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**Individual legal responsibility
for unlawful orders within police
institutions in Indonesia and its
relevance to international human
rights norms**

**Responsabilidade jurídica
individual por ordens ilícitas no
âmbito das instituições policiais
na Indonésia e sua relevância
para as normas internacionais de
direitos humanos**

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Individual legal responsibility for unlawful orders within police institutions in Indonesia and its relevance to international human rights norms*

Responsabilidade jurídica individual por ordens ilícitas no âmbito das instituições policiais na Indonésia e sua relevância para as normas internacionais de direitos humanos

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Abstract

Police institutions depend on hierarchical command to maintain operational discipline, yet formally valid orders may still be unlawful or incompatible with international human rights standards, placing officers between structural obedience and personal legal responsibility. This article examines whether Indonesia's existing legal framework provides a sufficiently clear and legally secure basis for refusing unlawful orders within hierarchical police institutions. Using a normative-comparative approach, the article analyses Indonesian statutory law, police ethics regulations, and relevant international human rights norms, and compares them with selected regulatory approaches drawn from Continental European, Nordic, German, and Anglo-Saxon models. The study finds that Indonesia suffers from an asymmetric legal design: the law affirms command authority more clearly than it regulates objection, legality review, protection against retaliation, and the allocation of individual responsibility when unlawful orders are issued. Although Police Regulation No. 7 of 2022 recognises refusal and protection at the ethical level, it does not yet provide the statutory certainty, review architecture, and enforceable safeguards required for a coercive state institution operating under international human rights standards. This article argues that Indonesia should adopt a hybrid legality-compliance model in which refusal of unlawful orders is treated not as a disciplinary anomaly, but as an institutional safeguard. Such a model requires four cumulative guarantees: clear objection procedures, legality-review mechanisms not wholly controlled by the immediate chain of command, credible anti-retaliation protection, and a precise allocation of responsibility between the issuer and the subordinate. In this way, the article contributes a normative framework for reconciling command discipline with legality, accountability, and human rights protection in Indonesian policing.

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Keyword: human rights; hierarchical command; Indonesian police institutions; individual legal responsibility; unlawful orders.

Resumo

As instituições policiais dependem de uma cadeia hierárquica de comando para assegurar a disciplina operacional; todavia, ordens formalmente válidas podem revelar-se ilícitas ou incompatíveis com os padrões internacionais de direitos humanos, colocando os agentes entre a obediência estrutural e a responsabilidade jurídica individual. O presente artigo examina se o ordenamento jurídico vigente na Indonésia oferece uma base suficientemente clara e juridicamente segura para a recusa de ordens ilícitas no âmbito de instituições policiais hierarquizadas. Adotando uma abordagem normativo-comparativa, o estudo analisa a legislação estatutária indonésia, os regulamentos de ética policial e as normas internacionais pertinentes de direitos humanos, estabelecendo, ademais, uma comparação com modelos regulatórios selecionados oriundos das tradições europeia continental, nórdica, alemã e anglo-saxônica. Os resultados evidenciam que a Indonésia apresenta um desenho jurídico assimétrico: a legislação afirma com maior clareza a autoridade de comando do que disciplina os mecanismos de objeção, o controle de legalidade, a proteção contra retaliações e a imputação de responsabilidade individual nos casos de emissão de ordens ilícitas. Embora o Regulamento Policial n.º 7 de 2022 reconheça, no plano ético, o direito de recusa e a proteção correspondente, ainda não confere a segurança jurídica, a arquitetura institucional de controle e as garantias executáveis exigidas para uma instituição estatal dotada de poder coercitivo e submetida a padrões internacionais de direitos humanos. O artigo sustenta que a Indonésia deve adotar um modelo híbrido de legalidade–conformidade, no qual a recusa de ordens ilícitas não seja tratada como uma anomalia disciplinar, mas como uma salvaguarda institucional. Tal modelo pressupõe quatro garantias cumulativas: procedimentos claros de objeção, mecanismos de controle de legalidade não integralmente subordinados à cadeia hierárquica imediata, proteção efetiva contra retaliações e uma delimitação precisa da responsabilidade entre o emissor da ordem e o subordinado. Nesses termos, o artigo contribui com um quadro normativo destinado a conciliar disciplina de comando

com legalidade, responsabilização e proteção dos direitos humanos no contexto da atuação policial na Indonésia.

Palavras-chave: direitos humanos; comando hierárquico; instituições policiais indonésias; responsabilidade jurídica individual; ordens ilícitas.

1 Introduction

Command structures within police institutions place obedience to superiors at the centre of professional conduct. In practice, however, such obedience does not always align with the principles of legality and justice. A number of cases demonstrate that orders which appear administratively valid may in fact contain elements that violate the law or human rights. This situation generates ethical and legal dilemmas for officers on the ground, particularly in jurisdictions whose legal systems do not provide adequate protection for objections to orders.¹ Reports by the United Nations Human Rights Council indicate that, across jurisdictions, police officers are often placed in a dilemma when superior orders carry the potential for legal violations or conflict with moral and humanitarian obligations. Such tensions are increasingly apparent in countries that face difficulties in integrating the principle of individual accountability into legal systems that remain predominantly hierarchical.

In Indonesia, the hierarchical structure of policing has not been accompanied by legal mechanisms enabling officers to refuse unlawful orders without the risk of sanctions. This lack of clarity makes it difficult for officers to distinguish between structural obedience and personal legal responsibility. Human Rights Watch has observed that, in several law enforcement operations in Indonesia, serious violations of civil and political rights have involved officers who claimed they were merely following orders, in the absence of any mechanism allowing lawful refusal.² The imbalance between structural obedience and the protection of individual responsibility in Indonesia's positive law creates serious

¹ UNITED NATIONS HUMAN RIGHTS COUNCIL. *Draft Resolution A/HRC/56/L.19/Rev.1*. Geneva: United Nations, 2024. Available at: <https://docs.un.org/en/A/HRC/56/L.19/Rev.1>. Accessed on: 27 February 2026.

² INDONESIA: events of 2020. *Human Rights Watch*, New York, 2021. Available at: <https://www.hrw.org/world-report/2021/country-chapters/indonesia>. Accessed on: 27 February 2026.

obstacles to meeting accountability standards consistent with international norms.

