

Legal Analysis Regarding Police Authority In Collecting Debt Based On Government Regulation Number 2 Of 2003 Concerning Disciplinary Regulations For Members Of The Indonesian National Police

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Abstract.

This study aims to find out and analyze the authority of the police based on Government Regulation Number 2 of 2003 concerning Disciplinary Regulations for Members of the Indonesian National Police. As well as knowing and analyzing the authority of the police in collecting debts. This research is a type of normative research. So that it can be seen that all police authority is based on Government Regulation Number 2 of 2003 concerning Disciplinary Regulations for Members of the Indonesian National Police. In addition, no one can ask the police to collect debts because it is against the Police Discipline Regulations. If in practice it is found that police act in this way, the aggrieved party can report the member of the police to the Professional and Security Division of the National Police.

Keywords : Authority, Police and Collecting Debt.

I. INTRODUCTION

The Indonesian National Police (Polri) is one of the state institutions engaged in law enforcement. As law enforcers in Indonesia, Polri should set an example for the public on how to obey and obey the law itself. If every Polri member practices legal values with a professional attitude, then it is unlikely that a disciplinary violation will occur by a member of the POLRI. The National Police of the Republic of Indonesia have the authority to carry out their duties as law enforcers. These duties and powers can be seen in Law Number 2 of 2002 concerning the Indonesian National Police in Articles 13 to Article 19. And to maintain public trust in the Police, a special regulation was made regarding violations of Police discipline, namely Government Regulation Number 2 of 2003 regarding Disciplinary Regulations for Members of the Indonesian National Police. The Government Regulation regulates several matters regarding obligations, prohibitions and sanctions that must be carried out by each member of the Indonesian National Police. This Polri disciplinary regulation is stipulated to regulate, limit and direct every member of the Polri to behave in a disciplined manner as it should. In fact, there are still members of the National Police who are found to have committed disciplinary violations. In carrying out the duties and obligations as members and outside of working hours there are still members of the Police who abuse their position by acting arbitrarily, and not infrequently these actions include acts that are criminal in nature.

Like members of the National Police who act as the backing of debt collection which creates links in society. This is one of the disciplinary violations that intersects with the community and this is due to temptations in the form of material things that cause people to feel restless and the public's trust in the Polri apparatus decreases. The police should understand their duties and responsibilities as law enforcement officers. There are limitations to the rights and obligations of Polri members that have been regulated and this should not be violated when enforcing the law in society. Where the implementation of law in society generally applies to every citizen, in a fair, proportional and non-discriminatory manner (Budi Rizki H, et al, 2014:19). If the behavior of members of the National Police already seems disproportionate to the public, especially their actions within the Police itself, the public does not know that there are still disciplinary violations committed by members of the Police themselves. For example, the actions of police officers who are suspected of being the backing of moneylenders when collecting debts are currently going viral. The

police officers were questioned by Propam. The police officer showed his police membership card. He also threatened to be arrested.

The incident occurred in Medan Baru, Medan City. However, the person is said to be working in the Deli Serdang Polresta area. "Police officers who are backing loan sharks act arrogantly and beat residents when they collect debts," The Deli Serdang Police Chief confirmed that the man was a police officer. He said the man was being investigated by the Deli Serdang Polresta Propam. "I have instructed the Deputy Chief of Police for Deli Serdang AKBP Julianto P Sirait and Kasi Propam Iptu Elkana to thoroughly process the handling of the case against Iptu TS in accordance with the legal regulations that apply to police personnel," said Yemi. Yemi said that this incident tarnished the image of the police. He said the police should be an example for the community. "The dishonorable actions carried out by Iptu TS should not have happened. Members of the National Police must set a good example for the community," he explained. Things like this have led to a public interest in the reasons why disciplinary violations still occur among the police, and how many concrete disciplinary violation cases have occurred so far.

II. METHODS

The research method used in this research is normative legal research method. Normative legal research is legal research conducted by examining literature or secondary data (Soerjono Soekanto, et al. 2003: 13). According to Peter Mahmud Marzuki (Peter Mahmud Marzuki, 2010: 35), normative legal research is a process to find a rule of law, legal principles, and legal doctrines to answer the legal issues at hand. In this type of legal research, law is often conceptualized as what is written in laws and regulations or law is conceptualized as rules or norms which are benchmarks for human behavior that are considered appropriate (Amiruddin, et al. 2006: 118).

