

The Reciprocal Influence of Law and Politics

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Abstract

Indonesia still faces complex political and legal problems. The evolving politics affect the implementation of legal policies that should be based on justice and in accordance with the needs of society. To meet the aspirations and legal needs of the people, law enforcement continues to be improved from all sides. One way to do this is by providing full support to law enforcement officials in terms of resources and legal education, so that they are more professional in carrying out their duties. One way to monitor law enforcement so that state goals are achieved is to implement legal politics. The role of legal politics in law formation and enforcement in Indonesia is the subject of this study. The secondary data used in this research comes from journal literature on legal politics. This research found that the interests of political elites who use their power to influence the judicial system or law enforcement carried out by law enforcement officials continue to influence the implementation or execution of legal policies. However, this can be prevented by increasing public awareness of the applicable law and the government's role in improving the ability and professionalism of law enforcement officers so that the existing rules of law can be implemented.

Keywords: Law, Politics, Human Rights, Policy

Introduction

A country that adheres to the principle of people's sovereignty is also called a democratic country. Indonesia also adheres to democracy and people's sovereignty. The people of the country have the highest power. In fact, power comes from the people, for the people, and for the people. Even in the most ideal concept, power is held by the community. Power is divided into three institutions: legislative, executive, and judiciary. These institutions are the executors of power who serve the people as the true owners of state sovereignty. Those who sit there act as servants and devotees who work for the prosperity and welfare of the people.

In a state of law, the actions of the ruler and the people must be based on law. According to Abu Daud Busroh, there are two types of legal states: Liberal Legal States and Conservative Legal States. requires the state to function passively, which means that citizens must obey the laws of the country. The ruler acts according to the law. Liberals want the ruler and the ruled

to agree to use the law to rule. They believe in a formal type of legal state, where all actions of the ruler are regulated by law and subject to law. This is known as a Democratic State Based on Law.

To understand what a state of law is, one must first understand its meaning. Bahder Johan Nasution quotes the following expert reviews:

- a. Wiryono Projodikoro: Gives the definition of a state of law as a state where the rulers or government as state administrators in carrying out state duties related to applicable legal regulations.
- b. Muhammad Yamin: Defines a state of law as a state that runs a government that does not follow the wishes of those who hold power, but according to written rules made by representative bodies of the people that are legally formed, in accordance with the principle of "the laws do not menshall govern".
- c. Joeniarto: A state of law as a state where the actions of its rulers must be limited by applicable laws.
- d. Sudargo Gautama: The understanding of a state of law comes from the teachings of the sovereignty of law, he gives the definition of a state of law as a state where state apparatuses are subject to the rule of law.
- e. Soediman Kartohadiprojo: A state of law as a state where the fate and freedom of the people in it are guaranteed as well as possible by law.

In social sciences and law, the reciprocal influence between law and politics is very important. Politics and law influence and shape each other in society. Political processes, where rules and laws are used to implement political decisions, are often seen as the result of law. Law, in turn, provides the structures that regulate political behavior and ensure legal certainty in society. For example, legal processes show how political decisions can change the law, or conversely, how the law can constrain or facilitate political policies. In this context, we can see how changes in the law, such as legal reform, can affect political dynamics and the behavior of political actors. It also includes how certain groups can use the law as a tool to achieve their political goals.

Because Indonesia is a country of law, law will be used as a tool to achieve state goals. According to Prof. Mahfud MD, law is a coercive regulation that determines human behavior in society made by authorized official bodies, and violations of these regulations result in action, including punishment.

Ideally, law is made by prioritizing justice. Which Justice can be realized if political activities that produce legal products are indeed in line with the values of justice itself. So that

the formation of laws carried out by policy makers must contain principles that aim to build a just legal supremacy.

