

# **The Role of the Indonesian National Police in Maintaining Order During Industrial Disputes.**

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By ratifying the ILO conventions, the Government of Indonesia has the responsibility to implement it. In case there is an incident of labor law violation or industrial dispute, such as labor strike or lock-up, it is the role of police to maintain order and to enforce the law. However, for some periods of time the pattern of police operation has been characterized by military approach. It was because institutionally the Indonesian National Police (INP) was put under the territory of the Indonesian Armed Forces (ABRI). Fortunately, as political as well as law reformation has started in Indonesia since 1998, the INP has been back to its nature as a law enforcement agency, with civilian approach and not as a part of the armed force.

Institutionally, the separation of the INP from ABRI was held in 1997 through Legislation Number 28/1997 on the Indonesian National Police, and then Legislation Number 22/2002 revises the former law. Meanwhile the Legislation Number 13/2003 on Manpower (Labor Law) gives an enlightenment in labor related-sector. The new legislation is more responsive to labor's interest, a group that by the new order regime had been positioned as the weak one in industrial relation. Based on the aforementioned description, survey research has been conducted to gather recent information on police personnel's knowledge concerning fundamental principles and rights at work. The goal of the research was to analyze whether the INP with their new approach is ready to implement their function in maintaining law and order, especially in handling matters related to industrial disputes. This goal is in relation to the dynamics of Indonesian National Police, from an institution standing under the power of Indonesian Armed Forces to law enforcement institution responsible directly to the President of Republic of Indonesia. Thus the research intended to identify institutional ability of INP working unit that can be functioned professionally in maintaining law and order in an industrial dispute.



## **The research**

The research was conducted mainly through survey method to 23 INP's middle-rank officers in 6 "Police Resorts" (POLRES) who were selected purposely. Those officers were selected based on their official function, which is relevant in handling industrial disputes. They were Chief of Intelligence Unit (Kepala Satuan Intel), Chief of Criminal Investigation Unit (Kepala Satuan Reserse), Chief of Police Patrol (Kepala Satuan Samapta), and Head of Community Policing Department (Kepala Bagian Binamitra). The survey was conducted by interviewing those officers based on a close-ended questionnaire, with possibilities of open-ended answers, or explanation for the close-ended answer. If interviewers couldn't reach the intended respondent, then as alternative he/she could interview respondent's deputy. This method was taken, because the respondents, who represent a commando type organization like the INP, most likely would response in similar answers in relation to questions on INP's function. Then this alternative of using chief deputy as respondents if intended respondent was not available was used.

The external validity of this study, in term of population representation by sample was appropriately sufficient. Conducting research on the ability of an organization like the INP with survey method, by using police resort as unit of analysis, and its officials as respondents, we would tend to have uniform answers. However, we couldn't conclude that information from respondents has describe organizational capacity in empirical level. The uniformity in answer was influenced by the command tradition, which emphasizes uniformity. To capture more natural condition of the INP real capacity we needed another method, which could assure the validity of the study, namely case study method, and selected police resorts organization as a model through participation observation. Due to time constraints, we could only conduct survey method.

The selection of the research locations, namely Police Resorts, was based on the assumption that the pattern of police work at any police resort or district was the same. The Police Resort level was selected based on the fact that it was their jurisdiction to handle industrial disputes rather than higher or lower-level police organizations. In order to cater for different social



settings of the police resort, a police resort of a province jurisdiction was selected on the base of their unique characteristics, i.e. type of industry that most likely operated in that particular area. Hence, the police resorts selected for this research were:

- a. North Sumatra Province Tanjung Morawa Resort that represented plantation industries
- b. Banten Province Tangerang Resort as a center of foreign capital investment (a sub contract of international merchandise)
- c. DKI Jakarta Province Jakarta Timur Resort as an old industrial center
- d. Wets Java Province Bandung Resort as garment industrial center
- e. Central Java Province Kudus Resort as local cigarette industrial center
- f. East Java Province Sidoarjo Resort as electrical and metal industrial center

The research was designed to answer research problem, which was simplified into research question. The first research question was “To what extend does the INP personnel understand principles and basic laws in working relation between workers and employers?” To obtain the answers related to such a question, interviews were conducted to 23 INP’s middle-rank officers in 6 police resorts who were selected purposively. Interviews were conducted by some interviewers who had already received briefings on questions listed in the questionnaire. There were questions about a compilation of labor’s basic rights in working relation as written in the ILO Conventions, and there were also questions related to police’s formal role to handle industrial disputes which was given to the police by Law on Workers.

