Electronic Device Confiscation as Personal Data Breach: A Throw in the Truth-Games

Dian Purwaningrum[1], Rocky Marbun[1]

[1] Fakultas Hukum, Universitas Pancasila, Jakarta, Indonesia
rocky_marbun@univpancasila.ac.id

Abstract. Confiscation, against an electronic device, in a crime related to the Information and Electronic Transactions Law, is an act of coercion as the authority of every law enforcement officer. However, the meaning of electronic devices, which are classified as Evidence, is still displaced in the meaning of the concept of "object" in Article 39 paragraph (1) of the Criminal Procedure Code. Speech acts in the form of text through social media instruments that contain elements of criminal acts, in the implementation of forced measures in the form of confiscation, cause other data to be disclosed, apart from the text of the speech act. This, in the end, any personal data becomes public consumption or at least, that law enforcement officials do not have the legal right to examine and view, and do not even have the right to confiscate it. The research in this article uses the legal research method through a legal science approach and a socio-political approach. The results of this study indicate that law enforcement officers' understanding of electronic systems and electronic devices is still trapped in normal science. Thus, law enforcement officials take legal action in the form of confiscation in a false consciousness by ignoring the protection of personal data. Therefore, it is important for the state and law enforcement institutions - as subjects of public law with limited power in the perspective of the Rule of Law and Human Rights - to protect an individual's personal data who is drawn into the criminal justice process by formulating a legal norm that grants the Suspect the right to defend data unrelated to the criminal act.

Keywords: Personal Data, Confiscation, Truth-Games; Criminal Procedure Code.

1. Introduction

The idea of legal protection for all citizens is a consequence of the accommodation of the rule of law principle in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This shows that there is an obligation for the state to design and establish a statutory regulation. which provides guarantees for every citizen to be protected from the movement patterns of the state in administering government.

The above ideas emerged as an urgency from the totalitarian state model as happened in the French Revolution and the English Revolution. This idea is not intended to hinder the state in its efforts to carry out and run the wheels of government. However, this idea wants a limitation on cognitive work patterns on the ownership of power and authority.

A. A. Nassihudin et al. (eds.), *Proceedings of the 3rd International Conference on Law, Governance, and Social Justice (ICoLGaS 2023)*, Advances in Social Science, Education and Humanities Research 805,
https://doi.org/10.2991/978-2-38476-164-7_64

Thus, legislation passed and promulgated will lead to guidelines for holders of power and authority for the welfare of citizens. However, this idealism makes legal activists forget the ability of every human being to carry out linguistic strategies—in the form of the ability to interpret every legal text, as an effort to fulfill their interests in carrying out their functions in the realm of the law enforcement process.

Although, theoretically, it has been stated by legal experts—especially Padmo Wahyono[1], who want every act of legislation, not only to accommodate the mystical atmosphere, but also to emphasize how to enforce these rules. The most important thing is the forgetfulness of the influence of time on the context of an event on the legal text.

As a result, the pattern of interpretive-cognitive activities is static by imposing one interpretation on a particular context for all types of discourse that occur. In the end, the model of cognitive-interpretive activity only stops at the model of grammatical interpretation and interpretation of legal history which is based on a belief that procedural law is purely formalistic legal thinking. Thus, it is not surprising that the Constitutional Court labeled the Criminal Procedure Code as an outdated legal text and does not accommodate thoughts on the development of human rights.

In fact, a text is an 'object' which is only meaningful when the interpreter has the ability—semiotically, to carry out systematic cognitive-interpretive activities on the philosophical basis of each law and regulation.

This is none other than the result of a process of domination and hegemony over the meaning of procedural law as a revolutionary legal concept. Classical criminal law experts—who in fact come from a wedge of power, have reduced the sacredness of the Legality Principle which underlies the creation of a formal legal text only as an ideological instrument for the benefit of law enforcement officials carrying out the function of law enforcement.

As a result, when investigators/prosecutors/judges carry out and carry out their powers and powers based on the Criminal Procedure Code, they will only carry out legalistic-mechanistic interpretations with a closed logical system. Matters relating to the above discourse become interesting when connected—in relation to the efforts of investigators in the investigative process to find and collect evidence to be interpreted/interpreted so as to find out who the suspects are, developments in the world and digital devices with the need for recognition of digital evidence.

Recognition of digital evidence is regulated in Article 5 of Law Number 11 of 2008 concerning Information and Electronic Transactions (Law No. 11/2008), as last amended by Law Number 19 of 2016 (Law No. 19/2016). The provisions in Article 5 of Law no. 11/2008 is an expansion of the provisions regarding valid evidence in Article 184 paragraph (1) of the Criminal Procedure Code. Thus, today, in the realm of criminal procedural law, it has acknowledged the existence of valid evidence in digital form. The existence of legal evidence in digital form is introduced with the concept of "Electronic Information and/or Electronic Documents and/or printouts thereof".

