

Implementation of the Rights of Suspects As Manifestation of the Principle of Presumption of Innocence at the Investigation Level

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This research aims to analyze the implementation of suspects' rights during the investigation process and to identify the challenges encountered in upholding the presumption of innocence principle. The research method employed in this study is an empirical method, consisting of primary data derived from interviews conducted at the Parepare City Police Office and secondary data obtained from document studies, including books, research journals, and legislation relevant to this research. The findings of this study indicate that the investigation process, which is expected to reflect the principle of the presumption of innocence, is often not optimal in practice. Some of the suspects' rights are not fully upheld, such as psychological pressure on the suspects and the right to legal certainty regarding their detention. Several factors influence the examination of suspects that fail to reflect the presumption of innocence principle, categorized into internal and external factors. These factors may compromise the principle in practice. Therefore, better training for investigators, supportive regulations, and a reduction in external pressures are needed to maintain the integrity of a fair legal process.

INTRODUCTION

System justice criminal law in Indonesia is manifestation from state efforts in to uphold just law . One of the fundamental principles which are the main pillars system This is principle presumption not guilty (presumption of innocence). this principle confirm that everyone who is accused do act criminal must considered No guilty until existence decision a court of competent jurisdiction law still . [1] Principle This has set up in various instrument law national and international , such as Article 8 of the Law Number 48 of 2009 concerning Power Judiciary and Article 11 of the Universal Declaration of Human Rights Human (UDHR). Where is the protection right basic human rights (HAM) in system justice criminal is fundamental aspects that must be filled For ensure justice for every individuals , including those who have the status as suspect .

At the stage investigation , principle presumption not guilty should become guidelines main in treatment to suspect . Although somebody has stated as suspect , but Article 50 - Article 68 of the Criminal Procedure Code guarantees about rights suspect still protected and things This show that the Indonesian state protects citizens , even though inhabitant his country the allegedly do act criminal , so that set as suspect . [2] Implementation rights suspect at level investigation in fact has set up in various regulation legislation in Indonesia, such as the Criminal Procedure Code (KUHAP) , especially Articles 50-68, which regulate rights suspect in the criminal process . Law Number 39 of 1999 concerning Human Rights Humans , who emphasize protection to rights individual in the legal process . Convention International Covenant on Civil and Political Rights (ICCPR), which has ratified through Constitution Number 12 of 2005. At this stage investigation , manifestation principle This reflected through respect to rights suspects , such as right For get help law , rights For No tortured , and rights For notified about what is suspected to him . However , in in practice ,

violations to rights This Still often happened , which did not happen only to injure principle presumption not guilty but also raises injustice for suspect . [3] Reality on the ground often shows that implementation rights This Not yet walk as should be . Investigator own authority big in do action like arrest , detention , and examination . However , the authority This often brings up dilemma between need For to reveal truth material and obligations For protect rights suspect . Stage This own crucial position Because is beginning from the enforcement process law , where rights the suspect is very vulnerable For violated . Practice arrest without letter order , detention exceeding the permitted time limit , until use violence physical and mental For to obtain confession , still become frequent problems found . This is No only to injure principle presumption not guilty , but also potentially give birth to injustice for suspect .

About injustice to suspect the based on the word of ALLAH SWT. in Surah An-Nisa (4:58): " Indeed, Allah commands You For convey mandate to those who are entitled accept it and if You set law between human beings , should You set it with fair . Indeed, Allah is the best who gives instruction to the right person ." [4]

Based on paragraph said , affirming that importance justice in every decisions and actions , incl in the process of investigation . Every suspect entitled treated in a way fair and equal , without discrimination or prejudice . Violation to rights suspect often caused by weakness supervision to apparatus enforcer law and its low understanding public to rights law they . As example , report annual National Human Rights Commission Humans (National Human Rights Commission) often take notes that part big complaint related violation right basic man occurs at the stage investigation . [5] This is indicates existence inequality between ideal legal norms and its implementation in practice . With runway the above thoughts , so that writer give title in writing study This namely : Implementation of the Rights of Suspects As Manifestation of the Principle of Presumption of Innocence at the Investigation Level .