III. RESULTS AND DISCUSSION

Police Authority Based on Government Regulation Number 2 of 2003 concerning Disciplinary Regulations for Members of the Indonesian National Police In the Government Regulation of the Republic of Indonesia Number 2 of 2003 concerning Disciplinary Regulations for Members of the Indonesian National Police, article 1 of the general provisions referred to as Discipline is obedience and serious adherence to the disciplinary regulations of members of the Indonesian National Police. Disciplinary Regulations for Members of the Indonesian National Police are a series of norms to foster, uphold discipline and maintain order in the life of members of the Indonesian National Police. Violations of Discipline Regulations are words, writings, or actions by members of the Indonesian National Police who violate disciplinary regulations. Disciplinary action is a series of verbal warnings and/or physical actions that are constructive in nature, which are imposed directly on members of the Indonesian National Police.

Disciplinary punishment is a punishment imposed by a superior who has the right to punish members of the Indonesian National Police through a Disciplinary Session. Disciplinary punishment is a punishment imposed by a superior who has the right to punish members of the Indonesian National Police through a Disciplinary Session. A disciplinary hearing is a hearing to examine and decide on disciplinary violation cases committed by members of the Indonesian National Police. Superiors who have the right to punish, hereinafter abbreviated as Ankum, are superiors who because of their position are given the authority to impose disciplinary punishment on the subordinates they lead. Provos is a functional unit in the Indonesian National Police whose task is to assist the leadership in fostering and enforcing discipline and maintaining the order of life of members of the Indonesian National Police.

1. The obligations are contained in article 4. In carrying out their duties, members of the Indonesian National Police are required to:

- a. Provide the best possible protection, protection and service to the community;
- b. Paying attention to and resolving reports and/or public complaints as well as possible;
- c. Comply with the oath or pledge of members of the Indonesian National Police as well as oaths or promises of office based on the applicable laws and regulations;
- d. Carry out the task as well as possible with full awareness and sense of responsibility;

- e. Maintaining and enhancing the integrity, cohesiveness, unity and integrity of the Indonesian National Police;
- f. Comply with all applicable laws and regulations;
- g. Act and act decisively and act fairly and wisely towards his subordinates;
- h. Guiding his subordinates in carrying out their duties;
- i. Set a good example and example to his subordinates;
- j. Encouraging the enthusiasm of his subordinates to improve work performance;

2. The prohibition is contained in article 5. In order to maintain the life of the state and society, members of the Indonesian National Police are prohibited from:

- a. Doing things that can reduce the honor and dignity of the state, government, or the Indonesian National Police;
- b. Carrying out practical political activities;
- c. Follow a trend that can lead to divisions or threaten the unity and integrity of the nation;
- d. Collaborating with other people inside or outside the work environment with the aim of obtaining personal, group, or other party benefits directly or does not directly harm the interests of the state;
- e. Act as an intermediary for employers or groups to obtain work or orders from the office/agency of the Indonesian National Police for personal gain;
- f. Have shares/capital in companies whose business activities are within the scope of their powers;
- g. Acting as a patron in gambling, prostitution and entertainment establishments;
- h. Become a debt collector or become a protector of people who have debts;
- i. Become an intermediary/broker case;
- j. Abandoned family.

Article 6 In carrying out their duties, members of the Indonesian National Police are prohibited from:

- a. Divulge the secrets of police operations;
- b. Leaving the task area without permission from the leadership;
- c. Avoid official responsibility;
- d. Using state facilities for personal gain;
- e. Take control of official property that is not intended for him;
- f. Rent out/rent out official residences;
- g. Mastering more than 1 (one) unit official residence;
- h. Transfer official residence to those who are not entitled;
- i. Using evidence for personal gain;
- j. Taking sides in criminal cases that are being handled;
- k. Manipulating cases;
- l. Making negative opinions about co-workers, leaders, and/or units;
- m. Managing, sponsoring, and/or influencing officers with rank and position in recruiting candidates for members of the Indonesian National Police;
- n. Influence the investigation process for personal gain so as to change the direction of the material truth of the case;
- o. Carrying out coercive investigation efforts that are not under his authority;
- p. Perform actions that may cause, hinder, or make it difficult for one of the parties served so as to result in losses for the party served;
- q. Abuse of authority;
- r. Obstructing the smooth implementation of official duties;
- s. Act arbitrarily against subordinates;
- t. Misusing official goods, money or securities;
- u. Possessing, selling, buying, pawning, renting, lending, or losing official goods, documents, or securities;

- v. Entering a place that could dishonor the honor or dignity of the Indonesian National Police, except because of their duties;
- w. Carrying out illegal levies in any form for personal, group or other party interests;
- x. Wearing jewelry excessively when dressed in the Indonesian National Police.

