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The Implementation of Due Process of Law in Protecting Suspects' Rights at the Investigation Stage in Indonesia

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Abstract: This study examines the protection of suspects' rights during the investigation process, which continues to reveal a gap between legal norms and practice. The objective is to analyze the implementation of the principle of due process of law in ensuring the protection of suspects' rights at the investigation stage in Indonesia. A normative legal research method is employed using statutory and conceptual approaches with qualitative analysis. The findings indicate that although protection has been established through the Criminal Procedure Code and constitutional guarantees, its implementation remains influenced by an efficiency-oriented approach, weak oversight, and limited access to legal assistance. These conditions contribute to procedural violations such as coercive interrogation and wrongful suspect designation. Strengthening the principle of due process of law through criminal procedure reform, improved institutional accountability, and more active oversight mechanisms is therefore essential to achieve a fair criminal justice system that respects human rights.

Keyword: Due Process of Law, Suspects' Rights, Criminal Procedure Law

INTRODUCTION

Indonesia is recognized as a state based on the principle of the *rule of law*, whereby law constitutes the fundamental basis for the administration of state governance and social order. This principle requires that all actions undertaken by the state be grounded in legal norms in order to ensure order, justice, and legal certainty within society (Arifin, 2023). Within this framework, law operates as a primary instrument for safeguarding individual rights while maintaining the stability of the legal system. Human rights, as inherent and fundamental entitlements of every individual, must be respected, protected, and fulfilled through the legal structures established by the state (Sulubara et al., 2024). Accordingly, the protection of human rights constitutes an integral component of all law enforcement mechanisms within a rule of law system.

A concrete manifestation of human rights protection within a rule of law framework is reflected in the criminal justice system, which governs the enforcement of criminal law. This system constitutes a legal mechanism designed to uphold justice while maintaining a balance

between state authority and individual rights. In its operation, the criminal justice system comprises a series of interconnected stages, including preliminary inquiry, investigation, prosecution, and adjudication (Anwary, 2023). The investigation stage holds particular significance as it determines both the direction of evidentiary development and the legal status of an individual within criminal proceedings. At this stage, individuals designated as suspects are placed in a position that subjects them to the authority of law enforcement institutions. Nevertheless, such individuals remain entitled to legal protection and equal treatment before the law as an integral part of fundamental human rights guarantees (Daharis et al., 2024).

Investigative practices within the criminal justice system indicate that interrogation constitutes a central component in the process of proving a criminal offense. Interrogation may serve as a primary source of evidence that determines the direction and outcome of criminal cases (Thielgen et al., 2022). The dominance of law enforcement authority at this stage is often not accompanied by effective oversight mechanisms, creating opportunities for violations of suspects' rights. This condition is exacerbated by the imbalance of power between law enforcement officials and suspects, which structurally places suspects in a vulnerable position and exposes them to pressure during the examination process. In addition, the inconsistency between legal norms and their implementation reflects that legal processes have not fully aligned with the principles of justice and legal certainty (Matogu & Rusmiati, 2023).

The problems identified in investigative practices indicate the need for a principle that can limit the exercise of authority by law enforcement officials. One relevant principle is *due process of law*, which requires that all law enforcement actions be conducted through fair and lawful procedures. This principle is rooted in constitutionalism, which emphasizes the limitation of state power and the protection of citizens' rights (Adnan, 2023). In criminal procedure, *due process of law* requires that every stage, including investigation, be carried out without arbitrariness while ensuring the protection of suspects' rights (Firmansyah & Farid, 2022). Therefore, this principle functions as a control mechanism to maintain a balance between law enforcement authority and the protection of suspects' rights.

The regulation of suspects' rights within the Indonesian legal system has been clearly established in the Code of Criminal Procedure (KUHAP), particularly in Articles 50 to 68 (Amin, 2024). In addition, the guarantee of human rights protection is affirmed in the 1945 Constitution, which ensures legal certainty and fair treatment for every individual. Normatively, the existence of these legal instruments reflects a strong foundation for the protection of suspects' rights. However, in practice, various deviations still occur, including the abuse of authority by law enforcement officials and the weak implementation of the due process of law principle during the investigation stage (Wowor et al., 2025). This situation demonstrates a gap between legal norms and their implementation, which ultimately undermines the protection of suspects' rights.

