

Analysis of Law Enforcement on the Case of THTI TNI Soldiers at the Medan Military Court

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Abstract. *This study aims to analyze the legal regulation and law enforcement against the crime of absenteeism without permission (THTI) carried out by TNI soldiers at the Medan Military Court, as well as the relationship between the Military Criminal Code (KUHPM) and the Criminal Code (KUHP). The research methods used are normative juridical and empirical juridical, with legislative, case, and conceptual approaches, as well as data collection through document studies and interviews. The results of the study show that legal arrangements related to THTI have been comprehensively regulated in Article 87 of the Criminal Code, with sanctions aimed at maintaining military discipline. Law enforcement against the THTI case at the Medan Military Court is carried out through the stages of investigation, investigation, prosecution, and execution of the verdict. The relationship between the Criminal Code and the Criminal Code reflects the principle of *lex specialis derogat legi generali*, where the Criminal Code is prioritized for TNI soldiers. However, there are challenges in determining jurisdiction in cases involving civil society, so coordination between military courts and general courts is needed. This study recommends increasing the socialization of the rule of law to soldiers, strengthening the capacity of military legal officers, and moral development to prevent THTI violations. With this step, it is hoped that the handling of THTI cases can run more effectively and fairly in accordance with the principles of military law and general criminal law.*

Keywords: THTI, TNI, Military Law, Criminal Code, Medan Military Court, Law Enforcement

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INTRODUCTION

Law enforcement is one of the main pillars in maintaining order and justice in a country. In the military context, law enforcement has its own challenges because it must go hand in hand with discipline, hierarchy, and a strictly enforced code of ethics (Saleh et al., 2024). The Indonesian National Army (TNI) as a state defense institution has internal legal regulations that aim to maintain the professionalism and obedience of soldiers to military laws and discipline (Ramadantica, 2024). One form of serious violation in the military world is the act of not attending without permission (THTI), which is often a problem in various military units, including in the Medan Military Court area.

The THTI case is a serious concern because it has a significant impact on the discipline, morale, and effectiveness of military organizations. The absence of a soldier without a permit can disrupt the operational stability of the unit, weaken solidarity, and tarnish the image of the TNI's professionalism in the eyes of the public. Therefore, military courts have a strategic role in ensuring that these violations are handled fairly, firmly, and transparently in accordance with applicable laws and regulations (Mirozul et al., 2024).

The Medan Military Court is one of the institutions responsible for handling cases of violations of the law committed by TNI soldiers in its jurisdiction. In the process of law enforcement against the THTI case, the Military Court faces various challenges, ranging from evidence collection, limited witnesses, to the complexity of the legal process involving military aspects. However, the role of this court is very crucial to provide legal certainty and ensure that every TNI soldier who violates military discipline gets appropriate sanctions. An analysis of law enforcement at the Medan Military Court is important to understand the extent to which justice is upheld in the THTI case. This study seeks to identify the factors that affect the legal process, including the obstacles faced by the courts, as well as the efforts made to overcome these problems (Termature et al., 2024). Thus, this study provides a comprehensive picture of the effectiveness of the military legal system in Indonesia.

THTI as a violation of military discipline is often influenced by various factors, both internal and external. Internal factors include the soldier's personal problems, such as psychological distress, family problems, or dissatisfaction with policies in the unit (Juniarly, 2012). Meanwhile, external factors include social, political, or work environments that are less conducive. Analysis of these factors is important to understand the root of the problem and prevent the recurrence of similar cases in the future. In the context of military law, the principles of justice and the rule of law must still take precedence, even within the framework of strict military discipline (Nadhiroh, 2020). Fair law enforcement not only serves as a tool to punish violators, but also as a means of education and prevention for other soldiers (Barda, 2018). Therefore, it is important to ensure that the legal process at the Medan Military Court is transparent and accountable.

Military courts have a dual role, namely as a legal institution and as a guardian of military discipline (Anwar, 2020). In carrying out its duties, the court must adhere to Law Number 31 of 1997 concerning Military Courts, which regulates the trial mechanism, the authority of military judges, and the rights of the defendant (Sulistiriyanto, 2011). This trial process must be carried out professionally in order to ensure justice for all parties involved. In handling THTI cases, there is often a debate about the proportion between the punishment given and the violation committed. Some argue that excessively severe punishments can have a deterrent effect, but on the other hand, excessively lenient punishments can reduce the authority of military law (Arif, 2016). Therefore, the court must be able to balance the interests of justice, discipline, and humanity. This study aims to analyze how the law enforcement process against THTI cases at the Medan Military Court is carried out.

