

The Placement of Police Members at the Directorate General of Sea Transportation of the Ministry of Transportation of the Republic of Indonesia is Not Contrary to the Law on State Apparatus and the Law on the National Police

Junaedi

Government Study, Universitas Muhammadiyah Makassar,
Sultan Alauddin street, No. 259 Makassar, Indonesia



Abstract – The Placement of Police Members at the Directorate General of Sea Transportation of the Ministry of Transportation of the Republic of Indonesia is Not Contrary to the State Civil Apparatus Law and the Police Law. This study was conducted to find out how the law for placing the National Police in the ranks of the Director General of Sea Transportation of the Ministry of Transportation of the Republic of Indonesia is based on the ASN Law and Police Act. The purpose of this research is expected to be able to examine and analyze the law regarding the placement of the National Police in the ranks of the Director General of Sea Transportation of the Ministry of Transportation of the Republic of Indonesia based on the ASN Law and the Police Law. Data analysis was carried out using an analysis based on legislation, namely Law Number 5, 2014 concerning ASN and Law Number 2 Year 2002 concerning Republic of Indonesia Police, among others, that the placement of Republic of Indonesia Police in non-police institutions does not conflict with the ASN Law. Law on the National Police if the tasks carried out by members of the Police are related to the functions and duties of the Police.

Keywords – *Police deployment, Directorate General of Sea Transportation, does not conflict with the legislation.*

I. INTRODUCTION

The State of Indonesia is a constitutional state based on Pancasila and the 1945 Constitution and is a country that has a very long history in its system of government. The Unitary State Administration of the Republic of Indonesia (SANKRI) is based on and is an elaboration of the 1945 Constitution. At the Preamble to the 1945 Constitution there is an expression that declares "the Spiritual Dimensions of the very basic Indonesian Public Administration (Dubois & Fattore, G2009). This spiritual meaning in the Indonesian context contains the meaning of "psycho-religious and cultural" which is thick with the divinity dimension and the recognition of the Indonesian people for the existence and role of God Almighty in the struggle to realize the noble ideals and goals of the nation and state, which fully reflects the values of the nation and state. natural or pure and universal humanity. The preamble to the 1945 Constitution confirms the spiritual dimension of the Indonesian state administration system, in the form of a statement of faith and acknowledgment of the almighty power of Allah SWT in the struggle of the nation (in paragraph three); as well as the ideals and goals of the state, and the system of state government (paragraph four). In my opinion, the spiritual dimensions of SANKRI fully reflect the commitment to the values and principles of Good Governance (GG) and Civil Society (Junaedi, 2019).

In the context of the implementation of the state and the development of the Indonesian nation, all of these are manifestations of the "spiritual dimensions of SANKRI" which "must be practiced consistently" in the administration of the state and nation-building by both state apparatus and citizens of the nation.

The government in a country is one of the elements or components in the formation of a good state. The realization of good governance is when there is a synergy between the private sector, the people and the government as a facilitator, which is carried out in a transparent, participatory, accountable and democratic manner. The process of achieving a state with good governance requires tools in bringing components of government policies or regulations to realize national goals. The government apparatus is the government apparatus, namely the Indonesian National Army (TNI), in particular the State Police of the Republic of Indonesia (POLRI) and the State Civil Apparatus (ASN). The challenge faced by the government in the field of human resources for the apparatus as the main pillar of government administration is the challenge to be able to develop a system of human resource planning (HR) for government apparatus in accordance with the results of the arrangement of institutional structures and devices. The consequence is the formation of discipline, ethics and morals at the implementing level, namely: TNI / POLRI / ASN which aims to increase work productivity and demands for the realization of a government apparatus that is free of Corruption, Collusion, Nepotism (KKN), and is more professional.

