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Police discretionary authority in enforcing laws against cockfighting

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Abstract

The purpose of this study is to examine the regulation of police discretion in cockfighting law enforcement. This study uses normative legal research methods with a statutory approach. In the context of cockfighting, the discretionary authority of the police as specified in Law No. 2 of 2002 on the Police allows for certain actions required in law enforcement. Relevant articles in the law, such as Article 15 which authorizes the police to carry out tasks that fall within the scope of police duties, and Article 18 which allows police officers to act according to their own judgment in the public interest, providing a legal basis for the exercise of police discretion in relation to the handling of cockfighting cases. In addition, Article 16 also confirms that investigation and investigation actions can be carried out if they fulfill predetermined conditions, including not contradicting the rule of law, in line with legal obligations, and respecting human rights. Thus, police discretion in cockfighting cases must be based on considerations that are appropriate, reasonable, and in accordance with the scope of office and applicable regulations.

Keywords: Police, discretion, cockfighting

1. Introduction

Cockfighting is an activity that involves fighting between two male cocks that have been tamed, modified and specially trained to fight each other. This activity has a long history and is found in various cultures throughout the world. However, it should be noted that cockfighting is a controversial and illegal practice in many countries as it is considered cruel to animals and violates animal protection regulations^[1].

Cockfighting has historical roots that go back thousands of years. This activity is believed to have originated in Southeast Asia, especially India and Thailand. This practice later spread to various parts of the world through trade, colonization, and migration. In some cultures, cockfighting is considered part of cultural tradition and identity. These activities may be associated with ritual, celebration, and symbolism. However, views on cockfighting vary widely and are controversial, even among the cultures that engage in it^[2].

Cockfighting or Tajen is a form of Balinese culture. Although in general there is cockfighting all over the world, each region in the world has its own characteristics in how it is implemented. Tajen in Bali generally has its own characteristics, especially when seen from the clothes worn by the community, which are generally Balinese traditional clothes. Indirectly, the implementation of tajen to date shows that the community continues to maintain its culture as a local tradition and also a ritual in religious ceremonies^[3]. Tajen can also be said to be a dresta in Bali. As in Bali Regional Regulation no. 4 of 2019 concerning Traditional Villages in Bali Article 1 number 31 Dresta are customs/traditions that have been inherited from generation to generation and are still adhered to by Traditional Villages^[4].

In some places, cockfighting has a significant social and economic role. Cockfighting can be a popular pastime and a profitable industry, involving often quite large stakes.

¹ Desi Apriani, "Diskresi Kepolisian Dalam Penyelesaian Perkara Pidana Berbasis Kearifan Lokal," *Jurnal Ilmu Hukum* 7, no. 2 (2018): 119–38.

² Abbas Said, "Tolak Ukur Penilaian Penggunaan Diskresi Kepolisian Dalam Penanganan Hukum Pidana," *Jurnal Hukum Dan Peradilan* Volume 1 (2012).

³ Rendi Apriansyah and Heru Widodo, "Tinjauan Sosio-Yuridis Adat Perjudian Yang Mempengaruhi Keadaan Sosial Di Bali," *Veritas: Jurnal Program Pascasarjana Ilmu Hukum* 6, no. 1 (2020): 35–52, <https://doi.org/10.34005/veritas.v6i1.206>.

⁴ *Ibid.*

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Despite its cultural and historical aspects, many countries have banned or restricted cockfighting because it is seen as a form of animal cruelty. There is great concern about the mistreatment and abuse of cocks in these fights.

The appeal to stop *me-tajen* has been broadcast specifically for a long time. However, in reality there are still traditional villages that use it as a means of collecting *punia* funds. In the 1980s, funds were raised for development, including building a temple from holding a *tajen*. The government has never revoked various legal products that prohibit all types of gambling practices. For example, regarding the prohibition on granting gambling permits, it is regulated in Government Regulation no. 9 of 1981. Granting permits for all forms and types of gambling is prohibited, whether gambling is held in casinos, in crowded places, or for other reasons^[5].

