

## Comparative Study of Verdicts of Code of Ethics and Criminal Verdicts against Members of the Police Who Committed Criminal Offense

Ahimzar Zulfikar Ustad.<sup>1</sup> Siti Marwiah.<sup>2</sup>

[mas.zulfikar87@gmail.com](mailto:mas.zulfikar87@gmail.com), [siti.marwiyahsh@unitomo.ac.id](mailto:siti.marwiyahsh@unitomo.ac.id)

Master of Law Science, Dr. Soetomo University Surabaya

### Abstract

Bripda Randy is a member of the Police who, is together with his girlfriend, aborted the girlfriend's fetus. So that he was processed by the Police code of ethics and criminal law, and a code of ethics verdict was handed down first and then a criminal verdict. However, in this case, there is an inconsistency in the application of the legislation in that the criminal verdict is decided first than the code of ethics. The research aims to analyze the law enforcement of Indonesian National Police members who commit criminal acts based on the code of ethics and criminal law and a comparative study of the code of ethics decisions and criminal decisions. The type of research is normative juridical. The results of this study are that members of the National Police who commit criminal offenses are processed by the code of ethics and the general court. The decision of the Code of Ethics Commission Session Number: PUT KKEP/7/I/2022/KKEP was decided on January 27, 2022. Meanwhile, the Mojokerto District Court Decision Number: 46/Pid.B/2022/PN. Mjk was decided on April 27, 2022. This shows inconsistencies in applying laws and regulations, namely Article 12 paragraph (1) letter an of Government Regulation Number 1, the Year 2003 and Article 21 paragraph (3) letter a of Regulation of the chief of the Indonesian National Police Number 14, the Year 2011. The inconsistency has violated the principle of presumption of innocence; it also has an impact on not achieving the objectives of the law, namely justice, certainty and expediency.

**Keywords:** Police Members, Criminal Offenses, Code of Conduct and Criminal Verdicts

### Introduction

The Indonesian National Police, as a law enforcement institution, has a function as a servant, protector and protector for the community from threats and crimes that disturb and threaten a sense of security and also harm psychologically and materially by maintaining social order and order, enforcing the law or instead enforcing justice in society based on law.<sup>1</sup>

The police as part of the *criminal justice system* has tried to contribute to creating a good and clean culture in carrying out its obligations to create *trust in* social life. However, on the other hand, there are adverse impacts on the implementation of duties

---

<sup>1</sup> Alfano Ramadhan, "Diskresi Penyidik Indonesian National Police Sebagai Alternatif Penanganan Perkara Pidana," *Lex Renaissance* 6, no. 1 (2021): 26.



and obligations, namely legal criminalization, abuse of power, discrimination in the field of law and various other immoral acts. An organization always has its own rules in order to improve performance, professionalism, organizational culture as well as togetherness, honor and credibility of the organization and to ensure the maintenance of order and the implementation of tasks following the objectives, roles, functions, authorities and responsibilities of the institution.<sup>2</sup>

The credibility and commitment of Indonesian National Police members as state officials who are given the duty and authority as protectors, protectors and servants of the community, law enforcers and security guards are bound by regulation. These regulations are a set of norms to foster, enforce discipline and maintain the orderly life of Indonesian National Police members. The regulations for Indonesian National Police members are regulated in Regulation of the chief of the Indonesian National Police Number 14 of 2011 concerning the Code of Ethics for the Republic of Indonesia Police Profession. Tribrata (Indonesian National Police Life Guidelines) and Catur Prasetya (Indonesian National Police Work Guidelines) are elaborated in the Indonesian National Police professional code of ethics as appropriate and inappropriate behavior norms. Enforcement of the Indonesian National Police professional code of ethics must be carried out objectively and accountably, uphold *legal* certainty and a sense of justice (*legal and legitimate*), as well as human rights by taking into account the service of Indonesian National Police members who are suspected of violating the Indonesian National Police professional code of ethics.<sup>3</sup>

The code of ethics of the police profession that is applied is expected to be a guideline for members of the police in carrying out their duties as well as possible without committing violations or criminal acts. But some people still violate these rules, as the author examines in this study, namely the case of abortion committed by Bripda Randy Bagus Hari Sasongko. The case began in 2019 when Bripda Randy became acquainted with Novia Widyasari Rahayu (deceased) and established a dating

---

<sup>2</sup> Safitri Wikan Nawang Sari and Eroy Aryadi, “Mekanisme Penyelesaian Perkara Pelanggaran Kode Etik Profesi Indonesian National Police Dalam Kasus Penipuan Dan Penggelapan Yang Dilakukan Oknum Indonesian National Police (Studi Kasus Di Polres Banjarbaru Kalimantan Selatan),” *Jurnal Ilmiah Ilmu Hukum QISTI* 12, no. 1 (2019): 48–49.

<sup>3</sup> Sari and Aryadi.



relationship. In mid-2020, Bripda Randy went to Novia's boarding house and had conjugal relations. This was done once a week when they met when Bripda Randy was off duty. In March 2021, Novia told Bripda Randy that she was pregnant because Bripda Randy was not ready to become a parent, so he urged Novia to abort her pregnancy. In August 2021, Novia became pregnant again, then Bripda Randy proposed a marriage plan for 2 years. However, Bripda Randy aborted Novia's pregnancy again. On October 30, 2021, they broke up, feeling upset that she had been impregnated many times, told to abort her pregnancy but not married, making Novia depressed and finally committing suicide.

