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PRETRIAL PROBLEMS WITH THE OBJECT OF THE ESTABLISHMENT OF SUSPECTS

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ABSTRACT

Until now, there has been no legal certainty for justice seekers through pretrial. The object of determining the suspect why when someone is declared a suspect then submits the Judge accepts a pretrial. Then the investigator can re-assign him a suspect so that the determination of the suspect occurs repeatedly. The Judge will also cancel the status of the suspect repeatedly and creates legal uncertainty. This study aims to determine pretrial executors to determine the suspect (Case Decision Study No: 3 / Pr/a.Pid / 2017 / PN.Gto) and Interpreting pretrial with the object of determining the suspect. This study uses normative research by using literature as the primary source. The results showed that pretrial executors with the object of determining the suspect (Case Decision Study No: 3 / Pra.Pid / 2017 / PN.Gto) is an example of a convoluted judicial process and does not provide legal certainty for a person because the applicant even though it has been three times the Judge receives the pretrial; the investigator is still returning to determine the applicant as a suspect. Interpreting a pretrial with the object of the determination of a suspect is difficult. Determining a suspect is not a straightforward job because it relates to a person's status before the law, so accuracy and prudence are needed to determine whether someone is worthy of being a suspect. An investigator may not use excessive authority in determining a person as a suspect because the implication of having a legal status can deprive someone of his right of independence as an arrest or detention.

Keywords: Pretrial, Suspect

INTRODUCTION

Indonesia, as an independent and sovereign nation, operates following the laws and regulations. The well-known principle in criminal law is the principle of

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legality which reads, "there is no crime (delict), no punishment without (based on) the regulations that precede it" *(nullum delictum nullapoena sine praevialegepoenali)*. The source of all sources of Indonesian Law is Pancasila, a state philosophy that is different from the philosophy of European countries or communist countries that use the communist philosophy of Karl Max. The Indonesian state is obliged to guarantee legal protection to all its citizens as mandated by the 1945 Constitution in the opening paragraph 4 (fourth); Then from that to form an Indonesian state government that protects the entire Indonesian nation and the entire homeland of Indonesia and to promote public welfare, educate the nation's life, and participate in carrying out world order based on freedom, eternal peace and social justice".

So far, the determination of the suspect status given by the investigator to a person is attached without a clear time limit. As a result, the person is forced to accept his status without having the opportunity to test the validity of the determination. In practice, many pretrial submissions are submitted by suspects/defendants to protect their rights from the arbitrariness of law enforcement. This pretrial also has legal certainty which is regulated in the Criminal Procedure Code (KUHAP) in article 1 point 10 and chapter X, the first part in article 77 to article 83 of the Criminal Procedure Code.

The pretrial has had legal certainty in protecting the rights of the suspect/defendant in coercion, as stated in article 77 of the Criminal Procedure Code that:

"The District Court has the authority to examine and decide, per what is regulated in this law regarding:

a. The validity of the arrest, detention, termination of investigation or termination of prosecution.
b. Compensation and/or rehabilitation for a person whose criminal case is terminated at the level of investigation or prosecution."

As part of the criminal justice system that applies in Indonesia, Pretrial is an effort to overcome criminal crimes that are penalized by using criminal law as the primary means of material criminal law and formal criminal law. Pretrial as part of law

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enforcement, as stated by Barda Nawawi Arief, that the problem of law enforcement, both in abstracto and in concreto, is an actual problem that has recently received sharp attention from the public.

Today pretrial has such an essential place in criminal procedural law, and it can even be said that almost everyone suspected of committing a crime is then designated as a suspect, the first legal remedy being pretrial. The demand for pretrial is getting more robust in the community who are accused of committing a crime. This is because the various criminal cases that have occurred so far have shown that pretrials show protection regarding justice and the protection of human rights.

In essence, the purpose of pretrial is to protect human rights as well as to become a means of horizontal supervision, which means protecting human rights, especially the rights of suspects so that other people or law enforcers do not violate them.

