

# Assembly Control Protocol in Jurisdiction of Indonesian National Police: Implementation or Justification?

Hono Sejati<sup>1</sup>

Universitas Darul Ulum Islamic Center Semarang

## Abstract

This research empirically describes the implementation of Police Chief Regulation Number 16 the Year 2006 to handle crowds, find out the problems of the Indonesian National Policy to handle crowds, and find out the efforts of the Indonesian National Police to manage the crowd-handling problems. This socio-juridical research obtained primary and secondary data from the field (*field research*). The research showed the implementation of Police Chief Regulation Number 16 the Year 2006 about crowd handling protocol met the expectation. Lack of community's understanding about sharing argument in public becomes problems for apparatus to control the crowd. The solution to handle the hindrance is promoting community socialization and approach via *Bhabinkamtibmas* (*Bhayangkara Pembina Keamanan dan Ketertiban Masyarakat*) or security and community order constructor.

**Keywords:** Police Chief Regulation, Assembly Control

## 1. Background

Indonesia is a democratic country. Democracy is an adjective word. Democracy means constructing a comprehensive governing system that involves people to govern. The realization of the system uses representatives of the people. A democratic country is a country that obeys the governing system and form by people. Democracy also means the notions or life perceptions that prioritize the right and responsibility equality and treatments for all citizens or people.

Implementing a democratic governing system sometimes encounters Assembly Control action in the form of pluralistic expression. The advance of science and technology in various fields could construct ideal and critical community order. Indonesia experiences various problems. This year, Indonesia is in an election year that triggers various orations.

The crowd handling protocol or Assembly Control unit cannot carry out its primary tasks recklessly. They must carry the tasks based on the Operational Procedure Standard accurately to handle incidents and not trigger new problems and acts of violence committed by police officers.

A crowd that gathers and shares the opinion realizes human rights. Thus, the Law protects human rights. However, during the process of sharing the opinion, any crowd of people must keep the atmosphere away from violence so that all social, institutional levels could also remain away from law violation.

Article 3 of Police Chief Regulation of Indonesian National Police, Number 16 the Year 2006 explains, "This Guideline of Controlling Crowd aims to keep, to protect, and to serve a group of people that are sharing opinion or aspiration in front of the public to maintain the public order peacefully.

Law Number 39 the Year 1999 about human rights also explains freedom of speech, stated in article 23, clause (2) and Article 25, clause (1). Article 23, clause (2) explains: "Every individual is free to have, express, and spread their speeches, both orally and in written manner via printed or electronic media, by adhering the religious values, morality, order, public interest, and national integrity.

On the other hand, Article 25 Clause (1) explains that everybody has the rights to share opinions in front of the public, including striking under the Law's regulation. The activities to share opinions in public involve political development and national security observation. Therefore, college students, non-governmental organizations, and other community organizations should promote should receive training in Assembly Control or peacefully assembly control. It is to anticipate each sharing opinion activity in public, known as Assembly Control or peaceful assembly management. This research aims to find out the implementation of Police Chief Regulation of Indonesian National Police Number 16 the Year 2006 by police officers to handle the crowd peacefully in the Jurisdiction of Semarang Police Resort.

In article 3 of Police Chief Regulation of Indonesian National Police, Number 16 the Year 2006 explains, "This Guideline of Controlling Crowd aims to keep, to protect, and to serve a group of people that are sharing opinion or aspiration in front of the public to maintain the public order peacefully.

Police officer presence in securing democracy activity is important. First, the securing activity is a primary job to keep, protect, and serve the community in securing democracy or handling the crowd peacefully. Usually, it takes hours and becomes the benchmark of physical, mental, and psychological durability to deal with the crowd.

<sup>1</sup> Niversitas Darul Ulum Islamic Centre Sudirman Guppi Semarang; email:

From the explanations, this research empirically describes the implementation of Police Chief Regulation Number 16 the Year 2006 to handle crowds, find out the problems of the Indonesian National Policy to handle crowds, and find out the efforts of the Indonesian National Police to manage crowd-handling problems.

