

Differences in Authority Between Satpol PP and Polri in Creating General Order

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The purpose of this study is to analyse firstly, differences in law enforcement authority between Satpol PP and Polri in creating public order and peace of society. Secondly, differences in law enforcement authority between Satpol PP and Polri can cause overlap in their implementation. The research method used is normative juridical legal research using a statutory, conceptual, and comparative approach. The results showed first, differences in law enforcement authority between Satpol PP and Polri in creating public order and peace of society is if Satpol PP has the authority to maintain public order, while the National Police is more concerned with maintaining domestic security; Secondly, in carrying out their duties the Satpol PP often overlaps and clashes with other law enforcers, especially the National Police. It cannot be denied that it often happens that the National Police finally have to become a "fire brigade" when in carrying out their duties the Satpol PP finally has to clash with the community which then leads to an anarchic situation. When in situations that could lead to further disturbance in security and public order, the National Police finally intervene. What often happened was that the National Police collided with the community because of the anarchist situation that had developed too far.

Keywords: *Authority, Satpol PP, Polri, Order, Security.*

PRELIMINARY

The provisions of Article 18 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) regulates that provincial, regency and city regional governments regulate and administer their own government affairs according to the principle of autonomy and co-administration. Hereafter Article 18 paragraph (5) The 1945 Constitution of the Republic of Indonesia

regulates that Regional Governments exercise autonomy to the broadest possible extent, except for governmental affairs which by law are determined as central affairs. In the context of carrying out autonomy and assistance tasks, regional governments are given the right by Article 18 paragraph (6) of the 1945 Constitution of the Republic of Indonesia to establish Regional Regulations (Perda) and other regulations.

Regional regulation is a form of legal product of Regional Government in the framework of carrying out Regional Government affairs based on the principle of autonomy and duty of assistance. A Regional Regulation, in substance can contain provisions including: first, concerning matters related to the principle of autonomy; and second, matters related to co-administration. Matters related to the principle of autonomy refer to all government affairs that have been decentralised, so that the implementation of a government affair has a fairly high degree of independence based on its own initiative in accordance with the aspirations of the local community. Perda as a manifestation of autonomy is more visible as an independent system. Matters related to co-administration tasks contain provisions that are implementing regulations from the provisions of legislation which are of a higher degree, but these provisions are technically still adjusted to the conditions of the local community. The sorting of content of the Perda is based on the principle of autonomy and the task of co-administration simply makes it easier to analyse, because after all the existence of the Perda is a subsystem of national laws.

Provisions in Perda may contain a criminal threat of maximum confinement of six months and a maximum fine of Rp.50,000,000.00 (fifty million rupiah). Not surprisingly, in practice there are many Perda that contain criminal threats as mentioned above, such as Perda on public order, Perda on the prohibition of prostitution, Perda on the prohibition of gambling, Perda on decency about the prohibition on liquor and others. These aspects, in general have actually been regulated in the third book of the Criminal Law Act (hereinafter referred to as the Criminal Code) concerning violations, but in general the provisions contained therein are quite behind the current developments. Like for example, the emphasis contained in maintaining peace and order but still not comprehensive illustrates what describes peace and public order, such as for example only looking at the problem of controlling street vendors and controlling billboards. Implementation of public order and peace of society is actually a matter of government. The matter was then decentralised to autonomous regions as regulated in Article 65 paragraph (1) letter b of Law Number 23 of 2014 concerning Regional Government (hereinafter referred to as Law No. 23 of 2014). As a decentralised affair, it is possible for the regions to independently manage the technical implementation of the affairs. The legal form of the implementation of centralised affairs is regulated further in a Regional Regulation. In order to uphold public order and public peace, it is not uncommon for Perda to impose sanctions both administrative and criminal. The imposition of criminal sanctions for local regulations requires professional staff as law enforcers and tactically becomes part of the regional government structure. This raises a separate dilemma between the authority of the administration of public order and the peace

of society which is the matter of regional government on one hand but on the other hand the appointment and formation of investigators is included in the scope of central government affairs in the field of justice.

Based on the obligations held by the Regional Government based on Law no. 23 of 2014 and the main tasks inherent in the police make the two institutions partners in the implementation of peace and order of the people in the area. In the implementation of fostering security and public order, it is necessary to have an integrated concept between the Regional Government and the police in the region. This is in accordance with Sadjjono's opinion that the formulation of a Perda relating to the obligations and main tasks involving two institutions / agencies is needed, so that it has a binding legal force, is sustainable and there is no conflict with one another in order to realise the State's aspirations in guaranteeing the fulfillment of rights Indonesian citizens.