This article also engages with prior discussions published in this journal on the relationship between international human rights norms and domestic institutions. Previous studies have examined how international human rights standards are internalised, resisted, or selectively received within national legal systems, particularly through the responses of domestic state institutions to supranational human rights frameworks.³ Building on that line of inquiry, the present article shifts the focus from the macro-level reception of international human rights norms to the internal operation of legality and accountability within police command structures. Its contribution lies in showing that the problem of compliance with international human rights norms does not arise only in courts or in state-to-system relations, but also within hierarchical law-enforcement institutions when officers are confronted with unlawful orders.⁴ By taking Indonesia as the central case study, this article adds a more specific normative and institutional dimension to the existing debate, namely the legal position of police officers who refuse unlawful orders and the regulatory design required to protect such refusal within a rule-of-law framework.

To address the complexity of the relationship between command structures and individual legal obligations, it is necessary to define the operational concepts that underpin the analysis. In this article, an unlawful order refers to an instruction or mandate from a superior that substantively contradicts positive law or universally recognised human rights principles, including orders that encourage disproportionate force, torture, or arbitrary treatment of civilians. International legal doctrine consistently rejects the validity of defences based on “superior orders” for serious unlawful conduct, as reflected in Article 33 of the Rome Statute of the International Criminal Court, which states that superior orders

do not absolve perpetrators of criminal responsibility for grave crimes such as crimes against humanity.⁵

The principle of individual legal responsibility has become a cornerstone of modern international criminal law, particularly following the jurisprudence of ad hoc tribunals such as the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), which affirmed that individuals are subjects of law and cannot escape liability for grave violations merely by invoking obedience to superior orders.⁶ In this context, international human rights law provides the normative framework that limits the coercive authority of the state and its agents. The right to life, the right to humane treatment, and protection against torture, as guaranteed by Articles 6 and 7 of the International Covenant on Civil and Political Rights (ICCPR), serve as key benchmarks for assessing the legality of orders given to law enforcement officials.⁷ Accordingly, when officers receive orders that may infringe these rights, questions regarding the limits of responsibility and any duty to refuse become legal issues requiring normative clarity.

This study employs a normative comparative approach to examine how legal systems structure the relationship between hierarchical obedience and individual legal responsibility when police officers are confronted with unlawful orders. The normative dimension focuses on the analysis of legal sources relevant to Indonesia, including statutory law, police ethics regulations, and international human rights norms that limit the exercise of coercive state authority. The comparative dimension is used not to compare legal systems in general, but to identify regulatory designs in selected jurisdictions that have developed operational mechanisms for refusing unlawful orders without dismantling institutional discipline.

This study adopts a normative–comparative approach. The normative aspect focuses on Indonesian legal materials, including statutory law, police ethics rules,

³ SOUZA, Ismael Francisco; LEME, Luciana Rocha; SCHERF, Erick da Luz. Creating bridges between international relations theory and international human rights law: constructivism and the role of Brazil in the inter-American system of human rights. *Revista de Direito Internacional*, Brasília, v. 15, n. 3, p. 179-198, 2019. DOI: 10.5102/rdi.v15i3.5653. Available at: <https://www.publicacoes.uni-ceub.br/rdi/article/view/5653>. Accessed on: 27 February 2026.

⁴ NEAR, Janet P.; MICELI, Marcia P. Effective whistle-blowing. *The Academy of Management Review*, [S. l.], v. 20, n. 3, p. 679-708, 1995. DOI: 10.2307/258791. Available at: <https://www.jstor.org/stable/258791?origin=crossref>. Accessed on: 27 February 2026.

⁵ EUROPEAN UNION. International Criminal Court. *Rome Statute of the International Criminal Court*. Rome, 17 July 1998. Available at: <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>. Accessed on: 27 February 2026.

⁶ CASSESE, Antonio. *The Human Dimension of International Law: selected papers of Antonio Cassese*. Oxford: Oxford University Press, 2008, p. 476-498.

⁷ UNITED NATIONS. *International Covenant on Civil and Political Rights*. New York, 16 December 1966. Available at: <https://www.ohchr.org/sites/default/files/ccpr.pdf>. Accessed on: 27 February 2026.

and relevant international human rights norms. The comparative aspect does not undertake a detailed country-by-country comparison. Instead, it compares several regulatory models used in the discussion, namely the Continental European model, the Nordic or Scandinavian model, the German model, and the Anglo-Saxon model, with Canada and Australia as examples in the latter category.⁸

The comparison is organised around four specific indicators. **First**, the study examines whether the legal framework provides clear procedures for objection or refusal when an order is considered unlawful. **Second**, it assesses whether there is an identifiable forum or mechanism for reviewing the legality of the order, whether internal, semi-independent, or external to the immediate chain of command. **Third**, it considers the existence and strength of protection against retaliation, including confidentiality, administrative safeguards, and whistleblower protection. **Fourth**, it analyses how each model positions individual legal responsibility within the chain of command, especially in situations where compliance with orders may expose officers to personal liability under domestic law or international human rights norms.

This methodological design allows the article to move beyond a merely descriptive statement that unlawful orders should not be followed. Instead, it evaluates which legal and institutional features make refusal practically possible and normatively legitimate. In that sense, the normative-comparative approach is used to clarify Indonesia's regulatory gap and to formulate a legal-institutional framework through which police discipline can remain compatible with legality, accountability, and international human rights protection.⁹

The comparison is directed at a limited number of issues that are central to this article: whether there are clear procedures for refusing unlawful orders, whether there are mechanisms for reviewing the legality of orders, whether protection against retaliation is available, and how individual legal responsibility is positioned wi-

thin the chain of command.¹⁰ Through this approach, the article seeks to identify Indonesia's regulatory gap and to assess which comparative elements may be relevant for strengthening legal protection for police officers who refuse unlawful orders.¹¹

Placing individual responsibility within the framework of international human rights law opens space for developing norms that protect refusal of unlawful orders. By bringing national law closer to international standards, command structures can be directed to support legality and accountability.

2 The normative framework of individual responsibility in human rights law and international criminal law

In modern international law, superior orders are no longer understood as a basis that automatically removes personal responsibility. The starting point is the recognition that international law may impose duties directly upon individuals, not only upon States. In this framework, Nürnberg Principle IV states that the fact that a person acted pursuant to the order of a Government or a superior does not relieve that person from responsibility under international law, provided that:¹² "The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him."

This formulation makes clear that obedience within a hierarchical structure remains subject to legal limits. Compliance, therefore, cannot be treated as an absolute defence for conduct that is manifestly contrary to international norms.

¹⁰ ADJEI, William Eduard. The development of individual criminal responsibility under international law: lessons from Nuremberg and Tokyo war crimes trials. *Journal of Legal Studies "Vasile Goldis"*, Arad, v. 25, n. 39, p. 69-97, 2020.

