

Analysis of Police Independence in Criminal Law Enforcement as an Optimization to Maintain Institutional Integrity

Jonathan David Harianthono

Faculty of Law, Universitas Islam Sultan Agung, Semarang, Indonesia, E-mail:
jonathandavidharianthono.std@unissula.ac.id

Abstract. *Building a positive image and reputation within the Indonesian National Police is a necessity, as a positive image is currently the primary goal for the Indonesian National Police (POLRI) to gain public trust. Given the crucial position of the police, independence is a fundamental topic related to the police's duties and functions in upholding law and justice, ensuring they meet expectations and are realized by both the police themselves and by those involved in the criminal justice process. This research aims to determine and analyze (1) the position of the Police in the constitutional state system, (2) the reality of the polemics regarding the enforcement of criminal law by the Police which can create a bad precedent for the institution and (3) the concept of the independence of the Police in enforcing criminal law regarding the institutional problems that occur. The approach method used in this research is normative juridical. The specifications of this research are analytical descriptive. The data source used is secondary data. Secondary data is data obtained from library research consisting of primary legal materials, secondary legal materials and tertiary legal materials. The research results and discussion can be concluded: (1) Since the enactment of the Republic of Indonesia Law Number 2 of 2002 concerning the Republic of Indonesia Police, the hopes of other government institutions to oversee the Indonesian National Police have been dashed. This is because Article 8 Paragraph 1 of the Police Law states: The Republic of Indonesia National Police is under the President. (2) The case of obstruction of justice in the investigation of the murder of Brigadier J, the case of narcotics distribution originating from the security of evidence in the case of Inspector General Pol TM, and the case of the removal of the red notice for fugitive Djoko Tjandra not only reveals how the law can be used to protect the interests of the elite, obstruct justice, and severe injustice in the law enforcement system by the Indonesian National Police and also what is more damaging is that it creates a massive bad image among the public towards the Indonesian National Police institution which has the dignity as a law enforcement institution.*

Keywords: *Enforcement; Independence; Institutional; Integrity; Law.*

1. Introduction

The idea of the state law has been made an option the best for the Indonesian nation in order to carry out national life and state. As a consequence the choice in question, then it should be all actions and activities of life nation and state according to applicable legal provisions. This referring to the affirmation of the Indonesian nation as a state of law as has been formulated in the Constitution. The provisions This is stated in the UUD NRI In 1945, precisely in Article 1 paragraph (3) as a constitutional basis for the concept of nation and state with prioritize law enforcement in homeland.¹

Affirmation of existence Indonesia as a country of law contains a deep understanding that the Indonesian nation in running the wheels the government must be guided by legal rules ²that have been made by country and always be reference and basis for acting for managing national life and state. Based on the aforementioned thinking, then all actions and deeds are good carried out by the state through state apparatus or by the wider community must be based on applicable law.

Prevention and eradication of crime is part of the government's duty to carry out "law enforcement". In the sense in the narrow sense, the term "law enforcement" as an equivalent to "law enforcement" is primarily connoted as focusing attention on "prevention" and eradication of crime". This means that law enforcement is interpreted narrowly as the implementation of the application and execution of law crime in concrete incidents. In this regard, the main competency of law enforcement is therefore attached to empowerment of the criminal justice system.

The criminal justice system does place "prevention and" eradicating crime" as its main goal. Lapatra³ said, "there are four components of the criminal justice system one function with another is always connected and coordinated, which have a unified perception and the same goal, namely effort combating crime". This is the entire performance of the justice system criminal law, which consists of four components, namely the police, which are primarily carrying out investigative duties, the prosecutor's office as a prosecuting agency public, courts and correctional institutions, which are basically directed to control crime, to the extent that tolerable.

Law cannot be called law, if the law is never implemented. Law can be seen primarily in its form through the formulated rules explicitly. The rules or legal

¹Muhammad Adiel Aristo, Criminal Law Policy Against Actors of Criminal Performance Persecution, *Jurnal Daulat Hukum* , 1 (3) March 2020, p. 139

²Rokilah, Dynamics of the Indonesian Legal State: Between Rechtsstaat and Rule of Law, *Nurani Hukum: Journal of Legal Studies* , 2 (1) June 2020, p. 12

³JW Lapatra, *Analyzing the Criminal Justice Systems* , Massachusetts: Lexinton Books, 1978, p. 86

regulations contains necessary actions implemented, such as law enforcement. Therefore the main problem in law other than the problem of formation law is also a matter of law enforcement. Law enforcement issues exist various things that are the center of attention, namely the law being enforced, law enforcement officers, law enforcement environment law, and legal culture and objectives the end of law enforcement is justice.

Law enforcement as a means to create legal goals, then it is only natural that all energy deployed so that the law can work to realize moral values in law. Failure of the law to realize the legal values is a threat of danger bankruptcy of existing laws. Law which is poor in its implementation moral values will be distant and isolated from society. The success of law enforcement will determine and serve as a barometer legal legitimacy in the midst of social reality.⁴

Without any enforcement process law, then it can be ensured that the people of a country will experience moral decadence and giving rise to anarchic behavior. As for the legal process without prioritizing a sense of justice will ultimately only give rise to a state of oppression. ⁵Therefore, it is appropriate that the process of enforcing law is able to reflect elements justice in every legal process executed.

