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Legal Protection for Police Officers in Handling of Labour Demonstrations

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Abstract: Labour demonstrations often involve social tensions that pose legal risks for police officers. This study aims to analyse the implementation of legal protection for police officers handling labour demonstrations in Surabaya. The research employs a normative juridical method, utilising statutory, conceptual, and case approaches. The findings reveal that police officers' understanding of legal boundaries in managing demonstrations needs improvement, and challenges persist in ensuring effective legal protection. Therefore, this study recommends enhancing human rights-based training, developing clear internal policies on the use of force, and providing proactive legal support for police officers. These measures are expected to minimise the risk of criminalisation against officers acting in accordance with procedures and to enhance professionalism in handling labour demonstrations.

Keyword: Legal Protection, Police Members, And Labour Demonstration Cases.

INTRODUCTION

Labour demonstrations are a form of aspiration that is guaranteed by the Indonesian constitution, as stipulated in Article 28E paragraph (3) of the 1945 Constitution which grants freedom to every citizen to associate, assemble, and express opinions (Arnold et al., 2017). In practice, demonstrations are often characterised by potential violations of the law, both by demonstrators and security forces, which can lead to conflict and risks to public order (Misra, 2023).

The police, as law enforcement officers, have the responsibility to maintain security and order during demonstrations (Budiantara et al., 2021). Law No. 2 of 2002 on the Indonesian National Police regulates the role of the police in crowd control, including the security of demonstrations. On the other hand, demonstrations that develop into anarchy, such as destruction of public facilities or physical assaults, demand firm action from the authorities in order to protect the public and uphold the law (Dwiyanti et al., 2021).

Attempting to deal with tense situations during demonstrations, police officers are often in a position of vulnerability to legal and personal safety risks (Panggabean & Ali-Fauzi, 2011). Actions taken by the police in cracking down on demonstrators are often viewed as human rights violations by some, even though they are carried out in accordance with applicable legal

procedures. This creates a legal and ethical dilemma regarding the limits of police authority in handling demonstrations. (Aditya & Sulistyowati, 2024)

In recent years, issues related to legal protection for law enforcement officers, including members of the National Police, in handling mass actions have become a serious concern. One of the cases that led to widespread discourse on the authority and limits of the authorities' actions was the Kanjuruhan Tragedy in Malang, East Java, on 1 October 2022. The incident occurred after a football match that led to a large riot. Security forces, including the National Police, used tear gas to disperse the crowd, which eventually caused panic and resulted in hundreds of deaths. (Apriani, 2024)

This case drew criticism because it was considered a violation of the rules on the use of force, as stipulated in Perkap No. 1/2009 on the Use of Force in Police Actions and FIFA's international regulations that prohibit the use of tear gas in stadiums. On the other hand, the National Police faced immense pressure to maintain order and prevent the escalation of violence in anarchic crowd situations. (Widyananda & Pangestika, 2024)

This tragedy is a clear example of the legal dilemma faced by police officers when carrying out their duties in emergency situations. Is the action still within the corridor of legal protection, or does it pose a risk of violation of human rights? This is relevant in the context of legal protection of police officers, especially in handling anarchic labour demonstrations, where the principles of proportionality, legality and accountability must be upheld. (Indriyanto, 2023)

This case serves as an important basis to further examine how legal regulations, both from the law and internal police regulations, can provide adequate legal protection for officers without neglecting the protection of the rights of citizens, including demonstrators. (Sakti, 2020)

In this context, a comprehensive legal study is needed to understand the limits of police authority in taking action against demonstrators, especially in labour demonstrations that turn anarchic. A normative juridical approach with analysis of legislation, legal concepts, and case studies is needed to explain the extent to which legal protection can be given to the police when carrying out their duties.

This study aims to provide a clear legal basis on when the police can act decisively against demonstrators, as well as the limits that must be adhered to in order not to violate human rights. Thus, it is hoped that a balance can be found between the exercise of the right to freedom of speech and the state's obligation to maintain security and public order.

METHOD

This research is normative juridical research, which aims to examine the application of law in practice in the field. The approach used in this research is the legislation and concept approach. The sources of legal materials used in this research consist of primary and secondary legal materials. In the research with the title "Legal Protection for Police Members in Handling Labour Demonstrations", primary legal materials include various laws and regulations and other legal instruments that regulate the duties and legal protection of police members in the context of handling demonstrations.

