



Analysis of the Juridical Review Regarding the Action of Checking Mobile Phones by Police Officers During Patrols

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Abstract: The purpose of this study is to find out the provisions governing the inspection of cellphones by police officers during patrols. The research method used is a normative research method using a literature study approach. The results of this study are about the Raimas Backbone Team who violated the law against Article 1 number 18 of Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP) concerning Body Search is an investigator's action to conduct an examination of the suspect's body and or clothes to search for objects that are strongly suspected of being on his body or carrying with him, to be confiscated. In this case it is clear that the actions of the Raimas Backbone Team who carried out the search were beyond the authority given to them, because basically in the Criminal Procedure Code Number 8 of 1981 Article 6 paragraph 1. Investigators are: (a) . State police officials of the Republic of Indonesia, (b). Certain civil servant officials who are given special authority by law.

Keywords : Examination; Cell Phone; Patrol

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1. Introduction

Advances in technology, the Republic of Indonesia National Police is a government agency with roles and tasks in realizing the maintenance of domestic security in upholding the law, maintaining public order and security, protecting the public, and providing protection.¹ Of course, this responsibility is not an easy matter, dealing directly with the community is an obstacle when carrying out the role and duties of the police. In their capacity as law enforcers, they are tasked with carrying out lawsuits, maintaining order, and maintaining public security. This means that, in addition to public awareness and obedience to the law, the law must also be implemented properly, and those who violate it must be dealt with in accordance with established protocols.

Crime is one example of deviant behavior that permeates society. Every society experiences crime. Year after year the number of crimes is increasing, this can be proven based on data from the National Criminal Information Center of the Indonesian National Police's Criminal Investigation Agency that recorded 276,507 crimes occurred in Indonesia throughout 2022. Thus that there is 1 crime every two minutes and two seconds, if calculated every per hour, there were 31.6 crimes that occurred in the country.

Based on the data in the diagram above, it can be interpreted that it will be difficult for the Police to develop countermeasures as one of the institutions tasked with enforcing the law because the increase in crime rates indicates ineffective law enforcement which underlies the prevention mechanism. This is as stated in "The 1945 Constitution of the Republic of Indonesia Article 30 paragraph (4) that the Indonesian National Police is an instrument of the state that maintains security and public order, and enforces the law."²

And it is also mentioned in "Article 2 of Law Number 2 of 2002 concerning the Indonesian National Police, namely the function of the police is one of the functions of government in the field of maintaining security and public order, law enforcement, protection, protection. And service to the community." so that the existence of the police as road class law enforcers (in a positive sense, working directly in the field), the police are the parties that interact the most with the community. Therefore, one of the variables that determines the success or failure of the applicable laws and regulations, especially in the field of criminal acts which are the main responsibility of the police, is the effectiveness of the police in eradicating crime which has been

¹ Rahmawati Sri Febriyani dan Aji Lukman Ibrahim, "Pengecekan Handphone Dalam Pengaturan Pengeledahan Badan Oleh Penyidik Kepolisian," *Al-Jinayah : Jurnal Hukum Pidana Islam* 9, no. 1 (30 Juni 2023): 92-110.

² Otniel Alexander Ludji, "Tinjauan Yuridis Mengenai Eksistensi Peraturan Perundang-Undangan Pada Tahap Pengeledahan Terhadap Data Pribadi (Studi Kasus Aipda Ambarita)" (Universitas Atma Jaya Yogyakarta, 2022).

written in "Article 13 of Law Number 2 Year 2002 concerning the Indonesian National Police. The police are given a number of powers in addition to the main duties mentioned above, one of which is the right to search. A search is an act carried out by an investigator who is authorized by law to look at a person's body and clothes. A search also includes a house search, in which investigators enter a person's home and look around as well as carrying out arrests and confiscation of goods.³

In the Criminal Procedure Code in Chapter V part three there is Article 37 which regulates most of the search, where the purpose of the search itself is to obtain evidence after the suspected criminal has been arrested. In almost every crime that is committed either individually or in groups, one of the pieces of evidence found is a *cellphone*, this is because a *cellphone* is a communication tool that is very easy and simple to use by anyone, starting from children, teenagers to adults even in connection with the above, then in Law Number 2 Articles 4 and 5 of 2002 concerning the Indonesian National Police it states:

"Article (4): The National Police of the Republic of Indonesia aims to realize domestic security which includes maintaining public security and order, orderly and upholding of the law, the implementation of protection, protection and service to the community, as well as fostering public peace by upholding human rights".

