

Strengthening Investigator Accountability through Cost Internalization in Indonesian Criminal Procedure Reform



Hamonangan Albariansyah^{1✉} , Ahmad Firjatullah Farhan² 

^{1,2} Faculty of Law, Universitas Sriwijaya, Sumatera Selatan, Indonesia

Corresponding: hamonanganalbariansyah@fh.unsri.ac.id

Received: 2025-10-11 | Accepted: 2026-04-24 | Published: 2026-05-05

Abstract

Pre-trial procedure serves as a control mechanism over the authority of law enforcement officers, particularly in assessing the legality of coercive measures undertaken by investigators. In practice, courts have granted pre-trial applications in several cases and ordered compensation to be paid to applicants. However, a pre-trial decision does not automatically establish the state's obligation to provide compensation; it must first be proven that the loss is real, measurable, and directly caused by unlawful actions. In general, such compensation is borne by the state through the national budget. Indonesian criminal procedural law does not explicitly regulate mechanisms for imposing compensation liability directly on investigators or other responsible state officials. Nonetheless, outside the criminal procedure framework, state financial law provides a mechanism for holding public officials accountable for losses resulting from negligence through administrative and financial liability systems. This study examines the potential application of cost internalization within the framework of economic and legal analysis to strengthen investigator accountability. By internalizing the costs arising from unlawful investigative actions, the burden of compensation may be shifted, at least partially, from the state to the responsible officials. The findings indicate that cost internalization represents an optimization of accountability, encouraging greater prudence and professionalism among investigators. Therefore, it is recommended that this concept be explicitly regulated in the Draft Criminal Procedure Code to enhance legal protection and institutional responsibility.

Keywords: Cost Internalization; Investigator Accountability; Compensation; Economic and Legal Analysis

I. Introduction

Pretrial proceedings in the Criminal Procedure Law System in Indonesia are regulated in Article 1 point 10 and Article 11 of the Criminal Procedure Code (KUHAP). The Indonesian criminal procedure law recognizes the mechanism of pretrial proceedings. Pretrial is a legal forum to test the validity of the actions of law enforcement officials, as regulated in Articles 77 to 83 of the Criminal Procedure Code (KUHAP). Pretrial is a mechanism provided by the Indonesian criminal justice system that regulates the authority of the District Court to examine and decide on the validity or invalidity of arrests, detentions, searches, seizures, termination of investigations or termination of prosecutions carried out by investigators.¹

¹ Undang-Undang Nomor 8 Tahun 1981 Tentang Kitab Undang-Undang Hukum Acara Pidana.

As the Constitutional Court has developed, it has issued several decisions related to pre-trial proceedings, including Constitutional Court Decision No. 21/PUU/XII/2014 regarding the determination of suspects as objects of pre-trial proceedings, Constitutional Court Decision Number 109/PUU-XIII/2015 regarding the limitation of the Scope of Material Law of Pre-trial Proceedings, Constitutional Court Decision Number 102/PUU-XIII/2015 regarding the lapse of pre-trial application, and Constitutional Court Decision (Decision Number 130/PUU-XIII/2015 regarding the submission of SPDP.² Criminal procedure law is the law that regulates and sets limits on the actions that the state can take during the investigation, inquiry and judicial process, using standardized methods to uphold the law and protect the rights of individuals throughout the legal process from arbitrary treatment by law enforcement authorities due to suspicion of criminal acts.³

The protection provided by pre-trial also includes protection from actions to search for evidence of guilt that lead to unfair prejudice or seizure of goods in violation of the law in the investigation and prosecution process that is not based on the law and a biased judicial process (unlawful legal evidence). Given that the legal process is a series of actions by the investigator that essentially violate a person's human rights carried out on behalf of the state, in order for the law enforcement process not to violate human rights.⁴Section 77 of the Criminal Procedure Code also regulates that the district court has the authority to examine and decide on requests for compensation, rehabilitation, against the suspect or their family as a result of the proven procedural error by the investigator in carrying out such coercive measures. The pre-trial hearing is intended as a form of legal protection for human rights or suspects investigated through the criminal justice system.⁵

As specified in the Criminal Procedure Code, Pre-trial Hearing is the jurisdiction of the District Court to examine and decide on the legality of an arrest or detention; the legality of the termination of an investigation or prosecution, a claim for compensation or rehabilitation by the suspect or their family or another party or their proxy whose case is not brought to court. (Article 1 point 10 in conjunction with Article 77 of the Criminal Procedure Code), the legality of the seizure of evidence (Article 82 paragraph 1 letter b of the Criminal Procedure Code).⁶ Therefore, if elaborated, the pre-trial decision may take the form of a rejection, validation, or even a correction of unlawful actions or an order to perform a specific act (such as the return of evidence), payment of compensation, or rehabilitation.⁷

In its development, Law Number 8 of 1981 concerning Criminal Procedure Law was replaced with new provisions. On November 18, 2025, the House of Representatives of the Republic of Indonesia officially ratified the Criminal Procedure Code (KUHP). There are at least 10 main points of reform in criminal procedure law, namely:⁸

1. Strengthening the rights of suspects, defendants, convicts, witnesses, victims, and persons with disabilities;
2. Increasing the authority of investigators, police investigators, and public prosecutors, as well as strengthening their coordination;
3. Amendments to regulations regarding Coercive Measures;

² Riki Perdana Raya Waruwu, *Praperadilan Pasca 4 Putusan Mahkamah Konstitusi*, diakses di <https://kepaniteraan.mahkamahagung.go.id/images/artikel/Praperadilan%20Pasca%204%20Putusan%20MK.pdf>

³ Putusan Mahkamah Konstitusi Nomor 21/PUU-XXI/Tahun 2014, diakses di https://www.mkri.id/public/content/persidangan/putusan/21_PUU-XII_2014.pdf

⁴ Penjelasan Umum Undang-undang Nomor 8 Tahun 1981

⁵ Ayres, I., & Gertner, R. (1989). Filling gaps in incomplete contracts. *Yale Law Journal*. DOI: <https://doi.org/10.2307/796545>

⁶ Pengadilan Negeri Salatiga, *Praperadilan*, diakses di <https://www.pn-salatiga.go.id/2015-06-06-01-33-01/praperadilan.html#:~:text=Praperadilan,ayat%201%20huruf%20b%20KUHP>). Tanggal 9 Juni 2025

⁷ Becker, G. S. (1968). Crime and punishment: An economic approach. *Journal of Political Economy*. DOI: <https://doi.org/10.1086/259394>

⁸ Dewan Perwakilan Rakyat Republik Indonesia, *Aturan Pejelasan KUHP Baru* <https://berkas.dpr.go.id/akd/dokumen/komis3-RJ-20251118-081955-2507.pdf>, diakses tanggal 19 November 2025

4. Adding mechanisms for Plea Bargaining and Deferred Prosecution Agreements;
5. Strengthening pretrial procedures;
6. Regulations on restorative justice;
7. Restoration of the rights of victims of criminal acts in the form of compensation, rehabilitation, restitution and reparation;
8. Strengthening the role of advocates;
9. Protection and fairness for Crown witnesses;
10. Strengthening the role of the High Court in relation to restructuring the effectiveness and accountability of legal efforts.

