



ABUSE OF POLICE AUTHORITY IN THE PERSPECTIVE OF ADMINISTRATIVE LEGAL FUNCTIONS

Risma Yogi Safitri¹, Wiwik Andriyani², Muhammad Jihbidz Haq³

Sunan Ampel State Islamic University Surabaya (05020120081@student.uinsby.ac.id ¹, 05020120089@student.uinsby.ac.id ², 05030120096@student.uinsby.ac.id ³)

Abstract: In general, officers and ranks of the National Police of the Republic of Indonesia in the field of Road Traffic and Transportation who carry out inspections of the completeness of motor vehicles or often referred to as raids on the road, periodically, and on the basis of authority for the police to carry out Police Operations and / or crime countermeasures, must be equipped with a warrant of duty. The motorist has the right to ask the officer to present the warrant to know whether the inspection is in accordance with legal procedures or not. While conducting a raid on a motorist, officers are required to submit a warrant. This refers to the technical matters and rules that must be considered by police officers when conducting inspections that have been stated in article 15 of Government Regulation Number 80 of 2012 concerning Procedures for Inspection of Motor Vehicles on the Road and Enforcement of Traffic and Road Transport Violations . This indicates that, when carrying out a motor vehicle raid on the road, the Traffic Police must complete its inspection procedure with a warrant of duty.

Keywords: Police; State Officials; Law State Administration; Authority.

Abstract :

In general, officers and ranks of the Indonesian National Police in the field of Traffic and Road Transportation who carry out inspections of the completeness of Motorized Vehicles or often referred to as road raids, periodically, and on the basis of authority for the police to carry out Police Operations and/or crime prevention, must accompanied by a work order. The rider has the right to ask the officer to show the duty order to find out whether the inspection is in accordance with legal procedures or not. When carrying out raids on motorists, officers are required to include a warrant. This refers to matters and technical rules that must be considered by police officers when carrying out inspections which are listed in Article 15 of Government Regulation Number 80 of 2012 concerning Procedures for Inspecting Motorized Vehicles on Roads and Enforcement of Traffic and Road Transportation Violations. This indicates that, when carrying out raids on motorized vehicles on the road, the Traffic Police must complete their inspection procedures with an assignment warrant.

Keywords:Police; State officials; State Administrative Law; Authority.

1. INTRODUCTION

In Indonesia, especially in big cities, police raids are often seen. This is usually done to filter out "naughty" drivers or violations. If proven violating, various sanctions can be given by the police, from giving a warning to giving a ticket. However, sometimes there are a handful of cases where it turns out that several police officers carry out raids without an official letter of assignment or notification via a signpost.

As in the viral video some time ago, June 26, 2022. In the video uploaded by the @jurnaliswarga62 account on the Tiktok channel, it shows a man who looks like he has been caught in a raid. It is believed that the video was recorded in the Aceh area. In the video, it is told that the man entered the hotel where he was staying, then suddenly two police officers were carrying out a raid. The man, while recording, asked about the raid, whether it was official or not and why he was being raided. As it turned out, the man who recorded the recording knew about the law and asked to be shown an official raid assignment letter, namely the SPT (assignment order) and questioned whether there was a sign indicating the raid was being carried out. But the officer instead asked the driver to come to the post, then the driver asked the officer to take the SPT and submit it at the hotel. The two policemen finally went to get the letter.



This journal is to educate readers why it is important to ask for the SPT during a raid. And why should a notification sign be included during a raid somewhere? We will discuss the full review in the following discussion.

2. METHOD

Research on the Abuse of Police Officer Authority From the Perspective of Administrative Legal Functions was carried out using a quantitative research method approach. Which research method is a type of research with systematic, planned, and clearly structured specifications from start to finish in making the research design. This research also requires a lot of numbers, starting from data collection, interpretation of the data, and the appearance of the results. To carry out the approaches in this study, here the author uses a type of non-experimental quantitative method, where the author provides a description of the quantitative data, attitudes, opinions of the population by studying the population.

As previously explained, the author's way of obtaining and collecting data is by using a structured questionnaire in the form of a Google Form which will be distributed to several populations whose opinions will be taken as research material. Apart from that, do not forget that as a research subject, an assessment of the Police is also carried out here. As well as related legislation, such as Government Regulation of the Republic of Indonesia Number 80 of 2012 concerning Procedures for Inspecting Motorized Vehicles on the Road and Enforcement of Traffic and Road Transportation Violations as the object of this research. Correlation between Research Subjects, who are none other than Police Officers and Research Objects, namely PP No. 80 of 2012 accompanied by public opinions obtained through Google Form data will be materials for this research. Assisted by several Scientific References that the author gets based on his understanding.

