

## LEGAL DELIBERATION AND POLICE REFORM TO INCREASE TRANSPARENCY AND ACCOUNTABILITY IN LAW ENFORCEMENT

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### ABSTRACT

The research method used is normative juridical research that will be used to analyze the concepts of legal deliberation and police reform from a legal perspective that involves an in-depth understanding of the legal framework governing law enforcement and the role of the police, as well as an assessment of the extent to which the principles of legal deliberation can be implemented in the legal context. Legal deliberation focused on police reform is an important step in increasing transparency and accountability in law enforcement. By encouraging inclusive dialogue and active participation of various stakeholders, including civil society and watchdog institutions, this deliberative process can strengthen the integrity and effectiveness of the police institution. Through policy review, training, and rigorous oversight, police reform can result in a more transparent, accountable, and community service-oriented system, which in turn will increase public trust and fairness in law enforcement.

**Keywords:** Legal deliberation; transparency; accountability; law enforcement

### Introduction

The Indonesian Police is part of the administration of the government as a state institution that carries out its main duties as a party that provides protection, guidance, and service to the community and also as a law enforcement institution that must provide accountability for every attitude, behavior, and policy of the public in carrying out its main duties, functions, roles, and authority given to them (Ismail, 2012). The police, as a government institution that is given authority by law in the context of law enforcement, protection, guidance, and service to the community as well as maintaining security and public order are required to always prioritize the principles of transparency and accountability in the implementation of their duties to provide safeguards so that authority has mandate can be implemented professionally and responsibly (Bachtar, 1994). The development of the community regarding the demands and expectations of Police services is increasing along with increasing awareness of the law and the community's rights as citizens so that the Police are required to carry out self-improvement in improving their services to the community (Djamin, 2011). The attitude and service of the Police so far tend to show acts of arrogance, and overbearing power, making things complicated, which has given rise to the impression that the performance of the Police is still far from professionalism in their duties so there needs to be an effort to improve so that the bad image of Police services can be immediately repaired (Philippe Nonet & Selznick, 2018).

Many such cases have resulted in the public starting to doubt the role played by the Police so far. It cannot be denied that although there are cases that raise concerns, there are also many positive achievements and efforts that have been made by the police. It shows that there are still many police officers who have good integrity and competence (Purnama, 2018). However, these virtues and achievements are often overlooked when cases of violence arise, which affect the image of the National Police and reduce public confidence in the work methods used by this institution (Rahardjo & Hukum, 2010). The essence of public doubts about the National Police lies in its unprofessionalism, lack of transparency, and lack of accountability in carrying out its duties, especially in enforcing criminal law. Therefore, clear and constructive thinking is needed to overcome these problems.

Problems that often arise in police operations are abuse of power, discrimination, and lack of accountability, which often hinder transparency and accountability in law enforcement (Santoso, 2014). Abuse of power is a detrimental problem in the police where some individuals use their authority for personal gain or to violate individual rights which undermines public trust in the police and creates inequality in the legal system. Discrimination in law enforcement can occur in various forms that violate the principles of justice and damage the image of the police as a fair and neutral institution. Lack of accountability is also a significant problem in policing (Wahyurudhanto, 2018). Without a robust system to monitor and check officers' actions, there is a risk that abuse of power or discrimination may occur without appropriate consequences. When there is no effective accountability, transparency in police actions becomes difficult to maintain, because there are no clear mechanisms to ensure that such actions are conducted with integrity and fairness (Habermas, 2009).

The impact of this issue on police reform underscores the importance of legal deliberation. It ensures that decisions are not made based solely on narrow interests or political agendas, but rather consider diverse viewpoints and receive broad support from the community (Fransisco Budi Hardiman, 2012). Legal deliberation is equally relevant to law enforcement and police reform. Unfortunately, some challenges often hinder the implementation of this concept in the context of police reform. Therefore, further research is needed to better understand how to effectively implement legal deliberation in police reform to increase transparency and accountability in law enforcement performance.

