



Torture of Suspects in The Investigation Process

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Abstract: This study aims to analyze the juridical review of acts of violence committed by investigators against suspects in the investigation process at the Bone Bolango Resort Police, as well as to examine the factors that led to violent acts committed by investigators against suspects in the investigation process at the Bone Bolango Resort Police. This type of research is juridical empirical. The approaches used by researchers in compiling this research are, among others: the Legislative Approach (Statue Approach) and; the Case approach (case approach). The results of the study indicate that the use of violence in the investigation process is prohibited because the suspect still has rights attached to him and guaranteed by the state through Law Number 8 of 1981 concerning the Criminal Procedure Code (Book of the Criminal Procedure Code). The use of violence in the investigation process is caused by the ignorance of the suspect/defendant regarding the law and the rights that are still attached to it.

Keywords: Violence; Suspect; Investigation;

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1. Introduction

Indonesia is a state of law, as mandated in the Constitution of the Republic of Indonesia in 1945 precisely in Article 1 Paragraph (3). The purpose of the rule of law is a country that has rules that regulate the joints of social life, nation, and state.

Indonesia is a state of law, as mandated in the Constitution of the Republic of Indonesia in 1945 precisely in Article 1 Paragraph (3). The purpose of the rule of law is a country that has rules that regulate the joints of social life, nation, and state.

In social life, for example, there is a criminal law that regulates the balance of rights and obligations in social life, as well as the threat of criminal punishment for those who disturb the balance as a form of accountability for their actions. One form of legal regulation as instrumentation of law enforcement in the life of the nation and state is regulated in the Criminal Code. The criminal provisions which are codified in the form of the Criminal Code or commonly abbreviated as the Criminal Code are expected to present a law enforcement process by the ideals of the Indonesian state of law.¹The delegation is carried out by an individual by a group of people who are authorized to do so as a task given by the community to him. Meanwhile, for the recipient of the spill to be responsible for his actions, the spillover is in the form of a punishment called "criminalization". So, someone who has been convicted means that he carries out punishment to account for his actions which are considered unfavorable and endanger the public interest.

Back to the discussion about one's responsibility to restore a good balance of community life. The implementation of punishment is the goal of criminal law to fulfill the sense of justice desired by the community.²

Concretely, there are two objectives of criminal law, namely: ³

- 1) to frighten everyone not to do bad deeds.
- 2) to educate people who have done bad deeds to be good and can be accepted again in their environmental life.

Criminal law is divided into two parts, namely material criminal law and formal criminal law. The definition of material criminal law is the law that regulates what sanctions or penalties can be given if someone violates a rule. A guideline for law enforcers to carry out their obligations to investigate, prosecute, impose and carry out crimes. The Criminal Code is a review of material criminal law and the Criminal Procedure Code is a review of formal criminal law.

Communities in a legal state, especially in Indonesia, have their respective rights and obligations, in which each person's rights and obligations must be respected and

¹ Ramdhan Kasim, 2020. *Dehumanisasi Pada Penerapan Hukum Pidana Secara Berlebihan (overspanning van het strafrecht)*, Jurnal Jalrev Vol. 2 No.1 (Gorontalo: Universitas Negeri Gorontalo), hlm. 3

² R. Abdoel Djamali, *Pengantar Hukum Indonesia*, cet 20, (Jakarta, Rajawali Pers, 2014) hlm. 171-173

³ *Ibid*, hlm. 173

implemented properly by fellow citizens and the state. The state should give citizens the right to demand positive actions from the state to protect life, body, property, independence, and others. Therefore, the bodies that will carry out the interests of their citizens in violations related to the tarnishing of these rights are bodies such as courts, police, prosecutors, and others.⁴

To demand accountability for perpetrators who disturb the balance of the rights of every community, various procedures must be passed, including the investigation process. An investigation is an effort made by an investigator to seek and reveal information or information about an event that is suspected of being a criminal act or a crime that is suspected to have been committed by a person whose identity is not yet known. Information or even information that can explain events that are suspected of being criminal events.

Article 6 paragraph (1) letters a and b of the Criminal Procedure Code (KUHAP) state who can become criminal investigators. Criminal investigators consist of two components, namely Polri investigators and Civil Servant investigators (PPNS), the difference between the two lies in their respective authorities as stipulated in the law.

