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Police Use of Force Under Indonesia's 2023 Criminal Code: Emergency, Defence, and Duress

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ABSTRACT

The 2023 Indonesian Criminal Code places emergency (Article 33) and defence (Article 34) among the lawful justifications and duress (Article 42) among the lawful excuses, yet it does not indicate which provision governs police officers who use force under urgent conditions. Existing scholarship on Indonesian policing has examined the dynamics of police shootings, the legal aid available to officers, and the enforcement of ethics, but not the grounds that exclude liability for force used in duty. Normative legal research with statutory, conceptual, and analytical approaches was used to classify the provisions, interpret their elements, and test their relation to police regulation and international standards. Constructed scenarios illustrated the results. Duress cannot serve as the general basis for necessity claims, because emergency and defence justify the act while duress only excuses it. The analysis produced an order of inquiry that begins with the scale of force authorised by police regulation, followed by justification and then excuse, and a cumulative standard of genuine and immediate danger, absence of a reasonable alternative, proportionality, and cessation of force, supported by documentation. Article 55 reaches only danger created intentionally, so avoidable tactical error falls into a gap. Future case law can test these normative propositions. Reforms are prioritised, beginning with alignment of police regulations with the Code, followed by evidence and reporting protocols, judicial guidance, and independent oversight.

Keywords: *Criminal Code, Duress, Emergency, Indonesia, Police Force*

INTRODUCTION

A police officer who injures or kills a person in the course of duty and later states that the situation left no other choice raises a question that the Indonesian Criminal Code now answers in more than one way.[1] Law Number 1 of 2023, which entered into force on 2 January 2026, treats an act committed because of an emergency (Article 33) and an act committed in defence against an unlawful attack (Article 34) as lawful justifications. An act committed under irresistible force or an unavoidable threat (Article 42), by contrast, is a lawful excuse that removes punishment without removing the wrongfulness of the act.[2] Each provision rests on a different rationale and carries different consequences for the officer, the victim, and the institution that employs the officer. The Code does not indicate which provision governs police conduct, or whether the standards that apply to ordinary persons apply unchanged to officers who hold coercive powers.[3] This article therefore asks how Articles 33, 34, and 42 should be applied to police officers who use force in urgent circumstances, and which standards should separate a justified or excusable act from an unlawful exercise of police authority.

The factual premise of such claims deserves scrutiny. Baker and Nasrudin examined police shootings in Indonesia between 2005 and 2014 and found that, although shooting rates were comparatively low, officers held a significant monopoly on firearm-related violence and operated in environments of low perceived threat. They also found no causal relationship between shootings and officers' perceptions of threat.[4] These findings do not show that any single claim of necessity is false. They do show that danger cannot be assumed whenever an officer asserts it, and that a court assessing such a claim needs criteria that can be tested against evidence.

The legal framework governing police force was built before the Code and has not been aligned with it. Law Number 2 of 2002 allows officers to act on their own judgment only where the situation is highly necessary, and it requires them to respect human rights.[5] The Chief of Police Regulation Number 1 of 2009 translates these requirements into a graduated scale of force, and the United Nations Basic

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[1] Patahillah Asba and Moh. Eka Wahyu, "Discretionary Authority of the Indonesian National Police in the Implementation of Demonstrations," *Amsir Law Journal* 4, no. 2 (March 27, 2023): 156–61, https://doi.org/10.36746/alj.v4i2.136.

[2] Republik Indonesia, "UU No. 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana," Pub. L. No. 1, Sekretariat Negara (2023), https://peraturan.bpk.go.id/Details/234935/uu-no-1-tahun-2023.

[3] Alona Romanova, "Moral and Ethical Aspects of Police Activity," *Visnik Nacional'nogo Universitetu «Lvivska Politehnika». Seria: Uridicni Nauki* 11, no. 44 (December 25, 2024): 202–9, https://doi.org/10.23939/law2024.44.202.

[4] Jacqui Baker and Rus'an Nasrudin, "Is Indonesian Police Violence Excessive? The Dynamics of Police Shootings, 2005–2014," *Journal of Contemporary Asia* 54, no. 2 (March 14, 2024): 181–209, https://doi.org/10.1080/00472336.2022.2138773.

