

Law and Legal Politics: The Case of Law No. 12/2010 on the Scout Movement

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Abstract:

The Scout Movement is one of the forums for fostering members to build character. In other words, the Scout Movement is an educational organization formed by scouts to study scouting education. As an educational organization, the Scout Movement has a pattern and coaching for students who do not know class or age. The Scout Movement Law is a form of revitalization of the Scout Movement to fit the times that makes the highest law in every basic activity that will be held. This article discusses the formation of Law No. 12/2010 on the Indonesian Scout Movement. Through the literature method, this article finds that the legal regulations of the Scout Movement are determined to determine the extent of all processes to the practice in the field, because the Scout Movement law is flexible and can be adjusted to the times. Research into the Scout Movement law is controlled to see how strong the activities held by the Scout Movement are. In addition, the benefits of the activities held, for the community in the surrounding environment to remain in the corridor of the Scout Movement's code of ethics, namely Tri Satya and Dasa Dharma.

Keywords: Scout Movement, Scouting, Indonesian Positive Law.

Abstrak:

Gerakan Pramuka merupakan salah satu wadah pembinaan anggota untuk membangun karakter. Dengan kata lain, Gerakan Pramuka adalah organisasi pendidikan yang dibentuk oleh para pramuka untuk mempelajari pendidikan kepramukaan. Sebagai organisasi pendidikan, Gerakan Pramuka memiliki pola dan pembinaan bagi peserta didik yang tidak mengenal golongan maupun usia. Undang-undang Gerakan Pramuka merupakan bentuk revitalisasi Gerakan Pramuka agar sesuai dengan perkembangan zaman yang menjadikan hukum tertinggi dalam setiap dasar kegiatan yang akan diselenggarakan. Artikel ini membahas pembentukan UU No 12 Tahun 2010 tentang Gerakan Pramuka Indonesia. Melalui metode kepustakaan, artikel ini menemukan temuan bahwa peraturan hukum Gerakan Pramuka ditentukan untuk mengetahui sejauh mana semua proses hingga praktik di lapangan, karena hukum Gerakan Pramuka bersifat fleksibel dan dapat disesuaikan dengan perkembangan zaman. Penelitian terhadap hukum Gerakan Pramuka ini dikontrol untuk melihat seberapa kuatnya kegiatan-kegiatan yang diadakan oleh Gerakan Pramuka. Selain itu, manfaat dari kegiatan yang diadakan, bagi masyarakat di lingkungan sekitar agar tetap berada dalam koridor kode etik Gerakan Pramuka, yaitu Tri Satya dan Dasa Dharma.

Kata Kunci: Gerakan Pramuka, Kepramukaan, Hukum Positif Indonesia.

INTRODUCTION

Indonesia is a constitutional state based on the 1945 Constitution article 1 paragraph 3 which explains that Indonesia is a state of law (Giri, 2018). As a country based on law, basically all kinds of decisions must be adjusted to the applicable rules. Moreover, the government system in Indonesia adheres to the presidential leadership system which makes Indonesia a country full of rules. Starting from small things such as public relations to the biggest aspect, namely relations between countries (Gutmann, 2015).

In addition, this country also has a long history in achieving the ideals of the Indonesian state. This is stated in the Preamble of the 1945 Constitution which used to be the Jakarta Charter, which in the fourth paragraph states that the ideals of the Indonesian state are: 1) Protect the entire Indonesian nation and all Indonesian blood; 2) Advance the general welfare; 3) Educate the nation's life and 4) Participate in implementing world order (Susanto, 2014).

From these ideals, Indonesia moved to form a system of government starting in 1945 with a presidential and parliamentary form of government by enacting the 1945 Constitution as the highest legal basis, in 1949 Indonesia implemented a parliamentary system of government with the legal basis being the RIS constitution (Mangar & Ridho, 2022).

