



# Analysis Of Police Law That Deviates From The Ethical Perspective Of The Police Profession

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## ABSTRACT

The development of Professional Ethics is contained in the regulation of the head of the profession and security section of the National Police. However, it is still a deviant act committed by members of the National Police. Like the cases we know such as sambo, tedi minahasa, akhirudin hasibuan where they are the police officers themselves who are supposed to set an example to the community but deviate from the essence of compliance and the basic duties of police members. The results of this study indicate that the deviation of the police apparatus is currently located by the person himself both in terms of economy and in terms of power so that the need for the implementation of the police ethics commission against members of the police who violate the law expressly without looking at the conditions of power carried out by members of the police.

## INTRODUCTION

Polri, as a law enforcement agency, bears the responsibility of preventing and resolving various criminal threats within the country that could potentially lead to unrest, panic, and the disruption of societal order. Over time, the role of the police has evolved, requiring every member to possess a comprehensive understanding of the law. The police institution's significance in ensuring security and fostering a well-structured society is evident not only in Indonesia but also globally, where every nation necessitates a dedicated body that directly engages with its citizens. This is encapsulated in the concept of "tupoksi," which outlines the primary duties and functions of the police, encompassing security maintenance, legal protection, welfare realization, and, most importantly, safeguarding the entire community. To achieve these objectives, the

implementation of an Integrated Police System, with a strong commitment to upholding human rights, is paramount (Gunarto, 2018).

Public service represents a key facet of community protection and stands as a focal point for enhancing government agency performance, including the police. During the reform period, several enhancements were introduced within the police force. Notably, TAP MPR-RI No VI/MPR/2000 and TAP MPR-RI No VII/MPR/2000 delineated the separation of the police from the TNI and clarified the distinct functions of each. Furthermore, the DPR passed Law No. 2 of 2002, which formally outlined the National Police's primary responsibilities: maintaining public security and order, law enforcement, and providing protection, as well as services to the community. In addition to delivering top-notch service, the National Police is obligated to enhance its performance and accountability, striving

to become an effective, efficient, and transparent institution. The realization of these tasks hinges on the unwavering dedication, discipline, and professionalism exhibited by the National Police members in the execution of their entrusted duties (William Mahad Iskandar, 2022).

In this scenario, the internal division responsible for directly overseeing disciplinary cases involving Police members is the Provos Polri. As per the government regulation of the Republic of Indonesia Number 2 of 2003, Article 22 point (b), the Divpropam of the Indonesian National Police is authorized to support leadership in providing guidance and enforcing discipline while maintaining the order in the lives of Indonesian National Police members. Therefore, the function and role of Propam within the Indonesian National Police hold great significance, especially concerning the enforcement of the police code of ethics, which is integral to the discipline of the police force. This ethical development is outlined in the regulation of the head of the Professional and Security Division of the National Police Number 1 of 2017, which establishes procedures for the rehabilitation of Personnel of the National Police of the Republic of Indonesia (Tri Jata Ayu Pramesti, 2015).

The formulation of the Code of professional ethics of the National Police is aimed at evaluating the execution of duties and authorities, as well as setting standards for the police profession to promote professionalism, integrity, accountability, and a unified mindset among all individual members. Starting with the objectives behind creating the code of professional ethics of the National Police, it is inherently linked to enforcement and implementation. The Code of professional ethics of the National Police serves as a reflection of the efforts emanating from within the police to uphold the integrity of each member.

The implementation of the professional ethics development program is an essential step to enhance Polri's professionalism and effectiveness in fulfilling its responsibilities. Achieving this requires a high level of discipline and performance from National Police members. It would be unfortunate if the law enforcement body itself (Polri) lacks discipline and professionalism in its role. Effective law enforcement, including within the police force, positively impacts the detection of internal and community-related crimes. Polri shoulders numerous duties and responsibilities, but there are instances where police members, intentionally or unintentionally, abuse their authority. To address these concerns, the National Police Commission (KOMPOLNAS) was established. Nevertheless, these initiatives were deemed

insufficient, leading to the creation of an internal division tasked with direct oversight of Propam Polri, comprising the Provost of the police, the police profession, and the police officer. Propam Polri stands as the forefront of enforcing discipline among Police members.

