

Reconstruction of Constitutional Limits on Law Enforcement Officers' Discretion in Maintaining State Security and Civil Supremacy

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Abstract:

This study reconstructs the constitutional boundaries of law enforcement discretion in Indonesia to balance national security, civilian supremacy, and citizens' constitutional rights. Employing a normative-juridical method alongside statutory and conceptual approaches, the study analyzes the 1945 Constitution, Law No. 2 of 2002 on the Indonesian National Police, Law No. 30 of 2014 on Government Administration, relevant court rulings, and contemporary legal doctrine. The findings reveal normative ambiguities within sectoral regulations that create accountability gaps and open opportunities for the abuse of authority. To address these weaknesses, the study proposes the "Constitutionalization of Operational Discretion"—a framework that subjects discretion to the rule of law, the General Principles of Good Governance (AAUPB), proportionality tests, judicial oversight, standardized rules of engagement, post-action digital reporting, independent supervision, state liability, and financial recovery mechanisms targeting officials who abuse their authority. This framework contributes to the development of constitutional and administrative law by establishing enforceable standards for individual operational conduct and fostering democratic, transparent, proportionate, and human rights-oriented security sector governance.

Keywords: administrative law; constitutional accountability; law enforcement discretion; national security; proportionality test.

INTRODUCTION

The architectural design of a modern rule of law (*rechtsstaat*) in the democratic era demands a fundamental shift in the way state officials distribute and exercise their authority. In a climate of democratic consolidation, the institutional repositioning of the security and law enforcement sectors is often mired in acute institutional ambivalence (Sapsudin, 2025). On the one hand, these institutions are legally and constitutionally mandated to maintain public order and national stability under the rule of law. However, the practical execution of these duties in the field demands the capacity for swift, independent, and spontaneous decision-making, which is theoretically formalized as "operational discretion" (Sapsudin, 2024). This legal phenomenon, unfortunately, often triggers profound paradoxes in the state administration. When law enforcement officials exercise broad discretionary powers in the civil sphere, the classic mechanism of checks and balances experiences severe structural tension (Kristiansen et al., 2009). As a result, the thin line separating legitimate state action from arbitrary abuse of power has become very blurred, threatening the foundations of civil supremacy and constitutional democracy itself (Md Salleh et al., 2024).

Historically, discourse on integrating internal security doctrine into the constitutional law framework has focused too much on macro-institutional arrangements. Constitutional law scholars often debate whether law enforcement organs should be placed directly under the supervision of the civilian political executive or established as autonomous, independent institutions. However, contemporary socio-legal realities demonstrate that structural reform alone is never sufficient to ensure democratic accountability. In new democracies, structural shifts without a thorough harmonization of technical regulations have created a dangerous institutional vacuum. The law enforcement sector is granted extensive statutory authority to protect the public, yet the internal and external mechanisms designed to control this power remain archaic, static, and disconnected from constitutional principles. This structural misalignment manifests itself most vividly when personnel operate in the field, where abstract constitutional texts must confront the fast-moving and unpredictable dynamics of local security threats.

This ongoing tension has been extensively explored in contemporary constitutional law and criminology literature, yet significant academic blind spots remain. A critical examination of recent scholarship reveals a stark dichotomy in how researchers approach this issue. The majority of macro-level studies focus almost exclusively on institutional design, transitional accountability, and the socio-political implications of security sector reform. For example, some research meticulously unpacks the structural ambivalence inherent in post-authoritarian law enforcement institutions and demonstrates how the absence of a synchronized constitutional design has led to an "accountability vacuum" in sectoral legislation (Hasani et al., 2026). On the other hand, there are also analyses that examine this crisis from the perspective of the structural separation of powers, sounding the alarm that the expansion of active-duty personnel into civil bureaucratic positions is systematically eroding the constitutional limits of civilian supremacy.

While these structural critiques are vital, they share a common limitation: they treat law enforcement institutions as monolithic macro-entities, thus ignoring the micro-dynamics of officers' actions at the operational level. Conversely, the empirical and criminological literature tends to swing to the opposite extreme, focusing entirely on public perception, field effectiveness, and institutional legitimacy without rooting them in constitutional doctrine. One study utilized empirical data to demonstrate that civil society cooperation with law enforcement officials is highly dependent on external transparency and perceived institutional accountability on the ground (Abdi & Hashi, 2024). While the empirical evidence regarding this "public trust" is compelling, their framework fails to translate these sociological expectations into concrete statutory legal parameters. Globally, the trend toward democratic oversight has also been criticized for often failing to keep pace with the evolutionary nature of modern law enforcement, which increasingly relies on broad administrative discretion to address disturbances of public order (Goldsmith & Harris, 2024).

This sharp separation between macro-constitutional critique and micro-empirical assessment reveals a crucial yet largely unaddressed research gap. The existing legal literature remains silent on how to formulate rigid statutory parameters to bind operational discretion at the field level to ensure its adherence to constitutional law principles. There is a profound failure to address a fundamental legal question: How can positive law capture, measure, and limit spontaneous discretionary actions by personnel in the field so that they remain legally valid within state administration while respecting citizens' constitutional rights?

This failure is exacerbated by the emergence of gray-area situations—such as small-scale horizontal conflicts, dynamic disturbances of public order, or local crises—that legally fall short of the high requirements for a formal state of emergency, yet require immediate tactical intervention. When constitutional law scholars warn of the dangers of abuse of emergency powers by executives in developing countries, they inadvertently ignore the existence of these everyday "micro-emergencies" (Bushra & Pakeeza, 2022). It is in these gray areas that officials on the ground routinely exercise *de facto* authority under the guise of maintaining public order, completely independent of judicial and legislative oversight. This vacuum exists because existing positive law provides only two extreme options: normal constitutional limitations or total emergency powers. The legal reality on the ground, however, consistently operates somewhere in between these two extremes.

To bridge this academic and regulatory gap, this study argues that operational discretion should no longer be viewed merely as an empirical necessity or a purely administrative instrument; it should be conceptualized as a constitutional construct strictly bound by the principle of proportionality. The principle of proportionality serves as a powerful judicial tool to test whether state intrusions into citizens' fundamental rights are legally justified, necessary, and balanced with the protected public interest (A. S. Wicaksono, 2026). By incorporating this principle directly into the statutory definition of operational discretion, the legal

system can establish dynamic yet predictable limits to state action. This perspective is crucial because the erosion of citizens' constitutional rights rarely occurs through sweeping legislative declarations, but rather occurs incrementally through the accumulation of unchecked abuses of administrative space at the field level (Baehr & Møller, 2025).

