

The Expansion of Legal Application of Military Law on Legal Subjects that Equated with the Military Based on Republic of Indonesia Law

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Abstract

A nation as an entity needs a way to maintain its existence as best as possible through its own capabilities through a national military formed to carry out national defense duties. Generally, the term "military" refers only to active and organic military personnel. Subsequently, a group of individuals legally equated with the military emerged. During President Soekarno's administration, Indonesia implemented compulsory military service to encourage greater public involvement in the armed forces. Currently, there are also other groups considered military, including student soldiers, titular military personnel, and citizens mobilized as reserve component troops. The increase and expansion of the number of individuals considered military has an impact on the application of military law, as they are included within the military legal system. The theory of legality is used to analyze this issue qualitatively. The Ministry of Defense is obligated to foster and develop military law in Indonesia, including all military legal entities. Without clear regulations on the application of military law, issues of military judicial jurisdiction over individuals legally equated with the military will arise.

Keywords: Jurisdiction, Legal Subjects, Military Law, National Defense, Reserve Component Troops.

1. Introduction

The existence of a military in a country is almost inseparable from the existence of that country itself. Although there are some countries that officially do not have a standing military, such as Costa Rica, Andorra, and Iceland, in general, a country must form and maintain a military as an effort to defend itself (Barbey, 2015).

The development of the military world, particularly concerning military personnel, from the pre-Renaissance era, the Middle Ages, the two World Wars, to the present day has undergone many changes due to the emergence of phenomena related to military personnel (Morillo, 2017). The existence of conscription, mercenaries, as well as the development of humanitarian law which eventually gave rise to protocols for treating prisoners of war, have also contributed to military law itself (Henianti, 2017). Another aspect no less important in modern military is military discipline regulations and military courts to maintain the honor and professionalism of military personnel (Reza et al., 2007). The history of war proves that well-organized and highly disciplined armed forces always excel in battle (Sagala & Ferdian, 2017).



The Republic of Indonesia formed its military or Armed Forces simultaneously with the war to defend its independence. It began with the establishment of the 'Badan Keamanan Rakyat' (People's Security Agency) on August 22, 1945, which mobilized popular forces, leading to the formation of the 'Tentara Keamanan Rakyat' (People's Security Army) on October 5, 1945, consisting of ex-KNIL, ex-PETA, people's militias, and student soldiers. The TKR was later renamed 'Tentara Republik Indonesia' (Republic of Indonesia Army) on January 26, 1946, and subsequently became 'Tentara Nasional Indonesia' (Indonesian National Army) on June 3, 1947, to the present day.

Determining who is considered military or equated to military personnel is important because, in addition to being bound by general legal rules, there are other legal rules that only apply to military personnel (Pramono, 2020). This makes military personnel a unique legal subject compared to ordinary civilian citizens (Savcic et al., 2023). From the Old Order period to the present, the development of legal rules concerning military personnel has undergone many changes, especially since the separation of the TNI (Indonesian National Armed Forces) and the Police from ABRI (Armed Forces of the Republic of Indonesia) post-reform. Additionally, legal regulations also determine the existence of individuals equated to military personnel, thus the application of military law (Tambunan, 2005) and operational law has also become more widespread.

The development of military law as a separate branch of law is caused by the fact that the Armed Forces in each country have a very vital position and the Armed Forces form a unified unit that is both in its formation and in its development carried out in a special and exceptional way (Henianti, 2017).

The existence of military-specific conditions or circumstances, or due to other characteristics understood only by the military, necessitates heavier criminal penalties, possibly even heavier than those for the original crime, due to their responsibility as a national defense instrument (Lubis et al., 2021).

