A HUMAN RIGHTS REVIEW ON ETHICAL CODE VIOLATIONS BY MEMBERS OF KUDUS POLICE INVOLVED IN CRIMINAL ACTS

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ABSTRACT

The police force is a law enforcement apparatus tasked with ensuring safety and comfort in society. It serves as a protective institution for the community in all social conditions, as stipulated in Law No. 2 of 2002 concerning the National Police. The role of the police can be described as one that directly relates to their position as protectors of the public. However, in practice, some members of the police force act contrary to this role, violating the ethical standards of police profession, or in other words, committing breaches of the police code of ethics. Such actions, of course, have legal consequences and can lead to criminal offenses. The complex challenges faced by the Indonesian National Police (Polri) during the reform era have, in its course, provided significant benefits to the force, with notable advancements in areas such as strength development, training, and operational effectiveness.

Keywords: Human Rights, Code of Ethics, Kudus Police Department, and Criminal Offenses.

INTRODUCTION

The police are a primary law enforcement institution that consistently stands at the forefront of supporting, serving, and protecting the public. Fulfilling this role is no easy task, as police often encounter various societal issues and sometimes receive less-than-friendly responses from the community when providing their services. Understanding the police's role, therefore, requires consideration of both the functions and organizational structure of the police institution. Article 2 of the Republic of Indonesia Law (henceforth abbreviated as UURI) No. 2 of 2002 on the Indonesian National Police (henceforth referred to as POLRI) states that:

The police function is one of the state government functions in maintaining public security and order, enforcing the law, protecting, guiding, and serving the community. It is inseparable from the concept of legal protection for the public. In terms of both function and institutional role, the police bear responsibility for protecting the community from all forms of criminal threats and disturbances that may lead to feelings of insecurity, disorder, and unrest.

Based on this understanding, POLRI represents a fundamental government function in the fields of public security and order, law enforcement, protection, guidance, and service to the community. This role is deeply significant, reflecting values that are spiritual, enduring, and rooted in human rights and the belief in Almighty God.

In carrying out its role as a law enforcement agency, the Indonesian National Police (POLRI) is obligated to understand the following legal principles as considerations in their duties:

a. Principle of Legality: In performing its law enforcement duties, the police must adhere to established laws.
b. Principle of Obligation: This principle refers to the police's duty to handle societal issues using discretionary authority, especially in cases where the law has not yet provided specific guidelines.
c. Principle of Participation: To ensure community safety, the police coordinate with community-based security initiatives to promote adherence to the law within society.
d. Principle of Prevention: The police prioritize preventive actions over repressive measures in dealing with the public.
e. Principle of Subsidiarity: This principle involves the police temporarily performing the functions of other institutions to prevent larger issues, until the relevant authority takes over.

The Indonesian Law No. 2 of 2002 on the Indonesian National Police (POLRI) comprehensively and systematically regulates the duties and authorities of POLRI. However, there are instances where POLRI officers deviate from these regulations in the performance of their duties.

These deviations constitute ethical violations, which, while rarely publicized, are frequently observed among POLRI officers in certain densely populated urban areas. Ethical breaches are often a sensitive topic, as they touch on personal matters of those involved, causing embarrassment for the victims, perpetrators, their families, and the institution itself.

As law enforcement officers, the police are responsible for ensuring security and comfort within society. The police force, as an institution, serves as a guardian of public welfare in various social contexts, as stipulated in Law No. 2 of 2002 on the Indonesian National Police. Ideally, the police play a protective role within the community. However, in practice, some officers act contrary to their professional ethics, breaching the police code of conduct. Such actions carry legal consequences and may lead to criminal offenses.

The complexity of challenges facing the police in the era of reform has brought significant advancements in strengthening, training, and operational development. Nevertheless, it must be acknowledged that the execution of their core duties has sometimes led to negative outcomes, such as behavioral misconduct among POLRI members, including abuse of power and other actions that contravene moral, social, and religious norms. Such misconduct violates disciplinary regulations governing POLRI members, as outlined in Law No. 2 of 2002 on the Indonesian National Police and further elaborated in Government Regulation No. 2 of 2003 on the Discipline of POLRI Members.

To ensure the professional capacity of the police in carrying out their duties and functions, Article 32 of Law No. 2 of 2002 mandates that "the professional development of the Indonesian National Police officers shall be conducted through the cultivation

of professional ethics and the enhancement of knowledge and experience in police technical skills through systematic and continuous education, training, and assignments."

RESEARCH METHOD

The approach utilized in this study is an empirical juridical approach, also referred to as field research, which examines existing legal provisions in comparison to their practical application in society.