Based on the case description above, Bripda Randy Bagus Hari Sasongko is always an active Indonesian National Police member held accountable under the code of ethics and criminal law. As decided in the Decision of the Police Professional Code of Ethics Commission Session Number PUT KKEP/7/I/2022/KKEP, dated January 27, 2022, Bripda Randy Bagus Hari Sasongko was sentenced to ethical sanctions in the form of Dishonorable Dismissal as a Member of the Police. As for the criminal sanctions, as stated in the Mojokerto District Court Decision Number 46/Pid.B/2022/PN. Mjk, dated April 27, 2022, Bripda Randy Bagus Hari Sasongko was found legally and convincingly guilty of committing the crime of "Intentionally causing the death of a woman's womb with the woman's consent" (Article 348 paragraph (1) of the Criminal Code)), with a prison sentence of 2 (two) years.

Article 1 point 17 of Regulation of the chief of the Indonesian National Police Number 14 of 2011 explains that Dismissal is the termination of the Police service period by an authorized official against a Indonesian National Police member because he has been proven to have violated the Police Professional Code of Ethics, discipline, and criminal acts. Article 21 paragraph (3) letter a of Regulation of the chief of the Indonesian National Police No. 14/2011 explains that administrative sanctions in the form of dishonorable dismissal recommendations to Police Professional Code of Ethics violators who commit violations include: imprisonment based on a court decision that has permanent legal force and, in the opinion of the authorized official cannot be maintained to remain in the Police service. The regulation above justifies this provision,



namely Government Regulation Number 1 of 2003 concerning Dismissal of Members of the Indonesian National Police Article 12 paragraph (1) letter a.

Based on the above provisions, it can be seen that the application of sanctions in the form of Dishonorable Dismissal to members of the National Police who commit criminal offenses is carried out when there is a court decision that has permanent legal force, meaning that the criminal process takes precedence over the code of ethics. However, in the case of Bripda Randy Bagus Hari Sasongko, on the contrary, the code of ethics decision was decided first, then the District Court's decision. Meanwhile, Indonesian criminal law recognizes the principle of *presumption of innocence*, namely that a person is considered innocent until the court declares him guilty. The case of Bripda Randy Bagus Hari Sasongko provides an understanding that there has been legal vagueness and unsynchronized application of laws and regulations with reality in the field. This is not following the purpose of the law, namely legal certainty, that it can cause injustice to Bripda Randy Bagus Hari Sasongko because he did not necessarily commit the crime before the Judge decided that he was guilty and was stated by the Judge's decision, but was sentenced to Dishonorable Dismissal.

As described above, the vagueness and inconsistency of the legal rules make the author interested in examining the "Comparative Study of Code of Ethics Decisions and Criminal Decisions against Police Members who Commit Crimes".

Based on the background description above, the problem formulation is as follows: How is the law enforcement of police officers who commit criminal acts of abortion based on the code of ethics and criminal law? How is the comparative study of code of ethics verdicts and criminal verdicts against members of the National Police who commit abortion crimes in the Decision of the Code of Ethics Commission Session Number: PUT KKEP/7/I/2022/KKEP and Mojokerto District Court Decision Number: 46/Pid.B/2022/PN. Mjk?

The type of research used is normative juridical. The normative juridical type of legal research is conceptualized as what is written in legislation (*law in books*), or law is conceptualized as rules or norms that are a benchmark for human behavior that is



considered appropriate.<sup>4</sup> The approach methods in this research are *the statute, conceptual, and case approaches*.

There are two types of legal materials used in this research, including primary and secondary legal materials. Techniques for collecting legal materials through literature studies (library research). A literature study assesses written information from various widely published sources that are needed in normative legal research. Then the results are systematically reviewed and compiled.<sup>5</sup> Then the legal material analysis technique used in this research is descriptive qualitative, which is a research that seeks to describe and interpret existing conditions or relationships, growing opinions, ongoing processes and consequences that occur and trends that are developing.

## Sub Title

### 1. The Law Enforcement of Police Members Who Commit Abortion Crimes Based on the Code of Ethics and Criminal Law

The law enforcement is an authorized agency officer related to judicial matters whose job is resolving conflicts or legal cases. The definition of law enforcement can also be interpreted as the implementation of the law by law enforcement officers and by everyone who has an interest in following their respective authorities according to applicable laws. *Criminal law enforcement* is a unitary process starting with the investigation, arrest, detention, and trial of the defendant and ending with the correctional of the convict. The police are one of the law enforcers.<sup>6</sup>

The police are law enforcement officers who directly deal with the public. The role of the police is generally recognized as maintaining security and public order, as well as law enforcement officers in the criminal process. In carrying out their duties, the police have direct contact with the community as the object of policing duties, meaning that where there is a community, there is a police officer whose duty is to maintain order

---

<sup>4</sup> Amiruddin and Zainal Asikin, *Pengantar Metodologi Penelitian Hukum* (Jakarta: Raja Grafindo Persada, 2012)

<sup>5</sup> Johnny Ibrahim, *Teori & Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2007).