Although a number of previous studies and literature have discussed the military justice system in Indonesia, the focus of these studies has generally been limited to institutional aspects, military justice reform, or debates regarding the position of the Indonesian National Armed Forces (TNI) and the Indonesian National Police (Polri) after the separation of the Indonesian Armed Forces (ABRI) (Subihat & Djundan, 2023). However, there has not been much research that specifically reviews the expansion of military legal subjects to groups that are legally equated with the military, especially in the current context after the enactment of Law No. 23 of 2019 concerning the Management of National Resources for National Defense and the amendment to the TNI Law in 2025. The presence of the Reserve Component as a new entity presents different legal issues compared to previous practices, particularly regarding the legal status of civilians when mobilised and the consequences for military court jurisdiction. Thus, this study attempts to fill this research gap, while also providing a critical analysis of the impact of the expansion of military legal subjects on legal certainty, the principle of legality, and civil-military relations in Indonesia.

Based on the brief background explanation described, this writing aims to answer the problem: How has the development of the expansion of the meaning of military personnel and those equated with the military according to the law occurred, and what is the impact of the expansion of the meaning of military legal subjects on the application of military law in Indonesia?

2. Methods

This study uses a normative legal research method with a qualitative approach (Soekanto & Mamudji, 2016). The data used was obtained through a literature study covering primary, secondary, and tertiary legal sources. Primary legal sources include relevant legislation, such as Law No. 34 of 2004 on the Indonesian National Armed Forces, Law No. 23 of 2019 on the Management of National Resources for National Defense, Law No. 3 of 2025 on amendments to the TNI Law, and various implementing regulations. Secondary legal sources consist of literature in the form of books, journal articles, previous research results, and official publications from the Ministry of Defense and related institutions. Meanwhile, tertiary legal sources are used to reinforce understanding, such as legal dictionaries, encyclopaedias, and information from official websites of state institutions. The analysis was conducted using a descriptive-analytical method to explain the development of legal regulations and their impact on the expansion of military legal subjects. In addition, a comparative approach was also used by reviewing similar practices in several other countries, thereby obtaining a comprehensive picture of the uniqueness of the application of military law in Indonesia.

3. Results and Discussion

3.1. Legal History of Military Law in Indonesia

When referring to the Explanation of Article 64 of Law Number 34 of 2004 concerning the Indonesian National Army, then the definition of military law is:

“all national legislation whose legal subject is a member of the military or a person equated to military personnel under applicable law.

In addition, all laws and legal regulations used as the basis for the implementation of the TNI's tasks in carrying out the state defense function are categorized as military law.”

The scope of military law is very broad, not only including administrative law, disciplinary law, and criminal law that apply to soldiers, but also special regulations issued by the leadership of the relevant educational institution. However, its provisions not only include national law but also international law that has been ratified. Military personnel's knowledge and understanding of national and international law aligns with the purpose of the establishment of the Republic of Indonesia, which not only protects all Indonesian people and all Indonesian bloodlines, but also participates in implementing world order based on freedom, eternal peace, and social justice.

The regulations that applied to the military in the early days of Indonesian independence were Law Number 7 of 1946 concerning Military Courts, as well as the Military Criminal Code (*Wetboek van Militair Strafrecht*) Staatsblad 1934: 167. The Military Criminal Code is still in effect today. The existence of military legal regulations since the early days of independence shows Indonesia's commitment to having a disciplined and professional military to safeguard the sovereignty and territorial integrity of the state.

During President Soekarno's administration, Indonesia faced the reality that to incorporate Papua, which was previously part of the Dutch East Indies, into the Unitary State of the Republic of Indonesia, it had to use hard power from the military because diplomacy failed. Therefore, the government through Law Number 66 of 1958 implemented mandatory military service for citizens aged 18 to 40 years. The implementation of this law was intended

as an effort to improve national defense and actively involve all citizens of the Republic of Indonesia in national defense. In the general explanation of this law, it was stated that there was a desire that when needed by the state, 10% of Indonesia's population should be actively deployable. The implementation of mandatory military service at this time was the first form of expanding the meaning of military personnel in Indonesia.