¹¹ VANDEKERCKHOVE, Wim; LEWIS, David. The content of whistleblowing procedures: a critical review of recent official guidelines. *Journal of Business Ethics*, Netherlands, v. 108, n. 2, p. 253-264, 2012. DOI: 10.1007/s10551-011-1089-1. Available at: <https://link.springer.com/article/10.1007/s43576-022-00077-8>. Accessed on: 27 February 2026.

¹² INTERNATIONAL LAW COMMISSION. *Text of the Nürnberg Principles Adopted by the International Law Commission*. 1950, Principle IV. See also Principle I.

⁸ PANDOLFO, Alyssa M.; READER, Tom W.; GILLESPIE, Alex. Safety listening in organizations: an integrated conceptual review. *Organizational Psychology Review*, [S. l.], v. 15, n. 1, p. 93-124, 2025. DOI: 10.1177/20413866241245276. Available at: <https://journals.sagepub.com/doi/10.1177/20413866241245276>. Accessed on: 27 February 2026.

⁹ KINNES, Irvin. Kutnjak Ivković *et al.* Police integrity in South Africa. *International Criminology*, [S. l.] v. 3, n. 1, p. 95, 2023. DOI: <https://doi.org/10.1007/s43576-022-00077-8>.

A more operational limitation appears in Article 33 of the Rome Statute. This provision makes clear that acting pursuant to an order of a Government or a superior, whether military or civilian, does not in itself exclude criminal responsibility. Such an order may only be considered if three cumulative conditions are met: the person was under a legal obligation to obey; the person did not know that the order was unlawful; and the order was not manifestly unlawful.¹³:

1. The fact that a crime within the jurisdiction of the Court has been committed by a person pursuant to an order of a Government or of a superior, whether military or civilian, shall not relieve that person of criminal responsibility unless:
 - a) The person was under a legal obligation to obey orders of the Government or the superior in question;
 - b) The person did not know that the order was unlawful; and
 - c) The order was not manifestly unlawful.
2. For the purposes of this article, orders to commit genocide or crimes against humanity are manifestly unlawful.

The Rome Statute further provides that orders to commit genocide or crimes against humanity are always manifestly unlawful. In normative terms, this means that command structures are not zones of immunity, but remain subject to legality review. In the policing context, the implication is direct: operational discipline cannot justify compliance with orders whose unlawfulness is already evident from their substance.

The first substantive limit to obedience in this context appears in Article 6(1) of the ICCPR. That provision declares that “*every human being has the inherent right to life and that no one shall be arbitrarily deprived of life*”¹⁴ For police institutions, this norm is especially important because unlawful orders often arise in connection with the use of force, including potentially lethal force. An order that directs unnecessary shooting, excessive violence, or coercive action that arbitrarily endangers life cannot be reduced to an ordinary operational instruction. From the outset, such an order engages the right to life and therefore falls within the sphere of legal scrutiny rather than unquestioned obedience. The broader structure of Article 6 also shows that the Covenant treats the protec-

tion of life as a matter that must be secured by law and not left to discretionary coercion alone.

A second substantive limit is established by Article 7 of the ICCPR, which provides that:¹⁵ “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”

This prohibition is absolute. In the policing context, it directly concerns orders involving beatings, coercive interrogation, humiliation, physical or psychological abuse, or other forms of inhuman treatment. Orders of this kind cannot be treated merely as matters of internal discipline. By their very nature, they already lie outside the sphere of lawful obedience and enter the category of instructions that must be legally recognisable as objectionable and, where necessary, refuseable.

Read together, Nürnberg Principle IV, Article 33 of the Rome Statute, Article 6(1) of the ICCPR, and Article 7 of the ICCPR do more than reject blind obedience in abstract terms. They establish a layered legal logic for determining the limits of obedience within hierarchical institutions. Nürnberg Principle IV denies that acting under superior orders automatically removes responsibility where a moral choice was in fact possible, while Article 33 of the Rome Statute converts that idea into a narrower doctrinal rule: superior orders may only be considered within tightly confined conditions and never where unlawfulness is manifest.

Articles 6(1) and 7 of the ICCPR then supply the substantive threshold for identifying that unlawfulness in policing practice. Once an order moves into the sphere of arbitrary deprivation of life, torture, or cruel, inhuman or degrading treatment, obedience can no longer be treated as presumptively lawful. At that point, the legal problem shifts from institutional discipline to the legality of the order itself. In other words, these norms collectively show that international law does not merely discourage blind obedience; it reallocates the legal burden of command by requiring that hierarchical compliance stop where manifest unlawfulness begins. In the policing context, this means that the chain of command remains legally relevant, but only up to the point at which obedience would expose the subordinate

¹³ INTERNATIONAL CRIMINAL COURT. *Rome Statute of the International Criminal Court*, art. 33.

¹⁴ UNITED NATIONS. International Covenant on Civil and Political Rights, art. 6(1). See also arts. 6(2)–(6)

¹⁵ UNITED NATIONS. International Covenant on Civil and Political Rights, art. 7.

to personal responsibility for executing an order that is incompatible with fundamental human rights.

3 Indonesia's national legal construction on official orders and police accountability

The national legal construction of policing in Indonesia is anchored in **Law No. 2 of 2002 on the Indonesian National Police**, which, at the statutory level, clearly affirms the existence of a hierarchical structure within the police institution. Nevertheless, the central issue examined in this article is not hierarchy itself. The more fundamental problem lies in the fact that positive law affirms command authority more clearly than it regulates the legal consequences arising when an officer is confronted with an **unlawful order**.¹⁶ Accordingly, the Indonesian legal framework should not be understood merely as a space of ethical dilemma for officers in the field, but rather as a matter of **legal design**: the system is sufficiently developed to preserve obedience, yet insufficiently developed to manage the collision between obedience and legality.

This design problem becomes visible when **Article 19(1)** and **Article 25(1)** of the Police Law are read together. **Article 19(1)** provides:¹⁷ “In carrying out their duties and authorities, officials of the Indonesian National Police shall always act on the basis of legal norms and shall observe religious norms, propriety, decency, morality, and uphold human rights.”

Meanwhile, **Article 25(1)** provides:¹⁸ “Each member of the Indonesian National Police shall be assigned a rank that reflects role, function, and capability, and that rank shall serve as the legal basis of authority and responsibility in the performance of duties.”

