

Prohibiting Sexual Deviance and Disorientation under Article 13(d) of Indonesian National Police Regulation No. 7/2022: A Legal and Psychological Analysis

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Abstract: Article 13 letter d of Indonesian National Police Regulation Number 7 of 2022 prohibits "sexual deviance" and "sexual disorientation" as part of Polri members' personal ethics, yet employs terminology without normative definition, raising concerns of conflict with contemporary scientific consensus and human rights principles. This study examines the normative construction of Article 13 letter d from a legal science perspective and evaluates the concepts of sexual deviance and disorientation through modern psychological theory, including DSM-5 and ICD-11 standards. Employing normative legal research with legislative, conceptual, and comparative approaches, supported by a systematic review of peer-reviewed literature in law, psychology, and human rights, this study finds that the norm violates the principles of legal certainty (*lex certa*) and proportionality, relies on abstract and evaluative formulations, and invokes psychological terminology already rejected by contemporary science. These deficiencies risk institutionalising stigma and conflict with the principles of non-discrimination and privacy. The study recommends reformulating Polri's ethical norms to replace abstract, scientifically unsupported terminology with prohibitions that target concrete conduct, thereby aligning institutional regulation with legal principles, scientific developments, and international human rights standards.

Keywords: police code of ethics; legal certainty; sexual orientation; human rights; proportionality

Abstrak: Pasal 13 huruf d Peraturan Kepolisian Negara Republik Indonesia Nomor 7 Tahun 2022 melarang "penyimpangan seksual" dan "disorientasi seksual" sebagai bagian dari etika pribadi anggota Polri, namun menggunakan terminologi tanpa definisi normatif yang jelas, sehingga menimbulkan kekhawatiran akan pertentangan dengan konsensus ilmiah kontemporer dan prinsip hak asasi manusia. Penelitian ini mengkaji konstruksi normatif Pasal 13 huruf d dari perspektif ilmu hukum serta mengevaluasi konsep penyimpangan dan disorientasi seksual melalui teori psikologi modern, termasuk standar DSM-5 dan ICD-11. Dengan menggunakan penelitian hukum normatif melalui pendekatan perundang-undangan, konseptual, dan komparatif, yang didukung oleh kajian literatur sistematis atas jurnal-jurnal ilmiah di bidang hukum, psikologi, dan hak asasi manusia, penelitian ini menemukan bahwa norma tersebut melanggar prinsip kepastian hukum (*lex certa*) dan proporsionalitas, dirumuskan secara abstrak dan evaluatif, serta menggunakan terminologi psikologis yang telah ditinggalkan oleh ilmu pengetahuan kontemporer. Kelemahan-kelemahan tersebut berisiko melembagakan stigma dan bertentangan dengan prinsip non-diskriminasi serta hak atas privasi. Penelitian ini merekomendasikan reformulasi norma etika Polri dengan mengganti terminologi abstrak yang tidak berlandaskan ilmiah menjadi larangan yang menyoroti perilaku konkret, guna menyelaraskan regulasi institusional dengan prinsip-prinsip hukum, perkembangan ilmu pengetahuan, dan standar hak asasi manusia internasional.

Kata Kunci: kode etik polri; kepastian hukum; orientasi seksual; hak asasi manusia; psikologi

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1. Introduction

The Code of Ethics of the Indonesian National Police (Polri), as set forth in Indonesian National Police Regulation (PERPOLRI) Number 7 of 2022, serves as a normative instrument to uphold institutional honour, dignity, and public trust. As a product of administrative law, the Code carries juridical consequences for the careers, reputations, and employment statuses of police officers. Within the framework of a rule-of-law state (*Rechtsstaat*), every provision that restricts the conduct of state apparatus must comply with the principles of legal certainty, rationality, proportionality, and normative accountability.

Article 13 letter d of PERPOLRI Number 7 of 2022 specifically prohibits what it calls sexual deviance or sexual disorientation as part of the personal ethics of Polri members. This provision presents two intersecting problems. First, from an administrative law perspective, neither term is defined anywhere in the regulation or the broader Indonesian legal system, potentially violating the principle of *lex certa* and inviting arbitrary, subjective interpretation during enforcement. Second, from the perspective of psychological science, the term 'sexual disorientation' has no recognised basis in contemporary clinical classification systems.

