

# Legal Urgency in the Establishment of the Anti-Corruption Corps in the Indonesian National Army

Raditya Feda Rifandhana<sup>1\*</sup>, Bambang Angkoso Wahyono<sup>2</sup>, Syahdina Yahwa<sup>3</sup>,  
Mochamad Ardiyanto<sup>4</sup>, and Rafa Huwaida<sup>5</sup>

<sup>1</sup>Faculty of Law, Universitas Merdeka Malang, Malang, Indonesia

<sup>2</sup>Bengkulu High Court, Bengkulu, Indonesia

<sup>3</sup>Faculty of Law, Universitas Merdeka Malang, Malang, Indonesia

<sup>4</sup>Faculty of Law, Universitas Merdeka Malang, Malang, Indonesia

<sup>5</sup>Faculty of Law, Universitas Merdeka Malang, Malang, Indonesia

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## Abstract:

Corruption in legal thought, part of the extraordinary crime, the extraordinary crime, is categorized as a crime that can enter any agency, both civilian and military, so that this extraordinary crime damages the order of norms, even the organs that have been arranged by legal norms. In this study, it discusses the legal vacuum, the formation of new organs, even the urgent necessity needed for the formation of norms in the formation of new organs and even laws and regulations, legal urgency is a legal imperative in the formation of anti-corruption organs in the National Army of the Republic of Indonesia carried out by stakeholders, Legislative, Executive, Judiciary and even Military in a progressive, responsive manner. The Military Discipline Law, the Corruption Crime Law, is packaged in normative research. The results of this study show that the President, as the holder of executive power, worked with the Commander of the Indonesian National Armed Forces and his staff to form an independent anti-corruption agency to monitor and take action if any member of the Indonesian National Armed Forces was involved in criminal acts of corruption. In addition, the legislature was involved in the formulation of the Military Criminal Code and has passed legislation to establish an independent commission, namely the Military Anti-Corruption Corps.

**Keywords:** Legal Urgency, Authority, Indonesian National Army, Anti-Corruption Corps

## INTRODUCTION

Law and Crime are inseparable from a significant arrangement, the significance of Law is as a standard of norms that are formed to regulate subjects in the circle of agencies, so that agencies are driven by subjects who have power, even authority (R. Marbun, 2019). The movement of individuals within the framework of agencies is inherently connected to actions that breach the foundational legal norms. These norms, which form the basis of legal regulations, are often identified as crimes. Within the legal context, crime is comparable to an inseparable counterpart, arising from human actions that violate the normative standards established by law. Crimes originate from General Crimes, which consist of crimes originating from the Criminal Code, Special Crimes originating from unlawful behavior that is of a modern law or legal development, one of which is corruption.

Corruption is a modern crime and is categorized as an extraordinary crime or extra-ordinary crime. These crimes can come from civilians holding political positions to Military Circles holding military

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\*Corresponding Author : Raditya Feda Rifandhana, Faculty of Law, Universitas Merdeka Malang, Malang, Indonesia, ORCID iD: 0000-0003-0564-8474, E-mail: [raditya.feda@unmer.ac.id](mailto:raditya.feda@unmer.ac.id)

positions (Law & Drumbl, 1994). Extraordinary crimes in this case are corruption, and Indonesia ranks 96 out of 180 countries, with a Corruption Perception Index (GPA) score of 38 out of 100, as assessed in 2021 (Transparency International, 2022). Acts of corruption can damage the nation's order of life and the welfare of the community; thus, acts of corruption usually lead to officials having power or authority. In 2018, instances of corruption were identified within the National Army of Indonesia (TNI), specifically concerning the procurement of an AW 101 helicopter (Wirayanu et al., 2024).

In cases of corruption among civilians, the authority responsible for handling such cases is the Corruption Eradication Commission (KPK). However, in the military, investigations are conducted by the Military Police, while prosecutions are handled by the Military Inspectorate (Indrayana, 2017). Corruption cases are handled by state institutions based on laws and regulations, in accordance with their designated authority. However, in the process of enforcing the law against criminal acts of corruption, attention and consideration must be given to fairness for all parties involved in the case (Aertsen et al., 2011).

In terms of theory, according to John Stuart Mill, in classical utilitarianism, 19th to 20th centuries, Jeremy Bentham, John Stuart Mill, they think about the analysis of government profits and losses and the defenders of market economics, the belief that contemporary thought, at that time classical utilitarianism was never defended, but Nicholas Rescher argued that utility as a principle of justice placed outside the classical utilitarian territory (Glenn, 2005).

