

Obstacles to Investigators Using Electronic Information Technology in the Process of Investigations and Investigations to Disclose Criminal Acts of Persecution

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ABSTRACT : This study aims to find out and examine the obstacles investigators use electronic information technology in the process of inquiry and investigation to uncover criminal acts of persecution (a case study of the persecution that led to the death of the victim Augustine) normative research supported by empirical data. The results showed that the obstacles faced by investigators at the DitreskrimPoldaSultra in the use of technology related to the process of investigating and investigating cases of abuse that caused the death of people consisted of 3 (three) obstacles, namely: first , Obstacles in Legal Substance: a. The Criminal Code does not recognize electronic evidence; b. The evidence in the Electronic Transaction Information Law is not supported by adequate implementing regulations; and c. There is no progressive legal umbrella in terms of Standard Operating Procedures for the use of technology in the process of investigating criminal acts of persecution that cause people to die.

KEYWORDS: *Investigators, Electronic Evidence, Persecution.*

I. INTRODUCTION

Technological developments do not only have a positive impact on society but can also have a negative impact on the wearer. Through the internet media several types of criminal acts can be committed, such as: defamation , pornography, account breaches, network destruction, attacks via viruses, premeditated murder, including online gambling. Apart from being used for technological crimes.

Information can also be used to uncover the crime itself. Disclosure of crime is one of the main tasks of the Indonesian National Police in the context of law enforcement, namely: investigation and investigation of criminal acts. Basically investigation and investigation of criminal acts is to collect evidence in order to make light of the events that occurred and find the perpetrators. The evidence collected will eventually lead to the alleged perpetrators of the crime. If the crime was committed neatly and it is difficult to find evidence, then information technology can be used to assist in investigations and investigations in uncovering criminal acts of persecution that led to the death of people.

Law enforcement is the authority given to Investigators/Investigators as stipulated in the Criminal Procedure Code, it can be stated that investigators/investigators are living laws that can move by developing an incident of a criminal act to become clear so that it can determine certainty. existing laws (IqbalRamadhanSatriaPrawira: 2018).

In a criminal case settlement process, a material truth must be sought that fulfills the elements in the Criminal Code. The search for material truth must, of course, go through a verification process, the most important process in criminal procedural law. The Criminal Procedure Code (KUHP) in the field of evidence recognizes the existence of evidence and evidence, both of which are needed both in the process of investigation, investigation, and in trials to prove the crime charged against the defendant.

The use of sophisticated technological tools in assisting the Southeast Sulawesi Regional Police Ditreskrim as well as the ranks of the Southeast Sulawesi Regional Police General Criminal Investigation Unit to uncover criminal acts is the *Direct Finder ,Cellebrite UFED 4PC, Mobile Automatic Multi Biometric Identification System (MAMBIS)* which is a digital forensic tool that can search for the identity of suspected perpetrators. criminal act. Furthermore, Polri Investigators/Investigators as one of the law enforcement elements of criminal acts require qualified investigative and investigative techniques to uncover criminal acts in a professional, transparent , modern and reliable manner so that they can shed light on a crime and can serve as valid evidence in court.

The Director of General Criminal Investigation for the Southeast Sulawesi Regional Police, Senior Commissioner BambangWijanarko, SIK stated that there was a criminal act of persecution that caused the death of a person which occurred on December 16, 2021 on Jalan Sultan Hasanuddin, Punggaloha Village, Kendari District, Kendari City (lane in front of Kendari beach), where the incident occurred This occurred when there was a problem between the Tolaki indigenous peoples' organization and the GunungJati Village community, where at that time the victim was named Agustinus who was a driver of the Kemaraya-Kota public transportation whose route was through the incident route (the front line of Kendari beach) so that when the victim Augustine passed the Accordingly, the victim did not know about the commotion between the two groups, because the victim only thought of looking for Fortune. However, when the victim passed the scene of the incident he was detained by a group of Tolaki Indigenous Community Organizations (ORMAS). A group of ORMAS asked about ethnicity using the local Tolaki language, which turned out to be a community from Ambon, who were thought to be from GunungJati, so there was persecution and/or beatings which resulted in the victim Augustine dying. .(Report on the Results of the Task of Sub-Directorate III of the Southeast Sulawesi Regional Police Directorate of Criminal Investigation. 2021)