From the explanation above, it is known that the regulation regarding pretrial is one of the contents of the material of the 2025 Criminal Procedure Code update. Simply put, pretrial is still a legal mechanism that aims to test the validity of the actions of investigators and public prosecutors in criminal trials with expansion. Article 1 number 15 of the 2025 Criminal Procedure Code defines that pretrial is defined as the authority of the district court to examine and decide on objections filed by the suspect or the suspect's family, the victim or the victim's family, the reporter, or the advocate or legal aid provider who is authorized to represent the legal interests of the suspect or victim, regarding the actions of investigators in conducting investigations or the actions of the public prosecutor in conducting prosecutions according to the methods regulated in this Law. In the 2025 Criminal Procedure Code, pre-trial proceedings are regulated in Articles 158-164 of the 2025 Criminal Procedure Code, while provisions regarding compensation and rehabilitation related to pre-trial proceedings are regulated in Articles 173-177 of the 2025 Criminal Procedure Code.⁹

A pre-trial ruling that is granted does not automatically qualify as state losses, unless in that ruling the applicant demands it and the judge grants it, resulting in further legal consequences, namely that there is an obligation to pay compensation charged to the state and it is proven that the losses are real and can be quantified. Based on the provisions of Article 1 number 22 of Law Number 1 of 2004 concerning State Treasury, it states that "state/regional losses are the shortage of money, securities, and goods that are real and definite in amount as a result of unlawful acts either intentionally or negligently". In the crime of corruption, state losses are an absolute requirement for the fulfillment of the element "detrimental to state finance or the state's economy" as stated in the provisions of Article 2 and Article 3 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes as amended by Law Number 20 of 2001. The definition of state losses is further emphasized in Article 32 paragraph (1) of Law 31/1999 that what is meant by real state financial losses is losses that can already be calculated the amount based on the findings of the authorized agency or the appointed public accountant.¹⁰

For it to be categorized as state losses, it must meet the elements of the offense according to Law No. 1 of 2004 concerning State Treasury, namely there are state financial expenditures, are real and definite in amount, caused by unlawful acts or negligence of state apparatus, determined by an authorized agency or official (for example, the BPK, or based on a court decision that has permanent legal force). Thus, if the pretrial contains a stipulation that the State (due to the negligence of the investigator) has a decision that explicitly orders to pay a certain amount of compensation to the applicant, and the payment is actually using the state budget, and cannot be accounted for legally (for example, due to clear procedural errors), then the investigator's actions can already be qualified as acts that harm the state's finances.¹¹

In other words, there is the potential for state financial losses due to the compensation obligations arising from pre-trial decisions. In several cases, judges have granted pre-trial motions and ordered compensation payments to applicants, including the case of Oman Abdurohman, who was wrongfully arrested by the North Lampung police force in 2017 and later

⁹ Dewan Perwakilan Rakyat Republik Indonesia, "Rancangan Undang-undang tentang KUHAP 2025", <https://berkas.dpr.go.id/akd/dokumen/komisi3-RJ-20251118-081025-6744.pdf>, diakses pada 19 November 2025

¹⁰ Calabresi, G. (1975). Optimal deterrence and accidents. *Journal of Legal Studies*. DOI: <https://doi.org/10.1086/467539>

¹¹ Coase, R. H. (1960). The problem of social cost. *Journal of Law and Economics*. DOI: <https://doi.org/10.1086/466560>

received compensation of Rp 222 million after the court ruled that the arrest was unlawful. The compensation was paid through the State Treasury Service Office (KPPN) in Kotabumi, North Lampung. Furthermore, in the case of Andro Supriyanto and Nurdin Priyanto, the South Jakarta District Court ordered compensation of Rp72 million after they were proven to be victims of wrongful arrest. Similarly, in the case of Pegi Setiawan, the Bandung District Court declared the determination of the suspect unlawful, resulting in his release and restoration of his legal status.¹² These cases indicate that compensation in pre-trial proceedings is not merely a form of legal protection for victims, but also generates real and measurable financial consequences for the state. This recurring pattern reflects a structural condition in which the costs of unlawful law enforcement actions are systematically borne by the state budget.¹³

Despite the growing number of such cases and the strengthening of pre-trial mechanisms, existing legal scholarship predominantly analyzes pre-trial within a doctrinal framework, focusing on legality, human rights protection, and procedural safeguards. Previous studies have examined unlawful arrest, compensation, and investigator misconduct; however, they generally position compensation solely as a form of victim recovery. There remains a lack of analysis that connects compensation to broader institutional consequences, particularly in terms of state financial burden and law enforcement incentives. More importantly, prior research has not specifically conceptualized compensation in pre-trial proceedings as a form of cost internalization that could function to prevent moral hazard among investigators.¹⁴

In practice, the obligation to pay compensation in pre-trial proceedings arises from errors or negligence by investigators, yet such financial responsibility is fully borne by the state through the public budget. The Criminal Procedure Code (KUHAP) does not provide a mechanism to impose personal or proportional liability on investigators whose unlawful actions result in compensation payments. This absence creates a structural problem, as it externalizes the costs of misconduct to the state and weakens individual accountability, thereby opening space for moral hazard within law enforcement institutions.¹⁵

If it is proven that there is an error or negligence in coercive measures, the state may pursue compensation claims under the State Treasury Law against individual investigators, or at least adopt a shared cost mechanism between the state and the responsible officials. However, such mechanisms currently operate outside the pre-trial framework and are not directly connected to pre-trial decisions. As a result, there is no integrated system that links judicial findings in pre-trial proceedings with the financial accountability of investigators.¹⁶

Based on this gap, this research offers a distinct analytical contribution by repositioning compensation in pre-trial proceedings not only as a corrective legal remedy, but also as an economic instrument within the framework of law enforcement accountability. By employing the economic analysis of law approach, this study conceptualizes compensation as a mechanism of cost internalization, in which the financial consequences of unlawful investigative actions should not be entirely externalized to the state. The novelty of this research lies in proposing a conceptual linkage between pre-trial decisions, state financial losses, and the allocation of responsibility to individual investigators, either through direct liability or shared cost mechanisms. This approach

¹² Tempo, "Korban Salah Tangkap Polisi Dapat Ganti Rugi Rp 222 Juta, Apa Kasus Oman Abdurohman?", 14 Januari 2024, diakses di <https://www.tempo.co/politik/korban-salah-tangkap-polisi-dapat-ganti-rugi-rp-222-juta-apa-kasus-oman-abdurohman--98118>, tanggal 9 Juni 2025

¹³ Hukumonline, "Polisi Nyatakan Negara Siap Bayar Ganti Rugi buat Dua Pengamen", <https://www.hukumonline.com/berita/a/polisi-nyatakan-negara-siap-bayar-ganti-rugi-buat-dua-pengamen-1t57aa97495af93/>

¹⁴ CNN Indonesia, "Pegi Setiawan Bebas, Ahli Sebut Korban Salah Tangkap Dapat Ganti Rugi", 8 Juli 2024, diakses <https://www.cnnindonesia.com/nasional/20240708145332-12-1118853/pegi-setiawan-bebas-ahli-sebut-korban-salah-tangkap-dapat-ganti-rugi>, tanggal 9 Juni 2025.

