

IDEAL INSTITUTION OF THE HONORARY ASSEMBLY: THE JUDICIAL FUNCTION IN INDONESIA NATIONAL POLICE

Pranatal Hutajulu¹, Retno Saraswati², Siti Malikhatun³

¹Doctoral Law Program, Faculty of Law, Diponogoro University, Semarang

^{2,3}Lecturer in Law, Faculty of Law, Diponegoro University, Semarang

Jl. Prof. Soedarto, SH., Tembalang, Semarang

pranatalhutajulu@students.undip.ac.id

ABSTRACT

The purpose of this study is to analyze: The ideal institution of the honorary assembly that carries out the judicial function in the National Police? This research is a type of normative juridical research with a legislative approach, a conceptual approach, and a case study. The results of the study show that; 1) The implementation of the judicial function in the National Police that is currently running is carried out based on the sanction policy for violations of the Police Professional Code of Ethics and sanctions for violations of Police Discipline that are not running optimally due to; a) The final decision by the Superior who has the right to punish (ANKUM) is left to the subjectivity of the Honorary Assembly Forming Official; b) Final decisions submitted to the subjectivity of officials can be easily sued in the State Administrative Court; c) lack of competence and experience in making decisions of the session by members of the Honorary Council; d) standards for the formation of members of the Honorary Council based on rank without academic qualifications; e) The process of law enforcement of the professional code of ethics from upstream to downstream is handled by Propam without any separation of authority; 2) Various problems in the enforcement of the professional code of ethics and the enforcement of police discipline such as; The number of violations of the code of ethics and discipline by members of the National Police continues to grow, Various decisions of the Code of Ethics Commission whose deviations are too large so that they do not reflect justice and legal certainty, The number of lawsuits against the results of the Police Code of Ethics and Discipline Session on PTDH (Dishonorable Dismissal) of members of the National Police won by the plaintiff and requiring the defendant (the Police Officer Forming the Code of Ethics Commission) to cancel the decision of the PTDH due to policy products The administration is not in accordance with the procedure; 3) The ideal institution of the Honorary Assembly that carries out judicial functions in the National Police is; a) The membership of the Judges of the Code of Ethics Commission (Honorary Assembly) of the National Police is in accordance with their position and rank as well as academic qualifications; b) Courts carried out within the National Police are subject to the general courts, but internally, the National Police conducts its own trials; c) The Police Code of Ethics Commission is the same as the Panel of Judges and the membership of the Police Code of Ethics Commission can be interpreted as a Judge; d) Qualifications and Competencies owned by the Professional Code of Ethics Commission (KKEP/Honorary Assembly) of the National Police require academic qualifications; e) The Decision of the Honorary Assembly) must be Objective, Independent, Normative, Jurisprudential, Meet the Sense of Justice and Legal Certainty.

Keywords: *Urgency, Formation, Honorary Assembly, Function, Judiciary, POLRI.*

INTRODUCTION

Background

The development of the Industrial Revolution 4.0 which is marked by automation and digitalization carried out by machines and minimizing human labor in the application of 4.0', according to Gash and Hobbs, there are 6 new challenges for the world of Police, namely; *First*,; services using the digital world, *second*; investment in security and civil society, *third*; technological innovations that create new crimes, *fourth*; the need to use *cyber-physycal systems*, and *fifth*; the use of information and knowledge that is not yet known, and *sixth*,; carry out transparency to the maximum. Therefore, change / transformation management must be carried out so that the National Police institution can compete in the current era.¹

Responding to this, the National Police Chief, General Pol Listiyo Sigit Prabowo, has carried out a transformation roadmap with the theme "Transformation towards a Precise Police"² which includes four areas of change, namely; Organizational Transformation, Operational Transformation, Public Service Transformation and Supervision Transformation. For the fourth area of change, namely Supervisory Transformation, it is absolutely prioritized because the supervisory function must be carried out at every stage of the program starting from planning, organizing, implementing and controlling. The supervision that applies in the National Police institution currently includes internal supervision (by the functions of Propam and Itwasum.), and External Supervision which includes executive supervision (by the President who is structurally above the National Police), Supervision by parliament (by Commission III of the House of Representatives in charge of security issues), and Public supervision through control of mass media, social media and public complaints.

¹ Gash and Hobbs, *Policing 4.0 Deciding The Future of Policing in the UK*, Deloitte LLP. 2018.

²General Listiyo Sigit Prabowo, "*Commander Wish of the National Police Chief*", was conveyed during a feasibility and propriety test with Commission III of the House of Representatives at the Senayan Parliament Complex, Jakarta, Wednesday, January 20, 2021.

The National Police of the Republic of Indonesia (Polri) builds leadership for 2021-2024 with the tagline of POLRI PRECISION transformation which is an abbreviation of PREDICTIVE, responsiveness, and transparency with justice. This concept is a further phase of the POLRI PROMOTER (Professional, Professional, and TRUSTED) which has been used in the previous period, with a *problem-oriented policing approach*. In the leadership of the PRESISI POLICE, the importance of the ability to approach predictive policing (*predictive policing*) was emphasized so that the National Police is able to measure the level of disturbances in security and public order (kamtibmas) through analysis based on knowledge, data, and appropriate methods so that it can be prevented as early as possible.

