Introduction

In the end of 2021 statement of the National Resilience Institute (Lemhannas) that was broadcast through the Lemhannas RI YouTube channel, the Governor of National Resilience Institute Agus Widjojo proposed that the Police of the Republic of Indonesia (Polri) be under the Ministry of Homeland Security and the National Security Council. This proposal arose because there is not yet political institution that formulate national policies in the function of domestic security, so it requires political institution at the level of ministry to be mandated to formulate national policies in the function of domestic security (detik.com, Jan 3, 2022). In the event Agus Widjojo said that the National Security Council will be the President's assistant in making and formulating policies. This council will also summarize the reports from the ministers regarding the problems faced in the central-regional and then provide them to the President (cnnindonesia.com, Jan 3, 2022).

Abstract

The Governor of the National Resilience Institute (Lemhannas) Agus Widjojo proposed that the Police of the Republic of Indonesia (Polri) be under the Ministry of Homeland Security and the National Security Council. The proposal received highlights from various parties. This paper examines how the position of the Indonesian National Police in Indonesian government? The 1945 Constitution of the Republic of Indonesia, Law Number 2 of 2002 concerning the Police and the Decree of People’s Consultative Assembly (MPR) Number VII of 2000 confirm that the Indonesian National Police is a state tool that functions to realize domestic security. Therefore, the proposal on the incorporation of the Indonesian National Police into the ministry requires a constitutional amendment, revocation of the MPR Decree, and revision of the Indonesian National Police Law. In addition to that, placing the Indonesian National Police under the coordination of the Ministry of Home Affairs has the potential to politicize practical political interests in the Indonesian National Police. Thus, the proposal requires a comprehensive study. The Indonesian House of Representatives (DPR RI), especially Commission I and Commission III as institutions in partnership with National Resilience Institute and the Indonesian National Police through the supervisory function, needs to continue to supervise the development of the proposal so as not to bring unrest in the community.
The proposal also received responses from various parties. One of them was the Deputy Chairman of the Indonesian House of Representatives, Sufmi Dasco Ahmad, who asked that before Agus Widjojo threw out a proposal to public about it, his party should have made an in-depth study first. After the study was ready, the proposal was just socialized, especially to law makers to avoid an uproar in the community (cnnindonesia.com, Jan 3, 2022). Similarly, Member of the House of Representatives Commission III Didik Mukrianto argued that the position of the Indonesian National Police under the ministry is very dangerous in political and democratic life. Under the direct supervision of the ministry, it will open the politicisation of the police for certain political interests, especially if the ministry is led by a minister from a political party (merdeka.com, Jan 4, 2022).

Police observers as well as the Chief of Police Expert Advisor, General (Pur) Sisno Adiwirno considered that the existence of the Indonesian National Police under the President has been appropriate. According to him, there is a need for a fact-based on insight and experience, not because it emulates other countries that place police organization under a ministry (detik.com, Jan 3, 2022). Based on these matters, the purpose of this writing is how the position of the Indonesian National Police in the legislation and government of the Republic of Indonesia?

National Police in Legislation of the Republic of Indonesia

In the Indonesian government, the function of the police is to maintain public security and order, law enforcement, protection, surveillance, and service to the community. This function is stated in Article 30 paragraph (4) of the 1945 Constitution of the Republic of Indonesia which states that The Indonesian National Police is a state tool to maintain public security and order, in charge of protecting, nurturing, serving the community, and enforcing the law. Article 13 of Law Number 2 of 2002 also states that the main task of the Indonesian National Police is to maintain public security and order, maintain order and enforce the law, realize the implementation of protection, guidance, and service to the community, as well as build community order by upholding Human Rights.

Law Number 2 of 2002 in explicit also states that the position of the Indonesian National Police is under the President. Article 8 of Law Number 2 of 2002 states that The police force is under the President and is led by the Chief of Police who is responsible to President in accordance with the legislation. This matter is in accordance with People’s Consultative Assembly’s Dere (TAP MPR) No.VII/MPR/2000 about the Role of Indonesian National Military (TNI) and the Role of the Indonesian National Police which states that the National Policce is state tool that serves to establish domestic security and is under the President.