Law enforcement patterns are influenced by the level of development of the society in which the law is enacted and enforced. In simple societies, law enforcement patterns are implemented through simple procedures and mechanisms. However, in modern, rational societies with a high degree of specialization and differentiation, the organization of law enforcement has become complex and highly bureaucratic.⁶

The more modern a society becomes, the more complex and bureaucratic its law enforcement processes become. Consequently, the crucial role in law enforcement lies not only with the individuals who serve as law enforcement officers, but also with the organizations that regulate and manage the operationalization of the law enforcement process.

The Republic of Indonesia Police (Polri) is one of the components the criminal justice system is very important in achieving the purpose of preventing and eradicating crime or law enforcement Law. Various theoretical developments regarding the criminal justice system will not only affect police performance, but must also be anticipated. in the formulation, application and execution levels in the field. Position The Indonesian Police's strategic approach in this case is related

⁴Satjipto Rahardjo, *Law Enforcement, A Sociological Review* , Genta Publishing, Yogyakarta, 2009, p. viii.

⁵HF. Abraham Amos, *Legal Catastrophe and the Quo Vadis of the Indonesian Political and Judicial System* . Jakarta: PT. Raja Grafindo Persada, 2007, p. 320

⁶Bambang Sutiyoso, *Legal Activism in the Reform Era* , Jakarta: PT. Raja Grafindo Persada, 2004, p. 60

to the theoretical concept that the police are *gatekeepers*⁷ and *go al prevention officer* system criminal justice.

the gatekeepers of the system criminal justice. Whenever a criminal” comes into contact” with criminal law, in general, the first thing that is faced is police. This is in accordance with the design of the judicial system procedures criminal law as stipulated in the Code of Criminal Procedure Criminal Procedure Code (KUHP). Will the person continue to roll in? into the criminal justice system is largely determined by the police component. In this case, whether a person's actions are then become a specific crime and are resolved through a process prosecution in court and sentencing in correctional institutions, highly dependent on the implementation of duties, authority and responsibility The Indonesian National Police's responsibility as investigators and investigators.

Implementation of the function of prevention and repression of crime, should be sterile from the interests of groups, classes or political interests including against all new challenges of crime as stated above, is in the hands of the Indonesian National Police. It is demanded independence or independence of the Indonesian National Police. Firstly, this is to guarantee the implementation of crime prevention and repression solely for interests of law enforcement (*pro justitia*). In other words, the independence of the Indonesian National Police leads to law enforcement that is free from the influence of certain political and economic interests, but only in order to realize state policy” protecting all the Indonesian people and all the blood of Indonesia”. Second, independence ensures the effectiveness and efficiency of law enforcement, because independence is an important factor in improving professionalism of the Indonesian National Police. In this case, independence allows the Indonesian National Police determine precisely and maximally effective prevention and crime prevention. Third, the independence of the Indonesian National Police can encourage increase public trust in the law. In this case the authority of the law depends more or less on the level disclosure of crimes by the National Police (*clearance rate*), which if tends to be positive, will increasingly guarantee legal certainty (enforcement). This will have an impact on increasing legal awareness. society which is currently suspected of increasingly declining.

The relationship between the police and the community is often a problem. which is debated. Police are often seen as protectors of the status quo and It's difficult to hold them accountable. Furthermore, cases have been uncovered and become the subject of public reporting concerning police officers who have committed disciplinary and ethical violations, leading to criminal acts. These include mistaken shootings, mistaken arrests, police officers acting as bookies or backers for

⁷John Baldwin and A. Keith Bottomley (ed.), Criminal Justice; Selected Readings, London: Martin Robertson, 1978, p. 35-70

gambling, drug trafficking, and other criminal activities. This has impacted the public's perception of the police force.⁸

Not again emergence polemic that created A problematic tangible intervention enforcement laws that are implemented Police.⁹ In the practice of criminal law enforcement, police investigations and inquiries still often experience intervention. by external parties or from within the police institution itself.¹⁰ Officials or individual influential people often try to influence the course of investigations for personal gain or their group. Such actions undermine the integrity of the police force and can hinder law enforcement. Negative¹¹ intervention results in a lack of justice and also makes law enforcement procedures inconsistent with the expected legal basis.

Based on this interpretation, then the Police should not be also contaminated with dynamics politics carried out by the authorities. Matter thus potentially damaging the image The Indonesian National Police in the eyes of the public as an institution independent that provides protection for the benefit of the wider community.

Indonesian National Police is a state apparatus as stated in the 1945 Constitution of the Republic of Indonesia, not a tool the government is actually vulnerable to being used as a weapon for protection government interests that are currently in power. If then the Police change function as a tool for government interests, then in fact the principle of independence and the professionalism of the Indonesian National Police will be tarnished because they are unable to carry out their duties independently duties and responsibilities.

Actions of officials or the ruler who trying to intervene in the National Police institution in fact, it is feared that it will encourage The Indonesian National Police institution itself entered the realm of politicization within the sphere of power. Such conditions will be very destroying the future of the Indonesian National Police institution institutional. Therefore, efforts position the Indonesian National Police institution at proper and ideal placement is necessary based on a thorough study and objective in order to put it implementation of its duties and functions

⁸Muhammad Rully Fauzan, et al. The Morality of the Indonesian National Police in Restoring Their Image Police in Society. *Das Sollen: Journal of Contemporary Studies of Law and Society* , 1 (1) January 2023, p. 3

⁹Rohmad, Marlina. A Legal Analysis of the Indonesian National Police's Violations Code of Ethics (Study at SPN Sampali Medan). *Mercatoria: UMA Master of Law Journal* , 11 (2) December 2018, p. 152

¹⁰Cuanda Mitra Perdana and Hasan Sazali. The Role of Police Investigators' Communication in Implementing Law No. 20 of 2001 for Corruption Prevention. *Preamble: Journal of Education, History and Social Sciences* , 9 (1) February 2025, p. 191

¹¹R. Aiman, Law and Corruption: Challenges and Solutions in Eradicating Corruption in Indonesia. *Peradaban Journal of Law and Society* , 3 (1) June 2024

comprehensive as desired basic law of the state as a foundation constitutional regulation.