This investigation and investigation was carried out by the DitreskrimumPolda Southeast Sulawesi who had succeeded in arresting the perpetrators who carried out the execution of the victim Augustine so that he suffered a slash wound on the left cheek and died, along with valid evidence. Digital forensic analysis is carried out using sophisticated technological tools, namely *Direction Finder* (DF) which is a tool for finding perpetrators, *Mobile Automatic Multi Biometric Identification System* (MAMBIS) to find out the identity of victims, witnesses and suspected perpetrators, AK-23 Digitalization which is a tool who can find a person's identity based on fingerprints. So that the Southeast Sulawesi Regional Police Ditreskrimum succeeded in uncovering who the perpetrators were who carried out the execution and why they even committed the crime of persecution. (Report on the results of Task Sub Directorate III of the Southeast Sulawesi Regional Police Ditreskrimum. 2021)

Evidence is something important in the verification process, but Article 184 paragraph (1) of the Criminal Procedure Code is very limited, the problem that occurs is if the verification process requires electronic evidence but it is not regulated in Article 184 paragraph (1) of the Criminal Procedure Code. Article 184 of Law Number 8 of 1981 Concerning Criminal Procedure Law stipulates that valid evidence consists of: a). Witness statement; b). Expert statement; c). Letter; d). Instruction; and e). Defendant's statement. Referring to this article, if you look at the evidence that can be used in the verification process, it is very narrow and limited, so that evidence appears outside the Criminal Procedure Code that cannot be used and has not yet received clear legality. This dilemma finally became the beginning to provide legal certainty by issuing a special law to contain legal evidence outside the Criminal Procedure Code.

As a state based on law as stated in the 1945 Constitution of the Republic of Indonesia, the management of the state must be based on law, both through laws and regulations, judges' decisions, doctrine, and the development of values in society. Changes to information technology and electronic laws are based on a juridical view, namely: Law Number 11 of 2008 concerning Information and Electronic Transactions (State Gazette of the Republic of Indonesia of 2008 Number 58, Supplement to the State Gazette of the Republic of Indonesia Number 4843) as amended by Law Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (State Gazette of the Republic of Indonesia of 2016 Number 251, Supplement to the State Gazette of the Republic of Indonesia Number 5952).

This juridical approach has shown that changing laws is a solution for society. Changes to the ITE Law in the framework of structuring the state and nation towards a better one. The development of Information Technology through legal infrastructure and regulations is expected to provide benefits to society, not the other way around. Based on the description of the background above, the use of information technology in the process of investigation and investigation is very important to do. So this research focuses on Obstacles to the Use of Electronic Information Technology in the Investigation and Investigation Process to Reveal Criminal Acts of Persecution (Case Study of Persecution that Caused the Death of the Victim Agustinus.

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II. METHODS

This legal research method is a normative-qualitative research method that is supported by empirical data, namely the object of research is legal norms embodied in legal norms made and stipulated by the Government in a number of laws and regulations and punishments that are directly related to the investigation and investigation of criminal acts. to life by using high-tech tools. **Time and Location of Research** For data collection in this study in accordance with the discussion that the author discussed, the research was carried out at the Southeast Sulawesi Regional Police Directorate of Criminal Investigation Office starting in August 2022, with the reason that this place was relevant in helping the author to conduct this research.

