

**Original Article****INVESTIGATORS DISCOVERED A SHOOTING ACTION AGAINST A DRUG DISTRIBUTOR LINKED TO HUMAN RIGHTS PROTECTION****Herlambang^{1)*}, Jim W. Bridges²⁾**¹⁾ University of Bengkulu, Indonesia²⁾ University of Surrey, United Kingdom

*Corresponding Author, E-mail: herlambang1@ube.ac.id

ABSTRACT

Background. Police officers have the right to exercise their discretion whenever they decide to take action, and they occasionally abuse this authority. The purpose of this research is to examine the use of lethal force by law enforcement against drug trafficking, which is considered a violation of human rights.

Research Method. The technique utilized in research is Normative Juridical, which combines an empirical and juridical perspective.

Findings. One could argue that when police officers shoot drug dealers on the spot, they are violating their human rights. If the dealer is being shot on the spot These drugs are not governed by the human rights and humanism principles of law enforcement; therefore, there will be flagrant abuses of human rights, as well as police efforts to disclose drug trafficking instances to prevent human rights violations. The police made an effort in several ways, including working with prior drug networks to help the National Police identify a drug network, maximizing resources that already exist in terms of human resources, can reducing the flow of drugs by carrying out raids, monitoring, and using disguise and undercover tactics.

Conclusion. In situations where force is applied, violence is essentially used.

Keywords: Human Rights, Police Officers, Protection, Shooting Action.

BACKGROUND

Crimes involving narcotics are special crimes spread nationally and internationally because their misuse has an impact negatively in the life of society, nation, and state. Forms of narcotics crime[1] commonly known include (1) Abuse exceeding the dose; (2) Distribution; and (3) Buying and selling narcotics. The problem of narcotics is increasing over time increase. Narcotics have become a national and even international problem because of the consequences and The impact has spread throughout the country. Nationally trade Narcotics have spread to every level of society, starting from the upper levels of society down to lower society[2].

In terms of age, narcotics are not only enjoyed by teenagers but also teenagers in middle-aged and old age groups. The spread of narcotics is no longer there again only in big cities, but has entered small towns and spread to sub-districts even villages[3]. Illegal distribution of narcotics must be tackled immediately considering the negative effects it will have not only on the user but also on families, communities, even nations and countries. Increased crime, this narcotics is generally caused by two things, namely: first, for the dealers promises greater profits, while for users it promises peace and tranquility in life so that the psychological burden experienced can be overcome removed. Second, the promises given

by narcotics cause fear the risk of getting caught is reduced, on the contrary, it will cause feelings of courage[4].

This is homework that must be handled by the police in eradicating the distribution of narcotics, but the police are in the process of carrying it out. The obligation to eradicate narcotics must be based on human rights and not violate the principles of law enforcement[5]. The authority carries out repressive duties in this case shooting on sight by police officers is called active police discretion, and Generally, the authority for this task is given to the police detective unit. Every time they take action, police officers have the authority to act according to their judgment and this is what is sometimes misused by the authorities Police. This authority is written in Article 18 paragraph (1) of Law Number 2 2002 concerning the State Police of the Republic of Indonesia contains: "For the benefit of general officials of the Indonesian National Police in carrying out their duties and authority can act according to its judgment." This article can be mentioned with discretionary authority[6]. The definition of police discretion is "An authority given to the Police, to make decisions in certain situations that require one's judgment and concerns moral issues, and lies on the boundary line between law and morals".

In carrying out their duties, it is not uncommon for the police to take action and shoot on the spot at the perpetrator who is strongly suspected of being a narcotics trafficker. Formal procedures for using firearms are regulated in National Police Chief Regulation No. 1 2009 Concerning the Use of Force in Police Actions[7]. Article 5 paragraph (1) states "The stages of the use of force in police actions consist of Stages 1: the force that has a deterrent/preventive effect, Stage 2: verbal command, Stage 3: soft hand control, Stage 4: hard hand control, Stage 5: control of blunt weapons, chemical weapons including tear gas, chili spray or other tools according to National Police standards, Stage 6: control using firearms or other tools which stops the actions or behavior of criminals or suspects who can cause serious injury or death to members of the police or members of the public."

The use of violence by the police, whether legally (by law) or by abuse of power, is not justified at all practice. Previous research explains that the legitimate use of force by police is practically meaningless and more interestingly the journal states that giving power to the police to use force in their duties[8], doesn't matter at all if associated with efforts to confront criminals. Principles governing protection regarding human dignity and dignity contained in this Law are protection of the principle of presumption of innocence. The principle of presumption of innocence is one of the manifestations of human rights. In the 1945 Constitution, the principle of presumption of innocence is not stated expressly in a particular article. However, in the formulation of Article 27 paragraph (1) of the 1945 Constitution contains the meaning of the principle of presumption of innocence. This article means that this provision can provide guarantees to every citizen of the country personal security where everyone has equal status before the law and government, and also in the obligation to uphold the law and government[9].

