



The Obligation of Military Institutions to Comply with the Anti-Corruption Act

Fahrizal S. Siagian¹, Saied Firouzfard², Najuasah Putra³

¹ Sumatera Utara University, Medan, Indonesia. E-mail: fahrizalsiagian@students.usu.ac.id

² Islamic Azad University Ghaemshar Branch, Ghaemshar, Iran, E-mail: saiedfirouzfard@iauec.ac.ir

³ Malikussaleh University, Aceh, Indonesia, Email: najuasah.217410102016@mhs.unimal.ac.id

ABSTRACT

The purpose of the study is to respond to the corruption crimes committed by military officials in Indonesia, secondly, to explain the obligation of military institutions to comply with the Anti-Corruption Criminal Act, third, to clarify the internal rules of the Military Institutions on Anti-Criminal Corruption in Indonesia. The type of research used is normative law research, which refers to positive law and uses secondary data from primary, secondary, and tertiary law material. Data is collected through Library Research and processed with descriptive analysis. Corruption perpetrated by military officials is a violation of the Military Discipline Act and the Indonesian Criminal Code of corruption. The normative jurisprudential aspect of the fight against corruption in Indonesia is carried out with the advancement of the basis of legal certainty based on the Anti-Corruption Act. According to the legislation, the legal status is generally applicable, and the index of perception of corruption in Indonesia is deteriorating and spreading throughout the line of life of the nation and the country, so that all parties, without exception in military instances, are obliged to comply with the Penalties of Corruption. The entire component of the Indonesian nation must advance the suppression of corruption under the law, including the military instance obliged to voluntarily submit and obey the orders of the Tipikor Rebellion Act. The authorities have drawn up regulations relating to the obligations of the Military Institutions in combating criminal offences of corruption in Indonesia.

Keywords: Corruption; Legal Certainty; Military Institutions

Citation: Fahrizal, Fahrizal S. Siagian, Saied Firouzfard, and Najuasah Putra. 2023. "The Obligation of Military Institutions to Comply with the Anti-Corruption Act". *Mulawarman Law Review* 8 (2). Samarinda, ID.:1-15. <https://doi.org/10.30872/mulrev.v8i2.1279>.

INTRODUCTION

Corruption is a common enemy, one of which is the UN with the agency known as the United Nations Convention Against Corruption (UNCAC).¹ The Universal Fight Against Corruption began with the establishment of the UNCAC in 2003.²

¹ Sebastián Rioseco, "Conferences of the Parties beyond International Environmental Law: How COPs Influence the Content and Implementation of Their Parent Treaties," *Leiden Journal of International Law*, 2023, 699–719, <https://doi.org/10.1017/S0922156523000110>.

² Ratna Juwita, "Good Governance and Anti-Corruption: Responsibility to Protect Universal Health Care in Indonesia," *Hasanuddin Law Review* 4, no. 2 (2018): 162–80, <https://doi.org/10.20956/halrev.v4i2.1424>.

The prevention and suppression of criminal acts of corruption is carried out with the updating of the laws and regulations of the jurisdiction. The Criminal punishment for corruption in Indonesia is regulated by Act Number 31 of 1999. This regulation has been amended to Act Number 20 of 2001. This law obliges the entire component of the nation to obey the rules. Every citizen of any background is bound to obey the law without exception.³ Therefore, citizens of civilian and military backgrounds, both individually and institutionally, should be treated equally before the law in accordance with the Constitution. It is explained in article 27, paragraph 1, UUD 1945 that all citizens have equal status in law and government and are obliged to uphold law and governance without exception. In addition, article 28D, paragraph 1, states that everyone has the right to recognition, guarantee, protection of fair legal certainty, and equal treatment before the law. The right of military members is the people, therefore military institutions both individually and collectively should be treated equally before the law.

The national goal of corruption eradication that has always been pursued by the government regimes (Executive Authority), the judiciary (Judiciary), and parliament (Legislative Authority) with the slogan "Area Free of Corruption" is surely a manifestation of the national awareness that Indonesia is a developed country. Emergency corruption eradication is a joint commitment to advance the eradication of corruption in Indonesia. The punishment of corruption crimes has been regulated in a legal instrument namely the Law of the Republic of Indonesia Number 31 of 1999 as amended by the Law Number 20 of 2001 on punishing corruption. This is the rule of law against corruption in Indonesia that must be adhered to by the entire component of the nation, including the military institutions (TNI).

