



Settlement of Criminal Actions Not Appearing Without Permission Through Military Discipline Legal Mechanism in Order Unit and Personnel Development

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ABSTRACT

The law that applies specifically to military personnel consists of formal and material Military Criminal Law, apart from that there is also military discipline law which is regulated by law. Military crimes can be divided into two, namely pure military crimes and mixed military crimes. One of the pure military crimes is the crime of not being present without permission. The crime of being present without permission is generally regulated in CHAPTER III Book II of the Military Criminal Code, but this crime is also regulated in the Military Discipline Law as a violation of military discipline. With these conflicting legal regulations, the author then raises this problem into a thesis. The problem formulation that the author presents is: How is military disciplinary law applied to the crime of not being present without permission and what are the consequences of resolving THTI crimes through military disciplinary legal mechanisms in the face of unit and personnel development? There are three possibilities for resolving THTI crimes through military disciplinary legal channels. . The research method in this thesis is normative juridical using military discipline law enforcement theory, unit and personnel development theory and legal certainty theory. The conclusion of this research is that the criminal act of not being present without permission can be resolved through military disciplinary law, namely a criminal act in the narrow sense, namely Article 85 1 and Article 86 1 of the KUHPM. Completion of legal discipline will of course have an impact on the development of the unit and personnel concerned in the form of postponement of rank or education.

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INTRODUCTION

The military as a special community has its own culture, separate from the culture of society in general, for example the culture that every subordinate must respect their superiors and there are punishments if subordinates do not respect their superiors. Another example is the culture of being willing to die to defend one's homeland and nation, apart from that there is a doctrine of to kill or not to be killed and indeed the military is trained for that. The principle is that legal culture in the military environment must be seen from the attitudes of the soldiers themselves in their daily lives. Because the military has its own culture, the military has its own laws, in addition to general laws.

The military requires strict and harsh rules for its members, so that the implementation of their main duties can be achieved well and perfectly. Therefore, to ensure the implementation and success of military

tasks which are very important because they are related to the State Defense and Security system and the establishment and collapse of the State, it is necessary to have strict regulations for each military and it is necessary to apply special and strict regulations for all behavior carried out. carried out by a military man.

The regulations governing the military are military law, one of the military laws is the Military Criminal Law, military criminal law is called special criminal law because it has specificities such as different objects. The Military Criminal Law only regulates violations or crimes committed by military members according to the law. Criminal acts that occur are not seen as violations of individual interests, but are also considered violations of the rule of law. The KUHPM is a regulation in material military criminal law, in the KUHPM it regulates military criminal acts. Military crimes are divided into two types, namely pure military crimes and mixed military crimes. A pure military crime is a crime that is only committed by a military person, because it is specifically military. One of the pure military crimes is THTI. The THTI provisions are regulated in Article 86 1 of the Military Criminal Code (KUHPM) which states that:

“The military, who deliberately make absences without permission, are threatened with:

1st, With a maximum prison sentence of one year and four months, if the absence is during a peaceful period of at least one day and not longer than 30 (thirty) days.

2nd, with a maximum prison sentence of 2 years and 8 months, if the absence during wartime is not longer than 4 days.”

Based on the formulation of this article, for the military to be absent for one day without permission, it is a criminal act so that a criminal sanction can be given through a military criminal court trial. However, in the explanation of Article 8 of Law Number 25 of 2014 concerning the Military Discipline Law, it also regulates the absence of a permit which states that soldiers who carry out THTI for less than 4 days in peacetime can be resolved according to the Military Discipline Law.

This is as stated in the Bandung Military Court Decision Number 131-K/PM.II-09/AD/XI/2023 which states that the defendant Bunyamin Soamole has been legally and convincingly proven guilty of committing the THTI crime. The brief chronology of the incident is that on Thursday 24 August 2023 at approximately 05.30 WIT the Defendant asked for permission verbally from Danramil 1615/Haurgeulis Captain Inf Arifin for 2 (two) days by telephone because the Defendant's wife was sick and went to PTPN Subang Hospital for treatment and was hospitalized. for 2 (two) days. On Sunday, August 27 2023, the Defendant should have gone in, but because it was a holiday, the Defendant did not come to the office and said goodbye to his wife and wanted to collect the money someone had borrowed in the Sumedang area but to no avail. On Monday, August 28 2023, the Defendant should have gone to work, but without permission from his superiors, the Defendant returned to collect his money in the Sumedang area.

