

RECONSTRUCTION OF CRIMINAL OFFENDER ARREST BY INVESTIGATORS BASED ON JUSTICE VALUES

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ABSTRACT

This research aims to find out the weaknesses of the criminal offender arrest not based on justice values and reconstruct the arrest as regulated in the Criminal Procedure Code (KUHAP) based on justice values. This type of research used in this dissertation is the doctrinal legal research method with the sociolegal research approach, an alternative approach that tests doctrinal studies of law. The data were analyzed qualitatively. It was found that the weakness of the criminal offender arrest is that it has not been based on the values of justice in both judicial and technical aspects experienced by the investigators. The main reconstruction is a form of legal protection that can be obtained fairly by the parties. This is where the researcher emphasizes the existence of the grounds used as a reason for the reconstruction of the arrest of the criminal offenders by the investigators based on justice values by reconstructing the provisions of Article 17 of KUHAP, Article 19 paragraph (1) of KUHAP, Article 54 of KUHAP, and Article 56 paragraph (1) of KUHAP.

Key words: Reconstruction, Arrest, Crime, Justice.

INTRODUCTION

The act and authority granted to investigators by law to limit one's freedom and human rights from the process of arrest, detention, confiscation and search is an act that really must be placed in proportion to the interests of the investigation and is absolutely necessary to meet the objective of the law.

Article 1 point 20 of the Criminal Procedure Code (KUHAP) reads:

Arrest is an act of investigation in the form of a temporary restraint of the freedom of the suspect or the defendant if there is sufficient evidence of the interests of the investigation or prosecution and/or justice in the case and according to the method stipulated in this law.

From the provisions of Article 1 point 20 of the Criminal Procedure Code, the arrest means nothing but a "temporary restraint" of the suspect's freedom for the purposes of investigation or prosecution. However, it must be carried out according to the Criminal Procedure Code.¹ If the procedure for arrest of a suspect is not carried out in accordance with the provisions stipulated in the Criminal Procedure Code, then there has been a deviation of law which results in the violation of the dignity of the person being arrested or the violation of his/her human rights. Meanwhile, in Indonesia, human rights are always upheld and valued by the public as well as the government. The Criminal Procedure Code regulates the rights of the suspect which are recognized and elaborated in its articles, but the arrest procedure of the suspect is often not in accordance with what has been determined because in general the suspect does not know the actual arrest procedure. Thus, the suspect simply obeys what is ordered by the investigator, the assistant investigator and the investigator even though it has clearly violated his/her human rights. If this happens, the suspect is entitled to request a pretrial to determine whether his/her arrest is legitimate. Therefore, in the investigation of the suspect, the investigative apparatus must apply the Presumption of Innocent Principle contained in Article 8 of the Basic Law of Judicial Power (UUPKK) No. 48 of 2009 amendment to Law No. 4 of 2004. Therefore, before the court decision stating the guilt of a suspect and obtaining permanent legal force, the suspect must be deemed not guilty. The investigators, assistant investigators and investigators do this because there are several obstacles commonly encountered in the practice, both technically and juridically; for example, the arrest deadline is too short, only one day according to Article 19 of the Criminal Procedure Code.

Based on the above research description, the researcher is interested to study in depth the obstacles in the arrest of the criminal offender not based on justice values and the reconstruction of the arrest regulated in the Criminal Procedure Code based on justice values.

RESEARCH METHOD

The research method used in the writing of this article is the doctrinal legal research method, a method of legal research carried out by examining legislative materials, library materials or secondary data. In this dissertation, the research is analytical descriptive by collecting the data that illustrate or present the facts and data as well as the analysis of research results to get a picture in order to support legal arguments in a systematic and structured manner based on normative jurisdiction, namely the research analysis based on the provisions of the law and regulations that also refer to facts.

