

# Legal Analysis of Brimob's Repressive Actions in Handling Demonstrations Between Law and Human Rights from the Perspective of Law Number 39 of 1999 Concerning Human Rights

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## *Abstract.*

*This article discusses a legal analysis of repressive actions by the Mobile Brigade Corps (Brimob) in handling demonstrations in Indonesia. The main focus is directed at the compliance of the authorities' actions with the principles of law enforcement and human rights protection as stipulated in Law Number 39 of 1999 concerning Human Rights. The use of force in demonstrations often raises controversy regarding the limits of authority, the legality of the actions, and the impact on citizens' basic rights such as the right to assemble, express opinions, and obtain protection from arbitrary action. This research uses a normative approach by reviewing laws and regulations, legal literature, and international human rights standards. The analysis results show that Brimob's repressive actions must always be based on legality, necessity, proportionality, and accountability to ensure human rights protection. However, in practice, violations that contradict human rights principles, especially related to the use of excessive force, are still found. This article emphasizes the importance of strengthening regulations, human rights training for officers, and more effective oversight mechanisms.*

**Keywords:** Brimob; repressive actions; human rights and demonstrations.

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## I. INTRODUCTION

Demonstrations are a real manifestation of freedom of opinion and assembly which is guaranteed by the Indonesian constitution, especially Article 28E paragraph (3) of the 1945 Constitution. In practice, securing demonstrations is the responsibility of the Indonesian National Police, including the Mobile Brigade Corps (Brimob), which is often deployed when the situation is deemed to have the potential to disrupt security and order. However, Brimob's involvement often sparks debate because its handling methods tend to be more repressive, such as the use of tear gas, rubber bullets, batons, and forced arrests. These actions must be analyzed to determine whether they are still in accordance with the principles of law enforcement and protection of citizens' human rights as stipulated in Law No. 39 of 1999 concerning Human Rights. The main issue that arises is how to balance the authority of the authorities to maintain order with the state's obligation to respect the rights of demonstrators. Therefore, this research is important in providing a legal analysis of the limits, procedures, and standards of operation that comply with the law and human rights perspectives. Brimob's repressive actions in handling demonstrations often involve the use of excessive force such as tear gas, water cannons, and mass arrests, which creates a conflict between police authority and human rights protection. Legal analysis shows an imbalance between Regulation of the Chief of Police No. 1 of 2009 concerning the Use of Force in Police Actions and the guarantee of the right to assemble in Law No. 39 of 1999.

Recent cases such as the demonstration at the Kwitang Mobile Brigade Headquarters in 2025 show a recurring pattern of systematic violence. Demonstrations or demonstrations are a form of public participation and the right to freedom of expression which is guaranteed by the constitution, namely Article 28E paragraph (3) of the 1945 Constitution. However, in practice, demonstrations often have the potential to cause social tension and even turn into riots. In these situations, the police, including elite units like the Mobile Brigade (Brimob), are tasked with enforcing the law and maintaining order. The actions taken by

Brimob, especially repressive actions (harsh measures to stop or disperse demonstrations), often become the focus of attention and raise a dilemma between law enforcement and respect for human rights (HAM). This article will analyze Brimob's repressive actions in handling demonstrations through the perspective of Law Number 39 of 1999 concerning Human Rights (HAM Law). However, behind these legal guarantees, tensions often arise on the ground between protesters and law enforcement. Initially peaceful demonstrations can turn violent due to various factors, ranging from provocation and intolerance to uncontrolled escalation. In these situations, the Indonesian National Police's elite Mobile Brigade (Brimob) unit is often deployed to control the situation and restore order.

Brimob's repressive actions—such as the use of physical force, tear gas, or other coercive measures—have become a focal point of complex debate. On the one hand, the state, through its apparatus, has an obligation to enforce the law and protect the security and order of society as a whole. On the other hand, every citizen, including protesters, has non-derogable human rights, such as the right to life and the right to be free from torture. This conflict between the state's duty to protect and the right to protest creates a gray area in law enforcement. It is against this background that this article was written to conduct a legal analysis. The analysis focuses on examining Brimob's repressive actions in handling demonstrations through the lens of Law Number 39 of 1999 concerning Human Rights (HAM Law). This perspective was chosen because the HAM Law is the national legal umbrella that specifically regulates the protection and respect of human rights in Indonesia. This article will dissect the extent to which these repressive actions can be legally justified and where the limits are so that they do not violate basic rights guaranteed by the Human Rights Law. Thus, this article aims to find the ideal balance between the interests of law enforcement and respect for human rights in the dynamics of Indonesian democracy.

## II. METHODS

This research uses a normative juridical method, with the following approaches:

1. Statute approach by examining the 1945 Constitution, Law 2/2002 concerning the Indonesian National Police, Regulation of the Chief of Police 16/2006 concerning Mass Control, and Law 39/1999 concerning Human Rights.
2. Conceptual approach from literature related to the use of force, human rights principles, and law enforcement theory.
3. Case approach through analysis of several incidents of handling demonstrations involving Brimob.

Data sources are obtained from primary, secondary and tertiary legal materials. The data collection technique used was library research. This technique was carried out by tracing, identifying, and analyzing various primary and secondary legal materials related to the research focus.

