

Discourse on the Separation of the National Police from the Ministry of Constitutional Law and Constitutional Politics

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Abstract: *The position of the National Police of the Republic of Indonesia (Polri), which is under the President and has structural and functional links with certain ministries, raises debates about the level of its independence, especially in the implementation of law enforcement functions that demand neutrality and freedom from political intervention. This study aims to analyze the constitutional basis and institutional implications of the relationship between the National Police and ministries in the Indonesian constitutional system. The method used is normative legal research with a statutory and conceptual approach, which focuses on the study of legal norms and principles that govern the position and institutional relations of the National Police. The results of the analysis show that the arrangement of the relationship between the National Police and the ministry still leaves ambiguity in the institutional design, which has the potential to affect the independence of law enforcement. Therefore, the discourse on the separation of the National Police from the ministries has a strong normative basis, both in the perspective of constitutional law and in the framework of security sector reform. The main contribution of this research lies in strengthening normative arguments regarding the importance of restructuring the institutional relationship of the National Police in order to clarify its constitutional position, increase independence in law enforcement, and maintain consistency with the principles of a democratic state of law.*

Keywords: *Law, Constitutionality, Constitution, Separation, Politics, Police*

Abstrak: Kedudukan Kepolisian Negara Republik Indonesia (Polri) yang berada di bawah Presiden serta memiliki keterkaitan struktural dan fungsional dengan kementerian tertentu menimbulkan perdebatan mengenai tingkat independensinya, khususnya dalam pelaksanaan fungsi penegakan hukum yang menuntut netralitas dan bebas dari intervensi politik. Penelitian ini bertujuan untuk menganalisis dasar konstitusional serta implikasi kelembagaan dari hubungan antara Polri dan kementerian dalam sistem ketatanegaraan Indonesia. Metode yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan dan konseptual, yang berfokus pada kajian norma dan prinsip hukum yang mengatur kedudukan serta relasi kelembagaan Polri. Hasil analisis menunjukkan bahwa pengaturan hubungan antara Polri dan kementerian masih menyisakan ambiguitas dalam desain kelembagaan, yang berpotensi memengaruhi independensi penegakan hukum. Oleh karena itu, wacana pemisahan Polri dari kementerian memiliki dasar normatif yang kuat, baik dalam perspektif hukum tata negara maupun dalam kerangka reformasi sektor keamanan. Kontribusi utama penelitian ini terletak pada penguatan argumentasi normatif mengenai pentingnya penataan ulang hubungan kelembagaan Polri guna memperjelas posisi konstitusionalnya, meningkatkan independensi dalam penegakan hukum, serta menjaga konsistensi dengan prinsip negara hukum yang demokratis.

Kata Kunci: Hukum, Ketatanegaraan, Konstitusi, Pemisahan, Politik, Polri

Introduction

The National Police of the Republic of Indonesia (Polri) is one of the state organs that has a strategic role in maintaining public security and order, enforcing the law, and providing protection and services to the community. In the Indonesian constitutional system, the position of the National Police has experienced dynamics in line with political and constitutional changes, especially after the reform that marked the separation of the National Police from the Indonesian National Army (TNI). The separation is intended to realize the professionalism of the National Police as a law enforcement officer that is civilian in nature and within the framework of a democratic state of law.¹ Based on the 1945 Constitution of the Republic of Indonesia, the National Police is placed as a state tool that functions to maintain public security and order.²

¹Gary W. Cordner, "Police Professionalism: The Renaissance of American Law Enforcement," *Journal of Criminal Justice* 17, no. 4 (1989), [https://doi.org/10.1016/0047-2352\(89\)90035-4](https://doi.org/10.1016/0047-2352(89)90035-4); Sigar P. Berutu and Apri Cuanra Saragih, "Humanism and Professionalism in Police Reform: A Human Rights-Based Approach to Law Enforcement," *Arena Hukum* 18, no. 2 (2025), <https://doi.org/10.21776/ub.arenahukum2025.01802.5>; Iwan Hertanto et al., "Police and Law Enforcement of Domestic Violence Crimes Based on Human Rights in Indonesia," *Khazanah Hukum* 6, no. 2 (2024), <https://doi.org/10.15575/kh.v6i2.34357>; Ahmed Nor Mohamed Abdi et al., "Public Satisfaction with Police Services in Somalia: The Influence of Accountability, Performance, and Professionalism," *International Journal of Comparative and Applied Criminal Justice*, 2025, <https://doi.org/10.1080/01924036.2025.2543292>.