[5] Republik Indonesia, "UU No. 2 Tahun 2002 Tentang Kepolisian Negara Republik Indonesia," Sekretariat Negara § (2002).

Principles add that firearms may be used only against serious threats when less extreme means are insufficient.[67] None of these instruments states how it relates to the grounds that exclude punishment in the Criminal Code. Butt observes that the Code, despite its claim to consolidate Indonesian criminal law, adds a further layer to special criminal statutes that largely remain in force.[8] The regulation of police force follows a comparable pattern, because statutory discretion, internal regulations, international standards, and the general defences of the Code operate side by side without an explicit hierarchy.

Some scholarship that published has addressed the legal position of police officers from other angles. Sugiharto examined the legal aid norms available to police personnel and their families, and proposed an additional provision in Law Number 2 of 2002 to close a gap in that framework.[9] Budiarsih and Sushanty studied officers prosecuted for narcotics offences and found that the criminal process followed the same route as for civilians, while enforcement of the professional code of ethics was incomplete and gave the impression that the institution shielded its members.[10] Both studies show that the position of an officer before the law depends on institutional arrangements that shape accountability. Neither considers whether, and on what conditions, an officer may rely on a ground that removes punishment when force was used in the course of duty.

Comparative scholarship gives a further reason to examine the question. Jones argued that police-generated killings arise when tactical decisions by officers create the situation in which deadly force becomes necessary, and that United States law often tolerates such killings even where the tactics were avoidable.[11] The Indonesian Code addresses a related concern only in part. Article 55 denies the benefit of a ground for abolishing criminal responsibility to a person who intentionally brought about the condition giving rise to it, but the provision does not mention conditions created through negligence or poor operational planning.[12] Whether an officer's own part in producing the danger should weaken a claim of emergency or duress therefore remains open in Indonesian law.

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[6] Republik Indonesia, "Perpol No. 1 Tahun 2009 Tentang Penggunaan Kekuatan Dalam Tindakan Kepolisian," Sekretariat Negara § (2009).
[7] United Nations, "Basic Principles on the Use of Force and Firearms by Law Enforcement Officials" (1990).
[8] Simon Butt, "Indonesia's New Criminal Code: Indigenising and Democratising Indonesian Criminal Law?," *Griffith Law Review* 32, no. 2 (April 3, 2023): 190–214, https://doi.org/10.1080/10383441.2023.2243772.
[9] Sugiharto Sugiharto, "THE REGULATION POLICIES ON LEGAL AID NORMS FOR INDONESIAN NATIONAL POLICE AND THEIR FAMILY," *Journal of Court and Justice* 1, no. 3 (September 1, 2022): 63–75, https://doi.org/10.56943/jcj.v1i3.167.
[10] Budiarsih Budiarsih and Vera Rimbawani Sushanty, "LAW ENFORCEMENT AGAINST POLICE OFFICERS INVOLVED IN DRUG ABUSE BASED ON JUSTICE VALUES," *Journal of Court and Justice* 3, no. 4 (December 27, 2024): 25–40, https://doi.org/10.56943/jcj.v3i4.662.
[11] Ben Jones, "Police-Generated Killings: The Gap between Ethics and Law," *Political Research Quarterly* 75, no. 2 (June 3, 2022): 366–78, https://doi.org/10.1177/10659129211009596.
[12] Republik Indonesia, UU No. 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana.

This study relies on statutory, conceptual, and analytical approaches. It distinguishes the three provisions by their legal nature and sets out when each may be invoked by an officer. It then proposes a structured assessment that links those conditions to police discretion, the regulation of force, and the evidence a court can examine. The study also considers how criminal, ethical, civil, and victim-protection responses should relate to one another when a claim succeeds or fails. The analysis is presented in a single discussion, followed by conclusions that set out policy implications and directions for further research.