According to Satjipto Rahardjo, there are three functions of law, one of which is:

- a. Making norms, both those that provide provisions and those that determine the relationship between individuals.
- b. Settlement of disputes.
- c. Ensuring the continuity of community life, especially when changes occur in society

The elements of law are:

1. Understanding of human behavior in social interactions;
2. The regulations are made by authorized official bodies;
3. The regulations are coercive;
4. Sanctions for violating regulations are strict.

Politics is a series of activities related to decision-making in groups, or other forms of individual power relations, Politics has a function as Management of discourse, institutions and their implementation for human life with the aim of Seeking power so that democracy can be implemented, Implementing power according to the rule of law, Protecting rights and ensuring that the obligations of the organizers and citizens are carried out properly.

The study of the relationship between law and politics also includes considerations of justice, human rights, and legitimacy. In many cases, the law can function as a means to protect the rights of individuals and groups from arbitrary political power. However, there are times when the law can also be used to enforce authoritarian political power.

Methods

This type of research is normative law, namely research by reviewing and analyzing the substance of laws and regulations that are closely related to libraries on the main problems or legal issues in their consistency with existing legal principles. The author uses a normative legal research approach that is approached from a legal science perspective so that this research can obtain a comprehensive picture of the problems in this research, but this approach is not political in nature and only provides support for the legal approach.

Results and Discussion

DEVELOPMENT OF LEGAL POLITICS IN INDONESIA

The historical journey of Indonesia links the development of its legal politics with social, cultural, and economic changes. Since its independence on August 17, 1945, Indonesia has faced many difficulties in building a legal system that is in accordance with the diversity of its

people. Indonesia used a combination of laws from Dutch colonial law, international law, and customary law when it achieved independence. However, over time, a strong desire emerged to build a more national legal system and in accordance with Pancasila as the foundation of the state.

In the early post-independence period, Indonesia adopted several Dutch laws, such as trade law, the Civil Code, and the Criminal Code. However, the newly independent Indonesian society did not fully meet the requirements and desires of these colonial laws when they were implemented. Therefore, there were efforts to create laws that better reflect the values of the Indonesian nation in creating social and legal justice that is equal for all people.

Since independence, Indonesian legal politics has undergone significant development. Indonesia faced great difficulties in building a legal system that supported democracy and justice after gaining its independence in 1945. Although unstable political dynamics, including the Old Order and New Order periods, often hindered the implementation of the basis of democratic governance set out in the 1945 Constitution.

During the New Order (1966-1998), legal politics in Indonesia tended to be authoritarian. The government used the law as a tool to enforce power and curb the opposition. Laws produced during this period were often inconsistent with human rights principles. For example, the use of law to restrict freedom of speech and assembly became a common practice that resulted in many human rights violations.

Indonesian legal politics developed rapidly, especially during the New Order. The state began to build a more organized legal system during President Soeharto's rule, but was often criticized for being used as a tool to maintain the regime's power. During this period, legal policies were used more to support authoritarian government policies. For example, Law No. 5 of 1986 concerning State Administrative Courts aims to increase state control over various administrative decisions, but has been criticized for violating human rights and democratic principles.

Indonesia's political and legal systems underwent major transformations after the 1998 reforms. One important step was the implementation of democratic principles in the legal system, with various efforts to improve the judicial system, strengthen state institutions, and uphold human rights. Indonesia is currently also developing more progressive and inclusive laws, with various changes that improve social justice and transparent governance. For example, the enactment of Law No. 39 of 1999 concerning Human Rights was an important milestone in protecting citizens' rights.

Despite progress, challenges remain. Injustice in the application of the law and corruption in the legal system still exist. Businessmen and politicians often exploit legal loopholes for personal gain, causing public skepticism towards legal institutions. As a result, continuous efforts are needed to strengthen legal institutions and ensure that legal politics can function as a tool to achieve justice and prosperity for all Indonesian people.

Law enforcement is a very important process in maintaining security and order in order to realize justice in society. However, this process is often faced with various challenges such as a lack of understanding of the law from the community, law enforcers, convoluted bureaucracy in the judicial system, and political intervention that influences the course of law enforcement.

