

Legal Arrangements Regarding Polri's Disciplinary Actions in Carrying Out Their Duty as A Security Personnel

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Abstrak. The Indonesian National Police (POLRI) is responsible for maintaining public security and order, as well as serving and protecting the community. However, there have been instances where members of the police force have clashed with civilians while carrying out their duties. This study employs normative legal research, focusing on secondary data obtained from various sources. The legal methodology approach is utilized to examine relevant regulations and guidelines related to the legal issues at hand. According to Article 2 of Unofficial Law No. 3 of 2003, which pertains to the Specialized Execution of General Legal Foundations for members of the Indonesian National Police, the law enforcement process for police officers is carried out within the procedural regulations applicable in general court proceedings. Thus, if a member of the National Police is reported to have committed a crime, they are processed by the Criminal Investigation Unit. Article 12 (4) of the Police Professional Code of Conduct stipulates administrative sanctions, which include 1) transferring duties to a different position, 2) transferring duties to different areas, 3) honorable discharge, or 4) dishonorable discharge. Transfers of positions and areas serve as administrative sanctions for police officers who have violated the Professional Code of Conduct, involving either demotion (transfer to a lower position) or reassignment to a different place/region. Honorable discharge or dishonorable discharge, on the other hand, are administrative actions taken against police officers who have demonstrated a violation of the Professional Code of Conduct.

Keywords: Indonesia National Police; Ethic Code; Duty.

INTRODUCTION

The capability of the Police is one of the elements of the state government in the field of keeping public control and security, policing, and assurance as well as administration to the local area. The Indonesian Public Police (POLRI) is a state instrument liable for overseeing inward security, including doing the primary obligations of keeping up with public security and request, policing, safeguarding, sustaining, and serving the local area. Polri as commanded in Article 13 of Regulation Number 2 of 2002 concerning the Indonesian Public Police has primary obligations which incorporate, in addition to other things, staying aware of safety and public solicitation, executing the law, and giving protection, affirmation, and organization to the neighborhood. (NURIANTO, 2017)

Samapta Bhayangkara or better known by the public as the Sabhara Polri unit is one of the operational technical functions of the Polri which carries out preventive or preventive main tasks. Patrolling, organizing, guarding, and escorting as well as community service are essential tasks for this unit, whose main goal is to eliminate or at least minimize the meeting of intentions and opportunities for violations or crimes. The tasks carried out by members of the National Police carrying out the Sabhara function are generally service duties to the community, with which they directly come into contact with the community.

Since the year of independence, Indonesia has changed its presidents several times. With this, policies regarding the economy and development have

changed as desired by those who have policies (Pramono, 2022). The occurrence of demonstration events is a form of conveying the aspirations of the people who are already familiar with Indonesia. The involvement of Sabhara Polri members in supervising demonstrations is of course reasonable as a form of security so as not to cause harm to other people who are not interested or to prevent acts of violence that break the law. However, based on recent reports in the media, it is often reported that acts of violence committed by Sabhara Polri members against those who are demonstrating are considered excessive and have started to ignore the prevailing public order.

Apart from violations involving acts of violence, there was also news about the dishonorable dismissal of members of the Polres because based on reports from the community, the Sabhara members were involved in fraud and embezzlement. After conducting investigations and investigations, it turned out that this was indeed true (Sadjijono, 2008). Polri is focused on training individuals who disregard the set of rules. The state of the debilitating of the discipline and impressive skill of individuals from the Public Police that is happening right now is beginning to turn into a regular subject of conversation in the more extensive local area. With regular reports in different broad communications about disciplinary activities perpetrated by individuals from the Police, for instance, the many instances of abuse of guns by individuals from the Police, there are individuals from the Police associated with criminal demonstrations,

erratic activities by individuals from the Police, and there are numerous different cases that represent the absence of the discipline of individuals from the Police, makes their anxiety for the local area worried in doing the primary obligations of the Police, to be specific keeping up with security and public request, request and maintaining the law, the execution of assurance, assurance, and administration to the local area, and the support of public harmony by maintaining common freedoms (Rahardi, 2007).

Factors that influence the performance of members in carrying out their duties need to be studied, scrutinized, and analyzed, to then make policies and improvements to improve the performance of these members. Based on the problems that have been described above, it is felt that there is a need for special attention to how the disciplinary action is given by the Police against Sabhara Polri members who violate the code of ethics. In view of Article 27 section (1) of Regulation Number 2 of 2002 concerning the Indonesian Public Police, to encourage solidarity and respectability and increment resolve and work, a disciplinary guideline for individuals from the Indonesian Public Police is held.

