

A LEGAL ANALYSIS OF CRIMINAL AND ETHICAL SANCTIONS ON POLICE OFFICERS COMMITTING CRIMES (Research Study on the Professional and Security Division of the Deli Serdang City Police Department)

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ABSTRACT

Police officers who commit crimes have violated disciplinary rules and the code of ethics because every member of the Indonesian National Police is obliged to uphold the law and maintain the honor, reputation, and dignity of the Indonesian National Police. The formulation of the problem in this study is how the legal regulations apply to police officers involved in crimes, how sanctions are applied to police officers involved in crimes, what are the obstacles in enforcing sanctions against police officers involved in crimes and efforts to overcome them. Propam action against police officers who commit crimes is regulated in Government Regulation Number 1 of 2003 concerning Dismissal of Police Members and Regulation of the Indonesian National Police Number 7 of 2022 concerning the Code of Professional Ethics and the Indonesian National Police Code of Ethics Commission, the handling mechanism of which is through the hearing of the Indonesian National Police Code of Ethics Commission. Actions by Propam against Polri members who commit crimes are basically carried out in accordance with the provisions of the Criminal Procedure Code by remembering, paying attention to and referring to the provisions that specifically regulate suspected Polri members and if proven, they will be subject to sanctions in the form of demotion and if they are no longer worthy, a Polri member will be dismissed honorably or dishonorably.

1. Introduction

Law as a tool of social control means that law is something that can determine human behavior, where such behavior is defined as something that deviates from the rule of law, and as a result, the law can impose sanctions or action against violators. This means that law directs society to act appropriately based on what is determined by the law itself. The Indonesian National Police (Polri) is a state apparatus within the Indonesian law enforcement structure, serving as protectors, guardians, and servants of the public. "The police function to protect the lives and property of groups or communities."

The Indonesian National Police (Polri), as a state institution responsible for public order and security, law enforcement, protection, and service to the community, must always align its development with the national development agenda.

Polri members who commit disciplinary violations, even though these are regulated by Government Regulation of the Republic of Indonesia Number 2 of 2003 concerning Disciplinary Regulations for Polri Members and the provisions for its implementation, are subject to the Decree of the Chief of Police Number: Kep/431/IX/2004 dated September 30, 2004, concerning procedures for resolving disciplinary violations of Polri members, and the Decree of the Chief of Police Number: Kep/97/XII/2003 dated December 31, 2003, concerning the organization and work procedures of the Polri Progam.

Efforts to enforce discipline and the Police Code of Ethics are essential for the effective implementation of assigned duties and Achieving the professionalism of the Indonesian National Police (Polri). It is impossible for law enforcement to function effectively if the law enforcers themselves (Polri) are undisciplined and unprofessional. Polri's indiscipline and unprofessionalism will significantly impact law enforcement and the disclosure of crimes occurring in the community.

Polri members found guilty of committing a crime will be subject to two sanctions: general criminal sanctions and those under the Police Code of Professional Ethics. Therefore, during the investigation process, the Investigation Report (BAP) is also divided into two. Each investigation is conducted by the Criminal Investigation Unit (Reskrim) for general crimes and by investigators from the Complaints and Discipline Enforcement Service (P3D) for disciplinary or professional hearing commissions.

Police members found guilty of committing a crime are subject to both criminal sanctions and ethical sanctions.

2. Research Method

The type of legal research used is normative juridical, supported by empirical juridical data. Normative juridical is "a study that places norms as the object of research, both legal norms in statutory regulations and legal norms derived from a particular "Laws"

This research is descriptive and analytical, meaning "research that describes, examines, explains, and analyzes laws and regulations related to the objectives of this research." The purpose of descriptive research is "to accurately describe the characteristics of individuals, circumstances, phenomena, or specific groups, or to determine the frequency or distribution of a phenomenon or the frequency of certain relationships between a phenomenon and other phenomena in society."

The primary purpose of analyzing legal materials is "to understand the conceptual meaning of the terms used in the laws and regulations, while also understanding their application in practice."

The data collection technique used to obtain secondary data is literature study. This research aims to have clear and focused objectives and be accountable as a scientific work.

