

## The Effect of Political Law on the Development of the Police of the Republic of Indonesia

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### Abstract

*As an independent country and has sovereignty, Indonesia is certainly equipped with security functions, both military (TNI) and law enforcement (Polri). The two of them used to be united in one institution called ABRI (Indonesian Armed Forces), the institution was led by the Minister of Defense and Security as well as the Commander of the Armed Forces, after the Suharto leadership stepped down, there was a separation between the TNI, both land, sea and air forces and the Police. Of course, there were many factors that influenced the separation of the two institutions, one of which was related to the legal politics that occurred at that time, the transfer of top leadership gave different policies and views on an institution and other state apparatus. The National Police itself has experienced changes from time to time, starting from the style of law enforcement, authority, to the vision and mission of the Police. The presence of the study of legal politics provides a new color and understanding in seeing law as a product of political power resulting from a long process, both negotiation and contestation of interests that work through the process of law formation.*

### Keywords

*Polri; politics of law; transformation*



### I. Introduction

Law and Politics are like two different sides of a coin but cannot be separated (interrelated). Because without legal politics, it becomes paralyzed, while without law, of course there will be chaos in the life of the state and society. Maybe we often hear how the law is assumed as a product or political tool and this becomes real as the law can be formed from a political process. Political law itself can be defined as the basis or method for making and implementing laws in order to achieve the goals of the nation and state, where in achieving these goals, the law is used as a process as well as an instrument.

"Law as a political product" is a reality where every legal product is the fruit of a political decision, so it can be seen as a crystallization of interacting political considerations among politicians. Ideally, when viewed from the point of view of norms and rules in normative political reality, they must obey and operate in accordance with the legal provisions of "Das Sollen", but the fact is that in reality the law is often determined by the political configuration that lies behind "Das Sein". So what happens is that the instrumental function of law is actually more felt as a means of political power than other legal functions. If the making of "legislative" laws is very influential in the formulation of laws, then political political decisions will take precedence over the meaning of the law itself or determine law without politics. So that in the end the legal products that are made are only used as a justification tool for the political visions and missions of the authorities.

Legal politics is part of legal science that examines changes that must be made in applicable law in order to meet the demands of people's lives; thus, legal politics discusses

the direction of development of a legal system. There are two scopes in legal politics, namely building the applicable law (*ius constitutum*) and the aspired law (*ius constituendum*) both of which cannot be separated from the political process. The influence of the political process in the legal realm seems to have had an impact on the force of law in Indonesia. We can see this incident from the fact that throughout the history of law in Indonesia, the implementation and enforcement of the law has not always been in line with its structural development. Development is a systematic and continuous effort made to realize something that is aspired. Development is a change towards improvement. Changes towards improvement require the mobilization of all human resources and reason to realize what is aspired. In addition, development is also very dependent on the availability of natural resource wealth. The availability of natural resources is one of the keys to economic growth in an area. (Shah, M. et al. 2020). In this case, politics also seems to have an influence on the nature of the police institution from time to time through applicable legal products.

Mahfud MD offers a legal political scheme by differentiating the political configuration and character of legal products. Political configuration represents a structure, political ideology and political system of a particular country depending on the political system adopted. For example, at the beginning of independence with a political configuration of liberal democracy with characteristics of civil liberties, people's participation and also the rule of law, a law with a responsive character will be formed. Meanwhile, during the New Order era with an authoritarian political system, the legal characteristics were more orthodox and conservative.

It is these characteristics of the law that govern Polri's institutions and ultimately affect the nature of these institutions from time to time. The existence of a transfer or change of head of state is also very influential for the change and growth of the Polri institution, especially the President of Indonesia has the title as the supreme commander of the armed forces, both Polri and TNI. The presence of this institution is actually protected and guaranteed by the constitution. The constitutional guarantee has a strong influence and has serious consequences for the state's lifestyle, especially in terms of security and law enforcement.

## **II. Research Method**

The author uses nofmativ research methods and data collection techniques with literature studies, namely by collecting information relevant to the topic or problem that is the object of research through books, scientific journals, literatures and other publications that are worthy of being used as sources for research that is appropriate. the author will examine, especially the author tries to see the existence of legal politics from time to time through the history of the development of the police in each presidential leadership.