The second research question is “To what extend does the law in Indonesia give authority to the police to keep peace and enforce order in industrial disputes?” This question was answered through grammatical interpretation methods to Legislation Number 2 Year 2002 on Indonesian National Police (INP) and Legislation Number 13 Year 2003 on Workers, and also to other regulations, which have been ratified from the ILO Conventions by Indonesian Government.



The third research question is “To what extent does the institutional ability of INP in maintaining and enforcing law in industrial disputes?” That question was answered through interviewing some INP’s middle-rank officers concerning their experiences in handling industrial disputes, analyzing INP’s instruction and technical manual, and reviewing research reports on Police’s role in handling industrial disputes.

## **Research result.**

### **1. Knowledge and understanding of police officers of fundamental principles and rights at work**

The police role in handling industrial disputes should be based on their knowledge and understanding of the Labor Law, especially which are in accordance with the ILO Conventions. There are 8 ILO Conventions which were asked to the respondents in order to measure their knowledge on fundamental principles and rights at work. Those ILO Conventions are:

- C. 87 on Freedom of Association and Protection of the Right to Organize.
- C. 98 on Right to Organize and Collective Bargaining.
- C. 29 on Forced Labor.
- C. 105 on Abolition of Forced Labor.
- C. 138 on Minimum Age.
- C. 182 on Worst Form of Child Labor.
- C. 100 on Equal Remuneration.
- C. 111 on Discrimination in Employment and Occupation

#### ***a. Knowledge and understanding of police officers of the ILO Convention Number 87 on Freedom of Association and Protection of the Right to Organize***

Generally most of the respondents had sufficient knowledge that either workers or employers have the right to associate. It was indicated by the fact that 87% of the 23 respondents knew that workers have the right to associate, and 82% agreed that employers also have the right to



associate and. However, 91.3 % respondents disagreed for police officials or armed forces officials to have such a right to found workers association.

In terms of the role of the government in the protection of right to establish union, 69.6 % respondents disagreed if the government interfered in formulating organization statutes; 78.3% disagreed if the government dissolved employers or workers organization. Whilst in term of acts which were forbidden to be implemented by employers to workers or to workers association officials, 78.3% respondent disagreed if company prohibited its employees in establishing their union; 69.6% disagreed on employee dismissal to members of the union who were actively defended their members interest during working time; and 78.3% disagreed on dismissal to members of the union who actively defended their members' interest outside working time.

***b. Knowledge and Understanding of Police Officers of the ILO Convention Number 98 on Right to Organize and Collective Bargaining***

We have resumed matters related to workers' right to organize and collective bargaining above most of the police officers knew the existence of that right. Moreover, 78.3 % respondents tended to be aware of workers' right to perform collective bargaining.

***c. Knowledge and Understanding of Police Officers of the ILO Convention Number 29 on Forced Labor***

Police officer's knowledge of forced labor based on the ILO Convention tended to be wrong, because most of the respondents (60.9%) agreed on forced labor. Their knowledge on the regulation of military compulsory training, which was permitted by ILO Conventions seemed to be suitable, owing to the fact that 56% agreed to that matter.

***d. Knowledge and Understanding of Police Officers of the ILO Convention Number 105 on Abolition of Forced Labor***



Most of the police officers (87%) have sufficient knowledge regarding the abolition of forced labor. This was formulated through prohibition for bureaucracy to implement forced labor as instrument of disciplinary action or other forms of prohibitions for employee. When the prohibition was directed to the employers, all respondents have the correct understanding.

***e. Knowledge and Understanding of Police Officers of the ILO Convention Number 138 on Minimum Age***

Respondents' knowledge on minimum age was not in accordance to regulation in the ILO Convention which inclined to age over that 15. The tendency of respondent's answers was on 18 years old (30.4%), 17 years old (26.1%), and 21 years old (17.4%). Whilst, respondent's opinion on minimum age to work in dangerous working condition inclined to suit the ILO minimum age, which was 18 years old (34.8%), or even higher than the expected answer (43.5%). Only few respondents (21.7%) mentioned lower age than the expected answer.