²M. Taylor, "Police Service and Public Satisfaction," *Police Journal* 59, no. 2 (1986), <https://doi.org/10.1177/0032258X8605900202>; Edi Saputra Hasibuan and Adi Nur Rohman, "Scientific Crime Investigation and Police Reform in Indonesia: Integrating Technology, Law, and Islamic Ethics for Institutional Transformation," *Legal Transformation in Muslim Societies* 2, no. 3 (2025); Zulganef - Zulganef, Sri Astuti Pratminingsih, and Sri Wiludjeng Sunu Purwaningdyah, "Increasing Public Loyalty through Trust in The Police: The Case Of The Police In Indonesia," *Jurnal Manajemen Pelayanan Publik* 8, no. 2 (2024), <https://doi.org/10.24198/jmpp.v8i2.53272>.

However, in constitutional practice, the National Police is under the President and has structural and functional linkages with certain ministries. This condition has raised a debate about the level of independence of the National Police in carrying out its duties and authority, especially in the context of law enforcement that demands neutrality and freedom from political intervention.³

As democracy develops and demands for security sector reform, there is a discourse on the separation of the National Police from the ministries as an effort to strengthen the institutional independence of the National Police. This discourse is based on concerns that the National Police's attachment to ministries has the potential to cause conflicts of interest, politicize law enforcement, and weaken the principle of the rule of law.⁴ On the other hand, there is a view that considers that the existence of the National Police in the executive structure is a logical consequence of the presidential system of government adopted by Indonesia, so that the separation can actually cause new problems in government coordination and power accountability. The debate on the separation of the National Police from the ministries is not only juridical, but also fraught with the political dimension of the state. This is related to the institutional design of the state, the relationship between power organs, and the mechanism of supervision and accountability in the democratic system. Therefore, this discourse needs to be studied comprehensively using the perspective of constitutional law and constitutional politics, in order to provide a complete picture of the constitutional basis, its institutional implications, and its relevance to the strengthening of the rule of law in Indonesia.⁵

Based on this description, this research is important to analyze the discourse on the separation of the National Police from the ministry by examining the constitutional foundation and the political dynamics of the constitution that surrounds it, so that it can contribute to the development of a democratic and law-based Indonesian constitutional system.

³Jane Roberts et al., "Police Leadership at the Political Interface: A Systematic Literature Review," *Public Management Review* 00, no. 00 (2025): 1–23, <https://doi.org/10.1080/14719037.2025.2507945>; Heru Pujo Handoko, "Pergeseran Wewenang Polri Dalam Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja (Omnibus Law)," *Jurnal Ilmu Kepolisian* 16, no. 3 (2022), <https://doi.org/10.35879/jik.v16i3.319>.

⁴Sukurman Sugi Asadi, "Supremasi Hukum Dalam Kerangka Konstitusi : Studi Kritis Terhadap Implementasi Prinsip Negara Hukum Di Era Reformasi," *Seikat* 3, no. 4 (2024): 208–15, <https://doi.org/https://doi.org/10.55681/seikat.v3i4.1519>; Adithiya Diar and Beny Saputra, "Judicial Activism In Indonesia Constitutional Court," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 25, no. 2 (2025), <https://doi.org/10.30631/alrisalah.v25i2.1920>.

⁵I. Dewa Gede Palguna and Agung Wardana, "Pragmatic Monism: The Practice of the Indonesian Constitutional Court in Engaging with International Law," *Asian Journal of International Law* 14, no. 2 (2024), <https://doi.org/10.1017/S204425132300072>; James E. Pfander and David Baltmanis, "Rethinking Bivens: Legitimacy and Constitutional Adjudication," *Georgetown Law Journal*, 2009; Khairil Azmin Mokhtar, Iwan Satriawan, and Muhammad Nur Islami, "Constitutional Democracy and Constitutional Adjudication: A Comparison of Constitutional Adjudication Institutions in Malaysia and Indonesia," *5th International Conference on Law and Society (ICLAS V) 2016*, 2016.

Regulation of Relations Between the National Police and Ministries/Executive Institutions in Laws and Regulations

The regulation regarding the position of the National Police of the Republic of Indonesia is explicitly stated in Article 30, paragraph (4) of the 1945 Constitution of the Republic of Indonesia. This provision emphasizes that the National Police is a state tool that plays a role in maintaining public security and order, enforcing the law, and providing protection and services to the community. This constitutional norm shows that the National Police has a special function in the field of domestic security and law enforcement that is national and strategic.

