

POLICE'S NEEDS FOR CAPACITY BUILDING IN ITS ROLE AS SERVANT AND PROTECTOR OF THE SOCIETY

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ABSTRACT

The aim of this paper is to identifies and analyze the material formulations of capacity building needs for police officers in Indonesia. This research is an empirical legal research and to get the secondary material law using the interview and focus group discussion. Ther result showed that in order to make police officer become professinoal and humanis some development are needed. The formulation of capacity is needed for police officer which contain as follow: the code of conduct, human rights, legal culture, reward and punihment model and communication aspect.

Keyword: capacity, police officer and material formulation.

INTRODUCTION

Professional law enforcement remain to be a homework for Indonesian government since the role of judges, prosecutors, and police as law enforcement officers is not optimal (IPW, 2009). The image of law enforcers in the community is not clean enough due to the increasing violence activities which even evoke the abolition of human rights (Iza Fadri, Sik 2011). Police known as living law because through police the purpose of law to protect become reality (Agus Raharjo dan Angkasa, 2011). police role as public servant and protector for society can be seen in the first process of law enforcement (Satjipto Rahardjo, 2009).

The impact of those actions by police for Indonesian society caused the decrease of confidence to the police to resolve conflict, and some police officers even provoke and keep the violence going. However, at present, efforts to improve the performance of law enforcement apparatus have been carried out, one of which by promoting paradigm of police as community police (Eki, Baihaki, 2012). Besides that, in reforming police institution's organization, it is supported with laws, policies, and the development of ongoing programs. However, continuous evaluation towards the programs have not been carried out (Indrayanti and Husni, 2017).

The role of capacity building for reforming police organization requires understanding towards several aspects that must be considered, including precondition and systematic approach to capacity building in police reform (Harris, F. 2005). The study of Barito Mulyo Ratmono, (2013) shows that the formation of organizational culture in police institutions has not been well carried out, as evidenced by a hegemony process in Indonesian National Police's (POLRI) culture that is not in accordance with the norms, values, and norms symbolization. Likewise, the role of communication in building the image of police in the community is still far from the expectations and the communication skill needs to be enhanced (Christina Aleida Tolan et al., 2017). So, equipping them with the knowledge, skills and best practices needed to meet today's policing challenges.

Furthermore, studies on material for capacity building for police have not been widely carried out, while recognizing the condition of police members' behavior in general which still needs improvement. On this basis, this study identifies material formulations of capacity building needs for police, with the aim of improving the performance of the apparatus, so that there is a change in the way of thinking and behavioral scheme (pattern of behavior) to be professionals and humanist.

RESEARCH METHOD

This research is an empirical legal research. This research was conducted in Surabaya Regional Police in East Java, and Denpasar Regional Police in Bali. The purposive sampling method was used in this study, which involve Malang City Police and Pasuruan City Police in East Java, and Denpasar City Police in Bali. Interview techniques was by using closed and open quizzes, and focus group discussions are used to obtain information thoroughly.

LITERATURE REVIEW

According to Rover, C. De. (1998) the function of law enforcement is public services with the aim of enforcing the law, maintaining public order, and providing assistance in emergencies. In line with Betz. (2001) statement, the duty of the police to deal with law enforcement is only about 10 percent, while as a public servant is as much as 90 percent.

At the moment, in Indonesian National Police (POLRI) environment there has been a shift in the paradigm of public services, from being centralistic to service-based with orientation to be more customer-driven and promote the principle of ease (accessibility). The "Community Police" commitment must place the community as a stakeholder in solving problems , (Baihaki, 2012). Therefore, the success of the police task depends on its ability to foster relationships with the community.

At the national level, the role of the National Police is regulated in the provisions of the Indonesian National Police Law No. 2 Year 2002 and the Regulation of the Chief of the Indonesian National Police Number 14 Year 2011 concerning the Professional Code of Ethics of the Republic of Indonesia National Police. Of the three components of the legal system, namely the substantive aspects of law (regulations), the legal structures (law enforcement officers), and the legal culture (ways of thinking and behavioral patterns related to law that need.