The following primary legal materials are used: first, the 1945 Constitution (UUD 1945). Article 28E Paragraph (3): Stipulates the right of every person to assemble, associate, and express opinions. Article 30 Paragraph (4): Mentioning the role of the Indonesian National Police (Polri) in maintaining security and public order. The second legal material is Law Number 2 Year 2002 on the Indonesian National Police. Articles 2 and 13: Explain the functions and main duties of the National Police, including maintaining order and security and enforcing the law; Article 19 Paragraph (1): Regulates police discretionary action when handling certain situations. Article 28: Mentioning the state's obligation to provide legal protection for Polri members when carrying out their duties

The third primary legal material is Law Number 9 of 1998 on Freedom of Expression in Public: Article 5: regulates the obligation of the National Police to provide protection to

protesters in order to express their opinions safely; Article 9: regulates the prohibition of the use of excessive force by the authorities in handling actions. The fourth primary legal material is the National Police Chief Regulation (Perkap), National Police Chief Regulation No. 16/2006 on Mass Control Guidelines (Dalmas): Regulates the mass control procedures that must be carried out by the Police in dealing with demonstrations. Includes preventive to repressive stages while still prioritising human rights. National Police Chief Regulation No. 8/2009 on the Implementation of Human Rights Principles and Standards in the Performance of Police Duties: Regulates the protection of human rights in every action of police officers, including the handling of demonstrations

The fifth primary legal material is the Criminal Code (KUHP), including Articles 351 and 170, which explain criminal offences that may occur during the handling of demonstrations, either by the masses or the authorities. Article 50, which provides a legal basis for the defence of officers who act in the capacity of carrying out their duties according to regulations. 6) Law No. 39/1999 on Human Rights. Article 14 and Article 25: Regulates the right of citizens to express their opinions and the obligation of the state to respect it. Article 27 Paragraph (1): Regulates the limitations on the exercise of human rights in the public interest, which must be balanced with law enforcement.

Secondary legal materials that can be used in this research include: book literature, scientific journals, articles, papers, and reports, practical documents and guidelines as well as doctrines and expert opinions.

RESULTS AND DISCUSSION

The application of legal protection for Polri members in demonstration situations in Surabaya is very important because demonstrations can develop into intense conflict situations. Law No. 2 of 2002 on the Indonesian National Police provides the legal basis for the National Police in carrying out security and public order duties. However, the complexities on the ground demand a balance between law enforcement and the protection of human rights. This task is not only to maintain order but also to prevent anarchist acts and riots without violating the right to assembly and freedom of expression guaranteed by the constitution.

Legal protection also means providing a clear framework for the discretion used by Polri members in the field, as stipulated in Article 18 of Law No. 2 of 2002, which allows Polri to take actions on the basis of public safety, even though such actions are not explicitly listed in the regulation (Widodo, 2018). Empirical research with a juridical approach provides a critical perspective on the effectiveness of this regulation, for example by examining whether the discretion is up to standard, or if it creates the potential for criminalisation of officers who act according to procedure.

This research deepens the understanding of the extent to which the legal protection provided to Polri in their duties is adequate. In a previous study, (Nugroho, 2020) stated that unclear legal protection can hinder Polri members in acting quickly and professionally. Meanwhile, according to (Widanarti et al., 2022), legal protection is essential to ensure that Polri members can function optimally without fear of inappropriate lawsuits. An analytical descriptive study that combines primary data, such as interviews and observations, as well as secondary data from laws and literature, will provide an in-depth picture of the effectiveness of these legal protections in often dynamic demonstration situations.

A good understanding of the boundaries of the law is essential for police officers in handling demonstrations, especially as they are faced with situations that test the balance between maintaining order and respecting the constitutional rights of citizens. Law No. 9 of 1998 on Freedom of Expression in Public provides the legal basis for people to legally conduct demonstrations. On the other hand, members of the National Police must understand and apply the principles of proportional use of force in accordance with Law No. 2 of 2002 on the National

Police of the Republic of Indonesia and internal regulations such as National Police Chief Regulation No. 1 of 2009 on the Use of Force in Police Actions.

This understanding can be measured by examining the extent to which Polri members internalise and apply legal standards in their duties. (Widanarti et al., 2022) study shows that most cases of misconduct by the police result from a lack of understanding of the limits of the use of force, which leads to actions in the field sometimes exceeding legal authority. This is reinforced by the findings of (Woodward et al., 2019) who highlighted that in demonstration situations, police officers are often under pressure to act quickly, which sometimes blurs the line between lawful action and misconduct .

Police officers face a number of complex challenges when handling demonstrations, especially in contexts involving social tensions such as labour demonstrations. The main tension arises from the need to maintain order while ensuring that human rights are respected. In demonstration situations involving large crowds, a high degree of restraint on the part of the police is necessary. In addition, they need to consider aspects of the demonstrators' constitutional rights, which are regulated in Law No. 9 of 1998 on Freedom of Expression in Public.

Another challenge often faced is limited resources, both in terms of the number of personnel available to manage large demonstrations and in terms of regular training on the proportional use of force. Research from (Nugroho, 2020) shows that Polri personnel often face constraints when resources are limited, which can reduce their effectiveness in dealing with demonstrations calmly and non-violently. In such cases, the lack of specialised training on the use of minimal force may also affect police professionalism in the field .

