

## **Legal Protection For Indonesian National Police Officers From Violence Threat While On Duty**

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**Abstract:** The primary objective of the implementation of criminal sanctions is actually to prevent the violence threat from happening. Thus, it will guarantee protection and security for society. In the Criminal Code of Indonesia, there are some regulations which protect police officers from violence threat on their duty either verbally or non-verbal (physically). However, when it comes to its implementation, those regulations do not meet its objectives. Therefore, this study aims to find out why the criminal sanctions on the Criminal Code are not effective to overcome violent crime against Indonesian National Police Officers on their duty. Moreover, it aims to determine the factors that cause the Indonesian National Police Officers to be threatened with violence on their duty from the criminals.

**Keywords:** Legal Protection; Indonesian National Police; Violence Threat

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### **I. INTRODUCTION**

Police department is a civil agency mandated by the Constitution to exercise the duty to maintain the public order, security, and law enforcement. Police department is an important institution in maintaining internal security and stability which means every sovereign country ideally has police department. The police term is derived from state agent which official function is to maintain security and law enforcement. In colonial times, various agents including police officers called sheriff and environment park rangers were responsible to protect order and law enforcement (Edwin H. Sutherland, 2018).

As the front guard of security implementation, police is a symbol of law exists in society because police officers are the first agent that faces public, either the public as victims, witnesses, or suspects. In other words, police act as doctor with the special task to cure "social disease" of society (Muhammad Erwin, 2018).

In Article 5 paragraph 1 of Law of Republic of Indonesia No. 2 of 2002 about police states that the State Police of the Republic of Indonesia is the agency which is mandated by the constitution to maintain internal public orderliness and safety, law enforcement and providing protection, safeguard and services to the public (The Law of the Republic of Indonesia number 2, 2002).

Police officers as the state apparatus are mandated by the state government by Law to maintain public security and public orderliness. In doing so, police officers constantly face the risk of injury to even death in exercising their official duty. Instinctively, humans would avoid dangers; however, due to the professional responsibility of police officers, police officers do otherwise. They have to face the dangers to prevent security disturbance (Reza Indragiri Amriel, 2014).

One example of the situation is the case of four police officers who work at Departmental Police of Garut who are Police Sub-Inspector 1st Class Erwin, Police Brigadier 2nd Class Yudi Muslim, Police Brigadier 2nd Class FA Simbolon, and Police Brigadier 2nd Class Anif. They were responsible for carrying out security for university students' demonstrations in the Province of West Java. They suffered from injuries because the demonstration participants threw gasoline on the officers which then cause all four officers to suffer burn injuries. To make it worse, Police Sub-Inspector 1st Class Erwin, who was intensively cared in the hospital, passed away on Monday, August 26, 2019, due to the severe burn of more than 80% on his whole body.

This case is a small chunk of examples of the series of events in all over Indonesia which target police officers as the victim of violence. Pity, those series of tragedies were just considered as professionals from exercising duty. This phenomenon did not become an exceptional concern either by the government or by the legislative body to evaluate and improve the legal system in Indonesia to prevent the same tragedies from happening again in the future.

Humans deserve equality when it comes to treatment and protection. Even the strong person (in any definition of strength like energy, physically, mind, intellectually, descent, and wealth) still needs protection and constant surveillance, so that these people who perform this task need legal protection, not to mention the weak who needs to be protected more with legal protection. Thus everyone needs legal protection as they need law that can be applied anywhere and anytime (Munir Fuady, 2013)

The criminal threat for anyone who commits violence against Police officers is already regulated in Indonesian Criminal Code, but it raises a rather serious question whether the penal mentioned in Indonesian Criminal Code is still relevant and effective in providing protection for police officers from the violence or violence threat and preventing the violence crime against police officers while exercising their duty. Thus, this elaboration becomes the research background to determine the in-depth solution for this problem.

## **II. RESEARCH METHOD**

The type of this research is normative legal research which is legal research about how normative legal provisions (codifications and statute) are applied by in-action in any certain legal issues in society by doing legal approach of statute approach.

