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The Blind Spot: Failure to Marry the Doctrine of Vicarious Liability with the Financial Recourse Mechanism of Officials

Asep Sapsudin[1*], Reyraya Respati Paramudhita[2]

[1] Universitas Islam Nusantara, Bandung, Indonesia
[2] Universitas Padjadjaran, Bandung, Indonesia

* Corresponding Author, Email: asepsapsudin@uninus.ac.id

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Abstract: This study exposes a structural blind spot in Indonesia's constitutional and administrative law: the failure to enforce individual accountability against law enforcement officers who abuse operational discretion. It focuses on the lack of synchronization between state vicarious liability and personal financial recourse mechanisms targeting officials' private assets. Using doctrinal legal research with statutory, conceptual, and comparative approaches, the study analyzes inconsistencies in the 1945 Constitution, Administrative Government Law, Administrative Court Law, internal ethics enforcement, and judicial precedents on factual government actions. Findings reveal a chronic procedural vacuum in executing the state's right of recourse against officials acting with malice or gross negligence. Ambiguity in distinguishing official from personal faults has turned the state budget into a shield for individual repression, undermining institutional legitimacy and violating the social contract with taxpayers. Key obstacles include rigid procedural barriers, the failure to separate official from personal assets, and an institutional culture that conceals abuses through opaque disciplinary processes. The study proposes a procedural blueprint featuring cumulative objective–subjective lawsuits, a shifted burden of proof, *conservatoire beslag* (asset freezing), punitive damages, automated wage garnishment, and strict pre-trial screening to prevent frivolous or SLAPP litigation.

Keywords: constitutional policing; legal recourse; operational discretion; personal faults; personal financial liability.

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1. Introduction

The discourse on the limits of discretion and legal accountability of law enforcement officers in the modern constitutional order is currently at an alarming low point. As holders of a monopoly on legal violence in the name of the state, every operational action of officers in the field should ideally operate within a rigid corridor of accountability to protect the constitutional rights of citizens (Alfarouq, 2026). However, the legal reality shows a wide gap between the constitutional text that guarantees the protection of human rights and the actual implementation of the authorities' actions (feitelijke handelingen), which are often repressive and destructive. The failure to tame this wild discretion is not due to a lack of ethical norms, but rather because our positive law suffers from an acute paradigm disorientation in viewing the relationship between official misconduct (fautes de service) and personal misconduct of officers (fautes personnelles) (Gautama et al., 2026). Consequently, whenever arbitrary abuse of authority occurs in the field, constitutional law and state administrative law seem paralyzed in providing substantive justice for the victims.

The most pathological blind spot in our current legal architecture lies in the conceptual failure to marry the doctrine of vicarious state liability with a financial recourse mechanism that directly channels the personal finances of certain officials. While the discourse on administrative law reform demands that the state assume absolute responsibility (state liability) for losses suffered by citizens through lawsuits for Unlawful Acts by Authorities (Onrechtmatige Overheidsdaad), contemporary legal literature naively overlooks the sociological impact of this doctrine (Mustofa & Wijayanti, 2025). Without a truly enforceable recourse mechanism, the expansion of state responsibility acts as a shield of collective impunity that favors corrupt officials. If every operational brutality or discretionary error results in billions of rupiah in compensation payments drawn from the State Budget (APBN), then the essence of punishment has shifted erroneously: those financially punished are not the perpetrators who abuse their authority, but rather civil society itself as taxpayers (Nasution et al., 2026).

The ineffectiveness of these legal instruments is exacerbated by the strong formalistic limitations in our state administrative and civil court procedures, which fail to separate official assets (ambt) from the personal assets (persoon) of officers when serious violations occur. Sectoral legislation and internal regulations of security agencies often conceal discretionary violations behind the veil of corps ethics violations resolved domestically without public transparency (Haddad & Al-Fayed, 2025). This internal resolution model, biased by esprit de corps, fails to produce a deterrent effect, as sanctions imposed generally revolve around job transfers or promotion suspensions, without ever addressing the perpetrator's personal economic losses. However, through an economic analysis of law, compliance by security bureaucracies in developing democracies will only be effectively enforced if the economic costs borne by the perpetrators far outweigh the privileges of power they enjoy while carrying out repression (Fauzi et al., 2025).

At the global level, the pathological trend of law enforcement officials escaping personal responsibility, hiding behind executive power, has also become a serious concern for international law scholars. Formal democratic oversight institutions often become paper tigers because they lack the enforcement power to pursue the personal assets of public officials who commit gross maladministration (Goldsmith & Harris, 2024). The situation in Indonesia is even more concerning. Although the State Administration Law contains a theoretical clause regarding the state's right to sue officials who act with malice, procedural law for exercising this right has never been formulated. This procedural vacuum is exploited by certain officials to act arbitrarily in the field, secure in the belief that the state will always be responsible for any financial losses arising from their brutal actions (Setiawan, 2026).