Conducted a study in the United Kingdom, revealed that the key to the success of police officers on duty is the possession of knowledge in communication, sense of humor, ability to adjust, ability to follow the flow of common people thinking, tolerance, sensitivity and integrity (Peter Ainsworth, 1993). Communication skills are one of the important factors behind the success of British police work in building relationships with the community.

While studies by Indrayanti and Husni, (2017) in East Java and Bali Regional Police, Indonesia, shows that there have been changes both in policies and programs, but the monitoring and evaluation of the process has not been carried out. Some aspects of knowledge and understanding need to be improved within police officers to build police into a professional and humanist officer.

RESULT AND DISSCUSSION

This study was conducted in 3 District Police units, those were in Denpasar, Bali, and in Malang and Pasuruan, East Java.

The relationship between the practice of law enforcement and the perception and experience of rights and freedoms and / or quality of life in general in a society is a problem that still

obtains inadequate thinking and attention. Therefore, cultural aspects related to the perception of every member of the law enforcement agencies should be harmonized with the shared perception in the police corps. Indeed, in practice it is difficult to monitor.

Reward and punishment programs for police members who commit violations are generally subject to administrative sanctions starting from reprimand, mutations, and promotion postponement, even up to dismissal. While reward is given directly and announced during the regular briefing ceremony. Only the model of the gift for reward still has to be developed, for example by posting photos of individual police officers who are the best on duty, for instance for 3 months in their respective units. This will have an impact on other members to perform better in duty.

Improvement of communication that needs to be carried out by police officers is with regard to the feedback from the other person. To improve the protection of the community, police institution has a Go Police program which considered very helpful to the community. In carrying out programs that are directly related to the community, good communication is required. Efforts to make improvements that have been made in public service sector are pursued by improving the place, location, and facilities of public service infrastructure. Improve the quality of an orderly and comfortable service environment with adequate educational facilities. Especially concerning the services of driving licenses, vehicle registration, police record, and traffic ticket cases. All of these programs require good communication owned by each member of the police.

Aspects of Change in Culture, with the launch of mental revolution program for police officers is in the hope that the member of Bhayangkara can uphold justice as a protector and guardian of the community. Efforts that must be carried out by POLRI to restore public's trust are by implementing appropriate reformation strategies in the field of performance, internal culture of the institution, and increase knowledge for police members.

Furthermore, police officers in the City Police environment need knowledge in the field of communication and culture to make police figures as the servants and protectors of the society. Related to that, there have been many programs carried out both in the short and long term from the National Police Chief and included in the respective City Police programs.

Improvement in the field of culture requires a hard effort from all levels of police members. In addition to building substance for the apparatus, it also demands knowledge and understanding of culture, especially in the police's way of thinking, so that police behavior patterns can change to be more humane and professional in law enforcement.

The draft material for the capacity building model for POLRI will be formed consisting of: 1) the code of conduct for police officer 2) human rights, 3) legal culture in Polri's environment, 4) reward and punishment and 5) aspect of communication skill, which will summarized as follows:

CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS

The issue of professional ethics for law enforcement has been devoted an idea in international instruments on human rights and criminal justice, especially in the Code of Conduct for Law Enforcement Officials (CCLEO) received by the United Nations General Assembly in its Resolution 34/169 December 17, 1979. This resolution states that the nature of law enforcement function in the maintenance of public order, and how to carry out this function has a direct impact on the quality of life in individuals and in society as a whole. While emphasizing the importance of the tasks carried out by law enforcement officials, the General Assembly also underlined the potential for abuse caused by the implementation of these tasks.

CCLEO consists of eight articles. CCLEO is not a treaty but falls into the category of instruments that provide authoritative guidance to governments on issues relating to human rights and criminal justice.

Article 1 states that: "law enforcement officials at all times will fulfill the obligations imposed on them by law ...". In the commentary on this article, the term law enforcement officials is formulated to include all legal officials, both those appointed and those elected, who exercise the authority of the police, especially the power of arrest or detention.

Article 2 requires law enforcement officials to carry out their duties, respect and protect human dignity, and maintain and uphold the human rights of all people.

