

Legal Politic As Counter An Asymmetrical Warfare In The 5 & 6th Generation War

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Abstract

Legal politics as a defense system against asymmetric war is very important. War today is no longer conventional but has entered the 5th and 6th generations in an asymmetric and hybrid manner. This research uses an explanatory qualitative method. The analysis technique uses the soft system method (SSM) to provide structured, comprehensive and sharp analysis. In general, this research will discuss legal political alignments in Indonesia, urgency, mechanisms, and the model/concept of Counter Asymmetric War. Specifically, this research discusses political law as a defense system against asymmetric war in the 5th and 6th generation war era which is considered less comprehensive and non-specific. Then, this research determines 4 ideal criteria for Political Law as a defense system against asymmetric war in the 5th and 6th generation war era, including: defense budget, regulatory effectiveness, modernization of technology & defense equipment, and national defense education. These ideal criteria are used to analyze legal politics as a defense system against asymmetric war. The results of the analysis show that the criteria for political law as a defense system against asymmetric war do not comprehensively cover these 4 ideal criteria. As a recommendation, these 4 ideal criteria can be a refinement of the political legal criteria as a defense system against asymmetric war. So that legal political policy as a defense system against asymmetric war can realize the stability of Indonesia's national defense and security.

Keywords: Legal Politics, Counter, Asymmetric Warfare, 5th & 6th generation war

INTRODUCTION

Legal politics or legal policy is the legal direction that will be implemented by the state to achieve the goals of the state it created, this can be in the form of making new laws and replacing old laws. (Mahfud MD, 2010) It can be concluded that legal politics is the policy of state administrators which is fundamental in determining the direction, form and content of the law that will be formed and what will be used as criteria for punishing something. It is the executive, legislative and judiciary who have the authority to carry out legal politics in Indonesia.

In this Balkanization scenario, there will be several countries separated from the Republic of Indonesia. What was successfully separated from the Republic of Indonesia was East Timor which occurred in 1999 during the reign of BJ Habibie. Then Aceh, seems to be in the process and has the potential to break apart through the "charade" of the Helsinki MoU and the possibility of (having) won the Local Party in Aceh in the 2009 Election this year. Then Maluku, Irian Jaya (Papua), East Kalimantan, Riau, Bali. And the rest remains Indonesian.

Asymmetric warfare is now considered a new trend in the world of politics and security. It cannot be denied that its character, characteristics and characteristics are softer and seem to be cheaper than symmetric warfare, which absolutely requires deploying military force openly and draining a fairly high budget. Past attempts to define asymmetric warfare have done little to identify the underlying problems. For example, asymmetric war was defined as "a conflict involving two countries with unequal military and economic resources." (Thaza V. Paul .1994)

The National Research Council (DRN) would be more specific in defining Asymmetric War, because apart from looking at the differences between the conflicting actors, it also looks at how they interact and mutual efforts to exploit the opponents' weaknesses. Of course, this is related to unconventional warfare strategies and tactics. Next Land Warfare Doctrine 1, 2008,

The Fundamentals of Land Warfare, Australia's Department of Defense, tends to emphasize the emergence of asymmetry which can also be interpreted as differences in objectives, troop composition, culture, technology and etc.

In reaction to the 9/11 terrorist attacks, the definition was modified. Asymmetric warfare is now defined by one author as “leveraging inferior tactical or operational forces against an opponent's superior vulnerabilities to achieve disproportionate effects with the goal of undermining [the opponent's] will to achieve the asymmetric actor's strategic objectives.” (Kenneth E. McKenzie Jr, 2000) Asymmetry in warfare includes asymmetry of power, means, methods, organization, values and time. (Toni Pfanner, 2005) Asymmetry can be participatory, technological, normative, doctrinal or moral. (Michael N. Schmitt, 2007)

In short, the term “asymmetric warfare” should be understood as armed hostilities in which one party or parties seeks to compensate for military, economic, or other deficiencies by using methods or means of warfare that are not in accordance with the laws of armed conflict (or rules others public international law). Finally, the definition of asymmetric warfare proposed here does not mean that other forms of asymmetry are ignored. (Wolff Heintschel von Heinegg, 2009).