RESEARCH METHODOLOGY

Normative legal research, also termed doctrinal research, was adopted because the problem concerned the content, interrelation, and limits of existing legal rules rather than the frequency or causes of police conduct. Choudhary showed that the selection of a legal research method depends on the research problem and on how law is understood, and that doctrinal research is best suited to tasks of legal interpretation.[13] As a prescriptive discipline, legal science also evaluates the validity of rules and proposes how they should be applied, which allowed the research to move from interpretation to a proposed standard for police conduct.[14] Empirical and case-based designs were not adopted. The Code had been in force for less than a year, and the aim was to establish a framework that future decisions could apply. No judicial decisions were analysed, and the implications for judicial practice were presented as propositions open to later testing.

Statutory, conceptual, and analytical approaches were used.[15] The statutory approach examined Articles 12 paragraph (3), 31, 33, 34, 42, 43, 55, 58(a), 59, and 154(a) of Law Number 1 of 2023, together with the provisions of Law Number 2 of 2002, the Chief of Police Regulations Number 1 and Number 8 of 2009, Police Regulation Number 7 of 2022, Law Number 31 of 2014, Government Regulation Number 7 of 2018, and Article 1365 of the Civil Code.[16] The United Nations Basic Principles were treated as a non-binding international standard, and the weight they could carry in the interpretation of domestic provisions was examined. The

[13] Karan Choudhary, "Which Method Should I Select for My Legal Research – Doctrinal, Empirical, Multi-Method or Something Else?," *Teisė* 132 (September 16, 2024): 135–44, https://doi.org/10.15388/Teise.2024.132.10.
[14] Peter Mahmud Marzuki, *Penelitian Hukum*, Revision Edition (KENCANA, 2021).
[15] Marzuki.
[16] Republik Indonesia, UU No. 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana; Republik Indonesia, UU No. 2 Tahun 2002 tentang Kepolisian Negara Republik Indonesia; Republik Indonesia, Perpol No. 1 Tahun 2009 Tentang Penggunaan Kekuatan Dalam Tindakan Kepolisian; Republik Indonesia, "Perpol No. 8 Tahun 2009 Tentang Implementasi Prinsip Dan Standar Hak Asasi Manusia Dalam Penyelenggaraan Tugas Kepolisian Negara Republik Indonesia," Sekretariat Negara § (2007); Republik Indonesia, "Perpol No. 7 Tahun 2022 Tentang Kode Etik Profesi Dan Komisi Kode Etik Kepolisian Negara Republik Indonesia," Sekretariat Negara § (2022); Republik Indonesia, "UU No. 31 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 13 Tahun 2006 Tentang Perlindungan Saksi Dan Korban," Sekretariat Negara § (2014).

conceptual approach drew on the doctrines of justification, excuse, and proportionality to classify and compare the provisions. The analytical approach clarified the terms used in the provisions and tested whether they operated coherently together. Secondary materials were collected through library research and consisted of peer-reviewed scholarship, with preference given to works indexed in Scopus and published between 2020 and 2025, including empirical studies of Indonesian police practice. Foundational methodological works supplemented them.

Doctrinal methods are often applied tacitly and left unexplained, so the analytical steps were stated explicitly.[17] The analysis proceeded in four stages. The first classified Articles 33, 34, and 42 as justifications or excuses according to Article 12 paragraph (3) and the structure of the Code, and identified the elements of each. The second interpreted those elements through grammatical, systematic, and teleological reasoning, reading each provision against its elucidation and against the other provisions of the Code. The third tested the relation between the Code and the instruments governing police authority and the use of force, applying the principles of *lex superior*, *lex specialis*, and *lex posterior*, and compared the domestic provisions with the international standard. The fourth evaluated the resulting framework against legal certainty, proportionality, accountability, and the protection of victims. It then formulated a structured assessment, whose operation was illustrated with scenarios constructed for analysis rather than drawn from decided cases.

RESULT AND DISCUSSION

Classification of the Provisions and the Order of Inquiry

The Code treats every crime as unlawful unless a lawful justification exists. It places emergency (Article 33) and defence against an unlawful attack (Article 34) under that heading, while duress (Article 42) appears among the lawful excuses.[18] The classification determines what a successful claim achieves. A justified act is lawful, so neither criminal nor civil liability should attach to the act itself. An excused act remains wrongful, and the actor is relieved only of punishment. The Code does not state how this difference carries into ethical, civil, and victim-protection responses, but the logic of the classification suggests that it should, a point taken up below. Table 1 sets out the provisions that bear most directly on police use of force.