After the government changed to President Soeharto, this mandatory military policy was no longer used, although the law remained in effect. The national defense and security policy to support the military at that time was by forming the Trained People (Ratih) and Community Protection (Linmas) as basic components and special components in the Universal People's Resistance program based on Law Number 20 of 1982 concerning the Basic Provisions of State Defense and Security of the Republic of Indonesia. The RATIH and LINMAS groups cannot be categorized as persons equated with the military because they are not the same as mandatory military service and voluntary military service.

Understanding and implementation of mandatory military service was updated with the enactment of Law Number 2 of 1988 concerning the Soldiers of the Indonesian Armed Forces. The definition of ABRI soldiers consists of Army TNI soldiers, Navy TNI soldiers, Air Force TNI soldiers, and personnel of the Indonesian National Police (Article 2 paragraph 2 of Law No. 2 of 1988). Based on Article 18 paragraph 1 of Law No. 2 of 1988, it is stated that the Soldiers of the Indonesian Armed Forces are subject to military law and fall under the jurisdiction of military courts. Therefore, Police personnel, who are not military in nature, are equated with military personnel and are even subject to military law and military courts.

In 1997, two legislative regulations were issued, namely Law No. 28 of 1997 concerning the Indonesian National Police and Law No. 31 of 1997 concerning Military Courts (Tambunan, 2005). Based on the explanation of Article 5 paragraph 1 of Law No. 28 of 1997, it is explicitly stated that:

“The Indonesian National Armed Forces consist of the Indonesian Army, the Indonesian Navy, the Indonesian Air Force, and the Indonesian National Police. Although it is a component of the Indonesian National Armed Forces, the Indonesian National Police is not a military force.”

Furthermore, based on Article 352 paragraph 4 of Law No. 31 of 1997, the provisions of Law No. 3 of 1965 concerning the Application of Military Criminal Law, Military Criminal Procedure Law, and Military Disciplinary Law for Police Members have been declared inapplicable, indicating the abolition of the Police as a subject of military law, even though at that time the National Police was still part of the Indonesian National Armed Forces, and the separation of ABRI into the TNI and the Indonesian National Police had not yet been implemented.

After President Soeharto stepped down from his position, changes in the legal field related to the military also occurred. This began with the issuance of Decree of the People's Consultative Assembly Number VI/MPR/2000 concerning the Separation of the Indonesian National Army and the Indonesian National Police. The TNI and Police were subsequently regulated through separate laws. The TNI is regulated based on Law No. 34 of 2004 while the National Police is regulated based on Law No. 2 of 2002.

The national defense doctrine which refers to the Total People's Defense and Security System (*Sishankamrata*) or currently called the National Defense System (*Sishanta*) requires the unity between the TNI (Indonesian National Armed Forces) and the people, thus requiring active public participation in national defense. The state policy in this matter is by forming the

Reserve Component (*Komcad*) based on the provisions of Law Number 23 of 2019 concerning the Management of National Resources for National Defense.

Returning to the discussion of military legal application, this article wants to highlight the provisions of 2 (two) laws, namely Law Number 31 of 1997 concerning Military Courts and Law Number 25 of 2014 concerning Military Disciplinary Law. According to Article 9 paragraph 1 letter c of Law No. 31 of 1997, courts within the military judicial system are authorized to try criminal offenses committed by a person who, at the time of committing the criminal offense, in addition to being a member of the Indonesian National Armed Forces, is a person who by law is equated with a Soldier, or a member of a certain group or office or body or who is equated with or considered a soldier by law (Sagala & Ferdian, 2017). According to this provision, the application of military law, especially military criminal law, is not only limited to organic military personnel. Furthermore, the definition of a person who is equated with military personnel by law is:

1. Cadet Soldier
2. Military Title
3. Mobilized citizens
4. Prisoner of war

Next, the author will focus on two groups of people who are equated as military personnel under the law, namely mobilized citizens.

Regarding mobilized citizens, the group referred to in this context is the Reserve Component (*Komcad*). Members of the Reserve Component who are registered and trained in *Kodam* and *Lantamal* are considered equivalent to military personnel by law when mobilized for activation. In the latest development, the formation of this *Komcad* is no longer limited to registered volunteers but also includes Civil Servants (PNS) and Government Employees with Work Agreement (PPPK) within the Ministry of Defense. If the government so desires, it is not impossible that PNS and PPPK from all other ministries could also be trained and appointed as *Komcad* Members.