As per Government Regulation no. 9 of 1981 states that all types of gambling are prohibited. However, based on Law Number 1 of 2023 concerning the Criminal Code, Article 426 paragraph (1), any person who does not have a permit will be punished with a maximum imprisonment of 9 (nine) years or a maximum fine of category VI. a. offering or providing opportunities to gamble and make a living or participate in gambling; b. offering or giving the public the opportunity to gamble or take part in a gambling company, regardless of whether there are any conditions or procedures that must be met to use the opportunity; or c. make participating in gambling games a livelihood. The phrase every person without a permit implies that if with a permit this gambling is permitted, on the other hand it is contrary or different from the implementing regulations, namely PP No. 9 of 1981, which prohibits "gambling" (allowing) gambling in all its forms. Based on these two regulations, of course, there is a conflict of norms between the Criminal Code and PP No. 9 of 1981.

In a rule of law, society demands enforcement of the supremacy of law, which makes the law the commander-in-chief oriented towards firmly and consistently enforcing the law against any violations of applicable law. Thus, in a legal state based on Pancasila, every law enforcement violation must be resolved through applicable legal procedures and provide justice for all parties^[6]. In law enforcement, when law bearers choose to prioritize legal certainty, the two ideals of law, namely justice and order, will be put aside. This is in line with the aim of law which is essentially to create certainty, justice and order. The realization of justice can be achieved through efforts called discretion. Discretion as seen from the Big Indonesian Dictionary (KBBI) is the freedom to make one's own decisions in every situation faced. This explanation states that discretion is a person's free authority to make decisions in every situation they face^[7].

The regulation of the Police's discretionary authority is contained in the provisions of Article 18 of Law no. 2 of 2002 concerning the National Police of the Republic of Indonesia (Police Law) which determines:

1. In the public interest, officials of the Indonesian National Police in carrying out their duties and authority can act according to their own judgment.
2. Implementation of the provisions as intended in paragraph (1) can only be carried out in very necessary circumstances by paying attention to statutory regulations, as well as the Code of Professional Ethics for the National Police of the Republic of Indonesia.

Meanwhile, the explanation of Article 18 paragraph (1) of the Police Law provides as follows:

What is meant by "acting according to their own judgment" is an action that can be taken by members of the Indonesian National Police who, in acting, must consider the benefits and risks of their actions and are truly in the public interest^[8].

Meanwhile, the explanation of paragraph (2) of the provisions of Article 18 is quite clear, so what is meant by "very necessary circumstances" has not received further explanation. Likewise, regarding the explanation of paragraph (1), it was found that it was still unclear because the meaning of considering the benefits and risks of the action as well as the meaning of public interest still required a more concrete explanation to avoid multiple interpretations based on the interests of the interpreter. As a consequence of this blurred norm in the application of discretionary authority by the Police, in practice various cases of violations in law enforcement have arisen^[9].

Based on this explanation, remembering that cockfighting in Bali is a local tradition and also a ritual that must be included in religious ceremonies, normatively the rules in the Criminal Code and PP No. 9 of 1981 which is still experiencing conflict will cause confusion in the application of the law on the one hand the phrase in the Criminal Code as if there is a permit then gambling is permitted while PP no. 9 of 1981 prohibits all types of gambling without exception, coupled with the vagueness of norms in the Police Law Article 18 paragraph (2), namely the phrase "extremely necessary circumstances" has not received further explanation, this will certainly give rise to many interpretations regarding "extremely necessary circumstances." necessary". Therefore, a special approach is needed in analyzing the extent to which a situation or condition can be said to be "very necessary" so that later this regulation does not become the main obstacle for the Police in carrying out law enforcement.

Based on a research journal by Ni Ketut Sari Adnyani entitled "Discretionary Authority of the Indonesian Police in Criminal Law Enforcement"^[10] and another research journal by Herman entitled "Police Discretion in the Implementation of Searches in Urgent Circumstances,"^[11]

⁸ Dany Rimawan *et al.*, "Legal Policy on Gambling Crime," *Jurnal Edunity: Kajian Ilmu Sosial Dan Pendidikan* 2, no. 1 (2023): 2023, <https://edunity.publikasikupublisher.com>.

⁹ *Ibid.*

¹⁰ Ni Ketut Sari Adnyani, "Kewenangan Diskresi Kepolisian Republik Indonesia Dalam Penegakan Hukum Pidana," *Jurnal Ilmiah Ilmu Sosial* 7, no. 2 (2021): 135, <https://doi.org/10.23887/jiis.v7i2.37389>.