## **III. Result and Discussion**

### **3.1 Police as Law Enforcers**

The existence of the police in any country is always related to the dynamics of social and political change, which will have an impact on changes in the values, orientation, and behavior of the police. The police are a uniformed army but civil in uniform, Satjipto Raharjo explained that the ideal measure of a police officer is when the police fit into the community. With this principle, the community expects the existence of a police officer

who is compatible with the community, which has undergone a change from the previous “antagonist” to become a “protagonist” police officer.

As law enforcers and stakeholders in law enforcement, the concept of the civil police is very appropriate and related to the principles of the democratic system, namely that law enforcement exists so that the state upholds the rule of law, and therefore the role of the police is very important in maintaining the consistency of the law so that create a good democratic system.

Seeing how important the role of the police is in a country, the functions and duties of the police have actually carried a heavy duty as law enforcement, the police are also a reflection of the laws of a country. Satjipto Raharjo said that the duties of the police in the legal field should be investigated through a sociological mode. Then from there will be seen ambivalence in the task of the police, this appears in the form of various manifestations, but both show how complex the world is. When observed, there are always “hidden”, “visible”, “official” aspects in the police world. From a sociological perspective, it can be said that police work must be based on regulations, where the regulations are arranged in a general formula so that they are abstract enough to be carried out just like that. Often the police have to interpret first, and it can be said that the police embody the law through behavior, this behavior has no regulatory standards and becomes a weapon for the police to face the harsh realities in society.

### **3.3. The Influence of Legal Politics on the Police through Developments From Time to Time**

#### **a. Pre-Independence Period**

In the pre-independence period, namely during the Dutch and Japanese governments, of course there were not many political elements in this institution, because the spirit of fighting and getting out of colonialism as an independent nation was certainly greater than anything else. In the Dutch government the security forces were formed and started as guard troops who recruited indigenous people (a term to distinguish native Indonesians from Dutch people) to guard the assets and wealth of the Dutch East Indies at that time.

The provision of education classes to the police has existed since the Dutch era, the terms used at that time were Hood Agent (Nintel), Inspector van Politie and Commisaris Van Politie. For the natives themselves, during their time as a police agent, positions such as police officer, assistant wedana, and police officer were created. The formation of a modern police force around 1897-1920 is what will later become the forerunner of the birth of the Indonesian National Police as it is today.

Moehammad Jasin explained that the condition of the police at that time was in very difficult conditions in Hooft Agent van Politie's education, for example, Dutch police cadres treated indigenous people at that time as colonized and very outside of humanity, the only thing that became the grip at that time was the spirit of nationalism. which stimulates not to receive discriminatory treatment, education in Hooft Agent van Politie has two classes each consisting of classes A and B, class A for Dutch and Indo people, while class B is for people or students from Bumiputera. Education is taken within 9 months, and students are given an allowance of 70 Guilders a month.

As previously explained above the police in the pre-independence era were still thick with the spirit and breath of struggle, each party at that time was fighting as a new citizen when Japan declared unconditional surrender to the allies in 1945 and Soekarno and Mohammad Hatta immediately proclaimed Indonesia's independence.

### **3.4 Police in the Era of President Soekarno's Leadership**

Initially, the Indonesian National Police were within the Ministry of Home Affairs under the name of the State Police Department whose responsibilities were only related to administration, while operational matters were under the attorney general's role as the responsibility holder. On July 1, 1946, a government decree was issued explaining the position of a separate police force under the leadership of the Prime Minister. July 1 was then marked and commemorated as Bhayangkara day to this day.

As we know that at that time Indonesia underwent several changes in the shape of the country, during the Presidential Cabinet its position was determined, which was led directly by the President and Vice President as Prime Minister and Deputy Prime Minister. Then after the Round Table Conference (KMB) was held in 1949 the United States of Indonesia (RIS) was formed and at that time R.S Sukanto was officially appointed as Head of the RIS State Police Department with R. Sumanto as his representative, and based in Yogyakarta. The formation of the RIS has an impact on changes in the body of the Police, namely the position of the police in police political policy is under the prime minister through the attorney general, while the duties of the Ministry of Home Affairs are only related to administrative development issues.

It should be noted that in the era of President Soekarno's leadership the police were divided into organizations, each of which was in a state because Indonesia had changed its form into a union state. The age of the RIS it did not last long, only a few months before the Unitary State of the Republic of Indonesia was born. Just before that, President Soekarno issued a regulation that merged the police organization into one position which was led centrally in both the field of police tactics and administration, and organizationally within the Indonesian Police Service.