¹ Yahya Harahap, *Pembahasan Permasalahan Dan Penerapan KUHAP*, (Jakarta: Penerbit Sinar Grafika, 2000), p. 153

RESULTS AND DISCUSSION

Weaknesses Encountered by Investigators in the Arrest of Suspects According to the Criminal Procedure Code Against Criminal Offenders

Basically, the law is forcing so that people can implement the law to themselves personally and when interacting in the community to provide a legal protection that protects individuals with individuals in the technical correlation. There are sanctions in the rules of law intended for the community so as not to violate the law. The Republic of Indonesia is a state of law based on Pancasila and the 1945 Constitution as stated in Article 27 number (1) of the 1945 Constitution which reads: **“All citizens are at the same position in law and government and are obliged to uphold the law and government with no exception.”** According to Sri Soemantri, a state of law must meet several elements, namely:

1. *In carrying out its duties and obligations, the government must be based on laws or regulations;*
2. *There is a guarantee for human rights (citizens);*
3. *There is distribution of power within the state; and*
4. *There is a supervision of judicial bodies.²*

In connection with this statement, specifically regarding points 1 and 2, basically point 1 focuses on the substance of the government, especially Polri (Indonesian National Police) institution that must accommodate its tasks on the basis of the authority of the law in force in the jurisdiction of the country. Point 2, the guarantee for human rights, can be interpreted that in every constitution there is always found a guarantee of human rights.

The arrest by an investigator is a special form of authority granted by law. However, that does not mean it can be done arbitrarily. The arrest is an essential legal process. Therefore, it must be carried out thoroughly, carefully and accurately by the Investigator.³ The arrest in question must be in accordance with the procedures specified in Law No. 8 of 1981 (KUHAP) in Chapter V Part One of Articles 16 to 19. An arrest can be considered as a form of reduction of one's human rights. Therefore, the act of arrest must really be placed in proportion only in the interest of the law and if only absolutely necessary. The reasons for arrest or the term of arrest implied in Article 17 of the Criminal Procedure Code are:

1. The suspect is alleged of having committed a crime.
2. This strong allegation is based on sufficient preliminary evidence.

The article shows that an arrest warrant cannot be carried out arbitrarily but is aimed at those who have actually committed a crime.⁴ Errors in the process of arrest have considerable consequences because if these errors are not immediately corrected, these mistakes can continue at later stages. Police investigators who try to obtain information often use inhumane ways such as torturing the suspect, even forcing him/her to admit that he/she has committed a crime. Indonesian National Police has the responsibility of law enforcers based on the provisions of the regulations concerning the Police, namely Law Number 2 of 2002 concerning the Indonesian National Police.⁵ This is in accordance with Article 4 of Law No. 2 of 2002 concerning the Indonesian National Police which reads: **“Indonesian National Police aims to realize domestic security which includes maintaining the security and order of the people, the order and upholding of the law, carrying out protection, aegis and service to the community, and maintaining the peace of society by upholding human rights.”**

According to Article 6 paragraph (2) of the Criminal Code (KUHP), the requirements for the rank of official of the Indonesia National Police authorized to investigate will be further regulated by Government Regulation. The authority of the investigator is regulated in Article 7 of the Criminal Procedure Code:

- a. Receiving reports or complaints from someone about a crime.
- b. Performing the first action at the crime scene.
- c. Ordering a suspect to stop and checking his identity.
- d. Making arrests, detention, search and confiscation.
- e. Conducting investigation and seizure of letters.
- f. Taking fingerprints and taking pictures of someone.
- g. Calling someone to be heard and examined as a suspect or witness.
- h. Bringing in experts needed in relation to the case investigation.
- i. Putting an end to the investigation and carrying out other actions according to responsible law.

Law enforcement can be carried out maximally using criminal law facilities or penal efforts organized by law enforcement officials such as the police, prosecutors, judiciary (court) and correctional institutions and can also be carried out using facilities outside of the criminal law in its independence with non-legal factors called using non-penal efforts that can be carried out by parties outside the criminal law enforcement officials. As a consequence of this functional view, as stated by G. Peter Hoegnagels,⁶ the enforcement of criminal law can be dogmatic juridical, that is, with penal efforts or functional means, namely

² Sri Soemantri, *Bunga Rampai Hukum Tata Negara Indonesia*, (Bandung: Alumni, 1992), p. 29

³ Andi Hamzah, *Hukum Acara Pidana*, (Jakarta: Sinar Grafika, 2010), p. 128

⁴ M. Yahya Harahap, *Pembahasan dan Pembahasan Permasalahan KUHAP*, Second Edition, (Jakarta: Sinar Grafika, 2014), p. 158

⁵ M. Sofyan Lubis, *Prinsip Miranda Rule: Hak Tersangka Sebelum Pemeriksaan*, (Jakarta: Pustaka Yustitia, 2010), p. 66

⁶ G. Peter Hoegnagels, *The Other Site of Criminology*, (Holland: Kluewer Deveter, 1969), p. 56

non-penal. In line with that, according to Barda Nawawi Arief⁷, the eradication of criminal acts must be done through law enforcement related to legal reform, not only law reform or legal substance reform but also legal structure and legal culture reforms, including legal ethics and legal science/education reform.

