

CRIMINAL ACTION OF ABUSE AUTHORITY PERFORMED BY POLRI (STUDY OF THE PREMEDITATED MURDER CASE OF BRIGADIER J)

NUFARIS ELISA¹, SRI ISTIAWATI², YUSRIANA³, DELIANI⁴

Faculty of Law, Amir Hamzah University

Email: nufariselisa3@gmail.com

Abstract: *The study's objective is to describe the various criminal acts of authority abuse that are frequently committed by police officers and the possibility of authority by judges related to the disclosure of the case of the death of Brigadier J who is a member of the police. This study employs an empirical legal approach to data collection in the library. The results of the study found that there was a violation of government administrative arrangements in Law No. 30 of 2014 that indicate that authority was abused by FS as the head of the provincial administration against his subordinate Brigadier J who also dragged a number of other police officers. In this case, it was found that there was an attempt to obstruct the law enforcement process or an obstruction of justice. In addition, there is the potential for a fair trial or unfair access to legal justice for those involved in the assassination of Brigadier J. In conducting the trial, the judge has the potential to take several actions that are actually criminal acts, such as: a. Judges receive rewards (bribes). b. embezzlement of evidence c. violation of arrest and detention procedures and the determination of sentences. Thus, it is also hoped that the disclosure of this case clearly and with the maximum penalty can create a deterrent effect on other officials in violating the professional code of ethics or abusing office authority.*

Keywords: *Abuse of Authority, Crime, Police*

I. INTRODUCTION

The National Police is an element of the government that is tasked and responsible for maintaining domestic security and order, which is directly under the president. The Law on the Indonesian National Police Number 2 of 2002 governs the Police Act, which is mandated by law to maintain public security and order, law enforcement, protection, shelter, and community service with the goal of promoting social harmony by upholding human rights.

According to Article 13 of Law Number 2 of 2002 pertaining to the Indonesian National Police, Polri has the following responsibilities and authority in the context of enforcing the functions of the government:

1. maintain public order and security;
2. abide by the law; and
3. protect, serve, and protect the community at the same time.

A set of authorities that the National Police can use in the context of carrying out their duties as law enforcement, particularly in the area of criminal law, are governed by Article 16 of Law Number 2 of 2002, namely:

1. Conduct searches, confiscations, and arrests;
2. Restrict who is allowed to leave or enter a case for the purpose of investigation;
3. In the course of an investigation, bring people before investigators and confront them;
4. Order to stop the suspected individual, inquire about the identity, and check the card;
5. Conduct letter inspection and seizure;
6. Call individuals to be heard and analysed as suspects or witnesses;
7. Bring in the appropriate experts for the investigation of the case;
8. To stop looking into the matter;
9. Provide the public prosecutor with case files;
10. In urgent or sudden circumstances, direct a request to the authorized immigration official at the immigration checkpoint to prevent or deter people suspected of committing a crime;
11. Give civil servant investigators instructions and assistance with investigations, and receive the results of those investigations so that they can be submitted to the public prosecutor; and
12. Take other legally responsible actions

Police institutions are public servants. The police as part of the government apparatus must comply with the mandate given by the people, in the context of maintaining domestic security, which is carried out in a democratic manner, namely maintaining public security and order, enforcing the law, and providing protection, protection, and services to the community. In addition to having to give the best possible service, Polri is also required to improve its performance accountability so that it becomes an effective, efficient, and accountable institution.

The constitution grants the National Police special rights to summon, examine, arrest, detain, search, and seize suspects and items related to criminal acts in order to carry out their duties as investigators and investigators. However, they must adhere to the principle of the right to a fair trial whenever they exercise these particular powers and rights. Every suspect is entitled to an investigation that is conducted "in accordance with the procedural law." not due to an undue process. But in reality, there are many violations or irregularities committed by police officers or known as "maladministration".