The handling of corruption cases within the Indonesian National Armed Forces often leads to conflicts among institutions. In the case of alleged corruption in the procurement of AgustaWestland AW-101 transport helicopters by the Indonesian Air Force, which involved civilians and members of the Indonesian National Armed Forces. The Corruption Eradication Commission arrested Irfan Kurnia Saleh (IKS), also known as Jhon Irfan Kenway (JK), who is a suspect in an alleged corruption case involving the procurement of AgustaWestland AW-101 transport helicopters by the Indonesian National Armed Forces Air Force in 2016-2017. Saleh is the Director of PT Diratama Jaya Mandiri (DJM) and the controller of PT Karsa Cipta Gemilang (KCG), and he was previously designated as a suspect in June 2017. However, in connection with this case, the Indonesian National Army's Military Police Center has also designated five suspects, and in the course of the investigation, they have issued a cease-and-desist order (SP3) against the five suspects, all of whom are from the military. The differing perspectives on handling this case have sparked controversy and are feared to hinder corruption eradication within the Indonesian National Army (Hantoro, 2023).

To promote the effectiveness and efficiency of law enforcement in the Indonesian National Armed Forces, the idea of establishing an anti-corruption corps in the Indonesian National Armed Forces is highly relevant and deserves support. The legal urgency of establishing an anti-corruption corps within the Indonesian National Army lies in the importance of fair and transparent law enforcement and efforts to prevent and eradicate corruption within the military. The establishment of this corps aims to ensure that members of the Indonesian National Army who commit acts of corruption can be prosecuted under the law, either in military or civilian courts, depending on the nature of the criminal offense committed.

This article analyzes the legal urgency of the formation of an anti-corruption corps in the Indonesian National Army, even the legal urgency focuses on legal progression, justice, and legal responsiveness to stakeholders in supporting the eradication and handling of corruption among the Indonesian National Army with the establishment of an anti-corruption corps in the Military.

## **METHODS**

This study is a systematic investigation process that was conducted to discover, interpret, and revise facts, as well as to solve problems using scientific methods (Idrus, 2017). This study aimed to obtain valid, reliable, and accountable information. Legal research is a scientific activity that studies and analyzes legal phenomena using specific methods, systems, and thinking. Its purpose is to find

solutions to legal problems that are both theoretical and practical. Legal research may focus on legal norms, principles, or even realities in society (Tan, 2021).

This study adopts the juridical normative legal research method, which focuses on the study of law as a social norm that includes legislation, customary law, and decisions from judicial institutions. Juridical normative legal research focuses on the study of applicable legal norms and their practical application. This study aimed to understand the legal system by examining existing laws and regulations, as well as various relevant legal decisions (Christiani, 2016). In this context, normative juridical legal research is applied to examine the regulations governing the distribution of cosmetics that lack proper labeling, as well as their legal consequences. Within the scope of normative research, the data source comprises secondary data, including both primary and secondary legal materials (Marzuki, 2009).

## RESULTS

Corruption problems among the Indonesian National Army (TNI) constitute an extraordinary crime, and even the procedures for arresting suspects are often misdirected, which results in the Corruption Eradication Commission (KPK) wrongly arresting corruption suspects who should have been arrested by civilian authorities, but arresting suspects who are members of the military. The Legislative Authority in terms of the formation of legal norms is contained in the Military Criminal Law Regulations, and legal urgency is needed with the renewal of the addition of legal norms, in the legal vacuum in laws and regulations, and the existence of Executive Authority in the creation of new organs to handle corruption in the Indonesian National Army.

However, as a rule, if a criminal act of corruption involving members of the Indonesian National Armed Forces occurs, there are provisions governing the coordination between the Corruption Eradication Commission and law enforcement agencies within the Indonesian National Armed Forces. Under Article 42 of the Corruption Eradication Commission Law and Article 65(2) of Law No. 34 of 2004 on the Corruption Eradication Commission, provide room for the Corruption Eradication Commission to coordinate and control the investigation, examination, and prosecution of corruption crimes committed by members of the Indonesian National Armed Forces together with the civilian community. However, the implementation of these regulations in the field still faces various obstacles, including overlapping authorities and a lack of harmonization between the applicable laws and regulations (Endrassanto, 2021).

