legal provisions or exceed the established time limit constitute a serious violation of human rights and can be categorized as arbitrary detention, potentially causing real harm to the suspect, both physically, psychologically, and socially (Siahaan, 2022). In the context of international law, Indonesia has ratified *the International Covenant on Civil and Political Rights* through Law Number 12 of 2005, which, among other things, regulates the right of every person detained to be promptly informed of the reasons for their detention, the right to trial within a reasonable time, and the prohibition of arbitrary detention, thus creating a positive obligation for Indonesia to align its domestic legislation with international human rights standards (Ardhiwisastra, 2020). Responding to the weaknesses in existing regulations, the government and the House of Representatives passed Law Number 20 of 2025 concerning the Criminal Procedure Code which came into effect on January 2, 2026 as a replacement for the old Criminal Procedure Code which was deemed not to fully guarantee the protection of suspects' rights comprehensively, particularly in the mechanism for monitoring detention and limiting the duration of detention (Nasution & Prayudi, 2019).

However, the enactment of the new regulation does not automatically guarantee the fulfillment of suspects' rights in practice. The reality in Indonesia still shows various problems in detention practices, such as excessive detention, minimal access for suspects to legal counsel, and weak pretrial mechanisms in overseeing the legality of detention, indicating a gap between norms and practice that needs to be addressed through strengthening judicial oversight mechanisms (Hartono & Wahyuni, 2023). In the practice of criminal law enforcement, the detention process still frequently results in violations of suspects' rights, particularly the right to obtain legal assistance, contact family, receive health services, and receive humane treatment. Several studies have shown that these violations are not only administrative and procedural in nature, but can also include acts of physical violence during the detention process, thus confirming the continuing gap between the norms of the Criminal Procedure Code (KUHAP) and practice in the field.

This gap is also reflected in the condition of detention facilities, which are structurally unable to guarantee the fulfillment of the basic rights of suspects. Based on data from the Directorate General of Corrections presented in a Hearing with Commission XIII of the House of Representatives of the Republic of Indonesia in June 2026, the number of inmates in correctional institutions and state detention centers throughout Indonesia reached 272,572 people, while the available capacity was only 146,860 people, resulting in a national *overcrowding rate* of 86 percent (Directorate General of Corrections, 2026). This condition was even worse, where according to data from the Directorate General of Corrections until June 2025, overcrowding reached 89.64 percent with the number of inmates reaching 279,537 people with a ratio of one officer guarding 40 inmates (Media Indonesia, 2025). The Director General of Corrections officially acknowledged that overcrowding conditions have resulted in a uniform pattern of corrections and have not been adjusted to the level of risk, health conditions, and vulnerabilities of each inmate, which directly impacts the obstruction of the fulfillment of the right to adequate health services, the right to humane treatment, and the right to communicate with family as guaranteed by the Criminal Procedure Code (Ministry of Immigration and Corrections, 2026). This condition is in line with the assessment of the National Commission on Human Rights which states that overcrowding in state detention centers is a source of structural human rights violations because it systematically hinders the fulfillment of the basic rights of suspects that should be protected by law.

The gap between the normative guarantees that have been formulated comprehensively in the New Criminal Procedure Code and the reality of the treatment received by suspects in the field is what prompted this research. This research aims to examine two fundamental issues, namely how the New Criminal Procedure Code regulates the rights of suspects in the detention process and what form of legal protection is provided for these rights, using normative legal research methods through a statutory approach and a conceptual approach based on the legal protection theoretical framework of Philipus M. Hadjon which distinguishes legal protection into preventive and repressive forms (Hadjon, 1987).

