



Review Of Legal Disabilities In Regulation Of Immigration Intelligence Functions And Assessment Of Immigration Intelligence Functions Implementation

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Abstract

Intelligence is something that has been done by every individual, from the smallest part to the biggest part of society. Intelligence means the act of collecting information for the purpose ending a case or preventing a problem to happen. Intelligence in Indonesia do their task and function in accordance with the Act number 17, 2011 about National Intelligence. As one of the Intelligence who works for the Ministry, Immigration Intelligence have to do their task in accordance with that Act. But, there is a problem that makes the implementation of Immigration Intelligence become a little hesitant, which is the differences between the Ministerial Regulation of Ministry of Law and Human Rights (Permenkumham) number 30, 2016 and the Act number 17,2011 in the function that is being held by Immigration Intelligence, in which Permenkumham didn' doesn't include the raising function. Dealing with that, there are a lot of polict that been made to cover that mistakes. Other than that, the advantages and disadvantages that makes the Immigration Intelligence can't do their task optimally that would be discussed, one of them is the lack of coordination and analysis with other units before holding an operation.

Keywords : Intelligence Practice, Immigration Intelligence Function, Coordination and Cooperation

A. Introduction

The splendor of problems that occur from the smallest level in society to the international level causes unrest and anxiety in every circle. The level of vigilance that each individual has is required to increase from time to time. The feeling of insecurity felt by everyone is also one of the triggers for the increased level of vigilance. In fact, the insecurity is sometimes just a sense of sheer anxiety, which in reality may not be as imagined. However, today's technological developments cannot be underestimated. In addition to being a supporting thing that can simplify, speed up, and assist human work in various things ranging from trivial to complex things, technology is also a threat that can destroy a country.

Intelligence¹, comes from the word intelligence which means intelligence, the ability to learn or understand something.² However, militarily, intelligence is more

¹According to Law no. 17 of 2011, Intelligence is knowledge, organization, and activities related to the formulation of policies, national strategies, and decision making based on analysis of information and facts collected through work methods for detection and early warning in the context of preventing, deterring, and overcoming every threat to national security.

often confused with "Intelligence is foreknowledge", which means intelligence is the ability to predict or know something in advance.³ This intelligence capability is also used by every country, in order to predict everything from both the positive and negative sides.

Intelligence operations are a lively thing to do in today's world. Each country is competing to develop and foster their intelligence institution or community to collect and secure information, so that it can support state security and as a preventive measure against unwanted things that may occur. Although it is said to be a lively thing, this intelligence operation itself is almost invisible and unknown to the public. Why? The reason is that intelligence is always moving in the shadows, which is never known when it exists or not.

It is important to increase the capacity of the intelligence community or agency in a country, whose aim is to be able to advise decision makers in a country regarding threats, vulnerabilities, and opportunities that will come, so that decisions can be made and the best steps to deal with them. ⁴Intelligence is considered as one aspect that must exist, which supports and strengthens a country. Without intelligence in a country, the barrier between the level of fragility and information backwardness between that country and other countries will be even greater and can become a separate threat for that country.

Today, the problems that occur in the international world are not limited to mere technological developments. The issues that occur today are very much related to globalization, which in the end forces the Immigration Office to participate and carry out its role in dealing with these problems. Some of these issues, such as TOC⁵ or Transnational Organized Crime, people smuggling, terrorism, cyber crimes, and several other things, are included in international issues faced by all countries. Of course, the government cannot turn a blind eye or just look at these issues with one eye. What's more, the movement of people or people movements that occur in the world today is increasing and growing. The easier access to move from one country to another makes the traffic between countries more crowded, so that the movement occurs every day without stopping. This becomes an additional burden for the Immigration of a country, because of the possibility of new problems such as falsification of documents or residence permits. Prevention and handling related to this problem is not easy to solve,

The Immigration Office also took firm steps in dealing with these problems. In 2006, a new directorate was formed under the auspices of the Directorate General of Immigration, namely the Directorate of Immigration Intelligence. Working and specialized in intelligence, they try various preventive measures as well as conduct

²Merriam-Webster Dictionary Definition of Intelligence, <https://www.merriam-webster.com/dictionary/intelligence>, accessed on Thursday, 19 October 2017, 17:35

³Intel Oh Intel, Lt. Gen. (Ret.) ZA Maulani, p. 1

⁴Central Intelligence Agency Handbook: Strategic Information, Activities, and Regulations", International Business Publications, p. 12

⁵*Transnational Organized Crime* is a matter of an international level, reflecting the structural characteristics of a legitimate economy and of exploiting structures created to facilitate and enhance international trade activity. Therefore it must be addressed at the international level. Frank G. Madsen, *Transnational Organized Crime*, Routledge, England, 2009, p. 1.

investigations and security. Although this immigration intelligence has been operating optimally, there are still some cases that escape observation and prediction.

