

Trigger Factors of Nonlegitimized Discretion Practices in the Criminal Law Enforcement by Police Department in Indonesia

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Abstract

The principle of Equality Before the Law has not been properly implemented in governance, especially law enforcement in Indonesia. There is still much discretionary practice of nonlegitimacy (violations and irregularities) by the police in performing their duties. Such practices further lower public confidence in the law. Therefore, the discretion of non-legitimization by police officers is a very important and urgent thing to be studied scientifically in order to be properly handled, or at least, the amount can be minimized. The problem that became the focus of this research is why the practice of discretion of non-legitimization by the police? The findings of this study show: (1) social stratification, (2) social morphology, (3) culture or culture, (4) social organization, and (5) social control. These independent variables encourage the emergence or occurrence of the second variable group, the first mediation variable. Next, the first mediation variable encourages the emergence or is manifested through the second mediation variable. The intervening variable encourages the emergence or is manifested through the third variable, namely the dependent variable is the discretionary practice of non-legitimization by the police. Frequency of discretionary practice consists of: (1) often, and (2) sometimes, and (3) rarely.

Keywords: Equality before the law, nonlegitimized discretion, public trust, ideal policy model, discretionary practice.

1. Introduction

The implementation of government in Indonesia, especially law enforcement, in reality, to date there is still discrimination in the settlement of legal cases (Sochmawardiah, 2013:1; Pamungkas, 2010). Discrimination is one form of discretion. ErlynIndarti divides two kinds of discretion: legitimate and nonlegitimate discretion. Unauthorized discretion is a discretion that is not permitted or prohibited by law (Indarti, 2000). Discrimination as a form of discretionary discrimination is sensitive in Indonesia, and has the potential to cause conflicts and mass riots such as the Tribe, religion, race and among groups (SARA) riots of May 1998, the case in Sambas, West Kalimantan in 1998-1999, as well as the case in Sampit, Central Kalimantan in 2001, and in other areas.

Many cases of serious criminal offenses (such as murder, severe maltreatment, robbery) taking place in East Nusa Tenggara, Indonesia, are very slowly handled. Example: the sadistic murder case in Kefamenanu, North Central Timor District, East Nusa Tenggara, on June 6, 2008, with the victim of Paulus Usnaat (40s). The murder became very interesting because the crime scene was in the detention chamber of the Nunpene Sector Police, North Central Timor, where it should provide protection and security for a detainee. In addition, the mastermind of the suspect/perpetrator is a public figure, namely a member of the Regional House of Representatives of the District of North Central Timor. This case belongs to premeditated murder threatened with death penalty, or life imprisonment or temporary imprisonment of at least 20 years (Article 340 of the Criminal Code), and involves some or many parties (Articles 55 and 56 of the Criminal Code). The settlement was 'drowned' for 7 years, and it was only completed until five times the replacement of the Regional Police Chief East Nusa Tenggara. In fact, the improvement of Minutes of Examination has been back and forth 20 times from the police-prosecutors. The case was only resolved and proceeded to the district court in June 2015, when Brigjen.Pol. Drs. Endang Sunjaya, S.H., M.H. Became the Chief of East Nusa Tenggara (News Timor Expres, 23 June 2015). The practice of non-legitimized discretion by police officers is contrary to the principle of non-discrimination, equality before the law, equality under justice, whereas Article 27 of the 1945 Constitution asserts that all persons are equal before the law and government.

The disclosure of non-legitimization or variation of treatment by police officers is thought to have a very dangerous effect, which further reduces the public's trust in the law, which is basically the level of public confidence in the law is very low, called "already reached the lowest limit" by Adi Sulistiyono (2006) and Harkristuti Harkrisnowo (2003:28). Therefore, the discretion of non-legitimization by police officers is a very important and urgent thing to be studied scientifically in order to be properly handled, or at least, the amount can be minimized. The problem that became the focus of this research is: What factors are the drivers and triggers of discretionary practice of non-legitimization by the police?

2. Literature Review

The theory or view used as the basis for the analysis of this research is from Prof. Donald Black (1976). Donald Black's theory or view is one of the most notorious notions that social life has several variables, including: (1) social stratification, (2) social morphology, (3) culture, (4) social organization, and (5) social control. These variables, in this study, were made independent variables on the discretionary behavior of police nonlegitimates when performing their duties (Donald Black, 1976; Roger Cotterrell, 2012).

First, social stratification. Social stratification is the vertical aspect of social life, or any unequal distribution of existing conditions, such as food, access to land or water, and money. The notion of social stratification used in this study is the differentiation or placement of a person into a certain class (group, level, hierarchy) differently, both formally and informally. The explanation of this aspect will be complemented by the thoughts of other writers (sociologists) on social strata such as Soerjono Soekanto (2010:226), Bruce J. Cohen (1983), and Syarifuddin R. Gomang (1998: 112-113).

Second, social morphology. Social morphology is the horizontal aspect, or the distribution of people in relation to others, including the division of labor between them, the integration and the intimacy that goes on between them. Understanding the social morphology used in this study is the relationship someone with other people, for example in work, as family, neighbors, friends or acquaintances, relationships due to elements of SARA, and so on.

Third, culture. Culture is a symbolic aspect, such as religion, decoration and folklor. Understanding the culture used in this study is the cultural values adopted and practiced as a member of the community. Culture has a certain form. The sociologist Talcott Parsons and anthropologist A.L.Kroeber have advocated distinguishing between the forms of culture as a system of ideas and concepts, and its form as a series of patterned actions and human activities. The distinction of this form of culture, by J.J.Honingmann, is based on three cultural phenomena, namely (1) ideas, (2) activities, and (3) artifacts (Koentjaraningrat, 2003).

Fourth, social organization. Social organization is the corporate aspect or capacity for collective action. Understanding the social organization used in this study are groups (bodies, institutions) social formal or informal formed with a specific purpose. According to Abdulsyani (2007: 115-120), the term organization literally can be interpreted as a unity of people who are arranged regularly based on the division of certain tasks. The social organization which is a composite of both terms can be interpreted as an arrangement or structure of the various relationships between human beings that occur in society, where the relationship is an orderly unity.

Fifth, social control or social control. Social control is the normative aspect of social life, or the definition of misbehavior and responses to it, such as: prohibition, indictment, punishment and compensation (Achmad Ali, 2009: 156-157). The definition of social control used in this study is the control or monitoring of formal or informal social (body, institution) groups on various social issues, including in law enforcement. According Syahrial Syahbaini and Rusdiyanta (2009: 91-9), every society always crave a calm, orderly and safe situation. However, the normative conditions are not always fully realized. Many deviations occur in societies that originate in a disagreement between hope and reality. Therefore, it needs a social control, that is effort to realize balanced condition in society.

