

MECHANISM OF IMMEDIATE JUDICIAL REVIEW AFTER DETENTION AT THE INVESTIGATION STAGE: A HUMAN RIGHTS PERSPECTIVE

M. Rizki Yudha Prawira¹

¹National Development University Veteran Jakarta
Email: rizkiyudha@upnvj.ac.id

Abstract

This study examined the provisions on detention during the investigative process as a coercive measure under the Draft of Criminal Procedure Code (RKUHAP). These provisions are deemed not fully aligned with the International Covenant on Civil and Political Rights (ICCPR) and its official interpretation in General Comment No. 35. The research employs a normative juridical methodology with a comparative approach, analyzing national legal norms against international standards. The findings reveal that the RKUHAP's detention provisions do not fully adhere to international human rights principles, particularly the state's obligation to prevent prolonged detention without independent judicial oversight. The principle of "promptly," as established in the ICCPR, underscores the importance of due process and acts as a safeguard against arbitrary detention. International standards require that suspects be presented before a judge within 48 hours of arrest, allowing for an assessment of the urgency and legality of the detention. General Comment No. 35 further explicates these technical provisions, highlighting the significance of judicial oversight in safeguarding individual liberty.

Keywords: *General Comment No. 35; Human Rights; ICCPR; Detention;*

Abstrak

Penelitian ini menganalisis substansi ketentuan penahanan pada proses penyidikan sebagai salah satu bentuk upaya paksa yang diatur dalam Rancangan Kitab Undang-Undang Hukum Acara Pidana (RKUHAP). Ketentuan tersebut dinilai belum sepenuhnya selaras *dengan International Covenant on Civil and Political Rights (ICCPR)* serta penafsiran resminya dalam *General Comment No. 35*. Metode penelitian yang digunakan pada penelitian ini adalah yuridis normatif dengan pendekatan komparatif, melalui analisis perbandingan antara norma hukum nasional dan standar HAM internasional. Hasil penelitian menunjukkan bahwa pengaturan penahanan dalam RKUHAP belum sepenuhnya memenuhi prinsip hak asasi manusia internasional, khususnya terkait kewajiban negara untuk memastikan tidak adanya penahanan berkepanjangan tanpa pengawasan yudisial yang independen. Prinsip "segera" (promptly) dalam ICCPR merupakan jaminan atas tegaknya asas due process of law serta bentuk pencegahan terhadap penahanan sewenang-wenang. Standar internasional mewajibkan agar tersangka dihadapkan kepada hakim dalam jangka waktu maksimal 48 jam setelah penangkapan, dengan kehadiran fisik untuk menilai urgensi dan keabsahan penahanan apakah perlu dilakukan atau tidak. Ketentuan teknisnya dijelaskan dalam *General Comment No. 35*, yang menegaskan pentingnya kontrol yudisial sebagai perlindungan terhadap hak kebebasan individu.

Kata Kunci: *General Comment No. 35; Hak Asasi Manusia; ICCPR; Penahanan;*

A. INTRODUCTION

Issues regarding detention regulations as part of the law enforcement process are still considered not fully resolved to this day. Various criticisms and evaluations of the detention mechanism in the Draft Revision of the Criminal Procedure Code (RKUHAP), which was recently passed in a plenary session at the House of Representatives (DPR) building on November 18, 2025.¹ The ratification of the KUHAP revision continues to draw scrutiny and criticism from various groups, ranging from academics and activists to civil society. One key criticism regarding detention authority is specifically directed at the investigation stage.

The authority for detention during the investigation stage in Indonesia's criminal justice system is considered not fully aligned with international human rights standards. One of the main pillars in human rights protection is the right to a fair trial, which should serve as a fundamental reference for every country, including Indonesia as a state party that has ratified the International Covenant on Civil and Political Rights (ICCPR) through Law No. 12 of 2005. This ratification affirms Indonesia's commitment to aligning national legal norms and practices with universally recognized principles of procedural justice.

As the primary instrument in guaranteeing the right to a fair trial, the ICCPR not only serves as a source of international law but also as a general framework for implementing human rights protection at the national level. The international human rights system demands that every country ensure human rights protection not only normatively through legislation but also substantively through law enforcement practices aligned with universal standards. The scope of this protection even extends to the administration of

¹ Satria Kusuma, "RKUHAP Resmi Disahkan Dalam Rapat Paripurna DPR," MARI News, 2025, <http://marinews.mahkamahagung.go.id/berita/rkuhap-resmi-disahkan-dalam-rapat-paripurna-dpr-0Ay>.

justice, by establishing principles and procedures that ensure the exercise of legal authority aligns with humanitarian values.²

Furthermore, the international human rights legal system has established a set of norms aimed at protecting individuals from arbitrary deprivation of liberty. The United Nations (UN) has issued various instruments regulating detention provisions, including standards for pre-trial detention. One of its key principles affirms that every detained suspect must be promptly brought before a judge, as stipulated in Article 9 Paragraph (3) of the ICCPR, to ensure judicial oversight of the legality of detention and prevent violations of the right to personal liberty.

Article 9 Paragraph (3) of the ICCPR stipulates that anyone arrested on a criminal charge must be promptly brought before a judge or other officer authorized to exercise judicial power. The UN Human Rights Committee, in General Comment No. 35 (2014), explains that the term "promptly" in this provision generally means a maximum of 48 hours from the time of arrest.³ Delays beyond 48 hours must be in exceptional circumstances requiring strong justification based on the situation. This is because detention for longer periods without judicial oversight significantly increases the risk of human rights-violating treatment.

The ICCPR detention standards, as more specifically explained in General Comment No. 35 on detention, have not yet been fully adopted in the RKUHAP provisions. Detention is essentially regulated in the RKUHAP, [The KUHAP provisions referred to point to the draft of the KUHAP passed at the plenary session of the House of Representatives on November 18, 2025, see further in the House of Representatives of the Republic of Indonesia, "*TK II Deliberation for Decision-Making on the Draft Law on the Criminal Procedure Code*," taking into account two reasons: subjective reasons as stipulated in

² Christopher Gane and Mark Mackarel, *Human Rights and the Administration of Justice: International Instruments* (Hague: Kluwer Law International, 1997).

³ Human Rights Committee, "General Comment No. 35 on Article 9 (Liberty and Security of Person) International Covenant on Civil and Political Rights" (2014).

