

LEGAL ACCOUNTABILITY OF OFFICIALS AND POLICE FOR DAMAGE OR LOSS OF SEIZED GOODS

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Abstrak

This study discusses the legal gap related to the accountability of law enforcement officers, especially the police, in managing confiscated goods that are damaged or lost. The main focus of this study is to identify the weaknesses of the applicable laws and regulations and their impact on legal certainty and protection of the rights of owners of confiscated goods. By analyzing the ambiguity of laws and regulations and examining real case studies, this study finds that the legal gap causes material losses for owners of confiscated goods and reduces public trust in law enforcement agencies. The normative legal research method is an approach that examines the law based on library data or secondary data, which aims to analyze existing legal norms, doctrines, and legal principles. As a solution, this study recommends legal reform through the establishment of clearer regulations regarding the obligations of confiscated goods managers to provide compensation, as well as strengthening administrative procedures and strict supervision to create a fair and transparent legal system.

Keywords: Legal Accountability, Police, Damage, Loss, Seized Goods.

INTRODUCTION

Seized goods refer to any form of property confiscated by legal authorities, such as the police or authorized officials, for law enforcement purposes (Miloradović & Vujčić, 2020). This confiscation is carried out to ensure the implementation of legal decisions, prevent further losses, or as part of the investigative process in legal proceedings. In Indonesian law, seized goods are regulated under various laws, including the Criminal Code (KUHP) and the Criminal Procedure Code (KUHAP). The purpose of seizure is to preserve the evidence used for legal cases, both in criminal and civil contexts. (Hartono, 2010) Seized goods refer to any form of property confiscated by legal authorities, such as the police or authorized officials, for law enforcement purposes. This confiscation is carried out to ensure the implementation of legal decisions, prevent further losses, or as part of the investigative process in legal proceedings. In Indonesian law, seized goods are regulated under various laws, including the Criminal Code (KUHP) and the Criminal Procedure Code (KUHAP).

The purpose of seizure is to preserve the evidence used for legal cases, both in criminal and civil contexts.

1. Evidence directly related to the crime, such as weapons, narcotics, or documents that support the case.

2. Items suspected to have been obtained from criminal activities, including proceeds of crime resulting from illegal activities, such as cash or goods purchased with criminal proceeds.
3. Items used in the commission of a crime, such as vehicles used for escape after committing the offense (Andi Sofyan, 2017).

In addition, under civil law, items that can be seized include assets that are the subject of a dispute, which are confiscated to guarantee the enforcement of a court decision. The process of seizing goods must be carried out in accordance with the legal procedures established in the relevant regulations. In criminal law, the Criminal Procedure Code (KUHAP) stipulates that the seizure of goods can only be carried out based on an order from an investigator, and must be accompanied by clear reasons and transparent procedures. Investigators are required to record the seized items in a seizure report, detailing the items, their condition, and the identity of the owner or possessor of the goods. In some cases, such as the seizure of evidence, investigators are also required to obtain permission from a judge. Furthermore, the seized items will be stored in a secure location until the legal process is complete, and the owners have the right to file objections or claims regarding the seized goods (Baird & Jackson, 2004). Ultimately, the decision regarding the status of the seized items will be determined through court proceedings, which may result in the return of the goods to their owner or the designation of the items as state property based on applicable legal rulings (Alfiah, 2001).

One of the important powers held by law enforcement officials is the authority to seize property. This action is a security measure taken when a legal violation occurs or in situations that potentially threaten public safety. Seizure can be defined as the process of forcibly taking personal property by authorized law enforcement authorities. This seizure process is legitimate and its legitimacy is governed by the Constitution of the Republic of Indonesia of 1945 (Wijayanto, 2010). Seizure can be described as the temporary transfer of control over an item from a specific individual or group, carried out for the purposes of investigation, prosecution, and judicial processes. The definition of seizure in the context of criminal law is also formulated in Article 1, number 16 of the Criminal Code (KUHP), which states that seizure is a series of investigative actions aimed at taking over and storing movable or immovable objects, tangible or intangible, for the purpose of evidence in legal proceedings (M Yahya Harahap, 2023).

