CRIMINAL ACCOUNTABILITY AND THE PROFESSIONAL CODE OF POLRI MEMBERS WHO CONDUCT OBSTRUCTION OF JUSTICE IN THE INDONESIAN CRIMINAL LAW SYSTEM

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ABSTRACT

A police institution in a country is related to the state's efforts to prevent or deal with possible disturbances to security, peace, and public order. It is tasked with protecting, serving the community, and enforcing the law under the 1945 Constitution of the Republic of Indonesia and Law Number 2 of 2002 concerning the Indonesian National Police. Police duties in the modern era place the Police as law enforcement agents who interact highly with society, including interactions with various types of crime. This interaction places the Police with many opportunities to commit irregularities, including Obstruction of justice. Therefore, it is necessary to study how the criminal responsibility and code of ethics are against members of the National Police who carry out Obstruction of justice efforts. Because the phenomenon of Obstruction of justice is increasing among members of the Police, this condition can reduce public trust in the Police. This paper is based on legal research using a normative juridical approach and secondary data. Apart from being subject to Article 221 and Article 223 of the Criminal Code, Polri members who commit Obstruction of Justice can also be subject to ethical and administrative sanctions, which apply internally to members of the Police. The provisions that form the basis are the Republic of Indonesia National Police Regulation Number 7 of 2022 concerning the Professional Code of Ethics and the Indonesian National Police Code of Ethics Commission. The imposition of ethical and administrative sanctions is cumulative and/or alternative under the assessment and considerations of the KKEP Session, and the imposition of KEPP sanctions does not eliminate criminal charges.

Keywords: Criminal Responsibility, Professional Code of Ethics for Police Members, Obstruction Of Justice

INTRODUCTION

The Indonesian National Police (POLRI) is a state instrument that maintains security and public order. Polri is tasked with protecting, protecting, serving the community, and enforcing the law under the mandate of Article 30 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, further emphasized in Law Number 2 of 2002 concerning the Indonesian National Police. The implementation of Polri's functions still needs to overcome many obstacles and problems regarding the capability and quality of Polri's human resources, performance, professionalism, and law enforcement from a human rights perspective, as well as institutional transparency and accountability.

Functionally, the Police must carry out their duties ethically, fairly, friendly, and honestly in providing services and maintaining order. However, in maintaining order, the Police are given the authority to limit a person's freedom of movement legally. Symbolically, the Police are not only the most obvious symbol of the criminal justice system, but furthermore, they also represent a legitimate source of restriction in a free society.

With Polri's duties being quite broad due to its involvement in state administration authority (public administration), state security administration authority (security and defense administration), and criminal justice administration authority (administration of criminal justice), every action by Polri members in carrying out their duties and authorities must be based on legal norms, religion, decency, and decency as well. Uphold human rights, the limits of which are regulated in the police professional code of ethics as a guideline for the attitude and behavior of members of the Police in carrying out their duties and authorities within the community and within the police unit itself.

The variety of police duties in this modern era positions the Police as a law enforcement agency with high interaction with the community. Especially the interaction of the Police with various types of crime in society. Kunarto and Hadi Kuswaryono revealed that the interaction between police personnel and this crime made police activities an activity that gave its members many opportunities to commit irregularities.[1]

The number of disciplinary violations, the Police Professional Code of Ethics (KEPP), and crimes committed by members of the Police decreased in 2021 compared to 2020. The number of disciplinary violations by members of the Police fell by 20.67 percent from 3,304 violations to 2,621, and the number of KEPP violations fell by 37.29 percent from 2,081 to 1,305. Polri members' crimes fell by 18.31 percent from 1,240 to 1,013.[2]

[1] Noorleila Widiawati, *Pencatatan Pengaduan Masyarakat Tentang Penyimpangan Polri Sesuai Konsep Fado,* Jurnal Kriminologi Indonesia Vol. 7 No.I Mei 2010 : 1 – 19

[2] https://nasional.kompas.com/read/2022/01/24/15360941/kapolri-klaim-jumlah-pelanggaran-anggota-polri-tahun-2021-turun diakses tanggal 12 September 2022 Jam 20.15 WIB

One example of an obstruction of justice case against a member of the National Police is the crime in the murder of Brigadier Nofriansyah Yosua Hutabarat. The incident began on Friday, July 08, 2022, at around 17:00 W.I.B., where Brigadier Nofriansyah Yosua Hutabarat was shot, resulting in the loss of life of Nofriansyah Yosua Hutabarat at the official residence of the witness FERDY SAMBO, S.H., S.I.K, M.H. At the Duren Tiga Police Housing Complex, Duren Tiga Subdistrict, Pancoran District, South Jakarta, the loss of life of Nofriansyah Yosua Hutabarat as a result of the shooting was witnessed FERDY SAMBO, S.H., S.I.K., M.H. the intention arises to cover up the facts of the actual incident. It seeks to obscure the criminal acts that have occurred. Several members of the Police who were subject to obstruction of justice, namely the former Head of the Propam Polri Division Inspector General Ferdy Sambo, Brigadier General Hendra Kurniawan, Kombes Agus Nurpatria, AKBP Arif Rahman, Kompol Baiquni Wibowo, Kompol Chuck Putranto, and A.K.P. Irfan Widyanto.