METHOD

Study This use type study empirical (non -doctrinal) , namely study the law that places results observation on realities social going to to fact law Because law seen as symptom sociology , namely as product interaction social . This method implemented For obtain as much primary data as possible Possible . With approach study This use method qualitative . [6] Study This conducted in the jurisdiction of the Parepare City Police Office , on JL. Andi Mappatoala , Ujung Sabbang , Ujung District , Parepare City , South Sulawesi Province . Population from study This is all related parties with study This namely all over suspects undergoing the investigation process , investigators and officers police at Polres Parepare . Sample from selected population For study This is three investigators from unit Criminal Investigation police station city Parepare , two suspects were detained at the office police station city parepare , and consultant law . Types and sources of data used in study This is primary data , namely data that can be obtained with method interview deep with parties who know or relate with research problems and secondary data is the data obtained from various media such as library , regulations legislation and mass media . In the research This is the data collection process used namely through documentation , study documents , and interviews . [7] Data analysis aims For answer problem research which is then served in a way descriptive that is with road to tell and describe What existence in accordance with the problem being studied with the data obtained so that suggestions were obtained regarding What should done For overcome problem namely to the problem being researched .

DISCUSSION

Practice Inspection To Suspects Who Reflect the Principle of Presumption of Innocence at the Investigation Level

Based on Constitution Number 39 of 1999 concerning protection right basic human beings , where in Constitution the there is statement that everyone has equal position in law . Suspect must placed in position human beings who have dignity dignity . He must rated as subject , not as object . Which is checked No man suspect . Act act the crime he committed is what becomes object examination . Suspect must considered not guilty , appropriate with principle law " presumption not guilty (presumption of innocent) until obtained decision the court that has powerful law remain . [8] The rights regulated in right For to obtain justice in essence is principles in law criminal and procedural law but No limited by law criminal and procedural law . The principles covered in part four Constitution Number 39 of 1999 among others namely the principle of the presumption of innocence (Article 18) that Any person who is arrested , detained and prosecuted Because allegedly do a act criminal entitled considered No guilty until proven his guilt and the trial decide that He guilty . Rights suspect guaranteed in chapter this . Therefore that , the suspect given guarantee the necessary laws For do defense in accordance with applicable regulations .

Give appropriate rights to suspect criminal is protection to dignity human , so that guarantee government to implementation right suspect the Already enter to the realm of civilization people humans (Kalsum, Baharuddin & Badaru , 2020). In terms of this , law in a civilized world that is laws that, among other things, protect rights suspect in a way maximum , among others is on a fair legal process . In Article 3 paragraph (2) of the Law Number 39 of 1999 concerning Human Rights Man arrange that , " Everyone has the right on recognition , guarantee , protection and treatment fair law as well as get certainty laws and equal treatment in the future law " (Arnita, 2013). [10]

In practice examination in the investigation , where the examination is carried out to perpetrator crime by investigator with objective For want information and obtain tool proof other as well as look for truth involvement suspect in incident criminal mentioned . In Article 1 point 2 of the Criminal Code it reads that investigation is a series action investigator gather evidence that with proof That make bright act the crime that occurred use find the suspect . Investigation is activity inspection introduction or the beginning (preliminary) which should be at the point focus on effort search or collection proof factual arrest and search , even If need can followed with action detention to suspects and confiscation to goods or suspected material close the relation with act crimes that occur . [11]

According to Article 6 paragraph (1) of the Criminal Procedure Code (KUHP) states: that investigator is official Republic of Indonesia State Police and officials government employees certain given authority specifically by law . What is meant by with civil servants , regulated in article 1 number 11 of the Law Number 2 of 2002 concerning The Republic of Indonesia National Police , reads : " Investigator Government employees is official government employees certain based on Regulation Legislation appointed as investigator and have authority For do investigation act criminal in scope the law that becomes base their respective laws " . [2] Investigation process based on results interview with investigator Criminal Investigation Parepare City Police Station namely Mr. Bripka Juprianto , as Investigator The assistant who explained that activity investigation implemented in a way gradually includes : Investigation That a series action investigator For search and find a alleged incident as act criminal . Investigation That as introduction from investigation .

