

Implementation of Re-Enactment of Murder Criminal Act Based on Legal Certainty (Case Study: Banggai Police)

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Abstract. *The purpose of this study is to analyze the Implementation of Reenactment of Murder Crimes Based on Legal Certainty; to identify and analyze the weaknesses of reenactment regulations for murder crimes. The method of approach used in compiling the thesis is normative legal research. Normative legal research is a process to find a regulation, principle, or legal doctrine to solve a problem. The results of this study are (1) The implementation of the reconstruction of the crime of murder in the jurisdiction of the Banggai Police has fulfilled the concept of legal certainty. In the reconstruction process, it was found that the perpetrator TN committed murder because he was involved in a previous argument with the victim AS. The results of the reconstruction in the form of case files can be used as evidence for the public prosecutor in court to increase the judge's confidence in determining a verdict in a murder case. (2) The weaknesses of the regulations for the reconstruction of the crime of murder when analyzed using Lawrence M. Friedman's legal system theory include weaknesses in the legal substance: The authority given to the Police, such as in the Police Law and the Criminal Procedure Code, does not mention the authority to carry out the reconstruction of criminal cases in the investigation process, weaknesses in the legal structure: lack of coordination between state institutions and law enforcement officers; weaknesses in the legal culture: the surrounding community who flocked to witness the reconstruction directly so that without them realizing it, they had disrupted the reconstruction.*

Keywords: *Confidence; Crime; Determining; Reenactment.*

1. Introduction

Based on Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, the Republic of Indonesia is a state of law. A state of law is a type that is commonly found in nations around the world. A state of law has left behind the

type of state that governs based on the will of the ruler.¹Since this change, the country has been governed based on laws that have been made and provided previously and the rulers are also subject to these laws.²This means that no one is above the law, both officials and ordinary citizens are obliged to obey the law.³

The life of a society that lives together regularly and orderly in its development is increasingly fading, displaced by the influence of increasingly complex technological developments and social communication. Social shifts that are followed by social conflicts, cultural conflicts and norm conflicts, will clearly be followed by violations of social norms including legal norms, one concrete form of violation of these norms is crime.

The birth of the crimes mentioned above resulted in the birth of norms or rules of Criminal Law,⁴which is a reflection of the will of society in order to protect the souls, bodies and wealth of members of society. Therefore, violations of norms or criminal law rules are considered as undesirable acts, which are therefore given the name of crimes. By Paul Moedikdo, crimes are formulated as follows, "Crimes are acts of violating legal norms, which contain elements that are detrimental, annoying and should not be tolerated."⁵

If someone is suspected of having committed a crime or criminal act, then proving whether the allegation is true or not is through several stages of the process in accordance with the provisions of the Criminal Procedure Code.⁶If the alleged guilt of the suspect/defendant is proven, then sanctions will be imposed on him/her in accordance with what is regulated in the substantive criminal law (KUHP).

The aim of criminal law is to protect and save individuals from crimes that occur in their community.⁷so that this objective must be maintained so that there are no criminal acts which have resulted in additional victims due to errors in the investigation of the criminal incident, or perhaps there are no crimes which due to careless investigation cause innocent people to be punished by the court.

¹EY Kanter and SR Sianturi, Principles of Criminal Law in Indonesia and their Application, Stora Grafika, Jakarta, 2002, p. 6

²Satjipto Rahardjo. A Legal State that Makes Its People Happy. Genta Publishing, Yogyakarta, 2009, p. 2.

³Philipus M. Hadjon. Legal Protection for the Indonesian People, Civilization, 2007 p. 75.

⁴I Putu Surya Wicaksana Putra, Legal Policy on the Regulation of Black Magic in Indonesian Criminal Law, e-Journal of the Yustisia Community, Ganesha University of Education, Vol 3 No 1 2020, p. 69-79

⁵Paul Moedikdo. Crime and its Causes. Star Weekly. No. 811, 1961

⁶Prawoko, A., Syukur, A., Susilowati, N., Musyaffa, MI, & Nisa, Investigation Process, Investigation and Its Authority in Criminal Procedure Law. Synergy: *Multidisciplinary Scientific Journal*, 1(04), 2023, p. 206–216.