Based on this background, the authors are interested in conducting a study of criminal responsibility and the code of ethics for members of the National Police who carry out Obstruction of justice efforts in the Indonesian criminal law system because the phenomenon of Obstruction of justice among members of the Police is increasing which can reduce public trust in the Police.

RESEARCH METHOD

Research methods are needed to obtain data used as material for discussion and analysis to answer the problems formulated so that they can be trusted and accounted for. It is for this purpose that the research method used in this study consists of the following systematics:

Form and Type of Research

The form of research used is normative juridical research. It is supported by the experience and observations of the author, who has served in the Police for more than 25 (twenty-fifteen) years. This type of research was based on the premise that this research wanted to analyze the study of law enforcement against members of the Indonesian National Police who commit criminal acts that hinder investigations in the justice system in Indonesia.

Data Collection Methods

Based on the form and type, this study's data are secondary and primary. Secondary data is the main data in this study. Secondary data was obtained through literature studies in the form of primary legal materials (primary sources), secondary legal materials (secondary sources), and tertiary legal materials (tertiary sources). As supporting data, the primary data in this study were obtained through the author's experience and observations, including more than 25 (twenty-fifteen) years of experience in the police department.

Data Presentation and Analysis

All data obtained, both secondary and primary data, were then analyzed qualitatively and then presented in a descriptive analysis, which was not only able to present categories related to a discipline but was developed from a category found and its relationship to the data obtained. The qualitative analysis was conducted because the data obtained from field research was not statistically calculated but linked to theories and expert opinions from literature research to explain or answer the formulated problems.

C. RESULTS AND DISCUSSION

Criminal and Punishment Theoretical Basis

The purpose of sentencing has something to do with the nature of sentencing, that "criminal law is a system of negative sanctions. It is applied if other means (efforts) are inadequate, then criminal law is said to have a subsidiary function".[3] Based on the assumption that: (a) the Indonesian legal system adheres to the principle of equality before the law and (b) criminal law. Legislation functions to regulate constitutional rights in an orderly manner and does not conflict with the rights of other parties, which the Constitution equally guarantees. The function of criminal law and criminal sanctions is to encourage and guarantee compliance with norms regulated in other laws and regulations that cause violations of criminal law, by the principle of in cauda venom (there is poison in the tail).

Efforts to reform the Criminal Code, apart from being aimed at reforming and reviewing 3 (three) main issues in criminal law, namely the formulation of prohibited acts (criminal acts), the formulation of criminal responsibility, and the formulation of sanctions in the form of both punishment and action, also trying to maximally provide a philosophical basis for the essence of the Criminal Code so that it is more meaningful in terms of human values both related to the perpetrators of criminal acts (offenders) or victims.[4]

In connection with this crime and sentencing, it is necessary to formulate the aims of punishment in advance. The basis for formulating the purpose of punishment is based on the idea that punishment is essentially only a means to an end. The identification of the purpose of punishment is based on the balance of two main targets, namely "public protection," including victims of crime, and "protection/coaching individual perpetrators of criminal acts.".[5]

Determining the purpose of sentencing is quite a dilemma because sentencing has several objectives that can be classified based on theories about sentencing. Theories about the purpose of sentencing, which revolve around differences like the basic ideas about sentencing, can be seen from several views.

Packer stated that there are two conceptual views, each of which has different moral implications, namely the retributive and utilitarian views. The retributive view presupposes punishment as a negative reward for deviant behavior committed by community members, so this view sees punishment only as retaliation for mistakes made based on their respective moral responsibilities. This view is said to be backward-looking. The utilitarian view looks at punishment in terms of its benefits or usefulness, where what is seen is the situation or condition that the sentence is intended to produce. On the one hand, punishment is intended to improve the attitude or behavior of the convict. On the other hand, punishment is also intended to prevent other people from possibly committing similar acts. This view is forward-looking and, at the same time, has deterrence properties.[6]

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[3] Zaini, Voice Justitia, *Tinjauan Konseptual Tentang Pidana dan Pemidanaan Conceptual Review of Criminal and Criminal,* Volume 3, Nomor 2, September 2019 , daikses tanggal 20 Mei 2023

[4] Widodo Ekatjahjana, dkk., Naskah Akademik Rancangan Undang-Undang tentang Kitab Undang-Undang Hukum Pidana (KUHP), Jakarta: Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia, 2021, hlm. 23

[5] *Ibid*, hlm. 36

[6] Ibid, hlm. 10

While Muladi divides theories about the purpose of punishment into three groups, namely: a) Absolute (retributive) theory, b) The theory of teleology, and c) the Retributive theory of teleology, the absolute theory views punishment as retribution for mistakes committed so that it is oriented towards action and lies in the crime itself. This theory puts forward that sanctions in criminal law are imposed solely because a person has committed a crime which is an absolute consequence that must exist as a retaliation for the person who committed the crime so that the sanction aims to satisfy the demands of justice.[7]

Starting from the balance of the two main targets, the terms and nature of sentencing also depart from the premise of a mono-dualistic balance, between the interests of society and individual interests, between objective and subjective factors. Therefore, the terms of sentencing also depart from two very fundamental pillars in criminal law, namely "the principle of legality" (which is a societal principle) and the "principle of culpability" (which is a "humanity principle"). In other words, the main ideas regarding sentencing are closely related to the main ideas regarding criminal acts and criminal responsibility.