The knowledge of respondent of minimum age to do simple work with the agreement of the government, employers, and workers' association also inclined to mention age which was higher than the ILO standard. The minimum age in ILO convention was 13 to 15 years old. Of children between 13 to 15 years old who worked to develop their interest and talent, and the work was proved not to disturb their education and health, most of the respondents (69.6%) disagreed to any conditions, and the rest of them agreed to let them work part timely. Meanwhile, respondents' opinion on training institution that employed children of 14 years old in practical work as part of their education curriculum or training which was approved by an authorized official, respondent inclined to agree than disagree. It was shown by 52.2% of respondents that agreed, in contrast to 47.8% that disagreed.

Respondents' opinion on the minimum age of children, who work in transportation vessel or fishing vessel, inclined to be higher than the minimum age that has been defined by ILO, which is 15 years old. Respondent's opinion of minimum age of children who work in an underground mining inclined to be not in accordance to the ILO requirement, which is 18 years old. There are 13% of respondent who mention 17 years old, 26.1% who mention 20 years old, and even 34.8% who mention 21 years old



***f. Knowledge and Understanding of Police Officers of the ILO Convention Number 182 on Worst Forms of Child Labor***

Of prohibition on hiring children on the worst forms of child labor, all respondents agreed to prohibit it and it was in accord to the ILO Convention Number 182

***g. Knowledge and Understanding of Respondents of the ILO Convention Number 100 on Equal Remuneration***

Police officer's knowledge of equal remuneration for men and women when they occupied the same occupation did not show any consistencies. Without mentioning high-risked position, respondents tended to agree on no discrimination, but when we mentioned high-risked position there were respondents who agreed upon discrimination. On the other hand, wages discrimination based on religion, race, social class, and political belief was totally refused by the respondent.

***h. Knowledge and Understanding of Police Officers Respondents of the ILO Convention Number 111 on Discrimination in Works and Positions.***

Police officer's knowledge of discrimination prohibition on hiring and positioning which was based on differences in religion, race, social class, and political belief showed that it was totally refused by all respondents.

**2. Knowledge and Understanding of Police Officer Respondents of the Industrial Dispute Settlement Mechanism**

When the research was conducted, police officer's knowledge on the mechanism in industrial dispute settlement was not specifically asked, because based on Legislation Number 13 Year 2003 article 136 section 2, the regulation on that point, which would be formulated in a separate legislation, was still in a formulation process. But this matter could still be identified



through some questions that were not specifically related to that matter. This was especially based on the experiences of respondents in handling industrial disputes.

Most of the respondents (73.9%) admitted that they had handled industrial dispute in various forms,

In handling industrial disputes, actions, which were taken by respondents, could be classified into three forms of actions, they were:

1. Trying to mediate a discussion, which involved the police themselves, workers, and employers or even the Manpower office.
2. Emphasizing on security and crime prevention aspects.
3. Preparing security aspect when discussion phase was failed

Moreover, from their experiences in handling industrial disputes, we could identify their informants in gaining information on the occurrence of those industrial disputes. They were workers, employers, secret agents, and others. But most of the information came from secret agents' information.

Based on the confession of those police respondents, in handling industrial disputes, they tended to protect the interest of both parties. Of action that should be taken when handling industrial disputes, respondents felt that police could not neglect those problems. Moreover, not all respondents thought that the police had the authority to handle industrial dispute cases. The data showed that 18 (78.3%) respondents agreed upon it, and 5 (21.7%) of them disagreed. Their reason on why police have the authority in handling industrial dispute cases mostly was by connecting the industrial dispute to criminal actions, especially the one that was done by workers. And only few of the respondents realized that there was a regulation in Labor Law, which gave authority to police to handle industrial dispute.

From the experiences of our respondents, we also have identified the obstacles in handling industrial disputes, which could be classified into four categories:

1. Obstacle in facing angry workers
2. Obstacle that related to capacity of police officers and INP reaching distance.
3. Obstacle that related to stagnation in criminal process





#### 4. Obstacle that related to mediating process

Concerning police officers opinion on cases of workers strike and company lock up. Based on small survey that was conducted to 11 accidentally selected middle-rank officers who serve in INP Head Office, we know that most of our respondents (72.7%) think that legal strike that is approved by an authorized official is workers' right and not considered as an act of violence.

