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Police Discretion in the Management of Public Demonstrations: Evidence from the Sragen Police Department

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Original Article

Abstract

Police discretionary authority constitutes a strategic legal instrument for maintaining public order, particularly in managing demonstrations with the potential to disrupt security. Nevertheless, the exercise of discretion may give rise to legal concerns if it is not carried out in accordance with the principles of legality, justice, and the protection of human rights. This study examines the implementation of discretionary authority by the Sragen Police within the framework of applicable laws and regulations and evaluates its conformity with the principles of justice, due process of law, and respect for human rights. Employing a normative–empirical legal methodology, this study adopts statutory, conceptual, and case-based approaches, supported by field data obtained through interviews and a review of relevant literature. The findings indicate that police discretion in Sragen has generally been exercised in a proportional and accountable manner, consistent with the prevailing legal framework and with an emphasis on preventive measures. The study concludes that police discretion functions effectively as an adaptive legal instrument insofar as it remains bounded by legal accountability and professional ethics.

Keywords: *Discretion, Police, Public Demonstrations, Criminal Law, Legality*

Abstrak

Kewenangan diskresi kepolisian merupakan instrumen hukum yang strategis dalam menjaga ketertiban umum, khususnya dalam penanganan unjuk rasa yang berpotensi menimbulkan gangguan keamanan. Namun, penggunaan diskresi berpotensi menimbulkan persoalan yuridis apabila tidak dijalankan sesuai asas legalitas, keadilan, dan perlindungan hak asasi manusia. Penelitian ini bertujuan untuk menganalisis pelaksanaan diskresi oleh Polres Sragen berdasarkan ketentuan peraturan perundang-undangan yang berlaku serta menilai kesesuaiannya dengan prinsip keadilan, due process of law, dan penghormatan terhadap hak asasi manusia. Penelitian ini menggunakan metode hukum normatif-empiris dengan pendekatan perundang-undangan, konseptual, dan kasus, didukung data lapangan melalui wawancara dan studi kepustakaan. Hasil penelitian menunjukkan bahwa penggunaan diskresi oleh Polres Sragen pada umumnya telah dilaksanakan secara proporsional, akuntabel, dan sesuai kerangka hukum positif, dengan mengedepankan pendekatan preventif. Disimpulkan bahwa diskresi kepolisian berfungsi efektif sebagai instrumen hukum adaptif selama tetap berada dalam batas tanggung jawab hukum dan etika profesi.

Kata kunci: *Diskresi, Kepolisian, Unjuk Rasa, Hukum Pidana, Legalitas*

1. INTRODUCTION

Indonesia, as a unitary state founded on the principle of popular sovereignty, places democracy and human rights at the core of its constitutional order. This principle is explicitly articulated in the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, which affirms that national independence is established within a constitutional framework grounded in popular sovereignty. A logical consequence of this principle is the recognition and protection of citizens' rights to participate in political life, including the right to freely express opinions, both orally and in writing, as guaranteed by Article 28 of the 1945 Constitution.

One concrete manifestation of this constitutional right is the practice of public demonstrations. Demonstrations function as a form of political participation and social control, enabling citizens to express collective interests and to scrutinize government policies and actions. In a democratic system, demonstrations should not be viewed solely as potential threats to public security, but rather as indicators of an active public sphere and meaningful public participation in the policymaking process. Accordingly, the state bears the obligation to protect freedom of expression in public spaces while ensuring that its exercise remains orderly, safe, and respectful of the rights of others.

To fulfill this obligation, the Indonesian government enacted Law No. 9 of 1998 on Freedom of Expression in Public, which provides a legal framework governing the procedures and limitations applicable to demonstrations. This law seeks to balance the protection of constitutional freedoms with the necessity of maintaining public order. In practice, however, demonstrations often unfold within dynamic social and political contexts and may escalate into situations that pose risks to public security or involve criminal conduct, such as vandalism, violence, or incitement.

The role of the Indonesian National Police (Polri) becomes strategically significant. Pursuant to Article 13 of Law No. 2 of 2002 on the Indonesian National Police, Polri is mandated to maintain public order and security, enforce the law, and provide protection and services to the public. The management of demonstrations places police officers in a complex position, as they are simultaneously required to safeguard freedom of expression and to prevent legal violations and threats to public order.