It is hoped that with the research method that the author has made, namely using a non-experimental quantitative research method in which the author has collected data, interpreted the data, as well as the appearance of the results that have been carried out in writing this journal, this writing is able to meet the criteria to be able to become reference material existing knowledge. So that it creates more benefits in terms of presenting literacy sources in academic circles. As an effort to participate in the intellectual life of the nation.

3. THEORETICAL REVIEW

3.1 Definition of State Administration

There are several views related to the definition of State Administration presented by several experts, including:

1. Leonard D. White said that state administration is all state activity to assist the government in carrying out state policies for the welfare of its people (Aisyah, 2018, p. 5).
2. Demock & Koenig which defines administration into two parts of understanding, namely:
 - a. In a broad sense, state administration is defined as state activities in organizing its political power;
 - b. Meanwhile, in a narrow sense, state administration is an executive activity in the implementation of government.
3. Dwight Waldo defines Administration in two senses, namely:
 - a. Public administration is the organization and management of people and things to achieve government goals;
 - b. State administration is a science and art regarding governance which is used to regulate state affairs.
4. Pradjudi Atmosudirdjo revealed that State Administration is a function of administrative assistance from the government, in the sense that the government or state officials cannot carry out their duties and obligations without state administration. The duties of state administration consist of two things, namely:



- a. State administration is the administration of the state as an organization. In this sense, where the President of the Republic of Indonesia doubles up as the government and at the same time the state administrator by leading a state apparatus;
 - b. State administration is governance that pursues the achievement of goals that have a state nature. In Indonesia, this task is carried out by state officials who are burdened with leadership and responsibility for the unity of one state organization.
5. Utrecht acknowledged that state administration is a unit of administrative apparatus under the leadership of the government, namely the President assisted by ministers, who carry out part of the government's work, administrative parts or functions that are not functioned by the judiciary, legislative and government bodies of the legal unions that are lower than the state, namely government agencies of the legal community.

Based on the statements of several experts as above, it can be said that state administration is an activity in the form of state governance in the form of a task force under the state executive and if there is no state administration, the state apparatus cannot administer government. Meanwhile, what is called State Administrative Law is a word which is a translation of *Administratiefrecht* in Dutch vocabulary, the mention of *Verwaltungsrecht* in Germany, *Administrative Droit* in France, *Administrative Law* in England and America.

3.1.1 Definition of State Administrative Law

Related to the understanding of Administrative Law is the law that regulates the structure and special authority of equipment from agencies, for example such as staffing which includes pensions, military conscription regulations, regulations related to education or teaching, arrangements regarding social security, housing, labor, guarantees poor people, and so on. Also according to State Administrative Law can be interpreted as a combination of regulations that enable state administration institutions to carry out their duties and also at the same time as a set of regulations that protect society against arbitrary attitudes regarding state administration, and also as a protector for the state administration itself (Aisyah, 2018, pp. 6-7).

3.1.1.1 Function of State Administrative Law

Philipus M. Hadjon revealed that State Administration Law has three functions, namely (Tutik and Widodo, 2011, p. 264).

1. Normative function
This normative function contains the functions of the organization or government and concerns the matter of normalizing the power to govern in an effort to create a clean government. This function tends to indicate that state administrative law seeks to regulate basic norms related to government institutions as well as legal instruments used by institutions in government to carry out their duties in the wheels of government.
2. Instrumental function (*instrumentele functie*) The instrumental function has the meaning of determining the tools used by the government to use power in governing. According to P De Hans, this function consists of active instrumental functions and passive instrumental functions. The active instrumental function is in the form of authority, which is in the form of authority owned by the government agency, while the passive instrumental function is in the form of policies carried out by the government.
3. Guarantee Function (*waarborgfunctie*) Guarantee function is a function to provide guarantees or legal protection for the people. Where this function guarantees the implementation of government based on democracy. Then in order to be able to oversee the implementation of government based on democracy, it is necessary to provide guarantees through all acts of government behavior in carrying out supervision. This is done so that governmental tasks are carried out in a responsible and not arbitrary manner. Guarantees carried out by the legal function of state administration also concern all guarantees given to the public regarding all forms of legal protection and compensation for any government action deemed to have harmed the community.