Corruption cases within the Indonesian National Armed Forces, such as the procurement of major weapons systems (alutsista), often involve significant losses to the state and attract considerable public attention. For example, the corruption case involving the procurement of AgustaWestland (AW-101) helicopters, which involved high-ranking Indonesian National Armed Forces officials, highlights the complexity of handling corruption cases in the military. In this case, despite indications of significant state losses, the investigation and prosecution processes faced obstacles due to the jurisdictional differences between military and civilian courts (Hasan et al., 2024). Therefore, it is urgently necessary to revise several laws related to the handling of corruption cases involving Indonesian National Armed Forces members and institutions. The current provisions are deemed insufficiently clear in determining which institution has the authority to handle corruption cases.

## DISCUSSION

### Legal Urgency of Law Reform in the Regulations of the Military Criminal Law

Development of Criminal Law Regulations military, at the once History of the enactment of the Military Criminal Code, in 1799 the Criminal Code was known as the "Crimineel wetboek voor de Militie van de staat"), in addition to the Criminal Code planned and completed in 1799, its provisions consisted of three parts, the first on the jurisdiction of the military courts, the second contained only some military crimes and it was not stated that the Criminal Code in certain circumstances applied to the military, In 1807 a committee was formed, even made the WvMS Bill and the Military Criminal Procedure Law (AD), the formation of the committee formed, designed the KUPM for the Navy (Navy), in its entirety there was no legal unity for the Army and Navy.

the Independence of Indonesia in 1945, the Criminal Code and the Criminal Code in no.7f based on the Transitional Article of the 1945 Constitution and Perpem No.2 of 1945 were applied in Indonesia, with additions and subtractions to both Laws Number 39 and 40 of 1947, which are in force until now. In the Legal Urgency of the Reform of the Regulations of the Military Criminal Law, the Law Reform in the regulation of the Law has a legal vacuum, so that some of the things analyzed, in the provisions of articles 140-143 theft have the same legal norms in the Criminal Code, so that in articles 140-143, the term theft in articles 140, 141, 142, 143, 144, the same understanding as in the Criminal Code, but according to the author's opinion, Theft in the Criminal Code is a general crime, so it can be said that the legal norms of its application are different, even with the development of the times the elements in the Military Criminal Code are not the same as the elements listed in the Criminal Code, there are general and special crimes, especially related to the crime of corruption, so it is necessary to update the legal norms in the laws and regulations (Sianturi, 2010).

The reform in the laws and regulations of military criminal law leads to: a. The policy of establishing legal norms, so that there is a legal urgency for the renewal of the military criminal code, which meets the values or views of special criminal law in accordance with Indonesian military law in terms of Indonesian Politics, Law, and Culture, in this case the establishment of a codification of military criminal law, b. The establishment of a progressive military criminal code, towards the fulfillment of responsive laws so that legal vacuums do not occur, legal void hints at the application of military criminal law, there are still often misunderstandings in the action of the process of arresting TNI soldiers at the time of a violation or crime in a legal event, especially special criminal law.

### **The Urgency of the Authority for Law Reform in the Military Criminal Code**

Legal reform is conducted by holders of power, namely, the legislative, executive, and judicial branches. Consequently, it is feasible that in the process of law reform, these three institutions not only participate but also exercise their respective authorities, as is frequently observed (Wibawa, 2023).

- a. Legislative Authority and participation in the formation of a legal umbrella of regional autonomy within the framework of social welfare can be interpreted as the establishment of the Regional Autonomy Umbrella Law, which opens up wide opportunities for local governments to determine their own households, so that juridically constitutional can be carried out to link the spirit of regional autonomy.
- b. Executive Authority, legal reform on the executive side, they often have a relationship of political configuration in relation to political intervention in the constitution/representation in Parliament.
- c. Judicial Authority judicial authority that the implementer of the regulation of the law can be exemplified by the constitutional authority of the complaint of the Constitutional Court, seen as the *ius constituendum*, even the basis for the implementation of the constitutional complaint, in the Fifth Precept of Pancasila, namely: justice for all Indonesian people, so that it is based on law enforcement.

This study utilizes the frameworks of Responsive Legal Theory, Authority, Progressive Law, and Justice Law Theory to examine the concepts, thereby uncovering the emergence of new legal structures and authorities in their practical execution and foundational design.

