

# Juridical Review of Violence Committed by Police Officers Against Criminal Suspects

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**Abstract:** This research aims to analyze in depth the legal aspects related to acts of violence by police officers against suspects, as well as evaluate the effectiveness of laws and regulations in providing legal protection to suspects. The method used is normative legal research, with a legislative and conceptual approach. Data was collected through literature studies using primary, secondary, and tertiary legal materials. The results of the study show that: 1) Acts of violence by police officers, such as beatings, torture, and shootings, still occur and are contrary to human rights principles and provisions in the Criminal Code, the Police Law, and various Police Chief Regulations. 2) Violence by police officers still often occurs, including beatings, torture, and actions that cause the death of the suspect. Within 2024, in Central Sulawesi, three cases of violence by police officers were found that led to ethical sanctions in the form of disrespectful dismissals (PTDH). Although there is a legal framework that prohibits violence and guarantees the rights of suspects, implementation on the ground is still weak. Therefore, it is necessary to strengthen internal supervision, policy reform, and improve human rights education for police officers so that the rights of suspects can be protected in real terms.

**Keywords:** Police Violence; Suspects; Legal Protection

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## INTRODUCTION

Indonesia is a state of law as stipulated in article 1 paragraph (3) of the Constitution of the Republic of Indonesia of 1945 which states emphatically, that the State of Indonesia is based on law (*rechtsstaat*) and not based on mere power (*machsstaat*). Therefore, the law is a guideline for the entire life of the people of the nation and state in Indonesia, both written and unwritten laws.<sup>1</sup>

The purpose of the law is to maintain order and the welfare of the community. Law lives and develops in society, therefore law has become an inseparable part of society, so that an adagium *ubi societa ibi ius* emerged, which means that where there is a society there is a law. The existence of the law is very much needed by the people so that without the law people's life will be chaotic. Criminal law is one of the parts of the law that applies in society or in a country.

According to Prof. Moeljatno, S.H., criminal law is part of the overall law that applies in a country that establishes the basics and rules to determine what acts should not be done and prohibited, accompanied by the threat of criminal sanctions for those who violate the prohibition.<sup>2</sup>

The Indonesian National Police is a legal state tool in article 30 paragraph (4), namely police officers are tasked with protecting, protecting and enforcing the law to maintain security in the country. According to Law number 2 of 2002 article 4 concerning the National Police of the Republic of Indonesia, it is stated that

<sup>1</sup>Azizah Istiqomah, Winarno Budyatmojo, Budi Setiyanto, "Criminal Law Review of Acts of Violence Against Parents or Goods Committed Together." *Journal of Criminal Law and Crime Management*. Volume XI Number 2 2022. Thing. 107.

<sup>2</sup>Aji Muhammad Ali Hanafiah, Thesis. "Juridical Review of Violence Committed by Police Officers Against Criminal Suspects (Case Study of Decision 131/PK/Pid.Sus/2015)" Undergraduate Program, University of Borneo Tarakan: Tarakan, 2022. Thing. 1-2.

the National Police of the Republic of Indonesia has the goal of realizing internal security, including the enforcement of the law, the implementation of protection, protection, and service to the community and the development of public peace by upholding human rights.<sup>3</sup>

The police must uphold human rights values in the process of searching for evidence both at the investigation and investigation levels, up to the stage of submitting case files to the prosecutor's office, the police must adhere to legal regulations as a formal and material basis for the police in law enforcement. However, in practice, there are often irregularities in law enforcement carried out by the police that are not fundamental to the Criminal Code in the process of investigating suspects.

Legal protection for suspects who are victims of violence by the police during the investigation process is a very crucial and sensitive issue. Law Number 8 of 1981 concerning the Criminal Procedure Code stipulates various rights for suspects in the criminal justice process. Articles 50 to 68 of the Criminal Code specifically regulate these rights, including the right to effective legal protection and the right to be free from torture. This demonstrates the legal commitment to ensure that suspects are given protection and fair treatment during the investigation process.