In a study conducted by the Imparsial Team, it was found that the Satpol PP was an extension of the political interests of regional heads who often collaborated with capital and other interests under the pretext of controlling and evicting projects. In the notes presented to the media, there are three reasons which he said deserve to be the basis for the dissolution of Satpol PP. The three reasons are, first, the Satpol PP militaristic nature which cannot be eliminated because it has been inherited as part of the spirit of the Satpol PP corps. With very low professional ability and very loose regulations, the future will grow only in a militaristic character. Second, the existence of Satpol PP overlaps with the duties of the police who also carry out Satpol PP functions. The function of providing security must be returned to the police, not only on a national scale but up to the corner of Indonesia. And third, the existence of Satpol PP also overlaps the authority of law enforcement. The function of law enforcement in the government environment should be carried out by the National Police and specialised institutions such as civil servant investigators. Of course the reasons put forward by the Imparsial Team still need to be explored further. But at least the empirical facts about the acts of violence committed by Satpol PP have become an indication for us all that there is something wrong in the use of Satpol PP in order to become a means towards prosperity for the community. As an official in charge of enforcing regional regulations, it is clear that the Satpol PP must carry out the functions of the general government whose purpose is to lead to conditions that enable citizens to take part in activities, so that efforts to achieve prosperity and improve the quality of life can be achieved.

The authority of Satpol PP is mandated in Article 256 of Law No. 23 of 2014 which regulates that Satpol PP was formed to uphold Regional Regulations and Regional head Regulations, conduct public order and peace and conduct community protection. This provision is emphasised in Article 1 number 1 and Article 1 number 2 PP No. 16 of 2018. Article 1 number 1 PP No. 16 of 2018 mentions the Civil Service Police Unit, hereinafter referred to as Satpol PP, is a regional apparatus established to enforce Regional Regulations and Regional Head

Regulations, conduct public order and peace, and carry out community protection. Article 1 number 2 PP No. 16 of 2018 regulates the Civil Service Police hereinafter referred to as Pol PP is a member of the Satpol PP as a Regional Government apparatus occupied by civil servants and given the duties, responsibilities, and authorities in accordance with statutory regulations in enforcement of Regional Regulations and Regional Head Regulations, implementation of public order and peace and community protection.

Based on the description above it can be concluded that in accordance with the mandate of Law No. 23 of 2014 that firmly states that the authority possessed by Satpol PP is as a regional law enforcer, creating public order and peace and community protection while the National Police according to Law Number 2 of 2002 challenge the Indonesian National Police (hereinafter referred to as Law No. 2 of 2002) has a state government function in the field of maintaining security and public order, law enforcement, protection, protection and service to the community (das sollen). However, in reality (das sein) there are apparatuses that create public order and peace and protection of the people outside Satpol PP and Polri namely the Security Guard (Security Unit), Kamra (Hansip) and patrollers form what is referred to as surveillance. Based on the gap / gap between das sollen and das sein mentioned above, the researcher is interested in examining the differences in the authority of law enforcement between Satpol PP and Polri in creating public order and public peace.

Formulation of the Problem

The formulation of the problem in this study is as follows: first, how is the difference in the authority of law enforcement between Satpol PP and Polri in creating public order and public peace? Second, how can the difference in the authority of law enforcement between Satpol PP and Polri cause overlapping in its implementation ?.

Research purposes

The purpose of this study is to analyse: first, the difference in law enforcement authority between Satpol PP and Polri in creating public order and public peace; and secondly, differences in law enforcement authority between Satpol PP and Polri can cause overlap in their implementation.

Research methods

This research uses normative legal research with the statute approach and the comparative approach. The legislative approach is carried out by examining all laws and regulations relating to the problems (legal issues) being faced. A comparative approach is used because the study compares the regulatory authority of Satpol PP and the authority of the National Police in creating public order and public order. Views / doctrines will clarify ideas by providing legal

understandings, legal concepts, and legal principles that are relevant to the problem. Data and legal materials used refer to secondary data that includes primary legal materials, consisting of various statutory regulations, jurisprudence, and conventions related to the authority of Satpol PP, as well as secondary and tertiary legal materials. However, to find out the developments that occur in differences in law enforcement authority between Satpol PP and Polri in creating public order and public peace, this study also uses primary data, ie data obtained directly from respondents or informants related to differences in law enforcement authority between Satpol PP and Polri in creating public order and peace of society.

Data collection is done by searching literature (library research), both extensively and intensively. Literature research aims to examine, research, and trace secondary data, in the form of legal materials. Legal materials are normative-perspective, mainly used to study legal issues related to the substance of positive legal regulations (*ius constitutum*) which regulate the authority of Satpol PP and Polri. Based on their binding strength they are classified as primary legal materials, secondary legal materials and materials tertiary law. The data analysis technique used is a juridical analysis that is analysis based on theories, concepts and legislation.