In 1950, Indonesia again changed its system of government to presidential and parliamentary with the Provisional as its legal force, in 1965 the 1945 Constitution was again enforced as the basis of regulation with a quasi government system, while in 1998 the 1945 Constitution was still enforced as the highest legal basis in Indonesia, thus changing the quasi government system to parliamentary (Romano, 2013).

In 1999 the Indonesian nation experienced a transition, it was during this time that amendments or changes were made to article after article that were considered out of sync with the times. In 2000 the People's Consultative Assembly of the Republic of Indonesia again amended the 1945 Constitution for the second time, followed by the third amendment in 2001, so that in 2002 it became the fourth amendment by establishing Indonesia's presidential system of government. This long history of law-making has not resulted in an efficient government, as there are still overlapping authorities between one another (Nata, 2009).

After a long journey in the dynamics of the Indonesian nation's struggle in 1960, regulations emerged. During this pioneering period, Decree of the MPRS Number II/MPRS/1960 was born, on December 3, 1960 concerning the National Universal Development Plan. This decree also explains that in article 330 C it is written that the basis of scouting or scouting education is Pancasila. Furthermore, scouting control (article 741) and scouting education must be given more attention in order to agree on the government's plan to create a scouting organization (article 349 paragraph 30) (Asmawi, 2014).

The decree was used as a basis for the government to implement it so that instead the President or MPRS Mandate on March 9, 1961 invited leaders and leaders of the scouting movement throughout Indonesia at the State Palace. After that, Presidential Decree No. 112 of 1961 was issued on April 5, 1961 concerning the Committee for the Establishment of the Scout Movement and its members who had been instructed by the President on March 9, 1961. However, there was a discrepancy between the President's speech and the Presidential Decree, so Presidential Decree No. 121 1961 dated April 11, 1961 was issued on the establishment of the Scout Movement, whose members consisted of Sri Sultan (Hamengku Buwono IX), Prof. Prijono, Dr. A. Azis Saleh, Achmadi, and Muljadi Djojo Martono (Minister of Social Affairs) (Semedi, 2011).

This committee was tasked with reviewing the Scout Movement's Articles of Association as part of the attachment to Presidential Decree No. 238 of 1961 dated 20 May 1961 concerning the Scout Movement where the decree explained that the Scout Movement was the only

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scouting organization assigned to provide scouting education for Indonesia's younger generation. In addition, it also ratified the Scout Movement's Articles of Association which are used as books, instructions, and guidelines for Scout Movement administrators in carrying out their duties (Manullang, 2021).

As a follow-up to Presidential Decree No. 238 of 1961, Presidential Decree No. 447 of 1961 was issued which explained the composition and organization of the National Quartier of the Scout Movement chaired by Dr. Soekarno, President of the Republic of Indonesia with Vice Chairman I, Sri Sultan Hamengku Buwono IX and Vice Chairman II Brigadier General TNI A. Aziz Saleh. Meanwhile, the management of the National Kwartir of the Scout Movement itself was chaired by Sri Sultan Hamengku Buwono IX in 1961-1974 (Moeliono, 1993).

The birth of Presidential Decree of the Republic of Indonesia Number 238 of 1961 is also inseparable from the stipulation of MPRS Decree Number I/MPRS/1960, dated November 19, 1960 concerning the Outlines of State Policy. As well as MPRS Decree No. II/MPRS/1960 dated December 3, 1960 concerning the Outlines of the Universal Planned National Development of the First Stages 1961-1969 (Alvat, 2020).

A very long and lengthy process in strengthening the legal basis of the Scout Movement. Along with the times, advances in technology and science make the Scout Movement must be revitalized and rebranded in order to be in line with the times. The results of the analysis of the House of Representatives of the Republic of Indonesia Presidential Decree 238 of 1961 which is not very binding and there are no sanctions for violators, besides that many activities are not well managed and less serious management is the basis for drafting the Scout Movement law (Nuryanti et al., 2020).