Improving the Competence of Human Resources (HR) Apparatus. Anticipating global challenges, the development of human resources for state apparatus needs to refer to international competency standards (world class). The figure of the future apparatus must be professional as well as law-abiding, rational, innovative, have high integrity and uphold the ethics of public administration in providing services to the community. Increasing the professionalism of the apparatus must be supported by high integrity, by seeking to institutionalize the following characteristics: a) having a high commitment to the struggle to achieve the ideals and goals of the state; b) have the required competence in carrying out the task of managing public services and policies; c) able to carry out tasks skillfully, creatively, and innovatively; d) discipline in work based on the nature and professional ethics; e) have responsiveness and accountability (accountability); f) has a degree of autonomy with a full sense of responsibility in making and implementing various decisions according to authority, and (g) maximizing efficiency, quality, and productivity.

Community empowerment efforts require a spirit to serve the community ("a spirit to serve the public"), and become a community partner ("partner of society"); or cooperate with the community (co production). Meanwhile, service has the meaning of service or management of aid provision that prioritizes the efficiency and success of the nation in building, which is manifested among others in the behavior of "serving, not being served", "encouraging, not hindering", "simplifying, not complicating", "simple, not complicated", "open to everyone, not just a few". The meaning of public administration as a vehicle for the administration of state government, whose essence is to "serve the public", must be truly understood by state government administrators. The purpose of this study is expected to be able to review and analyze the law regarding the placement of the National Police in the ranks of the Director General of Sea Transportation of the Ministry of Transportation of the Republic of Indonesia.

II. METHODS

This study uses research methods based on legal disciplines. To be able to conduct a research, it is necessary to use research methods that can support the implementation of research. The research method is basically a basic tool in the development of science and technology as well as the arts, so that a research is carried out, it must aim to reveal the truth in a systematic, methodical, and consistent manner (Ali, 2021). When viewed from the problems and research objectives, the types of normative legal research and empirical legal research. Normative legal research is used to analyze secondary data in the form of legal materials, in particular the laws and regulations that form the legal basis for the placement of the National Police in the Directorate General of Sea Transportation of the Ministry of Transportation of the Republic of Indonesia. This is in accordance with the meaning of normative legal research, which is a process to find the rule of law, legal principles, and legal doctrines in order to answer the legal issues faced in accordance with the prescriptive character of legal science (Marzuki, 2017).

Empirical legal research is used in this study with the consideration that one of the objectives of this research is to analyze the application of the law regarding the placement of the National Police in the ranks of the Director General. Sea Transportation Ministry of Transportation of the Republic of Indonesia based on Law no. 2 of 2002 concerning the Police. In other words, this study does not only analyze the law from a normative point of view, but also its application by legal subjects. This research is a descriptive analytical research. Descriptive legal research is descriptive in nature and aims to obtain a complete description (description) of the legal situation that applies in a certain place and at a certain time, or regarding existing juridical phenomena, or certain legal events that occur in society (Marzuki, 2017).

Thus, this research is not only intended to accurately and systematically describe legal phenomena or phenomena related to the placement of the National Police in the ranks of the Director General of Sea Transportation of the Ministry of Transportation of the Republic of Indonesia, but also to analyze these legal phenomena and then describe them. systematically and draw conclusions on the legal phenomena in question. Considering that the research elaborates on normative and empirical legal research methods, the data used include primary data and secondary data. Secondary data is data obtained by studying library materials in the form of legislation and other literature that is interconnected with the problems discussed (Dewata & Achmad, 2010). While primary data is as supporting data obtained directly by conducting interviews with informants / resource persons related to this research. The secondary data consisting of legal materials used can be divided into 3 (three) groups, namely; (a) Primary legal materials, namely legal materials consisting of legal rules contained in various legal instruments or laws and regulations relating to unlawful acts, namely; (1) Article 30 paragraph (4) of the 1945 Constitution; (2) Law no. 2 of 2002 concerning the Indonesian National Police; (3) Perkap. No. 12 of 2018 concerning amendments to the Perkap. No. 4 of 2017 concerning the Assignment of Members of the Indonesian National Police outside the organizational structure of the Indonesian National Police; (4) Law no. 5 of 2014 concerning State Civil Apparatus; (4) PP No. 17 of 2020 concerning Amendments to PP No. 11 of 2017 concerning the Management of the State Civil Apparatus. (b) Secondary legal materials, used to help understand various legal concepts in primary legal materials, analysis of primary legal materials is assisted by secondary legal materials obtained from various sources including journals, books, news, and media reviews, and other sources. other relevant. (c) Tertiary legal materials are needed to be used for various things in terms of explaining the meanings of words from secondary legal materials and primary legal materials, especially legal dictionaries, Big Indonesian Language Dictionary (KBBI), and banking dictionaries. The legal dictionary used is Black's Law Dictionary.

