



Criminal Liability of Police Officers in Cases of Abuse of Authority Against Protesters

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ABSTRACT

The misuse of authority by law enforcement officers in handling public demonstrations remains a recurring issue within Indonesia's legal enforcement practices. Such incidents are frequently manifested through arbitrary arrests, excessive use of force, and the criminalization of peaceful protesters. In fact, the right to express opinions publicly is explicitly guaranteed under the 1945 Constitution and Law No. 9 of 1998. Repressive actions of this nature not only constitute legal violations but also erode public trust in the police institution. From a criminal law perspective, officers who exceed their authority may be held accountable under provisions of the Indonesian Penal Code, such as Article 170 or 351 on acts of violence, as well as through internal disciplinary sanctions. This study employs both normative and empirical approaches, examining recent cases including the May Day 2025 demonstrations and the Kanjuruhan tragedy to highlight weaknesses in oversight mechanisms, both internal and external. Findings indicate that a culture of impunity persists, allowing officers to often escape criminal liability despite evidence of misconduct. Therefore, comprehensive reforms are urgently needed, including strengthening oversight systems, ensuring consistent law enforcement, and fostering cultural transformation within the police force to ensure accountability and justice are genuinely upheld.

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INTRODUCTION

The abuse of authority by police officers in handling public demonstrations has become a recurring and serious issue within Indonesia's law enforcement practices. Normatively, the right to freedom of expression in public spaces is a constitutional right guaranteed under Article 28E paragraph (3) of the 1945 Constitution, which affirms that every citizen has the right to associate, assemble, and express opinions. This right is further reinforced by Law No. 9 of 1998 concerning the Freedom to Express Opinions in Public, which provides a legal safeguard for citizens to peacefully channel their aspirations in public spaces. In a democratic state governed by the rule of law, the fulfillment of these rights should be facilitated by the state rather than curtailed through repressive actions by law enforcement. Nevertheless, in practice, civil liberties are frequently restricted through coercive measures, where police officers often act beyond the limits of their authority.

This phenomenon has been evident in several high-profile cases of mass protests in Indonesia. During the May Day 2025 demonstrations, for instance, the Democracy Advocacy Team reported the arbitrary arrest of 14 participants in Jakarta. These arrests were deemed to lack legal basis and were criticized as forms of criminalization that contravened the principle of non-derogable rights guaranteed by the Constitution (YLBHI, 2025). A similar pattern was observed during the October 2020 protests against the Omnibus Law on Job Creation, where the Indonesian Forum for the Environment (WALHI) documented hundreds of arbitrary detentions and dozens of cases of physical violence against demonstrators (WALHI, 2020). Such

incidents not only contradict the principles of legality and proportionality but also create a chilling effect that discourages civic engagement in democratic life.

The most tragic example is the Kanjuruhan Stadium disaster of October 1, 2022, where excessive use of tear gas by police officers inside the stadium triggered mass panic, resulting in hundreds of deaths. This event not only caused profound suffering for victims' families but also raised serious concerns regarding the professionalism and accountability of the police force. Despite the severity of the incident, only a handful of officers were prosecuted, while many others escaped legal responsibility. Even the court verdicts against those prosecuted were criticized as disproportionately lenient compared to the gravity of the loss of life. Such outcomes reveal a persistent pattern of impunity within the police institution, whereby serious violations of human rights are not followed by adequate criminal accountability (Putra & Rosmaya, 2025).

From a legal perspective, Indonesia actually possesses sufficient normative instruments to regulate the exercise of police authority. The Indonesian Penal Code (KUHP) provides a basis for prosecuting officers who exceed their authority, such as Article 351 on assault, Article 170 on collective violence, and Article 421 on abuse of power by public officials. Likewise, the Code of Criminal Procedure (KUHAP) and various internal police regulations including the Chief of Police Regulation on the Use of Force set clear limitations on the lawful exercise of authority. A study by Nova et al. (2017) in *Jurnal Dimensi Hukum* emphasizes that police officers who misuse coercive measures can face both criminal sanctions and administrative penalties, including dishonorable discharge. Thus, the problem does not lie in the absence of legal provisions, but rather in the inconsistent enforcement and weak implementation of existing rules.