In the Commissioner-General of Police, Budi Gunawan, who was named a suspect in the alleged bribery and gratification case from 2003 to 2006. Regarding the determination of the suspect by the Corruption Eradication Commission (KPK), Commissioner General of Police Budi Gunawan filed a pretrial lawsuit to determinethe suspect to the District Court. South Jakarta on January 26, 2015. Due to the pretrial lawsuit filed by the Commissioner-General of Police Budi Gunawan, many people initially thought that the efforts of the Commissioner-General of Police Budi Gunawan would also fail, as experienced by the former Chairman of the Corruption Eradication Commission (KPK) Antasari Azhar. This is because the pretrial material on the determination of the suspect is not included in the pretrial scope as regulated in the Criminal Procedure Code, but the Court's Decision says otherwise; theJudge accepts Budi Gunawan's pretrial lawsuit.

The verdict on Budi Gunawan's pretrial by Judge Sarpinrizaldi forced the inclusion of the suspect as a pretrial juridical object, as stated in Article 77 of the Criminal Procedure Code (KUHAP). Finally, the pretrial design impacts the number of suspects who test the validity of the determination of their suspects to their respective district courts.

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The Criminal Procedure Code does not recognize an investigating judge in France or a Rechter Commissioner in the Netherlands who has the authority to determine the charges to be imposed against a person. Thus, there is a "legal vacuum" in pretrial institutions regulated in the Criminal Procedure Code, which can be filled by jurisprudence concerning the purpose of establishing the pretrial institution, namely protecting human rights from suspects and defendants. Filling the legal vacuum (rechtvacuum) is a function of jurisprudence, not throwing the law away.

Based on the opinion above, this is what Judge Sarpin follows in deciding pretrial cases. Other judges do not necessarily follow it. The reason is that our country adheres to a continental European legal system that prioritizes the law, not court decisions (jurisprudence) but problems. It appears when this law already has recognition through the official interpretation of the final and binding constitutional Court (last and binding) and in addition to the enactment of the ergaomnes principle (the Court's Decision is generally accepted).

If Article 77 letter (a) of the Criminal Procedure Code regulates pretrial authority only to the extent of whether or not an arrest, detention, termination of an investigation or prosecution is legal, then through this Decision, the Constitutional Court expands the realm of pretrial including whether or not the determination of suspects, searches and seizures are legal.

The problem is that the determination of suspects who are part of the pretrial object still leaves several problems, especially legal certainty for suspects, for example, in the case of the PSSI chairman La Nyala Mataliti and the three pretrial decisions from the Gorontalo District Court regarding the cancellation of the suspect's determination against the applicant in the main case. The applicant submitted by the Respondent resulted in the applicant having been decided by the Corruption Court at the Gorontalo District Court twice, both of which stated that they rejected the case submitted by the Respondent.

The Judge has declared Rejecting the Pretrial with Case Number: 3/Pra.Pid/2017/PN.Gto, where the Petitioner is the Defendant on behalf of HSS

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through his legal advisor and the Respondent is the Head of the Gorontalo City District Attorney. The location of the problem is that on October 17, Decision Number 30/Pid.sus.TPK/2016/PN.Gto was issued, but the Gorontalo District Court still received the pretrial application submitted by the Petitioner because of the Respondent's actions, who determined the Petitioner as a wanted list (DPO).

Until now, there is no legal certainty for justice seekers through pretrial. With the object of determining the suspect, why is it that when someone is declared a suspect, then submits a pretrial and is accepted by the Judge, the investigator may re-determine him as a suspect so that the determination of the suspect occurs repeatedly? The Judge will also cancel the status of the suspect repeatedly and create legal uncertainty.

METHODS

This research uses normative research by using literature as the primary source.

RESULTS AND DISCUSSION

1. Implementation of pretrial with the object of determination of the suspect (Study Decision Case Number 3/Pra.Pid/2017/PN.Gto)

Pretrial as the institution authorized to examine issues related to the legality of arrests and detentions appears to be merely a mere administrative oversight body for state actions that essentially violate human rights. This is contrary to the spirit promoted by the Criminal Procedure Code, namely to protect human dignity, especially the protection of human rights.