3. Research Results And Discussion

The Indonesian National Police, often abbreviated as Polri, in relation to the government, is one of the functions of the state government in the field of maintaining public security and order, law enforcement, protection, shelter, and service to the community. Its purpose is to realize domestic security, which includes maintaining public security and order, orderly and upholding the law, the implementation of protection, shelter, and service to the community, and the creation of public peace by upholding human rights. This is stated in Article 4 of Law Number 2 of 2002 concerning the Indonesian National Police.

The police's identity as servants of the law is indeed as it should be. The police provide service, protection, and enlightenment to the community, and strive to secure and defend independence and realize a just and prosperous society with the spirit of tri brata and a great spirit. Police possess a clear conscience, are calm, steady, and unwavering in any situation and condition, and always make appropriate decisions.

As a government apparatus, the police organization falls within the government's purview. In other words, the police organization is part of the government organization. In terms of language, a police organ is a tool or body that carries out police duties. To ensure coordination and achieve desired goals, tasks are divided and accommodated within a framework commonly called an organization. Therefore, its existence, growth, and development, as well as its form and structure, are determined by the relevant government's vision for the implementation of its police duties.

Police organizations vary throughout the world. Some are under the Ministry of Home Affairs, others under the Ministry of Law, some under the control of the Prime Minister or the Vice President, others under the control of the President himself, and some even constitute independent departments.

The role of Propam (Police and Security) at the regional police level, including the Deli Serdang City Police Resort, is carried out within the Complaints and Disciplinary Enforcement Unit, a work unit that assists the Chief of the Deli Serdang City Police Resort in providing security and oversight within the

National Police organization. This Propam Unit is led by a Propam Unit Head who reports directly to the Chief of the Deli Serdang City Police Resort.

The method of resolving police officers who commit disciplinary violations is in accordance with Government Regulation No. 2 of 2003 concerning the resolution of disciplinary violations. Article 14 of Government Regulation No. 2 of 2003 explains that disciplinary action is implemented immediately upon discovery of a disciplinary violation committed by a member of the Indonesian National Police (Polri). The imposition of disciplinary sanctions is decided in a disciplinary hearing. The following paragraph explains that the provisions for resolving disciplinary violations through a disciplinary hearing are the authority of the Criminal Investigation Agency (Ankum).

The Indonesian National Police, through Propam (Professional and Security), has the responsibility and duties to enforce the law against members of the Indonesian National Police who commit disciplinary violations. Propam, within the organizational structure of the Police, is a supervisory and assistant element to the leadership under the Chief of Police. It is responsible for fostering and maintaining discipline, internal security, handling public complaints against alleged perpetrators by members of the Indonesian National Police and/or civil servants, conducting disciplinary hearings and/or the Police's professional code of ethics, and personnel rehabilitation.

The provisions regarding the Indonesian National Police's professional code of ethics, as stipulated in Indonesian National Police Regulation Number 7 of 2022 concerning the Professional Code of Ethics and the Indonesian National Police Code of Ethics Commission, constitute moral principles intended to foster a strong commitment among all members of the Indonesian National Police (Polri) to adhere to and implement the Polri professional code of ethics in all aspects of their lives, including in the performance of their daily duties and in their service to the community, nation, and state. These moral principles are crucial to understand and implement, as the success of any provision, norm, or rule, including the code of ethics, depends on their implementation.

Polri members must have a strong commitment to upholding their code of ethics. The success or failure of the Polri institution depends on the high moral integrity of each member. The Polri is the institution closest to the community, and therefore, immoral acts committed by a small number of Polri members can damage the Polri's image as an institution. The role of Propam (Police Professional Empowerment) in enforcing the National Police's code of ethics against police officers who violate the code of ethics within the Deli Serdang City Police Resort is carried out through the Complaints and Disciplinary Action Unit at the Deli

Serdang City Police Resort. This unit assists the Chief of the Deli Serdang City Police Resort in providing security and oversight within the National Police organization. This Propam Unit is led by a Propam Unit Head who reports directly to the Chief of the Deli Serdang City Police Resort.

Violations of the law and abuse of authority are highly relevant issues in today's social climate. This is still influenced by past experiences of disregard and disrespect for the law, which has also led to a distrust of the law that persists to this day.