Furthermore, that sentencing must also be oriented towards the "person" factor (perpetrators of crimes); the idea of criminal individualization is also the background to the general sentencing rules. The idea or main idea of criminal individualization will be included in the general rules as follows:menegaskan bahwa tidak seorang pun yang melakukan tindak pidana dipidana tanpa kesalahan;

In the provisions for abolishing crimes, especially reasons for forgiveness, the issues of "error," coercion, forced defense that goes too far, inability to take responsibility, and the problem of children under 12 years are included.

In sentencing guidelines, judges are required to consider several factors, including the motives, inner attitudes, and mistakes of the maker, the way the maker commits the crime, his curriculum vitae and socio-economic conditions, and how the crime affects the future of the perpetrator, the effect of the crime on the victim. as well as the victim's family, forgiveness from the victim and/or his family, and/or the public's view of the crime committed;

In the guidelines for granting forgiveness/pardon, the judge takes into account the personal circumstances of the maker and humanitarian considerations;

in the provisions concerning mitigating and aggravating sentences, several factors are considered, including30 whether the defendant voluntarily surrendered to the authorities after committing a crime; whether the defendant voluntarily gave compensation or repaired the damage that had arisen; whether there is great mental agitation; whether the perpetrator is a pregnant woman; whether there is a lack of capacity to take responsibility; whether the perpetrator is a civil servant who violates his official obligations/abuses his power; does he abuse his expertise/profession; is it a repetition of a crime.

[7] Lukman Hakim, *Penerapan dan Implementasi Tujuan Pemidanaan Dalam Rancangan Kitab Undang-Undang Hukum Pidana (RKUHP), Rancangan Kitab Undang-Undang Hukum Acara Pidana (RKUHAP),* Yogyakarta: Deepublish, 2022, hlm. 11

There is a utilitarian view and an integrative approach in connection with this punishment. Insofar as the objective of sentencing is concerned, the objective of sentencing is:[8]

Prevent criminal acts by upholding legal norms for the protection of society:

Socialize convicts by providing coaching so that they become good and useful people and can live in society:

resolving conflicts caused by criminal acts, restoring balance, bringing a sense of peace to society; and

release the guilt of the convict.

Furthermore, it is stated that punishment is not intended to cause suffering and is not allowed to degrade human dignity. In this connection, the term sentencing must be interpreted broadly, including actions. Discussion about the nature of the purpose of punishment and the meaning of punishment is very important to provide justification for the application of types of punishment and action (strarafsoort) in a book of criminal law laws. This would be more internalized if the opinion of H.L. Packer stated that: "Punishment is a necessary but lamentable form of social control. It is lamentable because it causes suffering in the name of goals whose achievement is a matter of chance."[9]

From the chart above, it can be seen that the three main issues of criminal law in the form of criminal acts (strafbaarfeit/criminal act/actus reus), errors (schuld/guilt/mens rea), and criminal (straf/punishment/poena)16, are only components or sub-systems of the whole criminal law system which in essence is also a criminal system.[10]

Definition of Obstruction of Justice

Obstruction of justice is part of the Contempt of Court. Historically, contempt of court originates from the English Common Law system because the court is considered to be the contempt of the king, God's representative. An act that demeans the dignity of the court must be severely punished. According to Black's Law Dictionary, contempt of court is any act that can be considered to embarrass, hinder or hinder the judicial duties of court bodies or any action that can reduce their authority or dignity. Insulting the judiciary or "rechtspleging" (the course of justice). As for the actions that are classified as Contempt of Court, namely:[11]

Scandalizing the Court

Actions classified as the Contempt of Court are anarchic acts committed in court. This anarchic act was carried out to attack the integrity and impartiality of one of the litigants. This is often referred to as Scandalizing the Court. One example of this Scandalising the Court is the riot at the Constitutional Court trial in 2013.

[8] Lihat Makalah Muladi, tentang Jenis-jenis Pidana Pokok Dalam KUHP, Makalah disampaikan pada Lokakarya Bab-bab Kodifikasi Hukum Pidana tentang Sanksi Pidana yang diselenggarakan oleh BPHN-Departemen Kehakiman di Jakarta, tanggal 5-7 Februari 1986. Hmm. 3-4.

[9] H.L. Packer, The Limits of the Criminal Sanction, Stanford University Press, California, 1968, hlm. 62.

[10] Lihat pengertian sistem pemidanaan dalam Barda Nawawi Arif, Pembaharuan Hukum pidana Dalam Perspektif Kajian Perbandingan, PT Citra Aditya Bakti, 2005, Bab X, yang berasal dari Bahan Sosialisasi RUU KUHP 2004, Dephumham, di Hotel Sahid Jakarta, 23-24 Maret 2005.