## **2. Literature Review**

### **a. The Definitions of Indonesian National Police**

The term Indonesian National Police is rooted in Greece, *Politeia*. It means all city-state governments in Indonesia. The term, *Polisi*, is an Indonesian language, domesticated from Dutch, *Politie*. Indonesian National Police is a civil public order that keeps the order, security, and law enforcement of all regions. The police is an important institution to ensure security, order, and law enforcement. Thus, police institution exists in every sovereign country. Sometimes, the civil public order is militaristic, such as in Indonesia. It happened when Indonesian National Police parted from Indonesian National Army. The Indonesian National Police within court scope as a function as investigators. Indonesian National Police seeks exhibits, evidence from various sources, and witnesses.

Indonesian National Police has a wider meaning. Formally, the meaning covers an explanation about the organization and status of police institutions. Second, materially, the meaning is about answers toward tasks and authorities to encounter dangers, security threats, and order within the police authority based on certain regulations in the Law (Sadjino, 2008).

The police law regulates and determines certain jobs with certain limitations to regulate the jobs. It has some meaning differences of Indonesian National Police. In a wider meaning, the Indonesian National Police guarantees order and security. On the other hand, the Indonesian National Police, in a limited meaning, guarantees the applied Law in a community. Thus, police law regulating tasks is a part of police competence. The Law also regulates the police.

### **b. Task and Authorities of Police**

In terms of Government, Indonesian National Police or *Polri* is a government function to keep the security and the community order, enforce the law, to keep, protect, and serve the community. These actions aim to realize domestic security, covering community security and order, law enforcement, community protection and service, and community security empowerment by holding human rights.

In national life, Indonesian National Police is the country's instrument to keep the security and community order, enforce law, protect, keep, and serve the community. Indonesian National Police carries out the actions and mission for all regions of the Republic of Indonesia. The regions of Republic Indonesia are grouped based on jurisdiction to make an effective and efficient performance of the Indonesian National Police. As regulated by the Government Regulation, police areas include Indonesian National Police Headquarter, Regional Police, and Resort Police areas. The Indonesian National Police Headquarters is led by the Police Chief of the Indonesian National Police. The chief has to report his responsibility toward the President. Police Chief or Regional Police lead the regional police. He must report his responsibility toward the Police Chief of the Indonesian National Police. Then, the Resort Police is led by the Police Chief of Resort Police, who must report his responsibility toward the Police Chief of Regional Police. The branch unit is sector police led by the Police Chief of Sector Police. The Police Chief of Sector Police must report his responsibility toward the Police Chief of Resort Police. Then, in village or ward levels, there are police posts led by a Police Brigade based on the needs of a village or ward. This unit is called *Bhabinkamtibmas*.

According to Law Number 2 Year 2002 about Indonesian National Police, the Law mentions that (1) Indonesian National Police is the country's instrument to keep the community security and order, enforce the Law, protect, keep, and serve the community for the sake of domestic security. Chapter II, the Resolution of People's Consultative Assembly (Tap MPR) Number VII/2000, mentions that: (1) Indonesian national police is the country's instrument to realize community security and order, enforce Law, protect, and serve the community. (2) Indonesian national police must-have skills and professional skills to carry out the role. It means Indonesian National Police is not an institution or non-department unit. The Indonesian National Police is directly under the President as the head of state instead of the head of Government.

### **c. The Implementable Principles of Indonesian National Police's Authority**

Police law must develop and grow normally and excellently. Thus, the principles and legal definitions require further testing with the conformity principle. The root of police' regulation principle source is *TRI BRATA*. This principle is the life guideline of police officers because they contain principles that have a broader correlation with police existence. The principles within *TRI BRATA* are 1) Indonesian National Police is the primary servant of the nation, 2) Indonesian National Police comes from native citizens, 3) Indonesian National Police must keep the order of the community.