Police officers often carry out operations such as active patrols which are carried out every night in public places and also places that are considered prone to crime. As a close example, we can see the East Jakarta Police officers who formed a Raimas team or a mass control team called the Raimas Backbone Team. We can see the main task of the Raimas team in Regulation of the Head of the Indonesian National Police Security Maintenance Agency (PERKABAHARKAM) Number 01 of 2012 Concerning Mass Dissolving Platoons Article 1 paragraph (6), namely as follows:

"Article 1 paragraph (6): The Mass Decomposition Platoon, hereinafter abbreviated as Tonraimas, is a sabhara platoon whose task is to disband/disband/disband and localize the mob that is carrying out acts of anarchy so that it disrupts the Kamtibmas. It functions as an initial follow-up force and acts as an anarchy stabilizer".⁴

Even though the Raimas Backbone team has been formed, we cannot deny that crimes are still happening in ways that we cannot even predict, either openly or through electronic media such as cellphones. Therefore, the Raimas Backbone Team, in every

³ Oheo Kaimuddin Haris dan Sabrina Hidayat, "Diskresi Kepolisian dalam Pelaksanaan Pengeledahan dalam Keadaan Mendesak," *Halu Oleo Legal Research* 5, no. 2 (2023): 413-27.

⁴ Teuku Maudriansyah dan Rugun Romaida Hutabarat, "Perlindungan Hukum Terhadap Masyarakat Atas Tindakan Pengeledahan Telepon Seluler Oleh Kepolisian Pada Saat Melakukan Razia," *Jurnal Hukum Adigama* 5, no. 1 (2022): 1276-90.

patrol, does not forget to be accompanied by body searches which are useful for finding hidden evidence that might be used to commit crimes. The search did not only target hidden evidence but also examined every item of luggage carried by everyone, be it personal identification, vehicle papers and *cellphones* .

All actions carried out by the Raimas Backbone Team are simply standard procedures in carrying out body searches as a form of protection and law enforcement in force. However, the inspection of the phone itself could not be carried out haphazardly, even though the law enforcers who had the authority in this matter were the Raimas Backbone Team.

In this case the Raimas Backbone Team, who was on duty to carry out security patrols at night, stopped several road users who were suspected of committing a crime. The driver was asked to stop and show his identification and driving license certificate as well as a motorized vehicle certificate. The examination went smoothly until one of the commanders of the Raimas Backbone Team, Bripka Ambarita, asked for *the cellphone* of the young man he was examining. The young man also refused to give his *cellphone* on the basis that the *cellphone* was his personal property and it was his privacy that was protected by law. Even though it had been explained repeatedly, Bripka Ambarita still insisted on taking the *cellphone* to check, and what was even more regrettable was that after checking the contents of the chat from the *cellphone*, it was read aloud in front of the young man and other members of the Raimas Backbone Team, it didn't just stop at That's where the unethical treatment was recorded and broadcast on one of the leading television stations in Indonesia.⁵

In this case we can see that there were several legal violations committed by the Raimas Backbone Team, one of which was a violation of the law against Article 1 number 18 of Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP), namely:

"Body search is the act of an investigator to carry out an examination of the suspect's body and/or clothing to search for objects that are strongly suspected of being on his body or brought with him, to be confiscated".

In this case, it has been explained that the actions of the Raimas Backbone Team who carried out the search were beyond the authority given to them, because basically it is in the Criminal Procedure Code Number 8 of 1981 Article 6 paragraph 1. Investigators are: (a). State police officials of the Republic of Indonesia, (b). Certain civil servant officials who are given special authority by law.