III. RESULTS AND DISCUSSION

Obstacles investigators use electronic information technology in the investigation and investigation process to uncover criminal acts of persecution (case study of the persecution that led to the death of the victim Augustine

a. Regulations in the Electronic Data Retrieval Process used as Evidence

Based on the facts described above, a description or construction of the case is obtained which shows the involvement of the suspect in this case as the person who committed it, which is supported by good evidence from the TKP Examination, statements of witnesses and supported by evidence and or evidence. letters as follows: a) Whereas the victim was brother **Augustine** and the one who carried out the persecution causing brother Augustine to die was brother **AH**; b). Whereas it is true that on Thursday December 16, 2021, around 3:00 p.m. at Kendari Beach in front of the Meohai Park, the address is Jalan Sultan Hasanuddin Kel . c) That **AH**, carried out the persecution using 1 (one) taawu machete; d). Whereas the cause of the crime of persecution was due to revenge for one of the Ormas friends who are members of the Tamalaki Budaya Tolaki Southeast Sulawesi (TBTS) mass organization named ARIF being beaten by the red ant mass organization/Muna tribe people. e). That as a result of the persecution the victim AGUSTINUS died .

That the actions of the suspect **AH**, according to the case analysis above, have complied with the formulation of Article 338 of the Criminal Code Subs Article 170 Paragraph (1) and Paragraph (2) 3rd of the Criminal Code More than Subs of Article 351 paragraph (3) of the Criminal Code with a description of the elements of the Article as follows : a) Article 3 38 of the Criminal Code: " Whoever Deliberately Takes Other People's Lives ". b) Article 170 Paragraph (1) and Paragraph (2) 3 of the Criminal Code: Paragraph (1) " Whoever intentionally openly and with forcecollective use of force against persons or goods" . Paragraph (2) 3 "The guilty person is threatened with imprisonment for a maximum of 12 years, if it is violentresult in death"

Article 351 Paragraph (3) of the Criminal Code: " If it results in death,subject to imprisonment for a maximum of 7 years" . Proof is a very important part of procedural law, especially criminal procedural law .(Ediany OS Hiariej. 2012). This is because evidence is closely related to whether or not the actions of a defendant who is suspected of committing a crime are true or not. Proof in criminal procedural law (Ediany OS Hiariej. 2012) is regarded as a process that has true value because the truth that is its goal is material truth. That is, the judge must be active in examining the defendant so that the incident must be proven (*beyond reasonable doubt*). (AndiSofyan, 2018) Legal evidence to be presented before the trial, as stipulated in Article 184 paragraph (1) of the Criminal Procedure Code , is: a). Witness statement; b). Expert statement; c). Letter; d). Instruction; e). Statement of the accused"

Article 183 of the Criminal Procedure Code, has stipulated that in order to determine the punishment for the accused, his guilt must be proven by at least 2 (two) valid pieces of evidence; and on evidence with at least two valid pieces of evidence, the judge obtains confidence that the crime actually occurred and that the defendant is the one who is guilty of committing it. After the specified requirements are met, then the judge imposes a sentence on the defendant. If one contemplates on the two articles above, it can be concluded that the evidentiary system adopted in Indonesia is negative statutory evidence (negative wettelijkstelsel), namely a balance between positive statutory evidence and evidence according to a judge's conviction or conviction in time. . The formula reads: "whether or not a defendant is wrong is determined by the judge's conviction based on the method and with valid evidence according to law".

Thus, this system combines objective and subjective elements in determining whether or not the defendant is guilty, neither of which is the most dominant of the two elements. At first glance, there is a downside to the negative evidentiary system, namely when placing the judge's belief as having the most role and dominance in determining whether or not the accused is guilty, for example, there is a motivation that is not commendable for personal gain with the reason "not sure" even though it has been sufficiently proven according to the methods and valid evidence. The judge's conviction at the stage of proof plays an important role in the examination process at trial because it is at this stage that the fate of the defendant is proven guilty or not determined. Therefore, the judges must be careful, thorough and mature in assessing and considering the evidence.