<sup>6</sup> Harun M. Husen, *Kejahatan Dan Penegakan Hukum Di Indonesia* (Jakarta: Rineka Cipta, 2000).



and security in the community from all forms of crime ranging from prevention to prosecution.<sup>7</sup> The function of the Police, according to Article 2 of Law Number 2 of 2002 concerning the Police, is one of the functions of state government to maintain security and public order, law enforcement, protection, protection and service to the community. The Police Institution spearheads law enforcement efforts, especially in criminal offenses.<sup>8</sup>

The police organizations are like any other organization, they have ethics that indicate the need to behave following laws and regulations and expectations that require discipline in carrying out their duties, to ensure the maintenance of order and the execution of tasks following the objectives, roles, functions, authorities and responsibilities in which they serve for and for the community. Article 34 of Law No. 2 of 2002 on the Police stipulates that "The attitude and behavior of Indonesian National Police officers are bound by the Police Professional Code of Ethics." Every member of the National Police, in carrying out their duties and authorities, must reflect the personality of the whole State Bhayangkara. Devoting himself as an instrument of the state, whose duties and authorities are directly related to the rights and obligations of citizens.<sup>9</sup>

The Indonesian National Police Code of Ethics is regulated in Regulation of the chief of the Indonesian National Police Number 14 of 2011 concerning the Professional Code of Ethics of the Indonesian National Police, which is currently replaced by Perpol No. 7 of 2022 concerning the Professional Code of Ethics and the Ethics Code Commission of the Indonesian National Police. Article 3 paragraph (1) of Police Regulation No. 7 of 2022 states that Indonesian National Police officials are obliged to guide the Police Professional Code of Ethics by obeying every obligation and prohibition in State, Institutional, Community, and Personality Ethics. What the author focuses on is

---

<sup>7</sup> Ruslan Renggong, *Hukum Acara Pidana (Memahami Perlindungan HAM Dalam Proses Penahanan Di Indonesia)* (Jakarta: Kencana, 2014).

<sup>8</sup> Renggong.

<sup>9</sup> Eivandro Wattimury and Erwin Ubwarin, "Analisa Yuridis Pertimbangan Komisi Kode Etik Profesi Indonesian National Police Terhadap Anggota Yang Divonis Bersalah Melakukan Tindak Pidana (Studi Pada Komisi Kode Etik Profesi Indonesian National Police Polda Maluku)," *Jurnal Belo* 7, no. 2 (2021): 188.



the prohibition in Institutional Ethics as stated in Article 10, paragraph (1) letter f of Police Regulation Number 7 of 2022 in that every Indonesian National Police official in institutional ethics is prohibited from conspiring to violate KEPP or discipline or criminal acts. This provision is also regulated in the previous regulation, namely Regulation of the chief of the Indonesian National Police Number 14 of 2011, Article paragraph (4) letter that Indonesian National Police members are prohibited from committing disciplinary violations and criminal offenses.

Every Indonesian National Police personnel with the existence of a professional code of ethics is expected to be able to control themselves from acts of abuse of authority. Indonesian National Police, in carrying out its duties and authorities, must uphold the honor and dignity of the State, Government and the Indonesian National Police. If a police officer violates the professional code of ethics, he/she will be sanctioned through the Police Code of Ethics Commission.<sup>10</sup>

The focus of the discussion of this research is the law enforcement of police officers who commit criminal offenses, especially abortion. The process of resolving criminal cases committed by members of the National Police is done through two things, namely, the code of ethics and criminal law. Police officers and civilians have the same position when committing a criminal offense that is tried in a public court. The difference is that members of the police must comply with the disciplinary regulations and the code of ethics of the police profession.<sup>11</sup> The differences between the members judicial process of the National Police and civilians are as follows:

**Table 1.**  
**Differences in the Criminal Justice Process of Police Officers and Civilians**

No	Differences	National Police Member	Civilians
1	Legal Basis	Criminal Procedure Code Criminal Code Disciplinary Regulations Code of Ethics Regulation	Criminal Procedure Code Criminal Code

<sup>10</sup> Nestiti Aroma Puspita, Untung Sri Hardjanto, and Amiek Soemarmi, "Pelaksanaan Tugas Dan Wewenang Komisi Kode Etik Kepolisian Republik Indonesia (Studi Kasus Pada Kepolisian Daerah Jawa Tengah)," *Diponegoro Law Journal* 5, no. 3 (2016): 2.

<sup>11</sup> Eflando Cahaya Chandan Pradana, "Proses Peradilan Terhadap Anggota Indonesian National Police Yang Melakukan Tindak Pidana," *Varia Justicia* 12, no. 1 (2016): 199.



2	Judicial Powers	General Courts (District Courts) and Internal Police Courts	General Court (District Court)
3	Accountability	General judicial law, discipline and code of conduct	General Court Law
4	Penalty	General Court Sanctions: Imprisonment and/or fine Disciplinary Sanctions: Written reprimand; Postponement of education; Delay of salary increase; Delay of promotion; Demotion; Release from office; or Placement in a special place. Code of Ethics Sanctions: Demotion; Delay in promotion; Postponement of education; Placement in a special place; Dishonorable Dismissal	Imprisonment and/or fine
5	Investigator	Profession and Security Division of the Indonesian National Police	Police
6	Public Prosecutor	General court session (public prosecutor) Disciplinary hearing and code of ethics (Head of Profession and Security Section)	Public Prosecutor
7	Judge	General court hearing (General Court Judge) Disciplinary hearing and code of ethics (Superior Authorized to Punish = Chief of Resort Police or Chief of Regional Police)	General Court Judge
8	Execution	Correctional Institution, Detention Cells for Police Officers.	Correctional Institution

The case of a Indonesian National Police member who committed a criminal offense which is the focus of the author's study, is an abortion case, as stated in Article





348 paragraph (1) of the Criminal Code committed by Bripda Randy Bagus Hari Sasongko. The case occurred between March 2021 and December 2021. The code of ethics decision was handed down on January 27, 2022. Meanwhile, the district court decision was handed down on April 27, 2022. Based on this, the discussion of the law enforcement process of Indonesian National Police members who commit criminal acts based on the code of ethics uses Regulation of the chief of the Indonesian National Police Number 14 of 2011, not Perpol No. 7 of 2022, because at the time the case occurred, Perpol No. 7 of 2022 had not yet been implemented.

