

## **The Suspect's Rights in the Investigation Process: A Case Study at the South Sulawesi Regional Police**

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### **ABSTRACT**

*This study aims to analyze the position of the suspect forgery of documentary instruments of evidence of land rights in the investigation process at the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. This research combines normative juridical and empirical research methods. The primary data were collected using direct interviews, while the secondary data was collected using literature study techniques. The data obtained in this research were then analyzed qualitatively to describe problems and answer study purposes. The results show that the suspect forgery of documentary instruments of evidence of land rights still gets human rights protection in the investigation process. Investigators still prioritize humanitarian action by upholding the dignity of the suspects. The rights fulfilled by the Directorate of the General Criminal Investigation, South Sulawesi Regional Police, against suspects at each stage of an investigation include: the right to be examined promptly; self-defense; freely provide information; obtain an interpreter; obtain assistance from lawyers or legal advisers; and maintain physical and psychological health. Therefore, it is recommended that all Police investigators continue to implement investigative procedures for all criminal cases while upholding the dignity of suspects as legal subjects. On the other hand, a suspect must be cooperative and use the right to freely provide information to prove their innocence in the investigation process. In this case, the Directorate of the General Criminal Investigation of South Sulawesi Regional Police has applied the accusatory principle to realize a balanced investigation as regulated in Law No. 8 of 1981.*

**Keyword:** Forgery; Human Rights; Investigation; Land Certificate; Suspect.

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### **INTRODUCTION**

The need for ownership of land is one of the basic needs in human life, both as a place to live and as a source of income to meet the necessities of life (Lestari, 2020). To ensure that basic human needs are met appropriately and correctly, then based on Article 33

section (3) of the 1945 Constitution of the Republic of Indonesia, it regulates that *“the land and the water as well as the natural resources therein are controlled by the state and utilized for the optimal welfare of the people.”*

From the provisions above, it can be understood that individuals' rights to land are always sourced from the Rights of the Indonesian Nation and regulated by the State. Therefore, each land ownership right is regulated in the Law of the Republic of Indonesia Number 5 of 1960 on Basic Agrarian Principles (hereinafter referred to as Law No. 5 of 1960). Substantially, Law No. 5 of 1960 regulates the State controlling rights and people's rights to land. Meanwhile, people's rights to land include land rights and protection of land rights. In this case, based on Article 4 section (1) of Law No. 5 of 1960 regulates that:

*“On the basis of the State's right of control as referred to in Article 2, it is necessary to determine the types of rights to the surface of earth, which is called tanah (land), that can be granted to, and held by, persons, either individually, jointly with others as well as legal entities.”*

Furthermore, in ensuring the realignment of land use, control, and ownership to the people, the Government regulates land registration. Land registration also aims to provide legal certainty to people (Ayudiatri & Cahyono, 2022). In this case, based on Article 19 section (2) point c of Law No. 5 of 1960 regulates that:

*“The registration as referred to in section (1) of this article includes granting of documentary instruments of evidence of right, which serve as strong instruments of evidence.”*

On the other hand, the term certificate of the right of ownership to land is not found in all the provisions regulated in Law No. 5 of 1960. However, legal practitioners often interpret documentary instruments of evidence of right as a certificate of the right of ownership to land or a land certificate. Furthermore, if there is a dispute over the right of ownership to land in the future, then the land certificate as a strong instrument of evidence will clarify the problem. Therefore, the land certificate encourages an orderly and peaceful legal atmosphere and the creation of a conducive atmosphere.

The owner of the land certificate has the right and freedom to transfer rights or give management rights to third parties (Franciska, 2022). In this case, based on Article 1 point 20 of Government Regulation of the Republic of Indonesia Number 24 of 1997 on Land Registration regulates that:

*“Certificates are documentary instruments of evidence of right as referred to in Article 19 section (2) point c of Law No. 5 of 1960 for land rights, management rights, waqf land, the right of ownership to condominium units, and mortgage rights, each of which has been recorded in the relevant land book.”*

In contrast, [Wahid \(2008\)](#) considers that land certificates do not guarantee legal certainty from the perspective of legal sociology. In this case, legal certainty from the perspective of legal sociology is a social reality that occurs in society. For example, land disputes occur because several parties have fake or illegal copies of certificates. The issue of land with an illegal copy of the certificate no longer only concerns housing and economic needs but penetrates the realm that is no longer private but widens into a public and complex nature ([Husen et al., 2020](#)). In this case, it concerns politics, society, and culture and is related to issues of nationalism and human rights. Furthermore, this problem is exacerbated by the increasing human needs that demand acceleration in thinking (*modus operandi*) and technology.