The application of military law to persons equated with military personnel, based on laws that continue to increase in number and scope, necessitates further study on its implementation, development, and dissemination. Law No. 34 of 2004, Article 74, suggests that a new military justice law should be enacted to replace Law No. 31 of 1997 to accommodate developments and legal needs in line with recent progress regarding the subject of military law, including the increasing and expanding number of persons equated with military personnel under the law.

The approval of the House of Representatives on the TNI Law amendment bill which was enacted as Law Number 3 of 2025 also affects the development of military law. Two important influencing factors are first, the TNI's tasks in Military Operations Other Than War (OMSP) were increased from 14 to 16, with the added tasks being cyber defense and protecting and saving citizens and national interests abroad. Second, regarding the placement of active military soldiers which was previously permitted in 10 ministries and institutions, has now increased to 14. Since 2004, the implementing regulations of the TNI Law regarding OMSP have not yet been completed. Law No. 34 of 2004 Article 7 paragraph 2 letter b states that in carrying out its main duties, the TNI may conduct Military Operations Other Than War for:

1. addressing armed separatist movements;
2. overcoming armed rebellion;
3. countering acts of terrorism;
4. securing border areas;

5. securing vital national objects of a strategic nature;
6. to carry out world peace tasks in accordance with foreign policy;
7. securing the President and Vice President along with their families;
8. empower the defense region and its supporting forces early in accordance with the total defense system;
9. assisting regional government tasks;
10. assisting the Indonesian National Police in carrying out security and public order tasks as stipulated in laws;
11. helping to secure state guests at the head of state level and foreign government representatives who are in Indonesia;
12. helping to address the impacts of natural disasters, displacement, and providing humanitarian assistance;
13. assisting in search and rescue; as well as
14. assisting the government in securing maritime and aviation against piracy, robbery, and smuggling.

Several TNI OMSP tasks have been recorded as having implementation rules, namely:

- a. PP Number 21 of 2008 concerning the Implementation of Disaster Management which was then followed up with Minister of Defense Regulation Number 09 of 2011 concerning the Principles of Organizing the Tasks of the Indonesian National Army in Disaster Management, Evacuation, and Humanitarian Assistance
- b. PP Number 59 of 2013 concerning the Protection of the President and Vice President, Former President and Former Vice President along with their Families as well as State Guests at the Level of Head of State and Head of Government
- c. Presidential Regulation Number 86 of 2015 on the Deployment of Peacekeeping Missions

Only 4 out of 14 TNI OMSP tasks have been regulated by implementing regulations. The disaster relief task is only a support task, and its legal basis (PP No. 21 of 2008) is derived from Law No. 24 of 2007 on Disaster Relief, not Law No. 34 of 2004 on the TNI. The addition of two new TNI tasks as OMSP increases the workload that must be completed by the Ministry of Defense as the party responsible for setting policies for the TNI.

3.2. Military Reserve Components as Subjects of Military Law

The term "reserve component" has been known since the enactment of Law No. 3 of 2002 concerning National Defense. The reserve component was then regulated in more detail in Law No. 23 of 2019. The Reserve Component is a National Resource that has been prepared for deployment through mobilization to enhance and strengthen the capabilities of the Main Component, where the Main Component referred to in this case is the Indonesian National Army. The Reserve Component is formed and categorized into the land, sea, and air reserve components. The Ministry of Defense itself has cooperated with the Ministry of Marine Affairs and Fisheries to form a Reserve Component in the fisheries and marine sector. The presence of human resources from the Ministry of Fisheries in the Reserve Component is expected to strengthen Indonesia's maritime defense, especially in facing threats related to marine and fishery resources. The formation of the Reserve Component in the fisheries and marine sector is in line with the President's direction that strategic sectors should also play a role in national defense.

