



HUMAN RIGHTS-BASED POLICING IN INDONESIA

EXTERNAL ACCOUNTABILITY MECHANISMS

Police have a duty to protect human rights and uphold the law. To do this, they are invested with significant powers including the power to deprive people of their liberty and to use force, in certain circumstances lethal force. When police abuse their powers and are not held to account for their actions, the public loses confidence in them and a vicious cycle of mistrust and violence begins. It is therefore essential that police are accountable to the communities in which they operate. When there is trust between the police and the community, partnerships can be built to find solutions to problems and relationships can be cultivated which assist in the prevention and detection of crimes.

There are various types of independent accountability mechanisms. They are usually independent and impartial bodies funded by the government and set up by law. They have the power to investigate complaints and to ensure that appropriate remedial action is taken.

It is important to note that an independent complaints authority does not negate the need for an effective internal oversight mechanism. It is in the interests of the police to effectively address any breach of the rules and maintain discipline. The role of the external mechanism is to deal with serious complaints where it is in the public interest that an effective external investigation is carried out.

INDEPENDENT OVERSIGHT

Oversight bodies fall into two broad categories. Firstly, bodies that exclusively investigate, review and monitor complaints against the police. Secondly, agencies such as ombudsman and national human rights institutions with broader mandates that include police oversight and overseeing overall police policy and strategy.

ROLE OF OVERSIGHT BODIES

The nature of involvement in the complaints process varies substantially between different oversight bodies. While some do take primary responsibility for receiving and investigating complaints, it is more common to find that they review, monitor and audit complaints and investigations rather than carry out the investigations themselves.

DIFFERENT MODELS OF CIVILIAN OVERSIGHT MECHANISMS

INDEPENDENT INVESTIGATION

- Fully independent from police.
- Receives complaints from the public.
- Investigations conducted by non-officers.
- Reports findings to police.

Example: Police Ombudsman, Northern Ireland

POLICE INVESTIGATION, WITH CITIZEN REVIEW OR APPEAL TO CIVILIAN AUTHORITY

- Civilian authority or police receives complaints.
- Police conduct investigations.
- Civilian authority reviews investigative reports.
- Civilian authority may call for further investigation if it does not agree with police report.

Examples: Deputy Ombudsman, Victoria, Australia, Police Complaints Authority, England/Wales, Independent Complaints Directorate, South Africa

INSPECTORS GENERAL, AUDITORS AND HUMAN RIGHTS COMMISSIONS

- Broad mandate to investigate and make recommendations on the complaints process and on underlying conditions leading to police abuses.
- May investigate individual cases of alleged abuse.

Examples: Human Rights Commission, India, Auditor, São Paulo, Brazil

OTHER KINDS OF CIVILIAN OVERSIGHT

- Consultation and control over broader policing policy.

Examples: Police Authorities, England/Wales, Board of Police Commissioners, Los Angeles, USA

MINIMUM REQUIREMENTS FOR A SUCCESSFUL OVERSIGHT BODY

INDEPENDENCE:

It should be independent of the executive and the police and empowered to report directly to Parliament.

SUFFICIENT POWERS:

It should have the authority to independently investigate complaints and issue findings. This requires the power to conduct hearings and subpoena documents and witnesses, including the police. It should also be able to identify organizational problems in the police and suggest systemic reforms.

ADEQUATE RESOURCES:

It should, as a minimum, have sufficient funds to investigate the more serious complaints referred to it. Skilled human resources to investigate and otherwise deal with complaints should also be available.

POWER TO FOLLOW UP ON RECOMMENDATIONS:

It should be empowered to report its findings and recommendations to the public, and to follow up on actions taken by the Chief of Police in response to its recommendations. It should also be able to draw Parliament's attention to instances where police take no action.

Independent police complaints mechanisms have proved effective in increasing public confidence in the police and in discouraging police misconduct. They can also improve policing by proposing amendments to laws, regulations and administrative practices. However, to be effective and to prevent the locus of power simply being transferred to another institution, a structure is needed that encompasses a range of accountability mechanisms that reflect a number of values: public responsiveness; transparency; respect for the judiciary and compliance with policies, regulations and laws; and an open and co-operative attitude towards independent oversight bodies.

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