Corruption involving TNI personnel has undoubtedly spoiled the reputation of an institution that has reached the peak of its success as the institution with the highest level of public confidence. If examined jurisprudently, the Military Institution (TNI) has its own rules of law in regulating its functions. The Military Criminal Procedure Law and the Material Penal Law of TNI include the Republic of Indonesia Law Number 31 of 1997 on Military Justice. This law regulates military justice in Indonesia, including the handling of criminal acts including corruption involving military personnel. However, the procedure for dealing with corruption crimes in the military sector has not been opened up as civil society does. If dealing with a corruption crime the accused is a member of the military, usually the context of the article used relates to military discipline. As a record, military courts usually focus on violations of the law related to military activities, including military personnel, and other violations that occur in military environments. The Law of the Republic of Indonesia Number 25 of 2014 on the Law of Military Discipline This Law deals with the disciplinary review in the military field. The Law Number 25, of 2014 regulates the rules of discipline that a TNI soldier must observe during his service. The last is the Republic of Indonesia Act Number 34 of 2004 on the Indonesian National Army, a law that regulates the provisions relating to the basic duties and functions of the TNI and its position within the scope of the state.

³ Mario Julyano and Aditya Yuli Sulistyawan, "Pemahaman Terhadap Asas Kepastian Hukum Melalui Konstruksi Penalaran Positivisme Hukum," *Crepido* 1, no. 1 (2019): 13–22, <https://doi.org/10.14710/crepido.1.1.13-22>.

Criminal law is one of the sub-laws of the world society that governs the interests of society.⁴ The case was settled through military courts. This event has deeply damaged the military institutions that have the best position in the heart of Indonesian society. The military has special regulations that regulate the internal military institutions. Like the Military Criminal Code, Military Discipline Act, and the Indonesian National Army Act. As in international cases, the World Military Organization generally pays special attention to the issue of corruption. The Indonesian National Army is a national defence and security body that has a strategic role national integration and national sovereignty. Protecting nations from all kinds of threats, barriers, challenges, and disturbances, including corruption that threatens national stability. The consequences of the corruption carried out by the military include damaging the institutional image and the loss of public confidence in the TNI. It should also be seen as a national threat.⁵ According to accurate sources explained that TNI as the most trusted institution of society. Therefore, if this corruption is carried out by members, then it will undermine public confidence in the military institutions. Corruption by military personnel will harm other personnel and weaken defence effectiveness. Criminal acts of corruption continue to be carried out by the military, among other things because of the human nature that never escapes it and the cultural factor of the Indonesian society that is very thick with the culture of family belonging and hospitality. Then in such circumstances, it is still possible that corruption practices end in corruption crimes.

Previously, similar research on the role of the military in the fight against corruption was written by Priska V.O. Rumat, Daniel F. Aling, and Marchel Maramis who explained that the CCP authorities are narrowing down and dealing with corruption cases carried out jointly by members of the TNI. However, this study does not deal with the special regulations in the Indonesian military environment that regulate the suppression of criminal acts of corruption.⁶ An international research journal entitled *Anti-Mercenary Norms and the Use of Military Companies and Private Security by the United Nations: From Entrepreneurial Norms to Organized Hypocrisy* by Oldrich Buresa and Eugenio Cusumano.⁷ The study emphasizes that the credibility of peacekeeping agencies under the umbrella of the United Nations is vulnerable to the norm of entrepreneurship.

However, some of the above studies only discuss the obligations of all parties in the prevention of corruption in general and do not deal with the resolution of the criminal offences committed by corruption and / or within the scope of military institutions. So, what distinguishes the previous research from this study is that this study contains a jurisprudential study of the obligation of the military institution to voluntarily comply

⁴ F. S. Siagian, "Juridical Analysis for the Rights of Interested Third Parties in Filing Pretrial Applications in the Indonesian Criminal Justice System," *Legal Brief* 12, no. 2 (2023): 231–40, <https://doi.org/10.35335/legal.Juridical>.

⁵ Ilham Laman and Basyirah Mustarin, "Tindak Pidana Militer Terhadap Tindak Pidana Korupsi Di Lingkungan Militer," *Datuk Sulaiman Law Review* 3, no. 2 (2022): 1–13.

⁶ Priska V.O. Rumat, "Kajian Yuridis Terhadap Tindak Pidana Korupsi Yang Dilakukan Oleh Militer," *Lex Administratum* 11, no. 1 (2023): 1–10.

⁷ Oldrich Bures and Eugenio Cusumano, "The Anti-Mercenary Norm and United Nations' Use of Private Military and Security Companies: From Norm Entrepreneurship to Organized Hypocrisy," *International Peacekeeping* 28, no. 4 (2021): 579–605, <https://doi.org/10.1080/13533312.2020.1869542>.

with the Anti-Corruption Law and other related laws. The study also contains suggestions for more comprehensive and detailed legislative reforms. Specifically with regard to future legal breakthroughs, it is necessary to elaborate detailed legislative regulations on combating corruption in military institutions, if the TNI is an independent and independent institution with its own laws of events. To this day, there is still a void of regulatory legislation in order to combat corruption in the military environment. Based on the exposure of originality of relevant previous research as described earlier, this study will discuss about Juridical Review of the Obligation of Military Institutions to Comply with the Indonesian Anti-Corruption Law.