[17] Terry Hutchinson and Nigel Duncan, "Defining and Describing What We Do: Doctrinal Legal Research," *Deakin Law Review* 17, no. 1 (October 1, 2012): 83, https://doi.org/10.21153/dlr2012vol17no1art70.
[18] Republik Indonesia, UU No. 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana.

Table 1 Provisions on Justification and Excuse Relevant to Police Use of Force

Provision	Legal Nature	What The Text Requires	Main Difficulty When an Officer Invokes It
Article 33, emergency	Justification	An act committed due to an emergency. No further criteria are stated.	The open wording allows operational pressure to be presented as an emergency.
Article 34, defence	Justification	A compelled act carried out in defence against an unlawful attack or threat of immediate attack on oneself or another person, on honour in the sense of decency, or on property.	No express proportionality condition appears in the text.
Article 42, duress	Excuse	Coercion by irresistible force, or compulsion by unavoidable threats, pressure, or force. The elucidation separates absolute coercion, where the actor has no other choice, from relative coercion, where resistance cannot reasonably be expected and the interest sacrificed is balanced with or slightly greater than the interest saved.7	Training and the duty to face danger make it harder to show that resistance could not reasonably be expected.
Article 43, excessive defence	Excuse	An excessive defence directly caused by severe mental shock due to an unlawful attack or threat of immediate attack.8	It is unclear whether professional training makes severe mental shock harder to establish.

Source: Analyzed by the researchers (2025)

Reading the provisions together exposes three tensions. The first lies in Article 33, which contains no criteria beyond the existence of an emergency. The elements must therefore be supplied by interpretation, and the open wording invites the loose use of the label that the standard proposed below is meant to prevent. The second arises from overlap. An officer who shoots an assailant may satisfy Articles 33, 34, and 42(b) on the same facts, and the Code gives no order of inquiry. Because only a justification makes the act lawful, a court should examine justification first and turn to excuse only when justification fails. The third lies in the relation between Articles 34 and 43. Article 34 contains no express proportionality condition, and Article 43 relieves an excessive defence only when severe mental shock caused it. An officer whose force exceeded what the attack required is therefore excused only if that shock is shown, and the Code does not say whether training changes the assessment.[19]

[19] Shannon Brandt Ford, "Restraining Police Use of Lethal Force and the Moral Problem of Militarization," *Criminal Justice Ethics* 41, no. 1 (January 2, 2022): 1–20, https://doi.org/10.1080/0731129X.2022.2060014.

The word necessity performs three different functions in the instruments that govern police force. Law Number 2 of 2002 uses it as a condition for discretion, because officers may act on their own judgment in the public interest only where the situation is highly necessary. The Chief of Police Regulation Number 1 of 2009 uses it as one of the principles that guide the choice among six stages of force, with firearms at the last stage, and the Chief of Police Regulation Number 8 of 2009 limits firearms to the protection of human life. The Code uses emergency as a ground that removes liability.

These functions differ in timing and purpose. Discretion and regulatory necessity operate before and during the act, authorising it and setting its bounds. Criminal necessity operates afterwards, when a court asks whether liability should follow from an act that went beyond or contradicted what was authorised. The two overlap in practice but cannot be equated. Compliance with the graduated scale does not in itself establish the conditions of Article 33 or 34, and a departure from the scale does not in itself defeat a claim, because the regulations bind the officer's conduct while the Code decides liability. Where force stays within the authorised scale, Article 31, which exempts an act carried out to implement legal provisions, supplies the natural basis rather than necessity. Necessity and duress become relevant when the officer departs from the scale or acts without authority and maintains that circumstances compelled the departure. This yields an order of inquiry with three questions. The first asks whether the force fell within the authorised scale. The second asks, if it did not, whether the conditions of emergency or defence justified it. The third asks, if justification fails, whether compulsion removed the officer's capacity to choose.

The officer's own part in producing the danger requires separate treatment. Article 55 withdraws the benefit of a ground for abolishing criminal responsibility only where the actor intentionally caused the condition, and it does not mention conditions created through negligence or poor planning.[20] A court applying Article 55 alone would therefore leave an avoidable tactical error untouched. A more defensible route is to weigh the error within the question of alternatives. An officer who could have avoided the confrontation through available tactics did not lack a reasonable alternative at the earlier moment, even if none remained when the shot was fired. Because Article 55 covers only intentional conduct, this reasoning extends the provision rather than applies it, and legislative clarification would be preferable.