The Chief of Air Staff (KSAU) explained that fifth generation warfare relies more on non-kinetic force actions or without relying on weapons. Fifth generation warfare will use more cyber attacks or cyber attacks that utilize the latest technology such as artificial intelligence and autonomous systems or a group of networks that are under one management control. Fifth generation warfare will also involve elements of network-centric thinking, combat cloud constructs, multi-domain battle and fusion warfare. (Marshal Fadjar Prasetyo, TNI AU Anniversary Seminar 2022)

The 6th generation of war changed “Massing Of Force” to “Massing Of Effects”. Generation 6 War is the use of electronic and information and communication technology or defeating the enemy without the need for direct physical contact. The 6th Generation War is important to pay attention to because it has implications for military development, diplomacy, national and global stability. This is important to pay attention to in creating an adaptive and visionary legal politics for asymmetric war and counter-asymmetric war in the era of the 5th & 6th generation of war.

From the background that has been explained, this research has the following objectives:

1. Analyzing legal political alignments in Indonesia, urgency, mechanisms, and models/concepts of Counter Asymmetric War.
2. Analyzing legal politics as a defense system against asymmetric war in the era of the 5th and 6th generation of war which is considered less comprehensive and non-specific.
3. Analyze and determine 4 ideal criteria for Legal Politics as a defense system against asymmetric war in the 5th and 6th generation war era, including: Technology, Defense Equipment, national defense education, and human resources.

In carrying out the discussion analysis, this research uses several theories and concepts, namely:

First, based on the 2015 Indonesian Defense White Paper. The concept of a universal defense system combines Military Defense and Non-Military Defense, through efforts to build strong and respected defense forces and capabilities and has deterrence (Indonesian Defense White Paper, 2015).

Second, the concept of asymmetric warfare (asymmetric warfare) put forward by David L. Buffaloe in 2006. The concept of asymmetric warfare is put forward as follows: "Asymmetric warfare is population-centric nontraditional warfare waged between a militarily superior power and one or more inferior powers which encompasses all the following aspects: evaluating and defeating asymmetric threats, conducting asymmetric operations, understanding cultural asymmetry and evaluating asymmetric costs (Buffaloe, 2006).

Third, Arthur F. Lykke Jr.'s strategy theory. (1998) defines strategy as the harmony of a process of identifying ends, ways and means designed to achieve certain goals. Fourth, based on the 2020 proxy war teaching materials, the concept of asymmetric war in the era of the 5th and 6th generation of war, apart from asymmetric war itself, there is Hybrid war, Network centric Warfare (NCW), Cyberwarfare and proxy war

RESEARCH METHODS

Based on the problem formulation and objectives of this research, the research entitled "Legal Politics as a defense system against asymmetric war in the 5th and 6th generation war era" is qualitative research. This qualitative research is included in the type of exploratory qualitative research which not only describes a research focus but also carries out in-depth analysis.

According to Sugiyono (2019), qualitative research is a research and understanding process based on a methodology that investigates social phenomena and human problems. In this approach, researchers create a complex picture, examine words, detailed reports and informants' views, and conduct studies in natural situations.

The research object is something that is of concern in research. According to Sugiyono (2019), this object becomes a research target to be studied so that the aim of a research is achieved to obtain answers, solutions, or input on a problem.

In this research, the object of research is Legal Politics as a defense system against asymmetric war. The subjects in this research are divided into 3 categories, namely: policy makers (regulators) including TA Commission I DPR RI & DPR RI Expertise Body; policy implementers (operators) include the TNI Legal Development Agency, Ministry of Defense, National Counterterrorism Agency (BNPT), and Densus 88 POLRI; academics/experts.

Data Collection Techniques As a basis for providing answers in the form of analysis of the three research questions, data collection was carried out through: Interviews. Herdiansyah (2015) explained that there are 3 forms of interviews, namely: structured interviews; semi-structured interviews; and unstructured interviews.

In this research, semi-structured interviews were used where researchers had the freedom to explore information from informants. The semi-structured interview form is considered suitable in qualitative research because it is flexible, although it must still refer to the research theme so that it is not broad.

Document and Literature Study Data in this research will also be collected from document and library sources (library research) from various literature such as books, journals, articles, documents and various other physical or non-physical literature whose scale of truth is considered adequate as research data.