In connection with the above theory, in order to synchronize the implementation of law enforcement functions in the criminal justice system, the embodiment of the Pancasila values in law enforcers must be imbued with law enforcement⁸. The values of Pancasila in law enforcement are translated as follows:⁹

1. Law enforcement is based on ethical, moral and spiritual values that provide a firm commitment to the depth of our legal duties. Thus, law enforcement is more than just establishing formal truths, but it is also aimed at finding material truths that are expected to be able to approach true truths;
2. law enforcement is based on and, at the same time, aimed at increasing human value and dignity;
3. law enforcement is based on and, at the same time, aimed at strengthening unity and integrity;
4. law enforcement is based on and aimed at helping to realize the values of popular sovereignty. Thus, law enforcement also plays a role in developing the dimension of legal awareness of citizens;
5. law enforcement is aimed at realizing legal certainty with core justice.

Juridical Weakness, the implementation of Article 19 of the Criminal Procedure Code regarding the deadline for arrests which is only one day in practice is still difficult for investigators to carry out especially if there are more than one suspect of committing a crime like in a demonstration. Furthermore, the implementation of Articles 54 and 56 paragraph 9 (1) of the Criminal Procedure Code, investigators in practice state the implementation of Article 54 of the Criminal Procedure Code concerning the rights of suspects. Article 54 of the Criminal Procedure Code reads: In the interests of defense, a suspect or defendant is entitled to obtain legal assistance from one or more legal advisors at any time and at any level of investigation according to the procedures specified in this law. Based on this provision, according to investigators, to get and contact a legal advisor, a suspect or defendant must go through a procedure that will take more than one day. Meanwhile, the deadline for arrest is only one day according to the Criminal Procedure Code. In this case, if the provision of Article 56 paragraph (1) of the Criminal Procedure Code is reviewed, it reads: In the event that a suspect or defendant commits a crime under penalty of 15 (fifteen) years or more who does not have his/her own legal advisor, the relevant official (investigator) at all levels of investigations in the judicial process appoints a legal advisor for him/her. From the description of Article 56 paragraph (1) of the Criminal Procedure Code, the word 'mandatory' may be an obligation that must not be carried out. Then, relating to the implementation of Article 17 in conjunction with Article 1 point 14 of the Criminal Procedure Code, according to investigators, sufficient preliminary evidence is in accordance with Article 17 of the Criminal Procedure Code if connected with the provisions of Article 1 point 14 of the Criminal Procedure Code. This provision will provide a clear understanding of sufficient preliminary evidence because it is in accordance with what is determined in Article 17 of the Criminal Procedure Code, which is only a repetition of the provision of Article 1 of the Criminal Procedure Code.

Technical Weakness, according to the investigators, people are usually afraid and unwilling to provide information or witness. In addition, the investigators also experience difficulties when the suspect is in a remote area that is difficult to reach with inadequate or incomplete facilities and infrastructure (communication and transportation). Meanwhile, the domicile of the investigators is far from the place of the suspect that takes a long time (a week, a month, even a year) to reach like in a remote area that only can be reached with canoe transportation or a small number of small boats.

Legal Reconstruction of the Suspect Arrest Regulated in the Criminal Procedure Code Against Criminal Offenders Based on Justice Values

Criminal procedure law is the law that regulates how law enforcers and the public proceed in court before a criminal court.¹⁰ In connection with the enforcement, the role of law enforcement officials is essential because criminal procedure law legalizes any actions of law enforcement officials against people suspected of committing a crime by depriving their independence. The deprivation is legalized once again. Therefore, the legality must be realized in a clear regulation to minimize acts of deprivation of independence outside the regulation. The Criminal Procedure Code (KUHAP) is a law that legalizes the actions of law enforcement officials. Therefore, it can be used as a guide to carry out every action of the law enforcement official who actually deprives human independence. Acts which are deprivation of independence include the arrest and detention of someone suspected of committing a crime.