that the increase in the crime rate in society has led to many crimes, one of the things that often happens and is experienced by the community is violence or persecution. Acts of persecution are not only detrimental to oneself but also to other people and the wider community. Violent crime or persecution is a problem that always appears

in the midst of society. This problem arises and develops, bringing its own consequences, both for the perpetrator, even worse for the victim, which may result in a prolonged form of physical therapy. (Mhd. TeguhSyuhadaLubis: 2017)

B. Evidence of Cases of Persecution Causing Death of People Based on Electronic Data as Evidence

Subsequent developments related to evidence in criminal procedural law are known as electronic evidence. Electronic evidence is regulated in special rules, which are contained in Law no. 11 of 2008 concerning Information and Electronic Transactions. The types of evidence known in the Electronic Information and Transaction Law are electronic documents and electronic information.

Tirtaamidjaja, Prosecutor's Position and Examination Procedures for Criminal and Civil Cases, (Jakarta: Djbatan, 1996), p. 70. 77 Article 1 point 1 Law no. 19 of 2016 concerning Amendments to Law no. 11 of 2008 concerning Information and Electronic Transactions states: "Electronic information is one or a set of electronic data, including but not limited to writing, voice, images, maps, designs, photos, Electronic Data Interchange (EDI), electronic mail (electronic mail) , telegram, telex, telecopy or the like, letters, signs, numbers, Access Codes, symbols or perforations that have been processed which have meaning or can be understood by people who are able to understand them". Article 1 point 4 of the Law on Information and Electronic Transactions states: "Electronic Documents are any Electronic Information that is created, forwarded, sent, received, or stored in analog, digital, electromagnetic, optical, or the like, which can be viewed, displayed, and/or heard through a Computer or Electronic System, including but not limited to writing, sound, pictures, maps, plans, photos or the like, letters, signs, numbers, Access Codes, symbols or perforations that have meaning or meaning or can be understood by someone who can understand it."

The recognition of the two types of electronic evidence above is based on Article 5 paragraph (1) and (2) of the Electronic Information and Transaction Law which reads: 1). "Electronic information and/or electronic documents and/or printouts are valid legal evidence. 2). Electronic Information and/or Electronic Documents and/or printouts as referred to in paragraph (1) are an extension of valid evidence in accordance with the applicable Law of Procedure in Indonesia.

The affirmation of the validity of electronic documents and electronic information as evidence is further emphasized by changes to Law no. 11 of 2008 concerning Information and Electronic Transactions. These changes are contained in Article 5, the content remains unchanged, but the explanation changes which further emphasizes its existence, namely: Elucidation of Article 5 paragraphs (1) and (2) of the Electronic Information and Transaction Law reads:

- (1) Whereas the existence of Electronic Information and/or Electronic Documents is binding and recognized as valid evidence to provide legal certainty for the Operation of Electronic Systems and Electronic Transactions, especially in evidence and matters relating to legal actions carried out through Electronic Systems.
- (2) Specifically for Electronic Information and/or Electronic Documents in the form of interception or wiretapping or recording which is part of wiretapping, it must be carried out in the context of law enforcement at the request of the police, prosecutors, and/or other institutions whose powers are determined by law." It should be understood that electronic documents are the main form of electronic evidence both contained in the ITE Law.