Therefore, this article aims to uncover this constitutional blind spot by offering a prescriptive and radical paradigmatic reconstruction. This research will not fall into clichéd narratives that merely lament civil rights violations or demand macro and utopian institutional reforms. Instead, it focuses sharply on how to design a model for institutionalizing retributive financial sanctions (personal financial liability) that directly ties the personalities of law enforcement officers as an instrument for curbing discretionary abuses (Putra et al., 2026). Through a robust integration of the doctrine of state vicarious liability with the certainty of executing personal recourse, constitutional law can be returned to its original purpose as a humanistic tool for limiting power. This article will examine three main problem formulations: the anatomy of financial impunity for certain officials in current regulations, the legal boundaries separating official and personal misconduct, and a blueprint for formulating financial recourse procedural law to uphold people's sovereignty and substantive fiscal justice in Indonesia.

2. Research Method

This legal research, which uncovers the blind spot in the synchronization of the doctrine of vicarious liability with the personal financial recourse mechanism, is constructed using normative legal research. This normative approach was chosen not to simply inventory the articles in statutory regulations, but rather to conduct an epistemological deconstruction of the internal and external coherence of the norms of administrative and constitutional law that regulate the accountability of public officials (Wicaksono, 2026). The main focus of this doctrinal research is placed on the analysis of legal texts, classical-modern doctrines, and judicial jurisprudence related to Unlawful Acts by the Authorities (Onrechtmatige Overheidsdaad). By positioning law as a system of norms that is both closed and responsive, this research dissects how the vacuum of procedural law in executing the state's right to financial recourse has distorted the pillars of democratic accountability (Pratama & Ramadhan, 2025).

To examine the complexities of the blurring of the boundaries between official misconduct (fautes de service) and personal misconduct (fautes personnelles), this research simultaneously integrates three legal approaches. First, a statute approach is used to critically examine vertical and horizontal inconsistencies between the State Administration Law, the State Administrative Court Law, and security sector regulations (Setiawan, 2026). Second, a conceptual approach is applied to examine the theoretical roots of the state's vicarious liability doctrine and formulate the concept of personal financial liability as an instrument to address discretionary abuses (Baehr & Møller, 2025a). Third, a comparative approach is used by comparing financial recourse mechanisms in countries with civil law and common law systems to identify the best precedents that can be transplanted into Indonesia's procedural legal system (Baig et al., 2022).

The legal materials used in this study are rigidly classified into two main categories: primary legal materials and secondary legal materials. The comprehensive primary legal materials analyzed include the 1945 Constitution of the Republic of Indonesia, Law Number 30 of 2014 concerning State Administration, and final and binding state administrative court decisions related to disputes over factual actions of the authorities (Yusuf & Wijaya, 2024). Meanwhile, secondary legal materials were obtained from reputable international scientific literature, recent constitutional law journals, and academic manuscripts of draft laws related to criminal and administrative procedural law reform (Suharto, 2025). The legal material collection technique was carried out through a study of globally indexed digital documents (e-library research) to ensure the novelty and validity of the theoretical data used.

All collected legal materials were then filtered and analyzed using qualitative analysis methods with normative-deductive legal logic reasoning techniques (syllogism) and critical legal hermeneutics analysis. This critical hermeneutics analysis is crucial for exposing the motives of power, esprit de corps bias, and political interests hidden behind the formulation of rubber phrases in the regulation of discretionary officials (Dahlan & Siregar, 2025). Through legal syllogism, the major premise in the form of constitutional principles and general principles of good governance (AAUPB) is confronted with the minor premise in the reality of the vacuum of financial recourse procedural law in Indonesia. This analytical confrontation aims to produce a prescriptive conclusion in the form of a new regulatory formulation model that is able to clearly separate the financial responsibility of state institutions from the personal economic responsibility of repressive law enforcement officers (Siolimbona et al., 2026).

3. Results and Discussion

3.1. Anatomy of Financial Impunity of Officials in Contemporary Regulations

Examining the legal architecture of law enforcement in Indonesia today leads us to an ironic conclusion: our state administrative legal system has unwittingly facilitated massive financial impunity for officials who abuse their discretionary authority. When an officer in the field makes an arbitrary decision that harms the material or immaterial rights of citizens, contemporary regulations tend to localize the resolution of the problem within the realm of institutional ethics or place the entire burden of the loss on the state budget (Marzuki & Utama, 2026). This normative arrangement is highly dangerous because it falsely separates corrosive personal actions from official responsibilities (ambt). As a result, officials who act brutally in the field feel financially secure because they know that there is no positive legal instrument that can confiscate their personal assets to redress the damage they directly cause in the name of the state (Nugroho & Prasetyo, 2025).