Based on the problem identification above, the problems in this writing analyze why the action of shooting on sight by members of the police against Narcotics trafficking can be said to be a form of human rights violation and how police efforts to uncover narcotics trafficking cases so that they do not occur human rights violations.

RESEARCH METHOD

Primary data is the main data obtained by the author directly from the field research by conducting interviews with respondents, namely members Republic of Indonesia State

Police at the Regional Police and academics in the region Bengkulu, to obtain the data needed for research. As for data Secondary literature consists of:

a. Primary Legal Materials such as Law Number 1 of 1946 in conjunction with Law Number 73 of 1958 concerning the Criminal Code, Law Number 8 of 1981 Criminal Procedure Code (KUHAP), Law Number 22 2002 concerning the State Police of the Republic of Indonesia, Law Number 39 of 1999 concerning Human Rights, National Police Chief Regulation Number 1 of 2009 Regarding the Use of Force in Police Actions, National Police Chief Regulation Number 8 of 2009 concerning Implementation of Human Rights Principles and Standards in Carrying out the Duties of the Republic of Indonesia State Police.

b. Secondary legal materials can be sourced from complementary legal materials primary law and other statutory regulations that are appropriate to the problem in this research. The scope of this research is limited to the study of legal science criminal law and criminal procedural law which examines the act of shooting on sight Police officers refer to narcotics dealers as protecting Human Rights, Research also examines Law Number 8 of 1981 concerning the Criminal Procedure Code and Law Number 39 of 1999 concerning Human Rights.

c. Tertiary legal materials can come from various materials such as theories/opinions experts in various legal literature/books, documentation, mass media, legal dictionaries, and sources from the internet. To collect the data needed for research, we will use two methods of data collection, namely, literature study and field study.

The data analysis used in this research is qualitative. Conclusions are drawn using the inductive method, namely describing things that are specific to general matters by the problems discussed in this research[10, 11].

FINDINGS

The act of shooting on sight by police officers is a police duty repressive, that is, taking action. The repressive duty of the police is the duty of the police which is to take action against law violators by applicable legal provisions both in the Criminal Procedure Code and other statutory regulations. The authority to carry out repressive duties in this case shooting on sight by police officers is called active police discretion, and generally, this is their duty. The authority is given to the police detective unit. The most important thing in carrying out the order to fire on the spot must be on-site shooting mechanisms and fixed procedures for the use of firearms by police officers. As a law enforcer at the forefront of the system implementation process judiciary, which has the authority to carry out coercive measures and repressive measures, which has the potential to abuse the authority entrusted to it, then the authorities

The police must be bound by strict procedural laws. To be able to behave and act politely must be tied to Police Ethics which is enforced by consistency and consistency. Action taken by the police based on considerations based on moral principles and institutional principles, as follows moral principles and Principles institutional. Shooting procedures on the spot are regulated in Article 48 of the Head Regulations. The State Police of the Republic of Indonesia Number 8 of 2009 explains on-site shooting procedures, where when using a firearm you must:

a) Officers understand the principles of legality, necessity, and law enforcement proportionality;

b) Before using a firearm the officer must give a clear warning by: 1) Mention himself as an officer or member of the National Police who is on duty; 2) Give a warning with clear and firm words to the target to stop, raise one's hands, or lay down one's weapon; 3) Allow sufficient time for warnings to be heeded.

c) In very urgent circumstances where time delays are expected resulting in death or serious injury to officers or other people around them, the warning as intended in letter b does not need to be carried out.

Before police officers carry out acts of police violence in the form of shooting in place, according to Article 15 of the Republic of Indonesia Chief of Police Regulations Indonesia Number 1 of 2009 concerning the Use of Force in Action. The police must carry out warning shots first, regarding content of Article 15 are 1) In the event that the actions of a criminal or suspect could cause danger threats of serious injury or death to members of the National Police or the public or can endanger public safety and are not immediate, can be done warning shot; 2) Warning shots as intended in paragraph (1) are carried out with safe, reasonable and reasonable consideration to stop the action perpetrator of a crime or suspect, and does not pose a threat or danger to the people around him; 3) Warning shots are only fired into the air or onto the ground with caution which is high if other alternatives have been implemented that have not succeeded in achieving the goal as follows: a) to reduce the morale of criminals or suspects who will attack members of the police or community; b) to provide a warning before shots are fired at the perpetrator crime or suspect; 4) Warning shots are not required when dealing with potential threat hazards causing serious injury or death is immediate, so no allows warning shots to be fired.