The secondary data collection technique was carried out by the method of library research ("library research"). Literature study is all efforts made to gather information that is relevant to the topic or problem that will be or is being researched. This information can be obtained from scientific books, research reports, scientific articles, theses and dissertations, regulations, decrees, yearbooks, encyclopedias, and other sources of legal material (Zed, 2004). Meanwhile, to collect primary data used field research techniques (field research).

Research that collects secondary data is carried out using library research instruments, related to the placement of the National Police in the ranks of the Directorate General of Sea Transportation of the Ministry of Transportation of the Republic of Indonesia. The data is then analyzed using the selected analytical method.

All data that has been obtained and collected will then be reviewed and analyzed qualitatively. Analysis of qualitative data was carried out by selecting articles containing legal rules governing the placement of the National Police in the ranks of the

Director General of Sea Transportation of the Ministry of Transportation of the Republic of Indonesia. Then, make a systematic of these articles so that it will produce certain classifications according to the problems discussed in this study.

Qualitative analysis of secondary data is carried out by interpreting the laws and regulations related to this research to be further abstracted in a narrative so as to obtain legal arguments. Furthermore, all data are selected and processed and then analyzed descriptively so that in addition to describing and expressing answers to the problems raised, it is expected to provide solutions to the problems in this study.

III. RESULTS AND DISCUSSION

Indonesian National Police

The National Police of the Republic of Indonesia is a state apparatus and government bureaucracy, the function of the police universally is to eradicate crime (fighting crime), maintain order (maintaining law and order) and protect citizens from harm (protecting people). Therefore, the police are commonly defined as law enforcement agencies as order maintenance, peacekeeping officials and public servants. The police are authorized by law to use violence if they are forced to with the aim of saving and controlling the community. This authority is only operationalized in a limited manner (not the use of total violence as possessed by the TNI/military) therefore the professional ethics of the police is expected to prevent police officers from acting emotionally, ethnically, religiously and or other sectarian spirits.

Police

The definition of the State Police of the Republic of Indonesia must be distinguished from the State Police of the Republic of Indonesia, because of the difference between its organs and functions. The organ of the State Police of the Republic of Indonesia (Polri) has the function of the State Police of the Republic of Indonesia, but the function of the State Police of the Republic of Indonesia is not always held by the organ of the State Police (Bambang Purnomo, 1988: 25).

Law No. 2 of 2002 Article 1 paragraph (1) concerning the National Police of the Republic of Indonesia states that the Police are all matters relating to the functions and institutions of the police in accordance with statutory regulations. So the police concerns all aspects related to the duties and authorities of the police and the institutions in it.

Police Duty

In Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, it is explained in Article 13, that the main tasks of the State Police of the Republic of Indonesia are; (1) maintain public security and order; (2) enforce the law; and (3) provide protection, protection, and services to the community.

Of the three main tasks of the police above, it is explained in Article 14 that in carrying out the main tasks as referred to in Article 13, the National Police of the Republic of Indonesia is in charge; (1) implementing regulation, guarding, escorting, and patrolling community and government activities as needed; (2) organize all activities to ensure security, order and smooth traffic on the road; (3) fostering the community to increase community participation, legal awareness of the community and the obedience of community members to the law and statutory regulations; (4) participate in the development of national law; (5) maintain order and ensure public safety; (6) coordinate, supervise, and provide technical guidance to the special police, civil servant investigators, and other forms of self-defense; (7) conduct investigations and investigations of all criminal acts in accordance with the criminal procedure law and other laws and regulations; (8) carry out police identification, police medicine, forensic laboratories and police psychology for the purposes of police duties; (9) protect the safety of body, soul, property, society and the environment from disturbances of order and/or disaster, including providing assistance and assistance by upholding human rights; (10) serve the interests of the community for a while before being handled by the agency and/or the authorized party; (11) provide services to the community in accordance with their interests within the scope of police duties; as well as; (12) carry out other duties in accordance with the laws and regulations.