### Research Method

The research method used is normative juridical research that will be used to analyze the concepts of legal deliberation and police reform from a legal perspective which involves an in-depth understanding of the legal framework governing law enforcement and the role of the police, as well as an assessment of the extent to which the principles of legal deliberation can be implemented in a legal context. The data collection methods used are document study and observation. Document studies will involve analysis of legal literature, legislation, court decisions, and other documents relevant to understanding the concept of legal deliberation and challenges in police reform. Meanwhile, observations can be made to observe law enforcement practices and interactions between the police and the community directly. The collected data will then be analyzed using deductive logic, where general theories will be applied to specific data to draw more specific conclusions.

## Result And Discussion

### The Urgency of Increasing Police Transparency and Accountability in Law Enforcement

The police are currently facing various challenges in law enforcement amidst ever-developing social, political, and technological dynamics. One of the main challenges is the increasing complexity of crime including transnational crime, cybercrime, terrorism, and other crimes that continue to grow. The police are also faced with demands to improve their response to increasingly diverse and complex security threats. Apart from that, the police also face challenges in maintaining their credibility and integrity in the eyes of the public (Hasibuan & SH, 2023). Abuse of power, discrimination, and unlawful actions by some members of the police have tarnished the image of the institution. The lack of transparency and accountability in police actions is also a serious concern, reinforcing the perception that some police officers act outside the bounds of the law or receive preferential treatment. Lack of resources in terms of personnel, equipment, or budget also poses a significant challenge for the police, limiting their ability to provide effective services to the community, conduct investigations, or implement crime prevention programs.

Police transparency and accountability play an important role in building and maintaining public trust in police institutions. Public trust is a vital foundation for the legitimacy and effectiveness of law enforcement. When the police are perceived as transparent and accountable, the public tends to believe that the police act according to the principles of justice, integrity, and professionalism. Transparency refers to the openness of the police force in communicating their decisions, policies, and actions to the public which involves providing clear and easily accessible information about police operations, including justification for actions taken. Additionally, accountability refers to the ability of the police to take responsibility for their actions and accept appropriate sanctions or corrections if they violate established standards or procedures. When the police are willing to be accountable for their actions to the community, this creates a sense of confidence that the police are responsible for the welfare and security of the community. However, loss of trust can have a serious impact on the effectiveness of law enforcement. Citizens who doubt the integrity or fairness of the police are likely to become skeptical of law enforcement efforts, which can result in noncompliance with the law, lack of cooperation with the police, or even social protests (Hamzah, 2010).

Transparency and accountability play a key role in preventing abuse of power by police officers. However, in reality, there is still a lack of transparency in the investigation process and handling of internal cases by the police themselves. When there are allegations of abuse of power or ethical violations by members of the police, a lack of transparency in the internal investigation and trial process can create the impression that the police institution is trying to cover up wrongdoing or protect its members, rather than seeking justice. In addition, a lack of accountability can also increase the risk of abuse of power in law enforcement. When there is no effective system to monitor and evaluate the actions of police officers, police officers may feel that they can act without consequence or accountability. This can encourage reckless or authoritarian behavior, which ultimately harms the relationship between the police and the community and the integrity of the police institution itself. The risk of abuse of

power in law enforcement by police officers also includes abuse of authority in arrests, unfair investigations, or the use of disproportionate force. Especially when there are deficiencies in external oversight, such as independent law enforcement agencies or effective public complaint mechanisms, the risk of abuse of power increases.

Currently, there is still factual evidence that shows a lack of transparency and accountability in law enforcement by the police in many countries. One of the main indicators is reports of abuse of power by police officers, including cases of violence committed by police officers against innocent civilians. Apart from that, there are also allegations of discrimination and unfair treatment against certain groups in the law enforcement process, which shows inequality in treatment before the law.