The five aspects of these variables are also aspects that give rise to or become independent variables of discrimination or discretion of nonlegitimacy because every aspect of social life has many expressions and variations. Likewise, these five aspects of this variable can increase and decrease over time and place, compared to time and place. According to Erlyn Indarti, discrimination is one form of discretion. Erlyn Indarti divides two kinds of discretion: legitimate discretion and unlawful discretion (nonlegitimate). Unauthorized disclosures are those that are not permitted or prohibited by law. Discrimination is also called "illegal discretion," as opposed to "legal discretion," ie discretion that is allowed or not prohibited by law (Indarti, 2000).

It is possible to formulate propositions that predict the quantity of each of these aspects, from one place to another, and to explain the behavior corresponding to each one. Every aspect of social life, can also be used as a strategy to explain social behavior. There are many other strategies in which each strategy is independent of each other and it is possible to apply them simultaneously to social behavior, of every kind. An example is legal behavior (Achmad Ali, 2009: 156-157).

3. Research Methods

Primary data was obtained by interviewing 20 research subjects, consisting of perpetrators of crime, crime victims, police officers who knew about the practice of discretionary discrimination, prosecutors, legal counsel, village officials, community leaders, families, neighbors or perpetrators at crime scene, in the working area of the Police East Nusa Tenggara Region, Indonesia.

4. Research Findings

The causes of discretionary discrimination in criminal law enforcement by police officers in this study consist of: First, independent variables namely (1) social stratification, (2) social morphology, (3) culture, (4) social

organization, and (5) Control or social control. Second, the intervening variable I is: (1) officer bribed, promised something, persuaded, (2) officer are not serious about handling cases, wrong, forgot off guard, (3) officer 'fear,' shy, not firm against the perpetrators, (4) knowledge of boundaries of rights and authority, (5) relationship (family, friends) with the officer, (6) victims are also dangerous criminals and and have black magic, (7) society late reporting/not reporting, (8) society (members) protect the suspect, and (9) local government officials protect the suspect. Subsequently, intervening variable I pushing appears or is manifested through intervening variable II. Aspects that are the intervening variable II are: (1) Officers are authorized to set aside minor criminal cases, (2) Officers did not do or stop the investigation, (3) Completeness of requirements formal, (4) Completeness of requirements material, (5) past time, (6) Officers fabricate cases and slander others, (7) officers is transfered and there is no replacement, (8) officers are ordered to stop the investigation and no replacement investigator, (9) incorrectly concluded: not a crime, (10) officers deliberately obstruct, time-lapse, skimming case, (11) settlement by government and local community leaders, and (12) play the judge yourslef. Third, the dependent variable is the frequency of discretionary practice of nonlegitimacy by police officers consisting of (1) frequent or high, and (2) sometimes or moderately, and (3) rare or low. The link between these variables or aspects is visualized in Figure 1.

5. Discussion

5.1. Social Stratification

The social stratification of perpetrators of crime or offenses determines the treatment of the police officers against the cases it handles. The social stratification factor determines whether the police will commit or not take legal action against someone who has committed a crime or violation. The crimes or offenses in this study are restricted (preferably) to serious crimes, namely ordinary murder, premeditated murder, abortion, murder and child disposal, rape, child immorality, severe maltreatment, robbery, bribery, theft with heaviness, a case of a traffic accident that resulted in another person dies.

The study also found cases of child abduction and youth/youth committed an international organization to take the organs of the victims. Cases classified as serious crimes are not properly processed by police officers, for example, obstructed, deflected, obscured, covered up, left or "hanged" without clarity, until terminated or "ice box." Cases of minor or very mild crimes are also proposed to be juxtaposed with the settlement of cases of serious crimes, which, according to the feelings and legal awareness of the community, these minor or very minor crimes do not need to be processed by law but are simply settled out of court. However, in reality, the law proceeded to the court.

The frequency of each factor causing discretionary discrimination practice by police officers in conducting investigation and investigation is presented in Table 1. It appears that the most dominant factor is social stratification variable and the lowest is social organization variable. Social morphology and social control variables have the same frequency, while cultural variables have a high enough frequency.

Table 1 Factors causing nonlegitimate discretion (N=94)

No.	Causative factor	Amount	
		Frequency	%
1	Social stratification	81	82,6
2	Social morphology	23	24,5
3	Culture	19	20,2
4	Social organization	8	8,5
5	Social control	23	24,5

Source: Results of data processing, 2016.

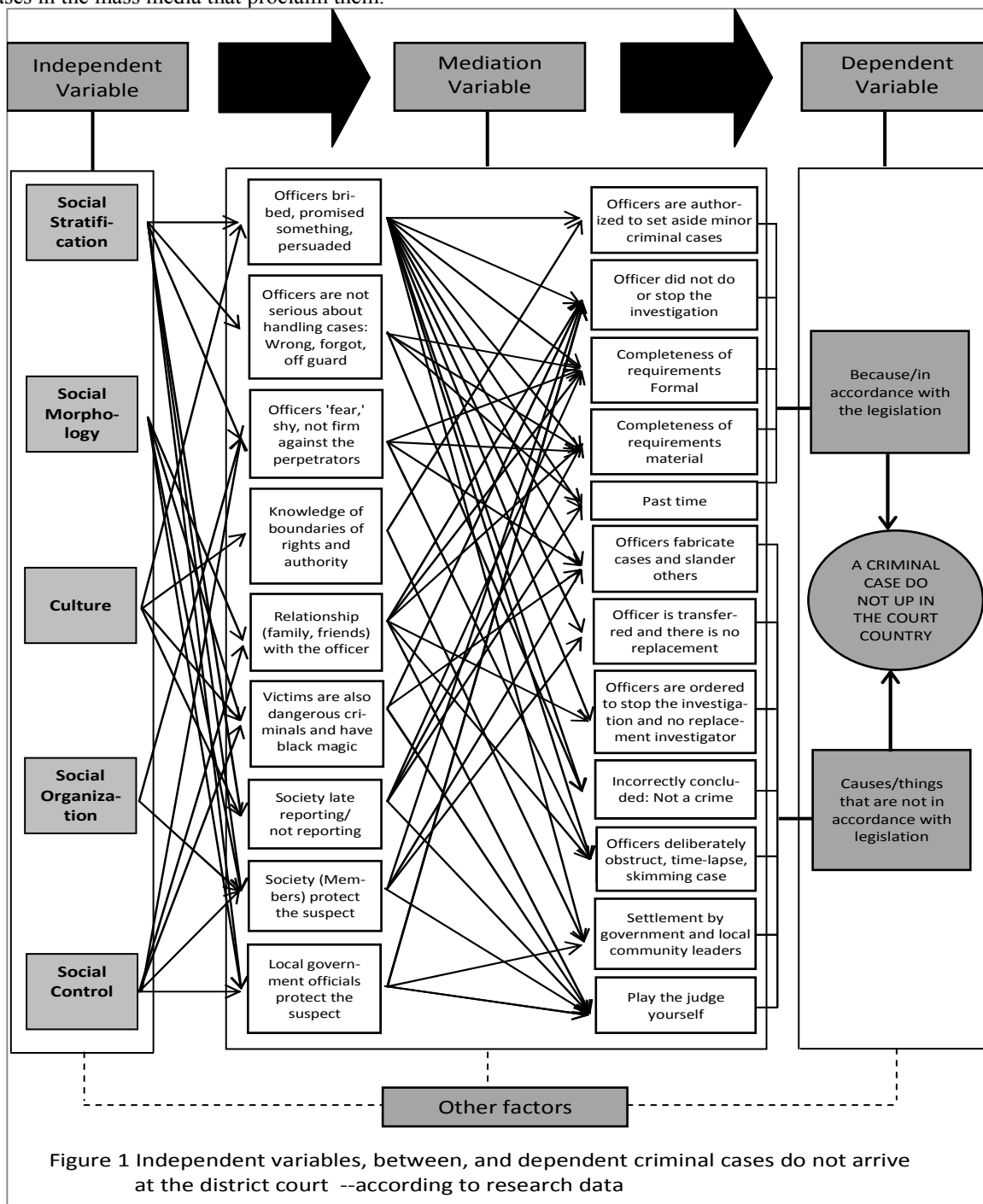
Note: The case frequency is not summed because there are cases that occur due to some cause or variable variables between, and vice versa, one causal variable or intermediate variables raises one case in common.