Article 17 paragraph (1) of Regulation of the chief of the Indonesian National Police Number 14 of 2011, Propam Indonesian National Police carries out the enforcement of the Police Professional Code of Ethics for Professional Responsibility, Police Code of Ethics Commission, Appeal Commission, Police Legal Function, Police Human Resources, and Propam Indonesian National Police for Personnel Rehabilitation. The enforcement of Police Professional Code of Ethics in Article 17 paragraph (2) of Regulation of the chief of the Indonesian National Police No. 14/2011 is carried out:

- a. Preliminary Examination
- b. Police Code of Ethics Commission Hearing
- c. Appeal Commission Hearing
- d. Administrative Determination of Sentencing
- e. Supervision of Sentence Implementation
- f. Personnel Rehabilitation

Article 18 of Regulation of the chief of the Indonesian National Police No. 14/2011 states that the alleged violator may be accompanied by a member of the National Police appointed by the alleged violator at the preliminary examination level, Police Code of Ethics Commission hearing, and Appeal Commission hearing. If the alleged violator does not appoint a member of the National Police as a companion, the legal function bearer is obliged to appoint a companion. In addition, for the benefit of the defense, the alleged violator is given the right to present mitigating witnesses.

Members of the National Police who are declared as violators are subject to sanctions for violation of Police Professional Code of Ethics in the form of: (Article 21



paragraph (1) Regulation of the chief of the Indonesian National Police Number 14 the Year 2011))

- a. the Violator's behavior is declared as a reprehensible act;
- b. the obligation of the Violator to apologize verbally before the Police Code of Ethics Commission Session and in writing to the Indonesian National Police leadership and the aggrieved party;
- c. obligation of the Violator to follow mental personality, psychiatric, religious, and professional knowledge development at least 1 (one) week and a maximum of 1 (one) month;
- d. transferred to a different position which is a demotion for at least 1 (one) year;
- e. transferred to a different function that is demoted for at least 1 (one) year;
- f. transferred to a different region which is demoted for at least 1 (one) year; and
- g. dishonorable Dismissal as a member of the Police.

Dishonorable dismissal is an administrative sanction in the form of a recommendation. Administrative sanctions in the form of dishonorable dismissal are carried out for Police Professional Code of Ethics Violators who violate one of them in Article 21 paragraph (3) letter a Regulation of the chief of the Indonesian National Police Number 14 of 2011, namely:

- a. sentenced to imprisonment based on a court decision with permanent legal force and in the judgment of the competent authority cannot be maintained to remain in the service of the Indonesian National Police.

Article 22 letter an of Regulation of the chief of the Indonesian National Police Number 14 the Year 2011 also regulates administrative sanctions in the form of dishonorable dismissal recommendations imposed through Police Code of Ethics Commission hearings on:

- a. violators who intentionally commit a criminal offense punishable by imprisonment of 4 (four) years or more and has been decided by a court with permanent legal force; and

Article 22, paragraph (2) explains that administrative sanctions in the form of dishonorable dismissal recommendations are decided through a Police Professional Code of Ethics hearing after first proving the criminal offense through a public judicial process until a court decision has permanent legal force.



Article 28 Regulation of the chief of the Indonesian National Police Number 14 of 2011 that imposing sanctions on the Police Professional Code of Ethics does not eliminate criminal and civil charges. Based on the description above, the actions committed by Bripda Randy Bagus Hari Sasongko have fulfilled the provisions as in Article 22 paragraph (1) letter a, where the actions committed have violated Article 348 paragraph (1) of the Criminal Code, which is punishable by a maximum imprisonment of 5 (five) years 6 (six) months. The actions committed by Bripda Randy Bagus Hari Sasongko have violated the code of ethics of the Indonesian National Police profession, which qualifies for punishment in the form of a dishonorable dismissal recommendation.

Punishment in the form of dishonorable dismissal to Bripda Randy Bagus Hari Sasongko does not eliminate the criminal charges. So that Bripda Randy Bagus Hari Sasongko is also processed through the general court, namely the Mojokerto District Court. Bripda Randy Bagus Hari Sasongko based on the Mojokerto District Court Decision Number: 46/Pid.B/2022/PN. Mjk was sentenced to imprisonment for 2 (two) years and also the Decision of the Code of Ethics Commission Session Number: PUT KKEP/7/I/2022/KKEP in the form of dishonorable dismissal as a member of the Police. It can be concluded that members of the National Police who commit criminal offenses will be processed based on the code of ethics, criminal law, and punishment because resolving the code of ethics will not eliminate criminal charges.

