

The Authority of the State Police Security Intelligence of the Republic of Indonesia in Exposing the Criminal Acts of Human Trafficking in the Jurisdiction of the Badung Police

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Abstract

The authority of the Indonesian National Police Security Intelligence Unit in uncovering the crime of human trafficking in the Badung Police jurisdiction is to conduct judicial intelligence activities and operations or investigations to collect data or information that can be used as evidence of whether or not a crime of human trafficking has occurred, which is then submitted to the leadership or interested parties for further decision making. In carrying out the investigation process and making arrests, the suspect admitted his actions, subject to Article 4 of Law Number 21 of 2007 concerning the prohibition of the crime of human trafficking. The obstacles faced by the police security intelligence unit in enforcing criminal law to uncover the crime of human trafficking in the Badung police resort area are not only from the police but also from the victims themselves who sometimes allow it because the first is unable to react to deviations, the second, the victim or other control bodies may fear that there will be more serious consequences because of the conflict, the third, this attitude of indifference has become a social climate caused by the absence of broad relations.

Keywords : The Authority, Police Intelligence Unit, and Human Trafficking Crimes.

Introduction

Human trafficking according to Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking is the act of recruiting, transporting, harboring, sending, transferring, or receiving a person with the threat of violence, use of violence, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, debt bondage or giving payment or benefits, so as to obtain the consent of a person who holds control over another person, whether carried out within the country or between countries, for the purpose of exploiting or causing people to be exploited. The Intelligence Function is an intelligence and security function, which serves as the eyes and ears of the police unit which is obliged to carry out early detection and provide warnings of problems and developments in problems and changes in social life in society, and is also tasked with identifying threats, disturbances, or obstacles to public security and order.

By looking at the background above, the problem formulation can be drawn, namely the authority of the Security Intelligence of the Republic of Indonesia National Police in uncovering the Crime of Human Trafficking in the Jurisdiction of the Badung Resort Police, the two obstacles faced by the Security Intelligence of the Republic of Indonesia National Police in uncovering the Crime of

Human Trafficking in the Jurisdiction of the Badung Resort Police.

This study aims to determine and analyze in depth the authority of the Security Intelligence of the Republic of Indonesia National Police in uncovering the Crime of Human Trafficking, and analyze the obstacles of police intelligence in uncovering the Crime of Human Trafficking in the jurisdiction of the Badung Police Resort.

Methods

The research method used in this study is a normative research method that uses various types of primary legal materials in the form of laws and regulations and secondary legal materials in the form of library materials related to the authority of the Security Intelligence of the Republic of Indonesia National Police in uncovering the Crime of Human Trafficking. Johnny Ibrahim is of the opinion that normative legal research is a form of scientific research aimed at finding the truth based on the logic of legal science reviewed from the normative part, or which is in the form of an effort to discover law that is adapted to a particular case. This research is also supported by empirical research

Results and Discussion

The Authority of the Indonesian National Police's Security Intelligence Unit in Revealing Crimes of Human Trafficking (TPPO) in the Jurisdiction of the Badung Police

From various literature, it can be seen that the term "criminal act" is essentially a translation of the Dutch word "strafbaarfeit." The word "strafbaarfeit" was then translated into various Indonesian languages. Some of the words used to translate "strafbaarfeit" by Indonesian scholars include: "criminal act.". Since the beginning of independence, the government has enacted the 1945 Constitution, which stipulates protection for all Indonesians and the welfare of its citizens. The Indonesian government itself provides protection for all its citizens through the Human Rights Act, which regulates the rights and obligations of every individual. And regarding human trafficking, the Indonesian government, with various regulations upholding the rights and safety of its citizens, has enacted legislation that specifically addresses the crime of human trafficking, namely Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking.