Article 3 limits the use of violence by law enforcement officials in circumstances that are in dire need, and to some extent for the performance of their duties.

Article 4 states that confidential matters in the power of law enforcement officials must be kept confidential, except if the execution of the task or the need for justice requires the opposite.

Article 5 repeats the prohibition of torture or other violent, inhuman, or degrading treatment or punishment.

Article 6 deals with the obligation to protect the health of those who are deprived of their independence and provide health care whenever necessary.

Article 7 prohibits law enforcement officials from committing acts of corruption and ordering them to fight and crack down such acts.

Article 8 is a closing provision, urging law enforcement officials (again) to respect law and (this Code). In the case of violation of this Code, law enforcement officials must report the matter to the authority of their superiors, and if necessary, to other appropriate authorities or organs granted powers of review or resolution (Rover, C. De, 1998).

Declaration of European Council on the Police

Based on the existing regional arrangements, only the Parliamentary Council of the European Council makes the same instrument as CCLEO; The Declaration on the Police (the DP), which attached to Resolution 690 (1979) and received by the Parliamentary Assembly on May 8, 1979.

The DP is divided into three sections: Section A includes Ethics, Section B covers Status, and Section C includes War and other Emergencies - Occupation by Foreign Power. In a footnote to the instrument, it is indicated that sections A and B cover all individuals or organizations, including bodies such as secret services, military police forces, armed forces, or militias carrying out police duties, who are responsible for enforcing the law, investigate violations, and maintain public order and state security.

Part A, Ethics, includes moral obligations and legal obligations of law enforcement officials that far more profound than CCLEO. The used formulation for declaring assignments, obligations, and responsibilities is more detailed than the formulation used in CCLEO. In addition, the DP contains a number of provisions that are not included in CCLEO, such as the obligation to ignore illegal orders (article 3), or to ignore orders relating to torture, summary execution, or inhuman or degrading treatment or punishment (article 4) ; personal responsibility of police officers for illegal acts or omissions (article 9), instructions regarding the use of weapons (article 13); and prohibition of actions against people for reasons of race, religion, or political belief (article 8).

Part B, Status, relates to the organization of police forces and the personal and professional rights of police officers.

Section C, War and other Emergencies - Occupation by Foreign powers is related to the provisions of humanitarian law which states the position, duties, and obligations of police officials in the event of an armed conflict. A more detailed explanation of this particular topic can be found in Chapter Public Order Maintenance (Rover, C. De,1998).

HUMAN RIGHTS IN LAW ENFORCEMENT

Right is an entitlement. Rights are demands that can be submitted by someone against another person to the limits of the implementation of the right. It does not prevent others from exercising their rights. "Human rights" is the legal right that everyone has as a human being. These rights are universal and are owned by everyone, despite of rich or poor, male or female, etc. These rights may be violated but can never be eliminated (Manfred Nowak, 2003).

Human rights are legal rights - this means that these rights are legal. guaranteeing special rights and determining redress if the right is violated. In addition, it is also important to note that human rights are protected by the constitution and national law of many countries in the world. The fundamental principles underlying modern human rights law have existed throughout history. However, as explained in more details below, until this century, the international community did not realize the need to develop minimum standards for the treatment of citizens by their governments.

RIGHTS OF DETAINEE

Whenever someone is arrested, it must be due to the indictment of violation or by the actions of the authorities (Body of Principles, principle 36.2). A person who is going to be arrested must be notified of the reason for his arrest and must be immediately notified of the charges against him, at the time of his arrest (ICCPR, article 9.2; Body of Principles, Principle 10).

The person who is arrested must be taken to a place of detention and immediately presented to a judge or other official who is authorized to carry out judicial powers which will decide the validity and necessity of the arrest (ICCPR, article 9.3; Body of Principles, Principles 11 and 37).

The same provisions concerning arrest and detention are repeated in the ACHR (article 7) and in the ECHR (article 5). ACHPR does not contain such provisions. There is no clear formula for what is meant by "immediate". In many countries, the maximum time allowed before the arrested person can be presented before a judge or the mutual authority is limited to 48 hours. In some other countries, it is limited to 24 hours. A 48 or 24 hours period is more commonly designated and known as detainee. The next term is known as pre-trial detention.

