

The Role of Police Investigators in the Process of Investigating the Criminal Act of the Laromabati Village Office (Case Study of the South Halamahera Resort Police)

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Abstract

The crime of destruction of public facilities that occurred in the legal area of South Halmahera Police Station is the destruction of the Village Office of Laromabati, the crime of destruction has been regulated in Article 170 of the Criminal Code. This study uses an empirical legal approach, with research locations in South Halmahera District Police and in Laromabati Village, North Kayoa District, South Halmahera District. Sources of data obtained from primary data or data obtained directly and secondary data obtained from several books and other documents. Data collection techniques namely by interviewing directly to law enforcement officials who directly handle cases of damage to the Laromabati Village Office. The results of this study were carried out with the fact of the destruction of the Laromabati Village Office. The role of South Halmahera District Police investigators is to carry out law enforcement through investigations and investigations in order to find and collect evidence which with clear evidence of criminal acts and finding suspects. Whereas the form of handling of South Halmahera Police investigators in the case of the destruction of the Laromabati Village Office was influenced by factors of law enforcement officials and the low awareness of the community's law.

Keywords : Destruction; Process of Investigation

INTRODUCTION

Law enforcement is a means of realizing justice in living the life of the state, especially in the form of social engineering. Efforts to realize law and order by upholding the law contained in it justice, truth and prosperity which in the end creates security and peace in many communities, both as an effort to prevent or eradicate and act after a violation of the law. As is known, the function of law is an attempt to regulate the orderly law of society, more specifically regulating the relationship between one human with another

human being, one group with another group. Therefore, the law aims to achieve peace by realizing law and justice in the midst of society.

Legal certainty is not only understood that there is no action against the law without first being regulated in statutory regulations, but it is also understood more broadly that every legislation that is violated must be ensured enforced. Law enforcement must also be enforced by the competent authority and in a manner that is justified according to statutory regulations.

In addition to ensuring law enforcement in order to realize certainty, fairness and usefulness in law, the Indonesian government also positions itself in a democratic climate. Indonesia adheres to a democratic system in its system of government, apart from criticisms about democracy in the system of people's sovereignty, the highest power in a country is considered to be in the hands of the people of the country itself. That power essentially comes from the people, is managed by the people, and is for the benefit of all the people.¹

Embraced and practiced democratic principles or popular sovereignty that guarantees the participation of the community in the process of state decision making, so that each legislation that is determined and enforced reflects the feeling of justice that lives in the community. Laws and legislation in force, may not be determined and applied unilaterally by and/or only for the interests of the authorities in conflict with democratic principles. Because the law is not intended to only guarantee the interests of a handful of people in power, but to guarantee the interests of a sense of justice for all people without exception. Thus, the developing rule of law (*rechtsstaat*) is not absolute *rechtsstaat*, but *demokratische rechtsstaat* or democratic rule of law.²

The middle point connecting between the concept of the principle of legality with democracy is as conveyed by Soerjono Soekanto that it needs to be emphasized, that qualifications for unlawful behavior are formulated by citizens who have power and authority. This assumption is an important starting point. Because what is formulated as unlawful behavior is made by certain citizens as a measure of the behavior of other citizens. Crime, for example, is not inherent in behavior, but it is a judgment given by people on the behavior of other parties. So more and more formulated about unlawful behavior is an indicator that in the community concerned there are indeed many crimes.³

Another consequence of this is the conflict between the paradigm of violating the law according to positive law and the law that lives in the middle of society (living law). Often concrete legal events in the community are seen as violations of the law in the lens of positive law, while viewed differently when viewed from a living law perspective. As stated by Soerjono Soekanto that at least two things that affect law enforcement can work effectively or not in the perspective of legal sociology:

1. Community expectations; namely whether the law enforcement is in accordance or not with the values of society.

¹ Jimly Asshiddiqie, *Konstitusi & Konstitusionalisme Indonesia*, (Yogyakarta : Sinar Grafika, 2010), p. 116.