Because collecting the money was unsuccessful, the Defendant felt dizzy and did not return to service without the Commander's permission. After several days of not returning to service without the permission of his unit commander, the Defendant was afraid to return to the Unit. During the time the Defendant left the unit without permission, he was in Sumedang and at the Defendant's house in Subang. That while the Defendant was leaving the unit without permission he never contacted the unit either by letter or by telephone. While the Defendant left the unit without permission, he did not take any Unit inventory items. On September 11 2023, the defendant returned to the unit by surrendering himself to the unit at that time before Danramil 1615/Haurgelis Captain Kav Sugianto. The defendant left the unit without permission from the Unit Commander from 28 August 2023 to 11 September 2023 for 15 (fifteen) consecutive days, meaning no longer than 30 (thirty) days. For this act, the defendant was proven guilty and committed the crime of "military wrongfully committing absence without permission during peacetime for at least one day and not longer than thirty days" as charged by the Military Prosecutor, namely Article 86 1 of the Code of Law. Military Criminal Code (KUHPM). However, the Judge in his decision ordered the Case Handing Officer to resolve the Defendant's case through the Military Discipline Law Channel in accordance with Article 8 letter b of Law Number 25 of 2014 concerning Military Discipline Law.

The crime of absenteeism without permission, also known as absenteeism without permission or absenteeism, generally refers to a person's absence from activities or obligations that he or she is supposed to attend, such as school, work, or certain duties, without valid permission. This can involve situations where a person deliberately does not follow these obligations without a valid reason. Legal sanctions for these crimes can vary depending on the jurisdiction and the seriousness of the offense. In many countries, absence without leave may be considered a misdemeanor or misdemeanor.

In enforcing discipline and order within the Indonesian National Army, a Law on Disciplinary Law is needed that is definite, firm and clear and fulfills philosophical, sociological and juridical requirements as a means of developing personnel and units. Implementation of the principles of justice, guidance, equality before the law, presumption of innocence, hierarchy, unity of command, military interests, responsibility, effectiveness and efficiency, and benefits in resolving cases of Violations of Military Discipline Law. Formulating evidence to prove the process of resolving Violations of Military Discipline Law. Giving a written warning by the superior officer to an officer who is negligent or deliberately does not impose military disciplinary punishment.

Based on the background above, the author conducted research related to the resolution of the crime of being absent without permission in the context of unit and personnel development with the following problem formulation:

How is the military disciplinary law applied to the crime of being absent without permission (THTI)?

What are the consequences of resolving THTI crimes through military disciplinary legal mechanisms regarding the development of units and personnel?

RESULTS AND DISCUSSION

Overview of the Crime of Failure to Appear (THTI)

The crime of being absent without permission (THTI) is the absence of a military member without the permission of his immediate superior, at a place and time determined by the service, if the absence is during peacetime for at least one day or 24 hours and not more than 30 days. The basic difference between Being Absent Without Permission (THTI) and Desertion is in terms of time. Absence without permission is the act of being absent from his duties for more than 3 days and less than 29 days, while desertion is leaving his official duties for more than 30 days. Apart from that, the difference is the perpetrator's intention to abandon his official obligations. The perpetrator of desertion wants to leave the service forever, while Absence Without Permission (THTI) only intends to be absent from his duties for an indefinite period of time.

The THTI crime is regulated in Book II CHAPTER III of the Criminal Code concerning crimes which are a way for a military person to withdraw from carrying out service obligations. Crimes in the form of THTI can be divided into THTI in a narrow sense and a broad sense. THTI in a narrow sense is only regulated in articles 85 and 86 of the Criminal Code. Meanwhile, THTI in a broad sense includes the crime of desertion which is a continuation of THTI.