A Cumulative Standard, Its Application, and Evidential Questions

The analysis supports a standard of four conditions and one safeguard. The conditions apply to claims under Articles 33 and 34 and, adjusted for compulsion, to Article 42(b). The first requires a genuine, concrete, and immediate danger to a legally protected interest, judged on the facts the officer knew at the moment and

[20] Republik Indonesia, UU No. 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana.

not on subjective fear. Article 34 supports this condition through its reference to immediate attack, and the regulations support it through the limitation of firearms to the protection of life. The second requires that no reasonably effective alternative existed, including warning, withdrawal, summoning support, or a lower stage of force, and that the danger was not one the officer could have avoided through earlier tactics. The elucidation of Article 42 expresses the same idea in its reference to the absence of any other choice. The third requires proportionality, meaning that the force matches the seriousness of the threat and aims at preventing it. Lethal force is permissible only to protect life, a rule that the Basic Principles state in similar terms.[21] The fourth requires that force cease when the danger ends.

The safeguard is documentation and review. It does not decide whether the defence succeeds, but it supplies the record on which the conditions can be tested afterwards. The conditions are assessed ex ante, from the position of an officer who must decide within seconds, and the belief on which the officer acted must be objectively reasonable. The safeguard operates ex post and prevents a subjective assertion of emergency from becoming a shield against scrutiny. The Basic Principles require reporting and review where force results in injury or death, which gives the safeguard an international footing. Three scenarios were constructed to test the standard. They were not drawn from decided cases and serve only to show how the conditions and the order of inquiry operate. Table 2 summarises the results.

Table 2 Application of the Standard to Three Constructed Scenarios

Scenario	Danger	Alternatives	Proportionality and cessation	Result
A. An officer faces a man advancing with a knife at about two metres in a narrow space, gives a warning, and fires once.	Concrete and immediate.	None realistic given the distance and the space.	A single shot to protect life, and force stops when the man falls.	Article 34 is likely satisfied. Articles 33 and 42 need not be reached.
B. An officer shoots dead an unarmed suspect who is fleeing across open ground and says afterwards that	Speculative.	Pursuit, a warning, and calling for support remained available.	Lethal force was used to stop an escape and not to protect life.	No ground applies. Criminal liability and ethical proceedings remain open.

[21] United Nations, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Scenario	Danger	Alternatives	Proportionality and cessation	Result
he feared a hidden weapon.				
C. An officer enters dark premises without announcing and without support, fires at a sudden movement, and kills a resident.	Perceived as real at the moment of firing.	Available earlier, absent at the moment of firing.	A single discharge, but the threat arose from the manner of entry.	Indeterminate. Article 55 does not bar the claim unless the officer intentionally created the condition.

Source: Analyzed by the researchers (2025)

Scenarios A and B show that the standard separates clear cases without difficulty. Scenario A satisfies each condition on the facts, and Scenario B fails the first, the second, and the third. Scenario C is the informative case. The danger was real to the officer, and the officer's own entry produced it. Article 55 does not apply, yet a claim based on Article 34 sits uneasily with the avoidable entry. The officer could argue duress under Article 42(b) or an excessive defence under Article 43, and the Code supplies no rule for choosing among these routes. The scenario shows that the indeterminacy identified earlier has practical consequences and that operational guidance and judicial direction are needed.

The provisions examined do not state who must prove a defence or to what standard. The prosecution keeps the burden of proving the elements of the offence, and an officer's invocation of a ground does not transfer that burden. A claim with no evidential foundation, however, does not require extended examination. A workable allocation therefore requires the officer to point to evidence capable of supporting each condition, after which the court tests the claim against the whole record and the prosecution's case must withstand it.