In addition, the Presidential Decree of the Republic of Indonesia Number 238 of 1961 is considered no longer absolute in Indonesian legislation, in accordance with Article 7 paragraph (1) of Law Number 12 of 2011 concerning the Formation of Legislation, then based on the results of the working meeting of the House of Representatives in the field of education and the holding of visits to several countries, especially those that have organizations similar to the Scout Movement, the Scout Movement Bill was brought to the plenary meeting and the decision of the meeting passed the Scout Movement Bill into the Scout Movement Law with number 10 of 2010 (Ramadhani et al., 2019). Along with the passage of time and the increasing existence of the Scout Movement in Indonesia. In 2010, Law Number 12 of 2010 concerning the Scout Movement was born. The Scout Movement Law was born as a response from the Government and DPR to rebrand or revitalize the Scout Movement (Nuryanti et al., 2020).

The birth of the Scout Movement Law is the response of the government and DPR to revitalize the Scout Movement, this is also a mandate from Mr. Susilo Bambang Yudhoyono (6th President of the Republic of Indonesia), to revitalize the Scout Movement as a stronghold of education for the younger generation and the answer to youth problems. Law Number 12 of 2010 concerning the Scout Movement is the highest legal basis after so many years of the Scout Movement, which in the law regulates and explains the Scout Movement Organization in detail. Not only that, Law Number 12 of 2010 also regulates the nature, education system, and even the management of organizations ranging from national, regional, branch, to twig levels (Scheidlinger, 1948).

Therefore, this research examines the political and legal dynamics of Indonesian Scouting regulations, the purpose of the Scouting Law and the Implementation of Law Number 12 of 2010 in Scouting activities.

METHOD

Metode The research method used in this article is a literature research method (Sangidu, 2007), that aims to analyze the relationship between law and legal politics in the context of the formation of Law Number 12 of 2010 concerning the Scout Movement. This desk research is conducted with the following steps:

First, identification and selection of literature sources. First of all, researchers identified and selected literature sources relevant to the research topic. These included books, journal articles, legal documents, research reports, and other sources related to the Scout Movement and the formation of relevant laws. *Second*, literature data collection. The researcher collected data from the selected literature sources. This data includes information on the history of the Scout Movement, the political context in which Law No. 12/2010 was enacted, the arguments underlying the enactment of the law, and its impact on the Scout Movement. *Third*, critical analysis. After the literature data was collected, the researcher conducted a critical analysis of the sources. This involved evaluating the arguments put forward in the sources, identifying the legal and political issues raised, and assessing the impact of Law No. 12/2010 on the Scout Movement. *Fourth*, drafting the arguments. Based on the critical analysis, the researcher develops arguments for or against the relationship between law and legal politics in the case of the law. The drafting of these arguments is based on the evidence found in the literature sources. *Fifth*, article writing. Next, the researcher compiles a journal article based on the results of the analysis and arguments that have been compiled. This article includes an introduction, theoretical framework, research methods, analysis results, and conclusions. *Sixth*, conclusion. This desk research aims to provide a deeper understanding of the relationship between law and legal politics in the context of the formation of Law Number 12/2010 on the Scout Movement. By using the literature research method, this research seeks to reveal how political factors influence the process of forming this law and how it impacts the Scout Movement as a youth organization in Indonesia.

RESULTS AND DISCUSSION

Understanding Legal Politics

Etymologically, the term political law is an Indonesian translation of the Dutch legal term "politics of law". This term should not be confused with the term *politiekrecht* or the politics of law proposed by Hence Van Maarseveen because both have different connotations. The latter term is related to another term offered by Hence van Maarseveen to replace the term constitutional law. For this reason, he wrote an article entitled "Political Law, as a Successor to Constitutional Law" (Romano, 2013).

If only understood etymologically, of course the results are still imperfect because it is so very simple, regarding the understanding of legal politics put forward by legal experts, such as Mahfud MD's opinion that the meaning of legal politics is "legal policy or official line (policy) regarding the law to be enforced either by making new laws or by replacing old laws, in order to achieve State goals". Therefore, legal politics is a choice about the rules to be used and the choice about the law to be revoked or not enforced, with the aim of achieving the State's goals as stated in the preamble of the 1945 Constitution (Manullang, 2020).