The Reserve Component is one of the forms and means of citizen participation and national facilities and infrastructure in the national defense effort. The management of the

Reserve Component is carried out by the Minister of Defense based on general national defense policies by implementing a democratic, just, and human rights-respecting national defense governance system that complies with laws and regulations. The Reserve Component consists not only of personnel but also natural resources, man-made resources, and national facilities and infrastructure that are allocated and deployed to enhance and strengthen the capabilities of the TNI (Indonesian National Armed Forces). In this writing, we will focus on the personnel component of the Reserve Component that comes from citizens.

The Reserve Component Force was formed to assist the TNI in facing military and hybrid threats. Hybrid threats are mixed threats that represent an integration between military and non-military threats (Jonsson et al., 2024). Non-military threats themselves can manifest as aggression, terrorism, communism, separatism, armed rebellion, natural disasters, environmental damage, border violations, piracy and theft of natural resources, disease outbreaks, circulation and abuse of drugs, cyber-attacks, nuclear attacks, biological attacks, chemical attacks, or forms of threats that endanger state sovereignty, the territorial integrity of the Unitary State of the Republic of Indonesia, and the safety of the entire nation. Based on the scope of the threats, the Reserve Component Force, when mobilized, performs tasks no different from TNI members, namely carrying out War Military Operations and Other Than War Military Operations.

Personnel of the Reserve Component who have been appointed and commissioned are given ranks in accordance with the rank classification of the Indonesian National Army and are used only during active service. The active period for the Reserve Component is during refreshment training and mobilization. It is during this active period that military law is applied to personnel of the Reserve Component.

Currently, besides the personnel of the Volunteer Reserve Component and Civil State Apparatus elements, there is also a Reserve Component consisting of personnel from the Support Component who are mobilized (Article 64 paragraph 2 of Law No. 23 of 2019). Then there emerged a discourse about personnel recruited from the Indonesian Development Driver Bachelor (SPPI) program, which was initially planned as officers at the National Nutrition Agency (BGN), who will also be included and established as part of the Reserve Component. Until now, the Defense University has recruited SPPI up to the 3rd batch. Citing the official website of the Defense University, the first SPPI batch produced 936 people, the second batch 1,063 people, and the third batch is projected to have 30,000 people. It turns out the required number meets the target and has been established as the Army Reserve Component, thus significantly increasing the defense posture. The Reserve Component not only requires routine training but also nurturing, both administrative and military legal nurturing, to understand and develop legal awareness, particularly military law.

Reserve Component personnel are a unique subject of military law, as they are legally considered military personnel only for specific periods of time. Therefore, it is crucial for them to know when they are included as a subject of military law and when they are not. The Ministry of Defense, as the most interested party in the development of the Reserve Component, has issued several regulations regarding this matter through:

1. Minister of Defense Regulation Number 3 of 2021 concerning Formation, Fixation, and Construction of Reserve Components
2. Minister of Defense Regulation Number 4 of 2021 concerning the Basic Military Training Curriculum for the Reserve Component
3. Minister of Defense Regulation Number 16 of 2021 concerning Training for the Refreshment of the Reserve Component

4. Minister of Defense Regulation Number 18 of 2021 concerning Procedures for Mobilization Call and Notification
5. Minister of Defense Regulation Number 4 of 2022 concerning Personal Equipment for Reserve Component Candidates and Reserve Component Members from Citizen Elements
6. Minister of Defense Regulation Number 12 of 2022 on the Awarding of Citations to Citizens Who Have Played an Active Role and Made Contributions in the Reserve Component

According to information from a legal officer of Kodam III/Siliwangi that the author inquired with, during the education process for forming the Reserve Component, the legal unit of Kodam (*Kumdam*) was not involved at all. If referring to the attachment to Minister of Defense Regulation No. 4 of 2021, it is known that the teaching material about law for the Reserve Component is only International Humanitarian Law, showing how minimal the portion of legal knowledge is in the Reserve Component education curriculum. This thing is contrary with obligation of Reserve Component member mentioned in Article 41 Law Number 23 of 2019: complying with all the Laws and Regulations of Republic of Indonesia