The root of this escape from personal responsibility stems from a single, erroneous interpretation of the doctrine of vicarious liability, adopted in the realm of public law (K. D. Kurniawan & Hapsari, 2022). Throughout its development, sectoral laws in the field of security and public order have consistently positioned state institutions as the sole legal subjects obligated to take responsibility for civil society compensation demands (Obibuaku & Edeji, 2024). This positioning of institutions as legal buffers was initially designed to guarantee certainty of redress for victims, given the state's far greater financial capacity than that of individual officers. However, Indonesian lawmakers have overlooked the sociological impact of this legal formulation policy, where the lack of direct financial consequences for law enforcement personnel actually fosters a mentality of ignoring standard operating procedures (Ramadhan & Saputra, 2025). When the economic costs of repression are entirely shifted to the State Budget (APBN), our constitutional law has failed to uphold the principle of substantive fiscal justice.

This impunity dilemma is further exacerbated by the legal standing of internal security agency regulations, which are highly exclusive and far from public scrutiny (Hafidz & Harahap, 2025). Handling of field discretionary violations is generally relegated to the professional code of ethics commission's hearing mechanism, which is domestic in nature and oriented solely toward administrative and career-focused sanctions (Anwar & Sutedi, 2026). The sanctions imposed—ranging from written warnings and postponements of promotions to transfers and demotions—completely lack any civil redress dimension for victims and do not address the perpetrator's personal wealth structure. This unclear separation between institutional disciplinary sanctions and liability for personal financial losses has created a dark space in administrative law, where certain officials can hide behind a stronghold of esprit de corps (Fadillah & Nugraha, 2025). This situation confirms that our administrative law enforcement is still characterized by pampering those in power rather than protecting citizens.

If we examine Law Number 30 of 2014 concerning Government Administration, we will indeed find a theoretical clause stating that government officials who commit gross maladministration due to elements of abuse of authority can be held accountable, even in the civil or personal realm. However, this article remains a dead law until 2026 due to the lack of procedural law governing the procedures for executing evidence and confiscating the official's personal assets (Reksodiputro & Hamzah, 2025). This absence of procedural bridges causes state administrative courts and district courts to experience jurisdictional paralysis when faced with recourse demands from the Ministry of Finance or security institutions against their members found guilty. This vacuum in procedural law is cleverly exploited by the security bureaucracy to perpetuate unlimited power that is immune from personal demands for economic compensation (Ilham et al., 2026).

From an economic analysis of law perspective, an agent's (official) compliance with the principal (the state and the constitution) is largely determined by rational calculations regarding the benefits and costs of their actions (N. Ahmad et al., 2024). When sanctions for repressive abuse of discretion are solely non-financial, the economic risk to officials is zero, while the psychological benefits of dominating power in the field are extremely high (I. Kurniawan & Santoso, 2025). This lopsided incentive curve explains why law enforcement officers continue to resort to brutality in handling agrarian conflicts or mass civil demonstrations, despite the formal issuance of various technical human rights guidelines. Law enforcement will never become humane as long as its legal structure allows perpetrators to enjoy the privilege of power without having to bear the risk of personal impoverishment resulting from their arbitrary actions (Lubis et al., 2026). Therefore, unraveling the anatomy of financial impunity is an absolute prerequisite before we can formulate a just model of legal accountability.

The constitutional consequence of this continued financial impunity is the exponential decay of the legitimacy of law enforcement institutions in the public eye (Hallsworth & Stephenson, 2022). Civil society is forced to witness an unjust legal drama: they are harmed by the brutality of discretionary officials, and then the tax money they pay to the state is repurposed by the state to pay compensation for the brutality of these individuals (Raharjo et al., 2026). This corrosive financial cycle violates the social contract that underpins the foundation of a democratic rule of law, where people surrender some of their freedoms not to finance their own oppression. The state's failure to internalize the costs of repression into the private pockets of perpetrators has undermined the retributive function of law, transforming justice into a mere mechanistic administrative calculation of compensation devoid of morality (Qodir & Pratama, 2025).

Furthermore, comparative regulatory arrangements demonstrate that our administrative law's inability to enforce personal financial recourse rights has left Indonesia significantly behind the dynamics of global constitutional law (Dzul Ikram et al., 2025). In various advanced democracies, the doctrine of qualified immunity for security forces has begun to be radically dismantled through the institutionalization of individual constitutional tort lawsuits, which allow for the confiscation of the personal assets of officers who violate citizens' basic rights (Oetomo & Wibowo, 2025). Meanwhile, legal dogmatics in Indonesia remains mired in formalistic debates regarding the absolute competence of courts and the validity of written decisions, ignoring the sociological fact that factual actions on the ground are far more destructive than official decisions on paper. This epistemological lag demands that critical constitutional law scholars cease to compromise with this corrosive regulatory status quo (Panggabean & Siregar, 2026).