This condition necessitates that police officers act not only in strict adherence to written legal norms but also through the exercise of professional judgment in the form of discretionary authority. Police discretion refers to the legally recognized authority of officers to make decisions or take actions in circumstances not exhaustively regulated by law, provided that such actions serve the public interest, are proportional, and are legally accountable. In this sense, discretion operates as a preventive instrument aimed at averting more serious offenses and minimizing broader social harm.

Nevertheless, the exercise of police discretion in the context of demonstrations is not without risk. The absence of clear boundaries and effective oversight mechanisms may lead to abuses of power, violations of human rights, or even the criminalization of police conduct where discretionary actions are deemed to exceed lawful authority or contravene the principle of legality. From a criminal law perspective, actions that deviate from established legal procedures may give rise to criminal liability, underscoring the need for discretion to be exercised strictly within the framework of due process of law and substantive justice.

These concerns are particularly salient at the level of resort police units, including within the jurisdiction of the Sragen Police. As territorial law enforcement bodies directly engaged with local social dynamics, the Sragen Police play a pivotal role in managing demonstrations that may give rise to legal and security challenges. In practice, officers are required to carefully distinguish between preventive and repressive measures and to determine when the exercise of discretion is appropriate and when firm criminal law enforcement is necessary.

A substantial body of scholarship has examined freedom of expression in public spaces and the role of the police in its regulation from the perspectives of human rights, constitutional law, and criminal law. Public demonstrations are widely recognized as a concrete manifestation of the principles of popular sovereignty and democracy, as guaranteed by Article 28 of the 1945 Constitution of the Republic of Indonesia and further regulated under Law No. 9 of 1998. Within this framework, the role of the state—particularly that of the police—is pivotal, as it must strike a balance between safeguarding citizens' constitutional rights and ensuring public security and order.

Ananda and Natsir affirm that demonstrations constitute a legally protected human right, although their exercise must remain consistent with the requirements of public order. Focusing on the duties and authority of the National Police's Sabhara unit as regulated by Law No. 2 of 2002, their sociological–juridical study demonstrates that police involvement is primarily directed toward crowd supervision and control. However, the study does not explicitly address the use of police discretion or its potential criminal law implications when officers' actions exceed their lawful authority.¹

Similarly, Hasibuan et al. analyze the role of the police in fostering public security and order through a normative–empirical approach, emphasizing the preventive function of the National Police in maintaining stability and public trust. Despite its empirical contribution, the study remains general in scope and does not sufficiently explore the exercise of police discretion in social conflict situations such as

¹ Adhe Ismail Ananda and Muhammad Yusuf Natsir, "Peran Kepolisian Dalam Penanganan Unjuk Rasa: UU No 2 Tahun 2002 Tentang Kepolisian Republik Indonesia," *Jurnal Syariah Hukum Islam* 3, no. 2 (2020): 92–102, <https://journal.usimar.ac.id/index.php/jsh/issue/view/14/81>.

demonstrations, particularly those that carry the risk of escalating into criminal conduct.²

Research on police discretion has also been conducted in relation to specific criminal offenses outside the context of demonstrations. Tosubu et al., for instance, examine the use of discretion in handling defamation cases and find that discretion plays a crucial role in assessing urgency, public interest, and proportionality. Their study identifies legal considerations, case characteristics, investigator professionalism, and social pressure as key factors influencing discretionary decision-making. While these findings underscore that discretion is not absolute and requires clearer regulatory guidance to ensure legal certainty and the protection of human rights, the analysis is confined to the investigative stage of particular criminal cases and does not address the complexities of discretion in managing public demonstrations.³

Fathahita et al. investigate the exercise of discretion in narcotics cases, emphasizing that discretionary action is justified insofar as it complies with the principles of necessity, purpose, public interest, and proportionality. Employing a normative–empirical approach, the study provides concrete illustrations of discretionary decision-making in urgent situations. Nevertheless, its focus remains limited to conventional criminal offenses and does not extend to the management of mass social conflicts inherent in demonstrations.⁴