Article 1 number 2 of the Criminal Procedure Code (KUHAP) explains that Polri investigators have the duty and obligation to make clear alleged criminal acts that have occurred. it must still be declared a crime, but the Polri investigator is assigned based on the provisions of the applicable legal regulations stating based on the results of his investigation that the case is a criminal event based on sufficient preliminary evidence, or is not a criminal act after obtaining sufficient information that the case is not a crime. in the realm of criminal (territory) but the realm of other cases.⁵

To determine a person with the status of a suspect, he must meet the conditions that have been determined, as regulated in Article 66 of the Regulation of the National Police Chief Number 12 of 2009 concerning Supervision and Control of the Handling of Criminal Cases within the Indonesian National Police, which are as follows: ⁶

- 1) The status of a suspect can only be assigned by an investigator to a person after the results of the investigation have obtained sufficient preliminary evidence, namely at least 2 (two) types of evidence.
- 2) To determine the initial evidence must be determined through a case title.

The Indonesian National Police (Polri) is the National Police in Indonesia, whose duties and responsibilities are directly under the President. The National Police has a motto: *RastraSewakotama*, which means Main Servant for Nusa Nation. The National

⁴ Yohanes Kevin Manik, 2020, *"Penggunaan Kekerasan Dalam Proses Penyidikan Dilihat Dari Perspektif Hukum dan Hak Asasi Manusia"*, Jurnal Hukum Adigama Vol. 3 Nomor 1, (Jakarta: Universitas Tarumanegara), hlm. 1219-1221

⁵ Hartono, 2012, *"Penyidikan dan Penegakan Hukum Pidana Melalui Pendekatan Hukum Progresif"*, cetakan kedua, (Jakarta: Sinar Grafika), hlm. 36

⁶ AnizaLakoro, Lisnawaty W. Badu, dan NuvazriaAchir, 2020, *Lemahnya Kepolisian Dalam Penanganan Tindak Pidana Perjudian Togel Online*, Jurnal Legalitas Vol. 13 No. 1 (Gorontalo: Universitas Negeri Gorontalo), hlm. 39

Police carry out police duties throughout Indonesia, namely maintaining public security and order; enforcing the law; and providing protection, protection, and services to the community.⁷The police as a state agency has several tasks, one of which is conducting an investigation where the investigation is useful for finding and collecting evidence of a criminal act that occurred and finding suspects. However, in the process of investigation, the police often resort to violence to obtain evidence or confession from a person suspected of committing a crime.⁸This is prohibited because the suspect still has rights attached to him and guaranteed by the state through Law Number 8 of 1981 concerning the Criminal Procedure Code (Book of the Criminal Procedure Code).

In addition, in carrying out their duties as law enforcers, the police are not only subject to the applicable law as an external aspect, but they are also equipped with police ethics as an internal aspect of the police. Police ethics are norms regarding police behavior to be used as guidelines in realizing the implementation of good duties for law enforcement, public order, and public security. Police who are unethical and have no integrity in carrying out their duties have become parasites of justice that have created a vicious circle of the criminal justice system and judicial mafia. People are reluctant to have contact with the police/police institutions because both have become machines of terror and horror. This is a clear example of how the criminal justice system is criminogenic.

For members of the police, the task of displaying a grumpy and aggressive personality is considered unprofessional even though anger is important to expedite the execution of their duties. Police chiefs must receive counseling training. scientific voices if necessary shout as an early warning sign in solving problems verbally before taking physical action.⁹

The police are also required to behave in a corrective manner. Repair here means that before and after an event occurs, it is called preventive behavior, namely the behavior of fostering and developing the potential and strength of the community in preventing, preventing, and overcoming all forms of law violations as well as the implementation of protection, protection, and service to the community.

The behavior of achieving goals is shown by the behavior of the police which aims to realize internal security which includes the maintenance of public security and order, order and law enforcement, the implementation of protection, protection and service to the community, as well as the establishment of public peace by upholding human rights. Whereas Epicurus once argued that the state aims to carry out individual

⁷ Mohamad RizkyAlhasni, Lisnawaty W. Badu, dan Novendri M. Nggilu, 2019, Menakar Peran Kepolisian Dalam Mencegah Tindak Pidana Pencabulan Terhadap Anak di Bawah Umur, *JurnalLegalitas* Vol. 12 No.2. (Gorontalo: Universitas Negeri Gorontalo), hlm. 114