The best way to uphold the rule of law is by law enforcement agencies, specifically the National Police (Polri). Polri officers often commit crimes both during and outside of their duties. The problem is that when Polri officers are involved in a crime, the investigators are from the National Police's Criminal Investigation Department. This significantly impacts the objectivity of enforcement, as it is suspected to have given rise to a lack of seriousness in conducting investigations. Similarly, the Superiors with the Right to Punish (Ankum) are perceived to be less than objective in taking action against their members, even acquitting suspects from punishment.

A professional code of ethics serves as a guideline for every member of a profession and serves as a means of social control. Professional ethics serve as a guideline for members within the profession, therefore, it can be said that there is a systematic relationship between ethics and the legal profession.

The police institution has been equipped with excellent guidelines in carrying out its duties. However, it is undeniable that many police officers still carry out their duties without adhering to these guidelines. This is the problem.

In reality, many police officers still violate the Police Professional Code of Ethics. For example, some police officers within the Deli Serdang City Police Resort are still involved in criminal acts, and some have been absent from duty for 30 consecutive working days.

Various ideal types can be formulated based on how human behavior is carried out based on commands or prohibitions. A social order may mandate that humans perform certain actions, without imposing specific consequences for obeying or violating the command. A social order may also mandate that an action be performed along with a reward or punishment. Rewards and punishments are sanctions, but typically only punishments are referred to as sanctions.

According to Hans Kelsen, sanctions are defined as a coercive societal reaction to human behavior (social facts) that disrupts society. In Kelsen's view, every normative system relies on sanctions. The essence of law is the organization of

force, and law relies on a system of coercion designed to maintain certain social behavior. Under certain conditions, force is used to enforce the law, and there is a community organ that enforces it. Every norm can be considered "legal" if it is accompanied by sanctions, although the norm must be seen in relation to other norms.

Criminal sanctions are more severe than those imposed in civil law or administrative law. The approach developed is one effort to prevent and address crime through criminal law, with violations subject to criminal sanctions.

According to Roeslan Saleh, as quoted by Mahrus Ali, criminal sanctions are a reaction to crimes and this takes the form of suffering deliberately inflicted by the state on perpetrators of crimes (acts that are punishable because they violate the law). Criminal law determines sanctions for violations of prohibitions. Sanctions, in principle, consist of intentionally inflicting suffering.

The nature or form of criminal acts is that they violate the law and/or are detrimental to society, in the sense that they contradict or hinder the implementation of social order that is considered good and just. However, a person's actions are considered criminal if they are stipulated in law. In other words, to determine whether an act is prohibited or not, the formulation of the law must be examined.

Perpetrators of criminal acts must be sanctioned for their actions. Conceptually, the essence and meaning of law enforcement lies in harmonizing the relationships between values outlined in established rules and attitudes as a series of final steps in implementing these values to create, maintain, and preserve social peace.

A punitive measure is imposed by the state or a particular group for a violation committed by an individual or group. The criminal law system has two types of sanctions that have equal standing: criminal sanctions and disciplinary sanctions. Criminal sanctions are the most commonly used type of sanction in sentencing individuals found guilty of criminal acts. Sanctions are defined as obligations, actions, or punishments imposed to compel people to fulfill agreements or comply with statutory provisions.

Sanctions are defined as obligations, actions, or punishments imposed to compel people to fulfill agreements or comply with statutory provisions. Criminal sanctions are the suffering or suffering inflicted on someone guilty of committing an act prohibited by criminal law. These sanctions are expected to discourage people from committing criminal acts.

Roeslan Saleh, in his book Niniek Suparni, states that punishment is a reaction to a crime, manifesting as suffering intentionally inflicted by the state on the perpetrator. Bambang Waluyo states that punishment is a reaction to a crime,

which must be based on a judge's verdict through a court hearing upon the conviction of the crime. If the suspect is not found guilty, they must be acquitted.

A person who commits a crime must be held accountable for their actions. To be convicted, a person must be proven guilty of the crime. The capacity to take responsibility is an element of guilt; therefore, to prove guilt, this element must be further proven. Considering that this is difficult to prove and requires a long time, the element of capacity to be responsible is considered to be always secretly present because in general every person is mentally normal and capable of being responsible, unless there are signs that indicate that the accused may not be mentally normal.