There is a Regulation of the Chief of the National Police of the Republic of Indonesia Number 8 of 2009 concerning the Implementation of Human Rights Principles and Standards in the Implementation of the Duties of the National Police of the Republic of Indonesia (hereinafter referred to as Perkapolri No. 8 of 2009) as a written rule for the police to implement human rights in exercising their authority. In Article 5 of the National Police Chief's Regulation Number 8 of 2009, it is stated that human rights protection instruments cannot be reduced by anyone, including the police in any circumstances, one of which is the right not to be tortured. Even so, Article 10 contains a rule that states that the police are not allowed to commit violence, but it is still possible under certain circumstances, for example, to prevent crime or help arrest the law or suspects.

Violence committed by the Police Institution is in fact still a discussion every year, plus in 2022 there are several cases that tarnish the name of the Police Institution, including: The case involving Inspector General Ferdy Sambo and his men who are also members of the police, namely Brigadier Joshua, the Kanjuruhan Case which killed 135 people, the narcotics trafficking case involving Inspector General Teddy Minahasa, the police have just graduated from the detention of a female nurse in Medan and various other cases that involving police institutions.<sup>4</sup>

To ensure effective protection of suspects' rights, it is essential to carry out consistent law enforcement and comply with all applicable regulations. This means that suspects must be fully guaranteed their rights during the investigation, including the right to adequate legal protection, the right to feel safe from threats or intimidation, and the right not to be subjected to torture or arbitrary treatment. These protections include the right not to be coerced into giving confessions that can be used as evidence in a trial, as well as the right to be free from torture. It is important to ensure that the judicial process is in accordance with fundamental principles of justice and human rights.

Based on the Regulation of the National Police of the Republic of Indonesia Number 6 of 2019 concerning the Revocation of the Regulation of the Chief of the National Police of the Republic of Indonesia Number 14 of 2012 concerning the Management of Criminal Investigations (Perpol No. 6 of 2019), Article 39 regulates the supervision and control of National Police investigators, including their investigation and administrative activities. This arrangement stipulates that the duties of supervision and control are the responsibility of the investigator's direct supervisor and the official assigned to the investigation supervision function. They are responsible for conducting regular supervision to ensure that investigations take place in accordance with applicable legal procedures and meet police ethics standards. The purpose of this supervision is to maintain the integrity and quality of the investigation and prevent abuse of authority that can harm the rights of suspects during the legal process.

Based on the above background description, the following problems are formulated: 1). 1. How do laws and regulations in Indonesia regulate the prohibition of acts of violence committed by police officers

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<sup>3</sup> *Ibid.*, p. Sec. 3.

<sup>4</sup> Siti Farhani, Zuhad Aji Firmantoro, "Violence Against Suspects According to the Criminal Code and Islamic Criminal Law." *Journal of Law and Welfare, Al Azhar University Indonesia*. Vol. 9, Number 01, January 2024. Pages 22-23

against suspects of criminal acts? 2). What are the sanctions given to police officers who commit violence against criminal suspects?

## METHOD

This research is descriptive normative legal research with the aim of providing an as-is presentation as the results of the research conducted without justifying the research results.<sup>5</sup> To support this research, the author uses two approaches, namely the *statue approach* and the *conceptual approach*.

The sources of legal materials used in this study are sourced from primary legal materials, secondary legal materials and tertiary legal materials. The primary legal materials in this study include: the 1945 Constitution of the Republic of Indonesia, the Criminal Procedure Code (KUHP), Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, Regulation of the Chief of the National Police of the Republic of Indonesia Number 8 of 2009 concerning the Implementation of Human Rights Principles and Standards in the Implementation of the Duties of the National Police of the Republic of Indonesia, Regulation of the National Police of the Republic of Indonesia Number 6 of 2019 concerning the Revocation of the Head Regulation of the Republic of Indonesia National Police of the Republic of Indonesia Number 14 of 2012 concerning Criminal Investigation Management, Regulation of the National Police of the Republic of Indonesia Number 7 of 2022 concerning the Professional Code of Ethics and the Commission of the Code of Ethics of the National Police of the Republic of Indonesia and Regulation of the Chief of the National Police of the Republic of Indonesia (Perkapolri) Number 14 of 2011 concerning the Professional Code of Ethics of the National Police of the Republic of Indonesia (KEPP); Secondary legal materials include all publications about law, such as books, legal journals, and so on; Meanwhile, tertiary legal materials include the Great Dictionary of the Indonesian Language (KBBI) which complements this research.

