



THE ISSUE OF THE CONSTRUCTION OF CIVIL SOCIETY'S SPACE FOR ACTION AS A CONSEQUENCE OF THE EXPANSION OF THE AUTHORITY OF THE NATIONAL POLICE IN THE REVISION OF THE NATIONAL POLICE LAW

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Keywords: *Abstract*

Police Bill; Authority; Cyberspace; Democracy; Human Rights As a democratic country, Indonesia should uphold the principles of civil liberties, including freedom of expression, assembly, and access to information. However, in practice, various human rights violations persist, with the Indonesian National Police (Polri) receiving the highest number of public complaints, including forced dispersals, arbitrary arrests, intimidation, and violence against civilians. Instead of implementing reforms to address these issues, the academic manuscript and the Second Amendment Bill to the Indonesian National Police Law (Police Bill) grant expanded powers that potentially threaten democracy. Therefore, this study aims to analyze and critique the impact of the Police Bill on the expansion of police authority, particularly concerning internet access and cyberspace, and propose a reformulation of the bill that prioritizes democratic values. This study employs a normative juridical research method using statutory and conceptual approaches. The findings highlight concerns over the police's authority to conduct wiretapping, block, and terminate access to cyberspace without clear oversight mechanisms, which risks restricting civic space, enabling abuses of power, and disrupting democratic processes. Thus, revisions to the academic manuscript and the substance of the Police Bill are necessary to emphasize fundamental improvements and strengthen oversight mechanisms.

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A. Introduction

Institutions that are supposed to provide protection, guidance, services to the community, and uphold the law have, in reality, become perpetrators of human rights violations. In 2023, the Indonesian National Police (Polri) ranked first among the institutions reported by the public to the National Commission on Human Rights (Komnas HAM), with a total of 771 complaints (Komnas HAM, 2024). In 2024, Polri continued to be the institution most frequently reported to Komnas HAM, with 663 complaints (Komnas HAM, 2024). According to data from the Commission for the

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Disappeared and Victims of Violence (KontraS), from January to April 2024, there were 198 recorded incidents of violence involving police officers. The categories of violations include shootings, beatings, torture, arbitrary arrests, forced dispersals, inhumane treatment, kidnappings, murders, the use of tear gas, water cannons, wrongful arrests, intimidation, clashes, sexual crimes, criminal activities, and extrajudicial killings (PSHK, 2025).

Although the Police Law has established mechanisms regarding whether such actions are permissible, there are still many police officers who abuse their power. For instance, Article 11, paragraph (1), letter a of the Regulation of the Chief of the Indonesian National Police Number 8 of 2009 concerning the Implementation of Human Rights Principles and Standards in the Conduct of the Indonesian National Police's Duties stipulates sanctions for police members who carry out arbitrary arrests: "Every officer/member of the police is prohibited from making arrests and detentions arbitrarily and without legal basis," which is not adequately reflected in its implementation.

The high incidence of human rights violations (in Indonesian is "Hak Asasi Manusia" which is then abbreviated as HAM) committed by members of the police without any real sanctions imposed by police leadership on those who violate human rights creates the impression that the Indonesian police maintain a culture of violence and highlights the extent of the corruption within the Indonesian police institution. This, of course, represents a betrayal of the Indonesian people living in a democratic country, where, upon deeper understanding, the public should have the space to express their freedoms and opportunities for individuals, groups, or organizations within society to participate, self-organize, and convey their opinions and interests without undue restrictions or unlawful interventions from the government or other parties. Therefore, to prevent arbitrary treatment by the police, who are supposed to be the protectors and guardians of the community as mandated by the 1945 Constitution of the Republic of Indonesia, police reform is necessary through the revision of Law Number 2 of 2002 concerning the Indonesian National Police (Police Law).

However, instead of designing legal reforms that could address the fundamental issues within the police institution, the House of Representatives (DPR) has expanded the authority of the police to carry out their functions and duties, effectively turning the police into a "superbody" that could threaten the course of democracy in Indonesia due to the numerous problematic articles in the draft of the Second Amendment Bill to the Police Law (Police Bill). In this expansion of authority, the police are permitted to perform their functions and roles in cyberspace (Article 6, paragraph (1), letter f, Law Number 2 of 2002), conduct wiretapping within the scope of police duties in accordance with the laws governing wiretapping (Article 14, letter o, Law Number 2 of 2002), and take action, block or terminate access, and implement measures to slow down access to cyberspace for the purposes of domestic security, in coordination with the ministry responsible for government affairs in the field of communication and informatics and/or telecommunications service providers (Article 16, letter q, Law Number 2 of 2002).

Based on these issues, this study aims to examine the impact of the expansion of police authority in the Police Bill on the constriction of civil society's space and the reformulation of the Police Bill that prioritizes democratic values in the life of the state.

B. Method

This study employs a normative legal research method that focuses on written legal norms, including those found in laws, government regulations, and existing legal doctrines, to address the legal issues at hand. In the context of this study, the object of analysis is the changes and impacts of the applicable legal regulations, particularly in the revision of the Police Law, which has the potential to affect civil society activities. The research utilizes primary legal sources in the form of legislation and secondary legal sources such as books, news articles, research findings, and others.