Everyone at the time of arrest or detention or imprisonment or immediately after that, must be given information and explanation regarding their rights and how to obtain these rights by the authority responsible for the arrest, detention, or imprisonment respectively (Body Principles, Principles 13).

RIGHTS THAT FOLLOW ARREST

The presumption of innocence applies to all prisoners and must be reflected in their treatment. Actions other than those needed are only to prevent obstacles to the investigation process or maintain order and security in prohibited places of detention (Body Principles, Principle 36).

Detainees are entitled to the assistance of legal counsel and must be given appropriate facilities to exercise this right. Legal counsel must be provided by a court or other authority if the detainee does not have his or her own choice of legal counsel, and free from charge if the detainee is unable to pay (Body Principles, Principle 17).

The following are the rights of detainees and / or legal counsel: the opportunity to be heard (information) by the court or other authorities effectively; receive communication quickly and thoroughly regarding the order of detention, together with the reason for his detention (Principle 11); communicate with each other and have sufficient time and facilities for consultation with full trust without suspension or censorship; communicate with each other face to face but without being heard by law enforcement officers; such communication must not be accepted as evidence against the detainees except those relating to continuing crimes or those referred to (Principle 18); access to recorded information regarding the length of the interrogation, the time span between the interrogations, and the identity of the interrogating official and other persons present (Principle 23); Follow the judicial process in accordance with national law before the court or other authorities to oppose the validity of detention to obtain the release of detainees if the detention is illegal (Principle 32); submit an application or complaint relating to the treatment of detainees, especially in cases of torture or cruelty, inhumane, or insulting treatment, to an administrative authority or higher if necessary, to the appropriate authorities who have the right to review or the power to review (Principles 33).

Prohibition of torture applies to detained or imprisoned people (Body Principles, Principle 6). This prohibition is further described in Principle 21, which expressly prohibits taking advantage of the conditions of detainees to obtain recognition, to incriminate themselves, or to testify against others.

The detainee has the right to notify or request the competent authority to notify his family members or other appropriate persons he has chosen regarding his arrest. This right continues after each of the transfers (Body Principles, Principle 16).

In addition to the abovementioned rights related to the arrest or immediately thereafter, there are a number of provisions in the Body Principles that are more specifically related to the welfare of detainees or prisoners. Although this provision is very important for law enforcement, the provision is more precisely presented in the chapter on Detention.

SPECIAL STATUS FOR WOMEN

Non-discrimination based on sex is the basic principle of international law - enshrined in the United Nations Charter, UDHR (article 2) and many international human rights treaties. Based on this principle of non-discrimination, all protection provided to a person upon arrest and following his arrest (as mentioned above) applies equally to men and women.

However, in addition, it must be noted that respect for the inherent dignity of the human person (Body Principles, Principle 1) and protection of their rights may greatly require additional protection and consideration given to women. These actions include, for example, ensuring that arrests of women, if necessary to be carried out by female officials, their body and their clothes are inspected by female officials, and female prisoners are held in separate places with male prisoners.

SPECIAL STATUS FOR CHILDREN

The Convention on the Rights of Children (CRC) formulates "children" as every human being under the age of eighteen years except, under the law applicable to children, maturity has been obtained earlier (article 1).

The Minimum Standard Rules for the Beijing Rules formulate “children” as children or young people who, according to their respective legal systems, can be handled for a violation of law in a manner different from adults (Principle 2.2 (a)). According to the Beijing Rules, child offenders are children or young people who are charged with carrying out or violating the laws (Rule 2.2 (c)).

The abovementioned instruments do not stipulate exactly the minimum age for criminal responsibility, by submitting a decision on this matter at the national level. However, the Beijing Rules states that this age should not be set too low - taking into account emotional, mental and intellectual maturity (Rule 4).

In the explanation of Rule 4, it is known that "the minimum age of criminal responsibility is widely different for historical and cultural reasons. The modern approach will consider whether a child can carry out the moral and psychological elements of criminal responsibility, namely whether a child, based on his personal acumen and understanding, can be held accountable for essentially anti-social behavior.