¹⁵ Dixit, A. (2002). Incentives and organizations. *Journal of Economic Perspectives*. DOI: <https://doi.org/10.1257/089533002320951037>

¹⁶ Garrett, B. L. (2011). Convicting the innocent. *Journal of Criminal Law & Criminology*. DOI: <https://doi.org/10.2139/ssrn.1764135>

is expected to reduce moral hazard, strengthen individual accountability, and promote a more efficient and equitable criminal justice system.¹⁷

II. Research Problems

1. What is the legal basis and limits of the application of the personal responsibility of investigators as state officials in the context of state financial losses arising from pre-trial decisions?
2. Why has there not yet been a mechanism for cost internalization or direct imposition of financial responsibility on investigators for state losses due to pre-trial rulings?
3. How can the application of the Economic Analysis of Law (EAL) approach be used to formulate a model of cost internalization for investigators to improve legal efficiency and accountability in the pre-trial system in Indonesia?

III. Research Methods

This study employs a normative legal research method, which focuses on examining legal norms, principles, and doctrines as reflected in statutory regulations and legal concepts. Normative legal research is used to analyze the consistency, adequacy, and coherence of existing legal frameworks governing pre-trial proceedings, compensation mechanisms, and state financial accountability.

The research applies several complementary approaches. First, a statutory approach is used to examine relevant legislation, particularly Indonesian Criminal Procedure Code and State Treasury Law, as well as other related regulations governing state financial responsibility. Second, a conceptual approach is employed to analyze key legal concepts such as compensation, state losses, accountability, and cost internalization within the framework of criminal procedure law. Third, a case approach is utilized by examining relevant judicial decisions, including pre-trial rulings and decisions of the Constitutional Court of Indonesia, to understand how legal norms are interpreted and applied in practice. Where relevant, a limited comparative perspective is also considered to enrich the analysis of accountability mechanisms.

The legal materials used in this study consist of primary and secondary legal materials. Primary legal materials include statutory regulations, court decisions, and official legal documents related to pre-trial proceedings and state financial law. Secondary legal materials include legal doctrines, academic literature, journal articles, and expert opinions that discuss criminal procedure, compensation, and economic analysis of law. These materials are supported by tertiary sources such as legal dictionaries and encyclopedias to clarify legal terminology. And the collection of legal materials is conducted through library research, involving systematic identification, classification, and documentation of relevant legal sources. This includes reviewing legislation, accessing court decisions, and analyzing scholarly publications from credible academic databases and official institutional sources.

The analysis is carried out using a qualitative juridical method with a deductive reasoning technique. The study begins by identifying the core legal issue, namely the absence of a mechanism to attribute state financial losses arising from pre-trial compensation to individual investigators. This issue is then analyzed using the framework of economic analysis of law, which is applied to evaluate the efficiency and effectiveness of existing legal rules. Through this approach, the concept of cost internalization is used to assess how legal norms can be restructured to allocate financial responsibility more proportionally and to reduce moral hazard among investigators. This analytical framework enables the study to propose a more accountable and economically efficient model of legal regulation in pre-trial compensation.

¹⁷ Fairgrieve, D. (2003). State liability in comparative perspective. *Modern Law Review*. DOI: <https://doi.org/10.1111/1468-2230.00443>

IV. Result and Discussion

Personal Responsibility Of Investigators As State Officials

The Personal Responsibility of State Apparatus can be seen in two current regulations, namely Article 59 of Law No. 1 of 2004 concerning State Treasury, and Government Regulation No. 38 of 2016 regulating the procedure for demanding compensation for state/regional losses against Non-Treasurer Civil Servants or Other Officials. Article 59 expands the scope of responsibility for state losses, not only to treasurers and non-treasurer civil servants, but also to state officials and government officials who do not have the status of state officials. This article aims to ensure that every party involved in the management of state finances is responsible for state losses that occur due to negligence or actions that harm the state. This article has legal implications, as it can make state officials and government officials who do not have the status of state officials also be legally prosecuted for state losses they cause.¹⁸

Compensation granted in a pre-trial hearing is not automatically categorized as state financial loss, but rather as a form of legal state expenditure arising from a court decision. It is a legal consequence of violations of citizens' rights by law enforcement officers, not losses resulting from unlawful acts or negligence that harm state finances as defined in the State Treasury Law. State losses are usually related to criminal acts of corruption or administrative violations that result in the loss of state assets. The right to compensation in pre-trial proceedings. This compensation is a form of restoration of individual rights protected by law, not state losses. The state is obligated to pay compensation for the mistakes of its officers.¹⁹

Thus, pre-trial compensation payments are legitimate state expenditures, not state losses. Pre-trial compensation payments are recorded as state expenditure (legal compensation), not as losses that must be claimed back. Those who can be prosecuted are officers or institutions that make procedural errors, through disciplinary or criminal mechanisms. The disbursement of state funds as compensation for procedural errors or other actions can be categorized as state expenditure that arises not because of normal budget planning, but because there is a legal obligation or certain compelling circumstances, which are mandatory because there is a legal basis or court decision, but this expenditure is outside the budget plan and is not the result of policy.²⁰

Thus, the payment of compensation resulting from a pretrial decision can be categorized as undesirable state expenditure. When procedural errors or negligence by state officials are discovered, resulting in compensation, investigators can be prosecuted through criminal procedures if the procedural errors or negligence meet the elements of a criminal offense. However, not all procedural errors necessarily constitute criminal liability; some only result in administrative or disciplinary sanctions.

