

Protection of the Rights of Suspectives in the Examination Process by Investigators at Ternate Police Resort

Djufri Badarun¹, Faisal Malik², and Muhammad Amin Hanafi³

^{1,2,3}Universitas Khairun Ternate, Indonesia

Email: ¹djufribadarun22@gmail.com, ²faissalmalik10@gmail.com and ³aminhanafi76@gmail.com

Abstract— To provide legal protection for a suspect, Law Number 8 of 1981 concerning the Criminal Procedure Code must be realized, especially in criminal case investigations, especially at the interrogation stage, arbitrary actions often occur from investigators against suspects suspected of committing criminal acts. This action is carried out as an effort to obtain a confession or direct information from the suspect, but the methods used are often not legally justified. That in an effort to realize the protection of the rights of suspects in the investigation process at the Ternate Police is not a process without obstacles or obstacles. In this effort, there are several obstacles including: The budget for investigations needs to be increased. The limited number of investigators and assistant investigators is due to the lack of interest from the police to become an investigator or assistant investigator.

Keywords— Interogation, Police, Ternate, Protection, Suspectives.

INTRODUCTION

The implementation of a judicial process that is fast, easy, cheap, open, free of corruption, collusion and nepotism is an internal part of Indonesian legal culture. The embodiment of legal certainty and justice has given rise to forms of criminal law which are formulated in a law or a book of laws (codification). The forms of codification of Indonesian criminal law have been formulated materially in the Criminal Code (KUHP), and formally in the Criminal Procedure Code (KUHAP). (Reksodiputro 1994).

The Indonesian Criminal Procedure Code has been set forth in the form of a law, namely Law Number 8 of 1981 concerning the Criminal Procedure Code. We the Criminal Procedure Code is a provision of criminal procedural law norms that are formulated in writing, which are compiled on the basis of values and general legal principles in order to meet the needs of the community. Protection and respect for human rights are the main pillars in every rule of law, if in a country human rights are neglected or violated intentionally and the suffering caused cannot be handled fairly then the country concerned cannot be called a state of law in the true sense of the word. In protecting the rights of citizens and creating a fair legal process, it includes at least: (Harahap 2017):

Protection from arbitrary actions of state officials;

1. The court has the right to determine whether or not the suspect/defendant is guilty;
2. Court Sessions must be open to the public (must not be confidential);
3. Suspects and defendants must be given guarantees to fully defend themselves.

To provide legal protection for a suspect, Law Number 8 of 1981 concerning the Criminal Procedure Code must be realized, especially in criminal case investigations, especially at the interrogation stage, arbitrary actions often occur from investigators against suspects suspected of committing criminal acts. This action is carried out as an effort to obtain a confession or direct information from the suspect, but the methods used are often not legally justified (Hadjon 1987).

The suspect in providing information to the investigator must be free without any pressure or coercion from the investigator so that the examination of the data is achieved without deviating from the truth. At the examination level, investigators only record the information given by the suspect without having to take coercive action so that the suspect provides the required information. The means of violence according to the provisions of the Criminal Procedure Code cannot be justified because it is an act that violates the law.

Law Number 8 of 1981 concerning the Criminal Procedure Code has provided legal guarantees for suspects in order to get protection of their rights and get fair treatment before the law, proving whether or not a suspect or defendant is wrong must be done before an open court session. for public.

According to Wirjono Prodjodikoro, as quoted by Nazaruddin, that the legal interest of the individual in this case is the party receiving the arrest and detention of the suspect must be considered and must be protected, so as not to get arbitrary action from law enforcement officers. (Nazaruddin, Djalil, and Rosyid 2017).

From the point of view of the examination, the examination of criminal cases consists of two stages,

namely the "preliminary examination" stage and the "examination in court". Preliminary examination consists of investigation and prosecution. Investigations are carried out by investigators and prosecutions are carried out by public prosecutors. At the investigation stage, according to the criminal justice system, the role is the police subsystem (Ali and Heryani 2012).

The police as investigators whose main task is to make light of a case. In making light of a case, investigators often violate the suspect's human rights. The actions of investigators like this when viewed from the Pancasila philosophy are contrary to the second precept, namely "just and civilized humanity".

Examination in HIR which is accompanied by torture is something that usually happens, even the protection of the suspect's human rights is very neglected, the position of the suspect is considered as an object. From the point of view of arrests without a written letter it is also considered normal, especially regarding detention, during the HIR era, the duration of detention of people who are detained has no time limit, sometimes more than 400 days or even suspects can be detained by investigators for years but the people and files never decrease until court (Abdurrahman 2011).