The Police have not necessarily become a superpower due to their enormous authority. Considerations of legality or legal norms, religious norms, decency, morality, and upholding human rights are all taken into account when exercising authority, particularly when it comes into direct contact with issues that cross the line into human rights. And actions in the context of implementing authority based on a priority scale, namely prioritizing prevention.

Judges do have the authority to enforce the law based on the law, but they are also burdened with the responsibility to carry out their authority properly and responsibly. Victims or other communities can legally hold law enforcement officers accountable as private officials if they make irregularities in the law enforcement process and act arbitrarily that violate the human rights of citizens.

Explicitly, in criminal law, the definition of what is meant by abuse of authority is not very clear. For this reason, in reviewing it, an extensive approach is used, namely using the same meaning and words derived from other legal disciplines or branches as in administrative law.

The meaning of maltreatment of expert in state regulatory regulation can be deciphered as maltreatment of power to do activities that are in opposition to the public interest or to help individual, gathering or gathering interests and maltreatment of expert as in such activities are genuinely expected for the public interest, yet veer off from the objective. Legislation in addition to other laws and regulations confer this authority.

Law enforcement in Indonesia is currently in the main spotlight by the public, this is based on a case that is currently very shocking to the public, namely the case of premeditated murder that killed Brigadier J carried out by a police officer who also has a high position at the police level, namely Ferdy Sambo who is a former of Propam Head Division. The public highlighted this case because in determining witnesses and suspects there were many scenarios that were engineered so that it was difficult for judges and public prosecutors to explore this case. The Public Police Chief General Listyo Sigit Prabowo, as a matter of fact said that he was careful when revealing this premeditated murder case.

The researcher is interested in analysing on the basis of the problem's background in the previous section. This case that is in the public spotlight, because the form of abuse of authority indicated by a criminal act may occur in this case is corruption in the form of bribes, namely the judge as a case judge who has the potential to receive compensation from litigants.

II. RESEARCH METHODS

This research employs empirical legal methods by collecting library data through the latest News channel related to the development of cases that are published in written news or in the form of news uploaded on YouTube.

III. DISCUSSION

3.1 Case Chronology

This case that became the public spotlight occurred on July 2, 2022 where a brigadier named Yosua Novriansyah Hutabarat was shot dead by his co-worker who was ordered by his superior who is a high official in the police, namely the head of the provincial administration. The beginning of the emergence of this case was very shocking to the public, it was because there were irregularities

that were enough to make the public confused and curious about the motive that caused this murder to occur.

The reason is that there are many scenarios designed by these police officers to avoid the existing legal entanglements. Where initially it was stated that the death of brigadier Joshua was due to a shootout between him and his subordinates with the initials Baradha E or Richard Eliezer. This was triggered because Brigadier J had sexually harassed his superior's wife, Putri Candrawati or PC. However, as the investigation into this case progresses, this can be denied. It is a surprising fact that the mastermind behind this murder was his superior, who was Engineer General Ferdy Sambo or FS, who at that time served as the head of the provincial government division.

Public anger also occurred due to attempts to eliminate evidence in the form of CCTV. In this case, the community really hopes that the police can solve this case as quickly as possible. Until now, the trial process is taking place, there are 5 main suspects in this murder case, namely Ferdy Sambo as the main mastermind, Bripka Ricky Rizal or RR and Bharada E or Richard Eliezer who is Ferdy Sambo's aide and Kuwat Maruf the driver of the Ferdy Sambo family. The fifth suspect is Ferdy Sambo's wife, Putri Candrawathi, who is said to have been present at the scene of Brigadier J's murder and several members of the police who were involved in this case who are suspected of being involved in the disappearance of evidence.

In this case, the National Police Chief admitted that he had missed the scenario when he revealed the scenario of Ferdy Sambo and his henchmen. Because in this case, Ferdy Sambo had succeeded in eliminating the evidence that was the key to revealing the case of Brigadier J's death. However, based on the results of the performance of the team members he formed slowly the case began to become clear. Listyo said that there was evidence that could identify the cause of death of Brigadier J.