⁵ Rita Damayanti Silitonga dan Irma Yusriani Simamora, " Analisis Pelanggaran Konfidensialitas Kasus Aipda Bribka Ambarita Mengecek Ponsel Saat Bertugas," *JIKEM: Jurnal Ilmu Komputer, Ekonomi dan Manajemen* 1, no. 2 (2021): 26–34.

2. Method

The type of research used in this study is normative legal research, namely a type of legal research obtained from literature studies, by analyzing a legal issue through laws and regulations, court decisions, scientific research, literature and other reference materials.⁶

3. Juridical Review Regarding the Action of Checking Mobile Phones by Police Officers During Patrols

The term police throughout history has had different meanings. The term given by each country to the meaning of police is different, because each country tends to give terms according to its own language. For example, in England using the term "police", in Germany the term "polizei" is used, and in the Netherlands the term "politie", while the term "police" in Indonesia is the result of the Indonesianization process from the Dutch term "politie".

Law enforcement anywhere in the world requires the Police to represent the state in implementing and maintaining the application of law in all sectors of people's lives. Not a single country is without the police, even though their duties and functions vary from one country to another.⁷

3.1 Types and Functions of Units In Organization Police

Regarding the functions of the National Police, it is explained in the article explained in article 2 of Law No. 2 of 2002 concerning the Indonesian National Police. The function of the police is one of the functions of the government/state in the field of maintaining public order and security, law enforcement, protection, protection and service to the community. According to Webster, the meaning of the function of the police is "function" means "*performance of the special work done by a structure.*"⁸

Basically what is meant by function is all activities carried out in order to carry out the tasks as well as possible to achieve goals. Meanwhile, what is meant by the duties of the police, even among the sadana, there are differences of opinion about the meaning of the duties of the police, including according to KIST: "The police are part of the executive power whose duty is to protect the state, state instruments, for the smooth running of the government, its people and their rights . " against attack and danger by always being vigilant, by help and coercion.

⁶ S. H. I. Jonaedi Efendi, S. H. Johnny Ibrahim, dan M. M. Se, *Metode Penelitian Hukum: Normatif dan Empiris* (Prenada Media, 2018).

⁷ Ryanto Ulil Anshar dan Joko Setiyono, "Tugas dan Fungsi Polisi sebagai penegak hukum dalam Perspektif Pancasila," *Jurnal Pembangunan Hukum Indonesia* 2, no. 3 (2020): 359–72.

⁸ Agus Raharjo dan Angkasa Angkasa, "Profesionalisme polisi dalam penegakan hukum," *Jurnal Dinamika Hukum* 11, no. 3 (2011): 389–401.

The task of the police is to create a "governance of order and security", within the framework of which this task can be seen in the fields of justitial tasks, social tasks, education and bestulrijk (which are preventive in nature). These tasks can be described as follows:

- a. Justitial duties are police duties that are closely related to law enforcement and laws that use criminal sanctions.
- b. Social duties are the duties of the police which are closely related to efforts to achieve prosperity and achieve national goals.
- c. The task of education is the task of the police in the form of community guidance towards increasing understanding and awareness of the community, the state, in particular - community legal awareness.
- d. Besturlijk's duties are police duties that are preventive, regulatory and community service, so that the order of people's lives is realized, for example granting crowd permits, driving licenses and so on.⁹

In carrying out its functions, the POLRI also has the duties and authorities regulated in Law No. 2 of 2002 concerning the Indonesian National Police. The duties of the POLRI are regulated in articles 13 and 14. According to Article 13, the main tasks of the Indonesian National Police are :

- a. Maintain public order and security,
- b. Enforce the law and
- c. Provide protection, shelter and service to the community. Whereas in Article 14 paragraph (1) it is explained that the Police of the Republic of Indonesia

On duty :