Currently, the enforcement efforts regarding disciplinary regulations concerning police members have fallen short of expectations and have not significantly influenced the attitudes and behaviors of Police members, both in terms of the law enforcement process and the outcomes of disciplinary regulations. In the Code of professional ethics of the National Police, as outlined in the regulation of the Chief of Police Number 14 of 2011 on the Code of ethics of the National Police of the Republic of Indonesia, it is emphasized that every National Police member should refrain from actions or behaviors that contravene normative values. Additionally, each police member is expected to exercise self-control and refrain from abusing their authority. Based on the background described above, then the formulation of the problem in this study is:

1. How does the application of disciplinary sanctions in the settlement of disciplinary cases by members of the National Police deviate in carrying out their basic duties and authorities?
2. What are the obstacles faced by the police ethics division (Bidpropam) in the implementation of the professional ethics development program as an effort to prevent ethical deviations by police members?

## METHOD

This study adopts a normative approach, aiming to scrutinize each regulation, relevant rules, and their practical implementation. It is complemented by extensive library research and a thorough examination of literature sources, encompassing books, journals, papers, printed media, and online news articles related to provisions concerning the discretionary rights of police members. Additionally, it delves into cases, evaluations, and innovative initiatives undertaken by the police institution. The primary objective of this research is to bolster the integrity of the National Police Briprogram in addressing issues related to errant police behavior (Ariman Sitompu, 2023).

## RESULTS AND DISCUSSION

### A. The application of disciplinary sanctions in the settlement of disciplinary cases by members of the National Police deviates in

### **carrying out their basic duties and authorities**

In the realm of legal regulations, which serve as guidelines, handles, and starting points for the enforcement process with the aim of ensuring a positive impact of the rule of law, it is imperative to incorporate several key principles. These principles encompass non-retroactivity, the origination of laws by higher authorities in superior positions, the precedence of special legal rules over general ones, the supersession of prior legal rules by subsequent ones, the inviolability of legal norms, and the role of the law as a means to attain both spiritual and material well-being for society and individuals, either through preservation or innovation. Therefore, when enforcing the Disciplinary Regulations of the Indonesian National Police, it is essential that these legal rules embody the aforementioned principles in the following manner (mentioning Ariman Sitompu, 2023):

- a) The substance or material of the rules of law of members of the national police must reflect the issue precisely, that is, it can be easily understood, there must be no internal conflict between articles, it must not conflict with higher Rules.
- b) The formula must be clearly, unequivocally.
- c) Must contain sanctions equivalent or equivalent to the violated legal interest.

At present, there have been several instances of ethical misconduct involving members of the national police force, including notable cases like Ferdi Sambo, Akhirudin Hasibuan, and an ongoing case of extortion involving transgender individuals in Medan, which has implicated police officers.

In the Ferdi Sambo case, Inspector General Ferdy Sambo, a two-star general, and former head of the Professional and Security Division (Kadiv Propam) of the Indonesian National Police, is a suspect in a planned murder case targeting Brigadier Nofriansyah Joshua Hutabarat. His wife, Putri Candrawathi, and three other suspects, namely Bharad Richard Eliezer, Bripka Ricky Rizal, and Kuat Ma'ruf, have also been implicated. The Commission for the Police Code of Ethics (KKEP) imposed PTDH sanctions on Inspector General Ferdy Sambo for breaching police ethics (Teguh Firmansayah, 2023).

Additionally, in Medan, a police officer, AKBP Akhirudin Hasibuan, faced disciplinary sanctions from PTDH for violating the ethical standards of police members. His conduct allowed for the persecution of Ken Admiral, where police officers should have intervened and conducted an investigation. During AKBP Akhirudin's ethics code hearing, it was evident that essential actions were not taken, leading to

violations of specific articles, namely Articles 5, 8, 12, and 13 of Perpol Regulation No. 7 of 2022. These sanctions pertained to violations of personal, institutional, and societal ethics, ultimately resulting in AKBP Akhirudin's dismissal without respect (PTDH) (Medcom, 2023).