Article 100 Paragraph (5) and objective reasons as stipulated in Article 100 Paragraph (1). The provisions on the duration of detention during the investigation process are regulated in Article 102 Paragraph (1), namely for 20 days and can be extended for a maximum of 40 days by the public prosecutor as stipulated in Article 102 Paragraph (2) of the RKUHAP.

Based on those detention basis requirements, the KUHAP provisions grant full authority to police investigators. Referring to Article 100 Paragraph (1), detention is carried out by issuing a detention warrant as justification. This means that, based on the detention warrant, the investigator can immediately detain someone for up to 20 days as regulated. Notably, Article 24 Paragraph (3) of the KUHAP stipulates that the detained person may be released before the detention period ends. The entire detention process can practically be carried out based on the investigator's assessment from the police institution without any obligation to directly involve other institutions, in this case, judicial ones.

In fact, oversight of the investigation process still exists, considering the Constitutional Court (MK) ruling that mandates investigators to notify and submit the letter of commencement of investigation (SPDP) to the public prosecutor.⁴ This information allows the public prosecutor to monitor the investigation process, including the exercise of detention authority. Moreover, various state institutions exist to receive complaints of alleged violations, such as the National Police Commission (Kopolnas) as an auxiliary state committee.⁵ Additionally, there is the National Human Rights Commission (Komnas HAM), which has the authority to monitor cases of alleged human rights violations.⁶

⁴ Mahkamah Konstitusi, "Putusan Mahkamah Konstitusi Nomor 130/PUU-XIII/2015," 2017, https://www.mkri.id/public/content/persidangan/putusan/130_PUU-XIII_2015.pdf.

⁵ Mochammad Nasser, "Peran Komisi Kepolisian Nasional Dalam Pengawasan Fungsional Polri," *Jurnal Hukum Sasana* 7, no. 1 (2021): 96-116, <https://doi.org/10.31599/sasana.v7i1.535>.

⁶ Komisi Nasional Hak Asasi Manusia, "Tentang Komnas HAM," accessed September 5, 2025, [https://www.komnasham.go.id/tentang-komnas-ham#:~:text=Komnas HAM adalah lembaga mandiri,1999 tentang Hak Asasi Manusia](https://www.komnasham.go.id/tentang-komnas-ham#:~:text=Komnas%20HAM%20adalah%20lembaga%20mandiri,1999%20tentang%20Hak%20Asasi%20Manusia).

Nevertheless, the oversight opportunities available to the public prosecutor through the obligation to report the SPDP, as well as supervision by institutions like Kompolnas and Komnas HAM, still do not fully align with international human rights standards. This can be seen in General Comment No. 35, which requires direct judicial oversight by a judge following detention by investigators. Additionally, the specific duration stated maximum 48 hours (except in specific cases for bringing detained suspects before a judge forms an integrated mechanism as outlined in General Comment Number 35.

The primary purpose of detention oversight provisions in criminal procedure law is to prevent abuse of authority and protect suspects' rights during the judicial process. This oversight mechanism ensures that every restriction of liberty is lawful, necessary, and proportional. For example, the principle of habeas corpus requires that arrested individuals be promptly brought before a court, allowing an independent judge to assess the legality of the arrest and weigh the necessity of further detention. Through such judicial control, the rule of law strives to ensure that law enforcement remains on the path of due process and does not violate human rights. Courts serve as impartial overseers examining whether law enforcement officials act in accordance with applicable procedures and law. From this concept, we can understand the detention standards as outlined in General Comment No. 35.

The explanation above demonstrates a significant difference between the detention provisions in the KUHAP and the ICCPR, as well as General Comment No. 35, as international human rights standards. Therefore, this research will discuss the regulation of the right to be promptly brought before a judge after detention in accordance with international human rights standards and its problems in the Indonesian context. Based on this, the research has two problem formulations: first, regarding the provisions of the right to be promptly brought before a judge after detention based on international human rights standards. Second, this research seeks to examine

issues concerning pre-trial detention provisions in Indonesia by comparing them with international human rights standards.

This legal research employs a normative method by examining library materials as secondary data. The scope of this research is legal comparison or comparative law. This means the research emphasizes and seeks both similarities and differences in legal systems.[Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2016).] The comparative approach in this research compares the detention authority mechanism during the investigation process in the KUHAP with international human rights standards in the ICCPR and General Comment No. 35.

B. FINDING AND DISCUSSION

1. Provisions on Prompt Presentation Before a Judge After Detention Under International Human Rights Standards

The principles of fair trial as part of human rights are more specifically outlined in the ICCPR. One article in the ICCPR, Article 9 Paragraph 3, regulates that every detained suspect must be promptly brought before a judge or other officer authorized to exercise judicial power. Additionally, the same article affirms that no one shall be deprived of their liberty except on grounds and in accordance with procedures established by law. These provisions indicate that every state party to the ICCPR, including Indonesia, has the obligation to ensure that these rights are guaranteed and protected.

Indonesia's position as a state party implies its role as a duty bearer. This means, in the context of human rights, the state must ensure guarantees of respect (to respect), protection (to protect), and fulfillment [Rhona K.M. Smith et al., *Hukum Hak Asasi Manusia* (Yogyakarta: Pusham UII, 2008).] to every person within its jurisdiction without exception. This is also clearly evident in the ICCPR, where its articles not only refer to forms of rights but also specify obligations for state parties (to every state party).

Indonesia's obligations under the ICCPR, in the context of Article 9 Paragraph 3, mean that as a state party, it must ensure that a suspect is not detained indefinitely by law enforcement without assessment by an independent judge or judicial officer. Indonesia's guarantee of this right as a duty bearer and state party should demonstrate its commitment to implementing these points into domestic legislation related to the international agreement⁷ in this case, the ICCPR.

International human rights standards firmly emphasize the importance of promptly bringing every detained suspect before a judge. Article 9 Paragraph (3) of the International Covenant on Civil and Political Rights (ICCPR) states that "anyone arrested or detained on a criminal charge shall be brought promptly before a judge." This provision obligates state parties to ensure that individuals do not experience prolonged detention without evaluation by an independent judicial authority. The "*promptly*" principle serves as a crucial guarantee for upholding the due process of law, while also providing an early oversight mechanism against arbitrary arrests and detentions.

The standards of this mechanism aim to place detention actions under judicial control as soon as possible, so that an independent and impartial authority can assess the validity and urgency of the detention. Thus, the norm of Article 9 Paragraph (3) of the ICCPR functions as a means of judicial oversight over potential abuse of state authority, while also serving as an instrument to prevent violations of the right to personal liberty.