Article 85 and Article 86 of the KUHPM state the following:

Article 85

The military, whose fault caused his absence without permission is threatened:

1st, With a maximum prison sentence of nine months, if the absence is during peacetime for at least one day and not longer than thirty days;

2nd, with a maximum prison sentence of one year, if the absence is during peacetime, due to his neglecting in whole or in part a trip to a place located outside the island where he is currently located and which he knows or should reasonably suspect there is an order to that effect. ;

3rd, With a maximum prison sentence of one year and four months if the absence occurs, within a period not exceeding four days;

4th, with a maximum prison sentence of two years, if the absence is during war time, due to his neglecting in whole or in part the journey ordered to him as described in number 2, or the failure of an encounter with the enemy.

Article 86

Military, who deliberately commit absenteeism without permission are threatened:

1st, with a maximum prison sentence of 1 year and 4 months, if the absence is during peacetime for at least 1 day and not longer than 30 days.

2nd, With a maximum prison sentence of 2 years and 8 months, if the absence during wartime is not longer than 4 days.

The main characteristic of this crime is that of his own volition he stays away or is absent or remains absent from the place where he is supposed to be to fulfill his duties. However, not all absences are of the same nature so they are given different names. Those that are milder are called ordinary absences and those that are more severe are called desertions.

The question is what differentiates these two types of crimes? If this crime is called desertion and if not? Looking at the description of the law in general, it can be said that there are three things that cause absence without permission to turn into desertion:

1. The intent of the perpetrator, meaning what the perpetrator actually wants to achieve
2. How long does the absence last, if it lasts more than 30 days in times of peace and more than 4 days in times of war
3. The consequences.

A military person is said to have committed the THTI crime if, without permission from the commander in charge, he is not present at the place where he is supposed to be, either by traveling, hiding himself, making himself absent or being left behind on purpose or because of his fault/culpa (negligence).

THTI crimes in the KUHPM can be divided into several types as follows:

1. Absence without permission due to fault (Article 85)
2. Deliberate absence without permission (Article 86)
3. Absence without permission on purpose and with aggravating circumstances (Article 86 2nd in

conjunction with Article 88)

4. Desertion (Article 87)
 5. Desertion with aggravating circumstances (article 87 jo 88)
 6. Special Desertion (article 89)
 7. Absence due to a misleading act (article 90)
 8. Certain acts that may allow absence without permission (articles 91-93)
2. Overview of Military Discipline Law

Regulations related to military discipline are regulated in Law No. 25 of 2014 concerning Military Discipline Law. This regulation is intended for Military Criminal Law, which is a legal regulation that applies specifically to people who are under the name of the "Indonesian National Army", namely the law that regulates violations or military crimes against the rules of military law by a military person, related to Criminal Law where an action at a certain place, time and circumstances is prohibited (or required) and is punishable by law, is unlawful, and wrongful, and is carried out by members of the military. However, discipline is a form of obedience and obedience. Discipline for a member of the military or a TNI Soldier is a necessity and a lifestyle that must be lived.

Soldiers who violate military discipline laws will be subject to sanctions in the form of disciplinary action and disciplinary punishment. Members of the Indonesian National Army are not only elements of the State apparatus but are also state servants and public servants who always live in society and work for the benefit of society, and obey the laws and regulations that exist in the military environment. Sanctions are carried out by ANKUM (Punishing Superior). Disciplinary action sanctions imposed by ANKUM are in the form of physical action and/or verbal warnings to raise awareness and prevent the recurrence of violations of soldier disciplinary laws.

The scope of Military Disciplinary Punishment lies in the function of the ANKUM (Punishment Superior) whose hierarchical position is the military official who imposes or postpones the imposition of military disciplinary punishment for violations of military discipline and minor criminal offenses by members of the TNI. ANKUM's imposition of military disciplinary punishment is not only based on ANKUM's beliefs but must also be supported by at least 1 (one) valid piece of evidence. The legal evidence includes evidence, letters, electronic information and/or electronic documents, witness statements, expert statements and suspect statements to be taken into consideration regarding the imposition of military disciplinary sentences on TNI members who commit violations. In resolving violations of military disciplinary punishment, ANKUM must also obtain opinions or opinions from military authorities such as POM (Military Police) as a consideration in imposing penalties on soldiers who violate military disciplinary laws which will later be subject to sanctions in the form of disciplinary action and punishment by ANKUM (Punishing Superiors).