C. Result & Discussion

1. The Impact of the Expansion of Police Authority on the Space for Civil Society in Indonesia

The Indonesian National Police, abbreviated as Polri, is a law enforcement institution tasked with creating and maintaining security and public order (Sugiri, 2023). Polri serves as a protector that must ensure orderly interactions among citizens and guarantee the safety of the community in daily life (Yuniarto, 2016). The police have both functional and symbolic roles within the social order. Functionally, the role of the police is to ensure order, where the police are not merely masters who serve the public, but rather provide services to the community. On the other hand, the symbolic role of the police is not only as a representation of the criminal justice system but also as a form of representation of legitimate restrictions within a free society (Yuniarto, 2016).

The authority of the Indonesian National Police (Polri) is officially regulated by the Police Law, which has undergone several changes over time. The most recent change is the Police Bill proposed by the House of Representatives of the Republic of Indonesia in 2024. This bill expands the authority of Polri, indirectly positioning it as a "superbody" institution. Unfortunately, the increase in Polri's authority is not accompanied by strict regulatory oversight. This lack of oversight means that the Police Bill does not address the fundamental issues that have long existed within the police force, which has been a key actor in violence, repression, human rights violations, and abuse of power (ICJR, 2024).

For example, the change in Article 14, paragraph (1), letter o, indirectly impacts civilians, as it states, "Conducting wiretapping within the scope of police duties in accordance with the laws governing wiretapping" (DPR RI, 2024). The authority granted to Polri in this provision, specifically the power to conduct wiretapping, can influence the space for civil society and the independence of civil society, as Polri may carry out wiretapping without prior authorization. This not only expands the authority of the police but also increases their subjectivity.

Furthermore, the amendment to Article 16 includes the addition of authority for the police as stated in paragraph (1), letter q, which specifies that Polri is authorized to "Conduct enforcement actions, blocking or disconnection, and efforts to slow down access to cyberspace for the purposes of National Security in coordination with the ministry responsible for government affairs in the field of communication and informatics and/or telecommunications service providers" (DPR RI, 2024).

Based on the additional authority granted to Polri as mentioned above, it is stated that Polri is empowered to conduct blocking, including disconnection and restriction of access to cyberspace. This has the potential to violate citizens' rights to access information (Maharso, 2025). If the implementation of the Police Bill regarding this authority lacks clear boundaries, particularly in the realm of cyberspace, there is a significant likelihood that the space for civil society to express itself and critique the government or relevant parties will become increasingly restricted.

Such an occurrence has happened before, specifically in May 2019, when internet restrictions were imposed in Papua in response to protests arising from reactions to the results of the 2019 presidential election. During this period, the government officially implemented internet restrictions, citing the prevention of the spread of false information and taking anticipatory measures to prevent the escalation of conflict, while also stating that these actions were taken to maintain order and security.

In the context of the principle of restricting human rights related to the freedom of expression, communication, and the dissemination of information, several indicators can be observed. The authority of the government, as referenced in the Electronic Information and Transactions Law (UU ITE) and Government Regulation No. 71 of 2019, only grants the government the power to disconnect access through blocking, account closure, and content removal on social media, but not to sever access to the internet network itself (Silas, et al., 2024). Therefore, based on the Jakarta State Administrative Court ruling No. 230/G/TF/2019/PTUN.JKT, it was stated that the government's actions to slow down internet access in West Papua and Papua on August 19, 2019, the blocking and disconnection of internet access from August 21 to September 4, 2019, and the extension of blocking and disconnection of internet access in several cities/districts in Papua and West Papua from September 4 to September 9, 2019, constituted unlawful acts (Jakarta State Administrative Court ruling No. 230/G/TF/2019/PTUN.JKT).

The ruling emphasizes that the government lacks a strong legal basis to completely sever internet access, considering that the Electronic Information and Transactions Law (UU ITE) and Government Regulation No. 71 of 2019 only regulate the blocking of specific content and accounts, rather than broad disconnection of internet access. This case serves as a reminder that restrictions on the right to information must be implemented with clear legal limitations and should not be carried out arbitrarily.

The Police Bill, which grants the police the authority to block, disconnect, and restrict access to cyberspace, raises similar concerns to those observed in the Papua case.

If not clearly regulated, this authority has the potential to be misused to suppress freedom of expression and hinder the public's right to access information. As law enforcement officials, the police have a role in maintaining cybersecurity; however, this must be conducted within a framework of transparent and accountable legal standards. If the police are granted excessively broad powers without stringent oversight mechanisms, there is a risk of authority being abused to control the flow of information in the digital space, as was the case in Papua.