These weaknesses are closely tied to fragile accountability mechanisms. Internally, oversight is conducted by the Professional and Security Division (Propam) and the Inspectorate of General Supervision (Itwasum). However, their effectiveness is frequently questioned due to conflicts of interest, as officers essentially oversee their own peers. Internal investigations are often perceived as lacking transparency, with outcomes rarely disclosed to the public. Externally, institutions such as the National Police Commission (Kopolnas), the National Human Rights Commission (Komnas HAM), and the Ombudsman of the Republic of Indonesia have only limited, recommendatory powers. Consequently, their recommendations are often not followed by decisive action from the police. A report by Kopolnas (2025), for example, highlighted cases of extortion and abuse of power stemming from loopholes in police authority. Yet, in the absence of binding powers, such findings do not automatically translate into effective criminal or administrative sanctions (Kompas, 2025).

Another deeply entrenched issue is the culture of impunity within the police institution. Impunity occurs when officers found guilty of misconduct receive inadequate sanctions or are shielded by institutional protection. The abuse of authority and excessive use of force in protest management not only violate the law but also undermine democracy and human rights. When officers consistently evade accountability, similar violations are likely to recur, further eroding public trust in the police as a law enforcement body.

Sociologically, public trust in the police is shaped by how officers exercise their authority. Surveys consistently show fluctuations in public confidence, particularly in the aftermath of major incidents involving human rights violations or mass casualties. The large number of complaints from citizens regarding police conduct demonstrates a persistent gap between the ideal role of the police as protectors of society and their real-world practices. This situation poses a serious threat to the quality of democracy, as it fosters collective fear that inhibits public participation in expressing opinions.

From a philosophical standpoint, repressive police actions contradict the principle of a rule-of-law state (*rechtsstaat*). Article 1 paragraph (3) of the 1945 Constitution explicitly declares that Indonesia is a state based on law, not power. A rule-of-law system requires that all government actions, including those of the police, must be grounded in law and oriented toward protecting citizens' rights. When authority is abused to suppress civil liberties, it not only violates positive law but also damages the foundations of democracy and social justice.

Considering these aspects, it is evident that police abuse of authority in managing mass demonstrations is a systemic and multifaceted problem. It is not merely a matter of individual misconduct but is deeply rooted in structural weaknesses, ineffective oversight mechanisms, and a pervasive culture of impunity. Therefore, examining the criminal liability of police officers in cases of authority abuse during public protests is crucial. Such a study is not only aimed at clarifying the normative basis for criminal accountability but also at encouraging institutional reforms to ensure that the police become more accountable, transparent, and respectful of democratic principles and human rights.

RESEARCH METHODOLOGY

This study adopts a normative juridical approach supported by empirical data. The normative juridical method was selected because the primary focus lies in analyzing statutory regulations, legal principles, and doctrines governing the criminal liability of police officers in cases of abuse of authority, particularly in the context of crowd control during demonstrations. Within this framework, the research examines positive legal norms contained in the Indonesian Criminal Code (KUHP), Law No. 2 of 2002 on the Indonesian National

Police, and Law No. 9 of 1998 on the Freedom of Expression in Public. It also considers internal police regulations, such as the Chief of Police Regulation on the use of force in policing activities. The normative dimension is further enriched by assessing human rights principles enshrined in both national and international instruments, including Law No. 39 of 1999 on Human Rights and the International Covenant on Civil and Political Rights (ICCPR), which Indonesia has ratified (Rizkia & Fardiansyah, 2023).

