

Investigation Process of Criminal Action Fraud Acceptance of Civil Servants

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Article	Abstract.
Keywords: Civil Servant; Crime; Fraud; Investigation.	The purpose of this study is to find out and analyze the process of investigating criminal acts of fraud in the recruitment of civil servants at the Pacitan Police Resort. To find out and analyze the factors causing the occurrence of criminal acts of fraud against the acceptance of Candidates for Civil Servants at the Pacitan Resort Police. This study used an empirical juridical approach, with descriptive analysis research specifications. The data used in this research was secondary data. The method of data collection is obtained from literature study, then analyzed qualitatively. The results of this study are the process of investigating the fraudulent recruitment of civil servants has been running according to the procedures for the police to summon witnesses, summon suspects and confiscate in accordance with the Investigation Order. The factors that cause the occurrence of the crime of fraud against the acceptance of prospective civil servants or the PNS recruitment system, legislation and law enforcement. External factors are in a forced condition, there is an opportunity to do evil, in a certain party pressure and it is the nature of a person.
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1. Introduction

In Indonesia, the term constitutional law state as mentioned in the 1945 Constitution legally uses the term state after the difference between the amendment and before the amendment. Prior to the amendment to the 1945 Constitution, which read "Indonesia is a state of law". Meanwhile, after the amendment of the 1945 Constitution that "Indonesia is a state of law." The term state is contained in the 1945

Constitution, Article 1 (3).¹

Indonesia is a state of law, so that every community activity is an activity in which people's lives must be based on the rules and norms that apply in society. Law cannot be separated from human life, because law is a rule to regulate human behavior. Legal norms that apply in today's society are often not obeyed, resulting in many violations of the law.²

As one of the countries that was once under Dutch colonial rule, Indonesia follows the legal system that applies to the Netherlands, namely the civil law system, with the main source of law being written law, and legal regulations compiled systematically and thoroughly into codification. One of the codifications that are still valid in Indonesia is the Criminal Code³ as a source of law in the field of criminal law and the Civil Code⁴ as a source of law in the field of civil law.⁵

Civil servants as state apparatus have a very strategic position and a decisive role in administering government and development. As state apparatus, Civil Servants are obliged to carry out government and development tasks with full loyalty and obedience to Pancasila, the 1945 Constitution, the State and the Government. For this reason, Civil Servants act as implementers of legislation in carrying out official duties. Giving official duties to Civil Servants is basically a trust from the competent superior, with the hope that the task will be carried out as well as possible.⁶

Work as a Civil Servant, hereinafter referred to as PNS, is a job that is safe and guarantees old age, so it is in great demand by the wider community. Some people think that the future until their old age with their family will be guaranteed if they can become a civil servant, so that many Indonesian citizens are competing to register themselves to take the test to become a civil servant. However, becoming a civil servant is not an easy thing and requires the process of becoming a Civil Servant Candidate first.

To achieve national goals, a State Civil Apparatus (ASN) is needed. ASN employees are assigned to carry out public service tasks, government tasks and certain developmental tasks. Public service duties are carried out by providing services for goods, services and/or administrative services provided by ASN employees.⁷

¹Muhammad Adib, Sri Kusriyah and Siti Rodhiyah Dwi Istinah, 2019, *The Giving Of Disciplinary Penalty of Civil Servants Based On Government Regulation Number 53 of 2010 in Governments of Demak Regency*, in *Jurnal Daulat Hukum* Volume 2 (4), Published Master Of Law, Faculty of Law Unissula, p. 444, <http://jurnal.unissula.ac.id/index.php/RH/article/view/8239/3862>

²Umi Wahyu Nurhayati; Amin Purnawan and Ira Alia Maerani, 2019, *Law Enforcement Against Liquor Circulation*, in *Jurnal Daulat Hukum* Volume 2 (4), Published Master Of Law, Faculty of Law Unissula, p. 23, <http://jurnal.unissula.ac.id/index.php/RH/article/view/4151/2899>

³Staatsblad 1915 No. 732 Dated October 15, 1915

⁴Staatsblad 1847 No. 23 Dated April 30, 1847

⁵Timbul Mangaratua Simbolon, Gunarto, Umar Ma'ruf, 2018, *Kebijakan Hukum Pidana Terhadap Tindak Pidana Penghinaan Atau Pencemaran Nama Baik Melalui Internet Di Indonesia Sebagai Cybercrime*, in *Jurnal Daulat Hukum* Volume 1 (1), Published Master Of Law, Faculty of Law Unissula, p. 16, <http://jurnal.unissula.ac.id/index.php/RH/article/view/2560/1917>

⁶Maidin, (2012), *Aspek Hukum Pegawai Negeri Sipil*, Refika Aditama, Bandung, p. 21.