Previous scholarship on Polri's professional code of ethics in Indonesian legal literature has predominantly focused on enforcement mechanisms, the authority of the Police Code of Ethics Commission and the relationship between ethical violations and criminal liability (Prenzler & Ronken, 2001). These studies employ a juridical-normative approach that emphasises procedural aspects — categories of sanctions, the legal standing of ethical decisions, and due process — rather than interrogating the substantive clarity or scientific validity of the ethical norms themselves. In the psychological literature, meanwhile, research consistently affirms that sexual orientation represents part of the normal diversity of human behaviour and is not classified as a mental disorder by any major international clinical authority.

A critical gap thus exists in the existing literature: no study has subjected the substance of Article 13 letter d to an interdisciplinary analysis that simultaneously applies legal theory, specifically the principles of *Rechtsstaat*, *lex certa*, and proportionality and modern psychological theory. Studies in Indonesian legal positivism have examined the structural consistency of police regulations with the hierarchy of norms but have not evaluated whether the conceptual premises underlying a specific ethical norm are scientifically defensible. This gap is consequential: a regulation grounded in factually inaccurate assumptions about human psychology is normatively weakened even within a positivist framework.

This study therefore aims to: (1) analyze the normative construction of Article 13 letter d from the principles of legal science, particularly the theory of the rule-of-law state, the *lex certa* principle, and the proportionality principle; (2) examine how modern psychological theory conceptualizes sexual orientation and evaluate the scientific validity of the terms 'sexual deviance' and 'sexual disorientation'; and (3) assess the compatibility of Article 13 letter d with the principles of normative clarity, justice, proportionality, and international human rights standards.

The novelty of this research lies in its interdisciplinary integration of legal theory and psychological science as co-equal analytical lenses, an approach not previously applied to the specific provision under review. This dual-framework analysis enables a more comprehensive evaluation of both the formal legal quality and the epistemological legitimacy of Article 13 letter d.

2. Methods

This study employs normative legal research, a methodology appropriate when the object of inquiry is legal norms their text, validity, logical consistency, and conformity with higher legal principles rather than social behaviour or empirical facts. Normative legal research is distinguished from socio-legal or empirical research in that it does not require field data, interviews, or surveys; instead, it systematically analyses legal documents and doctrine through interpretive and analytical techniques (Soekanto, 1986). This method is chosen because the central research question concerns whether a specific legal norm satisfies the principles of *lex certa*, proportionality, and scientific validity, which are resolved through doctrinal analysis rather than empirical observation.

The research integrates three complementary approaches. First, the statute approach involves a systematic review of PERPOLRI Number 7 of 2022 as the primary legal material, examining its textual content, the legislative intent behind the formulation of Article 13 letter d, and its hierarchical position relative to Law Number 12 of 2011 on the Formation of Legislation, which mandates clarity and precision in all regulatory language. Second, the conceptual approach analyses the theoretical frameworks employed as evaluative criteria: the *Rechtsstaat* theory of the rule-of-law state, the *lex certa* principle as a minimum standard for norm formulation, the proportionality principle with its three-part test (legitimate objective rational connection least restrictive means), and the biopsychosocial theory and minority stress theory from psychological science. Third, the comparative approach draws on international police ethics standards, comparative jurisprudence on the permissible scope of professional ethics regulations for state apparatus, and international human rights instruments, particularly the International Covenant on Civil and Political Rights (ICCPR) and the precedent established in *Toonen v. Australia* (UN Human Rights Committee, 1994) as external benchmarks against which Article 13 letter d is evaluated.

The study relies on three categories of legal materials, following the classification standard established in Indonesian normative legal research (Roza & S, 2021). Primary legal materials consist of binding authoritative sources: PERPOLRI Number 7 of 2022; Law Number 2 of 2002 on the Indonesian National Police; Law Number 12 of 2011 on the Formation of Legislation (as amended by Law Number 13 of 2022); the ICCPR; and the UN Human Rights Committee decision in *Toonen v. Australia* (Communication No. 488/1992). Secondary legal materials consist of non-binding but explanatory sources that provide doctrinal analysis and context: peer-reviewed journal articles in the fields of law, psychology, and human rights; the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-5, 2013) as a clinical consensus document; and the World Health Organisation's International Classification of Diseases, Eleventh Revision (ICD-11, 2019). Tertiary legal materials consist of reference materials used to clarify terminology: legal dictionaries and the standard Indonesian language reference (KBBI), as needed, to interpret ambiguous terms in the regulation.