In principle, state officials can be held personally responsible for their mistakes or negligence, but not automatically, namely through the administrative disciplinary mechanism, where investigators are subject to sanctions based on personnel regulations, for example Government Regulation No. 94 of 2021 concerning Civil Servant Discipline, the criminal mechanism, if procedural errors contain arbitrary or human rights violations, or the cost internalization mechanism, if pretrial compensation payments are considered as "unwanted state expenditure" due to negligence of officials, then the state can collect back from the officials

¹⁸ UU No.1 Tahun 2004 Pasal 59: "(1) Setiap kerugian negara/daerah yang disebabkan oleh tindakan melanggar hukum atau kelalaian seseorang harus segera diselesaikan sesuai dengan ketentuan perundang-undangan yang berlaku. (2) Bendahara, pegawai negeri bukan bendahara, atau pejabat lain yang karena perbuatannya melanggar hukum atau melalaikan kewajiban yang dibebankan kepadanya secara langsung merugikan keuangan negara, wajib mengganti kerugian tersebut. (3) Setiap pimpinan kementerian negara/lembaga/kepala satuan kerja perangkat daerah dapat segera melakukan tuntutan ganti rugi, setelah mengetahui bahwa dalam kementerian negara/lembaga/satuan kerja perangkat daerah yang bersangkutan terjadi kerugian akibat perbuatan dari pihak manapun."

¹⁹ Holmström, B. (1979). Moral hazard and observability. *Bell Journal of Economics*. DOI: <https://doi.org/10.2307/3003320>

²⁰ Kaplow, L., & Shavell, S. (2002). Economic analysis of law. *Handbook of Public Economics*. DOI: [https://doi.org/10.1016/S1574-0730\(02\)80004-6](https://doi.org/10.1016/S1574-0730(02)80004-6)

through a regress mechanism or a claim for compensation. Legal basis 1 of 2004 concerning the National Treasury. However, its application depends on proving that the state losses arose from the official's personal errors, not simply the risks of office.²¹

Government Regulation No. 38/2016 in its provisions, establishes and ensures that the claim for compensation also applies to money and/or goods not owned by the state/region used in the performance of government duties. At the same time, it serves as the legal basis for claims for compensation arising from violations of the law or negligence in the performance of duties by Non-Treasury Civil Servants or Other Officials that are detrimental to state or regional finances.

This Government Regulation affirms that every Non-Treasury Civil Servant or Other Official who violates the law or neglects their obligations, either directly or indirectly, which is detrimental to state/regional finances, is obliged to compensate for the said loss.²² Therefore, if there is negligence or procedural error from law enforcement officials that causes coercive measures, which are the object of pre-trial proceedings, to be unlawful, the pre-trial decision ordering compensation, and the payment is made from the state/regional budget, the financial consequences borne by the state may be subject to recourse against the responsible officials to the relevant officials after being examined by the internal audit agency or the Audit Board of the Republic.

In principle, under the administrative law of state finances, seeing compensation in pre-trial proceedings can be charged to the negligent state apparatus, as long as the negligence is legally proven and determined as a form of personal liability (Claim for Compensation). This mechanism is carried out through inspections by internal supervisory agencies or external audit institutions (such as the Audit Board of the Republic). Further inspection is intended to study two conditions, namely if the action is carried out in a formal capacity and based on procedures, then the responsibility can still be borne by the state, not the individual official. On the other hand, if it is proven that there is abuse of authority, intentional, or negligence, then the compensation claim can be charged to the individual official (including from their income).²³

Mechanism for Charging to the Investigator's Income if proven responsible, the investigator can be asked to return the funds through deductions from fixed income (salary, allowances) or direct payment according to the provisions regarding Claims for Compensation. However, these provisions cannot be deducted automatically, because there must be an examination and determination process first, it must be ascertained that there is personal error or negligence, not just carrying out official orders or legitimate discretion. The provisions of the two regulations are actually sufficient as the legal basis, the obligation to compensate for pre-trial proceedings is actually possible if demanded and charged to the investigator's income as a state apparatus if proven to be negligent or legally erroneous resulting in state losses, whether it is full replacement or cost sharing with the state.²⁴

To clarify the conceptual framework, compensation in pre-trial proceedings should not be directly categorized as state financial loss. Instead, it is more accurately understood as a form of legal state expenditure, as it arises from a court decision and constitutes a lawful obligation of the state. However, when such compensation results from proven unlawful acts or negligence by investigators, it may be further classified as an "unwanted state expenditure". In this situation, although the state initially bears the financial burden, the possibility arises for the application of a recourse (regress) mechanism to recover such expenditure from the responsible officials based on the principle of personal liability.²⁵

²¹ Mashaw, J. L. (2006). Accountability and institutional design. DOI: <https://doi.org/10.2139/ssrn.899093>

²² Sekretariat Kabinet Republik Indonesia, "PP No. 38/2016: Kewajiban Pengembalian Kerugian Negara Juga Jadi Beban Ahli Waris Pejabat", 24 Oktober 016, diakses di, <https://setkab.go.id/pp-no-382016-kewajiban-pengembalian-kerugian-negara-juga-jadi-beban-ahli-waris-pejabat/>

²³ Shavell, S. (1980). Strict liability versus negligence. *Journal of Legal Studies*. DOI: <https://doi.org/10.1086/467629>

²⁴ Posner, R. A. (1973). An economic approach to legal procedure and judicial administration. *Journal of Legal Studies*. DOI: <https://doi.org/10.1086/467485>

²⁵ Pigou, A. C. (1932). The economics of welfare. DOI: <https://doi.org/10.4324/9780203712962>

Lack Of Cost Internalization Responsibility Of Investigators In The Pre-Trial System

Currently, neither in the old Criminal Procedure Code as regulated in Law No. 8 of 1981, nor in the updated Criminal Procedure Code of 2025, there are no provisions that include the cost internalization mechanism as a consequence that must be borne by investigators as state officials due to their negligence or mistakes related to other actions that are the object of pretrial. However, in the 2025 Criminal Procedure Code update, pretrial proceedings have been expanded, one of the provisions related to pretrial proceedings which, according to the author, has the potential to use the cost internalization mechanism, namely Article 158 letters a, d and e. Letter a concerns the validity or invalidity of the implementation of Coercive Measures. The existence of an arrest, detention or determination of a suspect that is declared invalid confirms that the actions of the authorities can be declared unlawful. Letter d concerns "confiscation of objects or items that are not related to a criminal act" and letter e concerns "delay in handling cases without a valid reason".²⁶

However, outside the Criminal Procedure Code, the mechanism of state financial accountability to claim losses due to negligence of state apparatus has been regulated in state financial administrative law (outside the Criminal Procedure Code) as I have described previously. Since the enactment of the Republic of Indonesia Law No. 8 of 1981 concerning Criminal Procedure Law with Government Regulation of the Republic of Indonesia No. 27 of 1983 which has been amended by Government Regulation of the Republic of Indonesia No. 92 of 2015 concerning the Second Amendment to Government Regulation of the Republic of Indonesia No. 27 of 1983 concerning the Implementation of the Criminal Procedure Code, the second amendment with Government Regulation of the Republic of Indonesia No. 58 of 2010, the Government has had regulations regarding the amount of compensation payment and the payment procedure to the applicant whose claim for compensation is granted in the Pretrial Hearing.²⁷ There are no provisions yet that stipulate that investigators can be held personally responsible for pretrial decisions won by the applicant. Both Law No. 8 of 1981 concerning the Criminal Procedure Code (old) and the 2025 Criminal Procedure Code only regulate the rights of injured parties to demand compensation.²⁸