Furthermore, this provision affirms every individual's right to be tried within a reasonable time or to be released pending trial. From the perspective of human rights-based criminal law, pre-trial detention must be viewed as an exception justified only on objective and proportional grounds. Therefore, release on bail represents a balance between law enforcement interests and

⁷ Office of The United Nations High Commissioner for Human Rights, "International Human Rights Law," OHCHR, accessed September 6, 2025, <https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law>.

human rights protection, particularly in ensuring the defendant's presence at trial and during the execution of court decisions.

A more detailed interpretation of this provision is explained in General Comment No. 35 by the UN Human Rights Committee. In paragraph 32, the Committee affirms that anyone arrested or detained on suspicion of a criminal offense must be promptly brought before a judge or other officer legally authorized to exercise judicial functions. This obligation is universal and does not depend on the suspect's will or ability to request it.

Judicial oversight should be conducted before criminal charges are filed. The Committee also emphasizes that pre-trial detention is not a practice that can be routinely justified. Pre-trial detention should be applied as an extraordinary measure only when proportional and rational reasons are met. In this context, judges are required to consider non-custodial alternatives and make detention the last resort to ensure a fair and balanced judicial process.

As explained in paragraph 32, the legitimate exercise of judicial power can only be carried out by authorities possessing independent, objective, and impartial characteristics in examining a case. Therefore, the public prosecutor cannot be categorized as an official exercising judicial functions as meant in paragraph (3), because their position falls under the executive branch oriented toward prosecutorial functions, not adjudication.

Furthermore, General Comment No. 35 in paragraph 35 provides a more detailed explanation regarding the meaning of the term "*promptly*" in the context of the obligation to bring suspects before a judge. Although the interpretation of "*promptly*" may vary depending on the objective conditions of a detention, the Committee emphasizes that delays must not exceed a few days from the time of arrest. In international practice, a 48-hour period is considered sufficient to transfer the suspect and prepare a hearing to assess the legality and urgency of the detention.

Delays in detention exceeding the specified time limit can only be justified if there are truly exceptional circumstances that can be legally and

rationally accounted for. The UN Human Rights Committee emphasizes that extensions of detention time without urgent reasons and without direct oversight from judicial authorities potentially violate human rights, particularly because they open opportunities for torture, cruel treatment, or other inhuman acts. It is noteworthy that several countries even apply shorter detention time limits than 48 hours; in that context, such stricter standards are binding and must be adhered to by law enforcement officials.

The 48 hours mechanism itself refers to the provision requiring that within a maximum of two days from the arrest, the suspect must be brought before a judicial authority, whether a judge or another independent judicial officer, for an initial examination. This stage serves to ensure the legality of the arrest, including assessing the legal basis and sufficiency of the underlying evidence, while also determining whether detention should continue or be replaced with alternative measures. In this process, the judge has the authority to decide on the suspect's release, extend detention with valid considerations, or impose other forms of supervision such as suspension of detention with guarantee. Thus, the 48 hours mechanism becomes an essential instrument for initial judicial oversight to prevent abuse of authority by law enforcement while ensuring protection of individual liberty rights.

The maximum 48 hours time limit which is highly contextual and must be viewed on a case by case basis. Nevertheless, having a standard detention period during the pre-trial phase of the judicial process remains necessary. Additionally, the primary purpose of this time limit is to minimize all forms of violations and violence perpetrated by rogue police elements, such as torture practices. This can actually be evidenced through thematic reports by the former UN Special Rapporteur on Torture, Manfred Nowak. Nowak and his team visited 15 countries from 2004 to 2010 to empirically examine the situation and patterns of torture that occurred.⁸

⁸ Pelaporan Khusus oleh Manfred Nowak dan timnya sejak Desember 2004 sampai Oktober 2010 melakukan misi pemantauan terkait situasi penyiksaan dan perlakuan atau penghukuman lain yang kejam, tidak manusiawi atau merendahkan martabat manusia ke

Based on findings from various special reports related to human rights standards for detention, two principal problems have been identified. First, torture practices are most likely to occur during the initial stage of detention. This pattern is typically carried out in the early days or hours of detention by rogue police officers, with the aim of obtaining confessions. Second, the conditions of detention facilities, which are often extremely inadequate and overcrowded, frequently result in cruel, inhuman treatment that degrades human dignity.⁹

Most torture cases uncovered through fact-finding missions occur during the initial police detention phase. Of the fifteen countries visited, eleven showed widespread torture patterns, even exhibiting systematic characteristics within police institutions. At this stage, law enforcement has full control over suspects and is often driven to obtain confessions quickly, creating opportunities for coercive actions. In many jurisdictions, weak oversight systems provide law enforcement with nearly unlimited "discretionary space" in treating suspects during interrogation. Although prohibitions and standards exist against such actions, their implementation varies greatly. This situation is further exacerbated by the absence of legal counsel or independent monitors during examinations, which significantly increases the risk of physical and psychological violence.¹⁰

Lack of awareness, understanding, and supporting facilities in applying modern investigation methods makes "rogue law enforcement officers" rely on coercive practices as shortcuts to obtain confessions. Institutional pressure

negara Georgia (Februari 2005), E/CN.4/2006/6/Add.3; Mongolia (Juni 2005), E/CN.4/2006/6/Add.4; Nepal (September 2005), E/CN.4/2006/6/Add.5; China (November 2005), E/CN.4/2006/6/Add.6; Jordan (Juni 2006), A/HRC/4/33/Add.3; Paraguay (November 2006), A/HRC/7/3/Add.3; Nigeria (Maret 2007), A/HRC/7/3/Add.4; Togo (April 2007), A/HRC/7/3/ Add.5; Sri Lanka (Oktober 2007), A/HRC/7/3/Add.6; Indonesia (November 2007), A/HRC/7/3/Add.7; Denmark (Mei 2008), A/HRC/10/44/Add.2; Moldova (Juli 2008), A/HRC/10/44/Add.3; Equatorial Guinea (November 2008) A/HRC/13/39/Add.4; Uruguay (Maret 2009), A/HRC/13/39/Add.2; Kazakhstan (Mei 2009), A/HRC/13/39/Add.3; Jamaica (Okotber 2010), A/HRC/16/52/Add.3.

