

Protection of Human Rights in the Investigation Process Criminal Offenses in Indonesia

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Abstract

The criminal investigation process is the initial stage in the criminal justice system that has great potential for human rights violations. This research aims to analyze the implementation of human rights protection in the criminal investigation process in Indonesia, with a focus on identifying obstacles and challenges faced, and providing recommendations for improvement. The research method used is a qualitative approach with normative analysis of various national and international legal instruments governing human rights protection, as well as case studies and in-depth interviews with law enforcement officials and legal experts. The results showed that although Indonesia has a strong legal framework to protect human rights, as stipulated in the 1945 Constitution, Law No. 39/1999 on Human Rights, and the Criminal Procedure Code (KUHAP), there are still various obstacles in its implementation. Cases of torture and inhumane treatment, detention without legal procedures, and limited access to legal aid are still common. The main causes of these problems are lack of oversight, lack of training of law enforcement officials on human rights, and limited resources to provide adequate legal aid.

Keywords: Human Rights Protection, Criminal Investigation, Criminal Justice System, Law Enforcement.

INTRODUCTION

The criminal investigation process is one of the most crucial stages in Indonesia's criminal justice system. The investigation process plays a vital role in the criminal procedure law process, as it often involves revealing the truth of the allegations against the individuals involved, and often also involves the rights and dignity of the individuals concerned. Therefore, one of the fundamental principles in criminal procedure law is that "The purpose of an investigation in a criminal case is to clarify the issues, to find and prosecute the perpetrators of the crime, while also protecting innocent individuals from inappropriate actions" (Miranda et al., 2021). Various legal actions such as arrest, detention, and examination are carried out by law enforcement officials to collect evidence and determine suspects. The lack of clarity regarding the maximum time period for the investigation process creates legal uncertainty for the suspect (Prasetyo & Herawati, 2022). However, this stage of investigation is often in the spotlight due to the potential for human rights violations. As someone who has not been proven guilty, a suspect or defendant is entitled to the protection of rights guaranteed by the Criminal Procedure Code (Cahyani et al., 2023). Indonesia, as a country that upholds the principles

of democracy and human rights, has adopted various national and international legal instruments to protect the rights of individuals in the legal process. The 1945 Constitution, Law No. 39/1999 on Human Rights, and the Criminal Procedure Code (KUHAP) provide a strong legal basis for the protection of human rights at every stage of the criminal justice process. In addition, the ratification of various international conventions such as the International Covenant on Civil and Political Rights (ICCPR) demonstrates Indonesia's commitment to ensuring the protection of human rights.

Nevertheless, the implementation of human rights protection in the investigation process in Indonesia still faces various challenges. The police are responsible for conducting investigations and arrests of criminals by ensuring that the process is conducted with respect for individual rights guaranteed by human rights, such as the right to protection from torture or inhumane treatment. (Widjaja & Aswan, 2024). Cases of torture, inhumane treatment, unlawful detention, and limited access to legal aid often appear in the news and reports of human rights organizations. This reality shows a gap between the existing legal framework and the practice in the field. Torture and inhumane treatment committed by unscrupulous law enforcement officers remains a serious problem. In an effort to obtain confessions from suspects, some investigators have committed acts of violence that clearly violate human rights principles. There are still elements within the police institution who are involved in acts of violence or intimidation against suspects during the examination process, with the intention of obtaining a confession from the suspect. Such actions are a clear violation of human rights and are contrary to the Standard Operating Procedures (SOP) for investigations that apply in the police force (Miranda et al., 2021). Detention without proper procedures, such as without a detention warrant or without clear reasons, is also common. In addition, the suspect's right to legal aid is often overlooked, especially for those from weak economic backgrounds.