Furthermore, from the perspective of state administrative law, discretion that is not strictly regulated will mutate into abuse of authority (*détournement de pouvoir*). Any use of discretionary power that lacks objective parameters in law clearly violates the essence of the General Principles of Good Governance or AAUPB (R. A. Pratama & Ramadhan, 2025). Therefore, the challenge is not to eliminate discretion—a logistically impossible and operationally dangerous undertaking in law enforcement—but rather to develop legal mechanisms that compel decision-making at the field level to comply with constitutional standards. This requires a shift from macro-structural debates to the reconstruction of the internal regulatory framework of security institutions themselves. Harmonizing national security doctrine with democratic constitutionalism requires a sophisticated regulatory framework capable of translating abstract constitutional guarantees into concrete operational rules applicable to personnel in the field (H. Suharto, 2025).

By synthesizing these various legal doctrines, this study offers a scientific novelty that breaks with the current academic consensus. While previous literature has focused on demanding strict restrictions on civil servants' roles or lamenting the structural weakness of institutional accountability, this study introduces a comprehensive normative model for the Constitutionalization of Operational Discretion. This research goes beyond simply criticizing the expansion of the apparatus' role, but rather provides a prescriptive-dogmatic framework that establishes concrete, legally testable legal parameters for actions in the field. We develop a multi-layered legal test—integrating elements of logical necessity, minimum intrusion, and expedited post-action administrative review—to ensure that when personnel exercise discretion, such actions remain firmly anchored in the state's constitutional order.

As a conclusion to this introductory section, this article aims to address the pressing legislative and theoretical gaps in Indonesia's constitutional system and comparative constitutional law. By focusing its analysis on the intersection of constitutional supremacy, the principles of state administrative law, and the operational needs of security, this study seeks to answer how a democratic state can successfully maintain public order without compromising its identity as a *rechtsstaat*. The ultimate goal of this study is twofold: first, to enrich the theoretical discourse in constitutional law by providing a humanistic and progressive accountability framework; and second, to offer actionable prescriptive recommendations for policymakers, legislative bodies, and institutional leaders to reform operational technical regulations, ensuring that the sword of state security is always guided by the shield of constitutional justice.

METHOD

This research employs a doctrinal or juridical-normative legal research approach that focuses on the analysis of statutory texts, court decisions, and relevant legal doctrines. In keeping with the nature of normative legal research, this study examines the internal consistency of regulations governing the limits of state power, particularly those related to the legitimacy of security forces' operational discretion in the civilian sphere. To comprehensively examine this legal issue, this research employs two main approaches. First, a statute approach is used to critically examine the hierarchy of Indonesian positive legal rules, starting from the 1945 Constitution of the Republic of Indonesia, Law Number 2 of 2002 concerning the Indonesian National Police, and related technical regulations. Second, a conceptual approach is applied to establish new parameters by utilizing constitutional law theories such as the theory of separation of powers, the doctrine of civil supremacy, and universal principles of state administrative law.

The legal sources used in this study are classified into two main types. Primary legal materials consist of emergency statutory regulations, sectoral law enforcement laws, and Constitutional Court decisions that provide official interpretations of the limits of apparatus authority. Meanwhile, secondary legal materials were obtained through a search of the latest scientific literature, including constitutional law textbooks, legal dictionaries, and reputable international journal articles that specifically discuss security sector reform and police accountability in developing countries (Kurniawan & Setiawan, 2024). The legal materials were collected using digital-based documentary study techniques by filtering data from globally indexed journal databases and official legal repositories.

The legal material analysis technique in this study uses a qualitative-prescriptive analysis method. The normative legal material collected is not merely passively described, but rather subjected to dialectical

criticism to identify inconsistencies between abstract constitutional norms and technical regulations in the field. The analysis process is carried out through three systematic stages. The first stage is mapping and identifying articles in sectoral laws that are deemed to trigger the emergence of gray areas or the expansion of discretion without oversight (Hamilton & Ramcilovic-Suominen, 2023). The second stage is testing the validity of these operational discretionary actions using the General Principles of Good Governance (AAUPB) analysis tool to detect any elements of administrative abuse of authority (R. Pratama & Ramadhan, 2025).

The third and final stage is to conduct a conceptual reconstruction by integrating the proportionality test into the formulation of restrictions on apparatus discretion (G. Wicaksono, 2026). Through this prescriptive analysis stage, the research does not stop at identifying weaknesses in existing positive law but is able to produce concrete recommendations or regulatory models. This model is designed to synchronize the dynamic national security doctrine with the demands of democratic constitutional law accountability in order to provide essential protection for the constitutional rights of civil society (B. Suharto, 2025).

RESULTS AND DISCUSSION

Anatomy of the Dilemma of Apparatus Discretion in a Democratic State System

The granting of discretionary authority to law enforcement officers in a democratic constitutional system is both a sociological necessity and the most complex normative paradox in modern legal history. Doctrinally, a modern constitutional state (*rechtsstaat*) cannot ignore the objective fact that static, rigid, and formalistic legal texts are often stuttering and inadequate when faced with the dynamics of fast-moving, fluid, and unpredictable security threats in the field. Constitutions and statutory regulations are often drafted in sterile courtrooms, far from the realities of social tensions manifest on the ground. However, when positive law grants excessive administrative leeway in the name of operational flexibility without being accompanied by rigid and measurable constitutional boundaries, such discretion instantly mutates into a gateway for arbitrary state authority (abuse of power). Herein lies the fundamental clash between legal certainty (*rechtssicherheit*) and substantive justice (*gerechtigkeits*), where discretion, which was originally intended to grease the wheels of law enforcement, often acts as a destroyer of citizens' constitutional rights (Pangaribuan, 2025).

In the context of a country undergoing a phase of democratic consolidation or post-authoritarian transition, such as Indonesia, the substantial arrangement of sectoral regulations in the security sector still leaves a very acute structural ambivalence. One of the most obvious examples of this ambivalence is contained in Law Number 2 of 2002 concerning the Indonesian National Police, which inherently carries a dual legal character. On the one hand, this law is required to be an instrument for protecting human rights and safeguarding civilian supremacy subject to democratic corridors (Gunawan, 2023). However, on the other hand, this legislative product actually provides highly subjective and multi-interpretable discretion to personnel in the field through vague pretexts such as "maintaining public order," "in the public interest," or "the officer's own judgment." The lack of clear synchronization between the macro-constitutional design, which upholds limitations on power, and expansive sectoral statutory laws, ultimately creates an accountability vacuum that allows repressive actions by state officials to escape the oversight of constitutional law (Hasani et al., 2026). This vacuum is not merely a technical legislative omission, but rather a structural flaw that allows law enforcement institutions to operate outside the radar of democratic accountability principles.

This unclear legal parameters are increasingly worrying when security forces no longer operate solely within the realm of pure law enforcement, but also begin to infiltrate, intervene, and occupy strategic positions in the public sphere and the civil bureaucracy. This phenomenon of expanding roles systematically blurs the functional boundaries adopted from the principle of separation of powers, a pillar of a democratic state. Constitutionally, the placement of active personnel in civil positions and civil government institutions carries a significant risk of eroding the doctrine of civil supremacy, as the command culture, militaristic hierarchy, and repressive mentality inherent in security institutions will gradually degrade bureaucratic neutrality and the independence of the constitutional law institutions themselves (Tamrin et al., 2026). When institutions that hold a monopoly on legal violence by the state begin to interfere in civil governance affairs, the constitutional structure will experience severe distortion, where checks and balances no longer function horizontally but are instead subordinated to repressive security stability interests.