⁷Pudyastuti Kusuma Wardhani, 2018, *Implementation of Government Regulation Number 11 of 2017 in The Making Transparency Candidate Recruitment of Civil Servants in Custody in The Formation of Position Guard Regional Office Ministry of Justice And Human Rights of Central Java*, in *Jurnal Daulat*

By going through this process, many people try to take advantage of the acceptance of prospective civil servants by deceiving prospective candidates for the CPNS selection test. With this technological sophistication, criminals can carry out their crimes in a neat and organized manner so that it can make it difficult for the police to reveal the modes of crime that have been committed by the perpetrators of these crimes. On the victim's side many people feel comfortable and feel the need to guarantee graduation by seeking insiders.⁸ Fraud is an act that harms other people so that it is included in an action that can be subject to criminal penalties⁹.

Fraud against Civil Servant Candidates, hereinafter referred to as CPNS, is becoming more and more common in both remote and urban areas. These fraudulent incidents often occur because for the majority of the population, being a civil servant is a promising job. It is not uncommon for CPNS to do anything in order to become civil servants, both from legal and illegal channels. This situation is well utilized by the perpetrators of criminal acts of fraud to carry out their actions on the CPNS.¹⁰

The purpose of this study is to identify and analyze the process of investigating criminal acts of fraud in the recruitment of civil servants. To find out and analyze the factors causing the occurrence of criminal acts of fraud against the acceptance of Candidates for Civil Servants.

2. Research Methods

The approach taken in this research was an empirical juridical approach. In an effort to obtain the necessary information and data as materials for this thesis, this research used a qualitative descriptive and analytical type. The nature of the research in writing this thesis was descriptive analytical research, that was, research that was expository in nature which aims to obtain a complete (descriptive) picture of the legal situation that applies in a certain place and at a certain time, or legal events that occur in society. The data used in this research was secondary data. The method of data collection is obtained from literature study, then analyzed qualitatively.

3. Results and Discussion

3.1. The Process of Investigating Fraud Acts of Civil Servant Admission

Indonesia has a government system, in which the system is run by employees or what is called a Civil Servant (PNS). In a good governance, the role of a civil servant is very vital to achieve the national goal, namely to create a just, prosperous society that is evenly distributed and has material and spiritual balance. Therefore, it is necessary to have civil servants who have good mentality, are authoritative, efficient, clean, of

Hukum Volume 1 (3), Published Master Of Law, Faculty of Law Unissula, p. 551,
<http://jurnal.unissula.ac.id/index.php/RH/article/view/3333/2462>

⁸Erdianto Effendi, 2010, *Makelar Kasus/Mafia Hukum, Modus Operandi Dan Faktor Penyebabnya*, *Jurnal Ilmu Hukum*, Fakultas Hukum Universitas Riau, Edition I, No. 1, p. 24

⁹ Chuasanga A., Ong Argo Victoria. (2019). *Legal Principles Under Criminal Law in Indonesia and Thailand*, *Jurnal Daulat Hukum*, Vol 2, No 1 (2019)
<http://jurnal.unissula.ac.id/index.php/RH/article/view/4218>

¹⁰Ibid.

high quality, and are aware of their responsibilities to carry out government and development tasks. This demand is a natural thing and the government should have responded by making changes directed at the realization of good governance.¹¹

Every year, Indonesia always opens the acceptance of prospective civil servants for every government agency that requires additional employees. This is certainly an opportunity for people who really aspire to serve the State as Civil Servants. However, this opportunity is also used by unscrupulous elements or people to take advantage of people who want to take shortcuts to become civil servants. These perpetrators offer to potential victims that they can ensure that the potential victims are accepted as civil servants or also called civil servant brokers, of course this action injures what is expected of a civil servant, namely clean and moral.

State Civil Apparatus, which is abbreviated as ASN in Act No. 5 of 2014 is a profession for civil servants and government employees with work agreements working in government agencies. Article 1 Number 2 defines ASN employees as civil servants and government employees with a work agreement appointed by the staffing officer and assigned tasks in a government position or assigned other state duties and paid according to the laws and regulations, where ASN employees are divided into two namely, civil servants and government employees with an employment agreement.