⁸ Yohanes Kevin Manik, *Op.cit*, hlm. 1221

⁹ RyckoAmelzaDahniel dan Surya Dharma, 2014, "Perilaku Organisasi Kepolisian", cet. Pertama, (Yogyakarta:PustakaPelajar), hlm. 34-35

interests, namely personal pleasures, both materialistic and psychological and spiritual in nature.¹⁰

The use of violence by the police in the enforcement of criminal law is still prominent. Indriyanto Seno Adji stated that such behavior has become entrenched, especially in investigations to obtain confessions from defendants.¹¹

In Gorontalo itself, especially in the district of Bone Bolango, there is a former convict of a theft case who claimed to have been a victim of physical violence by an unscrupulous investigator who examined him while he was still a suspect in 2011. The victim at that time was suspected of committing a crime of theft and was designated as a suspect, examined, and detained at the Bone Bolango Police Station. During the examination, the victim, Imbran Yusuf, admitted that he received physical violence treatment by the investigator, this was done by the investigator so that the victim would admit his actions. Under the pressure of physical violence, the victim confessed to what he had done, so he was sentenced to 5 years in prison.¹²

This is the concern of the compiler to examine how the juridical review of violent acts committed by investigators to suspects in the investigation process in the police Resort Bone Bolango, as well as to examine the factors that cause violent acts committed by investigators to suspects in the investigation process in the police Resort Bone Bolango.

2. Method

The type of research in writing this proposal is empirical research, namely "Review of Violence Against Suspects in the Investigation Process at the Bone Bolango Resort Police". The empirical analysis is carried out by looking for data obtained directly from the community related to the title of this research. The approaches used by researchers in compiling this research are, among others: the Legislative Approach (Statue Approach) and; the Case approach (case approach). After secondary data is obtained, it is compiled systematically and the substance is analyzed qualitatively to obtain an overview of the subject matter by using deductive thinking methods. While primary data are grouped based on research variables and then analyzed qualitatively to obtain a clear picture of the subject matter.

¹⁰ I Gede Pantja Astawa dan Supriana, *"Memahami Ilmu Negara & Teori Negara"*, (Bandung, Refika Aditama, 2012), hlm. 46

¹¹ AgusRaharjo dan Angkasa, 2011, *"Perlindungan Hukum Terhadap Tersangka Dalam Penyidikan Dari Kekerasan Penyidik di Kepolisian Resort Banyumas"*, *JurnalMimbra Hukum* Vomume 23 Nomor 1, (Yogyakarta: Universitas Gajah Mada), hlm. 77-78

¹² WawancaraImbran Yusuf, tanggal 13 Desember 2021 di Desa Huntu Kabupaten Bone Bolango

3. Juridical Review of Acts of Violence Committed by Investigators to Suspects In The Investigation Process at The Police Resort Bone Bolango

Investigators are not allowed to take actions that are not permitted by law such as violence against suspects, not providing food or other inhumane acts. But in reality, in the process of investigation, the police often resort to violence to obtain evidence or confession from a person suspected of committing a crime.¹³This is prohibited because the suspect still has rights attached to him and guaranteed by the state through Law Number 8 of 1981 concerning the Criminal Procedure Code (Book of the Criminal Procedure Code).

The section in the Criminal Procedure Code states that the Republic of Indonesia is a legal state based on Pancasila and the 1945 Constitution of the Republic of Indonesia, upholds human rights and guarantees that all citizens have the same position in law and government and are obliged to uphold the law and government without prejudice. there are exceptions.

While point 2 of the General Elucidation of the Criminal Procedure Code explains that development in the field of criminal procedural law aims to enable the public to live up to their rights and obligations, as well as to improve the attitude of law enforcement officers in their respective functions and authorities towards the establishment and stability of law, justice, and justice. protection which is the protection of the nobility of human dignity, as well as order and legal certainty for the sake of upholding the Republic of Indonesia as a state of the law by Pancasila and the 1945 Constitution.

In general, it is often said that the function of a criminal procedure law is to limit the power of the state in protecting every citizen involved in the criminal justice process so that it is hoped that the protection of suspects and defendants from the actions of law enforcement officers and courts is guaranteed. Thus, the same law also provides limitations on the human rights of its citizens. In other words, criminal procedural law is a tool that gives power, especially to law enforcement, which is also a legal tool to limit the authority of that power.

Guarantees and protection of human rights in criminal procedural law have a very important meaning because most of the processes in the criminal procedure law lead to human rights restrictions such as arrest, detention, confiscation, search, and sentencing, which in essence are human.