Child law offenders have the same rights as adult lawbreakers, but they receive additional protection under special provisions that apply to international instruments. The main purpose of these specific provisions is to prevent children from the criminal justice system and hand it back to the community.

LEGAL CULTURE IN POLRI’S ENVIRONMENT

Friedman first introduced the concept of legal culture in the sixties to refer to social forces that affect the workings of law in society in the form of elements of values and attitudes of society related to legal institutions. He further explained legal culture as a component of legal system that refers to public knowledge, attitudes, and patterns of behavior related to the legal system (do people feel and behave in accordance with fair court decisions? When do they want to use court services? What do they know about law in general? What about the laws they consider legitimate; this attitude is different for each person but one can talk about the legal culture of a country or group, if there is a pattern that distinguishes it from the culture of a country or group).

Friedman sees that law is not feasible only to be discussed in terms of its structure and substance, but also in terms of demands that come from the interests of individuals or groups of people when dealing with legal institutions. These interests and demands are social forces reflected in the attitudes and values that exist in the community. Friedman's element of social forces is called legal culture.

Legal culture is defined as ideas, attitudes, beliefs, hopes and opinions about the law. Legal culture relates to parts of general culture, namely habits, opinions and ways of acting and ways of thinking of a person and community group related to the law (Manfred Nowak, 2003).

The concept of human rights related to the role of the police as law enforcement is to serve and to protect society. The concept of human rights needs to be understood by the members of Indonesian National Police in relation to the rights and obligations and ways to understand and improve the legal culture within POLRI in implementing law enforcement in the community. Legal pluralism is also used because it does not only involve the diversity of laws in the community but pluralism regarding the legal behavior of each individual.

Lawrence F Friedman who introduced the concept of legal pluralism which states that existing legal pluralism is not only limited to pluralism in the material aspects and its structure but pluralism also occurs at higher levels even up to the aspects of legal culture.

Including legal culture is the opinion or perceptions, habits, and diversity in the way of thinking and acting in the field of law (Achmad Ali, 2009). The above theory will be summarized to be able to explain that there is a need to increase the capacity in police environment, so that there is a change in patterns of behavior in providing service as the guardian of the community.

Some policies that must be addressed, and if necessary, need to be evaluated are related to several factors, namely:

- 1) The mechanism of the screening process at the leadership level should be applied consistently and consequently;
- 2) Member recruitment system should be based on the recruitment system of the National Police, which needs to be arranged and relied on member counseling system with the main foundation on moral consideration supported by determination, honesty, and responsibility on the implementing apparatus in carrying out the recruitment task.
- 3) It is necessary to establish regulations and internal supervision mechanisms which guided by performance measurement mechanism to avoid the lack of understanding on the nature of supervision by the executors.

ASPECT OF BEHAVIOR IN POLRI'S PERSONNEL

a). The impression of arrogant behavior among POLRI's personnel and being involved in various crimes has caused a decline in public's trust to the National Police, even though positive performance and achievements have been carried out by Indonesian National Police. Since people put great hope in the National Police as a figure who always protects, nurtures, and serves the community b). The effort to provide knowledge needs to be carried out continuously.

ASPECT OF PERFORMANCE

The performance of POLRI's personnel that have not been fully maximized is due to the existence of several interests which in fact discredit the norms, rules, or laws that should be upheld. It is still oriented on superior order rather than holding the law as a basis and not because of the needs of the community. In fact, it has the potential to distance POLRI from the community and impacted to the evaluation of POLRI's performance to be considered as not optimal.

ASPECT OF KNOWLEDGE

a. Limited knowledge in the field of police and other fields makes the knowledge of POLRI's personnel limited to being faced with increasingly critical and civilize society. b). there is a lack of socialization related to legislation with technical and tactical instructions, hence it has the potential to cause problems in carrying out tasks in the field.

One of the efforts to build the culture of POLRI is to make internal improvements, for instance by shaping police into humanist civilian police. There is condition where some POLRI officials are still power oriented and tend to ignores humanism factor, which is one of the basic joints of service to the community.