At the culmination of the analysis, the anatomy of financial impunity of certain officials in contemporary regulations in Indonesia is not merely a technical legal problem, but a congenital defect in the design of the power relationship between the state and the people (Pangaribuan, 2025). The state, through its positive law, has created a new ruling class immune from the risk of personal economic loss, a feudalistic privilege smuggled into the modern cloak of state legal administration (McAleer, 2025). Legal reform must no longer stop at the jargon of strengthening internal oversight, which has proven ineffective due to chronic corps disease (Achmad Aulia, 2025). We must push for a legal breakthrough that forces our positive law to adopt a rigid model of personal retributive financial sanctions, breaking the chain of financial impunity, and reaffirming the constitutional mandate that every inch of state power must be subject to the fairest possible legal accountability for the benefit of all Indonesian people.

Table 1 Anatomical Matrix of Financial Impunity of Officials in Contemporary Regulations

Dimensions of Analysis	**Regulatory Reality & Clinical Symptoms of Law**	**Theoretical Roots & Systemic Pathology**	**Sociological Consequences & Impacts**
1. **Division of Subjects & Objects of Law**	Regulations localize discretionary violations in the domestic ethical realm or impose compensation on the state budget.	The mistaken separation between corrosive personal actions (persoon) and job responsibilities (ambt).	The authorities feel financially secure; there are no legal instruments to confiscate the perpetrators' personal assets.
2. **Reduction of the Doctrine of Responsibility**	The security sector law places state institutions as the sole subject paying compensation.	A single, erroneous interpretation of the doctrine of vicarious liability in the public domain.	The absence of immediate financial consequences fosters a mentality of ignoring standard operating procedures (SOPs) in the field.
3. **Exclusivity of Internal Commission**	Field violations are brought to the exclusive and closed hearing of the Professional Code of Ethics Commission from the public.	Domestic sanctions are only oriented towards administrative-career aspects (transfer/demotion) without a civil recovery dimension.	The creation of a dark space of governance where individuals take refuge behind a thick fortress of esprit de corps.
4. **Statutory Procedural Defects**	The article on personal/civil liability in Law No. 30/2014 concerning Government	Procedural vacuum for proving malice and confiscation of personal assets.	The occurrence of jurisdictional paralysis in the judiciary (PTUN & PN) when faced with demands for state recourse.

	Administration cannot be executed.		
5. Economic Analysis of Law	Sanctions for repressive abuse of discretion are non-financial, so the economic risk to the authorities is zero.	The incentive curve is lopsided: the psychological benefits of power dominance are very high without the financial risks to the family.	The brutality of the authorities continues to recur in agrarian or civil mass conflicts because the legal structure pampers the perpetrators' privileges.
6. Violation of the Social Contract	Civil society tax money is reused by the state to fund compensation for crimes committed by certain officials.	The state fails to internalize the costs of repression into the private pockets of perpetrators, undermining the retributive function of law.	The exponential decay of institutional legitimacy; the people are forced to fund their own oppression.
7. Comparative Backwardness	Law in Indonesia is still trapped in a formalistic debate about absolute competence and the validity of written decisions.	Failure to adopt a global doctrine that dismantles qualified immunity through constitutional tort claims.	Indonesian administrative law lags far behind the progressive dynamics of global constitutional law.
8. Macro Power Relations	Regulation creates a new ruling class that is immune from the risk of personal economic loss resulting from its brutal actions.	A congenital defect that smuggles feudalistic privilege into the modern cloak of the rule of law.	Legal reform must shift from the jargon of internal oversight to the adoption of a rigid personal retributive financial sanctions model.

3.2. Legal Boundaries of the Separation of Official Misconduct (Fautes de Service) and Personal Misconduct (Fautes Personnelles)

Recklessly placing the financial burden on the shoulders of law enforcement personnel without a clear legal basis for demarcation actually risks creating bureaucratic paralysis, where frontline officers will be gripped by constant fear of exercising operational discretion that is actually necessary for the sake of law and order (Boukalas, 2022). Therefore, constitutional law and state administrative law must formulate rigid statutory parameters to clearly distinguish when a deviation from discretion is categorized as official misconduct (fautes de service) covered by state finances, and when it shifts to personal misconduct (fautes personnelles) that must be compensated from the officer's personal pocket. This doctrinal separation is crucial to prevent the enforcement of administrative law from getting caught up in the vortex of judicial subjectivity, while also ensuring that the principle of vicarious liability of the state does not turn into an instrument of protection for the heinous actions of certain officers (Nollkaemper & Hoffmann, 2025). These legal boundaries must be drawn using an objective analytical tool, which is based on intention, compliance with standard procedures, and the degree of deviation that occurs in the field (Pratama & Ramadhan, 2025).