The data resources used in this research were primary, secondary, and tertiary data which are law, court verdicts, books, journals, encyclopedia, and articles from the internet. To support the primary data, this research also done by conducting data collection from respondents and source personnel through interview and questionnaire methodology. These were done to gain an understanding of the phenomenon or social issues of the variables of the research which are the Legal Protection for Indonesian National Police Officers from Violence Threat while on Duty.

The data collection technique used in this research was through documentation study by collecting all resources from primary, secondary, and tertiary legal resources along with the interview.

## **III. GENERAL REVIEW OF INDONESIAN NATIONAL POLICE OFFICERS MAIN TASKS IN THE EXERCISE OF THEIR DUTY**

Generally, the main tasks of the National Police of the Republic of Indonesia are maintaining security and public order, preventing disruption in public safety, enforcing law, and providing protection to the community. Specifically, the Republic of Indonesian Constitution about police describes that basic tasks of police officers are:

- a. Carrying out the regulations of traffic on the road, protecting vital properties, performing safety guard and patrol;
- b. Performing police tasks to ensure public safety, and protecting the order and smoothness of traffic on the road;
- c. Conducting development as an effort to improve public participation, and developing community awareness and obedience to law, regulations, and legislation;
- d. As well as taking part in developing national law;
- e. Maintaining and ensuring public order;
- f. Implementing coordination, supervision, and technical guidance to the special unit from the government which obtain the same function as police department, civil servants that work as police, and all forms of security of police-like;
- g. Implementing inquiries and investigation against all criminal acts that abuse law and regulations;
- h. Implementing identification such as police medical operations, police forensic laboratory, and police psychology unit;
- i. Protecting soul safety, public property, and the environment from security and order disturbance by upholding human rights;
- j. Serving citizens interests for a while before it is handled by other agencies and/ or other authorities;
- k. Providing police services for public interest and other duties following the legislations;

In implementing these basic tasks, National Police of the Republic of Indonesia, specifically elaborate into various units that run the basic tasks as follow:

- a. Intelligence and Security Bureau is responsible for fostering security which covers the maintenance and effort of improving public security and orderliness.
- b. The Criminal Investigation Agency is responsible for fostering and implementing the investigation of criminal acts and forensic laboratory identification.
- c. Patrol Units, Sabhara, performs the task of security maintenance which cover the maintenance and improvement effort of security condition and public orderliness such as Police Guard and Patrol.
- d. Traffic Corps is responsible for performing maintenance of traffic on road which covers community education, law enforcement, traffic assessment, registration and identification of drivers of motor vehicles, and performing road patrol.

- e. Water and Air Police is responsible for patrol and first conduct on any criminal act and search and rescue when there is an accident on the water. Moreover, they are responsible for public supervision living by the water area and performing the function of air police both in supporting police operational task in all over Indonesia.
- f. Brigade Mobile is in charge of implementing the function of development and overcoming the high intensity of public security disruption to maintain internal law enforcement.
- g. The Anti-Terror Unit is in charge of performing the function of intelligence, prevention, investigation, enforcement, and operational support in the investigation and investigation of terrorism crimes.

#### **IV. LEGAL PROTECTION FOR INDONESIAN NATIONAL POLICE OFFICERS FROM VIOLENCE THREAT WHILE ON DUTY**

Crime sanction as it is mentioned in the Indonesian Criminal that provides legal protection for Indonesian National Policeofficers from violence threats while they perform their duty can be categorized in verbal violence (oral) and non-verbal violence (physical).

Criminal sanction on verbal violence regulated in Criminal Code is defamation crime to a civil servant as it is stated in Article 316 which is punishment enhancement by one third from the prior regulation as it is stated on Article 310 which mentions anyone who deliberately harms someone's honor or reputation by charging him with a certain fact, with the obvious intent to give publicity thereof, shall, being guilty of slander, be punished by a maximum imprisonment of nine months and if this takes place through writings or portraits disseminated, openly demonstrated or put up, the principal shall, being guilty of libel, be punished with a maximum imprisonment of one year and four months.

Then in Article 315, it is mentioned that defamation commits deliberately against a person either orally or in writing in public or his/ her presence be punished by a maximum imprisonment of four months.