With regard to digital evidence in the form of "printed results", of course it does not raise legal issues-in relation to forced confiscation efforts, but it is different from the concept of "Electronic Information and/or Electronic Documents". Because of this, both the Criminal Procedure Code and Law no. 11/2008 in conjunction with Law no. 19/2016, does not provide “how” the forced confiscation must be carried out. Thus, law enforcement officials, especially investigators, are unable to distinguish between objects of electronic evidence as data, and tools/equipment where the data is stored (electronic evidence).

Concrete facts show - through the Police Report Number: LP/105/I/YAN.2.5/2021/SPKT PMJ dated 7 January 2021, where the Investigators confiscated the E-Mails of 3 (three) suspects and 2 (two) Black Samsung Galaxy S10+ brand cellphone with imei: 355338100084196 and black Samsung Galaxy A9 (2018) cellphone with imei: 353453100225816. Likewise, in District Court Decision Number 282/Pid.Sus/2018/PN Dps dated December 19 2020, which determined that the evidence to be confiscated by the state was 1 (one) black Iphnoe 7 Plus cellphone with imei number: 366571087297925 Serial Number: FCCCF34YHFY7, belonging to the defendant.

In other cases, as stated in the Bandung High Court Decision Number 418/PID.SUS/2020/PT BDG dated January 20 2021 in conjunction with Bandung District Court Decision Number 771/Pid.Sus/2020/PN Bdg dated November 17 2020, where one of the verdict confirms as follows:

"Determining evidence in the form of:
1. 1 (one) Facebook account: Agung Dewi Wulandari;
2. 1 (one) Email account: dewiagung38@gmail.com
Deprived to be destroyed."

In research conducted by Alfiyan Mardiansyah[2] with the title "Mechanisms of Evidence in Cases of Cybercrime" in the Journal of Indonesian Legislation Volume 12 Number 4 of 2015, which deals descriptively with the legitimacy of expanding evidence and relates to "how to" find, collect and present electronic evidence based on Article 5 in conjunction with Article 43 of Law no. 11/2008 with a focus on electronic systems as objects of searches and seizures. Aflian Mardiansyah confirmed in his research that in certain cases, through Law no. 11/2008, it is easier for law enforcers to obtain and present evidence through a printed mechanism. However, in other motion and audio cases it is not possible to rely on print outs, so that searches and seizures can be carried out on the electronic systems. Although the Criminal Procedure Code does not regulate "how to" conduct a search and confiscation of an electronic system, however, through Article 43 paragraph (5) of Law no. 11/2008 confirms that efforts to search and confiscate electronic systems can be carried out by obtaining permission from the Head of the local District Court.

There is also research that is poured into a book entitled "Special Criminal Law" written by Ruslan Renggong and published by Prenada Media Group in 2016 which makes a view that investigations in the field of Information Technology and Electronic Transactions are carried out with due regard to protection of privacy. ,

confidentiality, smooth running of public services, data integrity, or data integrity in accordance with laws and regulations. Searches and/or confiscation of electronic systems related to alleged criminal acts must be carried out with the permission of the chairman of the local district court. In carrying out searches and/or confiscations, investigators are obliged to maintain the maintenance of public service interests. Civil Servant Investigators have the authority to examine tools and/or facilities related to information technology that are suspected of being used to commit criminal acts based on Law Number 19 of 2016 Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions and Carry out sealing and confiscation of tools and/or facilities for Information Technology activities suspected of being used in defiance of provisions of laws and regulations.

This doctrine, at least, constitutes a scientific legitimacy for forced efforts to carry out forced searches and seizures of electronic systems. However, the doctrine in the textbook does not question the protection of personal data from perpetrators of criminal acts that are not related to criminal acts when an electronic system, including the device used, is determined to be confiscated.

Based on the descriptions of the facts above, the protection of personal data—in the form of electronic data, a suspect and a defendant who have no connection with criminal acts—simply because they are unable to distinguish electronic information objects as data from electronic devices as storage media, becomes disadvantaged because they have to lose most of the electronic data is personal and not related to the alleged crime.

This article aims to dismantle the truth-game of law enforcement officials who maintain normal science in giving meaning to forced confiscation efforts that are based on false awareness that ignores the interests of suspects and defendants over electronic data in an electronic system that is not related to the alleged criminal acts.