Regarding internal supervision, the National Police has an inspectorate function through the General Supervision Inspectorate (Itwasum) and the professional and security function (Propam). For the Propam function, one of the main tasks of this function is to handle public complaints regarding the performance, abuse of authority or behavior of members of the National Police in daily life. The behavior of members of the National Police must be in accordance with *the code of conduct*, namely how to behave in accordance with the rules enacted, and *the code of ethics*, which is how members of the National Police are ethical both in their capacity as state officials, and in their position as members of society. The National Police, as one of the state institutions explicitly regulated in the constitution, already has a firm and clear legal apparatus regarding the regulation of *the code of conduct* and *code of ethics*.³

Although the system of supervisory devices has been established and rules that bind norms, behaviors and ethics have been realized through Government Regulations and Regulations of the National Police Chief as explained in the paragraphs above, at the level of implementation of the duties of National Police Members in the field, there are many violations of both discipline and ethics and committing acts that are categorized as criminal acts. The form of violations committed by members of the National Police is a form of

³ Trisusilowaty, D., Lumbanraja, A. D., & Suteki, S. (2019). The supervisory function by the Regional Supervision Inspectorate is based on community complaints from a progressive legal perspective. *Law Reform*, 15(1), 25-41.

deviation from the ethical norms and discipline of the National Police, such as members of the National Police committing extortion, insulting, desertion, sexual harassment, robbery, theft, fraud, embezzlement, negligence in their duties, disobeying the oath of becoming a member of the National Police, following deviant sects, and there are still many acts of police officers who hurt the hearts of the people and cause great losses to the community.

The increase in crime is a side effect of national development. National Development in an effort to reduce crime in Indonesia is basically the obligation of all ranks of the bureaucracy and the police, which is then implemented jointly and continuously in a design that has been determined and designed in accordance with the capabilities of the State. As is known, the amendment to the 1945 Constitution has abolished the Outline of the State Direction (GBHN) and changed the presidential election system through a mechanism directly elected by the people.

Furthermore, to achieve the vision of development, three missions are implemented, namely: realizing a safe and peaceful Indonesia; realizing a just and democratic Indonesia; and realize a prosperous Indonesia. To realize this medium-term, 2 (two) main development strategies will be taken, namely: 1. Indonesia's Reorganization Strategy and 2. Indonesia's Development Strategy.

The strategy of restructuring Indonesia is directed to develop a strong constitutional system of the Republic of Indonesia so that it becomes strong in the face of various shocks that occur in society. In addition, this strategy is also intended to build a democracy that is still imbued with the spirit of Pancasila and the Preamble to the 1945 Constitution, namely democracy that in addition to providing rights but also contains elements of responsibility. The second strategy, namely Indonesia's development strategy, is directed to build Indonesia in all fields with the main goal of fulfilling the basic rights of the people and creating a solid foundation for development.⁴

⁴ Nurlily Darwis, National Development Strategy in an Effort to Improve the Protection and Promotion of Human Rights, Scientific Journal of Aerospace Law, Vol 4 No 1, 2013, pp. 38-39

The weakening condition of discipline and professionalism of members of the National Police that occurs at this time is often the view of the wider community. With frequent reports in various mass media about disciplinary actions carried out by members of the National Police, for example the many cases of misuse of firearms by members of the National Police, the existence of members who commit criminal acts, arbitrary actions of members of the National Police, and many other cases that illustrate the lack of discipline of members of the National Police, it has become a concern for the relevant community in the implementation of the main task of the National Police, namely maintaining public security and order. order and enforcement of the law, the implementation of protection, protection and service to the community, as well as the development of community peace by upholding human rights.

Problem Formulation

What is the ideal institution of the honorary assembly that carries out the judicial function in the National Police?

THEORETICAL FRAMEWORK

Grand Theory of Judicial Power

The Grand Theory used in this study is the theory of judicial power. The principle of freedom of judicial power is reviewed from the doctrine *of separation of powers*, independent judicial power is part of efforts to guarantee and protect the freedom of the people from the possibility of arbitrary actions from the government. The principle of impartiality and judicial administration in a *modern constitutional state* has two principles and is the main prerequisite and judicial system, namely: *The principle of judicial independence*, and *The Principle of judicial impartiality*. The principle of independence itself, among others, must be manifested in the attitude of judges in examining and deciding the cases they face. In addition, independence must also be reflected in various arrangements regarding matters; related to appointments (*recruitment*), tenure, career development,

payroll system, and dismissal of judges. Especially regarding the salary of judges, the judicial power in Indonesia is not yet independent because of the system.⁵

Middle Theory of Legal Protection

According to Fitzgerald as quoted by Satjipto Raharjo that this Law Protection Theory is sourced from the theory of natural law or the stream of natural law. This school was first initiated by Plato, Aristotle and Zeno (the founder of the Stoic school).⁶ According to the natural law school, it is stated that the law comes from God who is universal and eternal, and that law and morality cannot be separated.⁷

The establishment of the National Police Honorary Assembly is one of the parts of providing legal protection guarantees for the public who receive behaviors/acts of abuse of authority by members of the National Police or legal protection for the members of the National Police themselves when they have problems in their duties.