Data are collected through library research and analyzed using three standard interpretive techniques of normative legal science. Grammatical interpretation is applied to examine the ordinary and technical meaning of the terms 'sexual deviance' and 'sexual disorientation' as they appear in the text of Article 13 letter d, including an assessment of whether these terms have defined meanings in any Indonesian legal instrument. Systematic interpretation is applied to evaluate the norm in its broader legal context, its relationship to higher norms in the legislative hierarchy, to other provisions within Perpolri Number 7 of 2022, and to the constitutional and statutory

framework governing the rights of state apparatus. Teleological interpretation is applied to assess whether the norm, as formulated, is rationally connected to the purposes of a professional ethics code, namely, upholding institutional performance, public trust, and professionalism. Where the analysis engages arguments in defence of the existing norm, these are explicitly presented and then evaluated against the above criteria.

3. Results and Discussion

Analysis of Article 13, letter d, of PERPOLRI Number 7 of 2022, using three interpretive techniques, yields the following primary findings. First, grammatical interpretation reveals that neither 'sexual deviance' nor 'sexual disorientation' is defined in PERPOLRI Number 7 of 2022 or in any other Indonesian legal instrument, rendering the norm incapable of objective application. Second, systematic interpretation reveals that the norm conflicts with the clarity requirements of Law Number 12 of 2011 and with the proportionality standard required by the Indonesian constitutional framework. Third, teleological interpretation reveals that no rational connection can be established between a person's sexual orientation and the institutional objectives of professional ethics, namely, performance, public trust, and professionalism. These findings are elaborated across six sub-dimensions below.

3.1. Normative Construction and the Rule-of-Law State

The *Rechtsstaat* framework requires that the law function as an instrument that limits power while simultaneously protecting the rights of every legal subject. Legal norms, including professional ethics norms, must be formulated rationally, objectively, and predictably so that legal subjects can anticipate the legal consequences of their conduct. When examined against these requirements, Article 13 letter d formulates ethical prohibitions in terms of abstract, unmeasurable concepts. It grants excessively broad discretionary authority to code-of-ethics enforcement officers without establishing clear normative boundaries. In this respect, the provision more closely resembles a power-based approach (*machtstaat*) than a rule-of-law approach that positions norms as protectors of individual rights. Roza and Gokma Toni Parlindungan have observed that Kelsen's positivist framework, influential in Indonesian legal development, demands a hierarchically coherent normative structure in which each lower norm derives validity from a higher one (Roza & S, 2021). Article 13 letter d, whose key terms lack definitional grounding in any higher legal instrument, fails to satisfy this requirement.

3.2. The Lex Certa Principle and Normative Clarity

The *lex certa* principle requires that every legal norm be formulated clearly, firmly, and unambiguously. This is particularly critical in administrative and disciplinary law for state apparatus, since sanctions can directly affect careers, reputations, and employment rights. In Indonesian law, the requirement of clarity in the formulation of norms is codified in Law Number 12 of 2011 on the Formation of Legislation, which mandates that regulations be formulated precisely and unambiguously to avoid multiple interpretations.

The terms 'sexual deviance' and 'sexual disorientation' in Article 13 letter d are evaluative and moralistic, lacking standardised normative definitions in any Indonesian legal instrument. Without such definitions, the assessment of ethical violations depends entirely on the subjective judgment of the ethics panel or supervising inspector, potentially leading to inconsistent decisions across

cases and violating the principle of equality before the law. Sujono has documented that the application of pure law theory in Indonesia consistently encounters difficulties when normative provisions lack definitional precision, resulting in interpretive divergence in enforcement (Sujono, 2019). Stone Sweet and Mathews have further shown that proportionality analysis, which depends on the clarity of the norm being applied, cannot be meaningfully conducted where the norm itself lacks identifiable content (Sweet & Mathews, 2008). Article 13, letter d, thus fails to meet the minimum standards of sound legislation from a *lex certa* perspective.

3.3. The Proportionality Principle

The proportionality principle requires that every restriction on rights satisfy three cumulative elements: a legitimate objective, a rational connection between the restriction and that objective, and the use of the least restrictive means available. In professional ethics, restrictions on the personal domain of apparatus can only be justified if the restricted conduct bears a direct nexus to the exercise of official duties, professionalism, or public trust. Article 13 letter d restricts the private domain of apparatus without establishing a clear causal relationship between an individual's sexual orientation and Polri's performance or institutional integrity. The norm does not explain how a person's sexual orientation, as a personal identity rather than conduct, could harm institutional interests. Kumm's analysis of the structure of rights demonstrates that restrictions must identify a concrete harm: the mere association of an identity with institutional reputation is insufficient to satisfy the rational connection requirement (Sweet & Mathews, 2008).

At the same time, it is important to acknowledge the institutional argument: proponents of Article 13 letter d might contend that Polri, as a disciplined state apparatus, is entitled to impose higher standards of personal conduct on its members, including standards reflective of prevailing Indonesian public morality. Under this view, the norm serves legitimate institutional objectives of maintaining public trust and upholding the 'dignity' of the police institution.