Thus if the defamation as it is elaborated in Article 310 paragraph 1 committed against a police officer while doing his/ her duty be punished nine months in prison with the punishment enhancement of one third which makes twelve-month imprisonment. The same thing is also applied to the criminal threat in Article 310 paragraph 2 and Article 315 of the Criminal Code.

Criminal provisions about protection for Indonesian National Policeofficers from violence threat which generally occurs while the officers in the exercise of their official duty can be categorized into two categories:

a. Verbal Violence (Oral);

It is defamation done deliberately to a civil servant as it is mentioned in Article 316 which is the enhancement of punishment by one-third of the laid down in the foregoing article 310 mentions "The person who intentionally harms someone's honor or reputation by charging him with a certain fact, with the obvious intent to give publicity thereof, shall, being guilty of slander, be punished by a maximum imprisonment of nine months" and "If this takes place through writings or portraits disseminated, openly demonstrated or put up, the principal shall, being guilty of libel, be punished with a maximum imprisonment of one year and four months".

Then in Article 315, it is mentioned that "A defamation committed with deliberate intent which does not bear the character of slander or libel, against a person either in public orally or in writing, or in his presence orally or by battery, or by a writing delivered or handed over, shall us simple defamation, be punished by a maximum imprisonment of four mouths".

Thus, if defamation, as mentioned on Article 310 paragraph 1 committed against police officer who is in the exercise of his/ her official duty, can be punished by nine-month imprisonment, then the punishment can be enhanced by one third to become twelve-month imprisonment. So is for the criminal penal on Article 310 paragraph 2 about defamation conducted through writing. If the court judge sentences the defendant for imprisonment of one year and four months added with the enhancement of imprisonment of one third, it will make 21 months and 3 days. Then, as for the criminal sanction as mentioned in Article 315 of Criminal Code that contains the penal of a maximum imprisonment of four months, with the assumption of judge sentencing the offender the imprisonment, it means that the offender should be in prison for 5 months.

b. Non-verbal Violence (Physical);

Physical violence crime committed against Indonesian National Police officers while on duty is described in Criminal Code and regulated from Article 211 to Article 214 and Article 356 Paragraph 2e which are elaborated as follow:

1. Article 211: Any person who by violence or threat of violence resists an official to perform an official exercise or to omit a lawful official exercise shall be punished by a maximum imprisonment of four years.
2. Article 212: Violence or threat of violence resists an official acting in the lawful performance of his official duties shall be punished by a maximum imprisonment of one year and four months.

3. Article 213: If the crime or the accompanying assault and battery results in a physical injury, coercion and the rebelliousness shall be punished by a maximum imprisonment of five years; if it results in a serious physical injury, coercion and the rebelliousness shall be punished by a maximum imprisonment of eight years and six months; if it results in death, coercion and the rebelliousness shall be punished by a maximum imprisonment of twelve years.
4. Article 214 paragraph 1: If the coercion and rebelliousness committed by two or more persons with united forces shall be punished by a maximum imprisonment of seven years. Meanwhile, in paragraph 2, it mentions if the committed crime or the assault and battery thereby committed by him results in a physical injury, the offender shall be punished by a maximum imprisonment of eight years and six months. Moreover, if it results in serious physical injury or death, the offender shall be punished maximum imprisonment of fifteen years.
5. Article 356 paragraph 2e: The punishments laid down in Articles 351, 353, 354 and 355 may be enhanced with one third

## V. THE EFFECTIVENESS OF CRIMINAL SANCTION ON THE INDONESIAN CRIMINAL CODE IN PREVENTING VIOLENCE THREAT AGAINST INDONESIAN NATIONAL POLICE OFFICERS WHILE ON DUTY

Quoting the expert opinion, crime prevention has so far been done through penal and non-penal manners. Preventing crime through penal means preventing crimes by criminalization. Meanwhile, in preventing crime through non-penal, it emphasizes more on preventive measures and efforts in preventing criminal acts. As for Indonesia, we still do not have non-penal means in preventing violence crime apart from only relying on penal means effort stated on the Criminal Code.