Realizing the high value and benefits of land, many people try to present fake certificates, genuine but fake, or illegal copies of certificates. In this case, the data contained in the illegal certificate does not match that in the land book ([Alimuddin, 2021](#)). The number of such illegal certificates is quite large, causing legal problems and causing great concern to the community. In this case, the crime of forgery (*valschheid in geschrift*) against land certificates, as based on Article 264 section (1) point 1 of the Criminal Code, regulates that “*forgery of a document is punishable by imprisonment for a maximum of eight years if it is committed against authentic deeds.*”

[Nurjannah and Muin \(2016\)](#) explained that several factors have led to the rampant occurrence of forgery of land certificates, namely:

1. The owner ignores, does not care, does not manage, and does not utilize his/her land so that other people illegally take it over;
2. Inaccuracy of Officials at the National Land Agency in issuing land certificates; and
3. Urban Village or Village officials do not monitor residents when transferring ownership rights to land, so changes in ownership data are not recorded in Letter C.

One of the presumptions of the crime of forgery of documentary instruments of evidence of right occurred in Makassar City in 2019. The case was reported by the public and handled directly by the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Therefore, based on Article 6 section (1) point a of Law of the Republic of Indonesia Number 8 of 1981 on the Code of Criminal Procedure (hereinafter referred to as Law No. 8 of 1981) regulates that “*an Investigator shall be an official of the State Police of the Republic of Indonesia.*” Furthermore, Article 7 section (1) point a of Law No. 8 of 1981 regulates that:

*“An Investigator as referred to in Article 6 section (1) point a, because of their obligation has the authority to accept a report or complaint from a person about the existence of a criminal act.”*

From the investigation results into the case above, which involved National Land Agency Officials, the Investigators stated that the case was terminated based on the Notification Letter on the Progress of Investigation Results (Hakim, 2019). Furthermore, it can be seen that several results of the investigation did not proceed to the trial stage, even though the public expected the perpetrators of the crime of document forgery to receive punishment based on a court decision. On the other hand, it can be assessed that the suspect can prove his/her innocence during the investigation process.

Based on the description above, this study aims to analyze the position of the suspect forgery of documentary instruments of evidence of land rights in the investigation process at the Directorate of the General Criminal Investigation of South Sulawesi Regional Police.

## METHOD

This research combines normative juridical and empirical research methods. Normative juridical research analyzes legal problems by referring to and originating from laws and regulations (Sampara & Husen, 2016). In contrast, empirical is research whose object of study includes the provisions of laws and regulations (*in abstracto*) and their application to legal events (*in concreto*) (Qamar & Rezah, 2020). Furthermore, this type of empirical legal research focuses on legal practice as a social phenomenon in terms of the reciprocal relationships caused by social phenomena, including economic, political, social, psychological, and anthropological aspects (Irwansyah, 2021). This research was carried out in October 2019 at the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. The informant in this study consisted of five informants who were selected with a purposive sampling technique. The types and sources of data used in this research are as follows:

1. Primary Data is data obtained directly from informants based on sample determination;
2. Secondary Data is data obtained from searching legal literature, including laws and regulations, references, legal scientific journals, legal encyclopedias, and texts or official publications.

The primary data were collected using direct interviews with five informants. While the secondary data was collected using literature study techniques on primary, secondary, and tertiary legal materials. The data obtained in this research were then analyzed qualitatively to describe problems and answer study purposes.

## RESULTS AND DISCUSSION

Land crimes due to the community's need for land often occur in Makassar City's development areas (Syawal et al., 2021). One form of this crime is the forgery of documentary instruments of evidence of land rights. The number of land cases handled by the South Sulawesi Regional Police from 2017 to 2019 can be seen in the table below.