This constitutional dilemma is exacerbated by the fact that positive law in many developing countries lacks a sufficiently robust and independent external oversight mechanism to directly test the legality of discretionary decisions by officials when they directly impact the civil rights of citizens on the ground. Globally, the failure of democratic oversight institutions to keep pace with the evolutionary nature of modern law enforcement is a recurring pathological trend in countries consolidating their democracies (Goldsmith & Harris, 2024). Formal oversight institutions, such as independent state commissions or even parliaments, often serve as mere hollow ornaments of democracy, as they lack the executive authority to overturn or sanction abuses of operational discretion. When operational discretion is allowed to flourish without strict judicial oversight, officials in the field become *de facto* lawmakers through their unilateral actions that immediately impinge on citizens' rights to life, property, and liberty.

The impact of this administrative impunity has triggered extraordinary horizontal tensions between the state and civil society. The legitimacy and moral authority of a security institution in the public eye fundamentally depend on how transparent, rational, and accountable each discretionary action is, and how it can be accounted for in an open courtroom (Abdi & Hashi, 2024). When the public sees that discretion is used as a legal shield to justify brutal, discriminatory, or politically biased actions, public trust, the greatest social capital in law enforcement, collapses. Without a radical reconstruction of the anatomy of this discretion, the clash between the need for national security stability and the protection of citizens' constitutional rights will always produce the same pattern: victory for the arrogance of state power and defeat for civil rights defenders. This condition is slowly but surely undermining the dignity of a democratic state based on the rule of law and shifting it back toward new patterns of authoritarianism disguised as law (legalistic authoritarianism).

Furthermore, an examination of the internal regulatory structure of security institutions reveals that constitutional legal instruments often stop at the statutory level, while lower-level regulations, such as National Police Chief Regulations or field instructions, contain norms that contradict the spirit of the constitution. This lack of rigid parameters leads lower-level personnel to misinterpret discretion as unfettered. However, from the perspective of state administrative law, no power under the constitution is absolute and untestable. This failure to define the limits of discretion at the operational level confirms that our positive law is experiencing functional disorientation, where rigid substantive criminal law and criminal procedural law are forced to submit to the fluid and subjective situational discretion of officers.

Table 1 Anatomical Matrix of the Dilemma of Apparatus Discretion in a Democratic State System

Dimensions of Analysis	Field Reality & Structural Pathology	Doctrinal Paradox & Sectoral Regulation	Constitutional & Social Impact
1. The Nature of Discretion & Static Law	Statutory laws are designed to be sterile in formal proceedings, making them rigid and inadequate to respond to the dynamic field.	Sociological inevitability (field flexibility) clashes with normative paradox (<i>rechtsstaat</i> which demands compliance with the text).	Without rigid limits, discretion instantly mutates into abuse of power, clashing legal certainty (<i>rechtssicherheit</i>) and substantive justice (<i>gerechtigkeit</i>).
2. Ambivalence of Sectoral Regulations	Law No. 2/2002 concerning the Indonesian National Police has a dual legal character that contradicts each other.	The law is required to protect human rights/civil supremacy, but contains subjective, rubber articles: "maintaining public order," "for the public interest," "the officer's own assessment."	The birth of an accountability vacuum that allows repressive actions by officials to escape the radar of constitutional law.
3. Expansion of Roles	Security forces began to penetrate, intervene, and occupy strategic positions in the civil bureaucracy and public spaces.	The erosion of the doctrine of civil supremacy due to the appointment of active personnel in civil governance positions.	Command culture and a militaristic mentality degrade bureaucratic neutrality; the system of checks and balances is subordinated to security stability.

4. External Supervisory Infertility	Independent state commissions and parliaments serve only as toothless ornaments of democracy.	External oversight bodies have failed to keep pace with the evolutionary nature of modern law enforcement because they are not equipped with executive authority.	The absence of judicial oversight causes officers in the field to act de facto as temporary law-makers.
5. The Collapse of Public Trust	Operational discretion is used as a legal shield to justify brutal, discriminatory, or politically biased actions.	The state often hides behind the pretext of "urgent situations" or "grey areas" to expand its authority beyond constitutional limits.	Public trust has collapsed, triggering a pattern of legalistic authoritarianism (a new authoritarianism disguised as law) due to the defeat of civil rights.
6. Functional Disorientation of Regulation	The constitutional legal instruments stop at the law, defeated by the National Police Chief's Regulation or contradictory field instructions.	Rigid material criminal law and criminal procedural law are forced to submit to the fluid and subjective situational discretion of the apparatus.	Lower-level personnel mistakenly interpret discretion as absolute, unfettered discretion.
7. Direction of Conceptual Reconstruction	Improvements to security institutions must not stagnate in macro debates about the institutional position within the state structure.	The urgency of formulating legally binding rules of engagement for every personnel who holds a weapon and badge.	Taming the wildness of administrative power of the apparatus so that constitutional law does not merely become a beautiful text on paper that loses its edge.

The anatomy of this dilemma also shows that the state often uses the excuse of "urgent situations" or "grey areas" to expand the authority of its apparatus beyond the limits permitted by the constitution. Herein lies the importance of conceptual reconstruction. As constitutional law academics, we must be able to see that institutional improvement cannot stop at the macro debate regarding the institutional position of the police within the state structure, but must also delve deeply into how to formulate legally binding rules of engagement for every personnel who bears a weapon and a badge in the name of the state. If the limits of operational discretion remain gray, then our constitutional law will only be a beautiful text document on paper, but lose its edge when faced with the barrel of a gun and repression of the apparatus in the field. Therefore, unpacking the anatomy of this discretionary dilemma is a crucial first step before we can formulate constitutional parameters capable of taming the wild administrative power of security forces for the sake of upholding humane justice.

Constitutional Parameters as Limits on Field Discretion

Placing the discretionary actions of officials within the framework of constitutional limitations is not merely a formal-procedural effort, but an axiological necessity to save the essence of democracy from internal decay. In contemporary constitutional law discourse, the freedom of action inherent in administrative authority must be placed under the umbrella of constitutionalism, which requires that no dark space of power is immune from the reach of legal principles (G. Wicaksono, 2026). When an officer in the field makes a spontaneous decision in the name of order, such action should not be viewed as an absolute free space of law (*freie ermess*en), but must be read as a conditional delegation of authority subject to the noble values of the constitution. This foundation is crucial because the tendency of security institutions in developing countries often blurs the line between legitimate discretionary actions and actions exceeding authority (*ultra vires*) that damage the order of citizens' rights (R. A. Pratama & Ramadhan, 2025). Therefore, testing the legality of discretion is no longer sufficient to rely solely on the principle of formal legality, but must delve into testing the morality of the constitutionality of such actions.

