



## Custody Services of The Human Rights Perspective

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**ABSTRACT:** No person may be tortured or abused, obtain treatment or punishment is inhuman or demeaned her dignity, including the suspect imposed detention. This study aims to determine the protection of the rights of prisoners in Sinjai District Police have been appropriate or not to human rights. The research was conducted at the Police Resort Sinjai. Data obtained derived from primary data and secondary data using the techniques of data collection through field research and literature research is then processed by the formulation of the problem quantitatively, are presented in tables and analyzed descriptively. The results showed that 36% of prisoners are not informed officially about the right legal counsel so that 36% did not know their legal counsel free of charge to those who can not afford a penalty of 5 years or more, still contained 36% were forced to admit his guilt during interrogation and 36% received violence during examination, and 36% received specific threats by the investigators as not admitting guilt when questioned as to be slapped or beaten, but in general for the custody case, like the case of theft. It was concluded that there are infringing on the rights of prisoners are not in accordance with the human rights perspective in Sinjai District Police. Expected sosioalisasi regarding legal aid should be increased as well as the procedures for obtaining legal aid for those who can not should be made easy so that legal aid funds can be channeled to the maximum as well as for persons who have committed human rights violations against the detainees to be given heavy penalties.

**Keywords:** Custody Services, Human Rights

### I. INTRODUCTION

The Republic of Indonesia as the supreme power institutions have an obligation to protect human rights hereinafter abbreviated as (HAM) citizens through legal means are integrated in Act No. 39 of 1999 on Human Rights. It departs from the fact that every human being born with something essential and universal and inherent from birth on this earth as a gift from God Almighty that is the right that must be upheld, respected and maintained so as not to spoil what has been ordered, however, difficult to realize human rights in its enforcement without legal means. Human Rights can not stand alone, but needs a legal means to ensure the existence of human life.

Human rights are a human rights are the most important in the life of society and the state and human rights include the various civil rights, political rights, social and cultural rights. But in fact, history records that a lot of oppression and arbitrary practices not only by individuals but also by the authorities or officials of a State. Therefore, included in the implementation of detention of prisoners, the parties that have the authority must comply with all legal instruments that became the basis for the detention. Detention without a clear legal basis will change to arbitrariness which is a form of human rights violation. It is also associated with the initial conception Declaration of Human Rights (UDHR) in Article 5, which stipulates that no one may be tortured or abused, obtain treatment or punishment is inhuman or demeaned her dignity. Human Rights Declaration that has now become part and principles of common law, other legislation has adopted it as an obligation to protect human rights commitments.

The problem of detention is an issue that is most essential in human history since the detention itself concerns the value and meaning of inter alia the deprivation of liberty and freedom of the detained person, concerning the values of humanity and dignity of humanity, also involves the good name and the pollution of the honor personal or he said each detention by itself regarding the limitation and revocation while most human rights.

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Since the beginning of its existence, the law of criminal procedure is intended for protection of the public against the arbitrariness of the authorities. Therefore, it is often said that the function of the rules of criminal procedure law is to limit the power of the state to act against citizens who are involved in the criminal justice process. Setting the Criminal Procedure Code regarding the detention can be interpreted subjectively by the competent authority so difficult to control as a result of treatment to the inmates become less human.

According to the Commission for Disappearances and Victims of Violence (CONTRAST), during 2014 the Police is a state institution most often commit acts of torture. In 2013 alone, there were at least 35 cases of torture involving police officers in various areas. CONTRAST findings before the data reinforced the Ombudsman. State agencies that oversee public services have noted, the majority of torture in the process of arrest or detention occurred at the police station level 66.7%. Data showed the Police Ombudsman as a creepy place. Members of the Ombudsman Budi Santoso said the figures highest hardness at the investigation stage 43.4% occurred in the police station. In addition, it is also related to the report of one of the wives of prisoners in which a policeman on duty in North Sinjai Police alleged mistreatment of detainees, Asri or acci 28 yearsold using an iron hammer. Thus, studies are needed to determine the protection of the rights of prisoners in Sinjai District Police have been appropriate or not to human rights.