METHOD

This paper employs doctrinal research⁸ that focuses on legal rules, concepts, principles, and doctrines. Firstly, the substance of the primary law, that is, the written regulations of the state, all of which are contained in the judgments of the courts which have a fixed force of law, for example, the laws, the constitutions, and the rules of other laws.⁹ Primary legal material is legal material obtained from sources of regulation such as UUD 1945, Law Number 8 of 1981 on the Criminal Procedure Law (hereinafter referred to as KUHP), the Law on the Power of the Judiciary, the Law of the General Court, the Act on the Extortion of the Law. Corruption Penalties Number 20 of 2001 on Amendments to the Act Number 31 of 1999, the Law of the Republic of Indonesia Number 31 of 1997 on Military Justice, the Law Number 25 of 2014 on the Military Discipline Law and the Law Number 34 of 2004 on the National Army of Indonesia and other regulations.

DISCUSSION

Juridical Review About the Corruption Crimes Committed by Military Personnel in Indonesia

Article 28D (1) Constitution which states that everyone has the right to recognition, guarantee, protection, and fair legal certainty as well as equal treatment before the law. Law enforcement by putting the principle of equality before the law means equality in the law. Therefore, there should be no differences in law enforcement against the various components of the nation. Law enforcement interpreted as the act of putting something such as a law into effect; the execution of law; the carrying out of a mandate or command.¹⁰ Every legal problem must be referred to or resolved by legal principles. The legal principle itself is an important and fundamental element in law.¹¹ The

⁸ Irwansyah, *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel*, ed. Ahsan Yunus, 1st ed., vol. 1 (Yogyakarta: Mitra Buana Media, 2020).

⁹ Kornelius Benuf, Siti Mahmudah, and Ery Agus Priyono, "Perlindungan Hukum Terhadap Keamanan Data Konsumen Financial Technology Di Indonesia," *Refleksi Hukum: Jurnal Ilmu Hukum* 7, no. 1 (2020): 20–33, <https://doi.org/10.24246/jrh.2019.v3.i2.p145-160>.

¹⁰ Orin Gusta Andini et al., "Stagnation Criminal Law Enforcement Determination Change Omnibus Law Act Post" 21, no. 1 (2023), <https://doi.org/https://doi.org/10.35905/diktum.v21i1.5067>.

¹¹ Muh. Afdal Yanuar, "Laundering of Proceeds Forest Destruction and Narcotics Crimes: A Resolution of The Conflict Norms," *Mulawarman Law Review* 8, no. 1 (2023): 1–15, <https://doi.org/https://doi.org/10.30872/mulrev.v8i1.1044>.

provisions of the MPR also explain further on the enforcement of the law against the crime of corruption as envisaged in the TAP MPR Number XI/MPR/1998 on Maintaining a State Clean, Free from Corruption, Collusion, and Nepotism. Juridically normatively, the criminal liability of perpetrators of corruption crimes has been regulated in the Anti Corruption Act starting from article 2, paragraphs 1 and 2 to article 43B, that the intensity of the threat of punishment given is starting from the criminal sentences of 1 year, 20 years, life and even the death penalty.

The fundamental problem of this nation lies in the poor legal culture that has led to the frequent occurrence of violations of the law in societies that are considered ordinary.¹² The theory may have the uniqueness and advantage in viewing a civil state as a fairy tale. There must be the best solution to solve all kinds of problems. The solution to eradicate the various issues that are occurring in particular concerning corruption in Indonesia must first be understood the concept of the state and the identity of the nation. According to Barda Nawawi Arief, the policy or attempt to combat crime is an integral part of the efforts to protect the public and the well-being of the public.¹³ Besides, the next aspect to pay attention to is the quality of human resources in a country. As Lawrence Meir Friedman put it, one of the problems in law enforcement lies in the legal culture of society.¹⁴ This bad culture raises problems like corruption crime.

The extraordinary crime of corruption features several distinguishing characteristics distinct from those of general crimes.¹⁵ Based on empirical sociological aspects, corruption crimes are based on corruption incidents occurring in various aspects of national and national life.¹⁶ This criminal act arose as a result of a very communal Indonesian culture and the priority of family membership in the conduct of daily activities. This state of affairs unwittingly generates corrupt cultural practices on a small to large scale. The culture that puts relatives first in the administration of a government office. The pattern of thinking that culture is undisciplined and making mistakes is common. So, this is the concept of thinking that is the background to the practice of corruption on a larger scale.

External factors that cause corruption are caused by economic factors that influence a person to cross the boundaries to commit a variety of acts or crimes that are legitimate and persuade a violator of the applicable law.¹⁷ In addition, the factor of weak policy protection (*policy protection*) is carried out so that it becomes an opening for corrupt actors to take advantage of the conditions to commit criminal acts of corruption. Apart

¹² Fakhruddin Odhy, "Perspektif Budaya Hukum Dalam Perkembangan Kasus Korupsi Di Indonesia," *Dharmasiswa* 1, no. 1 (2021): 634–46.