This counterargument, however, does not withstand proportionality scrutiny. First, 'public morality' is not a defined legal concept in the Indonesian legal system and cannot serve as an objective criterion without further specification. Second, even if institutional dignity were accepted as a legitimate objective, the means chosen, restricting personal identity rather than specific professional conduct, fail the least restrictive means test. The objective could be fully achieved by prohibiting conduct that demonstrably compromises professional performance, without reaching into personal identity. The restriction is therefore disproportionate.

3.4. Psychological Theory and the Concept of Sexual Disorientation

From the perspective of modern psychology, sexual orientation is understood as a natural variation of human sexuality influenced by biological, psychological, and social factors. The biopsychosocial model, first systematically articulated by Engel, provides the theoretical foundation for this understanding: health and psychological states result from the interaction of biological predispositions, psychological processes, and social contexts not from any single pathological cause (Engel, 1977). Critically, international clinical consensus has explicitly removed sexual orientation from the category of mental disorders. The American Psychiatric Association removed homosexuality from the DSM in 1973, and the current DSM-5 contains no diagnostic category based on sexual orientation (Association, 2008; Herek, 2012). The World Health

Organisation's ICD-11, effective from 2022, similarly de-classifies sexual orientation as a pathological condition (Organization, 2019). The term 'sexual disorientation' has no recognised definition in either classification system.

The use of 'sexual disorientation' in a legal norm therefore lacks any valid scientific foundation. When law employs a concept that science has abandoned, the norm loses epistemological legitimacy. Putri and Aulia's study of Kelsen's positivism in Indonesia highlights that the validity of a legal norm depends not only on its formal derivation from a higher norm but also on its coherence with the factual premises it presupposes (Talita Prapta Putri & Aulia, 2024). A norm that presupposes a factually false classification that sexual orientation is a disorder is normatively weakened even within a positivist framework.

3.5. Institutional Stigma and Mental Health Implications

Minority stress theory provides a framework for understanding the psychological burden borne by individuals from minority groups as a result of stigma, discrimination, and institutionalised social exclusion. Meyer's foundational study demonstrated that stigma, prejudice, and discrimination create a chronically stressful social environment for lesbian, gay, and bisexual individuals, contributing to elevated rates of anxiety, depression, and other mental health conditions (Meyer, 2003). In the institutional context of POLRI, an ethical norm that implicitly labels a sexual orientation as 'deviance' constitutes a form of institutional stigma. Link and Phelan's conceptual framework demonstrates that stigma operates through mechanisms of labelling, stereotyping, status loss, and discrimination, all of which can be activated by official regulatory language (Link & Phelan, 2001). Article 13 letter d potentially reinforces these mechanisms, increasing psychological risks for affected apparatus and reducing organisational performance through diminished well-being.

The institutional argument might counter that such individuals should not serve in Polri if their identity conflicts with institutional standards. This position, however, is precisely what the proportionality and non-discrimination analyses above preclude: it assumes the legitimacy of the discriminatory criterion itself, which is the subject of critique. Moreover, Rato et al. have noted within the Indonesian sociological jurisprudence tradition that law must reflect living social values and contemporary Indonesian society increasingly recognises the mental health dimensions of institutional discrimination (Rato, Setyawan, & Yahya, 2023).

3.6. Human Rights Implications

In international human rights law, the principles of non-discrimination and the right to privacy are fundamental rights inherent to every individual, including state apparatus. The landmark case of *Toonen v. Australia* before the UN Human Rights Committee established that laws penalising consensual sexual conduct between adults constitute arbitrary interference with privacy under Article 17 ICCPR, and cannot be justified solely by appeals to public morals (Committee, 1994). Restrictions on fundamental rights can only be justified when: (1) based on clear law, (2) serving a legitimate and demonstrable purpose, and (3) implemented proportionately. Article 13 letter d fails each requirement: it lacks normative clarity (Section 3.2), fails to demonstrate a legitimate nexus to official duties (Section 3.3), and is not calibrated proportionately. The provision thus risks violating Indonesia's international human rights obligations.

Goldsmith's comparative analysis of police reform across multiple jurisdictions demonstrates that police legitimacy and public trust depend on the profession's alignment with principles of fairness and accountability (Goldsmith, 2005). Ethical norms that discriminate on the basis of personal identity undermine rather than reinforce public confidence. Prenzler and Ronken's cross-national study of police oversight models further indicates that effective professional ethics systems focus specifically on conduct relevant to official duties rather than on personal characteristics. Islamiyati's critical examination of legal positivism in Indonesia argues that a norm achieving formal validity while producing substantive injustice exposes the limitations of a purely formal approach to law and demands reform grounded in justice-oriented principles (Islamiyati, 2018).