As noted in the second chapter of this research report, what is meant by social stratification is the distinction or placement of a person into a certain class (group, level) in a hierarchical manner, both formally and informally. The empirical indicators used here are scores on the possession of measures or criteria such as: type of work, level of education, occupation in employment, monthly salary amount, possessions or facilities owned, personality, respect or respect of the surrounding community, or Other advantages. These indicators can be owned by one or more of one or all of these indicators owned by a person. Placement of a person into a social strata submitted to the assessment of respondents or subjects of this study. Experts divide the social strata in the following categories.

The category of social strata in this study follows expert opinion using three simpler categories such as the division of Soekanto, Syarifuddin R. Gomang (1998: 112-113). According to Soekanto (2010: 226), the social strata in general can be divided into three groups, namely: (1) upper layer or upper class, (2) middle class or middle class, and (3) lower or lower class citizens and not following the details of social strata in nine

hierarchies.

The categories of social strata in this study follow expert opinions using three simpler categories of upper, middle, and lower strata. These three categories differ in fulfilling their needs and wants. The upper strata are better able to meet their needs and wants than the lower strata, including in relation to criminal law enforcement. Who belong to which social strata is determined by the respondents in this study because they are more familiar with the situation, the condition, and the characteristics of fellow citizens, including those who have committed (perpetrators) and the victims in a crime. That's for the primary data. The same is also true of the perpetrators of crimes in secondary data cases because their socio-economic background can be found in the description of the cases in the mass media that proclaim them.



Social stratification as an independent variable in this study raises the following aspects of variables: (1) officers are paid (bribed), promised something or persuaded, including the engineering of casemurder by police officials at the central level (Polda) to regions (Polsek) in East Nusa Tenggara (18.6%); (2) the officers are not serious in handling criminal cases so that they become less thorough (wrong, wrong, forgetful or unaware)

(11.2%); (3) officers 'fear,' shy, not firm against the perpetrators (1.2%); (4) the community reported late, did not report, and protected the suspect (4.9%); and (5) government officials and local community leaders protected the suspect (4.9%). Furthermore, mediation variable aspects encourage the emergence or manifestation through second mediation variable namely: (1) Officers/investigators are authorized to exclude criminal cases (8.7%); (2) Officer does not conduct investigation or stop investigation (8.7%); (3) Completeness of formal requirements of Minutes of Examination (3.8%); (4) Completion of Examination material requirements (7.4%); (5) Over time; (6) Officers sought 'scapegoat' and directed criminal cases (4.9%); (7) Officer is transferred and there is no substitute investigator (1.2%); (8) Officers are ordered to stop the investigation and no replacement investigator (1.2%); (9) Officers deliberately inhibit, gain time, and embezzle criminal cases (33.3%); And (10) Settlement by government officials and local community leaders (4.9%). Meanwhile, case examples for aspects or variables (11) Falsely conclude: "not criminal acts;" and (12) vigilance, existing or already exemplified in cases for other aspects or variables. Involvement of a person in a crime will bring unfavorable or unpleasant consequences for him that must be accountable for that action or action. Usually, a person will do his best to disengage, or at least reduce to the minimum the criminal responsibility required of him, or family members or friends or others who ask for help to him. This person will use all his or her ability to relinquish or mitigate such criminal responsibility, for example by paying some money, giving an item, promising something (occupation, rank or title, or otherwise), or persuading the competent authorities of the police apparatus, prosecutor or judge in charge cases or superiors of these law enforcers.

There are some advantages of people from the very lucrative top strata that they are widely known in society. Upper stratum people also have good habits, whether intentional or unintentional, such as giving something to others in need or to fellow citizens who hold events such as weddings, birthdays, grief, and so on. Their giving is relatively more than the giving or donation of the average person. This became the ubiquitous conversation that resulted in the strata of the more recognizable. The average people, will-not-want to respect and appreciate them because they are widely known and like to give earlier. When upper-level people engage in problems, such as committing a crime, these people easily escape criminal responsibility by paying some money, giving a good, promising something (occupation, rank or title, or otherwise), or persuading the parties Are competent is law enforcement officers as stated earlier.

The upper classes are generally knowledgeable and knowledgeable, including knowledge and understanding of the intricacies of law enforcement. Relatively, they 'understand' the law, though in simple things, but can be used when they need it. They have the money to pay for good and reputable lawyers, bribing police, prosecutors, and judges. They have many alternatives, more agile, and faster to achieve their desires or goals than those of the middle strata and lower strata. Likewise, if other people are involved or committing a crime and asking for help on the upper strata, then they can easily help because of the influence of their position and existence that is very possible to achieve his desires.

Human tendencies like this match with what Kartini Kartono (1990: 102) said that humans have the desire and tendency to fulfill the desires and needs of life, and according to Mar'at, usually every individual wants to protect themselves or defend themselves from things that harm or Jeopardizing his interests. Humans have a "lust principle" so that feelings of discomfort or discomfort are to be freed or overcome. All efforts are attempted to please unpleasant feelings (1984). Similarly, if someone from the upper stratum wants to hurt (distress) others, he will use all the ability himself to realize that desire. The advantages a person possesses from the upper strata can be used for both positive and negative, including in criminal law enforcement. This is consistent with Soerjono Soekanto's stated that usually, the group within the upper layers of the social strata, not only have one of what is appreciated by society, but its high position is cumulative (2010:198).

Furthermore, those who have great power, will easily become rich and gain a high knowledge. The perpetrator of the crime of the upper social stratum, in this study, has a strong tendency to use all his or her ability to escape or relieve criminal responsibility as a consequence of his actions, for example by paying some money, giving a good, promising something (work, rank or Position, or other), or to persuade the competent authorities of the police, prosecutor or judge to handle cases or superiors of the law enforcers.