As a result of this case, Threats of premeditated murder were made against the suspect. Article 340 of the Criminal Code sets the rules for premeditated murder. This is how the article is written:

" Because of premeditated murder (moord), the person who kills another person intentionally and with intent faces the death penalty, life in prison, or a maximum of twenty years in prison"

Even though Article 340 of the Criminal Code is the most important one for premeditated murder, there are several other articles that are related to premeditated murder. These articles are Article 338, Article 55, and Article 56 of the Criminal Code. Here's the contents.

The Criminal Code's Article 338:

"A maximum sentence of fifteen years in prison is available to anyone who intentionally kills another person"

In the Criminal Code, Article 55:

Sentenced as a culprit of a wrongdoing:

1. Those who carry out the action, those who direct it, and those who take part in it;
2. Those who purposefully encourage others to take action by offering or promising something, abusing their power or dignity, using force, threats, or misdirection, or by providing opportunities, means, or information.

In opposition to the proponent, only recommended actions and their consequences are taken into account.


In the Criminal Code, Article 56:

Sentenced for being an assistant to a wrongdoing:

1. Those who knowingly offer assistance at the time of the crime;
2. Those who purposefully provide criminals with opportunities, tools, or information.

Particularly in relation to the Regulation of the Head of the National Police of the Republic of Indonesia, also known as Perkap Number 6 of 2019, which relates to the investigation of crimes, there are nine series of investigation stages, including:

1. investigation;
2. commencement of the investigation;
3. coercive effort;
4. Inspection;

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5. Determination of the suspect;
 6. filing;
 7. submission of case files;
 8. submission of the suspect and evidence; and
 9. termination of the investigation.

Still based on the same regulations, Article 13 Paragraph (1) explains that a police report or an investigation order can be used to conduct an investigation. Furthermore, in Paragraph (2) it is written that the Investigation Order shall at least contain the basis of the investigation, the identity of the investigative team, the case being investigated, the commencement of the investigation, and the identity of the investigator as a government official.

Meanwhile, the term is defined in Article 11 of Perkap No. 6 of 2019, "investigation stage" in the investigation procedure is carried out if the suspect or evidence has not been found, there is a progress of the case, and the evidence has not been fulfilled. However, in the latest developments in this case, investigators were able to drag a number of members of the police who were ordered by FS to eliminate evidence.

Until now, the South Jakarta District Court is currently conducting trial decisions against all the defendants. There are several stages carried out in this trial by presenting a number of witnesses involved.

1.3 Abuse of Police Position Authority

The death of Brigadier J made the public perceive the world of the police in Indonesia as bad, because the authority of one's position easily kills the lives of others without prioritizing human rights.

Ahmad Taufan Damanik, head of the National Human Rights Commission (Komnas HAM), stated psychologically FS felt he could fabricate the murder case he committed against Brigadier J. Psychologically it was influenced by the power of the Propam Head Division position that he held. Taufan added that Ferdy Sambo's psychology indicated a misuse of authority in the position of Propam Head Division or an abuse of power. This is because he can mobilize not only the units under the Propam Head Division, but other units including the expert staff of the National Police Chief.

The crime of abuse of office and authority by the FS is an act that goes against the rules that apply in society that needs to get conceptual and functional attention through prevention and repression from the parties involved in the justice system for criminals. which is extremely important to the criminal justice system to streamline and streamline the functionalization of criminal law.

Law Number 30 of 2014's Government Administration Regulations ensure that government officials and agencies cannot arbitrarily act against members of the community. Citizens will not be easily manipulated by the state as a result of Law No. 30 of 2014. In addition, the General Principles of Good Governance (AUPB), which have been used for decades in government administration, have been incorporated into this Law and made into legally binding standards.