2. Problems

Referring to the descriptions above, it becomes an important issue in order to provide legal protection for suspects and defendants in the process of confiscating electronic devices—or better known as “devices” or “gadgets”, which store personal electronic data. and does not correlate with Article 39 paragraph (1) of the Criminal Procedure Code in order to be designated as "evidence". However, it is necessary to examine in depth what is the cause of the neglect of these electronic data. This is a legal issue for us. This is due to the absence of doctrine or court rulings that dispute this.

3. Method

This research employs a legal research method using common approaches in the field of Law, namely the legislative approach, conceptual approach, and case approach. The data used in this research consists of secondary data, including Law Number 8 of 1981 on Criminal Procedure Law and several court decisions and investigative

administrative documents. Nevertheless, as explained by Margarito Kamis,[3] that Legal Science does not have instruments to track and examine subjective matters, as also pointed out by Johnny Ibrahim,[4] that in normative legal research methods, various models of approaches can be used. Thus, we also use the Trichotomy Relationship Approach.

The Trichotomy Relationship Approach is a model constructed through the Critical Paradigm in the field of Socio-Politics, with figures like Michael Foucault and Antonio Gramsci, as well as Pierre-Félix Bourdieu from the Critical Sociology field. Additionally, it draws influence from the Linguistics and Semiotics group, including figures like Ferdinand de Saussure, Roland Barthes, and Charles Sanders Peirce. Similarly, it is influenced by the Communication Philosophy group, with figures like Jürgen Habermas, and it is also influenced by the German Hermeneutics Philosophy group, including figures like Hans-Georg Gadamer, Heidegger, Paul Ricoeur, and Jacques Derrida.

4. Discussion

4.1. The Trichotomy Approach As An Alternative Approach In The Criminal Law Enforcement Process

The forerunner to the construction of the Relationship Trichotomy concept as an approach to dismantling criminal law enforcement practices, has started since mid-2018-2019 through the publication of national articles[5], [6], [7] and international[8], [9], [10]. Meanwhile, the Relational Trichotomy nomenclature itself will only be used in 2020 either through the publication of national articles[11]–[15] as well as through international publications[16]–[19]. The use of the Trichotomy Relation Approach to the criminal law enforcement process will continue to be developed in 2021 through national publications[20]–[23] and international publications[24]–[30], in 2022 through the publication of national articles[31]–[34] and international article publication[35]–[37],[38], [39], and finally in 2023 through the publication of national journal articles[40].

The data used in reviewing an enforcement process, in essence, remains based on primary legal materials, whether in the form of laws and regulations, court decisions, or related legal documents. However, because in conducting research which is also multidisciplinary in nature—especially to examine utterances in practice associated with the language of power strategy—in legal science it is better known as the concept of legal interpretation, using the results of limited interviews, utterances (speech acts) through mass media both print and online. Therefore, in this section, we no longer use references as citations to what will be described.

According to Soerjono Soekanto[41], [42] which explains that discretion plays an important role as the final behavior of law enforcers when interpreting legal texts on a value. The problem is that in carrying out this interpretation, Polri investigators have low quality - because they are not required to have a degree in law, when compared to the Attorney General's Office and the Supreme Court.[43]. In fact, Paul

Scholten emphasized that law enforcement processes should be carried out by educated law graduates[44].

As a result, when there is no legal knowledge of investigators as functional positions, what is left behind is power and authority attribution, both from the Criminal Procedure Code and from Law Number 2 of 2002 concerning the Indonesian National Police (Law No. 2/2002). As for the enforceability of a decision as a result of interpretation, according to J.A. Pontier—adapted by Bernard Arief Sidharta, requires strength and violence from public authorities[45].

In this position, it is the entry point for the views of Foucault through the Theory of Power-Knowledge Relations. What's interesting about Foucault is when constructing this theory, it turns out that the power holders will maintain their power by using language as a tool. Because, with this 'language' the holders of power will formulate a strategy by presenting rites of truth that will form a regime of truth.

So, the mode of power—the influence of Gramsci's Hegemony Theory on Foucault, which moves based on two directions, namely hegemony (persuasively)—through academics and social figures, and domination (violence) through the apparatus they have.

The thing that is forgotten by Criminal Law Academics, is that the investigator's work pattern - referring to Article 8 in conjunction with Article 75 of the Criminal Procedure Code, must always be contained in the Minutes which contain information about the statements of witnesses, potential suspects resulting from interviews - in the investigation process, or interrogation - in the investigative process, which is essentially an instrumental language (communication) activity and conditional conditioning and is taught to investigators[46].