In addition, the study also identifies the challenges faced by the institution in handling these cases, as well as provides recommendations to improve the effectiveness of law enforcement in the future. In carrying out this analysis, a qualitative approach with a case study method is used. The data used includes legal documents, interviews with the parties involved, and observations of the trial process. Through this approach, it is hoped that a more in-depth picture of the dynamics of law enforcement in the military environment can be obtained. The study also aims to make an academic and practical contribution to the development of the military legal system in Indonesia. From an academic perspective, this study provides new insights into law enforcement in military courts (Supriyanto, 2016).

Meanwhile, from a practical perspective, this research is expected to be an input for policymakers in formulating strategies to improve the discipline and professionalism of TNI soldiers. In the process, this study found that the success of law enforcement against THTI cases is highly dependent on good coordination between various parties, including investigators, military prosecutors, and judges. In addition, the support from the unit's leadership also has an important role in ensuring that the legal process can run smoothly and fairly. However, there are several obstacles that are often faced in handling THTI cases at the Medan Military Court. These obstacles include limited human resources, low legal awareness among soldiers, and pressure from certain parties that can affect the independence of the court. These obstacles need to be overcome through various efforts, including legal training for soldiers and increased transparency in the trial process.

Through this research, it is hoped that innovative solutions can be found to overcome various problems faced by the Medan Military Court. Thus, law enforcement against THTI cases can be carried out more effectively, fairly, and sustainably. In the end, good law enforcement in the military environment not only has an impact on soldier discipline, but also on strengthening the TNI institution as the guardian of state sovereignty. Therefore, this research has high relevance in supporting the creation of a professional, modern, and dignified military. The conclusion of this introduction emphasizes the importance of an in-depth analysis of law enforcement in THTI cases. The results of the research are expected to make a real contribution to the improvement of the military justice system in Indonesia, especially in the Medan Military Court, for the sake of creating true justice.

METHODS

This study uses a qualitative approach with a descriptive-analytical method (Waruwu, 2023). The qualitative approach was chosen because this research aims to explore and understand the phenomenon in depth, especially in the law enforcement process against the case of non-attendance without permission (THTI) of TNI soldiers at the Medan Military Court. Descriptive-analytical methods are used to describe existing facts, data, and phenomena, then analyze them systematically to obtain conclusions and recommendations. This research is juridical-sociological, which combines a normative legal approach with an empirical approach (Nasir, 2024). The normative legal approach is used to analyze the laws and regulations, legal doctrines, and regulations related to military justice and THTI violations. Meanwhile, an empirical approach is carried out to examine the implementation of the rule in practice in the field, especially at the Medan Military Court. This research was conducted at the Medan Military Court as one of the judicial institutions that has jurisdiction over cases of violations of the law by TNI soldiers, including the THTI case. This location was chosen because of the high number of THTI cases handled and its relevance to the focus of the research. This study uses two types of data, namely primary data and secondary data: (1) Primary data is obtained directly from interviews with relevant sources, such as military judges, military prosecutors (prosecutors), legal advisors, and defendants (if possible), as well as observations of the trial process; (2) Secondary data includes official documents such as court decisions, laws and regulations (such as Law Number 31 of 1997 concerning Military Justice), legal doctrines, textbooks, journals, scientific articles, and other legal materials. Data collection is carried out using the following techniques (Lumbanradja, 2024): Document Study, In-depth Interview, Participatory Observation and Literature Study. The collected data is analyzed qualitatively with the following steps: Data Reduction, Data Presentation and drawing Conclusions and Verification. This study uses several relevant theories to analyze the data, including: (1) Justice Theory from Amancik, to examine whether the law enforcement process at the Medan Military Court has met the principle of justice (Situmorang et al., 2023); (2) Military Discipline Theory, to understand the importance of discipline as a fundamental value in military institutions; (3) Law Enforcement Theory from Nasution, to see the extent to which the implementation of law in military courts can run effectively in accordance with applicable legal norms (Nasution, 20018).

RESULTS AND DISCUSSION

What are the Legal Regulations Regarding the Crime of Unauthorized Absence (THTI) Committed by TNI Soldiers?

Legal arrangements regarding unauthorized absences (THTI) by TNI soldiers are expressly regulated in the Military Criminal Code (KUHPM). This provision includes sanctions against TNI soldiers who leave their duties without the permission of their superiors within a certain period of time. Article 87 of the Criminal Code states that a soldier is considered to have committed THTI if: (1) Soldiers were not present at the duty station without permission for more than 30 consecutive days; (2) the act is carried out intentionally or without a valid reason.