This data can be used as a reference in providing information and a theoretical basis related to research objectives and answering problem formulations as well as providing sources of information in the form of empirical studies to strengthen the arguments that the author will build.

RESULT AND DISCUSSION

Legal politics as legal policy and legislation in legal reform with legal political instruments is carried out through laws.(Kusumaatmadja, Mochtar. 2002) Legal politics

according to (Satjipto Rahardjo, 1991) is the activity of choosing and the methods to be used to achieve certain social and legal goals in society.

According to (Mahfud MD, 2010) legal politics or legal policy is the direction of the law that will be implemented by the state to achieve the goals of the state it created, this can be in the form of making new laws and replacing old laws.

It can be concluded that legal politics is the policy of state administrators which is fundamental in determining the direction, form and content of the laws that will be formed and what will be used as criteria for punishing something. It is the executive, legislative and judiciary who have the authority to carry out legal politics in Indonesia.

Dimensions of Political, Legal and Legislative Studies

We will always find in every study of law the philosophical dimension and the political dimension and must be seen as two things that should not be ignored, namely:

- 1) The political dimension in legal studies sees a very close connection between law and politics, some even see law as a political instrument which then becomes more developed and gives birth to a separate field of study called legal politics which seems to lead to the need for what is called political gelding van het recht or the basis for the political application of law, in addition to what exists now, namely the juridical basis, sociological basis and philosophical basis.
- 2) The philosophical dimension in legal studies sees the other side of law as a set of abstract ideas and is a further elaboration of philosophical thought, namely what is called legal philosophy.

Legal politics can be differentiated, in other words, into two dimensions, namely first, legal politics which is the basic reason for the enactment of a legislative regulation. Second, the goals or reasons that arise behind the enactment of a legal regulation. In making legislative regulations, legal politics has a very important role (William Zevenbergen, 2011)

First, as a reason why it is necessary to establish a statutory regulation. Second, to determine what will be translated into legal sentences and into the formulation of articles. These two things are important because the existence of statutory regulations and the formulation of articles is a bridge between legal politics in the implementation stage of statutory regulations. This is because the implementation of laws and regulations must have consistency and close correlation with what is defined as politics.

Political law in Indonesia is the basic policy of state administrators (the Republic of Indonesia) in the field of law which will, is currently and has been in force, which originates from the prevailing values, which originate from the values prevailing in society to achieve the goals of the state (the Republic of Indonesia) aspired to.

The objectives of national legal politics include two interrelated aspects:

- 1) As a tool or means and steps that can be used by the government to create the desired national legal system; and
- 2) with the national legal system the greater ideals of the Indonesian nation will be realized.

In an effort to make law a process of achieving the ideals and goals of the state, according to (MD, Mahfud 2010) national legal politics must be based on the following basic framework:

- 1) National legal politics must always aim at the nation's ideals, namely a just and prosperous society based on Pancasila.
- 2) National legal politics must be aimed at achieving state goals, namely: protecting the entire nation and all of Indonesia's blood, advancing general welfare, making the nation's life intelligent, implementing world order based on independence, eternal peace and social justice.
- 3) National legal politics must be guided by the values of Pancasila as the basis of the state, namely: based on religious morals, respecting and protecting human rights without

discrimination, uniting all elements of the nation with all its promotive ties, placing power under the power of the people, building social justice .

- 4) National legal politics must be guided by the necessity to: protect all elements of the nation for the sake of national integration or integrity which includes ideology and territory, realize social justice in the economy and society, realize democracy (people's sovereignty) and nomocracy (rule of law), create tolerance of religious life based on civility and humanity.
- 5) The national legal system that must be built is the Pancasila legal system, namely a legal system that takes or combines various interest values, social values and concepts of justice into one prismatic legal bond by taking its good elements.

Asymmetric warfare

There are several strategic issues according to (The Global Review Quarterly. 2013) which have been the main focus of GFI's studies and observations from 2007 until now:

1. Shifts in United States Foreign Policy over Time
2. The rise of the People's Republic of China as a New Superpower both in the economic and military fields.
3. The emergence of the new strategic alliance Shanghai Cooperation Organization (SCO) led by China and Russia as a countervailing force to the United States and the European Union bloc.
4. The Emergence of India as a New Power in Asia.
5. Various Border Regional Conflicts that occurred in the ASEAN region and the South China Sea.
6. Indonesia's Weak Bargaining Position in ASEAN and in various other international forums.
7. There has been no harmony between Indonesia's Foreign Policy and Diplomacy since the New Order era to the current Reform Order.
8. Potential Threats from East Asia and the Korean Peninsula involving Japan, South Korea, North Korea and the People's Republic of China.