In addition, this research incorporates an empirical dimension by reviewing secondary data from civil society reports, media coverage, and court rulings related to incidents of excessive force and arbitrary actions by police during public protests. Reports issued by organizations such as the Indonesian Legal Aid Foundation (YLBHI), the Commission for the Disappeared and Victims of Violence (KontraS), the National Commission on Human Rights (Komnas HAM), and the National Police Commission (Kopolnas) serve as essential references to reveal how laws are enforced in practice. Through this combined approach, the study highlights not only the formal legal framework but also the gap between legal norms and their implementation, while evaluating the effectiveness of existing accountability mechanisms.

The data used in this study is classified into primary, secondary, and tertiary legal sources. Primary sources consist of legislation and relevant court decisions. Secondary sources include academic literature, journal articles, and previous studies addressing similar issues. Tertiary sources cover legal dictionaries, law encyclopedias, and official publications that provide supplementary clarification of legal concepts applied in this research. Meanwhile, empirical data is drawn from civil society's annual reports on civic freedoms, Komnas HAM's yearly findings, and independent investigations into cases of police misconduct.

For data analysis, the study applies a qualitative descriptive-analytical technique. The descriptive stage is used to outline the factual circumstances, both in terms of legal provisions and their empirical application. The analysis is then conducted systematically by linking the normative framework with actual law enforcement practices by the police. This process aims to identify the gap between law in abstracto (in theory) and law in concreto (in practice), and to build normative arguments regarding the necessity of holding police officers criminally accountable for abuse of authority in managing public demonstrations.

Through this methodology, the research seeks to contribute both theoretically to the development of criminal law and constitutional law and practically, by strengthening accountability mechanisms within the police institution. Moreover, the findings are expected to serve as a basis for policymakers, law enforcement officials, and external oversight bodies in formulating concrete strategies to prevent recurring abuses of authority against peaceful assemblies in the future.

RESUL AND DISCUSSION

Legal Framework for the Criminal Liability of Police Officers

The criminal liability of police officers in cases of abuse of authority must be situated within a comprehensive national legal framework. Theoretically, members of the police are legal subjects equal to any other citizen. This principle is explicitly affirmed in Article 27 paragraph (1) of the 1945 Constitution, which declares that all citizens are equal before the law and the government. Thus, the position of the police as state officials does not grant them legal immunity when they commit violations or crimes in the course of their duties. This normative foundation serves as the basis for holding police officers criminally accountable when they misuse their authority (Walukow, 2013).

Within Indonesia's positive law, the Criminal Code (KUHP) provides a general framework for criminal prosecution. Article 351 of the KUHP addresses acts of assault, Article 170 concerns collective violence in public, and Article 421 specifically targets public officials who abuse their power to compel someone or deprive them of their rights. These provisions are often relevant in prosecuting police officers engaged in repressive measures against demonstrators, such as excessive use of force, arbitrary arrests, or criminalization under the guise of law enforcement. In this sense, the KUHP becomes a key instrument to ensure that police officers are not shielded from criminal sanctions.

Beyond the KUHP, Law No. 2 of 2002 on the Indonesian National Police provides a more specific normative guide regarding the scope of police authority. Article 13 defines the three primary functions of the police: maintaining public order and security, enforcing the law, and protecting and serving the community (Indonesia, 2003). This authority is inherently limited, meaning that police officers are not permitted to act beyond what is prescribed by law. Misuse of authority for example, disproportionate use of force or unlawful detention constitutes a violation not only from an administrative or ethical standpoint but also a criminal one.

The Chief of Police Regulation No. 8 of 2009 on the Implementation of Human Rights Principles in Police Duties further emphasizes four binding principles in every police action: legality, necessity, proportionality, and accountability (Komnas HAM, 2023). First, legality requires that all police actions must be based on a clear legal mandate. Second, necessity ensures that the use of force may only be applied when absolutely unavoidable. Third, proportionality dictates that any use of force must be measured and commensurate with the threat faced. Lastly, accountability requires that every police action be subject to clear and transparent responsibility. Ignoring these principles opens the door to criminal liability, as officers would then be acting outside lawful authority.