According to Soetando Widnyasoebroto in his book "Women in the Discourse of Trafficking, is the act of recruiting, transporting, sheltering, sending, transferring or receiving a person with the threat of violence, use of violence, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, debt bondage or giving payment or benefits, so as to obtain the consent of a person who holds control over another person, whether carried out within the country or between countries, for the purpose of exploitation or resulting in someone being exploited (including pedophilia), legal

or illegal immigrant labor, child adoption, mail-order brides, domestic helpers, begging, pornography industry, drug distribution, sale of body organs, and other forms of exploitation. In addition, as a criminal act, the rules regarding human trafficking have also been regulated in the Criminal Code which contains provisions regarding the prohibition of trading in women and boys who are not yet adults as regulated in Article 297 of the Criminal Code. Article 297 of the Criminal Code states: "Trafficking in women and trafficking in underage male children shall be punishable by a maximum imprisonment of six years."¹³ Article 324 of the Criminal Code states that "anyone who, at his own expense or the expense of another person, carries out a slave trade or commits an act of slave trade or intentionally participates directly or indirectly in any of the aforementioned acts, shall be punished by a maximum imprisonment of twelve years."

The general provisions of Law Number 2 of 2002 concerning the Indonesian National Police (Polri) contain a formulation regarding the definition of various matters relating to the police, including the concept of the police. However, the definition of the police is not formulated comprehensively because it only concerns the functions and institutions of the police as regulated by laws and regulations. According to Article 1 of Law Number 2 of 2002 concerning the Indonesian National Police (Polri), the police are defined as all matters relating to the functions and institutions of the police in accordance with laws and regulations. In Indonesia, the term police was put forward by a legal expert named Sadjijono. According to Sadjijono, the term police refers to an organ or government institution within the state, while the term police refers to both an organ and a function. As an organ, it is a government institution that is organized and structured within a state organization. While as a function, it is the duties, authority, and responsibility of the institution under the authority of the law to carry out its functions, including maintaining public security and order, law enforcement, protection, guardianship, and service to the community. According to Gerson W. Bawengan, the duties of the Police can be divided into 2 (two), namely: 1. Preventive Duties: In the form of patrols that are carried out in a targeted and regular manner, conducting questions and answers with passers-by, including efforts to prevent crime or carry out preventive duties, maintaining order and ensuring public security. 2. Repressive Duties: collecting evidence in connection with the investigation of cases and even trying to recover stolen goods, making arrests to then be handed over to the prosecutor's office who will then forward it to the Court.

Badung Police Intelligence in the process of uncovering alleged human trafficking crimes has a method or way in carrying out the investigation process. This method or way of investigation basically contains an orderly way and how Intelligence activities. The investigation is carried out to achieve maximum results. Investigation or investigation by Police Intelligence means a series of activities, efforts, or actions carried out in a planned, gradual and continuous manner in an Intelligence activity cycle to seek and collect as much data or information as possible from various sources both openly and secretly. Through a series of activities carried out openly and secretly. The data or material

is then processed in a process to produce ready-to-use data as an intelligence product, this intelligence product is then submitted to superiors or authorized leaders as input in decision-making. The method or technique of investigation carried out by Badung Police Intelligence according to the Head of Intelligence is through openly and secretly activities. The techniques are as follows: (1) Open Investigation, in this technique, open investigation is an investigation carried out openly or publicly by carrying out activities: Interviews and observations; (2) closed investigation. Talking about the Intelligence Authority of the Badung Resort Police in disclosing alleged criminal acts and based on the results of an interview with I Gusti Lanang Jelantik, S.H., M.H. Head of the Badung Resort Police Intelligence Unit, intelligence has the following roles: (1) Carrying out judicial/investigative intelligence activities and operations by collecting data regarding alleged criminal acts of murder; (2) Searching for and collecting evidence and information regarding alleged criminal acts of murder; (3) Making and submitting reports on the results of the implementation of intelligence operations to the leadership as material for decision-making regarding further actions to be taken.