[11] Contempt Of Court Upaya Melindungi Marwah Pengadilan, Kenali Ketentuannya!, https://heylawedu.id/blog/contempt-of-court-upaya-melindungi-marwah-pengadilan-kenali-ketentuannya, diakses tanggal 5 Mei 2023

The riot occurred when one of the supporters of the election participant disagreed with the judge's decision. This riot then developed into clashes between supporters. As a result of this riot, court facilities were damaged.

Obstruction of justice

Obstruction of justice is an act that is categorized as a crime because it obstructs the legal process in a case. An example that can be categorized as Obstruction of Justice is the murder case of Brigadier J. Approximately 90 Polri personnel carried out Obstruction of Justice because they supported the scenario and destroyed CCTV evidence.

Misbehaving in Court

Parties outside the court do not only carry out contempt of Court actions. But Contempt of Court can also be carried out by internal parties themselves. On July 14, 2022, when the judge with the initials O.S. tried the trial, he was found sleeping soundly. This is one of many times a judge has fallen asleep during a judicial process.

Disobeying Court Orders

Related to this, we can take an example of the decision in the Administrative Court. Suppose the decision grants the plaintiff's claim by stipulating the obligations the TUN agency/official must carry out, but these obligations are not carried out. In that case, this is categorized as Disobeying Court Orders.

Thus Obstruction of justice is part of the Contempt of Court. The term obstruction of justice is a legal terminology originating from Anglo-Saxon literature, which in the doctrine of criminal law in Indonesia is often translated as "the criminal act of obstructing the legal process."[12] Charles Boys said, "Obstruction of justice is the frustration of governmental purposes by violence, corruption, destruction of evidence, or deceit.[13] According to the Legal Dictionary, Obstruction Of Justice is "an attempt to interfere with the administration of the courts, the judicial system or law enforcement officers, including threatening witnesses, improper conversations with jurors, hiding evidence, or interfering with an arrest. Such activity is a crime. (Legal Dictionary: 2019). If interpreted freely in the Indonesian translation, Obstruction Of Justice is an attempt to interfere with the Court Administration, the justice system, or law enforcement officials, including threatening witnesses, inappropriate conversations with jurors, hiding evidence, or interfering with arrests. This activity is a crime.

By this understanding, the Obstruction of justice is related not only to a legal (criminal) process but also to all government activities to realize government goals. However, Black's Law Dictionary (Black's Law Dictionary) defines Obstruction of justice as follows: "Interface with the orderly administration of law and justice, as by giving false information to or withholding evidence from a police officer or prosecutor, or by harming or intimidating a witness or juror."[14]

The definition of Obstruction of justice, as defined in Black's Dictionary, is more specific because it relates to the administration of law and justice. Black interprets the act of Obstruction of justice as any form of intervention in the entire

[12] Shinta Agustina, "*Obstruction of Justice: Tindak Pidana Menghalangi Proses Hukum Dalam Upaya Pemberantasan Korupsi"* (Themis Books, 2015).

[13] Charles Doyle, *"Obstruction of Justice: An Overview of Some of the Federal Statutes That Prohibit Interference with Judicial, Executive, or Legislative Activities"* (Library of Congress, Congressional Research Service, 2014).

[14] Henry Campbell Black et al., *Black's Law Dictionary*, vol. 196 (West Group St. Paul, MN, 1999).

legal and justice process from the beginning to the end. These forms of intervention can take the form of giving false statements, withholding evidence from the Police or prosecutors, or injuring or intimidating witnesses or jurors (using jurors in Anglo-Saxon procedural law).[15]

Arrangement and Implementation of Obstruction of Justice in Criminal Law

In the provisions of the general criminal law (KUHP), Obstruction of Justice as a crime is regulated in the second book, Chapter VIII, concerning crimes against public power. Some of the actions regulated in this chapter are against the means of state power, which means protecting the government's interests, especially so that government organs can carry out their duties for the sake of public order and the security of the wider community.[16]

Articles in the Criminal Code that are relevant to Obstruction of Justice, namely Article 211, Article 212, Article 216 paragraph (1), Article 217, Article 218, Article 219, Article 220, 221 paragraph (1), Article 222, Article 223, Article 224, Article 225, Article 231, and Article 233 of the Criminal Code. Of the many articles in the Criminal Code, there is only one article in Chapter VIII - Crimes Against Public Authorities which clearly states the objective element "to obstruct or hinder the examination of investigations or prosecutions" as Article 221 paragraph (1) numbers 1 and 2 which can be analogized as an act of Obstruction of justice, with the following formula:

A maximum imprisonment of nine months or a maximum fine of four thousand five hundred rupiahs shall be punished:

any person who intentionally conceals a person who has committed a crime or who is being prosecuted for a crime or any person who provides assistance to him to avoid investigation or detention by criminals, the judiciary or the Police, or by other persons who, according to the provisions of the law, are continuously or temporarily when assigned to carry out police positions;

any person who, after committing a crime and to cover it up, or to obstruct or complicate the investigation or prosecution, destroys, loses, hides objects against which or with which the crime was committed or other traces of the crime, or withdraws it from examinations carried out by officials of the judiciary or Police or by other people, who according to the provisions of the law are continuously or temporarily assigned to carry out police positions.