Of company lock up by authorized officials, respondents' opinion was the same; most of them (63.6%) said that it was the employer's right. Moreover, the respondents' opinions on the updating of current regulation concerning the procedure of handling industrial dispute was that most of them (72.7%) disagreed.

Related to experience in receiving information on appropriate acts in handling industrial dispute, it was admitted by 54.5%. Then, related to the existence of guidelines or guidance in handling industrial dispute, most of our respondents (81.8%) said yes,

Although there was information on the handling of industrial disputes or evidence on guidelines and guidance, most of our respondents (81.8%) felt that they needed a special training in handling industrial dispute. Forms of expected training were:

1. Settling industrial dispute cases
2. Improving knowledge on mass psychology and tricks in handling chaos
3. Negotiation technique
4. Knowing and understanding the materials of Law on Workers

The last development concerning the INP anticipation to the police members need, in the year 2005 the INP established a "Guideline on the Conduct of the Indonesian National Police in Handling Law and Order in Industrial Disputes". The guideline was the product of INP through its cooperation with the ILO Declaration Project on Police Training, involving representatives of the tripartite constituents. Through the cooperation with the ILO, the INP is also preparing "Police Training Manual on Fundamental Principles and the Role of Police in Industrial Disputes" (ILO Jakarta Newsletter, April 2005, Vol.3 No.1, page 8).



### **3. Regulation on police role in implementing fundamental principles and rights at work**

Legislation Number 13 Year 2003 as replacement to Legislation Number 28 Year 2000 basically is the confirmations of ILO conventions that have been ratified by the Indonesian Government. But, Legislation Number 13 Year 2003 on workers, based on article 136 (2) has left a problem in industrial disputes, which is that the procedure of solving industrial disputes when an agreement between workers and employers can not be reached, will be regulated in a separate law.

Then, based on that law, if violation on regulation in ILO Conventions, which has been adopted legally by the Indonesian Government, happens, the police have the authority to enforce the law. It is instructed in Legislation Number 13 Year 2003 on workers, article 182 gives authority to the police or INP officials to investigate criminal actions that are listed in that law. Criminal sanctions to the violation of the law, has give the police the authority to act as it is written on article 183 to 189. On the other hand, if it is related to the workers right to strike, article 143 Legislation Number 13 Year 2003, explicitly says that:

1. “No one can stop workers/labors and their organization to use their right to strike legally, in order and peacefully”
2. “Everyone is forbidden to catch and/or arrest workers/labors and the officials of their organization who perform strike legally, in order, and peacefully in accord to the valid laws.

But, the right to strike has to be used in accord to the valid regulation, That is based on article 137 Legislation Number 13/2003, it has to be conducted legally, in order, and peacefully; according to article 138 (1) by not violating the law; according to article 139 by not disturbing public interest and/or endangering the safety of others.

The problem of implementing Legislation Number 13/2003 is that in the procedure of solving industrial disputes, in accord to article 136 it will be regulated in an independent law, that is still formulated. For that reason, in solving industrial disputes they still use Legislation Number 22 Year 1957 that gives much broader role to the government. And, this procedure is also opposed by the workers and employers (Quinn, 2003: 32-36).



In relation to police role in keeping peace and order and also enforcing law, Law Number 2 Year 2002 on Indonesia National Police in article 2 confirms “police function is one of the government functions in keeping peace and community order, enforcing law, protecting and giving public service”. The ILO conventions basically are assurance of human rights that related to work, then article 4 Law Number 2 Year 2003 is also conducive to the implementation of those ILO conventions. Those 4 articles, define that: “The objective of Indonesian National Police is to create peace and community order in home country, which consists of maintaining peace and community order, Law abiding and enforcement, and the implementation of protection, and public service, and also community safety by upholding human rights”.

In order to give guidance for police officers in Regional Level, Police Resort, and Precinct Level on September 30 1998, three books on Police Operational Management Manual were published, they are:

1. Police Operational Management Manual in Regional Level
2. Police Operational Management Manual in Resort Level
3. Police Operational Management Manual in Precinct Level.

