

The Importance of Law Enforcers to Know Legal Psychology in the Investigation Process

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ABSTRACT

Protecting and respecting human rights by not discriminating is a major pillar of the duty of the state. But if a human right is neglected or deliberately violated and the state cannot overcome it. Then the state cannot be called a state of law. In the legal process there is the principle of presumption of innocence until the person concerned receives a court decision that has permanent legal force. In the process of providing information both a witness and a suspect to be set forth in the Police Investigation Report is the realm of the law enforcer. For this reason, it is very necessary for the mastery of legal psychology enforcer to prevent violence, and also the person being examined or the person who will provide the information is not under pressure. Because this will affect the formation of legal processes that uphold human rights. The purpose of this study is to determine the role of legal psychology in the investigation process to ensure the protection of human rights. The formulation of the problem is How do the police conduct investigations in Indonesia? and Why do law enforcers need to understand the legal psychology?. This study uses a method with a normative juridical approach by examining literature sources. The results obtained in this study are the importance of law enforcers to understand the legal psychology in order to better protect the rights of suspects. Then also the legal psychology can increase effectiveness in the investigation process, because law enforcers can determine the right and appropriate ways in digging information on suspects.

Keywords: Legal Psychology; The Law Enforcer; Investigation Process.

INTRODUCTION

Article 1 paragraph (3) of the 1945 Constitution The Third Amendment states that the state of Indonesia is a state of law. This means that the Unitary State of the Republic of Indonesia is a state of law (*rechtstaat*) and is not based on mere power (*machtstaat*) and that the government is based on a constitutional system and not based on absolutism. The consequences of Article 1 paragraph (3) of the 1945 Constitution The Third Amendment is that there are 3 (three) basic principles that must be upheld by all Indonesian Citizens (WNI), namely: rule of law, equality before the law, and law enforcement in ways that are not contrary to law. Indonesia is a democratic rule of law.

Understanding the rule of law is closely related to understanding the welfare state (welfare state) or understanding the rule of law material material in accordance with the essence of the fourth paragraph Opening of the 1945 Constitution. The implementation of the understanding of the rule of law material will support and accelerate the realization of the welfare state in Indonesia [1].

One of the characteristics of the rule of law is the recognition and protection of human rights. Related to the recognition and protection of human rights, national law reforms are carried out in various fields, one of which is in the field of Criminal Procedure. This can be seen from the revocation of the provisions of the Criminal Procedure Code contained in the *Het Herziene Inlands Regulation (HIR)* which was replaced with Law No. 8 of 1981 concerning the Criminal

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Procedure Code (KUHAP). The Criminal Procedure Code (KUHAP) highly respects human rights and provides guarantees and respect for human dignity. This can be seen from the guaranteed rights of suspects from the preliminary level, namely at the investigation stage up to the defendant level, namely at the stage of implementing a judge's or court's decision.

The Criminal Procedure Code (KUHAP) in addition to regulating the provisions regarding the procedure of criminal proceedings also regulates the rights and obligations of someone involved in criminal proceedings. The criminal process in this case is the investigation stage of the suspect (interrogation) at the investigation level. Investigation of a suspect is an attempt to gather various evidentiary materials, namely to obtain information or clarity regarding the occurrence of a criminal act that may involve the suspect. The interrogation is carried out by the investigator so that the investigator has a very important role in the implementation of law enforcement. Investigation is an activity or process carried out by investigators on suspects who commit criminal acts. Someone can be named a suspect if the person concerned has committed a crime. The investigation must be carried out objectively so that justice can be created in the community and the investigation can be guaranteed its objectivity.

The objectivity of an investigation can be guaranteed when an investigator who is a member of the Indonesian National Police (POLRI) in carrying out his duties and authority has professionalism. Professionalism is the ability of members of a profession to carry out and improve their abilities continuously [2]. The attitude of Professionalism as Investigators in conducting investigations can be realized if the Investigator is able to master the technical aspects of law and other assistive sciences, one of which is psychology, therefore, around the 1960s a new field of science was born, namely Legal Psychology. The issues raised by researchers in this study are: 1) how do the police conduct investigations in Indonesia? and 2) why do investigators need to know the legal psychology?

MATERIALS AND METHODS

1. Research Specifications

This research was conducted descriptively analytically, that is to give a picture as accurately as possible about the existing facts in the form of secondary data and primary legal materials such as secondary data and secondary material in the form of expert opinions, research results, the work of law and legal material tertiary form of data obtained from the internet related to research. This research is expected to provide a clear and comprehensive picture of matters relating to the urgency of investigators to find out the legal psychology in the investigation process.

2. Approach Method

The method of approach used is juridical normative, which is a method in which the law is conceptualized as a norm, principle, principle, or dogma. The method of approach in this study uses secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials related to the urgency of investigators to understand the legal psychology in the investigation process.