Applied Theory Hierarchy of Legal Norms or Hierarchy of Laws and Regulations

According to Hans Kelsen, the norm is tiered in layers in a hierarchical order. In other words, the legal norms that are subordinate are valid and sourced, and are based on higher norms, and higher norms are also sourced and based on higher norms and so on until they stop at a highest norm called the Basic Norm (*Grundnorm*) and still according to Hans Kelsen are included in the dynamic norm system.⁸ Therefore, the law is always formed and abolished by the institutions of its authority that have the authority to form it, based on higher norms, so that lower norms (*Inferior*) can be formed based on higher norms (*superior*), in the end the law becomes tiered and layered to form a Hierarchy.⁹

RESEARCH METHODOLOGY

⁵M. Scheltema, *De Rechtsstaat*, in J.W.M Engels (et.al), *De Rechtsstaat Herdacht*, Zwolle: Tjeen Willink, 1989, pp.15-17

⁶ Philipus M hadjon, *Introduction to Indonesia Administrative Law*, 2005, p. 25.

⁷ Satjipto Raharjo, *Law*. PT. Citra Aditya Bakti, 2000, p. 53.

⁸ See Hans Nawiasky, *Hans Nawiasky, Allgemeine Als Recht System Lichen Grundbegriffe* (Zurich: Benziger Perss, 1984), p. 31.

⁹ Aziz Syamsuddin, *Processes and Techniques of Drafting Laws*, First Printing (Jakarta: Sinar Grafika, 2011), p. 14.

This research is included in the type of doctrinal research, where the approach method used is juridical-normative. The study method used in this study is normative legal research, which is a study conducted by examining the laws and regulations that apply or applied to a certain legal problem. Research that includes research on legal principles, research on legal systematics, research on legal synchronization, legal history research, and comparative legal research.¹⁰

Primary data through field studies, secondary data in this study are obtained through literature studies, by seeking as complete and as much information as possible with journal literature, newspapers, articles, scientific papers and laws and regulations related to online buying and selling in electronic contracts. The use of secondary or literature data is intended to; 1) Inform readers about the results of other research related to the research being conducted; 2) Connecting a research that is carried out on an ongoing basis to fill in the gaps and expand other research; and 3) Provide a framework and reference to compare a study with other findings. The data collected in this study will be analyzed descriptively with a qualitative approach, namely by providing a thorough and in-depth presentation and explanation (*holistic/verstelen*).

RESEARCH RESULTS

HONORARY ASSEMBLY CARRYING OUT THE JUDICIAL FUNCTION IN THE NATIONAL POLICE

In the general provisions of Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, there is a formulation of definitions of various matters related to the police, including the definition of police. It's just that the definition of the police is not fully formulated because it only concerns the functions and institutions of the police as regulated in the laws and regulations. Based on Article 1 of Law Number 2 of 2002 concerning the Police of the Republic of Indonesia, the police are all matters related to the functions and institutions of the police in accordance with laws and regulations.¹¹

¹⁰ Soerjono Soekanto and Sri Mamudji, Normative Legal Research, A Brief Review, (Jakarta: Raja Grafindo Persada, 2011), p. 65.

¹¹ H. Pudi Rahardi, *Police Law of Professionalism and Police Reform*, publisher Laksbang Mediatama, Surabaya, 2007, p.53.

In addition to the authority of the police regulated in Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia above, the authority of the police in conducting investigations and investigations of criminal acts is also regulated in Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHP). The authority of the police as an investigator is formulated in article 5 paragraph (1), namely: Receiving a report or complaint from someone about a criminal act; Searching for information and evidence; Ordering the person to stop and ask for and check the identity and Holding other actions in accordance with the law of responsibility.

According to Law No. 43 of 1999 concerning personnel matters, appointments in positions within the government bureaucracy are divided into two types of positions, namely structural positions and functional positions. These two positions are career positions that can only be occupied by civil servants or Government Employees with a work agreement (PPPK) after meeting the specified conditions.

According to Government Regulation no. 16 of 1994 jo Government Regulation number 40 of 2010 concerning Functional Positions of Civil Servants, which is meant by functional positions, is a position that shows the duties, responsibilities, authorities and rights of a civil servant in an organizational unit which in the performance of its duties is based on certain expertise and/or skills and is independent.

From the various explanations of the regulations above, it can be concluded that the definition of a functional position is a position that does not expressly exist in an organizational structure with the main function as the executor of the organization's function and is based on certain expertise or skills. Although functional positions are not expressly listed in the organizational structure of the government bureaucracy, from the perspective of their functions, they must remain in place to enable the organization to carry out its duties.

The formation of functional positions in police institutions can be carried out by referring to the cluster of functional positions that apply in other ministries/agencies/institutions in charge. With the existence of Presidential Regulation number 42 of 2017 concerning Functional Positions in the National Police of the Republic of Indonesia, it opens the functional office space for judges at the Honorary Assembly of the National Police. The implementation of the functional position of non-career judges can pay

attention to the provisions of similar functional positions that apply at the Ministry of Law and Human Rights (Kemenkumham).

The purpose of the establishment of the Honorary Council that carries out the function of Limited Judiciary in the National Police in general will form the Regulation of the Chief of the Indonesian Police concerning the Honorary Assembly in the National Police, the contents of which include the formation of an Honorary Assembly at the National Police Headquarters level and an Honorary Assembly at the Police level throughout Indonesia so that *excellence standards* are realized enforcement of the law, discipline and ethics of the National Police to realize a sense of justice within the National Police, especially for problematic members of the National Police, and build transparency and the role of community involvement in the judicial process within the National Police on issues of Ethics and Discipline for members of the National Police.