LITERATURE REVIEW

Human rights are rights inherent in every human being since birth, are universal, and cannot be reduced by anyone including the state. According to John Locke, human rights are natural and absolute, including the right to life, the right to liberty, and the right to freedom, all of which are naturalistic status so that they cannot be revoked by any power (Bazary et.al 2024). In the context of national law, the protection of human rights is constitutionally regulated in Article 28A to Article 28J of the 1945 Constitution of the Republic of Indonesia, and is legally affirmed in Article 1 number 1 of Law Number 26 of 2000 concerning the Human Rights Court which states that human rights are a set of rights inherent in the nature and existence of humans as creatures of God Almighty which must be respected, upheld, and protected by the state, law, and government. In the field of criminal law, human rights have a very important position considering that the process of enforcing criminal law is very vulnerable to potential violations of individual basic rights, so that the state is obliged to ensure that the protection and fulfillment of human rights is implemented in a real manner as mandated in Article 28I paragraph (4) of the 1945 Constitution of the Republic of Indonesia.

Regarding the concept of a suspect, Article 1 number 14 of Law Number 20 of 2025 defines a suspect as a person who, due to his actions or circumstances, is reasonably suspected of being the perpetrator of a crime based on at least two pieces of evidence. Hamzah states that a suspect is someone who, based on sufficient preliminary evidence, is reasonably suspected of being the perpetrator of a crime so that further legal proceedings can be carried out against him (Hamzah, 2008), while Harahap defines it as an individual who has been determined by investigators as a party suspected of committing a crime based on sufficient preliminary evidence so that he is attached to the rights and obligations in the criminal justice process (Harahap, 2012). The most fundamental is that a suspect is always protected by the principle of the presumption of innocence so that he may not be treated as a guilty person before a court decision has permanent legal force (Luntungan & Rusdi, 2023). The New Criminal Procedure Code strengthens this by requiring that the letter of determination of a suspect contain complete identity, description of evidence, and the rights of the suspect, which must be notified no later than one day after it is issued (Nugraha, 2025).

Detention is defined in Article 1 paragraph (33) of Law Number 20 of 2025 as the placement of a suspect or defendant in a certain place by an investigator, public prosecutor, or judge with their decision. The purpose of detention is to ensure the smooth process of investigation, prosecution, and examination in court, including preventing the suspect from fleeing, destroying evidence, and repeating the crime (Dewi, 2021). Detention cannot be carried out arbitrarily but must meet objective requirements in the form of a type of crime that is threatened with imprisonment of five years or more, and subjective requirements in the form of a justifiable concern that the suspect will flee or destroy evidence (Hamzah, 2014). Thus, detention is not merely a repressive measure, but a proportional legal instrument to maintain the integrity of the judicial process while still protecting the rights of the suspect as guaranteed by universally applicable human rights principles (Harahap, 2012).

The Criminal Procedure Code (KUHAP) is the primary foundation for criminal law enforcement in Indonesia. The reform of Law Number 20 of 2025 marks a fundamental paradigm shift from a system that treats suspects solely as objects of examination to one that recognizes suspects as legal subjects with rights and dignity (Dewi et al., 2025). The Criminal Procedure Code (KUHAP) contains several fundamental principles that serve as the basis for protecting suspects' rights, including the presumption of innocence, the principle of a speedy, simple, and inexpensive trial, the principle of equality before the law, the principle of legal aid, which guarantees every suspect access to legal counsel, the principle of accusator, which positions suspects as subjects rather than objects of examination, and the principle of compensation and rehabilitation for those detained without justification (Jannah, 2024). These principles are not merely normative formulations on paper but rather principles that must be consistently implemented by every law enforcement officer at every stage of the criminal justice process (Hartanto et al., 2023).

To analyze how the rights of the suspect are guaranteed and protected by law, this study uses the theory of legal protection as the main analytical framework. Legal protection can generally be understood as the state's efforts through a set of rules to provide certainty and security for every citizen, where Satjipto Rahardjo defines it as providing protection to human rights that are harmed so that society can enjoy all rights granted by law (Rahardjo, 2000). Philipus M. Hadjon distinguishes legal protection into two main forms that serve as analytical tools in this study. The first is preventive legal protection provided before the violation occurs with the aim of preventing disputes through the formation of clear regulations, the establishment of standard procedures that must be adhered to by law enforcement officers, and regular supervision by authorized institutions. The second is repressive legal protection provided after the violation occurs in order to resolve and restore the situation through judicial mechanisms such as pretrial or the provision of compensation and rehabilitation to suspects whose rights have been violated (Hadjon, 1987). Comprehensive legal protection for suspects can only be realized if both forms of protection operate synergistically and harmoniously, supported by a strong legal system, law enforcement officers with integrity, and high public legal awareness (Soekanto, 1983).