**Table 1. Land Cases in the South Sulawesi Regional Police**

Year	2017	2018	2019	Total	Solved
Reporting	87	66	55	208	79
Investigation	39	48	42	129	
SP2HP	32	10	10	52	
SP3	11	3	0	14	
P21	5	5	3	13	

*Source: Sub Directorate 3 (Land and Building), Directorate of the General Criminal Investigation, South Sulawesi Regional Police (2019)*

The South Sulawesi Regional Police in table 1 above refers to land cases in general, including expropriation, forgery, or fraud of land rights. The number of land cases handled by the South Sulawesi Police is included in large number. Although the case of land every year has decreased. In contrast, there was a significant increase in the preliminary investigation and investigation stages.

The investigator must comply with applicable legal provisions during the investigation process. Article 10 section (1) of Regulation of the Head of the State Police of the Republic of Indonesia Number 6 of 2019 on Investigation of Criminal Acts (hereinafter referred to as the Head of Police Regulation No. 6 of 2019) regulates that the investigation of criminal acts consists of the following:

- a. preliminary investigation;
- b. commencement of preliminary investigation;
- c. forced effort;
- d. examinations;
- e. determination of the suspect;
- f. filing;
- g. submission of case files;
- h. submission of suspects and physical evidence; and
- i. termination of the investigation.

In addition, investigators must uphold the principle of justice, considering the suspect's position as a human being attached to basic human rights. In contrast, the

suspect must also account for the forgery of documentary instruments of evidence of land rights which causes losses to the owner.

### **A. Legal Liability of the Suspect**

Anyone strongly suspected of having committed an unlawful act must show good faith in the law enforcement process (Zulkifli et al., 2020). In this case, the investigator already has two legal means of proof, so the suspect must complete all stages of the examination according to the applicable laws and regulations. Article 1 point 9 of the Head of Police Regulation No. 6 of 2019 explains that:

*“A suspect is someone who, because of his/her actions or circumstances, based on 2 (two) legal means of proof supported by physical evidence, should be suspected of being the perpetrator of a crime.”*

In contrast, if the suspect does not show good faith by attempting to be absent or hiding. In this case, Article 17 section (6) of the Head of Police Regulation No. 6 of 2019 regulates that:

*“A suspect summoned for examination to investigate a case, and his/her whereabouts are unclear, are recorded on the wanted list, and a wanted letter is established.”*

Regarding the investigation of criminal acts, Ferdy stated that:<sup>1</sup>

*“The Directorate of the General Criminal Investigation of South Sulawesi Regional Police needs to prepare some things for the commencement of investigations into suspects, including preparing investigators, preparing materials, preparing the place of investigation, and preparing investigative facilities and infrastructure.”*

Ferdy further stated that:<sup>2</sup>

*“The investigative process is guided by a descriptive system for formulating the suspect's accountability capabilities. In this case, the investigator analyzes the possible causes of the suspect's inability to take responsibility for his/her statement. For example, the suspect suffers from physical or mental illness. In contrast, for a suspect who has stated that he/she is in good health both physically and mentally in the investigation process, the investigator considers that the suspect can be held responsible for his/her actions in participating in all stages of the investigation.”*

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<sup>1</sup>Interview Results with the Personnel of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Bripka Ferdy, on October 14, 2019.

<sup>2</sup>Interview Results with the Personel of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Bripka Ferdy, on October 14, 2019.