As far as we know, legal politics has been introduced in Indonesia by Lemaire in 1952 and Utrecht in 1961. Legal politics has also been introduced in the Netherlands in 1953 by Bellefroid who defined legal politics as part of legal science that examines changes in applicable laws due to social developments in society that require changes to accommodate new demands of community life (*ius constituendum*). The existence of these changes in life indirectly changes the *ius constitutum* because of the reality that is different from the elements of the *ius constitutum* to then determine the *ius constituendum* whose elements meet the reality of the different lives of society.

The definition of Legal Politics continues to develop with various formulations by several legal experts who have been observing the development of the discipline. Legal politics is "legal policy or official policy lines regarding laws that will be enforced either by making new laws or by replacing old laws, in order to achieve state goals."

Several legal experts have given their views on the definition of Legal Politics, including:

1. Teuku Muhammad Radhie, conceptualizes legal politics as a statement by the state's rulers regarding the laws that apply in a country's territory and regarding the direction in which state policies are to be developed.
2. Van Appledroon, legal politics is the determination of the objectives and contents of laws and regulations that are limited to written laws.
3. Moh. Mahfud stated that legal politics is a legal policy or official policy lines regarding laws that will be enforced either by new laws or by replacing old laws, in order to achieve state goals.
4. Satjipto Rahardjo, Legal Politics is an activity to determine a choice regarding the objectives and methods to be used to achieve legal objectives in society.

5. Padmo Wahjono led by Kotam Y. Stefanus, Legal Politics is the policy of state administrators regarding what is used as a criterion for punishing something (making something a Law). This policy can be related to the formation of law and its implementation.
6. Purnadi Purbacaraka and Soerjono Soekanto, Legal Politics as activities of choosing values and implementing values.
7. Satjipto Rahardjo defines legal politics as the activity of choosing and the method to be used to achieve a social goal with a certain law in society whose scope includes answers to several basic questions,,

THE ROLE OF LEGAL POLITICS IN THE LAW ENFORCEMENT SYSTEM IN INDONESIA

Daniel S. Lev stated that the conception and structure of political power are the most important elements in the legal process. In other words, law often functions as a political tool, and the place of state law depends on political balance, definition of power, development of political, economic, social, and other ideologies.

Law enforcement is part of the implementation of a country's state politics. Therefore, the political system and political atmosphere greatly influence the law enforcement process itself. A good political system accompanied by a conducive political atmosphere will facilitate law enforcement, conversely if the political system and atmosphere are chaotic, it will greatly hinder law enforcement. In politics, there are authoritarian and democratic political systems.

The current legal politics in Indonesia greatly influences the law enforcement system. The development, implementation, and enforcement of laws in accordance with the political and social principles of society are known as legal politics. In a situation like this, the role played by legal politics becomes very important in building a legal system that functions well and fairly.

Laws are made based on legal politics. Many political actors in Indonesia have their own interests and agendas during the legislative process. Therefore, the laws made do not always follow the wishes of society as a whole, but rather prioritize the interests of certain groups. This can lead to unfair law enforcement.

Legal politics also affects the implementation of the law. In practice, law enforcement officers are often influenced by prevailing political policies. For example, when the government faces political pressure, law enforcement can be directed to support a particular political agenda,

which has the potential to lead to abuse of power. This shows that the relationship between politics and law is very complex and often contradictory.

The Indonesian law enforcement system relies heavily on legal politics. Legal politics, which originates from state power, refers to policies made by the state to achieve certain goals in national and state life. Legal politics in Indonesia consists of various policies made by the government and legislature to ensure that the law is implemented fairly and effectively and to realize social justice for all. This shows that legal politics includes the creation of laws and how laws are implemented in society.

Conceptually, legal politics can be defined as regulations made to ensure that the legal system operates in the most effective manner. Creating legal certainty that supports national development is the main goal of Indonesian legal politics. Legal politics in law enforcement aims to ensure that all laws in force in Indonesia are not only general rules, but can also be applied directly in certain areas. This includes making laws that adapt to current social, economic and political changes.