### **Legislative Authority in the Reform of Military Criminal Law Regulations**

Within the framework of military criminal law, adjudicating disciplinary infractions often becomes contentious. When personnel of the TNI (Indonesian National Armed Forces) fail to adhere to military discipline, such breaches frequently result in noncompliance that may escalate into criminal conduct. Law Number 25 of 2014 concerning Military Discipline states that military discipline is obedience to implement laws and regulations, as well as the rules of life that apply in the military. Articles 1 and 8, as well as Article 9 in Chapter V, describe the process of taking action against TNI soldiers when they commit violations of military discipline, so that the right to punish is the superior who has the right to punish. The type of Military discipline Punishment consists of reprimand, light disciplinary detention of up to 14 (fourteen) days, and detention of heavy discipline for a maximum of 21 (twenty-one) days.

In the process of handling cases of disciplinary violations handed over to the Case Submission Officer, it is intended that the file is completed in the process of a military court or general court, the processes contained in TNI soldiers during violations to be involved in criminal or criminal acts, investigative examinations are carried out by the Military Police or POM, along with paperwork when the process is completed. Progressive Law is when the law is used for the people, so that in its use, the law brings a sense of justice that does not cause pain or result in an effect on the legal void; the legal void will not occur when the legal norms are processed by the legislator in accordance with the Attribution Authority attached to it (legislative) (Eko, 2021).

Several urgent matters must be reformed in the Indonesian Military Criminal Code, including:

- a. It is an authority of attribution from the 1945 Constitution to the legislature, together with the TNI, to hold a national legislation program in the codification of Military Criminal Law Regulations in accordance with Indonesian culture and law enforcement, according to the author of the legal codification, compiling sections based on the location or nomenclature of codification, starting from the First Book, discussing the Military Disciplinary Law to the Second Book related to military criminal crimes.
- b. The conditions under which the legislature implements the period of the national legislation program in the codification of military criminal law regulations, even budget allocation, as well as the creation of legal products about the Anti-Corruption Corps, which are independent and often referred to as legislatively entrusted power.
- c. This is a very important condition in the reform of the military criminal code, in the logic that military and other special crimes are interrelated.
- d. The implementation of a meeting between the Ministry of Defense, the Legislature, and the Indonesian National Army Headquarters in the formation of a codification reform of the military criminal code, so that in the examination of military criminal cases, there is a flexible legal basis for the enactment of the military criminal code.

Furthermore, as for the author's concern for corruption cases in Indonesia in the Asian region, the implementation of legal reform in the regulations of the military criminal code, which is a product of the old law of the Dutch heritage

### **Executive Authority in the Reform of Military Criminal Law Regulations**

The concept of authority in State Administrative Law is related to the exercise of authority Rendition of authority, or authority where the basis of authority is contained in the laws and regulations of the Constitution of the Unitary State of the Republic of Indonesia in 1945. Thus, authority is divided into (S. Marbun & MD, 2000):

- a. Attribution Authority refers to the original authority based on the Constitution.
- b. The authority of the Delegation must be affirmed as a delegation of authority to other government organs.
- c. Mandate authority: There is no delegation of authority.

Administrative Law regulates this; therefore, in the author's opinion, the authority to renew military criminal law regulations can be exercised by the President as the holder of executive power and the head of government, having two authorities, namely attribution and delegation from the 1945 Constitution Article 4 paragraph 1 and Article 10, as follows (Alder, 1989):

- a. The President, as the holder of government power, can exercise his authority by holding a meeting with the Minister of Defense, the Commander of the Indonesian Armed Forces, and the Military Police to discuss Military Criminal Law Regulations so that the delegation of authority is directed to the holder of the delegation. The urgency is related to the separation of the main duties from the Military Police, which previously had been located in their respective units, but there was a transfer of authority, and the Military Police were given additional positions in the Anti-Corruption Corps, as Responsive legal implementation.

- b. The President, as the holder of government power, can establish an independent state institution, which is formed through the laws and regulations under him (presidential policy) based on the Presidential Decree or Keppres.

## CONCLUSION

In the process of revising the Military Criminal Code, certain challenges have arisen, particularly concerning the implementation of arrest procedures. These challenges have led to instances of wrongful arrests, attributed to a legal vacuum in existing laws and regulations. This legal gap has resulted in procedural errors. Recognizing the urgency of this issue, the President, as the holder of executive power, in collaboration with the Commander of the Indonesian National Armed Forces (TNI) and his staff, has deliberated on the establishment of an independent anti-corruption body. This initiative is based on a Presidential Decree. Furthermore, the legislative authority has been involved in the establishment of the Military Criminal Code and has enacted laws to form an independent commission, namely, the Military Anti-Corruption Corps.

### Conflict of Interest

All the authors declare that there are no conflicts of interest.

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