Research Results and Discussion

The Authority of Satpol PP in Creating Public Order and Peace in the Community

The Satpol PP and Polri authorities will be discussed here. One of the regional government apparatuses that aims to assist regional heads in enforcing Regional Regulations and implementing public order and peace of society is Satpol PP. Basically, the formation of the Satpol PP was born from several provisions contained in Article 256 of Law No. 23 of 2014, and more specifically the existence of this Satpol PP is accommodated in Government Regulation Number 16 of 2018 concerning the Civil Service Police Unit (hereinafter referred to as PP No. 16 of 2018).

Satpol PP as a regional apparatus has a very strategic role in strengthening regional autonomy and public services in the regions. To guarantee the implementation of Satpol PP's duties in the enforcement of Regional Regulations and Regional Regulation, the implementation of public order and peace and community protection needs to be improved, both in terms of institutional and human resources. In addition, the existence of Satpol PP in the administration of regional governments is expected to help legal certainty and facilitate the development process in the regions.

The authority of Satpol PP is regulated in Article 7 PP No. 16 of 2018 which mentions in carrying out its duties and functions, Satpol PP is authorised to:

- a. Conducting disciplinary measures against members of the community, apparatus, or legal entities that violate local laws and / or local regulations;
- b. Acting on a community member, apparatus or legal entity that disturbs public order and public order;
- c. Carry out investigative actions against members of the public, apparatus or legal entity suspected of violating the Regional Regulations and / or Regional Regulations; and
- d. Carry out administrative actions against members of the community, apparatus or legal entities that violate the Regional Regulations and / or Regional Regulations.

Based on the aforementioned provisions, it can be said that the Satpol PP's authority, among others, is to enforce Regional Regulations and Regional Head Regulations, conduct public order and peace and conduct community protection. Legitimate authority when viewed from where that authority is obtained according to F.A. M. Stroink and J.G. Steenbeek, it can be seen in two sources of authority, namely attributive authority and delegative authority. Both ways the government organs in obtaining authority are used as a basis or theory to analyse the authority of the state apparatus in carrying out its authority. Attributive authority is usually outlined or derived from the distribution of state power by the 1945 Constitution of the Republic of Indonesia usually in connection with the transfer of new authority. Whereas delegative authority is authority originating from the delegation of a government organ to another organ on the basis of statutory regulations and concerning the delegation of existing authority (by an organ that has gained attributive authority to another organ, so logically it is always preceded by attribution).

Judging from the source of its authority, the authority possessed by Satpol PP is the authority of the mandate because to maintain the existence of organising public order and peace, as well as organising community protection, the task of the Regional Government is mandated to the Civil Service Police Unit (Satpol PP) in the area concerned.

Meanwhile, the most important Polri authority comes from the provision of Article 30 paragraph (4) of the 1945 Constitution of the Republic of Indonesia which states that the Indonesian National Police as a state instrument that maintains the security and order of the community has the duty to protect, protect, serve the community, and enforce the law. Thus it is clear that the 1945 Constitution of the Republic of Indonesia explicitly mandates that the Indonesian National Police (hereinafter referred to as the National Police) be appointed by the state to provide security guarantees for all Indonesian citizens.

The formulation of Article 30 paragraph (4) of the 1945 Constitution of the Republic of Indonesia above contains two meanings that aside from being an organ in this case as a tool of the State, the police are also seen as functions. The National Police as an organ in this matter as a State institution that plays a role in maintaining security, public order and law enforcement which is institutionally led by the Head of the Indonesian National Police (Kapolri) appointed by the

President on the recommendation of the National Police Commission with the approval of the DPR. The National Police is seen as a meaningful function related to their duties and authority. The National Police as an instrument of the State that functions to maintain the security and order of the people with the duties they have to protect, serve the community, and enforce the law.

Article 2 of Law No. 2 of 2002 stipulates that:

"The function of the police is one of the functions of the state government in the field of maintaining security and public order, law enforcement, protection, protection and service to the community."

The function of the National Police in this article emphasises the governmental functions carried out by the National Police in this matter the administration of the State, where the National Police acts as executor of duties of the executive or the President regarding the maintenance of public order and security.

Article 5 paragraph (1) of Law No. 2 of 2002 emphasised that the Indonesian National Police is a state instrument that plays a role in maintaining security and public order, enforcing the law, and providing protection and services to the public in the context of maintaining domestic security. The Basic Duty of the Indonesian National Police is regulated in Article 13 of Law no. 2 of 2002, namely:

- a. maintain public security and order;
- b. enforce the law; and
- c. provide protection, protection, and service to the community.

