



Police Obstacles in Revealing the Crime of Disposing of Babies

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Abstract: The purpose of this study is to know and analyze what factors hinder the police in uncovering the crime of disposal of babies in Bone Bolango and to find out what the police are trying to prevent the crime of disposal of babies in the jurisdiction of the Tapa Police. This type of research is empirical research. The results showed that the role of the police in uncovering the crime of disposal of babies in the Tapa Sector Police, the investigation process was still stopped because the police experienced factors that hindered the police in uncovering the crime of disposal of babies. These factors were internal factors consisting of a lack of members and sources. Human Resources, lack of evidence, and difficulty in determining suspects, Then there are also external factors, namely the lack of public awareness. Then, in this case, the police made efforts to prevent the crime of disposal of babies in the jurisdiction of the Tapa Police by conducting patrols, counseling and outreach activities in the community...

Keywords: *Role, Policing, Baby Disposal.*

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How to cite (Chicago Style):

Mokoagow, T. Badu, L.W., Imran, S.Y. 2023. "Police Obstacles in Revealing the Crime of Disposing of Babies," *Estudiante Law Journal* 5, no. 1 (February 15, 2023): 1-9

1. Introduction

Indonesia is the highest agreement of the state's formers, even though it has experienced a constitutional test when the 1945 Constitution was amended into the Constitution of the United Republic of Indonesia in 1949, even so the recognition of the regions under the auspices of the State of Indonesia is still recognized.¹ An absolute requirement for state sovereignty is the existence of a society that obeys the constitution and its government.² Because the essence of the constitution is the conception of the state which is the basis and limitation of the constellation of the state administration system.³ Therefore, in legal politics, a legal discovery and new law-making that is in accordance with the goals of the State is a value that must be implemented in order to achieve legal supremacy and justice.⁴

In our daily lives, even in society, in order to make ends meet, there are often crimes and violations committed by certain people and people who threaten some members of society, which in law is known as criminal acts.⁵ At present, not only the crime rate or quantity of crime is increasing but also the type of crime or quality has developed rapidly in Indonesia. Criminal sanctions are seen as an effective solution in tackling this problem. Criminal sanctions are a manifestation of the state's responsibility to maintain security and order as well as efforts to protect the law for its citizens. This is a logical consequence of the concept of forming a state which, according to JJ Rosseau, is based on community agreements. Furthermore, the people agree to enter into a noble agreement (*modus vivendi*) which is outlined in a basic law in the form of a state constitution.⁶ Legal protection is really needed because of efforts to integrate various needs in associations so

¹Novendri M. Nggilu, "Tinjauan Yuridis Pengaturan Sanksi Pidana Dalam Peraturan Daerah Provinsi Gorontalo," *Lambung Mangkurat Law Journal*. 5, No. 2 (2020): 109-121., 110

²Mellisa Towadi and Nur Mohamad Kasim, "An Indication of China ' s Policy towards Uighurs and Its Implications by International Law Aspects." *Jambura Law Review*. 3, No. 01 (2021): 55-71., 69

³Ahmad dan Novendri M. Nggilu Fakultas, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution of the Constitution Through the the Principle of the Guardian of the Constitution." *Jurnal Konstitusi*. 16, No. 4 (2019): 785-808., 791

⁴Mohamad Hidayat Muhtar, "Model Politik Hukum Pemberantasan Korupsi Di Indonesia Dalam Rangka Harmonisasi Lembaga Penegak Hukum." *Jambura Law Review*. 1, No. 1 (2019): 68-93., 73

⁵Dian Ekawaty Ismail and Mohamad Taufiq Zulfikar Sarson, "Criminology Analysis of Women's as Perpetrators of Domestic Violence Crimes," *Jambura Law Review* 3, no. 1 (2021): 57-76., 58

⁶Ramdan Kasim, "Dehumanisasi Pada Penerapan Hukum Pidana Secara Berlebihan (Overspanning van Het Strafrecht)," *Jambura Law Review*. 2, No. 1 (2020): 1-29., 3

that there are no conflicts between needs and can enjoy all the rights granted by law.⁷ The state is firmly obliged to try to fulfill the rights of every citizen.⁸

Children are the next generation of young people who have a role to protect and guarantee the development of a nation and state so that children must receive special protection so that later they can grow and develop properly. Law Number 23 of 2002 which has been amended to Law Number 35 of 2014 explains the meaning of a child in Article 1 point 1 that a child is someone who is not yet eighteen years old (18) including children who are still in the womb. Because children are a gift from God Almighty, they need love and attention from adults, especially their parents.⁹

In legal protection of children, priority must be given, because children tend not to be complete individuals and are burdened with obligations like adults in general. Children are the younger generation, so they are considered a human resource and have the potential to continue and realize the ideals of the nation. Children have a strategic role and require special treatment in coaching and protection to ensure their overall, harmonious and balanced physical, mental and social development. Because there are no specific laws and regulations governing infants, infants and children are considered to have something in common, that is, they are both immature.