In the regress mechanism or compensation claim, the state pays compensation first to the victim as a form of legal responsibility. Then the state will collect the investigator's personal compensation if it is proven that his mistake or negligence has given rise to the state's obligations. Furthermore, the investigator may be subject to disciplinary, criminal, or civil sanctions, depending on the severity of the error. As illustrated below:

Potential Regression Mechanism/Demand for Compensation in Pre-Trial

From a number of examples of cases in Indonesia where non-treasurer officials were subject to Compensation Claims (TGR) due to negligence or procedural errors that resulted in state losses, such as in the districts of Rembang, Pasuruan and Central Sulawesi.²⁹ It appears that these cases arose from the results of BPK audits. Audit/Examination: BPK or the Inspectorate found state/regional losses. By using the general compensation claim mechanism as stated in Article 59 of the State Treasury Law, which states that "any loss resulting from unlawful acts or negligence must be compensated by the relevant authorities", starting from the determination: The authorized official determines the amount of the loss and who is responsible. Payment: The authorities are required to compensate for losses, usually within a certain time period. Additional

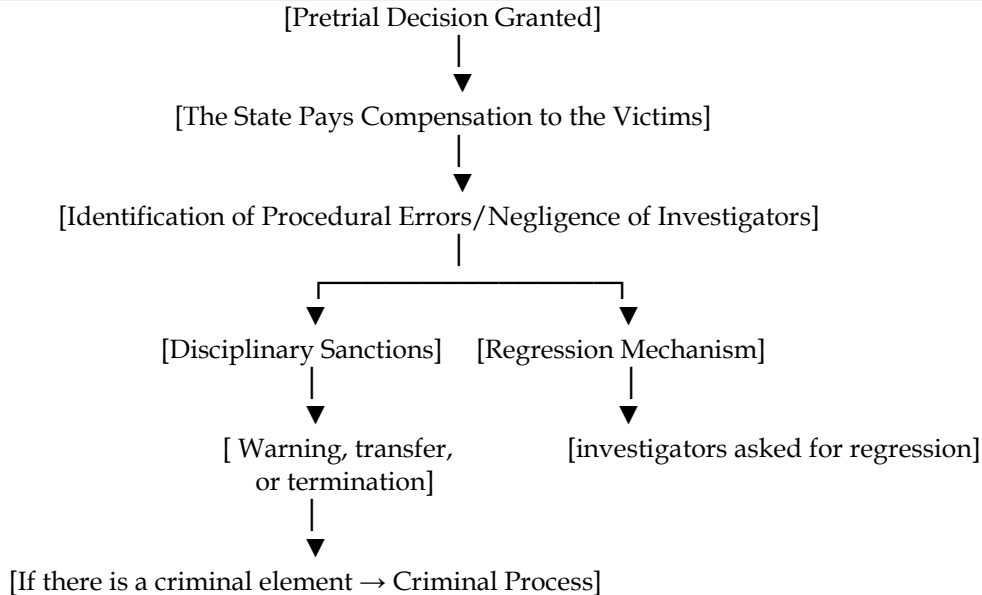
²⁶ Shavell, S. (2004). Foundations of economic analysis of law. DOI: <https://doi.org/10.2307/j.ctv1wxv7k0>

²⁷ Mas Hushendar, , "Tuntutan Ganti Kerugian Dalam Perkara Praperadilan", Direktorat Jenderal Badan Peradilan Umum Mahkamah Agung Republik Indonesia, 29 Juni 2020, diakses di <https://badilum.mahkamahagung.go.id/artikel-hukum/2990-tuntutan-ganti-kerugian-dalam-perkara-praperadilan.html>

²⁸ Westervelt, S. D., & Cook, K. J. (2010). Life after wrongful conviction. *Justice Quarterly*. DOI: <https://doi.org/10.1080/07418825.2010.498383>

²⁹ Badan Pemeriksa Keuangan Republik Indonesia, "Penyelesaian Tuntutan Ganti Kerugian Daerah Terhadap Pegawai Negeri Bukan Bendahara atau Pejabat Lain", <https://jdih.bpk.go.id/File/Download/bea6dec5148149eba452f5711f58ce01/Penyelesaian%20TGR%20Non%20Bendahara.pdf>

sanctions: If you do not pay, you may be subject to administrative, criminal or civil sanctions. Determination: The authorized official determines the amount of the loss and who is responsible. Payment: The authorities are required to compensate for losses, usually within a certain time period. Additional sanctions: If not paid, administrative, criminal, or civil sanctions may be imposed.



This distinction highlights a crucial gap in the current legal framework. While compensation in pre-trial proceedings is treated as a legal obligation of the state, there is no explicit mechanism within the criminal procedure system that links such expenditure to the personal financial responsibility of investigators. As a result, the system recognizes the payment obligation but fails to regulate the subsequent recourse process, creating a disconnection between state expenditure and individual accountability.³⁰

The Economic Analysis Of Law Within The Context Of Pretrial Compensation Obligations

Cost internalization is a form of incentive structure within the economic analysis of law (EAL) approach. EAL sees law not only as a social norm, but also as a tool for efficient resource allocation and minimization of social costs. Economic analysis of law is an interdisciplinary approach that incorporates economic principles into the study of law. In criminal law, the use of economic analysis of law highlights the importance of creating the right incentives for law enforcement officials to act in accordance with the law. The three positive impacts of using economic analysis of law are: economics provides a scientific theory to predict the effects of sanctions on human behavior, economics provides a useful normative standard for evaluating laws and policies, and economics can predict a policy's impacts on important values, income distribution, and social welfare.³¹

In the context of pre-trial compensation and investigator responsibility, the idea of cost internalization economic analysis of law views that the current criminal procedure rules position that:

1. pre-trial compensation = externality (social cost) of procedural errors by authorities;
2. the state paying compensation = inefficiency, as the public bears the consequences of individual negligence;
3. no personal liability = moral hazard, as there are no negative incentives for authorities.