Based on the interview results above, the author then conducted a literature review related to the Intelligence Agency's authority in uncovering suspected human trafficking cases. Based on Law Number 2 of 2002 concerning the Indonesian National Police, Law Number 17 of 2011 concerning State Intelligence, and Regulation of the Head of the Security Intelligence Agency of the Indonesian National Police Number 1 of 2023 concerning the Implementation of Security Intelligence Operations of the Indonesian National Police, Intelligence has the functions of investigation, security, and mobilization. In handling general criminal cases, especially crimes such as theft, the police are authorized to conduct investigations and prosecutions. Investigations are carried out by the Intelligence Function, and inquiries are carried out by the General Criminal Investigation Function.

Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking is a law aimed at preventing and addressing the crime of human trafficking and protecting victims of human trafficking. This law regulates various provisions that can anticipate and address all types of human trafficking crimes, from the process and methods to the objectives, in all forms of exploitation that may occur in human trafficking, whether conducted within or outside the country, and whether by individuals, groups, or corporations. This law also regulates witness and victim protection as a crucial aspect of law enforcement to provide protection to victims or witnesses.

The provision of legal protection is the obligation and responsibility of the state, government, community, family, and parents, encompassing protection in the fields of religion, education, health, and social issues. In this regard, the quality of protection for child victims should be at least equal to that for adult women and men, as everyone has equal standing before the law (equality before the law). The problem is that the protection provided cannot be approached solely from a legal perspective; it requires a broader approach, encompassing economic, social, cultural, and psychological aspects.

Obstacles faced by the Indonesian National Police's Security Intelligence in Uncovering Human Trafficking Crimes in the Badung Police's Jurisdiction

The public's desire for an orderly and peaceful life in society is continually pursued, especially now within the law enforcement system. Good law enforcement is expected to foster order, security, and peace within society. Law enforcement can be carried out through prevention, eradication, and enforcement efforts.

Law is fundamentally not merely a written document, as outlined in various statutory regulations. Rather, it should be viewed as a phenomenon observable in society through the behavioral patterns of its citizens. This means that law is heavily influenced by non-legal factors such as values, attitudes, and societal perspectives, commonly referred to as legal culture. According to Lawrence Meir Friedman, legal culture is human attitudes toward law and the legal system—beliefs, values, thoughts, and expectations. Legal culture is the social atmosphere and social forces that determine how law is used, avoided, or abused. Law is believed to be a powerful balancing institution against the threat of disintegration in society due to clashes between competing powers, while simultaneously limiting the arbitrariness of those in power. Law, in its original form, limits power and seeks to foster balance in society. Unlike aggressive and expansionist power, law tends to be compromising, peaceful, and full of agreements in social and political life.

The perceived poor level of public trust in law enforcement officials regarding criminal law enforcement in Indonesia must be immediately restored and rehabilitated through improvements in the structure and substance of the law, accompanied by a legal culture. This aspect of legal culture plays a crucial role in criminal law enforcement in Indonesia. According to Lawrence M. Friedman, the concept of legal culture is defined as human attitudes toward the law and the legal system, including beliefs, values, thoughts, and expectations. In other words, legal culture is the social atmosphere and social forces that determine how the law is used, avoided, or abused. Without legal culture, the legal system itself is powerless.

The above explanation theoretically confirms that the enforcement of criminal law by the police is ideally expected to guarantee legal certainty and justice within the framework of providing a sense of security and order for the community. However, this is very difficult to achieve because every law enforcement officer, especially criminal law enforcers such as the police, will experience several obstacles in carrying out their duties. In the previous sub-discussion, the author has explained that the police officers in the Badung Police Intelligence Unit, within the framework of criminal law enforcement, including the investigation process to uncover the perpetrators of criminal acts or to clarify/clarify that a crime has occurred, the most principled thing is to prioritize the principle of presumption of innocence and the principle of everyone being equal before the law. However, in reality, in implementing these two principles, the police officers in the Badung Police Intelligence Unit often face various obstacles, making it very difficult for the police officers to further process the

investigation of human trafficking crimes to be continued to the indictment level to the district attorney. Some of the things that become obstacles in providing serious protection for victims of human trafficking are, apart from the government, the police, or the prosecutor's office, and the courts, in fact, it is the victims themselves who sometimes allow it to happen because firstly they are unable to react to the deviation, secondly, the victims or other control bodies may be afraid that there will be more serious consequences because of the conflict, thirdly, this attitude of indifference has become a social climate caused by the absence of a broad reaction.