Constitutionally, the 1945 Constitution of the Republic of Indonesia does not place the National Police under certain ministries. On the contrary, the National Police is positioned as part of the executive power that is directly under the President as the holder of the highest governmental power, as stipulated in Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia. This construction shows that the relationship between the National Police and the executive institution is direct and hierarchical to the President, not through the ministry, so normatively the National Police is not an organ of the ministry. Further arrangements regarding the position and authority of the National Police are regulated in Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia. This law reaffirms the position of the National Police as a state institution under the President. Article 8 paragraph (1) expressly states that the National Police is under the President, which at the same time makes it clear that the National Police is directly responsible to the President and is not placed as a structural part of any ministry. Thus, juridically, the National Police has a different position from the ministry as the executor of certain government affairs.

Nevertheless, in the implementation of its duties and functions, the National Police continues to establish relationships with other ministries and executive agencies. The relationship is coordinated and functional, especially in the context of implementing national policies in the fields of security, public services, and administrative law enforcement.⁶ However, this relationship is not subordinate or hierarchical, so the ministry does not have command authority over the National Police. This emphasizes that inter-agency coordination is intended to ensure the effectiveness of government administration without reducing the independence of the National Police as a law enforcement apparatus. In constitutional practice, the coordinating relationship can be seen, among other things, with the coordinating ministry in charge of politics, law, and security. The coordinating ministry functions to

⁶Muh. Asdar et al., "The Mediating Role of Organizational Commitment in the Relationship between Self-Efficacy and Traffic Police Performance in Indonesia," *International Journal of Religion* 5, no. 11 (2024), <https://doi.org/10.61707/yx4b1907>; Adi Suryanto and Samlibry Adhitia, "Privatization The Implementation Of Electronic-Based Law Enforcement Responsibility In The Police Traffic Corps Of The Republic Of Indonesia," *Journal Of Public Policy and Applied Administration* 4, no. 1 (2022): 63–75, <https://doi.org/https://doi.org/10.32834/jplan.v4i1.568>; Ruslan Renggong, "Restorative Justice Application On Traffic Accident Cases At The Makassar City Police Resort, Indonesia," *Russian Law Journal* 11, no. 3 (2023), <https://doi.org/10.52783/rlj.v11i3.1238>.

harmonize policies across sectors, but does not have the authority to control or intervene in the operational tasks of the National Police.⁷ In addition, the National Police also collaborates with other technical ministries, such as the Ministry of Home Affairs and the Ministry of Law and Human Rights. Such cooperation is generally regulated through laws and regulations, presidential regulations, and memorandums of understanding, which affirm the nature of administrative and functional relationships, not command relationships.

The strengthening of the position of the National Police in the executive structure is also reflected in various presidential regulations that regulate the organization, work procedures, and coordination mechanisms in the field of national security. The presidential regulation places the National Police as a non-ministerial institution that has special authority, as well as part of the government system under the President.⁸ The placement of the National Police as a non-ministerial institution shows the will of the lawmakers and the President to separate the functions of the police from the structure of the ministry, with the aim of maintaining professionalism, neutrality, and effectiveness in the implementation of the duties of the National Police.⁹ The regulation of the relationship between the National Police and ministries/executive agencies in laws and regulations basically reflects an effort to balance the principles of independence and accountability in the presidential system of government. The placement of the National Police directly under the President is intended to avoid sectoral intervention from certain ministries, while coordination mechanisms are still needed so that the implementation of the National Police's duties is in line with national policies. However, this legal construction also opens up a space for interpretation regarding the limits of coordinating relationships and potential political influence in the executive structure. This condition then gave birth to the discourse of separating the National Police from the ministries more firmly as part of efforts to organize institutions and strengthen the Indonesian constitutional system.

Prospects and Challenges of the Separation of the Police from the Ministry from the Perspective of Indonesian Constitutional Law

The discourse of separating the National Police of the Republic of Indonesia from the ministries in the executive structure has significant prospects within the legal

⁷Ali Imran Nasution et al., "Relevansi Peran Kementerian Koordinator Dalam Sistem Presidensial : Studi Komparatif Dan Rekomendasi Kebijakan Untuk Sistem Pemerintahan Indonesia Article Information Article History : Keberadaan Menteri Koordinator Dalam Sistem Pemerintahan Indonesia Pe," *Perspektif Hukum* 1, no. 1 (2025): 146–73, <https://doi.org/https://doi.org/10.30649/ph.v25i1.351>.