The arrest in the context of human rights must be linked to the protection of the state towards the person arrested both in theory and in practice. Law enforcement officials are required to fulfill the applicable provisions so as not to violate human rights, related to both the procedures and the rights of the person arrested and his/her family. Protection of human rights has always been fought for from the past to the present. The last recognized human rights are contained in the Universal Declaration of Human Right of the United Nations (1948) described as follows: Everyone has the right to life, independence and security of his/her body, to be recognized personally by law, to get the same treatment as other people according to the law, to obtain legal guarantees in criminal cases, as examined publicly, considered innocent unless there is evidence that legal, the right to enter and

⁷ Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Penanggulangan Kejahatan*, (Bandung: PT. Citra Aditya Bakti, 2009), p. 131

⁸ Barda Nawawi Arief, 2009, *Op. Cit.*, p. 3

⁹ Silaban, & Rauf Murni, *Sinkronisasi Pelaksanaan Fungsi Penegakan Hukum Dalam Mewujudkan Integrated Criminal Justice System*, Article presented in Law Discussion about *Integrated Criminal Justice System* in UGM Yogyakarta, 1990

¹⁰ Andi Hamzah, *Hukum Acara Pidana Indonesia*, Fourth Printing, Revised Edition, (Jakarta: Sinar Grafika, 2004), p. 8

exit the territory of a country, the right to obtain nationality, the right to obtain ownership of difference, the right to be free and express thoughts and feelings, the right to be free to embrace religion and to have and express opinions, the right to assembly, the right to obtain social security, etc. In this regard, Andi Hamzah states¹¹ that all of them can be found in the Criminal Procedure Code. Furthermore, R. Subekti explains: *The state of law of the Republic of Indonesia, the appreciation and implementation of human rights as well as the rights and obligations of citizens to uphold justice must not be abandoned by every citizen, every state organizer, and state institution, both central and regional, in the presence of criminal procedural law.* Furthermore, according to Subekti¹², human rights to be guaranteed by the Criminal Procedure Code are especially: The right to freedom or independence, the right to honor and prestige and the right to privacy. This fact is very different when still using HIR where guarantees for the protection of the rights of the suspect and defendant are inadequate. Torture and violence often occur in the investigation system. In connection with the purpose of establishing the Criminal Procedure Code, there are several principles highly related to human rights. Some are even the same as the Declaration of Human Right. Universal Statement on Human Rights UDHR) is a suggested statement adopted by the General Assembly of the United Nations (A/RES/217, December 10, 1948 at the Palais de Chaillot, Paris). This statement consists of 30 articles which outline the views of the UN General Assembly on guaranteeing human rights to all people.

Principles relating to the protection of human rights can be found in the Criminal Procedure Code and Law No. 48 of 2009 concerning Judiciary, including the principle of speedy justice. This principle underlies every judicial process in Indonesia. Basically, this principle is not specific to criminal justice only, but to all levels of justice. It is applied as a basic principle of the administration of justice processes. Speedy means that the court can be used as an institution that can bring justice quickly to justice seekers. Simple means that all case handling processes are carried out as efficiently and effectively as possible and Low Cost means that the costs incurred during the process of settling a case in court are affordable by the community. In the Criminal Procedure Code, the provisions regarding the presumption of innocence or any person is considered innocent until there is a permanent judge's decision that he/she is guilty. There are many speedy justice principles as the general explanation of Criminal Procedure Code item 3e states that: Courts must be conducted quickly, simply and at a low cost and free, honestly and impartially. They must be applied consistently in all levels of the judicial processes.

The Criminal Procedure Code has brought various changes including the rights of suspects (Article 50 to Article 68) and the existence of a "Pretrial" institution that assigns judges the task of supervising several forced enforcement efforts, such as arrest, detention and cessation of prosecution and investigation. Articles 191 and 197 of the Criminal Procedure Code which state that both a guilty verdict and an acquittal must be based on facts, circumstances and evidences obtained in the examination of the hearing so that the decision of the Supreme Court highly upholds Human Rights. The rights of the suspect and defendant can be seen more clearly below.