Police Authority

The authority of the police in Article 15 paragraph (1) of Law Number 2 of 2002 concerning the Indonesian National Police states that; (1) receive reports and/or complaints; (2) assisting in resolving community disputes that may disturb public order; (3) preventing and overcoming the growth of community diseases; (4) supervise the flow that can cause division or threaten the unity

and integrity of the nation; (5) issuing police regulations within the scope of police administrative authority; (6) carry out special examinations as part of police action in the context of prevention; (7) take the first action at the scene; (8) taking fingerprints and other identities and photographing a person; (9) looking for information and evidence; (10) organize a National Criminal Information Center; (11) issue permits and/or certificates required in the context of community service; (12) provide security assistance in the trial and implementation of court decisions, the activities of other agencies, as well as community activities; (13) receive and store the found items for a while.

Crime Prevention

The more the times, the more demands of people's lives. The many demands of society have a positive or negative impact. When a negative impact arises and causes a conflict of interest in the community so that a violation of the law occurs, the legal institution is obliged to resolve it. This is where the role of legal institutions is needed to enforce the law.

Not all violations are legal violations. An act that violates the law is an act that can be categorized as a criminal act so that the act violates the criminal law. Criminal law is a law that contains regulations that contain obligations and prohibitions against violators who are threatened with corporal punishment (Gershoff & Bitensky, 2007).

Acts that violate the law committed in the community can disrupt public order, so that there is a need for countermeasures by existing legal institutions. In this case, the legal institution in question is the police. Countermeasures means efforts taken to prevent, deal with, or overcome a situation.

P. Hoefnagels in the book Nawawi Arief (2014) describes three efforts in overcoming crime that can be taken, namely; (1) The application of criminal law (criminal law application); (2) Prevention without punishment (prevention without punishment); (3) Influencing public views on crime and punishment through mass media (influencing views of society on crime and punishment/mass media).

Thus, crime prevention efforts can be broadly divided into two, namely through the "penal" (criminal law) and through the "non-penal" (not/outside criminal law). In the distribution of G. P. Hoefnagels above, the efforts mentioned in points (b) and (c) can be included in the "non-penal" group of efforts (Nawawi Arief, 2014).

Furthermore, Nawawi Arief (2014) explains that it can be roughly distinguished, that efforts to overcome crime through the "penal" route focus more on the "repressive" nature (suppression / eradication / suppression) after the crime has occurred, while the "non-penal" route focuses more on focuses on the nature of "preventive" (prevention/deterrence/control) before the crime occurs. It is said to be a rough distinction because repressive measures can in essence also be seen as preventive measures in a broad sense. Considering that crime prevention efforts through the "non-penal" route are more of a preventive measure for the occurrence of crime, the main target is to address the factors conducive to the occurrence of crime. The conducive factors, among others, are centered on social problems or conditions that can directly or indirectly lead to or foster crime.

Conceptual framework

Police Service Functions based on the Police Act

If we relate the contents implied in Law no. 2 of 2020 concerning the Police Article 2 The main tasks and functions of the State Police of the Republic of Indonesia are one of the functions of the state government in the fields of: (a). maintain security and public order (b). enforce the law (c). provide protection, protection, and service to the community.

The function of the Police Service based on the Police Law on investigation is clearly and clearly implied as regulated in Article 14 paragraph (1) letter (g) of Law no. 2 of 2002 concerning the Police "In carrying out the main tasks as referred to in Article 13, the National Police of the Republic of Indonesia is tasked with conducting investigations and investigations of all criminal acts in accordance with the criminal procedure law and other statutory regulations;

This is also reinforced in Article 1 of the Criminal Procedure Code which states that: "investigators are officers of the state police of the Republic of Indonesia or certain civil servants who are given special authority by law to conduct investigations".

