

## Hak memilih anggota TNI dan POLRI dalam pemilihan umum

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### Abstrak

#### **ABSTRAK**

Penelitian ini berfokus pada pemenuhan hak memilih anggota TNI dan Polri dalam pemilihan umum. Anggota TNI dan POLRI dilarang memilih dalam pemilihan umum, sementara UUD 45 menjamin hak untuk memilih dalam pemilihan umum bagi semua warga negara Indonesia (yang sudah berusia 18 tahun atau lebih) dan dalam prinsip hak asasi manusia, hak memilih merupakan hak setiap individu sebagai warga negara. Berdasarkan hal tersebut, timbul pertanyaan sebagai berikut: (a) Mengapa terjadi pelarangan hak untuk memilih dan dipilih bagi anggota TNI dan Polri? (b) Bagaimana persepsi masyarakat terhadap hak memilih anggota TNI dan Polri dalam pemilihan umum?, (c) Bagaimana persepsi anggota TNI dan Polri dalam menyikapi hak memilih mereka? (d) Bagaimana Hak memilih anggota TNI dan Polri dalam perspektif hak asasi manusia?, dan (e) Apa yang sepatutnya dilakukan oleh DPR dan pemerintah dalam pemenuhan hak memilih bagi anggota TNI dan Polri pada pemilihan umum?

Penelitian ini merupakan penelitian dengan pendekatan historis dan deskriptif,, dilakukukan dengan penelitian pustaka dan penelitian lapangan. Informan berasal dari anggota TNI, Polri dan masyarakat sipil, sedangkan narasumber dipilih dari dari kalangan TNI dan Polri, peneliti, akademisi, anggota DPR, dan praktisi hak asasi manusia. Janis data yang digunakan terdiri dari data primer dan data sekunder. Dengan menggunakan purposive sampling dan wawancara terfokus.

Dari hasil penelitian disimpulkan bahwa: a) Pembatasan hak memilih bagi anggota TNI dan Polri dalam pemilihan terjadi mulai pemilu ke-2, yaitu pemilu tahun 1971, pemilu 1977, pemilu 1982, pemilu 1987, pemilu 1992, pemilu 1997 dan pemilu 1999, sebagai konsekuensi atas diangkatnya perwakilan TNI dan Polri dalam legislatif; b) Persepsi masyarakat dan persepsi anggota TNI dan Polri terhadap hak memilih anggota TNI dan Poho beragam, ada yang setuju dan ada yang tidak setuju dengan berbagai argumen; c) Dalam perspektif hak asasi manusia bahwa hak memilih anggota TNI dan Polri adalah hak asasi individu TNI dan Polri sebagai warga negara yang harus diberikan. Pembatasan hak memilih bagi anggota TNI dan Polri bertentangan dengan prinsip hak asasi manusia dan UUD 45. Hasil penelitian menyarankan bahwa: a) Perlu merevisi undang-undang yang membatasi hak memilih bagi anggota TNI dan Polri dan menyiapkan mekanismelperaturan pelaksanaannya; b) Perlu mempercepat proses reformasi TNI dan Polri; c) Perlu regulasi tegas untuk mencegah pemanfaatan hierarki komando yang mengarahkan orientasi politik anggota TNI.; dan d) perlu diberikan pendidikan politik, demokrasi, hukum dan hak asasi manusia yang balk kepada anggota TNI dan Polri.

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General elections as a tool for community to provide their political rights to vote and elected which conducted in a direct, general, free, and secret manner. As arranged in article 22E paragraph (1) of National Constitution 1945, article 43 paragraphs (1), (2) and (3) of Human Rights Law 1999, article 25 of

International Covenant Civil and Political Rights (ICCPR). The right to vote and elected as a rights for Indonesia citizens without any discrimination, according to regulation in article 27 paragraph (1) and article 281 paragraph (2) of National Constitution 1945. Although, in Indonesia has law which limitate the right to vote for military and police officials as follows: article 145 of Law No. 12 Year 2003 on General Elections for House of Representative and Regional People's Representative Council, article 102 of Law No. 23 Year 2003 on Regional Government, article 28 paragraph 2 of Law No. 2 Year 2002 of Indonesia Police, article 39 paragraph 4 Law No. 34 Year 2004 on Indonesia Military. Based on that, hoisted questions as follows: (a) why it has restrictions on the right to vote for military and police officials? (b) how the community perceptions on the right to vote for military and police officials? (c) how the military and police officials perceptions in order to response their right to vote? (d) how the right to vote for military and police officials in human rights perspective? (e) what should House of Representative perform as legislative agency and government as executive agency in regulate of the right to vote for military and police officials in general elections?

This research has using qualitative descriptive type which conducted by library and field research. The informants are from military officials, police officials and civil community, subsequently the resources elected from military, police, researchers, academicians, house of representative members, and human rights practitioners. The type of data which used is composed from secondary and primary data which obtained by using sampling purposive and focus interview.

According to this research could be summarized that: a) Limitations of the right vote for military and police officials in general election started from second general elections in 1971, 1977, 1982, 1987, 1992, 1997 and 2004. That limitations as consequence on elected as House of Representative members from military and police officials; b) a variety of community perception on the right to vote for military and police officials, there are some agree and disagree with many reasons; c) diverse military and police view on the right to vote, there are some agree and disagree with many reasons; d) in human rights perspective that the right to vote for military and police officials as individual rights also a citizens that have to given. The limitations of the right to vote for military and police officials aligned with article 22E paragraph (2), article 27 paragraph (1), article 28 paragraph (1) and article 281 paragraph (1) of National Constitution 1945, article 43 paragraph (1), (2) and (3) of Human Rights Law No. 39 Year 1999, and article 25 of ICCPR. Therefore, it needed efforts to response the right to vote for military and police officials are: a) the right to vote for military and police officials should arranged immediately in a policy which prepared by government; b) to process shortly of military and police reforms and to prepare clear and legal regulations; c) to put attention on welfare from military and police officials; d) should have stern regulations to prevent using of commando hierarchy which deliver to the political orientation for military and police officials; e) to give a good political, democracy, legal and human rights education for military and police officials.