In Law Number 39 of 1999 concerning Human Rights, it is stated that human rights are a set of rights inherent in their nature and human existence as God's creatures and are gifts that must be respected, upheld and protected by the state, law, government, and everyone for the sake of honor and protection of human dignity. Sutherland in Kunarto argue that violence and the police cannot (difficult) be separated because violence is a functional part of the police in fighting crimes, so it is indeed impossible to do without violence. Based on this opinion, violence is a necessity for the implementation of protection to the community, but to avoid such protection measures, it is used as a tool or justification for the police force against violence. Thus, it is necessary to have a clear boundary.¹³ With this clear boundary, the police do not need to hesitate in carrying out their duties as law enforcement officials or as a provider of security and public order. This is in line with the duties of the Indonesian National Police as a tool for the state of law enforcement, as a protector to protect the community and its property and to provide services to the community, and as a public guide for the creation of conditions that uphold business conduct both as a tool for the state of law enforcement and as a public guide.¹⁴

Human rights basically regulate the relations between individuals and the state. This means that the state has guaranteed and protected individuals from all rights inherent in themselves as human beings who have value and dignity that cannot be taken away by anyone including the state. Human rights have been agreed as an international law that can be a strong standard and guideline for the state in treating individuals within its jurisdiction. In other words, human rights provide moral and legal guarantees for individuals to exercise control and push for rules in the practices of state power over individuals, ensure individual freedom in relations with the state, and ask the state to meet the basic needs of individuals in their jurisdiction. In this case, the state has a duty and obligation to respect, protect and fulfill the human rights and rights of individuals who live in their jurisdiction as rights holders.

There are some important things to consider in arrests. **First**, officials granted the authority to make arrests. The Criminal Procedure Code only gives investigators the authority to make arrests. However, for the sake of investigation, the investigator may order the inquirers to make an arrest (Article 16 paragraph (1) of the Criminal Procedure Code. Thus, the authority of the inquirer to make an arrest is only at the stage of the investigation and that is on the order of the investigator. If there is no order from the investigator, the inquirer is not authorized to make an arrest. **Second**, the reason for arrest. Based on the above definition, arrest is permissible if 'there is indeed sufficient evidence'. With reference to Article 17 of the Criminal Procedure Code, this phrase is interpreted as 'someone who is strongly suspected of committing a crime based on sufficient preliminary evidence'. It is not clear what is meant by sufficient preliminary evidence, so that in practice it is on the hand of the investigator.

¹¹ Andi Hamzah, *Asas-Asas Hukum Pidana*, (Jakarta: Rineka Cipta, 1991), p. 13

¹² R. Subekti, *Perlindungan Hak Asasi Manusia dalam KUHP*, Jakarta: Pradnya Paramita, 1994, p. 4

¹³ Kunarto, *Merenungi Kritik Terhadap Polri*, (Jakarta: Cipta Manunggal, 1997), p. 129

¹⁴ F. Isnawan, *Kompilasi Hukum*, (Yogyakarta: Penerbit Andi, 1995), p. 32

Therefore, there needs to be a strict definition of sufficient preliminary evidence; for example, an arrest may only be carried out by an investigator or an inquirer on the order of an investigator if it is based on a minimum of two valid evidences as provided for in Article 184 of the Criminal Procedure Code. Valid evidence includes 1) witness statement, 2) expert statement, 3) letter, 4) instructions, and 5) defendant statement. In addition to minimizing the use of the subjectivity of investigators or inquirers in making arrests, it is also to make arrests by the investigators pay attention and respect the human rights of the suspect/defendant. **Third**, procedures for arrest. The investigator or inquirer who makes the arrest shows the assignment letter, gives the suspect an arrest warrant which lists his/her identity and mentions the reason for the arrest as well as a brief description of the alleged crime case and where he/she is investigated. If one is caught red handed, an arrest warrant is not required. However, the arrester must immediately surrender the caught along with the available evidence to the nearest investigator or assistant investigator (Article 18). Arrests are not held against suspects who commit violations except in the case where they have been legally called twice in a row, but don't fulfill the call without a valid reason.¹⁵ **Fourth**, the arrest period. Article 17 of the Criminal Procedure Code states that an arrest can be carried out for a maximum of one day. This means that an investigator or inquirer can arrest a person for less than 24 hours, but it must not exceed 24 hours. Arrests carried out for more than 24 hours must be declared null and void by law and violate human rights.