The function and duties of ANKUM as a command function that is responsible for every member who commits violations and military crimes must have objective responsibility and neutrality. Ankum can impose disciplinary penalties in a disciplinary hearing. In imposing disciplinary punishment, Ankum must strive to achieve justice as well as providing a deterrent effect so that the offender does not violate military disciplinary laws in the future. ANKUM's decision to impose disciplinary punishment is stated in the Disciplinary Punishment Decree. Disciplinary punishments imposed by ANKUM in a disciplinary hearing are carried out immediately after the disciplinary punishment is imposed and are recorded in the punishment book and personnel data book who violate the military disciplinary law. The following are some of the legal characteristics of military discipline as follows:

- a. Military discipline laws are regulated by law.

Different from disciplinary law that applies to other professions, military disciplinary law has special characteristics, namely that it is regulated by statutory regulations. There is no official explanation in the statutory regulations as to why military disciplinary law is regulated by law. If we look closely, one of the reasons why disciplinary law is regulated by law is because military disciplinary law has a witness in the form of detention which is a detention of freedom. Deprivation of liberty is a violation of human rights.

- b. Witness Military Disciplinary Punishment Is Detention

Since the enactment of the military disciplinary law book (KUHDM) Law number 40 of 1947, even since wetboek van krijgstuch vior Nedeland Indie military disciplinary sanctions have been in the form of deprivation of liberty. During the national military disciplinary law, namely law number 26 of 1997, military disciplinary punishment consisted of a warning, light detention for a maximum of 14 days and serious detention for a maximum of 21 days. The sanctions system contained in this law continues to be maintained in law number 25 of 2014.

- c. Military as Subject of Military Discipline Law

The military subject matter in the military discipline law is confirmed in the body of the law, that the military discipline law applies to:

- a) military, and also extends to:
- b) Everyone who by law is equated with the military.

d. Violations of Military Discipline are extended to crimes of a light nature.

One of the interesting characteristics of military disciplinary law is the widening of the types of violations of disciplinary law, which not only include violations of the internal ethics of military life, but also include violations of public law in legislation, namely criminal acts that are very light in nature.

e. Commander as Military Disciplinary Judge

Commanders are given the authority to impose disciplinary punishments on soldiers under their command, which is an influence from history. In the past, all violations committed by a subordinate, whether in the form of criminal law or discipline, were resolved directly by the military commander. It was only after the concept of the rule of law was born that violations of criminal law were resolved by judges through a trial process in court. This situation later gave birth to military justice. The court has the authority to examine and try criminal acts committed by the military, while a commander is only given the authority to examine and impose punishments on his subordinates who commit violations of military discipline.

f. A system and mechanism for submitting objections to the sentences imposed is regulated.

Every military person sentenced to disciplinary action is given the right to appeal the sentence imposed. The right to object can be raised for three reasons:

- a) Part or all of the formulation of reasons for punishment
- b) Type
- c) The severity of the disciplinary punishment imposed.

Submission of objections is submitted properly, in writing and hierarchically. In filing an objection, the applicant can submit a legal officer or officer from his unit to the ankum to provide advice. Objections are submitted to the Ankum Superior through the direct superior within a period of four days after the sentence is handed down. The four day grace period is calculated from the day the sentence is imposed. If the fourth day passes, the convict cannot raise an objection, and the convict is deemed to have accepted the disciplinary punishment imposed.

g. Quick Resolution of Violations of Military Discipline Law.

Violations of military discipline must be resolved quickly. Delays in resolving disciplinary violations will have a negative impact. Resolving protracted violations of military discipline will have an impact on the image of the commander's leadership being weak and indecisive. A commander's image that is not firm will endanger member morale and unit morale and loyalty will be low. Apart from that, the speed with which violations of military discipline law can be resolved will also have an impact on the certainty that leadership can immediately take action against soldiers who violate certain service duties and obligations.

3. Application of Military Discipline Law to THTI Crimes

The military is said to be absent without permission if he is not in a place where he is supposed to be to carry out the duties entrusted to him. To find out about these places can generally only be seen from existing military regulations or habits in military life.