In his study Jimly Asshiddiqie (Asshiddiqie, 2022) stated that the Polri is a product with a long history. This matter then made the Indonesian National Police grow and develop as a unified whole police institution as is the case of Indonesian National Military (TNI). Asshiddiqie said that Article 30 paragraph (4) of the 1945 Constitution of the Republic of Indonesia asserts that the Indonesian National Police is a state tool. The same as mentioned in Article 30 paragraph (3) of the 1945 Constitution of the Republic of Indonesia that the Indonesian National Military (TNI) is a state tool. The phrase state tool means that the Indonesian National Police is not government tool, not also a political tool. The state tool also means that both the Indonesian National Police and the Indonesian National Military are organizations that have a national institutional unit and cannot be broken down on the basis of regional policy. This is in contrast to federal states, such as in
the United States, which have decentralized organizational structures. The United States Constitution does not specify explicitly the state government’s requirement to form a police organization. The provision on “the police power”, It is the member states that regulate and form their respective police organizations.

**The Indonesian National Police as a State Tool**

According to Governor of National Resilience Institution (Lemhannas) Agus Widjojo in the democratic political system in Indonesia, operational institutions such as the Indonesian National Military and the Indonesian National Police cannot stand independent and autonomous from political authorities. In this case, the existence of the Indonesian National Police under the President is actually ineffective and only burdens the President. Even though in the operational level of various state affairs. Even though in general the burden of duties and responsibilities have been divided up in the portfolio of the ministers. These tasks and responsibilities include providing general policy formulation, budget planning, and implementation of supervision. By placing the Police institution in the Ministry of Home Affairs along with the National Security Council, it will help the President free from the operational burden so that the President can have the flexibility to think strategic to formulate a general policy at the national level (republika.co.id, 3 Jan 2022).

Agus Widjojo argued that this is in accordance with the rules of governance, because the Indonesian National Police is included in institutions and operational agencies. While the right institutions are directly under the President are the Presidential decision-making aids institutions such as the Presidential Consideration Council (Wantimpres) and the Presidential Staff Office (KSP) (republika.co.id, 3 Jan 2022). Indonesian Police Watch (IPW) Chairman Sugeng Teguh Santoso considered that the opinion of Governor of Lemhannas Agus Widjojo could bring the issue of the post-reform National Police Dual function. This means that there is a shift of Dual function of the Indonesian Armed Forces (ABRI) in the New Order era to a dual function of the Indonesian National Police in the current reform era (merdeka.com, 4 Jan 2022).

During the New Order, the Indonesian National Military and the Indonesian National Police were integrated into the organization of the Armed Forces of the Republic of Indonesia (ABRI). The Indonesian National Police was treated as equals to the Army, Navy, and Air Force. In addition to ABRI, there was also the position of Minister of Defense and Security (Menhankam) which was usually always held by high army officers. After the reform, the Indonesian National Police is separated from the Indonesian National Military, even the Department of Defense and Security is transformed into the Department of Defense (Dephan) which is tasked with coordinating functions with the Indonesian National Military only. While the Indonesian National Police is no longer coordinated by the Department of Defense which later changes to the Ministry of Defense.

Jimly Asshiddiqie (Asshiddiqie, 2022) argued that this condition that leads to the emergence of the presumption that the Indonesian National Police is directly coordinated by the Minister Coordinator on behalf of the President, while the Indonesian National Military is coordinated by the Minister of Defense. These structural changes in command lines and coordination lines are judged to be lame and asymmetrical, as if the police force became higher compared to the army. Many ideas emerged to put the police organization back in the scope of coordination with one of the ministries so that according to him there are four alternatives to overcome this problem, namely: (i) the police are again in one coordination with the Indonesian National Military, namely within the Ministry
Defence and Security (Kemhankam) as in the time of the New Order; or coordinated within the scope of (ii) the Ministry of Home Affairs (Kemdagri); (iii) the Ministry of Law and Human Rights (Kemhukham), or (iv) a separate ministry, namely the Ministry of Security. However, the ministries in question are not in the context of subordination to police organizations, but only for coordination such as the relationship between the Indonesian National Military and the Ministry of Defense, both of which are coordinated, not subordinated.