From the result of this study, there is a fact that every year the violence against Indonesian National Police officers while on duty keeps on increasing. Therefore, it can be concluded that the implementation of criminal sanction, regulated on the regulation of Indonesian Criminal Codes, to provide legal protection for law enforcement officers from violence while on official duty is ineffective. It also fails in meeting its initial objectives. Based the data retrieved from the Directorate of Criminal Investigation (Bareskrim) of Indonesian National Police, it says that the number of Indonesian National Police officers who become the victims of violence while on official duties in Indonesia is provided below:

**Table 1**

Data of the number of Indonesian National Police Officers who were exposed to violence while on duty

Year	Number of Cases	Number of Victims	
		Injury	Death
2016	9	33	5
2017	14	46	9
2018	17	72	11
2019	27	284	18

Based on the data presented on the table above, it can be said that there were nine violence cases in 2016 to Indonesian National Police officers. Of those nine cases, 33 Indonesian National Police Officers were injured and five were killed. The violence threat against Indonesian National Police officers in the exercise of their duties keeps increasing every single year. The record shows that there is a significant rise in 2019 to 27 of whom 284 officers were injured and 18 officers were killed.

Apart from the absence of non-penal means done to support the penal means, the relatively mild court verdict becomes one of the factors that make the implementation of the criminal sanctions ineffective.

Following are the samples of court verdicts for violence crime against Indonesian National Police officers in the exercise of their duties;

**Table 2**

Sample of court verdict about violence crime case against Indonesian National Police officers while on duty

No	Court Verdict Number	Indictment Article	Criminal Threats	Verdict
1	65/Pid.B/2016/PN Ksp	Article 351 of the Criminal Code	2 years	4 months
2	444/Pid.B/2013/PN.Jkt.Tim	Articles 170 and 214 of the Criminal Code	12 years	5 months
3	113/Pid.B/2012/PN-Jpr	Article 214 paragraph 2nd-ly to 3rd-ly of Criminal Code	15 years	2 years
4	112/Pid.B/2012/PN-Jpr.	Article 214 paragraph 2 to 3 of Criminal Code	15 years	2 years

5	06/Pid.Sus/2013/PN.Smg	Article 212 Jo 213 paragraph 1 of the Criminal Code	6 years	5 months
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From the table of court verdict above, it can be seen that out of the maximum imprisonment of fifteen years, the judge only sentenced to prison for two years for persecution causing serious injury. Meanwhile, for other cases, the judge even sentenced to prison for less than six months. The relatively mild sentencing done by the judge to the defendant becomes the factor why the criminal sanction in preventing the crime to be ineffective because it fails in initiating the deterrent effect for anyone who commits the crime and it does not cause fear for others to commit the same crime.

## **VI. FACTORS CAUSING THE OCCURRENCE OF VIOLENCE THREAT AGAINST INDONESIAN NATIONAL POLICE OFFICERS WHILE EXERCISING THEIR OFFICIAL DUTIES**

The regulation of criminal sanctions for the perpetrators that commit violence against Indonesian National Police officer while on the duty of law enforcement has been proper, but behind those strict crime sanctions, there are still people who resist the Indonesian National Police officers in exercising their duties, and the number keeps on increasing every single year. It left a huge question on what is going on and what effort can be performed to prevent this issue.

The factors that cause the Indonesian National Police officers of getting resistance and violence while exercising official duties.

- a. The arrogance attitude and unsympathetic in exercising duty on the work field, so it deteriorates perpetrator appreciation and respect towards the officer.
- b. Lack of public trust about Indonesian National Police performance which is considered unprofessional and holds the bad image that causes resistance and violence from perpetrators.
- c. Lack of public participation in fighting the crime.
- d. Doubt manner in making a strict decision and it can be seen how it triggers someone to resist the officer to perform their duties either verbally or nonverbally.
- e. The court verdict is considered lenient for the perpetrators.
- f. Public education quality is low.
- g. The unavailability of nonpenal means made as an effort to prevent crime.

David Hizkia Tobing who is the head of the Association of Forensic Psychology in Bali explained that urgency can lead the perpetrator to have aggressive behavior or to trigger offense towards an Indonesian National Police officer who arrests or gets them busted committing a crime. This frustration feeling can also lead the offender to be impudent to commit violence threats against the Indonesian National Police officer while exercising his/ her duty. For example, the criminal had prepared all the things well, then he got arrested. The criminal did expect advantages from his crime, but then the police officer ruins his plan that can lead to aggressive behavior towards the police officer who was considered by the criminal as the cause of his failed plan.