Payments, bribery, covenants or inducements perpetrated by perpetrators of crime from the upper classes of the police or other law enforcement agencies are of course carried out in a very cautious and highly confidential manner. Only the perpetrators with the relevant police officers who know it, if anyone else knows, these are only the closest people or trusted people who are guaranteed to keep their secrets.

a. Killing Engineering by Officials and Police Officers

A number of cases killings dealt with by police officials at the central and regional levels were altered and engineered. It happened because the perpetrators of the murder and the mastermind colluded with the cases killing chiefs who were handled by police officials at the central and regional levels, altered and engineered by the police. Money tens of millions to hundreds of millions of dollars was spent to bribe the ranks of the police leadership to murder cases turned into casetraffic accidents, suicide, or heart attack.

b. Subsequent Effects of Paid Officer (Bribe, ...): Accidental Officer Hampers, Gains Time, Blurs, or Eliminates Cases

In addition to some of the propelling factors that have been put forward, there are many other factors that trigger the emergence of determinants of “incomplete formal terms and material requirements” of criminal cases that occur. Another driving factor is called “other factors” is things that encourage or trigger a determining factor but not known clearly. Other factors include: (1) deliberate officers to inhibit, blur, stall, or eliminate cases, and (2) other factors that are completely unpredictable.

Interviews with the Attorney General’s Office, particularly the Kupang District Attorney, revealed that there was a case that had been issued of the Police Investigation Commission Returning Notice to the investigating investigator. However, to date, such cases. Minutes of the Investigation, (the) suspects and evidences are not returned to the public prosecutor by the investigator in charge.

c. Continued Impact of Paid Officer (Bribe, ...): Officer Handling Case Transmitted but Not Appointed Replacement Officer

Supposedly, every investigator who is handling a case is moved (transferred) to another place then the officer who is transferred must be replaced by another officer to continue the handling of the case so that there is no unhandled case. Officers who are transferred are not replaced by other officers to continue the handling of the case then of course the case will not be completed, resulting in the perpetrators can not be held accountable. Things like this still (never) happen mainly to the police agency.

If some of the officers who are handling the case are not transferred, let alone have found elements that raises a very strong suspicion that the death of Pdt. N is not due to a traffic accident, it is very likely to reveal the perpetrator. Nor can it actually replace these officers because they are the ones handling the case from the beginning; they have “mastered” or understood the sit down of the case and every time if new things are discovered that support the disclosure of the case, they can easily connect the new element with the previously discovered elements. Meanwhile, if replaced by a new officer, because no or not “mastered” sitting issues and case details it will be very difficult to connect, if there are new elements that support the disclosure of the case with the preceding elements.

d. Continued Outcome of the Paid Officer (Bribe, ...): Officer Ruled to Stop Investigation but Not Appointed Substitute Officer

This is almost the same as Number c above that the officer handling the case is mutated but not appointed another officer to replace and continue the investigation. One of the obligations of subordinates is obedience to the orders of superiors. This provision is especially true in defense and security institutions such as Indonesian national army and Indonesian republic police. The question of whether after he has stopped the investigation there will be or appointed another officer to continue the investigation, is not his authority. According to a senior police officer in a remote area, his boss once ordered to stop the investigation of a murder case while the perpetrators were clear. The existence of orders to stop the investigation and not appointed by the replacement officer resulted in the case being handled not completed.

e. Subsequent Effects of Paid Officers (Bribe, ...): Officers’ Initiative to Not Investigate or Stop the Investigation

In addition to the cessation of investigations and investigations due to orders from superiors, there are also cases that were stopped at the initiative of the police themselves, not because of the orders of superiors.

One case of suspension of inquiry and investigation that had stirred up the East Nusa Tenggara community was a series of killings by an international syndicate network to extract the victim’s organs. In fact, according to the witnesses and citizens who know and follow the development of cases, the evidence is complete and the BAP has been submitted to the prosecutor’s office. Cases are cases that have been stopped by investigations and investigations due to strong allegations by families and surrounding communities that the perpetrator pays a certain amount of money or valuables to the police so that the cases are not proceeded by the legal process.

f. Follow-up Effects from Officers Intentionally Hampering, Gaining Time, and Eliminate Case: Case Engineering and Finding ‘Black Goat’ to Protect Actual Actors of Upper Strata

The following cases are mild or very mild crimes which, according to the feelings and legal awareness of the community, need not be processed, but simply resolved out of court. However, the practice of law indicates otherwise, the police are processing these cases up to the court despite being strongly criticized by many circles or elements of society.

5.1.1. Social Strata and Officers Not Seriously Handling Criminal Cases

Aspects of Officers Not Seriously Handling Criminal Cases as first mediation variables encourages emergence or is manifested through second mediation variables namely: (1) Completeness of formal requirements of Minutes of Examination (2) Completion of Examination material requirements, (3) Over time, and (4) Incorrectly concluded: “Not a crime.”

Officers must be professional in handling (investigating and investigating) criminal cases that occur in the

community. However, this expectation is still difficult to realize in reality, both in handling crime cases in the regional police to sector policing. Implementation of police duties such as hitting a giant wall when dealing with social stratification variables of the perpetrators of crime from among the upper strata. The law loses its power or becomes powerless.

The consequences of non-confronting police officers when dealing with criminal cases are they become less conscientious, or false, mistaken, forgetful or unaware in various aspects of the criminal cases. The incoherence of these police officers can be fatal especially when it is done by the Place of Genesis of Word (TKP) and when interrogating the alleged offender. Important things can be ignored, so are the details, or the relationship between one thing and another, both about the perpetrator, and the victim and the chronological details of the crime itself. The incoherence of these police officers may result in him obtaining little or no evidence of what he should have obtained from evidence if he were serious and concentrated while performing the task.

Aspects of Non-Serious Officer Handling Criminal Cases as first mediation variables encourages the emergence or manifestation through second mediation variables namely: (1) Completeness of formal requirements of the Minutes of Examination, (2) Completion of Examination material requirements, (3) Over time, and (4) Incorrectly concluded: "Not a criminal offense." In addition to the above examples, it also appears deep.

5.1.2. Social Strata and Officers 'Fear,' Unwilling, Not Assertive Criminal Actors

Aspects of Officers 'Fear,' Unwilling, Not Assertive to Criminal Actors as first mediation variables encourages emergence or is manifested through second mediation variables namely: (1) Completeness of formal requirements of Minutes of Examination, (2) Completion of Examination requirements, (3) Officers seeking 'scapegoat,' directing, and criminal engineering, and (4) Officers deliberately impeding, stalling, and embezzling criminal cases.

Uncomplicated attitudes or gentle attitudes or officers can not only escape the perpetrators of crime, but also have encouraged new serious crimes. This is seen in Case, the police are not strict or not actually holding suspects, but suspects are left free outside the detention room, even the police invite the suspect to play cards together. Furthermore, the police let the suspect go home to visit the family (wife and child). When visiting his family, the suspect committed another (new) crime that took the life of another person (his own wife) and almost killed his stepdaughter who was a rape suspect, causing the suspect to be detained.