From the government's perspective, there are other factors, including the continued monopoly of the model used by the government to protect victims: the procedural rights model. This model allows victims to intervene in the judicial process. Similarly, another model, the services model, remains underutilized, which could help establish the integrity of the institutionalized trust system.

Government protection is still considered inadequate, partly because internal parties have not yet found a suitable format to serve as a final solution. The mutual legal system concept used by the government in the context of transnational crime could be maximized if the government specifically adopted a bilateral agreement, as the two countries involved in cross-border trade would have greater freedom to determine the legal framework at the heart of the problem. The two countries, which frequently serve as trade routes, will be able to address this issue more quickly. The author's observations revealed that there are still members of the Badung Police Department who have not yet mastered, understood, and implemented arrest techniques and tactics. These techniques have not been fully implemented in accordance with regulations. Consequently, arrests are often made without warrants, which are not in accordance with existing procedures. Police officers are still found to have made wrongful arrests of individuals who are not criminals, due to a lack of vigilance or being too reckless in carrying out their duties.

Conclusion

The authority of the Indonesian National Police's Security Intelligence in uncovering human trafficking crimes in the Badung Police jurisdiction is to conduct judicial intelligence activities and operations or investigations to collect data or information that can be used as evidence of whether or not a human trafficking crime has occurred, which is then submitted to the leadership or interested parties for further decision making. In carrying out the investigation process and making arrests, the suspect admitted his actions, which are subject to Article 4 of Law Number 21 of 2007 concerning Human Trafficking. The factors causing the difficulty of protection are not only from the police but also from the victims themselves who sometimes allow it because the first is unable to react to deviations, the second, the victim or other control bodies may fear that there will be more serious consequences due to the conflict, the third, this attitude of indifference has become a social climate caused by the absence of broad relations.

References

Book

Gerson W. Bawengan, 2007, *Masalah Kejahatan Dengan Sebab-Akibat*, Pradya Paramita, Jakarta.

H. Pudi Rahardi, 2007, *Hukum Kepolisian (Profesionalisme dan Reformasi Polri)*, Laksbang Mediatama, Surabaya.

Henny Nuraeny, 2013, *Tindak Pidana Perdagangan Orang*, Sinar Grafika, Jakarta.

Johnny Ibrahim, 2007, *Teori dan Metodelogi Penelitian Hukum Normatif*, Citra Aditya Bakti, Bandung.

Sadjijono, 2006, *Hukum Kepolisian, Perspektif Kedudukan Dan Hubungan Dalam Hukum Administrasi*, Laksbang Pressindo, Yogyakarta.

Soetandyo Wignyasoebroto, 2010, *Perempuan Dalam Wacana Trafficking*, PKBI, Yogyakarta

Tongat, 2012, *Dasar-dasar Hukum Pidana dalam Perspektif Pembaharuan*, UMM Pres, Malang.

Constitution:

Undang-Undang Dasar Negara Republik Indonesia tahun 1945.

Kitab Undang-Undang Hukum Pidana.

Undang-Undang Nomor 2 Tahun 2002 tentang Kepolisian Republik Indonesia.

Undang-Undang Nomor 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang.

Undang-Undang Nomor 17 Tahun 2011 Tentang Intelijen Negara.

Undang-Undang Nomor 13 Tahun 2022 Tentang Perubahan Kedua ats Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan.

Peraturan Kepala Badan Intelijen Keamanan Kepolisian Negara Republik Indonesia Nomor 1 Tahun 2023 Tentang Penyelenggaraan Operasional Intelijen Keamanan Kepolisian Negara Republik Indonesia.

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