The three legal materials were collected through literature studies which were then analyzed qualitatively using a deductive thinking approach to produce conclusions that could solve the problem.

## RESULT AND DISCUSSION

### Laws and Regulations in Indonesia Regulate the Prohibition of Acts of Violence by Police Officers Against Criminal Suspects

There are several legal bases that prohibit violence by the police, including:

Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia

Article 13: The main duties of the National Police include maintaining security, enforcing the law, and providing protection to the community. The main task of the National Police is not only to arrest criminals, but also to create a safe atmosphere, uphold justice, and serve the community. The National Police is an important part of maintaining order and security in Indonesia.

Article 16 paragraph (1): The use of force must be in accordance with procedures and proportionate. This article emphasizes that the use of force (especially by the authorities) should not be arbitrary, but must be carried out in accordance with the rule of law, and adjusted to the level of threat or situation faced, so that there are no human rights violations or abuse of authority.

Regulation of the Chief of the National Police of the Republic of Indonesia No. 1 of 2009 concerning the Use of Force in Police Actions (Perkap No. 1 of 2009)

Regulate the stages and limits of the use of force, including the prohibition of torture or excessive force. The use of force by law enforcement officers must be carried out professionally, responsibly, and in accordance with the rule of law. The goal is to prevent abuse of authority and protect the rights of everyone, including suspects or perpetrators.

Criminal Code and Criminal Code

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<sup>5</sup> Muhaimin, Legal Research Methods, Mataram University Press, Mataram, 2020, p. 105

### **Establish criminal sanctions for perpetrators of violence, including law enforcement officials.**

The state punishes anyone who commits acts of violence, regardless of the status or position of the perpetrator. Violence can take many forms, such as physical, psychological, or even violence perpetrated in law enforcement situations.

Law enforcement officials such as the police, army, or other security officers are also not spared legal responsibility if they commit unlawful violence. Even though authorized by the state to use force in certain situations, state apparatus must still comply with the applicable rules and must not abuse power. If they violate, they must be processed legally like any other citizen. This shows that the principle of equality before the law is truly upheld. There is no special treatment for anyone, including those who have power. The main purpose of the establishment of these sanctions is to provide protection to the public, prevent abuse of power, and uphold justice and human rights.

In the Criminal Procedure Code, there are several things that must be protected by the government, including<sup>6</sup>:

His right to personal, family, honor, dignity and property rights.

The right to feel safe and secure as well as protection against the threat of fear to do or not to do something.

The right to be free from torture, punishment or cruel, inhumane, degrading human dignity and treatment.

The right not to be treated arbitrarily either in the process of arrest, detention or in the case of exile or exclusion or arbitrarily made.

The right not to be tortured or information.

The right to obtain justice without causing great pain or suffering both physical and spiritual in the interest of obtaining recognition of discrimination by any party.

The right to legal assistance from the beginning of the investigation to the process of a decision in court.

Although the human rights of suspects have been granted both in the regulation of the Criminal. Procedure Code and the Human Rights Law, in practice there are still violations committed by police officers against criminal suspects, as for some violation data obtained by the author in the field as follows:

### **Carrying out beatings that caused the prisoner's death**

Cases of torture of detainees, both carried out by authorized law enforcement officials, for example, the police show violations of police professional ethics, as regulated in the Regulation of the coordinating minister for Political, Legal and Security Affairs Number 7 of 2022 concerning the Professional Code of Ethics and the Commission of the Code of Ethics of the National Police of the Republic of Indonesia (Permenko Polhukam No. 7 of 2022). In addition to the ethics of the police profession, the prohibition for the police to torture prisoners is also contrary to the National Police Regulation No. 8 of 2009 which should be in line with human rights.<sup>7</sup>