⁸Suheflihusnaini Ashady and Aryadi Almau Dudy, "Holding Multiple Positions by Members of the Indonesian National Police (A Juridical Review of Police Compliance and Professionalism Post Constitutional Court Decision Number 114 / PUU-XXIII / 2025) Rangkap Jabatan Anggota Kepolisian Republik Indonesia," *Indonesia Berdaya* 7, no. 1 (2025): 291–300, <https://doi.org/https://doi.org/10.47679/ib.202.613.89>.

⁹Peter Neyroud, "Policing ' Landscapes ' for the Rule of Law and Public Protection : The State of Evidence on Organisational," *Cambridge Journal of Evidence-Based Policing* 6, no. 3 (2022): 140–61, <https://doi.org/10.1007/s41887-022-00081-y>.

framework of the Indonesian constitution. Normatively, the 1945 Constitution of the Republic of Indonesia does not place the National Police as part of a specific ministry, but as a state apparatus under the President. This constitutional construction opens up space for a more independent and firm institutional arrangement of the National Police, as long as it remains within the framework of the presidential system of government and the principle of the rule of law.¹⁰ Thus, the separation of the National Police from the ministries is basically not contrary to the constitution, and can even be seen as an effort to strengthen the institutional design of the National Police in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia.

From a constitutional law perspective, the prospect of separating the National Police from the ministry is also related to strengthening the principle of independence of law enforcement. As an institution that carries out the function of law enforcement and maintains internal security, the National Police is required to be neutral and free from the influence of practical political interests. The separation of the National Police from the ministry is expected to minimize the potential for intervention by sectoral executive power and strengthen the principle of equality before the law. In the long term, this has the potential to increase public trust in the institution of the National Police and strengthen the rule of law in the Indonesian constitutional system.¹¹ In addition, the separation of the National Police from the ministry also has prospects in encouraging professionalism and institutional accountability. With a clearer position as a non-ministerial institution that is directly responsible to the President, the National Police can have a wider space to carry out its duties professionally without bureaucratic pressure from the ministry. At the same time, accountability mechanisms can be directed through constitutional instruments, such as supervision by the House of Representatives and the internal and external supervision system of the National Police, so that they remain in line with the principle of checks and balances.

However, the discourse on the separation of the National Police from the ministry also faces various challenges, both from legal aspects and constitutional practice. One of the main challenges is the need to update and adjust the laws and regulations that regulate the position and relationship of the National Police in the government structure. The separation cannot be done partially, but requires a comprehensive regulatory design so as not to cause legal vacancies, overlapping authority, or disharmony between state institutions.

In constitutional practice, the main challenge of the discourse on the separation of the National Police of the Republic of Indonesia from the ministries is related to the effectiveness of coordination between executive agencies in the field of security and law enforcement. The field of internal security is basically cross-sectoral and involves

¹⁰Husni Thamrin, "Menyoal Kedudukan Polri Dalam Sistem Ketatanegaraan Indonesia Sebagai Negara Demokrasi," *Jurnal Legalitas* 1, no. 1 (2023): 87–94, [https://doi.org/https://doi.org/10.58819/jurnallegalitas\(jle\).v1i01.61](https://doi.org/https://doi.org/10.58819/jurnallegalitas(jle).v1i01.61).

¹¹Andi Sutanto et al., "Bureaucracy Reformation Management for Indonesian National Police (INP) at the Police Technical Function Unit of Polresta Samarinda," *Journal of Social Sciences Research* 3, no. 12 (2017).

various ministries and state institutions, so it requires strong policy synergy. The separation of the National Police from the ministries has the potential to cause a fragmentation of authority if it is not accompanied by clear arrangements regarding coordination mechanisms and the division of roles between executive agencies.¹² In this context, the absence of a structured coordination design can hinder the implementation of national security policies and reduce the effectiveness of government administration.