A term that is very popularly used to summarize the ideals of criminal procedural law, and is often used in the wrong sense, is the term due process of law which in Indonesian can be translated into the term fair legal process. The opposite is an

¹³ Yohanes Kevin Manik, *Op.cit*, hlm. 1221

arbitrary process or an arbitrary process (based on the power of law enforcement officials). Tobias and Petersen stated that the due process of law (which originated in England, Magna Charta document 1215) is a constitutional guarantee That no person will be deprived of life, liberty, or property actions of the government. Therefore, according to them, the minimum elements of due process are hearing, counsel, defense, evidence, and a fair and impartial court (hearing suspects and defendants, legal counsel, defense, evidence, and a fair and impartial trial).¹⁴

The affirmation of 10 (ten) principles in point 3 of the General Elucidation of the Criminal Procedure Code regulates the protection of the nobility of human dignity. Mardjono Reksodiputro distinguishes these ten principles into seven general principles and three specific principles, namely:¹⁵

a. General principles:

- 1) equal treatment before the law without any discrimination.;
- 2) presumption of innocence.;
- 3) the right to obtain compensation (compensation) and rehabilitation;
- 4) right to legal aid.;
- 5) the defendant's right to appear in court.;
- 6) free trial and carried out quickly and simply.;
- 7) courts that are open to the public..

b. Special Principles:

- 1) violations of individual rights (arrest, detention, search and confiscation) must be based on the law and be carried out with a (written) warrant;
- 2) the right of a suspect to be informed of his suspicions and charges against him;
- 3) the obligation of the court to control the implementation of its decisions.

Another general principle is the presumption of innocence. This principle is derived from Article 8 of Law Number 14 of 1970 in conjunction with Article 8 of Law Number 4 of 2004 concerning Judicial Power and the Supreme Court, namely that every person who is suspected, arrested, detained, prosecuted, and/or brought before the court, must be considered not guilty before a court decision declares his guilt and obtains permanent legal force. This principle is no longer clearly stated in one provision of the Criminal Procedure Code. The Criminal Procedure Code only determines that the suspect or defendant is not burdened with the obligation of proof as stipulated in the provisions of Article 66. Article 66 is the embodiment of that principle.

The elements in the principle of presumption of innocence are the main principles of protecting the rights of citizens through a fair legal process (due process of law), which includes at least:¹⁶

- a. Protection against arbitrary actions of state officials;
- b. The court has the right to determine whether or not the defendant is guilty;
- c. Court hearings must be open (not confidential);

¹⁴ Soeharto, 2007, "*Perlindungan Hak Tersangka, Terdakwa, dan Korban Tindak Pidana Terorisme dalam Sistem Peradilan Pidana Indonesia*", cetakan pertama, (Bandung: Refika Aditama), hlm. 72-74

¹⁵ Ibid, hlm. 74

¹⁶ Ibid, hlm. 74-75

d. Suspects and defendants must be given guarantees to fully defend themselves..

In addition, every individual has the right to immediately receive an examination by the court and receive a fair decision, the right to receive notification of what is suspected and indicted, the right to prepare a defense, and the right to obtain an interpreter if he or she does not understand the Indonesian language and while in residence. detainees are entitled to a visit from the family.¹⁷

The principle of the right to legal aid is a logical consequence of the previous principles. Legal aid as part of human rights has long been recognized in the history of the Indonesian state administration. The 1945 Constitution before the amendment process implicitly recognized the right to legal aid as part of the principle of equality before the law. Equality in law or equality before the law means that when dealing with the law, there should be no form of discrimination or different treatment for citizens because all are equal before the law. When a crime is committed, whomever he is must be tried before the law as other people are tried for committing a similar crime.¹⁸Based on the provisions of the 1945 Constitution, everyone is guaranteed the right to a fair and impartial trial. A fair legal process in a criminal justice system cannot be realized without protecting the rights of suspects and defendants. For this reason, it is necessary to guarantee the right to legal assistance that protects the rights of suspects and defendants as a first step to getting a fair and impartial trial. Legal aid, especially in the criminal justice system, is guaranteed as part of the framework of citizens' constitutional rights to gain access to justice. in the context of dealing with the power and authority possessed by the State.¹⁹

If a citizen has the right to be treated equally before the law, then legal officials must treat him with the presumption that he is innocent, with the result that in the event of arbitrariness he will receive compensation and/or rehabilitation, the doctrine of equality of arms must also be adhered to. . This doctrine is an acknowledgment that the principle of presumption of innocence is not empty. The state, through the police and the prosecutor's office, always has a greater opportunity than the opportunity possessed by the suspect and the accused (who are most likely in custody). has been obtained through the principle of presumption of innocence, however, the doctrine of equality of arms is based on the condition of the suspect and the accused who are very disadvantaged in facing the state. This principle also demands the existence of an independent legal profession. This freedom of the advocate profession must mean that there is nothing for an advocate to be afraid of if he defends a client who is not liked by society or the state.