METHOD

This research uses a normative (doctrinal) legal research method, which focuses on the study of written legislation with secondary data obtained through the review of legal documents. The analysis is carried out qualitatively with a deductive reasoning model, namely drawing conclusions from general legal provisions to more specific problems. This research uses two approaches, namely the statute approach , which examines all regulations relevant to the legal issues being studied, and the conceptual approach , which examines legal theory and doctrine to complete the understanding of issues that have not been clearly regulated in legislation. The legal materials used consist of three types: primary legal materials, namely binding legislation and the main basis for analysis; secondary legal materials, in the form of books, journals, and other legal literature that provide interpretation and context; and tertiary legal materials, such as legal dictionaries and encyclopedias, which help explain technical terms in the research.

RESULTS AND DISCUSSION

Regulation of the Rights of Suspects in the Detention Process Based on the Criminal Procedure Code

The regulation of suspects' rights in the detention process according to Law Number 20 of 2025 concerning the Criminal Procedure Code can be understood through two main dimensions that are interrelated and inseparable, namely the regulation of the conditions and procedures for detention as a limitation of state authority, as well as the regulation of the rights that remain attached to the suspect during detention. These two dimensions are two sides of a unified system designed to ensure that detention is carried out legally, proportionally, and while still respecting the human dignity of the suspect as a legal subject protected by the principle of presumption of innocence. Regarding the conditions for detention, the New Criminal Procedure Code regulates strictly and limitatively that detention can only be carried out if three conditions are cumulatively met. The objective conditions are regulated in Article 100 paragraph (1) of Law Number 20 of 2025 which requires that the suspected crime must be threatened with imprisonment of five years or more, or be included in certain crimes that are limitedly stated in the law even though the threat is less than five years. Subjective conditions require the existence of legally justifiable concerns that the suspect will flee, damage or eliminate evidence, and/or repeat the same crime. Formal conditions which are the most revolutionary innovation in the New Criminal Procedure Code are regulated in Article 100 paragraph (3) of Law Number 20 of 2025, namely that every detention must receive a decision from the Preliminary Examining Judge which contains the suspect's identity, reasons for detention, a brief description of the case, and place of detention, and must be notified to the suspect's family or guardian no later than one day from the date of detention.

Unlike the old Criminal Procedure Code, which allowed investigators to detain individuals independently without judicial oversight from the outset, the New Criminal Procedure Code introduces a judicial filter that ensures there is no arbitrary detention without a strong legal basis. Regarding the rights of suspects during detention, the New Criminal Procedure Code formulates them comprehensively and centrally in Chapter VI, Article 142 of Law Number 20 of 2025, in contrast to the old Criminal Procedure Code, which regulated them in a scattered manner. The first and most fundamental right is the right to receive legal counsel, which is guaranteed from the stage of arrest and detention, not only at the trial stage as was the practice under the old Criminal Procedure Code. The New Criminal Procedure Code even emphasizes that advocates have the right and obligation to intervene if investigators intimidate or ask questions that are intended to trap the suspect during the examination, and information obtained through such means cannot be used as valid evidence.

For suspects who are economically disadvantaged, the state is obliged to provide free legal aid through designated legal aid institutions as stipulated in Articles 149 to 155 of Law Number 20 of 2025, so that access to justice should not be limited by a person's economic ability. The second right is the right to continue to be able to communicate and be visited by family as stipulated in Article 142 of Law Number 20 of 2025. Detention only limits the physical freedom of the suspect, but should not isolate the suspect from those closest to him. This right has two important dimensions, namely the humanitarian dimension which concerns the psychological and emotional needs of the suspect during detention, and the practical dimension which allows the suspect to access the support and assistance needed in facing the legal process. The obligation to notify the family in Article 100 paragraph (3) is a direct derivative of this right which reflects the state's recognition that detention not only impacts the suspect individually but also has implications for the lives of those closest to him. The third right is the right to receive adequate health services which is regulated in Article 142 of Law Number 20 of 2025 and has a constitutional basis in Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