Building civilian police is by placing the police in charge of civil authorities and protecting public from the possibility of police tyranny. This thinking is based on the belief that Indonesian society guarantees the legitimacy of police authority and respects legal intervention by police in the affairs of the member of the community. This is based on several realities, i.e. first, the tendency of community resistance to the police to occur as a reaction to

abuse of authority or procedural errors in police actions. Second, a paternalistic culture that places the police as "authorized" or "powerful" can be used as a pre-conducive condition for the police to gain legitimacy from the community [15].

REWARD AND PUNISHMENT

Reward is a form of appreciation for a particular achievement which given both by and from individuals or an institution, which is usually given in form of incentive or in form of speech. In organization, there is an incentive term, which is an award in the form of money or non-money given by the leader of the company / organization to employees, so they will work better by making high motivation and achievement in reaching the goals of the company or organization.

Punishment is a way to direct a behavior to become a generally accepted behavior. In this case, punishment is given when an unexpected behavior is displayed by the concerned person or the concerned person does not respond or does not display an expected behavior.

There is expectations from the Chief of the National Police so that every member of the National Police competes in his duties and achievements to be the best and will be given an award. Tito wants all members of the National Police to compete in a healthy and competitive manner to show the best performance as a police officer. Because, Tito was not reluctant to give awards to members of the National Police who would be awarded according to the regulations. This form of reward is in the form of promotion to become sector police chief and city police chiefs, while for bhabinkamtibmas (public order and security officer) will be given chance to get advance education. One example of the award was given to POLRI members from the Metro Regional Police and the National Police Headquarters who managed to disclose the international network of 1 ton methamphetamine in Anyer in the form of an extraordinary promotion announced during a ceremony (Irvanindarta, 2011).

APECT OF COMMUNICATION UNDERSTANDING

Communication in training is the process of delivering communication which conditioned for training purposes. The training process is essentially a communication process which is the delivery of messages containing training materials. In this regard, training is expected to use circular model communication, namely the communication process that not only begins with the communicator and ends with the communicant, but notices the feedback from the communicant, so that communication can be effective. Communication refers to action, by one or more people who send and receive messages that distorted by noise, in certain contexts have a certain influence, and there is an opportunity to make feedback.

In communication objectives, there are four goals or communication motives that need to be expressed. Motives or goals need not be expressed consciously, nor do they need to be involved in agreeing on the purpose of their communication. The objectives either can be realized or not, and recognizable or not. Furthermore, even though communication technology changes rapidly, i.e. sending electronic mail, working with computers, etc., the purpose of communication basically remains the same, no matter how great the electronic and technology revolution that will come (Arnold and Bowers, ...).

Effective communication in training is expected to use verbal and non-verbal communication. Verbal communication is communication using verbal symbols / words or verbally. While non-verbal communication is communication by not using words, but using gestures, body language, facial expressions, eye contact, etc. It can also use objects such as clothes, haircuts, and so on. Verbal or non-verbal communication must be supported by ways of speaking such as intonation, pressure, sound quality, style of speech and emotional style. It also uses

gestures, body language, facial expressions, eye contact, etc. Also supported by the use of objects such as clothes, haircuts and so on.

CONCLUSION AND SUGGESTION

Based on studies and analysis in the second year, it can be concluded as follows: Laws, regulations, policies, and programs have been owned by the National Police and implemented up to city police level. The aim is to increase the capacity of police members towards professional performance in realizing themselves as servants and protectors of society. Yet, in its implementation, it is still necessary to increase capacity in the form of knowledge, hence there is a change in the pattern of behavior of the officers into a more humane task. The material needed for POLRI members consists of aspects of communication, human rights, legal culture, and a model of reward and punishment. Knowledge about communication needs to be owned by police officer.

SUGGESTION

There is a need of police superiors to implement with examples in updating the internal culture of police institution, therefore police officers do not hesitate or feel constrained by the internal culture of police. In other words, there is a democratic atmosphere which provided by examples by superiors, hence the process of creating professional and humanis police members become open.

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