Furthermore, Muh. Anas stated that:<sup>3</sup>

*“If the investigation process proves that the suspect is legally and convincingly proven to have committed a crime. In this case, the suspect must account for all his/her mistakes in court until a criminal decision is made for his/her unlawful act.”*

## **B. Implementation of the Principle of Justice**

Investigation of criminal cases is the main duty and function of the Directorate of the General Criminal Investigation (Ferdy et al., 2020). In the process, it has been proven that several investigators abused their authority, resulting in human rights violations. In contrast, there is a forced effort that investigators can make in the investigation process (Basri, 2021). Therefore, the State Police always forms and amends various regulations to ensure the smoothness and effectiveness of investigating criminal acts. Article 1 point 4 of Law of the Republic of Indonesia Number 2 of 2002 on the State Police of the Republic of Indonesia (hereinafter referred to as Law No. 2 of 2002), explains that:

*“The Police Regulation shall be any regulation established by the State Police of the Republic of Indonesia to maintain orderliness and guarantee public safety in accordance with laws and regulations.”*

Article 1 point 5 of Law No. 2 of 2002 explains that:

*“Public safety and orderliness are dynamic conditions of society as one of the prerequisites for implementing the national development process in the framework of achieving national purpose characterized by guaranteed security, order, upholding the law, and fostering peace, which contains the ability to foster and develop the potential and strength of society in deterring, preventing, and overcoming all forms of law violations and other forms of disturbances that can unsettle the public.”*

From the provisions above, it can be understood that the task of the police is to provide legal protection to all citizens. The police carry out this protection through preventive and repressive measures. In addition, every police personnel must uphold the principles of justice in their duties and functions. Furthermore, Muh. Anas stated that:<sup>4</sup>

*“Regulations, especially police regulations, always guide all police personnel in examining suspects. The Head of Police Regulation No. 14 of 2011 is one of the guidelines for carrying out examinations of suspects because the regulation contains a code of ethics for the police profession.”*

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<sup>3</sup>Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. IPTU Muh. Anas, on October 14, 2019.

<sup>4</sup>Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. IPTU Muh. Anas, on October 14, 2019.

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*In addition, there is no difference in treatment in the examination of suspects, including the examination of perpetrators of the forgery of documentary instruments of evidence of land rights. In this case, the suspect still gets human rights protection.”*

From the statement above, it can be understood that what is meant is social ethics. In this case, based on Article 10 point a and point b of Regulation of the Head of the State Police of the Republic of Indonesia Number 14 of 2011 on the Professional Code of Ethics for the State Police of the Republic of Indonesia regulates that:

*“Every Personnel of the State Police is obliged to respect human dignity based on the basic principles of human rights; uphold the principle of equality for every citizen before the law.”*

In this case, Ashar stated that:<sup>5</sup>

*“Even in the smallest matters, we still prioritize the principle of humanity in examining suspects. For example, before asking about the substance of the case, we asked about the suspect’s health and family conditions. In addition, we asked whether the suspect had eaten or not. Even if the investigation process proves that the suspect is legally and convincingly proven to have committed a crime, we will still apply the principles of humanity.”*

Ferdy further stated that:<sup>6</sup>

*“By referring to the police code of ethics, we try to avoid statements that threaten or frighten suspects during the investigation process. We even avoid acts of violence as a forced effort in interrogating suspects. This treatment also applies to perpetrators of the forgery of documentary instruments of evidence of land rights.”*

From the statement above, it can be understood that in the investigation process, investigators still prioritize humanitarian action by upholding the dignity of the suspects. In addition, most investigators examining the perpetrators of the forgery of documentary instruments of evidence of land rights still refer to the principle of procedural justice (Rohim, 2021). Procedural justice is based on six principles: consistency, minimization of information bias, accuracy, correctable, representative, and ethical treatment (Rongiyati, 2012). One ethical treatment related to applying the basic human rights principles is that investigators provide opportunities for suspects to be accompanied by lawyers or legal advisers in the examination process. Muh. Anas stated that:<sup>7</sup>

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<sup>5</sup>Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. IPDA Ashar, on October 14, 2019.

<sup>6</sup>Interview Results with the Personel of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Bripka Ferdy, on October 14, 2019.

<sup>7</sup>Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. IPTU Muh. Anas, on October 14, 2019.