4. ANALYSIS OF FINDINGS

4.1 Definition of Police

The police are a government agency whose job is to maintain security and public order, one of which is to control and arrest people who violate the law and so on. Then, Momo Kelana said that the term police has two meanings, the first is the police in the formal sense, which includes the organization and position of a police agency. Second, the police in a material sense, namely as part of the government which is responsible for issues and authority in dealing with disturbances related to order and security based on applicable laws and regulations (Jurdi, 2019, p. 301).

Charles Reith through his book entitled *The Blind Eye of History* says that the definition of Police in English is every effort to improve or regulate the structure of life in society, this understanding is based on the idea that humans are social beings who live in groups and make rules. mutually agreed upon. And among these groups there are parties or members who are unwilling to comply with the regulations that have been made and mutually agreed upon, giving rise to the problem of who is entitled and has the obligation to correct and discipline members of the group who have violated it, from that thought then police are needed (Wibowo, 2022, 134).

The definition of the police is also stated in the *Encyclopedia and Social Science* (Volume XI-XII, page 183), it is explained that the definition of the police covers the field of functions, broad tasks, used to explain various aspects of supervision in general. In another meaning, the police are given the meaning as things that have a relationship with the maintenance of public order and property from acts that violate the law (Wibowo, 2022, 135). According to the several definitions of the police that have been explained by several experts above, it can be concluded that the police are a controller of orderly deviations from the rules that have been made and agreed upon in a community group.

4.1.1 The powers of Police Officers are listed in the Constitution of the State

As one of the state officials who is an instrument of national defense, of course the police have an important position in the government structure. His participation in orderly society is quite large when viewed from various aspects of daily life. Not infrequently its existence needs to be acknowledged as a source of public order. The police in creating public order in society, of course, requires systematic arrangements so that the expected order can be realized. In line with this, the state constitution has regulated how the police can achieve this order by granting the powers that can and must be carried out by the police. These arrangements are contained in Law Number 2 of 2002 concerning the Indonesian National Police in Chapter III Duties and Authorities Articles 15 and 16.

Apart from being regulated in this Law, the police's powers are also clarified in Government Regulation Number 80 of 2012 concerning Procedures for Inspecting Motorized Vehicles on the Road and Enforcement of Traffic and Road Transportation Violations, which contains arrangements regarding the authority of the Police in the field of Traffic, especially related to public order and obedience in driving on the highway. These powers include inspection of vehicles on the highway as stated in Government Regulation Number 80 of 2012 Chapter II Procedures for Inspection of Motorized Vehicles on Roads in Part One concerning the Scope of Inspection Article 3 to Article 8. Some of the inspections referred to consist of completeness, driving license (SIM), motorized vehicle registration certificate (STNK),

In the practice of field inspections, the police will of course hold an activity called Raids. Raids are generally carried out in combination with the aim of upholding the function of traffic law so that the role of traffic rules is complied with by all road users (Chandra, 2014). One of the problems in carrying out raids that is often found is the abuse of authority by police officers in the form of discrepancies in the systematics of raids with related laws and regulations, namely Government Regulation Number 80 of 2012. a minimum distance of 50 meters before the checkpoint, as well as before and after the checkpoint on two-way traffic.

This causes the community to feel disadvantaged both materially and immaterially. Not only that, sometimes there are several police officers who when carrying out raids do not comply



with existing procedures, such as the absence of an assignment warrant and lots of illegal fees. Because of the many problems, the author will try to describe them from the point of view of the Administrative Law Function.

4.1.1.1 Correlation between Abuse of Police Authority and Administrative Law Functions

The normative function (normative function) in Administrative Law is more focused on government components to be able to exercise an authority based on legal norms. The study of legal norms in question is in the form of authority that has been regulated in laws and regulations. This aims to create legal certainty for authorized and/or authorized parties. With this in mind, it is hoped that there will be no abuse by government officials, such as the police.

The normative function that must be carried out by the police is to carry out their powers based on established regulations. These provisions must be carried out so that the objectives of the Administrative Law Function are achieved, namely to ensure legal justice, guidelines and standards for every human behavior and most importantly to create legal certainty in society (Agustian, n.d.). One of the powers that have been regulated by law against the police is stated in Law Number 2 of 2002. For the implementation of this law, several implementing regulations were issued, such as Government Regulation Number 80 of 2012 concerning Procedures for Inspecting Motorized Vehicles in Roads and Enforcement of Traffic Violations and Road Transportation.