Cyberspace is fundamentally regulated under the Electronic Information and Transactions Law (UU ITE). The granting of authority to the police for oversight of cyberspace has the potential to create overlaps with the roles of other state institutions, such as the Ministry of Communication and Information and the National Cyber and Crypto Agency (BSSN) (Isnur, 2024). This Police Bill could infringe upon freedom of expression and citizens' rights to privacy in social media and digital spaces, allowing the police to dictate criminality without a court ruling as an executor. Furthermore, Article 16A, letter D, also grants authority to the Intelligence and Security Agency (Intelkam) of the police to initiate countermeasures and prevention against certain activities in the interest of national security. The lack of specific explanations regarding the intended national interests and security allows the police to monitor all activities of citizens or anyone deemed necessary for oversight, using the pretext of security disturbances and threats to sovereignty, national interests, and ideology.

2. Reformulation of the Police Law as an Effort to Promote Democratic Values

The existence of law is intended to safeguard human interests. Roscoe Pound categorizes these interests into public interests, societal interests, and individual interests. Public interests encompass the interests of the state as a legal entity in preserving its identity and substance, as well as the interests of the state as a guardian of societal interests (HS & Nurbani, 2019). Societal interests include interests related to public safety, interests concerning moral harm, interests in rejecting legal protection for the abuse of rights, and interests in obtaining protection for a decent life, freedom of speech, and the right to hold public office (HS & Nurbani, 2019). Individual interests encompass personal interests, which include the protection of personal secrets, interests in domestic relationships, and substantive interests (HS & Nurbani, 2019).

Therefore, in a democratic state, it is essential for the public to be involved in the legislative process to ensure that existing laws will protect human interests. This aligns with the constitutional mandate found in Article 1, paragraph (2) of the 1945 Constitution of Indonesia, which states that sovereignty resides in the hands of the people and that the purpose of democracy arises from the demands of society for equality of rights and status before the law (Irawan, 2027). Based on these two points, it can be understood that the people are the true owners of the state, and they should derive the maximum benefit from every state activity conducted (Harefa & Hulu, 2020). Unfortunately, Indonesia, as a democratic nation, often fails to fulfill its function of providing benefits to its citizens. A

concrete example of this is the Police Bill, which contains provisions for the massive expansion of authority without a clear oversight mechanism.

Essentially, all draft laws originate from an academic manuscript that presents a scientific study of a specific issue, encompassing the background, objectives of formulation, intended targets, as well as the scope and direction of legislative regulation based on philosophical, juridical, and sociological foundations. Therefore, errors in the academic manuscript can lead to mistakes in the overall implementation of the articles. In this case, the academic manuscript of the Police Bill interprets Article 30, paragraphs (3) and (4) of the 1945 Constitution, which delineates the duties between the Indonesian National Armed Forces (TNI) and the National Police (Polri), stating, "...the division of duties between two state apparatuses operating in the field of national defense and security, namely the TNI as the state apparatus in the field of defense and the Polri as the state apparatus in the field of security," where the term "security" in the context of Polri refers to general security. In reality, the 1945 Constitution explicitly states that the Polri is the state apparatus tasked with maintaining public security and order (Article 30, paragraph (4) of the 1945 Constitution of Indonesia).

In addition to substantial issues, the planning of the Police Bill was also not conducted in accordance with proper legislative procedures. The drafting of the Police Bill took place despite not being included in the National Legislation Program (Prolegnas) for 2020-2024, thereby sidelining other draft laws that have a higher level of urgency compared to the Police Bill, such as the Domestic Workers Protection Bill and the Indigenous Peoples Bill. Furthermore, this process was carried out hastily and in a closed manner at the end of the 2019-2024 DPR period (ICJR, 2024).

Referring to the theory of interests, the Police Bill, as a form of legal reform compared to the current Police Law, is deemed to have failed in prioritizing existing interests. This includes public interests, where there is a significant overlap of authority among state institutions; societal interests, where numerous moral harms may arise as a result of the expansion of authority that positions the police as a superbody institution; and individual interests, which are threatened by the potential abuse of power by the police, who may conduct surveillance without any regulations governing the mechanisms of such surveillance.

Therefore, the DPR as the lawmaker must make improvements to the academic manuscript that serves as the foundational reference for the drafting of the Police Bill and must redraft the Police Bill to prioritize fundamental reforms and mechanisms for enhanced oversight. This is essential as a means of improving the legislative framework and reducing the likelihood of human rights violations committed by members of the police.

D. Conclusion

The expansion of the police's authority, which indirectly positions it as a "superbody" institution, poses a significant threat to the freedoms of the Indonesian

public due to the territorial expansion of the police into cyberspace. This situation is further exacerbated by the allowance for the police to conduct surveillance without any regulations governing the mechanisms of such surveillance. Additionally, the police are permitted to take actions such as blocking, cutting off, and slowing down cyber access, which had previously been challenged in the Jakarta Administrative Court lawsuit No. 230/G/TF/2019/PTUN.JKT, where it was argued that such actions are unlawful.

Moreover, the entire drafting process of the Police Bill, which is fraught with issues, disrupts Indonesia's democracy. This begins with a hasty and closed drafting process that violates the proper legislative procedures; an academic manuscript that contains flawed reasoning leading to the creation of articles that expand the police's authority; and articles within the Police Bill that are considered not to reflect human interests. Therefore, it is essential to improve the academic manuscript and to create a new draft of the Police Bill that prioritizes fundamental reforms and mechanisms for enhanced oversight.

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