*“In the investigation process, the suspect can be accompanied by legal advisers. However, legal advisers must be passive when accompanying suspects in the investigation process.”*

The statements above are in line with Article 115 section (1) of Law No. 8 of 1981, which regulates that:

*“When an investigator is conducting the examination of a suspect, the legal advisor can follow the course of the examination by watching and listening to the examination.”*

On the other hand, even though the investigation into the suspect forgery of documentary instruments of evidence of land rights is considered very formalistic and rigid, the process still presents procedural justice. Arvandi stated that:<sup>8</sup>

*“There are several conditions where the suspect tries to obscure his statements or answers in the investigation process. For example, the suspect asks the investigator about things that are not of substance.”*

From the description above, it can be understood that with the ability and consistency possessed by investigators, procedural justice can run well in the investigation process.

### **C. Compliance with Suspect Rights**

A suspect or accused in a criminal case process will face the state through its apparatus (Ramdan, 2014). Therefore, the rules of criminal procedural law have a very important meaning in guaranteeing the protection of the Suspect's rights (Pratama, 2019). In this case, most of the series of criminal procedural processes lead to limitations on human rights. For example, inappropriate procedures for arrest, detention, confiscation, search, and punishment. Even though the essence of the action is a limitation of human rights, the Investigator is obliged to uphold the rights of the Suspect so that arbitrary actions do not occur in the investigation process.

Investigators must pay attention to human aspects when carrying out investigations against the suspect. In this case, the suspect is not an object but a subject with rights and obligations. In addition, an investigation is the first attempt made by the police to collect evidence to clarify a crime. Therefore, investigators must objectively assess evidence and other physical evidence before submitting the results of an investigation suspect to the public prosecutor. In this case, proof and physical evidence are the basis for presenting the true truth to protect the suspect's human rights.

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<sup>8</sup>Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Brigpol Arvandi, on October 14, 2019.

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The rights fulfilled by the Directorate of the General Criminal Investigation, South Sulawesi Regional Police, against suspects at each stage of an investigation include:

### **1. The Right to be Examined Promptly**

For efficiency and legal clarity, the police conducted a preliminary investigation at the scene based on reports/complaints. In this case, Ashar stated that *“if the evidence collected has clarified the crime, the next step taken by the investigator is to arrest the suspect.”*<sup>9</sup> The arrest is made if the investigator has held two sufficient preliminary evidence. In this case, based on Article 16 section (2) of Law No. 8 of 1981 regulates that *“for purposes of investigation, the investigator and assistant investigator shall have the authority to make an arrest.”*

For the legitimacy of the process of arresting investigators, based on Article 18 section (1) of Law No. 8 of 1981 regulates that:

*“The task of making an arrest shall be executed by officers of the state police of the Republic of Indonesia by showing their assignment letters and giving the suspect the arrest warrant which contains the suspect's identity and states the reasons for arrest and a brief explanation of the criminal case of which he is suspect and the place where he/she is to be examined.”*

Furthermore, Ashar stated that:<sup>10</sup>

*“In order to avoid the arbitrariness of the police at this stage, we carry out procedures based on the applicable law while still protecting the suspect's human rights.”*

In this case, Article 50 section (1) of Law No. 8 of 1981 regulates that:

*“A suspect shall have the right to be examined promptly by an investigator and thereafter to have his/her case referred to the public prosecutor.”*

Therefore, Article 8 section (1) of Law No. 8 of 1981 regulates that:

*“The investigator shall prepare minutes of the execution of acts as intended by Article 75 without detracting from the other provisions of this law.”*

Article 75 of Law No. 8 of 1981 regulates that:

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<sup>9</sup>Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. IPDA Ashar, on October 21, 2019.

<sup>10</sup>Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. IPDA Ashar, on October 21, 2019.

- (1) Minutes shall be prepared for each of the following acts:
  - a. examination of a suspect;
  - b. arrest;
  - c. detention;
  - d. search;
  - e. house entry;
  - f. seizure of goods;
  - g. examination of documents;
  - h. examination of a witness;
  - i. examination at the place of occurrence;
  - j. execution of court rulings and judgments;
  - k. the carrying out of other acts in accordance with the provisions of this law.
- (2) Minutes shall be prepared by the official concerned with the taking of an act as referred to in section (1) and prepared on the strength of the oath of office.
- (3) Minutes apart from being signed by the official as referred to in section (2), also signed by all parties involved in the act as referred to in section (1).