From a broader conceptual perspective, Kesuma highlights the application of discretion within a restorative justice framework as a model of penal mediation, reflecting a paradigmatic shift in criminal law from repressive to restorative approaches. Although this study contributes significantly to the theoretical development of discretionary policy, it does not specifically examine the exercise of discretion in demonstration settings, which present unique risks of security escalation and complex criminal implications.⁵ In a similar vein, Hafendi and Silalahi provide a comprehensive normative analysis of discretion as a law enforcement instrument within the national legal system, emphasizing that discretionary authority must be constrained by the principles of legality, accountability, and human rights protection. However, their

² S D. Fuji Lestari Hasibuan, Melisa Melisa, and Novel Novel, “Peran Kepolisian Dalam Melakukan Pembinaan Keamanan Dan Ketertiban Masyarakat Desa Melalui Pendekatan Komprehensif: Penelitian Di Polsek Baturaja Barat,” *Jurnal Pro Justitia* 2, no. 1 (2021): 76–88, <https://doi.org/10.57084/jpj.v2i1.668.g529>.

³ Jekli Tosubu, Robby Waluyo Amu, and Ibrahim Ahmad, “Analisis Kewenangan Diskresi Kepolisian Dalam Proses Penyidikan Perkara Tindak Pidana Pencemaran Nama Baik,” *Politika Progresif: Jurnal Hukum, Politik Dan Humaniora* 2, no. 2 (2025): 165–183, <https://doi.org/10.62383/progres.v2i2.1698>.

⁴ Datu Nur Fathahita, Abdul Asis, and Muhammad Basri, “Analisis Hukum Pelaksanaan Diskresi Kepolisian Dalam Tindak Pidana Narkotika,” *Alauddin Law Development Journal* 5, no. 1 (2023): 65–76, <https://doi.org/10.24252/aldev.v5i1.35336>.

⁵ Derry Angling Kesuma, “Kewenangan Diskresi Kepolisian Republik Indonesia Dalam Penegakan Hukum Pidana,” *Lex Librum: Jurnal Ilmu Hukum* 4, no. 2 (2023): 758–67, <https://doi.org/10.46839/ljih.v4i2.809>.

analysis remains largely conceptual and does not empirically assess the implementation of discretion in the handling of demonstrations at the resort police level.⁶

Finally, Ulfah et al. examine the legal accountability framework of the Indonesian National Police at both institutional and individual levels. This study is particularly relevant in underscoring that every police action, including the exercise of discretion, may give rise to criminal or administrative liability. Nonetheless, the focus is primarily on accountability mechanisms rather than on delineating the operational boundaries of police discretion in the context of public demonstrations.⁷

Several studies, including those by Priyantoko and Rudiantoro, specifically address the exercise of police discretion in responding to situations of mass disorder. These studies emphasize that discretionary action emerges largely from the limitations of positive law in providing detailed operational guidance for police conduct in the field, thereby positioning discretion as a space between formal legal norms and moral considerations. Nevertheless, they do not sufficiently connect the exercise of discretion to the principle of legality in criminal law or to the risk of criminal liability for police officers arising from procedural errors.⁸

Related research on discretion in traffic-related offenses, such as that conducted by Sahrul, likewise demonstrates that discretionary authority is frequently employed to facilitate informal or conciliatory case resolution. However, this context differs fundamentally from the management of public demonstrations, which involve large-scale collective action and engage broader public interests and security considerations.⁹

A review of the existing literature reveals a clear research gap concerning the analysis of police discretion in the handling of demonstrations when examined directly through the lens of criminal law and the principle of legality. Most prior studies remain either general and normative in nature or are confined to specific categories of offenses outside the context of public demonstrations. This study addresses this gap by integrating an empirical analysis of criminal law norms, police discretionary practices, and the potential implications of criminal liability for officers involved in managing demonstrations within the jurisdiction of the Sragen Police. In doing so, it offers a novel

⁶ Doni Hafendi and Wilma Silalahi, "Diskresi Sebagai Instrumen Penegakan Hukum: Kajian Terhadap Kewenangan Kepolisian Berdasarkan UU Kepolisian," *Jurnal Hukum Lex Generalis* 5, no. 12 (2025): 1–24, <https://ojs.rewangrencang.com/index.php/JHLG/article/view/1443>.