The role of legal politics in law enforcement is also seen in the supervision of law enforcement officers. This supervision is important in a democratic system to ensure that law enforcement is carried out fairly and transparently, but is often ineffective, allowing law enforcement officers to act arbitrarily. As a result, a stronger mechanism is needed to monitor how they act.

The law enforcement system in Indonesia consists of several stages, starting from law enforcement by the police in the form of investigations and inquiries followed by charges by prosecutors, to the prosecution process in court by judges.

Abuse of power by certain parties that have penetrated the legal justice system is a challenge for law enforcement in Indonesia. In addition, limited resources including the number of police investigators, prosecutors and judges are often factors that hinder the judicial process. This has an impact on the slow resolution of a case, which ultimately makes the general public consider that there is injustice for the parties involved in the conflict, so that the government's priority is to increase the effectiveness of law enforcement that is better and fairer for the government and the Indonesian people..

According to research, law enforcement is not only merely implementing the judicial system and legislation. The scope of law enforcement is very broad, covering the parties involved in law enforcement. Law enforcers in Indonesia include the police, judges, prosecutors, lawyers, and correctional institutions (Lapas). Active participation and high public legal awareness are needed and law enforcement is also influenced by the quality and

professionalism of law enforcement officers. It is important for officers to be fair and equal to all levels of society from various social, economic and political circles which are a matter of perspective and differences of opinion between leaders and people who are oriented towards improving power. Values in politics are related to moral and religious norms in the social order. So that values in politics cannot be separated from the ideology that is the source of values and guidelines that are transplanted through political institutions in Indonesia. While legal politics is a basic policy made by state administrators in the legal field, both those that will apply and are currently in effect, to achieve the goals of the state, namely the welfare of the people. Legal politics is a policy of power that has the right and authority over a law. So with the continued development of legal politics in Indonesia, it will certainly have an impact on various aspects of life, especially on the aspect of law enforcement. Currently, law enforcement is still influenced by the interference of political elite interests, where these parties use their power to be able to get out and be free from sanctions or legal entanglements and use the law as a weapon for personal interests or political elite groups. This is a lesson for all parties involved.

Law enforcement officers should have a sense of responsibility and professionalism in enforcing the law, without being influenced by persuasion or pressure that results in law enforcement officers not carrying out their duties in accordance with applicable regulations, cooperation between the community, government, and law enforcement officers is the main key in implementing law enforcement based on the principle of justice.

One concrete example today is the age requirements for presidential and vice presidential candidates for the 2024 General Election (Pemilu) in Indonesia, which has brought significant changes regarding the age limit for vice presidential candidates for the 2024 Election, where the Constitutional Court (MK) has issued a decision regarding the age limit for presidential and vice presidential candidates on October 16, 2023. This decision changes the interpretation of Article 169 letter q of Law Number 7 of 2017 concerning General Elections, which previously set the age limit for candidates at 40 years and after a judicial review, a new paragraph was added, namely Having/currently held a position elected through general elections, including regional head elections, so that this proves that law is a political product and law also accommodates certain political interests.

Conclusion

Politics and law do not only function as tools to regulate people's lives, but both influence each other in the process of law formation, implementation, and enforcement. In this case, law as a political product often acts in the interests of certain groups, which can lead to injustice and abuse of power. Conversely, the way law is implemented and enforced can be influenced

by politics, which is often influenced by the dynamics and political interests of the time. Therefore, to assess how effective the current legal system and public policy are, it is important to understand this interaction. To ensure justice and protection of human rights, continuous legal reform is needed. Finally, increasing public involvement in the legal political process is essential to building a more transparent and accountable system. We can increase trust in legal institutions and encourage the implementation of more equitable justice by involving the public in the formation of laws and the supervision of their enforcement. Therefore, the reciprocal influence between law and politics can be used to benefit society as a whole, not just certain groups.

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