2. Research Methods

Research methods something method method Work For can understand the object that becomes target from knowledge the knowledge concerned. The method is guidelines method a scientist study and understand understood environments.¹² Whereas study is something method - based method systematics and thinking certain purposes for solve something problems of a nature scientific. The approach used in study This is juridical normative or approach law written (statutory *approach*). Approach juridical normative is the approach taken based on material law main with method examine theories, concepts, principles law as well as regulation related legislation with study this. Approach This also known as approach library, namely with learn books, regulations legislation and other related documents with study This research uses specifications research with method descriptive method Can interpreted as a problem-solving process something the problem being investigated with describe or depict condition subject or object research at the time Now based on the apparent facts or as existence.¹³ With use type study this, the author aim For describe, depict and provide precise data maybe that's useful For investigate, solve problems that arise as well as analyze and organize it in form thesis.

3. Results and Discussion

3.1. Position Police in The State System in general Constitutional

The term Police in the beginning originate from the Greek word "*Politei*", which means all over City State government. Such as known in the century before AD, the Greek state was a city -state called "Polis". At that time the meaning of "Polis" was as follows: its extent. In addition to covering all over city -state government, including in it affairs religious like worship to gods. In those days, as consequence Still strong sense of unity in society, affairs religious become separated from government, so the meaning of "Police" becomes all over city -state government except religious affairs.¹⁴

Occurrence development public cause affairs government become the more complex, so that differentiation tasks government No Can avoided Again. Thus, in the sixteenth century in France there is distribution government which includes fields: diplomacy, defense, finance, justice, and police. From the division said, can We know the term ' police ' is used mention part from government and still used

¹²Soerjono Soekanto, *Introduction to Legal Research* , Jakarta: UI Press , 1986, p. 14.

¹³ Nawari Hadari, *Legal Research Methods* , Yogyakarta Gajah Mada University Press, 1987 , p. 25.

¹⁴Momo Kelana. *Law ... Op.Cit* , 1981, p. 13

in a broad sense, namely covering all maintenance objects prosperity and well-being.¹⁵

Temporary It is in Germany that the term "police" is also found in the term "Wohlfahrtspolizei". In the sense of "Wohlfahrts Polizei", including affairs government that is approaching understanding civil service or *bestuur*, to try welfare, security and rejection danger. ¹⁶Inside *Encyclopaedia of Social Sciences* obtained understanding police as following:

The term police in its early definition has covered a wide range of functions. It has been used to describe various aspects of the control of public sanitation: it has had a very special meaning with respect to the suppression of political offenses; and at times it has been expanded to cover practically all forms of public regulation and domestic order. Now, however, it is used primarily with reference to the maintenance of public order and the protection of person and property from the commission of unlawful acts. Hence police and constabulary have come to the almost

*synonymous". (Police term in definition initially covers various function. This term has used for describe various aspect control cleanliness public; term this own very special meaning related with oppression violation politics; and sometimes expanded for covers almost all form arrangement public and order domestic. however, now term this especially used for refers to maintenance order general and protection personal and property object from violation of law law. Therefore that, police and police has become almost synonyms).*¹⁷

In a way Implications: Police and Law are closely related close in roles and functions from each of the two entity mentioned. The role of law in arrange life man Already known since public know law That alone, because law That made arrange life man as creature social. Relationship between society and law expressed with A very famous adage in knowledge law, namely *sweet potato society ibi ius*, which means where there the people there are law.¹⁸

The law holds role important in development society; therefore That No amazed if role law experience change from time to time. In simple societies, law functioning creates and maintain security and order (Kamtib). Next function This develop in accordance with development public Alone.

In running function create and maintain security and order community (Kamtibmas) is needed institutions or apparatus enforcer law. In case This is

¹⁵Bambang Yuniarto, *Position ... Op.Cit* , 2016, p 10

¹⁶ *Ibid*

¹⁷David L. Sills. *Encyclopedic ... Op.Cit* , 1972, p 183

¹⁸Bachsan Mustafa, *Integrated Indonesian Legal System* , PT.Citra Aditya Bakti, Bandung, 2003, p. 12

institution police, as something group unique worker, which runs role functional and symbolic in society. in generals functional, police sued for carry out task with attitude ethical, fair, friendly and honest in give service and maintenance order, not as the master who must served by the community. in guarding order, police given authority for limit freedom movement somebody in a way law.