The state, through law enforcement officers and state detention center administrators, is fully responsible for ensuring the physical and mental health of suspects is maintained during detention, including the right to receive regular medical examinations, necessary medication, and visits from a personal doctor. Neglecting this right is not only a violation of the Criminal Procedure Code, but also a constitutional violation of Article 28G of the 1945 Constitution and potentially a violation of *the Convention Against Torture* , which Indonesia has ratified through Law Number 5 of 1998. The fourth right is the right to file a pretrial motion, regulated in Articles 158 to 164 of Law Number 20 of 2025 as a judicial control mechanism that allows suspects to question the validity of any coercive action without having to wait for a decision on the main case. The New Criminal Procedure Code significantly expands the object of pretrial motions to now include the legality of suspect determination, arrest, detention, search, seizure, termination of investigation or prosecution, postponement of case handling without valid reasons, and suspension of detention. In addition, based on Article 1 number 15, the subjects who have the right to file a pretrial motion are expanded to include not only the suspect and his family, but also the victim, the reporter, and the advocate or legal aid provider who is authorized, so that the pretrial motion now functions as a truly effective and substantive instrument of judicial control.

These findings align with interviews with investigators in the field, which confirmed that in law enforcement practice, the suspect's rights as stipulated in Article 142 of the New Criminal Procedure Code are fully implemented during the examination phase. According to investigators, suspects have the right to undergo examination immediately without unreasonable delay, to receive legal assistance throughout the process, and to be clearly informed in understandable language regarding their rights and legal status. Investigators also emphasized that the police detention period is 20 days, and if this period is exceeded without a valid extension, the suspect becomes a free detainee by law. Furthermore, suspects have the right to provide information freely without pressure, coercion, or violence, both during interrogation and during general examinations. Legal assistance is currently provided to suspects from the examination stage, and legal counsel has the authority to refuse questions that could potentially pressure or burden their clients psychologically. This field data shows that the normative regulations in the New Criminal Procedure Code are not merely textual in nature, but have begun to be translated into law enforcement practices that better respect the rights of suspects (Ardiansyah, Interview, June 4, 2026).

The entire regulation of the suspect's rights is based on a layered legal basis. At the constitutional level, it is based on Article 28D paragraph (1), Article 28G paragraph (1), and Article 28I paragraph (1) of the 1945 Constitution of the Republic of Indonesia. At the statutory level, it is based on Law Number 20 of 2025, specifically Article 1 number 14 concerning the definition of a suspect, Article 100 concerning detention requirements, Article 142 concerning the rights of suspects, Articles 149 to 155 concerning legal aid, and Articles 158 to 164 concerning pre-trial, and is strengthened by Article 9 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power. At the international level, it is in line with Article 9 and Article 14 of the International Covenant on Civil and Political Rights ratified through Law Number 12 of 2005, the Convention Against Torture ratified through Law Number 5 of 1998, and the Nelson Mandela Rules adopted by the United Nations in 2015. This multi-layered protection system ultimately rests on one fundamental principle that is the soul of the New Criminal Procedure Code, that the suspect is a human being with dignity and the state is obliged to ensure that dignity remains protected at every stage of the detention process without exception.

Forms of Legal Protection for the Rights of Suspects in the Detention Process According to the Criminal Procedure Code

After the previous section outlined how the Criminal Procedure Code regulates the rights of suspects during the detention process, this section will address the second problem formulation, namely how these rights are guaranteed and protected by law. While the first problem formulation focused more on what is regulated by law, this second problem formulation focuses more on how the law works to ensure that these regulations do not remain merely on paper but are actually realized in everyday law enforcement practices.

To answer this question systematically and structured, it is necessary to use an appropriate theoretical framework as an analytical tool. The theory of legal protection proposed by Philipus M. Hadjon is the most relevant analytical framework in the context of this research. According to Hadjon, legal protection is the protection of human dignity and recognition of human rights held by legal subjects based on legal provisions from arbitrariness. Furthermore, Hadjon distinguishes legal protection into two main forms: preventive legal protection, which aims to prevent violations before they occur, and repressive legal protection, which aims to resolve and restore the situation if violations have already occurred.