² *Ibid*, p. 132-133.

³ Soerjono Soekanto, *Fungsi hukum dan Perubahan Sosial*. (Bandung : Alumni, 1981), p. 61.

2. There is motivation from community members to report unlawful acts to the law enforcement organs.⁴

Destruction of public facilities often occurs because of social conflicts within the community either between groups of people or caused by the running of government bureaucracy which according to the community does not reflect a sense of justice. As quoted by Novri Susan, Lederach in the Preparing for Peace Conflict Transformant Across Culture explains in the perspective of social construction there are seven conflict assumptions:

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Based on the background above, the problems to be examined in this study are, first, how the handling of South Halmahera District Police investigators in the case of the destruction of the Laromabati Village Office. What are the two factors that are hampering the Police in investigating the crime of destruction of the Laromabati Village Office.

RESEARCH METHOD

The approach used in this research is a qualitative approach. What is meant by a qualitative approach is a method of analyzing research results that produces descriptive analytical data, that is data stated by respondents in writing or verbally as well as real behavior, which is thoroughly researched and studied. This research was carried out in Larombati Village, Kayoa Utara Subdistrict, South Halmahera Regency and South Halmahera District Police. Primary Data is data that in legal research can be seen as the legal behavior of the community. Secondary data is data that in legal research is known as library data. Data collection was carried out using interview techniques and literature study. Data analysis technique used is prescriptive data analysis technique that provides arguments for the results of research that has been done. Arguments are made to provide prescriptions or judgments about the right or wrong according to the law for the facts or legal events resulting from the research.

⁴ *Ibid*, p. 62.

⁵ Jimly Asshiddiqie, *Konstitusi & Konstitusionalisme Indonesia*, (Yogyakarta : Sinar Grafika, 2010), p. 116.

RESULT AND DISCUSSION

Form of Investigator Handling of Crimes against Laromabati Village Office

1. Pre- Investigation

Investigation begins after a criminal act is known or suspected to have taken place based on reports, complaints and information from the public that is received from the investigator or the investigator is still raw material and needs to be carried out research and screening after the report is received, police officers immediately take action, namely by go to the crime scene. The action was taken to seek information and evidence to determine an event that was carried out as a criminal offense or not a criminal offense, complete the information and evidence obtained so that it became clear before the next action and also as preparation for the implementation of the enforcement or examination. Every known event, reportedly reported to the investigator, is not yet certain of a criminal offense, so an investigation process is needed to determine whether the event is a criminal offense or not. If it is a criminal offense, investigators in accordance with their obligations have the authority to carry out investigative actions in a manner regulated by the Criminal Procedure Code. Conversely, if it is not a crime, then the investigator has a legal obligation / KUHAP does not give the authority to act as an investigator. For investigating criminal acts, an investigation warrant is issued, investigators or auxiliary investigators take legal actions against people, or objects or items that are related to the criminal acts that occur. Action in an investigation, among others:

a) Arrest

To expedite the process of carrying out criminal investigations, it is necessary to arrest someone suspected of committing a crime based on sufficient preliminary evidence. The basis for issuing the arrest warrant are:

- 1) Article 5 paragraph (1) b number 1, Article 7 paragraph (1) letter d, Article 16, Article 17, Article 18, Article 19 and Article 37 of the Criminal Procedure Code.
- 2) Law Number 2 of 2002 concerning Police.

After the arrest was made, immediately carried out an examination to find out whether a detention should be held against the suspect or not, given the arrest period given by the law is only 1x24 hours. In addition, after the arrest was made, a copy of the arrest warrant was given to the suspect and his family, after that the minutes of the arrest were made containing the execution of the arrest which was signed by the suspect and the investigator who made the arrest.

b) Detention

For the purposes of investigation, investigators or auxiliary investigators on the orders of the authorities to detain sufficient preliminary evidence that the suspect is suspected of committing a criminal offense that could be detained. The detention is carried out with the consideration that the suspect is feared that he will escape, damage and lose the evidence and / or repeat the crime that he has committed. The basis for issuing the arrest warrant are :

- 1) Article 17 paragraph (1) letter d, Article 11, Article 20, Article 21, Article 22, Article 24 paragraph (1) of the Criminal Procedure Code.