In the Criminal Procedure Code (KUHAP), provisions regarding seizure are regulated in several sections. Most of these are outlined in Chapter V, Section Four, which includes Articles 38 to 48 of KUHAP, as well as Articles 128 to 130 of KUHAP. In addition, Article 1, point 16 of KUHAP also provides an explanation related to seizure. The authority to carry out seizures is held by law enforcement officials, who then hand over the seized items to the prosecutor's office in accordance with the provisions in KUHAP and the duties and functions of the police agency (Ilyas, 2017). In carrying out this duty, the court clerk is obligated to prepare an official record of the seizure, which also serves as a form of notification and meets the requirements set by legislation. In

the process of seizure, the clerk is typically assisted by two witnesses who also sign the record, thereby enhancing accountability and clarity in the legal process (Wuwungan, 2015).

However, there are currently many issues and ambiguities in the seizure process conducted by law enforcement authorities (Wilson & Serisier, 2010). Some observers note that law enforcement officials often lack a sense of responsibility in attending to the quality and quantity of the seized items. For instance, it is common for items such as motor vehicles, both two-wheeled and four-wheeled, to be left unattended around police stations without adequate supervision. This situation reflects a legal vacuum in the protection of seized items, which should be well maintained to prevent damage or loss. The lack of clarity regarding the responsibilities of law enforcement officials in this matter can lead to public dissatisfaction and distrust towards the legal system and law enforcement.

In terms of legal accountability, there are various regulations governing the responsibilities of public officials and the police in Indonesia. The 1945 Constitution of the Republic of Indonesia provides a constitutional foundation for the legal accountability of state officials. Additionally, Law Number 2 of 2002 concerning the Indonesian National Police specifically regulates the duties and responsibilities of police officers. The articles in this law state that law enforcement officials have an obligation to carry out their duties professionally and responsibly, as well as to uphold human rights in every law enforcement action. However, despite clear regulations, legal vacuums often arise in practice regarding the implementation of this accountability, particularly in the context of seizure of items and law enforcement.

Provisions regarding civil and criminal liability are also regulated in various laws. In this regard, the Criminal Code (KUHP) states that any act that violates the law can result in criminal liability for the perpetrator. For example, law enforcement officials who seize items without following the established procedures may face criminal penalties in accordance with the existing provisions. Moreover, there are also civil liability provisions that can be pursued by parties who feel aggrieved by the actions of law enforcement officials. Law Number 30 of 2014 on Government Administration stipulates that every public official must be accountable for the decisions and actions taken, including in cases of item seizure. However, the enforcement of these sanctions or liabilities is often hindered by a lack of effective and transparent oversight mechanisms, creating loopholes that allow legal violations to occur without clear consequences.

In practice, there have been several legal cases that reflect the implementation of regulations regarding the legal accountability of officials and the police. One example is a case of arbitrary item seizure conducted by the police, which was later brought to court by the owner of the item. In this case, the court ruled that the seizure was unlawful because it was carried out without an official order from a judge, and therefore, the police were deemed responsible for the losses incurred. Although this decision provides an example of the application of legal accountability, public awareness of their rights in dealing with law enforcement officials is often low. Additionally, there are cases where

public officials are involved in abuse of power, yet the legal accountability applied is not proportionate to the violations committed, creating a perception that the law can be manipulated and is unjust.

RESEARCH METHOD

The normative legal research method is an approach that examines law based on literature or secondary data, aiming to analyze existing legal norms, doctrines, and legal principles. In this method, the main focus is on studying statutory regulations, legal theories, and relevant court decisions. The normative legal approach generally does not utilize direct empirical data; instead, it employs verified written sources, such as laws, government regulations, legal journals, and books that explain certain legal principles. This method is typically used to find clarity and consistency in legal regulations, understand the legal principles underlying those rules, and assess how the law applies normatively to specific issues. This approach also allows researchers to identify legal gaps and formulate proposals for legal reform.

The legislative approach and the conceptual approach are two important approaches in normative legal research. The legislative approach emphasizes a systematic examination of relevant statutory regulations concerning the legal issues being discussed, with the aim of understanding the context, scope, and hierarchy of existing legal rules. This approach helps researchers comprehend how applicable legal provisions are interconnected and applied in real contexts. On the other hand, the conceptual approach aims to explore and clarify fundamental concepts and legal principles related to the research issue, such as justice, legal accountability, and legal certainty. Through the conceptual approach, researchers can highlight the philosophical foundations of legal rules and provide a deeper interpretation of abstract legal concepts

RESULTS AND DISCUSSION

Legal Accountability of Officials and Police Officers in Safeguarding and Managing Seized Goods in Accordance with Applicable Regulations