Then, David mentioned that on some cases of criminal arrest, police officers would tell the perpetrators to remain silent and be cooperative and so on, in order to let the legal process faced by the perpetrator to be easier and lighter. However, most cases, the perpetrators usually resist to be arrested and even threatened the police officer and made an attempt of escape, and at worse case commit violence against the police who is in charge of the arrest. This can occur as the effect of Self Defence Mechanism that was initiated by the offender himself/ herself due to the unexpected existence of police officers on the crime scene to prevent the crime from happening. To make it worse, the offenders felt threaten by the legal consequence of being imprisoned can cause this aggressive behavior. Communication may be the solution to this issue, although in a certain situation it seems to be hard to do due to situational factors.

However, in many cases, someone's attitude and acts can be softened when he/she ask to think logically for his/her further action. In an instance, when the police officer involves the family of the perpetrators, it will affect the offender to be emotionally sensitive. For example, the police officer can ask a question like "Please rethink what you are doing. You still have small kids, or your wife is expecting, or your parents are sick. Let's resolve this problem well" and so on. Therefore, the core of negotiation success that should be emphasized is content or the content of the dialogue performed by an officer that lead the logic of crime offenders to think that even though he/ she will be punished, the most important thing is that he/she still can take some lesson from this tragedy like the reduction of confinement and free access to meet a family member for visiting, and so many more.

## VII. CONCLUSION

Legal protection for Indonesian National Police officers from violence threat while on duty is regulated in the Indonesian Criminal Code which is classified into two categories; verbal violence and non-verbal (physical) violence.

Verbal violence is regulated in Article 316 about the punishments laid down in the foregoing Articles 310 and 315 of this chapter may be enhanced with one third. Meanwhile, the non-verbal violence (physical) is regulated in Article 211, Article 212, Article 213, and Article 214 about violence resisting an official to perform an official exercise. Moreover, it is also regulated in Article 356 paragraph 2, point e about the enhancement of punishment by one-third of punishments laid down in Articles 351, 353, 354, and 355 in the Criminal Code.

The formulation of criminal acts in Criminal Code which aims to provide legal protection for Indonesian National Police officers from violence threat in performing their official duties is no longer relevant to Indonesian society today that cause Indonesian public society today to be incapable and ineffective in preventing violence crime against Indonesian National Police officers while exercising their official duty.

The factors that cause the Indonesian National Police officers of getting violence threats while on their duty are the absence of non-penal effort done consistently and sustainably as an effort to prevent the criminal acts.

## VIII. SUGGESTIONS

Out the conclusion drawn in the previous section, there are some suggestions addressed for the Legislator Institution which are to constitute the specific regulations of law enforcement personnel protection consisting criminal and non-criminal penalties as it is formed in the following:

- a. Creating the specific law about violence crime against law enforcement in the exercise of their official duties where there are regulations to impose the specific minimum sanction and fines for the perpetrators of either verbal violence or non-verbal violence.
- b. Announcing the court verdict to the public through TV, radio, and print media, so that the public is aware of it.
- c. Formulating strict criminal sanctions for anyone that corrupts the regulations to alter the bad image of law enforcement and build public respect for law enforcement.

## REFERENCES

- [1]. Muhammad Erwin, *Filsafat Hukum (Refleksi kritis terhadap hukum dan hukum indonesia*, Rajawali Pers, Depok, 2018.
- [2]. Munir Fuady, *Teori-Teori Besar Dalam Hukum*, Kencana Prenada Group, Jakarta, 2013
- [3]. Edwin H. Sutherland, Donald R. Cressey & David F. Luckenbill, *Prinsip-prinsip dasar kriminologi*, Prenada Media Group, Jakarta, 2018.
- [4]. Undang-undang Nomor 2 Tahun 2002 Tentang Kepolisian Negara Republik Indonesia.
- [5]. Reza Indragiri Amriel, *Polisi Bukan Manusia*, Serat Alam Media, Jakarta, 2014.

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