5.1.3. Social Strata and Community Late to Report, No Reporting and Protecting Perpetrators of Crime

Aspects of Communities Late to Report, Not Reporting to Police Officers and Protecting Perpetrators of Crime as first mediation variables encourage emergence or realized through second mediation variables namely: (1) Completeness of formal requirements of Minutes of Examination (2) Completion of Examination material requirements, (3) Over time, and (4) Play the judge yourself (eigenrichting).

A crime (criminal offense) is known to have occurred if there were: (1) reports, (2) complaints, (3) were caught, (4) known by the police, and (5) news in the mass media. After knowing the crime occurred, the police began to take steps handling. Conversely, if the police do not know, of course the police do not do anything. No legal action taken.

Only one of the five points above is directly known to police officers while the other four points indicate how great the role that society plays in helping to disclose a criminal offense. Without community participation it is unlikely that officers will achieve satisfactory results in conducting investigations, investigations and other police duties. Case are examples of no reports or complaints from the public (witnesses) and the consequences.

The community's willingness to report late or not to report crimes to the police officers is influenced by some of the advantages of the upper strata as mentioned earlier. There are some advantages of people from the very lucrative top strata that they are widely known in society. Upper stratum people also have good habits, whether intentional or unintentional, such as giving something to others in need or to fellow citizens who hold events such as weddings, birthdays, grief, and so on. Their giving is relatively more than the giving or donation of the average person. This became the ubiquitous conversation that resulted in the upper strata becoming more recognizable.

The average people, will-not-want to respect and appreciate them because they are widely known and like to give it. When upper strata are involved, for example, committing a crime, a citizen who knows it is reluctant to report it to the police. Such community deliberations certainly increase the chances of escaping the perpetrators of criminal acts along with the means of proof of theft, robbery, murder, or other serious crimes. The police in carrying out their duties requires speed and timeliness to be able to uncover criminal cases.

5.1.4. Local Government Officials Protect Suspects

Aspects of local government protecting suspects as first mediation variables encourages emergence or is manifested through second mediation variables namely: (1) Officers do not conduct investigations or stop investigations, (2) Settlement by government apparatus and local community leaders, and (3) Play the judge yourself.

This is similar to the protection that people give to the caught suspects. The bravery of the suspect becomes

even greater for committing a crime in the future due to the experience of protection from the community, especially if the protect is the bigger/stronger party of the “ruler.” If here is more special there is no “Punishment of fines” such as a case resolution by civil government officials (village heads, village heads, RT/RW) and community leaders, as well as local communities. Examples for the protection of government apparatus without “fines” are Case, which the Village Head, Q, protects the BP suspect who murdered the witchcraft, IDB. The village chief, Q, in this case even threatens: “Who leaked this ‘secret,’ then he himself will be accused of being the murderer! All the citizens of the community will jointly accuse him of being the IDB killer! “The village chief’s threat was completely obeyed by residents, not a single citizen reported the murder cases to the police.

5.2. Social Morphology

Social morphology is the relation of a person to another person, for example in a job, as a family, a neighbor, a friend or acquaintance, a relationship due to ethnic, religious, racial or group elements, this social relationship can exist between one individual and another. Individuals, or individuals with groups, or groups with groups.

Social morphology as an independent variable in this study was found to elicit the following aspects of variables: (1) close relation (family, semenda, friend) with the officer, (2) The victim is a ‘dangerous disease’ and has supernatural powers (3) Communities are late reporting, not reporting, and protecting crime actors, and (4) Local government officials/community leaders protect the suspect. Furthermore, first mediation variable aspects encourage the emergence or manifestation through second mediation variable namely: (1) Officer does not conduct investigation or stop the investigation, (2) Completion of formal requirements of Minutes of Inspection; (3) Completion of material requirements minutes of inspection, (6) Officers are ordered to stop the investigation and no replacement investigator (7) Officers deliberately impede, stall, and criminalize criminal cases, and (8) Play the judge yourself (eigenrichting). The relationship between social morphology as an independent variable with the mediation variable and the dependent variable visualized in Figure 1.

5.2.1. Social Morphology and Victim Are Dangerous Criminals and Has Supernatural Powers

Aspects of victims are dangerous criminals and have supernatural powers as the first mediating variable encourages the emergence or is manifested through the second mediation Variable: (1) Officer does not conduct an investigation or stop the investigation, (2) The officer accuses others without evidence and commits criminal engineering, and (3) unlawfully resolve itself.

The dangerous criminals here are those who commit serious crimes such as murder, robbery, rape, and other serious crimes. The other cases are cases which is an example of the death of black people and how people react to it when they hear it.

Victim aspects are dangerous and unseen criminals are not discussed much here because this aspect is also an aspect of the discussion of independent variables of culture, including case examples.

5.2.2. Social Morphology and Community Too Late to Report, No Report, and Protecting Suspects

Aspects of the community are late in reporting, not reporting to police officers, and protecting the suspect as the first mediating variable encourages the emergence or is manifested through the second mediation Variable namely: (1) Completeness of the formal requirements of the examination report, (2) The completeness of the material requirements of the examination report, (3) Over time, and (4) unlawfully resolve itself.

After knowing the crime occurred, the police began to take steps handling. Conversely, if the police do not know, of course the police do not do anything, as if nothing happened. No legal action taken. There are five sources of knowledge that a crime has been committed, namely: (1) reports, (2) complaints, (3) being caught, (4) known by the police, and (5) mass media. Only one of the five points above is directly recognized by police officers while the other four points show how great the role is expected of the community in helping to disclose the crime. Without the participation of the community, it is unlikely that the officials will achieve satisfactory results in conducting investigations, investigations and other police tasks. Because there were no reports or complaints from the community (witnesses), the police did not know about the crime. Nothing happens, so as not to know that there has been a crime, the police do not act, as if there was no incident or event of crime.

There is a passive society that protects the suspect, some are actively protecting the new suspect from committing a crime. The liveliness seen in words addressed to the captured suspect/perpetrator is committing an offense such as theft, robbery or other by saying: “Let’s ... run fast!” or “Hurry hide!” This is indeed surprising, Society (especially witnesses) rather than helping to capture the perpetrators, but instead protecting them. Thus, escaped the perpetrators of the pursuit of the people who want to catch it, and of course also off of criminal liability that must be fulfilled.

5.2.3 Social Morphology and Local Government Apparatus Protect Suspects

The local mediator protects the suspect as the first mediating variable encourages the emergence or is manifested through the second Mediation Variable: (1) The officer does not investigate or discontinue the investigation, (2) The officer deliberately impedes, stays, and evils criminal cases, and (3) completes itself unlawfully. This is similar to the protection that people give to the caught suspects. The courage of the suspect is even greater for committing a crime in the future due to the “protection” of the greater/stronger side of the “ruler.” The

“protection” of the local civilian government apparatus here is more special in that there is no “Punishment of fines” such as the description of the settlement of cases by civil government officials (village head, village head, village head of RT/RW). Examples for “protection” of civil government apparatus without “fines” are cases where the Village Chief, protecting the suspect, commits a threat, “Who leaked this ‘secret,’ he himself will be accused of murder.” Because of the threat from the Village Head, no one citizen dared to report to the police.