Theoretically, official misconduct (fautes de service) occurs when an official's discretionary actions—even if they ultimately result in losses or administrative errors—are taken in the course of carrying out public service functions, driven by good faith (bona fide), and still within the functional corridor of their institutional duties. In this situation, the flawed actions are more likely caused by systemic failures, poor command management, or unclear institutional technical instructions, so that the losses suffered by citizens are morally and legally fair to be borne by the state through a state liability scheme (Baehr & Møller, 2025b). The state is considered to have failed to provide an adequate oversight and training system for its instruments of power, so that the transfer of financial burdens to institutions is a form of incentive for the state to immediately improve its internal governance. Conversely, personal misconduct (fautes personnelles) emerges when the actions of officials are completely disconnected from the noble goals of public service, characterized by malice, gross negligence, or motives for personal gain beyond the limits of formal authority (Suharto, 2025).

The legal demarcation between these two types of errors must be based on three cumulative indicators that serve as the basis for judges' assessments in both state administrative courts and general courts. The first indicator is the functional nexus test, which assesses whether the discretionary action was carried out during official working hours, using state attributes, and within the geographical scope of the legitimate assignment (Adebayo et al., 2023). However, this formal-structural proximity should not be used as absolute justification; judges must move on to the second indicator, the material procedural compliance test, to determine whether the command instructions being carried out are in extreme conflict with the general principles of good governance (AAUPB) (Siolimbona et al., 2026). If an officer fires a firearm into an unarmed crowd to suppress political criticism, then the action materially severing the nexus of his office, changing the legal status of the action from the performance of duty to a purely individual crime that gives rise to full personal financial responsibility (Dahlan & Siregar, 2025).

The third, no less crucial indicator is the strict proportionality test, which examines whether the degree of violence or coercion used by officers falls within the bounds of rational law enforcement in the field (Novelli et al., 2024). This is where contemporary administrative law dogmatics must boldly declare that any act of abuse of authority (detournement de pouvoir) that results in a violation of a citizen's right to life or physical integrity automatically constitutes fautes personnelles (A. Ahmad, 2025). The existence of an intentional element to violate the constitution must no longer be tolerated as a negative excess of a security operation. When a personnel consciously ignores the principles of necessity and proportionality to satisfy personal repressive urges or the interests of a particular group, the shield of official immunity that attaches to that person must be declared null and void by law, paving the way for the confiscation of personal assets to recover the victim's losses (Yusuf & Wijaya, 2024).

The ineffectiveness of positive law in Indonesia in implementing this separation lies in a regulatory bias that equates all actions of officers in the field as official actions as long as they hold a formal assignment order. This positivistic-formalistic judicial practice often turns a blind eye to the sociological fact that assignment orders are frequently misused as legal license to commit unlimited administrative violence (Nugroho & Prasetyo, 2025). This condition gives rise to acute constitutional anomalies, where the line between government actions (bestuurshandelingen) and personal criminal acts is deliberately blurred in order to save the corps from legal accountability. This outdated legal paradigm must be overhauled by emphasizing that the existence of an order does not automatically erase the nature of personal wrongdoing if in its implementation there is evidence of a radical deviation from the original purpose of issuing the order (Marzuki & Utama, 2026).

Furthermore, this affirmation of legal boundaries is linearly correlated with the doctrine of economic analysis of law, which aims to create constitutional police governance (Azam et al., 2026). If the courts are able to consistently apply this separation of culpability, it will create a healthy incentive structure within security institutions (Wayan Sepi Wahyuni et al., 2025). Personnel in the field will compete to maintain their actions within the corridor of official misconduct by adhering to every rule of engagement with discipline, because they know that even a step outside that corridor will risk their family's financial stability and their own economic future. This fear of confiscation of personal assets acts as a far more effective psychological control mechanism than the threat of internal ethics hearings, which have been rife with structural compromise and the protection of corps nepotism (Hidayat & Kurniawan, 2024).

This legal boundary arrangement also demands an expansion of the absolute competence of state administrative courts to not only test the validity of a written decision (beschikking), but also have full authority to assess the unlawful nature of factual actions (feitelijke handelingen) containing fautes personnelles (Putra et al., 2026). The courts must be equipped with the authority to issue interim decisions that can freeze the personal assets of officials or officers being investigated for alleged abuse of gross discretion, in order to prevent the transfer of assets during the legal process. Without this guarantee of progressive execution, the conceptual separation between official misconduct and personal misconduct will only end up as an academic ivory tower that has no teeth before the grip of operational power of officers who hold the weapons and insignia of the state (Ramadhan & Saputra, 2025).