To prevent discretion from becoming disguised repression, modern state administrative law has adopted the General Principles of Good Governance (AAUPB) as the primary shield in assessing the legitimacy of public actions by state officials. Doctrinally, the principle of prohibition on abuse of authority (*detournement de pouvoir*) and the principle of prohibition on arbitrary action (*willekeur*) must be positioned as operational parameters that directly bind the personality of every official holding the insignia of state (Baehr & Møller, 2025). The implementation of the AAUPB in the field requires objective proof that the motives behind discretionary decision-making are purely in the public interest and not contaminated by the ego interests of institutional sectors or the political biases of those in power. The problem is, the internalization of these principles often hits a thick wall of a dense corps culture, where discretion is often used as a collective justification for violations of standard operating procedures at the expense of human rights protection (B. Suharto, 2025). This cultural disorientation demands a legal reconceptualization so that AAUPB is no longer merely an academic text decoration, but rather an instrument of legal ensnarement for the abuse of administrative authority.

One of the most potent instruments adopted from the modern constitutional law tradition to tame the wildness of official discretion is the application of the proportionality test. This proportionality test dissects a discretionary action through three rigorous steps: suitability, necessity, and proportionality in the narrow sense (*proportionality stricto sensu*) (Siolimbona et al., 2026). Through this analytical tool, law enforcement officials can no longer hide behind the phrase "emergency situation" without being able to prove that the harsh measures they take are the only, minimal option available to achieve the goal of public order. If there are other, more persuasive options that do not violate citizens' constitutional rights, but officials instead choose the repressive path, then the discretionary action immediately loses its legal legitimacy and is classified as a serious violation of citizens' constitutional rights (Dahlan & Siregar, 2025). Furthermore, democratic law enforcement demands that every discretionary exercise be subject to judicial review. To date, there has been a systemic error in which spontaneous discretionary actions by officers are considered outside the jurisdiction of the state administrative courts due to their factual nature (*feitelijke handelingen*), not written decisions (*beschikking*) (Setiawan, 2026). This formal barrier has created sociological impunity for officials, with victims of violence or administrative arbitrariness finding it difficult to seek substantive justice before the courts. The transformation of constitutional law must break down these formalistic barriers by expanding the absolute competence of the judiciary to examine every factual action of the authorities proven to violate the constitutional rights of the people (Yusuf & Wijaya, 2024). Only by opening the door to judicial control can the instrument of discretion be returned to its original purpose as a tool to protect, not destroy, a just legal order.

The dilemma of law enforcement in the field is often exacerbated by the absence of rules of engagement that align with international human rights standards. When officers are confronted with mass demonstrations or agrarian conflicts, their discretion is often reactive and destructive because the instructions they receive from higher levels of command are ambivalent and politically motivated (Nugroho & Prasetyo, 2025). Constitutionally, the right to freedom of expression and assembly cannot be arbitrarily reduced, so any restrictions through discretion must pass a very strict test under the principle of democratic necessity (*necessity in a democratic society*) (Marzuki & Utama, 2026). The state's failure to codify these parameters into technical operational regulations has left lower-level officers vulnerable to the legal system's opaque nature, where they are forced to make high-risk decisions under the pressure of circumstances without the guidance of solid legal morality.

From a sociological perspective on constitutional law, determining discretionary parameters must also consider the unequal power relations between security forces as representatives of the state and citizens as legal subjects (Arthanti, 2025). Without rigid limiting parameters, discretion tends to be applied discriminatorily, with marginalized groups and the political opposition often becoming the primary targets of repressive actions, while economic and political elites receive the privilege of legal amnesty through administrative proclamations. This unequal application emphasizes that unlimited power hidden behind the cloak of discretion will always move linearly towards structural oppression if not controlled by independent external oversight instruments. Therefore, the standardization of these constitutional parameters must be placed within the framework of restoring social justice, where the law serves as a shield for the weak, not a weapon for the powerful (Hidayat & Kurniawan, 2024).

This reconstruction of legal dogma ultimately leads to a demand for a paradigmatic repositioning of all law enforcement officials, from policymakers to frontline personnel. Officers should no longer be

educated in a militaristic culture that views the public as a potential threat, but rather should be oriented toward a comprehensive understanding that the ultimate legitimacy of their actions stems from adherence to citizens' constitutional rights. Every discretionary action taken in the field must be accompanied by the obligation to provide a written, immediate, post-action accountability report that is accessible to the public and independent oversight bodies (Ramadhan & Saputra, 2025). This mechanism serves not only as a control tool but also as an instrument of legal protection for officers themselves, so that their professional actions in the field are not misinterpreted as violations of the law in the future.

Table 2 Constitutional Parameter Matrix Limiting Field Discretion

Constitutional Pillars	Testing Instruments & Doctrines	Systemic Pathology & Obstacles	Academic Reconstruction Formulation
1. Axiological Foundation of Constitutionalism	Discretion is seen as a conditional delegation of authority, not an absolute free space of law (<i>freie ermessen</i>).	Security institutions often obscure legitimate actions with actions that exceed their authority (<i>ultra vires</i>).	The legality test of discretion must shift from merely the principle of formal legality to testing the morality of the constitutionality of actions.
2. Internalization of AAUPB	Implementation of the principle of prohibition on abuse of authority (<i>detournement de pouvoir</i>) and prohibition on acting arbitrarily (<i>willekeur</i>).	Internalization of principles hits a thick wall of corps culture; discretion is used as a collective justification for violating SOPs.	Making AAUPB an operational parameter that binds the personality of officers and becomes a concrete legal instrument.
3. Institutionalization of the Proportionality Test	Rigid testing through 3 steps cumulatively: 1. Suitability 2. Necessity 3. Proportionality in the strict sense.	Authorities often hide behind the phrase "emergency situation" to immediately choose a repressive path without considering persuasive options.	If there are other, more minimal options but the authorities choose a repressive path, the legality of the action will automatically collapse (serious constitutional violation).
4. Judicial Reviewability	Expansion of the absolute competence of the judiciary to break down the formalistic barriers of procedural law.	Spontaneous discretionary actions are considered immune from the PTUN because they are factual actions (<i>feitelijke handelingen</i>), not written decisions (<i>beschikking</i>).	Opening the door to judicial oversight, the PTUN has full authority to review any factual actions of the authorities that violate constitutional rights.
5. Standardization of Rules of Engagement	The development of rules of engagement that are in harmony with international human rights standards and the principle of necessity in a democratic society.	The absence of operational guidance makes discretion reactive and destructive; officers are forced to make risky decisions under pressure from politically biased commands.	The state is obliged to codify the parameters of restrictions on the rights of assembly and expression strictly into rigid operational technical regulations.
6. Balance of Power Relations	Make the law a shield for marginalized groups, not a weapon for those in power.	Without rigid boundaries, discretion is applied discriminatorily: marginal/opposition groups are	Standardization of discretionary parameters must be placed within a framework of restoring

		repressed, while the elite receive the privilege of forgiveness.	social justice through independent external oversight.
7. Post-Action Accountability	Repositioning the paradigm from a militaristic culture (society as a threat) to a culture of constitutional compliance.	The absence of an immediate accountability mechanism means that discretion is interpreted by lower-level personnel as absolute freedom (unfettered discretion).	The obligation to provide a publicly accessible written post-action accountability report.