Normatively, coordination between state institutions is part of the principle of good governance. Therefore, the institutional separation of the National Police must be followed by strict legal arrangements regarding the pattern of labor relations, policy command flows, and decision-making mechanisms in the field of security and law enforcement.¹³ Without this clarity, the separation of the National Police has the potential to create legal uncertainty, overlapping authority, and institutional conflicts between the National Police and other ministries and executive agencies. Thus, this coordination challenge demands comprehensive and systematic regulatory reform so that institutional separation does not interfere with the integration of national policies. In addition to coordination issues, another challenge that is no less important is the political aspect in Indonesian constitutional practice. The institutional arrangement of the state, including the separation of the National Police from the ministries, cannot be separated from political dynamics and power relations.¹⁴ In practice, law enforcement institutions are often seen as strategic instruments that have a great influence in maintaining political stability and enforcing government policies. Therefore, the discourse on the separation of the National Police from the ministry has the potential to cause resistance from certain political actors who are worried about losing control or influence over the police institution.

From the perspective of constitutional law, the political resistance reflects the still strong orientation of power in the management of law enforcement agencies, which is not fully in line with the principles of a democratic legal state. In a state of law,

¹²N H Pratama, "Bureaucracy Reform Of Public Services In Indonesian National Police (Study at Malang City's Resort Police)," *Jurnal Administrasi Publik*, 2016; M. Imaduddin Zikky, "Evaluating the Impact of Police Reform Initiatives on Public Trust and Accountability Evaluasi Dampak Inisiatif Reformasi Kepolisian Terhadap Kepercayaan Dan Akuntabilitas Publik Latar Belakang Reformasi Kelembagaan Kepolisian Negara Republik Indonesia (," *Journal of State Public Policy* 1, no. 1 (2025): 51–62, <https://doi.org/https://doi.org/10.65101/jspp.v1i1.238>.

¹³Zaitul Zaitul, Desi Ilona, and Neva Novianti, "Good Governance in Rural Local Administration," *Administrative Sciences* 13, no. 1 (2023), <https://doi.org/10.3390/admsci13010019>; Awaludin Marwan, Diana Odier Contreras Garduno, and Fiammetta Bonfigli, "Detection of Digital Law Issues and Implication for Good Governance Policy in Indonesia," *Bestuur* 10, no. 1 (2022), <https://doi.org/10.20961/bestuur.v10i1.59143>; Endang Try Setyasih, "Reformasi Birokrasi Dan Tantangan Implementasi Good Governance Di Indonesia," *Jurnal Ilmu Sosial* 6, no. 1 (2023).

¹⁴Muhammad Sauki and Rahmad Hidayat, "Trends in Political Professionalisation Research : Bibliometric Mapping of Published Articles in the Scopus Database," *Jurnal Ilmu Sosial Dan Ilmu Politik* 28, no. 2 (2024): 202–31, <https://doi.org/https://doi.org/10.22146/jsp.98098>; Baharuddin Badaru and Baharuddin, "The Nature of The Provos Function in Enforcing the Disciplinary Law the Indonesian National Police," *Journal of Law and Sustainable Development* 11, no. 12 (2023), <https://doi.org/10.55908/sdgs.v11i12.2235>.

law enforcement should be placed as an independent function and free from practical political interests.¹⁵ However, in constitutional practice, short-term interests and political calculations often influence the direction of institutional policy. This condition is a serious challenge for efforts to separate the National Police from the ministry, because without a strong political commitment, institutional change risks being symbolic and not touching the root of the problem. Therefore, the success of the separation of the National Police from the ministries depends not only on the normative aspects and institutional design, but also on the level of constitutional awareness of state administrators.¹⁶ Political commitment based on the principles of the rule of law and constitutional democracy is needed to put the public interest above the interests of power.¹⁷ This awareness is important so that the separation of the National Police is truly directed to strengthen the independence, professionalism, and accountability of the National Police, not just being part of a political compromise or a certain power agenda.

Thus, although constitutionally the prospect of separating the Indonesian National Police (Polri) from the ministerial structure remains both legally conceivable and normatively justifiable, its realization presents significant challenges in constitutional practice. The success of such institutional reform depends not only on constitutional legitimacy but also on the existence of a coherent regulatory framework, a carefully designed institutional architecture, and consistent implementation mechanisms capable of ensuring legal certainty and administrative effectiveness.¹⁸ Without comprehensive legal reform and sustained political commitment to strengthening the rule of law, separating Polri from ministerial influence may generate unintended consequences, including institutional fragmentation, weakened inter-agency coordination, and increased uncertainty regarding the distribution of executive authority within Indonesia's constitutional system. Beyond the formal legal dimension, the proposed institutional restructuring also raises fundamental questions concerning the allocation of executive responsibility in a presidential system. Although Polri performs specialized law enforcement functions that require a considerable degree of