Table 2 Legal Demarcation Matrix of Official Misconduct (Fautes de Service) vs. Personal Misconduct (Fautes Personnelles)

Classification Parameters	**Misconduct in Office (Fautes de Service)**	**Kesalahan Pribadi (Personal Fouls)**	**Positive Legal Pathology & Reconstructive Solutions**
1. Intention & Basic Characteristics	Actions are taken in order to carry out public service functions, driven by good intentions (bona fide), and are within the functional corridor of duties.	Actions disconnected from the purpose of public service, characterized by malice, gross negligence, or motives for personal gain.	Pathology: Regulations equate all field actions as official actions as long as they have a formal order. Solution: The warrant does not remove the fautes personnelles if a deviant radical motive is found.
2. Economic Responsibility	Morally and legally charged to the state through the state liability scheme.	It is mandatory to compensate the material losses in full from the personal pocket of the officer concerned.	Pathology: The APBN is used as an eternal reserve to fund the personal brutality of certain individuals. Solution: The Constitution demands a clean separation between systemic weaknesses and personal crimes.
3. Functional Nexus Test	The action was carried out during official working hours, using state attributes, and was within the geographical scope of the authorized assignment.	The formal-structural action is close, but the material cuts across the job relationship due to the extremeness of the deviation.	Pathology: Formal closeness is often used as an absolute justification for abuse of authority. Solution: Make functional tests an initial indicator that must be tested cumulatively.
4. Material Procedural Compliance Test	Actions are based on compliance with institutional technical guidelines and legitimate rules of engagement.	The actions or instructions of the command are in extreme conflict with the General Principles	Pathology: Administrative violence is fortified behind the formality of command instructions.

		of Good Governance (AAUPB).	Solution: The shooting of an unarmed mob automatically cuts across the line of duty to individual crimes.
5. Strict Proportionality Test	The degree of violence or coercion is within the limits of rational law enforcement for the sake of public order.	Ignoring the principles of necessity and proportionality in order to satisfy personal/group repression.	Pathology: Abuse of authority that physically harms the victim is tolerated as a negative excess of the operation. Solution: Violations of the right to life automatically erode immunity, paving the way for the confiscation of personal assets.
6. Incentive Structure (Economic Analysis of Law)	Systemic failure or poor command management triggers incentives for states to improve internal governance.	Officers are aware that acting outside the legal corridor will risk the family's financial stability.	Pathology: Internal ethics hearings are full of structural compromises and corps nepotism. Solution: The risk of personal impoverishment acts as a psychological control mechanism to realize constitutional policing.
7. Judicial Competence & Execution	The court tests the formal validity of the written decision (beschikking) of an official.	The court has full authority to assess the unlawful nature of factual acts (feitelijke handelingen).	Pathology: State administrative courts stutter in responding to destructive factual actions without written documents. Solution: Expanding the competence of the PTUN to issue interim decisions to freeze the personal assets of individuals during investigations.

By rigidly locking the parameters of this legal demarcation—through three cumulative indicators, overhauling the formalistic perspective on warrants, applying legal economic analysis, and expanding the judicial executive's competence—we can save the doctrine of state liability from destructive abuse (Marune, 2021). Constitutional law must not allow public funds in the state budget to be used as a perpetual reserve to fund the personal brutality of certain officials who deviate from their oath of office. The Constitution, as the highest legal norm, demands a clean separation: the state bears the blame arising from the weaknesses of its system, but certain officials are obliged to pay in full every cent of the losses arising from their personal crimes, for the sake of upholding true, accountable, and dignified justice within the law of the Republic of Indonesia.

3.3. Blueprint for Formulating Legal Procedures for Personal Financial Recourse Against Law Enforcement Officials

Formulating the ideal legal boundary between official misconduct and personal misconduct will end up as a sterile normative document if it is not supported by a responsive and executorial procedural blueprint. The current structure of civil and administrative procedural law in Indonesia does not provide a specific, effective channel for executing personal financial recourse from the pockets of officials proven to have committed gross deviations from discretion. As a result, victims of administrative brutality often face a dead end when trying to claim material compensation, while certain officials continue to seek refuge behind the comfort of bureaucracy and the state budget. Therefore, a radical reconstruction of procedural law is needed that specifically regulates the mechanism for lawsuits, proof of intent, and procedures for executing the personal assets of officials who violate citizens' constitutional rights (Arifin & Wibowo, 2025). This procedural law formulation must be designed to break down the walls of structural impunity without sacrificing legal certainty and judicial objectivity (Wulandari & Santoso, 2026).