1. Children have the right to welfare, care, care and guidance based on affection both within their families and in special care to grow and develop normally.
2. Children have the right to services to develop their abilities and social life, in accordance with the culture and personality of the nation, to become good and useful citizens.
3. Children have the right to care and protection both in the womb and after birth.
4. Children have the right to protection against the environment that can harm or hinder their normal growth and development.¹⁰

Cases of disposal of babies that occurred in Gorontalo, more precisely Bone Bolango Regency, have been increasing since the last three years so that the role of the police apparatus in enforcing the law is very important in eradicating every crime. where this institution is at the forefront in handling and disclosing cases that exist and occur in the community. The main duties of the police are to maintain security, maintain public order, enforce the law, provide protection, protect the community and provide good service to

⁷Jufryanto Puluhulawa, Mellisa Towadi, and Vifi Swarianata, "Perlindungan Hukum Situs Bawah Air Leato / Japanese Cargo Wreck The Legal Protection of The Leato Underwater Site" *Jurnal Reformasi Hukum* 24. No. 2 (2020): 189-208., 197

⁸Jufryanto Puluhulawa, Mellisa Towadi, and Vifi Swarianata, "Perlindungan Hukum Situs Bawah Air Leato / Japanese Cargo Wreck The Legal Protection of The Leato Underwater Site" *Jurnal Reformasi Hukum* 24. No. 2 (2020): 189-208., 197

⁹Adi hermansyah Lisa Novita, "Penerapan Sanksi Pidana Terhadap Pelaku Tindak Pidana Penelantaran Anak," *Jurnal Ilmiah Mahasiswa Hukum Pidana* 2, no. 3 (2018): 480.

¹⁰Adi hermansyah Lisa Novita, "Penerapan Sanksi Pidana Terhadap Pelaku Tindak Pidana Penelantaran Anak," *Jurnal Ilmiah Mahasiswa Hukum Pidana* 2, no. 3 (2018): 480.

the community. This is contained in article 13 of Law Number 2 of 2002 concerning the Indonesian National Police.¹¹

Therefore, as a party that is given authority by law in resolving problems that exist in the community, the task is to carry out their responsibilities in terms of investigations and investigations. According to article 1 point 5 of the Criminal Procedure Code in conjunction with Article 1 point 9 of the Republic of Indonesia Law Number 2 of 2002, that what is meant by investigation is "a collection of investigative actions in searching for and finding an incident suspected of being a crime to determine whether or not an investigation can be carried out according to the method stipulated in the law."¹² Investigating as an effort to find and find traces in the form of information or evidence related to criminal acts. The initial stage in investigating or uncovering a crime is of course an investigation is carried out first. This process is an inseparable part of the investigative function because in order to determine a suspect in a criminal act, an investigation must be carried out first to ascertain whether the act was a criminal act or not, which was carried out by the investigator by gathering sufficient initial evidence. The purpose of investigation is to protect and guarantee human rights.

Talking about the case of disposal of babies in 2021, the case of disposal of babies that occurred in Bone Bolango Regency, more precisely in Kec.Tapa, occurred on Thursday, March 18, 2021. The baby who was found at night caused a stir in the local residents because the baby was just born This was found by security guarding around the Hubulo Islamic boarding school. The male baby was filled in a cardboard box and was in a state of shivering (cold) for some time, the community reported this incident to the police. Based on the information I got from initial observations on July 27, 2022, until now the police have not found who the perpetrators of the disposal of the baby were and the investigation is still being stopped because they are having problems with the investigation.

Thus, the researcher is interested in conducting research related to The Role of the Police in Revealing the Crime of Disposing of Babies.

2. method

This type of research is empirical research, The research method is a way of doing something by using the mind carefully to achieve a goal by searching, writing, formulating and analyzing a report.¹³ This research uses techniques Data analysis is a research activity in the form of studies or research on the results of data processing using previously obtained theories.