In carrying out these basic tasks the National Police of the Republic of Indonesia is tasked with:

- a. implementing arrangements, guarding, escorting, and patrolling community and government activities as needed;
- b. carry out all activities in ensuring the security, order and smooth traffic on the road;
- c. fostering the community to increase community participation, community legal awareness and community adherence to laws and regulations;
- d. participate in the development of national law;
- e. maintain order and guarantee public security;
- f. coordinate, supervise and provide technical assistance to special police, civil service investigators, and forms of self-help security;
- g. carry out investigations and investigations into all criminal acts in accordance with the criminal procedure code and other laws and regulations;
- h. organising police identification, police medicine, forensic laboratories and police psychology for the benefit of police duties;

- i. protect the safety of body and soul, property, community and the environment from disruption of order and / or disaster including providing assistance and assistance by upholding human rights;
- j. serving the interests of the community for a while before being handled by the agency and / or the authorities;
- k. provide services to the community in accordance with their interests within the scope of police duties; and
- l. carry out other tasks in accordance with statutory regulations (Article 14 of Law Number 2 of 2002).

In the context of carrying out its duties, the authority of the National Police in general is regulated in Article 15 of Law no. 2 of 2002 as follows:

- a. receive reports and / or complaints;
- b. help resolve community disputes that can disrupt public order;
- c. prevent and cope with the growth of community diseases;
- d. supervise streams that can cause divisions or threaten national unity and cohesion;
- e. issue police regulations within the scope of administrative authority of the police;
- f. carry out special examinations as part of police actions in the framework of prevention;
- g. take the first action at the scene;
- h. taking fingerprints and other identities and photographing someone;
- i. search for information and evidence;
- j. organising the National Criminal Information Center;
- k. issue licenses and / or certificates needed in the context of community service;
- l. provide security assistance in hearings and implementation of court decisions, activities of other agencies, and community activities;
- m. receive and store findings for the time being.

Based on the description above, it can be concluded that the authority of the National Police originates from the 1945 Constitution of the Republic of Indonesia and Law No. 2 of 2002. The authority of the National Police in terms of security and order obtained from 2 sources like this constitutes the authority obtained through attribution and delegation. Attribution means the granting of a new governmental authority by a provision in the legislation that gives birth to a new authority as stated by Indoharto. More advanced in *Algemene Bepalingen van Administratief Recht (ABAR)*, it is stated that "*van attributie van bevoegdheid is a warden gesproken wanner de wet (in materiele zin) een bepaalde bevoegdheid aan een bepaald orgaan toekent*", meaning: attribution authority is wet when in law (in the material sense) surrendering or giving certain authority to certain organs.

The difference in authority between Satpol PP and Polri mentioned above results in differences in law enforcement authority between Satpol PP and Polri in creating public order and public



peace. As is well known, the implementation of public order and the peace of society often clash on differences in perception. The difference in perception includes actions or behaviours that are considered to violate public order. As one of the differences in perception that occurs between the Police and Satpol PP is based on their respective authority. Sociologically, these differences can lead to social categories. And from this social category begins the birth of different social perceptions between the police and other community members in looking at various issues.

The existence of Satpol PP is part of the law enforcement process as a regional government instrument needed to support the successful implementation of regional autonomy. In carrying out their duties, the authority of Satpol PP often overlaps and clashes with other law enforcers, especially the police. This condition results in friction between the authority of the Police as a centralistic apparatus and the Satpol PP which is an autonomous Regional Government apparatus although the presence of the Satpol PP itself can contribute to helping the police to serve in the field. Satpol PP can also carry out judicial functions, namely the Civil Service Police that meets the requirements can be appointed as a Civil Servant Investigator in accordance with statutory provisions.

In carrying out their duties, Satpol PP often overlaps and clashes with other law enforcers, especially the police. It is undeniable that often the police finally have to become "firefighters" when in carrying out their duties the Satpol PP finally has to clash with the community which then arises an anarchic situation. When in situations that could lead to further disturbance in security and public order, the police finally intervened. What often happens, finally the police clash with the community because of an anarchist situation that has developed too far.

If seen why this overlap occurs, this is due to a clash of "who" has the authority in carrying out a role in maintaining security and public order. In Article 256 of Law No. 23 of 2014 one of the obligations of the Regional Head is to formulate an obligation to maintain public peace and order. On the other hand, the National Police have the main task of maintaining security and public order in accordance with the formulation in Article 13 of Law No. 2 of 2002. Thus, it can be understood that what is the main task of the National Police in the region is also the duty of the Regional Head to carry it out. As long as the concept of maintaining security and order owned by the Regional Head is not in the same vision as the National Police, the collision in the field will have a high probability of continuing. Satpol PP as local government officials often do their work overlapping with the National Police officers who base themselves also on the legal umbrella that shelter them. This condition results in friction between the authority of the police as a centralistic apparatus and the Satpol PP which are autonomous regional government officials.