If all the protection instruments available in the New Criminal Procedure Code are examined using Hadjon's framework, then legal protection for suspects' rights during the detention process can be mapped into two broad categories that operate simultaneously and complement each other. These two are not alternative options that replace each other, but rather two layers of defense that work together in an integrated system. The first layer works to prevent violations from occurring in the first place, and the second layer takes over the protective function if the first layer fails and the violation has already occurred. This combination of these two layers is what makes the protection system in the New Criminal Procedure Code comprehensive and not merely reactive.

1. Preventive Legal Protection

Preventive legal protection is implemented through a series of instruments designed to safeguard the rights of suspects before a violation occurs. These instruments act as a shield, preventing law enforcement officials from exceeding their statutory authority. The New Criminal Procedure Code (KUHAP) includes several complementary preventive protection instruments.

a. Determination of the Preliminary Examining Judge

The most revolutionary preventive instrument in the New Criminal Procedure Code is the obligation to determine the Preliminary Examining Judge for every detention. Before the New Criminal Procedure Code came into effect, investigators had extensive authority to detain individuals independently without adequate judicial oversight from the outset. This situation opened up wide room for arbitrary detention because there was no independent review mechanism before the detention was carried out. With the enactment of the New Criminal Procedure Code, every detention must first be reviewed by the Preliminary Examining Judge before it can be carried out. The Preliminary Examining Judge acts as a judicial filter, assessing whether the conditions for detention as stipulated in Article 100 of Law Number 20 of 2025 have been cumulatively met. If the judge deems these conditions not met, then the detention cannot be carried out even if the investigator wishes it.

This mechanism is a concrete manifestation of the principle of judicial scrutiny which makes the court the first guardian of the suspect's rights even before the main trial process begins. The existence of a Preliminary Examining Judge thus fundamentally changes the relationship between the suspect and law enforcement officials. If previously the suspect was in a very weak position because there was no independent party to oversee the investigator's detention decision, now there is a judge who plays a role as a balance of power who ensures that detention is only carried out on a strong and accountable legal basis.

b. The Right to Obtain Legal Aid from the Start

The second highly strategic preventive instrument is guaranteeing the suspect's right to legal assistance from the initial stages of the investigation. The presence of an advocate from the investigation stage is a form of preventive protection that works directly in the field because through optimal legal assistance, the suspect can know his rights in real time, prevent unlawful actions by officials during the investigation, and ensure that every examination process is carried out in accordance with procedures established by law. The New Criminal Procedure Code goes even further by giving advocates the right to actively intervene if investigators intimidate or ask questions that are intended to ensnare the suspect. This means that advocates no longer simply sit idly by and watch the examination, but have the active authority to stop any examination that violates the suspect's rights immediately, rather than waiting until the examination is complete and the violation has already occurred.

For suspects who are economically disadvantaged, the state is obliged to provide free legal aid through designated legal aid institutions as stipulated in Articles 149 to 155 of Law Number 20 of 2025. This provision ensures that preventive protection through legal aid is not the exclusive right of the wealthy, but rather a guarantee that applies to all levels of society regardless of their economic capabilities. Thus, access to legal protection should not be something that can only be enjoyed by those who can afford to pay.

c. The Prohibition of Torture as an Absolute Norm

The third preventive instrument is the prohibition on torture and degrading treatment of suspects, which is absolute and cannot be excluded under any circumstances. This prohibition is regulated in Article 142 of Law Number 20 of 2025 and has a constitutional basis in Article 28I paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which emphasizes that the right not to be tortured is a human right that cannot be reduced under any circumstances, or what is known as *non-derogable rights* . What makes this prohibition special as a preventive instrument is its absolute nature. There is no emergency, investigative interest, or any reason whatsoever that can justify torture or degrading treatment of suspects. There is no room for exceptions. This means that suspects are absolutely protected from such actions without needing to prove that the action is disproportionate or unnecessary. Furthermore, this prohibition on torture has a dual binding force. It is not only a procedural legal norm that regulates examination procedures, but also a material criminal norm that can impose criminal sanctions on officers who violate it. This double binding force makes the prohibition of torture an instrument with very strong deterrent power because the legal consequences for violators are multi-layered, ranging from implications for ongoing legal proceedings to the possibility of separate criminal prosecution.

