



Legal Implications of Regulatory Voids in Evidence Management and Efforts to Strengthen Sanctions for Negligent Officers in Preserving Evidence

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Abstract: This study examines the role and challenges of evidence management in the criminal justice system in Indonesia, focusing on issues such as damage, loss, and inconsistency of evidence, which can significantly impact the evidentiary process and the outcome of criminal trials. Effective evidence management is crucial in ensuring the integrity of the legal process and upholding justice. The study employs a normative legal approach using statutory and conceptual methods to analyze the legal provisions that govern the confiscation, storage, and handling of evidence, specifically referring to Article 39 of the Indonesian Criminal Procedure Code. This article sets forth the procedures for evidence confiscation by law enforcement authorities and outlines their responsibilities in maintaining and presenting the evidence in court. A major concern in the management of evidence is the potential damage or loss of evidence during the investigation or trial stages. Such issues undermine the validity of the evidence and can lead to unjust verdicts, affecting the principle of fairness in the criminal justice process. Additionally, inconsistencies in how evidence is handled, including mislabeling or failure to maintain chain-of-custody records, can raise doubts about the authenticity of the evidence and erode public trust in the legal system. This study highlights how these problems directly impact the judicial outcomes and the overall credibility of the justice system in Indonesia. Furthermore, this study discusses the challenges faced by law enforcement agencies and legal professionals in returning evidence that does not conform to its original condition. The return of damaged or improperly handled evidence not only violates the principle of justice but also affects the accused's right to a fair trial.

Keywords: Criminal Procedure Law, Evidence, Police Code of Ethics

1. INTRODUCTION

Evidence in criminal law refers to objects, documents, or other items that have a direct relationship to the crime being investigated or examined (Sulastryani & Kahman, 2024). Based on Article 39 of the Criminal Procedure Code, evidence can be in the form of objects obtained from the proceeds of a crime, objects used to commit or prepare a crime, and objects that hinder the investigation or are specifically made for the crime (Susilo & Rafi, 2024). This evidence is critical because it can provide concrete clues regarding the events that occurred and functions as one of the tools to prove whether a crime occurred (Monita & Wahyudhi, 2013).

Evidence plays a crucial role in the process of proving a crime. Its main function is to support or refute the facts revealed in court. Article 183 of the Criminal Procedure Code states that a judge cannot impose a sentence unless there are at least two valid pieces of evidence (Ante, 2013). This evidence is one of the most critical pieces of proof in the investigation and prosecution process, where confiscation of evidence relevant to the crime will support the proof of the defendant's guilt (Makalew, 2021).

The validity of the evidence is necessary in the judge's decision-making in a criminal case (Eato, 2017). In Article 183 of the Criminal Procedure Code, the judge must obtain the

conviction that a crime occurred, which can be obtained from at least two valid pieces of evidence. Therefore, the integrity and completeness of the evidence are important because damaged, lost, or invalid evidence can damage the evidence process, which in turn can affect the judge's decision and ensure justice in the criminal justice process.

The return of evidence that has been damaged, lost, or is not in its original condition is a major challenge in the criminal justice system. The process of confiscating evidence must be carried out with high precision and responsibility so that the evidence remains intact (Rusmana, 2022). However, in some cases, evidence cannot be returned to its original condition due to errors in management or negligence of officers. It can reduce the value of the existing evidence and raise doubts about the validity of the evidence in the trial process. If evidence is not returned intact, it can damage the legal process and reduce public trust in the legal system.

Inconsistency of evidence can hurt the legal process, especially in the proof and the judge's decision. Incomplete or missing evidence can reduce the strength of the evidence supporting the accusation against the defendant (Suhariyanto, 2017). The evidentiary process that relies on damaged or missing evidence can lead to legal uncertainty, leading to the potential for cancellation or reduction of sentences. Cases such as the loss of important documents or damage to physical evidence used to strengthen evidence can be concrete examples of how evidence inconsistency affects the course of the trial and the final decision.

Returning evidence that does not conform to its original condition is contrary to the principles of legal justice and human rights (Ruman, 2012). In this case, the parties' rights to obtain intact and undamaged evidence must be maintained to realize justice. Errors or negligence in the management of evidence can be considered a failure in law enforcement that not only harms the parties to the case but also damages the integrity of the justice system itself (Rahmanto, 2019). The principle of justice requires that confiscated evidence be returned to its owner in the same condition as when it was confiscated unless there is a judge's decision stating otherwise.