Basis for Placement of Police in Agencies outside the Police

The main basis for placing the National Police in agencies, institutions, ministries, BUMN, BUMD Article 2 sub (a), (b) and sub (c) Perkap No. 12 of 2018 concerning Amendments to the Regulation of the National Police Chief No. 4 of 2017 concerning the Assignment of Members of the Indonesian National Police outside the Organizational Structure of the Indonesian National Police, it is stated that: The objectives of setting the assignment of members of the Indonesian National Police outside the Organizational Structure of the Indonesian National Police include: (a). the implementation of administrative order in the assignment of Polri members outside the organizational structure of the Polri; (b). the realization of legal certainty over the status of Polri members assigned outside the organizational structure of the National Police; and (c). the implementation of Polri's duties optimally in implementing government functions at ministries/institutions/agencies/commissions, diplomatic/consular representatives, or maintaining world peace in international organizations; (a) Article 3 sub (a), (b), (c) and sub (d) Perkap No. 12 of 2018 concerning Amendments to Perkap No. 4 of 2017 concerning the Assignment of Members of the National Police of the Republic of Indonesia outside the Organizational Structure of the Indonesian National Police, it is stated that "The assignment of members of the Police of the Republic of Indonesia outside the Organizational Structure of the Indonesian National Police is carried out with the following principles: a). legality, namely the assignment of Polri members outside the Polri organizational structure based on an assignment order from the Polri organization; b). selective priority, namely the assignment of Polri Members outside the Polri organizational structure is carried out selectively based on a priority scale; c). objective, namely the process of assigning members of the National Police outside the organizational structure of the National Police carried out based on the requirements and capabilities needed; d). professional, namely the assignment of members of the National Police outside the organizational structure of the National Police carried out according to their competencies; (b) Article 5 The assignment of members of the Indonesian National Police (unlike the TNI, which is limited to 11 K/L) as referred to in Article 4 letter a is carried out on: (a). People's Consultative Assembly (MPR), People's Representative Council (DPR), and Regional Representative Council (DPD); (b). ministries/agencies/agencies/commissions; (c). international organizations or representative offices of foreign countries domiciled in Indonesia; (d). State-Owned Enterprises (BUMN) or Regional Owned Enterprises (BUMD); and e). certain agencies with the approval of the National Police Chief; (c) Article 7 paragraph (2) sub (a) that positions in the assignment of members of the Indonesian National Police include structural positions as referred to in paragraph (1) letter a covering positions in: (a). ministry (Ministry of Transportation RI) / institution / agency / commission; even in international organizations or offices, representatives of foreign countries domiciled in Indonesia, BUMN or BUMD; and certain agencies with the approval of the National Police Chief.

In Chapter IX the Filling of High Leadership Positions Article 109 Paragraph (1), and Paragraph (2) of Law No. 5 of 2014 concerning ASN, it is stated that; (1) Certain main and middle high leadership positions may come from non-PNS circles with the approval of the President, which are filled openly and competitively and stipulated in a Presidential Decree; (2) The positions of high leadership can be filled by soldiers of the Indonesian National Armed Forces and members of the Indonesian National Police after resigning from active service if necessary and in accordance with the competencies determined through an open and competitive process.

In the explanation of Article 109 Paragraph (3) of Law No. 5 of 2014 concerning ASN it is explained that: "What is meant by "certain government agencies" is as stated in the laws and regulations governing the Indonesian National Army and the Indonesian National Police".

"The positions of high leadership in the abovementioned government agencies are filled through the assignment and appointment of the President, the Commander of the Indonesian National Armed Forces, or the Head of the State Police of the Republic of Indonesia".

The Police Law Number 2 of 2002 also states that the police may not hold concurrent positions other than the duties of the police, especially if the police officer is still an active general. Article 28 paragraph (3) of Law no. 2 of 2002 concerning the National Police of the Republic of Indonesia states, "Members of the State Police of the Republic of Indonesia may occupy positions outside the police after resigning or retiring from the police service". has nothing to do with the police or is not based on an assignment from the National Police Chief.