If you pay attention to the legal basis for Satpol PP there is nothing crucial to question. Because indeed from the history of the founding of this country, the presence of Satpol PP always gives



colour to how bureaucrats run the wheels of government. The presence of Satpol PP was clearly confirmed based on Law No. 23 of 2014. In Article 256 of Law No. 23 of 2014 regulates that Satpol PP is formed to uphold Regional Regulations and Regional Head Regulations, conduct public order and peace and conduct community protection.

Based on the above discussion, it can be concluded that the difference in the authority of Satpol PP and Polri in public order and peace is the Satpol PP has the authority to maintain public order, while the National Police is more concerned with maintaining domestic security.

The term public order according to Yu Un Oppusunggu has a number of different meanings. First, public order in engagement law is a limitation of the principle of freedom of contract. Second, as a key element in "order and welfare, security" (*rust en veiligheid*). Third, as a partner of "good morality" (*goede zeden*). Fourth, as synonyms of "law order" (*rechtsorde*), fifth "justice", sixth, as an understanding in criminal procedural law for the running of a fair trial, and finally the judge's obligation to use the articles of certain legislation.

According to Yu Un Oppusunggu, public order is different from the public interest. Conceptually, public interest means protecting the interests of the wider community or shared interests, which are simultaneously confronted (*vis-à-vis*) with the interests of groups or individuals. The public interest becomes, for example, the basis for displacing or taking part or all of one's land for the purpose of building public facilities and infrastructure. For this purpose the Government can determine the amount of unilateral compensation, in accordance with its financial capabilities. Because the eviction is in the public interest, the evicted party may receive unilateral compensation. In applying public interests there are practical needs of the community. But the public interest is not a basis or excuse \ for the validity of foreign law. Conversely, public order cannot be used as a basis for eviction. The application of public order is a normative and ideal requirement.

Normative juridical references in defining public order and public order are Article 11 PP No. 16 of 2018 which mentions the implementation of public order and peace of society includes the activities of:

- a. early detection and prevention;
- b. guidance and counselling;
- c. patrol;
- d. security;
- e. escort;
- f. control; and
- g. handling demonstrations and mass unrest.



Thus, public order and peace of society is a dynamic situation that allows the Government, Regional Government and the community to carry out their activities in a calm and orderly manner. The conditions of public order and peace occur in dynamic conditions, that is, the community actively carries out community life without pressure. In addition to the community, the Government and Regional Governments can also carry out government work well.

There are 8 (eight) scopes of public order and public order which include, among others:

1. orderly roads, green lanes, sidewalks, parks and other public facilities;
2. orderly rivers, channels, ponds;
3. orderly environment;
4. orderly certain places and businesses;
5. orderly building;
6. social order;
7. orderly health; and
8. orderly places of entertainment and crowds.

The achievement of the eight peace and order can only occur if PP No. 16 of 2018 in its enforcement runs effectively.

Meanwhile, the authority of the National Police to maintain internal security is derived from national security. National security refers to the need to preserve and maintain the existence of the State through economic, military and political as well as diplomatic means. Conventionally the concept of national security emphasises the government's ability to protect the territorial integrity of the State from threats that come from outside and within the State.

National security is a security concept that explains a condition in which the State provides physical protection from external threats and allows the State to be willing and ready to fight. It can also be assumed as an attempt by the State to prevent war, especially through a strategy of building military force that provides deterrent capabilities. In other words, the definition of security is often based on assumptions with the supremacy of military power as a means of protecting the State from outside military threats. Furthermore, the concept of Homeland Security refers to situations or circumstances in which the basic elements that form a country such as sovereignty, territory, population or citizenship, economic base, government and constitutional systems as well as the intrinsic values they hold are guaranteed to exist and can carry out functions according to their objectives without interference or threats from any party.

The concept of Homeland Security is a conception of developing national security through the regulation and implementation of security and welfare (prosperity) that is balanced and harmonious in all aspects of life as a whole, holistically and integrated based on Pancasila, the 1945 Constitution and the Archipelago's Insight. Homeland Security is also essentially a state

of mind of a group of people who are bound in a political entity called the state. But it should be added that the state of mind was not formed by itself but was based on the material basis of national capabilities, namely its military strength supported by other elements of national power. The nature of domestic security is actually an embodiment of comprehensive security. The concept of comprehensive security believes that threats can be addressed not only to the territory of the state and state authorities but also to everything that is directly or indirectly related to human welfare in the country concerned.