¹³ Marimin Marimin, "Politik Kriminal Peran Tentara Nasional Indonesia (Tni) Dalam Penanganan Pemberantasan Terorisme Di Indonesia," *Jurnal Hukum Progresif* 9, no. 1 (2021): 74–86, <https://doi.org/10.14710/jhp.9.1.74-86>.

¹⁴ Farida Pahlevi, "Pemberantasan Korupsi Di Indonesia Perspektif Legal System Lawrence M. Reidmen," *El-Dusturie* 1, no. 1 (2022), <https://doi.org/10.21154/eldusturie.v1i1.4097>.

¹⁵ Orin Gusta Andini, Nilasari Nilasari, and Andreas Avelino Eurian, "Restorative Justice in Indonesia Corruption Crime: A Utopia," *Legality Jurnal Ilmiah Hukum* 31, no. 1 (2023): 72–90, <https://ejournal.umm.ac.id/index.php/legality/article/view/24247/12233>.

¹⁶ Ana Aniza Karunia, "Penegakan Hukum Tindak Pidana Korupsi Di Indonesia Dalam Perspektif Teori," *Jurnal Hukum Dan Pembangunan Ekonomi* 10, no. 1 (2022): 1–17.

¹⁷ Mudji dkk Harianto; Rahardjo, *Dana Desa Dan Pemberantasan Tindak Pidana Korupsi*, 1st ed. (Surabaya: Dalle Nurul Utama, 2022).

from that, the legal substance is weak (*legal substance*) legislation, and punishment in the form of criminal liability for perpetrators of corruption can also be the cause of corrupt practices in every line of life, especially in state administration (bureaucracy).¹⁸ The capitalist world is characterized by, among other things, increasing accumulation of capital or ownership. The measure of wealth or success is to have a variety of treasures that can be seen in everyday life. This condition creates freedom for someone who is considered to be a rich person (a rich person) to increase his wealth through acts of corruption. Although already possessing a wealth, it does not exclude the possibility that corruption will happen again. It reminds us of the statement of the Indian revolutionary figure, Mahatma Gandhi, who said that this Earth is enough to satisfy human needs, not human greed.¹⁹

This means that needs and desires are in principle different. The difference lies in the scope, the needs only focus on the main problems, namely clothing, food, and shelter. Meanwhile, what is meant by "desire" relates to excess needs (luxuries) over basic needs that have been met. The desire is not binding, so it does not have to be fulfilled. When an individual thirsts to always fulfill this desire, it will be considered greed. The difference lies in the scope, the need is focused only on the main issue of clothing, food, and boards (house). And the desire is about the nature of something that is to be achieved after the basic need is fulfilled. If humans try to do it all the time, then it will be considered a symptom of human greed. According to the theory proposed by L. James Havery, economics is understood as a useful system to create a series of agreed components. This theory emphasizes that unity is something that happens in the national economy. Economics as a "set of agreed components", is understood as the combination of several components that have engaged in social communication or interaction that have a common goal of achieving social well-being.

An offence of corruption is a criminal offence that is characterized by the fulfilment of elements of committing an act against the law, which enriches itself or others or a corporation that eventually potentially causes damage to the state's finances or the economy of the state and so on as regulated by the law. Every person's inherited element is not only limited to individuals but also includes corporations. On the basis of the element, each of the Basic persons is entitled to Article 2 of the Equality before the Law Act, which means equal rights before the law as enshrined in Article 27 Paragraph 1 of the 1945 UUD. All citizens have equal status in law and government and are obliged to observe the heights of law and governance without exception. In addition, article 28D, paragraph 1, states that everyone is entitled to the recognition, guarantee, protection and certainty of justice and equal treatment before the law. Therefore, the subject of a corruption crime, both civilian and military, must comply with this law. It is an extension of the understanding of the legal subject referred to in the KUHP that only covers individuals. Corruption eradication was conducted in various ways and by government efforts

¹⁸ Priyo Hutomo and Markus Marselinus Soge, "Perspektif Teori Sistem Hukum Dalam Pembaharuan Pengaturan Sistem Pemasarakatan Militer," *Legacy: Jurnal Hukum Dan Perundang-Undangan* 1, no. 1 (2021): 46–68, <https://doi.org/10.21274/legacy.2021.1.1.46-68>.

¹⁹ Vandana Shiva, "Satyagraha: The Highest Practise of Democracy and Freedom," *Social Change* 51, no. 1 (2021): 80–91, <https://doi.org/10.1177/0049085721993160>.

to improve technical regulations through derivative regulations and the Supreme Court's regulations.²⁰

Formal law encompasses acts that are clear and persuade the offender. An act of enriching himself or someone else or a corporation means that the person increases his wealth personally and/or through another person or corporation, which is deemed inappropriate on the basis of authentic evidence. All such acts could potentially result in financial losses to the state, proved by the authorized agency's inspection or not. Article 3 of the Presidential Regulation Number 192 of 2014 on the Financial and Development Supervisory Authority states that the authority to assess the losses of the State in cases of corruption is the Financial Inspectorate (BPK) and the Financial Supervision Authority and Development. (BPKP).