The above rules do not apply to a person who commits the said act intending to avoid or avoid the danger of prosecution against a blood relative or relative of a straight line or in a deviant line of the second or third degree or against his husband/wife or ex-husband/wife.

In practice, by conducting a study on the application of law (legal comparative), both the provisions in the Criminal Code, the provisions in the special criminal

[15] *Ibid*

[16] Muh Sutri Mansyah , La Ode Bunga Ali, *Menghilangkan Alat Bukti oleh Penyidik Tindak Pidana Korupsi Sebagai Upaya Obstruction of Justice,* EKSPOSE: Jurnal Penelitian Hukum dan Pendidikan 18 (2), 2019, 877-884 **,** thttp://jurnal.iain-bone.ac.id/index.php/ekspose

law, and court decisions, according to the authors of the application of Obstruction of justice, not only using the Criminal Code but using special criminal laws, such as in the example of the Obstruction of justice case, Ferdi Sambo et al., based on the South Jakarta Court Decision Number 805/Pid.Sus/2022/P.N. Jkt. Sel, with the defendant Chuck Putranto who committed an act in such a way, namely an act intentionally and without rights or against the law, takes any action, namely the act of replacing, taking, and handing over the electronic system in the form of 1 (one) CCTV DVR device as well as the act of destroying, destroying a Microsoft Surface Laptop containing electronic information transferred from the CCTV DVR security post at the Duren Tiga R.T. Police housing complex. 05RW. 01 Kelurahan Duren Tiga, Pancoran District, South Jakarta, which disrupts the electronic system and/or causes the electronic system not to work properly.

Based on the results of an analysis of the application of Obstruction of justice in this case, in addition to using the Criminal Code, Article 33 of Law Number 11 of 2008 was also applied as amended by Law Number 19 of 2016 concerning Information and Electronic Transactions. This can be seen in the indictment of the Public Prosecutor who applied both the I.T.E. Law and the Criminal Code, which were prepared in an alternative subsidence manner as follows: FIRST, PRIMAIR: Article 49 in conjunction with Article 33 of Law No. 19 of 2016 concerning amendments to Law No. 11 of 2008 regarding Information and Electronic Transactions jo Article 55 paragraph (1) to 1 of the Criminal Code; SUBSIDIARIES: Article 48 in conjunction with Article 32 paragraph (1) of Law No. 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions in conjunction with Article 55 paragraph (1) to 1 of the Criminal Code. or SECOND, PRIMARY: Article 233 of the Criminal Code in conjunction with Article 55 paragraph (1) to 1 of the Criminal Code. WATER SUBSIDIARY: Article 221 paragraph (1) 2nd in conjunction with Article 55 paragraph (1) 1st Criminal Code.

The formulation of Article 221, paragraph 1 number 1 explains that this article regulates actions that assist the accused of murder. Accompanied by addressing the perpetrators themselves in Article 221 paragraph 1 number 2, which aims to cover up and hinder the investigation process. be an alternative to enforcing the law against the honor of the victim as well as an obstacle to the law enforcement process. This is possibly due to the many elements of Obstruction of Justice which have not been studied further by law enforcement officials, especially when the defendants admitted that they had committed the crime of premeditated murder without intent, only following orders from their superiors, so it was rather difficult to convict the defendant as an Obstruction of Justice immediately.

Normatively, Obstruction of Justice acts on laws and regulations in Indonesia, especially in the Criminal Code and special criminal law. Someone who is proven and continues to commit Obstruction of Justice will be threatened with imprisonment for a maximum of 12 years and a maximum fine of Rp. 5 million. Furthermore, it is stated in Article 223, "Whoever deliberately destroys, damages, renders unusable, loses items used to convince or prove something before the competent authorities, deeds, letters or lists ordered by the general authority, continuously or temporarily kept, or handed over to an official, or another person for the public interest, shall be punished by a maximum imprisonment of four years.

Citing the opinion of Ellen Podgor in Shinta Agustina, who in her opinion stated the following:[17]

"For prosecutors, the crime of Obstruction of justice is an offense that is relatively easy to prove. This is in part because the statue does not require an actual obstruction. Under the omnibus clause of §1503, Obstruction of justice marely require an "endeavor" to obstruct of justice."

Based on the description above, it is clear that the crime of obstructing the legal process (Obstruction of justice), apart from the point of view of his actions which contained an error on the part of the perpetrator, must be considered as intentional, as well as this act is contrary to the laws and regulations. If the law is in force, the act can be said to be a criminal act/criminal act.