d. Layered Containment Surveillance System

The fourth preventive instrument is a multi-layered system of oversight of detention, implemented through two complementary channels: internal oversight and external oversight. Internal oversight is conducted within the law enforcement apparatus itself through a hierarchical command mechanism. Every detention action taken by investigators must be accountable to their superiors and subject to review if there are indications of irregularities. Investigators are obliged to inform suspects of their rights immediately after arrest or detention, ensure suspects have access to legal counsel of their choice, and periodically record and report on the suspect's condition as a form of procedural accountability. This mechanism ensures vertical accountability within the law enforcement institution itself.

External oversight is carried out by independent institutions mandated to ensure that the rights of suspects are not violated during the detention process. The National Human Rights Commission is authorized to receive complaints from suspects or their families, conduct investigations into alleged human rights violations during the detention process, and recommend necessary actions to the authorities as stipulated in Law Number 39 of 1999 concerning Human Rights. The Witness and Victim Protection Agency plays a role in providing protection for suspects who experience violence, threats, or pressure during the detention process as stipulated in Law Number 13 of 2006. This combination of internal and external oversight ensures that there are many eyes monitoring the implementation of detention from various directions so that the opportunity for violations to occur can be minimized as much as possible.

Repressive Legal Protection

Repressive legal protection acts as a second layer, taking over when the first layer fails and a violation of the suspect's rights has already occurred. Unlike preventive protection, which is preventative in nature, repressive protection is restorative in nature, namely restoring the situation to its proper condition and providing compensation for the losses suffered by the suspect. The New Criminal Procedure Code (KUHAP) provides several repressive protection instruments.

a. Pretrial as an Instrument of Judicial Control

Pretrial is the most important and most direct repressive protection instrument in responding to violations of suspects' rights during the detention process. Through pretrial proceedings regulated in Articles 158 to 164 of Law Number 20 of 2025, suspects have a clear legal path to question the validity of any coercive measures taken against them without having to wait for a decision on the main case, which can take a very long time. The district court, through the pretrial mechanism, functions as the final guardian or guardian of the suspect's rights with the authority to assess the validity of any coercive measures, order the release of the suspect if the detention is proven to be illegal, and issue a decision that provides legal certainty regarding the suspect's status in the ongoing criminal justice process. This means that if a suspect feels that the detention carried out against him does not meet the requirements stipulated by law, he can immediately file a pretrial application and the court will decide on the application in a relatively short time.

In the New Criminal Procedure Code, the power of pretrial as a repressive protection instrument is strengthened through two very significant expansions. First, the object of pretrial is expanded, which now includes the legality of suspect determination, arrest, detention, search, confiscation, termination of investigation or prosecution, postponement of case handling without valid reason, and suspension of detention. This expansion closes loopholes previously exploited by authorities to carry out arbitrary actions that cannot be questioned through pretrial because they are not included in the objects regulated by the old

Criminal Procedure Code. Second, the subjects entitled to file a pretrial are expanded based on Article 1 number 15, namely not only the suspect and their family but also victims, reporters, and advocates or authorized legal aid providers. This expansion makes pretrial a more accessible instrument and does not depend entirely on the suspect's own ability to file.

A concrete action a suspect can take through the pretrial process is to file a petition with the local District Court, stating the reasons underlying their objection to the detention. The court will then examine the petition, and if the detention is proven unlawful, it can order the suspect's immediate release from custody.

b. Compensation and Rehabilitation

If the detention is proven to be illegal or erroneous, the suspect has the right to receive two forms of recovery at once, namely compensation and rehabilitation, which are now specifically regulated in Chapter XIII Articles 173 to 188 of Law Number 20 of 2025. Compensation is material compensation given to the suspect for losses suffered due to the actions of law enforcement officers that are illegal or not in accordance with the provisions of the law. Losses that can be compensated include two types. The first is a real loss that can be calculated financially, for example, business or job losses due to the suspect being unable to carry out his activities while undergoing illegal detention. The second is immaterial losses in the form of lost time and opportunities during unlawful detention, which although difficult to measure financially, are still real losses that must be recognized and compensated by the state.