In this case, the protection of the dignity and rights of those suspected and accused of committing a crime. Suppose the spirit of protecting the human rights of suspects and defendants is the starting point for the establishment of a pretrial institution in the Criminal Procedure Code. In that case, the examination of "legal or not detention" should not merely be in the form of "checking the administrative

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completeness" of an act of detention, but furthermore, it must be more of a " substantive examination.

The Constitutional Court has widened the object of pretrial as stated in Article 77 of the Criminal Code, which previously only examined the validity of arrests and detentions, termination of investigations and prosecutions, as well as rehabilitation and compensation, frisk and seizure.

The investigation process with the determination of the suspect is crucial because it can result in the legal status that everyone will carry as a legal subject. Article 1, number 14 of the Criminal Procedure Code states that a suspect is someone who, based on preliminary evidence, is appropriate as a criminal act because of his actions or circumstances. The formulation of a quo article implies that the determination of the suspect must be based on preliminary evidence, as stated in the Constitutional Court Decision No. 21/PUU-XII/2014 of at least two pieces of evidence.

Investigators in determining the suspect must be cautious because it involves a person's legal status. The problem is that there are no legal limits and certainty for a person who is made a suspect then submits a pretrial and is accepted by the Judge, and is free from all lawsuits. Because of some examples of cases, a person can be made a suspect repeatedly without end to harm the suspect and the state.

An example of a case is Ir.Hendritis Saleh,M.Si.,M.Sc through a letter of application dated February 7 2017, registered at the Registrar of the Gorontalo District Court register Number 3/Pid.Prap/2017/PN Gto dated February 8 2017, has applied pretrial with reasons.

In relation to the Respondent's Decision to re-determine the Petitioner as a suspect in the alleged corruption case at the Dungingi Terminal Land Maturation Work at the Gorontalo City Public Works and Regional Government Service Office for the 2013 and 2014 Fiscal Years, which was carried out on a self-managed basis with a budget of Rp 6,983,800,000, - (six billion nine hundred eighty-three million eight hundred thousand rupiah), the Respondent has reissued the letter of determination of the suspect against the Petitioner, as follows the Investigation Order: Print-84/R.5.11/Fd.12/2016 dated December 19 2016 in a case on behalf of IrHendritis

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Saleh, M.Sc., M.Sc, (Applicant). Legally, the Respondent has determined the suspect against the Petitioner with alleged non-corruption of the Dungingi Terminal Land Maturation Work at the Gorontalo City Public Works and Kimpraswil Office. 2013 and 2014, which self-management implemented, have been declared invalid three times and are not based on law and have no binding legal force by the Gorontalo District Court as stated in the Gorontalo District Court's Decision no. 2/Pid.Pra.Peradilan/2016/ PN.Gtlo, dated March 16 2016, in conjunction with the Gorontalo District Court No. 09/Pid decision.Pra.Peradilan/2016/PN.Gtlo, dated September 27 2016, in conjunction with the Gorontalo District Court No. 11/Pid decision.Pra.Peradilan/2016 /PN.Gtlo, December 16 2016.

In addition to the three Pretrial decisions from the Gorontalo District Court regarding the cancellation of the determination of the suspect against the Petitioner, also in the principal case the Petitioner filed by the Respondent, the result is that the Petitioner has been decided by the Corruption Court at the Gorontalo District Court twice, both of which have rejected the case being submitted by the Respondent; through the Corruption Court's Decision at the Gorontalo District Court No.7/Pid.Sus-TPK/2016/PN.Gtlo dated April 5, 2016, in conjunction with the Corruption Court's Decision at the Gorontalo District Court No.30/Pid.Sus-TPK/ 2016/PN.Gtlo, dated October 17, 2016. Whereas based on the two Interlocutory Decisions from the Corruption Court at the Gorontalo District Court, it clearly and unequivocally states that the prosecution process for the case delegated by the Public Prosecutor in the Corruption Crime Case is related to employment. Land Maturation of Dungingi Terminal at the Department of Public Works and Kimpraswil of the City of Gorontalo for the 2013 and 2014 years carried out on a self-managed basis cannot be accepted.