Issues arising within the investigative process that potentially lead to violations of suspects' rights indicate that existing legal protection mechanisms have not been fully effective. The existence of pretrial mechanisms as supervisory instruments over law enforcement actions is fundamentally intended to prevent arbitrariness within the criminal justice process. The persistence of rights violations in practice reflects that such supervisory functions have not operated optimally. This condition highlights the importance of examining the implementation of the *due process of law* principle within the criminal justice system, particularly at the investigation stage. This examination is directed toward understanding the extent to which the principle is capable of ensuring the protection of suspects' rights in law enforcement practices in Indonesia.

METHOD

This study adopts a normative legal research method that conceptualizes law as a system of norms examined through conceptual and statutory approaches. Normative legal research focuses on the analysis of legal norms embodied in written regulations and secondary legal materials derived primarily from library-based sources (Sukmawan & Damayanti, 2025). The study employs a statute approach to examine applicable legal provisions and a conceptual *approach* to analyze the principle of due process of law within the criminal justice system. The legal materials consist of primary sources in the form of statutory regulations and secondary sources derived from academic journals and legal literature. The analysis is conducted qualitatively by interpreting the relationship between legal norms and their implementation in criminal justice practice.

RESULTS AND DISCUSSION

Legal Provisions Governing the Rights of Suspects During Investigation

The investigative stage in Indonesian criminal procedure constitutes the initial phase that determines both the direction of evidentiary development and an individual's legal position within a criminal case. The Criminal Procedure Code grants investigators authority to construct case narratives through evidence collection and suspect designation, which in practice creates a structural power relation between law enforcement authorities and individuals (Putra & Kartadipura, 2026). Such relations are not neutral, as control over information, evidence, and procedural mechanisms remains concentrated within state authorities. This condition places suspects in a structurally vulnerable position, particularly in relation to potential coercion and restriction of liberty. These circumstances necessitate legal regulations that effectively constrain the exercise of investigative authority within lawful boundaries.

The regulation of suspects' rights within the Criminal Procedure Code establishes a protective framework designed to limit investigative actions. The right to provide statements freely, as regulated under Pasal 52 of the Criminal Procedure Code, reflects that examinations must not be oriented toward coercive confession as a primary evidentiary tool (Santoso et al., 2026). The right to legal counsel further functions as a mechanism that enables suspects to maintain their position within an inherently unequal legal process. The recognition of these rights affirms that suspects remain legal subjects entitled to protection. This structure indicates that the legitimacy of investigation depends on the integrity of procedural conduct rather than solely on the outcomes achieved.

The protective framework of criminal procedure is further reinforced by fundamental legal principles that safeguard justice and legal certainty. One such principle is *ne bis in idem*, grounded in Pasal 76 of the Indonesian Criminal Code, which functions as a safeguard against repetitive legal action that may harm individuals (Hidayat et al., 2024). This principle demonstrates that criminal procedure is not merely a technical set of rules but also a mechanism for limiting abuse of authority. Its existence confirms that the protection of suspects is embedded within the broader legal system design. This framework reflects that criminal procedure law operates to balance law enforcement objectives with the protection of individual rights.

Problems in the Implementation of Suspects' Rights Protection in the Investigation Process in Indonesia

The investigation process within the Indonesian criminal justice system reflects the dominant authority of law enforcement officers in determining the direction of criminal cases. The Criminal Procedure Code formally adopts the principle of due process of law to protect suspects' rights, yet its implementation remains influenced by the crime control

model, which prioritizes efficiency (Kurdi et al., 2026). This orientation makes suspects' rights vulnerable when investigators emphasize outcomes over procedural safeguards. The gap between legal norms and practice is evident in the weak implementation of legal assistance, the persistence of coercive interrogation, and the lack of effective oversight. These conditions indicate that investigative problems arise not only from legal provisions but also from law enforcement culture.

The intimidation case involving Band Sukatani illustrates that abuse of authority may occur outside formal procedural actions. The band experienced pressure related to the song "Bayar, Bayar, Bayar," and that their public apology video was allegedly produced under pressure from the Cybercrime Directorate of the Central Java Regional Police (Wardana et al., 2025). Surveillance, tracking, and informal approaches resembled investigative activities, even though formal investigation requires a report and a valid warrant. This case shows how state authority may operate beyond criminal procedural safeguards when oversight is weak. Citizens become vulnerable because institutional pressure may occur before a lawful legal status is formally established.

Implementation problems are also visible in illegal fishing cases involving multiple investigative institutions. Zamili explains that fisheries crime investigations may be conducted by Civil Servant Investigators, Navy Officer Investigators, and Police Investigators, creating the risk of overlapping authority (Zamili, 2022). The investigation process included public reports, patrol-based inquiry, case examination, issuance of investigation warrants, transfer of suspects and evidence, ship inspection, search, seizure, arrest, and examination of witnesses and suspects. This sequence shows that the more institutions are involved, the greater the need for coordination and uniform procedural standards.