The authority of BPK to calculate and determine state losses is regulated in Article 10 (1) of the BPK Act. It is supported by Article 23E (1) of UUD 1945 which explains the constitutional aspects of the legality of the Financial Inspectorate, that is, to check the management and financial responsibility of the state, formed an independent and independent financial inspectorate. Article 3 letter e of Presidential Regulation Number 192 of 2014 on the Financial and Development Supervisory Authority explains the authority of BPKP to oversee the planning and implementation of programmes and/or activities that may impede the smooth development, price adjustment inspections, pricing adjustments and claims price-adjustment examinations, audits of investigations into cases of indicated misconduct affecting the national/regional finances, examinations of financial loss calculations of the state/region, expert assessments, and corruption prevention efforts.

The philosophy of natural law puts the impact of corruption very dangerous both in the short and long term. One of the most dangerous long-term negative effects of corruption is its undermining of the mentality and morality of young people and its negative impact on good governance, the rule of law, and the restriction of access to public goods and services.²¹ Corruption is an abomination, and an evil deed, and a wickedness. It is a great evil.²² Moreover, corruption begins with abuse of authority, which means that the perpetrators of corruption are usually those who have power. Such acts are carried out in a structured, systematic, and massive manner by many state officials or legitimate state institutions based on the law. Corruption deprives people of their rights, including economic rights, social welfare, and so on. Therefore, the act is considered a human rights violation.²³ Education is necessary to develop knowledge, skills, and values of human rights. The United Nations, the world's largest international organization that brings together international cooperation in the world, promotes the

²⁰ Orin Gusta Andini, "Menakar Relevansi Pedoman Pemidanaan Koruptor Terhadap Upaya Pemberantasan Korupsi," *Tanjungpura Law Journal* / 5, no. 2 (2021): 133–48, <https://doi.org/http://dx.doi.org/10.26418/tlj.v5i2.46109>.

²¹ Ratna Juwita, "Indonesia Law Review Understanding the Typology of Health Sector Corruption in Indonesia UNDERSTANDING THE TYPOLOGY OF HEALTH SECTOR" 13, no. 2 (2023).

²² Aryo Fadlian, "Pertanggungjawaban Pidana Dalam Suatu Kerangka Teoritis," *Jurnal Hukum Positum* 5, no. 2 (2020): 10–19.

²³ Pricilia Ryana and Aisy Idzati, "Corruption in the Study of Law and Human Rights," *Lex Scientia Law Review* 2, no. 2 (2018): 177–88, <https://doi.org/10.15294/lesrev.v2i2.27583>.

principle of rejection of corruption. The organization formed a working force known as the United Nations Convention Against Corruption (UNCAC). The Convention provides education in knowledge, skills, and attitudes that advance respect for one another without regarding any aspect as fundamental.²⁴

The Constitution states that all parties are either a person or a body of law and have equal status in the eyes of the law, and no one shall be privileged.²⁵ The military is one of the national powers that plays an important role in the stability of a country, both in terms of defence, social, and political stability. According to various sources of information, the Indonesian National Army (TNI) is one of the institutions with the highest level of public confidence compared to other institutions. Corruption is a disease outbreak that contaminates the entire component of the nation, including military personnel. In the growing structure and culture of national military organizations, there has not been a set of legislative regulations that specifically regulate the role of the military in combating corruption in Indonesia. However, in the Law Number 31 of 1997 on Military Justice in article 66 letter c It is stated that the General Auditor has the duty and authority in order to settle and prosecute certain criminal cases which regulates the way of justice, in coordination with the Government, the Supreme Prosecutor's Office, the Military Police, and other law enforcement agencies. The explanation of the meaning of the article above is "specific criminal matters specially regulated" namely corruption and economic crimes. According to the Military Discipline Act Number 25 of 2014, article 1, paragraph 2, Military discipline is consciousness, obedience, and observance in the law, The rules of service, and the rules of life that apply to the military. Therefore, military institutions are obliged to obey the rules that apply in the country's surroundings and without exception.

Obligations of Military Institutions in Compliance with the Anti-Corruption Law

Corruption is perceived as a threat to national stability, resulting in material and intangible losses.²⁶ According to the philosopher Aristotle, in a rule of law there are three principles, equality before the law, the rule of law, and the enforcement of the law which is not contrary to the law.²⁷ Incredible crime is inherent in this disease of corruption. The problem of corruption in Indonesia is becoming more acute, like a cancer that has spread to almost all segments of society.²⁸ This is the condition that is causing it to worsen the Corruption Perception Index (CPI) in Indonesia. Transparency International has released its Corruption Perception Index (CPI) results for 2022 and early 2023. The index covers

²⁴ Nguyen Thi Ha, "Teaching International Human Rights Law In Vietnam : How To Make This Subject Attractive To University Students VIETNAM : HOW TO MAKE THIS SUBJECT ATTRACTIVE" 20, no. 1 (2022).