However, the Respondent committed a legal oddity, where after the Corruption Court's Decision at the Gorontalo District Court No. 30/Pis.Sus-TPK/2016/PN.Gtlo, dated October 17, 2016 it turns out that the Respondent immediately designated the Petitioner as a wanted list (DPO), this is as stated in the Respondent's Letter No. B-1737/R.5.1/10/2016 dated October 20, 2016. Then for the

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action of the Respondent, the Petitioner filed a Pretrial Application against the Respondent and the Petitioner's application was again accepted by the Court, this is as the Decision of the Gorontalo District Court No. B-1737/R.5.1/10/2016 dated October 20, 2016. 11/Pid.Pra/Peradilan/2016/PN.Gtlo dated December 16, 2016. However, strangely, the Respondent again issued a letter of determination of the suspect to the Petitioner as stated in the Investigation Order: Print-84/R.5.11/Fd.1/12 /2016/ dated December 19, 2016, so the issuance of the letter of determination of the suspect is three days after the issuance of the pretrial Decision mentioned above.

In connection with the action of the Respondent, who again re-established the Petitioner as a suspect in a case of alleged corruption which had been declared null and void by the Court as stated in Pre-Trial Decision No. 2/Pid.Pra.Peradilan/2016 /PN.Gtlo, dated March 16, 2016, in conjunction with the Decision of the Gorontalo District Court No. 09/Pid.Pra.Peradilan/2016/ PN.Gtlo, dated September 27, 2016, in conjunction with the Gorontalo District Court's decision No.11/Pid.Pra.Peradilan/2016/PN.Gtlo, dated December 16 2016, December 16 2016, hence The Respondent's action to re-establish the Petitioner as a suspect in the case is an attitude that does not obey the law and tends to be an arbitrary action and creates legal uncertainty for the Petitioner. This greatly disturbed the psychology of the Petitioner and also made the Petitioner fall ill and was removed from the position of Head of the Gorontalo City Public Works and Kimpraswil Office so that the Petitioner no longer received office allowances since September 2016 until now, all of which have resulted in a loss of Rp 42,000,000.- (forty-two million rupiahs);

In more attention, the Decision of point 6 (six) in the Gorontalo District Court decision No. 11/Pid.PraPeradilan/2016/PN.Gtlo dated December 16, 2016 expressly and clearly stated that "Declare invalid any further decisions or decisions issued by the Respondent relating to the Determination of the Suspect against the Petitioner by the Respondent." That from the ruling or the contents of the Decision clearly shows that the actions taken by the Respondent to the Petitioner at this time are very much contrary to the Decision mentioned above. Therefore, for the Respondent's action to re-determine the Petitioner as a suspect in the case of alleged criminal acts at the

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Dungingi Terminal Land Maturation Work at the Gorontalo City Public Works and Kimpraswil Office for the 2013 and 2014 Fiscal Years, the Respondent should have been declared to have violated the law or had acted arbitrarily against with the applicable legal principles and disrupt the principle of legal certainty.

From a brief description of the case that befell Ir. Hendritis Saleh, M.Sc., M.Sc, it is clear that it is a problem that has not had an answer that can provide legal certainty for the judicial process until now. Even though the applicant has received his pretrial lawsuit three times by the Judge, the investigator made him a suspect again. Although finally, the fourth court lawsuit was rejected by the Judge, with the following considerations:

1. The Judge uses Articles 77 to 83 of Law Number 8 of 1981 concerning the Criminal Procedure Code.
2. Because the Petitioner and the Respondent have different opinions, the Judge on the pretrial provisions in the Criminal Procedure Code/KUHAP by the Constitutional Court certain articles has been annulled due to the times, such as the Decision of the Constitutional Court of the Republic of Indonesia. Number 65/PUU-IX/2011 concerning the right to file a pretrial appeal for Investigators and Public Prosecutors, dated May 1, 2012, regarding Article 83 of the Criminal Procedure Code, which is declared non-binding and the Decision of the Constitutional Court of the Republic of Indonesia. Number 21/PUU-XII/2014 concerning the minimum limit of evidence and pretrial objects dated April 28, 2015, against Article 77 letter (a) of the Criminal Procedure Code;

The basis for deciding cases is Article 183 of the Criminal Procedure Code, which contains three variables:

1. At least two valid pieces of evidence
2. The Judge obtains the conviction that a criminal act has occurred
3. The Defendant is guilty of committing it;

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The Judge said Article 83 Paragraph 1 of the Criminal Procedure Code is Constitutional and Pretrial aims to test the validity of the procedures for the process carried out by law enforcers against citizens suspected of committing criminal acts;

1. The Judge also explained that the pretrial must be carried out quickly to not interfere or even stop the legal certainty of the main case. Moreover, the handling of the main case is limited in time.
2. Regarding the determination of repeated suspects, the Judge thinks that it is possible to carry out a re-investigation process against a suspect if sufficient evidence is found after his pretrial application is granted. This means that, as long as the main case has not been tried, the pretrial applicant can submit a pretrial application regarding the determination of the suspect.
3. Against the request of the applicant for the existence of two new pieces of evidence as a condition for re-determination of the suspect, the Judge thinks that a suspect whose determination has been canceled by a pretrial judge can still be reinvestigated in an ideal and correct manner, as long as the investigation procedure is complied with following the provisions of the legislation.

After the issuance of this Decision, the pretrial application for the determination of the suspect against the Petitioner has a legal basis to be submitted to the Court, but there are special characteristics of the pretrial submission related to the determination of the suspect:

1. The determination of the suspect is invalid because the examination of witnesses, experts, suspects, searches, and confiscations is carried out after the determination of the suspect so that 2 (two) pieces of evidence are not fulfilled;
2. The second pretrial application regarding the determination of the suspect cannot be categorized as ne bis in idem because it does not involve the subject matter of the case;

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3. The determination of a suspect based on the results of the development of an investigation against another suspect in a different file is invalid;

Apriyanto Nusa, SH, MH, in his book entitled Pretrial Post-Decision of the Constitutional Court, said that the law protects the most important human rights, namely the right to life, while criminal law creates a death penalty that will take away the most basic rights. The law protects people's rights to move wherever they want, while criminal law recognizes imprisonment and criminal procedural law recognizes detention. The law protects the peace of people's households, even though the criminal procedure law recognizes house or residence searches. Therefore, the implementation of the "deprivation" of these rights must be following the methods and limits determined by law[1]

The applicant's case is an example of a legal vacuum and violates human rights; the article is that if you pay attention to the Decision of point 6 (six) in the Gorontalo District Court Decision No. 11/Pid.Pra Peradilan/2016/PN.Gtlo, dated December 16, 2016, firmly and It is clearly stated that "Declaring invalid any further decisions or decisions issued by the Respondent relating to the Respondent's determination of a suspect against the Petitioner. Other judges did not immediately follow the Judge's Decision.

The case that befell the applicant is also an implication of the Decision of the constitutional Court, which in its interpretation makes the pretrial as the object of determining the suspect. However, there is no limit on how long the case will be completed so that it is contrary to the litis finiriopertet principle (every case has an end), then it becomes legal certainty to apply the nebis in principle. This idem is carried out in pretrial institutions to maintain legal certainty and the final clarity of the process of determining the suspect, which is carried out contrary to the laws and regulations.[2]

[1]ilyas Amir, *Praperadilan Pasca Putusan Mahkamah Konstitusi* (Yogyakarta: Genta publishing, 2017).

[2]Nusa, *Perdebatan Hukum Kontemporer*.