The Placement of Police Members at the Directorate General of Sea Transportation of the Ministry of Transportation of the Republic of Indonesia is Not Contrary to the Law on State Apparatus and the Law on the National Police

In this context, it is necessary to look further into the meaning of the phrase positions outside the police which are contained in Article 28 paragraph of the POLRI Law. Based on the explanation of the POLRI Law, what is meant as a position outside the police is a position that has nothing to do with the police or is not based on an assignment from the National Police Chief.

Positions filled by members of the Indonesian National Police at the Ministry of Transportation of the Republic of Indonesia have competence because they are graduates of the Shipping Science Academic (Akpul of the Ministry of Transportation of the Republic of Indonesia) as stipulated in Article 109 paragraph (3) of Law 5 of 2014 concerning ASN, that "High Leadership Positions in certain Government Agencies can be filled by soldiers of the Indonesian National Armed Forces and members of the Indonesian National Police in accordance with competence based on the provisions of laws and regulations".

Members of the Police who occupy positions at the Directorate of Sea Transportation are positions that still have connection with the police function, because Dirkapel is a Directorate that conducts investigations, investigations into criminal acts, shipping in ports, therefore it is still allowed because the position still has relevance. related to the function of the police, namely the function of law enforcement. This shows that although serving outside the POLRI institution, the duties carried out by active POLRI members are still related to police functions (investigations and investigations in the field of crimes against service and ports). In addition, the filling of positions outside the POLRI institution is carried out based on their competence and expertise and obtains permission from the National Police Chief. In this context, the position of active POLRI members who serve in several ministries, commissions and institutions, this does not reflect a form of ABRI's dual function because even though POLRI members work outside the POLRI institution, their duties and authorities are still in the same field, namely the function of POLRI. police.

Table 1. Placement of Polri Members Outside the POLRI Organizational Structure

Nama Anggota Polri	Position in the Police	Position Outside the Police Agency
Much. Irawan	Commissioner General of Police	Acting Governor of West Java
Heru Winarko	Commissioner General of Police	Head of the National Narcotics Agency (BNN)
Boy Rafli Amar	Commissioner General of Police	Head of BNPT
Firli Bahuri	Commissioner General of Police	Chairman of the Corruption Eradication Commission (KPK)
Budi Waseso	Commissioner General of Police	President Director of the Logistics Affairs Agency (Bulog)
Setyo Wasisto	Inspector General of Police	Inspector General at Ministry of Industry
Martuani Sormin	Inspector General of Police	Acting Governor of North Sumatra
Andap Budhi Revianto	Inspector General of Police	Inspector General of the Ministry of Law & Human Rights
Reinhard Silitonga	Inspector General of Police	Director General of Corrections, Ministry of Law & Human Rights
Ronny Franky Sompie	Inspector General of Police	Director General of Immigration, Ministry of Law and Human Rights
Heru Winarko	Commissioner General of Police	Head of the National Narcotics Agency (BNN)
Adi Deriyan	Police Brigadier General	Special Staff for Security Ministry of Tourism & Creative Economy
Hermanta	Brigadier General Police	Dirkapel Ministry of Transportation

The main basis for placing the National Police in agencies, institutions, ministries, BUMN, BUMD Article 2 sub (a), (b) and sub (c) Perkap No. 12 of 2018 concerning Amendments to Perkap No. 4 of 2017 concerning the Assignment of Members of the Indonesian National Police outside the Organizational Structure of the Indonesian National Police, it is stated that: The objectives of setting the assignment of members of the Indonesian National Police outside the Organizational Structure of the Indonesian National Police include: a). the implementation of administrative order in the assignment of Polri members outside the organizational structure of the Polri; b). the realization of legal certainty over the status of Polri members assigned outside the organizational structure of the National Police; and (c). the implementation of Polri's duties optimally in carrying out government functions at ministries/institutions/agencies/commissions, diplomatic/consular representatives, or maintaining world peace in international organizations.