The principle of the legal basis and the obligation to have a warrant in violation of the

¹⁷ R. AbdoelDjamali, *Op.cit*, hlm. 200

¹⁸ Lisnawaty W. Badu dan Apripari, 2019, *Menggagas Tindak Pidana Militer Sebagai Kompetensi Absolut Peradilan Militer dalam Perkara Pidana*, Legalitas Vol. 14 No. 1, (Gorontalo: Universitas Negeri Gorontalo), hlm. 61

¹⁹ Ramdhan Kasim, *Op.cit*, hlm. 17-18

rights of individual citizens is a logical consequence and is closely related to the principles mentioned above. Violation of individual rights of citizens is a violation of the individual freedom of the citizen guaranteed by the 1945 Constitution. This constitutional guarantee may only be violated based on the conditions determined by the Constitution and by state officials who are authorized by law. All matters relating to the process of enforcing criminal law such as arrests, detentions, investigations and as have been regulated in such a way in the Criminal Procedure Code (KUHAP). Violations in the form of arrests, detentions, searches, and confiscations may only be carried out by the provisions of the Criminal Procedure Code. The rights of these citizens will be meaningless if the state arbitrarily (through its apparatus) can kill (extrajudicial execution), arrest, detain, torture, search and confiscate the goods of a citizen. This is not a legal action in a state of law. A suspect can claim his rights in a pretrial process if the police and investigators carry out an arrest/detention/investigation process that is not by the rules set out in the Criminal Procedure Code.

The principle of the right of a suspect to be informed of his suspicion and accusation is one of the basic elements and rights of citizens to liberty and security.²⁰ A suspect must be informed of the cause or article of what he has violated so that he must be arrested, detained, and investigated.

The ninth principle is part of a correct understanding of a fair legal process (due process of law), namely one of the elements (see the second principle) is the suspect and the defendant must be given guarantees to fully defend himself. However, how can a suspect properly defend himself during interrogation by investigators if he is not informed of the reasons for his arrest? This principle also explains why legal advisers from the moment of arrest have the right to view case files compiled by investigators as the basis for filing cases to prosecutors/public prosecutors. The principle of presumption of innocence contains a guarantee that the suspect and defendant have the right to defend themselves and the principle of legal assistance contains a guarantee of the right to be assisted by legal counsel from the moment of arrest and at all levels of examination (Article 69 of the Criminal Procedure Code). Every person who has been determined to be a suspect is obligated to get legal assistance from a legal adviser, if the person concerned does not have the financial ability to hire legal advisory services, the State should provide legal counsel for him.

The law always states that if a right is violated, there must always be a possibility to claim and obtain it (*ubi jus ibiremidium*). The continuation of this principle is the interpretation that only if there is a legal process to claim it, can it be said that the right is concerned (*ubi remidiumibi jus*).²¹

Torture is an act that is carried out intentionally or unintentionally, causing a feeling of pain, both physical and spiritual to a person to obtain clarity in the form of a

²⁰ Soeharto, Op.cit, hlm. 75-76

²¹ Ibid, hlm. 76

confession from someone, the suffering caused at the instigation of, with the consent, or knowledge of anyone and or a public official by punishing him for an act he has committed or is suspected of having committed, or threatening for a reason based on any form of discrimination is declared invalid.

The police as state apparatus have violated a Code of Ethics for the Indonesian National Police which states that Polri investigators in carrying out their duties and authorities must comply with legal norms and heed religious norms, decency, courtesy, and human values.