The National Police professional code of ethics has been concretized in the National Police Chief Regulation Number 7 of 2022, which is an elaboration of the norms of behavior for members of the National Police in the implementation of their duties, authorities, and responsibilities in accordance with the basic values contained in Tribrata and Catur Prasetya. The National Police professional code of ethics is a guarantee for the achievement of professional, proportional, and procedural performance of members of the National Police, in accordance with the mandate of the constitution and Law Number 2 of 2002 concerning the National Police.¹²

The National Police professional code of ethics is a norm that is a unified ethical or philosophical basis related to behavior and speech regarding matters that are required, prohibited, appropriate, or inappropriate to be done by members of the National Police in carrying out their duties, authorities, and responsibilities of office. The National Police professional code of ethics is based on the professional ethics of the National Police, which is a crystallization of values based on and imbued with Pancasila and reflects the identity of each member of the National Police in the form of moral commitment.¹³

¹² Ibid

¹³ Ibid

The same is the case with the KKEP, which in this case has been concretized through the Regulation of the National Police Chief Number 19 of 2012 concerning the Organizational Structure and Work Procedures of the Police Code of Ethics Commission. With this norm regarding KKEP, it is hoped that the handling of violations of the National Police professional code of ethics can be carried out objectively, honestly, fairly, transparently and accountably, so as to be able to accommodate the rights of suspected violators/violators in the process of enforcing the National Police professional code of ethics.

Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia has mandated the duties, authorities and responsibilities of Members of the National Police in a professional and procedural manner supported by the basic values contained in the Tribata and Catur Prasetya which are described in the implementation of duties with norms or ethics and discipline in conduct. In enforcing and implementing the laws and norms of Police Discipline and Ethics, the National Police institution in its structure has been equipped with an organizational structure, namely the Police Legal Division. The National Police Legal Division is an element of supervisors and assistant leaders under the National Police Chief with one of its tasks providing legal advice and opinions (PSH) to the National Police Chief, PSH to Function Units, PSH to Agencies, to Members, PSH to the Community in need, especially in the application of general, special and human rights crimes as well as PSH on the enforcement of internal laws of problematic National Police personnel and providing studies on realizing the National Police professionals.¹⁴

THE JUDICIAL FUNCTION IN THE NATIONAL POLICE THAT IS CURRENTLY RUNNING

The police institution is one of the institutions that participates in producing quality human beings in their field, namely the police field. They are educated in an educational institution spread throughout the territory of the Republic of Indonesia with the center of supervision and control at the National Police Education Institute of the Republic of Indonesia (Lemdikpol). As an institution tasked with producing quality resources, Lemdikpol must be

¹⁴ Ibid

able to become a center *of excellence*, namely producing superior personnel or human resources.¹⁵

The main task of the National Police based on Article 13 of the Police Law is to maintain public security and order, enforce the law, and provide protection, protection, and services to the community. The preventive function is carried out in order to provide protection, protection, and services to the community and the repressive function is as a law enforcer. Furthermore, the function of the National Police in Article 2 of the Police Law is one of the functions of the state government in the field of maintaining public security and order, law enforcement, protection, protection, and service to the community. Then it was also emphasized in Article 4 of the Police Law that the National Police aims to realize domestic security which includes the maintenance of public security and order, order and enforcement of the law, the implementation of protection, protection, and services to the community, as well as the development of public peace by upholding human rights.

The National Police based on Article 5 paragraph (1) of the Police Law is a state tool that plays a role in maintaining public security and order, enforcing the law, and providing protection, protection, and services to the community in the context of maintaining internal security. In short, the National Police has two functions, namely a preventive function that is carried out in order to provide protection, protection, and services to the community and a repressive function, namely as a law enforcer.

The National Police of the Republic of Indonesia in carrying out its main duties as stipulated in Law Number 2 of 2002 is carried out through the development of professional ethics and the development of knowledge and assignment experience in stages, continuous and integrated. Furthermore, every member of the National Police of the Republic of Indonesia according to Law Number 2 of 2002 is required to live and animate the ethics of the Police profession which is reflected in their attitudes and behaviors in their official duties and daily life. The Professional Code of Ethics of the National Police of the Republic of Indonesia is a code of conduct and at the same time a moral guideline for members of the National Police of the Republic of Indonesia, as an effort to glorify the police profession, which functions as a

¹⁵ Satjipto Rahardjo, *Civil Police in Social Change in Indonesia*, Kompas, Jakarta, 2009, p. 28

service guide, as well as a supervisor of the conscience of each member to avoid despicable acts and abuse of authority.

Even in the code of ethics, there is actually a special section that contains regulations regarding sanctions that can be given to law enforcers who violate the Code of Ethics, namely in the form of reprimands, warnings, stern warnings, temporary suspension for a certain time, permanent dismissal and dismissal from membership of professional organizations. Each sanction is determined by the severity of the violation committed by law enforcement and the nature of the repeated violation. The problem of enforcement is not only a legal problem itself, but also a complex economic, political, social and cultural problem. A law enforcement agency will work in response to the rule of law as a function of the regulation directed at it, its sanctions, the whole complex of social, political and other forces working on it, and the feedback that comes from the role holders.