⁹ Moritz Birk et al., *Pretrial Detention and Torture: Why Pretrial Detainees Face the Greatest Risk* (New York: Open Society Foundations, 2011).

¹⁰ Birk et al.

to quickly resolve cases often makes forced confessions the easiest option even considered the only way to prove a suspect's guilt. In this context, torture practices are still routinely used in several countries as instruments to obtain information or force cooperation from individuals deemed "uncooperative."¹¹

Beyond merely obtaining confessions, torture is often used as a form of punishment, intimidation, or extortion against pre-trial detainees. In several countries, physical violence is even employed as a tool to enforce discipline and order in detention facilities. In Togo, for example, police officers admit that violence is sometimes applied against suspects of serious crimes or those who refuse orders.¹² Meanwhile, in Nigeria, even more extreme forms were found, where detainees were forced to torture fellow detainees, including children.¹³ as a manifestation of the absolute power of officials over individuals under their control.

In addition to physical and mental violence, torture practices often intertwine with a deeply rooted culture of corruption in law enforcement institutions. In countries with high corruption levels, pre-trial detainees become objects of extortion, where mistreatment can only be avoided through specific payments. Under such conditions, basic needs like drinking water and food depend on the detainees' ability to pay. For example, the phenomenon in Togo shows that access to water is only provided if detainees pay a certain amount to the officers.¹⁴ This situation underscores that corruption within detention facilities not only undermines the integrity of the judicial system but also threatens the safety and survival of detainees who are entirely under the authorities' power.

¹¹ Birk et al.

¹² Human Rights Council, "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak. Mission to Togo" (Geneva, 2008).

¹³ Human Rights Council, "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Addendum: Mission to Nigeria (4 to 10 March 2007)" (Geneva, 2007).

¹⁴ Human Rights Council, "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak. Mission to Togo."

Furthermore, in many countries, suspects can be held in police cells for months or even years. This practice causes extreme overcrowding in police detention spaces, which are fundamentally not designed for long-term detention. Resource shortages force detainees to take turns sleeping or lie on concrete floors in rooms with minimal lighting and ventilation. Access to sanitation facilities is also very limited, resulting in deplorable hygiene conditions. Basic facilities such as food, water, and healthcare are often inadequate; in several countries, meeting these needs entirely depends on family or fellow detainees.¹⁵ Denial of access to basic needs can create extreme dependency, resembling slavery conditions. In certain cases, guards' negligence in providing medical care even threatens detainees' lives. In Nigeria, for example, cases were found where suspects shot during arrest received no medical treatment at all.¹⁶

Detention under the conditions described previously remains a common phenomenon in various countries and can legally be categorized as a form of inhuman treatment. If such a situation is carried out intentionally to obtain a confession or information from the detainee, then such actions may fulfill the elements of torture as referred to in international human rights legal instruments.¹⁷ In many cases, detainees lack access to effective complaint mechanisms, are not accompanied by competent legal counsel, and are not brought before an independent judge. This situation creates feelings of alienation and despair, as if they have been cut off from the outside world. The harsh conditions of detention, combined with the prolonged pre-trial detention without legal certainty, often push individuals to confess to crimes they may not have committed, simply to be transferred to a regular prison facility or to escape the physically and mentally oppressive uncertainty.

¹⁵ Human Rights Council.

¹⁶ Human Rights Council.

¹⁷ Human Rights Council Seventh Session Item 3 of the Agenda, "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Mission to Paraguay" (Geneva, 2007).

One of the most serious issues in the context of pre-trial detention is the restriction of access to legal counsel and family members. In several cases, detainees are even placed in total isolation from the outside world through practices such as incommunicado detention or secret detention. Such practices have been declared by the United Nations Human Rights Committee as constituting cruel, inhuman, and degrading treatment, not only for the detainees but also for their families who lose contact and certainty about the fate of their loved ones.¹⁸

In addition to violating the detainees' basic rights, this form of isolation also eliminates their opportunity to inform the outside world about the conditions of their detention and the treatment they experience. As a result, accountability mechanisms and external oversight become completely paralyzed. In such conditions, the likelihood of torture and other inhuman treatment increases significantly due to the absence of independent control over law enforcement officials' behavior. In other words, total isolation not only closes access to justice but also creates a space of impunity that allows violence to occur without sanctions and without witnesses.

Such empirical situations create a particular urgency for direct oversight by judges or courts over the implementation of detention during the investigation process. The next question is how to determine the qualifications of judges, which hold a highly crucial position in the criminal justice system, especially as overseers of the exercise of investigative authority, including detention actions. Judges function not merely as enforcers of the law but also as guardians of the balance between state power and the protection of individual rights. Therefore, standards of judicial independence and freedom from various forms of intervention whether political, administrative, or institutional become absolute principles that must be upheld.

¹⁸ Office of the High Commissioner for Human Rights, "Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Human Rights Resolution 2005/39" (Geneva, 2005).

This mechanism positions judges as the central party, so it is necessary to ensure how the standards for an individual or institution can be categorized as a judge or court. The standards that can be referenced are the Basic Principles on the Independence of the Judiciary. This document was first adopted at the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Milan from August 26 to September 6, 1985. Subsequently, these principles were officially endorsed by the UN General Assembly through Resolution No. 40/32 dated November 29, 1985, and Resolution No. 40/146 dated December 13, 1985.¹⁹

The birth of this document represents a manifestation of global awareness that the independence of the judiciary is the main foundation of the rule of law and an essential prerequisite for the protection of human rights. Without an independent and impartial judiciary, the fundamental right of every individual to a fair trial loses its meaning. In this context, judicial independence is not a privilege held by the judicial institution, but rather a guarantee for society that the law enforcement process operates without pressure or external intervention.

The birth of this document represents a manifestation of global awareness that the independence of the judiciary is the main foundation of the rule of law and an essential prerequisite for the protection of human rights. Without an independent and impartial judiciary, the fundamental right of every individual to a fair trial loses its meaning. In this context, judicial independence is not a privilege held by the judicial institution, but rather a guarantee for society that the law enforcement process operates without pressure or external intervention. Berdasarkan kerangka hukum internasional, The Basic Principles on the Independence of the Judiciary provide a normative foundation that defines who can be called a judge and

¹⁹ United Nations Congress on the Prevention of Crime and the Treatment of Offenders, "Basic Principles on the Independence of the Judiciary" (Milan, 1985), <https://www.icj.org/wp-content/uploads/2014/03/UN-Basic-principles-independence-judiciary-1985-eng.pdf>.

how an institution can be recognized as a legitimate court. These principles not only affirm the importance of judicial independence but also establish professional and ethical criteria that must be inherent in every individual performing judicial functions. Based on these standards, it can be understood that judges authorized to assess the validity of a detention must come from an independent judicial institution, not part of the executive branch or law enforcement apparatus. States are therefore obligated to build a judicial system that enables judges to carry out oversight functions over detention actions freely, without political pressure or institutional interference.