The lack of transparency is also reflected in the limited information available to the public regarding police actions and law enforcement processes. Sometimes, the information is covered up or filtered by the authorities, making it difficult for the public to assess the fairness and effectiveness of police actions. Apart from that, the lack of accountability can also be seen in the lack of disciplinary action or punishment against police officers who violate the code of ethics or abuse their power, which indicates that the accountability process is not running well.

Therefore, a significant increase in police transparency and accountability in law enforcement is needed. It is not only necessary to ensure that the police act fairly and by legal principles, but also to build public trust in police institutions and effectively maintain security and public order.

### **Obstacles that Influence the Level of Transparency and Accountability in the Implementation of Law Enforcement by the Police**

In efforts related to the urgency of increasing transparency and accountability in law enforcement carried out by the police, various obstacles need to be faced, including:

#### 1. Internal barriers

##### a) Culture within the police institution

The closed culture within police institutions creates an environment where information is closely guarded and criticism of police actions is often not welcomed. It hampers efforts to increase transparency because police officers tend to be reluctant to share relevant information with the public or other external parties. The inability to accept criticism is also an obstacle, as it makes it difficult to carry out open evaluations of police performance and correct identified weaknesses.

##### b) Lack of resources

A lack of resources, whether in terms of personnel, equipment, or budget, is a significant obstacle to efforts to increase transparency and accountability in police law enforcement. There are obstacles in conducting adequate internal investigations into alleged violations because limited human resources can hinder the process of monitoring and enforcing discipline effectively. Likewise, with a lack of equipment and budget, police may not have access or limited access to the technology and information systems needed to monitor and track officer actions and provide transparent reports to the public.

##### c) Limitations of technology and infrastructure

Limitations in infrastructure and information technology are significant obstacles that can hinder efforts to increase police transparency and accountability in law enforcement. These conditions often include limitations in

the accessibility or quality of data reporting systems, which directly affect the police's ability to effectively monitor and track the performance of its officers. For example, the inability to access or use adequate reporting systems can hinder the police's ability to record and report relevant data about their actions, thereby reducing transparency in police operations and limiting the ability to effectively evaluate performance and improve processes.

d) Internal resistance and corporate culture

Internal resistance and corporate culture within police institutions are significant obstacles in efforts to increase transparency and accountability. Internal resistance often arises due to discomfort or dislike of change, whether in work procedures, policies, or organizational culture. Additionally, a strong corporate culture prioritizes protection of oneself and fellow officers over accountability to the community. This can result in the withholding of information, refusal to admit wrongdoing, and refusal to undergo necessary accountability processes.

**2. External obstacles**

a) Political intervention

Political intervention is one factor that can significantly influence the law enforcement process and hinder police accountability. Political pressure from certain parties can often force the police to act on political interests or ignore applicable legal procedures. This can result in the closure of politically sensitive cases or suppression of law enforcement against certain groups that do not align with the dominant political agenda. Political intervention can also affect the independence of the police, reducing their ability to act professionally and according to the law, which in turn can reduce the level of accountability and public trust in law enforcement institutions.

b) Lack of supervision

The lack of supervision from independent institutions is a significant obstacle to increasing the level of transparency and accountability in law enforcement carried out by the police. Without effective oversight, the police may have room to commit abuses and abuse of power without fear of appropriate consequences. Limitations in external oversight can also result in conflicts of interest or political interference that disrupt neutral and objective decision-making processes. As a result, public trust in the integrity and fairness of the law enforcement system can be eroded, and this can hamper efforts to build a more transparent and accountable environment in law enforcement.

c) Community attitudes

Public attitudes that tend to be apathetic, distrustful, and lack of participation can be a serious obstacle to reform efforts, especially in the context of increasing police transparency and accountability in law enforcement. Distrust of police institutions or the legal system, in general, can result in low levels of trust in community participation in reform processes aimed at increasing transparency and accountability. Apathy can make people indifferent to proposed changes or even feel that their participation will not make a significant difference. A lack of active participation from the public can also reduce the necessary pressure on the government or police to make necessary changes.