The factors that cause violations of the Code of Ethics in law enforcement in Indonesia include:

1. Economic Factors

Economic factors, among others: a. insufficient income to provide a reasonable life, b. urgent living needs, c. consumptive and materialistic lifestyles, d. it is undeniable that this lifestyle affects most of the earth's population. In his mind, all he thinks of is money, e. low salaries of civil servants, f. the mental attitude of employees who want to get rich quickly in a way that is not halal.

2. Legal and Political Factors

In addition to the separation of justice as a legal resource that comes from morals and ethics, another problem faced is the relationship between law and politics as two subsystems of society. In certain important matters, the law is dominated by politics so that it is in line with the weakening of ethical and moral foundations. Law making and enforcement are more colored by the political interests of dominant groups that are technical, insubstantial and short-term in nature.

3. Social Factors of the Community

Law enforcement comes from the community, and aims to achieve peace in society. Therefore, viewed from a certain angle, the community can influence the enforcement of the

law. Indonesia society has a great tendency to interpret the law and even identify it with officers (in this case, law enforcement as a person). One of the consequences is that the good and bad of the law are always associated with the pattern of law enforcement behavior. The judicial process is not only the process of applying articles and sounds of the law, but a process that involves community behaviors and takes place in a certain social structure. The main problem of law enforcement lies in factors that may be the cause of violations of the professional code of ethics. Soerjono Soekanto explained several elements or factors that affect law enforcement. three main elements involved in the law enforcement process. First, the element of making laws. legislative institutions. Second, elements of law enforcement, police, prosecutors and judges. And third, environmental elements that include personal citizens and social.

These factors have a neutral meaning so that the positive or negative impact lies in the content of these factors. These factors are as follows: 1. The legal factors themselves 2. Law enforcement factors, namely the parties that form and apply the law. 3. Factors of facilities or facilities that support law enforcement. 4. Community factors, namely the environment in which the law applies or is applied. 5. Cultural factors, namely as the result of works, creations and tastes that are based on human karsa in life.¹⁶

As with the law enforcement process in general in the application of the Police Professional Code of Ethics, it is also inseparable from five factors that are closely related to each other because they are the essence of law enforcement itself. Starting from the legal factors, the law enforcement factors, the community factors, in this case members of the National Police as the object of law enforcement of the Police Professional Code of Ethics and cultural factors in the National Police organization and in society in general, and to find out the extent of these five factors as a benchmark for the effectiveness of law enforcement of the Police Professional Code of Ethics.

¹⁶ Soerjono Soekanto, *Factors Influencing Law Enforcement*, Rajawali, Jakarta, 1983, p. 15

IDEAL INSTITUTION THAT CARRIES OUT JUDICIAL FUNCTIONS IN THE NATIONAL POLICE

In addition to having the main duties, functions and authorities, the National Police also plays a role as a good and strong organization, having internal rules of order as operational norms. These rules of conduct are in the form of disciplinary regulations and codes of ethics. Regulations owned by police institutions are regulations on discipline as an honor that is closely related to the credibility, commitment and discipline of members of the National Police. In this case, the credibility and commitment of members of the National Police is as a state official who is given duties and authority as protectors, protectors and servants of the community, law enforcers and security maintainers.¹⁷

Every member of the National Police, is obliged to uphold the oath that is said when appointed as a member of the National Police, because the oath is a determination and promise of one's conscience that depends on God's values. Similarly, the implementation of the oath of office is part of a person's worship activities, because the oath of office is always based on the nature of the One God. Denial of oaths is contrary to moral values. In addition, the implementation of state and community duties is a professional responsibility that must be carried out sincerely and sincerely, as a form of charity and worship.

Based on Article 2 of Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia (Law on the National Police), the function of the police is one of the functions of the state government in the field of maintaining public security and order, law enforcement, protection, protection and community service.

In carrying out their duties and functions as law enforcement officers, the police must comply with the applicable laws and regulations, one of which is the regulation that regulates professional ethics, namely the Police Chief's Regulation Number 7 of 2022 concerning the Police Professional Code of Ethics. The provisions of Articles 34 and 35 of Law Number 2 of 2002 cause that: (1) the attitude and behavior of National Police officials are bound by the Police Professional Code of Ethics; (2) The Police Professional Code of Ethics can be a guideline for other police functions in carrying out their duties in accordance with the applicable laws and regulations within the National Police; and (3) the provisions regarding the Police

¹⁷ Pudi Rahardi, *Police Law (Professionalism and Police Reform)*, Laksbang Mediatama, Surabaya, 2007, p. 19.

Professional Code of Ethics are regulated by the decision of the National Police Chief. Furthermore, in Article 35 it is stated: (1) violations of the Police Professional Code of Ethics by Police officials are resolved by the Police Code of Ethics Commission; and (2) Provisions regarding the organizational structure and work procedures of the National Police Code of Ethics Commission are regulated by the decision of the National Police Chief.

The success of the implementation of the duties of the National Police in maintaining public security and order, enforcing the law, and protecting, protecting and serving the community, in addition to being determined by the high quality of knowledge and technical skills of the police, is highly determined by the commendable behavior of every member of the National Police in the community. In order to realize these personality traits, every member of the National Police in carrying out his duties and authorities, is always called to live and animate the ethics of the police profession which is reflected in his attitude and behavior, so as to avoid reprehensible acts and abuse of authority.