Despite the clarity of these legal instruments, the main problem lies in weak implementation. As noted by Toule & Sopacua (2022), Indonesian criminal law already provides sufficient tools to prosecute police misconduct. However, in practice, obstacles such as political bias, institutional self-protection, and a prevailing culture of impunity often hinder accountability. Many cases of police violence result only in administrative or disciplinary sanctions, while the criminal dimension is overlooked.

To strengthen the framework of police accountability, two approaches are necessary. First, regulatory reform, including revising laws that still leave grey areas in addressing repressive police actions. This effort can be reinforced through the new Criminal Code (Law No. 1 of 2023), which introduces several provisions specifically addressing abuse of power. Second, judicial interpretation, whereby courts must be willing to adopt progressive interpretations to uphold the principle of equality before the law. Through these measures, the culture of impunity that has long shielded police officers can be significantly reduced.

A robust legal framework functions not only as a repressive tool to sanction violations but also as a preventive mechanism to deter future abuse of authority. When officers are fully aware that unlawful repressive actions may lead to criminal punishment, they are more likely to exercise caution in carrying out their duties. Therefore, the establishment of a strong framework for police criminal liability is a fundamental prerequisite for creating a professional, humane, and accountable police force in a democratic rule-of-law state.

The Phenomenon of Abuse of Authority in the Handling of Public Protests

The misuse of authority by police officers in managing public demonstrations is not a new occurrence in Indonesia's law enforcement history, but rather a recurring pattern that reflects entrenched practices of repression. Normatively, the right to stage demonstrations or public protests is guaranteed by Law No. 9 of 1998 on the Freedom to Express Opinions in Public, which affirms the right of every citizen to peacefully convey aspirations in public spaces. However, in practice, the reality on the ground frequently contradicts these legal norms. Instead of safeguarding citizens' constitutional rights, police officers often resort to excessive authority, resulting in human rights violations.

Common forms of misconduct include excessive use of force, arbitrary arrests, criminalization through vague legal provisions, and intimidation via forced dispersals. Excessive use of force can be seen in practices such as beatings, indiscriminate firing of tear gas, and the deployment of rubber bullets without due regard for public safety. Arbitrary arrests are also routinely carried out without following proper legal procedures. In many instances, protesters are charged with controversial provisions such as Article 160 of the Criminal Code (incitement) or Article 216 (resisting law enforcement), which are frequently employed to silence dissenting voices. These practices illustrate how the police often employ the law as a tool of repression rather than as a mechanism of protection.

Illustrative cases include the May Day 2025 demonstrations, during which workers and activists were reportedly arrested arbitrarily and subjected to criminalization through the application of vague legal articles (YLBHI, 2025). Similarly, the Kanjuruhan tragedy of 2022 demonstrated the extreme consequences of disproportionate policing, where the use of tear gas inside an enclosed stadium resulted in mass casualties. The National Human Rights Commission (Komnas HAM, 2022) concluded that such actions violated the principle of proportionality in the use of force and breached international standards, such as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. This recurring pattern thus represents not only a breach of domestic law but also places Indonesia at risk of failing to comply with its international human rights obligations.

From a sociological perspective, this repressive tendency indicates an institutional orientation within the police that prioritizes political stability over the protection of constitutional rights. Nurkholis (2020), in the *Journal of Law & Human Rights*, observes that coercive approaches dominate in the handling of public assemblies, leading to a normalization of repressive measures under the justification of maintaining public order. Such practices foster an organizational culture that tolerates violations, as violence is perceived as an inevitable "occupational risk."

The persistence of this problem is compounded by weak oversight mechanisms. The Professional and Security Division (Propam), tasked with internal monitoring, is widely perceived as lacking independence because it remains under the police hierarchy. External bodies such as Komnas HAM and Korpomnas possess only limited authority, with their investigative findings often reduced to non-binding recommendations with little or no enforcement. This structural weakness contributes to a culture of impunity, in which officers who abuse their authority rarely face criminal prosecution.