Currently, fraud is becoming more and more common in Indonesia, with today's rapid technological developments, the modes of fraud are also increasingly diverse. This can be troubling to the public, because wherever they are they are always filled with distrust of someone they meet. These crimes can happen to anyone, male, female, young, old, rich or poor and can happen anywhere and anytime. The crime of fraud is regulated in Article 378 of the Criminal Code.

Fraud against prospective civil servants (CPNS) is increasingly common in both remote and urban areas. This happens because many people think that being a civil servant means that their welfare will be guaranteed. Lately there have been many cases of fraud against prospective Civil Servants, these fraud incidents often occur because for the majority of the population, being a civil servant is a promising job. It is not uncommon for prospective civil servants to do whatever it takes to become a civil servant, be it from legal or illegal channels. This situation is well utilized by the perpetrators of criminal acts of fraud to carry out their actions on these prospective civil servants.

Through this process, many people try to take advantage of the acceptance of prospective civil servants by deceiving prospective candidates for the CPNS selection test. With this technological sophistication, criminals can carry out their crimes in a neat and organized manner so that it can make it difficult for the police to reveal the modes of crime that have been committed by the perpetrators of these crimes. On the victim's side many people feel comfortable and feel the need to guarantee graduation

¹¹ Cahaya Rama Putra. *Analisis Penjatuhan Pidana Terhadap Tindak PidanaPenipuan Tentang Praktik Percaloan Calon Pegawai Negeri Sipil*. Jurnal Fakultas Hukum Universitas Lampung melalui: www.unila.ac.id. Accessed on 23 November 2021 At 13.00 WIB

by seeking insiders.¹² Fraud is an act that harms other people so that it is included in an action that can be subject to criminal penalties.

According to Syahidah Khuzaimah, CPNS acceptance and the high interest of the public to become civil servants are still often used as opportunities by some people to become CPNS brokers. There are many ways that CPNS brokers take to accept and convince people. One of the modes that need to be suspected is through comments in public media and on other people's web blogs as if telling their experiences as a civil servant.

The Process of Investigating Fraud Acts of Civil Servant Admission has been running according to the procedures for the police to summon witnesses, summon suspects and confiscate in accordance with the Investigation Order.

3.2. Factors Causing the Occurrence of Fraud Against the Admission of Candidates for Civil Servants

Developments regarding the occurrence of crime or criminalization always raise views about the causes of the crime committed. The causal factors themselves are the origin or background of a person committing a criminal act. In criminology, there are three factors that a person commits a criminal act, including:

- Genetic factors or commonly known as offspring obtained from one or both parents and family.
- Social factors or environmental conditions where the state of the community environment where a person grows up, both in himself and physically.
- The self factor or also known as innateness has indeed grown and developed since the first time he took an action against the law.

Based on the explanation above, we can know that the occurrence of a criminal act cannot be separated from these three factors, where there are innate, genetic and even environmental factors. It is the same with the crime of fraud that occurs in society. The crime of fraud that occurs cannot be separated from the above factors coupled with the economic condition experienced by the perpetrator.

In general, there are several other factors that cause fraud in addition to the three factors above, including:¹³

- Personal Self Factor
- Environmental factor
- Economic Factor
- Opportunity Factor
- Faith Factor
- Desire Factor

The first is the factor contained in the perpetrator which is based of course on heredity. Perpetrators of criminal acts of fraud of course come from or have a personal impulse in carrying out their actions. The personal self factor is obtained from the

¹²Ardianto Effendi, 2010, "Makelar Kasus/Mafia Hukum, Modus Operandi dan Faktor Penyebabnya", Jurnal Ilmu Hukum, Fakultas Hukum Universitas Riau, Edition I, p. 24.

¹³ Elvi Zahara Lubis, (2017), "Faktor Penyebab dan Saksi Tindak Pidana Penipuan Kepemilikan Kendaraan Bermotor Secara Melawan Hukum", JPPUMA, p. 88

offspring of both parents or extended family. The next factor is the environment of the surrounding community. A person who commits a crime of fraud can take his actions because of the poor living conditions of the community and even tend to be a community environment that does not understand the existing laws and regulations.¹⁴

The next factor is the economic factor which plays an important role when someone commits a crime, not apart from committing a criminal act of fraud. Economics and crime have a very close relationship of their own. Inequality in one's life circumstances certainly makes a separate encouragement in doing something, both positive and negative.¹⁵In some cases of fraud that occur, generally the occurrence of fraud is related to poverty, so it is possible that poverty or the economy is an essential factor in the occurrence of criminal acts, especially fraud. The last important factor is the opportunity to commit a criminal act of fraud. Opportunity or opportunity can allow a criminal act to occur. This factor is very large and can determine whether an action against the law in this case a criminal act of fraud can occur or not. This factor can occur generally in the form of the condition of the victim of fraud even to the point where the law or enforcement of existing regulations has not been maximized.