The results of the author's interviews with three informant members of the Reserve Component, each from the army, navy, and air force branches, also show some information such as:

- a) The legal material taught during the formation of the Reserve Component is minimal.
- b) Some of them also said, as long as they know, Reserve Component can be legal processed by military police if get arrested even though the law stated they are military law subject only at mobilization or annual refreshment training.
- c) Since the formation training, they never get refreshment training until today

3.3. Important Notes Regarding Military Law

Several things that can be noted regarding military law include military disciplinary law and military criminal law:

1. Law Number 31 of 1997 concerning Military Court, which serves as the basis for the current authority of the Military Court over military personnel and persons equated with military personnel, was enacted during the pre-reform era, thus the definition of Soldier in this law still refers to the definition of ABRI soldier when the Police was still part of it
2. The Military Judiciary is a unique judicial system because although it is one branch of the judicial power and culminates in the Supreme Court, on the other hand, both the prosecutor (*oditur*) and military judges are all active military members who are the executive power implementers in the defense field that culminates in the President. Furthermore, in law enforcement and justice, the military judiciary must consider the interests of national defense and security, and this is what constitutes the essence of the Military Judiciary. It should be noted that in its enforcement, the Factor of *Doelmatigheid* (Usefulness/Legal Purpose) is more dominant than *Rechmatigheid* (Certainty/Legal Interest). In essence, for and in the name of military interests, the *Doelmatigheid* factor becomes the scale of priority. For comparison, military courts in the United States (court-martials) are conducted by each military branch and can only be appealed to the United States Court of Military Appeals, which is an administrative court within the Department of Defense (now Department of War) and does not culminate in the US Supreme Court.
3. Military subjects are not only bound by general criminal law but also by military criminal law, thus individuals equated with the military need to be informed about what

- constitutes military offenses to develop an awareness of military criminal law among them.
4. Based on the General Explanation of Law No. 25 of 2014 on Military Disciplinary Law, one consideration for using "Military" as the subject of military law rather than "Soldier" is because military criminal law is criminal law whose subject is "Military" or those who by law are equated with Military.
 5. The increasing number of groups included in Mobilized Citizens (Reserve Component) leads to an increase in the subjects of military law itself and the scope of its application
 6. When the ratio of mobilizable population exceeds those who cannot, high discipline attitudes and behaviors will become a culture and lifestyle in society, which will ultimately foster strong, solid, and healthy civil-military collaboration. The implementation of mandatory military training in a country shows a positive influence on discipline, nationalism, and the potential for armed conflict in society compared to voluntary implementation. However, Indonesia prefers a voluntary approach due to sociological and budgetary issues.
 7. Within the Military Criminal Code (KUHPM) Chapter III on Abolition, Reduction and Addition of Punishment, Articles 35 to 38 KUHPM explain that for military members who commit criminal offenses, whether military or general crimes, an aggravation of punishment may be imposed up to half of the prescribed sentence threat
 8. According to Explanation of Law No. 34 of 2004 concerning the TNI Article 64, that military law needs to achieve legal unity, legal certainty and legal codification. Therefore, the obligation to develop and build military law is the task of the department that carries out government functions in the field of national defense, namely the Ministry of Defense, not the TNI.
 9. Article 74 of Law No. 34 of 2004 concerning the TNI mandates the enactment of a new Military Justice Law, replacing Law No. 31 of 1997, which was intended to enable Article 65 of Law No. 34 of 2004 to be implemented. Article 65 of Law No. 34 of 2004, among other things, states that military personnel are subject to the jurisdiction of military courts in cases of violations of military criminal law and subject to the jurisdiction of general courts in cases of violations of general criminal law.
 10. There is a difference in the values and spirit contained between Law No. 34 of 2004 concerning the TNI and Law No. 31 of 1997 concerning Military Justice. If Law No. 34 of 2004 commands that TNI soldiers submit not only to military judicial power but also to general judicial power, then Law No. 31 of 1997 expands the scope of military judicial subjects, namely not only TNI soldiers, but also:
 - a. A person who is by law equated with a Soldier
 - b. A member of a group, rank, or body that is equated to or considered as a Soldier
 - c. A person who by decision of the Commander of TNI with the approval of the Minister of Justice (now Minister of Law) shall be tried by a military court