## **2. Comparative Study of Code of Ethics Decision and Criminal Verdict against Police Members Who Committed Abortion Crime in the Decision of Code of Ethics Commission Session Number: PUT KKEP/7/I/2022/KKEP and Mojokerto District Court Decision Number: 46/Pid.B/2022/ PN. Mjk**

The police are law enforcement officers. However, in reality, some members act otherwise and are not following the ethics of the police profession. Alternatively, in other words, some police officers violate the code of ethics of the police profession. Violations or criminal acts of police officers that do not follow the police code of ethics have legal consequences.<sup>12</sup> Article 29, paragraph (1) of Law No. 2 of 2002, members of the National

---

<sup>12</sup> Grendy John Tololiu, “Proses Peradilan Terhadap Anggota Indonesian National Police Yang Melakukan Tindak Pidana Dan Pelanggaran Kode Etik Profesi,” *Lex Crimen* 8, no. 12 (2019): 57.



Police are subject to the general judicial power. This shows that members of the Indonesian National Police are civilians and not subjects of military law. Although members of the Police are civilians, the provisions of the Disciplinary Regulations and the Professional Code of Ethics also apply to them.<sup>13</sup>

The Police profession is noble, like other honorable professions that provide protection and protection to the community, and the community needs their services. The public always needs Police who are friendly and gentle in service and firm in law enforcement. However, in practice, there are not a few police officers who violate the code of ethics. The tendency of some police officers to commit irregularities is not a monopoly of the Police in Indonesia, considering that irregularities committed by the Police are still found in developed countries. However, in this case, law enforcement of the Police code of ethics must still be enforced.<sup>14</sup>

Ethics will provide a limitation or standard to regulate human association in their social group. In a sense that is specifically associated with the art of human association, this ethics is then realized in the form of a written rule (code) that is systematically deliberately made based on moral principles that exist when needed will be able to function as a tool to judge all kinds of actions that are considered to deviate from the code of ethics in general rational logic (common sense).<sup>15</sup>

Meanwhile, a code of ethics is a norm or principle accepted by a certain group as a basis for daily behavior in society and the workplace. The purpose and purpose of the code of ethics is to regulate and give quality to the implementation of the profession, maintain the honor and good name of the professional organization, and protect the public who need good professional services. The code of ethics is a mechanism for disciplining, fostering, and controlling the work ethic of members of professional organizations.<sup>16</sup>

---

<sup>13</sup> Yanto, “Tinjauan Yuridis Terhadap Pemberhentian Tidak Dengan Hormat Dari Dinas Kepolisian Republik Indonesia (Studi Putusan Perkara Nomor: 1/G/2018/PTUN/BKL),” *Qiyas* 6, no. 1 (2021): 89.

<sup>14</sup> Azies Bauw, “Penegakan Kode Etik Kepolisian Terhadap Pelanggaran Yang Dilakukan Anggota Polisi (Studi Kasus Di Kepolisian Daerah Jayapura),” *Legal Pluralism* 5, no. 1 (2015): 1–2.

<sup>15</sup> Van Apeldoorn, *Pengantar Ilmu Hukum* (Jakarta: PT. Pradnya Paramita, 2008).

<sup>16</sup> Rajalahu, “Penyelesaian Pelanggaran Kode Etik Profesi Oleh Kepolisian Republik Indonesia.”



The ethics of the police profession manifests the values contained in Tri Brata and Catur Prasetya, which are based on Pancasila and are summarized as guidelines for life for members of the Police and become a code of ethics for the police profession. The enforcement of the police professional code of ethics must be strictly implemented because the police apparatus is one of the bearers of the profession in the legal world, so professionalism and hard work are needed in carrying out their duties. The following is the content of Tri Brata:<sup>17</sup>

We are Indonesian Police devoting the country and nation with full devotion to God Almighty, upholding truth, justice, and humanity in upholding the laws of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia and always protecting, nurturing, and serving the community with sincerity to realize security and order.

Meanwhile, the Chess Principle reads as follows:<sup>18</sup>

As a Bhayangkara person, my honor is to sacrifice for the sake of the community, nation, and state to eliminate all forms of security disturbances, maintain the safety of body and soul, property and human rights, ensure certainty based on the law and maintain a sense of peace and tranquility.

The complexity of the challenges of Indonesian National Police's duties has benefited Indonesian National Police with significant progress in force development, coaching, and operations. However, on the other hand, it is honestly acknowledged that there is negative access to the implementation of its main tasks in the form of deviations in the behavior of Indonesian National Police members, such as abuse of power or authority (abuse of power) and committing other despicable acts that violate moral, social and religious principles.<sup>19</sup>

The indiscipline and unprofessionalism of members of the Indonesian National Police will significantly impact law enforcement or the disclosure of crimes that occur in the community. Therefore, the function and role of Profession and Security (Profession and Security) within the Indonesian National Police impact the enforcement

---

<sup>17</sup> Yuridika Widya, "Penegakan Hukum Peraturan Kepolisian Dalam Menangani Pelanggaran Etika Kepolisian," *Jurnal Hukum* 4, no. 1 (2021): 71.

<sup>18</sup> Widya.

<sup>19</sup> Doddy Kristian et al., "Kewenangan Indonesian National Police Dalam Menegakkan Kode Etik Anggota Indonesian National Police Yang Melakukan Tindak Pidana Narkoba," *Jurnal USM Law Review* 4, no. 2 (2021): 664.



of the code of ethics of Indonesian National Police members. The role of Propam in the Indonesian National Police Institution is very important, especially in monitoring and enforcing every action of Police members so that they do not take actions outside the functions and authority of the Police.<sup>20</sup>

This research is a comparative study of code of ethics decisions with criminal decisions against members of the Indonesian National Police who committed criminal offenses, namely Bripda Randy Bagus Hari Sasongko, who served at Pasuruan District Police. Because Bripda Randy is a member of the Police, he was sentenced to the code of ethics and also criminal punishment with the Decision of the Code of Ethics Commission Session Number: PUT KKEP/7/I/2022/KKEP and Mojokerto District Court Decision Number: 46/Pid.B/2022/PN. Mjk.