²⁵ Yerobeam Saribu, "Tinjauan Konstitusional Pasal 27 Ayat (1) Uud 1945 Tentang Persamaan Kedudukan Di Depan Hukum Pada Proses Penangkapan Bagi Seseorang Yang Diduga Melakukan Tindak Pidana," *Lex Administratum* VI, no. 1 (2018): 46–53.

²⁶ Syamsu Ridhuan, *Ketahanan Nasional, Universitas Esa Unggul*, vol. 2 No. 2, 2019.

²⁷ Sulistyowati, *Alternatif Penegakan Hukum Pidana Berbasis Nilai Keadilan* (Yogyakarta: Penerbit Deepublisher, 2020).

²⁸ Mispansyah, "A Comparison Approach in Corruption Eradication: An Empirical Examination," *Hasanuddin Law Review* 4, no. 2 (2018): 219–32, <https://doi.org/10.20956/halrev.v4i2.1077>.

perceptions of public sector corruption on a scale of zero alias very corrupt up to 100, very clean, from 180 countries.

Juridically, the position of the Indonesian National Army before the law is a citizen of Indonesia who is submissive and obedient to the law, upholds strict discipline, and obeys the superior. It is also loyal to the Union State of the Republic of Indonesia which is based on Pancasila and UUD 1945. Therefore, TNI is subject to laws of a general and special nature. Therefore, TNI itself complies with the Law No. 20 of 2001 on Amendment of Law No. 31 of 1999 on the Suppression of Criminal Prosecution of Corruption, the Lex Specialist of the criminal law against corruption in Indonesia. If TNI breaches the law, yes, there's a lex specialist who regulates it is the Military Code or Military Justice Law.

Defence of the country is every effort to uphold the sovereignty of the state, to maintain the state of unity in its entirety. The National Army is part of the national defence apparatus guaranteed by the Law Number 34 of 2004 on the National Armed Forces of Indonesia. These military institutions have two functions, conducting military operations as usual and military non-war operations. In addition, the national military institutions are tasked with achieving world peace as the realization of the purpose of the State in paragraph 4, namely, and to participate in the implementation of a world order based on freedom, lasting peace, and social justice.

Article 1 Number 21 of the TNI Law states that a soldier is a citizen prepared and armed for the duty of defence of the country in the face of military or armed threats. Based on the explanation of section 1, number 21, that the military soldier is a citizen. Considering that all citizens must obey the rules of the laws in force in Indonesia without exception. Therefore, to be a good citizen must obey the nation's generally applicable laws. Article 1 paragraph 2 of Law Number 31 of 1999 as amended to Law Number 20 of 2001 on Punishment of Corruption Decides that Civil Servants include civil public servants as referred to in the Civil Service Law; Civil State officials as referred to in the Code; persons who receive salary or salary from the state or local finances; and a society receiving salary or salary from a corporation receiving state or regional financial assistance. Based on the explanation above, letters a and c indicate that above *Natuurlijk persoon* and *Recht persoon* can be classified as legal subjects in criminal offences of corruption.²⁹ Letter a explains that civil and military officials, as regulated by the Civil Service Law, are subject to criminal offences of corruption. In a country there are two types of civil servants and private servants. Law Number 43 of 1999 on Amendments to the Law Number 8 of 1974 on Tree of Conservation that a civil public official is any citizen of the Republic of Indonesia who has fulfilled certain conditions, appointed by a competent official and entrusted to the duties in a state office, or other governmental duties, and paid according to the rules of the laws in force.

The law also extends the scope of public officials to include, among other things, those who receive salaries or salaries from corporations using state or public capital or facilities. The facility concerned is special treatment given in various forms. The Military

²⁹ Emilia Susanti and Eko Rahardjo, *Hukum Dan Kriminologi* (Bandar Lampung: AURA CV Anugrah Utama Raharja, 2018).

Authority (TNI) as part of the state apparatus is tasked with upholding national sovereignty, preserving territorial integrity, and protecting national security.³⁰

Article 3 Paragraph 1 of the TNI Law explains, in terms of the deployment and use of military force, TNI is under the President. It is a mandate described in article 10 of the 1945 UUD, that the President holds supreme authority over the Army, Navy, and Air Force. Article 11 states that the President, with the consent of the Council of People's Representatives, declares war, and makes peace and treaties with other states. In terms of national defence policy and strategy as well as administrative support, TNI is under the coordination of the Ministry of Defence. Therefore, this agency is a group of executive powers. In accordance with Law Number 19 of 2019 on the Commission for Punishment of Corruption that the Organizer of the State is a State official exercising executive, legislative, or judicial power and other officials whose functions and duties relate to the Organizer of the State according to the provisions of the rules of law. Article 3 of Law Number 28 of 1999 on the general foundations of good governance, the principle of legal certainty, principles of general interest, openness of public information, proportionality, professionalism, and accountability. Based on the explanation of the two laws it is concluded that the importance of all the elements of the nation among other things are the legislative, executive, and court authorities have an obligation to provide public services in accordance with the general principles of good governance. Based on institutional point of view, the military institution is under the executive authority of the President of the Republic of Indonesia. This agency has an important role to play in creating a clean country free of corruption, collusion, and nepotism.