Before the police carry out shooting on the spot there are several things which must be considered, where this is regulated in Article 18 paragraph (1) and Article 19 paragraph (2) Law Number 2 of 2002 concerning State Police Republic of Indonesia. As far as possible, shootings in this place should be avoided by police officers by taking a subtle approach to criminal suspects without violence, but you don't always have to be gentle and gentle but also can be loud and rude, as long as it is proportional. Implementation of on-site shooting against suspect is the last step taken by the Police, before committing. The act of shooting at a police officer's place must take into account the following factors stated in Article 45 of Law Number 8 of 2009 concerning the Implementation of Human Rights Principles and Standards in Carrying Out Police Duties Republic of Indonesia, including the following: a) Non-violent actions and methods must be attempted first; b) Violent measures are only applied when necessary; c) Violent measures are only used to enforce legitimate laws.

DISCUSSIONS

The implementation of shooting on the spot against suspects is mandatory for every police officer to pay attention to the Basic Principles of Law Enforcement[12], of which these principles consist:

a. Principle of Legality. This principle means that all actions carried out by police officers must be by applicable law. The principle of legality in human rights is not only regulated in national legislation but also internationally. Therefore, a police officer must know national and international legislation related to law enforcement duties.

b. Necessity Principle. Necessity means a situation that requires police officers to act an action or face an event that cannot be avoided or avoided so they are forced to take action that limits the suspect's freedom. In the use of force and firearms, this principle is applied when circumstances are not avoidable or unavoidable.

The act of shooting on sight for narcotics traffickers can be said to be a form of action a blatant violation of human rights if it is not guided by the principles of human rights. Humans, especially for aspects of the right to life and the right to an honest trial and fair. "No matter what a person's fault, he must be brought to justice there is room for him to defend himself. Law enforcement is carried out by humans and "Humans often make mistakes in deciding everything,". Other opinions also say that discretion is an exercise of more authority prioritizing "morals" over "law".

Police efforts to uncover narcotics trafficking [13]cases carried out by police against perpetrators of illicit narcotics trafficking in the community include two efforts, namely internal and external efforts. Internal efforts are carried out by optimizing the capabilities and skills of personnel, while external efforts include increasing the function of coordination and cooperation between law enforcement agencies. Before the arrest process, the police should carry out targeted operations disclosure of the circulation of narcotics cases requires sufficient preliminary evidence regarding the criminal act committed. To find out if there is a criminal act, then generally formulated in criminal legislation concerning Prohibited acts are accompanied by sanctions to adhere to the Standards[14].

Human Rights reminds us that police duties require violence to ensure that the use of violence to carry out their duties must be avoided. Do not let the police carry out law enforcement against someone without preliminary evidence which can arise as a case fabrication which constitutes a violation. Very cruel human rights in the law enforcement process, namely on purpose creating someone as a perpetrator of a criminal act. Enforcement of criminal law in Indonesia stated: "that even though there is initial evidence that strengthens the accusation of being the perpetrator of a crime, the person concerned remains positioned as a human being with human rights that must not be violated, especially above his actions were before the judge's decision declared the perpetrator guilty, in accordance the principle of presumption of innocence or presumption of innocence, because that is the burden of proof is an obligation of the Public Prosecutor as a consequence of applying the principle of presumption innocence or presumption of innocence".

Some efforts can be made by police investigators to uncover narcotics trafficking cases through several methods[15], namely: a) Collaborating With Former Networks; b) Maximizing Existing Human Resources; c) Conducting raids; d) Carrying out Monitoring; e) Carrying out disguise techniques. In many cases, the use of violence is essentially carried out when the situation is so forced, that the use of force cannot be carried out appropriately arbitrarily but is limited by law, so it can be said that be law prevents arbitrary use of force. But on the other side of the law also allows the use of force by the police if necessary once, for example: regulated in Article 49 paragraph (1) of the Criminal Code which contains the following "Anyone, in this case the police on duty, carries out acts that are forced done to defend himself or another person, to defend one's own or someone else's honor or property, from, attacks against rights and threatening him and immediately at that moment, is not allowed punished'.

The use of violence includes the use of firearms by the police In order not to violate human rights, its implementation must be guided by the principles of legality and principle obligations, as well as the police's discretionary authority to assess the situation at hand by police officers at that time. The right of authority to assess the situation by police officers on duty and "going to shoot" a criminal, must consider the benefits and risks of the action.

The contribution of this research is an effort to increase integrity toward human rights by adding criminal sanctions for police officers violating shooting procedures on the spot and against arbitrary actions in carrying out police duties.