B. Research Methods

Intelligence is always moving in groups and directed. Not just anyone can carry out intelligence functions, especially immigration intelligence. Although the goal is gathering information and sometimes having to risk their lives to get information, an intelligence cannot just move around without direction. There are several things and regulations that must be obeyed by an intelligence officer, either general intelligence or immigration intelligence. In general, intelligence in Indonesia is regulated under Law no. 17 of 2011 concerning State Intelligence. The law contains various special articles that regulate intelligence, in particular the code of ethics that must be owned and implemented by intelligence officers who work under the auspices of the Indonesian government.⁶, coordination, integrity, neutrality, accountability, and objectivity.⁷

According to Law No. 17 of 2011 article 5, Intelligence has the purpose of detecting, identifying, assessing, analyzing, interpreting, and presenting Intelligence in order to provide early warning to anticipate various possible forms and nature of potential and real threats to safety and existence. nation and state as well as the opportunities that exist for national interests and security. In order to achieve this goal, Intelligence carries out three functions, namely investigation, security, and fundraising. In addition, in compiling an Intelligence organization, there are three basic considerations that are decisive. First,⁸ Second, the ability to convince, namely that the knowledge obtained meets the needs of the parties who use it to make the right decisions and according to the problem, complete, thorough, and on time.⁹ And lastly, having maximum efficiency and effectiveness in carrying out its functions and in carrying out its activities as mentioned earlier, namely investigation, security, and fundraising.¹⁰ Each of these Intelligence functions has its own uniqueness and difficulties, and being a model that cannot be avoided and in its implementation requires excellent cooperation and must not avoid closure within the unit, which can have a negative impact on the development of the event.¹¹

Immigration Intelligence, which is led by the Directorate of Immigration Intelligence under the auspices of the Directorate General of Immigration, Ministry of Law and Human Rights, is one of the subjects of the Ministry's Intelligence as referred to in Law no. 17 of 2011 Article 7 Letter e. In carrying out its duties, Immigration Intelligence is still guided by Law no. 17 of 2011 concerning State Intelligence, but there are additional regulations specifically implemented by Immigration

⁶The principle of compartmentation is that in carrying out its duties and functions, intelligence activities are separate from each other, and only known by the unit concerned. Elucidation of Article by Article of Law No. 17 of 2011 Article 2 letter C.

⁷Listed in Law no. 17 of 2011 concerning State Intelligence, Article 2.

⁸Makmur Supriyatno, About Defense Science, Indonesian Torch Library Foundation, Jakarta, 2014, p. 317.

⁹*Ibid.*

¹⁰*Ibid.*

¹¹Achmad Setiyaji, They Accused Me, Print I, GALANGPRESS Printing, Yogyakarta, 2010, p. 167

Intelligence, namely the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 30 of 2016 concerning Immigration Intelligence. However, there is a slight difference between the intelligence functions in Law no. 27 of 2011 with the Minister of Law and Human Rights No. 30 of 2016, where the Immigration Intelligence function listed is only investigation and security. Why? The reason that can be put forward is because in Law no. 6 of 2011 on Immigration, in article 74 on Immigration Intelligence, does not include the raising function of Immigration Intelligence. This has unwittingly become a problem in the field of Immigration. Guided by the Act (Law No. 6 of 2011), of course the Permenkumham cannot arbitrarily change and add a fundraising function, or the Permenkumham will be inconsistent with Law no. 6 of 2011, which is a guideline in making the Permenkumham and hierarchically the legislation is above the Permenkumham itself. However, the facts on the ground are that one of the sub-directorates under the auspices of the Directorate of Immigration Intelligence is the Sub-directorate of Intelligence Cooperation and Network Guidance. This sub-directorate is one part of the Immigration Intelligence, which in carrying out its duties carries out a fundraising function. While this sub-directorate carries out a fundraising function, it is possible that they can be complicated in carrying out this function, on the grounds that they carry out a function that has no legal basis from an Immigration perspective, namely a fundraising function.

Although in the status quo there are still many things that are considered not right, or are still confusing, the implementation of the Immigration policies and regulations so far has gone quite well. At least, it can be said that there are many problems that can be solved by the current regulations. Based on this, it can be said that the Regulation of the Minister of Law and Human Rights No. 30 of 2016 concerning Immigration Intelligence can still accommodate the current situation in Indonesia.

Another slight difference between ordinary Intelligence and Immigration Intelligence is that the implementation of intelligence in the Immigration sector may only be carried out by an Immigration Officer. Before a person can run for office or be allowed to take intelligence courses or the like, he or she must become an Immigration Officer¹² first, or he still cannot carry out the Immigration Intelligence function. In addition, an Immigration Intelligence Officer is advised to have passed education and become a PPNS (Civil Servant Investigator)¹³ so as to make the task easier.

C. Discussion

The problems that occur in the field of Intelligence are certainly not small. Moreover, by looking at the fact that intelligence is the first to predict and find a problem and find ways to find and take the best preventive action, intelligence cannot

¹²Immigration Officers are employees who have gone through special Immigration education and have Immigration technical expertise and have the authority to carry out their duties and responsibilities under this Law. Law No. 6 of 2011, Article 1, Number 7.