- a. Carry out arrangements, guards, escorts and patrols for community and government activities according to needs;
- b. Carry out all activities in ensuring security, order and smooth traffic on the road;
- c. Fostering the community to increase community participation, awareness of community law and adherence of community members to laws and regulations;
- d. Participate in fostering national law;
- e. Maintaining order and guaranteeing public security;
- f. Coordinate , supervise technical development of special police, civil investigators and other forms of self-defence;
- g. Carry out investigations and investigations into all criminal acts in accordance with the criminal procedure law and other laws and regulations;
- h. Carrying out police identification, police medicine, forensic laboratories and police psychology for the purposes of police duties;

⁹ Anshar dan Setiyono, "Tugas dan Fungsi Polisi sebagai penegak hukum dalam Perspektif Pancasila."

- i. Protecting the safety of body and soul, property, society and the environment from disturbances of order and/or disaster, including providing aid and aid by upholding human rights;
- j. Serving the interests of community members for a while before being handled by 16 agencies and/or authorities;
- k. Providing services to the community in accordance with their interests in the life of the police; as well as
- l. Carry out other tasks in accordance with statutory regulations.

In order for POLRI to act smoothly in carrying out its duties and for the validity of an action taken in carrying out its duties, it must be based on an authority granted by law to police officers.

Based on Law No. 2 of 2002 concerning the State Police of the Republic of Indonesia, the authority of the Indonesian National Police is grouped into three parts, namely first, general authority which is regulated in article 15 paragraph 1. Second, authority according to other laws and regulations which are regulated in article 15 paragraph 2, and the third is authority in the field of criminal proceedings regulated in article 16. Based on the Regulation of the Head of the Indonesian National Police (PERKAP) Number 1 of 2019 concerning the System, Management and Operational Success Standards of the Indonesian National Police :¹⁰

1. Police operational function

- a) fostering and maintaining stable and dynamic social security and order stability, so as to be able to provide a conducive atmosphere for the implementation of all activities in the life of the nation and state society that take place in an orderly, safe, peaceful and peaceful manner in the framework of supporting the sustainability of national development;
- b) deter, prevent and deal with various forms of threats by the Kamdagri in the form of criminal acts and violations of the law as well as recovering and upholding the authority, existence and integrity of the State and the Government from various underminings in the fields of law, security, peace and law order; And
- c) preparing and maintaining all the strengths and potentials of Kamtibmas in the context of implementing the use of Polri's powers to support the realization of the rule of law and stability of security and public order;

Based on the Perkap, we can see that the main function of Polri in dealing with problems, especially in maintaining security and public order, is very important, thus in the framework of carrying out operations.¹¹

Polri has police functions that are spread across all units , namely :

¹⁰ Abbas Said, "Tolak Ukur Penilaian Penggunaan Diskresi Oleh Polisi Dalam Penegakan Hukum Pidana," *Jurnal Hukum dan Peradilan* 1, no. 1 (2012): 147-70.

¹¹ Ida Bagus Kade Danendra, "Kedudukan dan Fungsi Kepolisian dalam Struktur Organisasi Negara Republik Indonesia," *Lex Crimen* 1, no. 4 (2012).

- (a) technical functions, including;
 - i. Intelkam;
 - ii. Criminal Investigation;
 - iii. Detachment 88 AT;
 - iv. Sabharas;
 - v. Water Police; vi. Pamobvit; vii. Binmas; and viii. Traffic;
- (b) Public Relations functions include
 - Public Information (Penmas), Multimedia and Documentation and Information Control Center (PPID)

If we look closely, there are several types of units/units formed within the Polri Organization itself which have different tasks and functions according to the needs required by the Polri. In this case, we only focus on the units/or units that assigned to directly go into the field to carry out security operations, prevention of kabtimas, patrols and crowd control which in this case is the Mass Dissolving Platoon unit, hereinafter abbreviated as Tonraimas, is the sabhara platoon.