¹¹ La Ode Syarifudin, Herman, Handrawn, Oheo Kaimuddin Haris, Sabrina Hidayat, Rasmuddin, "Diskresi Kepolisian Dalam Pelaksanaan Penggeledahan Dalam Keadaan Mendesak Criminal Law Policy for Settlement of Corruption Cases Outside the Court," *Halu Oleo Legal Research* 5, no. 2 (2023): 413–27.

⁵ Alfano Ramadhan, "Diskresi Penyidik Polri Sebagai Alternatif Penanganan Perkara Pidana," *Lex Renaissance* 6, no. 1 (2021): 25–41, <https://doi.org/10.31850/malrev.v2i2.334>.

⁶ Alvin Makale, "Law Enforcement Against Criminal Acts Of Cockfighting Gambling," *Estudiante Law Journal* 2, no. 3 (2020): 547–59, <https://doi.org/10.33756/eslaj.v2i3.14713>.

⁷ KBBI, "Diskresi," 2024, <https://kbbi.web.id/diskresi>.

there are differences in research objectives, problem formulation, and results compared with the author's journal. In the context of Ni Ketut Sari Adnyani's research, the focus is on police discretion in general, whereas in this paper it is specifically on police discretion regarding cockfighting activities. This research is specifically about discretion in cockfighting. Against this background, we have been motivated to write a journal entitled "Regulation for Registration of Applications for Potential Geographical Indications of Coffee and Its Relevance to Reputation Factors."

1.1 Problem Formulation

Based on the background provided above, there are two problem formulations that will be discussed:

1. What are the discretionary arrangements given to the Police?
2. Can the police's discretionary authority be applied to cockfighting in Bali?

1.2 Objectives of Writing

In line with the background and problem formulations mentioned above, the objectives of this writing are to examine and understand the discretionary arrangements given to the Police. Another objective is to understand and identify the police discretionary authority that can be applied to cockfighting in Bali.

2. Research Methodology

This writing utilizes the normative legal research method, as it requires an analysis of a situation through the lens of relevant legal regulations. Normative legal research involves examining the law as a guide using a statute approach. The journal writing relies on primary legal sources, such as principles and legal norms related to discretion in the police, as well as secondary sources such as legal literature and scholarly articles related to the application of discretion in cockfighting^[12].

3. Results and Discussion

3.1 Discretionary arrangements given to the police

In Indonesia, police authority is primarily governed by Law Number 2 of 2002 concerning the Police, while the process of criminal law enforcement is separately regulated under Law Number 8 of 1981 concerning Criminal Procedure Law, also known as the Criminal Procedure Code (KUHAP). Specific regulations related to police authority in handling conflicts are addressed in the Law on Handling Social Conflicts and internal POLRI regulations, such as POLRI PROTAP Number 1/X/2010 concerning Overcoming Anarchy^[13].

From a perspective of criminal policy and the criminal justice system (SPP), the roles of the police are interconnected because the criminal justice system forms an integral part of criminal policy. This system, designed to combat crime, grants the police discretion based on the necessity of their duties and responsibilities (Flichtassiges

Ermessen). Article 18 paragraph (1) of Law Number 2 of 2002 outlines the essence of police authority, where the exercise of discretion necessitates adherence to statutory regulations and the professional code of ethics of the Indonesian National Police.

Viewed from a legal legality perspective, the functional duties and authority of the Police consist of nothing other than implementing or enforcing the law, thus, the Police become the guardians of the status quo of the law. This has the consequence that what the police do will not deviate from a set of rules for law enforcement, such as the legislation itself, its doctrines, and the principles that are commonly accepted in the world of criminal law^[14]. It is not surprising that the term appears that the police are "servants of the law", "law enforcement officers", and so on. The situation or conditions that require the police to implement policy (discretion) are caused by several things, including:

1. There is a choice that is presented to officials to choose based on rational and basic decisions. However, each choice means that there are several alternatives where the antithesis to discretion is a situation where the law provides an appropriate and correct solution to a case.
2. The reason for the use of discretion is a matter of non-concrete legal grammar.
3. There is a gap or void (legal gap) in a legal rule which is seen as a source of discretionary use because the interpreter must make a choice between several alternatives. Legal gap problems are often related to semantic indetermination.
4. Contradiction or inconsistency between two legal rules if "incompatible legal effects are attached to the same factual conditions" (incompatible legal effects are attached to the same factual conditions)^[15].