⁷ Maria Ulfah et al., "Sistem Pertanggungjawaban Hukum Kepolisian Negara Republik Indonesia Secara Organisational Maupun Personal," *Research Report: Humanities and Social Science* 1 (2013): 1–79, <https://journal.unpar.ac.id/index.php/Sosial/article/view/212>.

⁸ Guntur Priyantoko, "Penerapan Diskresi Kepolisian Dalam Penanganan Unjuk Rasa," *Delegata: Jurnal Ilmu Hukum* 1, no. 1 (2016): 109–36, <https://doi.org/10.30596/dll.v1i1.784>; Joko Rudiantoro, "The Discretion of The Police to Alleviate the Act of Anarchy in the Society," *Jurnal IUS Kajian Hukum Dan Keadilan* 2, no. 3 (2014): 489–500, <https://doi.org/10.12345/ius.v2i6.183>.

⁹ Sahrul Sahrul, "Penerapan Diskresi Kepolisian Dalam Penyidikan Tindak Pidana Kecelakaan Lalu Lintas Di Wilayah Hukum Polres Baubau," *Dinamika Hukum* 13, no. 3 (2022): 320–44, https://ejurnal.unisri.ac.id/index.php/Dinamika_Hukum/article/view/8476.

contribution to the development of criminal law doctrine and police policy. Accordingly, this study aims to:

- 1) examine and analyze the implementation of discretionary authority by the Sragen Police in light of applicable laws and regulations, particularly from the perspective of criminal law and the principle of legality; and
- 2) assess the practice of police discretion in managing public demonstrations and evaluate its conformity with the principles of justice, human rights protection, and due process of law.

2. RESEARCH METHODOLOGY

This study adopts a normative–empirical legal research design (socio-legal research) to examine the exercise of police discretion in the management of public demonstrations and to assess its conformity with criminal law norms and the principles of a democratic rule of law. The normative dimension is employed to analyze the legal foundations, governing principles, and doctrinal limits of police discretionary authority, while the empirical dimension focuses on its practical implementation within the jurisdiction of the Sragen Police.

The research applies three complementary analytical approaches: a statutory approach, a conceptual approach, and a case-based approach. The statutory approach is used to examine the relevant legal framework, including the 1945 Constitution of the Republic of Indonesia, Law No. 9 of 1998, Law No. 2 of 2002, the Criminal Procedure Code, and applicable internal police regulations. The conceptual approach is employed to analyze key legal concepts, such as discretion, the principle of legality, proportionality, due process of law, and the protection of human rights, drawing on established legal doctrines and scholarly perspectives. The case-based approach focuses on the concrete practices involved in the handling of demonstrations by the Sragen Police.

The data comprise primary data obtained through in-depth interviews with relevant police officers and secondary data derived from statutes, regulations, academic literature, and official documents. Data analysis is conducted using qualitative and descriptive methods, systematically linking legal norms with empirical findings in order to evaluate the appropriateness and legality of police discretion in the management of public demonstrations.

3. RESEARCH RESULT AND DISCUSSION

3.1. Implementation of Police Discretion by the Sragen Police under Statutory Provisions

This section examines the exercise of discretionary authority by the Sragen Police within the framework of applicable statutory provisions, with particular emphasis on criminal law perspectives and the principle of legality. This focus reflects the fact that police discretion in the management of public demonstrations operates at the intersection of state authority, the protection of human rights, and the potential criminal liability of law enforcement officers. Accordingly, the analysis extends beyond normative compliance with positive law to include an assessment of how discretion is operationalized in practice.

The findings of the normative–empirical analysis indicate that the exercise of discretion by the Sragen Police is grounded in a clear legal basis. Article 18 of Law No. 2 of 2002 on the Indonesian National Police expressly authorizes police officers to act on the basis of their own judgment in the public interest. This provision affirms that discretion constitutes a legally recognized authority rather than an arbitrary exercise of power, provided that it is invoked only in situations of absolute necessity and in conformity with statutory regulations and the professional code of ethics.