The first principle of the Basic Principles on the Independence of the Judiciary affirms that judicial independence is a constitutional mandate that must be protected by the state. This independence must be exercised fully without interference from other branches of power. This principle implies that only an independent judicial institution can legitimately perform the function of reviewing the legality of detention. Therefore, judges authorized to oversee detention must not be part of an institutional structure that overlaps with investigative or prosecutorial functions, as this would create conflicts of interest and undermine their independence as neutral decision-makers.²⁰

The second principle reinforces this idea by emphasizing the judge's obligation to act impartially, that is, to assess cases solely based on the law and facts revealed in the judicial process. In the context of detention, impartiality means that judges must not be influenced by requests, pressure, or interests from investigators, prosecutors, or political officials. Judges who remain within a structure controllable by the executive power automatically lose their moral and legal capacity to act as guardians of individual liberty. Therefore, this principle clarifies that only judges who meet standards of independence,

²⁰ United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

personal integrity, and legal competence can legitimately and effectively perform the oversight function of detention.²¹

Furthermore, the fourth principle affirms the prohibition against all forms of external intervention in the performance of judicial duties. In the context of detention oversight, this principle means that a judge's decision regarding the legality of detention cannot be interfered with, altered, or pressured by institutions outside the judicial system. Any form of interference, whether from law enforcement apparatus or political officials, erodes the value of *res judicata* and threatens the judge's oversight function as the last bastion of human rights protection. Judges must have full freedom to order the release of an individual if it is found that the detention lacks a valid legal basis or contradicts principles of justice.²²

The sixth principle adds an ethical and functional dimension by affirming that judicial independence is a prerequisite for guaranteeing a fair trial and respect for due process of law. Within this framework, independence is not a privilege of the judicial institution but a moral responsibility for judges to ensure that every restriction on individual liberty is carried out lawfully, proportionately, and based on law. Particularly in the initial phase of detention especially the first 48 hours as stipulated in General Comment No. 35 on Article 9 of the ICCPR judges have a direct obligation to assess whether the detention action is legally justified. Without prompt judicial review, an individual's right to be free from arbitrary detention loses its meaning.

Meanwhile, the tenth principle provides an objective measure of who can be considered a judge in the international sense. A judge must be an individual with high integrity, adequate legal knowledge, and appointed through a transparent mechanism free from discrimination. This means that not every official granted quasi-judicial authority can be categorized as a

²¹ United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

²² United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

legitimate judge in the context of detention oversight. That function can only be performed by professional judges who meet the criteria of independence, competence, and impartiality as stipulated by this principle.²³

In addition to aspects of function and qualifications, the Basic Principles also include guarantees of protection for judges so they can carry out their duties without fear of losing their positions. The twelfth principle affirms that judges, whether appointed or elected, have the right to hold their office until retirement age or the expiration of their fixed term. This principle is intended to prevent arbitrary early dismissal that could be used as a tool of political pressure. In practice, dismissal can only occur on the basis of serious misconduct or incapacity, proven through a legitimate and transparent disciplinary mechanism. Such security of tenure guarantees form the main pillar of judicial independence. With this protection, judges have the courage to make decisions that may be unpopular but align with their conscience and principles of justice, without fearing job loss due to power pressures.

Therefore, the provision requiring suspects to be brought before a judge within 48 hours, as affirmed by General Comment No. 35, constitutes a concrete manifestation of the values contained in the Basic Principles on the Independence of the Judiciary. These principles explain not only the importance of the judge's role in overseeing detention but also establish standards for who qualifies as a judge and how judicial institutions must be structured to effectively perform that function..

2. Problems in the Pre-Trial Detention Mechanism in Indonesia: Comparison with International Human Rights Standards

Provisions on detention in Indonesia are regulated under Article 100 Paragraph (5) of the new Criminal Procedure Code (RKUHAP), which stipulates that detention of a person may only be carried out if there is strong evidence that they have committed a criminal offense, supported by at least

²³ United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

two valid pieces of evidence. Detention must also be based on specific circumstances that give rise to concerns, such as if the suspect or defendant is likely to flee, destroy or tamper with evidence, or is feared to repeat the same criminal offense. These considerations are known in practice as subjective grounds for detention, as they relate to the law enforcement officers' assessment of the suspect's individual condition and behavior.

The new Criminal Procedure Code (RKUHAP) not only regulates subjective grounds but also establishes objective requirements that must be met before detention is carried out. These objective requirements relate to the type and severity of the criminal offense alleged against an individual. In this context, the parameter used is the penalty threat attached to the offense. Article 100 Paragraph (1) of the RKUHAP explicitly states that detention may only be imposed on suspects or defendants alleged to have committed a criminal offense, attempted a criminal offense, or participated in a criminal offense with a minimum penalty of five years' imprisonment or more. In addition, this provision also covers specific types of criminal offenses explicitly mentioned in other laws, such as Article 213, Article 240 Paragraph (2), Article 241, and Article 250 Paragraph (1) of Law No. 1 of 2023 on the Criminal Code (KUHP). This section is referred to as the objective requirements for detention.²⁴

The authority to impose detention as part of the investigation process in Indonesia's criminal justice system derives its legal legitimacy from the issuance of a detention warrant, as stipulated in Article 100 Paragraph (1) of the Criminal Procedure Code (KUHP). This warrant must include the suspect's or defendant's identity, the reasons for detention, a brief description of the alleged or charged criminal offense, and the place of detention. Furthermore, Article 100 Paragraph (4) requires investigators to provide a copy of the detention warrant to the suspect's family, among others.

²⁴ Ade F. D Sinaga, Tengku Erwinsyahbana, and Ahmad Fauzi, "Pengesampingan Syarat Objektif Dan Subjektif Penahanan Dalam Proses," *Jurnal Das Sollen* 9, no. 1 (2023): 642–56.