Rehabilitation is the restoration of the good name, status, and dignity of a suspect who has been tarnished by unlawful actions by authorities. This is crucial because the impact of being named a suspect and placed in detention is not only physical and financial, but also has a very serious impact on a person's reputation and social dignity in the eyes of family, colleagues, and the wider community. Rehabilitation gives a suspect the right to receive official reparation for their tarnished reputation, so that their status is restored to the state it was in before the unlawful detention. The inclusion of compensation and rehabilitation in a separate chapter in the New Criminal Procedure Code represents a significant improvement over the old Criminal Procedure Code, which regulated these matters in a scattered and less systematic manner. This centralized regulation makes it easier for suspects to understand and access their rights to reparation and clarifies the procedures and mechanisms that must be followed.

Human Rights Protection for Suspects in a Broader Perspective

The legal protection dimension for the rights of suspects cannot be separated from a broader perspective, namely the perspective of human rights protection which is the most fundamental normative foundation of the entire criminal justice system based on the rule of law. Human rights protection for suspects stems from the universal recognition that every human being, regardless of their legal status, has inherent rights from birth that cannot be revoked by anyone, including the state. The status of a suspect does not diminish a person's humanity, and therefore must not diminish their fundamental rights. In the context of national law, human rights protection for suspects is based on Articles 28A to 28J of the 1945 Constitution of the Republic of Indonesia which comprehensively regulates human rights guaranteed by the constitution. Law Number 39 of 1999 concerning Human Rights in Articles 33 and 34 specifically emphasizes the prohibition of arbitrary arrest, detention, torture, or punishment that degrades human dignity. These provisions serve as a normative umbrella that covers all provisions on the rights of suspects in the Criminal Procedure Code so that the protection provided has an inviolable constitutional basis.

At the international level, human rights protection for suspects is strengthened by several international legal instruments that have been ratified or adopted by Indonesia. The International Covenant on Civil and Political Rights, ratified through Law Number 12 of 2005, guarantees the right to liberty and security of person, as well as the right to a fair trial. The Convention Against Torture, ratified through Law Number 5 of 1998, requires states to take effective legislative, administrative, and judicial measures to prevent torture. The Nelson Mandela Rules, adopted by the United Nations in 2015, establish minimum standards for the treatment of persons deprived of their liberty, including suspects in pre-trial detention. These standards include the physical conditions of detention, access to medical care, the right to communicate with family and legal counsel, and the prohibition of cruel and inhumane treatment.

All these national and international legal instruments collectively form a multi-layered and mutually reinforcing human rights protection system. If national laws do not provide adequate protection, international standards can serve as a benchmark for measuring and encouraging improvements. If law enforcement officials violate the provisions of the Criminal Procedure Code (KUHAP), suspects can file complaints with independent institutions mandated to uphold human rights standards. This is what makes this protection system truly comprehensive, as it offers multiple avenues for suspects to seek protection.

The Role of Law Enforcement Officials and Judicial Institutions

All of the protection instruments outlined above will be meaningless without the active role and concrete commitment of law enforcement officials and judicial institutions in realizing them. Even perfect legal norms will remain mere writing on paper if not implemented in good faith by those entrusted with their enforcement. Law enforcement officials, including police investigators, public prosecutors, and judges, bear the primary responsibility for ensuring that every action during the detention process is based on applicable legal provisions and respects the suspect's fundamental rights. Investigators, as the spearheads who deal directly with suspects, are obligated to inform suspects of their rights immediately upon arrest or detention, ensure suspects have access to legal counsel of their choice, ensure detention conditions meet humane standards, and periodically record and report on suspects' conditions as a form of procedural accountability.

