

**DEVELOPMENT OF LAW IN THE PERSPECTIVE OF  
SOCIAL ORDER THROUGH PREEMTIF AND PREVENTIVE  
POLICY BASED ON LAW NO. 2 OF 2002 CONCERNING THE  
POLICE OF THE REPUBLIC OF INDONESIA**

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**ABSTRACT**

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*The development of law in Indonesia is marked by the development of society in social order which affects the legal system regarding awareness in applying the law through preemptive and preventive policies based on Law no. 2 of 2002 concerning the Indonesian National Police . That law enforcement is the duty and function of the Police that must be carried out in the Police. The meaning in the legal system consists of the formation of the rule of law, law enforcement by law enforcement officials, and legal awareness of the community in compliance and obedience as a legal community in maintaining social order. The research method used is normative juridical by analyzing the rule of law through the formation of law in Indonesia based on Law no. 15 of 2019 concerning Amendments to Law No. 12 of 2011 concerning the Establishment of Legislation; and Law no. 2 of 2002 concerning the Indonesian National Police .*

**Keywords: Development of Law, Social Order.**

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**INTRODUCTION**

The development of law in Indonesia is marked by the development of society in social order which affects the legal system regarding awareness in applying the law through preemptive and preventive policies based on Law no. 2 of 2002 concerning the Indonesian National Police . That law enforcement is the duty and function of the Police that must be carried out in the Police. The meaning in the legal system consists of the formation of the rule of law, law enforcement by law enforcement officials, and legal awareness of the community in compliance and obedience as a legal community in maintaining social order.

The definition of law according to the legal dictionary is the whole rule which every person in society is obliged to obey. A system of regulations to regulate

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human behavior in a society or nation; laws, ordinances or regulations established by the government and signed into law.<sup>1</sup>

Indonesia is a legal state based on law with the formulation of *rechtstaat* adapted to the conditions of Indonesia and the view of life as well as the view of the state. The view of the state of the Indonesian nation is contained in the Constitution which contains Pancasila, forming legal ideals in written and unwritten law in accordance with the provisions of the Constitution.<sup>2</sup>

In an effort to build the basic framework of national law, moral postulates and sentences thanks to the grace of Allah the Almighty, so that they need to be understood and internalized so that every effort to construct and form laws and regulations does not deviate from the spirit of struggle and the moral foundation proclaimed by the Constitution. 1945 the sentence shows the existence of a spiritual structure of our nation where the sense of justice, independence, populist spirit, equality and norms prevailing in society are intertwined, one unit, so that they cannot be separated.<sup>3</sup>

The existence of a rule of law requires the existence of a set of requirements which are *conditions sine qua non* with the nature of the existence of basic laws in a country. A device cannot be fulfilled, then the existence of various laws and regulations will function diametrically and/or not in accordance with the goals and essential legal principles, namely justice. The study of just law and its correlation with social justice shows that there is almost no society that does not talk about justice, truth and rational laws. Or there is no ruler who does not claim to uphold the rights and welfare of his people.<sup>4</sup>

The relationship between religion and legal culture in the context of nationality shows that the soul and the material of national law are two things that are closely related to each other. National Law Development reveals the ideals of national law. Social change is a reality whose presence brings various impacts on the law. The dimensions of people's lives can affect the response to the meaning of basic values, soul, material and the form of national law.<sup>5</sup>

Pancasila is an ethical principle in explaining the development of national law. Pancasila is categorized as an imperative for national development. Pancasila is a spiritual means not only related to independence but as a means as a nation with

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<sup>1</sup> Charlie. Rudyat, *Kamus Hukum*, Mahardika Library, Jakarta, p. 212.

<sup>2</sup> Padmo. Wahyono, 1986, *Indonesia Negara Berdasarkan atas Hukum*, Ghalia Indonesia, Jakarta, pp. 7-8.

<sup>3</sup> Artidjo. Alkostar., 1997, *Identitas Hukum Nasional*, Faculty of Law UII, Yogyakarta, page vi

<sup>4</sup> *Ibid*, p. 7.

<sup>5</sup> *Ibid*, p. 14.

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a homeland. The Constitution as laws and provisions containing metaphysical power is Pancasila as the mental homeland of the Indonesian nation.<sup>6</sup>

The factors that determine the development of law are political factors, (rulers, imperial traditions, centralized power), economic factors, religious and ideological factors, cultural factors.<sup>7</sup> These factors can influence the development of law, especially the development of law in Indonesia, in this case related to political factors, legal products are laws, which are products that result from politics that are influenced by power, political traditions in a country, besides that it also affects economic factors in determining the rule of law that applies. produced according to the holder of economic power that can influence the formation of a law, religious and cultural factors also influence the formation of legislation in Indonesia.