From a criminal law perspective, the discretion exercised by the Sragen Police functions primarily as a preventive mechanism. Police officers are positioned not only as repressive law enforcers but also as key actors in crime prevention. The empirical findings demonstrate that, in responding to potential legal violations during demonstrations, officers tend to prioritize preventive measures—such as open security arrangements, persuasive communication with field coordinators, and controlled crowd management—before resorting to repressive actions that may carry criminal consequences.

Discretion is also exercised during the inquiry and investigation stages, as provided under Articles 5 and 7 of the Criminal Procedure Code (KUHAP), which authorize investigators to undertake certain actions based on professional judgment. In practice, the Sragen Police apply discretion selectively in cases considered minor, less complex, or having limited social impact, thereby avoiding the automatic escalation of all potentially criminal incidents to the prosecution stage.

The findings further indicate that discretionary authority is exercised cautiously and responsibly, in line with the principle of legality and the objectives of criminal law. Discretion is not employed as a means of circumventing legal norms but rather as an instrument to enhance the effectiveness and efficiency of law enforcement. Officers consistently consider factors such as urgency, public interest, and the risk of conflict escalation before determining the appropriate course of action.

Moreover, police officers perceive discretion as an inherent, yet non-absolute, authority attached to their official duties. Its exercise is framed within the principle of general police obligations (*plichtmatigheidsbeginsel*), which requires actions to be oriented toward public interest and public safety. Consequently, discretion is understood

not as unrestricted freedom of action but as a bounded decision-making space constrained by law, professional ethics, and respect for human rights.

These findings are consistent with the conclusions of Hafendi and Silalahi, who emphasize that discretion is a vital law enforcement instrument that must remain subject to the principles of legality and accountability.¹⁰ This study extends their analysis by demonstrating how such limitations are implemented concretely at the resort police level. The results also align with Tosubu et al., who identify urgency, public interest, and proportionality as key factors influencing discretionary decision-making.¹¹ However, unlike their focus on defamation cases, this study situates police discretion within the context of public demonstrations, which involve broader public interests and more complex security dynamics.

This study complements earlier research by Priyantoko and Rudiantoro, which conceptualizes police discretion as a response to the limitations of written legal norms.¹² It advances the existing literature by explicitly situating discretionary authority within the framework of criminal law and the principle of legality, thereby clarifying the boundary between lawful discretionary action and abuses of authority that may give rise to criminal liability.

The discretionary practices of the Sragen Police may be understood as an effort to reconcile legal certainty with substantive justice. While the principle of legality remains the primary normative reference, it is not interpreted in a rigid or purely formalistic manner. Rather, legality is applied functionally, with due regard to the underlying objectives of criminal law, including the protection of the public, the maintenance of public order, and the prevention of crime.¹³

In this respect, discretion functions as a mediating mechanism between positive law and social reality. In certain contexts, the strict and inflexible application of legal norms may exacerbate tensions and increase the risk of horizontal conflict. Discretion therefore enables police officers to respond adaptively to dynamic social conditions without undermining the foundational principles of the rule of law.

The application of a restorative approach—particularly through penal mediation in complaint-based offenses—constitutes a concrete expression of discretion oriented toward restorative justice. This approach is consistent with Article 22(2)(b) and (c) of Law No. 30 of 2014 on State Administration, which recognizes discretion as a mechanism for addressing normative gaps and enhancing legal certainty.

¹⁰ Hafendi and Silalahi, “Diskresi Sebagai Instrumen Penegakan Hukum: Kajian Terhadap Kewenangan Kepolisian Berdasarkan UU Kepolisian.”

¹¹ Tosubu, Amu, and Ahmad, “Analisis Kewenangan Diskresi Kepolisian Dalam Proses Penyidikan Perkara Tindak Pidana Pencemaran Nama Baik.”

¹² Priyantoko, “Penerapan Diskresi Kepolisian Dalam Penanganan Unjuk Rasa”; Rudiantoro, “The Discretion of The Police to Alleviate the Act of Anarchy in the Society.”

¹³ Dedi Iskandar et al., “Perkembangan Teori Dan Penerapan Asas Legalitas Dalam Hukum Pidana Indonesia,” *Jurnal Ilmiah Mahasiswa Multidisiplin* 1, no. 3 (2024): 293–305, <https://doi.org/10.71153/jimmi.v1i3.147>.