We can see the main task of the Raimas team in Regulation of the Head of the Indonesian National Police Security Maintenance Agency (PERKABAHARKAM) Number 01 of 2012 Concerning Mass Dissolving Platoons Article 1 paragraph (6), namely as follows:

"Article 1 paragraph (6): The Mass Decomposition Platoon, hereinafter abbreviated as Tonraimas, is a sabhara platoon whose task is to disband/disband/disband and localize the mob that is carrying out acts of anarchy so that it disrupts Kamtibmas. It functions as an initial follow-up force and acts as an anarchy stabilizer."

3.2 Authority Police In Do Patrol

Existence Police indeed No regardless from role And task tree everyday being _ responsibility . Role And task tree Police in a manner general arranged in Article 13 of the Law Number 2 of 2002, concerning Indonesian National Police (UUKNRI) which includes : First , maintain security And order society . Second, enforce law And third , give protection , protection And community service.

According to Regulation Head Body Maintainer Security Republic of Indonesia National Police (PERKABAHARKAM) Number 01 of 2017 Article 1 paragraph (3) namely as following:

Patrol is one of the Police activities carried out by members of the Police, as an effort to prevent the occurrence of Kamtibmas disturbances, caused by the existence of potential disturbances, threshold disturbances, and real disturbances by visiting, exploring, observing, supervising, paying attention to

situations, and/or conditions that are expected to cause real disturbances that require the presence of the Police to carry out police actions.¹²

Discussion about authority Indonesian police at this time patrol based on Constitution Republic of Indonesia Number 2 of 2002 concerning The Indonesian National Police (Law Police). Constitution This arrange in a manner detail about duties , powers , and not quite enough answer police in carry out patrol For guard security And order society . Following is a number of point important about authority police moment patrol based on Law Police :

1. Preventive and Repressive Patrols:

The Police Act authorizes the police to conduct preventive patrols to prevent crimes or security disturbances. In addition, the police also have the authority to carry out repressive patrols to deal with situations that threaten public security and order.

2. Law Enforcement

One of the main authorities of the police during patrols is to enforce the law. If an indication of a violation of the law or a crime is found during a patrol, the police have the right to make arrests and take action in accordance with applicable legal regulations.

3. Identity Check

The police are authorized to conduct identity checks on suspected individuals or those involved in suspicious activities. This identity check aims to maintain public security and order.

4. Search

The police have the authority to conduct searches if there is sufficient reason to believe that there is potential danger or the presence of evidence related to a crime. However, searches must be conducted in accordance with applicable legal procedures.

5. Zuschuss Schwierigkeit

In certain situations, the police may conduct patrols with weapons. However, the use of weapons must be in accordance with statutory provisions and only used in circumstances that are absolutely necessary to protect oneself or others from imminent danger.

The role and main tasks of the National Police are aimed at realizing domestic security which includes maintaining security and public order, order and law enforcement, providing protection, protection, and services to the community and upholding

¹² Ni Ketut Sari Adnyani, "Kewenangan Diskresi Kepolisian Republik Indonesia dalam Penegakan Hukum Pidana," *Jurnal Ilmiah Ilmu Sosial* 7, no. 2 (2021): 135-44.

human rights as seen in the formulation of Article 14 of Law Number 2 of 2002 concerning the Indonesian National Police. In addition to the Regulation of the Head of the Security Maintenance Agency of the Indonesian National Police Number 1 of 2011 concerning Regulation of Community Activities and Government Activities Article 1 Point 6 where it is explained that patrol is one of the police activities carried out by 2 (two) or more members of the National Police, as an effort to prevent the meeting of intentions and opportunities, by visiting, exploring, observing / supervising / paying attention to situations and conditions that are expected to cause all forms of violations and / or criminal acts, which require / require the presence of the Police to carry out Police actions, in order to maintain order and ensure public security.