Application of the Police Code of Ethics to Obstruction of Justice Acts

Along with the rapid development of technology and changes in ethical, cultural, and behavioral values that occur in society, it influences the behavior of officials of the Indonesian National Police in carrying out their duties, responsibilities, and authorities, so it is necessary to compile a professional code of ethics and form a police code of ethics commission. The Republic of Indonesia, namely Republic of Indonesia State Police Regulation Number 7 of 2022, concerning the Professional Code of Ethics and the Indonesian National Police Code of Ethics Commission. This Perpol revokes the Regulation of the Head of the National Police of the Republic of Indonesia Number 14 of 2011 concerning the Professional Code of Ethics for the Indonesian National Police (State Gazette of the Republic of Indonesia of 2011 Number 608); and Regulation of the Head of the National Police of the Republic of Indonesia Number 19 of 2012 concerning the Organization and Work Procedures of the Indonesian National Police Code of Ethics Commission (State Gazette of the Republic of Indonesia of 2012 Number 920).

The Polri Professional Code of Ethics, abbreviated as KEPP, is a moral norm or rule, both written and unwritten, which guides the attitudes, behavior, and actions of officials of the Indonesian National Police in carrying out their duties, authorities, responsibilities, and daily life. The obligations and prohibitions that Polri members must obey include State Ethics; Institutional Ethics; Social Ethics; and Personal Ethics.

The application of Obstruction of justice to Polri members in the case of Ferdi Sambo et al. is as follows:

Article 13 paragraph 1 PP 1/2003 junto Article 5 paragraph 1 letter B Perpol 7/2022.

It reads: Members of the Indonesian National Police can be dishonorably discharged from Polri service for violating the oath or promise of a member of the Police, oath or promise of office, and or the Polri code of ethics junction every Polri official in institutional ethics is obliged to maintain and enhance the image, solidity, credibility, reputation, and honor.

Article 13 paragraph 1 PP 1/2003 juncto Article 8 letter C Perpol 7/2022

Reads: Members of the Indonesian National Police can be dishonorably discharged from the Police service for violating the oath or promise of a member

[17] Shinta Agustina Dkk, *Obstruction Of Justice : Tindak Pidana Menghalangi Proses Hukum Dalam Upaya Pemberantasan Korupsi* (Themis Book 2015).[31].

of the Police, oath or promise of office, and or the Polri code of ethics juncto every Oolri official in personality ethics must be honest, responsible, disciplined, fair, caring, firm, and humanist.

Article 13 paragraph 1 PP 1/2003 juncto Article 8 letter C number 1 Perpol 7/2002
It reads: Members of the Indonesian National Police can be dishonorably discharged from the Police service for violating the oath or pledge of a member of the Police, oath or promise of office, and or the Polri code of ethics juncto every Polri official in personal ethics is obliged to obey and respect legal norms.

Article 13 paragraph 1 PP 1/2003 juncto Article 10 paragraph 1 letter F Perpol 7/2022
It reads: Members of the Indonesian National Police can be dishonorably discharged from Polri service for violating the oath or pledge of a member of the Police, oath or promise of office, and/or the Polri code of ethics juncto every Polri official in institutional ethics is prohibited from committing agreements on violations of kepp, or discipline or criminal acts.

Article 13 paragraph 1 PP 1/2003 juncto Article 11 paragraph 1 letter A Perpol 7/2022
It reads: Members of the Indonesian National Police can be dishonorably discharged from the National Police service for violating the oath or pledge of a member of the Police, oath or promise of office, and or the Polri code of ethics junction every National Police official as superior is prohibited from giving orders that are contrary to legal norms, religion, and decency.

Article 13 paragraph 1 PP 1/2003 juncto Article 11 paragraph 1 letter B Perpol 7/2022 Sounds: Members of the Indonesian National Police can be dishonorably discharged from Polri service for violating the oath or promise of a member of the Police, oath or promise of office, and or the Polri code of ethics juncto any I.N.P. official with the position of superior is prohibited from using his authority irresponsibly.

Article 13 paragraph 1 PP 1/2003 juncto Article 13 letter M Perpol 7/2022
It reads: Members of the Indonesian National Police can be dishonorably discharged from Polri service for violating the oath or pledge of a member of the Police, oath or promise of office, and/or the Polri code of ethics juncto every Polri official, in personal ethics it is prohibited to commit acts of violence, behave violently and inappropriately.

In the case example above, often, members of the Police who have subordinate positions follow all orders from higher positions without knowing the impact of these orders, good or bad. This contradicts the obligations stated in Article 6 paragraph (2) part b of Perpol Number 7 of 2022, which explains that: "Every Police Officer who is a subordinate is obliged to: b. reject orders from superiors that are contrary to legal norms, religious norms, and moral norms; The sanctions are regulated in Article 107 that Police Officers who commit KEPP Violations are subject to sanctions in the form of a. ethical sanction; and/or b. administrative sanctions.

Ethical sanctions imposed on offenders who commit light category violations include: a. Violator's behavior is declared as a disgraceful act; b. the obligation of the violator to apologize orally before the KKEP Session and in writing to the leadership of the National Police and the aggrieved party; and c. Violators are obliged to attend spiritual, mental, and professional training for 1 (one) month.