3. Sanctions / Punishments are contained in article 8 (1) Disciplinary actions in the form of verbal warnings and/or physical actions. And (2) The disciplinary action in paragraph (1) does not remove Ankum's authority to impose disciplinary punishment. Furthermore Article 9 disciplinary punishment in the form of:

- a. Written warning;
- b. Postponement of attending education for a maximum of 1 (one) year;
- c. Postponement of periodic salary increases;
- d. Postponement of promotion for a maximum of 1 (one) year;
- e. Demotional mutations;
- f. Exemption from office;
- g. Placement in a special place for a maximum of 21 (twenty one) days.

Furthermore, in Article 12 (1) the imposition of disciplinary punishment does not eliminate criminal charges. (2) The imposition of a disciplinary penalty is terminated due to a disciplinary offender:

- a. Die,
- b. Mental illness declared by a doctor and/or health examiner for the Republic of Indonesia National Police.

4. The settlement of disciplinary violations is contained in article 14 (1) The imposition of disciplinary action is carried out immediately and immediately when it is known that disciplinary violations have been committed by members of the Indonesian National Police.(2) The imposition of disciplinary punishment is decided in a disciplinary hearing. (3) Determination of the settlement of violations of the Disciplinary Regulations through a disciplinary hearing is the authority of Ankum. Article 25 Settlement of disciplinary violation cases is carried out through the following stages:

- a. reports or complaints;
- b. Preliminary examination;
- c. Examination before a disciplinary hearing;
- d. Imposition of disciplinary punishment;
- e. Execution of punishment;
- f. Recording in individual personnel data.

a. Police Authority in Performing Debt Collection

Debt agreements in the Civil Code are not regulated explicitly and in detail. However, regulations regarding debts and credit are implied in Article 1754 of the Civil Code which states that in a loan agreement, the borrower must return it in the same form and quality. The agreement between the borrower and the lender in the debt agreement creates a civil relationship which becomes law for the parties. This is as stated in Article 1338 of the Civil Code which explains that all agreements made legally apply as laws for those who make them. In this regard, the agreement regarding the rights and obligations of the parties contained in the loan agreement must be carried out in good faith. Then, if there is no detailed agreement in written form, the Civil Code is the basic rule that must be obeyed by the parties (Article 1319 of the Indonesian Civil Code ("Civil Code")). By referring to the Civil Code, every interpretation, action, or settlement of disputes that arise must refer to debt agreements and the Civil Code.

There is no exception in determining a party who is in a state of default. Civil law experts generally categorize default into four circumstances, namely:

- 1. Not at all fulfilling.
- 2. Not cash meets achievement.
- 3. Late fulfillment.
- 4. Mistaken meets feat.

The borrower or the debtor can be said to be in a state of default if he has received a reprimand or subpoena to fulfill his obligation to pay off the debt (Article 1238 of the Civil Code). The final estuary of this default situation is the filing of a lawsuit against the debtor. Later, the court will hold a hearing based on a number of evidences which state that the debtor really failed to fulfill his achievements. When declared negligent, the court will oblige the negligent party to immediately fulfill his achievements. Then, the court can also confiscate a number of assets belonging to the debtor. In this context, the executive power belongs to the creditor or debtor. By law, the creditor has the right to ask for court assistance to execute the goods of the debtor. Then, regarding the police being debt collectors, it is important to know that the police are a tool of the state. Furthermore, the function of the police is one of the functions of government in the field of maintaining public order and security, law enforcement, protection, protection and service to the community (Article 2 of Law Number 2 of 2002 concerning the Indonesian National Police). If viewed from the purpose of its formation, the National Police of the Republic of Indonesia aims to realize internal security which includes maintaining public security and order, order 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. Article 13 of the Police Law).

When broken down, the three main tasks of the police, among others (the Police Law):

- a. Maintain public order and security;
- b. Upholding the law; And
- c. Provide protection, shelter, and service to the community.