If the patrol finds things that are considered suspicious, the police officers who are conducting patrols are required to take preventive action, this is based on the Regulation of the Head of the Security Maintenance Agency of the Republic of Indonesia Police Number 1 of 2017 Article 29 concerning Patrols, namely:

- a. politely dismiss the perpetrator;
- b. does not endanger the safety of both the perpetrator, other communities and/or oneself
- c. pay respects and say hello;
- d. explain the type of violation committed;
- e. check the identity of the perpetrator;
- f. give warning;
- g. after the police investigation/action has been completed, return the identity of the offender and say thank you;
- h. in the event that the violation committed is a Regional Regulation, then the officer takes law enforcement action through handling Tipiring;
- i. in the event that the perpetrator is suspected of having suspicious things, the Patrol Officer may carry out a body search/examination;
- j. in the event that the perpetrator is a woman, the search is carried out by a female police officer and/or seeks the assistance of a woman from the community under the supervision of a male officer
- k. in the event that the perpetrator is suspected of committing a crime, the Patrol Officer will hand it over to the authorities;
- l. if the perpetrator is suspicious but there is not enough evidence to take action, then fill in the field identification card then submit the card to the supervisor to be forwarded to the related function
- m. take the first action at the TKP in accordance with the provisions of the laws and regulations;
- n. carry out law enforcement against Tipiring violations; And
- o. take limited law enforcement action against perpetrators of criminal acts caught in the act and immediately hand them over to the authorities.

3.4 Factors Influencing Mobile Phone Inspection Actions by Police Officers During Patrols

In this case, Bripka Ambarita searched 2 teenagers who were driving at night, it was suspected that the 2 teenagers looked suspicious so the Raimas backbone team stopped the vehicle the two teenagers were riding in and immediately checked the two cellphones of the *teenagers* with a coercive way, in which the Ambarita bripka himself used an excuse to check identity in carrying out cell phone searches. It can be seen that in this case the victim did not accept the forced search, moreover that even a mobile phone was not a means of identification, and an argument ensued between Bripka Ambarita and the two teenagers.

Referring to the Regulation of the Head of the Indonesian National Police Security Maintenance Agency (PERKABAHARKAM) Number 01 of 2017 Article 6 paragraph (1) letter c namely: ¹³

dialogue, namely two-way communication conducted between Patrol Officers and the community to find information, information regarding matters that are of concern to the community and/or provide Kamtibmas messages in carrying out Patrols;

Based on the above article, it shows that what Bripka Ambarita did was a very fatal mistake because he showed an unprofessional attitude in carrying out searches and was not in accordance with the procedure as further stated in Article 6 paragraph (2): Dialogue as referred to in paragraph (1) letter c, is carried out by means of:

- a. convey greetings;
- b. officers introduce themselves;
- c. convey the intent and purpose of arrival;
- d. communicate using language that is easy to understand;
- e. listen more than talk;
- f. not interrupting the conversation;
- g. provide an opportunity for the interlocutor to convey the problem;
- h. give empathy to the other person;
- i. help find solutions to problem solving;
- j. delivering Kamtibmas messages; And
- k. exchange information between patrol officers and other police functions.

Bripka Ambarita admitted that as the police he had the authority to carry out the search, where Bripka Ambarita had to carry out his duties as a police force to maintain public order. and the victim did not want to be outdone because the victim felt that the Ambarita bripka had violated her privacy boundaries, and said that the cellphone

¹³ PETRUS SILVESTER AMBARITA, "UPAYA PENYIDIK DALAM MENGUNGKAP TINDAK PIDANA," t.t.

was not part of an identity tool. Regarding the authority to stop and ask for identity, basically this has been stated explicitly in the Book of Laws Criminal Procedure Code (KUHAP) that an investigator is any INP officer, who because of his obligation has the authority to:

1. receive a report or complaint from a person regarding a criminal act;
2. seek information and evidence;
3. order a suspect to stop and ask and check personal identification;
4. take other actions according to responsible law.