Electronic documents as the main form of electronic evidence can be divided into several types, namely: a. Electronic Information, consisting of: Electronic data are all facts that are represented as input either in the form of strings of words (*text*), numbers (*numeric*), imaging images (*images*), sounds (*voices*), or motion (*sensors*). The use of information technology is prohibited from being misused for other interests that harm society such as distributing, transmitting or making accessible Electronic Information or Electronic Documents that have content that violates decency, gambling, insults defamation, extortion and threats including spreading false and misleading news and spreading information which is intended to create feelings of hatred or hostility towards certain individuals or groups of people based on ethnicity, religion, race and intergroup (SARA) and intentionally and without rights or against the law accessing computers and/or electronic systems belonging to other people or an institution without permission and in any way that violates the applicable legal provisions can certainly result in losses for other parties. The criminal justice process for violations of legal provisions in the field of information technology and electronic transactions is carried out through the stages of investigation, investigation, prosecution and examination in court for settlement of cases. Specifically for investigations into criminal acts in the field of information technology and electronic transactions, it is necessary to carry out in addition to investigators from the Police of the Republic of Indonesia, certain Civil Service Officials within the Government whose scope of duties and responsibilities are in the field of Information Technology and Electronic Transactions are given special authority. (Nadilla Beautiful Karmin 2019)

C. Implementation of Investigation and Investigation of Criminal Cases by the Police against Persecution that Caused the Death of People (Case Study of the Augustine Victim)

The crime of persecution is a form of crime that is highly considered by law, because this violation is very prone to occur among the community. In fact, almost every day the mass media and electronics are filled with these events. If we take a further look at the systemization in the Criminal Code regarding abuse resulting in serious injury, it consists of (MiSusanto. 2009).

According to MartimanProdjohamidjojo, "evidence or corpus delicti is evidence of a crime". In Article 181 of the Criminal Code , "The panel of judges is obliged to show the defendant all the evidence and ask him whether he recognizes the evidence." If deemed necessary, the judge at trial shows the evidence. AnsoriHasibuan believes that evidence is goods used by the defendant to commit an offense or as a result of an offense, confiscated by investigators to be used as evidence in court. (AnsoriHasibuan and Ruben Ahmad , 1990).

Based on the opinions of several legal scholars above, it can be concluded that what is called evidence is:

- a. Goods used to commit criminal acts;
- b. Goods used to help commit a crime;
- c. Objects that are the purpose of committing a criminal act; d. Objects resulting from a criminal act;
- e. The object may provide information for the investigation of said crime, either in the form of an image or in the form of a sound recording;
- f. Evidence which is supporting evidence has a very important position in a criminal case.

But the presence of an item of evidence is not absolute in a criminal case, because there are several crimes which in the process of proving do not require evidence, such as the crime of insulting orally (vide: Article 310 paragraph [1] Book of the Criminal Law Act " . When compared to the Common Law system, such as in the United States, the evidence is very different. In the Criminal Procedure Law of the United States, the so-called forms of evidence or evidence are: real evidence, documentary evidence, testimonial evidence and judicial notice. In this Common Law system, real evidence is the most valuable evidence. Even though real evidence or evidence is not included as evidence according to criminal procedural law in Indonesia.

d . Utilization of High-Tech Tools to Reveal Criminal Acts of Persecution That Caused the Death of People

Based on an interview with IptuRahman, as an investigator at the DitreskrimPolda Southeast Sulawesi, Saturday, August 20, 2022, around 14.00 Central Indonesian Time that "This tool is capable of acting like a mobile phone signal booster or router pole, or what is often referred to as a BTS pole. So that with such a role, this tool can be used by the operator to be able to find out electronic transactions, both in the form of voice communication and other forms of communication such as SMS and MMS.

Not only that, this tool is also able to show exactly where the telecommunications equipment that transmits the telecommunications signal originates. In other words , a tool called Alsus DF (Direction Finder) is capable of pinpointing the precision of a telecommunications device (which transmits a signal supporting the telecommunication process) that is allegedly used by a person suspected of being the perpetrator of a crime. Follow-up by knowing the location of the telecommunications equipment used by the person suspected of committing the crime, it will be easy to identify the position of the person or suspected perpetrator of the crime. Apart from having many advantages, this high-tech tool is inseparable from the many disadvantages it has. This is in accordance with the saying that "that is not important about the machine, but more important are the people who stand or operate behind that machine" or which in Indonesian means more or less, it is not important what tools or machines are used, but more What matters is the person standing or operating the machine or tool (man behind the gun).