In a way symbolic, police No only is symbol system justice the most obvious crime, however more Far from That the police also represent something source

legitimate restrictions in something public free. Activities police in something public democratic is form task the most difficult police. Because the police sued for can create and maintain security and order public in framework freedom that is precisely guaranteed by democracy.¹⁹

Mature This almost everywhere in the world, police deal with work looks after law and order (*law and order*). More special Again fighting crime in society. Therefore specialization and division more and more work strict and detailed which becomes characteristics modern society, then work the police also became No easy. In a relationship this, police confronted to structure increasingly formal bureaucracy and modern law. Even though police carry out task look after law and order, but task That still implemented in room scope and follow requirements put forward by the structure the.²⁰

In the context of the Republic of Indonesia, the Republic of Indonesia is in accordance with Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia firm state that Indonesia is State of law.²¹The state is integration than power politics, the state is organization main from power politics. The state in matter This is *agency* (tool) from society that has power for arrange relationships man in society and regulate symptoms power in public.²²

The understanding of "rule of law" is not can released from influence development thinking Good from *state law* and *the rule of law*, but still own distinctive characteristics as shown in Invite The 1945 Constitution of the Republic of Indonesia. In the 1945 Constitution (before amendment), the statement "The Republic of Indonesia is a State of Law" itself No determined in a way limited in stem body (Articles). Statement the found in the Explanation of the 1945 Constitution of the Republic of Indonesia which states the term "state based on on law" followed with term *rechtsstaat* which is located in sign brackets after the

¹⁹M. Gaussyah, *The Role and Position of the Indonesian National Police in the Indonesian Constitutional System* . First Edition, Partnership Publishing, 2014, p. 2

²⁰Satjipto Rahardjo, *Police and Indonesian Society - Image of the Police*, Yayasan Obor Indonesia Jakarta, 1988, p. 174.

²¹Riani Bakri, Murtir Jeddawi. Analysis of the Indonesian Legal State Index, *Pallangga Praja* , 4 (2) October 2022, p. 107

²²Miriam Budiardjo, *Basics of Political Science* , Tenth Edition, Gramedia, Jakarta, 1986, p. 38.

phrase" state based on on law". explanation of the 1945 constitution of the republic of indonesia in the section sisterm the State Government mentioned it twice with different editorial namely: Indonesia is a country based on on law (*rechtsstaat*) and the Indonesian State based on on law (*rechtsstaat*), no based on power mere (*Machtsstaat*).²³

One of the wills of the people must implemented by the holder state power based on opening the 1945 Constitution of the Republic of Indonesia (UUD 1945) is protected all the people, the creation security and order. Therefore, because of that that, will the displayed in the opening of the 1945 Constitution" to form something The Government of the Republic of Indonesia protects all the Indonesian nation and all spilled Indonesian blood and for advance welfare general, intelligent life nation, and participate carry out world order based on independence, peace eternal and justice social ...". With thus, for realization security, order and protection of the people, then need There is state apparatus that has function protect the people and maintain order to realize objective the formation of the country.²⁴

National Police (POLRI) is one of the state apparatus that has position, purpose and function important as well as strategic in realize ideals The Proclamation of August 17, 1945, namely reach public fair and prosperous. In a way constitutional, assembly the people's consultative assembly has determine the status of the indonesian national police through change second constitution the basic state of the republic of indonesia in 1945, as loaded in chapter xii article 30 paragraph (2), paragraph (4) and paragraph (5).

1) Article 30 paragraph (2): National defense and security efforts are carried out through system defense and security of the entire people by the Indonesian National Armed Forces and the Republic of Indonesia National Police, as strength main and the people as strength supporters.

2) Article 30 paragraph (4): The Republic of Indonesia National Police as state apparatus that guards security and order public on duty protect, shelter, serve public as well as uphold law.

3) Article 30 paragraph (5): Composition and position Indonesian National Army, Republic of Indonesia National Police, within operate his duties, conditions participation citizens in business defense state security, as well as related matters with defense security arranged with Constitution.

²³Imam Subechi, Realizing the Indonesian Legal State. *Journal of Law and Justice* , 1 (3) November 2012, p. 342

²⁴Husni Thamrin, Questioning the Position of the Police in the System The Constitution of Indonesia as a Democratic State. *Jurnal Legalitas* , 01 (01) 2023, p. 128

According to reads Article 30 paragraph (4) of the Law The 1945 Constitution can known that The Republic of Indonesia National Police as state apparatus that guards Public Security and Order (Kamtibmas), is on duty protect, shelter, and serve public as well as uphold law, which ultimately aim reach order law and order social.²⁵

In a way historical, priority main formation police national is stage changes that include structure police, character police and philosophy life police from the old structure is good in the Dutch era or Japan. Police Institutions during the Japanese Occupation the Dutch East Indies initially only consisting of people of color white just stand institution Police at the time That caused by fear and concern public Europeans living in Indonesia. Fear This due to the large number of theft, robbery and murder that befell Europeans and officials Natives.²⁶

On August 1, 1947, according to State Defense Council Decree No. 112, the State Police has position as soldier that is besides Work as guard security and order in the environment society, but thus the police also participated at war together strength armed such as the Army, Navy and Air Force for maintain the independence of the new Republic of Indonesia just achieved, below Ministry Defense.²⁷The provisions general about Police as tool revolutionary that is:

- a. Indonesian National Police, hereinafter called the State Police, is state law enforcement apparatus the main law on duty looks after security domestic.
- b. State Police in operate his duties always uphold tall rights people's rights and state law.