The police are law enforcement officers. But in reality, there are some members who act the opposite which is not in accordance with the ethics of the police profession. Or in the sense of the word, there are some police who violate the code of ethics of the police profession. Violations or criminal acts of police members, which are not in accordance with this police code of ethics, will certainly have legal consequences. The provisions regarding the police code of ethics, one of which states that every member of the National Police must "distance themselves from reprehensible acts and attitudes, and spearhead every action to overcome the difficulties of the surrounding community".

In addition, every member of the National Police is also expected to be "able to control themselves from acts of abuse of authority". In reality in the field, there are still many violations committed by members of the National Police. This has had an impact on the creation of negative public opinion, and the emergence of a bad image and public antipathy, so that the implementation of duties in the field cannot be carried out optimally due to lack of support, and the public's distrust of the National Police. Violation of the National Police code of ethics is any act committed by members of the National Police, which is contrary to the professional code of ethics of the National Police.

There are several factors that affect the violation of the code of ethics by members of the National Police, ranging from a decline in moral integrity, loss of independence, economic demands, lack of income, weak supervision, to non-compliance with the code of ethics of the legal profession that binds them.

The settlement of violations of the police professional code of ethics, which results in the occurrence of criminal acts, will be processed first in a disciplinary hearing, this is due to the existence of a dead line or the deadline for the implementation of disciplinary hearings, which is a maximum of 30 (thirty) days as stated in Article 19 of the Decree of the National Police Chief Number Pol Kep/44/IX/2004.

After the implementation of the disciplinary hearing is completed, a session will be held within the scope of the general judiciary in accordance with Article 2 of Government Regulation Number 3 of 2003 concerning the Technical Implementation of the General Judicial Institution for Members of the Indonesian Police. Every violation of the code of ethics that occurs has its own procedure for resolving code violations, within the National Police. The settlement of code of ethics violations is carried out through a code of ethics hearing, by the Police Code of Ethics Commission (KKEP). KKEP according to the National Police Regulation Number 19 of 2012 concerning the Organizational Structure and Work Procedures of the Code of Ethics Commission of the National Police of the Republic of Indonesia, is a forum formed within the National Police, which is tasked with examining and deciding cases in the trial of KEPP violations in accordance with the rank of rank.

The result of the KKEP hearing's decision is in the form of stating that the violator is legally and convincingly proven to have violated the KEPP, or is not proven to have committed a violation of the KEPP. In the event of a violation of the code of ethics, based on the provisions of Article 56 paragraph (2) of the National Police Regulation Number 19 of 2012, sanctions will be received in the form of ethical sanctions and administrative sanctions. Perkap No. 19 of 2012 concerning the Organizational Structure and Work Procedures of the National Police Code of Ethics Commission Replacing or revoking the Regulation of the National Police Chief No. Pol: 8 of 2006 concerning the Organization and Work Procedures of the Code of Ethics Commission of the National Police of the Republic of Indonesia.

The Propam Division or Propam Div was formed since the National Police was expelled from the status of the ABRI to be returned as a civilian police starting October 27, 2002 with the Decree of the National Police Chief No. Pol: Kep/53/X/2002 concerning the Organization and Work Procedures of the National Police. Previously returned as a civilian police, the Propam Div of the National Police is known as the Provost Service or the Provost Unit of the National Police whose organization is still united with the TNI/Military as the ABRI, where the Provost of the National Police is a unit of the coaching function of the Military Organization Police (POM) or the term Military Police (PM). The Propam Div is one of the supervisory and assistant leadership elements in the field of professional development and security in the internal environment of the National Police organization. The Propam Div of the National Police is directly under the National Police Chief.

Propam in general is tasked with fostering and organizing professional accountability and internal security functions, including the enforcement of discipline and order within the National Police and public complaint services about irregularities in the actions of National Police members/civil servants. The Propam Div of the National Police oversees three Bureaus as assistants to carry out the duties of Propam, namely the Professional Accountability Bureau (Wabprof), the Internal Security Bureau (Paminal), and the Provost Bureau.

In the organizational structure and working procedures, Propam consists of three areas/functional forums, namely the Security function in the internal environment of the National Police organization is accountable to the Paminal Bureau, the professional accountability function is accommodated/accounted for to the Vice Bureau, and the provost function in enforcing discipline and order is accountable to the Provost Bureau. The Propam organization was formed in the form of a Division led by a Division Head known as Kadiv with the rank of Inspector General of Police (Inspector General of Police) or Two-Star.

Propam's efforts in overcoming obstacles to the enforcement of the Professional Code of Ethics against members of the National Police who commit violations are by: (a) Coaching by verbally reprimanding and/or giving physical action to disciplinary violators for minor and minor disciplinary violations, while the number of violations resolved through this coaching route is not recorded but it is clear that disciplinary violations have occurred and are resolved through coaching. (b) Disciplinary hearings for other disciplinary violations that cause adverse

impacts on the community, organizations and members. (c) The process is as follows: receipt of reports/complaints, examination by the provost, examination in front of the disciplinary hearing, prosecution, implementation of the verdict, recording in personnel data.

The Police Code of Ethics Commission is a forum formed within the National Police that is tasked with carrying out examinations in trials of violations of the Police Professional Code of Ethics and other violations as regulated in laws and regulations. The National Police professional code of ethics is norms or rules that are the unity of ethical or philosophical foundations with rules of conduct and speech regarding things that are required, prohibited, or inappropriate to be done by members of the National Police.