By enforcing rigid constitutional parameters—through the integration of the AAUPB, the institutionalization of proportionality testing, the expansion of judicial competence, and the transparency of post-action reports—the dualism of discretionary nature can be completely tamed. Constitutional law must no longer be passive and leave the interpretation of emergency situations entirely to the subjectivity of officials who hold the authority of legal violence. As the main axis of the rule of law, the constitution must be clearly present in every inch of the operational actions of officials in the field, ensuring that every breath of power emanating from the insignia of the state is always in harmony with the breath of human rights protection. Only through these solid and uncompromising parameters can we reconnect the joints of democracy torn by the arrogance of power, while simultaneously strengthening the constitutional commitment that Indonesia is a state of law that honors humanistic justice for all its people.

Internal Regulatory Reconstruction and Accountability Model

Deconstructing the anatomy of dilemmas and formulating constitutional parameters on paper will only be a sterile academic discourse if not actualized into a concrete blueprint for regulatory reconstruction (regulatory framework). In the modern constitutional law landscape, synchronizing vertical regulatory governance is absolutely necessary to ensure that legal instruments at the operational level do not betray the legal mandate at the constitutional level (Anwar & Sutedi, 2026). This regulatory restructuring must begin with a radical constitutional and legislative review of security sector laws, which have tended to grant absolute freedom under the guise of discretion without a balanced oversight mechanism. The new legal formulation policy must shift the paradigm from regulations oriented towards protecting power (state-centered regulatory framework) to regulatory designs that place citizens' constitutional rights as the primary anchor (human-centric regulatory framework) (Fadillah & Nugraha, 2025). Without regulatory reform at the macro level, lower-level operational levels will continue to reproduce patterns of structural repression in the name of upholding public order.

The first strategic step in this reconstruction model is to standardize the codification of rules of engagement at the level of formal technical regulations with strong external binding power. To date, regulations regarding the limits of discretion and the use of force by officers have tended to be regulated in internal legal instruments—such as the Chief of Police Regulation or the Commander-in-Chief Regulation—which, hierarchically, have structural weaknesses and restrict access to public oversight (Reksodiputro & Hamzah, 2025). These formalistic barriers must be overcome by elevating the status of these technical norms of discretion to a higher legal instrument, at least in the form of a Government Regulation or direct codification within the new substantive criminal procedural law. This transformation is crucial so that every state apparatus recognizes that violations of operational discretion limits are no longer merely violations of corps ethics resolved in internal courtrooms, but rather violations of positive law that carry serious criminal and administrative sanctions (Gautama et al., 2026).

Beyond external regulatory reform, the heart of security institutional reform lies in the complete reconstruction of the internal accountability mechanisms of law enforcement institutions themselves. To date, internal oversight institutions such as the Professional and Security Division (Propam) or supervisory inspectorates have often been caught in acute conflicts of interest due to the strong, flawed doctrine of *esprit de corps* (Haddad & Al-Fayed, 2025). To break the chain of internal impunity, this reconstruction model proposes the establishment of a semi-autonomous internal oversight compartment, where the process of examining discretionary violations involves external representatives from independent state commissions and constitutional law academics. This internal institutional restructuring aims to restore shattered public trust while ensuring that

any indiscipline or abuse of discretion in the field is investigated transparently without intervention from the institution's structural command hierarchy.

Furthermore, credible internal accountability must be supported by the institutionalization of a real-time, integrated digital reporting system. Every time a personnel makes a discretionary decision that directly impacts the freedom or property rights of citizens in the field, they are legally required to input the legal justification for that action into a centralized command system within a maximum of twenty-four hours of the incident (Kurniawan & Santoso, 2025). This digital documentation should not be solely for internal consumption but should be directly connected to the databases of external oversight bodies such as the National Commission on Human Rights (Komnas HAM) and the Indonesian Ombudsman (Lubis et al., 2026). Through this institutionalized digital transparency, the potential for manipulation of field facts or fabrication of the chronology of events by officers following repressive actions can be minimized, forcing each personnel to act more cautiously, rationally, and measuredly.

Another crucial issue that often allows abuse of discretion to escape the clutches of constitutional law is the absence of institutional financial sanctions that directly burden the operational budget of the law enforcement agency. In this prescriptive regulatory reconstruction model, the concept of absolute state liability is adopted, where any material or immaterial losses to citizens resulting from arbitrary discretion by officials must be fully compensated by the state budget through a court decision (Mustofa & Wijayanti, 2025). This compensation scheme is designed with a recourse clause, whereby state institutions that pay compensation have the right to claim financial restitution from officials proven to have intentionally abused their authority (Nasution et al., 2026). This negative incentive mechanism will automatically force the leadership of high-ranking institutional commands to tighten internal oversight of their subordinates in the field, because any negligence in discretion by lower-ranking personnel will directly impact cuts to their institution's sectoral budget allocation.

This reconstruction model also demands a complete overhaul of the security apparatus professional education and training curriculum, from the academy level to higher education in police science. The legal education paradigm within the institution must be cleansed of remnants of the repressive authoritarian state security doctrine and reoriented toward a humanist understanding of constitutional law that places the protection of citizens' rights as the highest law (*salus populi suprema lex esto*) (Oetomo & Wibowo, 2025). Officers on the front lines must no longer be trained merely in tactical-militaristic dexterity, but must be equipped with the skills of rapid legal analysis to conduct spontaneous proportionality tests before deciding on a discretionary decision (Panggabean & Siregar, 2026). Internalizing constitutional values from an early age in this educational framework is a long-term investment in the state administration to produce a new generation of law enforcers who possess strong public moral integrity and are resilient when faced with the complexities of human rights in the field.

Ultimately, the integration between macro regulatory reform and strengthening internal accountability at the micro level must be secured through the institutionalization of an independent, secure, and intimidation-free public complaints mechanism. Civilians who have been victims of administrative violence are often reluctant to report abuse of discretion by officials for fear of being recriminalized by those officials (Qodir & Pratama, 2025). This new regulatory model recommends the establishment of an independent police complaints commission with full authority to receive reports, conduct independent investigations, and even bring cases of abuse of discretion directly to court without internal bureaucratic obstacles (Raharjo et al., 2026). Only by providing a secure and fully empowered legal channel for citizens can the principle of popular sovereignty guaranteed by the constitution be fully re-established against the encroachment of security apparatus arrogance.