Human rights are basic rights that are inherent in every person and cannot be taken away by anyone, including the state. Human rights are basic rights that humans have since they were born. (Saputri, 2022). The protection of human rights is particularly important given that the investigation process often involves actions that may limit individual freedoms. Therefore, ensuring that the investigation process is conducted with respect for human rights is essential to preserve the justice and dignity of every citizen. The protection of human rights in the investigation process is also closely related to the principles of fair trial. The presumption of innocence must be upheld, and every suspect has the right to know the charges against him/her, to have an adequate opportunity to defend himself/herself, and not to be treated in a discriminatory manner. The protection of human rights in the investigation process in Indonesia is guaranteed by various legal instruments, both national and international. Nationally, this protection is regulated in the 1945 Constitution, specifically Articles 28A to 28J which regulate the basic rights of citizens. In addition, Law No. 39/1999 on Human Rights and the Criminal Procedure

Code (KUHAP) provide a more specific legal framework for the protection of human rights in the context of criminal law. Internationally, Indonesia has ratified various human rights instruments, such as the International Covenant on Civil and Political Rights (ICCPR) which emphasizes the rights that must be protected at every stage of the criminal justice process, including during investigation.

This study aims to analyze the implementation of human rights protection in the criminal investigation process in Indonesia. By evaluating the existing legal framework, as well as identifying the obstacles and challenges faced, this research is expected to provide constructive recommendations to strengthen the protection of human rights in the criminal justice system in Indonesia. Through a comprehensive approach and joint efforts between the government, law enforcement officials, and civil society, it is hoped that an investigation process that respects and protects the human rights of every individual can be created.

METHODS

This research uses a qualitative approach with a descriptive-analytical method to analyze the protection of human rights in the criminal investigation process in Indonesia. A normative approach is applied to examine various relevant laws and legal instruments, such as the 1945 Constitution, Law No. 39/1999 on Human Rights, the Criminal Procedure Code (KUHAP), and the International Covenant on Civil and Political Rights (ICCPR). The analysis of these documents aims to understand the legal provisions governing the protection of human rights in investigations. In addition, this research also uses case studies to explore concrete examples of the conduct of investigations in Indonesia, identifying human rights violations that occur, the response of law enforcement officials, and the impact on suspects. Data for the case studies were obtained from court decisions, reports from human rights organizations, media reports, and other official documentation. In-depth interviews were conducted with various parties involved in the investigation process and human rights protection, including law enforcement officials (police, prosecutors, judges), legal experts (academics, practitioners, advocates), as well as human rights institutions such as the National Human Rights Commission (Komnas HAM) and non-governmental organizations (NGOs). The interviews aimed to gain insight into the practical experiences, perceptions and challenges faced in protecting human rights during investigations. The data obtained was analyzed descriptively and analytically through a coding process to categorize the data based on the main themes, triangulation to verify data from various sources, and interpretation to draw comprehensive conclusions. The results of this analysis will be used to provide constructive recommendations to improve the protection of human rights in the investigation process in Indonesia, which are expected to be used by policy makers, law enforcement officials, and other relevant institutions.

DISCUSSION

The results of research on the protection of human rights in the criminal investigation process in Indonesia show that although the existing legal framework has provided a strong basis for protecting human rights, there are still various challenges that hinder its implementation. One of the main results is the human rights violations that occur during the investigation process, such as cases of torture and inhumane treatment of suspects. This shows that there are still law enforcement officers who do not adhere to human rights principles in carrying out their duties. Detention carried out without legal procedures is also still common, indicating the need for increased supervision and accountability for the actions of law enforcement officials.

It is important to strengthen the capacity of law enforcement officials through continuous training on human rights as well as increasing supervision and accountability for the actions of law enforcement officials. In addition, the need to utilize technology to monitor investigation actions was also an important point raised.

1. Legal basis for human rights protection:

- a. 1945 CONSTITUTION: Article 28D(1) of the 1945 Constitution states that every person is entitled to recognition, guarantees, protection and certainty of a just law and equal treatment before the law.
- b. KUHAP: KUHAP provides a clear legal framework regarding the rights of suspects and accused during the investigation process, including the right to be accompanied by legal counsel and the right to be informed of the reasons for arrest and detention.