Thus, *TRI BRATA*, as the police law principle, is not only the benchmark and a test for police principles but also for police existence. *TRI BRATA* is also the source of police professional, ethical codes. An excellent principle will ensure excellent legal principles. However, this principle needs accurate and correct action. The authority of police officers is an absolute requirement of police organizations to carry out their functions. It is important to know that not all problems become the authority of the police. Thus, there are principles of the police's authority to carry out the authorities.

This understanding of a principle is important to carry out the task and authority of the police. Muladi & Arief (2002:49) argue that criminal law principles explain various interests with human-right insight. The interests are the interests of the country, community, and individual based on national or international lives.

### **d. The Definition of Assembly Control**

Assembly control is a movement acted by some groups of people to express their opinions about the applied policy. This action aims to promote political suppression, acted by certain groups. Article 1, Clause 3, Law Number 2, the Year 1998, explains the freedom of citizens to share their opinions in front of the public. Thus, the definition of assembly is an action promoted by an individual or more to express their thoughts orally, in a written manner, and various manners demonstratively and publicly based on right-and-responsibility equity, mutual discussion, legal certainty, justice, proportionality, and basic benefit.

Assembly is a realization of expressive argument by every citizen as regulated by the Law. Assembly is an action to share opinions or thoughts. An assembly is seen as positive if it prioritizes democracy and has excellent values for the community. However, if the assembly ignores democracy, the assembly is considered negative.

Freedom to share opinions via assembly is a part of the democracy of Pancasila's principle believed in Indonesia with sovereign people. Here are the regulations of every citizen's right to share opinions via an assembly.

a. Constitution 1945 (Fourth Commandment) Article 28: The freedom to associate and to assemble, to express written and oral opinions, etc., shall be regulated by Law. Article 28E, Clause 3: Every person shall have the right to the freedom to associate, assemble, and express opinions.

b. The Stipulation of the People's Consultative Assembly Number XXV/MPR/1998 about Human Rights, Article 19. Every citizen has the right to freedom of association, assembly, and expressing an opinion.

c. Law Number 9 the Year 1998 about Freedom of Speech in front of Public, Article 2. Every individual or collective citizen has the right to express opinions as to the realizations of democratic rights and responsibility in community, national, and patriotic lives.

An assembly control emerges from concrete, spontaneous, emotional, and irrational. An assembly control has a leader that commands the assembly to keep the direction of the assembly.

Thus, the behaviors of a group of people in an assembly have many aspects to consider, for example, social, economic, and justice situations and other vulnerabilities. The concrete external factor is a demand to shuffle an office's position or a protest toward the legal neglect by the individual author.

Here are the rights and obligations of an assembly control.

- a. To express the thoughts
- b. To obtain legal protection
- c. To respect other individuals' freedom
- d. To respect the common moral regulations
- e. To adhere to the Law and the provisions of the legislation
- f. To keep and respect the public security and order
- g. To keep the association and unity of the nation

On the other hand, the rights and obligation of the state apparatus to control the assembly are:

1. To protect human rights
2. To respect the legality principle
3. To respect the presumption of innocence
4. To promote safekeeping

The Assembly Control Regulation Stated in the Law

Assembly control, in general definition, refers to reactive attitudes of an individual or a group of people toward certain problems (Article 1, Police Chief Regulation Number 16 the Year 2006). An assembly is a realization of freedom for the citizens to express their opinions. An assembly supports or denies a policy issued by the Government or private party. Generally, the 1945 Constitution regulates an assembly in the fourth amendment, Chapter X, about the citizens and people, Article 28. "The freedom to associate and to assemble, to express written and oral opinions, etc., shall be regulated by law."

The article regulates the realization of an individual's right or a group of people's right to express an opinion. Law Number 9 the Year 1998 about the freedom of speech in public exists as *lex specialis* for citizens' right protection to express an opinion.

Law Number 39 the Year 1999 about human rights also explains freedom of speech, stated in article 23, clause (2) and Article 25, clause (1). Article 23, clause (2) explains: "Every individual is free to have, express, and spread their speeches, both orally and in written manner via printed or electronic media, by adhering the religious values, morality, order, public interest, and national integrity."