Comprehensive security places security as a multi-dimensional concept that requires the state to prepare a variety of security actors to manage it. Conceptualisation of Homeland Security occurs at least in three directions: first, substantial proliferation, especially when national security is not enough to only struggle with state security but must also provide space for citizens' security; second, sectoral proliferation with the inclusion of various non-territorial scopes such as environmental security, economic security and energy security; and third, vertical proliferation with the inclusion of non-military dimensions as something considered a threat to internal security, in the limited sense as the security of government sovereignty and in the broadest sense that prioritises the security of humanity.

Simply put, the objective of managing Homeland Security is fully aimed at protecting the whole nation and all of Indonesia's blood spilled, promoting public welfare, educating the nation's life and participating in carrying out world order as intended in the Preamble to the 1945 Constitution of the Republic of Indonesia. To achieve this goal, Indonesia needs to have a Homeland Security strategy. As Indonesia's strategic environment continues to change, Indonesia must take at least three important actions in its national security strategy, namely: (1) making decisions regarding changes in the external and internal environment; (2) mobilising resources to carry out the decisions that have been taken; (3) applying certain instruments to support the decisions that have been made.

The Domestic Security Strategy to deal with the dynamics of these threats should be prepared by considering the context and escalation of threats, manifestations of conflict, efficiency and effectiveness in the use of national defence and security resources and respect for human values, democracy and human rights. Here, it is important to avoid creating conditions of securitisation and the use of violent means as the last resort.

Differences in Law Enforcement Authority between Satpol PP and Polri Can Cause Overlapping in Implementation

As stated earlier, in carrying out their duties the Satpol PP often overlapped and clashed with other law enforcement agencies, especially the National Police. It cannot be denied that it often happens that the National Police have to become a "fire brigade" when in carrying out their duties the Satpol PP finally has to clash with the community which then leads to an anarchist



situation. When in situations that could lead to further disturbance in security and public order, the Police intervene. What often happened was that the National Police collided with the community because of the anarchist situation that had developed too far.

If you pay attention to the legal basis for Satpol PP there is nothing crucial to question. Because indeed from the history of the founding of this country, the presence of Satpol PP always gives colour to how bureaucrats run the wheels of government. The problem is, according to Law No. 23 of 2014, Satpol PP is part of the regional government, so in carrying out their duties Satpol PP members are directly responsible with the regional head in this case the Regent, Mayor or Governor. With this condition, there is no hierarchical or structural relationship between the Provincial Satpol PP and the Regency or City Satpol PP. In addition, because the basis for the formation of Satpol PP is Regional Regulations, it is very possible that between regencies or cities, there are specifications within the organisation that adjust to the character of the local area.

From a juridical point of view, the existence of Satpol PP is based on Laws, PPs, and Regional Regulations for each region, but in carrying out the tasks, conflicts may arise due to sharp differences in regional characteristics. Another obstacle from the juridical side, although both are called Satpol PP and have the same uniform, there is no authority from the Provincial Satpol PP to intervene to the Regency or City Satpol PP. This will raise issues when Satpol PP members who are also PPNS handle a case of violation of a Perda that must consult with the provincial government. In accordance with the provisions, it could not be done, when there are other interests that are more likely / favour the interests of the region concerned. The problem of enforcing local regulations can become a disruption in government administration, when there is a conflict of interests from each region or with the provincial government.

From the facts, what is most crucial to cause chaotic coordination in carrying out security tasks is the lack of strict rules and regulations that govern the function of public security. The police should have the main task as stated in Law No. 2 of 2002, but apparently also in Law No. 23 of 2014, Satpol PP under the coordination of the Ministry of Home Affairs explicitly has a security function in enforcing local regulations. The context of who manages security then becomes an "overlapping / gray" territory.

In the field it is revealed that patterns of relations between the police and the Regional Government often arise which are often "mis-coordinated" in making decisions about security management, where various institutions that have a policing function have taken the authority of the police in carrying out the security function. The development of Satpol PP functions that have carried out intelligence functions on the basis of Regulation of the Minister of Home Affairs No. 11/2005 on the Regional Intelligence Community (Kominda) shows that the role of Satpol PP in the security and intelligence functions is like a police task. The proposal that



the PP Satpol be armed is also a discourse as a tool for completing work in order to carry out peace and order.