The ambiguity in the regulations regarding the return of evidence in its original condition is a significant problem in the criminal law system. Article 46 of the Criminal Procedure Code regulates the return of evidence but does not explicitly mention the initial condition of the evidence at the time of confiscation (Aditya, 2017). This article only regulates that evidence is returned if it is no longer needed in the investigation or prosecution, and if the case has been decided (Manumpahi, 2021). However, this ambiguity raises uncertainty as to whether the returned evidence must be in the same condition as when it was confiscated. This is a problem

because there are no provisions that specifically regulate the obligation to maintain the initial condition of the evidence, which can impact the integrity of the evidence in the legal process.

The responsibility of law enforcement officers, especially the police and investigators, in maintaining and returning evidence in its original condition is important to maintain public trust in the legal system (Kuba, 2022). In this case, law enforcement officers must comply with the provisions of the police professional ethics and the code of ethics of Polri investigators which regulate the obligation to maintain evidence carefully and responsibly (Sinaga, 2020). This provision is expected to prevent acts of negligence or errors in the management of evidence, which have the potential to damage the validity of the evidence. However, in practice, there are often violations that lead to the loss or damage of evidence, which risks damaging the credibility of the legal process itself.

One of the existing legal gaps is the absence of clear regulations regarding sanctions against law enforcement officers who cause the loss or damage of evidence. Although there are articles governing the return of evidence, there are no regulations that provide legal consequences for officers who fail to properly safeguard evidence. This deficiency creates loopholes that can be exploited to avoid responsibility if evidence is lost or damaged. Therefore, it is essential to strengthen regulations related to the responsibility of law enforcement officers in managing evidence and to affirm sanctions for those who are negligent or intentionally damage it, to create higher accountability in the legal process.

2. RESEARCH METHODOLOGY

This study uses a normative legal method, which focuses on the study of legal norms written in applicable laws and legal doctrines. The approaches applied in this study include the statute approach, which aims to analyze and understand legal provisions related to the management of evidence in the criminal law system, as well as the conceptual approach, which is used to explore an in-depth understanding of related legal concepts, such as the validity of evidence, the principle of justice, and the integrity of the legal system. These two approaches allow researchers to explore and provide a comprehensive understanding of the legal issues that are the focus of this study.

3. RESULT AND DISCUSSION

Problems Concerning the Return of Evidence that Does Not Conform to the Initial Condition

Evidence plays an important role in the criminal law enforcement process because it can be a tool to prove the existence of a crime and the involvement of the defendant in the case (Ashari, 2017). However, in practice, problems often occur related to the management of evidence, especially in returning evidence that does not match its original condition when it was confiscated. This situation can damage the integrity of the legal system and reduce public trust in law enforcement officers. Damage, loss, or changes in the condition of evidence can affect the smooth running of the legal process, from investigation to trial. It indicates a fundamental problem in the regulation and management of evidence in the criminal law system that requires more attention.

Evidence in criminal law refers to objects or objects used to prove the occurrence of a crime, which can be used as a basis for evidence in investigations, prosecutions, and trials (Helmawansyah, 2021). This evidence includes everything that can show the involvement of a suspect or defendant in a criminal act. Types of evidence in criminal acts can be objects obtained from the proceeds of a crime, objects used directly in the implementation of a crime, objects used to obstruct an investigation, or objects made for criminal purposes (Muksin & Rochaeti, 2020). Evidence also includes objects that have a direct relationship with the crime that occurred, both in cases of general crimes and crimes involving violations of the environment.

Article 39 of the Criminal Procedure Code regulates the types of evidence that can be confiscated in the process of investigating a crime. This article states that objects or bills obtained from the proceeds of a crime or used in the implementation or preparation of a crime can be subject to confiscation (Gumeleng, 2022). In addition, objects used to obstruct an investigation or made specifically for a crime can also be confiscated. This article also includes objects that have a direct relationship with the crime committed by the suspect or defendant. In addition, Article 39 paragraph (2) states that objects confiscated in civil or bankruptcy cases can also be confiscated for investigation, prosecution, or criminal trials, as long as they meet the provisions stated in the first paragraph.

Evidence plays a vital part in the process of proving a crime. In the criminal law system, evidence is a tool that can strengthen or refute accusations against a suspect or defendant. Evidence can be physical or documentation that provides direct or indirect clues regarding the occurrence of a crime, as well as the suspect involvement in the act (Alfandi & Natsif, 2022).

The existence of valid and relevant evidence is one of the main bases in a judge's decision to determine whether a crime occurred and who is responsible by the principles of justice and valid evidence according to law (Liklikwatil & Sasauw, 2023).