Sending SPDP (Notification Letter) The Beginning Investigation). Coercive measures which consist of from : summons , arrest , detention , search , confiscation and examination letter . Examination is activity investigator or investigator servant For get description , clarity , identity about suspect / witness / item proof and also elements chapter the crime he is accused of so that position / role a person / thing the evidence is in act criminal become clearly stated in minutes . Settlement file case that is group files and all activities and or related information with action investigation act criminal in form product written by investigators / investigators maid . Submission file case to prosecutor general . Examination done with method interrogation to suspect . Practice examination at level investigation in study this is what it comes from from results interview Respondent with Mr. Brigpol Asri Al Waqiah and Investigators Harun Al Arsyah Which explain

about stage examination , namely :

Evidence Collection :

At the stage a crucial start , involving goods proof physical , recording , document , or proof electronics . Sufficient evidence namely two tools valid evidence according to Article 183 of the Criminal Procedure Code, it is necessary before start inspection to suspect .

Inspection Suspect :

In the examination process , investigators ensure suspect understand his rights , including right on mentoring law . Where is the help law provided for suspect who is not capable through Work The same with the Legal Aid Institute (LBH).

Interaction Inspection :

During the investigation process , investigators look for clarity role suspect in act criminal . Examination forbidden use pressure or violence to suspect or witness . suspect can choose give information direct or through advisor the law . As for the circumstances If suspect No in condition adequate , then inspection will scheduled repeat .

Analysis :

All proof from suspects , witnesses and goods verified For ensure its relevance . Then in conclusion noted in the Examination Report (BAP).

Submission File Matter :

File case handed over investigator to prosecutor general For checked . If not complete , files returned For equipped . After complete , case delegated to court . In connection with inspection suspect , law has give a number of right protection to right the basics as well as protection to his rights For maintain truth and defense self as regulated in Chapter VI, Articles 50 to 68. [12] With see from corner view Suspect about fulfillment his rights said , research This do interview with Respondent namely 2 suspects prisoner Parepare City Police .

Suspect Ardi revealed that despite the inspection process walk fluent without existence oppression or pressure from party police , shows that rights Ardi's basic related humane treatment during the investigation process can guaranteed with well . Besides , he has accept visit family , which reflects existence access communication with the closest people during the detention process . However , he Not yet own companion law Because No know procedure For to obtain lawyer . He new know his rights For accompanied advisor law after given information by the officer . In addition , he also complained lack of announcement regarding his detention status which has been in progress more from 20 days , and No existence maintenance adequate medical although feel Sick body during detained . Absence clarity regarding legal status and rights show lack of fulfillment right suspect . Suspect Ahmad Rifai stated that He accept explanation about his rights , including right For get advisor law , which is step positive in ensure access to defense fair law . However , he feel stressed during the inspection process , with investigators who insisted that he confess act the alleged crime without consider the impact . In addition , Ahmad complained the unclear status of his detention which has been in progress more from 30 days without announcement more carry on from party authorized . This is show existence violation to principle principle presumption not guilty , because suspect should given clarity and fair treatment in the legal process . Practice inspection to suspect at level investigation Not yet fully reflect principle presumption not guilty . Even though There is effort For give rights suspects , such as information about right on mentoring law , its implementation Still less than optimal. Some suspects , such as Ardi, have not yet know procedure For get lawyers , while others , such as Ahmad Rifai, feel stressed during the inspection process . In

addition , the problem the ambiguity of detention status and the lack of maintenance medical also shows that rights suspect Not yet fully fulfilled , which should be guaranteed For ensure a fair and transparent legal process .

Factors That Influence Inspection To Suspects Who Do Not Reflect the Principle of Presumption of Innocence at the Investigation Level

In the process of investigation act criminal investigator police must implement and uphold tall principle presumption No guilty (presumption of innocence). [13] Implementation process task from official police There is rule as divider from his actions are one of them Perkap Number : 8 of 2009. Concerning implementation Basic Human Rights Man in the process of implementation his job as form from protection rights from suspect as for a number of points important from Perkap Number : 8 of 2009, namely : Implementation of human rights is form applicable standards for Enforcer law as in Article 1 Paragraph (2), the Republic of Indonesia National Police has role to uphold law , protecting , sheltering , and providing service to public with objective awake existing security in public matter This listed in Article 1 paragraph (3) (Andes, 2016). Acts of violation of Human Rights Humans do somebody Good including State apparatus is deliberate or No intentional worrying in settlement in the ongoing legal process No contain a justice and right , things This based on the applicable legal mechanisms . [14] In addition police as enforcer law expand functions and duties For security and order in public as listed in The 1945 Constitution of the Republic of Indonesia (UUDNRI) in Article 30 paragraph (4) states that " the Republic of Indonesia National Police as state apparatus that guards security and order public on duty protect , shelter serve public as well as to uphold law " . [15]