The legal responsibility for seized goods is regulated in Article 30 paragraph (2) of Government Regulation No. 27 of 1983, which states that the juridical responsibility for seized goods lies with the officials according to the level of examination in the criminal justice process. This principle emphasizes that the juridical responsibility for seized goods is distinct from the function of seizure itself, as it focuses more on the legal relationship and legal supervision between the authorized officials and the seized goods. Juridical responsibility not only discusses the seizure procedure and the management process but also encompasses the legal accountability of officials at various stages of the criminal justice process in ensuring that the seized goods are maintained as valid evidence. The concept of juridical responsibility for seized goods in this regulation also means that every official involved at the stages of criminal proceedings must safeguard the seized goods according to the legal authority granted to them. At various stages, such as investigation, prosecution, and trial, each party has responsibilities corresponding to the

level of examination that is underway. Although there is no specific definition of juridical responsibility in that regulation, the emphasis on the importance of maintaining seized goods as legal evidence places a significant burden of responsibility on the related officials (Yarnita & Efitra, 2020).

In the effort to fulfill this juridical responsibility, the safeguarding of seized goods as evidence requires the fulfillment of several important conditions. First, the condition of the seized goods must be verified by an expert if necessary, especially if the goods are perishable or have a high risk in storage, such as items that spoil quickly or hazardous materials. This expert assessment provides a more legitimate and accountable basis in legal processes compared to being solely based on the subjective judgment of the investigator. Second, to protect the rights of parties who own the seized goods, obtaining consent from the suspect or their representative is also sought as part of the juridical responsibility. The investigator is required to obtain this consent before taking further steps such as auctioning or transferring the seized goods. If the seized goods are sold through auction, the process must be conducted through an official auction house to maintain integrity and transparency. This procedure aims to avoid potential negative biases against the investigator and ensure that the actions taken are in accordance with regulations. In this auction, although the suspect or their representative is invited to witness, their absence will not delay the process. This ensures that the legal responsibility in handling the seized goods is executed correctly, fulfilling not only legal aspects but also maintaining public trust in the law enforcement authorities carrying out their duties (Kolim, 2005).

The return of seized goods by investigators requires the fulfillment of a number of requirements established by law. Without meeting these requirements, the return will be considered legally unaccountable. This means that to ensure the return of seized goods by investigators does not violate legal regulations, the procedures and fundamental purposes of seizure must be firmly upheld. A primary requirement for the return of seized goods is the stipulation that the evidence is no longer "necessary" for the purposes of proving the case in court. In this regard, the investigator must conclude that the seized item is no longer relevant for the case, thereby losing its value as evidence.

This provision recognizes that there are two main categories in the return of seized goods. The first is an "absolute" return, which occurs when the seized goods have no connection whatsoever to the ongoing investigation. In this situation, at the outset of the seizure, the investigator may suspect that the item is closely related to the crime, either as a result of the criminal act or as a tool used to commit the crime. However, after more in-depth examination, it is proven that the item has no relationship whatsoever to the case under investigation. In such cases, the return of the seized goods must be absolute or mandatory. If not returned, there is a risk for the investigator concerning compensation claims from the suspect or the owner of the goods, as stipulated in Article 95 of the Criminal Procedure Code (KUHP), since the seizure would be deemed unlawful.

The second type of return is "facultative," which occurs when the seized goods still have a connection to the case, but are not considered crucial for proving the matter. In this case, the goods may be returned because the investigator believes that they are not too important for further investigation or for proving the case in court. However, if needed at any time, the goods can still be recalled during both the prosecution and court examination stages. For example, if the seized goods are the result of a crime, such as a stolen car used by the suspect, it would be more prudent to return those seized goods to their original owner as a witness, given that the goods can be recalled if needed in further proceedings.

Law enforcement has specific duties and authorities in the process of seizing goods in accordance with the provisions set forth in the Criminal Procedure Code (KUHAP). According to KUHAP, seizure is an important action aimed at securing items suspected of being related to a crime and having evidential value in the criminal justice process. Therefore, seizure is not only related to the physical confiscation of goods but also includes the legal responsibility inherent to the officials carrying it out. The police must carry out this seizure duty based on established legal principles, such as accountability and transparency, and in accordance with the legal authority granted to them. This authority only applies in cases that clearly require seizure as part of the investigation process.

The procedure for seizing goods begins with a valid warrant, except in certain circumstances that permit seizure without a warrant, such as when the investigator finds evidence during a direct arrest. After the seizure is conducted, the investigator has the obligation to maintain the security and condition of the seized goods to ensure they remain in good condition until they can be presented in court as evidence. In managing the seized goods, the police must ensure that the seized items are stored in a proper location, so they can be accounted for. This safeguarding also aims to prevent potential damage or loss that could undermine the evidential value of the items.