Local government officials are protecting the suspects from being discussed more here for being discussed in Social Control Variables, including case examples.

5.3. Culture

Culture is the values of life adopted and practiced as a member of society. Cultures or cultures as independent variables in this study are found to elicit aspects that constitute the first Mediation Variables below: (1) The officers ‘fear’ shy, unequivocal, malleable to the perpetrator, (2) Knowledge of the limits of rights and powers, (3) The victim is a ‘dangerous villain’ and using black magic, and (4) Communities are late reporting, not reporting, and protecting the criminal actors. Furthermore, aspects of the first mediation variable encourage the emergence or are manifested through the second mediation variable:

(2) Officer does not conduct an investigation or stop the investigation, (3) Completeness of formal requirements of minutes of examination, (4) Completion of material requirements of official report of examination, (5) Officers seeking, (7) Settlement by government apparatus and local community leaders, (8) Officers did not conduct investigations or stop investigations, and (c) criminal defamation, (9) resolve itself unlawfully. The relationship between culture as the independent variable with the mediation variable and the dependent variable visualized in Figure 1.

5.3.1. Culture and Officers ‘Fear,’ Unwilling, Not Assertive Criminal Actors

Aspects of officers ‘fear,’ unwilling, unequivocal to criminal actors as the first mediating variable encourages emergence or is manifested through the second Variable: (1) Completeness of formal requirements of Minutes of Examination, (2) Completion of material requirements of Minutes of Examination, (3) Officers look for ‘scapegoats’ directing, and criminal engineering cases, and (4) Officers deliberately impede, gain time, and embezzle or eliminate criminal cases.

Unclear attitudes or gentle attitudes or ‘shy’ officers can not only escape criminals, but have also encouraged new serious crimes. This is shown in the case presented in the discussion on Social Strata Variables. Police are not strict or not actually holding suspects, but suspects are left free outside the detention room, even the police invite the suspect to play cards together. Furthermore, the police allow the suspect to go home to visit his family (wife and child), and when he visits his family the suspect commits another (new) crime that kills the life of another (his own wife) and almost kills his stepdaughter who was raped by the suspect, which resulted in the suspect being held.

5.3.2. Culture and Knowledge of Rights and Authority of the Apparatus Village Governments and Local Communities

Aspects of knowledge of the limit of rights and authority of village government officials as first mediation variables encourage emergence or are realized through second mediation variables: (1) officers/ investigators are authorized to set aside minor criminal cases, and (2) Settlement by government officials and community leaders local.

The parties’ initiative to make peace (Sub I) above usually involves local government officials such as village heads, village heads, RT/RW heads, or community leaders and adat functionaries in any peace agreed by the parties. However, sometimes the parties do not involve the government or local elders in their peace events.

The settlement of cases by local civil government apparatuses, usually the initiative for peace comes from the government. In this case, the government occupies the portion of its existence not as a formal government but as a government or informal leader, the approach used is an informal approach. The use of power does not appear at all, even though formal and informal leaders are in one hand or the same person. Factors that play a major role in their relationship with the community is their authority as an informal leadership that is the ability to influence others (citizens); Community members are sincerely conscientious to what is said, without any element of coercion. Various elements are also present in this peace event that is formal, informal, like traditional elders and community leaders. The use of a formal power approach will only seem, little and rarely, be used if informal approach techniques do not produce the desired results. The case shows that here also appears the presence of elements of village government officials (village heads, village officials, customary functionaries) and community leaders who succeeded in reconciling the parties, even the parties also took the initiative.

In connection with the peaceful initiative of the village government, it is necessary to observe the provisions of Law Number 5 Year 1979 concerning the Principles of Governance in the Region which stipulates that the Village Head or Sub-District is not authorized to settle criminal cases; Only authorized to reconcile the parties to the dispute in the field of civil law. In fact, it is incumbent upon the Village Head to help smooth the settlement

of criminal cases such as assisting in summoning or bringing in witnesses and/ or suspects (see Chapter XVI Article 145 Paragraph 2 Book of Criminal Procedure Code: Village head). The Village Head's knowledge of the limits of rights and authority, particularly with regard to the settlement of civil, criminal, or other legal cases, is reasonably good. The basis of their philosophy in reconciling the parties is the goal of the law itself is peace, harmony, and harmony in social life. It is this philosophical foundation that must always be estimated or taken into account in the taking of attitudes and actions in every interaction with fellow citizens. They simply know the limits of their rights and authority, but do not understand them because they have settled in a kinship and peace of serious criminal cases. Serious criminal cases can not be resolved peacefully or in the family, even in the presence of police officers, let alone resolved at the village level.

The people of East Nusa Tenggara belong to a strong family ties between individuals and individuals, between individuals and groups or groups. Such an atmosphere is spread evenly throughout the community, especially in the villages. Likewise within the city, there is still a sense of familiarity, including the city of Kupang, which is a barometer of regional progress in East Nusa Tenggara. Indicators of this situation began to look for example in the tendency of people to choose peace if there is a dispute or dispute between citizens. Parties that cause the other party to incur losses usually immediately take the initiative to seek peace with victims.

Spontaneously, the perpetrator comes to the victim to apologize for his mistake, negligence or wrongdoing. The aggrieved party (the victim) can usually accept an apology and the good faith of the offender not to prolong the issue. Cases are examples of peaceful initiatives that are the determining factor of the case not to the level of examination by the district court judges.

The police in certain cases do not always take action against the perpetrators of criminal acts in accordance with applicable laws and regulations. Sometimes there are considerations that serve as an excuse to indirectly prosecute the suspect despite the full evidence for it. Some of these considerations include: (a) the age of the suspect is very young; (b) the new suspect first commits a crime; (c) types of criminal offenses committed are minor crimes; (d) the effects or effects of a crime being committed very little or none, and occasionally; (e) the good name of the suspect in society.

Some of these reasons led officers to the decision not to prosecute the suspects. Then the police thought of other alternatives to first repair the suspect. The way used is a persuasive-educative way that is coaching-coaching that is educational. It is expected that the suspect immediately realizes and corrects his mistakes; More expected again he did not repeat mistakes in the future. This is the so-called police discretion.

After being granted a dispensation for a crime for the first time then the suspect is involved or commits a later crime, then this time he will not be given a dispensation again. The police will take the suspect seriously against his involvement in crimes in the future. Police policy is logical and acceptable, but in every case the police have to be really extra careful so as not to fail in achieving the goal of the policy itself with the "waivers" provided, the suspect is completely conscious, fixing and not repeating his mistake later on.

5.3.3. Culture and Victims are Dangerous Criminals and Using Black Magic

Aspects of Victims are Dangerous Criminals and Black Knowledge as First Mediation Variables encourage emergence or are manifested through the second Mediation Variables: (1) Officers do not conduct investigations or stop investigations, (2) Officers seeking 'scapegoat,' directing and criminal engineering, and (3) unlawfully resolve itself.