Then, in carrying out the three main tasks as stated above, the police are tasked with carrying out the following matters (article 14 of the Police Law):

- a. Carry out arrangements, guards, escorts, and patrols for community and government activities as needed;
- 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 and provide technical assistance to the special police, civil servant 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;
- 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;

In carrying out their duties, the Police must comply with the disciplinary rules for members of the police as stated in the Police Disciplinary Regulations, whereby police officers are prohibited from doing a number of the following things (Article 5 of Government Regulation Number 2 of 2003 concerning Disciplinary Regulations for Members of the Indonesian National Police):

1. Doing things that can reduce the honor and dignity of the state, government, or the Indonesian National Police;
2. Carrying out practical political activities;
3. Follow a trend that can lead to divisions or threaten the unity and integrity of the nation;
4. Cooperate with other people inside or outside the work environment with the aim of obtaining personal, group, or other party benefits that directly or indirectly harm the interests of the state;
5. Act as an intermediary for employers or groups to obtain work or orders from the office/agency of the Indonesian National Police for personal gain;
6. Have shares/capital in companies whose business activities are within the scope of their powers;
7. Acting as a patron in gambling, prostitution and entertainment establishments;

8. Become a debt collector or become a protector of people who have debts;
9. Become an intermediary/broker case; And
10. Abandoned family.

Based on these details, the presence of the police as a debt collector is clearly prohibited. Whatever the circumstances, a person cannot even ask the police to become a debt collector to protect him from debt bills. If you find it difficult to collect debts, a creditor can use debt collection services, for example a debt collector. However, keep in mind that debt collectors also have a number of ethics in collecting payments in the debt collection process. Then, if you want to take legal action, someone can use services or power of attorney to collect debts through an attorney or debt collection lawyer, including sending subpoenas and filing lawsuits. Therefore, no one can ask the police to become a debt collector because it is against the Police Discipline Regulations. If in practice it is found that police act in this way, the aggrieved party can report the member of the police to the Professional and Security Division of the National Police.

IV. CONCLUSION

Based on the explanation above, it can be concluded that all police authority is based on Government Regulation Number 2 of 2003 concerning Disciplinary Regulations for Members of the Indonesian National Police. In addition, no one can ask the police to collect debts because it is against the Police Discipline Regulations. If in practice it is found that police act in this way, the aggrieved party can report the member of the police to the Professional and Security Division of the National Police.

V. SUGGESTION

The leadership of the Police of the Republic of Indonesia must enforce the law against police officers who frighten the public by becoming backers for debt collection. Because being a backer for debt collectors is an act of breaking discipline for the police.

REFERENCES

- [1] Amiruddin and H. Zainal Asikin, Introduction to Legal Research Methods, Jakarta: PT. Raja Grafindo Persada, 2006.
- [2] Budi Rizki H and Rini Fathonah, 2014, Study of Law Enforcement Institutions, *Justice Publisher*, Bandar Lampung.
- [3] Code of Civil law.
- [4] Government Regulation Number 2 of 2003 concerning Disciplinary Regulations for Members of the Indonesian National Police.
- [5] Peter Mahmud Marzuki, Legal Research, Jakarta: Kencana Prenada, 2010.
- [6] Soerjono Soekanto & Sri Mamudji, Normative Legal Research: A Brief Overview, PT. Jakarta: Raja Grafindo Persada, 2003.
- [7] Law Number 2 of 2002 concerning the Indonesian National Police.
- [8] Lisdawati, B. (2020). Pengembangan Perangkat Pembelajaran Berbasis Model Pembelajaran Hybrid Learning Dengan Memanfaatkan Google Classroom Untuk Meningkatkan Pemahaman Siswa Pada Mata Pelajaran Ekonomi Kelas Xi Iis Sma Negeri 1 Salak Pakpak Bharat. Undergraduate thesis, UNIMED. <http://digilib.unimed.ac.id/38348/>
- [9] Lord, G., & Lomicka, L. 2008. Blended learning in teacher education: An investigation of classroom community across media. *Contemporary Issues in Technology and Teacher Education*, 8(2), 158-174
- [10] Melton, B., Helen, G., & Joanne, C.F. 2009. Achievement and Satisfaction in Blended Learning Traditional General Health Course Designs. *International Journal for the Scholarship of Teaching and Learning*. P 1-13
- [11] Sudijono, Anas. 2009. *Pengantar Statistik Pendidikan*, Jakarta: Raja Grafindo Persada.
- [12] Sutisna, A. (2016). Pengembangan Model Pembelajaran Blended Learning pada Pendidikan Kesetaraan Program Paket C dalam Meningkatkan Kemandirian Belajar. *Jurnal Teknologi Pendidikan*. 18 (3). 156-168.