³⁰ Baker, T. (1996). On the genealogy of moral hazard. *Texas Law Review*. DOI: <https://doi.org/10.2139/ssrn.104838>

³¹ Robert Cooter dan Thomas Ullen dalam Romli Atmasasmita dan Kordat Wibowo, *Analisis Ekonomi Mikro tentang Hukum Pidana Indonesia*, (Jakarta: Prenada Media Group, 2015), hlm. 57

This condition has resulted in an increase in the country's fiscal burden without structural incentives to prevent similar mistakes in the future. This is what economists call the externalization of costs, that is, when the perpetrator does not bear the costs of their wrongdoing, but rather the other party (the state or the taxpaying public) bears them.³²When elaborated with Law No. 1 of 2005 on State Treasury, any state loss caused by unlawful acts committed by civil state apparatus against state wealth can be categorized as state loss.³³When the pre-trial judge decides that there was a violation in the investigation process (invalid), the court grants the applicant's claim for compensation, the compensation is paid from the state budget, so that the state bears the compensation due to the negligence of the individual investigator in his duties, then there is a financial consequence borne by the state, which may be categorized as unwanted state expenditure rather than direct state financial loss.³⁴

In the absence of a mechanism for cost internalization, compensation in pre-trial proceedings is generally treated as a legal state expenditure borne by the state, even when such expenditure arises from unlawful acts or negligence by investigators. This condition may further be understood as an unwanted state expenditure, as it originates from procedural errors rather than planned state policy. However, the current legal framework does not provide a clear and integrated mechanism to link such expenditure with the personal financial responsibility of investigators through a recourse (regress) mechanism.³⁵ As a consequence, investigators do not face direct financial consequences for unlawful actions, thereby weakening incentives for careful and lawful conduct. From the perspective of economic analysis of law, this situation reflects an inefficiency in the allocation of legal responsibility, as the party best positioned to prevent the occurrence of such errors—the investigator—does not bear the resulting costs.³⁶Referring to Guido Calabresi's theory, a well-functioning legal system should allocate the costs of harmful events to the party most capable of preventing them. In the context of pre-trial proceedings, procedural errors or negligence by investigators that are declared unlawful by the court may be conceptualized as avoidable "accidents," the costs of which should not be fully externalized to the state.³⁷

Furthermore, as emphasized by Richard A. Posner, the function of law is not only to achieve justice but also to promote efficiency through appropriate incentive structures and cost-benefit considerations. A legal system in which the state continuously bears the financial burden of compensation resulting from unlawful investigative actions reflects a misallocation of costs and a lack of deterrent incentives.³⁸ Therefore, the concept of cost internalization becomes relevant as a mechanism to reallocate the burden of unwanted state expenditure to the responsible party, either through personal liability or a cost-sharing arrangement. By linking pre-trial compensation with the possibility of recourse against negligent investigators, the legal system can enhance accountability, reduce moral hazard, and promote a more efficient and responsible law enforcement framework.³⁹

The expected positive impact of internalizing costs in the form of sharing the obligation to pay compensation for pre-trial proceedings includes strengthening the principle of individual accountability in the law enforcement process, maintaining the financial integrity of the state from expenditures that should not be borne by the state, providing a deterrent effect against unprofessional or illegal actions by law enforcement officials, and encouraging caution and professional standards in the investigation and prosecution process. From the perspective of the

³² Steven Shavell, *Foundation of Economic Analysis of Law*, (Cambridge: Harvard University Press, 2004), hlm. 27

³³ Pasal 59 Undang-undang No.1 Tahun 2004 Tentang Perbendaharaan Negara

³⁴ Bovens, M. (2007). Analysing accountability. *European Law Journal*. DOI: <https://doi.org/10.1111/j.1468-0386.2007.00378.x>

³⁵ Cane, P. (1996). Tort law and economic interests. *Oxford Journal of Legal Studies*. DOI: <https://doi.org/10.1093/ojls/16.3.433>

³⁶ Guido Calabresi, *The Costs of Accidents: A Legal and Economic Analysis*, (New Haven: Yale University Press, 1970), hlm. 26-27

³⁷ Richard A. Posner, *Economic Analysis of Law*, 9th ed. (New York: Wolters Kluwers, 2014), hlm. 8-12

³⁸ Cooter, R., & Ulen, T. (2008). Law and economics. *International Review of Law and Economics*. DOI: <https://doi.org/10.1016/j.irle.2008.02.001>

³⁹ Shavell, S. (1987). Economic analysis of accident law. *Harvard Law Review*. DOI: <https://doi.org/10.2307/1341027>

three EAL figures mentioned above, it can be concluded that the main concept in EAL is cost internalization, which is a mechanism where individuals or institutions bear the consequences of their actions, thereby being encouraged to be more careful and cautious. EAL supports legal accountability for compensation obligations due to pre-trial proceedings in the law of distribution of responsibility for state financial losses as a result of proven errors by investigators tested in pre-trial hearings.⁴⁰

In the law of state financial administration, the concept of demanding compensation for losses against civil servants who are not treasurers who harm the state finances has been recognized, as regulated in Government Regulation No. 38 of 2016 concerning Demands for Compensation Against Civil Servants who are not Treasurers. Theoretically and normatively, the imposition of compensation, whether in the form of internalization of costs or sharing costs with the investigator, is not impossible. Through the mechanism of compensation claims that allow officials or civil servants to be personally responsible for state losses due to their mistakes. The fundamental question is why similar logic has not yet been actively applied in the context of imposing the obligation to compensate as a consequence of the granting of a pretrial claim by the applicant?⁴¹

Unfortunately, the concept of compensation claims in state treasury law has not been directly applied to state financial consequences arising from unlawful acts or negligence in pre-trial proceedings.⁴² The EAL (Economic Analysis of Law) perspective views that when an institution (state) bears the entire risk of losses caused by individual investigators due to errors in criminal procedure, investigators have no incentive to avoid future mistakes. This condition is known in economic theory as moral hazard.⁴³

Moral hazard is a term used in economics and finance to describe a situation where an individual or entity, such as a company, feels more likely to take risks because they know they will not fully bear the negative consequences of their actions.⁴⁴ Moral hazard in economics describes a form of unethical behavior, regulation, and contract violation, whether in the form of fraud or attempts to circumvent contracts or regulations for self-interest, which causes harm to others. Moral hazard arises because an individual or institution is not responsible for their actions. This causes someone to act less carefully and shift the responsibility for the consequences of their actions to others.⁴⁵

In the context of criminal procedural law, moral hazard can occur when investigating authorities do not face the burden of compensation for damages resulting from a pre-trial decision on unlawful acts, errors or negligence in executing coercive measures. A pre-trial decision declaring the arrest, detention or prosecution by the investigator invalid has implications for compensation and rehabilitation for the suspect. However, this obligation is borne entirely by the state without any mechanism for individual accountability of the authorities who have committed unlawful acts. This creates uncertainty in the accountability system. Law enforcement officers as perpetrators of misconduct do not bear the consequences of their actions, thus creating a moral hazard.⁴⁶

On the other hand, in the context of state finances, Law Number 1 of 2004 concerning State Treasury has recognized the mechanism of Claim for Compensation against civil servants

⁴⁰ Tirole, J. (1994). The internal organization of government. *Oxford Economic Papers*. DOI: https://doi.org/10.1093/oep/46.suppl_1.1

⁴¹ Harlow, C. (1991). State liability. *Oxford Journal of Legal Studies*. DOI: <https://doi.org/10.1093/ojls/11.1.1>

⁴² Easterbrook, F. H. (1984). Criminal procedure as a market system. *Journal of Legal Studies*. DOI: <https://doi.org/10.1086/467736>