From several definitions of legal politics that have been put forward by experts, it can be concluded that legal politics is a basic tool for organizing the state, especially in legal policy, regarding laws that will, are, and have been used which are created from inherent values and live in society in order to achieve state goals as stated in the Preamble of the 1945 Constitution in the 4th paragraph (Yani & Barthos, 2020).

Scouting, Scouting and the Scout Movement

Scouts are Indonesian citizens who are active in scouting education and practice the Scout Satya and Scout Darma. In other words, scouts are people or members who are active in scouting activities (Tabroni, 2021). Meanwhile, scouting is not just science or material, but an interesting activity for children under older siblings and not a collection of scripts that must be obeyed. Scouting is intended for physical and spiritual education. Scouting is basically a fun educational process for children and adolescents under the care of parents using basic methods. While the scout himself is the culprit (as the subject). Scouting can be said to be a science or activity carried out by a scout, such as outdoor living techniques, semaphore, morse, ribbon maps, rigging, and others (Semedi, 2011).

The Scout Movement is an organization formed by scouts to organize scouting education (Zhafira & Setiawan, 2023). The naming of the Scout Movement only applies in Indonesia, because in essence it is a scouting movement or in international language is WOSM (World Organization Scout of Movement) (Syamsulrizal & Amiruddin, 2018). In the United States it is called the Boy Scout of America, in Malaysia it is called the Scout Federation, in India it is called The Bharat Scouts and Guides, in Singapore it is called the Singapore Scouts Association, and others. In essence, that the Scout Movement is an organization that studies scouting in Indonesia (Meraksa et al., 2022).

Legal Politics in the Formation of Law Number 12 Year 2010

The legal politics that occurred in the formation of Law Number 12 of 2010 concerning the Scout Movement occurred when seeing Scouting activities in the community as out-of-school education or outdoor education that can solve youth problems. With the issuance of a legal basis in the form of a law, the position of the Scout Movement is getting stronger as an educational organization for young people (Purwanto & Mangku, 2016). Coupled with the instruction from Mr. Susilo Bambang Yudhoyono (6th President of the Republic of Indonesia) to revitalize the Scout Movement as one of the pillars of youth education and the answer to youth problems. Law Number 12 of 2010 concerning the Scout Movement is the highest legal basis after so many years of the Scout Movement, which in the law regulates and explains the Scout Movement Organization in detail (Moeliono, 1993) (Lucarelli, 2010). Not only that, Law Number 12 of 2010 also regulates the nature, education system, and even organizational management starting from the national, regional, branch, to twig levels.

The Scout Movement needs to be revitalized with systematic, sustainable, and planned empowerment. In order to improve the functions, main tasks, and roles of the Scout Movement and strengthen the existence of the Scout Movement itself. So that it is able to compete with scouting movements around the world (Setiadi, 2021). In addition, in order to play a role in society, nation, and state, the values in the Scout Movement and the implementation of education are regulated in the Scout Movement law. This shows that the legal politics of the formation of the Scout Movement Law is progressive, influenced by social changes in society, so that the Scout Movement Law is a tool of social engineering (Setiadi, 2018).

Related to this, the content and structure of the scout education level must be revitalized in accordance with the development of the world of education in Indonesia. This concerns the position of scouts on the side that will fill the empty void in the midst of educational activities that are increasingly filled with various agendas in the scope of the school. The presence of scouts must be re-realized in a modern form and complement the shortcomings in the management of education in the modern era adapted to changing times, so that the patterns and mechanisms of coaching in the Scout Movement are not monotonous (Orr, 1963).

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In the discussion of the Scout Movement Law, there are 9 (nine) crucial issues in the material content of the scout itself. The nine crucial issues are related to the nomenclature of scouting or scouting, scouting education, the implementation of scouting, organizational deliberations, attributes, associations, finance, coaching, and dissolution and suspension. One of the crucial issues is related to associations or institutions (Meraksa et al., 2022).