Meanwhile, administrative sanctions can be imposed on suspected violators who commit moderate and severe violations, including: a. Demotional Mutations for a minimum of 1 (one) year; b. postponement of promotion for a minimum of 1 (one) year and a maximum of 3 (three years); c. postponement of education for a minimum of 1 (one) year and a maximum of 3 (three years); d. placement in a Special Place by 30 (thirty) working days; and e. PTDH (Dismissal with respect). The imposition of ethical and administrative sanctions is cumulative and/or alternative by the assessment and considerations of the KKEP Session, and the imposition of KEPP sanctions does not eliminate criminal and/or civil charges. Concerning Obstruction of Justice, Polri members need to separate orders from positions above them so they are not involved in Obstruction of Justice cases.

Philosophical Basis for Obstruction of Justice Criminal Reform in the Future
Efforts to reform criminal law in Indonesia must be based on the national goals to be achieved by the Indonesian nation as an independent and sovereign country. The current Criminal Code is a legal product of the Dutch East Indies Colonial government, which needs to be adjusted. The fourth paragraph of the Preamble of the 1945 Constitution of the Republic of Indonesia must be used as a benchmark for implementing these reforms. In other words, criminal law reform must be a means to protect the entire Indonesian nation and all of Indonesia's bloodshed, promote public welfare, educate the nation's life, and participate in carrying out world order based on freedom, eternal peace, and social justice. National criminal law material must be adapted to legal politics, conditions, and the development of the life of the nation and state, which aims to respect and uphold human rights and create a balance based on religious and moral values of Belief in One Almighty God, humanity, nationality, democracy and social justice for all people of Indonesia.[18]
Renewal of Obstruction of Justice punishment in the future cannot be separated from the reform of criminal law in general. There are at least two goals to be achieved by criminal and criminal law, namely inward and outward goals. The internal objective is to reform criminal law to protect society and the Indonesian people's welfare. These two goals are the cornerstones of criminal law.[19] and criminal law reform. While the goal of leaving is to participate in creating world order in connection with the development of international crimes[20]. Community protection (social defense) with law enforcement in crime and criminal renewal carried out with the aim of: [21]
Public protection from anti-social acts that harm and endanger the community, the purpose of punishment is to prevent and overcome crime.
the protection of society from the dangerous nature of a person, then punishment in criminal law aims to improve the perpetrators of crimes or try to change and

[18] Widodo Ekatjahjana , dkk, *Op.Cit.* hlm. 162
[19] Dalam Barda Nawawi Arief, Op.cit hlm. 45.
[20] Kittichaisaree, International Criminal Law, Oxford University Press, 2001, hlm. 3. "International crime is such act universally recognized as criminal, which is considered a grave matter of international concern and for some valid reason cannot be left within the exclusive jurisdiction of the state that would have control over it under ordinary circumstances).
[21] Barda Nawawi Arief, *Beberapa Aspek Kebijakan Penegakan dan Pengembangan Hukum Pidana*, Bandung: Penerbit PT. Citra Aditya Bakti, 1998, hlm. 45-46.

influence their behavior so that they return to obey the law and become good and useful members of society.

Public protection from misuse of sanctions or reactions from law enforcers as well as from members of the public in general, then the purpose of the crime is formulated to prevent arbitrary treatment or action outside the law.

Criminal law enforcement must be able to resolve conflicts caused by criminal acts, restore balance, and bring about a sense of peace in society. To protect society from disturbances in the balance or harmony of various interests and values due to crime[22]

The murder case of Brigadier Nofrianysah Yosua Hutabarat, which was carried out by Bharada Richard Elizer on orders from Inspector General of Police Ferdy Sambo, apart from being a case that violated the criminal law, was also a violation of the Police's professional code of ethics because the perpetrators were members of the Police for allegedly obstructing the investigation process. Therefore, it is necessary to strengthen the rules of Obstruction of justice in the Reform of the Criminal Code and the Police Professional Code of Ethics.

The author agrees with the Executive Director of the Institute for Criminal Justice Reform (ICJR), Erasmus Napitupulu, who stated that the case of Brigadier J's death was part of a trial using Article 221 of the Criminal Code concerning Obstruction of justice against perpetrators who came from law enforcement officials. Law reforms for Obstruction of justice are contained in Chapter VI of Crimes Against the Judicial Process of Law Number 1 of 2023 concerning the Criminal Code, which is contained in Articles 278 to 299. The Crime against the Judicial Process is divided into 4 (four) parts, namely:

Misleading the Judicial Process;

Included in the Misleading of the Judicial Process are criminal acts: falsifying, fabricating, or submitting false evidence to be used in the judicial process; directing witnesses to provide false testimony in court hearings; changing, damaging, hiding, eliminating, or destroying evidence; change, damage, hide, lose, or destroy goods, tools, or facilities used to commit a crime or become the object of a crime, or results that can become physical evidence of the commission of a crime, or withdraw it from an inspection carried out by an authorized official after the crime has been committed Criminal happened; or present themselves as if they are the perpetrators of a crime so that the person concerned undergoes a criminal justice process.

b. Disturbing and Obstructing the Judicial Process;

Included in the crime of disturbing and obstructing the judicial process are:

Any person who makes noise near the courtroom during a trial and does not leave after being ordered up to 3 (three) times by or on behalf of an authorized officer shall be punished with a maximum fine of category I.