Therefore, members of military institutions fall within the scope of the state organizer in the executive family, so that the general basis of good governance includes the enforcement of law enforced by national laws implemented on the basis of legal certainty, order of state maintenance, proportionality, and professionalism. working and purely intended for the general interest. Besides, information is being covered in some state institutions, including the military, so no evidence can be obtained.³¹This is the issue, we have to stick to the principle of openness and move ahead with accountability. Military bodies are subject to the law that can be regulated in the Anti-Corruption Law and the Anti - Corruption Commission Law. According on Article 2 paragraph 1 of Law Number 43 of 1999 on State Administration, the civil servants are Government officials; members of the Indonesian National Army; and members of State Police of the Republic of Indonesia.

According the article it is clear that the institutional status and the status of members of TNI are civil state officials assigned by the state and paid by the State in accordance with the provisions in force. Therefore, PNS as referred to in the Anti-Corruption Law includes members of TNI who become PNS under the Law on Corruption. The letter c strikes

³⁰ Marimin, "Politik Kriminal Peran Tentara Nasional Indonesia (Tni) Dalam Penanganan Pemberantasan Terorisme Di Indonesia."

³¹ Ronny Suryandoko, M Adnan Madjid, and Resmanto Widodo Putro, "Strategi Dalam Pemberantasan Tindak Pidana Korupsi Untuk Penguatan Sistem Peradilan Militer," *Strategi Pertahanan Darat* 4, no. 2 (2018): 51–66.

individuals who abuse state finances to enrich themselves, others, or corporations. Even individual legal subjects do not carry the name of their institutions, if legitimately and convincingly proved to have committed an offence of corruption, they can be held accountable according to the provisions of the laws. the philosophy of law in Indonesia based on the Pancasila and the Constitution. Based on the Stufenbau theory taught by Hans Kelsen, Pancasila is a philosophical foundation that prevails above the rules of other laws.³² Therefore, UUD 1945 states that everyone has an equal right before the law and government and the duty to uphold the government without exception. It is a principle of equality before law, which means equal treatment before the Law, without any element of discrimination.³³

Under Law Number 46 of 2009 on the Corruption Criminal Tribunal, article 5 states that this court is the only court competent to examine, prosecute, and settle cases of corruption offences. This court is based on the applicable criminal case law. Therefore, any corruption crime committed by members of military institutions must be dealt with by the Corruption Criminal Tribunal. It should be noted, however, that special rules on the law of events or law enforcement mechanisms against perpetrators of corrupt crimes are legally implemented in both private and institutional affairs. This is not clearly and explicitly regulated in Law Number 31 of 1997 on Military Justice as the law of military criminal events. Article 66 (a), (b), (c) and (d) of the Military Court Law states that the General Auditor has the following duties and powers among others related to Building, controlling, and overseeing the performance of the duties and authority of the Auditors; Conducting criminal investigations for law enforcement and policy; In order to resolve and prosecute certain criminal cases which are regulated in a specific manner, coordinate with the Supreme Prosecutor's Office, the Military Police, and other law-enforcement agencies. Under article 66 letter c, which means "specific criminal matters whose system is specifically regulated," these include subversion offences, corruption offences and economic crimes.

Article 1 Number 15 of Law Number 25 of 2014 on Military Discipline states that the relationship between the law of general criminal events and special military criminal law relates to the authority of officers dealing with the subsequently called *Papera* matters That is an officer who, by or under the law, has authority to resolve a criminal matter, the authority of such command is discharged or settled in a judicial environment exercised by soldiers of the Indonesian National Army who are under military authority and general justice. Military discipline is regulated in article 8 of the Military Discipline Law which states that the violation of the military discipline law consists of Any Law contrary to official orders, official regulations, or Laws that are not in accordance with the military rules, Laws that violate the rules of criminal law are very mild. Therefore, the Military Discipline Law states that military discipline is a Law that violates the rules of criminal law. Perpetrating a criminal offence of corruption legally and persuasively

³² Kariadi, "JUSTISI [2020] Universitas Muhammadiyah Sorong 99 Kekuasaan Kehakiman Dalam Undang – Undang Dasar Negara Republik Indonesia Tahun 1945 'Saat Ini Dan Esok,'" *Jurnal Justisi Fakultas Hukum Universitas Muhammadiyah Sorong* 6, no. 1 (2020): 1–9.

