

The Role and Mechanism of the Military Justice System in Maintaining TNI Discipline

ABSTRACT

This study aims to analyze the process of examination, prosecution, and the effectiveness of the military justice system in enforcing discipline within the Indonesian National Armed Forces (TNI) based on Law Number 31 of 1997 concerning military justice. The research method used is normative legal research through the approach of legislation, doctrine, scientific literature, and relevant decisions. The results of the study indicate that the military justice system has a structured mechanism starting from investigation, case submission, trial examination, to criminal execution. However, its implementation still faces obstacles in the form of limited transparency, accountability, and potential structural intervention through the authority of the Case Submitting Officer (PAPER). This study concludes that military justice plays a strategic role in maintaining military discipline and hierarchy, but reforms concerning the independence of judges, strengthening supervision, and affirming jurisdiction are needed to realize accountable justice.

Keywords: Military Justice, Military Discipline, Law Enforcement, TNI, Justice.

INTRODUCTION

The preamble to the 1945 Constitution stipulates that the Indonesian people must protect all Indonesians and advance the general welfare, improve the nation's intellectual life, and participate in establishing a world order based on independence, lasting peace, and social justice for all Indonesians (Zuhrah et all, 2024). These development goals can be achieved through well-planned and realistic national development, implemented in stages and with sincerity.

Many disciplinary violations by Indonesian National Armed Forces (TNI) soldiers still occur, despite the emphasis placed on enforcing discipline in each unit. Discipline enforcement within units is carried out by providing soldiers with an understanding and affirmation of military regulations and other applicable regulations, during roll calls, commander's hours, and through counseling sessions. Sanctions for violators include disciplinary action and disciplinary

punishment, as stipulated in Law Number 25 of 2014 concerning Military Disciplinary Law, which replaces Law Number 26 of 1997 concerning ABRI Soldier Disciplinary Law.

Discipline is a fundamental element in maintaining the professionalism and combat readiness of the Indonesian National Armed Forces (TNI). The hierarchical and risky nature of military organizations demands that every soldier strictly obey the law and commands (Arifin, 2020). However in reality disciplinary violations and military crimes still frequently occur, necessitating a law enforcement system capable of maintaining internal order and organizational integrity.

Military justice, as a subsystem of the judicial power, is the institution authorized to examine, try, and decide cases involving TNI members (Pramono, 2020). Law Number 31 of 1997 provides a clear legal framework regarding investigations by the Military Police, case submission by Case Submitting Officers (Papera), and the examination process by military judges. However this system has often been criticized regarding its transparency, independence, and the potential for structural interference within the chain of command (Sasmito, 2015).

These subsystems operate within the framework of a bureaucratic organizational structure. A modern bureaucratic organization is inherently linked to the legal system. According to Lawrence M. Friedman, there are three legal components: legal structure, legal substance, and legal culture. These three components (legal structure, legal substance, and legal culture) are interdependent in the functioning and operation of the legal system. The bureaucratic organization of the Military Court includes an investigative system run by the Military Police, superiors with the authority to punish, and the Military Prosecutor (Tambunan, 2019). The case transfer system is run by the case-handling officer, the trial examination system is run by the military court, and the criminal execution system is run by the Military Correctional Institution. In addition to the three investigative institutions mentioned above, there are also so-called assistant investigators. These assistant investigators consist of provosts.

This problem creates a gap between normative regulations and their implementation in the field. Therefore, this research is important to analyze the role of the military justice system, case handling mechanisms, and challenges faced in maintaining discipline and justice within the TNI.

RESEARCH METHODS

This research uses a normative legal research method with two approaches: the statute approach and the conceptual approach (Satory et al., 2024). The legal sources include:

1. Primary legal materials: Law No. 31 of 1997, Law No. 25 of 2014, the Criminal Code (KUHPPM), and related regulations.
2. Secondary legal materials: books, scientific journals, and military legal doctrine.
3. Tertiary legal materials: legal dictionaries and encyclopedias.

Data collection techniques were conducted through literature review. Analysis was conducted descriptively and analytically using deductive logic to draw conclusions based on norms, doctrines, and research findings.

RESULT AND DISCUSSION

1. Legal Basis and Position of Military Courts (Pramono, 2020).

This section discusses the legal basis for the establishment of military courts and their position within the national justice system.

1.1 Main Legal Basis

- Law Number 31 of 1997 concerning Military Courts (Soebagyo, 2023).

Regulates the organizational structure of military courts, absolute authority (personal and material jurisdiction), procedural procedures, and the position of military prosecutors and judges.