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It is inconceivable how many material and immaterial losses the applicant received, including being a DPO, being detained repeatedly because the investigators had named the suspect three times, experiencing physical and psychological pain.

2. Interpreting Pretrial With the Object of Determination of Suspect

This pretrial can be regarded as an effort to correct irregularities during the investigation and prosecution process. The existence of pretrial provisions in this Criminal Procedure Code is also a demand for officials involved in the investigation and prosecution process (mainly addressed to investigators and public prosecutors) to carry out their duties professionally and for the sake of upholding the rule of law.[3]

In order to ensure that the provisions contained in the Criminal Procedure Code can be implemented as desired or aspired, the Criminal Procedure Code regulates a new institution called a pretrial institution which gives additional authority to district courts to conduct examinations of cases involving relating to the use of coercive measures, namely arrest, detention, search, confiscation, and so on; including the determination of suspects by investigators and public prosecutors. From this statement it is clear that the main purpose of the pretrial institution is the protection of human rights and as a means of horizontal control or supervision of law enforcement agencies, in this case the police and public prosecutors.

Pretrial aims to supervise the coercive measures taken by investigators or public prosecutors against suspects so that these actions are carried out according to the provisions of the law, and are truly proportional to the legal provisions and do not constitute contrary actions to the law. Supervision and assessment of this coercive effort are not found in law enforcement actions in the HIR era. However, the treatment and the method of carrying out the coercive measures carried out by investigators at that time were all lost by authorities that were not supervised and controlled by any corrections institution.[4]

[3]Priyanto Anang, *Hukum Acara Pidana Indonesia* (Yogyakarta, 2012).

[4]Lian Daya Purba Tumian, "Praperadilan Sebagai Upaya Hukum Bagi Tersangka," *Papua Law Journal* 1, no. 2 (2017).

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Pretrial Problems with the Object of the Estabilishment of Suspects

Pretrial issues have become part of the duties and authorities of the District Courts that courts in other judicial circles cannot handle. It is just that it should be noted that the kind of pretrial process is not part of the task of examining and deciding (judgmentally) the criminal case itself so that the pretrial Decision is not a duty and function to handle a (principal) crime, which is in the form of examining and deciding on a criminal case, which stands alone as a final decision.

Determining a person's suspect is not an easy job because it is related to a person's status before the law, so there is a need for thoroughness and caution in determining whether a person deserves to be a suspect or not. An investigator may not use his authority excessively in determining a person as a suspect because the implications of having such legal status can deprive a person of his right to freedom in the form of arrest or detention.[5]

It must also be remembered that the determination of the suspect is not a stand-alone series, but it is only the end of the previous examination process. Before someone is determined as a suspect, the preliminary process that the investigator must pass is investigation and investigation.[6]

Interpreting pretrial with the object of determining the suspect is not as easy as turning the palm. Until now, the determination of the suspect still sets aside unresolved legal problems and is very burdensome so that it does not provide legal certainty for someone whom the suspect questions by the investigator.

Regarding the determination of the suspect, the Court considers the following:

1. The Court has considered in paragraph (3:14) that Article 1 point 3 of the 1945 Constitution affirms that Indonesia is a state of law. In a state of law, the principle of the duo process of law as a manifestation of the recognition of human rights in the criminal justice process is a principle that must be upheld by all parties, especially law enforcement agencies. The realization of the

[5]Amir, *Praperadilan Pasca Putusan Mahkamah Konstitusi*.

[6]Nusa, *Perdebatan Hukum Kontemporer*.

appreciation of human rights is carried out by providing a balanced position based on applicable legal rules, including in the judicial process, especially for suspects, defendants, and convicts in defending their rights in a balanced manner. Therefore, the state, especially the government, is obliged to provide protection, promotion, enforcement, and fulfillment of human rights (Vide: Article 281 paragraph (4) of the 1945 Constitution.