The minimum time required for someone to do THTI is one day. One day as interpreted in Article 97 of the Criminal Code is twenty-four hours. The initial calculation starts from what time the military should be at the place designated for him, until the next day immediately after 24 hours. Because checking the presence/absence of a military person who is not on special duty is usually at morning roll call time (afternoon or evening), roll call time is the start of the calculation for him, whereas for units that carry out the check using signatures/initials or with fingerprints, it is The signing was used as the beginning of the calculation. Thus, the crime of absence without permission begins immediately after 24 hours of his absence without permission at the place determined for him using the calculation method mentioned above.

Meanwhile, the calculation for the cessation of the crime of being absent without permission is when he returns voluntarily. In Dutch legal jurisprudence the time when the crime stops is calculated if the military reports themselves to the military police or the local embassy (if abroad). However, contrary to this jurisprudence, there is a judge's decision which states that the measure for determining when to stop this action is not enough just to report oneself but requires that the military must be able to carry out its duties.

The application of criminal law in Indonesia regarding the time to stop a THTI crime is more likely to use the measurement when the perpetrator voluntarily/consciously or when he is arrested by military officers for and because of the crime. Meanwhile, if something like what happened, the jurisprudence that occurred in the Netherlands cannot be applied in Indonesia, but can be taken into consideration as a mitigating circumstance.

The minimum period of one day, which is specified in the articles regarding THTI crimes, should be the basis for the process of imposing punishment on the military through military disciplinary law or through criminal law channels. If a military person is absent without permission for no more than one day, the military person should be subject to disciplinary punishment because it is a disciplinary violation.

However, if you look at the provisions in Article 8 of Law Number 25 of 2014 concerning Military Discipline Law, it is stated that

Article 8

Types of violations of military discipline law consist of:

- a. Any action that is contrary to official orders. Service regulations, or actions that are not in accordance with military regulations; And
- b. Acts that violate criminal laws and regulations are of such a serious nature.

Article 8 letter a in the previous law, namely law number 40 of 1947 concerning the Military Discipline Law Book and Law 26 of 1997 concerning the Discipline Law for ABRI Soldiers uses the term pure disciplinary violation and in article 8 letter b it is a non-disciplinary violation. pure. This violation of impure disciplinary law is basically a violation of criminal law but is mild in nature so it is resolved according to military disciplinary law. The definition of an act that is so light in nature is stated in the explanation of article 8 as follows:

What is meant by "acts which violate criminal legislation of such a light nature" includes:

- a. all forms of criminal acts classified in relevant laws and regulations which carry a maximum penalty of imprisonment of 3 (three) months or imprisonment of a maximum of 6 (six) months;
- b. simple matter and easy to prove;
- c. the criminal act that occurred did not result in disruption of military interests and/or public interests; And
- d. criminal offense due to absence without permission during peacetime for a maximum of 4 (four) days.

If you look at the explanation of this article, it can be concluded that there are several criminal acts that can be resolved according to military disciplinary legal channels. However, regarding the THTI provision of no more than 4 days, this is a deviation from the provisions of the above criteria because as is known, the minimum criminal threat for a THTI crime in article 85 of the Criminal Code is 9 months and in article 86 it is one year and four months.

According to the author, the provisions regarding THTI in the above criteria should be separated and included in another article. Because the criteria mentioned above must be met and are cumulative. So if it is interpreted that if a military person commits a criminal act that is so light in nature and fulfills the three elements in explanation 8, the military must also carry out THTI for no more than 4 days before the action can be resolved according to disciplinary legal channels.

According to Agustinus, who was one of the drafters of the disciplinary law bill, when asked about the problems with article 8 at the lecture, he explained that when the military disciplinary law bill was proposed in the DPR, the DPR also proposed a similar bill which was a comparison of the bill proposed by the TNI. However, the bill proposed by the DPR itself is not in accordance with military values because it is considered an editing code that applies to other civilian agencies. Of course, this is a polemic because if military disciplinary law is equated with a code of ethics, it does not need to be regulated in statutory regulations, just by regulations of the TNI commander. Because of the military discipline law, the punishment is detention which is deprivation of liberty and deprivation of liberty is a violation of human rights so it must be regulated by law. With various opinions given, the bill proposed by the military was accepted, however the provisions regarding THTI were not part of the explanation of the article but were contained in a separate article. However, after promulgation the provisions regarding THTI were made into one article.