The Indonesian Minister of Defense, General Ryamizard Ryacudu, terms asymmetric war as contemporary war or modern war. Regarding his views on non-military war: "This reality requires that the grand strategy of countries with imperialistic desires be carried out without the deployment of troops and defense equipment. This is what is called today's war or "modern war" where the destruction of this war is more devastating than conventional war with the deployment of defense equipment, because the target country will be destroyed systemically and in the end the target country will not exist as a nation state, as has happened in The Soviet Union and the Balkan countries" (Rymizard Ryacudu, 2015)

The stages are as follows:

- Stage I = Infiltration.
Carrying out infiltration through the fields of intelligence, military, education, economics, ideology, politics, social culture/culture and religion, assistance, cooperation in all fields and media/information.
- Stage II = Exploitation.
Carrying out exploitation by weakening and controlling the fields of intelligence, armed forces, economics, politics, culture and ideology, all of which are the focus of a country's strength.
- Stage III = Politics of Fighting Against Ones Carrying out a strategy of fighting against each other.
This is to cause chaos/violence, horizontal conflict (SARA), and then aims to create a desire to separate oneself from the Republic of Indonesia or separatism starting with an escalation of rebellion, ultimately resulting in clashes between the nation's children/civil war.
- Stage IV = Brainwashing.

At the brainwashing stage, they influence society's thinking paradigm, namely changing the thinking paradigm within a nationalism framework into a universal perspective with the priority of global issues such as democratization, human rights and the environment, by infiltrating people's daily lives.

- Stage V = Invasion/Achievement.

Target When the national outlook of a target country is destroyed and national identity is lost, then practically the target country can already be controlled or the target country is under control and colonized in various aspects of life. Next, all that remains is to form a puppet state represented by a foreign comprador.

Foreign Asymmetric Attacks in the Legal Politics Sector MPR TAP No V/MPR/1983 concerning Referendum states clearly, "If changes to the 1945 Constitution must be preceded by asking the people's opinion through a referendum." But in practice, the 1945 Constitution was amended four times in 1999, 2000, 2001 and 2002 without a referendum at all! As a result, the new Constitution became the "midwife" for the birth of around 115 new laws which were actually pro-foreign and even anti-nationalist. By weakening the state system, asymmetric attacks were launched, one of which encouraged the birth of laws that were not pro-the National Interests of the Republic of Indonesia (KENARI). (Pranoto, M Arief & Hendrajit. 2019)

Through legislation and government regulations, the nation's wealth flows abroad and the nation's assets are easily acquired by giant foreign corporations. What does it mean? State sovereignty has been hijacked by foreigners through the support of strategic policies of a handful of political elites in this country, resulting in the paralysis of the state system within our own country. Returning to the question of how it was possible to amend the 1945 Constitution without going through a referendum, perhaps it can be explained through the construction of the following story.

There has been quite widespread discussion among the public regarding the involvement of the United States in regulating and influencing the members of the Indonesian House of Representatives in drafting several laws related to several strategic sectors and which affect the lives of the Indonesian people. Including the preparation of amendments to the 1945 Constitution in 2002. Both the First, Second, Third and Fourth Amendments.

In reality, the NKRI Dead Price jargon is just mere rhetoric. In short, Indonesia's territorial sovereignty has not decreased, it may even increase with reclamation (plans) by several regional governments, but the question is: "What about sovereignty in the fields of ideology, political economy, culture, economics and so on? The answer: Destroyed! This is a form of foreign asymmetric (non-military) attack against Indonesia, because without gunpowder smoke without bullets shooting, a new style of colonization has become firmly established on Mother Earth.

One devastating example of cyber warfare is the WikiLeaks case. Julian Assange in October 2010 uploaded thousands of documents he hacked on the WikiLeaks channel. The uploaded results were also published in a number of mainstream media such as The New York Times and The Guardian. Julian Assange's stolen data was able to penetrate the geopolitical and geostrategic barriers of many countries. Furthermore, it becomes a new means to start asymmetric war.