⁷Ciptono, et al., The Function of Reconstruction in Disclosing Murder Cases by the Bareleng Police Criminal Investigation Unit, Journal of Legal Studies (JIH), Volume 1 Number 1, 2022, p. 9-20

To prove this, investigators sometimes need to reconstruct the criminal incident they are investigating.⁸ Here it becomes problematic because this reconstruction still does not get a strong place in criminal procedure law in Indonesia, such as a child who is not recognized by his parents. Reconstruction is used as written evidence and has an important role, therefore its creation is done as soon as possible after the crime occurs. While for the judge that reconstruction is only used to strengthen the instructions from the statements of witnesses and the defendant, the same as what was stated by the judge above, reconstruction is used if the defendant or even the witness denies what has been stated in the Examination Report.⁹

The purpose of this research is to analyze the implementation of reenactment of the crime of murder based on legal certainty and to analyze the weaknesses of reenactment regulations for the crime of murder.

2. Research methods

The research approach uses a sociological legal approach method. The sociological legal approach is a legal research approach that is based on the legal rules that apply in society and is carried out through observation, interviews or distributing questionnaires.¹⁰

3. Results and Discussion

3.1. Implementation of Re-enactment of Murder Crime Based on Legal Certainty at Banggai Police

Optimal or professional law enforcement, especially regarding how to overcome it. Because the prevention efforts are essentially an integral part of the welfare and protection efforts for the community. While the prevention efforts, whether it is a criminal act, are not easy or impossible to eliminate as imagined, whether it is protection for individuals, society or the State. As we know, the main political goal is about the repetition of crime.¹¹

To check the truth of the information given by the witness on how he committed the crime, a reconstruction is needed, this is in accordance with the provisions of Article 25 paragraph (3) of the Regulation of the Chief of Police Number 6 of 2019 concerning Criminal Investigations, which states that "In terms of testing the

⁸Yuliana, S. Case Reconstruction as an Effort to Uncover Crimes. *Legalita Law Journal*, 4(1), 2022, p. 83–103

⁹Rustam, The Position of Reconstruction/Re-enactment in Proving Criminal Cases, *Jurnal Dimensi*, Vol 4 No 2 July 2015, p. 1.

¹⁰Ronny Hanitijo Soemitro, *Legal Research Methodology and Jurimetrics*, Ghalia Indonesia, Jakarta, 1990, p. 33.

¹¹Nisa Fadhilah, Reconstruction Process in an Effort to Uncover Criminal Acts (Study at the North Lampung Police), *Legalita Law Journal*, Vol 4, No 2, 2022, p. 225-236

conformity of the statements of witnesses and suspects, investigators/assistant investigators can conduct a reconstruction". Based on these provisions, those authorized to carry out the reconstruction are investigators and assistant investigators of the Police.

Reconstruction is based on the Decree of the Chief of Police No. Pol: Skep 1205/IX/2000 concerning the revision of the Collection of Juklak and Juknis for the Criminal Investigation Process. Reconstruction is a method of examination at the investigation level that contains a reconstruction of the scene or a re-enactment of the methods used and what the suspect used in committing the crime based on what the suspect and witnesses explained during the examination recorded in the Minutes of Examination of Witnesses and Suspects. Reconstruction is also a series of efforts by investigators in order to seek and find the material truth of a crime that occurred.¹²

The implementation of this reconstruction is an initial step or as a preliminary examination for the police, and the initiative to implement this reconstruction is carried out by police investigators to get a picture of the crime that occurred or a reconstruction. In implementing this reconstruction, the police officers order the defendant to do or re-enact scenes of the criminal incident that occurred from beginning to end and in what way the defendant committed the crime and what tools the defendant used to commit the crime, this is done to seek or find material truth.¹³

Implementation criminal case reconstruction has its own role in the investigation process. By conducting reconstruction, it helps in the investigation process to uncover the criminal acts that occurred. In general, the role of holding criminal case reconstruction by investigators is divided into 2 (two), namely:

1) Clarifying the Criminal Acts Committed by the Suspect

Re-examination is conducted for murder cases that result in the loss of another person's life. In murder cases, suspects often provide convoluted information to officers and cover up things like their motives or reasons for killing, the method they used, including the role of their partner in the murder. In fact, in some murder cases, suspects are insignificant in providing information to investigators regarding the tools they used to take the life of another person. This is what led the

¹²Muhammad Azhar Nur (et. al), Legal Position of Implementation of Reconstruction at the Investigation Stage in Revealing the Criminal Act of Murder in Sinjai, *Al-Ahkam: Journal of Islamic Criminal Law*, Volume 6, No. 1, 2024, p. 45-53

¹³Febryan Arda Ayu Lukitosarie and Andri Winjaya Laksana, Legal Review of the Implementation of Investigation of Premeditated Murder Crimes Committed by Children, Proceedings of the Scientific Constellation of Unissula Students (KIMU) 7 Sultan Agung Islamic University Semarang, January 19, 2022, p. 217-231

investigating officer to conduct a reconstruction in order to obtain clarity from the suspect's statement.¹⁴

The implementation of the reconstruction for murder cases carried out by the police is because the case requires a detailed description of the actions before the crime was committed, while the crime was committed, and after the crime was committed. Before conducting a reconstruction, investigators need to collect various kinds of evidence such as physical evidence at the crime scene. Physical evidence can be in the form of evidence such as weapons or tools used in committing the crime, after committing the crime, footprints, fingerprints, the position of the victim when found and so on.

From rolling out the reconstruction, then it can clarify the crime committed by the suspect. This can be seen in the murder case above where the statements of the suspect and witnesses that have been obtained are then matched and analyzed the same and different parts at the time the reconstruction was carried out.

2) Giving Investigators Confidence in the Crimes That Occurred

Re-examination is important for investigators because sometimes suspects when asked for information by investigators are not transparent in this case covering up some of their actions. Not infrequently at the investigation level examination the information given by both the suspect and witnesses contradicts each other, this is because the suspect tends to provide convoluted or fabricated information so that the examination does not reach a meeting point.

In such a situation, Re-enactment is a way out for investigators to be carried out in terms of testing the truth of witness and suspect statements, to synchronize witness and suspect statements. All statements that have been mentioned by the witnesses and suspects will be demonstrated to prove the real truth as recorded in the Minutes of Examination of the suspect and also the witness.

Not all criminal cases will be prosecuted reconstruction, only a few specific cases such as murder, theft or rape. In certain cases such as murder if there is no clear point regarding the strong facts of the event, reconstruction becomes something that is considered necessary to get a picture of the murder event.

From the statements given by the suspect and the witness, the investigator already has a theory or picture related to the occurrence of the crime. And to strengthen the investigator's theory, a reconstruction was carried out which was also carried out to provide confidence to the investigator regarding the picture he received through the witness's statement and the suspect's statement.

¹⁴Juda Trisno Tampubolon, Arrangement of Reconstruction as Evidence in the Investigation Process (Study in the Jurisdiction of the Pontianak Police), Journal of Master of Law Students, Untan, Vol. 1, No. 1, 2015, p. 1-16

Re-enactment is used to test the truth of the theory used by investigators, whether the re-enactment is in accordance with the actual events that have occurred, with that it is intended to determine whether the scene of the incident is in accordance with the witness's statement and whether all evidence can support the truth of the occurrence of the criminal event. How are the movements carried out by the suspect and when it concerns the suspect's theory about the modus operandi, whether the actions that have occurred are in accordance with the intended pattern of operation.

Implementation of Re-enactment of the Criminal Act of Murder Based on Legal Certainty at the Banggai Police with the following case summary:

This case began when the perpetrator, TN, worked peeling coconuts with witness J in a coconut plantation owned by brother N in Taima Village, Banggai Regency. After witness J left the location at around 10:00, TN went home on his motorbike and carried a machete sheathed at his waist. At around 10:45, on Jalan Desa Hutan Alto, Taima Village, TN passed the victim, AS, and stopped his motorbike. After parking his motorbike on the side of the road, TN stopped AS's motorbike and the two engaged in a short conversation that sparked tension. While still on the motorbike, TN pulled out his machete and began attacking the victim. The first attack was blocked by the victim with his left hand, but TN continued to attack. AS tried to retreat while shouting "enough-enough-enough," but TN continued to chase him while continuing to swing his machete. Attack after attack carried out by TN caused serious injuries to the victim, including the amputation of his left hand, as well as serious injuries to his legs, arms, and other parts of his body. The final attack carried out by TN included blows to the chest, head, neck, and finally the back of the victim's head. After ensuring the victim was lying helpless, TN put his machete back into its sheath and left the scene.