The imbalance of power between investigators and suspects becomes more significant when oversight mechanisms are ineffective. Both internal and external oversight remain weak, as reflected in the low level of administrative compliance in procedures such as searches. This condition highlights the limited effectiveness of existing supervisory institutions in controlling investigative practices. Weak oversight causes the protection of suspects' rights to depend on institutional quality rather than legal guarantees. Therefore, improving due process requires stronger oversight, better coordination, and reforms that ensure accountability in investigative practices.

Analysis of the Principle of Due Process of Law in Ensuring the Protection of Suspects' Rights During the Investigation Stage

The principle of *due process of law* serves as a fundamental standard to assess whether the investigation process is conducted lawfully, fairly, and with respect for individual rights. This principle emphasizes that procedural correctness is an essential component of justice, as errors at the early stage may affect the entire criminal justice process. In this regard, legal proceedings must be carried out in a transparent, fair, and impartial manner, free from external pressure from investigation to trial. This indicates that the protection of suspects' rights cannot be evaluated solely based on the existence of legal norms, but also on their proper implementation in practice.

The application of *due process of law* becomes increasingly significant at the investigation stage due to its high vulnerability to procedural errors. The phenomenon of *error in persona* demonstrates that suspect designation without adequate examination may lead to serious violations of individual rights (Haniyah, 2024). Misidentification of perpetrators during investigation reflects a lack of professionalism among law enforcement officials and may result in wrongful suspect designation. This condition highlights that

investigative errors are not merely technical issues but also fundamental justice concerns affecting a person's liberty, dignity, and reputation.

Procedural justice in the criminal justice system must also be understood in a broader sense, as it involves not only suspects but also victims and complainants. In practice, criminal reports that do not proceed to prosecution often create legal uncertainty, particularly when complainants are not provided with adequate information regarding case developments (Wijaya et al., 2024). This indicates that *due process of law* functions not only to limit the authority exercised over suspects but also to ensure transparency and accountability for all parties seeking justice.

Another issue reflecting the weakness of *due process of law* implementation lies in the reactive nature of the current oversight mechanism. The existing pretrial system largely depends on the initiative of suspects to file objections, resulting in supervisory review only after legal actions have already caused potential harm. In practice, this mechanism is limited to examining formal aspects such as the legality of arrest and detention, without addressing the broader investigative process from its initial stage (Panjaitan, 2022). Such limitations prevent early detection of procedural violations and instead position oversight as a corrective measure rather than a preventive one. The introduction of the Commissioner Judge in the reform of the Criminal Procedure Code reflects the need for a more active and preventive supervisory mechanism to ensure effective protection of suspects' rights.

Strengthening the principle of *due process of law* should be directed toward reforming criminal procedural law by integrating procedural standards, institutional accountability, and effective judicial oversight. Issues such as wrongful suspect identification, unresolved reports at the prosecution stage, and the limitations of pretrial mechanisms indicate that the current system has not fully ensured procedural justice. Accordingly, reform is necessary to establish clear standards for suspect designation based on sufficient evidence, ensure transparency in case progression, and provide corrective mechanisms that operate before rights violations escalate. In this way, *due process of law* can function as a foundation for a criminal justice system that is not only effective but also just and respectful of human rights.

CONCLUSION

The implementation of the principle of *due process of law* in protecting suspects' rights at the investigation stage in Indonesia shows that the legal system has a strong normative foundation. This foundation is reflected in the Criminal Procedure Code as well as constitutional guarantees that recognize the protection of human rights. However, a gap remains between legal norms and their practical application. This condition is reflected in the dominance of the crime control approach, weak oversight, and limited access to legal assistance. The protection of suspects' rights in practice has not been fully realized. Coercive interrogation and wrongful suspect designation indicate deviations from proper legal procedures. The overlap of investigative authority among institutions also shows that the system lacks proper integration. These conditions confirm that the quality of procedural implementation plays a crucial role in ensuring justice. The existence of legal provisions alone is insufficient without consistent enforcement. Strengthening the principle of *due process of law* should be directed toward comprehensive reform of criminal procedural law. This includes improving the accountability of law enforcement officers and developing more active and preventive oversight mechanisms. It also requires clear standards for suspect designation and greater transparency in investigative processes. These measures are essential to ensure effective protection of suspects' rights. In this way, the criminal justice system can evolve into one that is more just, balanced, and respectful of human rights.

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