The scope of the National Police code of ethics consists of 4 ethics, namely:

1. Personality Ethics
2. State Ethics
3. Institutional Ethics
4. Ethics in relation to society.

When a member of the National Police is declared a violator of the National Police code of ethics as referred to in Article 20 paragraph (2), he will be sanctioned for violating the National Police Professional Code of Ethics. Sanctions will be imposed as part of the liability for violations committed.

Here are some sanctions for violations of the National Police code of ethics:

- 1) Violating behavior declared as a reprehensible act
- 2) The obligation of violators to apologize orally in front of the KEPP session and/or in writing to the leadership of the National Police and the aggrieved party
- 3) The offender's obligation to follow mental coaching of personality, psychiatry, religion, and professional knowledge, at least (1) one week and a maximum of (1) month
- 4) Transferred to a different position that is demoted for at least one year
- 5) Transferred to a different function for at least one year
- 6) Transferred to a different region for at least one year
- 7) Honorable dismissal as a member of the National Police

8) Dishonorable dismissal as a member of the National Police

The Code of Ethics for the police profession has been regulated in Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, which is followed up with the Regulation of the Chief of the National Police of the Republic of Indonesia Number 7 of 2006 as amended by the Regulation of the Chief of the National Police of the Republic of Indonesia Number 7 of 2022 concerning the Code of Ethics of the National Police of the Republic of Indonesia, so that the Professional Code of Ethics of the National Police of the Republic of Indonesia applies to every member of the National Police of the Republic of .

To enforce the Police Professional Code of Ethics, at every level of the National Police (Polsek, Polres, Polwil, Polda and Headquarters), must be able to sanction Members of the National Police who commit violations through the Professional Code of Ethics Session (KEP) and Disciplinary Hearing. Enforcement of ethics to Members of the National Police is expected to be carried out by every Head of the National Police Organization Unit as the Superior Who Has the Right to Punish (Ankum) at all levels so that the slightest violation must be followed up with corrective actions or sanctions.

The examination of members of the National Police who violate the Police Code of Ethics, namely the Professional and Security Division (PROPAM) in the National Police of the Republic of Indonesia, this PROPAM Unit will have an impact on the enforcement of discipline of National Police members, especially in the enforcement of the National Police code of ethics. The professionalism of the National Police is the dream not only by members of the National Police but all Indonesia people, because the function of protecting and protecting the community is supported by the professionalism of the National Police and all of this cannot be separated from the role of PROPAM in enforcing the professional code of ethics of the National Police.¹⁸

The Police Code of Ethics Commission is a forum formed within the National Police that is tasked with examining and deciding cases in trials for violations of the Police Professional Code of Ethics (KEPP) in accordance with the level of rank. The National Police Chief is authorized to establish a Police Code of Ethics Commission to examine violations of

¹⁸ Soebroto, *Police Authority in Police Law in Indonesia*, Bunga Rampai PTIK, Jakarta, 2004, p. 41.

the Police Professional Code of Ethics committed by all members of the National Police, including Senior Police Officers and Police Commissioners who occupy the position of Deputy Chief of Police or Irwasda. In this case, the Police Code of Ethics Commission reports the implementation of its duties to the Officer Forming the Police Code of Ethics Commission.

The National Police Code of Ethics Commission is tasked with carrying out examinations at trials, making legal considerations, and deciding cases of violations of the National Police Professional Code of Ethics committed by members of the National Police against violations of moral norms, religious norms, and legal norms, engaging in movements that clearly aim to replace or oppose Pancasila and the 1945 Constitution of the Republic of Indonesia, engaging in movements against the legitimate government, become a member or administrator of a political party, exercise the right to vote and be elected, and/or engage in practical political activities, and if a member of the National Police violates institutional ethics, namely doing, ordering to do, or participating in corruption, collusion, nepotism, and/or gratuities, taking decisions that are contrary to the provisions of laws and regulations due to the influence of family, fellow members of the National Police, or third parties, as well as abusing authority in carrying out official duties as explained in Article 13 of the National Police Chief Regulation Number 7 of 2022 concerning the Police Professional Code of Ethics, the Disciplinary Violator is obliged to make a letter of apology addressed to the National Police Chief and restore the image of the National Police that has been violated through the mass media, and recommended by a PTDH (Dishonorable Dismissal) decision.

If members of the National Police who violate community ethics, namely refusing or ignoring requests for help, assistance, or reports and complaints from the community that are within the scope of their duties, functions and authority, issue speeches, gestures, and/or actions with the intention of obtaining personal rewards or benefits in providing community services, behaving, speaking, and acting arbitrarily, making it difficult for people who need protection, protection, and service, as well as committing acts that can degrade women's honor when carrying out police actions.

As explained in Article 15 of the National Police Chief's Regulation Number 7 of 2022 concerning the Police Professional Code of Ethics, the Disciplinary Violator is obliged to apologize and promise not to repeat the reprehensible act again in front of the Police Code of

Ethics Commission Session and the aggrieved party, as well as being transferred to different functions and areas and the transfer of functions that are demotioned for 1 (one) year from the date of the decision.