## **2. Right to Self-Defense**

Investigators must use clear and easy-to-understand language as based on Article 51 of Law No. 8 of 1981, which regulates that in order to prepare a defense:

- a. a suspect shall have the right to be clearly informed in language which he understands about what he is suspected of at the time an examination begins;
- b. an accused shall have the right to be clearly informed in language which he understands about what he/she is accused of.

In this case, Amran Deny stated that:<sup>11</sup>

*“We use language that the suspect can understand throughout the investigation process. Even if the suspect is not fluent in standard Indonesian, we will use his/her native language. This action was carried out to realize the fulfillment of the suspect’s right to defend himself if the information suspected of his/her was different from the actual incident.”*

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<sup>11</sup>Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Bripda Amran Deny S., S.H., on October 21, 2019.

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### **3. The Right to Freely Provide Information**

Investigators must provide an opportunity to speak to suspects as based on Article 52 of Law No. 8 of 1981, which regulates that:

*"In examinations at the stages of investigation and adjudication, a suspect or an accused shall have the right to freely provide information to an investigator or judge."*

In this case, Arvandi stated that:<sup>12</sup>

*"We give the suspect chances to prove his/her innocence or explain what happened. So if the suspect chooses to remain silent, he/she has wasted the opportunity to prove his/her innocence."*

Arvandi further stated:<sup>13</sup>

*"One of the obstacles to fulfilling this right is the suspect refusing to cooperate by giving convoluted answers and sometimes out of the substance of the question. Even the actions taken by the suspect are considered as their attempt to obscure the real incident. So we have to be patient, restrain ourselves, and act professionally."*

From the description above, it can be understood that if the investigator cannot restrain himself and takes a harsh attitude towards the suspect, the investigator will be in a disadvantageous position and must have the worst consequences. In this case, a suspect who fully understands legal procedures can submit a pretrial for the examination process. In this case, Arvandi stated that:<sup>14</sup>

*"Suppose the suspect submits a pretrial and can prove that the investigator took action contrary to the examination procedure. This condition will greatly affect the careers and status of police personnel who serve as investigators."*

From the description above, it can be understood that if the suspect does not want to provide information during an investigation, it can lead to conditions where the investigator will make minutes of refusal.

### **4. The Right to Obtain an Interpreter**

Investigators who are in the investigation process are not fluent in using the suspect's native language, then based on Article 53 section (1) of Law No. 8 of

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<sup>12</sup>Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Brigpol Arvandi, on October 21, 2019.

<sup>13</sup>Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Brigpol Arvandi, on October 21, 2019.

<sup>14</sup>Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Brigpol Arvandi, on October 21, 2019.

1981 regulates that:

*“In examinations at the stages of investigation and adjudication, a suspect or an accused shall have the right at any time to have the assistance of an interpreter, as referred to in Article 177.”*

Article 177 section (1) of Law No. 8 of 1981 regulates that:

*“If the accused or a witness does not understand the Indonesian language, the head judge at trial shall assign an interpreter who, under oath or affirmation, will genuinely and accurately translate all that must be translated.”*

In this case, Arvandi stated that:<sup>15</sup>

*“We provide interpreters if needed to create excellent and correct communication. To ensure the protection of the suspect’s rights, we are stalling for investigation time to ensure the readiness of an interpreter to accompany the suspect. This decision is necessary to create excellent and correct communication regarding the case it faces because it is not uncommon for suspects who do not understand Indonesian and only understand the language of their native language.”*

## **5. The Right to Obtain Assistance from Lawyers or Legal Advisers**

For legal protection in the investigation process, then based on Article 54 of Law No. 8 of 1981 regulates that:

*“For purposes of defense, a suspect or an accused shall have the right to obtain legal assistance from one or more Legal Advisers during the period of and at every stage of examination, according to the procedures regulated by this law.”*

In this case, Muh. Anas stated that:<sup>16</sup>

*“Assistance from Lawyers or Legal Advisers not only has a legal purpose but also upholds social principles so that a fair and humane investigation is guaranteed. In addition, the presence of Lawyers or Legal Advisers assisting the suspect also plays a role in exercising control so that the investigation process avoids acts of torture, coercion, and cruelty.”*

From the description above, it can be understood that even though the suspect is a party that harms other people or commits a criminal act. In this case, the suspect must be presumed innocent under the legal principle of presumption

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<sup>15</sup>Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Brigpol Arvandi, on October 21, 2019.