As a consequence of funding, scouting must be supported by the State Budget (APBN) and the Regional Budget (APBD). In addition, this support also needs to be provided by officials in their respective regions, so that the revitalization of the Scout Movement can be successful and the Scout Movement Law can be implemented, especially with regard to its institutions. This is because the success of the revitalization of the Scout Movement is determined by a strong and appropriate Scouting organization and management.

Implementation of Law Number 12 of 2010 in Scouting activities

In line with the enactment of Law No. 12/2010 on the Scout Movement, there are still many regulations that need to be revised related to the implementation of the regulation, there are five things that must be revised:

First, the Scout Movement needs to reorganize the organization related to its structure, both at the highest level and at the lowest level. From the national, regional, branch, to twig levels.

Second, in terms of budget. There needs to be an affirmation of support from the government both at the regional and central levels for the Scout Movement. Stakeholders or Regional Heads must issue special regulations regarding the budget for the Scout Movement because it is feared that there are still Regional Governments that do not allocate budgets for the Scout Movement.

Third, the involvement of the Scout Movement in the organization of formal education as part of the curriculum (compulsory extracurricular) needs attention. Because the Scout Movement is an organization that is run voluntarily and voluntarily without coercion, so that each member must be sincere, selfless in every scouting activity.

Fourth, is to synergize the Scout Movement with the Mental Revolution program. Because the Scout Movement, which is believed to be a national character building organization, must align itself with the times, so that it is increasingly in demand without eliminating the code of ethics or honor of the Scout Movement (Juliansyahzen, 2022).

Fifth, is Article 1 (14) of the Scout Movement Law to change its shelter, it is hoped that the person in charge is not only the Ministry of Youth and Sports. It is better if the auspices of the Scout Movement are transferred to or under the Ministry of Education and Culture (Kemendikbud), because Scouting is an educational process outside the school environment and outside the family environment in the form of interesting, fun, healthy, organized, directed, practical activities, which are carried out in nature with Basic Scouting Principles and Scouting Methods, whose ultimate goal is the formation of noble character, morals and character. The five suggestions above can be used as material to revise Law Number 12 of 2010 concerning the Scout Movement to make it more targeted (Semedi, 2011).

CONCLUSION

The Scout Movement Law was born as a response from the government and the House of Representatives to revitalize the Scout Movement. The establishment of the Scout Movement Law stems from the mandate of Mr. Susilo Bambang Yudhoyono (6th President of the Republic of Indonesia) who instructed to revitalize the Scout Movement as one of the pillars of youth education and the answer to youth problems. This revitalization considers the current condition of the Scout Movement, because the younger generation is increasingly uninterested in scouting, in addition to the pattern and mechanism of coaching which is considered

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monotonous and less interesting. So that many young people are involved in the wrong association, choosing to be involved in criminal acts and the use of illegal drugs.

The enactment of Law Number 12 of 2010 will be able to empower the Scout Movement in a systematic, sustainable and planned manner to improve the role, function and main tasks of the Scout Movement, as well as strengthen the institutional existence of the Scout Movement which is integrated with other scouting movements around the world. In addition, interactive and progressive learning methods as referred to in paragraph (2) of Law Number 12 of 2010 concerning the Scout Movement can be realized through interaction: the practice of the Scout Code of Honor, learning-by-doing activities, group activities, working together and competing, outdoor activities, the presence of adults who provide encouragement and support, awards in the form of marks of proficiency, and separate units between boys and girls will further motivate the younger generation to be active as Scouts.

Law No. 12/2010 on the Scout Movement is a very strong legal standing for the current position of the Scout Movement. However, in its implementation in the real world, the existence of the Scout Movement is still widely underestimated. So it is necessary to have a regional legal umbrella either from the provincial level such as a Governor Regulation (Pergub) or at the Regency level in the form of a Regional Regulation (Perda) or Regent Regulation (Perbup). Regulations can contain recommendations for the use of scout uniforms or budgets for scouting activities.

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