On August 19, 1945, the BKN (National Police Agency) was established. Then, on September 29, 1945, President of the Republic of Indonesia, Soekarno, inaugurated the first chief of police (kapolri) of the central government that is general of police soekanto hospital. at the time became the republic of the united states of indonesia (ris), then on january 19, 1950, *the dienst der algemeene police in netherlands indieh* (general police service in the dutch east indies) was taken taken over by officials the indonesian government and made position police (ris) and sukanto hospital lifted as head position ris state police and r. sumanto lifted as head the indonesian National Police is based in Yogyakarta.²⁸

Indonesian National Police have important contribution during the Revolution Physique together with the Armed Forces others. This is one of the runway history

²⁵Bambang Poernomo, *Legal Development from the Perspective of Social Order* , UII Press Publisher, Yogyakarta 1992, p. 173

²⁶Marieke Bloembergen, *Police Officer of the Dutch East Indies, from Fear and Concern* , Translated by Tristam P. Moeliono, Anna Wardhana, Nicolette PR Moeliono, Tita Soeprapto Mangoensadjito. Jakarta: Kompas Book Publisher, KITLV Jakarta, 2011, p. 30

²⁷Banurusman (Ed), *Police, ... Op.Cit* , 1995, p 12.

²⁸Harsja W. Bachtiar, *Police Science: A Branch of Science The New* , Jakarta: Grasindo, 1994, p. 50

Why Indonesian National Police Finally join to in ABRI body. But during the independence era, the status of the Indonesian National Police Keep going switching. In 1945 still under Ministry of Home Affairs, tactical under the Attorney General.²⁹

Then in 1946 it switched become Position Police led by the Prime Minister (Regulation Government Decree No. 11/SD/1946 dated July 1, 1946). Based on MPRS Decree No. II/1960 Article 54 Paragraph C Paragraph final state That the Armed Forces of the Republic of Indonesia (ABRI) consists of over the Indonesian Armed Forces and the Police. In this MPR Decree furthermore will become milestone main history ABRI integration which stipulates Indonesian National Police as part from ABRI body with carry out dimension security and order public.

Draft it is also emphasized return into the law no. 13 of 1961 concerning principal State Police stated that Department Police organize task Indonesian National Police. The National Police is the Armed Forces. With thus the position of the State Police The same equal with the Army, Navy, and Air Force.

The March 11, 1966 Order is considered as milestone the beginning of the New Order. Next Because bitter experience from the G30S/PKI incident which reflects No existence integration between elements of the ABRI, then For increase integration of ABRI, in 1967 with Presidential Decree No. 132/1967 dated August 24, 1967 was established Main Points Organization and Procedures Field Defense and Security which states that ABRI is part from organization The Department of Defense and Security includes the Army, Navy, Air Force and Military, each of which is led by a Commander in Chief and is responsible for: answer on implementation duties and obligations to the Minister of Defense/Commander of the Armed Forces.³⁰

On April 1, 1999 with official Indonesian National Police separated from ABRI. This matter has been carried out through a series of events held at the National Police Headquarters. To Meanwhile, the Indonesian National Police at the time That entered under minister defense and security. In the phase This Indonesian National Police Still intact at the National Police Headquarters and remains occupy police posts in each area. Based on instructions president the then on April 1, 1999, the system and implementation coaching strength as well as operational Indonesian National Police diverted to department defense security, which at the moment That become milestone history the start of the National Police reform in

²⁹Tanumidjaja Mamet. *History of the Development of the Police Force* . Jakarta. Department of Defense-Security ABRI History Center), 1971, p. 78.

³⁰M. Oudang , *Development of the Police in Indonesia*, Jakarta: Headquarters Head of the Indonesian National Police, 1952, p. 45

a way comprehensive going to Independent professional police in the sense of independent in accordance with hopes and demands public.³¹

In Court The 2000 MPR-RI Annual Meeting also produced two very strict provisions important It means for Police, namely MPR-RI Decree No.VI/MPR/2000 Concerning separation the Indonesian National Armed Forces and the Republic of Indonesia National Police, as well as MPR-RI Decree No. VII/MPR/2000 Concerning the Role of the Indonesian National Armed Forces and the Role of the Indonesian National Police. The Status of MPR Decree No. VI/MPR/2000 and MPR Decree No. VII/MPR/ 2000 the more meaningful after existence change second against Article 30 of the 1945 Constitution.³²

In Article 6 paragraph (1) of MPR Decree No. VII/MPR/2000 it is stated that Indonesian National Police is state apparatus that plays a role in look after security and order society, upholding law, giving protection and service to society; while Article 6 paragraph (2) states that in operate its role, the Indonesian National Police must own expertise and skills in a way professional.³³

In context this, Kunarto state that as state apparatus that has roles and responsibilities answer in field enforcement law in the territory of the Unitary State of the Republic of Indonesia (NKRI), the Indonesian National Police must be be professional and authoritative with adhere to principle that law is above everything, justice and honesty must enforced. ³⁴In carrying out his duties look after domestic security Indonesian National Police must be can in a way precise and accurate utilise all potential nation especially with involving all Indonesian people as part from element security That Alone with create something condition that every citizen is capable for become police for himself Alone.