### **3. Results and Discussion**

#### **1. The Implementation of Police Chief Regulation Number 16 the Year 2006 about Assembly Control Protocol**

It is important to negotiate with the field coordinator about the assembly control promotion. Thus, it runs peacefully without any anarchic actions. If the negotiation process does not go effectively, the leader of police officers in the field commands the assembly to dismiss. The decision to dismiss the assembly is addressed toward any anarchic actors against the Law and behave violently toward the applied Law and regulation.

Based on the standard of operational procedure, the police officers have some procedures and actions to secure the assembly. The procedures and actions are grouped into three:

Each time police officers receive notification of a rally, they must immediately prepare some matters. They are such as a warrant and force. The adequate assembly controller should have the proper numbers and characteristics of the assembly. The assembly controller must check their personnel, equipment, consumption, and health, target and escape routes of assembly controller squad, departing and rendezvous routes of the squad, the communication system of all involved Indonesian National Police officers, clear leader's instruction about the assembly's characteristics, assembly's demand, a situation of the object, and plan of stages and actions to do by the squad while encountering the demonstrators (Article 6, Police Chief Regulation Number 16 the Year 2006).

It is important to remind all personnel about the prohibitions and the duty based on the standard of operational procedure to control the assembly. Here are the prohibitions and duties. The prohibitions deal with Being arrogant and provoked by the assembly's actions; violating the procedure, bringing equipment that is not to control the assembly; bringing sharp weapons and live bullets; breaking or disobeying the formation or chasing an assembly member individually, turning back on the assembly, saying profanity, committing sexual harassment and verbally abusing the assembly; and committing other violating actions against the Law and regulation. Duties: The assembly controller must respect the human rights of every assembly member; serve and secure the assembly

based on the applied requirement. Every assembly controller squad member must be in a union bound. The squad must protect the lives and properties, keep and protect the situation until the assembly dismisses, obey and adhere to the instruction of the field unit leader that takes responsibility based on the level.

Once an assembly rallies, the *Bhayangkara*, traffic police, or assembly controller squads must escort and secure the assembly. When the rally stops, the platoon or company commanders of the assembly controller squad bring the squad to go to the object and assume one-row formation by expanding the safe line in one direction. The assigned officers record the rally and public-specific situations during the assembly. The negotiator stands in front of the squad to negotiate with the leader of field action of the assembly. The negotiator reports toward the Police Chief of Sector Police and or Police Chief of Resort Police about the assembly's demands. Then, the demands are forwarded to the addressed object. The negotiator may accompany the assembly representatives to see the addressed parties share their aspirations.

## **2. The Encountered Hindrances by the Indonesian National Police to Control the Assembly**

The hindrances of assembly are the actual conditions and the implementation of presumption of innocence toward the assembly if it goes anarchically, moreover if the demonstrators behave brutally. The community knowledge about Law needs improvements to decrease violence rates. The communities need direct information or socialization about the new regulation and communities living in villages. It is important because socialization cannot rely only on electronic media since some people cannot use it. The communities also need counseling to improve their legal awareness to realize a safe environment.

## **3. The Efforts of Indonesian National Police to Manage the Assembly Control Hindrances**

One community distrust toward police is the repressive or even anarchistic actions while securing the rally. Therefore, it is important to conduct a coordinated briefing before promoting the assembly control. The coordination should occur in the assembly controller squad or other related institutions. Coordination should remain to exist during the rally. The other effort is providing legal counseling for the community. Legal counseling is a community builder officer job, assisted by police based on the offered materials. Lack of legal awareness found in the communities occurred due to a lack of legal knowledge. Thus, the community must receive counseling about Law.

## **4. Conclusion**

The encountered hindrances during the COVID-19 pandemic were postponed training for the assembly controller squad. The squad prioritized 5M service and socialization and justice operations for the communities. The police efforts to deal with the hindrances were: 1) promoting counseling and training for police officers by considering the health protocol of every police officer and promoting a coordinated briefing before promoting the securing procedure.