Ironically, after a supervisory visit from a justice department official, it was discovered that the suspect had been in prison for years but was not a prisoner but was still a suspect because his case had not yet been processed in court. Based on the background of the problem, the problem can be formulated, namely what are the factors that become obstacles in the effort to provide protection for the rights of the suspect in the investigation process.

RESEARCH METHODS

This research is a juridical-empirical research with a qualitative approach. The juridical-empirical research method is a method that refers to the provisions of the norms contained in laws and regulations and their enforcement in the field (Abdussalam 1997). As for this juridical-empirical research, the statute approach and the

case approach are used. This juridical-empirical research is descriptive in nature. The aim is to accurately, accurately and systematically describe the legal phenomena regarding legal protection for suspects in the examination process at the Ternate City Police Resort, especially in the investigation stage.

DISCUSSION

The Ternate Police Resort was inaugurated in July 2005 by the North Maluku Police Chief. The Ternate Police Headquarters or Police Office is located in Ternate City, precisely on Hasan Esa Street Number 01, Takoma Village, Central Ternate District.

The area of jurisdiction of the Ternate Resort Police (Polres Ternate) consists of several sub-districts, namely North Ternate District, Central Ternate District, South District, West Ternate District, Ternate Island District, Moti Island District, Hiri Island District and Batang Dua District.

The focus of the research carried out in the first topic is to identify and analyze forms of legal protection for the rights of suspects carried out during the investigation process at the Ternate Police. The data from the research in the first discussion were obtained by analyzing the suspect data documents, observations and direct interviews with the previously mentioned informants.

In this first discussion, the author also provides an overview of the crimes that occurred within the scope of the Ternate Police. The author will only discuss cases that occur in the area, judging from the rights of the suspect in the investigation process at the investigation level, whether it is in accordance with the law governing the implementation of the suspect's rights in the investigation process at the investigation level. (Podgorecki and Whelan 1987).

In this case, the author presents case data that the author gets in carrying out the research, including data from the police report recap conducted by the Sat. Ternate Police Criminal Investigation Unit in 2019 and 2020 as follows:

Table 1: Investigations by the Ternate Police Criminal Investigation Unit in 2019 and 2020

No.	YEAR	UNIT	TOTAL (CASE)
1.	2019	Unit I	13
		Unit II	12
		Unit III	8
		Tipiter	13
		Harda	21
		Island Police	1
		PPA	26

		Jatarnas	39
	Jumlah		133
2.	2020	Unit I	-
		Unit II	-
		Unit III	-
		Tipidter	29
		Harda	18
		Island Police	-
		PPA	66
		Jatarnas	90
	Amount		203

Source: Ternate Police Crime Agency

From the number of cases as shown in the table above, the authors conducted observations and interviews with investigators regarding efforts to protect the law against the rights of suspects in the examination process at the investigation stage.

A. The Suspect's Right to Immediately Examine (Widhayanti 1988).

Regardless of the suspect's error or being investigated, from the results of interviews and document analysis conducted in terms of the form of legal protection of the suspect's rights in cases as described in the previous table, it can be determined that the suspect has received protection, especially in terms of realizing his right as a suspect to be investigated immediately.

Based on the results of interviews with informants of the Ternate Police, it was stated that:

"A person who was arrested by investigators and brought to the Ternate Police office immediately made a report of his examination and immediately examined by investigators because in the Criminal Procedure Code it is explained that a maximum of 1x24 hours already has the status of that person".

The same information was also obtained from another Ternate Police investigator informant who conducted an examination at the investigation stage of the suspect, the informant stated that:

"We, as investigators at the Ternate Police, when we arrested a suspect, we immediately conducted an examination so that the suspect knew more clearly his status".

Apart from the investigators, the same information was also obtained from the suspect whom the author interviewed stated that:

"In my case at that time I was arrested and taken to the Ternate Police and when I arrived at the office I was immediately examined by the police at that time".

From the other suspects, the writer also conducted interviews and the writer found the same information, it was stated that:

"The summons from the Ternate Police and I came one day after the summons came. When I arrived, I was immediately questioned by the police".

From the results of interviews with the investigator and the suspect, which is also corroborated by the document of the official report on the suspect's examination carried out by the investigator, it can be ascertained that when the suspect is brought to the Ternate Police office or comes to fulfill the summons that was sent earlier, an examination is immediately carried out and an examination report is made. The results of the interviews and documentation can also be understood that the suspect's legal right to be investigated immediately has been implemented by the Ternate Police investigator.