The rule of law in a material sense aims to protect citizens against arbitrary actions from the authorities to enable humans to gain their dignity as human beings. Therefore, the essence of the rule of law in a material sense is the existence of guarantees for community members to obtain social justice, namely a condition that is felt by members of the community with reasonable respect from other groups; while each group does not feel disadvantaged by the activities of other groups. Some characteristics of the rule of law according to A.V Dicey which he calls the rule of law, namely; the supremacy of law; equality before the law; and due process of law.²²

4. Factors Causing Violent Actions Perpetrated by Investigators to Suspects in the Investigation Process at the Bone Bolango Resort Police

It is undeniable and undeniable, that the investigation carried out by Polri investigators against criminal acts is like a factory that must continue to operate. the material to be produced, processed, or entering the raw material into production until it is ready for production. Even though the cost or cost is very insufficient, the production goods must be finished and must be ready to be sold on the "public market" namely the prosecutor's office, courts, and even legal counsel for suspects or defendants if necessary. Not everyone can take this action, although there is no need to deny it, sometimes there is news, and cases are being played for wrong purposes, but now it is very different because within the internal police institution itself there is a supervisory body that cannot be invited. compromise if there is a member error, and must be processed internally.²³

Next, we will discuss the examination carried out by investigators in criminal cases, namely the examination of a suspect who is considered to have committed a criminal act, or an act prohibited by law. or BAP. The minutes of the examination made are aimed at making a clear picture of the alleged criminal events that occurred, whether it is true that the alleged criminal events occurred, and violated the law, or in fact, it was not a criminal event that occurred, but a civil event. This needs caution, because

²² Lisnawaty W. Badu dan Ahmad, 2021, *Purifikasi Pemberian Amnesti dan Abolisi: Suatu Ikhtiar Penyempurnaan Undang-Undang Dasar 1945*, Jurnal Ius Civile Vol. 5 No. 2, (Aceh: Universitas Teuku Umar), hlm. 104-105

²³ Hartono, *Op.cit*, hlm. 137

there are still people with SH or Law Degrees who cannot distinguish between criminal events and civil events, so it is the public who must become victims of law enforcement officers with SH titles.

Not to mention the problem regarding the use of violence by unscrupulous investigators, this is done so that the pressure in the form of physical violence can quickly make the suspect admit his actions. Such behavior has become entrenched, especially in the investigation to obtain the defendant's confession.²⁴

In Gorontalo itself, especially in the district of Bone Bolango, there is a former convict of a theft case who claimed to have been a victim of physical violence by an unscrupulous investigator who examined him while he was still a suspect in 2011. The victim at that time was suspected of committing a crime of theft and was designated as the suspect, was examined, and detained at the Bone Bolango Police Station. During the examination, the victim, Imbran Yusuf, admitted that he received physical violence treatment by the investigator, this was done by the investigator so that the victim would admit his actions. Under the pressure of physical violence, the victim confessed to what he had done, so he was sentenced to 5 years in prison.²⁵

It is necessary to rethink that the task of the police is to enforce the law. this is by the provisions in Article 2 of Law Number 2 of 2002 concerning the Indonesian National Police, which reads as follows.²⁶

The function of the police is a function of the state government in the field of maintaining security and public order, law enforcement, protection, shelter, and service to the community.

According to Article 2 of the Law above, the Police carry out their roles and functions towards the community in 3 things, each of which is to enforce the law, protect the community, and carry out protection for the community.

In the above case, the National Police did not carry out its roles and functions properly and correctly, by the provisions of the applicable laws and regulations. The police as state apparatus have violated a Code of Ethics for the Indonesian National Police which states that Polri investigators in carrying out their duties and authorities must comply with legal norms and heed religious norms, decency, courtesy, and human values. The police is an institution that ensures peace in the life of every Indonesian people. However, through the law enforcement process, police officers seem to do the opposite, investigators do something that even seems to threaten the peace of life of people who obey the rules and become good citizens, they will be worried and afraid

²⁴ AgusRaharjo dan Angkasa, 2011, "*Perlindungan Hukum Terhadap Tersangka Dalam Penyidikan Dari Kekerasan Penyidik di Kepolisian Resort Banyumas*", Jurnal Mimbar Hukum Vomume 23 Nomor 1, (Yogyakarta: Universitas Gajah Mada), hlm. 77-78

²⁵ WawancaraImbran Yusuf, tanggal 13 Desember 2021 di Desa Huntu Kabupaten Bone Bolango

²⁶ Hartono, Op.cit, hlm. 152-153

if later they will become victims of acts of persecution carried out by these individuals even though they did not do what was suspected.