The process of confiscating evidence begins during the investigation to secure items that have the potential to be evidence in a criminal act. The confiscated evidence must then be managed carefully and by applicable legal procedures so that its authenticity and integrity are maintained throughout the legal process. During the investigation stage, the evidence must be treated carefully to avoid damage or loss that could harm the evidence process. During the prosecution stage, evidence will be used to strengthen the charges, and during the trial, evidence will be examined and considered by the judge in deciding whether a defendant is guilty or not. The entire evidence management process must meet strict legal standards to ensure that the evidence remains valid and valid in supporting the court's decision. The validity of evidence plays a crucial role in determining the judge's decision in a criminal case. If the evidence presented is invalid, either because it does not comply with the confiscation procedure, is destroyed, or is manipulated, then its validity can be questioned, and this can affect the credibility of the evidence in the trial. The judge will rely heavily on valid and valid evidence to build confidence in deciding whether or not the defendant is guilty. According to the Criminal Procedure Code, valid evidence, obtained through proper legal procedures, is a basic element in the proof and decision-making process by the judge. Conversely, if the evidence is invalid or questionable, this can lead to an unfair verdict, because there is no strong basis for declaring a defendant guilty.

Maintaining the integrity and completeness of evidence is very important to ensure that the evidentiary process runs fairly and under the law. Damaged, lost, or incomplete evidence can damage the entire legal process and reduce public confidence in the justice system. Poor management of evidence, such as the inability to properly maintain evidence or neglect of proper procedures, can fail to prove a crime. Therefore, careful management by appropriate regulations is very important to ensure that evidence can be accounted for and used to achieve a fair verdict in criminal justice.

One of the main challenges in returning evidence is the inability of law enforcement officers to return evidence in its original condition, either because it is lost, damaged, or has undergone significant changes. This obstacle can occur due to negligence in the management of evidence, both during the confiscation period and storage. In addition, damage or loss of evidence can undermine public confidence in the justice system, which will raise doubts about the integrity of the legal process. The public may feel that if evidence is not properly

maintained, justice in a case can be compromised, thus weakening trust in the legal system itself.

Inconsistency of evidence in its original condition can have a significant impact on the course of the legal process because the integrity and completeness of evidence are important elements in proving a crime. Loss or damage to evidence can obscure the existing facts and reduce the possibility of producing a fair decision. In some cases, for example in corruption or drug cases, damaged or lost evidence can make it difficult to find a direct link between the suspect and the crime committed, thus worsening the quality of the evidence. Relevant case studies, such as the loss of evidence in certain criminal cases, show how this can disrupt the course of the justice process and harm the parties involved.

Returning evidence that does not match its original condition is contrary to the principle of legal justice because every individual has the right to receive fair treatment, including in terms of managing evidence related to their case. When evidence is damaged or lost, an individual's right to obtain justice in court can be compromised, especially if the evidence is one of the main bases for proof. Negligence or errors in returning evidence that does not comply with applicable provisions can be considered a failure in law enforcement, which has the potential to hinder the achievement of justice. It not only violates human rights that underlie the principle of justice but also damages the credibility of law enforcement officers in carrying out their functions.

The Emptiness Regarding the Accountability of Law Enforcement Officers Regarding the Return of Evidence to its Initial Condition

One of the gaps in the regulation of the return of evidence in criminal law lies in the lack of provisions that specifically regulate the return of evidence in its original condition after confiscation. Article 46 of the Criminal Procedure Code regulates the return of evidence but does not discuss in detail how to return evidence that has been damaged or lost during the investigation or prosecution process. The article focuses more on the procedure for returning evidence after a case has been decided or when the interests of the investigation no longer exist. It produces a legal gap regarding the responsibility of law enforcement officers in maintaining the condition of evidence during the confiscation period, thus creating potential problems for the justice system if the evidence cannot be returned intact.

Article 46 of the Criminal Procedure Code regulates that evidence can be returned to the entitled party after a case has been decided or when the interests of the investigation are no longer needed. However, this article does not include provisions that specifically address the

return of evidence that has been damaged or lost and does not regulate the responsibility of law enforcement officers in managing evidence properly during the confiscation period. It creates ambiguity about how officers should be responsible if evidence is damaged or lost before being decided by the court. Although this article provides a legal basis for the return of evidence, its limited detail on the process and responsibilities related to the condition of damaged or lost evidence indicates a regulatory gap that needs to be addressed to ensure legal certainty and accountability in the criminal justice system.

Law enforcement officers have a crucial function in maintaining and returning evidence that has been confiscated in an investigation or prosecution process. Their responsibilities include ensuring that the evidence remains in good condition and is not damaged, lost, or contaminated during the confiscation period. They are required to carry out strict security of the evidence to ensure that the evidence remains intact and valid as evidence that can be justified in court. Good evidence management is an integral part of the investigation process that can support proof of criminal acts and help ensure fairness in the legal process.