This has been confirmed in Article 50 of the Criminal Procedure Code, which reads as follows:

1. The suspect has the right to immediately get an examination by the investigator and can then be submitted to the Public Prosecutor.
2. The suspect has the right to have his case immediately brought to court by the Public Prosecutor.
3. The defendant has the right to be tried by the Court immediately.

From the sound of the article above, it can be concluded that the article wants the case settlement process to be handled quickly so that everything can be completed in a short time. The purpose of this right is so that there is legal certainty and it can be known how the fate of the

suspect is so that it is not adrift, especially for suspects who are detained.

B. The Suspect's Right to Get a Defense (Reksodipoetro 1994)

Before the examination process begins, the suspect is clearly informed by the investigator about the case the suspect is facing as a report or complaint from the public and/or those who feel aggrieved. Based on the results of interviews with Ternate Police investigators, he stated that:

"As investigators, it is imperative that before an examination is conducted, we always begin by conveying detailed information about the intent and purpose of the suspect being arrested or summoned to the police station to conduct an examination. Apart from that, we immediately informed you that the suspect's brother was caught in a certain case with a criminal threat for a long time"³².

The results of interviews with other investigators also found the same information, that:

"We as investigators here before an examination is carried out, we always inform in advance the intent and purpose of the suspect being summoned or arrested, for example, because we understand that every suspect has the right to do so and it has also been explained in Article 51 paragraph (1) of the Criminal Procedure Code and therefore we as investigators must comply. follow the rules".

When conducting interviews with the suspect to confirm the information provided by the investigator, we found the suspect stated that:

"When I wanted to be questioned by the police at that time I was told or explained by the police the reason I was arrested and the case that was charged to me".

From the other suspects when interviewed by the author, it was obtained information that:

"At that time when I wanted to be questioned I was told by the police the reason I was summoned and after the police explained the reason I was summoned and what case was suspected of me after that the police began to interrogate me".

Based on the results of direct observations that the author got in the field, that in the examination process carried out by the investigator against the suspect, the author saw and heard before the examination began to obtain information from the suspect, the investigator

explained the reasons and what criminal acts were suspected of the suspect. (Gerson 1977).

The results of these interviews and observations, it can be concluded that in conducting the examination, the investigator has notified the suspect regarding what criminal acts were suspected of the suspect in what was easily understood by the suspect. This is done so that the suspect clearly understands the criminal acts that are threatened against him so that the suspect can prepare tools or evidence to lighten and strengthen the suspect's defense in front of a competition or at least during the examination process. (Fromm, Muttaqin, and Kamdani 2000).

The legal language used by investigators at the investigation level or by public prosecutors at court hearings is language that is difficult to digest, understood by ordinary people. For this reason, in addition to reading out the suspect against him, the suspect is also explained in detail so that the suspect clearly understands the charges against him. Thus the suspect will know his position and can immediately (Arief 2005).

The appointment of a legal advisor, regardless of whether or not the suspect is accompanied by a legal adviser, has become an obligation for the investigator to give his rights to the suspect. However, from the results of observations, it was found that there was information that the investigator did not inform the suspect of the rights obtained by him and did not present a legal advisor who could accompany the suspect during the examination process. So that in the examination process in some cases the suspect did not receive legal assistance.

The findings of the previous information were obtained from the results of the author's interview with the Ternate Police Investigator, it was stated that:

"We as investigators here do not have an obligation to provide legal assistance to the suspect, the legal assistance will be held at the time of trial, we only carry out an examination after it is submitted to the public prosecutor".

The results of the observations that the author made during the observation also the writer got a statement that during the examination the suspect did not get legal assistance because the investigator wanted the examination process to run quickly or be completed quickly. The results of interviews and observations from the suspect above can be understood that in the process of examining the investigator violated the suspect's right

to obtain legal assistance. In the Criminal Procedure Code, it has been determined that a suspect cannot afford legal counsel, it is the investigator's obligation to present legal counsel for the suspect in order to prevent discrimination from occurring. The purpose of granting this right to a suspect is to avoid the occurrence of mistakes and arbitrariness of the legal apparatus that can harm the suspect. With the presence of a defense or legal adviser in a preliminary examination, the defender can see and listen to the course of the examination carried out on the suspect (Meliala 1996).