DISCUSSION

A. Legal Actions in Ethical Code Violations by Kudus Police Officers Committing Criminal Acts: A Human Rights Perspective

An ethical code comprises a set of moral guidelines tied to specific professions, roles, or positions, offering guidance on acceptable values and conduct within an organization. While ethical codes present broad and comprehensive principles, codes of conduct offer concrete and operational guidance on practical behavior.

In formal terms, an ethical code establishes rules that embody an organization's effort to codify group values, providing members with clear statements about what is right or wrong, good or bad. These principles serve as a foundation for decision-making within the organization. The code outlines general principles that prioritize social or moral guidance over prescriptive behavioral control.

A professional ethical code is a comprehensive system of written norms, values, and rules that clarifies what is right and good, and conversely, what is wrong and unacceptable for professionals. Ethical codes are issued by professional organizations and morally bind all members of that profession. While each professional organization may have a unique code of ethics, there is often variation in normative elements, scope, and applicable guidelines. The police profession, too, has a specific code of ethics that applies to police officers and those holding police functions.

The enforcement of the Indonesian National Police (Polri) Code of Ethics involves authorized Polri officials taking actions under the prevailing regulations, including preliminary investigations, Police Ethics Commission hearings, appeal hearings, and rehabilitation for members either found guilty of code violations or cleared of such allegations.

The judiciary is central to law enforcement, mirroring the enforcement of the ethical code, which aims to ensure its correct implementation and monitor adherence to prevent violations. In cases of violations, actions are taken to restore the integrity of the ethical code, aligning with laws created and established by legislative bodies. Thus, ethical code enforcement is akin to judicial processes, connecting court procedures with the nature of cases being adjudicated. Judicial involvement may vary across institutions, as seen with specialized courts like religious, military, and administrative courts.

The Polri Code of Ethics, outlined in the Chief of Indonesian National Police Regulation (PERKAPOLRI) Number 14 of 2011, consists of six chapters and 32 articles, covering six articles on obligatory norms and five on prohibitive norms for Polri members in their duties and authorities. Additionally, procedural law regulations as stipulated in Police Regulation Number 8 of 2006 cover 11 chapters, detailing the establishment, duties, authority, and obligations of the ethics commission, membership, violation handling, rights and obligations of examinees, rules of order, and administrative procedures for in absentia sessions.

Law No. 2 of 2002 on the Indonesian National Police provides a detailed and systematic outline of Polri's roles and authority. However, deviations by Polri members from their duties are common, leading to ethical code violations that often go unnoticed but are prevalent in densely populated areas. These violations are rarely discussed, as they touch on personal matters, potentially causing embarrassment to those involved and their families or institutions.

Public awareness of these violations is limited due to inadequate dissemination of information. Even when the public witnesses misconduct by Polri members, reporting is infrequent, as citizens often hesitate to engage with police authorities. Yet, such cases should be reported to the nearest Police Service Center (SPK) for legal processing.

A lack of professionalism among Polri members can significantly impact law enforcement and crime detection in society. Media frequently report on Polri misconduct, including weapon misuse, criminal involvement, abuse of authority, and incidents like campus facility destruction, violence against university students (e.g., at Universitas Negeri Makassar), and journalist abuse during protests against fuel price hikes in Makassar on November 13, 2014. Such incidents raise public concerns regarding Polri's role, as outlined in Article 4 of Law No. 2 of 2002, which mandates that Polri maintains public order, enforces the law, provides protection, fosters peace, and upholds human rights. This underscores the strong, interdependent relationship between Polri and society (ubi societas, ubi politie).

Ultimately, Polri must uphold the honor and dignity of the state, government, and police force, complying with legal standards both in official duties and in general conduct. Engaging in criminal activity is a breach of Polri's disciplinary regulations.

Disciplinary Violations refer to statements, writings, or actions by members of the Indonesian National Police (Polri) that contravene disciplinary regulations. Members of Polri who are found to have violated these regulations are subject to disciplinary measures and/or disciplinary sanctions. Disciplinary measures include verbal warnings or physical actions (Article 8, paragraph (1), Government Regulation of the Republic of Indonesia No. 2 of 2003). These measures do not eliminate the authority of the superior officer with the right to impose disciplinary punishment (Ankum).

Disciplinary sanctions, as outlined in Article 9 of Government Regulation No. 2/2003, include:

1. Written reprimands;
2. Suspension from educational opportunities for up to one year;
3. Suspension of periodic salary increases;
4. Delayed promotion for a maximum of one year;
5. Transfer with demotion;
6. Removal from position;
7. Placement in a special facility for up to 21 days.