Based on the foregoing analysis, it can be concluded that the exercise of discretion by the Sragen Police is consistent with applicable laws and regulations and does not contravene the principle of legality in criminal law. Discretion operates as a legitimate legal instrument for balancing effective law enforcement, the protection of human rights, and the preservation of public order.

The findings further confirm that discretion should not be viewed as a deviation from the law, but rather as an integral component of a modern and responsive system of criminal justice. When exercised proportionally, accountably, and in the public interest, discretion enhances legal legitimacy and strengthens public trust in law enforcement institutions. Accordingly, the use of police discretion in managing public demonstrations by the Sragen Police may be characterized as an adaptive, humane, and legally grounded practice consistent with the principles of a democratic state governed by the rule of law.

3.2. Police Discretionary Practices in the Management of Public Demonstrations by the Sragen Police

This section analyzes the practical exercise of police discretion by the Sragen Police in managing public demonstrations and assesses its consistency with the principles of justice, human rights protection, and due process of law within the frameworks of criminal law and state administrative law. The analysis focuses on how discretionary authority is applied in operational settings when officers encounter varying conditions during demonstrations, ranging from peaceful assemblies to situations with the potential for violent escalation, and evaluates whether such practices remain within the bounds of legality and legal accountability.

The empirical findings indicate that the Sragen Police generally exercise discretion in accordance with applicable statutory provisions, particularly Law No. 2 of 2002 on the Indonesian National Police, Law No. 9 of 1998 on Freedom of Expression in Public, and relevant internal technical regulations. Discretion is primarily employed in situations requiring rapid, on-the-ground decision-making, where demonstration dynamics are inherently unpredictable and immediate responses are necessary to prevent disruptions to public order and security.

The Sragen Police prioritize preventive and persuasive measures over repressive enforcement. This approach is reflected in the procedural stages of demonstration management, which include the receipt of notification, administrative verification, the issuance of a Notification Receipt Letter (*Surat Tanda Terima Pemberitahuan*), and the formulation of a proportional security plan. At this stage, discretionary judgment is used to tailor security measures to the characteristics of the crowd, the location of the demonstration, and the potential for conflict escalation, without prematurely restricting the public's right to express opinions.

From a human rights perspective, the discretionary practices of the Sragen Police demonstrate an effort to balance citizens' constitutional rights to assembly and freedom of expression, as guaranteed under Articles 28 and 28E(3) of the 1945 Constitution, with the state's obligation to maintain public order and security. Demonstrations critical of government policies are not immediately dispersed so long as they are conducted peacefully and in compliance with legal requirements. These findings indicate that discretion is not exercised as a tool to suppress freedom of expression, but rather as a mechanism for managing situations in a manner that safeguards the rights of all parties.

The exercise of discretion becomes more complex in situations where demonstrations exhibit anarchic tendencies, including acts of vandalism or violence against officers or members of the public. In such circumstances, the Sragen Police employ discretion to delineate the threshold between preventive and repressive measures, while remaining guided by the principles of proportionality and legality. Repressive actions, including criminal prosecution under the Criminal Code—particularly Article 406 concerning vandalism—are applied selectively against individuals demonstrably responsible for unlawful conduct, rather than against the crowd as a whole. This practice reflects adherence to the principle of due process of law, whereby enforcement targets individual culpability and avoids collective measures that could infringe upon human rights.

Police discretion within the Sragen Police is not exercised as an absolute or unfettered authority, but as a limited power constrained by statutory norms, professional ethical standards, and principles of accountability. This understanding is consistent with Article 18 of Law No. 2 of 2002, which stipulates that discretion may be exercised only in the public interest and under circumstances of compelling necessity. In this sense, discretion functions as an operational mechanism for addressing legal and situational gaps in the field, rather than as a justification for arbitrary action.

When compared with prior studies, the findings of this study reinforce the significance of discretion as an instrument for effective and humane management of public demonstrations. Earlier research has cautioned that the absence of discretionary space may confine police officers to rigid procedural responses that risk escalating conflict.¹⁴ This study substantiates those conclusions by demonstrating that measured and accountable discretion can, in practice, prevent violence, preserve public order, and enhance the perceived legitimacy of the police among the public.