Tabel 3 Matrix of Internal Regulation and Accountability Reconstruction Model

Pillars of Reconstruction	Formulation of Regulatory Design / Mechanism	Systemic Pathology of Amputee	Legal Implications & State Governance
1. Repositioning the Macro Regulation Paradigm	Shifting the state-centered regulatory framework to a human-centric regulatory framework through radical constitutional and legislative review.	Absolute freedom of the apparatus is hidden under the cloak of discretion without a balanced control mechanism.	Placing citizens' constitutional rights as the main anchor in security sectoral laws.

2. Hierarchical Ascension of Technical Norms	Raise the status of rules of engagement from an internal instrument (Perkap/Perpang) to a formal instrument, at least a Government Regulation or codification of the Criminal Procedure Code.	Structural weaknesses in internal instruments that block access to public oversight and perpetuate impunity.	Violations of discretionary boundaries shift from mere internal ethical violations to violations of positive law with serious criminal/administrative sanctions.
3. Democratization of Internal Supervisory	Establish a semi-autonomous internal supervisory compartment involving representatives of independent state commissions and HTN academics.	The infertility of the Propam Division or inspectorate is due to the acute conflict of interest from the erroneous doctrine of esprit de corps.	Breaking the chain of internal impunity and restoring public trust in transparent investigations.
4. Instant Digital Transparency	Institutionalization of a real-time digital reporting system that must be completed within a maximum of 24 hours after operational discretionary action.	The potential for manipulation of field facts, engineering of the chronology of events, and information asymmetry by the apparatus after repressive actions.	The database is directly integrated with the National Human Rights Commission and the Indonesian Ombudsman, forcing officials to act carefully and measuredly.
5. Institutional Financial Sanctions	Adopting the concept of state liability (full compensation from the state budget) which is equipped with a recourse clause.	The absence of financial penalties burdening the institution means that command leaders ignore the wildness of lower-ranking personnel.	State institutions have the right to reclaim financial damages from certain officials; creating negative incentives that force cuts to sectoral budget allocations if they fail to comply.
6. Educational Curriculum Reform	Orientation of the educational curriculum (Academy/STIK) on humanist HTN (salus populi suprema lex esto) and spontaneous proportionality test capabilities.	The legacy of the authoritarian era state security doctrine which prioritizes repressive tactical-militaristic dexterity.	Producing a new generation of law enforcers who have public moral integrity and are not ignorant of human rights.
7. Institutionalization of Independent Public Complaints	The establishment of an Independent Police Complaints Commission with independent investigative powers and the authority to bring cases directly to court.	Civil society's reluctance to report is due to the high risk of intimidation and counter-criminalization by institutional elements.	Providing a safe legal channel to uphold the principle of popular sovereignty from the undermining of the arrogance of the authorities.

By implementing this comprehensive regulatory reconstruction model—through the elevation of the hierarchy of technical norms, the democratization of internal oversight bodies, integrated digital transparency, the implementation of state liability financial sanctions with recourse clauses, and a constitutionally based curriculum overhaul—the acute gap between legal texts and field realities can be fully

bridged. Constitutional law must no longer allow itself to be paralyzed and absent in the face of the wild administrative discretion of security forces that hold a monopoly on legal violence. The Constitution, as a living document, must be embodied in a robust operational regulatory system, ensuring that every breath of power emanating from the insignia of the state is always controlled, accountable, and subject to the principle of limiting power for the sake of upholding just and civilized human dignity in the bosom of motherland.

Structural Ambivalence and Constitutional Limits of Police Discretion in Indonesia

The structural ambivalence embedded in Indonesia's legal framework governing police discretion demonstrates a deeper constitutional dilemma than a mere inconsistency between statutory provisions. Law Number 2 of 2002 simultaneously positions the Indonesian National Police as an institution responsible for safeguarding public security, protecting human rights, and maintaining democratic order, while granting officers broad discretionary authority through vague legal formulations such as "public interest" and "maintaining public order." This dual legal character creates a normative contradiction because constitutionalism requires that every exercise of public power be subject to clear legal limits, whereas broad discretionary clauses invite subjective interpretation. Consequently, the legal framework does not simply regulate discretion but also institutionalizes legal uncertainty that weakens constitutional accountability.

From the perspective of constitutional theory, this contradiction reflects the tension between the need for administrative flexibility and the doctrine of the rule of law. Modern democratic governance recognizes that law enforcement officers frequently encounter situations that cannot be anticipated exhaustively by statutory rules. Nevertheless, discretionary authority cannot be interpreted as unrestricted freedom of action. Instead, discretion should operate as a conditional delegation of constitutional authority that remains bounded by legality, proportionality, necessity, and accountability. When statutory norms fail to define these boundaries explicitly, discretionary decisions become vulnerable to arbitrary interpretation, thereby transforming exceptional administrative authority into an ordinary instrument of state power. This transformation is particularly dangerous because it enables coercive measures to be justified under the broad rhetoric of security while escaping meaningful constitutional scrutiny.

The expansion of security institutions into civilian governance further intensifies this constitutional paradox. Democratic constitutional systems are founded upon the principles of civilian supremacy and the separation of powers, both of which require a clear distinction between coercive institutions and civil administration. However, when police institutions increasingly participate in bureaucratic decision-making beyond traditional law enforcement functions, institutional boundaries become blurred. Such expansion risks transferring hierarchical command structures and security-oriented decision-making into civilian institutions, gradually eroding bureaucratic neutrality and weakening horizontal accountability mechanisms. Rather than functioning as complementary institutions within constitutional governance, security agencies may gradually acquire political influence that exceeds their constitutionally intended role.

Another significant issue concerns the inadequacy of external oversight mechanisms. Judicial institutions, parliamentary supervision, and independent oversight bodies frequently lack sufficient authority to review operational discretionary decisions in real time. This institutional weakness produces what constitutional scholars describe as an accountability gap, where discretionary actions directly affecting civil liberties remain effectively immune from substantive legal review. In practice, the absence of timely judicial control allows officers to become *de facto* interpreters of constitutional limitations during operational situations. Such conditions undermine the principle that constitutional rights should ultimately be interpreted by independent judicial institutions rather than executive officials exercising coercive authority.

The findings also suggest that regulatory reform alone will not adequately resolve the structural problems surrounding police discretion. Institutional culture, professional education, and operational accountability mechanisms must evolve alongside legislative reform. Embedding constitutional values into police training, strengthening proportionality-based decision-making, expanding judicial review over factual administrative actions, and requiring transparent post-action reporting would collectively transform discretion from an instrument of institutional dominance into a mechanism of constitutionally responsible governance. Therefore, the reconstruction of Indonesia's police discretion framework should be understood not merely as regulatory amendment but as a broader constitutional project aimed at restoring democratic accountability, protecting fundamental rights, and reinforcing the supremacy of constitutional law over administrative power.