2) Law Number 2 of 2002 concerning Police.

c) Inspection

Inspections are carried out to obtain information or clarity of suspects and or witnesses and / or evidence as well as about the elements of criminal acts that have occurred.

d) Foreclosure

Pertimbangan penggeledahan dan pembuatan surat perintah penggeledahan adalah laporan polisi, hasil pemeriksaan tersangka dan atau saksi-saksi dan laporan hasil penyelidikan yang dibuat oleh petugas atas perintah penyidik atau penyidik pembantu yang berwenang mengeluarkan suatu perintah penggeledahan adalah kepala kesatuan atau pejabat yang ditunjuk selaku penyidik atau penyidik pembantu saran penggeledahan adalah rumah dan tempat-tempat tertutup pakaian serta badan. Penggeledahan rumah dilakukan dengansurat perintah penggeledahan setelah mendapatkan suarat izin dari ketua pengadilan negeri setempat kecuali dalam keadaan yang sangat perlu dan mendesak tidak memerlukan izin terlebih dahulu dari ketuapengadilan negeri.

2. Investigation

As law enforcement, the police are included in the criminal justice system as a sub-system. Other sub-systems are the prosecutors' office, the judiciary and the correctional system in the criminal justice system, the police are the gateway to whether or not someone can be in criminal justice. Investigations carried out to find and collect evidence in the first stage must be able to provide confidence, even if it is only temporary to the public prosecutor about what actually happened or about the crime committed and who the suspect is. The task of the police as an investigator in the criminal justice system places it at the forefront, so that the police are required to be able to select cases which are suitable for court or not based on statutory regulations. Without selection by the police at the time of the investigation there will be a buildup of cases that will not be efficient for all parties. In the act of investigation, the emphasis is placed on the act of "searching and finding" an "event" that is allegedly a criminal offense. Whereas in the focus of pre-investigation the emphasis is placed on the act of "finding and gathering evidence". The investigation aims to make light of the criminal acts found and also determine the culprit. As regulated in Article 1 paragraph (2) of the Criminal Procedure Code is a series of investigative actions in terms of and in the manner stipulated in this law to search for and collect evidence, which with evidence makes clear the criminal acts that occur and to find the suspect.

The number of investigators in the South Halmahera Police Criminal Investigation Unit is very low and is not comparable with the number of reports that come in. With the number of investigators currently inadequate to handle a very large number of cases, this leaves many reports pending without any clarity. But there are also reports that the settlement time does take a long time for various reasons, each in each case.

Factors hampering the police in carrying out the process of investigating the crime of destruction of the Laromabati village office

1. Police Human Resources Factors

As stated, human resources in law enforcement officers especially the police of the South Halamhera Police Station must have the ability and courage to uphold justice at

the pro justitia stage. With the crime of vandalism the author has traced a number of documents and data that are considered to have a very important role in the human resource factor of South Halmahera Police Police personnel. The level of education greatly influences the ability of police personnel, including sharpness and sensitivity in analyzing and making decisions of any obstacles that can hinder police professionalism. The level of education of police personnel can be observed in the recruitment process of police investigators who are still from high school education. Whereas in carrying out their duties, the police must have competence commensurate with other law enforcers such as prosecutors, judges and lawyers with a background in law.

2. Cultural Factors

There is an adage that we often hear that states that if no matter how good the legal rules if run by bad officers, the results will still be bad, no matter how bad the legal rules that exist if run by good officers, the results will be good. In its implementation, the law requires the support of other factors outside the law to support it. This is the main characteristic of the law that the law is different from other norms. Without power, the implementation of law in society will experience obstacles, the more orderly and orderly a society and law enforcement officers will be, the less the support of the power needed to uphold the law. A good legal culture should lead us to an order and order, so that what is aspired by the law can be achieved. To create or build a good legal culture in community life requires a good understanding of the law for investigators themselves.