3. Research Stage

This research was conducted in two stages, namely:

1. Library Research
2. Field Research

4. Data Collection Technique

Data collection techniques in this research has been carried out in two ways, namely:

4.1 Document Study

Data collection through document study is used to collect secondary data. This method is a consequence of normative research / literature based on secondary data.

a Primary Legal Materials.

Namely binding legal materials, consisting of

- Basic norms / rules namely the Preamble of the 1945 Constitution
- Basic Regulations, namely the Body of the 1945 Constitution, namely Article 1 paragraph (3) of the 1945 Constitution the Third Amendment.
- Criminal Procedure Code.
- Law Number 2 of 2002 concerning the Indonesian National Police (POLRI)

- Regulation of the Head of the Republic of Indonesia National Police Number 14 of 2012 concerning Management of Criminal Investigations

b Secondary legal material

Namely materials that are closely related to primary legal material and provide an explanation of primary law.

c Tertiary legal material

Namely materials that provide instructions and explanations for primary and secondary legal materials, for example websites.

5. Data Analysis Method

Data analysis was conducted by using qualitative juridical analysis methods, namely research methods that started from the norms, principles, and existing legislation as positive legal norms which were then analyzed qualitatively.

RESULTS AND DISCUSSION

1. Implementation of Investigations by the Police in Indonesia

Investigation is the most important stage in the framework of the Criminal Procedure Code in Indonesia because in this stage, the Investigator tries his best to reveal various facts and evidence of the occurrence of criminal acts to find suspects of the perpetrators of these crimes. Before the investigation process is carried out, the investigation process is first carried out in a criminal case that occurred.

Article 1 number 5 of the Criminal Procedure Code (KUHP) states that:

"Investigation is a series of investigative actions conducted by investigator to search for and find an occurrence that is allegedly a criminal offense to determine whether or not an investigation can be carried out in the manner stipulated in the law."

Based on this understanding it can be perceived that the investigation is an action at the first stage at the beginning of the investigation. At the investigation stage, the emphasis is placed on the act of searching and finding an occurrence that is considered or suspected to be a criminal offense [3]. In investigations, the emphasis is on the act of searching and gathering evidence so that the criminal act found can be clear and to be able to find and determine who did it. Basically there is almost no difference between the

meaning of investigation and investigation, the two are interrelated and complement each other so that an examination of a crime can be completed [3]. The success of the investigation of a criminal offense will affect the success or failure of the prosecution of the Public Prosecutor at the examination stage in a court hearing.

The definition of investigation can be seen in Article 1 number 2 of the Criminal Procedure Code, which states that:

"Investigation of a criminal offense is a series of investigative actions in terms of and in the manner regulated by the law to search for and collect evidence which with this evidence makes clear about the criminal acts that occurred and to find the suspect".

The same definition of investigation can also be found in Article 1 number 13 of Law Number 2 of 2002 concerning the Indonesian National Police (POLRI) :

"Investigation is a series of investigative actions in terms of and according to the way stipulated in the law to search for and collect evidence which with clear evidence of the crime that occurred and in order to find the suspect".

The investigation was carried out among others by the police who were the Investigators. Based on the provisions in Article 1 number 10 of Law Number 2 of 2002 concerning the Indonesian National Police (POLRI), the Investigator is an official of the Indonesian National Police who is authorized by the law to conduct an investigation. Police as Investigators have a certain management in the process of investigating someone who commits a crime. This is based on the provisions contained in the Regulation of the Head of the Republic of Indonesia National Police Number 14 of 2012 concerning Management of Criminal Investigations. The basis for an investigation by an Investigator is regulated in Article 4 of the Regulation of the Head of the Indonesian National Police Number 14 of 2012 concerning Management of Criminal Investigations, as follows: Police / complaint report, Task Order, Investigation Report, Investigation Order, and Notice of Commencement of Investigation (SPDP).

Based on the provisions in Article 17 of the Republic of Indonesia National Police Chief Regulation Number 14 of 2012 concerning Management of Criminal Investigations, before

starting an investigation, the Investigator is obliged to make an investigation plan. The investigation plan is submitted to the investigator's supervisor in stages and must contain at least the following:

1. Number and identity of the Investigator.
2. Target investigation.
3. Activities to be carried out according to the investigation stage.
4. Characteristics and anatomy of the case to be investigated.
5. The time for completing the investigation is based on the weight of the case.
6. The need of Investigation budget.
7. The Completeness of administrative investigation.

The purpose of the investigation plan is to carry out investigations in a professional, effective and efficient manner.