The dangerous criminals here are those who commit serious crimes such as murder, robbery, rape, and other serious crimes. Lately some mass media newspapers have talked about the murder of "dangerous people" known as or "witchcraft" and people who commit crimes using black magic. Almost equally in all regions in Indonesia is known there is a group of people are "dangerous" this. Community attitudes in other areas of the same group that is not like and hate, but can not do much because the black people are believed to be immune to the persecution either using weapons or just empty hands. The community strives in various ways to eliminate blacks; Even sometimes willing to sacrifice anything as long as there are "smart people" who can defeat the power of black people.

Victim Aspects Are 'Dangerous Criminals' and Black Knowledge is not discussed much here because this aspect is also an aspect of the discussion of independent variables of Social Control. Similarly, the case examples.

5.3.4. Culture and Society Too Late to Report, Not Report to Police, and Protect Offenders

(1) Completeness of formal requirements of Minutes of Examination, (2) Completion of material requirements Minutes of Examination (3) Past Time, and (4) unlawfully resolving themselves.

After knowing the crime occurred, the police began to take steps handling. Conversely, if the police do not know, of course the police do not do anything, as if nothing happened. No legal action taken. There are five sources of knowledge that a crime has been committed, namely: (1) reports, (2) complaints, (3) were caught red-handed, (4) known to the police, and (5) mass media. Only one of the five points above is directly recognized by police officers while the other four points indicate how great the role is expected of the community in helping to disclose the crime. Without the participation of the community, it is unlikely that the officials will achieve

satisfactory results in conducting investigations, investigations and other police tasks.

The community's willingness to report late on crimes increases the chances of escaping criminals and their evidence of crime of theft, robbery or other crimes. The police in carrying out their duties requires speed and timeliness to be able to uncover criminal cases. Cases have occurred several days eg: theft of cattle cultivated alone first by the party who suffered losses (the victim). After failing within a few days, then the victim came to report to the police. While trying for yourself within a few days to find animals or items that were stolen or robbed, and time went on. Along with the passage of time, a greater opportunity exists or gives more opportunity to the thefters to bring away both themselves and the object of evil (cattle or other stolen goods) for example by (1) hiding it somewhere or entrusting it on a person, and (2) transfer (sell, grant) to another party (the receiver). Police or officers in this case certainly can not do much. The more late people report a crime, the more likely it is to fail to disclose it.

Aspects of society late reporting, not reporting to the police, and protecting crime actors are not discussed much here because this aspect is also an aspect of the discussion of the independent variable social stratification. In addition to passive officers receiving "peace" of the parties to the problem, they are also actively seeking peace between the perpetrator and the victim of the crime. Goods or tools of crime confiscated or taken by the officer and not returned to the owner (victim), and no further news continued criminal proceedings against the perpetrators of crime.

5.4. Social organization

Social organizations are groups (bodies, institutions) socially formed formal or informal with a specific purpose. The purpose of the first social organization is to meet the needs of the members of the organization, which is usually manifested by doing business in a particular field, in the form of goods or services.

The social organization as an independent variable in this study was found to elicit the following aspects of the following mediation variables: (1) Officers 'fear,' shy, unresponsive to the perpetrators, and (2) Communities report late, not report, and protect perpetrators crime. Furthermore, aspects of the first mediation variables encourage emergence or are manifested through the second Mediation Variables: (1) Completeness of formal requirements of minutes of examination, (2) Completion of material requirements of minutes of examination, (3) Over time, (4) Officers seeking engineering criminal cases and accusing others without evidence, (5) Officers deliberately impeding, stalling, and embezzling criminal cases, and (6) unlawfully resolving themselves. The relationship between social organizations as independent variables with intermediate variables and dependent variables is visualized in Figure 1.

5.4.1. Social Organizations and Officers 'Fearful,' Disinclined, Not Assertive to Doers

Aspects of officers' fear, unwilling, unequivocal to actors as first mediation variables encourage emergence or are manifested through second mediation variables namely: (1) Completeness of formal requirements of minutes of examination, (2) Completion of requirements of official reports (3) Officers seeking' and (4) Officers deliberately inhibit, gain time, and embezzle criminal cases.

Social organizations are formed with certain objectives as well as certain operational areas as well. The field or aspect of the organization's activities will affect the public's perception of what and how the organization is. Likewise its members will affect the attitude and acceptance of society to the organization. Thus, the form, purpose, operational area, activity, and who members within the organization will influence the existence of the organization in society. These aspects will determine the attitude of people to the organization, whether to accept or reject, feel comfortable and secure or feel uncomfortable even worry and fear of the presence of a social organization. Is the presence of a social organization rated positive or negative?

Some of the following social organizations generate feelings of anxiety and fear for the citizens, even the security forces (police and the Indonesian armed forces) in the place of the emergence of these organizations. These organizations appear and perform a variety of worrisome and frightening negative activities because of the serious crimes described in the following cases.

5.4.2. Social and Community Organizations Late to Report, Not Report, and Protecting Perpetrators of Crime

Aspect of society late to report, not report, and protect perpetrator of evil as Variable Between I encourage emergence or be realized through Variable Between II namely: (1) completeness of the formal requirements of the minutes of examination, (2) completion of the requirements of the minutes of examination, (3) the time limit, and (4) unlawfully resolve itself.

The preceding description has expressed concerning emerging organizations and undertaken various negative activities resulting in feelings of anxiety and fear for the citizens, even the security apparatus (police and police and the Indonesian Armed Forces) at the scene of the emergence of these organizations. It is also argued that the form, purpose, operational area, activity, and who members within the organization will affect the existence of the organization in society. These aspects will determine the attitude of people to the organization, whether to accept or reject, feel comfortable and secure or feel uncomfortable even worry and fear

of the presence of a social organization. Is the presence of a social organization rated positive or negative?

It turns out that the presence or existence of certain social organizations creates feelings of anxiety and fear for citizens, even the security apparatus (police and police and the Indonesian Armed Forces) in place of emergence and place of activity of such organizations. The fear of the community, let alone knowing that the security forces (the police and the Indonesian National Army and the Police) are 'afraid' to be reluctant, not firm against the perpetrators, so people do not report such crimes because they think, "Will be done!"

5.5. Social control

Social control is the control, monitoring, or supervision by citizens or groups (bodies, institutions) both formal and informal social to various social issues, including law enforcement issues. The basis or guidance for citizens in the exercise of social control is the sense and legal awareness of the community that derives from the social values it embraces. The social controls as the independent variables in this study were found to elicit the following aspects of the first mediation variables: (1) The officers 'fear,' shy, not firm against the perpetrators, (2) close relationships (family, semenda, friends) (3) Victims are 'dangerous criminals' and black-tallied, (4) Communities are late reporting, not reporting, and Protecting Crime Actors, and (5) Local government officials/community leaders protect the suspect. Furthermore, aspects of the first variable encourage the emergence or are manifested through a second mediation variable: (1) Officer/investigator is authorized to set aside minor criminal cases, (2) Officer does not conduct investigation or stop investigation, (3) Completeness of formal requirements of minutes of inspection, (6) Officer looking for 'scapegoat' directing, and criminal engineering, (7) Officer is transferred and there is no substitute investigator, (8) The officer is ordered to stop Investigation and no substitute investigator, (9) False to conclude: "Not a criminal offense," (10) Officers deliberately impeded, stalled, and embezzled criminal cases, (11) Settlement by government apparatus and local community leaders, and (12) It self unlawfully. The relationship between social control as an independent variable with the intermediate variable and the dependent variable visualized in Figure 1.