MATERIALS AND METHODS

This exploration is remembered for regulating legitimate examination, standardizing lawful exploration is legitimate examination that depends on or just looks at optional information (library information) in the regulations talked about. In addition, the type of case approach is also used in discussing the contents of this proposal, namely by

examining cases related to the issues at hand and which have obtained permanent legal force. In normative legal research using library data sources, where the data needed is only secondary data (Soekanto, 2012).

Primary legal material is legal material that has binding power in general (legislation) or has binding power for interested parties. In this case, laws and regulations and the legal rules related to the objects received, specifically Law of the Republic of Indonesia Number 2 of 2002 concerning the Indonesian Public Police and Unofficial law Number 2 of 2003 concerning Police Discipline.

RESULTS AND DISCUSSION

Trial Procedures for Police Members Who Violate Discipline Regulations

Law No. 2 of 2002 concerning the Indonesian National Police, ratified in Jakarta on January 8, 2002, promulgated on January 8, 2002, in State Gazette No. 2 of 2002, additional State Gazette No. 4168. Individuals from the Police are dependent upon the power of the overall legal executive very much like regular folks overall. This is suggested in Article 29 segment 1 of Guideline Number 2 of 2002 concerning the Indonesian Public Police. This shows that Polri individuals are regular citizens and are not expose to military regulation (Undang-Undang No. 2, 2002).

General justice is treated for society in general where the general justice process is carried out in general courts, namely in the District Court, High Court, and the Supreme Court. The prosecutor is generally called the Public Prosecutor, and the leader of the trial and the decision maker are the judges.

After the judge's decision (sentence) is received, the execution is carried out in the General Penitentiary. In like manner with individuals from the Police who are associated with carrying out criminal demonstrations, currently based on Law Number 2 of 2002 concerning the Police it has been equated with society in general where criminal trials are carried out at the District Court.

In detail, the differences in the process of judicial procedures handed down to members of the National Police and civil society are as follows:

- a. If a member of the Police commits a disciplinary violation, for example: not attending a rally or not entering without permission. Then the case will be processed in a disciplinary court only.
- b. Polri members who commit criminal acts, for example: committing torture, narcotics crimes, rape, theft, or murder will be processed in a general court trial first after a decision has been made and after carrying out the sanctions received, then these Polri members carry out trial code of ethics with the sanction of dishonorable dismissal.
- c. When civil society commits criminal acts, cases are only processed in general court sessions.

As a result of their calling, Polri individuals are likewise dependent upon Disciplinary Guidelines and the Expert Set of rules. Disciplinary guidelines are controlled in Unofficial law Number 2 of 2003 concerning Disciplinary Guidelines for Individuals from the Indonesian Public Police, in the mean time, the police set of principles is directed in PerkaPolri Number

14 of 2011 concerning the Expert Set of rules for the Indonesian Public Police. So in the event that an individual from the Public Police perpetrates an infringement or wrongdoing, they will get 3 preliminaries, to be specific: General Court Meeting, Discipline Court Meeting, and Set of rules Court Meeting (Peraturan Pemerintah Nomor 2, 2003).

An individual from the Public Police who carries out a wrongdoing, as specified in Article 2 of Unofficial law No. 3 of 2003 concerning the Specialized Execution of General Legal Establishments for Individuals from the Indonesian Public Police, that the law enforcement process for individuals from the Indonesian Public Police is by and large did by the procedural regulation that applies in the general court climate. Thus a member of the National Police who has been reported to have committed a crime is processed by the Criminal Investigation Unit (Peraturan Pemerintah Nomor 3, 2003).

The Criminal Investigation Unit notified Propam via official letter that a member of the Police had committed a criminal act and was processed by the Criminal Investigation Unit, so Propam also participated in investigating and examination of the crime. Or the people who feel aggrieved by the members of the Police immediately report to Yanduan Propam, so that Propam together with the Criminal Investigation Unit investigates and examination of the crime. The Criminal Investigation Unit and Propam cooperate in conducting investigations and examinations of these crimes until there is sufficient evidence in the case for filing.

However, if Propam conducts a hearing on the National Police Professional Code of Ethics, as stipulated in Article 22 Paragraph (1) letter that administrative sanction in the form of a recommendation for dishonorable dismissal is imposed through a hearing on the Police Professional Code of Ethics Commission (KKEP) against violators who deliberately commit acts of punishment with imprisonment of 4 (four) years or more and has been decided by a court that has permanent legal force, Propam must wait for the decision of a court trial that has permanent legal force, a trial can be held at the National Police Professional Code of Ethics Commission (KKEP) and the sanctions are in the form of Administrative sanction recommendations for dishonorable dismissal.