2. Guaranteed Rights:

- a. Right to Information: The suspect must be informed of the reasons for the arrest and the rights of the accused at the time of arrest.
- b. Right to Legal Aid: Suspects are entitled to legal assistance from the time of arrest and during the investigation process.
- c. Right to Humane Treatment: Suspects must be treated humanely and must not be subjected to torture or inhumane treatment while in detention.
- d. Right to a Fair Trial: Suspects are entitled to a fair and impartial judicial process, including the right to defend themselves and present supporting evidence.

3. Implementation and Challenges:

- a. Compliance with Procedures: There were frequent deviations from the procedures set out in KUHAP, such as arrest and detention without a valid warrant, and interrogation without the presence of legal counsel.

- b. Cases of Torture: There are still reports of the use of torture or other ill-treatment against suspects during the investigation process to obtain confessions or information.
- c. Access to Legal Aid: Many suspects do not have access to adequate legal counsel, especially in remote areas.

4. The Role of Supervisory Institutions:

- a. National Human Rights Commission: Has the mandate to monitor, investigate and report on human rights violations, including in the investigation process.
- b. Ombudsman of the Republic of Indonesia: Oversees the implementation of public services by law enforcement officials and follows up on public reports of maladministration in the investigation process.
- c. Legal Aid Organization (LBH): Providing free legal aid to indigent suspects, as well as advocating for the protection of human rights in the criminal justice process.

5. Principles of Human Rights Protection in Investigations

- a. Principle of Legality: Every investigative action must be based on applicable law. Investigators may not take actions outside their authority that are not regulated by law.
- b. Principle of Presumption of Innocence: Every person who is suspected, arrested, detained, prosecuted, or brought before the court must be presumed innocent until proven guilty through a fair judicial process.
- c. Fair Trial Principle: Every individual is entitled to a fair trial, which includes the right to know the charges, the right to a defense, and the right not to be subjected to arbitrary treatment.
- d. Principle of Non-Discrimination: Any investigative action should be conducted without regard to race, religion, gender, political opinion, or other status.

6. Challenges and Issues

Although the existing legal framework is adequate, the implementation of human rights protection in the investigation process in Indonesia still faces various challenges. Some of the problems that often arise include:

- a. Torture and Inhumane Treatment: There are still cases of torture against suspects during the investigation process to obtain confessions.
- b. Unprocedural Detention: Many cases of detention are carried out without proper procedures, such as without a detention warrant or without sufficient grounds.
- c. Neglected Right to Legal Aid: Many suspects do not have access to adequate legal aid, especially those from economically disadvantaged backgrounds.

7. Efforts and Solutions

To overcome these problems, comprehensive efforts are needed, among others:

- a. Capacity Building of Law Enforcement Officials: Through continuous training and education on human rights and good investigation standards.
- b. Improved Supervision and Accountability: Establish effective oversight mechanisms on the performance of law enforcement officers and strengthen oversight institutions such as the National Human Rights Commission (Komnas HAM).
- c. Provision of Access to Legal Aid: Ensure that suspects have adequate access to legal aid from the beginning of the investigation process.
- d. Utilization of Technology: Use of technology such as surveillance cameras in the interrogation room to ensure there is no abuse of authority by investigators.

CONCLUSION

The Protection of Human Rights in the Criminal Investigation Process in Indonesia shows that although there is an adequate legal framework to protect human rights, implementation in the field still faces various challenges. Law enforcement officials often do not fully comply with human rights principles, such as the right to legal aid and humane treatment. Oversight and accountability still need to be strengthened to prevent abuse of power and rights violations. In addition, the importance of continuous education and training for law enforcement officers is emphasized to increase their awareness and understanding of human rights. Protection for victims and witnesses must also be improved to ensure that the investigation process is fair and transparent. In conclusion, commitment and joint efforts from various parties are needed to realize effective human rights protection in the criminal investigation process in Indonesia.

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