Disciplinary violations within the Indonesian National Police (Polri) are subject to disciplinary sanctions, which are decided through disciplinary hearings. If a police officer commits a criminal act, such as rape, assault, or murder (including shootings) against civilians, they not only commit a criminal offense but also violate police discipline and the professional code of ethics. Similar to the legal process for police officers involved in criminal offenses, violations of disciplinary regulations and the code of ethics will be investigated, and if proven, sanctions will be imposed. The imposition of disciplinary sanctions and sanctions for breaches of the code of ethics does not eliminate criminal charges against the officer in question. Therefore, a police officer who commits a criminal act will still face criminal prosecution, even after serving disciplinary sanctions or sanctions for violations of the code of ethics.

Violations of the Police Code of Ethics are regulated in the Regulation of the Head of the Indonesian National Police (Perkap) No. 14 of 2011 concerning the Police Code of Ethics. In this regulation, breaches of the police professional code of ethics are categorized into four key areas: violations of state ethics, institutional ethics, societal ethics, and personal ethics. The norms contained within the Police Code of Ethics are standards that all members of the police must be familiar with. Violations of the Code of Ethics will lead to legal consequences based on the verdict issued by the Police Code of Ethics Hearing, conducted by the Kudus Police.

The categorization of violations within the Code of Ethics, according to the Police Regulation, is divided into four parts as mentioned above. In the documentation from the 2011 Police Code of Ethics hearing at the Kudus Police, the legal basis used for the police code of ethics was still based on the older regulation, which is the Regulation of the Head of the Police No. 7 of 2006. This was because the Regulation of the Head of the Police No. 14 of 2011 had not yet been issued and was only officially enacted on October 1, 2011.

The duties and functions of Customs and Excise Officers (PPNS Bea and Cukai) are assigned to employees of the Directorate General of Customs and Excise who hold specific positions to perform designated tasks, based on Law No. 17 of 2006 on Customs and Law No. 39 of 2007 on Excise. Legal violations and the abuse of authority remain highly relevant issues in today's social climate. These issues are often colored by past experiences of disregard for and disrespect towards the law, which has led to a persistent lack of trust in the legal system. Rapid social changes and the erosion of the legal system's authority have influenced behaviors that deviate from legal norms. On the other hand, misconduct by members of the police, whether committed during or outside of their official duties, often becomes a public opinion issue, further damaging the image of the Indonesian National Police.

CONSLUSION

Based on the explanation above, the following conclusions can be drawn:

1. Enforcement of the Indonesian National Police's Professional Code of Ethics involves a series of actions by authorized officials within the Police to conduct preliminary investigations, hearings of the Police Ethics Code Commission, appeal hearings, and rehabilitation of Police members deemed in violation or proven not to have violated the Professional Code of Ethics.
2. The Indonesian National Police's Code of Ethics, as stipulated in the Regulation of the Head of the Indonesian National Police (PERKAPOLRI) Number 14 of 2011, consists of six chapters and 32 articles, including six articles detailing mandatory regulations and five articles outlining prohibitive regulations for members in performing their duties, roles, and authority. Additionally, procedures related to legal proceedings are governed by Police Regulation Number 8 of 2006, comprising 11 chapters and one article, which addresses the formation of the Ethics Code Commission, duties, authority, responsibilities, membership, violation handling mechanisms, the rights and obligations of those under examination, order, administration, and procedures for conducting sessions without the violator's presence.
3. Disciplinary violations within the Police are addressed in disciplinary hearings. If an officer commits a criminal offense, such as assault, sexual violence, or homicide against civilians, the officer would not only face criminal charges but also disciplinary and ethical breaches. Legal proceedings for officers involved in criminal offenses include examinations for disciplinary and ethical violations, and if found guilty, sanctions are imposed. However, disciplinary and ethical sanctions do not preclude criminal prosecution, meaning that officers who commit such offenses are subject to both criminal and disciplinary processes.
4. The challenges faced by the Kudus Police Department include an unhealthy institutional structure that tends to allow the neglect of ethical enforcement against alleged violations by officers. Other obstacles include limited public understanding of the reporting mechanisms for suspected ethical violations, slow response to reports from the community regarding alleged ethical breaches, and the perception that the enforcement process is merely symbolic rather than genuinely aimed at upholding the integrity of the Kudus Police. There is also minimal utilization of social media as an educational and practical tool for enforcing ethical standards among Police members.
5. Efforts that can be undertaken by Kudus Police members include structured, systematic, and comprehensive enforcement of the Code of Ethics; making systematic reforms to the reporting mechanisms for suspected ethical violations by officers; swiftly addressing complaints from the public directed at Provost or Propam; ensuring transparency of legal actions taken against officers proven to violate the Code of Ethics within the jurisdiction; and prudent and thoughtful use of social media as an essential means of communication and public education.

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