The first crucial step in this procedural law blueprint is the repositioning of legal subjects through the institutionalization of objective-subjective cumulative lawsuits within a single, integrated court. In this conceptual procedural law, plaintiffs are given the constitutional right to position law enforcement institutions as defendant one (vicarious liability) and individual law enforcement officers as defendant two (personal liability) in the same case file (Fadillah & Nugraha, 2025). This merger aims to cut through the cumbersome judicial bureaucracy, while also providing space for judges to simultaneously assess the position of the error that occurred. In the initial phase of the trial, the burden of proof (prima facie evidence) is placed on the plaintiff to demonstrate actual harm and the factual involvement of defendant two. Once this initial evidentiary threshold is met, this procedural law adopts the principle of a partially reversed burden of proof (shifted burden of proof), where the second defendant is obliged to prove before the court that his discretionary actions were based on good faith and absolute compliance with the rules of lawful engagement (Gautama et al., 2026).

Once personal wrongdoing has been legally and convincingly proven, the greatest obstacle that often undermines the dignity of the judiciary is the lack of a mechanism for securing the execution of the personal assets of the individual. Contemporary procedural law requires the creation of a new legal institution in the form of a special "Financial Security Confiscation Order" (conservatoir beslag), which can be filed by the plaintiff from the time of case registration if there are strong indications of human rights violations or serious administrative violence. Through this court ruling, banking institutions and asset certification authorities are required to freeze a portion of the second defendant's assets deemed equivalent to the potential losses claimed (Hanjaya & Lestari, 2025). This aggressive step is crucial to anticipate acts of bad faith in the form of asset transfers to third parties or smuggling of assets into kinship circles during the adjudication process, an outdated practice that has often resulted in compensation decisions in court ending up as mere "paper" (Kusuma et al., 2026).

Furthermore, this blueprint must define compensation limits that do not rely solely on actual material damages, but rather selectively adopt the doctrine of punitive damages. This punitive damages component is imposed personally on officers if their actions are proven to be motivated by hatred, systemic discrimination, or deliberate intent to harm the victim's physical integrity (Mahardika & Wijaya, 2025). The presence of punitive damages in this procedural law no longer functions solely as an instrument of economic restoration, but rather acts as a psychologically oppressive financial deterrence. Thus, the rational calculations of every officer before misusing their weapons will shift radically; they are forced to realize that a single arbitrary act of discretion could wipe out their entire future savings and family assets by the law (Mahardika & Wijaya, 2025).

At the stage of executing a final and binding decision (inkracht van gewijsde), this procedural law introduces a mechanism for automatically deducting official income sources (wage garnishment) from the official's service if liquid assets are insufficient. The Ministry of Finance or the treasurer of the relevant institutional corps is legally required to deduct a certain percentage of the basic salary, performance allowance, and pension funds of the official in question to be deposited directly into the victim's account periodically until the loss is fully paid. Institutions are not permitted to use state budget funds to cover or settle portions of personal errors that have been decided by the judge. Through this firm inter-institutional execution, the state confirms its position that it will never be a guarantor for personal crimes committed by its instruments of power, so that justice is not only felt as a rhetorical decision, but is manifested in the real restoration of the victim's economic rights (Praditya et al., 2026).

Finally, to prevent the personal financial recourse mechanism from being misused by certain parties as a tool of counter-intimidation against well-intentioned officials (frivolous lawsuits), this procedural law must provide a protective filter in the form of a strict preliminary examination (pre-trial screening). In this preliminary hearing, a special panel of judges will examine whether the filed lawsuit has a strong legal basis or is simply an attempt to psychologically weaken law enforcement (strategic lawsuit against public participation). If the judge finds that the lawsuit is based on bad faith to terrorize lawful officials, then the lawsuit must be declared inadmissible (niet ontvankelijke verklaard) from the outset, and the plaintiff may be subject to administrative fines (Saraswati & Utama, 2025). With this balanced formula—between the sharpness of private asset execution on the one hand and the protection of the functional immunity of officials on the other—this procedural law blueprint will act as a new, solid anchor in realizing an Indonesian constitutional legal order that is clean, accountable, and fully supports the protection of citizens' constitutional rights (Tanjung & Rahman, 2026).

Doctrinally, the reconstruction of the procedural law for enforcing personal accountability should not be viewed partially as a mere mechanism of economic punishment. Each procedural instrument offered—from lawsuit restructuring to the confiscation guarantee mechanism—constitutes a systemic whole deliberately designed to address the jurisdictional impasse that has perpetuated fiscal impunity within the security bureaucracy. To provide clear direction for lawmakers and judicial institutions in adopting this radical idea, the entire series of procedural formulations for personal financial recourse that have been comprehensively dissected above can be crystallized into a comparative synthesis matrix in the table below.