This study also contributes to ongoing legal and institutional reform by emphasizing the centrality of due process in the exercise of discretionary authority. In contrast to prior studies that have predominantly focused on security considerations, the findings demonstrate that the Sragen Police have generally maintained a clear

¹⁴ Ananda and Natsir, "Peran Kepolisian Dalam Penanganan Unjuk Rasa: UU No 2 Tahun 2002 Tentang Kepolisian Republik Indonesia"; Priyantoko, "Penerapan Diskresi Kepolisian Dalam Penanganan Unjuk Rasa."

distinction between demonstrators who peacefully exercise their constitutional rights and individuals who engage in criminal conduct. This differentiation serves as a critical indicator that discretionary practices are not directed toward restricting fundamental rights, but rather toward ensuring fair, selective, and lawful enforcement.

The discretionary practices of the Sragen Police reflect a policy paradigm oriented toward substantive justice. Discretion is employed as a means of advancing the broader objectives of law, namely the protection of the public, the maintenance of public order, and the respect for human rights.¹⁵ In this context, discretion is understood not merely as a technical or procedural authority, but as a moral and professional responsibility inherent in policing, aimed at sustaining public trust and institutional legitimacy.

Moreover, the exercise of discretion is accompanied by institutional safeguards, including security simulations, personnel readiness assessments, and structured crowd control measures. These practices indicate a deliberate effort by the Sragen Police to minimize the risk of abuse of authority and to reinforce accountability. Such measures are essential in preventing excessive or disproportionate actions that could result in legal liability or human rights violations.¹⁶

This study concludes that the Sragen Police's use of discretionary authority in managing public demonstrations is generally consistent with the principles of justice, human rights protection, and due process of law. Discretion is exercised in a proportional, contextual, and accountable manner, with statutory law remaining the primary normative reference. Nevertheless, sustained oversight and continued enhancement of institutional capacity remain necessary to prevent discretionary practices from entering legally ambiguous spaces with the potential for abuse. Accordingly, police discretion in the management of demonstrations should not be perceived as a threat to civil liberties, but rather as a vital instrument for achieving adaptive, humane, and just law enforcement within a democratic state governed by the rule of law.

4. CONCLUSION

This study examines the exercise of discretionary authority by the Sragen Police within the framework of applicable laws and regulations, with particular attention to criminal law and the principle of legality. It further evaluates police discretionary practices in the management of public demonstrations in light of the principles of justice, human rights protection, and due process of law. The findings indicate that the Sragen Police

¹⁵ Faal Muhammad, *Penyaringan Perkara Pidana Oleh Polisi (Diskresi Kepolisian)* (Jakarta: Pradnya Paramita, 1991); Satjipto Rahardjo, *Membangun Polisi Sipil: Perspektif Hukum, Sosial, Dan Kemasyarakatan*, ed. Hasyim Asy'ari and Bagus Dharmawan (Jakarta: Penerbit Buku Kompas, 2002).

¹⁶ Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana* (Jakarta: Prenada Media, 2016), <https://prenadamedia.com/produk/bunga-rampai-kebijakan-hukum-pidana/>; D.P.M. Sitompul, *Beberapa Tugas Dan Wewenang Polri*, 1st ed. (Jakarta: Iripenpol, 2004).

generally exercise discretion in normative conformity with Law No. 2 of 2002, the Criminal Procedure Code (KUHP), and relevant technical regulations, while prioritizing a preventive, proportional, and accountable approach.

The results confirm that police discretion is not treated as an absolute authority but rather as a limited legal instrument employed to respond to concrete situations in the field, particularly in the control of public demonstrations. These practices are largely consistent with the principles of legality, substantive justice, and respect for human rights, while maintaining due process of law through selective and individualized law enforcement measures.

This study contributes theoretically by enriching scholarly discourse on police discretion within criminal law and offers practical value as a reference for the formulation of fair and rights-based demonstration management policies. Nonetheless, the study is subject to limitations related to its regional focus and its predominantly qualitative and normative methodology. Accordingly, future research should seek to strengthen operational guidelines on the exercise of discretion, enhance human rights-oriented training for police officers, and employ comparative empirical approaches to assess the consistency of discretionary practices across different jurisdictions.

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