Any person who makes noise during a court session and does not leave after being ordered up to 3 (three) times by or on behalf of a judge shall be punished with imprisonment for a maximum of 6 (six) months or a maximum fine of category II.

disobeying a court order issued for the benefit of the judicial process;

[22] Van Dijk, Jan J.M., *Introducing Victimology, the 9th International Symposium Of The World Society Of (Victimology,* Amsterdam, 1997).

being disrespectful towards law enforcement officials, court officials, or court even though the judge has warned them;
attacking the integrity of law enforcement officers, court officials, or court proceedings; or
without the permission of the court to publish the proceedings in person.
obstruct, intimidate, or influence officials who carry out investigations, prosecutions, examinations at court hearings, or court decisions with the intention of coercing or persuading them to carry out or not carry out their duties;
hide the person who committed the crime or the person who was prosecuted or sentenced; or
assist people who commit criminal acts to escape from investigation, prosecution, or implementation of criminal decisions by authorized officials.
prevent, obstruct, or thwart the examination of the corpse for the benefit of justice;
unlawfully does not appear when summoned as a witness, expert, or interpreter or does not fulfill an obligation that must be fulfilled under the provisions of laws and regulations;
has been declared bankrupt or declared incapable of paying debts, or is the wife or husband of a bankrupt person in a marriage with a Wealth Association, or as administrator or commissioner of a civil partnership, association, or foundation that has been declared bankrupt, who is absent after being legally summoned based on statutory regulations to provide information, or refuses to provide the requested information, or provides incorrect information;
does not comply with the order of the authorized official in the judicial process to submit a Letter that is deemed to be fake or falsified or which must be used to be compared with another Letter that is suspected of being forged or falsified or whose veracity is denied or not acknowledged;
without a valid reason does not appear before or in permitted cases does not ask for his representative to appear if summoned before the court to be heard as blood relatives or relatives, husband or wife, guardian or supervising guardian, guardian or supervisor in the case of a person who will be placed or has already been placed under guardianship or in the case of a person who will be admitted or has already been admitted to a mental hospital;
withdrawing the confiscated goods based on statutory regulations or which are deposited by order of a court or hiding the goods, even though it is known that the goods are in the confiscation or are in safekeeping; or
destroys, destroys, or renders unusable an item that is confiscated under the provisions of laws and regulations.
unlawfully selling, renting, owning, pawning, or using confiscated objects not for the benefit of the judicial process;
Every one who, based on the provisions of laws and regulations, must give a statement under oath, or the statement gives rise to legal consequences, gives a false statement under oath, either orally or in writing, which is carried out alone or by a specially appointed attorney who is given in examining cases in the judicial process; and
state the identity of the complainant, witness, or victim or other things that make it possible for the identity to be known even though the identity has been notified to him and must be kept confidential;

c. Destruction of Buildings, Courtrooms, and Equipment for Court Sessions; and Criminal Acts of Damaging Buildings, Courtrooms, and Equipment for Court Sessions, namely any person who damages the courthouse, courtrooms, or courtroom equipment which causes the judge to be unable to hold court hearings.
d. Protection of Witnesses and Victims;
Crimes in the Protection of Witnesses and Victims are:
Committing direct violence against witnesses when giving their statements; or law enforcement officials or court officials who are carrying out their duties which result in witnesses not being able to give their statements;
use violence, threats of violence, or other methods against witnesses and/or victims so that they are unable to give their statements in the judicial process;
influencing authorized Officials resulting in witnesses and/or Victims not receiving protection under statutory provisions so that witnesses and/or Victims cannot give their statements in the judicial process;
Every person who obstructs witnesses and/or Victims resulting in not obtaining protection or rights;
Every one who causes witnesses, victims, and/or their families to lose their jobs because witnesses and/or victims give true testimony in court proceedings;
Every official who does not fulfill the rights of witnesses and/or victims even though witnesses and/or victims have given true testimony in the judicial process; and
Everyone who unlawfully notifies the whereabouts of witnesses and/or victims who are being protected in a temporary or new residence.

CONCLUSION

Forms of action that can be categorized as Obstruction of Justice can manifest in the form of removing, destroying, or damaging evidence so that it cannot be used or other actions that result in delays in proving a criminal case. Meanwhile, Polri members who commit Obstruction of Justice can be subject to Article 221 of the Criminal Code and Article 223 of the Criminal Code, ethical and administrative sanctions, which apply internally to members of the Police, namely the Republic of Indonesia National Police Regulation Number 7 of 2022 concerning the Code of Professional Ethics and Indonesian National Police Code of Ethics Commission. The imposition of ethical and administrative sanctions is cumulative and/or alternative under the assessment and considerations of the KKEP Session, and the imposition of KEPP sanctions does not eliminate criminal charges.

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