The factors that cause the occurrence of fraudulent crimes against the acceptance of prospective civil servants are

- Internal factors

Factors causing the occurrence of criminal acts of fraud against the acceptance of CPNS, among others:

- Civil servant recruitment system

Where in the current recruitment system is there still a deposit?

- Legislation

The law is a means to achieve spiritual and material welfare for the community and individuals, through preservation or renewal, meaning that the legislators do not become a dead letter, then one of the conditions is openness in the law-making process. Every time you use a new system, there will always be positives and negatives. The positive side for applicants is the reduced cost of sending files by post. You can imagine if you apply for five agencies with a shipping fee to each agency of around IDR 15,000, meaning that prospective applicants must have a capital of at least IDR 75,000, not to mention the cost of copying files for attachments.¹⁶

- Law enforcement

Law enforcement in Indonesia is still weak. This can be seen from the failure to achieve the main goal of law in Indonesia, namely justice for all its people. It seems that it is very difficult to obtain justice in this country, even though the existing laws in Indonesia have been very well drafted if implemented properly. However, the current reality is that the

¹⁴ Jauzy, (2004), *Ketika Nafsu Berbicara*, Jakarta, Cendikia Sentra Muslim, p. 54

¹⁵ Simanjuntak, (2005), *Kriminologi*, Tarsito, Bandung, p. 53

¹⁶http://www.kompasiana.com/cucum-suminar/negatif-positif--cpns-satu-Pintu_54f98d44a33311af798b4920, accessed on November 20, 2021 at 17:10 WIB.

implementation of the law in Indonesia is not in accordance with what it should be.

- External factors

- In a forced condition

People who are in difficult situations and conditions can turn someone who had no desire to do evil into a criminal. Examples of difficult conditions that can change people's behavior are feeling very hungry, being in an emergency condition to save someone's life, in a severe natural disaster and so on where no one else comes voluntarily to provide assistance.

- There is an opportunity to do evil

There are people who can turn into criminals if a great opportunity arises to commit a crime. If it is calculated the risk of being caught red-handed when committing a petty crime, and the small chance of being caught after an investigation can increase a person's urge to commit a crime. A repeat criminal will go dark when he sees an expensive cellphone lying unattended. A mugger and a robber will have evil intentions when he sees a granny wearing a lot of expensive jewelry in a lonely place.

- In a certain party pressure

A person who is forced to commit a crime may do evil to another person. For example, someone whose child has been kidnapped by a criminal may commit a crime as ordered by the criminal who kidnapped his child. Or students who have to take part in brawls between school students if they want to be recognized as loyal friends by their evil friends. Usually people who do evil for this reason feel pressured and want to refuse to do evil to others. The perpetrators of this crime are likely to fail in committing a crime, which can be quite large.

- It's the nature of a person

Someone who already has an evil nature will usually always do evil whenever and wherever he is. People like this are usually very uncomfortable being nice people. These criminals will prefer to be friends with people who are equally bad even though there is a high chance that their friends will harm him someday. Even though this person was given a prison sentence, still this person will continue his evil actions after getting out of prison. This kind of person is indeed difficult to cultivate to be a good person and can blend in with society.

Talking about crime, of course we are talking about violation of norms (criminal law), harmful behavior, annoying behavior, or behavior that results in victims. In the view of criminology in Indonesia, crime is seen as perpetrators who have been decided in court, behavior that needs to be discriminated against, population of perpetrators being detained, acts that violate norms, actions that get social reactions.

4. Conclusion

The Process of Investigating Fraud Acts of Civil Servant Admission has been running according to the procedures for the police to summon witnesses, summon suspects and confiscate in accordance with the Investigation Order. The factors

causing the occurrence of the crime of fraud against the acceptance of prospective civil servants in the Pacitan Resort Police are internal factors namely the PNS recruitment system, legislation and law enforcement. External factors are in a forced condition, there is an opportunity to do evil, in a certain party pressure and it is the nature of a person.

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