Description of the Mojokerto District Court Decision Number: 46/Pid.B/2022/PN. Mjk, as follows:

a. Public Prosecutor's Indictment

The defendant Randy Bagus Hari Sasongko, was charged with alternative charges, namely the first charge of Article 348 paragraph 1 of the Penal Code and the second charge of Article 348 paragraph (1) of the Penal Code jo Article 56 paragraph (2) of the Penal Code. One of these charges must be proven.

b. Demands

- 1) Stating that the Defendant Randy Bagus Hari Sasongko Bin Niryono was proven legally and convincingly according to the law guilty of "intentionally causing the death or abortion of a woman with the permission of the woman those who intentionally provide opportunities, facilities or information to commit a crime" in violation of Article 348 paragraph (1) jo. Article 56 paragraph (2) of the Criminal Code as in the second alternative charge of the Public Prosecutor.

---

<sup>20</sup> A.A. Ngurah Manik Oka, Made Sugi Hartono, and Muhamad Jodi Setianto, "Peran Propam Dalam Penegakan Kode Etik Kepolisian Republik Indonesia Berdasarkan Ketentuan Pasal 17 Peraturan Kepala Kepolisian Negara Republik Indonesia Nomor 14 Tahun 2011 Tentang Kode Etik Profesi Kepolisian Negara Republik Indonesia Di Kepolisian Reso," *E-Journal Komunikasi Yustisia Universitas Pendidikan Ganesha 5*, no. 2 (2022): 520.



- 2) Sentenced the defendant Randy Bagus Hari Sasongko Bin Niryono to 3 (three) years 6 (six) months imprisonment minus the period of detention, with the order that the defendant remain in detention.

c. Amar PutusanThe Verdict

The verdict handed down by the Panel of Judges of the Mojokerto District Court is as follows:

- 1) Stating that the Defendant, Randy Bagus Hari Sasongko Bin Niryono was legally and convincingly proven guilty of committing the crime of "Intentionally causing the death of a woman's womb with her consent," as stated in the first charge of the Public Prosecutor;
- 2) Sentenced Defendant Randy Bagus Hari Sasongko Bin Niryono to 2 (two) years imprisonment.

Description of the Decision of the Code of Ethics Commission Session Number: PUT KKEP/7/I/2022/KKEP, as follows:

a. Demands

Article 7 paragraph (1) letter b and Article 11 letter c of Regulation of the chief of the Indonesian National Police Number 14 of 2011 concerning the Police Professional Code of Ethics, which reads, "Every member of the Police must maintain and improve the image, solidity, credibility, reputation, and honor of the Police" and "Every member of the Police must obey and respect the norms of decency, religious norms, local wisdom values, and legal norms." The sanctions imposed are:

- 1) Ethical sanctions such as:
  - a) The violator's behavior is declared as a reprehensible act;
  - b) The violator's obligation to apologize verbally before the KKEP hearing and/or in writing to the police leadership and the aggrieved party.

- 2) Administrative sanctions such as:

Recommended dishonorable discharge (dishonorable dismissal) as a member of the National Police.

b. Code of Ethics Decision



The verdict of the Police Professional Code of Ethics Commission hearing is as follows:

- 1) Legally and convincingly proven to have violated the provisions of Article 7 paragraph (1) letter b and Article 11 letter c of Police Regulation 14 of 2011 concerning the Police Professional Code of Ethics.
- 2) To impose moral sanctions in the form of declaring the violator's behavior as reprehensible.
- 3) Administrative sanctions in the form of Dismissed dishonorably (dishonorable dismissal) as a member of the Police.

Based on the description of the code of ethics decision and the criminal decision, the author analyzes that the legal basis used to impose the decision by the Panel of Judges of the Mojokerto District Court is correct. However, the legal basis for the charges in imposing code of ethics sanctions by the Police Professional Code of Ethics Commission is less precise, namely Article 7 paragraph (1) letter b and Article 11 letter c of Regulation of the chief of the Indonesian National Police Number 14 of 2011 concerning the Police Professional Code of Ethics, that every member of the Police must maintain and improve the image, solidity, credibility, reputation, and honor of the Police, and must obey and respect the norms of decency, religious norms, local wisdom values, and legal norms. The legal basis is a general provision of violations committed by Bripda Randy Bagus Hari Sasongko. While the specific provisions of the violation of the code of ethics committed by Bripda Randy Bagus Hari Sasongko are Article 13 paragraph (4) letter d of Regulation of the chief of the Indonesian National Police Number 14 of 2011, namely in institutional ethics fellow members of the National Police are prohibited from conspiring to violate Police Professional Code of Ethics or discipline or criminal acts. However, this provision has multiple interpretations because it applies to fellow members of the National Police. At the same time, Bripda Randy Bagus Hari Sasongko did not conspire with members of the National Police.