<sup>16</sup>Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. IPTU Muh. Anas, on October 22, 2019.

of innocence until a court decision is obtained, which has become final and binding (Begem et al., 2019). Therefore, every person who has since been named a suspect has the right to obtain facilities or to present Lawyers or Legal Advisers themselves (Gayo, 2020). In this case, the suspect has the opportunity to prove his innocence. Apart from that, it also ensures that the procedural justice carried out by the investigator on the suspect can run according to the provisions of the applicable laws and regulations.

## **6. The Right to Maintain Physical and Psychological Health**

For legal certainty and protection in the investigation process, then based on Article 58 of Law No. 8 of 1981 regulates that:

*"A suspect or an accused subject to detention has the right to contact and be visited by his/her doctor in the interest of his/her health, whether or not this has any connection with the process of the case."*

In this case, Amran Deny stated that:<sup>17</sup>

*"If the suspect in the investigation process experiences physical health problems, we provide the opportunity to use the services of a doctor from the police. In addition, the suspect also has the right to choose and invite his/her doctor."*

In contrast, Amran Deny stated that:<sup>18</sup>

*"Spiritual rights are a basic need for every human being. We also often present religious leaders in several investigative processes. Most of the suspects in murder cases are assisted by religious leaders. In contrast, it is infrequent for investigators to bring in religious leaders to assist suspects in cases of forgery of documentary instruments of evidence of land rights. Even while serving as an investigator, I have never faced a suspect in a forgery case that required assistance from religious leaders. When viewed from the case, no heavy pressure disturbed the suspect's psyche after committing the crime of forgery."*

From the series of descriptions above, it can be understood that the Directorate of the General Criminal Investigation, South Sulawesi Regional Police, has provided human rights protection to suspects in the investigation process. In addition, investigators apply the accusatory principle to realize a balanced investigation. This principle mandates the protection of human rights against suspects/accused as regulated in Law No. 8 of 1981. On the other hand, the Indonesian nation experienced quite miserable conditions during the colonialization period. In

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<sup>17</sup>Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Bripda Amran Deny S., S.H., on October 20, 2019.

<sup>18</sup>Interview Results with the Investigator of the Directorate of the General Criminal Investigation of South Sulawesi Regional Police. Bripda Amran Deny S., S.H., on October 20, 2019.

this case, the investigation process at that time was regulated based on Colonial Regulations, Staatsblad Number 44 of 1941 on Herzien Inlandsch Reglement (hereinafter referred to as the HIR). In its implementation, the HIR completely ignores the suspect's rights. In addition, the principles contained in the HIR are less relevant to the ideology of the Indonesian nation. In contrast, the accusatory principle contained in Law No. 8 of 1981 is very relevant to The Universal Declaration of Human Rights. This principle substantially positions suspects as subjects and not as objects in the investigation process until a court decision is obtained, which has become final and binding.

### CONCLUSIONS AND SUGGESTIONS

Based on the results and discussion above, it can be concluded that the suspect forgery of documentary instruments of evidence of land rights still gets human rights protection in the investigation process. Investigators still prioritize humanitarian action by upholding the dignity of the suspects. The rights fulfilled by the Directorate of the General Criminal Investigation, South Sulawesi Regional Police, against suspects at each stage of an investigation include: the right to be examined promptly; self-defense; freely provide information; obtain an interpreter; obtain assistance from lawyers or legal advisers; and maintain physical and psychological health. Based on the description of these conclusions, it is recommended that all Police investigators continue to implement investigative procedures for all criminal cases while upholding the dignity of suspects as legal subjects. On the other hand, a suspect must be cooperative and use the right to freely provide information to prove their innocence in the investigation process. In this case, the Directorate of the General Criminal Investigation of South Sulawesi Regional Police has applied the accusatory principle to realize a balanced investigation as regulated in Law No. 8 of 1981.

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