Another case is the Stuxnet virus attack on Iran's nuclear facilities several years ago. Stuxnet is a worm virus for Windows-based computers. The target of this virus is to damage industrial system software made by Siemens. Kaspersky Labs identified Stuxnet as "a prototype of a cyber weapon that will lead to the creation of a new arms race in the world." Kaspersky believes that the spread of this virus was sponsored by certain countries, namely the US and Israel. (Pranoto, M Arief & Hendrajit. 2019)

Meanwhile, Symantec reported that apart from Iran, Stuxnet also 'disrupted' several other countries. Including India and Indonesia. Returning to the original discussion, during asymmetric war or physical war, there is usually cyber war that accompanies it, especially to paralyze centrally controlled public utilities. Whether on a local, national or global scale. The more centralized the control system of a public utility is, the more vulnerable it is to being paralyzed in a single attack.

When the Houthi group occupied the Yemeni capital, Sanaa, in 2014. They not only seized the seat of power, they also seized the public utility in the form of the country's main internet infrastructure. They quickly monitored web traffic, blocking social media such as WhatsApp, Facebook, Twitter and Telegram. They also blocked sites that reported on the movements and what the Houthi forces had done in Yemen. What is interesting, similar to what North Korea does, they also harvest cryptocurrency to increase funds for their movements and acts of terror. Countries that are aware of the impact of cyber warfare will definitely build a very high level of security and resilience, especially for their public utilities.

The example above is enough to illustrate that cyber sovereignty must be built. There's no more waiting. Moreover, information technology is developing very quickly. The Stuxnet virus may be outdated now, but there are more sophisticated forms that we don't know about or don't understand. It is true that information technology has many positives. However, information technology also has other sides in the form of cyber crime, cyber attack, cyber terror, e-commerce monopoly, illegal wiretapping, theft of personal data and many other forms. In some cases, this information technology war has been able to undermine state sovereignty. Including Indonesia.

The ideal criteria for Legal Politics as a defense system against asymmetric war in the 5th and 6th generation war era include: defense budget, regulatory effectiveness, modernization of technology & defense equipment, and national defense education.

| Criteria | Realization |
|---|--|
| Defense budget | Increase the national defense budget due to Indonesia's vast territory and limited availability of main components. Apart from that, the turbulent geopolitical situation in the world has also become an alarm for Indonesia about the potential for war with surrounding countries and even the outbreak of World War 3. |
| Regulatory effectiveness | Clarity regarding regulations and also simplifying bureaucratic processes in Indonesia must also be considered. for example, the involvement of the TNI in eradicating insurgency and terrorism in Indonesia |
| Modernization of technology & defense equipment | Modernization of technology and defense equipment must be carried out immediately, especially since today's wars use the latest technology. Indonesia must upgrade its defense system, adapt to the latest technology so that it does not become outdated, especially in defense equipment and weapons. Don't forget to develop cyberknowledge because generation 5 & 6 wars use more data, AI, social engineering, social media, satellites and robotics. |
| National defense education | Increasing the quota for state defense cadres every year (excluding Komcad) and innovating to make it a mandatory requirement before attending college at every state university at undergraduate level and |

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| | providing a full reward & scholarship system so that more young people are enthusiastic about defending the country when red and white calls. |
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Table 1. Criteria & Realization

Political and legal criteria as a defense system against asymmetric war in the 5th and 6th generation war era

CONCLUSION

Based on the results of the research and discussion, the conclusion of the research with the problem formulation 'Legal politics as a system of defense against asymmetric war', is that the criteria based on applicable laws and regulations are considered not comprehensive and subjective in nature. Four ideal criteria for political law as a defense system against asymmetric war in the 5th and 6th generation war era were determined. The four criteria formulated include: defense budget, regulatory effectiveness, modernization of technology & defense equipment, and national defense education.

The results of the analysis of political legal criteria as a defense system against asymmetric war do not comprehensively cover ideal criteria. Especially from the criteria of the defense budget and state defense education. Because there is still a lot of homework that needs to be done to achieve a big goal for this nation. From the results of this research, theoretical and practical recommendations will also be put forward

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