Guidelines for making decisions to apply police discretion, the limitations in exercising discretion are explained in Article 16 paragraph 2 of Law Number 2 of 2002 which states that the actions of investigators are for the purposes of investigations with the following 5 (five) requirements:

1. Does not conflict with any legal regulations.
2. In line with legal obligations that require official actions to be taken.
3. The action must be appropriate and reasonable and included in the scope of the position.
4. Based on appropriate considerations based on compelling circumstances.
5. Respect human rights.

Based on the conditions mentioned above, it can be understood that this discretionary problem occurs, because there are no guidelines or if there are guidelines outlined, they are very abstract and difficult to apply^[16]. Police discretion must be applied in carrying out police duties. As mandated in article 13 of Law No. 2 of 2002 concerning the

¹² I Made Pasek Diantha, *Normative Legal Research Methods in Theory Justification* (Jakarta: PT. Karisma Putra Utama, 2016).

¹³ Datu Nur Fathahita, Abd. 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>.

¹⁴ Dennis Kojongian, "Tindakan Diskresi Polisi Dalam Pelaksanaan Tugas Penyidikan," *Lex Crimen* IV, no. 4 (2015): 30–38.

¹⁵ Desi Apriani, "Diskresi Kepolisian Dalam Penyelesaian Perkara Pidana Berbasis Kearifan Lokal."

¹⁶ Aggrey Arief Desman, Syahrudin Nawi, "Penggunaan Diskresi Oleh Kepolisian Dalam Pelaksanaan Tugas Yang Dapat Mengancam Keselamatan Nyawa Petugas," *Journal of Lex Generalis (JLS)* 3, no. 3 (2022): 404–17.

National Police of the Republic of Indonesia, the task of the National Police is to maintain security and public order, enforce the law and provide protection, guidance and service to the community [17]. Therefore, in practice the application of discretion by the police and prosecutors is very dependent on the subjectivity of the person concerned. If the law enforcer lives up to the moral or ethical values as a police officer or prosecutor, then the exercise of discretion will create a sense of justice and peace in society. On the other hand, if the police do not adhere to moral and ethical values, then the exercise of discretion will give rise to arbitrariness [18].

In accordance with its authority, the National Police can carry out police efforts as regulated in the Law, namely investigations and investigations which include summons, examination, arrest, detention, search and confiscation. However, as the nature of society is always changing and undergoing changes as mentioned above, sometimes police officers have to take action either in the context of investigations or investigations but this is not yet regulated in the law [19]. Therefore, to maintain public order, in certain circumstances members of the National Police need to take action according to their own judgment [20].

Due to the limitations in regulations detailing every aspect of how officials should perform their duties, exercise authority, and fulfill responsibilities, discretion becomes essential. Public officials must rely on subjective judgment and policies to ensure effective execution of their duties [21]. It is crucial to ensure this discretion is exercised properly by considering all relevant aspects and adhering to ethical standards, as discussed earlier. Consequently, any actions taken by the police under this discretion must strictly adhere to legal standards [22].

The main tasks carried out by the National Police institution are as regulated in Article 13 of Law no. 2 of 2002, namely: (a) maintaining security and public order (b) enforcing the

law; and (c) provide protection, protection and services to the community. The three main tasks are not hierarchical but have equally important positions. The substance of the Polri's duty to maintain security and order originates from the Polri's obligation to guarantee public security. The main duties of the National Police related to law enforcement originate from the provisions of laws and regulations which contain the duties of the National Police in relation to criminal justice.

3.2 The police's discretionary authority can be applied to cockfighting in Bali

Gambling is one of the oldest games in the world. Gambling is also a social problem because the impact it has is very bad for national interests and the personal interests of the gambler because it tends to make people have a lazy mentality about working. Initially, cockfighting or *tajen* took the form of a game or activity to fill free time to entertain the heart. In order to stimulate enthusiasm for playing, increase tension and hope of winning, cockfighting is accompanied by bets or *tith* in the form of money, objects or actions of value, so that it becomes a human attribute and the most important element of gambling [23].