## II. METHOD OF RESEARCH

This research was conducted in the jurisdiction of Police Sinjai, South Sulawesi. The approach taken in this study is the approach Empirical where the law is seen in the perspective of the workings of law in society.

The data used in this paper includes two types of data, namely primary data and secondary data. Primary data, namely the data and information obtained directly by filling out the questionnaire with respondents 11 prisoners and conduct interviews with the competent authorities that the detainees, investigators, Invisible Criminal Investigation, Head unit of Propam, and Head unit of Tahti (Care Custody and Evidence) in Sinjai District Police office as well as reading material in the form of scientific writings, legislation, theories of experts and the opinions of experts that has to do with the problems discussed.

The way in which to collect data tailored to the type of data required, among other literature studies and field studies. Library research, by collecting data through literature, books related to the problem being studied. Field research is to conduct a site visit that is being investigated at the Police Resort Sinjai, make the filling questionnaires with respondents 11 prisoners and interviews directly to the competent authorities of the arrest, investigators, Invisible Criminal Investigation, Head unit of Propam, and Head unit of Tahti (Prisoner Care and evidence) in Sinjai District Police Office.

The data obtained from the study were analyzed quantitatively then presented in the form of tables and described in the form of an explanation, decomposition and depiction in accordance with the problems closely associated with this research, and then draw a conclusion based on the analysis that has been done.

## III. RESULT OF RESEARCH

Currently, the total number of prisoners who inhabit hereinafter abbreviated Police Police Sinjai Sinjai is 11 people on January 4, 2017. The forms of protection of the rights of prisoners in Sinjai district police custody include the right to be given a clear Warrant and a copy given to the family, the right prisoners to obtain a quick examination, the right not to be tortured, the right to legal counsel, the right to contact his legal counsel, the right to freely provide information to investigators, the right to remain silent and do not criminalize self.

Recognition Prisoners, N = 11							
Assessment	SPP		ContentsSPP		A Copy of SPP		
	Be Given	Not Given	Clear	Not Clear	Be Given	Not Given	Do Not Know
Frequency	11	-	8	3	9	1	1
Percentage	100%	0%	73%	27%	82%	9%	9%

Table 1 shows as much as 100% or all of the prisoners when detention against him, they were given a Warrant by the Investigator. Warrant issued against as many as 73% reported clear and 82% said Warrant copy was given to his family.

Recognition Prisoners, N = 11						
Assessment	Have A Lawyer	Do Not Have	Formally Notified	Not Notified	Know about Free used Lawyer	Do Not Know About Free used Lawyer
Frequency	3	8	7	4	7	4

Percentage	27%	73%	64%	36%	64%	36%
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Table 2 shows that as many as 73% do not have legal counsel. As many as 36% of prisoners pleaded not notified officially by the investigator about his right to counsel and 36% did not know about the free legal counsel for incapable and they all pleaded not restricted receiving visits his legal counsel.

Recognition Prisoners, N = 11						
Assessment	Forced to Confess	Not Forced	Got Violence	Not Violence	Got a Threats	Not Got a Threats
Frequency	4	7	4	7	4	7
Percentage	36%	64%	36%	64%	36%	64%

Table 3 shows as much as 36% were forced to admit his guilt when interrogated actions or questioning, 36% admitted to accepting violence / physical treatment and 36% admitted to having received specific threats at the time of the inspection process. Related to the report of one of the wives of prisoners in which a policeman on duty in North Sinjai Police confirmed cases of the abuse of detainees, Asri or acci 28 years old using an iron hammer. As a result, there are signs of persecution in their back, neck and left eye was hit.

#### **IV. DISCUSSION**

International instrument specifically regulating human rights can also be applied to prisoners such as civil and political rights, economic rights, social and cultural. Rights of prisoners at the police station Sinjai for granted Warrant clear and a copy given to the family and was told at the time of arrest and shall be immediately informed of the charges levied against him have been fulfilled in accordance with Article 9, paragraph (2) and (3) of the Act No. 12 of 2005 on the International Covenant on Civil rights and Political stated that every person arrested shall be informed at the time of arrest and shall be immediately informed of the charges levied against him and has the right to be tried within a reasonable time, or released.