With the birth of the unitary state on August 17, 1950, the head of the police force remained with Soekanto and remained responsible to the prime minister or president. The position of the police office was moved to Jakarta and Soekanto also had plans to build a separate office on Trunojoyo 3 Street, Kebayoran Baru, South Jakarta, under the name of the Indonesian National Police Headquarters, which was transformed into the Police Headquarters until now, and became the grandest office building after the Presidential Palace. Country. Until this period, the police had a separate status between civilians and the military, which had their own organization and salaries.

The changing conditions and the intense political turmoil at that time greatly affected the National Police in the growth of the institution. It is undeniable that in the era of President Soekarno, the police were still in a premature condition so that policies, ideas and ideas were needed to make this one institution as big as it is today. Political conditions and circumstances at that time influenced Sukarno's decisions about the National Police, as in the example above that when Indonesia was a union, the police were spread out according to each state, but some parties realized that the form of a federal state through the United Republic of Indonesia was strongly influenced by the Dutch then Soekarno realized that this method could not be adopted in Indonesia, so that it turned into a unitary state with the 1950 Constitution as the legal basis for parliamentary government. The police were also decided to be in one command and one leadership.

### **3.5 Police in the Era of President Soeharto (New Order)**

The shift in leadership from President Soekarno to Suharto caused a polemic about the coup through the supersemar (order on the eleventh of March) and the case of the September 30th movement (G 30 SPKI). The conditions during Suharto's tenure were still filled with the assumption that there were supporters and sympathizers from the Polri

institution who were not happy with their position after the army. Because at that time the position of the National Police was declared as the fourth force in ABRI who was carrying out the task of the fourth dimension, namely KAMTIBNAS in government policy in the field of Defense and Security. Then in August 1967 a Presidential Decree was issued again explaining that ABRI is part of the Ministry of Defense and Security which includes the Army, Navy, Air Force and AK, each of which is led by a Commander in Chief and is responsible to the MENHANKAM/PANGAB.

There were many triggers that made the National Police as a "differentiated" institution within ABRI during the Soeharto (new order) leadership, one of which was when there was a clash between the Pioneer Regiment (Menpor) and the Army Para Command Regiment (RPKAD) which has now become the Special Forces Command (KOPASSUS). ), in 1968 an oplet driver brought passengers who had been shot and killed to the headquarters of the paramilitary forces of the Police Force in Kelapa Dua, Depok. Before finally fainting, the driver explained that the passenger, who turned out to be a police paramilitary force, was shot at close range by the Para Commando Regiment. Hearing this confession, the Deputy Commander of the Menpor, Adjunct Senior Commissioner of Police Soetrisno reacted, and ordered an attack on the RPKAD headquarters. As one of the elite units, the Menpor has complete equipment, armed with an AR-15 assault rifle, the unit finally left for the RPKAD headquarters. But after arriving there, the base was empty, and Soetrisno's troops held out until morning, before finally the Commander of the Greater Jakarta Kodam Major General Amirmachmud came in a tank and asked the Menpor troops to withdraw. The atmosphere finally subsided when Anton Soejarwo, who is currently the head of their regiment, ordered them to disperse so that casualties could be avoided. In this case, Dading (Kalbuadi) was asked to settle with Anton Soedjarwo because they are old friends.

In fact, Brimob and the Pioneer Troops often together with the Army carried out operations to crush the rebels. Although their number is less than AD, they are not afraid at all. Because of the courage and ability of these troops, they were considered potential opponents if Soekarno's camp could not be invited to cooperate to follow the wishes of the Suharto camp. The only way to fight "Sukarnois" in the police force is to reduce the strength of the troops. In 1968, after Soejipto Joedodihardjo was replaced, Brimob was still there but reduced, and the Pioneer Regiment was disbanded.

From the series of events and decisions of Suharto, it is very clear that the influence of Suharto's political interests tried to crush every opponent or the seeds of rebellion that occurred in his leadership, Suharto's background from the military made a difference between the Police and the Army, who at that time were still members of ABRI. During Suharto's leadership, many TNI generals held important positions in the government, who were referred to as Suharto's "eyes and ears".