Thus, Article 8 in conjunction with Article 75 of the Criminal Procedure Code is a representation of two domains of knowledge, namely the Linguistic/Language realm and the Communication realm. Where, referring to Linguistics and Communication Sciences, language is a tool for communicating through the process of exchanging messages in order to build connections with the interlocutor[47], in the form of rhetorical abilities. So, through these language activities, there is the ability to process language effectively and efficiently in order to influence readers or listeners with messages[48].

Ironically, interrogation and interview training-internationally, what is taught to investigators is a model of language activity (communication) with an instrumental type, in order to engineer a state of inferior binary opposition ("the Other"). So, it is not surprising when Jürgen Habermas emphasized that knowledge and interests are one unit. Because, indeed, language is not value-free and always hides interests. Foucault emphasized that in an effort to maintain power as one of the interests, knowledge will be formed through language strategies.

The ability to carry out this strategy of the language of power, of course, we will get a theoretical study through Pierre-Felix Bourdieu with his Social Praxis Theory, there will be self-awareness (*habitus*) of ownership of capital and mastery of fields. That is, these three aspects will form a strategy pattern of the language of

power as a truth-game, when based on institutional culture that functions as a History of Influence (*wirkungsgesichte*) and background knowledge (*hindergrundwissen*)—due to non-ownership of knowledge as a Law Degree, when Investigators -The Public Prosecutor-Judge positions the suspect/defendant as "the other".

So, based on this normative power and authority, every law enforcement officer is able to manipulate the meaning of a legal text to "the Other" based on interests according to the needs that arise. This pattern of playing with meaning, which is the realm of study in Semiotics, will bring up connotations that hide interests. For example, research conducted by the community legal aid agency[49], where the Police officers asked the detainees not to use a lawyer, so that the sentences would be lighter. In fact, the issue of sentencing is the competence of the Judge, so the hidden interest is to make the investigation work pattern easier. Or, the same interest is hidden by the Public Prosecutor, as a warning and reprimand from the President to the Attorney General's Office so as not to frighten the businessmen[50]. Thus, the process of proof in examination before the court session becomes easier.

This is the function of the Relationship Trichotomy Approach, as a model approach to carry out ideological criticism of the criminal law enforcement process.

4.2. Truth-Games In The Process Of Confiscation Of Electronic Devices (*Device/Gadget*)

Confiscation as a coercive measure for the purposes of investigation is regulated in Article 38 paragraph (1) of the Criminal Procedure Code—as a general rule of confiscation. Where, the confiscation is a logical consequence of the forced search effort regulated in Article 32 of the Criminal Procedure Code, after a person has the status of a suspect. However, there are attempts to confiscate "Evidence" which may not be in the possession of the suspect based on Article 39 paragraph (1) of the Criminal Procedure Code.

The criteria for "Evidence" based on Article 39 paragraph (1) of the Criminal Procedure Code are (1). Objects or bills that are suspected of being the result of a criminal act; (2). Objects used to commit or prepare a criminal act; (3). Objects used to obstruct the investigation process; (4). Objects specifically to be used to commit a criminal act; and (5). Other objects related to criminal acts that have occurred.

Looking at the research above, Alfiyan Mardiansyah in his research did not explain the difference between electronic systems and electronic devices. The most important thing to examine is that it turns out that the phrase "…..must be carried out with the permission of the chairman of the local district court" in Article 43 paragraph (3) of Law no. 11/2008 has been amended through Article 43 paragraph (3) of Law no. 19/2016, namely by changing the phrase to "... carried out in accordance with the provisions of the criminal procedure law". In fact, Alfiyan Mardiansyah emphasized that the Criminal Procedure Code does not have a mechanism to search and confiscate "electronic systems". Thus, Law no. 19/2016 has invalidated the conclusions in the study.

Of course, we can still question whether the forced confiscation of information or devices is attempted. This has an intersection with how to understand the Tool Theory and the object of study of the alleged crime. Therefore, this study tries to improve on previous research by finding aspects of justice in the process of carrying out forced searches and confiscation of Electronic Devices by deconstructing the domination and hegemony of the interpretation of Investigators and Public Prosecutors in understanding Criminal Procedure Law.

With regard to the concept of "Electronic Devices", both in Law no. 11/2008 as well as in Law no. 19/2016, does not provide a definition of the meaning of "Electronic Device". However, through Article 43 paragraph (5) letter e of Law no. 19/2016, there is the phrase "….tools and/or facilities related to Information Technology activities…..". This is what can then be equated with a device or gadget.

Meanwhile, the device or gadget acquires its connotative meaning with the concept of "object" in Article 39 paragraph (1) of the Criminal Procedure Code. As a result, when someone commits a crime using a mobile phone—for example insults, which are processed and sent through the Twitter/Instagram application as an integral part of the cellphone, of course it is the concept of "object" that leads law enforcement opinion to confiscate the device or gadget.