### **Shooting the Right Leg in the Calf of the Methamphetamine**

The use of firearms by the police is contained in the National Police Regulation No. 8 of 2009 and is also regulated in the National Police Regulation No. 1 of 2009 specifically, referring to the provisions of Article 47 of the National Police Chief Regulation No. 8 of 2009, it is stated that the use of firearms may only be carried out to protect human life. In the regulation of the National Police Chief, further conditions are also stipulated that firearms can only be used in circumstances when defending themselves from the threat of serious injury or death and preventing the occurrence of serious crimes.<sup>8</sup>

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<sup>6</sup> Priscillia Angelina Kopalit, "Legal Protection of Suspects' Rights Carried Out by Investigators Based on the Criminal Procedure Code." *Journal Lex Crimen*, Volume IV Number 07 September 2015, p. 168-169

<sup>7</sup> Naffa Livia Avissa, "Torture of Prisoners: Boomerang in the Detention Process in Indonesia", <https://lk2fhui.law.ui.ac.id>. accessed May 07, 2025, at 22.36 WITA.

<sup>8</sup> Willa Wahyuni, "Police Legal Rules Allowed to Use Firearms", <https://hukumonline.id>. retrieved May 07, 2025, at 23.00 WITA.

### **Committing violence against cellphone theft prisoners so that the victim died.**

The prohibition of the use of force by the police against suspects of criminal acts is regulated in several legal articles, especially in Perkapolri No. 8 of 2009 and Law No. 2 of 2002 concerning the National Police of the Republic of Indonesia (Law No. 2 of 2002). Article 27 paragraph (2) letter h of the National Police Regulation No. 8 of 2009 states that officers are prohibited from committing violence or threats of violence, both physical and psychological in the examination of witnesses, suspects, or examined. Article 19 of Law No. 2 of 2002 also regulates the prohibition of violence by police officers.

### **Sanctions Rules Given to Police Personnel Who Commit Violence Against Criminal Suspects**

The following is the mechanism for sanctioning police officers who commit violence against criminal suspects as follows:

#### **Violation Reporting**

The basis for the investigation of members of the National Police who are suspected of committing criminal acts is the existence of reports or complaints from the public. The report or complaint is submitted through the Head of the Complaint Service Section for the Profession and Security (Kabid Propam), then the Head of Propam disposes to the Head of the Provos Sub-Division (Kasubbid Provos) through the Head of the Investigation Unit (Kanit Idik) to summon and examine the member in question along with the victim's witnesses and other witnesses. If from the results of the examination of the Idik Office or Idik members, it leads to a criminal act, then the Head of Propam after asking for legal advice and opinion on the Bid Binkum shall delegate the case to the Criminal Investigation Directorate (for the Mapolda level) or the Head of Propam shall delegate the case to the Criminal Investigation Unit (for the region) with a copy of the Ankum to which the member is assigned.<sup>9</sup>

Reports can be submitted to: a. Professional and Security Division (Propam) of the National Police; b. National Police Commission (Kompolnas); c. Ombudsman of the Republic of Indonesia; d. Komnas HAM (if related to gross human rights violations); e. The perpetrator's direct superior.

#### **Receipt and registration of reports**

Report Receipt and Registration is the initial stage in the process of handling a report, whether in the context of administration, public complaints, or reports of certain incidents. This process aims to ensure that every incoming report is officially received, recorded, and processed according to applicable procedures.

The reports received will be registered and verified first by an internal supervision unit such as the Propam Polri, to determine the validity of the report.

#### **Initial Inspection**

The initial investigation is the initial stage in the criminal law enforcement process which is carried out after there are reports, complaints, or findings of suspected criminal acts. The main purpose of this preliminary examination is to assess whether an event really contains elements of a criminal act and whether it needs to be followed up to the investigation stage.

Examination of the complainant, victim, witness, and reported person.

Examination of evidence (CCTV footage, visum, medical report).

Determination of the type of violation: discipline, code of conduct, or criminal.

Ethics/Discipline Investigation

Police Ethics/Discipline Investigation is an examination process that is carried out to assess whether a member of the police has violated the rules of professional ethics or discipline of a member of the National Police, even though the violation is not necessarily a criminal act. This process aims to maintain integrity, professionalism, and public trust in the police institution.