Tajen is a cockfighting game that originated from a traditional procession commonly carried out by Hindus throughout Bali, namely, *tabuh rah*. Etymologically, *tabuh rah* means blood brawl, namely payment with blood or by sprinkling blood in a certain place. The *tabuh rah* performed by Balinese people in religious ceremonies is based on the inscriptions and *lontar-lontar* found in Bali, namely:

1. In the ancient Balinese inscription, namely the Sukawana Al inscription, which is dated Caka 804, there is the word *Blindrah*. Dr. R. Goris interprets the word *Bindarah* as blood sacrifice for various actions [24].
2. In the Batur Abang A inscription dated Caka 933 which states:

Mwang yan Pakarya Karya, Masanga Kunang Wgila Ya Manawunga Makantang Tlung Parahatan i Thaninya Tan Pamwita, Tan Pawwata Ring Nayaka Witness
Which means:

Moreover, holding ceremonies such as *tawur kenganga*, it is appropriate to hold cockfights, three generations (SAET) in the village, do not ask for permission, do not notify the government.

3. In the Batuan Inscription dated Caka 944 there is the following sentence:

Kunang yang manawung ing pangudwan makantan tlung angyatan tan pamwinta ring nayaka sanctions mwang sawung bungut, tan knana asks pamli.

Which means: Meanwhile, if cockfighting in a holy place is carried out by three groups (SAET) without asking permission from the government or also from the fighting supervisor, there is no tax [25].

Tajen cockfighting gambling that is carried out nowadays is more about betting. Bets or anyway can be categorized into two, namely inside or middle bets and outside or side bets.

¹⁷ Dhanu Pitoyo and Firmanto, "Cockfighting as an Alternative Economic Solution for the People of Tuyun Village, Mihing Raya District, Gunung Mas Regency," *Budapest International Research and Critics Institute-Journal (BIRCI-Journal 3, no. 4 (2020): 3625–33.*

¹⁸ Dicki Andika Martha dan Endang Sutrisno, "Pelaksanaan Diskresi Kepolisian Dalam Penyelesaian Tindak Pidana Lalu Lintas Studi Di Kepolisian RESOR Kuningan," *Syntax Literate : Jurnal Ilmiah Indonesia 3, no. 3 (2018): 2541–0849,* [https://doi.org/10.1098/rspb.2014.1396%0Ahttps://www.uam.es/gruposinv/meva/publicaciones/jesus/capitulos_espanyol_jesus/2005_motivacion_para_el_aprendizaje_Perspectiva_alumnos.pdf%0Ahttps://www.researchgate.net/profile/Juan_Aparicio7/publication/253571379.](https://doi.org/10.1098/rspb.2014.1396%0Ahttps://www.uam.es/gruposinv/meva/publicaciones/jesus/capitulos_espanyol_jesus/2005_motivacion_para_el_aprendizaje_Perspectiva_alumnos.pdf%0Ahttps://www.researchgate.net/profile/Juan_Aparicio7/publication/253571379)

¹⁹ Dody Hendra, "Diskresi Kepolisian Diluar Pengadilan Dalam Rangka Penyelesaian Perkara Pencurian Oleh Anak Dalam Keluarga," *Jurnal Suara Hukum 2, no. 2 (2020): 134,* [https://doi.org/10.26740/jsh.v2n2.p134-153.](https://doi.org/10.26740/jsh.v2n2.p134-153)

²⁰ Indah Sri Utari, "LAW ENFORCEMENT AND LEGAL REFORM IN INDONESIA AND GLOBAL CONTEXT : HOW THE LAW RESPOND TO COMMUNITY," *Journal of Law and Legal Reform 1, no. 1 (2020): 1–4.*

²¹ Edi Santoso, Sri Kusriyah, and Rakhmat Bowo Suharto, "The Existence of Criminal Law Products in Dynamics Law Enforcement to Counter the Gambling Crime," *Law Development Journal (LDJ) 4, no. 2 (2022): 263–71.*

²² Dicki Andika Martha dan Endang Sutrisno, "Pelaksanaan Diskresi Kepolisian Dalam Penyelesaian Tindak Pidana Lalu Lintas Studi Di Kepolisian RESOR Kuningan."