In fact, if we refer to the examples of cases that we have presented earlier, including an account from a social media application – semiotically, a connotative meaning is raised, it is an object used to commit a crime. Thus, both the Investigator-Public Prosecutor-Judge, ignoring the existence of other data that is personal in nature and not related to a crime, is also affected by the side effect of being destroyed as well.

Procedures for confiscation of electronic data, especially those in devices or gadgets, where Law no. 11/2008 in conjunction with Law no. 19/2016 does not provide specific arrangements, except that it is only contained in Article 43 paragraph (2) of Law no. 19/2016 which emphasizes the importance of protecting privacy and confidentiality. However, the law does not provide regulation regarding the procedure. Thus, the generally applicable provisions as stipulated in the Criminal Procedure Code apply.

As a result of the existence of legalistic cognitive-interpretive activities with a closed logical system model in Criminal Law, Criminal Law moves only empirically through sensory observation. For this reason, if it moves normatively, then the application for a permit for the local chief justice will only be directed to devices or gadgets as 'objects' in Article 39 paragraph (1) of the Criminal Procedure Code.

The interesting thing is related to the regulation regarding forced searches and/or confiscations in the United States, whereby referring to the Fourth Amendment of the United States Constitution, an attempt to search Electronically Stored Information (ESI)—both in the form of computers or gadgets, in order to search for electronic data or information for the purposes of investigation is carried out by investigators by having to obtain a court order (warrant) in advance as a search of a

house or other closed place (closed container). Even though investigators already have warrants to search the house, to be able to see the contents of the computer or ESI found in it, they must obtain a special warrant to access the computer or ESI. A search of ESI can be carried out without a warrant based on the approval of the object owner, or in the case of data located on a computer system from a public or private agency based on the approval of a superior or the person in charge of the computer system.[51].

Referring to the 4th Amendment and Rule 41 of Federal Rules of Criminal Procedure (FRCP), the process of searching an electronic device must be witnessed by the Prosecutor whose job is to ensure that the process of dismantling the contents of the device or gadget is in accordance with the 4th Amendment.

In this position—in Indonesia, the discourse regarding the representation of other institutions in the data search process—after confiscation, the contents of the gadget or device become the absolute rights of each Investigating institution that carried out the forced attempt. Therefore, the dialectic regarding whether the representation of the suspect or defendant is needed to maintain the mandate of Article 43 paragraph (2) of Law No. 19/2016, is an impossibility. Thus, grammatical interpretation becomes an idol in criminal law enforcement by making an analogy between "electronic devices" and the concept of "objects" in Article 39 paragraph (1) of the Criminal Procedure Code. As a result, investigators do not need the process of selecting and sorting other electronic data.

5. Conclusion

Confiscation of "electronic devices" by investigators with the aim of finding electronic data used to commit Information Technology crimes has been identified between electronic data and electronic devices which are constructed through the meaning of the concept of "objects" in Article 39 paragraph (1) of the Criminal Procedure Code. Therefore, Law no. 11/2008 in conjunction with Law no. 19/2016 has established a regime of truth that confiscation procedures are subject to the Criminal Procedure Code—as stated in the Criminal Procedure Code, namely Article 38 paragraph (1) of the Criminal Procedure Code in conjunction with Article 39 paragraph (1) of the Criminal Procedure Code. Meanwhile, the concept of 'object' itself is a classic concept that was constructed in 1981, but is used to read modern contexts. However, this discourse has become truth-games in a common sense logic, because, even in a hegemonic way, there is not a single legal expert in Indonesia who has developed a discursive discussion about the confiscation of "electronic devices".

In the end, by equating the complexity of constructing an electronic gadget/device with the capability to store thousands of personal information with the concept of "object" in Article 39, paragraph (1) of the Criminal Procedure Code, it is an act of semiotic simplification to avoid conceptual dialectics. Therefore, as researchers, we ultimately rely on a few court decisions and investigative administrative documents, without being able to obtain official information from the State Police of the Republic of Indonesia. The information obtained from lawyers

regarding the subject of this study is something that was not previously considered when related to legal protection for personal data within electronic gadgets/devices seized by investigators, public prosecutors, and judges.

Therefore, it is essential to normatively establish the obligation to protect legal rights and human rights as a fundamental duty for lawmakers to formulate, design, and enact a legal norm that restricts the authority to carry out coercive measures solely aimed at electronic data related to criminal acts under the supervision of the data owner and the judicial authority as the overseer.

References

[1] P. Wahyono, *Indonesia Negara Berdasarkan Atas Hukum*. Jakarta: Ghalia Indonesia, 1986.