Not infrequently our law enforcement is still subjective, not objective, law enforcement is still oriented "to whom first".²⁷ This situation is as often reminded by Satjipto Rahardjo, Indonesian law expert in his various writings, that law enforcement that must be carried out by Polri investigators, seems to still be seen in the wrong way, even more, wrong when law enforcement is still equated with enforcement of regulations. written rules. Of course, there is a difference between regulations and law or the will of the law, the regulations must have had political interference, which with political interference it is not necessarily the community can implement and accept it. This is because the regulation was made only to be a "legal umbrella" for those who made it, not for the benefit of the wider community, or for the sake of the law that must be respected. As for the law, it is a will of order from the community which is based on a mindset (clean mind and clean will) as stated by Prof. Dr. Barda Nawawi Arief, SH., or the will of the clearest minds of society for mutual respect.

The use of violence in the investigation process is caused by the ignorance of the suspect/defendant regarding the law and the rights that are still attached to it. This is what these investigators use to carry out blind investigation efforts. Unethical and un integrity police officers in carrying out their duties have become parasites of justice that have created the criminal justice system into a vicious circle and judicial mafia. police/police institutions because both have become machines of terror and horror. This is a clear example that the criminal justice system is criminogenic.²⁸

In the case of an examination of a suspect by a police investigator, the suspect's confession is a target that must be pursued by the investigator. This is very wrong, because the legal system of evidence in Indonesia requires objective evidence, meaning evidence that can be supported by testimonies, and logical evidence from a neutral party. Examination of the suspect is not the key to whether or not the criminal case occurred, but rather the presence or absence of relevant witness statements from other parties to this case, as well as the presence or absence of evidence that can support that the criminal case did or did not occur. Examination of suspects is no longer necessary by influencing in ways that are not commendable, especially by trapping so that the suspect admits that he is guilty and is responsible for the mistake. The system of investigations carried out by unscrupulous officers is what makes justice in Indonesia abstract, they seem to be a scourge that haunts law enforcement mechanisms in the country. This is very contradictory and even far from the phrase "Indonesia is a state of law" as has been confirmed in the constitutional mandate of the Constitution of the Republic of Indonesia in Article 1 paragraph (3).

Furthermore, the examination of suspects as outlined in the minutes of examination or BAP needs to be guided by the formal law (KUHAP) so that the examination does

²⁷ Ibid, hlm. 153

²⁸ AgusRaharjo dan Angkasa, Op.cit, hlm. 77

not violate existing legal provisions. current regulation. Next, we will discuss the weaknesses of making inspection reports, hopefully, by finding these weaknesses, all people will understand better, law enforcement will understand better, so the law will be better, and public legal awareness will be better too.²⁹

From the case study of violence in the investigation process experienced by brother Imbran Yusuf in 2011, it can be concluded that it is true that these two factors have been fulfilled. Discriminatory treatment carried out by law enforcers since the colonial period is still entrenched to this day. There are still unscrupulous investigators who are still trapped in this ancient and inhumane process or method of investigation.

On the other hand, this is also exacerbated by the victim's ignorance of the legal rights that are still attached to him even though the victim at the time of examination by the investigator has the status of a suspect. This is reinforced by the length of time this incident was left because the victim did not know if it turned out that the treatment carried out by the investigator was not allowed and was a wrong law enforcement system.

The system of investigations carried out by unscrupulous officers is what makes justice in Indonesia abstract, they seem to be a scourge that haunts law enforcement mechanisms in the country. This is very contradictory and even far from the phrase "Indonesia is a state of law" as has been confirmed in the constitutional mandate of the Constitution of the Republic of Indonesia in Article 1 paragraph (3). Therefore, it is necessary to carry out a comprehensive reform of the two factors that trigger the collapse of the law enforcement mechanism in Indonesia and the emergence of the ghosts of law enforcement that are very scary.

5. Conclusion

The use of violence in the investigation process is prohibited because there are principles that still accommodate the rights that are still owned by the suspect. In other words, acts of inhumane violence committed by investigators cannot be accepted by the principles of fair law enforcement. Suspects must be treated as human beings who still have human rights, as we know that human rights are non-derogable rights, which means that human rights cannot be reduced in the slightest.

The use of violence in the investigation process is caused by ignorance of the suspect/defendant regarding the law and the rights that are still attached to it. This is what unscrupulous investigators use to carry out such an indiscriminate investigation.

²⁹ Hartono, Op.cit, hlm. 154-155

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