The objectives of punishment are based on the idea that the criminal law system is a unified system with a purpose (purposive or teleological system) and that punishment is merely a tool/means to achieve that goal. Therefore, the Draft Criminal Code formulates the objectives of punishment based on a balance of two main goals: public protection (general prevention) and individual protection/development (special prevention).

Antony Duff and David Garland argue that the objectives of punishment include retribution, deterrence, reform, denunciation/condemnation, and incapacitation or social defense. These five objectives remain a matter of debate in the philosophy of punishment.

This utilitarian view can be considered a reaction to the classical retributive view. This latter view views punishment as a means to prevent or reduce crime. The premise is that punishment, as a form of suffering for the convict, can only be considered legitimate if it is proven that the punishment imposed is better than no punishment, especially in terms of having a deterrent effect on the parties involved. This theory, as Packer states, emphasizes that the idea of deterrence as a model of prevention is often criticized on psychological grounds. Criminals, according to this theory, will not consider the legal consequences before committing a crime.

Acts of assault by police officers are legally unjustified. Furthermore, Article 6, letter q of Government Regulation No. 2 of 2003 concerning Police Disciplinary Regulations, prohibits the abuse of authority in carrying out their duties as police officers. A police officer who commits violence must be prosecuted and held criminally accountable in accordance with the offense. Police officers who commit violations will be held accountable through a police disciplinary hearing, a police code of ethics hearing, or even a general court. Under Law Number 2 of 2002 concerning the Indonesian National Police (Polri), members of the Indonesian National Police (Polri) who commit crimes are subject to the same penalties as

other civilians. This is clarified in Government Regulation Number 3 of 2003 concerning the Mechanism for Handling Members of the Indonesian National Police Who Commit Crimes.

For members of the Indonesian National Police who commit crimes, the investigation process is handled by the Criminal Investigation Unit, which then hands them over to the Disciplinary Complaints and Enforcement Service (P3D), better known as Propam. The investigation results are then submitted to the prosecutor's office for trial in the local court where the incident occurred. Upon conviction, the members of the Indonesian National Police (Polri) face the same sanctions as other civilians.

Members of the Indonesian National Police (Polri) involved in criminal cases are subject to sanctions, including dismissal from the Indonesian National Police (Polri) unit, in addition to being tried in general courts. Regarding Dismissal from the Service Unit, this is regulated in Government Regulation Number 1 of 2003 concerning Dismissal of Members of the Republic of Indonesia National Police.

4. Conclusion

Legal provisions for police officers involved in criminal acts are regulated by Government Regulation Number 1 of 2003 concerning the Dismissal of Police Officers and by the Republic of Indonesia National Police Regulation Number 7 of 2022 concerning the Professional Code of Ethics and the Indonesian National Police Code of Ethics Commission. The handling mechanism is through a hearing of the Indonesian National Police Code of Ethics Commission, as stipulated in the Chief of Police Regulation No. Pol.: 8 of 2006 concerning the Organization and Work Procedures of the Indonesian National Police Code of Ethics Commission.

The sanctions applied to police officers involved in criminal acts include dishonorable dismissal from the police service if they commit a crime, commit a violation, or abandon their duties or for other reasons. Dismissal of police officers may be carried out by the President of the Republic of Indonesia for those with the rank of Senior Commissioner of Police or higher and the Chief of the Republic of Indonesia National Police for those with the rank of Senior Commissioner of Police or lower. Every police officer who is honorably or dishonorably discharged from the police service is obliged to maintain all official secrets that, by their nature, must be kept confidential and to refrain from misusing personal equipment and official facilities. Dishonorable discharge is determined by considering the grounds for the dismissal.

Obstacles to enforcing sanctions against police officers involved in criminal acts include the failure of the alleged offender to appear, the lengthy trial process in



the District Court, the absence of a professional accountability unit at the police precinct level, the absence of witnesses during the KKEP hearing, and the lack of awareness, compliance, and implementation of the professional code of ethics by police officers. Efforts are being made to foster a basic mentality that the police and the public are partners, while remaining firm in enforcing the law, and to learn the work ethic or spirit of the police within the workplace to motivate them to be good police officers.

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