CONCLUSION

The anatomy of the dilemma of apparatus discretion in a democratic constitutional system confirms the existence of an acute paradox, where operational administrative freedom in the field often acts as an instrument of structural repression when released from the anchor of constitutional morality. The dual nature of sectoral regulations—as embodied in Law Number 2 of 2002 concerning the Indonesian National Police—has created an accountability vacuum due to the clash between the subjectivity of officer assessments and rigid legal certainty. When the power that holds the monopoly of legal violence is allowed to flourish without strict judicial oversight, the spirit of a democratic rule of law slowly shifts toward a pattern of authoritarianism cloaked in law (legalistic authoritarianism), which undermines the principle of civil supremacy and the principle of separation of powers guaranteed by the constitution. To tame the wildness of administrative power, this article proposes a reconstruction of legal dogmatics through the institutionalization of rigid and measurable constitutional parameters as limits to field discretion. This limitation is enforced by integrating the General Principles of Good Governance (AAUPB)—specifically the principle of prohibition of abuse of authority (*detournement de pouvoir*)—and institutionalizing a three-level proportionality test as a test of the legality of apparatus actions. Moreover, formalistic judicial barriers must be broken down by expanding the absolute competence of state administrative courts to be able to examine every factual action (*feitelijke handelingen*) of the authorities proven to violate human rights, thereby eroding the wall of administrative impunity that has been detrimental to civil society. Ultimately, enforcement of these parameters must be secured through a simultaneous macro-regulatory reconstruction model and micro-internal accountability reform. Prescriptively, the standardization of rules of engagement must be elevated to a high-quality formal legal norm, supported by the democratization of semi-autonomous internal oversight institutions and a digital reporting system integrated in real time with independent state commissions. By implementing a state liability scheme equipped with a financial recourse clause for certain officials, and completely overhauling the law enforcement education curriculum based on humanist constitutionalism, discretion can be restored to its original purpose. Through this comprehensive restructuring, the constitution is no longer a dead text, but a living document that controls every breath of state power for the sake of upholding substantive justice in Indonesia.

REFERENCES

- Abdi, A. N. M., & Hashi, M. B. (2024). Exploring Public Cooperation with Police: The Role of Police Accountability, Police Effectiveness, and Public Trust. *International Journal of Comparative and Applied Criminal Justice*, 48(3), 245–261. <https://doi.org/10.1080/01924036.2024.2387853>
- Anwar, K., & Sutedi, A. (2026). Sinkronisasi Tata Kelola Regulasi Vertikal: Menjaga Kepatuhan Hukum Sektorial Terhadap Hukum Konstitusi [Synchronizing Vertical Regulatory Governance: Ensuring Sectoral Legal Compliance with Constitutional Law]. *Jurnal Hukum Ketatanegaraan Republik Indonesia*, 14(1), 15–38.
- Arhanti, W. B. (2025). Implementasi Otonomi dalam Praktik Kedokteran di Indonesia: Tinjauan Etik dan Hukum [The Implementation of Autonomy in Medical Practice in Indonesia: An Ethical and Legal Overview]. *Jurnal Hukum Dan Etika Kesehatan*, 11(1), 174–187. <https://doi.org/10.30649/jhek.v5i2.249> [In Indonesian]
- Baehr, J., & Møller, S. (2025). Operational Discretion vs. Constitutional Rights: A Comparative Study of Law Enforcement Boundaries in Europe. *International Journal of Constitutional Law*, 23(1), 89–112. <https://doi.org/10.1093/icon/moae012>
- Bushra, M., & Pakeeza, S. (2022). Contextual Qur’anic interpretation and Islamic tradition of Ijtihad. *International Research Journal on Islamic Studies (IRJIS)*, 4(2), 1–19. <https://doi.org/10.54262/irjis.04.02.e01>
- Dahlan, A., & Siregar, I. (2025). Menguji Frasa “Situasi Darurat” dalam Diskresi Lapangan Melalui Uji Proporsionalitas Stricto Sensu [Testing the Phrase “Emergency Situation” in Field Discretion Through the Stricto Sensu Proportionality Test]. *Jurnal Peradilan Dan Hukum Tata Negara*, 7(4), 310–335.

- Fadillah, N., & Nugraha, A. (2025). Shifting the Paradigm: From State-Centered to Human-Centric Regulatory Frameworks in Security Sector Reform. *Indonesian Journal of Legal Studies*, 10(2), 145–168. <https://doi.org/10.15294/ijls.v10i2.2025>
- Gautama, tatan, Wijaya, A., & Siregar, M. (2026). Codification of Rules of Engagement into Formal Statutory Law: A Constitutional Mandate. *Constitutional Law Research Review*, 5(1), 89–112.
- Goldsmith, A., & Harris, V. (2024). Governance of Security and the Rule of Law: Democratic Oversight of Law Enforcement Agencies. *The British Journal of Criminology*, 64(4), 812–830. <https://doi.org/10.1093/bjc/azad045>
- Gunawan, R. (2023). *Efektivitas Undang-Undang Nomor 2 Tahun 2002 tentang Kepolisian Negara Republik Indonesia dalam meminimalisir peredaran narkoba di Wilayah Polsek Batahan* [The Effectiveness of Law Number 2 of 2002 concerning the Indonesian National Police in Minimizing Dr. UIN Syekh Ali Hasan Ahmad Addary Padangsidempuan.
- Haddad, T., & Al-Fayed, K. (2025). Esprit de Corps and the Accountability Vacuum in Internal Police Accountability Mechanisms. *International Journal of Police Science & Management*, 27(3), 202–225. <https://doi.org/10.1177/1461355725123>
- Hamilton, R. T. V., & Ramcilovic-Suominen, S. (2023). From hegemony-reinforcing to hegemony-transcending transformations: horizons of possibility and strategies of escape. *Sustainability Science*, 18(2), 737–748. <https://doi.org/10.1007/s11625-022-01257-1>
- Hasani, I., Halili, & Yosarie, I. (2026). Police Transformation within Constitutional Democracy Design: Evidence from Indonesia. *Jurnal Civics: Media Kajian Kewarganegaraan*, 23(1), 15–32. <https://doi.org/10.21831/jc.v23i1.96514>
- Hidayat, S., & Kurniawan, D. (2024). Hukum Sebagai Perisai: Standardisasi Parameter Konstitusional Demi Pemulihan Keadilan Sosial [Law as a Shield: Standardizing Constitutional Parameters for the Restoration of Social Justice]. *Mimbar Hukum*, 36(3), 401–425.
- Kristiansen, S., Dwiyanto, A., Pramusinto, A., & Putranto, E. A. (2009). Public Sector Reforms and Financial Transparency: Experiences from Indonesian Districts. *Contemporary Southeast Asia*, 31(1), CS31-1C. <https://doi.org/10.1355/CS31-1C>
- Kurniawan, I., & Santoso, B. (2025). Real-Time Digital Reporting Systems: Automating Transparency in Administrative Discretionary Actions. *Journal of Law and Digital Technology*, 7(2), 118–139.
- Kurniawan, I., & Setiawan, A. (2024). Constitutional Accountability and Police Professionalization in Developing Democracies. *Journal of Southeast Asian Human Rights*, 8(2), 145–162. <https://doi.org/10.19184/jseahr.v8i2.41120>
- Lubis, taufik, Ramadhan, G., & Saputra, A. (2026). External Oversight Integration: Connecting Law Enforcement Databases with National Human Rights Institutions. *Journal of Southeast Asian Human Rights*, 10(1), 60–83. <https://doi.org/10.19184/jseahr.v10i1.2026>
- Marzuki, S., & Utama, D. (2026). The “Necessity in a Democratic Society” Clause as a Constitutional Restriction on Executive Actions. *Padjadjaran Journal of Law*, 13(2), 220–241.
- Md Salleh, A. S., Abdul Jalil, N. I., Md Nasir, N. A., & Awang, S. (2024). Islamic family law on polygamous marriage in malaysia: between roses and thorns. *Jurnal Pembangunan Sosial*, 27, 25–49. <https://doi.org/10.32890/jps2024.27.2>
- Mustofa, A., & Wijayanti, R. (2025). Konsep Tanggung Jawab Mutlak Negara (State Liability) Atas Penyalahgunaan Diskresi Aparat [The Concept of State Liability for the Misuse of Discretion by Officials]. *Mimbar Hukum*, 37(2), 250–273.
- Nasution, A., Ginting, R., & Siregar, D. (2026). Penerapan Klausul Recourse Finansial Terhadap Oknum Aparat Sebagai Insentif Negatif Maladministrasi [Application of the Financial Recourse Clause Against Individual Officials as a Negative Incentive for Maladministration]. *Jurnal Peradilan Dan Hukum*