According to the author, the provisions stipulated in Regulation of the chief of the Indonesian National Police No. 14/2011, especially Article 13 paragraph (4) letter d, are no longer following the development of changes in ethical values, culture, and





behavior that occur in a society that affect Indonesian National Police officials' behavior. Therefore, Regulation of the chief of the Indonesian National Police Number 14 of 2011 was revoked and declared invalid and replaced by PerIndonesian National Police Number 7 of 2022 concerning the Professional Code of Ethics and the Ethics Code Commission of the Indonesian National Police. When associated with the case in this study, the appropriate legal basis used is Article 10 paragraph (1) letter f that in institutional ethics, every Indonesian National Police official is prohibited from conspiring to violate KEPP, discipline, or criminal acts. When associated with the case in this study, this provision means that every Indonesian National Police member is prohibited from committing a criminal offense, so the legal basis used is more precise and not multi-interpretive.

The subsequent analysis is the Decision of the Code of Ethics Commission Session Number: PUT KKEP/7/I/2022/KKEP, decided on January 27, 2022. Meanwhile, the Mojokerto District Court Decision Number: 46/Pid.B/2022/PN. Mjk was decided on April 27, 2022. This shows that there needs to be more consistency in applying laws and regulations. Code of ethics sanctions in the form of dishonorable dismissal imposed on Bripda Randy Bagus Hari Sasongko should be imposed after a legally binding court decision, in this case, the Mojokerto District Court decision; only then is the code of ethics sanction imposed. In this case, the decision of the Code of Ethics Commission Session was decided earlier than the Mojokerto District Court Decision.

Dishonorable dismissal is given to members of the National Police who commit criminal offenses, commit violations, leave their duties, or other things as stated in Article 11 of Government Regulation 1 of 2003 concerning Dismissal of Members of the National Police. In Article 12, paragraph (1) letter a Indonesian National Police members who are dishonorably discharged if:

- a. Sentenced to imprisonment based on a court decision with permanent legal force and, in the judgment of the authorized official, cannot be maintained to remain in the service of the Indonesian National Police.

The same provision is also stipulated in Article 21 paragraph (3) letter a of Regulation of the chief of the Indonesian National Police Number 14 of 2011 that dishonorable dismissal is imposed on Police Professional Code of Ethics violators who



commit criminal offenses, are sentenced to imprisonment with a court decision that has permanent legal force and, according to the consideration of the authorized official cannot be considered to remain in the Police service. These provisions mean that the process of resolving criminal offenses committed by members of the National Police is carried out through the general court until there is a permanent legal verdict, after which the process of resolving the code of ethics is only carried out.

The inconsistency in the application of laws and regulations has violated the principle of presumption of innocence that every person who is suspected, arrested, detained, prosecuted, or brought before the court must be presumed innocent before there is a legally binding decision. This principle is contained in Article 8, paragraph (1) of Law Number 48 of 2009 concerning Judicial Power and the General Elucidation of Criminal Procedure Code. In addition to violating the principle of presumption of innocence, the inconsistency in applying laws and regulations impacts not achieving the objectives of law as stated by Gustav Radbruch, namely justice, certainty, and expediency.

The verdict of the code of ethics hearing imposed on Bripda Randy Bagus Hari Sasongko did not provide justice for him because the verdict was decided first before a court decision, where Bripda Randy Bagus Hari Sasongko still could be found not proven and not guilty of committing a criminal offense.

Justice can be interpreted as legality. Something can be said to be fair if a rule is applied to all cases where according to its content, it should be applied. It is unfair if a rule is applied in one case but not in another similar case. Justice in the sense of legality is a quality not related to the content of positive rules but to their implementation.<sup>21</sup> All people can create a just society, so justice is the focus of the main objective of lawmaking.<sup>22</sup> Concerning justice, the law is seen as a real thing (laws and other regulations), not an ideal thing (justice). Therefore, a distinction must be made between natural and idiomatic law.<sup>23</sup>

---

<sup>21</sup> Jimly Asshiddiqie and Ali Safaat, *Teori Hans Kelsen Tentang Hukum* (Jakarta: Konpres, 2012).

<sup>22</sup> Zainuddin Ali, *Filsafat Hukum* (Jakarta: Sinar Grafika, 2010).

<sup>23</sup> Abid Zamzami, "Keadilan Di Jalan Raya," *Yurispruden* 1, no. 2 (2018): 22.



The legal objectives of certainty and expediency still needed to be fulfilled in the case of Bripda Randy Bagus Hari Sasongko. Legal certainty is not fulfilled because the application of laws and regulations, in reality, is different from the provisions written in the regulation, or inconsistencies occur. This also impacts the legal objective of expediency because the decision of the code of ethics hearing, which was decided first before a court decision with permanent legal force, resulted in Bripda Randy Bagus Hari Sasongko losing his job.

### **Conclusion**

The conclusions in this study, namely: Article 29 paragraph (1) of Law Number 2 of 2002, members of the National Police are subject to the general judicial power. This shows that members of the Police are civilians and are not subjects of military law. Although members of the Police are civilians, the provisions of the Disciplinary Regulations and the Professional Code of Ethics also apply to them. The code of ethics processes police members who commit criminal offenses and the general court. This distinguishes them from civilians. The process in the general court is carried out first after a court decision with permanent legal force, then processed by the code of ethics as stated in Article 21 paragraph (3) letter a of Regulation of the chief of the Indonesian National Police Number 14 of 2011.