Table 3 Synthesis Matrix of Legal Formulation of Financial Recourse Procedures for Personal Apparatus

Procedural Stages	**Doctrine & Instruments of Procedural Law**	**Material Execution Mechanism**	**Legal Incentive Targets & Risk Mitigation**
1. Consolidation of Lawsuits	Objective-Subjective Cumulation	Placing the Institution (Defendant I) & the Official (Defendant II) in one integrated lawsuit file.	Cutting through the maze of judicial bureaucracy; separating fautes de service and fautes personnelles from the outset of the trial.
2. Burden of Proof	Shifted Burden of Proof (Partial Reversal Proof)	The plaintiff presents prima facie evidence; Defendant II is obliged to prove field actions in accordance with valid rules of engagement.	Tear down the veil of operational secrecy; force discretionary transparency under judicial oath.

3. **Protection of Victim Assets**	Preservative Attachment (Sita Jaminan Finansial Khusus)	Court order to freeze some of Defendant II's bank accounts and personal assets since the case was registered.	Anticipate bad faith transfer of assets or smuggling of wealth to family circles during the adjudication process.
4. **Determination of Economic Sanctions**	Punitive Damages (Traditional Punitive Compensation)	Imposing additional compensation value beyond material losses if it is proven that there is an element of pure intent (malice).	Creating massive financial deterrence; changing the rational calculations of officials to comply with constitutional limits.
5. **Execution of Final Decision**	Wage Garnishment (Automatic Income Deduction)	Direct deductions from the percentage of salary, performance allowances, and pension funds by the corps treasurer to be deposited with the victims.	Guaranteeing regular economic recovery for victims; prohibiting the use of the state budget as bailout funds for personal crimes.
6. **Justice Filter**	Pre-Trial Screening Mechanism	Preliminary examination hearing to assess the validity threshold of lawsuits filed by civil society.	Mitigating the risk of frivolous lawsuits or SLAPPs against lawful officers.

Through the structural mapping presented in the Synthesis Matrix above, it is clear that this procedural law formulation offers a precise paradigm balance between protecting citizens' constitutional rights and guaranteeing the security of officers acting in good faith. This institutionalization of personal retributive financial sanctions will not lead to bureaucratic paralysis as long as the preliminary judicial filter is enforced objectively and consistently. Instead, this institutionalization will act as a new anchor that forces a shift in command culture from a repressive militaristic nature to constitutional policing. By closing the procedural vacuum that allows escape from personal financial responsibility, this article has not only succeeded in exposing the blind spots in contemporary governance law but has also laid a solid blueprint for upholding substantive fiscal justice and a dignified rule of law in Indonesia.

4. Conclusion

This research successfully addresses the root of the constitutional problem of why operational brutality and the wild discretion of law enforcement officers continue to recur without any substantive deterrent effect. The main finding of this research reveals a pathological blind spot in Indonesian administrative and constitutional law, namely the vacuum of procedural law to execute the right of recourse (counterclaim) of state finances directly into the personal pockets of certain officials. As a result, the doctrine of vicarious liability (substitute liability) of the state is wrongly misused as a shield of collective impunity that burdens the entire economic costs of personal repression to the state budget, which ironically forces civil society as taxpayers to fund the oppression against themselves. Theoretically, this research makes a radical contribution to the deconstruction of public law epistemology by expanding the boundaries of the state liability doctrine through an economic analysis of law approach. This research successfully formulated rigid statutory parameters to clearly distinguish between official errors (fautes de service) and personal errors of officers (fautes personnelles) through three cumulative indicators, namely the functional nexus test, the material procedural compliance test, and the strict proportionality test. This theoretical implication breaks with the positivistic-formalistic perspective that has naively assumed that formal duty orders automatically erase the nature of personal errors of officers in the field.

In practice, this research provides a blueprint for a responsive and executory personal financial recourse law for implementation in the Indonesian justice system. Through an institutionalized model of retributive financial sanctions (personal financial liability) that integrates objective-subjective cumulative claims, the principle of a partially reversed burden of proof (shifted burden of proof), a special financial security conservatoir (conservatoir beslag), the doctrine of punitive damages, and an automatic wage garnishment mechanism, this research provides tactical guidance for policymakers to force a shift in command culture toward constitutional policing. This research is limited by its purely doctrinal-normative focus, based on analysis of legal texts, contemporary doctrine, and jurisprudence on disputes over factual actions of authorities (feitelijke handelingen). This research has not touched on empirical-quantitative aspects, such as mathematical calculations of the average financial capacity of law enforcement personnel in Indonesia or the readiness of inter-institutional digital banking infrastructure to integrate a real-time asset freezing system for the purposes of personal civil sanctions.

It is hoped that further research can adopt empirical legal research methods (socio-legal research) or economic-econometric approaches to test the elasticity of compliance levels of officers in the field after the implementation of the risk of personal impoverishment. Furthermore, future studies need to explore standardization of punitive damages assessment components to avoid high disparities in decisions between judges and examine professional liability insurance mechanisms for officers to maintain objectivity in field duties without creating bureaucratic paralysis.

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