Article 102 Paragraph (1) of the RKUHAP stipulates that the detention period by investigators shall not exceed 20 days, unless the investigation is completed before the end of that period, in which case the suspect must be immediately released from detention. However, if the examination cannot be completed within that time limit, Article 102 Paragraph (2) allows the investigator to request an extension of detention from the public prosecutor for a maximum period of 40 days.

The detention mechanism, as one of the investigators' authorities and a form of coercive measure in Indonesia's criminal justice system, is still considered not fully aligned with international human rights standards. It is important to understand that, although detention is sometimes deemed necessary for the smooth conduct of investigation or prosecution processes, such action still carries the potential for violations if not carried out with caution and strict oversight. In criminal procedure practice, it has long been recognized that without adequate controls, detention can easily shift into an arbitrary form of deprivation of liberty.²⁵ Therefore, nearly all modern legal systems emphasize the importance of implementing checks and balances mechanisms to ensure that every detention decision is truly based on the rule of law and applicable principles of justice.

Within the framework of international human rights law, judges or judicial bodies are positioned as independent overseers of the exercise of detention authority. This is explicitly stated in General Comment No. 35 of the UN Human Rights Committee, particularly in paragraph 32, which affirms that every person who is detained must be promptly brought before a judge to assess the validity and legality of their detention. The judge has the authority to determine whether the detention should continue or be terminated. If the detention is deemed unlawful or no longer necessary, the detained individual

²⁵ Erwin Susilo, Dharma Setiawan Negara, and Joel Niyobuhungiro, "Legal Protection for Suspects through the Integration of Judicial Supervision in Pre-Trial Detention in Indonesia," *Indonesian Journal of Criminal Law Studies* 10, no. 1 (2025): 179–216, <https://doi.org/https://doi.org/10.15294/ijcls.v10i1.20605>.

must be immediately released, even though legal proceedings against them may still continue.

General Comment No. 35 also emphasizes that every detention action by police for investigation purposes must obtain judicial authorization or justification. In practice, after an arrest is made, if the investigator decides to detain the suspect for pre-trial investigation purposes, the suspect must be brought before a judge within a maximum period of 48 hours. Within this timeframe, the judge assesses whether there are valid, sufficient, and urgent legal grounds to continue the detention or to terminate it. This mechanism serves as an important judicial filter to prevent abuse of authority, violence, and torture practices that are vulnerable to occurring during detention periods.

The absence of an effective control mechanism and the leeway given to authorities to carry out detention for up to 60 days without direct court supervision enables the potential for torture to occur. Testing allegations of torture can generally only be conducted after the detention has taken place and an individual has officially been designated as a suspect or defendant, making early oversight crucial. The position of the police is considered to have broad authority in the initial investigation stage.²⁶ This authority is often not balanced by strong external oversight mechanisms, and this condition has the potential to cause human rights violations.

Data from the Commission for Missing Persons and Victims of Violence (KontraS) shows that from June 2021 to May 2022, there were at least 27 cases of alleged torture occurring in detention facilities.²⁷ These findings demonstrate that acts of torture frequently occur in closed locations with

²⁶ Komisi Untuk Orang Hilang dan Tindak Kekerasan, "Peringatan Hari Anti Penyiksaan," KontraS, 2024, <https://kontras.org/artikel/25-tahun-indonesia-ratifikasi-cat-presiden-jokowi-dan-dpr-ri-gagal-hentikan-praktik-penyiksaan-di-kepolisian-tni-dan-lapas>.

²⁷ Komisi untuk Orang Hilang dan Korban Tindak Kekerasan, *Situasi Praktik Penyiksaan Dan Perlakuan Atau Penghukuman Lain Yang Kejam, Tidak Manusiawi, Atau Merendahkan Martabat Manusia Di Indonesia Periode Juni 2021 - Mei 2022* (Jakarta: KontraS, 2022).

minimal public oversight. This situation indicates the importance of judicial oversight by judges or judicial institutions as a preventive measure to prevent violations during detention periods.

In addition, General Comment No. 35 also imposes strict limitations on law enforcement officials, particularly investigators, requiring them to prepare all necessary documents, evidence, and legal bases to justify their decision to detain. The maximum 48-hour deadline serves as a control mechanism to ensure that the detention decision is truly based on justified and urgent needs. Paragraph 34 further emphasizes that the suspect must be physically presented before the judge, not merely through documents or reports. This provision not only aims to give the suspect an opportunity to defend themselves but also allows the judge to directly assess whether there are indications of torture, violence, or arbitrary treatment during the detention period.

Thus, the entire series of mechanisms reflects direct judicial oversight of the exercise of detention authority by law enforcement officials. This oversight serves a dual function: on one hand, it ensures that detention is carried out lawfully and proportionately; on the other hand, it prevents human rights violations and the frequent practices of torture that occur in the early stages of criminal proceedings. This is because the suspect is presented directly before the judge, allowing the judge to hear and see firsthand and assess whether there truly were violations experienced during the detention period.

According to a publication presented by the Convention Against Torture Initiative (CTI), judicial oversight within 48 hours is noted as an "important disincentive for torture practices," particularly in the initial hours of police detention.²⁸ Human Rights Watch (HRW) has documented that countries slow to present suspects before a judge experience rampant torture

²⁸ Convention Against Torture Initiative, *Safeguards in Police Custody*, CTI (Geneva: CTI, 2021), https://cti.international/wp-content/uploads/2022/05/2021-CTI_Police-ResKit-5.1-Safeguards-ENG-screen.pdf.

at the police investigation level, whereas countries implementing prompt hearings show a decline in torture cases for the long term.²⁹ Even if violations do not disappear immediately, the existence of prompt detention hearings becomes a crucial part of efforts to curb a culture of violence. Indonesian legal experts also agree that reforming the Criminal Procedure Code (KUHP) by incorporating the 48-hour mechanism will prevent arbitrary arrests and violence by rogue elements from the earliest stages of law enforcement.