¹¹ Undang-undang Nomor 2 Tahun 2002, "Kepolisian Republik Indonesia" (n.d.).

¹² Avelia Mantali Dian Ekawaty Ismail, *Hukum Acara Pidana-Sebuah Pengantar* (Yogyakarta: UII Press Yogyakarta, 2021).

¹³ Chilid Narbuko dan Abu Achmadi, *Metodologi Penelitian* (Jakarta : PT. Bumi Aksara, 2003).

3. Analysis And Discussion

Factors That Obstacle the Police in Disclosing the Crime of Baby Disposal

Indonesia is a constitutional state where one of its laws is the Criminal Law which regulates crime and violations and the punishment is regulated in the Criminal Code. Then crime is also a complex phenomenon that can be understood from many different angles, that's why in our daily life we can catch various comments about a crime event that are different from one another. Crimes that occur in society are usually carried out by the community itself, usually the community commits them because of economic pressure, environmental factors, and low education so that it creates an intention to commit a crime.

The National Police of the Republic of Indonesia is a state instrument that plays a role in maintaining public order and security, upholding the law and providing protection, protection and service to the community in the context of maintaining security within the state based on the provisions of Article 2 of the 2002 Law concerning the Police of the Republic of Indonesia.¹⁴ It is the responsibility of the police agency to realize all the functions and responsibilities inherent institutionally and ethically individually in carrying out the duties of the Indonesian National Police in order to maintain security. The operation of a state institution does not mean that it is without obstacles and constraints as well as the performance of the police, especially the Tapa Sector Police, including in uncovering the case of the disposal of babies that occurred in Tapa district in 2021 where the police have not yet found who carried out the disposal of the babies. In the process of disclosing a crime in order to find the perpetrator or suspect, of course, there are obstacles that make it difficult to investigate the perpetrator.

The investigative process has an important role in law enforcement against a form of crime, because in an investigation it is determined whether the incident is a crime or not and the most important thing in the process is to find the suspect and the evidence that makes the examination easier. According to article 1 point 5 of the Criminal Procedure Code in conjunction with Article 1 point 9 of the Republic of Indonesia Law Number 2 of 2002,¹⁵ that what is meant by investigation is "a group of investigative actions in searching for and finding an incident that is suspected of being a criminal act to determine whether or not an investigation can be carried out according to the method stipulated in the Law by means of Investigation as an effort to find and find traces in the form of information or evidence relating to a crime. According to an interview with the Criminal

¹⁴ Dian Ekawaty Ismail, *Hukum Acara Pidana-Sebuah Pengantar*.

¹⁵ Pasal 1 Angka 5 Kitab Undang-undang Hukum Acara Pidana jo Pasal 1 angka 9 Undang-undang Ri Nomor 2 Tahun 2002, "Penyelidikan" (n.d.).

Investigation Unit of the Tapa Police, they carried out an investigation based on Article 12 of Perkap Number 14 of 2012 concerning investigation management including:

1. Visiting the crime scene, the first thing the Tapa Sector Police does, of course, is TKP processing. What is meant by TKP processing is searching for and collecting information, clues, evidence, identity of the suspect, and witnesses/victims for the benefit of further investigations.
2. Conducting Observations Observations are made in order to supervise certain objects, places and environments to obtain the required information and to gain clarity or complement existing information based on previously known knowledge and ideas.
3. Interviews. Interviews were conducted by the police to find information about how the crime of disposal of babies occurred, whether or not there were people suspected.
4. Prosecution, Following someone suspected of being a criminal or other person who can lead to the perpetrators of criminal acts, finding out activities, habits, environment, or networks of perpetrators of crimes. For this tailing, members of the Tapa Police Criminal Investigation Unit are rarely carried out due to the limited number of investigators they have.¹⁶

Even though the police have conducted an investigation in accordance with procedures, in reality the investigation process was not without obstacles that hindered the case being uncovered and the investigation was even stopped. The obstacles consist of internal factors and external factors.

Internal factors are factors that are contained within the individual and are things that have a relationship with the crime case. This factor consists of:

The factor is the lack of members and Human Resources, Human Resources are the most important asset of the Police in carrying out their duties to realize the objectives of the Law of the Republic of Indonesia Number 2 of 2002 concerning the Police of the Republic of Indonesia. The quality and quantity of law enforcement officers will make investigations of criminal acts run well. However, the lack of members of the police as well as investigators so that this makes the handling of a case not go well and affects the duties of the police. According to interviews with investigators from the Tapa Sector Police, an adequate number of members is very necessary for law enforcement efforts carried out by the Tapa Sector Police.