²³ Joko Rudiantoro, "The Discretion of the Police To Alleviate the Act of Anarchy In The Society," *Kajian Hukum Dan Keadilan 2, no. 6 (2014).*

²⁴ Apriansyah and Widodo, "Tinjauan Sosio-Yuridis Adat Perjudian Yang Mempengaruhi Keadaan Sosial Di Bali."

²⁵ *Ibid.*

Betting in the middle or inside can be done individually by chicken owners or in groups, together with other friends. This group bet is called warang^[26]. The biggest bet in the middle ranges from five million to fourteen million rupiah or two million rupiah to five million six hundred thousand rupiah, for the middle class it ranges from two million five hundred thousand rupiah to four million rupiah and for the lower class it ranges from fifty thousand rupiah to eight hundred rupiah. Apart from betting in the middle, there are also bets on the outside or on the sides which are made by players who do not own the chicken. Individual and group betting^[27]. The individual bets in question are made jointly. The explanation is clear that if money is used as an object for gambling, it clearly violates the provisions of Article 303 paragraph 1 paragraph 3, namely:

1. Threatened with a maximum imprisonment of 10 years or a maximum fine of Rp. 25 million, anyone who, without obtaining permission, makes participation in gambling games a pursuit.

Viewed as a policy process, criminal law enforcement is essentially policy enforcement, through several stages, namely

1. The formulation stage, namely the in abstract law enforcement stage by the law-making body. This stage is also called the legislative policy stage.
2. Application stage, namely the stage of application of criminal law by law enforcement officials from the police to the courts. This second stage can also be called the judicial policy stage.
3. Execution stage, namely the stage of concrete implementation of criminal law by criminal implementing officials. This stage is called the executive or administrative policy stage^[28].

The National Police also has the authority to take other actions according to law in a responsible manner. This authority is the authority of the National Police in the context of criminal proceedings as investigators and investigators as regulated in Article 5 paragraph (1) letter a number 4 and Article 7 paragraph (1) letter j of the Criminal Procedure Code. In order to carry out duties in the field of criminal proceedings, POLRI has the authority to carry out other actions in the form of investigations and investigations which are carried out as follows:

1. Does not conflict with any legal regulations.
2. In line with the legal obligations that require the action to be carried out;
3. Must be appropriate, reasonable, and included in the position environment.
4. Reasonable consideration based on compelling circumstances.
5. Respect human rights^[29].

²⁶ Maya Lasena *et al.*, "Cockfighting Gambling Criminal Acts Commitment," *Estudiante Law Journal* 4, no. 2 (2022): 77–90, <https://doi.org/10.33756/eslaj.v4i2.16039>.

²⁷ *Ibid.*

²⁸ Patahillah Asba and Moh. Eka Wahyu Wahyu, "Discretionary Authority of the Indonesian National Police in the Implementation of Demonstrations," *Amsir Law Journal* 4, no. 2 (2023): 156–61, <https://doi.org/10.36746/alj.v4i2.136>.

²⁹ Priyo Santoso, "Diskresi Kepolisian Melalui Mediasi Penal (Studi Kasus Di Polsek Galur, Kulonprogo)," *Jurnal Penegakan*

Several laws that can be used as a legal basis for the application of discretion, especially in the criminal law enforcement process, include Law Number 2 of 2002 concerning the Police.

1. Article 15

(2) The National Police of the Republic of Indonesia, in accordance with other laws and regulations, has the authority to carry out other authorities which are included in the scope of police duties.

2. Article 16

1. In order to carry out duties in the field of criminal proceedings, the National Police of the Republic of Indonesia has the authority to: 1. carry out other actions according to the law that are responsible.
2. Other actions as intended in paragraph (1) letter 1 are investigation and investigative actions which are carried out if they meet the following requirement:
 - a) Does not conflict with a legal rule;
 - b) In line with the legal obligations that require the action to be carried out;
 - c) Must be appropriate, reasonable, and included in the position environment;
 - d) Appropriate consideration based on compelling circumstances; And
 - e) Respect human rights^[30].