## **5. Suggestion**

The Indonesian National Police improves the human resource by joining self-control courses, providing education on how to express opinions publicly, planning the preventive action of assembly control procedure by police officers, improving the knowledge of police officers with preventive reference actions for controlling assembly by avoiding exaggerating and violating actions toward the applied regulations.

## **6. Bibliography:**

- Adami Chazawi, *Kejahatan Terhadap Tubuh & Nyawa*, Jakarta: PT. Raja Grafindo Persada, 2010.
- Anonim. *Buku Pedoman Pelaksanaan Tugas Bintara Polri di Lapangan*, Jakarta: Markas Besar Kepolisian Negara Republik Indonesia, 2009.
- Anonim, *Badan Pengembangan dan Pembinaan Bahasa*, Jakarta: Badan Pengembangan dan Pembinaan Bahasa, 2020.
- A.S. Alam, *Pengantar Kriminologi*, Makassar: Pustaka Refleksi Books, 2010.
- Bambang Waluyo, *Penelitian Hukum dalam Praktek*. Jakarta: Sinar Grafika, 2008.
- C.S.T. Kansil, *Hukum Tata Negara Republik Indonesia*, PT Rineka Cipta, Jakarta, 2008
- Departemen Pendidikan dan Kebudayaan, *Kamus Besar Bahasa Indonesia*, Jakarta: Balai Pustaka, 2005.
- Djemijo dan Sutijono. *Pengendalian Massa*. Revisi. Purwokerto: Sekolah Polisi Negara Purwokerto (Tidak diterbitkan), 2004.
- Erma Yulihastin, *Bekerja Sebagai Polisi*, Erlangga Grup, Jakarta, 2008.
- Gunawan, Budi. *Konsep-Konsep Hukum Kepolisian di Indonesia*, PT Ilmu Kepolisian, Jakarta, 2010.
- Hadi, Warsito Utomo. *Penanggulangan Hukum Kepolisian di Indonesia*, Latbang Mediatama, Surabaya, 2005
- Hamzah, Andi. *Kitab Undang-Undang Hukum Acara Pidana*, Sinar Grafika, Jakarta, 2011.
- Huriodo, *Penegakan Hukum dalam Rangka Penanggulangan Kekerasan*, FISIP UI, Jakarta, 2000.
- Kunarto, *Mengenai Polri Menghadapi Adanya Anarkhi Massa*, Cipta Manunggal, Jakarta, 1999.
- Kansil, C. S. T., *Kitab Undang-Undang Kepolisian Negara Republik Indonesia*. Jakarta: PT. Pradnya Paramita, 2004.
- Lex Et Societatis Vol. VI/No. 5/Jul/2018 169 Siagian. *Kiprah Polri Menghadapi Gelora Anarkhi 2*, Cipta Manunggal, Jakarta, 2008.
- Muladi dan Barda Narwa Arif, *Teori-teori Kebijakan Pidana*, Alumni, Bandung, 2006.
- Mardalis, *Metode Penelitian Suatu Pendekatan Proposal*, Jakarta: Bumi Aksara, 2007.
- Moeljatno, *Kitab Undang-Undang Hukum Pidana*, PT Bumi Aksara, Jakarta, 2009.
- Peraturan Pemerintah Nomor 2 Tahun 2003 tentang Peraturan Disiplin Anggota Polri Peraturan Kapolri Nomor 16 Tahun 2006 tentang Pedoman Pengendalian Massa".
- Peraturan Kapolri Nomor 9 Tahun 2008 tentang Tata Cara Penyelenggaraan Pelayanan, Pengamanan dan Penanganan Perkara Penyampaian Pendapat Di Muka Umum.
- Peraturan Kapolri Nomor 14 Tahun 2011 tentang Kode Etik Profesi Kepolisian Negara Republik Indonesia Pudi Rahardi, *Hukum Kepolisian (Kemandirian, Profesionalisme dan Reformasi POLRI)*, Laksbang Grafika, Surabaya, 2014.