¹⁵M Gaussyah, "The Revitalisation of Human Resource Function and Indonesian National Police Budget Heading to Its Independence and Professionalism," *Kanun Jurnal Ilmu Hukum*, no. 58 (2012); Rudy Cahya Kurniawan, "Improving the Professionalism of Human Resources for the Indonesian National Police through Strengthening Supervision," *Indonesian Journal of Advocacy and Legal Services* 5, no. 1 (2023), <https://doi.org/10.15294/ijals.v5i1.29859>.

¹⁶ACHMAD NURMANDI et al., "The Indonesia's Police Reform Police in the Reform Era New Institutionalism Perspective," *Journal of Government and Politics* 7, no. 2 (2016), <https://doi.org/10.18196/jgp.2016.0029>; Edi Saputra Hasibuan, "Revitalization Of Police Role In The Criminal Justice System Reform In," *International Journal of Business, Economics and Law* 21, no. 4 (2020); Harmoko Yusuf, "Aktualisasi Komisi Kepolisian Nasional Dalam Mewujudkan Reformasi Kepolisian Negara Republik Indonesia," *JUSTISI* 10, no. 1 (2024): 138–58, <https://doi.org/10.33506/jurnaljustisi.v10i1.2392>.

¹⁷Jeremy Webber, *A Democracy - Friendly Theory of the Rule of Law*, *Hague Journal on the Rule of Law*, vol. 16 (Springer International Publishing, 2024), <https://doi.org/10.1007/s40803-024-00240-5>.

¹⁸Hartmut Aden et al., "The Rule of Law under Permanent Pressure and the Compensatory Role of External Accountability : Bodies," *Zeitschrift Für Vergleichende Politikwissenschaft* 19 (2025): 339–60, <https://doi.org/10.1007/s12286-025-00649-8>.

operational autonomy, it simultaneously exercises executive authority on behalf of the state and therefore cannot be entirely detached from democratic civilian control.¹⁹

The principal constitutional challenge is not merely determining whether Polri should be institutionally separated from ministries, but rather defining the constitutional boundaries between presidential leadership, executive accountability, and operational independence. In the absence of explicit legal standards governing these relationships, overlapping authority and inconsistent institutional practices may undermine both effective governance and the impartial administration of justice.

Furthermore, any reform concerning the constitutional position of Polri should be accompanied by the establishment of stronger accountability mechanisms capable of balancing institutional independence with democratic oversight. Comparative constitutional experience demonstrates that greater operational autonomy should be complemented by robust systems of parliamentary scrutiny, judicial review, financial accountability, and independent external supervision. Institutional independence should therefore not be interpreted as institutional isolation, but rather as protection from inappropriate political intervention while remaining fully accountable to constitutional principles and democratic institutions. Such an approach would reinforce public confidence in law enforcement by ensuring that police authority is exercised solely on the basis of law rather than political considerations.²⁰

Finally, constitutional reform concerning the institutional status of Polri should be understood as part of a broader effort to modernize Indonesia's constitutional governance and strengthen democratic institutions. Rather than focusing exclusively on the organizational separation of Polri from ministerial structures, future constitutional reforms should establish a coherent and comprehensive constitutional framework that clearly defines the legal status, institutional relationships, coordination mechanisms, and accountability obligations of Polri within the executive branch.²¹

Such reform is necessary because the current constitutional arrangement leaves considerable room for ambiguity regarding the distribution of executive authority, thereby creating uncertainty in policy coordination, institutional supervision, and administrative responsibility. As Indonesia's governance system continues to evolve in response to increasingly complex security, political, and administrative challenges, constitutional clarity becomes essential to ensure that institutional arrangements remain consistent with democratic governance and the rule of law. A comprehensive constitutional framework should also provide explicit

¹⁹Eric J Miller, "The Concept of the Police," *Criminal Law and Philosophy* 17, no. 3 (2023): 573–95, <https://doi.org/10.1007/s11572-023-09682-8>.

²⁰Ibnu Sina Chandranegara, "Defining Judicial Independence and Accountability Post Political Transition," *Constitutional Review* 5, no. 2 (2019), <https://doi.org/https://doi.org/10.31078/consrev525>.