These two provisions are not, in principle, contradictory. Article 25(1) institutionalises **command authority** through rank as the basis of valid authority, whereas Article 19(1) limits the exercise of that authority by **legal norms, social morality, and human**

rights. However, precisely because the two provisions move in different normative directions, a problem arises when an order that is formally valid within the chain of command turns out to be substantively problematic. At this point, the statute does not yet provide an adequate bridge: it does not explain when an order must be regarded as legally challengeable, how a subordinate may safely raise an objection, who is competent to assess the legality of the order, and how protection is to be granted when refusal of the order triggers institutional retaliation.

These two provisions are not, in principle, contradictory. Article 25(1) institutionalises **command authority** through rank as the basis of valid authority, whereas Article 19(1) limits the exercise of that authority by **legal norms, social morality, and human rights**. However, precisely because the two provisions move in different normative directions, a problem arises when an order that is formally valid within the chain of command turns out to be substantively problematic. At this point, the statute does not yet provide an adequate bridge: it does not explain when an order must be regarded as legally challengeable, how a subordinate may safely raise an objection, who is competent to assess the legality of the order, and how protection is to be granted when refusal of the order triggers institutional retaliation.

An important development has, however, emerged within the internal ethics regime of the Indonesian National Police. **Police Regulation No. 7 of 2022** no longer treats obedience as an unlimited obligation. **Article 6(2)** explicitly states that:

Every Police Official in the position of a Subordinate shall be obliged to:

- a) carry out the superior's order related to the performance of duties, functions, and authorities, and report to the superior;
- b) refuse a superior's order that is contrary to legal norms, religious norms, and norms of decency; and
- c) report to the superior who issued the order regarding such refusal in order to obtain legal protection from that superior.

This provision is normatively significant because it demonstrates that, within the internal ethical regulation itself, the police institution has acknowledged that there are situations in which a subordinate **is not only permitted, but required, to refuse** a superior's order. In other words, the ethics regime has already begun to

¹⁶ INDONESIA. *Law n^o. 2 of 2002*. Concerning the Indonesian National Police.

¹⁷ INDONESIA. *Law N^o. 2 of 2002*. Concerning the Indonesian National Police, art. 19(1).

¹⁸ INDONESIA. *Law n^o. 2 of 2002*. Concerning the Indonesian National Police, art. 25(1)

move away from the logic of absolute obedience. Yet that recognition does not stand alone. **Article 6(3)**¹⁹ of the same regulation adds: “*The superior issuing the order, as referred to in paragraph (2)(c), shall be obliged to provide protection.*”

In addition, **Article 11(1)(a)** establishes a prohibition at the level of the superior, namely: “Every Police Official in the position of a Superior is prohibited from: a. issuing an order that is contrary to legal norms, religious norms, and norms of decency.”

When read systematically, Police Regulation No. 7 of 2022 actually establishes three layers of internal norms at once: first, subordinates remain obliged to carry out orders related to duties, functions, and authorities; second, subordinates are obliged to refuse orders that are contrary to legal norms, religious norms, and norms of decency; third, superiors who issue orders are under an obligation to provide protection, while at the same time being prohibited from issuing orders contrary to those norms. Normatively, this constitutes an important development because it shows that the internal law of the police no longer entirely equates refusal of orders with disciplinary misconduct. On the contrary, legality is beginning to be positioned as part of the institution’s internal professional standards.²⁰

Even so, the force of this regulatory development remains limited. The principal problem lies in the fact that protection for subordinates who refuse unlawful orders is still placed primarily within an **internal ethics regime**, rather than within **positive law at the statutory level** that would regulate in detail rights, procedures, objection forums, protective measures, and remedial mechanisms. This distinction is crucial. Ethical rules may establish standards of conduct, but they do not necessarily provide the same degree of legal certainty as statutes in matters of formal procedure, administrative remedies, guarantees against retaliation, and the possibility of review by a relatively independent forum. In other words, Police Regulation No. 7 of 2022 has improved the normative language of refusal, but it has

not yet fully transformed refusal into a **procedurally secure legal act**.

This weakness becomes even more evident at the operational level. Although the ethics regulation requires refusal and reporting, the Indonesian legal system still lacks a sufficiently detailed procedural architecture concerning how such refusal must be recorded, how quickly the legality of the order must be reviewed, whether that review must involve an authority relatively independent from the chain of command, what interim protection applies to the subordinate who refuses, and what remedies are available if that subordinate suffers career pressure, exclusion, or other forms of retaliation. As a consequence, the protection promised at the ethical level risks remaining dependent on internal discretion and power relations within the very institution that may have generated the problematic order in the first place.

What remains incomplete, therefore, is not merely the normative recognition that subordinates may or must refuse unlawful orders, but the procedural and protective bridge that would convert that recognition into a legally secure institutional pathway. In comparative perspective, systems that manage the tension between command and legality more effectively do not stop at declaring that unlawful orders must not be executed. They accompany that declaration with documented objection procedures, legality-review forums not wholly monopolised by the immediate chain of command, and anti-retaliation guarantees that prevent refusal from becoming a career-ending act. Indonesia has only partially moved in that direction.

Article 19 of the policing statute and the ethics regime under Police Regulation No. 7 of 2022 already point toward legality-oriented policing, but they do not yet construct a fully reviewable mechanism that answers, in operational terms, when an order crosses the threshold of unlawfulness, how the objection must be recorded, who is competent to assess legality, and what interim protection applies once refusal has been made. As long as this bridge remains incomplete, legal uncertainty will continue to be displaced downward to the executing officer, while the accountability system remains more effective at preserving hierarchy than at correcting unlawful command. In practical terms, the result is a structural asymmetry: the law is clearer in validating authority than in protecting lawful dissent, so that the subordinate

¹⁹ INDONESIA. Regulation of the Indonesian National Police n°. 7 of 2022 concerning the Code of Ethics of the Police Profession and the Police Ethics Commission, art. 6(2)–(3).

²⁰ WESTMARLAND, Louise. Police ethics and integrity: breaking the blue code of silence. *Policing and Society*, [S. l.], v. 15, n. 2, p. 145–165, 2005. DOI: 10.1080/10439460500071721. Available at: <https://www.tandfonline.com/doi/abs/10.1080/10439460500071721>. Accessed on: 27 February 2026.

bears the immediate risk of sanction for disobedience while the superior's problematic instruction is less readily exposed to relatively independent scrutiny. For that reason, refusal of unlawful orders in Indonesia should not be framed as a marginal exception to discipline, but as a core element of institutional accountability requiring statutory clarification, procedural formalisation, and credible protection against retaliation.