Experiences from various countries show that the 48-hour mechanism is not merely a procedural rule, but a concrete manifestation of human rights protection. Take, for example, the provisions in France that regulate police custody (*garde à vue*), which is limited to a maximum of 24 hours. This period can be extended once for another 24 hours by the prosecutor (*procureur*), making a total maximum of 48 hours. In cases of serious crimes such as terrorism or drug trafficking, the *garde à vue* period can be extended to 72 or 96 hours, but such extensions can only be made at the request of the prosecutor (*procureur*) and with the authorization of the "judge of freedoms and detention" (*juge des libertés et de la détention*). Throughout the detention, the prosecutor and judge act as "magistrates" who mutually oversee each other and act in the public interest. The investigating judge (*juge d'instruction*) not only examines evidence and witnesses but also has the authority to order detention, seizures, and to determine whether there is sufficient evidence to bring the case to trial.³⁰

These standards demonstrate that the detention mechanism is not only important to limit in terms of hours, but also requires the existence of various other state institutions to conduct direct oversight. France not only regulates a 2x24-hour limit for detention during the police investigation phase, but also

²⁹ Human Rights Watch, "The Right to a 'Custody Hearing' Under International Law," Human Rights Watch, 2014, <https://www.hrw.org/news/2014/02/03/right-custody-hearing-under-international-law#:~:text=Yet%252C%20until%20now%252C%20Brazil%20has,mistreatment%20by%20abusive%20police%20officers.>

³⁰ Supriyadi W. Eddyono et al., *Praperadilan Di Indonesia: Teori, Sejarah, Dan Praktiknya* (Jakarta: Institute for Criminal Justice Reform, 2014).

incorporates the roles of both the prosecutor and the judge to oversee the detention. Although detention periods exceeding 2x24 hours are permitted, they are regulated strictly for specific criminal offenses, taking into account the type of crime and the complexity of the investigation. The 48-hour limitation, accompanied by oversight mechanisms from both the prosecutor and the judge, is expected to minimize the risk of abuse and potential arbitrariness.

If referring to the due process of law approach, which must serve as the benchmark for the entire judicial process from arrest to judgment due process constitutes the main pillar of a criminal justice system that upholds human rights. Its implementation must ensure that no rights of the suspect are violated without mechanisms for objection or correction. The obligation to bring the suspect before a judge within 48 hours is a concrete embodiment of due process. This mechanism enforces oversight from the very beginning of the process, while treatment of the suspect is also monitored by a neutral judge.

Normatively, the Draft Criminal Procedure Code (RKUHAP) does indeed provide space for the involvement of other law enforcement institutions in the investigation process, one of which is through the investigator's obligation to submit the Notification of Commencement of Investigation and Pursuit (SPDP) to the public prosecutor. Following the Constitutional Court (MK) decision, this obligation is affirmed as binding and must be carried out no later than seven days from the issuance of the investigation order. This provision is also reinforced in the new RKUHAP under Article 60 Paragraph (1). Nevertheless, this SPDP submission mechanism cannot yet be considered fully aligned with international human rights standards.

Furthermore, General Comment No. 35, paragraph 32, from the United Nations Human Rights Committee states that public prosecutors cannot be viewed as officials exercising judicial power or equivalent to judges. Thus,

under international human rights law principles, the prosecutor's authority as *dominus litis* via the investigator's SPDP submission obligation cannot replace the independent judge's role in supervising the legality and validity of detention measures.

The Draft Criminal Procedure Code (RKUHAP) once again regulates pre-trial proceedings as a complaint mechanism to challenge all forms of coercive measures during the investigation process, one of which is detention. Furthermore, it is evident that under the new provisions, the authority of pre-trial proceedings has indeed been strengthened. This can be seen in Article 158, which regulates a new authority, namely the postponement of case handling without valid reasons. This means addressing all forms of alleged undue delay in a case where no specific legal steps have been taken at the judicial stage,³¹ now has a challenge mechanism. In addition, there is a guarantee that during the pre-trial examination process, the main examination at the court cannot be conducted, as regulated in Article 163 Paragraph (1) letter e of the RKUHAP.

Nevertheless, this expansion still does not fully align with international human rights standards. Both normatively and in practice, the implementation of pre-trial proceedings still leaves several fundamental issues unresolved. One problem considered quite fundamental is its post-factum nature, meaning pre-trial can only be filed after coercive measures have been taken, thus failing to function as a preventive mechanism against abuse of authority by investigators. The next issue is the limited scope of examination, as pre-trial judges generally only assess administrative completeness without examining the substantive aspects of coercive actions. Third, there is a perception that pre-trial judges tend to be passive, given that this process only proceeds upon application by interested parties. Moreover, such applications can be

³¹ M. Rizki Yudha Prawira, "Penundaan Berlarut (Undue Delay) Penanganan Perkara Dugaan Tindak Pidana Penghalang-Halangan Dan Kekerasan Kepada Kerja Pers: Sebuah Tinjauan Kritis," *Jurnal Hukum Media Justitia Nusantara* 14, no. 2 (2024): 94–107, <https://doi.org/https://doi.org/10.30999/mjn.v14i2.3351>.

dismissed if the main trial has commenced, resulting in the suspect losing the right to legal certainty regarding the validity of actions by authorized officials, thereby neglecting substantive justice.³²

This differs from the provisions regarding judicial authority as regulated in General Comment No. 35, paragraph 32, which emphasizes that judicial involvement in the detention process is an inherent legal obligation and an inseparable part of the entire criminal justice system. Under these standards, judicial review is not positioned as an additional process, but rather as a stage or integral component of the justice system mechanism itself to assess and justify whether detention of an individual is indeed necessary during the investigation phase.

This approach differs from the pre-trial mechanism in the Indonesian legal system, which is post-factum in nature meaning it can only be filed after coercive measures have been taken and based on an application from the suspect or their representative. With this character, pre-trial does not function as a preventive control against abuse of authority, but rather only as a corrective instrument after the arrest or detention has occurred. In practice, this mechanism may be overlooked or inaccessible to suspects, either due to lack of understanding of their legal rights, limited access to legal counsel, or other structural factors that hinder the exercise of those rights.

C. CONCLUSION

The investigator's authority to conduct detention during the investigation stage constitutes a restriction of human rights that must be strictly supervised. Under international human rights standards, particularly Article 9(3) of the ICCPR and General Comment No. 35, it is emphasized that anyone arrested must be brought "*promptly*" before a judge, generally within a maximum of 48 hours. The purpose is to ensure independent judicial

³² Supriyadi W. Eddyono and Zainal Abidin, *Memastikan Pemenuhan Hak Atas Reparasi Korban Pelanggaran HAM Yang Berat* (Jakarta: Institute for Criminal Justice Reform, 2016).

oversight to prevent arbitrary detention. In Indonesian practice, following the KUHAP revision based on the November 2025 draft, space is still provided for detention by investigators up to 60 days. Moreover, the absence of direct judicial involvement as oversight raises concerns of potential violations of due process of law principles. Given the current RKUHAP provisions, an evaluation is needed, opening opportunities for improvement by referring to and adopting various human rights standards and instruments.