Additionally, administrative steps are a crucial part of the seizure and management process of seized goods. Law enforcement is required to document each seized item in detail, through a recording process that includes complete information about the items, such as their description, physical condition, as well as the location and date of seizure. A seizure report must also be prepared and signed by the officials conducting the seizure and the witnesses present. This report will serve as important administrative evidence in ensuring transparency and validity of the seizure before the law. The seized goods are then stored in a designated location, such as a safe storage facility or a special room in the police station, with systematic recording to allow for monitoring and access when needed in the legal process.

Legal Vacancies in Regulating Responsibility for Damage or Loss of Seized Goods and Legal Reconstruction Efforts to Ensure Legal Certainty and Protection of the Rights of Seized Goods Owners

The legal vacuum related to the regulation of responsibility for damage or loss of seized goods poses a fundamental issue within Indonesia's legal system. Although seizure procedures have been outlined in the Criminal Procedure Code (KUHAP) and various other regulations, there are no explicit provisions governing the responsibility of officials in cases where seized goods are damaged or lost during storage. For instance, Article 30 paragraph (2) of Government Regulation No. 27 of 1983 mentions that legal responsibility for seized items lies with the officer according to the level of investigation, but this provision does not explicitly establish obligations or legal consequences in the event of negligence. In the absence of specific regulations, the mechanism for holding authorities accountable becomes severely limited, leaving owners of seized goods in a vulnerable position without the legal protections they should receive.

This regulatory ambiguity impacts the lack of accountability in the management of seized goods. In practice, seized items are often stored in inadequate conditions, such as being left in open rooms or stored without proper protective procedures, making them prone to damage or loss. This situation shows that the management of seized goods is often treated solely as evidence without regard for the value or interest these items may hold for their owners. In fact, seized goods may not necessarily be proven to be involved in a crime and could be returned to their owners if found unrelated to any offense. The ambiguity in determining responsibility leads to the absence of clear compensation for owners who suffer losses due to damage or loss during legal proceedings.

A real-life example illustrating this legal vacuum can be seen in cases where seized goods often sustain damage while being stored at police stations. Items such as motor vehicles seized as evidence are frequently returned in a damaged state or have diminished quality. Often, these seized items are stored in open areas without adequate care, making them susceptible to weather damage or vandalism. Some reports indicate that high-value items, such as jewelry or electronic goods, also experience reduced quality or even disappear during storage. Unfortunately, owners of such items lack a strong legal avenue to seek compensation for these losses, as existing regulations do not establish mechanisms for compensation or accountability of officials in such situations.

The legal vacuum surrounding the responsibilities of officials for damaged or lost seized goods has serious consequences for legal certainty. In the judicial system, legal certainty is a fundamental principle that guarantees the rights and obligations of all parties involved, including law enforcement and the public. When there are no clear rules regarding accountability for damage or loss of seized goods, legal certainty is undermined, and the scope for legal interpretation widens. Officials, who are supposed to be responsible for managing and maintaining seized goods, lack a definitive legal framework to guide them in performing their duties, leading to varying standards in the storage and protection of these goods. Consequently, seized goods are often stored in unsuitable conditions, vulnerable to damage or loss, ultimately diminishing their value when returned to their owners.

For owners of seized goods, this legal vacuum leads to significant impacts, particularly in terms of material losses and the right to legal protection. Seized items such as vehicles, property, or electronic goods that are stored without adequate maintenance are susceptible to physical or technical damages that may decrease their value. When these items are returned in a damaged condition, owners suffer irrecoverable losses without the prospect of fair compensation. Besides material losses, the owners also lack the legal protections that should be guaranteed. They do not have a clear legal mechanism to seek reparations or hold relevant parties accountable. This vacuum creates a situation in which the rights of seized goods owners are disregarded, even though they are entitled to clarity regarding the status and protection of their assets within the legal process.

On the other hand, this legal vacuum also affects the image of police and judicial institutions in the public eye. When seized goods are damaged or lost without any clear accountability or compensation, public trust in law enforcement agencies diminishes. The public, especially those who feel aggrieved or who know of similar cases, may perceive law enforcement agencies as lacking sufficient accountability, particularly regarding the protection of entrusted assets. This situation risks exacerbating the negative perceptions held by the public towards the police and judicial institutions, which are expected to uphold professionalism and justice. Thus, this legal vacuum is not only detrimental to the owners of seized goods but also undermines the credibility of the legal system and erodes public trust in law enforcement efforts in Indonesia.