Position Indonesian National Police as the state apparatus is positions Indonesian National Police as element system organizer state power, elements system security, as well as element system justice crimes each of which carries consequences institutional as well as organization alone. Problem That born because of in the relationship with organization state power, the Indonesian National Police Of course will face to face with various form dynamics public civil. Meanwhile That as element security, police must Work in framework applicable

³¹Aulia Nur Wihlatil Aini, Abdul Muntholib, and Andy Suryadi. The Dynamics of Integration and Separation of the Indonesian National Police (POLRI) from the Indonesian Armed Forces (ABRI) 1961-2002. *Journal of Indonesian History* . 8 (2) December 2019, p. 111

³²M. Gaussyah, *Role and ... Op.Cit* , 2014, p 3

³³Article 6 paragraph (1) of the Decree of the People's Consultative Assembly of the Republic of Indonesia Number VII/MPR/2000 Concerning the Role of the Indonesian National Armed Forces and the Role of the Republic of Indonesia National Police

³⁴M. Gaussyah , *Loc.Cit* , p. 4

concepts and operations among Police and as system justice criminal, police move as spearhead, at the same time selector in a legal process.³⁵

In a way structural, Police Institution is police national centered at headquarters big, whereas implementation duties and authorities conceptualized distribution area law, then connection police National Police Headquarters level with police at the level province (regional police) adheres to system decentralization administration and centralization in a way balanced. Concept centralization reflected in the system appointment Head Regional Police (Kapolda) and Chief Regional Police (Kapolwil) and increase rank certain things that become Police Headquarters authority, reporting on not quite enough answer organization police at the level area, distribution facilities and infrastructure as well as budget, whereas decentralization reflected from existence distribution area law, operational budget and delegation authority limited. Delegation authority headquarters to regional police This is is one of the form decentralization administration, as distribution type decentralization the administration in question is a transfer of activities or activity government center to officials at the level area with the aim is for the implementation government can more effective and efficient. Thus case in point grading organization police National Police Headquarters level to regional police is is a transfer of activity or authority that has been selected and sorted by the center (Headquarters) for implemented by level organizations under it, namely regional police and tiered to level Regional Police until Police station.³⁶

Grading structure organization from Headquarters level up to level territoriality in essence emphasis on division area law and responsibility in frame reach objective organization, where each level own structure organization alone who has a relationship line vertical from on to bottom (top down) and with system accountability from lower to bottom up. Level organization the consists of from the Headquarters of the Republic of Indonesia National Police, abbreviated as Mabes Polri be at the level central, the Regional Police of the Republic of Indonesia, abbreviated as Polda, is located in the regional area in structure below, the Regional Police (Polwil) is in the region and under Regional Police, Resort Police (Polres) is under Regional Police, even until level Sector Police (Polsek). This is is A eye unbroken chain disconnected so that all accountability organization policing by organizations level lower done tiered until level above (National Police Headquarters), such as police station responsible to police station; police station responsible to regional police; regional police responsible to regional police; and

³⁵Kusumah, Mulyana W, *Future Police in a Criminological Perspective - Police, Society and the State*, Bigraf Publishing, Yogyakarta, 1995, p. 153

³⁶Sugiri, Understanding the Position and Function of the Indonesian National Police in the Organizational Structure of the State System. *Journal of Police Science*, 17 (3) December 2023, p. 6

regional police responsible to organizations at the level headquarters, okay in a way structural

3.2. Reality Polemic Criminal Law Enforcement by the Police which can Cause Bad Institutional Precedent

Conception thinking about the rule of law has made into as choice best for the Indonesian nation in frame operate life nation and state. As consequence choice intended, then should be all actions and activities life nation and state according to provision applicable law. This is refers to the affirmation the Indonesian nation as a state of law as has formulated in Constitution.³⁷ Provision the confirmed in the 1945 Constitution of the Republic of Indonesia, specifically in Article 1 paragraph (3) as runway constitutional for draft nation and state with put forward enforcement law in the country.

Affirmation about the existence of the Indonesian state as a state of law contain understanding deep that the Indonesian nation in operate wheel government must based on the rules the law that has been made by the state and become always become reference and basis in act for manage life nation and state. On the basis of thinking intended, then all actions and deeds, whether carried out by the state through tools completeness of the state and by the community wide must based on applicable law.³⁸

Without the existence of an enforcement process law, then can confirmed that public a country will experience moral decadence and giving rise to behavior anarchist. As for the legal process without put forward a sense of justice in the end only will give birth to something condition in the form of oppression.³⁹ Due to that, then the enforcement process should be law capable reflect element justice in every legal process carried out.

Efforts to realize and realize position the Indonesian nation as a country of law, of course needed there is a state organ in charge uphold law intended. However, that law No will Possible can executed without the presence of organs that have responsibility in frame its implementation. Even though law Already formulated such appearance and maybe considered Already perfect, but If No found existence authorized agency uphold it, then matter the will end in vain. As for the law That must intended in frame need man That alone, law have a noble agenda in frame realize well-being and happiness man.⁴⁰

³⁷Janpatar Simamora, Leonardo David Simatupang. Strengthening Position and Authority Constitutional Police as a State Apparatus in Security and Public Order. *Journal of the State of Law* , 15 (2) November 2024, p. 160

³⁸Rokilah, *State Dynamics ... Op.Cit* , June 2020, p 1 3

³⁹HF. Abraham Amos, *Legal Catastrophe ... Op.Cit* , 2007, p. 320

⁴⁰Satjipto Rahardjo, *Progressive Law: A Synthesis of Indonesian Law* . Yogyakarta: Genta Publishing, 2009, p. 17.

In line with draft the as well as in frame realize the embodiment of the rule of law as confirmed in the 1945 Constitution of the Republic of Indonesia, then matter the followed up by the state with form something institution in charge uphold law. As for one of the institutions intended is The Republic of Indonesia National Police. Based on the provisions of Article 30 paragraph (4) of the 1945 Constitution of the Republic of Indonesia as base constitutional existence The Republic of Indonesia National Police affirmed that The Republic of Indonesia National Police has position guard security and order public with task protect, shelter, serve society and uphold law. The law gives authority to Police For uphold law with various way, good in the form of actions that include pre- emptive category until with repressive in form action coercion characterized by sanctions.⁴¹

Therefore order society is very much needed by the state and society as well as close the relationship with security public That alone, then should be determined existence One tool state apparatus that takes care of problem security and order. This is what then made into as one of the consideration fundamental in frame form institutions Police in system government in Indonesia. Both the state and public as well as all over element the nation really wants creation situation a full life with security and order.