The responsibility of law enforcement officers in maintaining and returning evidence is regulated in the professional ethics and code of ethics for the police and investigators. This code of ethics requires officers to act professionally, transparently, and accountably in their duties, including in evidence management. They must maintain integrity and not engage in actions breaking evidence credibility, such as manipulation or negligence that causes evidence to be lost or damaged. The police professional ethics and investigators' code of ethics provide guidelines on how law enforcement officers should be responsible for managing evidence, including sanctions that can be imposed in the event of negligence or violations in evidence management procedures.

One of the shortcomings in regulations regarding evidence management is the ambiguity or even legal vacuum regarding sanctions against law enforcement officers who cause evidence to be lost or damaged. Although there are general provisions regarding the responsibility for managing evidence, the law does not explicitly regulate the mechanism for sanctions or accountability for officers who are proven to have committed negligence or unprofessional actions that cause damage or loss of evidence. This deficiency creates uncertainty in law enforcement, which can negatively impact the credibility and effectiveness of the criminal justice system.

Strengthening regulations related to the accountability of law enforcement officers in the management of evidence is essential to prevent negligence, misuse, or actions that could harm the legal process. Clearer and more detailed regulations regarding sanctions or disciplinary

actions against officers who are proven to have caused damage or loss of evidence will strengthen the integrity of the legal process itself. In addition, this will also increase public trust in the justice system, because the public will feel confident that law enforcement officers are fully responsible for carrying out their duties, including in the management of evidence which is an important element in proving criminal acts.

Strengthening regulations regarding the management of evidence needs to be focused on the preparation of more detailed and comprehensive regulations regarding the return of evidence to its original condition. This can include stricter provisions regarding the procedures for storing, maintaining, and returning evidence so that it remains in the same condition as when it was confiscated. The addition of articles that specifically regulate sanctions or legal responsibilities for officers who fail to maintain the condition of evidence can clarify their obligations and reduce the potential for misuse or negligence. In addition, more transparent and accountable procedures in evidence management will improve the integrity of the justice process and reduce the possibility of manipulation or administrative errors.

To increase the responsibility of law enforcement officers in managing evidence, clear and measurable steps are needed in the regulations. One suggestion is to introduce a stricter internal oversight mechanism for the management of evidence, including regular audits and monitoring carried out by an independent institution. In addition, it is necessary to develop an ethics code or stricter guidelines regarding standard operating procedures in evidence management, as well as ensure that any negligence or misuse related to evidence is given appropriate sanctions. Ongoing training and coaching for law enforcement officers regarding the management of evidence is also important to ensure that they fully understand the responsibilities and procedures applicable to the criminal justice system.

Changes or developments in the provisions in the regulations regarding the management of evidence are significantly needed to clear sanctions for law enforcement officers who are negligent in their duties. Stricter regulations need to include rules that regulate the legal consequences for officers who cause damage to or loss of evidence, whether in the form of administrative, disciplinary, or criminal sanctions. The imposition of clear sanctions will provide a deterrent effect and ensure that law enforcement officers fully understand their responsibility to maintain the integrity of evidence, which is an important element in ensuring a fair and transparent judicial process.

Enforcement of professional codes of ethics and internal regulations that support better evidence management are essential to improving the quality of evidence management in the criminal justice system. Every law enforcement officer must comply with ethical guidelines

that regulate their obligations to safeguard evidence and act with high integrity. Strengthening this code of ethics must be accompanied by an effective monitoring mechanism and strict disciplinary enforcement of violations that occur. In addition, there needs to be internal regulations that include clear and transparent operational procedures regarding how evidence is managed, which will ensure that each stage of evidence management is carried out to a high standard and can be accounted for.

4. CONCLUSION

Evidence management in the criminal justice system plays an important role in ensuring a fair and transparent evidentiary process. Inconsistencies in the condition of evidence, such as damage, loss, or changes during the confiscation process to return, can damage the integrity of the law and reduce public trust in law enforcement officers. It not only impacts the smoothness of the legal process but can also hinder the achievement of justice that should be obtained by the accused. Therefore, careful, procedural, and integrity-based evidence management is important to maintain the principles of justice, human rights, and the credibility of the criminal justice system.

Evidence management in the criminal justice system still faces significant regulatory gaps, especially related to the return of evidence in its original condition after confiscation and the responsibility of law enforcement officers for lost or damaged evidence. Although Article 46 of the Criminal Procedure Code provides a legal basis for the return of evidence, the lack of clarity regarding sanctions for officers who are negligent in maintaining evidence creates legal uncertainty. Therefore, it is necessary to strengthen regulations that are more stringent regarding evidence management procedures, including sanctions for negligence or damage to evidence. The development of a professional code of ethics and internal regulations that support more transparent and accountable evidence management is necessary to improve the integrity and credibility of the criminal justice system, as well as ensuring that law enforcement officers are responsible for carrying out their duties.

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