All the categories mentioned above, except for TNI Soldiers, are essentially not military members. Once a legal rule is declared to be in effect, it immediately binds its legal subjects, including provisions regarding sanctions. This is known in legal science as the fiction of law or '*presumptio iuris de jure*' When a law has been established and is in effect, everyone is considered to have known it. The consequence of this is that the reason of not knowing a legal rule is not a valid reason for someone to be exempt from the sanctions for violating that law, because if such a reason were accepted, every violator would use the same excuse.

In addition, criminal law recognizes the principle of legality based on the adage "*nullum delictum nulla poena sine praevia lege poenali*," which roughly means that an act can be punished only if there is a regulation that previously governs it (Péter, 2018). In relation to military law, all military law subjects, whether organic soldiers or legal subjects equated with military personnel by law, must know and understand general law as well as military law specifically in order to create order, legal compliance, and legal awareness. Furthermore, the military consists of individuals trained in discipline and loyalty, so that violations of law due to individual ignorance should be the last thing that can occur in carrying out their duties and responsibilities.

The expansion of military jurisdiction in Indonesia, particularly through the participation of the Reserve Component (*Komcad*) and certain civil servants, shows a unique trend when compared to other countries. In the United States, for example, military law (Uniform Code of Military Justice/UCMJ) only applies to active military personnel, mobilised reserves, and certain war situations, so civilians are generally not subject to military jurisdiction. In contrast, countries with compulsory military service systems, such as South Korea or Israel, automatically place almost all male citizens in military status for a certain period, so that military jurisdiction is systematically expanded. In comparison, Indonesia has taken a middle path: it does not implement mass compulsory military service, but expands the category of military law by integrating *Komcad*. This analysis shows that Indonesia faces a dilemma between national defense needs and the demand to limit military jurisdiction only to those who actually hold active military status.

From a sociological and political perspective, the involvement of civilians as subjects of military law can have an impact on civil-military relations in Indonesia. On the one hand, this can strengthen discipline, nationalism, and national defense awareness. However, on the other hand, there is a risk of weakening civilian control over the military if military jurisdiction expands into civilian sectors. After the 1998 reforms, the separation of the TNI and Polri and the abolition of the dual function of ABRI were intended to limit the role of the military in civilian life (Budiana & Djuyandi, 2022; Riza, 2020). The expansion of military legal subjects could be seen as a step backwards if it is not accompanied by strong civilian oversight mechanisms. Therefore, it is important to ensure that the expansion of military jurisdiction remains in line with the spirit of reform and democratisation, rather than increasing the military's dominance in civilian affairs.

The application of military law to civilians who are treated as military personnel, such as *Komcad* and civil servant (ASN), raises serious issues regarding human rights and civilian supremacy. The inconsistency between Law No. 31 of 1997 and Law No. 34 of 2004 creates a legal vacuum that has the potential to reduce the guarantee of a fair trial for civilians, as they may be subject to military jurisdiction, which should only apply to TNI soldiers.

Military law reform in Indonesia is becoming increasingly urgent given the continued validity of Law No. 31 of 1997 on Military Courts, which was enacted during the pre-reform era. This regulation is no longer fully in line with Law No. 34 of 2004 on the Indonesian National Armed Forces (TNI), which emphasises the separation of the roles of the TNI and the Indonesian National Police (Polri) and stipulates that TNI soldiers are only subject to military courts for military criminal cases, while general criminal offences should be tried in general courts. This normative gap creates legal uncertainty and hinders the implementation of the principles of the rule of law and military professionalism.