The factor of lack of evidence, in Article 184 paragraph 1 of the Criminal Procedure Code states five valid pieces of evidence include, Witness testimony, is one of the pieces of evidence in a criminal case in the form of testimony from witnesses regarding an event, Expert testimony, namely testimony which is given by someone who is considered to have "special expertise" on a problem that requires an explanation in a case being examined, this later so that the case being examined becomes clear and clear, a letter, is

¹⁶ Wawancara Dengan Kanit Reskrim Kepolisian Sektor Tapa Bapak Ridwan DJ Nento

evidence which according to the law is made under oath position, or a letter confirmed by oath. Instructions, are actions, events or circumstances that because of their good correspondence between one another, as well as with the crime itself indicating that a crime has occurred and who the perpetrator is. and the testimony of the accused, is what the accused stated about the actions he had committed or what he himself knew or experienced. In uncovering the crime of disposal of babies committed by the Tapa Sector Police, investigators said that it was difficult to obtain new evidence. This is based on an interview with Mr. Mohammad Hidayat Hilipito who revealed that the evidence meant was the lack of witness statements, the absence of evidence leading to the perpetrators, the absence of expert testimony and the absence of the defendant's statements.¹⁷

The difficulty factor in determining the suspect, because the disposal of this baby was carried out by an irresponsible person so that there were no other witnesses who could see the perpetrator then Mr. Ridwan Dj Nento as Head of Criminal Investigation Unit of the Tapa Sector Police added that when he arrived at the scene of the case there was no camera CCTV around the scene of the incident or at the baby dump, so this also makes it difficult for the police to uncover the perpetrators of baby disposal.

External factors, namely factors that are based on the environment such as: Lack of public awareness, In law enforcement efforts, the role of the community is definitely needed. Law enforcers come from the community. The attitude of the community is that they are not aware of the police's duties, and in fact most of them are apathetic and think that a crime that occurs in society is purely a matter for the police. Sometimes people don't want to participate with the police when they are called to be witnesses. Meanwhile, according to Mr. Ridwan, the source of information is one of the obstacles that the Tapa Sector Police always experiences regarding the delay in reporting crimes that occur in the community so as to make the investigation process run.¹⁸ slow, and the lack of sources of information about suspected perpetrators.

These four factors influenced the police in uncovering the perpetrators of the baby dumping case that occurred at the Tapa Sector Police so that the investigation process was not carried out and is still being stopped. According to Soerjono Soekanto, a role is a dynamic aspect of position or status. If a person carries out his rights and obligations according to his position, then he has carried out a role. So based on my opinion as a researcher the role of the police in handling or resolving cases of disposal of babies has not been effective because the police have not been able to resolve cases. The police should be able to maximize their role in terms of dealing with criminal cases that occur. Especially in terms of investigating cases of criminal disposal of babies that occurred in 2021.

¹⁷ Wawancara dengan Bapak Mohammad Hidayat Hilipito Selaku Penyidik Kepolisian Sektor Tapa Pada Tanggal 3 November 2022 Pukul 10:45

¹⁸ Wawancara Bersama dengan Bapak Ridwan Dj.Nento Pada Tanggal Tanggal 3 November 2022 Pukul 10:45

Even though the Criminal Code does not provide limitations regarding investigations or investigations, this case should not be allowed to go unchecked so that the perpetrators can roam freely without being given a deterrent effect and this could lead to similar cases in the future. Furthermore, in terms of the inhibiting factors faced by the Tapa Police, it is hoped that solutions can be found on how to deal with these factors so that the case can be resolved quickly and the perpetrators receive punishment according to their actions.

The factors above can be overcome by increasing the human resources of members, especially as investigators so that they can master the problems that occur in the jurisdiction of the Tapa Police Sector. In the search for perpetrators, the police can also involve the public and other security forces in finding out the whereabouts and identities of those suspected of being the perpetrators of the crime of abandoning babies, then the police can also issue a list of wanted persons against someone suspected by the police.

4. Conclusion

Based on the results of the analysis and discussion that have been described above, it can be concluded that the factors that hinder the police in uncovering the crime of disposal of babies consist of internal factors and external factors. Internal factors come from the police, namely 1) lack of members, 2) lack of evidence, 3) and the difficulty of determining suspects while external factors come from the community in the form of lack of community participation in working with the police.

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