From a human rights perspective, the repetitive nature of such abuses clearly contradicts Indonesia's obligations under the International Covenant on Civil and Political Rights (ICCPR), ratified through Law No. 12 of 2005. Ratification requires the state to guarantee freedoms of expression, assembly, and peaceful protest, yet the persistent gap between legal norms and practical enforcement highlights systemic shortcomings. Consequently, the abuse of authority in the policing of demonstrations is not merely an individual failing but reflects structural and cultural problems deeply embedded within the police institution.

Unless addressed through firm mechanisms of criminal accountability, the constitutional mandate of the police to protect, serve, and safeguard the public will remain nothing more than an empty slogan devoid of substantive meaning.

Obstacles in Enforcing Criminal Accountability of Police Officers

The enforcement of criminal accountability against police officers who abuse their authority in handling public demonstrations faces significant structural, cultural, and legal barriers. The most dominant obstacle lies in the culture of impunity that has long characterized Indonesia's law enforcement institutions. Officers implicated in abuses are rarely subjected to full criminal prosecution; instead, they are often only given administrative or disciplinary sanctions through the Professional and Security Division (Propam). Such sanctions are typically disproportionate to the severity of the violations, especially when the misconduct results in loss of life. In practice, many officers involved in these cases continue to serve in active duty, thereby reinforcing the perception that police personnel are effectively "above the law" (Nurdin, 2020).

Another significant challenge is the conflict of interest within internal oversight mechanisms. Propam, being an oversight body embedded within the police structure, lacks sufficient independence, leading to frequent concerns about impartiality. Many cases of abuse stall at the internal investigation level without being pursued in criminal courts. External supervisory institutions, such as the National Police Commission (Kopolnas), are likewise constrained, as their authority is limited to issuing recommendations without any binding power to compel enforcement. This weakens accountability, as formal legal mechanisms often fail to operate effectively.

Legal and procedural barriers also persist. Several provisions in existing legislation provide broad and ambiguous interpretations of police authority, particularly regarding the use of force. For example, Article 18 of Law No. 2 of 2002 on the Indonesian National Police grants officers wide discretionary powers to act based on their own judgment in certain situations. While discretion is intended to allow flexibility in law enforcement, it is often misused as a justification for repressive actions. Moreover, the absence of consistent and detailed standard operating procedures (SOPs) on the proportional use of force further increases the risk of abuse (Putri, 2021).

Another obstacle relates to the lack of adequate protection for victims and witnesses. Many victims of police violence are reluctant to report their cases due to fear of retaliation, intimidation, or distrust in the fairness of the judicial process. This is exacerbated by the widespread perception that challenging the police is equivalent to opposing the state, which discourages citizens from asserting their rights. Research conducted by Lestari (2022) in the *Journal of Human Rights* highlights that victims often experience revictimization, including psychological pressure, threats, or even counter-criminalization. Such conditions not only intensify the suffering of victims but also significantly hinder efforts to hold officers criminally accountable.

Finally, cultural barriers also play a decisive role. In a society where state authority particularly the police is deeply respected, repressive actions are often perceived as legitimate measures for maintaining public order. This social acceptance inadvertently legitimizes police misconduct, weakening public pressure for accountability. As a result, many cases of abuse conclude without proper resolution, leaving victims without justice and reinforcing the cycle of impunity.

Reform Efforts and Strengthening Accountability

Reforming and strengthening police accountability is a crucial step to ensure that criminal liability for officers who abuse their authority in managing public demonstrations can be effectively enforced. One of the primary strategies lies in regulatory reform. Current legal frameworks, such as the Criminal Code (KUHP) and Law No. 2 of 2002 on the Indonesian National Police, still leave room for ambiguous interpretations, particularly regarding the discretionary powers of officers. Therefore, it is necessary to develop more detailed implementing regulations that clearly define the limits of force, establish standardized procedures for arrest, and set out mechanisms for criminal accountability. These regulations should also incorporate international standards, such as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, to provide police with clear and binding operational guidelines (Komnas HAM, 2022).