4 Comparative models accommodating refusal of unlawful orders in police systems

In the context of hierarchical police institutions, the issue of unlawful orders cannot be understood merely as an abstract conflict between the duty to obey superiors and the duty to comply with the law. The more fundamental issue lies in how a legal system transforms the principle that “unlawful orders must not be executed” into a mechanism that can actually operate within institutional practice. In other words, the central problem is not simply whether a system recognizes the prohibition of unlawful orders, but whether it provides procedures that enable police officers to refuse, review, document, and report such orders without immediately being treated as disciplinary offenders. In institutions built upon a chain of command, the absence of such procedural design renders normative prohibition practically ineffective, so that law ultimately yields to the logic of organizational obedience.

On that basis, comparative law is used in this article not to construct a formal typology of legal systems, but as an analytical tool for identifying which regulatory designs make refusal of unlawful orders practically workable within police institutions. This approach is important because systems that equally recognize the supremacy of law may differ significantly in the way they regulate the relationship between legality, discipline, and individual responsibility. Some systems emphasize documented objection procedures; others stress the traceability of public-official responsibility; while others build protection through constitutional legitimacy or relatively independent reporting channels. Accordingly, the comparison in this section is directed at four elements most relevant to the Indonesian context: the existence of objection procedures, the availability of

legality-review mechanisms, the presence of protection against retaliation, and the way individual legal responsibility is positioned within the chain of command.²¹ These four elements are selected because it is precisely at these points that Indonesia's normative gap becomes most visible: the command structure is affirmed, yet safe refusal procedures, legality-review channels, and legal protection for officers who refuse unlawful orders remain inadequately regulated.²²

The first point of reference is the Continental European procedural approach. The importance of this approach lies in its effort to move the issue of legality from the sphere of individual morality into the domain of institutional procedure. Its clearest normative expression appears in the *European Code of Police Ethics*, which requires police personnel to verify the legality of their actions, to refuse orders that are manifestly unlawful, and to report such orders without fear of sanction.²³ In this approach, refusal is not understood as an act of spontaneous insubordination, but as part of an administrative process that can be documented and verified. Its significance for Indonesia lies in the lesson that legality is better protected when objections to orders are not left to oral or informal exchanges, but are channelled through documented administrative procedures. In this way, refusal acquires an institutional form that distinguishes it from mere insubordination.

The second point of reference can be found in Nordic or Scandinavian administrative traditions, which place transparency, bureaucratic professionalism, and public accountability at the core of public administration. The comparative value of this approach does not primarily lie in the existence of a single statutory rule on refusal of unlawful orders, but in a broader adminis-

²¹ ZAKARIA, Norlida Zakirai *et al.* Integrity and policing: an analysis of individual traits and organizational characteristics. *International Journal of Academic Research in Business and Social Sciences*, [S. l.], v. 13, n. 3, p. 630-635, 2023. DOI: 10.6007/IJARBS/v13-i3/15243. Available at: <https://hrmars.com/IJARBS/article/view/15243/Integrity-and-Policing-An-Analysis-of-Individual-Traits-and-Organizational-Characteristics>. Accessed on: 27 February 2026.

²² RUDDELL, Rick; TROTT, Kelsey. Perceptions of trust in the police: a cross-national comparison. *International Journal of Comparative and Applied Criminal Justice*, [S. l.], v. 47, n. 4, p. 381-396, 2023. DOI: 10.1080/01924036.2022.2071308. Available at: <https://www.tandfonline.com/doi/full/10.1080/01924036.2022.2071308>. Accessed on: 27 February 2026.

²³ EUROPEAN UNION. Council of Europe. *The European Code of Police Ethics: recommendation rec(2001)10 and explanatory memorandum*. Strasbourg: Council of Europe Publishing, 2002, p. 17-18.

trative logic that requires the actions of public officials to be traceable, accountable, and connected to official responsibility. Comparative scholarship on Denmark, Finland, and Sweden shows that the responsibility of public officials is embedded in developed accountability structures, rather than left to informal discretion or personal loyalty alone.²⁴ In relation to Indonesia, this approach underscores that protection for officers who refuse unlawful orders cannot be built solely upon the ethical expectation that officers should “do the right thing.” What is required are procedures that transform refusal into a traceable administrative act, so that individual legal responsibility does not stand alone, but is supported by clear institutional mechanisms.

The third point of reference is the German approach, which places greater weight on the higher normative status of legality in the exercise of public authority. In this model, the issue of refusing unlawful orders is not linked merely to professional integrity, but also to the constitutional subjection of executive power to law and justice. The *Basic Law for the Federal Republic of Germany* places public authority within a constitutional framework that limits state action, while its civil service tradition also recognizes the right and duty to remonstrate against unlawful instructions.²⁵ The main strength of this model lies in the fact that the legal basis of refusal does not stop at internal organizational rules, but is elevated to the level of higher-order norms. The lesson for Indonesia is particularly important: as long as protection for refusal depends mainly on internal ethical regulations, its legal position will remain fragile and easily reduced to a disciplinary matter. Therefore, if refusal of unlawful orders is to obtain genuine legitimacy, it must rest on a normative basis stronger than mere organizational preference.

The fourth point of reference is the Anglo-Saxon oversight approach, especially as reflected in public-

-interest disclosure regimes in Canada and Australia. In this model, the effectiveness of refusal depends not only on individual courage, but also on the existence of institutional channels that allow reporting outside the full control of the immediate superior. Its core features are protected reporting routes, confidentiality guarantees, and anti-retaliation protections, so that officers are not forced to choose between silence and open confrontation with the superior who issued the problematic order.²⁶ Here, the central concern is not only the right to refuse, but also the extent to which the system provides a safe “way out” when the source of the problem originates within the command environment itself. For Indonesia, the main lesson of this model is that legality review must not be monopolized by the same chain of command that may have produced the contested order. Without reporting and review channels that are at least relatively independent, refusal will remain a personal risk rather than a protected institutional mechanism.

Taken together, these four points of reference show that the effectiveness of refusing unlawful orders never depends on a single norm alone, but rather on a combination of legal and institutional design. The Continental European approach emphasizes the importance of documented objection procedures; the Nordic approach highlights the significance of traceable public-official accountability; the German approach strengthens the normative legitimacy of refusal through constitutional grounding; and the Anglo-Saxon approach foregrounds protected reporting and relatively independent oversight. For Indonesia, these approaches need not be understood as competing models or as frameworks to be adopted wholesale. Their comparative value lies precisely in the possibility of formulating a hybrid framework that combines clear objection procedures, legality-review channels not fully subordinated to internal hierarchy, anti-retaliation protection, and a stronger normative basis for individual legal responsibility. Through such a framework, obedience to command is no longer placed in rigid opposition to legality, but is regulated in such a way that both can be reconciled within the framework of the rule of law and the protection of human rights.