⁴³ Kaplow, L. (1992). Rules versus standards. *Duke Law Journal*. DOI: <https://doi.org/10.2307/1372852>

⁴⁴ Garoupa, N. (1997). The theory of optimal law enforcement. *Journal of Economic Surveys*. DOI: <https://doi.org/10.1111/1467-6419.00035>

⁴⁵ Universitas Islam Indonesia, *Ekonomi Islam dalam Mereduksi Moral Hazard*, 20 Agustus 2020, diakses pada <https://www.uui.ac.id/ekonomi-islam-dalam-mereduksi-moral-hazard/#:~:text=Moral%20hazard%20dalam%20ekonomi%20menggambarkan,yang%20menyebabkan%20orang%20lain%20merugi>. Tanggal 11 Juni 2025

⁴⁶ Landes, W. M., & Posner, R. A. (1987). Tort law as a regulatory system. *Journal of Legal Studies*. DOI: <https://doi.org/10.1086/467977>

who have harmed state finances. However, this provision has not been integrated with the criminal procedural legal system, including pre-trial hearings. There is no explicit norm that makes investigators or law enforcement officials the subject of accountability for state losses due to their arbitrary actions in the investigation process. When analyzed using economic analysis of law, the legal accountability of investigators related to the obligation to compensate for pre-trial losses has not been integrated with a recourse (regress) mechanism.⁴⁷

The absence of a recourse (regress) mechanism against investigators leads to inefficient use of state resources, as compensation in pre-trial proceedings is generally treated as a legal state expenditure borne by the state. When such expenditure arises from unlawful acts or negligence by investigators, it may be more accurately understood as an unwanted state expenditure, rather than a purely neutral or planned fiscal obligation.⁴⁸

Referring to Guido Calabresi's theory of social cost, a well-functioning legal system should allocate the costs of harmful events to the party most capable of preventing them. In the context of pre-trial proceedings, procedural errors or negligence by investigators that are declared unlawful by the court may be conceptualized as avoidable losses, the costs of which should not be fully externalized to the state. From this perspective, the issue is not whether pre-trial compensation constitutes a state loss, but how such legal state expenditure particularly when categorized as unwanted expenditure should be allocated. The absence of a mechanism to transfer or share this burden to responsible officials creates inefficiency in the legal system, as the party best positioned to prevent such errors does not bear the resulting costs.⁴⁹

As emphasized by Richard A. Posner, the function of law is not only to achieve justice but also to promote efficiency through appropriate incentive structures and cost-benefit considerations. In a system where investigators do not face financial consequences for unlawful actions, there is little incentive to act carefully, which increases the risk of abuse of authority and repeated procedural violations. Therefore, cost internalization should be understood not as redefining pre-trial compensation as state loss, but as a mechanism to reallocate the burden of unwanted state expenditure to the responsible party. Through the application of recourse or cost-sharing mechanisms, investigators may bear part of the financial consequences of their unlawful actions, thereby strengthening accountability, reducing moral hazard, and promoting a more efficient legal system.⁵⁰

V. Conclusion

This discussion shows that the pre-trial system in the Indonesian criminal justice system currently does not adequately cover the aspect of individual responsibility of law enforcement officers. When the judge declares a coercive measure to be unlawful, the entire compensation is borne by the state. The absence of a regression mechanism to the individual investigating law enforcement officers creates a dangerous moral hazard condition, as there is no direct incentive for officers to act carefully and in accordance with the law.

Using an economic analysis approach to the law, it was found that this system is not economically efficient. Investigators, as the actors most capable of preventing losses, are not burdened with any responsibility. This not only creates fiscal waste, but also weakens the accountability of law enforcement institutions. To create a more fair, efficient, and accountable pre-trial system, legal reforms are needed in several aspects, including revising the Criminal Procedure Code to include explicit provisions on the possibility of claiming compensation from officials proven to be negligent or abusing their authority, strengthening the legal basis for recourse, which enables the state to sue law enforcement officials proven to have committed

⁴⁷ Miceli, T. J. (2004). The economic approach to law. *Journal of Economic Literature*. DOI: <https://doi.org/10.1257/002205104773558047>

⁴⁸ Parisi, F. (2004). Positive, normative and functional schools in law and economics. *European Journal of Law and Economics*. DOI: <https://doi.org/10.1023/B:EJLE.0000035813.18054.53>

⁴⁹ Polinsky, A. M., & Shavell, S. (2000). The economic theory of public enforcement of law. *Journal of Economic Literature*. DOI: <https://doi.org/10.1257/jel.38.1.45>

⁵⁰ Shavell, S. (1979). Risk sharing and incentives. *Bell Journal of Economics*. DOI: <https://doi.org/10.2307/3003327>

procedural violations, and integration with the State Finance Law to make losses due to official actions part of the state's financial responsibilities that can be claimed from the individual perpetrators.

References

- Calabresi, Guido. *The Costs of Accidents: A Legal and Economic Analysis*. Yale University Press, 1970.
- Posner, Richard A. *Economic Analysis of Law*. 9th ed. Wolters Kluwers, 2014.
- Romli Atmasasmita dan Kordat Wibowo. *Analisis Ekonomi Mikro tentang Hukum Pidana Indonesia*. Jakarta: Prenada Media Group, 2015.
- Shavell, Steven. *Foundation of Economic Analysis of Law*. Harvard University Press, 2004.
- Undang-Undang Nomor 1 Tahun 2004 Tentang Perbendaharaan Negara (2004).
- Undang-Undang Nomor 8 Tahun 1981 Tentang Kitab Undang-Undang Hukum Acara Pidana (1981).
- Ayres, I., & Gertner, R. (1989). Filling gaps in incomplete contracts. *Yale Law Journal*.
DOI: <https://doi.org/10.2307/796545>
- Baker, T. (1996). On the genealogy of moral hazard. *Texas Law Review*.
DOI: <https://doi.org/10.2139/ssrn.104838>
- Becker, G. S. (1968). Crime and punishment: An economic approach. *Journal of Political Economy*.
DOI: <https://doi.org/10.1086/259394>
- Bovens, M. (2007). Analysing accountability. *European Law Journal*.
DOI: <https://doi.org/10.1111/j.1468-0386.2007.00378.x>
- Calabresi, G. (1975). Optimal deterrence and accidents. *Journal of Legal Studies*.
DOI: <https://doi.org/10.1086/467539>
- Cane, P. (1996). Tort law and economic interests. *Oxford Journal of Legal Studies*.
DOI: <https://doi.org/10.1093/ojls/16.3.433>
- Coase, R. H. (1960). The problem of social cost. *Journal of Law and Economics*.
DOI: <https://doi.org/10.1086/466560>
- Cooter, R., & Ulen, T. (2008). Law and economics. *International Review of Law and Economics*.
DOI: <https://doi.org/10.1016/j.irle.2008.02.001>
- Dixit, A. (2002). Incentives and organizations. *Journal of Economic Perspectives*.
DOI: <https://doi.org/10.1257/089533002320951037>
- Easterbrook, F. H. (1984). Criminal procedure as a market system. *Journal of Legal Studies*.
DOI: <https://doi.org/10.1086/467736>
- Fairgrieve, D. (2003). State liability in comparative perspective. *Modern Law Review*.
DOI: <https://doi.org/10.1111/1468-2230.00443>
- Garoupa, N. (1997). The theory of optimal law enforcement. *Journal of Economic Surveys*.
DOI: <https://doi.org/10.1111/1467-6419.00035>
- Garrett, B. L. (2011). Convicting the innocent. *Journal of Criminal Law & Criminology*.
DOI: <https://doi.org/10.2139/ssrn.1764135>
- Harlow, C. (1991). State liability. *Oxford Journal of Legal Studies*.
DOI: <https://doi.org/10.1093/ojls/11.1.1>