The inclusion of a THTI criminal offense within a maximum of 4 (four) days of peace can be resolved according to disciplinary law even though the penalty is more than three months with the pragmatic consideration that in practice this criminal act is resolved according to military disciplinary law with the consideration that the military in question can still be developed then enough to be given military disciplinary sanctions. So that the legal process can be completed more quickly and the military concerned can immediately use its energy and expertise to support official duties, but in fact the criminal act of THTI should normatively be processed through a mechanism in the Military Court, then if the fact is THTI lasts one to four days. and will be resolved according to military discipline, then in the examination agenda file (BAP) the fact is "fabricated" that the military in question was only one to four days late in the application. Therefore, with pragmatic considerations based on experience in the field, THTI of up to 4 days is confirmed in the new Military Discipline Law law, so that it can be completed according to military disciplinary law.

The problem then is, if THTI lasts up to 4 days, it can be resolved according to military disciplinary law, whereas in the provisions of the military criminal law (KUHPM) Article 86 which regulates the criminal act of THTI "military intentionally THTI in peacetime for a minimum of one day and no more than 30 days is threatened with imprisonment for a maximum of 1 year and 4 months", THTI one day to a maximum of four days, which can be completed according to the Military Discipline Law and which can be completed according to the Military Criminal Law.

The author is of the opinion that for THTI a maximum of four days, if the THTI does not interfere with service interests and does not interfere with the achievement of unit tasks, and does not have an impact on unit development, then it is sufficient to complete it according to the Military Discipline Law. However, if the THTI turns out to cause turmoil within the unit, it must be processed through the military criminal procedural law mechanism to be examined and tried in military court.

From the explanation above, the author can conclude that for THTI which can be resolved according to

disciplinary legal channels based on the characteristics provided by Law Number 25 of 2014 concerning Military Discipline Law article 8 letter b, namely THTI Article 85 to the 1st and Article 86 to the -1 Criminal Code.

4. The Impact of Resolving THTI Crimes Through Military Discipline Legal Mechanisms Faced with Unit and Personnel Development

Resolving the crime of being absent without permission (THTI) through military disciplinary legal mechanisms has quite complex impacts when faced with the development of units and personnel. Here are some of the impacts of this perspective:

a. Impact on Unit Development

1) Increased Discipline and Order

The military profession cannot simply be compared with other professions. The use of the armed forces is to deal with situations that threaten the survival of the country wherever that threat comes. The success or failure of unit development is proven in that situation.

The application of unwritten laws and disciplinary norms such as not leaving a unit commander home before he finishes work, or not being late and always being on time for work will increase the discipline of the unit.

When THTI is resolved through disciplinary law, this emphasizes the importance of discipline in the military environment. Strict application of the law aims to maintain order within the unit and strengthen commitment to military obligations. Discipline is an important foundation for effective unit operations.

As with the theory of military disciplinary law enforcement, there is a principle of guidance which means that the implementation of military disciplinary law is a form of guidance to the military in order to increase discipline and professionalism. A unit that is always ready and on time in completing tasks is a success in the form of unit development.

2) Influence on Unit Morale

Strictly resolving THTI through disciplinary law also has a psychological effect on other members. If violations such as THTI are ignored or not responded to with firm action, this can reduce the morale of obedient members. On the other hand, consistent enforcement of discipline sends a message that equality in treatment and fairness in the unit environment is upheld, thus increasing the unit's collective trust and morale.

Every superior has the obligation to maintain morale, increase the motivation, initiative and courage of his subordinates by setting an example based on the fact that successful execution of duties is a matter of pride for the unit and the military. This is a mandate conveyed in Article 14 of the Military Discipline Law.

If a superior arbitrarily imposes disciplinary punishment on violators of military discipline without a clear legal process, this also has an impact on the morale of the unit. Because a superior should set the right example, what a superior does will become jurisprudence for other subordinates in subsequent cases.

This is certainly not in accordance with the theory of legal certainty. Legal certainty should be realized through the existence of regulations and legislation. The implementation of THTI criminal acts in military disciplinary law has stipulated provisions and procedures as well as the authority of authorized officials in resolving them. Not just because you just want to be fast or just want to follow wrong habits so you forget the provisions that should be implemented.