Furthermore, in 2023, police officers in Medan were suspected of engaging in extortion against transvestites in the city. Four police officers were detained within the Professional and Security divisions of the North Sumatra Police, and they faced ethical hearings in connection with alleged criminal acts. The case came to light when the victims reported the alleged extortion after a hotel incident in Medan (Tribun, 2023).

The regulations governing severe disciplinary violations are stipulated in Government Regulation No. 2 of 2003 regarding Disciplinary Regulations for members of the Indonesian National Police. In Chapter I, Article 6, it is stated that disciplinary punishments are imposed by superiors with the authority to penalize members of the Indonesian National Police through disciplinary hearings. Consequently, it can be argued that conducting disciplinary violation hearings within the National Police before general court proceedings for members who may have committed criminal acts may not uphold the principles of justice.

For every member of the National Police found guilty of a disciplinary offense, sanctions are outlined in Article 11 and Article 13. Article 11 pertains to dismissal without respect and specifies that members of the Indonesian National Police can be dismissed without respect if they commit a criminal offense, violate regulations, abandon their duties, or engage in other misconduct.

Article 13 stipulates that members of the Indonesian National Police who receive disciplinary sanctions on more than three occasions, and are deemed unsuitable to retain their status as police members, can face either respectful or non-respectful dismissal from the Indonesian National Police Service via the Commission for the Code of Professional Ethics of the Indonesian National Police.

As previously mentioned in Article 11, severe disciplinary violations, such as committing criminal acts, entail sanctions in accordance with Government Regulation No. 1 of 2003 regarding the dismissal of National Police members. This primarily involves dismissal without respect (PTDH). However, it is evident that the application of disciplinary sanctions for police members who commit criminal acts has not been effectively executed.

The legal process for addressing disciplinary violations by police members takes place within their respective units. Violations committed at the police station level are resolved at that level, and if violations occur at the police station, the disciplinary hearing process is conducted by the relevant police authority. This process aims to establish legal certainty while enforcing disciplinary laws within the National Police. The concept of legal awareness within society holds significance in supporting the continued development of the law. Legal awareness derives from the term "conscious," signifying awareness, perception, and understanding. Being legally aware means having knowledge, perception, and understanding of legal matters.

The Indonesian National Police, as a governmental function responsible for maintaining public order, enforcing the law, protecting and serving the community, plays a pivotal role in achieving security, public order, law enforcement, protection, community service, and the promotion of public peace while upholding human rights.

The primary duties and authorities entrusted to the National Police carry significant implications and responsibilities, governed by the provisions of Law No. 2 of 2002 on the National Police. This law grants the National Police broad duties and authorities, leading to the development of detailed regulations like Government Regulation Number 2 of 2003 concerning disciplinary regulations for police members.

Within the government's laws and regulations, specific requirements and prohibitions are outlined for members of the National Police in the course of their daily duties. The weight of responsibility placed on the police force is channeled into the daily activities of each police member, which are characterized by dynamic challenges due to their constant interaction with the community. To address these challenges, the Indonesian National Police issued Regulation No. 2 of 2016, which establishes mechanisms for resolving disciplinary violations by police members.

Please note that basically the members of the National Police are subject to the power of the general judiciary as well as civilians in general. This is referred to in Article 29 paragraph (1) of Law Number 2 of 2002 concerning the Indonesian National Police. This shows that members of the National Police are civilians and not subject to military law. However, due to their profession, members of the National Police are also subject to disciplinary regulations stipulated in Government Regulation Number 2 of 2003 concerning Disciplinary

Regulations for members of the Indonesian National Police.