Even if during the search process an alleged crime is found, there are still more steps that must be taken by the police, this refers to the Regulations of the Head of the Indonesian National Police Security Maintenance Agency. Number 01 of 2017 Article 30 : If during the implementation of the Patrol an alleged non-crime is found, the Patrol Officer shall carry out the following activities :

- a. order to stop a person suspected of being a suspect/ perpetrator of a crime;
- b. stop the suspected person politely and without endangering yourself;
- c. ask for the identity and check the identity of the suspected person;
- d. carry out a body search/examination, and if the perpetrator is a woman, the search will be carried out by a female police officer and/or request the assistance of a woman from the community under the supervision of a male officer;
- e. in the event that no alleged crime is found, the perpetrator is immediately released by expressing gratitude;
- f. in the event that a suspected criminal act is found, immediately secure and hand over the perpetrators along with evidence to the authorized officer by making a Minutes; And
- g. in the event of a crime, immediately inform the Head of the Police Service Center (Ka. SPK) and/or the nearest Police office.

From the several actions that have been carried out by the Raimas Back Bone Team, especially Bripka Ambarita, it shows that there have been various kinds of violations of patrol and inspection procedures which have continued to be carried out in a structured and systematic manner and consider that this is a natural thing and is in accordance with procedures without prejudice to the rights of community rights protected by law.¹⁴

Of course, as Indonesian citizens whose rights are protected by law, the victims felt aggrieved by this search. the victim felt that he was being suspected of baseless

¹⁴ Ramadhany Nasution, "Kajian Yuridis Bagi Personil Polri Yang Menyalahgunakan Narkoba Dalam Perspektif Undang Undang Nomor 35 Tahun 2009 Tentang Narkotika (Studi Kasus Di Polda Sumatera Utara)," *Jurnal Hukum Al-Hikmah: Media Komunikasi dan Informasi Hukum dan Masyarakat* 3, no. 1 (2022): 196-217.

accusations, plus in this case it was seen that Briпка Ambarita treated the victim in a harsh way (*degreeding*).

3.5 Provisions in Conducting Search Actions in a Legal Perspective

Rudolf Stammler's theory states that law is normative, because of juridical will where what humans want in social life is regular coexistence. To guarantee an orderly (together) life, "actions" are needed, namely the arrangement of all things contained in this shared life. The act of regulating it, its form is law. So law is material that is given its shape by the purpose of creating an orderly common life.

In the act or action of examining a cellphone by the police, of course, it contains rules whose form is law which is clearly stated in formal law, namely the Criminal Procedure Code (KUHAP) which contains the following:

1. Before carrying out a search, the apparatus must show their identity. In accordance with Article 33 paragraph (1) of the Criminal Procedure Code, only investigators can carry out searches with a permit from the head of the local district court.
2. In this case the person to be searched is located in another jurisdiction of the District Court, so the Head of the District Court from that area only knows about it.
3. If the case in question has not been reported to the District Court at the place where the case occurred which, according to the applicable provisions, is the District Court that has the authority to try said case, then the Chairperson
4. The District Court in the jurisdiction where the house is located is required to grant a search warrant.
5. In connection crimes, the person authorized to give a search warrant is the head of the court where the case will be filed.
6. The apparatus needs to explain the purpose and intent of the search.

If these conditions are not met then the search is not lawful. Therefore, based on the above legal theory associated with the case of Briпка Ambarita in carrying out forced cell phone searches which were included in body searches, Briпка Ambarita can be declared to have carried out a body search that was illegal and violated the Criminal Procedure Code.¹⁵

4. Conclusion

Examination of cellphones by law enforcement officers during searches is permitted. However, this must be done with the correct procedures and in accordance with applicable regulations. In the case of the Raimas Backbone team led by Briпка Ambarita, of course, carrying out an inspection of this cellphone was not in accordance

¹⁵ Lucky Andrez, "Optimalisasi Patroli Satuan Sabhara dalam Mencegah Tindak Pidana Pencurian dengan Pemberatan di Wilayah Hukum Polres Klaten," *Advances in Police Science Research Journal* 1, no. 1 (2017): 103-48.

with the operational procedure requirements (SOP) regulated in our formal law and of course here Brika Ambarita is not a team of investigators who has authority but rather a team from Raimas or a team of decoders. mass.