Article 3 sub (a), (b), (c) and sub (d) Perkap No. 12 of 2018 concerning Amendments to Perkap No. 4 of 2017 concerning the Assignment of Members of the National Police of the Republic of Indonesia outside the Organizational Structure of the Indonesian National Police, it is stated that "The assignment of members of the Police of the Republic of Indonesia outside the Organizational Structure of the Indonesian National Police is carried out with the following principles: (a). legality, namely the assignment of Polri members outside the Polri organizational structure based on an assignment order from the Polri organization; (b). selective priority, namely the assignment of Polri Members outside the Polri organizational structure is carried out selectively based on a priority scale; (c). objective, namely the process of assigning members of the National Police outside the organizational structure of the National Police carried out based on the requirements and capabilities needed; d). professional, namely the assignment of members of the National Police outside the organizational structure of the National Police carried out according to their competencies;

Article 5 The assignment of members of the National Police in the country (unlike the TNI, which is limited to 11 K/L) as referred to in Article 4 letter a is carried out on: (a) People's Consultative Assembly (MPR), People's Representative Council (DPR), and Regional Representative Council (DPD); (b). ministries/agencies/agencies/commissions; (c) international organizations or representative offices of foreign countries domiciled in Indonesia; (d) State-Owned Enterprises (BUMN) or Regional Owned Enterprises (BUMD); and (e). certain agencies with the approval of the National Police Chief.

Article 28 paragraph of the Indonesian National Police Law. Based on the explanation of the UUPOLRI, what is meant as a position outside the police is a position that has nothing to do with the police or is not based on an assignment from the National Police Chief. Article 109 paragraph (3) of Law 5 of 2014 concerning ASN, that "High Leadership Positions in certain Government Agencies can be filled by Indonesian National Army soldiers and members of the Indonesian National Police in accordance with competence based on the provisions of laws and regulations".

IV. CONCLUSION

Members of the Police who occupy positions at the Directorate of Sea Transportation are positions that still have connection with the police function, because Dirkapel is a Directorate that conducts investigations, investigations into criminal acts, shipping in ports, therefore it is still allowed because the position still has relevance. related to the function of the police, namely the function of law enforcement. This shows that although serving outside the POLRI institution, the tasks carried out by active POLRI members are still related to police functions (investigation and investigation in the field of crimes against service and ports). In addition, the filling of positions outside the POLRI institution is carried out based on their competence and expertise and obtains permission from the National Police Chief. In this context, the position of active POLRI members who serve in several ministries, commissions and institutions, this does not reflect a form of ABRI's dual function because even though POLRI members work outside the POLRI institution, their duties and authorities are still in the same field, namely the function of police.

REFERENCES

- [1] Ali, Z. (2021). *Metode penelitian Hukum*. Jakarta: Sinar Grafika.
- [2] Badan Pembinaan Hukum Nasional RI, (2007). Laporan Akhir Tim Kompendium Bidang Hukum Pemerintahan yang Baik. Departemen Hukum dan HAM RI.
- [3] Dewata, M. F. N., & Achmad, Y. (2010). Dualisme Penelitian Hukum Normatif dan Empiris. *Yogyakarta: Pustaka Pelajar*.

- [4] Dubois, H. F., & Fattore, G. (2009). Definitions and typologies in public administration research: the case of decentralization. *Intl Journal of Public Administration*, 32(8), 704-727.
- [5] Gershoff, E. T., & Bitensky, S. H. (2007). The case against corporal punishment of children: Converging evidence from social science research and international human rights law and implications for US public policy. *Psychology, Public Policy, and Law*, 13(4), 231.
- [6] Junaedi, J. (2019). Legal Study About Demotion Of The Indonesian National Army And Police In The Director Of Sea Transportation, The Ministry Of Transportation Of The Republic Of Indonesia. *Res Nullius Law Journal*, 1(2), 124-138.
- [7] Marzuki, M. (2017). *Penelitian Hukum: Edisi Revisi*. Prenada Media.
- [8] Nawawi Arief, B. (2014). *Perbandingan Hukum Pidana*. Depok: PT Raja Grafindo.
- [9] Zed, M. (2004). *Metode Peneletian Kepustakaan*. Yayasan Obor Indonesia.