According to Article 7 of the Police Professional Code of Ethics, members of the Indonesian National Police always avoid disgraceful acts that could damage the honor of their profession and organization, by not taking actions in the form of:

- a. Speak harsh and angry words (Rahardi & Kepolisian, 2007);
- b. Violating and or deviating from the task procedure;
- c. Being to find fault with society;
- d. Make it difficult for people who need help or assistance;
- e. Spreading news that can disturb the public;
- f. Performing acts that are felt to be demeaning to the dignity of women;
- g. Degrading human dignity

The aftereffects of the examination will be inspected, with the accompanying outcomes:

- a. If there is a part of a bad behavior, the case record will be given to the Assessment and Criminal Association (Bareskrim) which will then, be returned again to an evaluation at the general court;
- b. If there is a component of infringement of the set of rules, the case record will be designated to a the right better than rebuff (Ankum) who will then, at that point, make a commission for the Police set of principles;
- c. If there is a component of disciplinary infringement, the case document will be designated to a the right better than rebuff (Ankum) who will then be analyzed in a disciplinary hearing.

Forms of violations of the Polri professional code of ethics are:

a. Unlawfully leaving work for 30 (thirty) consecutive days

Any infringement of the Expert Set of rules is dependent upon moral assents which are conveyed as a choice at the Polri Governing set of principles Meeting recorded as a hard copy to the examinee (Article 11 section 3 and Article 12 passage 1 Polri Proficient Set of principles). The type of the ethical approval forced can be as a proclamation of the choice expressing that it isn't demonstrated or an explanation of the choice expressing that the examinee is demonstrated to have disregarded the Polri Proficient Set of rules. The type of moral authorization as specified in Article 11 passage 2 (a, b, and c) is a type of moral assent that is outright and restricting. This

implies that the ethical authorization is formed from the lightest assent level to the heaviest approval level by the noticed infringement of conduct which can be demonstrated at the Commission Meeting.

b. Doing actions and behaving that can be detrimental to the Police service.

On the off chance that the degree of infringement against the Polri Proficient Set of principles falls inside the capabilities of a serious infringement and is committed over and over, then, at that point, the examinee might be likely to sanctions and be pronounced ill suited to do the police calling/capabilities.

Against each violation there are different sanctions, among which are as follows:

- a. If it is exhibited that what happened was an encroachment that has a criminal part, then, the consent given relies upon the game plans of the articles in the Culprit Code;
- b. If it is demonstrated that what happened was an infringement of the overarching set of rules, the authorizations given are through being pronounced a dishonorable demonstration; requested to communicate lament and apologize in a restricted and open way; participating in proficient re-preparing; presently not fit to do the police calling.

As per Article 12 (4) of the Police Proficient Morals Code, the authorization is a managerial approval as a suggestion for:

- 1) transferred to a different position;
- 2) transferred tasks to different areas;
- 3) honorable discharge; or
- 4) dishonorable discharge.

Authoritative assents in numbers 1) and 2) are moves to individuals who are demonstrated to have abused the Polri Proficient Set of rules, either a transfer of position, namely being transferred to a different position (can be a demotion), or a transfer of region/place, namely being moved to another place/region (to remote areas). Meanwhile, administrative sanctions (c) and (d) are dismissal actions against members of the National Police who are proven to have violated the Polri Professional Code of Ethics, either in the form of honorable discharge or dishonorable discharge (Rahardi, 2007).

Assuming it is demonstrated that what happened was a disciplinary infringement, the authorizations will be as:

- a. Written cautioning;
- b. Postponement of going to instruction for a limit of 1 (one) year;
- c. Postponement of intermittent compensation increments;
- d. Postponement of advancement for a limit of 1 (one) year;
- e. Demotional changes; 6) Exclusion from office; and 7) Situation in an exceptional spot for 21 (21) days

According to Article 13 paragraph (1) Law No. 2 of 2002 concerning the National Police states: "Members of the Indonesian National Police can be dishonorably discharged from the Indonesian National Police service for violating the oath/pledge of members of the Indonesian National Police, oath/pledge of office, and/or the Indonesian National Police Professional Code of Ethics." (Afrizal & SH, 2019)

Formation of disciplinary regulations for Polri members to fulfill the mandate of

Article 27 of Law no. 2 of 2002, to foster unity and unity and increase morale and morale for Polri members. As an organization, Polri has internal rules to improve performance, professionalism, culture organization and togetherness, honor, and credibility of the organization. Disciplinary regulations are also intended to guarantee the maintenance of order and the implementation of tasks by the objectives, roles, functions, powers, and responsibilities of the Police. As a strong organization, the National Police must have a code of conduct for working, acting, and socializing among its members, as well as in getting along with the community in the surrounding environment.