## III. RESULT AND DISCUSSION

### 1. Legal Basis for Brimob's Authority in Securing Demonstrations

Brimob, as part of the Indonesian National Police, has the authority to handle contingency situations, including demonstrations that are considered prone to conflict. This authority is based on:

- Law No. 2 of 2002 concerning the Indonesian National Police (public order and security maintenance function).
- Regulation of the Chief of Staff No. 16 of 2006 concerning Crowd Control.
- Regulation of the Chief of Police regarding the use of force in police actions.

However, this authority must be exercised by paying attention to the following principles:

- Legality, actions must be in accordance with the law.
- Necessity, only used when necessary.
- Proportionality, commensurate with the threat.
- Accountability, can be accounted for.

### 2. Human Rights in Demonstrations (Law 39/1999)

Law No. 39 of 1999 guarantees various relevant rights in demonstrations, including:

- The right to express opinions in public (Article 23).
- Right to free assembly (Article 25).
- The right not to be tortured and to be treated humanely (Article 33).
- The right to feel safe and protected by the authorities (Article 29).

The state has an obligation to respect, protect and fulfill these rights. so that the actions of the authorities must not violate human rights limits.

### **3. Legal Analysis of Brimob's Repressive Actions**

Some frequently used forms of repressive action include the use of physical violence, non-lethal weapons, forced crowd dispersal, and unlawful arrests. Legally, these actions can only be taken if the situation meets the criteria for a high threat.

However, in a number of cases it was found:

- Use of tear gas without warning.
- Beating of demonstrators who did not resist.
- Peaceful dispersal of the crowd.
- Arbitrary detention.

This practice is contrary to Article 34 of Law 39/1999 which requires state officials not to carry out actions that can cause physical or mental suffering that cannot be justified by law.

### **4. Conflict between Law Enforcement and Human Rights Protection**

The core problem lies in the imbalance between the goal of maintaining security and the obligation to protect human rights. Brimob is often positioned as an anti-riot force, thus tending to prioritize a repressive approach. However, according to the Chief of Police's Regulation on Mass Control, repressive measures are the final stage after preventive and persuasive measures.

This conflict shows the weak implementation of SOPs and minimal internal and external supervision.

### **5. Efforts to Harmonize Law and Human Rights in Handling Demonstrations**

Some steps required:

1. Human rights training and use of force for all Brimob personnel.
2. Implementation of the principle of accountability, including body cameras, documentation, and crowd handling audits.
3. Strengthening SOPs use of force to prevent excessive excesses.
4. External supervision by Komnas HAM, Ombudsman, and civil society.
5. Humanist approach through communication with the action coordinator to prevent escalation.

The gradual use of force in Perkap No. 1 of 2009 (verbal warnings to firearms) should be in line with international human rights principles, but Brimob practices tend to be escalatory, such as firing gas into residential areas, violating the prohibition on torture in Article 34 of the Human Rights Law. The case of the Brimob Rantis hitting a motorcycle taxi driver in 2025 gave rise to 9 recommendations from the National Human Rights Commission, including an ethical examination, because it ignored the principle of minimizing injury and the right to life (Article 9 of the Human Rights Law). This imbalance reflects a repressive policing paradigm that has not yet fully shifted to a humanist one, as highlighted by the 2025 National Police Commission simulation.

Brimob's repressive actions have created public distrust in the police, weakened legal legitimacy, and fueled a cycle of anarchic demonstrations, contradicting the stated purpose of Law No. 39 of 1999 to protect human dignity without discrimination. The discussion highlighted the need to revise the Police Chief's Regulation to adopt the UN Basic Principles on the Use of Force, with enhanced pre-demonstration dialogue and human rights training for Brimob. These reforms can be achieved through oversight by the National Human Rights Commission (Komnas HAM) and strict criminal sanctions, ensuring a balance between public order and freedom of expression.

### **6. The Impact of Repressive Actions on Human Rights Protection**

Excessive repressive measures have several negative impacts:

1. The decline in public trust in the Indonesian National Police, especially Brimob.

2. Increasing potential for mass radicalization because they feel they are being treated unfairly.
3. Damage to the country's reputation in the context of enforcing human rights.
4. The emergence of a lawsuit case, both criminal, civil and ethical.

These impacts show that a repressive approach not only violates human rights, but is also ineffective in maintaining long-term order.

#### IV. CONCLUSION

Brimob's repressive actions in handling demonstrations often exceed the limits of proportionality of Perkap No. 1 of 2009, especially through mass arrests and excessive violence such as the Kwitang 2025 case, which violates Articles 24, 25, and 34 of Law No. 39 of 1999 concerning Human Rights. Normative legal analysis reveals a conflict between the authority to maintain public order and the guarantee of the right to assemble and personal freedom, creating a systematic legal imbalance. Thus, systematic efforts are needed to harmonize law enforcement and human rights protection, through increased human rights training for the Mobile Brigade Corps (Brimob), strengthened standard operating procedures (SOPs) for the use of force, increased accountability, and stricter oversight by state institutions and civil society. A humanistic and dialogical approach must be prioritized in securing demonstrations, while repressive measures should only be used as a last resort and in a measured manner. These efforts provide a crucial foundation for ensuring that Brimob's handling of demonstrations remains within the law, professionally, and upholds human rights.

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