2. The Importance of Investigators Need to Know Legal Psychology

Legal psychology consists of 2 (two) words, namely psychology and law. The etymological understanding of psychology is from Greek, which is derived from the word psyche which means soul and logos which means knowledge. Psychology literally means knowledge about the soul [4]. Psychology can also be interpreted as science that investigates the symptoms of the soul [4]. According to Yusti Probawati, psychology is the study of the soul / human psychic so that in every human life, psychology always tries to explain the various problems that occur. In Indonesia, psychology is divided into several fields, namely clinical psychology, the development of general and experimental psychology, social psychology, educational psychology, industrial and organizational psychology and legal psychology.

Legal psychology is a field of science that was born around the 1960s as one of the empirical studies that view law in its form as behavior or human behavior in the field of law when humans behave, whether the behavior is right or wrong according to legal standards. Legal psychology in this case wants to clarify between individual behavior and group behavior, between normal behavior and abnormal behavior and various other typical classification of legal psychology. According to Soerjono Soekanto, legal psychology on one hand discusses

psychological factors that encourage people to obey the law but on the other hand also examines factors that might encourage people to break the law [5]. Sofia S dan Anna Gandra mentioned that : [6]

“Legal psychology describes empirical, psychological research of the law, legal institution, and the person who are in contact with the law. This field encompasses contributions made in teaching/training, developmental, cognitive, clinical practice, social, public policy and clinical psychology”.

Legal psychology has been understood as the implementation of the science of psychology to law and laws, although, as Arce points out it can develop theories and methodologies that not only affect the proceedings of the law, but goes beyond that by addressing aspects of human behaviour related to criminal act. According to Acre, the relationship between psychology and law would give rise to a great variety within legal psychologym although it is the one related to the scope and forensic antisocial and criminal behaviour which enjoys greater recognition [7].

Legal psychology includes a variety of empirical studies, namely psychological research on law, about legal institutions and about people related to law. Legal psychology is typically a study that refers to social fundamentals and theories and principles that are cognitive, to be applied to various issues in the legal system, such as eyewitness memory, jury decision making, investigations, interviews and others. Psychology has a very important role in the implementation of law enforcement at the investigation level, especially in examining suspects. This is because psychology considers more at the background, behavior and actions of the suspect by means of a psychiatric approach so that it is expected to expedite the task of interrogating or examining suspects without any compulsion or emphasis. Investigators are thus required to master the legal psychology which is a science of assisting in investigating suspects. The use of psychology in this case is intended to improve examination techniques with the aim of enhancing legal skills and discipline in order to apply protection of human rights.

CONCLUSION

1. Implementation of Investigations by the Police in Indonesia

The basis for an investigation by an Investigator is regulated in Article 4 of the Regulation of the Head of the Indonesian National Police Number 14 of 2012 concerning Management of Criminal Investigations, which is as follows: Police / complaint report, Task Order, Report on Investigation Results, Investigation Order, and Notice of Commencement of Investigation (SPDP).

Based on the provisions in Article 17 of the Republic of Indonesia National Police Chief Regulation Number 14 of 2012 concerning Management of Criminal Investigations, before starting an investigation, the Investigator is obliged to make an investigation plan. The purpose of the investigation plan is to be able to carry out investigations in a professional, effective and efficient manner.

2. The Importance of Investigators Need to Know Legal Psychology

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3. Suggestion

- 1) Investigators who are members of the Indonesian National Police (POLRI) must increase their professionalism, especially in carrying out investigations.
- 2) The National Police of the Republic of Indonesia should immediately make changes to Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia to explicitly regulate the need for investigators to understand the legal psychology as a tool.

REFERENCES

- [1] Ridlwan Zulkarnain, Negara Hukum Indonesia Kebalikan Nachtwachterstaat, Fiat Justitia, Jurnal Ilmu Hukum Volume 5, 2 May – August 2012, page. 143.
- [2] Suwarni, Perilaku Polisi (Studi Kasus atas Budaya Organisasi dan Pola Komunikasi, Bandung : Nusa Media, 2009), page. 1-2.
- [3] Yahya Harahap, Pembahasan Permasalahan dan Penerapan KUHAP : Penyidikan dan Penuntutan (Edisi Kedua), (Jakarta : Sinar Grafika, 2003), page. 101, 109.
- [4] Alex Sobur, Psikologi Umum, (Bandung : Pustaka Setia, 2003), page.7, 32.
- [5] Soerjono Soekanto, Sosiologi Suatu Pengantar, (Jakarta : Raja Grafindo Persada, 1989), page. 17 – 18.
- [6] Sofia S, Anna Gandra, *Legal Psychology*, Journal of Forensic Psychology, 2019 : 149
- [7] Fransisco Gonzela-Sala, Julia Osca-Lluch, *Characterization of Legal Psychology through Psychology Journals Included in Criminology and Penology and Law Categories of Web of Science*, Anales de Psicologia, 2017, vol. 33. 2 may, p. 411.