Obstacle Factors in the Implementation of Police Sessions

In carrying out a job, it will not be carried out properly if there are obstacles that interfere. In carrying out law enforcement, there must be obstacles that occur, as in the case of police enforcement, there are several obstacles that cause the implementation of Government Regulation No. 02 of 2002.

To realize a rule of law, according to "Soerjono Soekanto" as quoted by Eddy OS Hiariej, there are at least five factors that influence, to start with, the actual law, both as far as the substance of a legal guideline and formal regulation to maintain material regulation, second is the incredible skill of policing, third, sufficient offices and framework, fourth, public impression of the law, and fifth, the legitimate culture itself (Utomo, 2005).

If it is related to the factors that affect law enforcement according to Soerjono

Soekanto above with the obstacles that cause a disciplinary violation, then more or less certainly alludes to some of these factors. Factors that impede the disciplinary hearings of Polri members include:

a. Legal factor

Factors that refer to laws and regulations as the main requirement for finding meaning and provisions, so that there is no void of norms that cause new legal problems to arise. If we review the norms in regulation number 02 of 2016, there is no conflict of norms or multiple interpretations in the articles or the provisions of the legislation above which provide loopholes for violations of police discipline.

b. Law enforcement factor

The function of the law is to regulate the mentality and personality of law enforcement officials to be professional in their duties and authority. Lack of supervision by the police themselves in supervising police officers who are on duty is one of the causes of disciplinary violations by members of the Police.

c. Facility and infrastructure factors

One of them is the educational factor, education is something that must be carried out as a member of the National Police to be able to understand and understand conventionally the nature of being a member of the Police to understand and understand conventionally essence of being a member of Police itself. The lack of education in building the mentality and professionalism of Polri members causes a lack of discipline and uncontrolled police arrogance to be the cause of disciplinary violations.

d. Community factor

Every citizen is required to know the law and understand the law. Many people also don't care and are still afraid to make complaints to the police about the behavior of members of the Indonesian National Police who act in violation of discipline. If people are willing and have the courage to report this, the possibility of disciplinary violations will be minimized. People who are also not aware of the law can be a factor in the emergence of violations of police discipline, bad habits that start such as choosing to pay brokers more to make a driver's license so that the process is faster than the procedure which should be a bad influence from the community on the apparatus.

e. cultural factors

Culture has a major function for humans and society in regulating actions, actions, and attitudes in dealing with other people. So that everyone knows what to do and what is forbidden to do.

CONCLUSIONS

The capability of the Police is one of the elements of the state government in the field of keeping public control and security, policing, and security as well as administration to the local area. The Indonesian Public Police (POLRI) is a state instrument liable for regulating inward security, including doing the fundamental obligations of keeping up with public security and request, policing, safeguarding, sustaining, and serving the local area. However, in reality, members of the National Police when carrying out their duties often clash with the community and commit acts of violence.

For members of the Indonesian

National Police who violate discipline, Law Number 2 of 2002 concerning the Police has been equated with society in general where trials of criminal acts are carried out at the District Court. An individual from the Public Police who perpetrates a wrongdoing, as specified in Article 2 of Unofficial law No. 3 of 2003 concerning the Specialized Execution of General Legal Organizations for Individuals from the Indonesian Public Police, that the law enforcement process for individuals from the Indonesian Public Police is for the most part done by the procedural regulation that applies in the general court climate. Consequently an individual from the Public Police who has been accounted for to have carried out a wrongdoing is handled by the Criminal Examination Unit.

As per Article 12 (4) of the Police Proficient Set of rules, the assent is a regulatory approval as a suggestion to 1) transfer tasks to a different position; 2) transfer tasks to different areas; 3) honorable discharge; or 4) dishonorable discharge.

Administrative sanctions in numbers 1) and 2) are transfers to members who are proven to have violated the Polri Professional Code of Ethics, either a transfer of position, namely being transferred to a different position (can be a demotion), or a transfer of region/place, namely being moved to another place/region (to remote areas). While administrative sanctions (c) and (d) are excusal activities against individuals from the Public Police who are demonstrated to have disregarded the Polri Proficient Set of rules, either as noteworthy release or disgraceful release.

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