Competing evidence presents a particular problem in police cases because the officer often holds the operational information. The empirical findings of Baker and Nasrudin bear on this point, since they found no causal relationship between police shootings and officers' perceptions of threat.[22] An officer's statement about threat therefore cannot be treated as self-proving. Independent material such as witness accounts, recordings, forensic and medical evidence, and communications records should be sought and weighed. Where reporting is required by the applicable

[22] Baker and Nasrudin, "Is Indonesian Police Violence Excessive? The Dynamics of Police Shootings, 2005–2014."

regulations or by the international standards on which they draw, the absence of the required record should count against the claim.

Accountability, Reform Priorities, and Objections

Four forms of accountability may follow the same incident. They are criminal liability under the Code, ethical and disciplinary proceedings under Police Regulation Number 7 of 2022, civil liability under Article 1365 of the Civil Code, and the protection and assistance available to victims under Law Number 31 of 2014 and Government Regulation Number 7 of 2018. They answer different questions, so conflicting outcomes are not always contradictory. A court may find an act justified while an ethics commission finds the tactics professionally deficient, since the first question concerns lawfulness and the second concerns conduct. The outcomes that require attention are those in which findings of fact diverge. A commission should treat the final findings of a criminal court as established, and a court should have access to the commission's file. A justified act weakens a civil claim because unlawfulness becomes difficult to establish, whereas an excused act leaves that element intact and keeps the civil and ethical routes open.

Budiarsih and Sushanty indicate that coordination cannot be assumed. They found that ethics enforcement against officers prosecuted for narcotics offences was incomplete, even though the criminal process was the same as for civilians.[23] Coordination therefore needs explicit rules on the exchange of case files, on the effect of final judicial findings, and on timing, so that a proceeding within the institution neither pre-empts nor replaces an external one. Victim assistance should also not depend on the outcome of the officer's defence, because a successful justification ends the criminal question but not the harm.

The reforms differ in urgency and in who must carry them out. The most urgent is the alignment of Regulations Number 1 and Number 8 of 2009 with the grounds in the Code, which falls to the Chief of Police because the regulations are his instruments. Second comes a protocol for preserving evidence and reporting force, to be developed with prosecutors. Third comes judicial guidance on the order of inquiry and the standard for defences, which only the judiciary can give. Fourth comes oversight independent of the police chain of command, whose design belongs to the legislature. The first two steps lie within the competence of the police and prosecutors and require no new legislation, and they produce the factual record on which later courts and reviewers depend.

Two objections deserve a response. The first holds that a strict reading of Articles 33 and 34 discourages officers from acting decisively in dangerous situations. The proposed standard assesses conduct from the officer's position at the time and requires only objective reasonableness, so an officer who acts within it remains protected. The greater risk to officers lies in uncertainty, because an

[23] Budiarsih and Sushanty, "LAW ENFORCEMENT AGAINST POLICE OFFICERS INVOLVED IN DRUG ABUSE BASED ON JUSTICE VALUES."

officer who cannot predict how a court will treat a claim has less guidance than one who works under a clear order of inquiry.

The second objection holds that officers should be held to a higher standard than ordinary persons. Article 42 applies to any person, and the legislature has addressed official status elsewhere, since the Code treats the abuse of official authority as an aggravating factor in sentencing, which may raise the sentence by up to one third. The better course is to keep the legal conditions the same and to measure objective reasonableness against what a trained officer could reasonably have done. This preserves equality before the law and reflects the officer's capacity. For Article 42(b) the objection has some force, since the duty to face danger narrows the occasions on which resistance cannot reasonably be expected.

Baker and Nasrudin found that police shootings between 2005 and 2014 bore no causal relationship to perceived threat and occurred in environments of low perceived threat. That result supports the evidentiary position adopted here, which is that danger cannot be presumed from an officer's assertion.[24] Their data end in 2014 and predate the Code, so they cannot show how courts will apply Articles 33 and 34. Converting their empirical doubt into conditions that a court can test extends their work.

The institutional observations of Butt are also supported. Butt argued that the Code adds a further layer to existing criminal law instead of consolidating it, and the regulation of police force shows the same layering at the level of operational rules, which extends his observation from legislation to police regulation.[25] Sugiharto examined the legal protection available to officers through legal aid, and the present analysis extends that line by showing that an officer's legal protection also depends on the grounds on which liability is excluded.[26] Budiarsih and Sushanty found that the criminal process treated officers as civilians but that ethics enforcement was incomplete. The first finding is consistent with Article 42 applying to any person, and the second supports the case for explicit coordination rules.[27] Their work concerned narcotics offences, and the present analysis extends it to offences committed in the course of duty, where the institution has a stronger interest in the officer's account.