Unit morale is very important in completing tasks. The readiness of a unit does not come by itself but is the result of systematic and continuous coaching and training. A unit that never pays attention to its morals and is never built to obey the rules will not be able to complete its tasks optimally.

Napoleon stated that morals are the most important thing, however, good morals can only be found if they are based on strong discipline. Strong and healthy discipline is obtained through coaching and enforcing discipline according to norms that are adapted to military rules and life.

3) Influence on unit efficiency

THTI can disrupt unit efficiency, especially if the personnel involved in this crime have a crucial role in a particular operation. Firm resolution through disciplinary law can provide a deterrent effect and prevent similar incidents in the future, thereby increasing long-term operational efficiency.

Military Unity is not only a work environment but also a separate life together or community. Even though a military person outside of working hours does not wear a uniform and does not do anything related to his military service, 24 hours a day he must be covered by military disciplinary laws. He must continue to obey military procedures and norms even when he is out of service. Also obliged to carry out military duties. Apart from that, most of the soldiers live in military housing, in dormitories, knighthoods and on military ships. Therefore, there tends to be more contact or relationships with the unit than with outside society.

As a military man, he is obliged to report any problems that arise to his superiors, this is a form of control from a superior to his subordinates and to ensure the readiness and efficiency of the unit's duties.

4) Evaluation of Leadership and Coaching

Units must evaluate whether THTI cases occur due to internal problems such as a lack of effective leadership or weak personnel development. Thus, resolution through military disciplinary legal mechanisms forces units to introspect and identify gaps in the guidance and supervision system that must be corrected.

The occurrence of THTI crimes can occur due to a leader's lack of attention to his subordinates. Minor violations such as being late for morning roll call, not using gamat correctly or having an unkempt appearance that is left without warning or action to the soldier will make the soldier underestimate the meaning of leadership.

It is hoped that good leadership can produce good output to support unit performance. The existence of regulations regarding military disciplinary law since its inception should indeed be utilized by a military leader for the development of his unit and not used as a tool for personal gain.

b. Impact on Personnel Development

1) Coaching and Education

The Military Discipline Law as explained is more inclined towards internal military law, however, even though it is a law that regulates internal military affairs, it has the nature of public law, namely the sanction of deprivation of liberty in the form of detention consisting of light detention for a maximum of 14 days and heavy detention for a maximum of 21 days.

As the principle of justice in disciplinary law states that the implementation of military disciplinary law must reflect professional justice for each military. This justice is reflected in the punishment given must be in accordance with the actions carried out by the military. Therefore, as the author explained previously, the THTI crime described in this issue is a criminal act that is so light in nature, therefore it should be natural for the THTI crime to be resolved according to military disciplinary legal channels.

It can be said that even though military disciplinary punishment is lighter in degree than criminal law in the form of imprisonment, this is in accordance with the provisions of statutory regulations because basically the purpose of punishment for a military person as long as he is not dismissed from military service is education/development, not deterrence like on the purposes of punishment in general. This is also the same as imposing punishment in military disciplinary law.

The purpose of the sentence is that a military man who has carried out his sentence and will return to work in his unit must become a good and useful military man because of his own awareness and as a result of the educational actions he received while serving his sentence or sentence. If this is not the case then the imposition of disciplinary punishment has no meaning in terms of returning the personnel to the unit. This is in accordance with the principle of benefit contained in the military disciplinary law where the implementation of the military disciplinary law must provide benefits to the Indonesian National Army.

With disciplinary punishment, personnel are reminded of their responsibilities as members of the military and the importance of discipline in their duties. In addition, this process can be a learning tool that builds awareness of the negative impact of their actions on themselves, the unit and their fellow units.

2) Influence on Career and Rank

The impact of completing THTI through disciplinary law can affect the careers of the personnel concerned. The sanctions received can have an impact on promotion or promotion, and even lead to dismissal from military service if the violation is deemed very serious. This is as explained in article 10 of Law 25 of 2014 which states that the imposition of disciplinary penalties as stated in article 9 is also followed by administrative sanctions.