Human Rights Perspective on Arrest and Detention. To assess that the arrest and detention by investigators or other law enforcement officials are in accordance with or contrary to the principles of human rights, the parameters used are the three principles of law enforcement and human rights above. **First, principle of legality.** The arrest and detention of a suspect or defendant is legal and does not violate human rights if only carried out by an authorized official. Although the crime actor is a recidivist and the crime he/she has committed is serious such as terrorism, genocide and humanity crime, the arrest must still be made by the officials who have the authority to do so, namely investigators or inquirers on the order of the investigator. Detention is carried out either by investigators, public prosecutors or judges. When the official who makes the arrest or detention does not have the authority to do so, the state has violated the right to individual freedom and independence of citizens. **Second, principle of necessity.** It must be recognized that this principle is rarely used by law enforcement officials to assess whether their actions are in accordance with human right principles. Even at the police level, this principle is only limited in scope to the use of firearms. In the arrest and detention, this principle is rarely used as a basis by law enforcers so that the actions taken take into account and comply with human right principles.¹⁶ **Third, principle of proportionality.** The essence of this principle is a balance of restrictions on the freedom or independence of the suspect or defendant with the objectives to be achieved from the arrest and detention, namely collecting evidence and facilitating the process of judicial review. If evidence can be obtained without having to arrest a suspect or defendant, investigators, public prosecutors or judges may not make an arrest or detention. If a defendant, with or without any guarantees from his/her family or other parties, is ready to attend the examination at the level of investigation, prosecution, or examination at a court hearing, he/she may not be detained. Detention carried out has implications for the limitation of the right to physical and psychological independence and is not directly proportional to the main purpose of detention.¹⁷ **Fourth, procedures for arrest and detention.** In the perspective of human rights, this procedure is related to officers who are given the authority to make arrests and detention to pay attention to the traditions and cultural values of a country. Since the most important essence of human rights is respect for human dignity and humanity, arrest and detention must be able to reflect that. Even though the officials, based on the principle of legality, are given the authority to arrest or detain a person in accordance with applicable laws, traditions and values, they must consider ethical values and morality. They must be polite and not demeaning someone even if he is a suspect or defendant. The way to arrest and detain a person must also refer to the ethical and moral principles adopted by a country.¹⁸

According to **Shore and Voich** cited by **Kaelan**, Pancasila is the philosophical basis of the Republic of Indonesia and the way of life of the Indonesian nation because it is a philosophical system that is a unity of interrelated parts, working together for a certain purpose and as a whole is a unity with the following characteristics:¹⁹

1. A unity of parts;
2. These parts have their own functions;
3. Interconnected and interdependent;
4. The whole is intended to achieve a certain goal (system goal);
5. It occurs in a complex environment.

In the **Universal Declaration of Human Rights (UDHR)** Article 9, it says, "Nobody must be arrested, detained or disposed arbitrarily." This proves that there must remain human rights protection for the criminal offenders, not least in the case of arrests made by law enforcement officials in the context of carrying out and enforcing the law for the criminal offenders. **Universal Declaration of Human Rights** of December 10, 1948, detailed human rights as follows:²⁰ "That every person has the right to life, independence and security of his/her body, to be recognized personally according to law, to get legal guarantees in criminal cases, such as being publicly examined, considered innocent unless there is legal evidence, to enter and leave a country's territory, the right to get asylum, the right to get a nationality, the right to get ownership of objects, the right to be free in expressing thoughts and feelings, the right to be free to embrace religion and have the right to express opinions, the right to

¹⁵ Mansour Fakhri, *et al.*, *Menegakkan Keadilan dan Kemanusiaan: Pegangan Untuk Membangun Gerakan HAM*, (Yogyakarta: Insis Press, 2003), p. 86