Legality, human rights protection, and the AUPB in this instance, the principle of not abusing authority must serve as the foundation for government administration. Article 10 paragraph (1) letter e of Law No. 30 of 2014 and its explanation define the principle of not abusing one's authority. Every government official and agency is obligated by this principle to exercise their authority in accordance with the purpose for which it was granted, without exceeding, abusing, or mixing it, and not for personal or other interests.

In accordance with the provisions of Article 17 of Law No. 30 of 2014, officials and government agencies are prohibited from abusing their authority in any way. This includes acting arbitrarily, exceeding authority, and/or mixing authority.

1.4 Discussion

In this case which has become quite a public spotlight, the public has high hopes for the disclosure of Brigadier J's death case as clearly as possible. In this case the judge as one of the legal apparatuses who is given the task, authority and responsibility to enforce the law. So that the responsibilities and authority exercised are in line with the goals of the establishment of law

enforcement agencies, but the community emphasizes the authority of judges as legal officers who frequently engage in violations that are counterproductive to the purpose of law enforcement. For example, the implementation in a trial that violates procedures and shares other irregularities.

During the course of a trial, judges are bound to deviate from their responsibilities and authority, but it is necessary to consider in this case the Indonesian police really need to restore the good name of the police institution. If the abuse of office also occurs in uncovering this case, of course it will cause losses to the police institution in Indonesia. Even though the majority of Indonesians are still legally illiterate, there are not a few people who are sensitive to this, especially regarding human rights.

In many cases that occur in Indonesia, there are many mistakes made by judges not once, which is understandable if there is an element of unintentional as an ordinary human being that does not escape from mistakes, but in practice it has become a public news that is discussed that mistakes are often found. The judge, in carrying out his duties, is even reported by the media that the error that occurred was a deliberate mistake, which means that there is an element of intentional violation of the law in carrying out his duties and authorities as judges.

As previously explained, in conducting the trial, judges are provided with various powers as instruments to carry out their duties. Without the inherent authority of a judge, of course it will become an obstacle in its implementation, and this will contribute to the consequences of the proliferation of criminal acts in society so as to disrupt social balance and community security.

Article 7 of the Criminal Procedure Code stipulates that the authority must be exercised professionally and responsibly within the framework of law enforcement. Particularly with regard to the authority that is directly involved with the human rights aspects of suspects whose independence is restricted, namely those related to arrest, detention, search and confiscation.

Thus, the community in this case closely monitors the trial case of Brigadier J. by prioritizing human rights, it is hoped that the Indonesian police institution can work well in accordance with the Standard Operating Procedure (SOP). However, the public hopes that in this case the judge does not violate his authority by accepting bribes or gratuities to lighten the sentence for the suspect.

Good performance by the South Jakarta District Court will certainly make the image of the Police shine again, for that it must be clarified that the delegation of the handling of criminal acts based on the judge's decision to FS and other suspects must be carried out openly and transparently. The public hopes that there will be no more criminal acts due to abuse of authority carried out in court to uncover this case, thus even though the suspect is a Police official this can create a deterrent effect on other officials to rethink their abuse of authority or violation of the Code of Ethics against their position.

IV. CONCLUSION

Based on the research that was done and the discussion that was had about the issues that were raised in this study, then the facts found the author can conclude several things as follows:

1. In this case, it was found that there was a violation of government administrative arrangements in Law Number 30 of 2014, in this case an abuse of power was identified or a misuse of position authority in the Propam Head Division position. This is because the suspect FS can mobilize not only units under the Propam Division, but other units including the expert staff of the National Police Chief.
2. Then, it was found that there were attempts to obstruct the law enforcement process or obstruction of justice. In addition, there is the potential for a fair trial or unfair access to legal justice for those involved in the assassination of Brigadier J.
3. In addition, in the author's analysis, in uncovering this case, the judge has the potential to take several actions that are actually criminal acts, such as:
 - a. Judges receive rewards (bribes).
 - b. embezzlement of evidence
 - c. violation of arrest and detention procedures and the determination of sentences.
4. Completion of reports related to criminal acts committed by FS and other suspects is very difficult to reveal with efforts to eliminate evidence. The lack of evidence forced the judge to work hard in thoroughly investigating this case. However, efforts to prove cases as clearly as possible can make

the Indonesian police institution get a good image again in the community. Thus, it is also hoped that the disclosure of this case clearly and with the maximum penalty can create a deterrent effect on other officials in violating the professional code of ethics or abusing office authority.