²¹Amostian, Yusriyadi, and Ana Silviana, "Reformasi Polri Melalui Penguatan Fungsi Dan Kewenangan Komisi Kepolisian Nasional Dalam Melakukan Pengawasan Eksternal Terhadap Polri," *Jurnal Pembangunan Hukum Indonesia* 5, no. 3 (2023): 510–22.

guidance regarding the balance between police professionalism and democratic civilian oversight. While operational independence remains indispensable for ensuring impartial law enforcement and protecting Polri from undue political interference, such autonomy should not be interpreted as institutional isolation from the broader executive governance system. Instead, operational independence must coexist with clearly defined constitutional mechanisms of accountability, transparency, and policy coordination that enable effective collaboration with other state institutions while preserving the neutrality and professionalism of the police.²² This balanced approach would reduce institutional fragmentation, strengthen intergovernmental coordination, and facilitate the implementation of integrated national policies, particularly in areas where law enforcement intersects with public administration, national security, and public service delivery.

Moreover, constitutional reform should clarify the respective constitutional roles of the President, relevant ministries, Parliament, and independent oversight institutions in supervising and evaluating Polri's performance. Clearly allocating constitutional responsibilities would reduce overlapping authority, prevent institutional conflicts, and reinforce legal certainty regarding decision-making processes within the executive branch. Such institutional coherence is particularly important in a presidential system, where effective governance depends not only on the concentration of executive authority but also on the existence of constitutional mechanisms that promote coordination, accountability, and checks and balances. Ultimately, the long-term objective of institutional reform should extend beyond organizational restructuring or administrative realignment. Instead, constitutional reform should seek to construct an integrated constitutional governance model capable of simultaneously ensuring effective law enforcement, democratic civilian control, institutional accountability, policy coherence, and the protection of constitutional rights. By providing greater constitutional certainty regarding Polri's institutional position and governance arrangements, such reforms would contribute to a more effective, transparent, and democratically accountable state capable of responding to contemporary governance challenges while safeguarding constitutional democracy and the rule of law.

Conclusion

Constitutionally, the National Police of the Republic of Indonesia is a state tool that is in the realm of executive power and is directly responsible to the President, as stipulated in Article 30 paragraph (4) of the 1945 Constitution of the Republic of Indonesia. The Constitution does not place the National Police as part of a specific ministry, so normatively the National Police has its own position that is different from the ministry as the executor of government affairs. This arrangement was then

²²Gita Silpiani and Ni Kadek Anita Pramuditha, "Legal Politics Of Indonesian Police Reform: An Analysis Of The Kr-Polri Audience With The National Supervisory Agenc," *Rewang Rencang : Jurnal Hukum Lex Generalis* 6, no. 10 (2025): 1–17, <https://jhlrg.rewangrencang.com>.

affirmed in Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, which states that the National Police is under the President and not in the ministerial structure. Although normatively the National Police is not under the ministry, existing laws and regulations still provide space for coordinated relations between the National Police and other ministries/executive agencies without strict restrictions. The uncertainty of these norms has the potential to cause differences in interpretation in constitutional practice, as well as open up opportunities for political intervention in the implementation of Police duties.

This condition shows that there is a tension between the need for government coordination and the demand for the independence of the National Police as a law enforcement officer in a state of law. A critical analysis of the arrangement of the relationship between the National Police and the ministry shows that the discourse on the separation of the National Police from the ministry has a strong normative basis in order to clarify the institutional design of the National Police, strengthen the independence of law enforcement, and maintain consistency with the spirit of security sector reform. The separation is not intended to release the National Police from the presidential system of government, but to affirm the position of the National Police as a professional and accountable non-ministerial institution, while remaining under the responsibility of the President and the constitutional oversight mechanism. However, the separation of the National Police from the ministry also faces challenges in constitutional practice, especially related to the need to adjust laws and regulations, the effectiveness of coordination between executive agencies, and political dynamics that affect the process of structuring state institutions. Therefore, the separation of the National Police from the ministries can only be effectively realized if it is accompanied by a comprehensive regulatory design, a clear coordination mechanism, and a strong political commitment to uphold the principles of the rule of law and constitutional democracy. Thus, the discourse on the separation of the National Police from the ministries can be seen as part of the constitutional law reform agenda (*ius constituendum*), which aims to strengthen legal certainty, law enforcement independence, and institutional governance in the Indonesian constitutional system.

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