4. Conclusion

Article 13 letter d of Perpolri Number 7 of 2022 suffers from fundamental juridical weaknesses that render it incompatible with the principles of the *Rechtsstaat*. The provision fails to guarantee legal certainty, as the undefined terms "sexual deviance" and "sexual disorientation" violate the *lex certa* principle and open the door to subjective interpretation and disparate enforcement. Judged against the proportionality principle, the restriction on the private domain of state apparatus lacks any demonstrable causal link to professional performance, competence, or public trust, making it disproportionate and beyond the legitimate scope of professional ethics regulation—an institutional demand for higher personal standards cannot justify a norm that fails the least-restrictive-means test by targeting identity rather than conduct.

These juridical defects are compounded by their scientific and human rights implications. Contemporary clinical consensus, as reflected in the DSM-5 and ICD-11, rejects the pathologisation of sexual orientation, so the provision's terminology lacks epistemological legitimacy and risks inflicting psychological harm through minority stress. It further conflicts with the principles of non-discrimination and privacy enshrined in international human rights instruments. Reformulation is therefore imperative: abstract, scientifically unsupported terms must be replaced with prohibitions that target concrete conduct that genuinely violates the law, professional integrity, or the exercise of official duties—thereby aligning the norm with legal principle, scientific advancement, and international human rights standards.

References

- Association, A. P. (2008). *Answers to Your Questions About Sexual Orientation and Homosexuality*. American Psychological Association.
- Committee, U. N. H. R. Toonen v. Australia. , Communication No. 488/1992, CCPR/C/50/D/488/1992 para. 8.2 (1994).
- Engel, G. L. (1977). The Need for a New Medical Model: A Challenge for Biomedicine. *Science*, 196(4286), 132.
- Goldsmith, A. (2005). Police Reform and the Problem of Trust. *Theoretical Criminology*, 9(4), 455.
- Herek, G. M. (2012). *Facts About Homosexuality and Mental Health*. University of California.
- Islamiyati, I. (2018). Kritik Filsafat Hukum Positivisme Sebagai Upaya Mewujudkan Hukum Yang Berkeadilan. *Law, Development and Justice Review*, 1(1), 82–96. <https://doi.org/10.14710/ldjr.v1i1.3574>
- Link, B. G., & Phelan, J. C. (2001). Conceptualizing Stigma. *Annual Review of Sociology*, 27, 367.

- Meyer, I. H. (2003). Prejudice, Social Stress, and Mental Health in Lesbian, Gay, and Bisexual Populations. *Psychological Bulletin*, 129(5), 676.
- Organization, W. H. (WHO). (2019). *International Classification of Diseases 11th Revision (ICD-11)*. Geneva: World Health Organization.
- Prenzler, T., & Ronken, C. (2001). Models of Police Oversight and Discipline. *Policing: An International Journal of Police Strategies & Management*, 24(3), 403.
- Rato, D., Setyawan, F., & Yahya, koko roby. (2023). Aliran Hukum Sociological Jurisprudence Dalam Perseptif Filsafat Hukum. *Jurnal Insan Pendidikan Dan Sosial Humaniora*, 1(1), 45–60. <https://doi.org/10.59581/jipsoshum-widyakarya.v1i1.76>
- Roza, D., & S, G. T. P. (2021). Teori Positivisme Hans Kelsen Mempengaruhi Perkembangan Hukum di Indonesia. *Lex Jurnalica Volume*, 18(1), 20–26. <https://doi.org/10.47007/lj.v18i1.4056>
- Soekanto, S. (1986). *Penelitian Hukum Normatif: suatu tinjauan singkat*. Jakarta: PT.Raja Grafindo Persada.
- Sujono, I. (2019). *Perkembangan teori hukum murni di indonesia* (universitas bhayangkara). universitas bhayangkara. <https://doi.org/10.5281/zenodo.3385176>
- Sweet, A. S., & Mathews, J. (2008). Proportionality Balancing and Global Constitutionalism. *Columbia Journal of Transnational Law*, 47(1), 73.
- Talita Prapta Putri, N., & Aulia, A. (2024). Penerapan Teori Positivisme Hans Kelsen Di Indonesia. *Jurnal Kajian Kontemporer Hukum Dan Masyarakat*, 2(1), 1–25. Retrieved from <https://journal.forikami.com/index.php/dassollen/article/download/543/285/3811>