Basically, the arrangement and content of those books are the same, which on industrial relation aspect put workers problem such as the existence of poor workers and workers’ dismissal as a form of “criminogenic correlative factor” which means “a condition and situation if seen through the aspects of *Astagatra* (Geography, Demography, Natural Resources, Ideology, Politic, Economy, Socio Cultural and also Security and Defense) will affect the emergence of public order and security disturbance especially criminality”. In those books the problem of industrial dispute is still seen in the dimension of public order and security disturbance and not as a problem related to fundamental principles and rights at work.

In 2001, INP published International Human Right Standard for Law Enforcement Agent, as a supplement for the publication on Law Number 39 Year 1999 on Human Right and Law Number 26 Year 2000 on Human Right’s Court, that basically composed on the base of “A



compilation of International Instruments, volume 1 (2 parts) from “Universal Instruments” as U.N publication Number E.94.XIV.1. It will be useful for police officers as their modality in handling industrial dispute cases, if compilation of these publication is disseminated for all police officers and if they can absorb and understand its content.

## **The police institutional ability in maintaining law and order in industrial disputes**

The INP is an organization with national scale, then the structure of INP Organization begins with INP Head quarter (Markas Besar Kepolisian Republik Indonesia). At every province they form POLDA (Kepolisian Daerah). But sometimes, instead of forming POLDA, they form POLWIL (Kepolisian Wilayah), which in INP Organization is the rank below POLDA. The POLWIL is responsible for coordinating some organizations below them. Those organizations are formed in regency or city area, they are called POLRES (Kepolisian Resor).

Additionally, the POLDA doesn't always have POLWIL in their jurisdiction, for example POLDA Metropolitan Jakarta Raya. Below the level of POLRES organization, the smallest organization in INP exists; namely POLSEK. POLSEK's jurisdiction is an area equal to sub-district. The structure of INP Organization is formed based on area jurisdiction, which shows that the lowest rank in INP is POLSEK. POLSEK is under the control of POLRES. Operationally, POLSEK is POLRES' First Line Enforcement Unit. To understand the statement, we can analyze the chart of structure of POLRES' organization

From the organizational structure, we can see that the First Line Enforcement Unit, which is led by the Chief of Unit, is supported by the POLSEK that is responsible for crime scene area. Polsek's functions are:

Unit Intelijen dan Pengamanan (Police Intelligence and Security Unit) has the function of securing and spying. The spying unit, is responsible for doing spying action such as early warning and identifying source of threatens and also security and order distraction, especially in relation to criminal actions. The Security Unit in Police, is responsible for securing INP, either securing the personnel, material, information, or others threats from outside or inside the INP, or securing the code of INP.



Unit Reserse (Criminal Investigation) has the function of searching and finding criminals to be processed based on the valid law. That way, this unit emphasizes a repressive function in enforcing the law. This unit has the authority to conduct investigation, summoning, arresting, observing, and searching on evidence, confiscating materials and imprisoning people.

Unit Samapta Bhayangkara/Sabhara (Police Patrol) is responsible for preventing the occurrence of criminal actions. This activity consists of patrolling, arranging, protecting, and guarding, with the objective to reduce or diminish the occurrence of criminal actions. This unit is available for 24 hours.

Unit Binamitra (Community Policing), in the structure of INP, the function of Binamitra is to support implementer. This unit is known as Public Guidance Unit, the duty of this unit is to improve public security and order, protect, improve, serve, and guide the community. The guidance activities consist of improving community self-will security and order, either in residence, trading, or industrial area.

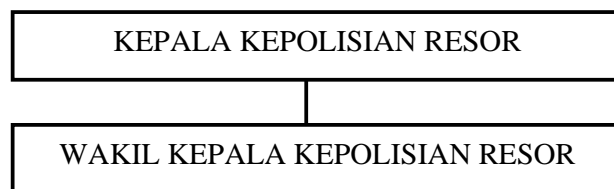
Aside from the structure above, there is a functional unit in INP, which is known as Automobile Brigade (Brigade Mobil), their function is to implement the function of preventing crime and guiding the community (patrol and prevent crime) and also giving sanction. Brimob is presented if high-intensity and emergency-conflict- such as mass quarrels or mass accident- that needs help is hard to reach.