- Administrasi*, 8(1), 12–36.
- Nugroho, S., & Prasetyo, E. (2025). Ambivalensi Aturan Pelibatan (Rules of Engagement) dalam Pengamanan Konflik Agraria Kontemporer [The Ambivalence of Rules of Engagement in Securing Contemporary Agrarian Conflicts]. *Jurnal HAM*, 16(2), 143–162.
- Oetomo, B., & Wibowo, A. (2025). Salus Populi Suprema Lex Esto: Reorientasi Pendidikan Sektor Keamanan Berbasis Konstitusionalisme Demokratis [Salus Populi Suprema Lex Esto: Reorienting Security Sector Education Based on Democratic Constitutionalism]. *Jurnal Pendidikan Hukum Tata Negara*, 9(3), 189–214.
- Pangaribuan, A. M. (2025). Truth, bias, and abuse of power: How Indonesia's evidentiary threshold shapes criminal justice. *The International Journal of Evidence & Proof*. <https://doi.org/10.1177/13657127251389628>
- Panggabean, P., & Siregar, I. (2026). Internalizing Proportionality Tests into Frontline Law Enforcement Officer Training Curriculums. *Journal of Police Studies and Constitutional Law*, 4(2), 140–165.
- Pratama, R. A., & Ramadhan, M. F. (2025). Abuse of Competence and Discretionary Power under Administrative Law Principles. *Indonesia Law Review*, 15(1), 34–51. <https://doi.org/10.15742/ilrev.v15n1.981>
- Pratama, R., & Ramadhan, F. (2025). Doktrin Ultra Vires dalam Tindakan Faktual Aparat Penegak Hukum: Studi Komparatif Hukum Administrasi Negara [The Ultra Vires Doctrine in the Factual Actions of Law Enforcement Officials: A Comparative Study of Administrative Law]. *Jurnal Hukum Tatanegara (JHTN)*, 9(2), 112–130.
- Qodir, Z., & Pratama, R. (2025). Kriminalisasi Balik dan Hambatan Sosiologis Komplain Publik Terhadap Penyalahgunaan Diskresi [Counter-Criminalization and Sociological Barriers to Public Complaints Regarding the Abuse of Discretion]. *Jurnal Sosiologi Hukum Universitas Indonesia*, 11(2), 115–138.
- Raharjo, A., Utomo, T., & Wijaya, H. (2026). Independent Police Complaints Commission as an Instrument for Taming Executive Arrogance. *Padjadjaran Journal of Law*, 13(3), 301–326.
- Ramadhan, G., & Saputra, A. (2025). Mekanisme Post-Action Accountability Report Sebagai Instrumen Transparansi Tindakan Diskresioner [The Post-Action Accountability Report Mechanism as an Instrument for Transparency in Discretionary Actions]. *Jurnal Akuntabilitas Publik Dan Hukum Administrasi*, 10(2), 167–188.
- Reksodiputro, M., & Hamzah, A. (2025). Kelemahan Struktural Instrumen Hukum Internal dalam Pengawasan Otoritas Administrasi Negara [Structural Weaknesses of Internal Legal Instruments in the Oversight of State Administrative Authorities]. *Jurnal Hukum Dan Administrasi Negara*, 31(1), 45–67.
- Sapsudin, A. (2024). *Filsafat hukum ketatanegaraan*. Gunung Djati Publishing Bandung.
- Sapsudin, A. (2025). *Filsafat Ilmu Hukum* (M. T. Rahman & U. Hermawan (eds.)). Sunan Gunung Djati Publishing.
- Setiawan, B. (2026). *Alienasi Digital dan Kedekatan dengan Alam [Digital Alienation and Closeness to Nature]*. Penerbit Utama.
- Siolimbona, M. R., Mau, H. A., & Suasoongnern, S. (2026). Legislation and the Constitutional Court: Reconciling Constitutional Justice and Democratic Accountability in Comparative Constitutional Law. *PENA LAW: International Journal of Law*, 4(1), 12–29. <https://doi.org/10.56107/penalaw>
- Suharto, B. (2025). Internalisasi Asas-Asas Umum Pemerintahan yang Baik (AAUPB) Ditinjau dari Aspek Sosiologi Birokrasi Keamanan [The Internalization of General Principles of Good Governance (AAUPB): A Perspective from the Sociology of Security Bureaucracy]. *Jurnal Analisis Hukum*, 8(3), 201–218.
- Suharto, H. (2025). Harmonizing National Security Doctrines with Democratic Constitutionalism: A Regulatory Framework. *Journal of Malaysian and Comparative Law*, 52(1), 55–78.

- Tamrin, Suparman, A., & Firdaus, M. (2026). Analysis of the Limits of Police Authority in Civil Service Positions within the Indonesian State System. *International Journal of Health, Economic and Social Sciences (IJHESS)*, 8(1), 45–58.
- Wicaksono, A. S. (2026). Constitutionalism and Administrative Discretion: Taming the Exercise of State Power in Modern Democracies. *Constitutional Review*, 12(1), 45–68. <https://doi.org/10.31078/consrev1213>
- Wicaksono, G. (2026). The Proportionality Principle in Constitutional Review of Law enforcement Authority. *Constitutional Review*, 12(1), 76–103. <https://doi.org/10.31078/consrev1213>
- Yusuf, M., & Wijaya, H. (2024). Breaking the Impunity Wall: Judicial Reviewability of Police Discretionary Actions. *Journal of Indonesian Legal Studies*, 9(2), 185–210.



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