It turns out that the "security cake" in the era of regional autonomy becomes interesting when various security management institutions such as the police and institutions that have the task of policing begin to feel comfortable managing the security sector after the separation of the TNI and Polri. A statement also emerged that a security institution outside the police which has the task of policing might be "more police" than the police institution itself, if explicitly the legislation governing it gives "more" authority in carrying out the security function. In the context of security sector reform, the most important thing is how to seat each institution proportionally, without any hidden interests. However, this is precisely what is difficult to do because these vested interests often become the basis for carrying out strategies in the political interest.

If examined further on how the maintenance of security systems, peace and public order in the Unitary State of the Republic of Indonesia is prepared and organised by the central government which is functionally concentrated to officials in regional government units or centralised to the Autonomous Regional Government, we can understand why the conflict, especially in the duties of the national police aspect can occur. According to Law No. 2 of 2002, the function of organising security, peace and public order is one of the functions of government carried out by the police. While the implementation of security, peace and order development carried out by the police is delegated in stages to the Regional Police up to the Sector Police level.

This mechanism means the police management system must adhere to the national police system. In its implementation, the national police system is considered to be very centralistic. The policy making mechanism in the Polri organisation is still centralised, especially in planning and supervision. While external supervision for now only uses pre-trial mechanisms that tend to be legalistic and formalistic. While the responsibility of kamtibmas is carried out by the National Police not only nationally but also for local issues. In the development of security for the local / regional scope, the police at the regional level automatically must cooperate with the regional government, in this case the provincial and district / city regional governments. This collaboration starts from the planning, implementation to supervision stages carried out by the public.

Referring to legal products that concern the security and order of the community, one of the obligations of the Regional Head is to maintain the peace and order of the people. While the National Police as affirmed in Article 13 of Law no. 2 of 2002 has the main task of maintaining security and public order, enforcing the law, and providing protection, protection and services to the community. Thus there will be problems. What is the main task of the police in maintaining security and public order in the area is also an obligation of the Regional Head to run it. Here lies the intersection point, which is one of the obligations of the Regional Head to



be one of the main tasks of the police, especially in terms of maintaining security and public order.

There are two "versions" of understanding the level of authority in maintaining public order, which in the end often makes the steps of the Satpol PP clash with the police, especially when viewed from a polisional aspect, namely aspects which are the domain of the police. The reason is clear, because the scope of security that is the responsibility of each party will differ in view of national and local security.

Conclusion

Based on the discussion that has been stated above, it can be concluded first, the difference in the authority of law enforcement between Satpol PP and Polri in creating public order and peace of society is if Satpol PP is authorised to maintain public order, while Polri is more concerned with maintaining domestic security. Public order and public tranquillity are dynamic conditions that enable the Government, Regional Government, and the community to carry out their activities peacefully, in an orderly manner. Whereas, the conception of domestic security is the conception of developing national security through the regulation and implementation of security (security) and welfare (security) prosperity) that is balanced and harmonious in all aspects of life as a whole, holistically and integrated based on Pancasila, the 1945 Constitution of the Republic of Indonesia and the Archipelago's Insight. Second, in carrying out their duties the Satpol PP often overlaps and clashes with other law enforcers, especially the National Police.

As for the suggestions that can be made, it is necessary to form a national policy model to maintain public order and public peace and the domestic security system in the framework of preventing the emergence and early detection of national security disorders involving the National Police, Regional Government, c.q. Satpol PP, Indonesian National Army (TNI), National Intelligence Agency (BIN) and other Ministries in an integrated manner. In this model the role of the community must also be a major concern.



Bibliography

Books:

- Ali, Achmad, *Mengenal Teori Hukum (Legal Theory), dan Teori Peradilan (Judicial Prudence), termasuk Interpretasi Undang-Undang (Logis Prudence)*, Kencana Prenada Media Group, Jakarta, 2012.
- Araf, Al, *Dinamika Reformasi Sektor Keamanan*, Jakarta, Imparsial, 2015.
- Atmasasmita, Romli, *Sistem Peradilan Pidana Perspektif Eksistensialisme dan Abolisionisme*, Bina Cipta, Bandung, 2012.
- Bandoro, Bantarto, *Hubungan Luar Negeri Indonesia dan Strategi Keamanan Nasional, dalam Perspektif Baru Keamanan Nasional*, CSIS, Jakarta, 2009.
- Diantha, I Made Pasek, *Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum*, Prenada Media Group, Jakarta, 2017.
- Djamin, Awaloedin, *Kedudukan Kepolisian Negara RI dalam Sistem Ketatanegaraan : Dulu, Kini dan Esok*, PTIK Press, Jakarta, 2012.
- Fachruddin, Irfan, *Pengawasan Peradilan Administrasi terhadap Tindakan Pemerintah*, Alumni, Bandung, 2004.
- Ilmar, Aminuddin, *Hukum Tata Pemerintahan*, Cetakan ke-1, Kencana Prenadamedia Group, Jakarta, 2014.
- Imparsial, *Reformasi Peradilan Militer di Indonesia*, Impersial (Nalar), Pedoman Teknis Administrasi dan Pemeriksaan di Sidang Pengadilan dalam. Lingkungan Peradilan Militer, Jakarta, 2012.
- Jemadu, Aleksius, *Politik Global dalam Teori dan Praktek*, Graha Ilmu, Yogyakarta, 2012.
- Marzuki, Peter Mahmud, *Penelitian Hukum*, Kencana Prenida Media, Jakarta, 2011.
- Mulyadi, H.M. Arief, *Prinsip-Prinsip Negara Kesatuan dan Desentralisasi dalam Negara Republik Indonesia*, Prestasi Putra Karya, Jakarta, 2016.
- Pribadi, Slamet, *Keamanan Dalam Negeri*, Andi, Yogyakarta, 2015.
- Rahardi, Pudi, *Hukum Kepolisian (Profesionalisme dan Reformasi Polri)*, Laksbang Mediatama, Jakarta, 2007.
- Soekanto, Soerjono dan Mamudji, Sri, *Penelitian Hukum Normatif*, Raja Grafindo Persada, Jakarta, 2012.
- Tim Propatria Institute, *Mencari Format Komprehensif Sistem Pertahanan dan Keamanan Negara*, Jakarta, Propatria, 2012.
- Waluyo, Bambang, *Penelitian Hukum Dalam Praktik*, Penerbit Sinar Grafika, Jakarta, 2011.

Papers / Journals:

- Danusastro, Sunarno, "Penyusunan Program Legislasi Daerah", *Jurnal Konstitusi*, Vol. 9 No. 4, MKRI, Jakarta, Desember 2012.
- Fakrulloh, Zudan Arif, "Penegakan Hukum Sebagai Peluang Menciptakan Keadilan", *Jurnal Jurisprudence*, Vol. 2 No. 1, MIH UMS, Surakarta, 2015.



- Hasibuan, Arwin, “Peranan Satuan Polisi Pamong Praja (SATPOL-PP) Dalam Penegakan Peraturan Daerah di Kota Medan”. UMN. Al Washliyah, Medan, 2013, Medan.
- Nalle, Victor Imanuel W, “Studi Sosio-Legal terhadap Ketertiban dan Ketentraman di Kabupaten Sidoarjo”, *Jurnal Hukum dan Pembangunan*, Vol.47, No.3, 2016.
- Oppusunggu, Yu Un, “Pertemuan Ilmu Hukum dan Sosiologi dalam Penerapan Lembaga Ketertiban Umum”, *Law, Society & Development*, Vol. II, No. 3, 2012.
- Poerba, Zakarias dan A. Wahyurudhanto, “Satuan Polisi Pamong Praja (Satpol PP)- Stocktaking of Current Regulatory Framework and Organizational Structure in The Context of The Security Sector Reform and Dezantralization in Indonesia”, GTZ, Jakarta, 2008.
- Putra, Ari Kurniawan, “Studi Kewenangan Pemerintah Daerah Penyidik Pegawai Negeri Sipil (PPNS) Satuan Polisi Pamong Praja di Kabupaten Pelalawan Tahun 2014-2016”, *Jom Fisip*, Vol. 4, No 2, 2017.
- Qamar, Nurul, “Supremasi Hukum dan Penegakan Hukum”, *Jurnal Ilmiah Ishlah*, Vol. 13 No. 2, 2011.
- Sulisdiani, Indah, “Kinerja Satuan Polisi Pamong Praja Dalam Penertiban Pedagang Kaki Lima (PKL) Di Kota Pontianak”. *PMIS-UNTAN-PSIS*, 2012.
- Suryanto, “Penggambaran Permasalahan Penyelenggaraan Otonomi Daerah Dalam Media Cetak; Studi Analisis Wacana Kritis Terhadap Berita-Berita Otonomi Daerah”, *Jurnal Desentralisasi*, Vol. 6 No. 4, Pusat Kajian Kinerja Otonomi Daerah Lembaga Administrasi Negara, Jakarta, 2010.
- Ullman, Richard, “Redifining Security”, *International Security*, Vol. 8, No. 1, 2013.

Laws and regulations:

The 1945 Constitution of the Republic of Indonesia.

Criminal Law Book.

Law Number 23 of 2014 concerning Regional Government.

Law Number 2 of 2002 concerning the Indonesian National Police.

Government Regulation Number 16 Year 2018 concerning Civil Service Police Unit.