CONCLUSION

Shooting on the spot by police officers against narcotics dealers can be said to be a form of human rights violation. If the shooting action occurs This place for narcotics dealers is not guided by the principles of human rights. Humans and humanist law enforcement will result in human rights violations openly.

REFERENCES

- [1] Rahman D, Fitriati F, Rosadi O. PERSPEKTIF KEBIJAKAN KRIMINAL DALAM UPAYA PENANGGULANGAN TINDAK PIDANA NARKOTIKA DI INDONESIA. *UNES J Swara Justisia*; 4. Epub ahead of print 2021. DOI: 10.31933/ujsj.v4i4.186.
- [2] Nunyai JE, Edrisy IF. PENCEGAHAN PEREDARAN NARKOTIKA DI LEMBAGA PEMASYARAKATAN KELAS II A KOTABUMI. *J Huk Leg*; 4. Epub ahead of print 2022. DOI: 10.47637/legalita.v4i2.644.
- [3] Krisnanta KA, Suwitra IM, Arthanaya IW. Pemberantasan Penyalahgunaan dan Peredaran Narkotika Melalui Pararem Desa Adat Pancasari. *J Interpret Huk*; 1. Epub ahead of print 2020. DOI: 10.22225/juinhum.1.1.2178.13-18.
- [4] Nuri Andayanti. Penerapan Sanksi Pidana Mati Bagi Pelaku Tindak Pidana Narkotika. *Locus J Konsep Ilmu Huk*; 1. Epub ahead of print 2021. DOI: 10.56128/jkih.v1i1.13.
- [5] Costa AM. Free drugs or drug free? *Int Drug Policy Reform Conf*.
- [6] Ayu Suhito Wardhani L, Lindiasari Samputra P, Hanita M. Implementasi Pembentukan Sistem Interdiksi Terpadu dalam Instruksi Presiden Republik Indonesia Nomor 2 Tahun 2020 pada Badan Narkotika Nasional. *Transparansi J Ilm Ilmu Adm*; 4. Epub ahead of print 2021. DOI: 10.31334/transparansi.v4i1.1575.
- [7] Romadhan MLT, Khotimah N, Widhaningroem S, et al. Legal Rules Concerning Shoot to Death for Criminal Acts of Terrorism in the Perspective of the Principle of the Prejudication of Innovality. *Musamus Law Rev*; 4. Epub ahead of print 2021. DOI: 10.35724/mularev.v4i1.3794.
- [8] Renyaan W. EFFORTS TO ERADICATE AND OVERCOME DRUGS BY THE POLICE. *Hermeneut J Ilmu Huk*; 7. Epub ahead of print 2023. DOI: 10.33603/hermeneutika.v6i3.8329.
- [9] Nugraha S, Windyastuti F. PERLINDUGAN HUKUM TERHADAP KORBAN KEJAHATAN TINDAK PIDANA NARKOTIKA BERKAITAN DENGAN UNDANG-UNDANG NOMOR 35 TAHUN 2009 TENTANG NARKOTIKA. *IBLAM LAW Rev*; 2. Epub ahead of print 2022. DOI: 10.52249/ilr.v2i1.39.
- [10] Suyanto. *Metode Penelitian Hukum Pengantar Penelitian Normatif, Empiris dan Gabungan*. Unigres press, 2022.
- [11] Qomariah SN. Buku Ajar Riset Keperawatan. *Reposytori Univ Gresik*.
- [12] Putri Syam A, Putri Mahrus MM, Tarigan TM. Peran Etika Profesi Hukum sebagai Upaya Penegakan Hukum. *As-Syar'i J Bimbing Konseling Kel*; 5. Epub ahead of print 2023. DOI: 10.47467/as.v5i2.2697.

- [13] Marpaung B, Suhaidi SH, Kalo S, et al. Indonesia Narcotic Emergency. *IOSR J Humanit Soc Sci Ver II*; 20.
- [14] Janabadra U, Ariyanti DO. TINJAUAN YURIDIS TERHADAP TINDAK PIDANA PENCEMARAN NAMA BAIK MELALUI MEDIA SOSIAL. *J Kaji Huk*; 2.
- [15] Reza M, Rosadi O, Rosmely W. PENGGUNAAN SOFTWARE ANALYST'S NOTEBOOK DALAM UPAYA MENGUNGKAP JARINGAN TINDAK PIDANA NARKOTIKA (STUDI PADA SAT RESNARKOBA POLRES AGAM). *UNES J Swara Justisia*; 4. Epub ahead of print 2021. DOI: 10.31933/ujsj.v4i4.190.



Copyright and Grant the Journal Right under [Attribution-NonCommercial 4.0 International](https://creativecommons.org/licenses/by-nc/4.0/).

Copyright © 2022 SYNTIFIC PUBLISHER