In these regulations, several provisions have been explained regarding the authority of the police in carrying out their duties. However, even though provisions and limits on authority are provided by law, this does not fully make the police exercise their authority properly. There are several incidents or incidents that prove the abuse of authority by some police officers, which of course is contrary to existing regulations. This deviation certainly has an impact on the inefficiency of the function of administrative law in the aspect of its normative function. This is because in essence the normative function aims to make the parties in the government exercise their authority in accordance with predetermined regulations. Once such a rule exists,

Administrative law is the entire regulation of the law that forms the state apparatus, both high and low, the tools referred to here are the bodies that form the structure of a government, so Administrative Law is the provisions governing the policies taken when these tools will use constitutional authority (Nawangasasi, 2016, p. 54). As a law that regulates the running of government, of course, State Administrative Law also has a function, where with this function a regulation can regulate government policies. One of the functions possessed by State Administrative Law is the instrument function.

Instruments in the Big Indonesian Dictionary are defined as tools used to do something. This gives the sense that the instrument itself is something that is needed so that a job can be done. Meanwhile, what is meant by the Instrument Function in State Administrative Law is the function that regulates the norms used by the government in exercising its governing power (Syahrizal, 2013, p. 33). In accordance with the definition regarding the function of the instrument of the Constitutional Law, it is clear that the purpose of enacting this law is to control the power of the government so that it does not rule outside its authority.

This function regulates and guarantees all the powers of the state government apparatus, including the Police. If there is negligence or arbitrariness in carrying out their duties, such as the absence of a sign when carrying out a raid, or even the absence of a ticket order, it can be said that the police have committed negligence in exercising their authority. Even though all the provisions and procedures regarding carrying out inspections on the road have been listed in the Government Regulation of the Republic of Indonesia Number 80 of 2012 concerning Procedures for Inspecting Motorized Vehicles on the Road and Enforcement of Traffic and Road Transportation Violations. This proves that the function of this instrument is not optimal in its application so that there are still many unscrupulous officials who act as they please in carrying out their duties and can harm the public interest.

If one observes the function of the existing instruments in the State Administrative Law, in cases like the one mentioned above, it will be seen how little awareness the government



apparatus has in carrying out all its authority. State officials in general and especially police officials still often make procedural errors in exercising their authority. This means that the Instrument Function in Administration in Indonesia is still lacking in the implementation of state life.

With regard to the abuse of authority, State Administrative Law with its instrument function seeks to minimize it so that it does not happen again in the future. This function also provides legal protection to the public for losses incurred as a result of the arbitrariness of the apparatus. In addition, as an instrument or tool for the running of good governance, this function is also as a controller of the policy steps taken by the government, so that it is always orderly and does not violate the arrangements regarding its duties and authorities. Regarding the effectiveness of the influence of this function, it still cannot be said to be completely successful, but at least there are rules that can remember and bind our state officials to stick to the signs of their duties.

In addition to the normative and instrument functions, State Administrative Law also has a guarantee function in it. Guarantee in the Big Indonesian Dictionary comes from the word guarantee which means to bear. This means that one of the functions of State Administrative Law is to bear or ensure that the people receive legal protection from any actions by the apparatus that are detrimental.

Basically, every policy carried out by officials has been regulated systematically and should comply with these rules, but often not a few are still absent and negligent from their authority, so that the function of this guarantee acts as a shield so that society does not become an object that is always monitored. loss, loss here is when the authority that should be able to protect sometimes becomes a tool that complicates the public interest. The government seems to dominate and feels that it has more authority to take actions that are beyond its authority.

If it is related to a raid carried out without a ticket or a sign indicating a raid that is 50 meters apart before the inspection or 50 meters before and after the checkpoint when on a two-way traffic lane, then the Police as a state official can be said to have violated procedure in carry out their duties and powers. In this case the community is disadvantaged in terms of time and material in the form of money which is sometimes requested by the police from people who do not have complete vehicle procedures. If, in the practice of these raids there is extortion in the form of extortion, it is not impossible if this is called abuse in carrying out duties and authorities.

The guarantee function exists to ensure legal protection for community members (Zaman, nd, p. 219). In practice, state officials often violate the authority that has been determined, causing losses that have direct or indirect impacts on the community. The function of the State Administrative Legal Guarantee must be able to protect citizens so that justice and welfare can be realized evenly. The use of state power against citizens is not without conditions. Citizens cannot be treated arbitrarily as objects.