Based on the operational structure of INP, in order to implement the function of ensuring fundamental principles and rights at work, the main operational functions is thus related to the function of “Unit of Satuan Bhayangkara”, whose main duty is to prevent crime through patrol activity, secure, and guarding 24 hours a day. But in the occasion of chaos, Brigade Mobil, that has special ability in controlling chaos, will support the function of Sahara. Moreover, the function of preventing crime that is implemented by Sahara Team will work more effectively if supported by information, which is provided by secret agent, on the possibilities of chaos in an industrial dispute case. That information is very useful for Sahara Team. That way they can act pro actively. In order to implement early preventive action,



which is creating conducive situation for the parties that involve in the conflict, they need to be supported by Bonaire Unit. But, the function of Bonaire in handling industrial dispute has to be implemented through the dissemination of regulation on labor related sector in neutral manner, without the preference on protecting one to another i.e. employer, as happened in the old days. If a violation on criminal law happens as an impact of industrial dispute, then the Reserve has to implement their function to gather evidence and put the suspect in the legal process.

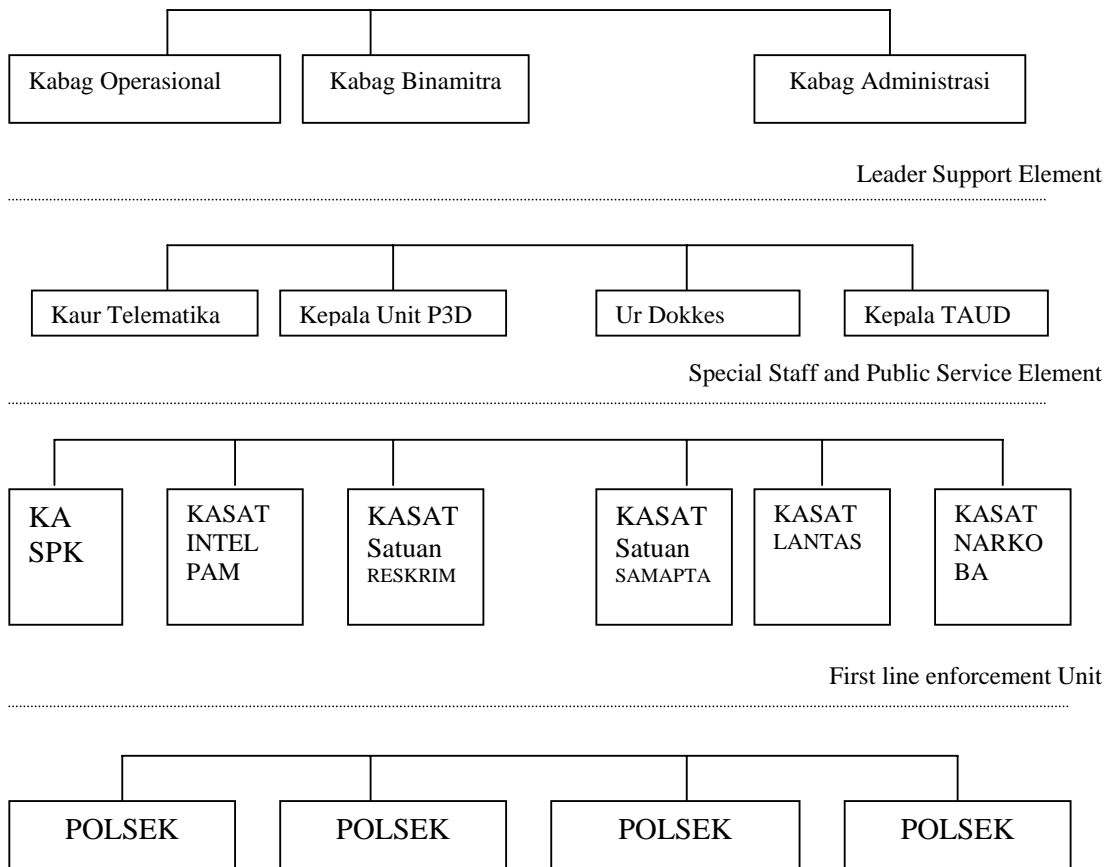
**The Chart of Structure of POLRES Organization:**



Leader element

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## Conclusion

To sum up the description and analysis above, we can conclude that even though the INP operational approach in handling industrial dispute has changed from security approach to civilian approach, the change is still at the policy level. To implement the policy into daily operational pattern, the INP still needs to disseminate their policy to its every members.

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