Administrative Sanctions are sanctions/punishments imposed as a follow-up to the imposition of disciplinary or criminal penalties which result in delays in the field of career development for a TNI Soldier which includes education and/or promotion.

Provisions regarding administrative law for TNI AD soldiers are regulated in Army Chief of Staff Decree Number 39 of 2018 concerning Administrative Sanctions for Indonesian Army Soldiers. The reason for imposing administrative sanctions on soldiers who have been sentenced to disciplinary or criminal punishment is a sense of justice. Where a soldier has done good and has not committed any violations, but his career and rank are still equal to those of soldiers who have committed violations. Therefore, it is unfair if soldiers who have been sentenced to criminal or disciplinary action have their career levels and ranks equalized with other soldiers.

Administrative sanctions are divided into two groups. Category I is the sanction given to soldiers who are sentenced to disciplinary punishment and category II is the sanction to soldiers who are sentenced to a criminal offense. Type I punishment is a military disciplinary sanction in the form of reprimand, light detention for a maximum of 14 days and heavy detention for a maximum of 21 days. While group II includes: criminal fines other than traffic violations; conditional sentence; imprisonment/confinement/substitute imprisonment for up to 3 (three) months; imprisonment/confinement/replacement confinement for more than 3 (three) to 6 (six) months; And imprisonment/confinement/replacement confinement for more than 6 (six) months.

Class I administrative sanctions apply to TNI AD soldiers as follows:

Subjected to a disciplinary warning, subject to administrative sanctions, postponement of education for 1 (one) period and postponement of promotion for 1 (one) period;
sentenced to light detention discipline, subject to administrative sanctions, postponement of education for

1 (one) period and postponement of promotion for 2 (two) periods; And

Subjected to severe disciplinary detention, administrative sanctions, postponement of education for 1 (one) period and postponement of promotion for 3 (three) periods.

Class II administrative sanctions apply to TNI AD soldiers as follows:

sentenced to fines other than traffic violations, subject to administrative sanctions, postponed education or promotion for 1 (one) period;

sentenced to a conditional criminal sentence subject to administrative sanctions, postponed education for 1 (one) period and promotion for 2 (two) periods;

sentenced to imprisonment/confinement/replacement confinement for up to 3 (three) months, subject to administrative sanctions, postponement of education for 1 (one) period and promotion for 3 (three) periods;

sentenced to imprisonment/confinement/replacement confinement for more than 3 (three) months up to 6 (six) months, subject to administrative sanctions, postponement of education for 2 (two) periods and promotion for 4 (four) periods; And

sentenced to imprisonment/confinement/replacement confinement for more than 6 (six) months, subject to administrative sanctions, postponement of education for 3 (three) periods and promotion for 6 (six) periods.

These administrative sanctions apply from the moment the soldier is eligible for promotion and/or education.

CONCLUSION

The crime of Not Being Present Without Permission (THTI) is part of a type of pure military crime. Outside of military organizations, the qualifications for THTI's actions in a place of service are generally not a crime but are more likely to constitute a disciplinary violation. However, for a military person, this needs to be regulated as a crime because the appreciation of discipline is the backbone of military life. Therefore, if a military person does not have discipline then it is no different from a mob holding weapons.

The THTI crime is regulated in Book II CHAPTER III of the Criminal Code concerning crimes which are a way for a military person to withdraw from carrying out service obligations. Crimes in the form of THTI can be divided into THTI in a narrow sense and a broad sense. THTI in a narrow sense is only regulated in Article 85 1 and Article 86 1 of the KUHPM. Meanwhile, THTI in a broad sense includes the crime of desertion which is a continuation of THTI.

Completion of THTI through the Military Discipline Law mechanism has serious consequences for the military when faced with the development of units and personnel. In developing units, the implementation of THTI through military discipline will have an impact on increasing unit discipline, influence on morale and unit performance and can be used as material for leadership evaluation. Meanwhile, the impact on personnel, namely for personnel who are sentenced, can be used as educational and coaching material because the purpose of punishment for the military is guidance/education, apart from that, there are not only criminal sanctions, but soldiers who are sentenced to disciplinary law are also given administrative sanctions which have an impact. regarding the development of the rank and career of the soldier concerned.

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