[2] A. Mardiansyah, "Mekanisme Pembuktian Dalam perkara Tindak Pidana Siber," *J. Legis. Indones.*, vol. 12, no. 4, p. 21, 2015.

[3] M. Kamis, "Keterangan Ahli Dr. Margarito Kamis, SH, M.Hum Dalam Pemeriksaan Perkara Pengujian Konstitusionalitas Norma Batal Demi Hukum pada Pasal 143 ayat (3) UU Nomor 8 Tahun 1981 Tentang KUHAP," Jakarta, 2022.

[4] J. Ibrahim, *Teori dan Metodologi Penelitian*. Jakarta: Bayumedia Publishing, 2012.

[5] R. Marbun, "Hukum Pidana Yang Instrumental : Upaya Legitimasi Kepentingan Melalui Pengetahuan Berbasis Kekuasaan (Studi Multidisipliner Terhadap Ekstasi Komunikasi Sebagai Tindak Pidana Melalui Simulacra)," *J. Huk. Pembang.*, vol. 01, no. 01, pp. 1–7, 2018.

[6] R. Marbun, "Keterlemparan (Goerfen-Sein) Hukum Pidana Dalam Rasio Tindakan Instrumental Terhadap Direksi Sebagai Rechtspersoon Dalam Praktik Peradilan Pidana," *J. Huk. Pidana dan Pembang.*, vol. 1, no. 1, pp. 1–7, 2018.

[7] R. Marbun, "Mereposisi Korban dalam Sistem Peradilan Pidana di Indonesia: Suatu Keterlemparan (gowerfen-sein) dalam Mitos Modernitas," *J. Magister Huk. Udayana (Udayana Master Law Journal)*, vol. 8, no. 4, pp. 525–538, 2019, doi: 10.24843/jmhu.2019.v08.i04.p07.

[8] R. Marbun, "Advocate Immunity: Quo Vadis of Value and Ethics in Legal Norms?," *J. Huk. dan Peradil.*, vol. 8, no. 1, p. 123, 2019, doi: 10.25216/jhp.8.1.2019.123-148.

[9] R. Marbun, M. Maryano, and I. Ismail, "The Ratio of Instrumental Action to Criminal Laws: Throwing in language game," *Adv. Soc. Sci. Educ. Humanit. Res.*, vol. 254, no. Conaplin 2018, pp. 116–119, 2019, doi: 10.2991/conaplin-18.2019.24.

[10] R. Marbun and E. Wijaya, "Language, Communication, and Law: Dismantling Binary Opposition in the Pre-Adjudication Sphere," no. 1, 2019, doi: 10.4108/eai.5-8-2019.2289787.

[11] R. Marbun, "Komunikasi Instrumental Berbasis Trikotomi Relasi: Kewenangan Interpretasi Penyidik Dalam Menetapkan Seseorang Sebagai Tersangka," *J. Huk. pidana kriminologi*, vol. 2, no. 1, pp. 20–33, 2021, doi:

https://doi.org/10.51370/jhpk.v2i1.10.
[12] R. Marbun, "Parole Sebagai Alat Komunikasi Dalam Praktik Peradilan Pidana," *USM Law Rev.*, vol. 3, no. 1, pp. 1–16, 2020.
[13] R. Marbun, "Pasivitas Fungsi Advokat Dalam Proses Pra-Adjudikasi: Membongkar Tindakan Komunikatif Instrumental Penyidik," *J. Huk. Samudra Keadilan*, vol. 15, no. 1, pp. 17–35, 2020, doi: https://doi.org/10.33059/jhsk.v15i1.2190.
[14] R. Marbun, "Narasi Tunggal (Grand Narrative) Penegakan Hukum Terhadap Tindak Pidana Korupsi: Suatu Keterlemparan dalam Simulacra," *Soumatera Law Rev.*, vol. 3, no. 1, pp. 93–106, 2020, doi: http://doi.org/10.22216/soumlaw.v3i1.5236.
[15] D. S. B. Yuherawan and R. Marbun, *Pandemik Covid-19 Sebagai Legitimasi Bahasa Kekuasaan Bagi Kepolisian Negara Republik Indonesia Dalam Komunikasi Instrumental*. Medan: Enam Media, 2020.
[16] R. Marbun and M. Mulyadi, "Disassemble Absolutism Ratio Praxis Monologue Public Prosecutors in Preparing Alternative Charges," *Int. J. Sci. Technol. Res.*, vol. 9, no. 1, pp. 1341–1348, 2020.
[17] Maryano and R. Marbun, "Disengagement of Hoax and Hate Speech from Social Context: Analysis of Intersection Between Criminal Law and the Influence of the Linguistic," 2020. doi: 10.2991/aebmr.k.200226.030.
[18] R. Marbun and M. Imanuddin, "Initiating a Principle Free from Pressure in the Investigation Process: Tracking the Semiotics of Investigator Communication," *Adv. Econ. Bus. Manag. Res.*, vol. 140, no. Icleh, pp. 190–196, 2020, doi: 10.2991/aebmr.k.200513.041.
[19] W. Oedoyo and R. Marbun, "Philosophical Criticism of the Betrayal of the Criminal Law Rechtspersoon as a Legal Subject," vol. 140, no. 1749, pp. 285–291, 2020, doi: 10.2991/aebmr.k.200513.058.
[20] R. Marbun, "Dominasi Simbolik Dalam Penegakan Hukum Pidana Berdasarkan Perspektif Pierre-Felix Bourdieu," *J. Esensi Huk.*, vol. 3, no. 1, pp. 20–40, 2021.
[21] R. Marbun, W. Oedoyo, and D. M. Sinaga, "Logika Monolog Dalam Trikotomi Relasi Pada Proses Pra-Adjudikasi," *J. USM Law Rev.*, vol. 4, no. 1, pp. 1–26, 2021, doi: http://dx.doi.org/10.26623/julr.v4i1.3308.
[22] E. Triwulandari, R. Marbun, and A. Dewinta, "Habituasi Anakronisme Penegakan Hukum Pidana Sebagai Argumentum Ad Verecundiam- Suatu Upaya Menghadang Upaya Hukum," Jakarta, 2021.
[23] R. Marbun, "Trikotomi Relasi dalam Penetapan Tersangka : Menguji Frasa 'Pemeriksaan Calon Tersangka' Melalui Praperadilan," *Undang J. Huk.*, vol. 4, no. 1, pp. 159–190, 2021, doi: 10.22437/ujh.4.1.159-190.
[24] A. Muliyono and R. Marbun, "Alternative Causality Theory: An Effort to Block Instrumental Communication Actions by Investigator in Determining a Suspect," in *the 1st International Conference on Education, Humanities, Health and Agriculture*, Flores: EAI, 2021. doi: 10.4108/eai.3-6-2021.2310821.
[25] D. Yuherawan and R. Marbun, "Deconstruction of Common-Sense Paradigm in Law Enforcement Against Corruption Crime," in *the 1st International Conference on Education, Humanities, Health and Agriculture*, EAI, 2021.

doi: 10.4108/eai.3-6-2021.2310823.

[26] A. Syahputra and R. Marbun, "Double Standards of Law Enforcement in the Covid-19 Pandemic Era in Indonesia : A Relationship Trichotomy Study," in *the 2nd International Conference on Law Reform (INCLAR)*, Atlantis Press, 2021, pp. 51–56.

[27] A. Muliyono and R. Marbun, "Symbolic Dominance in the Criminal Law Enforcement Indonesia : Convergence Between the Trinity of Power and Truth-Games," in *Proceedings of the 2nd International Conference on Law Reform (INCLAR 2021) Symbolic*, Atlantis Press SARL, 2021, pp. 45–50.

[28] Zulkarnain and R. Marbun, "Symbolic Domination in the Regulation of the Supreme Court Number 4 of 2016 Concerning the Prohibition of Reviewing Pre-Trial Decisions," in *Proceedings of the 2nd International Conference on Law Reform (INCLAR 2021)*, Atlantis Press SARL, 2021, pp. 57–62.

[29] M. A. Sunggara and R. Marbun, "The Logic of the Public Prosecutor's Monologue in Legal Interpretation: Tracing the Fallacy of the Public Prosecutor's Indictment in the Crime of Corruption in …," in *Proceedings of the 2nd International Conference on Law Reform (INCLAR 2021) The*, Atlantis Press SARL, 2021, pp. 39–44.

[30] R. Marbun, "Trichotomy of Relation Through Instrumental Communication in Pre-Adjudication Stage: The Failure of Criminal Procedure Code to Foster Law Enforcement Attitudes," in *the 1st International Conference on Education, Humanities, Health and Agriculture*, 2021, pp. 1–10. doi: 10.4108/eai.3-6-2021.2310893.

[31] M. A. Sunggara and R. Marbun, "Kekeliruan Epistemologis dan Fallacy Dalam Penerapan Asas Hulprecht Terhadap Tindak Pidana Administrasi," *Lex Prudentium*, vol. 1, no. 1, pp. 26–36, 2022.

[32] R. Marbun, "Konferensi Pers Dan Operasi Tangkap Tangan Sebagai Dominasi Simbolik : Membongkar Kesesatan Berpikir Dalam Penegakan Hukum Pidana," *Ius Const.*, vol. 7, no. 1, pp. 1–18, 2022, doi: http://dx.doi.org/10.26623/jic.v7i1.4797.