- Law Number 34 of 2004 concerning the Indonesian National Armed Forces

Strengthens the principle of TNI professionalism and mandates that soldiers are subject to military law and military justice.

- Internal regulations such as the Perpang (Indonesian Military Regulation), the TNI Commander's Decree (Skep), and military disciplinary regulations.

1.2 Position of Military Courts in the National Justice System

- Structurally, military courts are part of the judicial power (Sagala, et al., 2025).
- There is discourse and normative mandate (for example, in the discussion of the Criminal Code/Criminal Code Bill) regarding the integration of military justice into the Supreme Court, particularly regarding the authority to examine soldiers who commit general crimes.
- Relevant judicial principles: fair trial, due process of law, legality, judicial independence, and institutional accountability.

2. Mechanism for Handling Violations within the TNI

Discusses the process of handling cases from the beginning to the execution of the verdict.

2.1 Investigation by the Military Police (POM)

- POM has the authority to conduct inquiries, inquests, arrests, detentions, and gather evidence (Tambunan, 2019).
- Procedures follow the Criminal Procedure Code and specific norms of military procedural law.

2.2 Handing Over Cases (Papera)

- The unit commander hands over cases (Papera) to the prosecutor's office.

- The commander's discretion is often criticized for allowing broad discretion, including the possibility of administrative resolution (Mirozul et al., 2024)

2.3 Prosecution by Military Prosecutors

- Prosecutors examine files, formulate indictments, and determine whether a case should be brought to trial.
- The independence of the Prosecutors is often questioned because they are within the military chain of command (Edy, 2024)

2.4 Trials in Military Courts

- Consisting of Military Courts, High Military Courts, and Main Military Courts
- Military judges can be military or civilian (in practice, the military still predominates) (Sasmito, 2024)

2.5 Criminal Execution

- Carried out by the unit commander based on a copy of the Prosecutors' decision after it has become legally binding (Pramono, 2020).
- Execution can take the form of imprisonment, demotion, dismissal, or other sanctions stipulated in Law 31/1997.

3. Evaluation of the Effectiveness of the Military Justice System

Assess how this system works in achieving its objectives.

3.1 Strengths

- Maintains internal discipline in the TNI (Arifin, 2020): a fast mechanism based on the chain of command.
- Clear hierarchy: structured and effective decision-making for an organization that demands high levels of obedience.
- Relatively fast process: caseloads are not as high as in general courts.

3.2 Weaknesses

- Low transparency (Sirait et al, 2024): the public has difficulty accessing files, processes, and decisions.
- Limited and non-uniform jurisdiction: especially regarding common crimes by soldiers.
- Potential for structural interference: investigators, prosecutors, and judges remain within the military structure, so their independence is often questioned.

4. Challenges and Problems of Military Justice

4.1 Minimal Public Access (Sirait et al, 2024)

Decisions are not fully transparent, trials are often held behind closed doors, and information is difficult to access.

4.2 Burden of Command in Law Enforcement (Tambunan, 2024)

Commanders play a significant role in the initial stages (paperwork and detention), which can create conflicts of interest.

4.3 Criticism of Light Sentences (Heriyanto, 2024)

In some cases, soldiers who commit serious crimes (e.g., assault, shooting, drug offenses) are considered to receive lighter sentences than those in general courts.

4.4 Discretionary Discretion(Mirozul et al., 2024)

The potential for administrative resolution through unit development can reduce the perpetrator's accountability.

5. The Role of Military Justice in Maintaining Discipline and Hierarchy

5.1 Creating Legal Certainty (Pramono, 2020)

Criminal acts within the Indonesian National Armed Forces (TNI) have unique characteristics, requiring a judiciary that understands the military's culture, structure, and operational needs.

5.2 Maintaining Troop Morale and Cohesion (Arifin, 2020)

Firm and proportional law enforcement prevents recurrence and maintains a sense of justice within the unit.

5.3 Enforcing the Soldier's Code of Ethics (Edy, 2024)

Military justice reinforces core values such as loyalty, honor, integrity, and the ability to act in accordance with the soldier's oath.

CONCLUSION

The military court is a strategic institution that maintains discipline and hierarchy within the Indonesian National Armed Forces (TNI). Case handling mechanisms, from investigation to execution, are systematically regulated through Law Number 31 of 1997. However, the implementation of authority within the military justice system still faces challenges in the form of limited transparency, potential command intervention, and suboptimal public accountability.

Therefore reforms are needed to ensure the independence of judges, limit the discretion of the Supreme Court, improve oversight mechanisms, and strengthen jurisdiction so that the military justice system can truly achieve substantive justice while maintaining the military's distinctive disciplined and hierarchical characteristics.

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