The decision of the Code of Ethics Commission Session Number: PUT KKEP/7/I/2022/KKEP was decided on January 27, 2022. Meanwhile, the Mojokerto District Court Decision Number: 46/Pid.B/2022/PN. Mjk was decided on April 27, 2022. This shows that there needs to be more consistency in applying laws and regulations, namely Article 12 paragraph (1) letter of Government Regulation Number 1 of 2003 and Article 21 paragraph (3) letter of Regulation of the chief of the Indonesian National Police Number 14 of 2011. The inconsistency in the application of laws and regulations has violated the principle of presumption of innocence; besides that, it also has an impact on not achieving the objectives of the law, according to Gustav Radbruch, namely justice, certainty, and expediency.



## Bibliography

### 1. Books:

Ali, Zainuddin. *Filsafat Hukum*. Jakarta: Sinar Grafika, 2010.

Amiruddin, and Zainal Asikin. *Pengantar Metodologi Penelitian Hukum*. Jakarta: Raja Grafindo Persada, 2012.

Apeldoorn, Van. *Pengantar Ilmu Hukum*. Jakarta: PT. Pradnya Paramita, 2008.

Asshiddiqie, Jimly, and Ali Safaat. *Teori Hans Kelsen Tentang Hukum*. Jakarta: Konpres, 2012.

Husen, Harun M. *Kejahatan Dan Penegakan Hukum Di Indonesia*. Jakarta: Rineka Cipta, 2000.

Ibrahim, Johnny. *Teori & Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing, 2007.

Renggong, Ruslan. *Hukum Acara Pidana (Memahami Perlindungan HAM Dalam Proses Penahanan Di Indonesia)*. Jakarta: Kencana, 2014.

### 2. Journals:

Bauw, Azies. “Penegakan Kode Etik Kepolisian Terhadap Pelanggaran Yang Dilakukan Anggota Polisi (Studi Kasus Di Kepolisian Daerah Jayapura).” *Legal Pluralism* 5, no. 1 (2015).

Kristian, Doddy, Bambang Sadono, Kadi Sukarna, and Diah Sulistyani RS. “Kewenangan Indonesian National Police Dalam Menegakkan Kode Etik Anggota Indonesian National Police Yang Melakukan Tindak Pidana Narkoba.” *Jurnal USM Law Review* 4, no. 2 (2021).

Oka, A.A. Ngurah Manik, Made Sugi Hartono, and Muhamad Jodi Setianto. “Peran Propam Dalam Penegakan Kode Etik Kepolisian Republik Indonesia Berdasarkan Ketentuan Pasal 17 Peraturan Kepala Kepolisian Negara Republik Indonesia Nomor 14 Tahun 2011 Tentang Kode Etik Profesi Kepolisian Negara Republik Indonesia Di Kepolisian Reso.” *E-Journal Komunikasi Yustisia Universitas Pendidikan Ganesha* 5, no. 2 (2022).

Pradana, Eflando Cahaya Chandan. “Proses Peradilan Terhadap Anggota Indonesian National Police Yang Melakukan Tindak Pidana.” *Varia Justicia* 12, no. 1 (2016).

Puspita, Nestiti Aroma, Untung Sri Hardjanto, and Amiek Soemarmi. “Pelaksanaan Tugas Dan Wewenang Komisi Kode Etik Kepolisian Republik Indonesia (Studi



- Kasus Pada Kepolisian Daerah Jawa Tengah).” *Diponegoro Law Journal* 5, no. 3 (2016).
- Rajalahu, Yanius. “Penyelesaian Pelanggaran Kode Etik Profesi Oleh Kepolisian Republik Indonesia.” *Lex Crimen* 2, no. 2 (2013).
- Ramadhan, Alfano. “Diskresi Penyidik Indonesian National Police Sebagai Alternatif Penanganan Perkara Pidana.” *Lex Renaissance* 6, no. 1 (2021).
- Sari, Safitri Wikan Nawang, and Eroy Aryadi. “Mekanisme Penyelesaian Perkara Pelanggaran Kode Etik Profesi Indonesian National Police Dalam Kasus Penipuan Dan Penggelapan Yang Dilakukan Oknum Indonesian National Police (Studi Kasus Di Polres Banjarbaru Kalimantan Selatan).” *Jurnal Ilmiah Ilmu Hukum QISTI* 12, no. 1 (2019).
- Tololiu, Grendy John. “Proses Peradilan Terhadap Anggota Indonesian National Police Yang Melakukan Tindak Pidana Dan Pelanggaran Kode Etik Profesi.” *Lex Crimen* 8, no. 12 (2019).
- Wattimury, Eivandro, and Erwin Ubwarin. “Analisa Yuridis Pertimbangan Komisi Kode Etik Profesi Indonesian National Police Terhadap Anggota Yang Divonis Bersalah Melakukan Tindak Pidana (Studi Pada Komisi Kode Etik Profesi Indonesian National Police Polda Maluku).” *Jurnal Belo* 7, no. 2 (2021).
- Widya, Yuridika. “Penegakan Hukum Peraturan Kepolisian Dalam Menangani Pelanggaran Etika Kepolisian.” *Jurnal Hukum* 4, no. 1 (2021).
- Yanto. “Tinjauan Yuridis Terhadap Pemberhentian Tidak Dengan Hormat Dari Dinas Kepolisian Republik Indonesia (Studi Putusan Perkara Nomor: 1/G/2018/PTUN/BKL).” *Qiyas* 6, no. 1 (2021).
- Zamzami, Abid. “Keadilan Di Jalan Raya.” *Yurispruden* 1, no. 2 (2018).