The notion of order is a rule in society, the custom of politeness and good manners. Order is defined as an atmosphere in which everyone in the life of the nation and state must behave in accordance with the provisions of the legislation.<sup>8</sup>

Public perception of social order with the development of society.  
Perception

Traditional society is an agrarian society different from modern society or industrial society. For traditional communities, social order is defined more broadly as a violation of customary law. Violations of adat or adat offenses indicate a unilateral act that disturbs the balance of society regarding social order. In modern society, disturbances of social order are violations that occur in statutory regulations, the level of social order is measured by the number of violations of criminal law that are brought before a court hearing or how many cases are recorded in correctional institutions.<sup>9</sup>

In modern society, the state's reaction to a violation of the law has been carried out by someone aiming to protect the interests of the wider community while preventing others from violating the same law.

Efforts are made by coordinating efforts to all parties so that prevention efforts can occur, so as to avoid actions that are contrary to laws and regulations and public order. Preventive efforts in this case are to collaborate with the Pamswakarsa between the police and the local community in order to prevent the occurrence of a crime that threatens security and order in the community.

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<sup>6</sup> *Ibid*, p. 8.

<sup>7</sup> Emiritus John. Gilissen. and Emiritus Frits Gorle, 2004, *Sejarah Hukum Suatu Pengantar*, Rrefika Aditama, Bandung. Pg 91.

<sup>8</sup> Abdul Muis. BJ. et al ., 2021, *Hukum Kepolisian, dan Kriminalitas*, Reka Cipta Pustaka, Bandung, p18.

<sup>9</sup> Romli. Atmasasmita, 1992, *Teori dan Kapita Seleкта*, Eresco, Bandung, pp. 126-127.

## METHOD

This research uses socio-legal research methods by conducting research in the field with a direct interview method to the residents of Wadas village. Empirical studies are studies that view law as reality, covering social reality, cultural reality, etc., the empirical study of the world is *das sin* (what is reality). Empirical legal research focuses on behaviors that develop in society, or the workings of law in society. So the law is conceptualized as actual *behavior* which includes actions and their consequences in social life relationships. Therefore, the approaches and often used in empirical legal research include on The approach of sociology of law, The approach of legal anthropology, The approach of legal psychology.<sup>10</sup>

## DISCUSSION

### Formation of Law in Legal Development in Indonesia

That the formation of law in the development of law in Indonesia based on Law no. 15 of 2019 concerning Amendments to Law No. 12 of 2011 concerning the Formation of Laws and Regulations are prepared in a planned, integrated and systematic manner in the context of the National Legislation Program related to the national urgency in the formation of laws and regulations and Prolegda where the formation of laws and regulations is a solution to the problems and legal needs of the community. Whereas in the formation of legislation in the development of law, it should be able to pay attention to the needs of the community, the values of Pancasila and the laws and regulations as the purpose of law in this case is to realize legal certainty, justice, and benefit.

The principle of the formation of legislation regulated in Law no. 12 of 2011 states as follows:<sup>11</sup>

1. The principle of clarity of purpose that every formation has a clear goal and is to be achieved
2. The principle of balance or proper forming officials is that every type of legislation is made by state institutions or authorized officials;
3. The principle of conformity between the type of hierarchy and the content of the material in the formation of the rule of law in accordance with the type and hierarchy of legislation
4. The principle can be implemented every time the formation of laws and regulations takes into account the effectiveness of laws and regulations in society both philosophically, juridically and sociologically,

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<sup>10</sup> Eka NAM Sihombing, Cynthia Hadita, *Penelitian Hukum*, (Malang: Intrans Publishing, 2022), p. 48.

<sup>11</sup> Aziz. Syamsuddin, 2015 *Proses & Teknik Penyusunan Undang-Undang*, Sinar Graphic, Jakarta, page 37.

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5. The principle of usability and usability is made because it is really needed and useful in regulating the life of society, nation and state.
6. The principle of clarity of formulation in the formation of laws and regulations fulfills the technical requirements for the preparation of laws and regulations, so as not to cause various kinds of interpretations in their implementation.
7. The principle of openness is that in the formation of laws and regulations starting from planning, drafting, discussing ratification or stipulations as well as legislation that is transparent and open. All levels of society have the opportunity to respond to the formation of legislation.

In the development of law in Indonesia, it is manifested in the formation of laws and regulations aimed at maintaining public order as also stated in the police legislation stating that carrying out all activities to ensure security, order and smooth traffic on the road, fostering community participation community, community legal awareness and obedience citizens to laws and regulations legislation, participate in the development of national law, maintain order and guarantee public security, conduct coordination, supervision, and technical development against the special police, civil servant investigators, and forms of self-defense, as a form of creating legal awareness in the community aimed at maintaining social order in the form of the formation of laws and regulations in force in Indonesia.

### **Legal Developments in Indonesia in the Perspective of Social Order Through Preemptive and Preventive Policies Based on Law no. 2 of 2002 concerning the Indonesian National Police**

The development of law in the perspective of social order and order is the main goal of all laws. The need for order is a basic condition for the existence of an orderly human society. Order another goal of law is the achievement of justice according to society and its era. Changes in the times are not merely physical changes, but are supported by changes in attitudes. humans in society. The development of law from the perspective of social order is one part and the whole function of law.<sup>12</sup>

In this study, it relates to preemptive and preventive policies based on Law no. 2 of 2002 concerning the Police of the Republic of Indonesia that the Police in maintaining security and public order is one of the functions and duties of the Police. So that a peremptive effort is needed in the form of prevention so that conditions do not occur that disrupt security and order through education and socialization efforts in collaboration with the community and related parties in order to realize legal developments through the view of social order which is the goal of

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<sup>12</sup> *Ibid*, p. 129.