REFERENCES

- [1] Penyalahgunaan wewenang
- [2] Warsito, H. U. (2005). Hukum kepolisian di Indonesia, Prestasi Pustaka, Jakarta.
- [3] Wiryono, P. (2002). Asas-Asas Hukum Pidana di Abdussalam. (2007). Hukum Kepolisian Sebagai Hukum Positif dalam disiplin Hukum, Jakarta.
- [4] Adami, C. (2002). Pengantar Hukum Pidana Bagian 1, Grafindo, Jakarta.
- [5] Anton, T. (2004). Reformasi Kepolisian, Cetakan Kedua, Klaten : Sahabat.
- [6] B.Simanjuntak, Hukum Acara Pidana dan Tindak Pidana, Tarsito, Bandung.
- [7] Baharuddin L. (2000) Kejahatan Korupsi dan Penegakkan Hukum; Penerbit Buku Kompas; Jakarta.
- [8] Bambang. P. Asas-asas Hukum Pidana, Ghalia Indonesia, Jakarta.
- [9] C.S.T. Kansil . (2004). Pokok-pokok Hukum Pidana, Jakarta: Pradnya Paramita.
- [10] Dikdik M. Arief Mansur dan Elisatris Gultom. (2007). Urgensi Perlindungan Korban Kejahatan Antara Norma dan Realita, PT. RajaGrafindo Persada, Jakarta.
- [11] Hari. S, dan Lily, R. (2003). Hukum Pembuktian Dalam Perkara Pidana, Bandung, Mandar Maju.
- [12] Leden, M. (2005). dalam Asas-Teori-Praktek Hukum Pidana, Sinar Grafika, Jakarta.
- [13] Harahap, M.Y. (2004). Pembahasan Permasalahan dan Penerapan KUHAP, Ed. Kedua, Cet. keempat, Jakarta, Sinar Grafika.
- [14] Moeljatno. (1993). Asas-Asas Hukum Pidana, Jakarta, Bina Aksara.
- [15] Pasal 338 KUHP, Tindak pembunuhan berencana
- [16] Pasal 340 KUHP, Tindak pembunuhan berencana
- [17] Pasal 55 KUHP, Tindak pembunuhan berencana
- [18] Pasal 56 KUHP, Tindak pembunuhan berencana
- [19] Sadjijono. (2005). Fungsi Kepolisian dalam Pelaksanaan Good Governance, Yogyakarta, Laksabang Mediatama.
- [20] Satjipto, R. (2009). Penegakan Hukum Suatu Tinjauan Sosiologis, Genta Publishing, Yogyakarta.
- [21] Sholeh. S, moral penegak hukum di indonesia, (pengacara, hakim, polisi, jaksa),
- [22] Soerjono, S. (1983). Beberapa Permasalahan Hukum dalam Kerangka Pembangunan di Indonesia, Uipres, Jakarta.
- [23] Sudarto. (1981). Kapita Selekta Hukum Pidana, Bandung, Alumni.
- [24] Undang-Undang No. 2 Tahun 2002 Tentang Kepolisian Negara Republik Indonesia.
- [25] Undang-Undang No. 28 Tahun 1999 tentang Penyelenggaraan Negara yang bersih dari Korupsi, Kolusi dan Nepotisme.
- [26] Undang-Undang No. 30 Tahun 2014 Tentang Indonesia, Jakarta, Eresco.