Comparative law in this context should not be used merely to classify legal traditions, but to identify whi-

²⁴ LÆGREID, Per. Nordic administrative traditions. In: NEDERGAARD, Peter; WIVEL, Anders (eds.). *The Routledge Handbook of Scandinavian Politics*. London: Routledge, 2017. p. 80–91; BØNSING, Sten; MÄNTYLÄ, Niina; WENANDER, Henrik. Status and criminal liability of civil servants in modern public administration: a comparative study of Denmark, Finland, and Sweden. *European Public Law*, Alphen aan den Rijn, v. 29, n. 1, p. 115–134, 2023.

²⁵ GERMANY. *Basic Law for the Federal Republic of Germany (Grundgesetz)*, arts. 1(1) and 20(3); TUORA-SCHWIERSKOTT, Ewa. The civil service corps in the Federal Republic of Germany and the right of remonstrance as the right to refuse to carry out an official order by a state official. *Discourse of Law and Administration*, [S. l.], v. 1, p. 145–154, 2024.

²⁶ CANADA. *Public Servants Disclosure Protection Act*, S.C. 2005, c. 46; AUSTRALIA. *Public Interest Disclosure Act 2013* (Cth).

ch regulatory designs make refusal of unlawful orders operational within hierarchical police institutions. The relevant comparative question is therefore not simply whether unlawful orders are prohibited, but how legal systems translate that prohibition into institutional mechanisms that can function in practice without dissolving command discipline. For the purposes of this discussion, the comparison is organised around four indicators that are directly relevant to the Indonesian problem: the existence of objection or refusal procedures, the availability of legality-review mechanisms, protection against retaliation, and the position of individual legal responsibility within the chain of command. These indicators are important because they reveal whether a legal system merely declares that unlawful orders should not be followed, or whether it actually provides a safe and reviewable pathway for officers confronted with such orders.

The first indicator concerns whether the legal framework provides clear procedures for objection or refusal. This issue is fundamental because, in a hierarchical institution, refusal is unlikely to function as a legal safeguard if it remains dependent on oral disagreement or personal courage alone. In Continental European approaches, legality is proceduralised by requiring officers to assess the legality of orders and to refuse those that are manifestly unlawful, as reflected in the European Code of Police Ethics and related administrative practices.²⁷ The comparative strength of this approach lies in the creation of an “administrative trace”: refusal is not framed as spontaneous defiance, but as part of a documented legality process. Nordic administrative traditions reinforce this logic by placing public-official accountability and traceability at the centre of administrative conduct, so that objection is tied to documentation, transparency, and formal reporting rather than informal resistance.²⁸ The lesson for Indonesia is that recognition of refusal is not enough unless the law transforms it into a traceable procedural act capable of distinguishing lawful objection from mere insubordination.

The second indicator concerns the availability of a forum or mechanism for reviewing the legality of the

order. Refusal becomes legally meaningful only if the question of legality can be assessed by an institutional mechanism rather than left entirely to the subjective risk of the subordinate. In the German approach, the significance of legality review lies in the stronger normative position of higher-order legality, supported by constitutional commitments that limit public authority and reinforce the legitimacy of objection to unlawful instructions. By contrast, Anglo-Saxon approaches tend to place greater emphasis on protected reporting and review channels connected to oversight bodies, thereby reducing the monopoly of the immediate chain of command over the legality assessment.²⁹ The main comparative insight here is that legality review cannot remain wholly internal to the same hierarchy that produced the contested order. For Indonesia, this means that a refusal mechanism will remain fragile so long as legality is assessed only within the ordinary command relationship, without access to a relatively independent review pathway.

The third indicator concerns the existence and strength of protection against retaliation. This issue is decisive because the legal right or duty to refuse may remain purely symbolic if officers face administrative sanctions, exclusion, marginalisation, or career damage after raising an objection. Comparative models linked to whistleblower protection are particularly instructive in this respect. Anglo-Saxon oversight regimes, especially those associated with protected public-interest disclosure, show that reporting mechanisms become credible only where confidentiality, anti-retaliation guarantees, and remedial measures are institutionally available. Continental and German approaches also demonstrate, in different ways, that objection gains practical force only when the officer is not left personally exposed after invoking legality. The comparative implication for Indonesia is clear: refusal of unlawful orders cannot function as a realistic safeguard unless the legal framework provides protection that is credible in organisational terms, not merely declaratory in ethical language.

The fourth indicator concerns how each system positions individual legal responsibility within the chain of command. This is where the deeper legal significance of comparison becomes visible. The issue is not

²⁷ EUROPEAN UNION. Council of Europe. *The European Code of Police Ethics*: recommendation rec(2001)10 and explanatory memorandum. Strasbourg: Council of Europe Publishing, 2002.

²⁸ LÆGREID, Per. Nordic administrative traditions. In: NEDERGAARD, Peter; WIVEL, Anders (eds.). *The routledge handbook of Scandinavian politics*. London: Routledge, 2017. p. 80–9.

²⁹ CANADA. Public Servants Disclosure Protection Act, S.C. 2005, c. 46; AUSTRALIA. Public Interest Disclosure Act 2013 (Cth).

whether hierarchy continues to matter—it does—but whether hierarchy is treated as a structure of coordination or as a blanket basis for shifting responsibility downward. Nordic models are useful here because they strengthen the idea that public officials remain individually accountable as subjects of law even when acting within administrative institutions. German and Continental approaches similarly show that legality review and documented objection are not intended to weaken discipline, but to prevent hierarchy from becoming a shield for unlawfulness. The most important analytical gain for the Indonesian discussion is therefore this: comparative experience demonstrates that command structures and individual accountability are not mutually exclusive. They can coexist, provided the legal system clearly defines when obedience remains lawful and when continued compliance begins to expose the subordinate to personal legal responsibility.

