



# HUMAN RIGHTS-BASED POLICING IN INDONESIA

‘In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.’

Article 2, UN Code of Conduct for Law Enforcement Officials

Respect for human rights and the rule of law are fundamental principles of effective policing. To ensure that policing is carried out in line with the law and human rights standards, every law enforcement agency must be representative, accountable and responsive to the community in which they work. Accountability benefits the police. It aids the police in fulfilling their role and helps to improve public relations. In short, accountability increases police legitimacy.

## POLICE ACCOUNTABILITY

Police in democratic countries must carry out their duties in a non-arbitrary and impartial manner. To do this, it is often necessary to employ a degree of autonomy and discretion when exercising their powers. For example, they must decide when to use force and to what degree, or when to make an arrest or carry out a search. In order to balance these powers and prevent their abuse it is essential for police to be accountable to the law, the state and its citizens.

There are many aspects to effective police accountability, including:

- *Individual police officers* at all levels being accountable to their supervisors for their conduct. Their conduct must be in accordance with national law and with professional codes of ethics and discipline.

- *Supervisors* must ensure that the conduct of those under their command is in accordance with national law and with professional codes of ethics and discipline. In the case of criminal offences, all officers should be held accountable to the courts.

- The *police force* as a whole is accountable to the society in which it operates for maintaining order and security and controlling crime. As an organization, the police should be accountable to independent oversight agencies set up by law and open to public scrutiny.

## A BALANCED SYSTEM OF MULTIPLE ACTORS

Just as it would be imprudent to allow police unlimited powers and autonomy, it is equally ill-advised to invest oversight of the police in a single institution, be it the President, other parts of the executive, or a national commission. Accountability requires balancing the power and influence of the various actors involved. This helps to ensure that policing serves the public interest rather than partisan concerns. Accountability to different audiences requires a variety of mechanisms.

## INTERNAL ACCOUNTABILITY

Internal accountability includes:

- Observance of a human rights-compliant Code of Conduct.
- Standard operating procedures that comply with professional policing and human rights principles.
- Individual police officers being accountable for their actions and behaviour.
- Supervisors being accountable for ensuring that their orders comply with professional standards as well as for the conduct of their subordinates.
- A well-publicized mechanism that deals fully and effectively with complaints from the public about police conduct.

## STATE ACCOUNTABILITY

State accountability includes accountability to the executive, the legislature, and the judiciary.

Accountability to the executive includes:

- Carrying out national policies and priorities.
- Good management and appropriate allocation of resources.
- Compliance with operating standards and guidelines.
- Regularly reporting on performance.

Accountability to the legislature includes:

- Appearing, as required, before parliamentary committees that consider issues relating to police performance in general or in relation to specific actions.
- Providing, as required, annual or other reports.

Parliaments have a duty to ensure that legislation complies fully with the Constitution and with international human rights law and standards.

Accountability to the judiciary includes:

- Acting in accordance with the national law and international standards.
- Complying with judicial orders as appropriate.
- Ensuring that officers who are suspected of committing crimes in the course of their duties are handed over to the criminal or civil courts as appropriate.

## PUBLIC ACCOUNTABILITY

Public accountability includes:

- Police agencies being accountable to the community they serve, either directly, for example through community policing forums or indirectly, for example through parliamentary representatives.
- Police agencies being transparent and responsive to the work of academics, NGOs and the media.

## INDEPENDENT OVERSIGHT

Independent oversight mechanisms include:

- General (non police specific) human rights bodies such as the National Human Rights Commissions, the Ombudsman offices, anti-corruption commissions.
- Specific police oversight bodies such as an independent police complaints commission or cell-visitor groups authorized to visit police cells to ensure that inmates are well treated.

Effective accountability requires a system of multiple actors carefully keeping each other in balance. This should include an effective internal system of accountability backed by a competent judicial system operating within a supportive political environment; a mechanism for providing accountability to the public; independent oversight bodies and police commissions. Internal and external aspects of the accountability structure should mutually reinforce each other to ensure maximum effect.

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