### **3.6 Police in the Reformation Era and Up to the Present**

With the increasing years and changing times, the development of science and knowledge is also increasingly rapid. In addition, people's needs for protection and security are also constantly changing and becoming increasingly important in line with the achievement of national goals. Therefore, the presence of law enforcement officers is very important. Pancasila and the 1945 Constitution have paid attention to this matter by taking into account and guaranteeing certainty, order, law enforcement and protection as well as to strengthen the implementation of the development of public security and public peace in a self-reliant community security and order system with the core of the Indonesian National Police as a professional state law enforcement tool. . So this basis was used as the

basis for consideration of the issuance of Law No. 28 of 1997 concerning the Indonesian National Police a year before Suharto stepped down from office.

The existence of Law No. 28 of 1997 has at least contained a fairly complete set of rules for the police in order to provide independence and professionalism to the scope of work which provides a projection of the difference between the police and the military. However, the political atmosphere is still not conducive to the existence of a national defense and security doctrine and the enactment of the Subversion Law still leaves Suharto's leadership style which has an authoritarian political configuration.

The 2001 MPR-RI session demanded the independence of law enforcement officers coupled with professionalism, so that the National Police were expected not to be influenced by political interests and other forms of power. With the enactment of the Indonesian National Police Law No. 2 of 2002 which replaced Law No. 28 of 1997 into a new paradigm in the police force, the National Police must be independent and free from the influence of political power.

Responding to these ideals and hopes, the National Police made improvements in order to prioritize the Civilian Police who are close to the community. With the separation of this structure, it is hoped that the National Police will be able to appear in a more professional performance and leave their military characteristics behind. Thus the Police can focus more on its function as law enforcement.

The change in Polri's doctrine also shows a change from a philosophical point of view, in the past the doctrine used was Sapta Marga, because the police are still part of ABRI, this is part of the military. Changes made by embedding Tribrata and Catur Prasetya, which are specifically as follows:

Police TriBrata:

Old Concept:

1. Rastra Rent Kotama, the main servant of Nusa and the Nation
2. Nagara Yanottama, exemplary citizen of the State
3. Yana Anusyasana Dharma, Obligation to maintain personal order from the people.

New Concept:

1. Be devoted to the Nusa and the Nation with full devotion to God Almighty.
2. Upholding truth, justice and humanity in upholding the laws of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution.
3. Always protecting, nurturing and serving the community with sincerity to create security and order.

Chess Prasetya:

As a Bhayangkara Person, my honor is to sacrifice for the sake of the people of the nation and the state, to:

1. Keeping All Forms of Security Intrusion
2. Maintaining the Safety of Life, Property and Human Rights
3. Guaranteeing Certainty Based on the Law
4. Maintaining Feelings of Tranquility and Peace

Lastly, in the era of President Jokowi's leadership, the Police are currently growing and have more dynamic space to develop and organize their institutions for the better. The National Police must interpret the challenges to institutions, realize and ensure Indonesian Legal Politics and Indonesian Security Politics. In order to fulfill the President's "Indonesia Forward" program, the National Police continue to make their best efforts to achieve this goal. President Jokowi has appointed Police General Listyo Sigit as National Police Chief in order to advance the National Police institution, which currently the National Police Chief has carried out the Precision Police program which is a police concept that is

predictive, responsible, transparent, and fair so as to make the services of the police more integrated, modern, and efficient easy, and fast.

#### IV. Conclusion

From what has been described above, it can be concluded that the Science of Political Law is a very important study to be understood and used for everyone to be able to see and examine in more depth about legal products. Currently, law enforcement policies are still based on legal sources and applicable laws and regulations. The long series of regulations issued from time to time against the National Police have an influence in their space of movement, position, and independence. Law number 2 of 2002 has so far been able to guarantee and regulate other forms of policing, even though there are still challenges and obstacles that come from various parties who have interests, as well as political intervention in implementing the law.

Then based on what has happened through the long history of the police, we can see and understand that the forms of policing can be reflected through the leader's way of making political decisions and attitudes (Political Will). Police behavior, because of its dynamic characteristics. Every law issued always has a close relationship with the living conditions of the people at that time. Therefore, every rule of law issued through a person's right to political office must be accompanied by morality and enthusiasm to realize state administration in accordance with Pancasila and the 1945 Constitution.

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