2. Law enforcement must be following applicable provisions also based on Pancasila and the 1945 Constitution of the Republic of Indonesia. This law must be enforced for the creation of the goals and ideals of the Indonesian nation as formulated in the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, namely to form a government of the state of Indonesia and the entire homeland of Indonesia and to promote public welfare, educate the nation's life and participate in carrying out world order based on freedom, eternal peace, and social justice. The Indonesian people must feel safe from various threats and dangers; the sense of security given by the state to the people is intended for those who are right but those who make mistakes are also entitled to a sense of security for themselves.
3. The system adopted in the Criminal Procedure Code is an accusatoir, where the suspect or Defendant is positioned as a human subject who has the same dignity, status, and position before the law. In order to protect the rights of suspects or defendants, the Criminal Procedure Code provides a control mechanism against the possibility of arbitrary actions by investigators or public prosecutors through judicial institutions.
4. About the freedom of a person from the actions of investigators, the International Covenant on Civil and Political Rights, which has been ratified by Law Number 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights, states that…"
5. Whereas based on the above considerations, the Court must answer whether other than what is stipulated in Article 77 letter a of the Criminal Procedure

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Code, such as the determination of a suspect, can be used as an object of pretrial?

The setting of the definition of a suspect in the Criminal Procedure Code is contained in the provisions of Article 1 number 14. A suspect is defined as a person because of his actions or circumstances based on preliminary evidence; it is appropriate to suspect that he is the perpetrator of a crime.

The meaning of preliminary evidence in the a quo provision, is interpreted through the above Constitutional Court Decision, as in its decree stating that the phrase Preliminary Evidence is contrary to the 1945 Constitution and has no legal force, as long as it does not mean at least two pieces of evidence as stipulated in Article 184 of the Criminal Procedure Code.

The thing that must be underlined is that the investigator must carry out the investigation stage, and the investigation should not just conclude that a few witness statements are used as evidence in establishing a person as a suspect. Investigators did not interpret that there was no explanation of the terminology of the initial evidence "in the Criminal Procedure Code so that it was returned to the investigator's assessment, which was sufficient."

In connection with repeated stipulations of suspects, investigators must maintain the suspect's human rights and respect the Decision of the Judge who accepts the suspect's pretrial, especially if there is a decision containing declaring invalid all decisions or decisions issued further by the Respondent relating to the Determination of the Suspect against the Petitioner by the Respondent.

Looking at the case examples above, what the public prosecutor did was not supposed to happen because the actions taken were arbitrary, so that the suspect felt insecure. The public prosecutor is a law enforcer who should understand the procedure and the purpose of the law.

When studying pretrial cases, the applicant is always in a weak position because apart from the very short time set for the pretrial process, the main obstacle faced by the applicant is in terms of evidence at trial. Because even though the applicant presented witnesses, the tendency of examination in Court of documentary

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evidence became the focus of the examination, not on other evidence. Thus, it is difficult for the Petitioner to prove the argument of the truth of what he is asking for.

The pretrial trial process, which limits the time to only 7 (seven) days, is very ineffective because the time is so short that it is considered insufficient to prepare everything for the sake of evidence for the applicant and the Respondent. In addition, the weakness of the law, in this case,is the Criminal Code, which does not regulate what sanctions will be applied if the seven-day time limit is violated.

The problem of repeated suspects determinations must immediately make clear rules. For example, there must be rules that regulate the limits of determining suspects for suspects whose pretrials are accepted by the panel of judges so that this will not happen again.

CONCLUSION

Implementing a pretrial with the object of determining the suspect (Study of Decision Case No: 3/Pra.Pid/2017/PN.Gto) is an example of a judicial process that is very convoluted and does not provide legal certainty for a person. Because even though the Judge has accepted the pretrial three times, the investigators still re-establish the applicant as a suspect.

Interpreting Pretrial With the Object of Determining a Suspect is not easy Determining a person's suspect is not an easy job because it is related to a person's status before the law, so there is a need for thoroughness and caution in determining whether a person deserves to be a suspect or not. An investigator may not use his authority excessively in determining a person as a suspect because the implications of having such legal status can deprive a person of his right to freedom in the form of arrest or detention.

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