References

- Adnyani, Ni Ketut Sari. "Kewenangan Diskresi Kepolisian Republik Indonesia dalam Penegakan Hukum Pidana." *Jurnal Ilmiah Ilmu Sosial* 7, no. 2 (2021): 135–44.
- Ambarita, petrus silvester. "upaya penyidik dalam mengungkap tindak pidana," t.t.
- Andreaz, Lucky. "Optimalisasi Patroli Satuan Sabhara dalam Mencegah Tindak Pidana Pencurian dengan Pemberatan di Wilayah Hukum Polres Klaten." *Advances in Police Science Research Journal* 1, no. 1 (2017): 103–48.
- Anshar, Ryanto Ulil, dan Joko Setiyono. "Tugas dan Fungsi Polisi sebagai penegak hukum dalam Perspektif Pancasila." *Jurnal Pembangunan Hukum Indonesia* 2, no. 3 (2020): 359–72.
- Danendra, Ida Bagus Kade. "Kedudukan dan Fungsi Kepolisian dalam Struktur Organisasi Negara Republik Indonesia." *Lex Crimen* 1, no. 4 (2012).
- Febriyani, Rahmawati Sri, dan Aji Lukman Ibrahim. "Pengecekan Handphone Dalam Pengaturan Pengeledahan Badan Oleh Penyidik Kepolisian." *Al-Jinayah: Jurnal Hukum Pidana Islam* 9, no. 1 (30 Juni 2023): 92–110.
- Haris, Oheo Kaimuddin, dan Sabrina Hidayat. "Diskresi Kepolisian dalam Pelaksanaan Pengeledahan dalam Keadaan Mendesak." *Halu Oleo Legal Research* 5, no. 2 (2023): 413–27.
- Jonaedi Efendi, S. H. I., S. H. Johnny Ibrahim, dan M. M. Se. *Metode Penelitian Hukum: Normatif dan Empiris*. Prenada Media, 2018.
- Ludji, Otniel Alexander. "Tinjauan Yuridis Mengenai Eksistensi Peraturan Perundang-Undangan Pada Tahap Pengeledahan Terhadap Data Pribadi (Studi Kasus Aipda Ambarita)." Universitas Atma Jaya Yogyakarta, 2022.
- Maudriansyah, Teuku, dan Rugun Romaida Hutabarat. "Perlindungan Hukum Terhadap Masyarakat Atas Tindakan Pengeledahan Telepon Seluler Oleh Kepolisian Pada Saat Melakukan Razia." *Jurnal Hukum Adigama* 5, no. 1 (2022): 1276–90.
- Nasution, Ramadhany. "Kajian Yuridis Bagi Personil Polri Yang Menyalahgunakan Narkoba Dalam Perspektif Undang Undang Nomor 35 Tahun 2009 Tentang Narkotika (Studi Kasus Di Polda Sumatera Utara)." *Jurnal Hukum Al-Hikmah: Media Komunikasi dan Informasi Hukum dan Masyarakat* 3, no. 1 (2022): 196–217.
- Raharjo, Agus, dan Angkasa Angkasa. "Profesionalisme polisi dalam penegakan hukum." *Jurnal Dinamika Hukum* 11, no. 3 (2011): 389–401.
- Said, Abbas. "Tolak Ukur Penilaian Penggunaan Diskresi Oleh Polisi Dalam Penegakan Hukum Pidana." *Jurnal Hukum dan Peradilan* 1, no. 1 (2012): 147–70.
- Silitonga, Rita Damayanti, dan Irma Yusriani Simamora. "Analisis Pelanggaran Konfidensialitas Kasus Aipda Brika Ambarita Mengecek Ponsel Saat Bertugas." *JIKEM: Jurnal Ilmu Komputer, Ekonomi dan Manajemen* 1, no. 2 (2021): 26–34.