The legal structure in the legal system theory places human resources in this case law enforcement officers as the object of study. Human resources in the police force are crucial in the implementation of each stage of solving criminal cases. However, the current professionalism of police investigators needs to be evaluated. In general there are two obstacles that can confront the professionalism of the police. First, the weak basic technical mastery in the settlement of a case and second, the weak operational managerial mastery in carrying out the functions and authority of the police. The handling of destructive criminal acts in the South Halmahera District police jurisdiction as the case previously explained is largely determined by legal structure factors.

Based on the author's analysis, there are several obstacles faced by police investigators in the process of investigating the criminal case of destruction, including:

1) Lack of Witness Participation

Witness testimony is one of the evidences in a criminal case in the form of witness testimony regarding a criminal event. Witness testimony as evidence is in the form of witness testimony presented at a court hearing. In other words, only the witness testimony given in the examination at the court hearing was considered as valid evidence. As regulated in Article 185 paragraph (1) of the Criminal Procedure Code. One obstacle experienced by investigators in the investigation process was the lack of participatory witnesses. Sometimes witnesses do not come to give testimony even though summons has been made. There is a phenomenon where a witness tends to complain because he is worried about dealing with the police.

2) Police Officer Education Level

Education plays a very vital role in shaping one's quality. Ideally someone who is qualified with good education will be reflected through the behavior of that person. In this context, a police officer is required to be able to understand the modus operandi of the crime that continues to grow and to know the legal rules that would be threatened to the perpetrators. For this reason, an educational qualification is needed. Most members of investigators at the South Halmahera Regional Police are only high school graduates, while those who have completed a Bachelor's education especially in Law are relatively few. While training on Investigation / investigation is also rarely done. As a state tool in law enforcement, the ability of Polri Investigators, especially South Halmahera Police Investigators, has not been supported by the ability of knowledge of scientific disciplines in accordance with their fields.

3) Limited Number of Police Personnel

To deal with the high crime rate in South Halmahera District, an adequate number of personnel is certainly needed. The lack of police personnel will hamper the process of investigating criminal acts that occur in South Halmahera Regency. Relatively few personnel are still involved in conducting the investigation process with a relatively large number of cases. This resulted in an incomplete process of investigation of criminal acts reports.

4) Inadequate Facilities and Infrastructure

In conducting investigations, one of the obstacles faced by investigators in addition to the minimum budget for investigation is also the problem of facilities and infrastructure owned by the South Halmahera Police Station. The availability of facilities and infrastructure is needed by investigators to support the optimal task of investigators in carrying out their duties and functions as investigators. The availability of facilities and infrastructure at the South Halmahera Police Station is very insufficient and inadequate to help complete the investigation process of a criminal case. Meanwhile, to support the performance of investigators in carrying out the process of investigation, most investigators use private facilities in conducting investigations. The lack of facilities and infrastructure available at the South Halmahera Police Station is very influential on the performance of investigators because in the process of investigating facilities and infrastructure is needed to help expedite the completion of the investigation process. This has severely hampered the process of investigation, especially cases of crimes that are outside such as on islands or villages outside of the capital of South Halmahera Regency which require adequate modes of sea transportation.

CONCLUSION

After seeing the description of the discussion above related to the handling of the crime of destruction of the Laromabati Village Office, then in this section the writer will present a conclusion about the problems faced by South Halmahera Police investigators in carrying out their law enforcement duties. Due to several inhibiting factors such as the lack of witnesses in the case, the level of education of investigative personnel is still low, the limited number of investigating personnel and the lack of facilities / facilities so that the process of investigating the criminal act of destruction is experiencing obstacles that make in the end the evidence needed in the resolution the case is not enough. So with such conditions, the investigator can issue a Termination of Investigation Order (SP3) in handling the case.

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