The imposition of disciplinary penalties upon members of the National Police represents the National Police's commitment to fostering law enforcement and providing legal certainty to each of its members. The responsibilities conferred upon each member through laws, government regulations, and directives from the National Police Chief carry legal implications. Law No. 2 of 2002 delineates approximately 50 duties and authorities of the National Police, while Government Regulation No. 2 of 2003 specifies 25 obligations and 29 prohibitions for police members. In meticulous detail, all words, writings, or actions of National Police members are governed by the National Police Chief Regulation No. 2 of 2016. Given the extensive scope of their duties and authority, National Police members are susceptible to violations, underscoring the importance of supervision, both internally within the police force and by the community. Such supervision serves as a means of ensuring accountability for each National Police member as a public servant. The weight of these responsibilities exposes them to various challenges, making Government Regulation No. 2 of 2003 and National Police Chief Regulation No. 2 of 2016 guiding references for every member in the execution of their daily duties and responsibilities.

Should a National Police member receive disciplinary sanctions on more than three occasions and is no longer deemed suitable to retain their status as a police member, they may face either respectful or non-respectful dismissal from the police service via the Commission for the Code of Professional Ethics of the National Police. Nevertheless, it is essential to consider specific factors when determining disciplinary penalties. These factors encompass (1) the circumstances surrounding the violation, (2) the recurrence and daily conduct of the disciplinary offenders, and (3) the realization of justice while upholding human rights.

An issue that arises is that Ankum, as the authority responsible for imposing disciplinary penalties, holds significant influence over the process. This can lead to concerns of favoritism in determining penalties and even in the placement of police members in special locations, where leaving such locations requires Ankum's permission. This situation can create a negative perception regarding the enforcement of disciplinary penalties since it appears that suspected offenders receive preferential treatment, despite their behavior being known to other members (Ni Komang Ayu Sri Agustini, 2021).



The involvement of Ankum's superiors and all relevant parties, as well as the community, plays a pivotal role in providing ongoing support for effective supervision. This ensures that each member who commits an offense receives a punishment commensurate with their actions. To develop a professional, modern, and dependable police force, which serves as an instrument of the state responsible for maintaining security, public order, protecting and serving the community, and enforcing the law, the vision of the government guides its existence, growth, development, form, and structure as it carries out its police duties.

The implementation of police legislation, government regulations governing police member discipline, and Police Chief regulations for addressing disciplinary violations contribute to realizing a professional, modern, and dependable police force. Key indicators affecting the discipline level of police members include a deep understanding of the National Police's objectives and the competencies of each police member, accompanied by leadership examples set by National Police leaders. Furthermore, proper remuneration for police members who fulfill their duties fairly and increased supervision from within the National Police are essential elements in fostering a professional, modern, and dependable police force.

#### **B. Obstacles Faced By The Police Ethics Section (Bidpropam) In The Implementation Of Professional Ethics Development Programs As An Effort To Prevent Ethical Lapses By Members Of The National Police**

The presence of discretion can offer a range of possibilities and outcomes. It can be viewed as a tool wielded by specific individuals who have been granted this authority by law. However, discretion can also lead to negative consequences if misused. An illustrative example of this is when National Police officers escort large motorcycle clubs traveling in tandem (convoy). While this may sometimes be deemed a discretionary right of police members for specific purposes, such as ensuring public safety during the escort, it can also result in irritation among other road users who perceive it as an interference with traffic regulations enforced by law enforcement agencies. The question arises as to whether violating traffic lights in the public interest warrants the use of discretion. The phenomenon of escorting large motorcycle groups has raised concerns among various groups, and the National Police has acknowledged that such escorts can lead to envy or inequality in the community, thus conflicting with

elements of the public interest. The placement of this discretionary right has been a subject of debate. In response to these concerns, Polda Metro Jaya, responsible for traffic management in Jakarta, has decided to discontinue all forms of special escorts except in emergency situations (Kompas, 2023).

Professional ethics coaching, which falls under the umbrella of social ethics, pertains to how professionals should conduct themselves in their respective fields to gain acceptance within the community. By adhering to professional ethics, it is expected that professionals can perform their duties effectively and take responsibility for their job-related tasks. Professional ethics establish boundaries and standards that govern human interactions within social groups. Essentially, ethics, closely associated with the art of human association, is preserved in the form of a systematically crafted written code based on existing moral principles. This code of ethics serves as a tool for evaluating actions that deviate from generally accepted moral standards, reflecting the concept of "self-control." Ethics is created and applied for the benefit of the social group or profession itself (R.Rizal Isnanto, 2009).