Several factors have given rise to the need for legal assistance against a suspect or defendant, as follows:

1. The first factor; is the position of the suspect or defendant in the judicial process is a weak figure, given that the person concerned is facing a stronger figure, namely the state through its apparatus. This unequal position gives birth to the idea that the suspect or defendant must receive sufficient assistance according to the rule of law in order to obtain true legal justice.
2. The second factor; is that not everyone knows let alone masters the intricacies of complicated legal rules, in this case law enforcement officers of course have positions with more experience and knowledge than these officers and so on.
3. The third factor is a psychological factor or psychological factor, although it is only at the level of suspicion or accusation for the person affected, it can be a psychological blow.

From this opinion, it can be concluded that legal assistance is very important for suspects or defendants and cannot be excluded, especially in cases where the criminal penalty is more than five years or more or is threatened with the death penalty.

CONCLUSION

That in an effort to realize the protection of the rights of suspects in the investigation process at the Ternate Police is not a process without obstacles or obstacles. In this effort, there are several obstacles including: The budget for investigations needs to be increased. The limited number of investigators and assistant investigators is due to the lack of interest from the police to become an investigator or assistant investigator. It is necessary for law enforcement officers to send for training, seminars and special education for investigations in revealing the information of suspects. Lack of Facilities and Infrastructure for Investigation Law enforcement requires adequate facilities or facilities both in quantity and quality. The minimum number of facilities and infrastructure is very influential

in the law enforcement process. Facilities and infrastructure are tools that help the investigation process in which these facilities and infrastructure are the most important part.

SUGGESTION

Based on the previous conclusions, the authors suggest as follows: The role of government officials, especially agencies that deal directly with legal issues, needs to be continuously improved in their work patterns, so that they will get maximum results. In accordance with the objectives of national development, development in the field of law basically creates justice for the community which includes all aspects of the life of the nation and state. The role of law is needed in regulating the distribution of power and authority and its implementation among various institutions.

REFERENCES

- [1] Abdurrahman, H. R. 2011. *Hukum Kepolisian Sebagai Hukum Positif Dalam Disiplin Hukum*. Jakarta: PTIK.
- [2] Abdussalam, R. 1997. *Penegakan Hukum Di Lapangan Oleh Polri*. Jakarta: Dinas Hukum Polri.
- [3] Ali, A., and W. Heryani. 2012. *Menjelajahi Kajian Empiris Terhadap Hukum*. Jakarta: Kencana Prenada Media Group.
- [4] Arief, B. N. 2005. *Pembaharuan Hukum Pidana Dalam Perspektif Kajian Perbandingan*. Bandung: Citra Aditya Bakti.
- [5] Fromm, E., I. Muttaqin, and Kamdani. 2000. *Akar Kekerasan: Analisis Sosio-Psikologis Atas Watak Manusia*. Yogyakarta: Pustaka Pelajar.
- [6] Gerson, B. 1977. *Penyidikan Perkara Pidana Dan Teknik Introgasi*. Pradya Paramita: Jakarta.
- [7] Hadjon, Philip M. 1987. "Perlindungan Hukum Bagi Rakyat." Universitas Airlangga.
- [8] Harahap, M. Yahya. 2017. *Pembahasan Permasalahan Dan Penerapan KUHAP; Penyidikan Dan Penuntutan*. Yogyakarta: Toga pustaka.
- [9] Meliala, A. 1996. "Quo Vadis Polisi." In *Jurusan Kriminologi UI Dan Majalah Forum*. Jakarta.
- [10] Nazaruddin, Husni Djalil, and M. Nur Rosyid. 2017. "Perlindungan Hak Asasi Tersangka Dalam Penyidikan Kepolisian (Studi Kasus Di Polres Pidie)." *Syiah Kuala Law Journal* 1 (2).
- [11] Podgorecki, A., and C. J. Whelan. 1987. *Pendekatan Sosiologis Terhadap Hukum*. Jakarta: Bina Aksara.
- [12] Reksodipoetro, Mardjono. 1994. *Peran Penegak Hukum Dalam Melawan Kejahatan*. Jakarta: FH UI.
- [13] Reksodiputro, Mardjono. 1994. *Hak Asasi Manusia Dalam Sistem Peradilan Manusia*. Pusat Pelayanan Keadilan Dan Pegabdian Hukum. Jakarta: Universitas Indonesia.
- [14] Widhayanti, E. 1988. *Hak-Hak Tersangka/Terdakwa Di Dalam KUHAP*. Jakarta: Liberty.