REFERENCES

- Birk, Moritz, Julia Kozma, Roland Schmidt, Zoe Oliver Watts, Debra Long, and Elina Steinerte. *Pretrial Detention and Torture: Why Pretrial Detainees Face the Greatest Risk*. New York: Open Society Foundations, 2011.
- Convention Against Torture Initiative. *Safeguards in Police Custody*. CTI. Geneva: CTI, 2021. https://cti.international/wp-content/uploads/2022/05/2021-CTI_Police-ResKit-5.1-Safeguards-ENG-screen.pdf.
- Eddyono, Supriyadi W., and Zainal Abidin. *Memastikan Pemenuhan Hak Atas Reparasi Korban Pelanggaran HAM Yang Berat*. Jakarta: Institute for Criminal Justice Reform, 2016.
- Eddyono, Supriyadi W., Wahyudi Djafar, Sufriyadi, Erasmus A. T. Napitupulu, and Sriyana. *Praperadilan Di Indonesia: Teori, Sejarah, Dan Praktiknya*. Jakarta: Institute for Criminal Justice Reform, 2014.
- Gane, Christopher, and Mark Mackareel. *Human Rights and the Administration of Justice: International Instruments*. Hague: Kluwer Law International, 1997.

Human Rights Committee. General Comment No. 35 on Article 9 (Liberty and Security of Person) International Covenant on Civil and Political Rights (2014).

Human Rights Council. "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak : Addendum : Mission to Nigeria (4 to 10 March 2007)." Geneva, 2007.

———. "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak. Mission to Togo." Geneva, 2008.

Human Rights Council Seventh Session Item 3 of the Agenda. "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Mission to Paraguay." Geneva, 2007.

Human Rights Watch. "The Right to a 'Custody Hearing' Under International Law." Human Rights Watch, 2014. [https://www.hrw.org/news/2014/02/03/right-custody-hearing-under-international-law#:~:text=Yet%252C until now%252C Brazil has,mistreatment by abusive police officers.](https://www.hrw.org/news/2014/02/03/right-custody-hearing-under-international-law#:~:text=Yet%252C%20until%20now%252C%20Brazil%20has,mistreatment%20by%20abusive%20police%20officers.)

Komisi Nasional Hak Asasi Manusia. "Tentang Komnas HAM." Accessed September 5, 2025. [https://www.komnasham.go.id/tentang-komnasham#:~:text=Komnas HAM adalah lembaga mandiri,1999 tentang Hak Asasi Manusia.](https://www.komnasham.go.id/tentang-komnasham#:~:text=Komnas%20HAM%20adalah%20lembaga%20mandiri,1999%20tentang%20Hak%20Asasi%20Manusia.)

Komisi untuk Orang Hilang dan Korban Tindak Kekerasan. *Situasi Praktik Penyiksaan Dan Perlakuan Atau Penghukuman Lain Yang Kejam, Tidak Manusiawi, Atau Merendahkan Martabat Manusia Di Indonesia Periode Juni 2021 - Mei 2022*. Jakarta: KontraS, 2022.

Komisi Untuk Orang Hilang dan Tindak Kekerasan. "Peringatan Hari Anti Penyiksaan." KontraS, 2024. <https://kontras.org/artikel/25-tahun-indonesia-ratifikasi-cat-presiden-jokowi-dan-dpr-ri-gagal-hentikan->

praktik-penyiksaan-di-kepolisian-tni-dan-lapas.

Kusuma, Satria. "RKUHAP Resmi Disahkan Dalam Rapat Paripurna DPR." MARI News, 2025. <http://marinews.mahkamahagung.go.id/berita/rkuhap-resmi-disahkan-dalam-rapat-paripurna-dpr-0Ay>.

Mahkamah Konstitusi. "Putusan Mahkamah Konstitusi Nomor 130/PUU-XIII/2015," 2017. https://www.mkri.id/public/content/persidangan/putusan/130_PUU-XIII_2015.pdf.

Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana, 2016.

Nasser, Mochammad. "Peran Komisi Kepolisian Nasional Dalam Pengawasan Fungsional Polri." *Jurnal Hukum Sasana* 7, no. 1 (2021): 96–116. <https://doi.org/10.31599/sasana.v7i1.535>.

Office of the High Commissioner for Human Rights. "Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Human Rights Resolution 2005/39." Geneva, 2005.

Office of The United Nations High Commissioner for Human Rights. "International Human Rights Law." OHCHR. Accessed September 6, 2025. <https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law>.

Prawira, M. Rizki Yudha. "Penundaan Berlarut (Undue Delay) Penanganan Perkara Dugaan Tindak Pidana Penghalang-Halangan Dan Kekerasan Kepada Kerja Pers: Sebuah Tinjauan Kritis." *Jurnal Hukum Media Justitia Nusantara* 14, no. 2 (2024): 94–107. <https://doi.org/https://doi.org/10.30999/mjn.v14i2.3351>.

Sinaga, Ade F. D, Tengku Erwinsyahbana, and Ahmad Fauzi. "Pengesampingan Syarat Objektif Dan Subjektif Penahanan Dalam Proses." *Jurnal Das Sollen* 9, no. 1 (2023): 642–56.

Smith, Rhona K.M., Njäl Høstmælingen, Christian Ranheim, Satya Arinanto, Fajrul Falaakh, Enny Soeprapto, Ifdhal Kasim, Rudi M. Rizki, and Suparman Marzuki. *Hukum Hak Asasi Manusia*. Yogyakarta: Pusham UII,

2008.

Susilo, Erwin, Dharma Setiawan Negara, and Joel Niyobuhungiro. "Legal Protection for Suspects through the Integration of Judicial Supervision in Pre-Trial Detention in Indonesia." *Indonesian Journal of Criminal Law Studies* 10, no. 1 (2025): 179–216. <https://doi.org/https://doi.org/10.15294/ijcls.v10i1.20605>.

United Nations Congress on the Prevention of Crime and the Treatment of Offenders. "Basic Principles on the Independence of the Judiciary." Milan, 1985. <https://www.icj.org/wp-content/uploads/2014/03/UN-Basic-principles-independence-judiciary-1985-eng.pdf>.