The authority bestowed upon members of the National Police of the Republic of Indonesia often leads to various irregularities and instances of abuse of duty and authority by police officers while performing their roles as law enforcement officers in the community. Therefore, effective internal and external oversight of the police is essential to monitor the behavior of police members in the field. The Police Code of Ethics Commission operates throughout Indonesia due to the extensive jurisdiction it covers. However, there are limitations, including the limited number of Bidpropam personnel responsible for supervising and handling reports, complaints, findings, or incidents involving police members suspected of violating discipline or the Code of Professional Ethics, including those who commit criminal acts.

Several obstacles are encountered in this process:

1. Insufficient budgetary support is provided to personnel responsible for conducting professional ethics training within the National Police. This lack of funding fails to match the extensive geographical coverage and the demanding tasks undertaken by the Professional Ethics development team, significantly constraining their operations. Adequate operational funds, as well as the availability of supportive facilities and infrastructure, are crucial factors that affect the effectiveness of the

Professional Ethics development team. In implementing the National Police's Professional Ethics Development Program, various challenges persist, including issues related to public awareness, understanding among police members, and the availability of resources and facilities needed to fulfill their responsibilities. Some police members still struggle to interpret and enforce rules correctly.

2. The level of awareness and compliance with the police Professional Code of ethics regulations that are binding and applicable to police members is still relatively low so that violations of the Police Professional Code of Ethics still occur, so as a leader in this case, he is required to be able to sanction police members who commit violations through a code of ethics hearing. This is not in accordance with the principles of the kepp (Code of professional ethics of the National Police).

3. It is difficult to carry out the understanding carried out by Bidpropam members to clearly separate between the Internal Rules of the National Police such as between disciplinary regulations and professional ethics codes.

4. The factor of awareness and propriety of the members of the National Police in this case as an object in law enforcement of the Code of professional ethics of the National Police. Where the level of awareness and propriety of the police members on the regulations of the Police Professional Code of ethics that are binding and applicable to each member of the police is still relatively low so that violations of the Police Professional Code of Ethics still occur.

5. Cultural factors inherent to every member of the National Police, namely the reluctance of Bidpropam in checking members of the National Police who violate the Code of professional ethics of the National Police. So that the desired rule of law has not been created.

## CONCLUSION

Based on the preceding discussion, it is evident that the application of disciplinary law for members of the National Police within the context of disciplinary hearings is outlined in various regulations. These regulations encompass Law No. 2 of 2002 concerning the Indonesian National Police, Government Regulation No. 2 of 2003 concerning the disciplinary regulations for members of the unitary police of the Republic of Indonesia, and the regulation issued by the Head of the Indonesian National Police, No. 2 of 2016, pertaining to the

resolution of disciplinary violations by members of the Indonesian National Police.

The process for handling disciplinary violations committed by police members follows a sequential framework:

1. Initiation through the submission of reports or complaints, whether they arise from direct observations or complaints filed by the community.
2. Preliminary examination, conducted to gather comprehensive information and determine the subsequent steps. This phase involves evaluating the reported cases to ascertain whether disciplinary violations have occurred.
3. Formal hearings, where legal proceedings are conducted to establish the guilt or innocence of police members who have been accused of disciplinary violations.
4. The imposition of disciplinary penalties, which serve as a means of holding police members accountable for their actions and are formally determined during the disciplinary hearings.
5. The execution of penalties, supervised by the Provos of the National Police and Ankum (the authority responsible for imposing disciplinary penalties).
6. Documentation in individual personnel records, which completes personal data used for the purposes of coaching and the career development of each National Police member.

However, there are legal considerations and constraints that affect the implementation of disciplinary hearings for members of the National Police, particularly in achieving the goal of maintaining police discipline. These constraints include ensuring that superiors authorized to administer disciplinary penalties adhere to principles of justice and respect for human rights while enforcing disciplinary actions. Additionally, there is a need to reinforce the role of the Ethics Commission of the National Police in addressing cases where members of the National Police violate the law..

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