Explanation of the assistant investigator First Brigadier Muhammad Tsabit Mar, Shi, on Saturday, August 20, 2022, around 15.00 Central Indonesian Time, that "This tool is indeed sophisticated, even for Indonesia's standards, this tool is classified as very, very sophisticated. It is so sophisticated that if this tool is damaged, almost all communication equipment technicians throughout Indonesia will not or have not been able to make this high-tech device correct. In addition, operating this high-tech tool is very difficult, complicated and requires considerable expertise and analysis. Even investigators from the Southeast Sulawesi Regional Police's Criminal Investigation Unit have to go to school in Australia so they can operate this tool. What if we experience a mutation, it will definitely be difficult to find people who can operate this tool.

Like other tools in the form of a machine, this machine called Alsus DF (Direction Finder) also has limitations. These limitations in this case are limitations in the nature of monitoring coverage of communication transactions or monitoring of the signal of the telecommunication equipment that is the target or target. A real example is the use of this tool in handling or trying to uncover criminal acts of abuse against victims of Augustine's death. The position of the suspect obtained is in Laonti District, Konawe Selatan district, where there is an area that has a bad signal and sometimes there is a place where there is no signal. for communication. A tool called the *Mobile*

Automatic Multi Biometric Identification System (MAMBIS) is an identification tool that can be carried anywhere at a crime scene. The tool is used to find the identity of the perpetrators of crimes through the iris and fingerprints.

The identification officer only needs to highlight the retina or press the thumb to the mambis sensor board. Retinal scanning can only be done if the eye tissue has not been damaged (to scan a corpse's retina it must be no later than four hours after death) determined by the results of the fingerprint and retina recording of the e-ID card program, if at the time of recording the fingerprint and retina of the e-ID card were not perfect will provide several possible identities. It can only process the scanning of a person who has been documented in the Ministry of Trade's e-KTP database. Only by scanning the retinas of the eyes and fingerprints, the identity of the victim of a murder crime or perpetrator of a crime without an identity can be known quickly.

IV. CONCLUSION

The obstacles faced by investigators at the DitreskrimPoldaSultra in the use of technology related to the process of investigating and investigating cases of abuse that caused the death of people consist of 3 (three) obstacles, namely: a. Barriers to Legal Substance, as follows: 1) The Criminal Code does not recognize electronic evidence; 2). The evidence in the Electronic Information and Transaction Law is not supported by adequate implementing regulations; and 3) There is no progressive legal umbrella in terms of Standard Operating Procedures for the use of technology in the process of investigating criminal acts of persecution that cause death of people.

b . Barriers to Legal Structure, as follows: 1) Personnel support in terms of quantity and quality. In terms of quantity, the personnel of the DitreskrimPoldaSultra are still lacking because in carrying out investigations into criminal acts of persecution that result in the death of people using sophisticated technological tools requires personnel who have expertise and qualified skills in using sophisticated technological tools. In this case the quality of the personnel of the Southeast Sulawesi Regional Police Ditreskrimum still do not understand and master the use of high-tech tools, moreover the data analysis is carried out only by people with special skills who are able to analyze electronic data obtained and even then only 1 (one) person. 2) Budget support for criminal investigations at the DitreskrimPoldaSultra is still lacking because the budget obtained is only for handling a few cases. Meanwhile, incoming LP cases must be served as a whole. Not to mention, the budget to pay experts who can read electronic data obtained from (Cell Dump) and use the Alsus Direct Finder and MD-NEX (Cellebrite UFED 4PC) tools where investigators must have certification for using these tools. Currently, in the ranks of the Southeast Sulawesi Regional Police Ditreskrimum, there is only 1 (one) investigator who has certification for these high-tech equipment.3. Barriers to Legal Culture, as follows: 1)The use of electronic evidence requires expert testimony; 2) Lack of understanding and mastery of investigators in the field of technology and information

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