¹⁶ *Ibid*, p. 221

¹⁷ *Ibid*, p. 16

¹⁸ *Ibid*

¹⁹ Kaelan, *Pendidikan Pancasila*, (Yogyakarta: Paradigma, 1996), p. 58

²⁰ Erni Widhayanti, *Hak-Hak Tersangka / Terdakwa Di Dalam KUHAP*. (Yogyakarta: Liberty, 1988), p. 27

assembly, the right to get social security, the right to work, the right to trade, the right to education, the right to participate in cultural movements in society, the right to enjoy art and to participate in scientific progress.” Through Presidential Decree No. 50 of 2006 dated May 9, 2006, a National Police Commission (Kompolnas) was formed. Kompolnas is part of the mandate of Law No. 2 of 2002 aimed at controlling the performance of the Indonesian National Police in accordance with its capacity as a servant, patron, and protector of the community. The presence of this commission is expected to answer the problem of public disappointment with the low performance, deviant behavior, and abuse of authority by the police. So far, public do not know who has the authority to overcome it. The policy of developing/improving the quality of justice is certainly related to various aspects that affect the quality of justice/law enforcement. These various elements can include individual quality (HR), institutional/institutional quality, quality of work/management mechanisms, quality of facilities and infrastructure, quality of sustainability law/legislation, and environmental quality (social, economic, political, cultural conditions including the legal culture of the community). The reconstruction effort is mainly a form of legal protection that can be obtained fairly by the parties. This is where the researcher emphasizes the existence of the grounds that are used as a reason for the reconstruction of the arrest of the criminal offenders by investigators based on justice values as follows:

1. Before reconstruction

Article 17 of the Criminal Procedure Code: Arrest Warrants are carried out against someone who is suspected of committing a crime based on sufficient preliminary evidence.

Article 19 paragraph (1) of the Criminal Procedure Code: Arrests as referred to in Article 17 can be carried out for a maximum of one day

Article 54 of the Criminal Procedure Code: For the purposes of defense, a suspect or defendant is entitled to obtain legal assistance from one or more legal advisers at any time and at any level of investigations according to procedures determined in this law.

Article 56 paragraph (1) of the Criminal Procedure Code: In the case of a suspect or defendant alleged or convicted of committing a crime threatened with a death penalty or jail sentence of fifteen years or more, those who cannot afford a jail sentence of five years or more and do not have their own legal advisor, the officials concerned at all the levels of investigations in the judicial process must appoint legal advisor for them.

2. After reconstruction

Article 17 of the Criminal Procedure Code after reconstruction: Arrest Warrants are carried out against a person who is suspected of committing a crime based on preliminary evidence that is quite minimal with **2 (two) pieces of evidence**.

Article 19 paragraph (1) of the Criminal Procedure Code: Arrest as referred to in Article 17 can be carried out for a maximum of 3 (three) days.

Article 54 of the Criminal Procedure Code: For the purposes of defense, a suspect or defendant is entitled to legal assistance from one or more legal advisors at any time and at any level of investigations from the determination of the witness/victim according to the procedures specified in this law.

Article 56 paragraph (1) of the Criminal Procedure Code: In the case of a suspect or defendant alleged or convicted of committing a crime that is threatened with a death penalty or jail sentence of fifteen years or more or those who cannot afford a penalty of five years or more who do not have their own legal advisor, the officials concerned at all the levels of investigations in the judicial process must appoint a legal advisor for them **from the determination of the witness/victims to hearings in court**.

Reconstruction of Article 17 Article 19 paragraph (1), Article 54, Article 56 paragraph (1) of the Indonesian Criminal Procedure Code is basically not to provide legal protection for criminal offenders, but to provide justice to the parties. With the reconstruction of Article 17 of the Criminal Procedure Code, the article is expected to provide not only legal protection to the community but also justice to all parties.

CONCLUSION

Juridical Weakness, Implementation of Article 19 of the Criminal Procedure Code, Implementation of Article 54 and 56 paragraph 9 (1) of the Criminal Procedure Code and Article 17 in conjunction with Article 1 point 14 of the Criminal Procedure Code. Technical Weakness. According to the investigators, people are generally afraid and unwilling to give information or testimony. In addition, the investigators also experience difficulties when the suspect is in a remote area that is difficult to reach with inadequate or incomplete facilities and infrastructure (communication and transportation). Meanwhile, the domicile of the investigators is far from the place of the suspect that takes a long time (a week, a month, even a year) to reach like in a remote area that only can be reached with canoe transportation or a small number of small boats. The main reconstruction is a form of legal protection that can be obtained fairly by the parties. This is where the researcher emphasizes the existence of the grounds used as a reason for the reconstruction of the arrest of the criminal offenders by the investigators based on justice values by reconstructing the provisions of Article 17 of KUHAP, Article 19 paragraph (1) of KUHAP, Article 54 of KUHAP, and Article 56 paragraph (1) of KUHAP.

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