Taken together, these comparisons show that no single model is sufficient on its own. The practical value of comparative law lies not in transplanting one legal tradition wholesale, but in identifying the minimum institutional elements that make refusal of unlawful orders effective. Continental European approaches contribute documented objection procedures; Nordic approaches reinforce traceable individual accountability; German law provides stronger normative legitimacy for objection; and Anglo-Saxon oversight models emphasise protected reporting and relatively independent review. For Indonesia, the most relevant lesson is therefore not the adoption of one complete foreign model, but the construction of a hybrid framework in which refusal of unlawful orders is treated as part of institutional accountability architecture rather than as a disciplinary anomaly. Such a framework would require, at a minimum, formal objection procedures, legality-review channels not wholly controlled by the immediate chain of command, and effective protection against retaliation.

6 A normative–institutional framework for Indonesia aligned with International Human Rights standards

Before coming to the formulation of a solution, it is necessary to first emphasize that the main problem

facing Indonesia is not the existence of the command structure itself. In police institutions, command is an element that cannot be functionally removed, as it relates to the coordination of actions, speed of response, distribution of tasks, and the integration of operations. Without a command structure, institutions that are given coercive authority by the state risk losing direction, consistency, and the ability to act effectively. Therefore, from an institutional point of view, command is not an anomaly, but a basic prerequisite for the functioning of the police organization. The problem arises not in the fact of the existence of command, but in the fact that command in a state of law never stands alone; It has always been limited by legality, human rights, and accountability.

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From the perspective of accountability theory, this shows that Indonesia's problem is actually a problem of **asymmetrical legal design**. On the one hand, the law has provided a fairly solid foundation for authority, hierarchy, and distribution of authority. On the other hand, the law has not built an equally powerful tool for assessing, postponing, or rejecting the exercise of authority when the substance of an order collides with the law. This asymmetry leads to the risk of practically moving to subordinates at the point of execution. The superior still enjoys the position as a legitimate source of command, while the subordinate bears two risks at once: if obedient, he or she has the potential to assume responsibility for the execution of the unlawful order; If he refuses, he could potentially be considered undisciplined, disloyal, or disrupt the chain of command. In

other words, without a clear design, the law does not actually resolve the clash between command and legality, but instead shifts the burden of its resolution to the individual level. This is why the issue of unlawful orders cannot be reduced to a matter of personal morality or ethical courage, because the root of the problem lies in a normative structure that has not provided a safe and reviewable institutional pathway.

The hybrid model offered in this article should not be understood as a mere set of reform elements that can be selected separately, but rather as a **legal architecture that works in layers and sequences**. In it, procedures, review, protection, and allocation of responsibilities are not stand-alone elements, but mutually supportive stages. The procedure provides an initial form for the objection; the review changed the objection from a mere one-sided claim to a matter of legality that could be assessed; safeguards ensure that the use of procedures and access to reviews do not turn into personal risk; Meanwhile, the allocation of responsibility determines the final legal consequences for the giver and the executor. If one of these elements is detached from the other, then the entire model becomes uneven. A no-review procedure only results in a record with no certainty; unprotected reviews only result in forums that do not dare to be used; Protection without allocation of liability only delays the problem without resolving who should bear the legal consequences. Therefore, these four levels must be read as a whole series in building a rejection of unlawful orders as an internal mechanism of the state of law, not as a deviation from discipline.

At the procedural level, the refusal must be changed from an informal action to a **documented legal action**. The basic reason lies in the hierarchical character of the police organization: in such an institution, objections that are only expressed verbally are easily reduced to personal disagreements, emotional attitudes, or even disobedience. The law therefore needs to create a form that makes objections recognizable as institutionally valid actions. Comparative experience shows that objections only acquire legal weight when they leave an **administrative trace**, because it is the trace that transforms the refusal from an interpersonal action into a legal event that can be reexamined. Therefore, Indonesian law needs to require that objections to potentially unlawful orders be expressed in a verifiable form in writing, electronic, or other official form and recorded in the institutional register.

In urgent circumstances, verbal refusal should still be possible, but formal documentation should be followed immediately. The significance of this stage lies not in the administrative formalism alone, but in the **shift in legal status**: once the objection is documented, the problem no longer depends entirely on the personal relationship between superiors and subordinates, but rather enters the space of legality that can be accounted for. Illustratively, if a superior orders the visibly excessive use of force against a suspect who has not resisted, then it is not enough for the subordinate to just say “I disagree”; He must have a channel to express the recorded objections, so that from then on the issue changed from a loyalty issue to a legality issue.

At the review level, documented objections should obtain a **legality assessment forum** that is not entirely subject to a direct chain of command. This is where the main difference between a hybrid model and a system that relies solely on ordinary ethical compliance. Without a review forum, documentation is only an archive, not a corrective mechanism. Refusal will still be seen as a unilateral action of subordinates if there is no competent authority to assess whether the content of the order indeed exceeds the legal limit. Therefore, the hybrid model requires the presence of an officer or review unit that institutionally remains within the body of the organization, but is not under the full control of the same superiors who issued the order in question.

This need is very important because the principle of the rule of law does not allow the hierarchy to be the **sole judge of its own legality**. Relatively independent review creates a bridge between the obligation to obey the command and the obligation to obey the law. In this framework, the question under review is no longer whether the subordinates are loyal, but rather whether the order is legally maintainable. To illustrate, if a subordinate has recorded an objection to an order to compel a confession through physical or psychological pressure, then there should be an officer or unit who can immediately check the legality of the order, decide whether the order is valid, and issue a reasoned determination. In this way, legality is no longer determined only by who gives the order, but by whether the content of the order is justifiable within the legal framework.³⁰

³⁰ CUBITT, Timothy. *Evidence-Based Detection, Management and Prevention of Police Misconduct*. Cham: Springer Nature Switzerland AG, 2026. E-book. DOI: <https://doi.org/10.1007/978-3-032-14070-8>.

At the level of protection, the hybrid model asserts that denial will never work in real terms if the law does not turn it into an **organizationally safe** action. This is one of the most important points, because in hierarchical institutions, the most effective threats are often not formal punishments, but rather subtle but destructive forms of retaliation: punishing mutations, exclusion from professional networks, labeling as disloyal members, withholding promotions, or long-term reputational damage.

Therefore, protection should not stop at an abstract statement that the subordinate is “protected,” but should be governed by operational guarantees: confidentiality of identity, prohibition of mutation or reassignment of a retaliatory nature, prohibition of direct or indirect retaliation, reversal of the burden of proof in cases of adverse treatment after rejection, and access to remedies such as rehabilitation, reinstatement, or sanctions against the retaliatory superior.