Presumption principle not guilty , which is guaranteed in the Criminal Procedure Code and Law No. 48 of 2009, requires that every individual considered No guilty until There is decision legitimate court . Implementation principle This in practice investigation is very important For ensure that suspect get his rights , such as right For defend yourself and for No given pressure or violence . However , in in fact , there are internal and external factors that can influence implementation principle This . According to Sayed Muhammad, et al ., there are two causes. No implementation protection right basic man in inspection suspect . First , the factor psychological member police related with field work No seldom invite danger . This is cause the occurrence an act that violates provision legislation and levels threat as well as risk very high job . The second factor related with understanding to a number of regulation legislation . [16] Based on results interviews conducted with Mr. Muhammad Rendy , as Legal Consultant explains from his experience moment mentoring client about a number of factor affecting inspection to the suspect who is not reflect principle presumption not guilty namely divided in two categories , namely internal factors and external factors external :

Internal Factors:

Attitude investigator to suspect . Investigators who have own prejudice that suspect Certain guilty before do objective examination Can leading to an inappropriate implementation fair to principle presumption not guilty . Lack of understanding investigator about impact for suspect about announcement about rights the suspect who is not detailed , such as right For accompanied advisor law or right For No give information that can be harm self themselves . Investigators who are focused on solving fast and in a hurry a cases , especially those dealing with with crime big or the one that is become attention public that causes neglect to rights suspect .

External Factors :

Pressure social and opinion the public can influence method investigator handle case . With urge that the case quick completed or so that the suspect punished heavy can influence investigator For act with a better way in a hurry or even violate procedure law . Limitations source Power in system

law that hinders suspect get adequate protection . For example like limited funds, facilities and time in system law often affects method investigator work . As explained above , the application principle presumption not guilty on the spot study This Can it is said Not yet maximum and still There is the occurrence obstacles , but obstacles that have not been overcome able and often happen is difficulties on the side police . In practice , there are various factors that can affect the inspection process to suspect who can ignore principle presumption not guilty . Factors This Can come from internal investigators and also factor external others . [17] Therefore that , is needed continuous efforts For increase quality investigation For increase implementation principle presumption not guilty , needed more training Good For investigators , more regulations support protection right suspects , and subtraction pressure external like opinion the public can affect the legal process .

CONCLUSION

Implementation fulfillment rights suspect during examination by investigators at the Parepare City Police Office can it is said Already Enough good . Party investigator has try carry out with Good in fulfillment rights suspect . However can also be seen existence gap in fulfillment rights suspect mentioned by the investigator . From the perspective view suspect No fully feel get right they are appropriate . So you can it is said that implementation fulfillment rights suspect the not optimal. The suspect feel There is a number of right those who don't filled with both by investigators . However although so in matter examination , investigator show proactive and responsive attitude in operate procedure examination . In addition , the suspect confess that the inspection process in progress smooth and without existence violence physical experienced , which shows that principle treatment humanity and justice respected by the parties police .

Implementation principle presumption not guilty on the spot study This Can it is said Not yet maximum and still There is the occurrence obstacles , but obstacles that have not been overcome able and often happen is difficulties on the side police . In practice , there are various factors that can affect the inspection process to suspect who can ignore principle presumption not guilty . Factors This Can come from internal investigators like attitude investigator to suspect namely own prejudice that suspect Certain guilty before do objective examination , or investigators who are focused on solving fast and in a hurry a case besides that's also the case factor external other like limitations source Power in system law or pressure social and opinion the public can influence method investigator handle case . Therefore that , is needed continuous efforts For increase quality investigation For increase implementation principle presumption not guilty , needed more training Good For investigators , more regulations support protection right suspects , and subtraction internal pressure and external from investigators so as not to affect the legal process.

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