3. Article 18

1. Law Number 2 of 2002 concerning the Police states that in the public interest, officials of the National Police of the Republic of Indonesia in carrying out their duties and authority can act according to their own judgment.
2. Implementation of the provisions as intended in paragraph (1) can only be carried out in very necessary circumstances by taking into account statutory regulations, as well as the Code of Professional Ethics for the National Police of the Republic of Indonesia^[31].

The purpose of exercising discretion is to improve government efficiency, address legal ambiguities, ensure legal clarity, and overcome administrative bottlenecks in specific situations for the public benefit. When using discretion, government officials must meet specific criteria: aligning with the intended purpose, complying with legal provisions, adhering to principles of good governance, grounding decisions on objective rationale, avoiding conflicts of interest, and acting in good faith.

Discretion can only be exercised by authorized government officials, one of which is the police. The role of the Police in law enforcement can be found in Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia. In carrying out the discretionary process, this authority cannot be used arbitrarily by the police, where discretion

Hukum Dan Keadilan 1, no. 2 (2020): 95–118, <https://doi.org/10.18196/jphk.1206>.

³⁰ Apriansyah and Widodo, "Tinjauan Sosio-Yuridis Adat Perjudian Yang Mempengaruhi Keadaan Sosial Di Bali."

³¹ Salma Laitupa and Fadli Yasser, "Review of Criminal Law on The Practice of Cockfighting Gambling In Civil Activities In Mamasa (Case Study of Mamasa Regency)," *Journal of Scientific Research, Education, and Technology (JSRET)* 1, no. 2 (2022): 449–57, <https://doi.org/10.58526/jsret.v1i2.135>.

must be used for rational and logical reasons, but still selective and proportional. There are three foundations of discretion, namely:

1. The maker of the discretion must have authority according to law, without authority, a discretion is an arbitrary action.
2. Discretionary objectives must not conflict with the law.
3. Freedom of discretion is freedom of choice based on the problems faced in the first and second basic environments^[32].

Given the considerations mentioned above, the aspect of legality in discretion must be fully acknowledged^[33]. Freedom of choice exists within bounds to achieve optimal benefits without contradicting the law^[34]. Discretion refers to the authority of law enforcement officials involved in criminal cases to decide whether to proceed with or terminate a case, and to take specific actions within their jurisdiction. As investigators within the criminal justice system, police officers play a pivotal role, requiring them to determine which cases should proceed to court based on statutory regulations^[35].

Thus, discussions on police discretion within the criminal justice system highlight the interplay among law, discretion, police, investigations, and the criminal justice framework. Police officers, as enforcers of criminal law, are expected to utilize their authority in the best interests of upholding the law. When enforcing criminal law through discretionary authority, the Indonesian National Police prioritizes a restorative justice approach. This approach seeks to resolve criminal cases by involving the perpetrator, victim, their families, and other relevant parties in a collaborative process aimed at achieving fair resolution through restitution rather than retribution^[36].

Conclusion

The discretionary authority of the police regarding cockfighting is relevant and very important in law enforcement, because one of the main duties of the National Police of the Republic of Indonesia Police in legal proceedings is to carry out other actions according to the laws of the Republic of Indonesia for which they are responsible. Other actions based on law have as intended in article 16 the general authority of the Police. paragraph (1) Law Number 2 of Discretion can be interpreted as 2002 concerning the Republic of Indonesia's National Police on policy tactics, while Indonesian discretion is an action of Police investigation which is an investigation carried out if

the power or authority meets the following requirements: granted by Law. law or upon a. does not conflict with the law's power to act legally; b. in line with obligations based on legal considerations or beliefs that require one's own actions and whichever more actions are taken; c. must be appropriate, moral in nature rather than general in nature. reasonable, and included in the practical environment of the discretionary authority of his position; d. proper consideration of subsequent state administration based on compelling circumstances; giving birth to policy regulations, and e. respect human rights.

Undang-Undang

Undang-Undang Nomor 2 Tahun 2002 tentang Kepolisian Negara Republik Indonesia.

Peraturan Pemerintah No. 9 Tahun 1981 tentang Pelaksanaan Penertiban Perjudian.

Prosedur Tetap Kepala Kepolisian Negara Republik Indonesia Nomor 1/X/2010 tentang Penanggulangan Kekacauan.

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