The implementation of reconstruction of the crime of murder currently fulfills the concept of legal certainty. Where in the investigation of a murder case, reconstruction has a very important position for investigators. It can be seen from the purpose of the reconstruction itself, namely to get a clearer picture of a crime which is then adjusted with the statement of the suspect, and the statement of the witness. The results of the reconstruction in the form of case files can be used as evidence for the public prosecutor in court to increase the judge's confidence in determining a verdict in a murder case.

Referring to Utrecht's opinion, which in essence is that legal certainty is marked by the existence of general rules and legal security for individuals, of course the provisions regarding reenactment have been regulated in the Decree of the Chief of Police No. Pol.Skep/1205/IX/2000 concerning the Revision of the Collection of Technical Instructions and Technical Guidelines for the Criminal Investigation Process, especially in the section on the Implementation Guidelines for the Criminal Investigation Process.

3.2. Weaknesses of Reenactment Regulations for Murder Crimes

In Indonesia, in the 1945 Constitution of the Republic of Indonesia, Article 1 paragraph (3) states that "The State of Indonesia is a State of Law". This indicates that the Indonesian nation uses law as a benchmark or which is a guideline for social interaction in the life of the nation and state. The consequence is that every action, deed and behavior of state officials, law enforcers, state apparatus and the community must be based on and must not violate existing laws.¹⁵

In this context, law becomes important in the life of society, nation and state. There is an expression that says that "where there is society, there is law (*ubi societas ibi ius*), can be interpreted as an inevitability that humans or human society cannot survive without order and regularity, and law is relied on to create it."¹⁶

The weaknesses of the re-enactment regulation of the crime of murder are as follows:

1) Weaknesses of Legal Substance

The Criminal Procedure Code provides authorities that can be used by each law enforcement officer to uncover a criminal case. The authorities that are generally granted by law to investigators are the authority to make arrests, the authority to summon witnesses, the authority to detain, the authority to examine letters, the authority to conduct wiretapping or interception, the authority to confiscate goods and tools of crime, and the confiscation of certain goods.

The authority of criminal investigators as described above is closely related to the process and techniques of collecting evidence. In which the authority of investigators is very broad and even this authority can violate human rights. The authority of investigators is so large that it is closely related to the evidentiary system adopted by the Indonesian criminal procedure law system. The Indonesian criminal procedure law system adopts a limited evidentiary system.

In proving the crime and guilt of the defendant, the judge does not only rely on the evidence specified in the law. The judge has a subjective assessment of the defendant through beliefs based on the evidence specified by law. So in determining the defendant's guilt or issuing a verdict, the judge relies on the evidence specified by law and his beliefs to determine whether the defendant is guilty or not.

¹⁵Nyoman Gede Remaja, The Meaning of Law and Legal Certainty, Kertha Widya Journal of Law, Vol. 2, No. 1, 2014, p. 1-24

¹⁶Rachmad Safa'at. Layers of Legal Science. Bayumedia Publishing, Malang, 2009, p. 12

Based on an interview with AKP Tio Tondy as Head of Criminal Investigation Unit of Banggai Police, he said that:

"The Criminal Procedure Code gives investigators quite broad authority to uncover a crime. Some important authorities that investigators have, as regulated in the Criminal Procedure Code, include the authority to make arrests, summon witnesses, detain, examine letters, wiretap or intercept, and seize and confiscate items related to the crime. These authorities are very important in the investigation process to collect the necessary evidence."¹⁷

In the National Criminal Procedure Law, it contains the principle of *Aquisatio*, namely that the examination of the suspect is no longer an object but a subject of examination, namely in Article 18 of Law Number 14 of 1970 it is stated that "every person who is suspected, arrested, detained, charged and/or brought before a court, must be considered innocent before a court decision states his guilt and obtains permanent legal force."