In addition, developments in national law have expanded the subject of military law. Through Law No. 23 of 2019 on the Management of National Resources for Defense, certain civilian groups such as the Reserve Component (*Komcad*) and the State Civil Apparatus under

the Ministry of Defense which can be treated as subjects of military law when mobilised. This expansion has implications for the increasing complexity of military court jurisdiction and reinforces the need for harmonisation with a more modern and accountable national legal framework.

In the context of reform, there are two main projections that can be considered. First, the limited integration of TNI soldiers into the general court system for general criminal cases, so that military courts only focus on purely military offences such as desertion, insubordination, or disciplinary violations. This model has been implemented in many democratic countries and is in line with the mandate of Article 65 of the TNI Law. Second, the establishment of a hybrid court consisting of military and civilian judges, thereby maintaining a balance between the need to maintain military discipline and the principles of transparency and public accountability.

The prospects for this reform are also closely related to the current political and legal context, in which the revision of the Military Court Law has been included in the 2025 National Legislation Programme Priority List. Although the opportunities for implementation are wide open, challenges remain in the form of institutional resistance from the TNI, which is concerned that its internal authority to maintain discipline will be reduced. Therefore, the reform design must be able to accommodate the interests of military professionalism without neglecting the principles of public accountability and legal certainty. If implemented consistently, military law reform will not only harmonise legislation, but also strengthen the TNI's position as a professional, modern armed force that adheres to the principles of the rule of law. In addition, law enforcement practices show a tendency for overreach by the military, for example, taking action against Komcad outside of mobilisation periods. This not only creates legal uncertainty but also has the potential to undermine the principle of the rule of law. The lack of legal education for Komcad exacerbates the situation, as they are not equipped with sufficient knowledge about their rights and obligations under the military legal regime.

This situation poses a risk to the principles of civilian supremacy and public accountability. If military courts are used to try civilians, transparency and public control over the judicial process will be further limited, while the opportunity for abuse of authority will increase. Therefore, regulatory reform and clarification of the jurisdiction of military courts are urgently needed to prevent potential human rights violations and ensure the consistency of the national legal system.

Military law, which includes Military Discipline Law, Military Criminal Law, Military Administrative Law, and all legislation governing the military as its legal subject, not only applies to organic military personnel but also to persons equated with the military under the law. This means that those equated with the military need to know and understand military law in addition to general law. Regulations regarding military tasks must be clearly established to ensure military deployment is based on a strong legal framework. Those legally equated with the military will inevitably become subjects of this legal regulation. The Defense University, as a higher education institution under the Ministry of Defense, should serve as the forefront for the development, research, and advancement of military law, as mandated by the TNI Law to the Ministry of Defense. The Reserve Component should also get more sufficient legal teaching material.

4. Conclusion

The existence of a military is an important part of a country's existence because to defend itself, it needs strength derived from within the country. Basically, the main military is the regular and organic army of the state, but with the development of the times and national needs, it is necessary to actively involve parties outside the military to strengthen and lighten the task of maintaining national defense. The history of the Republic of Indonesia shows that the state has implemented mandatory military service to perfect the country's defense capabilities by actively involving the people. This made the understanding of the military broader. Subsequently, with the formation of the Indonesian Armed Forces (ABRI), the National Police became part of it and also became a subject of military law and military justice. After ABRI was separated into the TNI (Indonesian National Army) and the National Police, the TNI as the main component of national defense is expected to become a professional military, namely a disciplined, trained, and educated military. The national defense system that adheres to the Total People's Defense System (*Sishankamrata*) still mandates the active involvement of the people in national defense, albeit limited to general mobilization. In its development, the understanding of military legal subjects is not limited to organic military personnel but also includes those equated with the military by law. This has resulted in an increase and expansion in the number and scope of military legal subjects. Therefore, it is necessary to study, develop, and advance military law in Indonesia. Furthermore, recent developments include changes to the TNI Law and the discussion of the Draft Law on amendments to Law No. 23 of 2019, which will likely affect the Reserve Component, which in this context refers to the group equated with the military by law.

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