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law and the main functions of the Indonesian National Police as a Government Institution. which creates public order and security.

The definition of Police according to Article 1 of Law no. 2 of 2002 concerning the Indonesian National Police are all matters relating to the function of the Indonesian National Police and police agencies in accordance with regulations legislation.

Furthermore, in Article 2 of Law no. 2 of 2002 concerning the Police of the Republic of Indonesia states that the function of the police is one of the functions of the state government in Indonesia maintenance of public order and security, law enforcement, protection, protection, and service to Public. This regulation clearly explains that the police have the function of state government in the field of maintaining security and public order; *the second is* law enforcement, the *third is* protection and the fourth is service to the community.

In the provisions of Article 5 it is stated that the State Police of the Republic of Indonesia is an instrument of the state who play a role in maintaining security and order society, enforce the law, and provide protection, protection, and service to the community in order to maintain internal security. The National Police in carrying out their duties are one unit.

The provisions of Article 14 of Law no. 2 of 2002 concerning the Police of the Republic of Indonesia mentions the duties of the Police of the Republic of Indonesia as follows:

1. carry out arrangements, safeguards, escorts, and patrols on community and government activities in accordance needs;
2. organize all activities to ensure security, order and smooth traffic on the road;
3. fostering community to increase participation community, community legal awareness and obedience citizens to laws and regulations legislation;
4. participate in the development of national law;
5. maintain order and ensure public security;
6. carry out coordination, supervision, and technical guidance against the special police, civil servant investigators, and other forms of self-defense;
7. carry out investigations and investigations of all criminal acts in accordance with the criminal procedure law and other laws and regulations;
8. carry out police identification, medicine police, forensic laboratory 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 disasters, including providing assistance and assistance by upholding human rights;
10. serve the interests of the community for a while before being handled by agencies and/or parties who authorized;

11. provide services to the community in accordance with its interests within the scope of police duties; as well as. carry out other duties in accordance with statutory regulations .

That in realizing fostering the community to increase participation community, community legal awareness and obedience citizens to laws and regulations legislation, participate in the development of national law, and maintain order and guarantee public security as regulated in Law no. 2 of 2002 concerning the Police of the Republic of Indonesia by involving all parties of the community, and the police cooperate in maintaining social order through preemptive and preventive policies as implemented by the police to the postal level through Babinkamtibmas and the local community in realizing public legal awareness aimed at maintaining public order.

So that legal awareness of the community is needed in understanding the applicable legal rules, so that social order can be realized through preemptive and preventive policy efforts by fostering the community to increase participation. community, community legal awareness and obedience citizens to laws and regulations legislation, participate in the development of national law, maintain order and guarantee public security, conduct coordination, supervision, and technical development against the special police, civil servant investigators, and forms of self-defense, as a joint effort in realizing legal development through social order and preventive and preventive policies implemented by the police based on Law no. 2 of 2002 concerning the Indonesian National Police. Development of law and police it's depend on the police to obey the law and to get the trust by the society.

## **CONCLUSION**

The formation of law in the development of law in Indonesia based on Law no. 15 of 2019 concerning Amendments to Law No. 12 of 2011 concerning the Formation of Legislations are prepared in a planned, integrated and systematic manner as a solution to the problems and legal needs of the community. Whereas the development of law in Indonesia in the perspective of social order through preemptive and preventive policies based on Law no. 2 of 2002 concerning the National Police of the Republic of Indonesia where this rule explains that Article 14 mentions fostering the community to increase participation community, community legal awareness and obedience citizens to laws and regulations legislation, participate in the development of national law, and maintain order and guarantee public security.

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- Alkostar. Artidjo, *Identitas Hukum Nasional*, Fakultas Hukum UII, 1997, Yogyakarta
- Atmasasmita. Romli, *Teori dan Kapita Selekta*, Eresco, 1992, Bandung.
- BJ. Abdul Muis dkk, *Hukum Kepolisian, dan Kriminalitas*, Pustaka Reka Cipta, 2021, Bandung.
- Gilissen. Emiritus John dan Gorle. Emiritus Frits, *Sejarah Hukum Suatu Pengantar*, Rrefika Aditama, 2004, Bandung.
- Rudyat. Charlie, *Kamus Hukum*, Pustaka Mahardika, Jakarta.
- Syamsuddin. Aziz, *Proses & Teknik Penyusunan Undang-Undang*, Sinar Grafika, 2015, Jakarta.
- Wahyono. Padmo, *Indonesia Negara Berdasarkan atas Hukum*, Ghalia Indonesia, 1986, Jakarta.