The authority given to the Police as in the Police Law and the Criminal Procedure Code does not mention the authority to carry out reconstruction of criminal cases in the investigation process, this is because the Police Law and the Criminal Procedure Code only regulate the authority of investigators in general and in outline. For this reason, as an examination technique in investigations, reconstruction requires regulation in our criminal procedure law, this is what is then used as one of the reasons for the Police to issue policies in the form of guidelines and technical instructions for the criminal investigation process which regulate in more detail the investigation process including reconstruction of criminal cases. Although its nature is only as additional evidence which is part of the indicative evidence, in practice it turns out that this reconstruction is very helpful for prosecutors in prosecuting in court and the results of this reconstruction can also support other evidence.¹⁸

2) Weaknesses of Legal Structure

Formal completeness means the completeness of the technical administration of justice contained in each case file in accordance with the requirements that must be met by the legal provisions stipulated in Article 121 and Article 75 of the Criminal Procedure Code, including all provisions of policies that have been agreed upon by law enforcement agencies and that have been institutionalized in law enforcement practices, where formal completeness includes everything related to formalities/requirements, investigation procedures that must be completed with

¹⁷Interview Results with AKP Tio Tondy as Head of Criminal Investigation Unit of Banggai Police. on July 24, 2024

¹⁸Wahyu Sudrajad and Umar Ma'ruf, Reconstruction as an Effort to Reveal Premeditated Murder (Case Study of the Jurisdiction of the Banyumanik Police Sector, Semarang), *Khaira Ummah Law Journal*, Vol. 12. No. 3, 2017, p. 611-616

a Letter of Order, Minutes, Permit/Approval of the Chief Justice. In addition to examining the quantity of completeness of formal requirements, it is also necessary to examine the quality aspect of the completeness, namely its validity in accordance with the provisions of the law. Material completeness is the completeness of information, data, facts and evidence needed for the purposes of proof.

There are several things that can affect law enforcement in Indonesia, some of which are legal apparatus or legal structure, the legal structure in question includes legal institutions and legal apparatus. Institutions related to law enforcement include the police, prosecutors, courts, correctional institutions, and lawyers or advocates. One of the problems often faced in this case is the lack of coordination between state institutions and law enforcement.¹⁹

In reality, there are several law enforcers who do not operate in the right corridor. Some recommendations that can be given to optimize the performance of law enforcement agencies are to increase synergy between stakeholders in law enforcement agencies, especially positive and proactive responses to always be open to something, namely input, criticism and support from external parties and supervision of the implementation of the performance of law enforcement agencies. The most important thing is to synchronize institutions between law enforcement institutions. With this synchronization, it will reduce friction that causes misunderstandings between law enforcers. Improvements to overlapping authorities between the police, prosecutors and the Corruption Eradication Committee will further emphasize and make the scope of law enforcement institutions clearer.²⁰

According to AKP Tio Tondy as Head of Criminal Investigation Unit of Banggai Police, it is necessary to strengthen synergy between law enforcers:

“I see the need to increase synergy between law enforcement agencies. This can be done through institutional synchronization and joint training involving all stakeholders in the field of law enforcement. In addition, there needs to be an effort to improve overlapping authorities, so that the boundaries and scope of each institution are clearer. With good communication, positive responses to external input, and strict supervision of the performance of law enforcement

¹⁹Danang Wijayanto. *Legal and Judicial Problems in Indonesia*. Data Center and Information Services. Jakarta, 2014. P. 31

²⁰Violita Citra (et. al), *Coordination Between Law Enforcement Institutions in Handling Detention Issues Based on the Criminal Procedure Code as an Effort to Realize an Integrated Criminal Justice System in Indonesia*, *Journal of Education and Counseling*, Vol. 4, No. 5, 2022, p. 2668-2675

agencies, we can minimize friction and increase the effectiveness of law enforcement in Indonesia.”²¹

3) Weaknesses of Legal Culture

Generally, reconstruction is done at the scene of the crime, because it is easier for the suspect to remember the incident so that it is not difficult to re-enact how to commit the crime of murder, so that investigators will also find it easier to conduct the examination. However, it is possible that the reconstruction is not carried out at the actual scene of the crime, but in another place for reasons of security factors for the suspect.