During the post-reformation government, the view emerged that the Indonesian National Military was under the Ministry, while the Indonesian National Police was directly under the President. Therefore, the Indonesian National Police was also supposed to be under one of the ministries. The relationship between the Indonesian National Military and the Ministry of Defense was also seen as a relationship that is subordinate, not coordinative.

The view emerged from BJ Habibie in 2013. According to Habibie, the Indonesian National Police should be under the Ministry of Home Affairs because since under the President, the National Police had greater authority than Indonesian National Military. This condition caused jealousy until the conflict between institutions on the ground (kemendagri.go.id, March 14, 2013). The same opinion emerged from Basuki Tjahaja Purnama (Ahok) while serving as Acting Governor of Jakarta Special Capital Region in 2014. Ahok argued that the most ideal ministry in the way of the Indonesian National Police is the Ministry of Home Affairs, thus making it easier to cooperate with local governments. However, there must be a separation between the Indonesian National Police and the regional police, as is system that runs in the United States (Kemendagri.go.id, June 25, 2014).

IPW considered the proposal of the Police under the ministry arises due to jealousy from other institutions. Therefore, the police leadership must be careful in dealing with these problems. The President also needs to give special attention so that there is no attitude from the Indonesian National Police that has the potential to cause political ripples from other groups (merdeka.com, 4 Jan 2022). As a country that adheres to the presidential system and is led by a President, all state institutions are within the reach of presidential coordination. Every ministry and institution that enters the executive sphere shall be subordinated under the president's powers. In other words, the Indonesian National Police and Indonesian National Military are part of the executive power so that they are under the President.

Other thing to note that changing the position of the Indonesian National Police in coordination of ministries means the need for Amendment of Constitution namely the revocation of the the Decree of People’s Consultative Assembly and the revision of the Indonesian National Police Law. In addition to being contrary to the Law, the position of the Indonesian National Police under the ministry can jeopardize political and democratic life, considering that the position of the minister (home affair) can come from a political party and the Ministry of Home Affairs functions for regional affairs where each region also conducts elections for regional heads whose candidates come from political parties. Thus, placing the Indonesian National Police in coordination with the Ministry of Home Affairs functions for regional affairs where each region also conducts elections for regional heads whose candidates come from political parties. Thus, placing the Indonesian National Police in coordination with the Ministry of Home Affairs is susceptible to politicisation in the body of the Indonesian National Police for practical political interests. Even though the presence of the Indonesian National Police in politics should be neutral and not favor any political interests. The statutory guarantee for the independence of the Indonesian National Police institution aims to maintain the independence of the
Indonesian National Police institution so that it is not easily misused as a tool of the government or a political party. Thus, the proposal really requires a comprehensive study so that it does not become a step backwards if the Indonesian National Police becomes a political tool and engages in practical politics.

Closing

Based on the legislation that states that the Indonesian National Police is a state tool, it has been appropriate if the Indonesian National Police is directly under coordination and responsible to the President as the head of state, not under the ministry or minister. In this case, the existence of the Indonesian National Police under the President as a state tool to carry out the functions of security and legal affairs from the authority of the central government.

As a state tool, the Indonesian National Police must also not be perceived and functioned as a power tool, a political tool for the benefit of groups, especially for personal interests. The position of the Indonesian National Police under the President is related to the understanding that the President is the head of state, not in the context of the President as the head of government technically. Thus, the proposal on the position of the Indonesian National Police under the ministry must be preceded by a comprehensive study and received approval from various parties, because it will bring the consequences of the amendment to the 1945 Constitution of the Republic of Indonesia. The Indonesian Parliament, especially Commission I and Commission III as institutions in partnership with the National Resilience Institute (Lemhannas) and the Indonesian National Police through the supervisory function, needs to continue to supervise the development of the proposal so as not to bring unrest in the community.

References