³³ Fito Harley & Mugiati Dharmawan, "CONSTITUTUM *Jurnal Ilmiah Hukum* Vol. 1 No. 1 Oktober 2022," *CONSTITUTUM Jurnal Ilmiah Hukum* 1, no. 1 (2022): 86–99.

belongs to an extraordinary crime contrary to the orders of the Tipikor Abduction Law.³⁴ So military personnel committing corrupt crimes are classified as violating military discipline. The application of military discipline is carried out by promoting the basic principles of justice and equality before the law which are the mandate of the Indonesian Constitution. According to Eddy Hiariej, the aim of the principle of equal rights before the law is to guarantee human rights that are protected in the country based on Pancasila and without discrimination of social status.³⁵ Bernard Arief Sidharta explains that the law aims to realize justice that guarantees the maintenance of certainty and predictability in society in general.³⁶

The Law Number 25 of 2014 advances the principle of Presumption of innocence. Therefore, when a member of the military is in trouble disciplinary and criminal military, the first military member is being tried internally within the scope of military justice. The Military Justice Law and the Military Discipline Law do not regulate the National Strategy Programme for the Prevention and Suppression of Corruption. This is a major breakthrough in this research. In addition, the disclosure of cases of corruption in the military environment is often hampered for reasons of military secrecy. Lack of supervision and transparency in the main equipment of Indonesian weapons systems procurement process can create a gap for senior officials in charge of procurements.

Moreover, this crime is committed jointly with civilians, so called the crime of connectivity, is a crime of involvement between civilian and military, or can also be said as the law enforcement of events between which becomes the absolute jurisdiction of the jurisdictions of the general courts and the military courts. This type of offence is regulated in Article 89 (1) of the Covenant, which describes the offence committed jointly by persons subject to general or military courts.³⁷ The principle of checks and balances between military institutions and civil law enforcement bodies that have the authority to eradicate corrupt criminal Laws is imperative. Meanwhile, in the national military environment, there is no complete arrangement on the prevention and suppression of corruption crimes. Juridically, military institutions must obey universal corruption laws, but specific regulations that regulate the suppression of corruption in today's military environment are a kind of legal vacuum. The principle of coordination in the prevention and prosecution of perpetrators of corruption crimes has been implemented with inter-agency supervision tasks, such as the Military Police, Military Prosecutor's Office, the Attorney-General, and the Anti-Corruption Commission.³⁸

³⁴ Yasmirah Mandasari Saragih and Berlian Berlian, "The Enforcement of the 2009 Law Number 46 on Corruption Court: The Role of Special Corruption Court," *Sriwijaya Law Review* 2, no. 2 (2018): 193, <https://doi.org/10.28946/slrev.vol2.iss2.69.pp193-202>.

³⁵ Eddy O S Hiariej, *Pengantar Hukum Acara Pidana*, 2005.

³⁶ Edward L. Panjaitan, "Hukum Dan Keadilan Dalam Perspektif Filsafat Hukum," *To-Ra* 4, no. 2 (2018): 47, <https://doi.org/10.33541/tora.v4i2.1183>.

³⁷ Kadek Wijana, I Made Sepud, and Anak Agung Sagung Laksmi Dewi, "Peradilan Tindak Pidana Korupsi Bagi Anggota Militer," *Jurnal Analogi Hukum* 2, no. 3 (2020): 404-8, <https://doi.org/10.22225/ah.2.3.2494.404-408>.

³⁸ Selfi Suriyadinata and Ananda Putra Rezeki, "Kedudukan Dan Kewenangan Komisi Pemberantasan Korupsi Dalam Pemberantasan Tindak Pidana Korupsi Ditinjau Dari Perspektif Hukum Ketatanegaraan," *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia* 3, no. 2 (2022): 30-35, <https://doi.org/10.52005/rechten.v3i2.81>.

Article 6 of Law Number 19 of 2019 on the Anti-Corruption Commission explains the legality of the CCP to establish coordination relations with all public service institutions as well as to carry out supervision and supervision over the maintenance of state government. The military agency is the body responsible for the defence of the country. Besides, it is also part of the state equipment under the shadow of executive power. The Anti-Corruption Commission has authority to take preventive measures to prevent corruption from occurring, even on the smallest scale. Such prevention includes efforts to build an anti-corruption mentality and prevent actions that lead to a culture of corruption.³⁹

CONCLUSION

Corruption committed in military institutions is clearly contrary to the rules of the laws in force in Indonesia, both special military rules and general rules. The Anti-Corruption Commission is obliged to comply with the National Criminal Corruption Law. The regulations governing the suppression of criminal acts of corruption in the military environment, both for individuals and institutions, have not specifically regulated the matter. There are no specific internal rules in the military environment regarding the financing of corruption in Indonesia.

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³⁹Wicipto Setiadi, "KORUPSI DI INDONESIA (Penyebab, Bahaya, Hambatan Dan Upaya Pemberantasan, Serta Regulasi)," *Jurnal Legislasi Indonesia* 15, no. 3 (2018): 249–2602.

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