The position of the police in various countries in the world always depends to system government and system justice criminal law adopted. Even system administration Police is subsystem from second system the system related state administration with organization function police in order preventive and repressive so that have characteristic features function main state administration which includes function regulation, licensing, implementation task principles, management, supervision and completion disputes. System justice criminal related with organization function police in order repressive so that will have characteristics system criminal.⁴²

In determining position Indonesian National Police must can fulfil demands or hope from public related with implementation task Indonesian National Police as it becomes hope public when the reforms rolled out. Position Indonesian National Police should can increase image state administration, both domestically and internationally with base references aspects universal policing.

Position Indonesian National Police in system state administration (one of the part from power executive) must produce optimal synergy for interest national and possible dynamics role police in order national, regional and international the more okay. Police also required to can realize security, order, peace and prosperity for all over society. In order to be able to fulfil demands public said, position

⁴¹Hans Kelsen, *Pure Legal Theory: Foundations of Normative Legal Science*. Bandung: Nusa Media, 2011, p. 39

⁴²M. Gaussyah, *Role and ... Op.Cit* , 2014, p 78

Indonesian National Police must can give guarantee independence and professionalism, both in aspect coaching and operational.⁴³

Position The Police concerned with function enforcement law always related with system justice Criminal Justice System (*Criminal Justice System*). In Indonesia, the elements *Criminal Justice System* consists of on Police, Prosecutor's Office, and Judiciary. Third element the One each other has different tasks. Therefore that, structure organizational *Criminal Justice System* must there is a line of cooperation (coordination), as for example, the existence of Supreme Court, Prosecutor's Office, and Police (Mahkehjapol).⁴⁴

According to Nurdin, the position Indonesian National Police in framework *The Criminal Justice System* is very vulnerable to influence factor system the government adopted a country. However thus in the era of reform that demands existence democratization and human rights, Indonesian National Police will more effective and efficient in realize its function as enforcer law when his position in system justice criminal still maintained. Because of this that, position The Indonesian National Police must also equalized with second institution enforcer law others, namely Judiciary and Prosecutor's Office. This For make things easier existence coordination and mutual mutual cooperation filling (interdependence, and not dependencies).⁴⁵

4. Conclusion

According to reads Article 30 paragraph (4) of the Law The 1945 Constitution can known that The Republic of Indonesia National Police as state apparatus that guards Public Security and Order (Kamtibmas), is on duty protect, shelter, and serve public as well as uphold law, which ultimately aim for reach order law and order social. police in its history become fight over institutions government other for under the indonesian national police. however, since promulgation law of the republic of indonesia number 2 of 2002 concerning republic of indonesia police (police law) hopes institutions government other for in charge indonesian national police become extinct. this is because in article 8 paragraph (1) of the police law states: "the republic of indonesia national police is under president". then article 8 paragraph (2) of the police law states "the republic of indonesia national police is led by the chief of police who in implementation his duties responsible answer to president in accordance with regulation legislation". as for what becomes consideration placement indonesian national police direct under president and responsible direct to president is for maintenance order and peace public as well as certainty law, seen need for increase integrity and ability professional republic of indonesia national police and has become fact function security implemented

⁴³ *Ibid* , p. 79

⁴⁴ Oetojo Oesman, Makehjapol Forum Held to Create Legal Certainty, *Dispen Polda Aceh : Machdum Sakti* , Edition 11, March-April 1997

⁴⁵ M. Gaussyah, *Role and ... Op.Cit* , 2014, p 79

the republic of indonesia national police. in addition, the position indonesian national police direct under the president is also regulated in provisions assembly people's consultative assembly of the republic of indonesia number vii/mpr/2000 concerning the role of the indonesian national armed forces and the role of the republic of indonesia national police in article 7 paragraph (2) which states:" the republic of indonesia national police is under president".

5. References

Journals:

- Achmad Budi Waskito, Implementasi Sistem Peradilan Pidana dalam Perspektif Integrasi. *Jurnal Daulat Hukum*, 1 (1) Maret 2018
- Adrian Leftwich. What are Institutions?, *IPPG Briefing Paper*, No 1, January 2006
- Aulia Nur Wihdlatil Aini, Abdul Muntholib, dan Andy Suryadi. Dinamika Integrasi dan Pemisah POLRI dari ABRI Tahun 1961-2002. *Journal of Indonesian History*. 8 (2) Desember 2019
- Barda Nawawi Arief, Upaya Non Penal Dalam Kebijakan Penanggulangan Kejahatan, Semarang : *Makalah Seminar Kriminologi UI, Hukum Undip*, 1991
- Bima Yosua A Tarigan, Faridh Al Wajidi, Karina. Analysis of the Implementation of Criminal and Administrative Offenses in the Perspective of Immigration Law Number 6 of 2011 (Case Study Djoko Soegiarto Tjandra). *Journal of Law and Border Protection*, 2 (1) 2020
- Cuanda Mitra Perdana and Hasan Sazali. The Role of Police Investigators' Communication in Implementing Law No. 20 of 2001 for Corruption Prevention. *Mukadimah: Jurnal Pendidikan, Sejarah dan Ilmu-ilmu Sosial*, 9 (1) February 2025
- D. Handoyo, dkk. Krisis Integritas Penegak Hukum Dalam Jalannya Penegakan Hukum (Menyoroti Kasus Narkoba Teddy Minahasa). *Jalakotek: Journal Of Accounting Law Communication And Technology*, 2 (1) 2025
- Dwi Prasetyo & Ratna Herawati. Tinjauan Sistem Peradilan Pidana dalam Konteks Penegakan Hukum dan Perlindungan Hak Asasi Manusia terhadap Tersangka di Indonesia. *Jurnal Pembangunan Hukum Indonesia*, 4 (3) 2022
- <https://www.tempo.co/hukum/perjalanan-kasus-djoko-tjandra-hingga-menyeret-dua-jenderal-polisi-591704>,
- <https://www.youtube.com/watch?v=P0LNP3hAVgc>, Aktivis Diserang, Videografer Dipidana, Hukum Berpihak ke Siapa?
- Husni Thamrin, Menyoal Kedudukan Polri Dalam Sistem Ketatanegaraan Indonesia Sebagai Negara Demokrasi. *Jurnal Legalitas*, 01 (01) 2023
- Imam Subechi, Mewujudkan Negara Hukum Indonesia. *Jurnal Hukum dan Peradilan*, 1 (3) November 2012
- Ismail Ghonu, Independensi Kejaksaan dalam Sistem Peradilan Pidana di Indonesia. *Justitia et Pax: Jurnal Hukum*, 31 (2) Desember 2015

- James Boyle, Legal Realism and the Social Contract: Fuller's Public Jurisprudence of Form, Private Jurisprudence of Substance. *Cornell Law Review*. 78 (3) 1993
- Janpatar Simamora, Leonardo David Simatupang. Penguatan Kedudukan dan Kewenangan Konstitusional Polri sebagai Alat Negara dalam Bidang Keamanan dan Ketertiban. *Jurnal Negara Hukum*, 15 (2) November 2024
- Jual Salem Gea Jimi, et.al. Independensi of Investigators in Conducting Investigation in Cases of the Crime of Premeditated Murder Pasal 340 KUHP. *Jurnal Smart Hukum (JSH)*, 1 (3) 2023
- Junaedi, Anas Yusuf, Rumanul Hidayat. Scenario Ferdy Sambo Orders to Kill Brigadir Joshua Maintaining Family Dignity, Execution, or Motives. *International Journal of Business, Law and Education*, 4 (1) April 2023
- Keylon Lovett, The Media Reproduction of Racial Violence: A Content Analysis of News Co News Coverage Following the Death of George Floyd Jr. University of South Florida, *USF Graduate Theses and Dissertations*, October 2021
- Kusnu Goesniadhie S. Perspektif Moral Penegakan Hukum yang Baik. *Jurnal Hukum*, 2 (17) April 2017
- Lina Febrianti & Herdiyan Maulana. Pengaruh Persepsi Masyarakat pada Kinerja Kepolisian Terhadap Kepercayaan Pada Kepolisian. *Jurnal Penelitian dan Pengukuran Psikologi*, 2 (1) April 2013

Books:

- Abdul Majid, *Strategi Pembelajaran*. Bandung: Remaja Rosdakarya, 2013
- Abu Bakr al-Jaza'iri, *Aisar al-Tafsir Li Kalam al-'Aliyya al-Kanir*, Vol. III, Madinah: Makatabah al-Ulum Wa al-Hikam, 1994
- A. Djamin, *Sejarah Perkembangan Kepolisian di Indonesia: Dari Zaman Kuno Sampai Sekarang*. Jakarta: Yayasan Brata Bhakti POLRI. 2007
- Ahmad Ibn Faris Ibn Zakariya, *Mu'jam al-Maqayis fi al-Lughah*, Beirut: Dar al-Fikr , 1994
- Andi Hamzah, *Terminologi Hukum Pidana*, Sinar Grafika, Jakarta, 2008
- Andrew Sanders, *Diverting Offenders from Prosecution; Can We Learn from of the Countries?*, Justice of Peace, 1986
- Azis Syamsudin, *Tindak Pidana Khusus*, Sinar Gafika, Jakarta, Cet-2, 2011
- Bachsan Mustafa, *Sistem Hukum Indonesia Terpadu*, PT.Citra Aditya Bakti, Bandung, 2003
- Bambang Poernomo, *Pembangunan Hukum dalam Perspektif Ketertiban Sosial*, Penerbit UII Press, Yogyakarta 1992
- Bambang Sutiyo, *Aktulita Hukum dalam Era Reformasi*, Jakarta: PT. Raja Grafindo Persada, 2004
- Bambang Waluyo, *Pidana dan Pemidanaan*, Sinar Grafika, Jakarta, 2000
- Bambang Yuniarto, *Kedudukan dan Fungsi Polisi dalam Sistem Politik*. Ed.1, Cet.1, Yogyakarta: Deepublish, 2016

Regulation:

The 1945 Constitution of the Republic of Indonesia

Decree of the People's Consultative Assembly of the Republic of Indonesia
Number VII/MPR/2000 Concerning the Role of the Indonesian National
Armed Forces and the Role of the Indonesian National Police

Constitution Number 2 of 2002 concerning Republic of Indonesia National Police

Decree of the President of the Republic of Indonesia Number 89 of 2000
Concerning Position Republic of Indonesia National Police