Judicial institutions, through the pretrial mechanism, serve as the final guardian of suspects' rights in the criminal justice system. Judges in pretrial proceedings have the authority to assess the validity of any coercive measures, order the suspect's release if the detention is proven unlawful, and issue a decision that provides legal certainty regarding the suspect's status. This responsibility is significant because the pretrial decision determines whether an individual must continue to endure restrictions on their freedom that may be unlawful or whether they can be released immediately. Therefore, the effectiveness of legal protection for suspects' rights during detention depends heavily on two interrelated factors. First, the quality of the legal norms governing it, which have been significantly improved through the New Criminal Procedure Code. Second, the commitment, integrity, and professionalism of all law enforcement officials and judicial institutions in carrying out their functions in accordance with the mandates granted by law. Without these two factors working together, even a comprehensive protection system will be unable to provide real protection for suspects undergoing detention.

Based on the above description, it can be concluded that the legal protection of suspects' rights during the detention process under the New Criminal Procedure Code is multi-layered and multidimensional. Preventively, this protection is provided through the determination of the Preliminary Examining Judge for each detention, the obligation of legal assistance from the initial stage of the examination along with the right to intervene, the absolute prohibition of torture, and a structured internal and external monitoring system. Repressively, this protection is provided through pretrial proceedings, the scope of which has been significantly expanded, compensation mechanisms for material and immaterial losses, and rehabilitation to restore the suspect's good name and dignity. This entire protection system is strengthened by multi-layered human rights dimensions ranging from the constitutional level, laws, to international legal instruments, and is realized through the active role of law enforcement officials and judicial institutions working synergistically. Ultimately, all these protection instruments lead to one common goal: ensuring that every suspect undergoing the detention process remains treated as a dignified legal subject, not merely an object of law enforcement power.

CONCLUSION

The regulation of suspects' rights during the detention process according to Law Number 20 of 2025 reflects a fundamental paradigm shift, from detention as an absolute right of the state to the state's obligation to ensure that restrictions on freedom are carried out legally, proportionally, and respect the dignity of the suspect in accordance with the principle of presumption of innocence. This shift is realized through tightening detention requirements which are now cumulative, including objective requirements (threat of five years or more imprisonment), subjective requirements (fear of escape, destruction of evidence, or repeating the crime), and formal requirements in the form of the obligation to determine the Preliminary Examining Judge as the most important innovation that provides judicial oversight from the start, replacing the independent authority of investigators in the old Criminal Procedure Code. On the other hand, the rights of suspects are now comprehensively regulated in Chapter VI Article 142, including the right to legal assistance from the arrest stage, the right to communicate with family, the right to health services, the right to file a pretrial with expanded objects and subjects, and the right to compensation and rehabilitation. These two regulations simultaneously constitute a concrete manifestation of multi-layered and multidimensional legal protection, which when analyzed using Philipus M. Hadjon's theory can be mapped into two categories that work simultaneously.

Preventive protection is reflected in the obligation to appoint a Preliminary Examining Judge as a judicial filter, the assistance of an advocate from the investigation stage accompanied by the authority to refuse questions that pressure the suspect, the prohibition of torture as a *non-derogable right* that cannot be excluded under any circumstances, as well as layered supervision through internal and external channels (Komnas HAM, LPSK). Repressive protection is reflected in the strengthening of pretrial proceedings whose objects and subjects are expanded, the mechanism for material and immaterial compensation which is now specifically regulated in Chapter XIII Articles 173–188, as well as rehabilitation to restore the good name and dignity of the suspect. All of these regulations are based on a layered legal basis, starting from the constitution (Articles 28D, 28G, 28I of the 1945 Constitution), laws (New Criminal Procedure Code and the Law on Judicial Power), to international instruments (ICCPR and *the Convention Against Torture*), thus confirming that the human rights of suspects are now an integral part of the process of enforcing Indonesian criminal law. However, the effectiveness of these progressive regulations at the practical level still depends on the commitment and professionalism of law enforcement officers, so it needs to be accompanied by strengthening supervision and a legal culture that consistently upholds the human rights of suspects.

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