5.5.1. Social Control and Officers 'Fear,' Unwilling, Not Firm, Against Perpetrator

Aspects of officers 'fearful,' unwilling, unequivocal to actors as first mediation variables encourage emergence or are manifested through second mediation variables namely: (1) Completeness of formal requirements minutes of examination, (2) Completion of material requirements official report inspection, (3) Officers seeking engineering Criminal cases and accused others of guilt, (4) Officers deliberately inhibit, gain time, and embezzle criminal cases.

The preceding description suggests that the basis or guidance for citizens in the exercise of social control is the sense and legal awareness of the community that derives from the social values it embraces. In contrast to the presence of social organizations that cause anxiety, 'fear,' shyness, or unintelligence in police officers, in this sub-describes the control, monitoring, or supervision by citizens or groups (bodies, institutions) Informal to various social issues, including law enforcement issues. So, in this case, society or groups Social action that requires police officers not to take legal action against perpetrators of crime.

There are two things that determine the execution of people's desire to exercise social control. First, this social control is done with a certain degree of pressure, ranging from soft pressure to hard pressure. The harder the pressure is, the more likely it is for police officers to approve the people's desire not to take legal action against the perpetrators. Second, sum people involved in these social control measures also determine the attitude of police officers against the wishes of the controlling community. The more people involved (mass), the more likely it is for police officers to approve the people's desire not to take legal action against the perpetrators.

5.5.2. Social Control and Close Relationships (Family, Relationship by Marriage, Friends) With Police Officers

Aspects of close relationships (family, relationship by marriage, friends) with the officers as Variables Between I encourage the emergence or manifestation through the Variable Between II namely: (1) Officer does not conduct investigation or stop investigation (2) Completeness of formal requirements of Official Report of Inspection, (3) Completion (4) Officers are ordered to stop the investigation and no replacement investigator (5) The officer deliberately inhibits, stalling time, and embezzling criminal cases, and (6) unlawfully resolving himself.

People's desire to exercise social control here uses or exploits close relationships (such as family, semenda, friends) with the police. The closeness of this relationship is considered effective to be a means of realizing the wishes of the community.

5.5.3. Social Control and Victims Are Dangerous Criminals and Using Black Magic

Aspects of victims are malicious criminals and black knowledge as Variables Between I encourages emergence or is manifested through Variables Between II namely: (1) Officers do not conduct investigations or stop investigations, (2) Officers seeking 'scapegoat', directing and criminal engineering, And (3) Play the judge (eigenrichting).

The people's desire to exercise social control in this case is triggered by the existing social values and embraced by the people concerned. Things like this happen in many parts of Indonesia that hate people who

commit serious crimes such as severe persecution, murder, robbery, rape, fornication with minors. Similarly, people are known to have black magic, especially if used to commit crimes.

Lately some mass media newspapers have talked about the murder of “dangerous people” known as “black magic” or “witchcraft” and people who committed crimes with black magic. Almost equally in all regions in Indonesia is known there is a group of people are “dangerous” this. The attitude of people in different regions is also against the same group that is not like and hate; But could not do much because the blacks were known to be immune to the persecution either by weapons or by bare hands. The community strives in various ways to eliminate blacks; Even sometimes willing to sacrifice anything as long as there are “smart people” who can defeat the power of black people.

Black people (witchcraft) use “subtle” ways to benefit from others; “Subtle” in the sense of “invisible to the sense apparatus,” but the consequences are sometimes more painful than “harsh” forms of persecution that are visible to the eye. Attempts to catch and catch in the usual way, certainly not possible. Facing blacks who use the “subtle” way must be dealt with in a “subtle” way too, can not be “rough.” Only “subtle” ways can deal with “subtle” ways. Not accepted as evidence in the proving of a case in court. Therefore, cases that use “subtle” means rarely get to court, most often simply disappear.

The desire to find someone who can conquer and defeat the blacks using the “subtle” way is not an easy thing. Therefore, people often can not wait to meet with “smart people” to deal with these black people. How “rough” was used to kill witchcraft because it was difficult to meet “smart people.”

Upon hearing that a black person (black magician or blacked-witted criminal) has been killed (killing) then immediately the listening community, including the family of the victim of the witch or the criminal of black magic, becomes joy, because “the source of calamity” no longer. In fact, the perpetrators of the killing of black magicians are considered “heroes.” Joy at hearing the deaths of black people is not only in ordinary people, but also of government officials because they are also citizens of the local community who are always haunted by fear of the catastrophic Sourced from these black people. Some such cases have been presented previously as examples of other factors or variables. Examples of cases of death of black people and how happy reactions or joys of the local community when hearing it.

This study finds two new aspects that are the driving factors or causes of discrimination in the practice of state administration, especially in law enforcement in Indonesia that is religion and race. These two aspects are not mentioned in Prof. Donald Black’s research. Donald Black in America referred to in this study. Discrimination against adherents of minority religions (non-Muslims) and race of Chinese or non-indigenous inhabitants in Indonesia is very strongly practiced in Indonesia, especially since Indonesia’s independence to date. The new regulation has eliminated discrimination against both aspects, but has not yet reached the stage of implementation in everyday life.

Conclusion

Referring to the previous descriptions, the following conclusions can be formulated: There are three groups of variables in this study. First, independent variables or causal variables are: (1) social stratification, (2) social morphology, (3) culture or culture, (4) social organization, and (5) control or social control. These independent variables encourage the emergence or occurrence of the second variable group, namely the first mediation variable. Furthermore, the first mediation variable encourages the emergence or is manifested through a second mediation variable. The intervening variable encourages the emergence or is manifested through the third, is the dependent variable or the variable due to the discretionary practice of non-legitimization by the police. Frequency of discretionary discretionary practice consists of: (1) often, and (2) sometimes, and (3) rarely. This study finds two new aspects which are the driving factors of discrimination in the practice of state administration, especially in law enforcement in Indonesia that is religion and race.

Researchers recommend that police officers do not practice discretionary discrimination in criminal law enforcement. The researcher recommends strengthening the role of non-legal apparatus such as local government apparatus (head of RT, RW, village head, village head) and community leaders are the supporting parties in criminal law enforcement by the police. Communities do not need to report or complain of mild cases to police officers but simply settled outside the criminal justice system through nonpenal mediation. This can reduce the tendency of police officers to discretion nonlegitimacy.

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