- Holmström, B. (1979). Moral hazard and observability. *Bell Journal of Economics*.
DOI: <https://doi.org/10.2307/3003320>
- Kaplow, L. (1992). Rules versus standards. *Duke Law Journal*.
DOI: <https://doi.org/10.2307/1372852>
- Kaplow, L., & Shavell, S. (2002). Economic analysis of law. *Handbook of Public Economics*.
DOI: [https://doi.org/10.1016/S1574-0730\(02\)80004-6](https://doi.org/10.1016/S1574-0730(02)80004-6)
- Landes, W. M., & Posner, R. A. (1987). Tort law as a regulatory system. *Journal of Legal Studies*.
DOI: <https://doi.org/10.1086/467977>
- Mashaw, J. L. (2006). Accountability and institutional design.
DOI: <https://doi.org/10.2139/ssrn.899093>
- Miceli, T. J. (2004). The economic approach to law. *Journal of Economic Literature*.
DOI: <https://doi.org/10.1257/002205104773558047>
- Norris, R. J. (2017). Assessing compensation statutes for the wrongfully convicted. *Crime & Delinquency*.
DOI: <https://doi.org/10.1177/0011128716674371>
- Parisi, F. (2004). Positive, normative and functional schools in law and economics. *European Journal of Law and Economics*.
DOI: <https://doi.org/10.1023/B:EJLE.0000035813.18054.53>
- Pigou, A. C. (1932). The economics of welfare.
DOI: <https://doi.org/10.4324/9780203712962>
- Polinsky, A. M., & Shavell, S. (2000). The economic theory of public enforcement of law. *Journal of Economic Literature*.
DOI: <https://doi.org/10.1257/jel.38.1.45>
- Posner, R. A. (1973). An economic approach to legal procedure and judicial administration. *Journal of Legal Studies*.
DOI: <https://doi.org/10.1086/467485>
- Shavell, S. (1979). Risk sharing and incentives. *Bell Journal of Economics*.
DOI: <https://doi.org/10.2307/3003327>
- Shavell, S. (1980). Strict liability versus negligence. *Journal of Legal Studies*.
DOI: <https://doi.org/10.1086/467629>
- Shavell, S. (1987). Economic analysis of accident law. *Harvard Law Review*.
DOI: <https://doi.org/10.2307/1341027>
- Shavell, S. (2004). Foundations of economic analysis of law.
DOI: <https://doi.org/10.2307/j.ctv1wxv7k0>
- Tirole, J. (1994). The internal organization of government. *Oxford Economic Papers*.
DOI: https://doi.org/10.1093/oep/46.suppl_1.1
- Westervelt, S. D., & Cook, K. J. (2010). Life after wrongful conviction. *Justice Quarterly*.
DOI: <https://doi.org/10.1080/07418825.2010.498383>
- CNN Indonesia. "Pegi Setiawan Bebas, Ahli Sebut Korban Salah Tangkap Dapat Ganti Rugi." 8 Juli 2024. <https://www.cnnindonesia.com/nasional/20240708145332-12-1118853/pegi-setiawan-bebas-ahli-sebut-korban-salah-tangkap-dapat-ganti-rugidiakses> 9 Juni 2025.
- Hukumonline. "Polisi Nyatakan Negara Siap Bayar Ganti Rugi buat Dua Pengamen." <https://www.hukumonline.com/berita/a/polisi-nyatakan-negara-siap-bayar-ganti-rugi-buat-dua-pengamen-lt57aa97495af93/> diakses Mei 2025.

- Mas Hushendar. "Tuntutan Ganti Kerugian Dalam Perkara Praperadilan." Direktorat Jenderal Badan Peradilan Umum Mahkamah Agung Republik Indonesia, 29 Juni 2020. <https://badilum.mahkamahagung.go.id/artikel-hukum/2990-tuntutan-ganti-kerugian-dalam-perkara-praperadilan.html> diakses Mei 2025.
- Pengadilan Negeri Salatiga. "Praperadilan." <https://www.pn-salatiga.go.id/2015-06-06-01-33-01/pra-peradilan.html#:~:text=Praperadilan,ayat%201%20huruf%20b%20KUHP> diakses 9 Juni 2025.
- Putusan Mahkamah Konstitusi. Putusan Mahkamah Konstitusi Nomor 21/PUU-XXI/Tahun 2014. https://www.mkri.id/public/content/persidangan/putusan/21_PUU-XII_2014.pdf diakses Mei 2025.
- Riki Perdana Raya Waruwu. "Praperadilan Pasca 4 Putusan Mahkamah Konstitusi." <https://kepaniteraan.mahkamahagung.go.id/images/artikel/Praperadilan%20Pasca%204%20Putusan%20MK.pdf> diakses Juni 2025.
- Sekretariat Kabinet Republik Indonesia. "PP No. 38/2016: Kewajiban Pengembalian Kerugian Negara Juga Jadi Beban Ahli Waris Pejabat." 24 Oktober 2016. <https://setkab.go.id/pp-no-382016-kewajiban-pengembalian-kerugian-negara-juga-jadi-beban-ahli-waris-pejabat/> diakses Mei 2025.
- Tempo. "Korban Salah Tangkap Polisi Dapat Ganti Rugi Rp 222 Juta, Apa Kasus Oman Abdurohman?" 14 Januari 2024. <https://www.tempo.co/politik/korban-salah-tangkap-polisi-dapat-ganti-rugi-rp-222-juta-apa-kasus-oman-abdurohman--98118> diakses 9 Juni 2025.
- Universitas Islam Indonesia. "Ekonomi Islam dalam Mereduksi Moral Hazard." 20 Agustus 2020. <https://www.uii.ac.id/ekonomiislamdalammereduksimoralhazard/#:~:text=Moral%20hazard%20dalam%20ekonomi%20menggambarkan,yang%20menyebabkan%20orang%20lain%20merugi.> diakses 11 Juni 2025.