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<sup>9</sup> Rony Makasuci, Ardiansah, Yelia Nathassa Winstar, "Sanctions for Members of the Indonesian Police in the Perspective of Legal Certainty" Collegium Studiosum Journal. VOL. 7 No. 1, JUNE 2024. Thing. 239.



Police Ethics/Discipline Investigation is an important process in upholding moral standards, integrity, and discipline in the National Police. This process is carried out internally and aims to ensure that members of the National Police continue to act in accordance with the honor of their profession, not only based on the law, but also based on ethics and institutional discipline.

### **Verdict and Execution of Sanctions**

Verdict and Sanction Execution are the two final stages in the law enforcement process, both in the criminal, ethical, and disciplinary contexts, including in the police environment

Sanctions are an important stage in the enforcement of discipline and ethics, including in the police environment. The verdict ensures that there is clarity on the violations that occurred, while execution is a tangible form of the application of sanctions as a form of accountability and institutional development. Without execution, the verdict will have no real impact on maintaining order and institutional integrity.

If found guilty, sanctions are imposed based on the level of the offense.

Propam or an authorized official executes the decision in the form of suspension, transfer, or PTDH

In criminal cases, execution is carried out by the Prosecutor's Office and the Correctional Institution.

### **Supervision and Legal Remedies**

Supervision and Legal Remedies are two important aspects of the law enforcement and justice system, including in criminal, ethical, and disciplinary contexts (such as in police institutions). Both serve to ensure justice, accountability, and protection of rights for all parties. Supervision keeps the process honest and fair, while legal remedies provide room for improvement or correction if there are errors in the process or decision. Both support the principles of justice, transparency, and accountability in law enforcement.

Police suspects can file objections to sanctions through:

Ethical appeal to KKEP Appeal

PTUN lawsuit (if it concerns personnel/administration)

Legal remedies in criminal proceedings (pretrial, appeal, cassation)

### **Victim Protection**

Victim protection is any form of effort made by the state, law enforcement officials, institutions, or social organizations to provide a sense of security, justice, and recovery to victims of criminal acts or other rights violations. This protection is very important so that victims do not experience victimization (becoming victims for the second time), and can obtain their rights in a fair and dignified manner.

The victim is entitled to:

Legal aid

Assistance from LPSK if relevant

Compensation or restitution (if the claim is granted)

### **CONCLUSION**

Legal protection for suspects has been clearly regulated in Law No. 8 of 1981 concerning the Criminal Procedure Code and various other regulations such as Law No. 2 of 2002 concerning the Police and Police Chief Regulation No. 1 of 2009 and No. 8 of 2009. However, in practice, there are still many violations committed by law enforcement officials. This shows that there is a gap between the existing legal rules and their implementation in the field. The State has an obligation to guarantee concrete legal protection for suspects, including protection from torture and violence during the investigation and detention process.

The mechanism for sanctioning police officers who commit violence against criminal suspects runs through several stages, ranging from reporting, receiving and registering reports, preliminary examinations, ethical and disciplinary investigations, to criminal law proceedings if proven to have committed criminal violations. Reports can be submitted to various internal and external supervisory institutions such as the National Police Propam Division, Kompolnas, Ombudsman, and Komnas HAM. The sanctions imposed vary from administrative disciplinary sanctions, professional ethics sanctions, to criminal proceedings in accordance with the provisions of the Criminal Code and the Criminal Code. The enforcement of these

sanctions aims to maintain the integrity and professionalism of the National Police institution and provide justice for the victims.

## **SUGGESTIONS**

To the National Police of the Republic of Indonesia, it is recommended to increase the transparency and accountability of the process of handling violations, including strengthening the role of propam and external supervisory institutions, continuous training and coaching for members of the National Police, and providing firm and consistent sanctions. This is important to ensure that cases of violence or torture carried out by police officers against suspects of criminal acts no longer occur and tarnish the good name of the Police itself, and that the Provost or Propam can perform well so that there is no more abuse of power by police personnel against civil society or that can cause social inequality and legal injustice.

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