¹³Civil Servant Investigator is an Immigration Officer who is authorized by law to investigate Immigration criminal acts. Law No. 6 of 2011, Article 1, Number 8.

be far from cases and problems, both from the trivial to the very complex. All matters or problems must be handled properly, and intelligence is one of the subjects whose job is to bring the situation closer to the goal. The problems faced by intelligence, especially Immigration Intelligence, are certainly not few and varied. The possibility for the occurrence of an internal problem is not closed.

The first problem, which can be categorized as an internal problem that can endanger various parties in Immigration, is the lack of coordination between units or between directorates. Intelligence, as the information provider, must always coordinate with directorates or other units. Moreover, if the Intelligence information is important and reliable information, then a problem can be prevented as soon as possible. The Immigration Intelligence Party does act as the party that carries out pulbaket (collection of information) and investigates a case so that it can provide the best report regarding a problem or a thing that is suspected to cause problems, but in fact on the ground, Immigration Intelligence cannot take any action related to handling on the spot. Intelligence has their own share and work, which cannot be equated with other fields. Therefore, in carrying out direct handling, cooperation between the Intelligence and other parties is needed. Lack of coordination will actually cause a problem that may swell. For example, if the directorate of Immigration Supervision and Enforcement (wasdakim) tries to take action without any analysis from previous intelligence and without authentic evidence, the possibility of errors in prosecution is higher. If the Directorate of Immigration Cooperation intends to cooperate without an analysis related to the background of the subject of the cooperation from the intelligence side, then failures or threats can occur more freely. Intelligence does not eliminate problems completely, but minimizes the chances of problems occurring.

Second, perform an operation without prior analysis. Intelligence cannot move arbitrarily, or at will. Intelligence moves with direction and purpose, so that the implementation of an activity is not carried out blindly and messy. Lack of analysis in one case can also invite other problems, such as not doing analysis and ultimately catching and taking action against the wrong person. Or not doing analysis so that there is no previous prediction in dealing with a case, which turns out to be causing innocent people to become victims.

Cohesiveness is a problem that occurs in almost all places. Indeed, it cannot be denied that cohesiveness is the key to success in an operation, especially intelligence operations. An example of a case where there is no cohesiveness in an intelligence unit is in 2001, it was announced that an FBI intelligence agent¹⁴ named Robert Philip Hansen was caught providing highly classified national security information to Russia and the Soviet Union.¹⁵ Problems like this must be prevented, so that the same thing does not happen in Indonesia, because it can be ascertained that the impact of the occurrence of problems such as leakage is not small.

¹⁴*Federal Bureau of Investigation*, or the Federal Bureau of Investigation is the principal investigative agency of the United States Department of Justice. Currently, the FBI has investigative jurisdiction over violations of more than 200 categories of crimes. It is a unit that spreads curiosity, fear, and interest, and hides many secrets. See in Ronald Kessler, *The FBI*, Pocket Books, America, 1993, p. 4

¹⁵John C. Maxwell, *The 17 Indisputable Laws of Teamwork*, MIC Publishing, 2009, p. 188.

In dealing with and reducing the possibility of these problems, the Immigration Intelligence must further foster and emphasize that the task of intelligence is not easy and does not deserve to be used as a toy. Carrying out operations without coordination or without analysis is something very dangerous. One of the cases that have occurred related to the operation without coordination and without analysis is the incident that occurred in Bogor some time ago, when the Protocol of King Salman, Saudi Arabia, was arrested without knowing that the person was the Protocol. This fatal error also caused scars that cannot be lost on the Indonesian Immigration side. Although the matter had subsided, but it was undeniable that at that time, this mistake was truly fatal.

In addition to correcting existing mistakes, another thing that must be done by the Indonesian government in improving the quality of Indonesian intelligence is to conduct joint exercises with intelligence from other countries. The need for this training must indeed be met, in order to review the weaknesses of the Indonesian Intelligence which may be covered with intelligence from other countries. Some coordination with developed countries such as America, Australia, or with international organizations such as Interpol and the United Nation, is an opportunity for Indonesia to carry out this. Although currently there have been many collaborations and joint exercises carried out, it is possible to continue to innovate together to improve the quality of each other's intelligence.

In addition to cooperation with parties or intelligence from abroad, joint exercises with other intelligence agencies that are the subject of State Intelligence in Indonesia, such as the National Intelligence Agency, Police Intelligence, Military Intelligence, or Intelligence from the Ministry or other non-ministerial institutions. By carrying out good coordination and cooperation with these institutions, the implementation of immigration intelligence will be much easier and will have a wider network. In addition, improving the quality of human resources performing intelligence functions can be further supported and improved.

D. Conclusion

The existence of intelligence is a crucial thing in carrying out government, especially in the fields of security and investigation, as well as fundraising. Without intelligence, there may be cases that cannot be predicted, or no cases can be prevented before they occur. Adequate guidance or even more in terms of quantity and quality can be one of the determining aspects of whether a country can run well.

The implementation of intelligence functions in Indonesia can be categorized as quite good. But there are still some things that are actually trivial but become big because they are ignored. The lack of coordination and analysis must be immediately resolved and minimized, so that the implementation of operational activities, both intelligence and prosecution, can take place better, so as to achieve the expected output.

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