Article 18 paragraph (4) of Law No. 39 of 1999 on Human Rights states that every person who checked entitled to legal assistance from the moment the investigation until the court ruling which has permanent legal power including the right to receive visits by a lawyer. After the author re-confirmed to investigators about the existence of differences in the recognition of prisoners of assisting counsel, investigators explained that they had been carrying out operational standards interrogation at which time the examination questions and information about the rights of prisoners legal counsel clearly stated in the Minutes of Examination, only prisoners during checked and interrogated paid little attention to basic questions of the investigator, they only focus on the questions investigators a description of the criminal offense expect him.

Law of the Republic of Indonesia Number 5 of 1998 concerning the Ratification of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has arranged various matters relating to the prevention and prosecution of all forms of physical or mental torture. Related to the persecution that occurred when prisoners examined by the police on Wednesday, June 12, 2013 declared a disciplinary hearing by the person held on November 15, 2013. Based on the investigation and the trial, the police officers were dropped sanction of written warning and a delay following the 6 month study. During serving his sentence of 6 (six) months, the police officers continue to do surveillance on him until the moment the police officers had finished serving his sentence.

#### **V. CONCLUSIONS AND RECOMMENDATIONS**

Protection of the rights of prisoners to be reviewed from the perspective of human rights in the Police Sinjai basically already performing well and has been pursued by the Police Sinjai, but still there are 36% of prisoners are not informed officially about the right legal counsel so that 36% did not know their adviser free legal for those who can not afford a penalty of 5 years or more, and 36% received specific threats by the investigators as not admitting guilt. So, sosioalisasi regarding legal aid should be increased as well as the procedures for obtaining legal aid for those who can not should be made easy so that legal aid funds can be channeled to the maximum. In addition, for persons who have committed human rights violations against the detainees to be given heavy penalties.

**REFERENCES**

- [1]. Alfie G. (2008). Penerimaan Masyarakat Terhadap HAM. *Jurnal Ilmu Hukum Amannagappa*. 16(2):190
- [2]. Fuady M. & Laura S. (2015). *Hak Asasi Tersangka Pidana*. Kencana: Jakarta.
- [3]. Harahap Y. (2010). *Pembahasan Permasalahan Dan Penerapan KUHAP (Penyidikan dan Penuntutan) Edisi Kedua*, Jakarta: Sinar Grafika.
- [4]. Handar Subhandi. (2017). The Regulation of Religious Freedom in Indonesia And International Law Perspective. *Journal of Research in Humanities and Social Science*. Volume 5 ~ Issue 1.
- [5]. Handar Subhandi. (2017). Role of Law in Dealing with the Cyber Crime and Social Change. *International Journal of Humanities and Social Science Invention*. Volume 6 Issue 2.
- [6]. Indrayati R. (2010). Hak Asasi Manusia dalam Kerangka Hukum Internasional. *Jurnal Hukum Internasional*. 6(2):207.
- [7]. Karita IS. (2007). Penegakan Hak Asasi Manusia di Indonesia. *Jurnal Ilmu Hukum Amannagappa*. 15(3): 272-273.
- [8]. Kuncahyo D. (2008). Hak Asasi Manusia Dalam Hukuman Mati Serta Implementasinya di Indonesia. *Jurnal Cakrawala Hukum*. 1(3):21.
- [9]. Lopa B. (2010). *Universal Declaration of Human Rights* Kejahatan Korupsi dan Penegakan Hukum. Jakarta: Kompas.
- [10]. Mudjahid. (2007). Penegakan Perlindungan HAM dalam Proses Peradilan Pidana. *Jurnal Ilmu Hukum Amanna Gappa*. 15(1):106
- [11]. Simarmata B. (2010). Menanti Pelaksanaan Penahanan dan Pidana Penjara yang Lebih Humanis di Indonesia. *Jurnal Konstitusi*. 7(3):92
- [12]. Okezone News. 2013. Oknum Polisi Sinjai Diduga Aniaya Tahanan, diakses melalui [http:// news. okezone. com/ read/ 2013/ 06/ 15/ 340/822332/oknum-polisi-sinjai-diduga-aniaya-tahanan](http://news.okezone.com/read/2013/06/15/340/822332/oknum-polisi-sinjai-diduga-aniaya-tahanan). [ 23 November 2016].