Pressure from various parties, including protesters and the public, adds to the stress level of police officers on duty. In stressful situations, their actions may be misinterpreted as human rights violations or excesses of violence. (Sutrisno, 2019) emphasises that in addition to the rule of law, protection for Polri needs to be accompanied by psychological support and policies that can reduce the risk of criminalisation of actions taken in operational duties .

It is also important to note that support from the community and government is needed for the police to perform their duties well. Research from (Erlangga, A, 2020) highlighted the need for collaboration between the community and the police institution in creating a conducive situation during demonstrations, which can be achieved through joint education on the rights of demonstrators as well as the legal limitations that apply to security forces .

Minimising the potential criminalisation of police officers handling demonstrations requires a comprehensive and sustainable approach. This strategy could include ongoing training on how to handle demonstrations in accordance with human rights principles as well as standard operating procedures (SOPs) set out in regulations. With structured training, police officers can better understand the legal limitations and permissible actions in demonstration situations, so that they can act according to the rules and avoid the use of excessive force. A study by (Prabowo, 2021) shows that regular training on conflict handling and proportional use of force can help reduce the potential for criminalisation .

Legal assistance is another important measure, whereby members of Polri facing legal charges can obtain support and advice from Polri's internal legal institutions. This assistance will ensure that any actions taken in the field remain within the confines of the law. (Nugroho, 2020) emphasises that proactive legal support will provide a sense of security to Polri members, so that they do not hesitate to carry out their duties as long as they are within the legal framework.

In addition, strict internal policies on the use of force need to be implemented, especially to ensure that minimal and procedural use of force is always prioritised. This needs to be complemented by regular evaluations of implementation in the field so that Polri can assess the effectiveness of the strategy as well as areas that require improvement. With continuous

evaluation, the risk of unprocedural actions can be minimised, as expressed by (Prabowo, 2021) in his research on the application of legal limits to Polri actions during demonstrations .

Providing proactive legal support can also be done through legal counselling and education for Polri members, so that they understand their rights as officers on duty and the risks of criminalisation that they may face. (Suharto, 2019) emphasises that legal education and the rights of officers are important strategies to maintain a balance between the duties and rights of individual police officers.

CONCLUSION

The conclusion of this study shows that there is no clear legal basis to protect police officers when dealing with anarchist demonstrators. This creates uncertainty in the application of decisive action by police officers in demonstration situations that have the potential to turn violent. In the absence of adequate regulations that protect the police in carrying out their duties, the police can be caught in a dilemma between maintaining public order and ensuring human rights are not violated. As a result, it is necessary to formulate more detailed and clear rules to protect the police in such situations, as well as to ensure that actions taken by the police are always in accordance with procedures that respect the basic rights of citizens. Going forward, this research is expected to provide recommendations regarding the need for more binding regulations on the rights and obligations of Polri in handling demonstrations, especially those with anarchic potential. This research also highlights the importance of strict internal policies on the use of force, as well as proactive legal support to minimise the risk of criminalisation of police officers who act in accordance with procedures. In addition, continuous evaluation of the practice of handling demonstrations is needed to ensure that the actions taken by Polri are in accordance with existing regulations and respect human rights principles. With these measures, it is hoped that police officers can perform their duties more professionally and avoid the threat of prosecution, thereby increasing public trust in the institution. This research provides an important contribution in formulating a better strategy in handling labour demonstrations in Indonesia, as well as a reference for future policy development in the field of policing.

Based on the research results regarding legal protection for members of the National Police in handling labour demonstrations in Surabaya, several suggestions can be proposed as follows:

1. Development of a Clear Internal Policy: The police need to formulate a clear internal policy on the use of force in handling demonstrations. This policy should be thoroughly socialised to all members, so that all understand the limitations and procedures that must be followed.
2. Improved Legal Support: Establish a legal team that is ready to assist police officers when facing the risk of prosecution. This team should serve to provide direct legal advice and accompany members throughout the legal process if needed.
3. Evaluation and Monitoring of Field Practices: The police need to conduct regular evaluation and monitoring of the actions taken during the handling of demonstrations. This can be done through collecting feedback from police officers and the public, as well as analysing incidents that occur on the ground.
4. Enhanced Co-operation with Communities: Build better relationships with communities and civil society organisations to improve communication and understanding during demonstrations. This can help reduce tensions and create an atmosphere more conducive to dialogue.
5. Strengthening Regulations that Support Legal Protection: The government and relevant institutions need to strengthen regulations that provide legal protection for police officers. This includes clarifying provisions on the rights and obligations of members in carrying out their duties in the field.
6. Use of Technology for Transparency: Utilise technology, such as video surveillance and reporting applications, to increase transparency in Polri's actions when handling demonstrations. This can help in the evaluation and accountability of actions taken in the field.

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