On the contrary, state officials are tasked with assisting the community in enforcing the norms and rules that apply in the life of the state. As officials who can be held responsible for their authority, they should not go far and deviate from the rules. Because of this, the guarantee function of state administrative law must pay more attention to state apparatus when they want to exercise their powers, so that people's rights can still be respected.

All decisions that are applied to the community should be accountable, it is also appropriate if we need regulations that can direct the implementation of government in accordance with what the people want. The government has realized specifically regarding the relationship between the state and its people, namely by having an administrative law that regulates how policies and the interests of the people should not overlap. It is hoped that by implementing this function it can help the government organize good governance in accordance with legislation and in accordance with the General Principles of Good Governance.

5. CONCLUSION

From this it can be seen that there is a correlation between the abuse of Police Officers and the Legal Functions of State Administration. The correlation in question includes how



administrative law functions are not carried out optimally when there are many abuses of authority. Where the function of State Administrative Law should be to be able to create and direct government policies that are better and do not violate the rules that have been set.

The non-optimum function of administrative law is evidenced by the abuse of authority by police officers during raids, such as the absence of signs indicating the conduct of raids or the absence of a warrant of assignment that should have been pocketed by police officers when carrying out raids on the streets. This is reinforced by the acknowledgments of several respondents that we collected and asked for their opinions, as explained in the table below:

Table 1-Public Opinion About the Abuse of Police Officer Authority

NO	RESPONDENT NAME	OPINION
1	Rizal Muhaimin	If the operation is obedient or the operation is carried out several times a year, it is mandatory to use a notice board, if you do not use a notice board then the raid is not in accordance with the procedure.
2	Muhammad Nur Wahyu Pramono	Not according to SOP
3	Yunan Setyo piston	If there is prior notice, such as a pamphlet, that's fine. However, if there is none then the person is definitely looking for profit.
4	Erlindah Yugo Setiawati	The police did this on purpose so that many people would be raided, but it would be better if there was a notice board.
5	Ririk Irsanti	I think the police action was very detrimental to me because of the lack of information about the raids and wasted a lot of time.
6	Pramestian Adistio Firmansyah	In my opinion, it is better to notify the public and put up a raid sign so they can be aware of a police raid. And can prepare documents and equipment before driving.
7	Fitri Destriani	In my opinion, this action is not justified because if an officer is going to carry out a raid, there must be information beforehand.
8	Rahadian Oktaviarani	Should have posted a raid notice sign so we would know

BIBLIOGRAPHY

- Agustian, Wanda. *Fungsi Hukum Administrasi Negara Dalam Menciptakan Good Government Di Indonesia*. Fakultas Ilmu Sosial dan Ilmu Politik, Universitas Sriwijaya.
- Aisyah, Nur. 2018. *Hukum Administrasi Negara*. Sleman: Deepublish.
- Chandra, Ardi. 2014. *Tinjauan Yuridis terhadap Pelaksanaan Undang-Undang Nomor 22 Tahun 2009 dalam Menangani Razia Kendaraan Bermotor di Jalan Raya*. Jurnal Ilmu Hukum Legal Opinion. Edisi I Vol II.
- Ismayana, Dwi. *Kewenangan Polisi Lalu Lintas dalam Melakukan Pemeriksaan di Jalan Berdasarkan Peraturan Pemerintah Nomor 80 tahun 2012*. Fakultas Hukum Untag.
- Jurdi, Fajlurrahman. 2019. *Hukum Tata Negara Indonesia*. Jakarta: Kencana.
- Nawangasasi, Endah Dewi. 2016. *Hukum Administrasi Negara dalam Perspektif Cyber Law*. Bandung: PT Alumni.
- Peraturan Pemerintah Nomor 80 Tahun 2012



- Syahrizal, Darda. 2013. *Hukum Administrasi Negara & Pengadilan Tata Usaha Negara*. Yogyakarta: Medpress Ditigal.
- Triwulan T, Titik dan Widodo, Ismu Gunadi. 2011. *Hukum Tata Usaha Negara dan Hukum Acara Peradilan Tata Usaha Negara*. Jakarta: Kencana.
- Undang-Undang Nomor 2 Tahun 2002
- Wibowo, Sunarno Edy. 2022. *Etika Profesi Hukum di Indonesia*. Surabaya: Narotama University Press.
- Zaman, Nurus. *Membangun Politik Hukum Administrasi Pemerintahan yang Bersumber dari Nilai-nilai Pancasila*. *RechtIdee Jurnal Hukum*. Vol. 10 No. 10.