### **Implementation of the Concept of Legal Deliberation in Police Reform to Increase Transparency and Accountability in Law Enforcement**

Legal deliberation is an approach that prioritizes an open and inclusive discussion process in making legal decisions. In the urgent need for police reform, legal deliberation is a crucial concept because this concept can provide a framework for involving various parties including the community, academics, and the authorities in the process of making police policies and law enforcement. The principle of inclusivity in legal deliberation ensures that various voices and perspectives are heard and considered in the decision-making process, thereby ensuring that the resulting policies reflect the needs and values of society at large.

Apart from inclusiveness, the principle of cooperation is also an important basis for the concept of legal deliberation. Collaboration between various stakeholders helps build consensus on solutions that are mutually acceptable and can be implemented effectively. In the context of police reform, cooperation between the police, government, and civil society is needed to identify existing problems, design appropriate policies, and ensure their effective implementation. The principle of collaborative problem-solving emphasizes the importance of collaboration in finding solutions to complex challenges. In the context of police reform, joint problem-solving invites all parties involved to work together to overcome existing problems, such as abuse of power, discrimination, or lack of accountability. Through open and ongoing discussions, stakeholders can achieve a better understanding of the root causes and design comprehensive strategies to address them.

The application of the concept of legal deliberation in police reform requires active involvement from various parties to reach more inclusive and sustainable decisions. The application of this concept is needed to ensure that there is a mechanism that allows community participation in the decision-making process regarding police policies and law enforcement practices, which can be done through the establishment of public deliberation forums, open dialogue between police from the community, or independent monitoring institutions that represent various interests. Creation of a collaborative culture among all stakeholders including the police, government, LSDM, and other civil society which involves recognizing that the success of police reform depends on the contribution and support of all relevant parties. In this context, the police need to open themselves to input and criticism from civil society and recognize the importance of accountability and transparency in carrying out their duties.

So it can be concluded that the forms and methods of legal deliberation that can be used to involve various parties and reach a consensus in the decision-making process include:

a) Dialogue forum

Dialogue forums are where civil society, the police, and legal experts can discuss various issues related to law enforcement. This forum provides an opportunity for various parties to listen to each other, understand each other's perspectives, and find joint solutions to increase transparency and accountability in law enforcement.

b) Deliberation to reach consensus

Consensus deliberation can also be used to reach a consensus in resolving certain controversial or complex cases. By involving various parties involved, including civil society and the police, consensus deliberation can help create

solutions that are acceptable to all parties, thus supporting efforts to increase the trust and legitimacy of police institutions.

c) Polls

Opinion polls are also a useful tool for gauging public opinion on various police-related issues. By conducting regular opinion polls, the government and police can understand the community's needs and expectations for law enforcement, and identify areas that require special attention in the police reform process.

d) Truth and Reconciliation Commission

A Truth and Reconciliation Commission can be used as a mechanism to resolve past violations and build peace in society. Through an open and transparent process, this commission can help communities overcome their dark past and begin a process of reconciliation that is essential to building a strong foundation for fair and democratic law enforcement.

## Conclusion

In the police reform process, the implementation of the concept of legal deliberation plays an important role in increasing transparency and accountability in law enforcement. Through various forms and methods such as dialogue forums, consensus deliberation, opinion polls, and Truth and Reconciliation Commissions, various parties, including civil society, the police, and legal experts, can be involved in an inclusive and sustainable decision-making process. This approach allows for broader and deeper consensus and promotes a better understanding of the complex issues faced in law enforcement.

Thus, through the application of the concept of legal deliberation, it is hoped that a law enforcement system that is more transparent, accountable, and responsive to community needs will be realized. Actively involving the community in the police reform process, is expected to create better relations between the police and the community, as well as increase trust and legitimacy in the police institution. Apart from that, this concept can also be the basis for building a law enforcement system that is fairer, more just, and based on democratic principles and human rights.

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