[33] R. Marbun and M. Ariani, "Melacak Mens Rea Dalam Penyebaran Berita Bohong Melalui WhatsApp Group: Mengenal Sekilas Psikolinguistik Dalam Hukum Pidana," *J. Huk. Pidana dan Kriminologi*, vol. 3, no. 2, pp. 72–85, 2022, doi: 10.51370/jhpk.v3i2.85.

[34] R. Marbun and D. M. Sinaga, "Prinsip Kehati-Hatian Dalam Menetapkan Tersangka Sebagai Parameter Pengujian Tindakan Penyidik Melalui Praperadilan," *Ensiklopedia Educ. Rev.*, vol. 4, no. 2, pp. 47–54, 2022, doi: https://doi.org/10.33559/eer.v4i2.717.

[35] R. Marbun and A. Solichien, "Disparity of the Application of Adequate Legal Considerations: The Truth-games in Criminal Court Decisions," *KnE Soc. Sci.*, vol. 2022, pp. 293–305, 2022, doi: 10.18502/kss.v7i15.12098.

[36] R. Marbun and M. Adystia Sunggara, "Epistemological Mistakes in Determining Suspects Based on the Concept of Trichotomy Relationships," *KnE Soc. Sci.*, 2022, doi: 10.18502/kss.v7i15.12094.

[37] R. Marbun and E. Wijaya, "Instrumental Communication Actions By Investigators/Public Prosecutors As Objects of a State Administrative Lawsuit," *KnE Soc. Sci.*, vol. 2022, pp. 157–172, 2022, doi:

10.18502/kss.v7i15.12087.
[38] R. Marbun and I. Muda Sipayung, "Shift in Procedural Law for Examining Pretrial Applications," *KnE Soc. Sci.*, vol. 2022, pp. 219–231, 2022, doi: 10.18502/kss.v7i15.12092.
[39] R. Marbun and F. Wijaya, "The Game of Truth in Criminal Law Enforcement Process on Corruption Crimes," *KnE Soc. Sci.*, vol. 2022, pp. 192–201, 2022, doi: 10.18502/kss.v7i15.12090.
[40] R. Marbun, "Permainan-Kebenaran (Truth-Games) Oleh Hakim Dalam Kegiatan Kognitif-Interpretatif Berdasarkan Pendekatan Trikotomi Relasi," *Humani (hukum dan Masy. Madani)*, vol. 13, no. 1, pp. 182–201, 2023.
[41] S. Soekanto, *Penegakan Hukum*. Jakarta: Binacipta, 1983.
[42] S. Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakkan Hukum*. Jakarta: RajaGrafindo Persada, 2014.
[43] H. Sopian and B. Wijaya, "Performa Syarat Pendidikan Penyidik dan Implikasinya Dalam Penanganan Perkara (Studi Manajemen Sumber Daya Manusia di Perguruan Tinggi Ilmu Kepolisian)," *Ekon. J. Ilm. Manajemen, Ekon. Bisnis, dan Kewirausahaan*, vol. 5, no. 1, pp. 14–22, 2017.
[44] P. Scholten, *Struktur Ilmu Hukum*. Bandung: Alumni, 2011.
[45] J. A. Pontier, *Rechtsvinding (Penemuan Hukum)*. Jakarta: Jendela Mas Pustaka, 2008.
[46] S. Waljinah, "Kajian Makna Simbolik Bahasa Hukum Pada Tindakan Diskresi Polisi," *Pros. Konf. Nas. APPPTM Ke-4*, vol. 3, pp. 241–250, 2016.
[47] H. Hadikusuma, *Bahasa Hukum Indonesia*. Bandung: Alumni, 2010.
[48] Noermanzah, "Bahasa sebagai Alat Komunikasi, Citra Pikiran, dan Kepribadian," in *Prosiding Seminar Nasional Bulan Bahasa (Semiba)*, 2019, pp. 306–319.
[49] R. Gunawan *et al.*, *Membongkar Praktik Pelanggaran Hak Tersangka di Tingkat Penyidikan*. Jakarta: LBH Masyarakat & Open Society Foundation, 2012.
[50] K. K. R. Indonesia, *Meningkatkan Kesadaran Hukum Masyarakat Melalui Pelaporan dan Pengadilan Masyarakat*. Jakarta: Komisi Kejaksaan Republik Indonesia, 2021.
[51] no name, *Procedur Comparison (Rule Procedure) MAnagement of Electronic Evidence*. Jakarta: Kemitraan-LeIP-IDLO-Kingdom of Netherlands.