Beyond regulatory changes, strengthening oversight mechanisms is another essential agenda. Internal monitoring through the Professional and Security Division (Propam) must be reformed to uphold transparency and public accountability. This can be achieved by granting public access to Propam's investigative findings and ensuring that any violations with criminal elements are forwarded to general courts rather than settled administratively. At the same time, external oversight bodies such as Kopolnas and Komnas HAM should be given broader authority so that their recommendations carry binding force rather than being treated as mere administrative advice. Dewi (2021) in the *Journal of Law and Development* emphasizes that empowering external oversight is key to minimizing conflicts of interest inherent in internal mechanisms.

Another equally significant measure involves capacity-building and cultural transformation within the police force. The current tendency toward repressive approaches in handling demonstrations reflects an

institutional orientation that prioritizes political order over human rights protection. A paradigm shift is necessary through the adoption of community policing, an approach that emphasizes service, dialogue, and proximity to citizens. Police training should therefore focus on human rights, negotiation techniques, and humane crowd management strategies. Importantly, such training must be continuous and accompanied by proper evaluation, rather than being conducted only for ceremonial purposes. As noted by Siregar (2023) in the *Indonesian Journal of Criminology*, organizational culture can only change if police leadership demonstrates strong commitment to accountability and sets examples through concrete actions.

Equally important is the protection of victims and witnesses. Many victims of police violence refrain from reporting due to fear of intimidation or retaliatory prosecution. To address this, a comprehensive protection system must be established, including free legal aid, psychological assistance, and guarantees of safety from police threats. The role of the Witness and Victim Protection Agency (LPSK) should be strengthened to provide more effective support for victims of abuses committed by law enforcement officers. Such measures would empower victims to seek justice without fear of reprisal.

Finally, civil society participation must be actively integrated into reform efforts. Non-governmental organizations such as YLBHI, KontraS, and LBH play a vital role in monitoring police practices and assisting victims of abuse. Collaboration between state institutions and civil society can foster a more independent and effective oversight system. Moreover, active civic engagement helps maintain public scrutiny, ensuring that cases of abuse cannot be easily concealed or manipulated.

CONCLUSION

The abuse of authority by police officers in handling public demonstrations represents a serious problem that not only results in human rights violations but also undermines the fundamental principles of the rule of law. Within Indonesia's positive legal framework, police officers are clearly subject to criminal liability through provisions in the Criminal Code (KUHP), Law No. 2 of 2002 on the Indonesian National Police, and internal regulations such as Perkapolri No. 8 of 2009. These instruments affirm that the police are not immune from the law but are equal to other citizens under the principle of equality before the law. However, the enforcement of this principle continues to encounter significant barriers, ranging from structural and cultural to procedural obstacles. The persistence of impunity, weak oversight mechanisms (both internal and external), ambiguous legal provisions, and inadequate protection for victims remain the main factors that allow officers to evade criminal accountability.

For this reason, efforts to strengthen criminal accountability must be accompanied by comprehensive reforms. First, regulations need to be reinforced to clearly define the boundaries of discretion and the use of force by law enforcement. Second, oversight mechanisms must be improved by ensuring transparent internal monitoring and granting stronger binding authority to external supervisory bodies. Third, a cultural shift within the police organization is essential, emphasizing the principles of community policing alongside continuous human rights-oriented training. Fourth, victim and witness protection should be expanded so that individuals feel safe to report abuses without fear of retaliation. Finally, civil society participation must be strengthened as an independent watchdog that can balance the dominant role of police power in law enforcement practices.

Through these measures, the principles of accountability and justice can be meaningfully realized in police practices. The police institution can then regain its social legitimacy as a protector and servant of the public, rather than being viewed as a repressive instrument of the state. Ultimately, ensuring criminal responsibility for police misconduct in the context of public demonstrations is not merely a matter of law enforcement, but also a critical test of Indonesia's commitment to democracy and the rule of law.

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