Jones's argument is extended and differs in one respect. Article 55 parallels his concern that tactics can create the situation in which force becomes necessary, and the third scenario shows the gap that results when the law reaches only

[24] Baker and Nasrudin, "Is Indonesian Police Violence Excessive? The Dynamics of Police Shootings, 2005–2014."
[25] Butt, "Indonesia's New Criminal Code: Indigenising and Democratising Indonesian Criminal Law?"
[26] Sugiharto, "THE REGULATION POLICIES ON LEGAL AID NORMS FOR INDONESIAN NATIONAL POLICE AND THEIR FAMILY."
[27] Budiarsih and Sushanty, "LAW ENFORCEMENT AGAINST POLICE OFFICERS INVOLVED IN DRUG ABUSE BASED ON JUSTICE VALUES."

intentional creation.[28] Jones argues for legal sanctions against bad tactics. The proposal here is instead that avoidable tactics be weighed within the question of alternatives and that the legislature clarify Article 55, a difference of remedy that reflects the structure of the Indonesian Code and not a disagreement about the problem.

Earlier research is supported on three points, namely that perceived threat cannot be assumed, that police regulation is fragmented, and that ethics enforcement within the institution is uneven. It is extended through the application of Articles 33, 34, 42, 43, and 55 to police conduct and through an order of inquiry, a cumulative standard, an allocation of evidential responsibility, and coordination rules. None of the cited studies is directly contradicted. The analysis does depart from treating Article 42 as the general home of necessity claims, a treatment that the structure of the Code does not support, and it qualifies the remedy proposed by Jones. Because no judicial decisions were analysed, these results remain normative propositions that later case law will test.

CONCLUSION

Police claims of necessity under the 2023 Criminal Code turn on a distinction that Indonesian discussion has often left unstated. Emergency (Article 33) and defence (Article 34) are lawful justifications, whereas duress (Article 42) is a lawful excuse, so a justified act is lawful and an excused act remains wrongful and attracts only a release from punishment. Treating duress as the general basis for necessity claims is therefore difficult to reconcile with the structure of the Code. A court should instead proceed through an order of inquiry. It should ask first whether the force fell within the scale authorised by police regulation, then whether emergency or defence justified a departure from that scale, and only then whether compulsion removed the officer's capacity to choose. Each claim should also meet a cumulative standard of genuine and immediate danger, the absence of a reasonable alternative, proportionality, and the cessation of force once the danger has ended, supported by documentation that permits later review. Article 55 reaches only danger created intentionally, which leaves avoidable tactical error outside its scope and makes the requirement of alternatives the appropriate place to address it.

These propositions carry implications for four institutions. The regulations on the use of force predate the Code, and their alignment with its grounds is the most immediate task, which falls to the Chief of Police and requires no legislation. A protocol for preserving evidence and reporting force, developed jointly by police and prosecutors, is the second priority, because no claim of necessity can be tested without a reliable record. Courts would benefit from guidance on the order of inquiry and on the allocation of evidential responsibility for defences. The legislature may wish to specify the criteria of Article 33, clarify the reach of Article

[28] Jones, "Police-Generated Killings: The Gap between Ethics and Law."

55, and consider oversight independent of the police chain of command. Criminal, ethical, civil, and victim-protection responses to the same incident should be coordinated through rules on the exchange of case files and on the effect of final judicial findings, and victim assistance should not depend on whether the officer's defence succeeds.

Several limits qualify these propositions. No judicial decisions were analysed because the Code has been in force for less than a year, the scenarios were constructed for analytical purposes, and the empirical grounding rests on existing studies of Indonesian policing. Future research could test the proposed standard against decisions as courts begin to apply the new provisions to police conduct. It could also examine incident reports and ethics outcomes to establish how force is documented and reviewed in practice, and compare jurisdictions that distinguish justification from excuse for police officers to assess whether the proposed order of inquiry transfers to other legal systems.

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