Legal reconstruction efforts related to the regulation of responsibilities for seized goods are crucial for providing legal certainty and protection for goods owners. The initial step to achieve this goal is to clarify regulations regarding the management of seized goods, including specific provisions that establish the responsibilities of officials concerning the risks of damage or loss. Such regulations should detail storage procedures, maintenance, and security of seized goods in accordance with applicable standards, along with providing penalties for officials who fail to safeguard these items. It is also essential to include mechanisms for compensation or restitution for owners in cases of damage or loss of seized goods. Such policies will not only offer better legal protection for the public but will also encourage accountability among officials carrying out their duties.

Moreover, learning from legal practices in other countries can provide references for establishing a more optimal system for managing seized goods. In several countries, high-value seized items such as jewelry, vehicles, or properties are stored in specialized facilities equipped with adequate amenities, often alongside insurance to protect their value. For instance, in the United States and the United Kingdom, high-value seized items are insured to avoid financial losses for the owners in case of damage or loss during storage. They also have regular monitoring procedures conducted by independent agencies to ensure that seized items are stored securely and in compliance with regulations. By drawing comparisons, Indonesia could consider similar regulations that

encompass not only protection for owners but also stricter oversight of officials managing seized goods.

Additional concrete recommendations in this legal reconstruction include the introduction of stricter administrative processes and oversight for managing seized goods. Every seized item should be thoroughly documented in a digital system, including details regarding the condition of the item at the time of seizure and its storage location. Furthermore, regular audits by independent oversight bodies could help minimize the risks of misuse or negligence in the management of seized goods. For high-value items, mandatory insurance could provide extra protection that ensures compensation for owners in the event of losses during storage. Such insurance would afford greater justice for owners while strengthening the accountability of law enforcement in preserving the seized items.

Establishing regulations that provide legal certainty regarding the obligations of those managing seized goods, particularly the police, to compensate for damages in case of damage or loss of seized items is urgently needed. These regulations should clearly define the responsibilities of law enforcement officials concerning the items they seize, including the procedures to be followed for preserving and securing the seized goods. With clear legal provisions in place, owners will have a strong legal basis to seek compensation if their items are damaged or lost while under police custody. Implementing such obligations would not only enhance the accountability of officials but would also encourage them to perform their duties with greater care and diligence in managing seized goods.

There is an urgent need for a compensation or restitution policy for owners of seized goods who suffer losses to be an integral part of the legal reform. This policy would serve not only to protect the rights of goods owners but also as an effort to maintain public confidence in law enforcement institutions. When owners of items that are seized experience damage or loss can receive fair compensation, they feel acknowledged and valued in the legal process. This restitution policy could also mitigate potential conflicts between goods owners and law enforcement since owners would feel that their rights are protected and that there exists a clear legal mechanism for seeking justice.

To ensure that regulations regarding compensation are effective, it is crucial to establish transparent and accountable procedures for filing claims for damages. This may include the formation of specialized bodies or task forces to handle complaints related to seized goods, as well as establishing assessment standards to determine the value of the losses incurred. Additionally, training for law enforcement officials on the importance of protecting seized goods and their responsibilities regarding losses suffered by owners should also be a part of this reform effort. With such measures in place, not only will the rights of goods owners be protected, but also public trust in the police and the legal system as a whole will improve, creating a more just and transparent environment in law enforcement

CONCLUSION

The legal vacuum regarding responsibility for damage or loss of seized goods in Indonesia creates uncertainty for the owners and reduces accountability for law enforcement officials. Although there are several provisions in the legislation governing seizures, there are still gaps in enforcing liability for losses that may arise during the storage and management of seized goods. The lack of clarity regarding the accountability mechanisms can lead to unfair treatment for the owners, who often have to bear losses without legal guarantees. Additionally, this gap can damage the image of law enforcement agencies and diminish public trust in the institutions that are supposed to protect their rights.

Therefore, legal reform is essential to fill this gap and strengthen the legal protection for the owners of seized goods. Establishing clear regulations regarding the obligations of police officials to provide compensation or restitution for losses experienced by the owners is a crucial step. By doing so, not only can the rights of the owners be protected, but it will also enhance accountability on the part of the police. This reform is expected to create a more transparent and fair justice system, as well as rebuild public trust in law enforcement institutions. Through more comprehensive regulations and strict administrative procedures, it is hoped that legal certainty and optimal protection can be achieved for all parties involved in the legal process.

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