Sanctions given for THTI violations include imprisonment, dishonorable discharge from military service, or other sanctions determined by military courts. This arrangement aims to

maintain discipline and order in the military body, which is a fundamental value in the TNI institution. In addition, regulations related to THTI are also regulated in Law Number 31 of 1997 concerning Military Courts, which regulates trial procedures, the authority of military judges, and legal procedures that must be taken in handling cases of violations of military discipline, including THTI.

Based on interviews with sources at the Medan Military Court, it was found that the legal arrangements regarding THTI were quite clear and detailed. However, in its implementation, there are still obstacles, such as soldiers' low understanding of the rules and the lack of internal supervision in the TNI unit. Absence without permission (absence without permission or THTI) by TNI soldiers is a serious violation in military institutions, as stipulated in Article 87 of the Criminal Code.

This arrangement is based on the principle that military discipline is the main foundation in maintaining the integrity, hierarchy, and operability of military institutions. This is in line with the theory of military discipline which states that discipline is a fundamental element in the military system, as proposed by (Beede, 2010), which asserts that without discipline, military institutions cannot function effectively. From this study, it was found that the legal regulation regarding THTI was quite comprehensive. The Criminal Code provides a clear definition of THTI, strict sanctions, and systematic legal procedures. However, obstacles in implementation, such as soldiers' low understanding of these regulations, show that efforts to foster and socialize military law need to be improved. This result is in line with previous research by (Styastuti et al., 2016), which found that many THTI violations occurred due to soldiers' lack of understanding of the legal rules that apply in military institutions.

How is Military Law Enforcement against the Crime of Unauthorized Absence (THTI) Committed by TNI Soldiers?

Military law enforcement against THTI cases at the Medan Military Court is carried out by referring to applicable legal procedures. This process involves several stages, namely: (1) Investigation and Investigation, the initial investigation was carried out by the soldier's immediate superior. If sufficient preliminary evidence is found, the case will proceed to the investigation stage by the military police (Anasakila, 2022). At this stage, investigators collect evidence and witness statements to ensure that THTI violations really occurred; (2) Prosecution by the Military Inspectorate, after the case file is declared complete, the military prosecutor will draft an indictment and transfer the case to the Military Court. The indictment usually includes a violation of Article 87 of the Criminal Code, accompanied by a recommendation for sanctions based on the level of the violation committed; (3) Trial Process, the Medan Military Court held a trial involving military judges, military prosecutors, legal advisors of the defendants, and relevant witnesses. Based on the results of observations, the trial process took place behind closed doors, considering the confidential nature of military cases. However, the judge still ensured that the principle of justice was upheld; (4) Verdict and Execution, court decisions typically include disciplinary and criminal sanctions, depending on the severity of the offense. In some cases, soldiers found guilty of THTI may be dishonorably discharged from military service. The execution of the decision is carried out by the unit's superior after obtaining a copy of the court decision.

The results of interviews with military inspectors show that military law enforcement against THTI has gone quite well, despite several obstacles, such as the limitation of investigative personnel and military judges. In addition, there are still cases where the defendant has filed a defense for personal reasons, such as family issues or psychological pressure, which sometimes affects the judge's decision-making process. Military law enforcement of THTI cases is carried out through the stages of investigation, investigation, prosecution, and trial in military courts. This study found that the military law enforcement process runs in accordance with the procedures regulated in Law Number 31 of 1997 concerning Military Justice. However, there are obstacles, such as the limited number of military investigators and judges who handle this case. This

condition shows that there are challenges in the implementation of law enforcement theories put forward by (Sulistiriyanto, 2011).

According to this theory, law enforcement is not only influenced by the rule of law itself, but also by the factors of law enforcement officials, facilities and infrastructure, and the community involved in the process. In the context of the THTI case, obstacles in the apparatus and facilities are the main obstacles in achieving optimal law enforcement. In addition, the results of this study show that personal reasons, such as family problems or psychological pressure, are often the defendant's defense in THTI cases. This suggests that most violations of military discipline are related to non-technical factors, such as personal conflict and mental distress. Therefore, the recommendation of this study is the need for a more holistic approach, such as counseling and moral coaching, to address the underlying causes of THTI violations.

What is the Relationship between the Military Criminal Code and the General Criminal Code?