The National Police Code of Ethics Commission has the authority that has been regulated in Article 13 of the National Police Chief Regulation Number 19 of 2012 concerning the Organizational Structure and Work Procedures of the National Police Code of Ethics Commission of the Republic of Indonesia, which includes:

- a. Summoning the alleged offender to be heard at the trial;
- b. Presenting a companion appointed by the suspected violator or appointed by the Police Code of Ethics Commission as a companion;
- c. Presenting witnesses and experts to be heard for the purpose of examination at the trial;
- d. Visiting certain places related to the interests of the trial;
- e. Examining the Preliminary Examination file before the implementation of the trial and preparing the examination plan in the trial;
- f. Asking questions directly to the alleged violator, witnesses, and experts regarding something that is necessary or related to the violation committed by the alleged violator;
- g. Ask questions directly to the companion related to the completeness of the administration as a companion
- h. Making legal considerations for the sake of making decisions;
- i. Making decisions and/or recommendations on the results of the Police Code of Ethics Commission hearing, and;
- j. Submitting recommendations for the decision of the Police Code of Ethics Commission is administrative to the officials who form the Police Code of Ethics Commission

The officials who form the Police Code of Ethics Commission have the authority to examine and examine the report on the implementation of the duties of the Police Code of

Ethics Commission, accept or reject the recommendations of the Police Code of Ethics Commission, and issue decisions based on considerations that can be accounted for.¹⁹

The provisions regarding the Police Professional Code of Ethics as stipulated in Perpol Number 7 of 2022 are a form of morality with the hope of growing a high commitment for all members of the National Police to obey and implement the Police Professional Code of Ethics, in the implementation of the duties and authorities of the Police Code of Ethics Commission which has been described in Articles 11 to 13 of the National Police Chief Regulation Number 19 of 2012 concerning the Police Code of Ethics Commission, namely by 3 (three) panels of judges of the Police Code of Ethics Commission Session tasked with conducting trial examinations, making legal considerations, and deciding cases committed by violators of the Police Professional Code of Ethics.

In its implementation, the National Police Code of Ethics Commission is authorized to summon suspected violators to be questioned at the trial, present companions appointed by the alleged violators or appointed by the National Police Code of Ethics Commission, present witnesses and experts to be heard, ask questions directly to suspected violators, witnesses, and experts regarding something related to violations committed by alleged violators, make decisions and/or recommendations on the results of the Police Code of Ethics Commission hearing.

In the judicial process for police members who violate the code of ethics, if in daily life they see a police officer who abuses authority while on duty or when he is not on duty, he should immediately report to the Propam Division to be asked for information as a witness and included in the Case Report (BAP) related to the violation of the code of ethics committed by police personnel and then the suspected violator is summoned by the Propam team to ask for his statement, If it is proven that they have violated the code of ethics, they will be tried through the Police Code of Ethics Commission Session and a verdict will be handed down regarding the violation of the code of ethics committed.

Meanwhile, if there are police personnel involved in a criminal case, the judicial process is carried out by the general court first which has permanent legal force, after which

¹⁹ Regulation of the National Police Chief Number 19 of 2012 concerning the Organizational Structure and Work Procedures of the Police Code of Ethics Commission

a Code of Ethics Commission Session will be held to be sanctioned with the threat of a minimum sanction of PTDH (Dishonorable Dismissal).

Violations that are deliberately committed by members of the police must receive strict sanctions through the Police Code of Ethics Commission Session such as postponement of periodic salaries, postponement of promotions, mutations to different regions and functions, and recommended a decision of Dishonorable Dismissal (PTDH) if the police member has damaged the image of the institution of the National Police of the Republic of Indonesia.

CONCLUSION

The results of the study show that; The implementation of the judicial function in the National Police that is currently running is carried out based on the sanction policy for violations of the Police Professional Code of Ethics and sanctions for violations of Police Discipline that are not running optimally due to; a) The final decision by the Superior who has the right to punish (ANKUM) is left to the subjectivity of the Honorary Assembly Forming Official; b) Final decisions submitted to the subjectivity of officials can be easily sued in the State Administrative Court; c) lack of competence and experience in making decisions of the session by members of the Honorary Council; d) standards for the formation of members of the Honorary Council based on rank without academic qualifications; e) The process of law enforcement of the professional code of ethics from upstream to downstream is handled by Propam without any separation of authority.

Various problems in the enforcement of the professional code of ethics and the enforcement of police discipline such as; The number of violations of the code of ethics and discipline by members of the National Police continues to grow, Various decisions of the Code of Ethics Commission whose deviations are too large so that they do not reflect justice and legal certainty, The number of lawsuits against the results of the Police Code of Ethics and Discipline Session on PTDH (Dishonorable Dismissal) of members of the National Police won by the plaintiff and requiring the defendant (the Police Officer Forming the Code of Ethics Commission) to cancel the decision of the PTDH due to policy products The administration is not in accordance with the procedure.

The ideal institution of the Honorary Assembly that carries out judicial functions in the National Police is; a) The membership of the Judges of the Code of Ethics Commission (Honorary Assembly) of the National Police is in accordance with their position and rank as well as academic qualifications; b) Courts carried out within the National Police are subject to the general courts, but internally, the National Police conducts its own trials; c) The Police Code of Ethics Commission is the same as the Panel of Judges and the membership of the Police Code of Ethics Commission can be interpreted as a Judge; d) Qualifications and Competencies owned by the Professional Code of Ethics Commission (KKEP/Honorary Assembly) of the National Police require academic qualifications; e) The Decision of the Honorary Assembly) must be Objective, Independent, Normative, *Jurisprudential*, Meet the Sense of Justice and Legal Certainty.

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