The most important lesson from the comparison is that effective protection is not protection that only exists on paper, but rather protection that is strong enough to make members dare to use the available procedures. For example, if a member rejects an order that is considered to be clearly against the law, and then a few weeks later he is suddenly transferred to a non-strategic position or loses a promotion opportunity, then the law should provide a mechanism that views the relationship between the refusal and professional loss as an alleged retaliation that must be tested, not as an ordinary managerial policy.³¹ Without this element, procedures and reviews would only be formally available, but would never live in practice.

At the level of responsibility allocation, the law must close the room for two equally dangerous distortions: first, the notion that command removes individual responsibility; second, the practice of imposing all risk on the executor on the ground. The hybrid model therefore demands a more precise distribution of responsibilities. The law-giver must be positioned as the **primary bearer of legal responsibility**, because he is the source of the decision that drives the action. However, at

the same time, subordinates cannot be released under all circumstances.

He can still be held liable if he knowingly carries out an order whose unlawful nature is manifest, or if he continues to comply after the legality of the order has been questioned and clarified. What should be excluded is precisely the situation when the subordinate acts in good faith in using the objection or reporting procedure; In such circumstances, a refusal should not be treated as a breach of discipline and should not be used as a reason for professional loss. The significance of this stage is profound, because it is here that the law determines whether the command structure is understood as a coordination system that remains subject to accountability, or rather as a tool to unilaterally channel responsibility downwards.

Illustratively, if a superior orders the falsification of evidence and the subordinate carries out the order consciously, then the superior bears the main responsibility, but the subordinate is also not free from liability because he has participated in carrying out actions that are clearly against the law. On the other hand, if the subordinate refuses, documents his refusal, and reports it through the available channels, then the law must position him not as a dissident, but as a subject who is actually carrying out his legal obligations.

From these four levels, it appears that the hybrid model is not simply a compromise between discipline and rights, but rather a **reconstruction of the relationship between command, legality, and accountability**. In this model, the command is retained as an instrument of coordination, but it is no longer allowed to operate indefinitely. Legality is given a procedural form, procedures are given a review forum, review is given a guarantee of protection, and protection is ultimately linked to a clear distribution of responsibilities. Precisely why this model is more suitable for Indonesia: it does not destroy the command structure, but it also does not allow it to operate as if it were legitimate in itself. Through this series, the rejection of unlawful orders is positioned not as a disruption to discipline, but as an internal mechanism that allows coercive organizations to continue to operate within the boundaries of the rule of law.

The proposed hybrid model may be simplified into four core elements: procedure, review, protection, and responsibility. These elements operate together to en-

³¹ CABRAL, Sandro; LAZZARINI, Sérgio G. The “guarding the guardians” problem: an analysis of the organizational performance of an Internal Affairs Division. *Journal of Public Administration Research and Theory*, Oxford, v. 25, n. 3, p. 797-829, 2015. DOI: <https://doi.org/10.1093/jopart/muu001>.

sure that refusal of unlawful orders functions not as a disciplinary anomaly, but as an institutional safeguard.

Table 1 - The Hybrid Model for Refusal of Unlawful Orders

Element	Key Function	Minimum Requirement
Procedure	Makes refusal formal	Objection must be recorded and registered
Review	Assesses legality	Order must be reviewed by a designated authority
Protection	Prevents retaliation	Confidentiality and anti-retaliation safeguards
Responsibility	Clarifies liability	Clear division of liability between issuer and subordinate

As shown in Table 1, refusal becomes effective only when it is formally recorded, legally reviewed, safely protected, and linked to a clear allocation of responsibility.

Illustratively, this model works as follows. When a superior issues an order that is allegedly contrary to the law—for example, excessive use of force against a person who is no longer resisting or instructions to force confession through physical pressure—the subordinate must have a **procedural avenue** to express an objection on record. The objection must then go through a **review path** that is not fully controlled by the same superior, so the main question shifts from “whether the subordinate is loyal” to “whether the contents of the order are lawful.” During the review, subordinates must be under **protection** from punitive mutations, stigma of disloyalty, or career retaliation.³² Once legality has been assessed, the law must regulate **the allocation of responsibility**: the commander bears primary responsibility for the unlawful order, while the subordinate remains responsible if he consciously carries out a manifestly unlawful order or continues to obey after his unlawfulness is cleared. In this structure, the command

is not abolished, but is forced to work within the limits of supervisable legality.

On that basis, the application of the hybrid model in Indonesia must be understood as a correction of two mistakes at once. First, correction of the mistaken principle that legality is sufficiently assumed to be present in the command. Second, the correction of technical errors that human rights protection can be guaranteed only by ethical norms without an operational design that can be used. Because international human rights standards demand not only substantive prohibitions, but also effective enforcement and remedy laws, Indonesia’s reforms must go beyond internal ethical arrangements and move to the legislative level. It is at this point that the hybrid model gains its justification: not because it is more complicated, but because it is only through a combination of normative definitions, formal procedures, relatively independent review, anti-retaliatory protection, and clear distribution of responsibilities, that the rejection of unlawful orders can truly function as an internal mechanism of the rule of law in accordance with international human rights standards.

7 Conclusion

This article argues that the central problem in Indonesia lies not in hierarchical command itself, but in the absence of a legal design capable of reconciling command with legality when the two come into conflict. Indonesian police law still affirms command authority more clearly than it regulates objection, legality review, protection against retaliation, and the allocation of responsibility when formally valid orders are substantively unlawful. As a result, legal uncertainty is shifted downward to subordinates, who face personal liability if they obey and institutional sanction if they refuse.

The comparative analysis also shows that no single foreign model should be transplanted wholesale. Instead, the Indonesian framework requires a hybrid legality–compliance model that combines the minimum safeguards identified across comparative approaches: clear objection procedures, legality-review mechanisms not wholly controlled by the immediate chain of command, credible protection against retaliation, and a precise allocation of responsibility between the issuer and the subordinate. The article’s contribution lies in

³² TAYLOR, Olivia Elizabeth Vere *et al.* Police whistleblowing: a systematic review of the likelihood (and the barriers and facilitators) of the willingness of police officers to report the misconduct of fellow officers. *Journal of Criminal Justice*, [S. l.], v. 91, p. 9-, 2024. DOI: 10.1016/j.jcrimjus.2024.102170. Available at: <https://www.sciencedirect.com/science/article/pii/S0047235224000199>. Accessed on: 27 February 2026.

demonstrating that command discipline and legal accountability are not mutually exclusive, but can be institutionally reconciled when legality operates as a real limit on command. In this sense, reform must move beyond internal ethics and be elevated to the statutory level, so that refusal of unlawful orders is formally recognised, reviewable, protected, and legally structured within a rule-of-law framework.

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