The Military Criminal Code (KUHPM) has a close relationship with the general Criminal Code (KUHP). These two books are the basis of criminal law in Indonesia, but they have differences in the scope and subject matter of the law they regulate: (1) Legal Scope, the General Criminal Code regulates criminal acts that apply to all Indonesian citizens, while the Criminal Code specifically regulates criminal acts committed by members of the military, including the TNI. Thus, the Criminal Code is *lex specialis*, which means that the rules in the Criminal Code will take precedence over the Criminal Code when it comes to military members; (2) Legal Subjects, the Criminal Code applies to civil society, while the Criminal Code regulates military soldiers who have additional obligations in the form of military discipline. For example, the THTI act regulated in Article 87 of the Criminal Code is not contained in the Criminal Code, because this violation is only relevant in the military context; (3) Sanctions and Legal Procedures, the sanctions in the Criminal Code are designed to maintain military discipline and hierarchy, so they are stricter than the general Criminal Code. In addition, the legal procedures in the Criminal Code involve special institutions, such as the Military Court, which have their own trial mechanism; (4) Implementation Relationship. In some cases, there are situations where TNI soldiers commit criminal acts regulated in both the Criminal Code and the Criminal Code (Sutoyo & Hasbi, 2024). In this case, the legal process will follow the Criminal Code if the criminal act is committed in the context of a violation of military duties. However, if the criminal act is committed outside the scope of the military (for example, crimes against civilians), then the Criminal Code can apply and the case can be handled by the general court.

The results of interviews with military judges show that the relationship between the Criminal Code and the Criminal Code is quite harmonious in its implementation. However, there are several challenges in determining jurisdiction over criminal acts involving TNI soldiers and civil society, so good coordination between military courts and general courts is needed. The relationship between the Military Criminal Code (KUHPM) and the Criminal Code (KUHP) reflects the principle of *lex specialis derogat legi generali*, where the Criminal Code as a more specific law overrides the Criminal Code in cases involving military soldiers.

In the context of the THTI case, the Criminal Code has specific rules to handle violations that are military discipline (Pradipta, 2024). However, the study also found that in certain cases, such as violations involving civil society, there is often an overlap between the jurisdiction of military courts and general courts. This condition poses a challenge in determining legal authority, especially if the violation has a general criminal element. These findings corroborate research by (Lapae et al., 2022), which states that the relationship between the Criminal Code and the Criminal Code requires better coordination between military and civilian institutions to avoid jurisdictional conflicts. The theory of justice put forward by (Taufik, 2013) are also relevant in this discussion. Taufiq emphasized that justice must include equal legal treatment for all individuals, including military soldiers. However, in practice, the existence of specific military

laws is often perceived as a "privilege" for TNI soldiers. This shows the need for transparency and accountability in military legal processes to ensure that the principle of justice is maintained.

CONCLUSION

Based on the results of the research and discussion that has been carried out, it can be concluded that the crime of absence without permission (absence without permission or THTI) by TNI soldiers is a serious violation that is comprehensively regulated in the Military Criminal Code (KUHPM). This legal arrangement aims to maintain discipline and order in the TNI, which is the main foundation in carrying out state defense duties. Article 87 of the Criminal Code expressly provides limits and sanctions for THTI violations, which include imprisonment to dishonorable dismissal. However, this study found that the socialization of the rule of law to TNI soldiers needs to be improved to prevent similar violations in the future. Military law enforcement against the THTI case at the Medan Military Court has been carried out according to the prescribed procedures, starting from the investigation to the execution of the verdict. However, there are obstacles in its implementation, such as the limitation of investigative personnel and military judges, as well as the defense of defendants which are often related to personal reasons, such as family problems or psychological pressure. This shows the need for a more holistic approach in handling THTI cases, including moral coaching and counseling for soldiers. The relationship between the Criminal Code and the Criminal Code is also an important aspect in handling this case. The Criminal Code as a *lex specialist* specifically regulates violations of military discipline, while the Criminal Code applies to civil society in general.

SUGGESTION

In practice, there are challenges in determining jurisdiction in cases involving general criminal and military elements, so better coordination between military institutions and the general judiciary is needed to avoid jurisdictional conflicts. From the perspective of legal theory, this study emphasizes the importance of applying military discipline theory, justice theory, and law enforcement theory in understanding and handling THTI cases. Military discipline is the main pillar in maintaining the integrity of military organizations, while the principle of justice must still be upheld in the law enforcement process, both in the military environment and in relation to general criminal law.

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