It is not uncommon to find that in the implementation of the reconstruction of criminal murder cases, there are conflicts in the field, especially from the surrounding community who flock to directly witness the implementation of the reconstruction so that without them realizing it, they have disrupted the implementation of the reconstruction and ignored the appeals of the police who were on guard at the scene of the crime.

Then another reason that caused the reconstruction not to be carried out at the crime scene, was the investigator's consideration of the suspect's safety from unwanted actions coming from the victim's family who were inflamed with emotion when watching the scenes played out by the suspect. Such things happen because the community or the victim's family who witnessed did not accept the suspect's actions against the victim, such as murder cases.

Security factors are also a major consideration. There are times when reconstruction cannot be done at the actual crime scene because we are concerned about the suspect's safety. For example, if there is a risk of violence from the victim's family who may be emotional when seeing the scene acted out by the suspect. In such situations, we choose to do the reconstruction in another, safer place.²²

These three components support the running of the legal system in a country. Legal substance concerns the applicable laws and regulations that have binding force and serve as guidelines for law enforcement officers. Talking about legal structure, it refers to the structure of law enforcement institutions. While legal culture concerns legal culture which is the attitude of humans (including the legal culture of law enforcement officers) towards the law and the legal system.²³

²¹Interview Results with AKP Tio Tondy as Head of Criminal Investigation Unit of Banggai Police. on July 24, 2024

²²Interview Results with AKP Tio Tondy as Head of Criminal Investigation Unit of Banggai Police. on July 24, 2024

²³Nita Anggraeni and Humaeroh, Problems of Sexual Violence Crimes in the Legal System in Indonesia, *Al-Ahkam*, Vol. 17 No. 2, December 2021, p. 36-45

According to Friedman, these elements are the determining factors whether a legal system can run well or not. These three components are part of the law enforcement factors that cannot be ignored because if ignored, it will cause the expected law enforcement not to be achieved.

The weaknesses of the reenactment regulations for the crime of murder when analyzed using Lawrence M. Friedman's legal system theory include weaknesses in the substance of the law: The authority given to the Police, such as in the Police Law and the Criminal Procedure Code, does not mention the authority to carry out the reconstruction of criminal cases in the investigation process, this is because the Police Law and the Criminal Procedure Code only regulate the authority of investigators in general and in outline; weaknesses in the legal structure: lack of coordination between state institutions and law enforcement officers; weaknesses in the legal culture: the surrounding community who flock to witness the reconstruction directly so that without them realizing it, they have disrupted the reenactment.

4. Conclusion

The implementation of reconstruction of the crime of murder in the jurisdiction of the Banggai Police has fulfilled the concept of legal certainty. Where in the investigation of a murder case, reconstruction has a very important position for investigators. In the reconstruction process, it was found that the perpetrator TN committed murder because he was involved in a previous argument with the victim AS. The results of the reconstruction in the form of case files can be used as evidence for the public prosecutor in court to increase the judge's confidence in determining a verdict in a murder case. Provisions regarding reconstruction have been regulated in the Decree of the Chief of Police No. Pol.Skep/1205/IX/2000 concerning the Revision of the Collection of Juklak and Juknis for the Criminal Investigation Process, especially in the section of the Implementation Guidelines for the Criminal Investigation Process. The weaknesses of the reenactment regulations for the crime of murder when analyzed using Lawrence M. Friedman's legal system theory include weaknesses in the substance of the law: The authority given to the Police, such as in the Police Law and the Criminal Procedure Code, does not mention the authority to carry out the reconstruction of criminal cases in the investigation process, this is because the Police Law and the Criminal Procedure Code only regulate the authority of investigators in general and in outline; weaknesses in the legal structure: lack of coordination between state institutions and law enforcement officers; weaknesses in the legal culture: the surrounding community who flock to witness the reconstruction directly so that without them realizing it, they have disrupted the reenactment.

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