

Analysis of Commander Authorities to Punish subordinate in the Implementation of Disciplinary Legal Sanctions Against Soldiers Who Violate Discipline Regulations

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ABSTRACT

Background. The application of legal sanctions for soldier discipline within the Indonesian Army is an attempt to minimize the existence of violations that occur among Indonesian Army soldiers. In this case, every commander has the authority to take disciplinary action against every subordinate who violates the law on soldier discipline and immediately reports it to the Ankom concerned.

Purpose. This study aims to determine the function of Ankom's (Atasan yang berhak menghukum – commander with the right to punish) authority in the application of disciplinary sanctions for TNI soldiers. To find out the effectiveness of the application of disciplinary legal sanctions to prevent the recurrence of disciplinary law violations of TNI soldiers.

Method. This study uses normative research methods, by collecting primary data in the form of interviews with Ankom. And secondary data in the form of laws, books, journals, and related scientific articles.

Results. The results of this study, namely Ankom's authority in applying disciplinary sanctions to TNI soldiers by imposing penalties on TNI soldiers who commit disciplinary violations and the behavior of soldier disciplinary violations are influenced by 2 (two) kinds of factors, namely internal and external factors. Ankom must implement effective leadership.

Conclusion. The application of legal sanctions for soldier discipline within the Indonesian Army is an attempt to minimize the existence of violations that occur among Indonesian Army Force. In this case, every commander has the authority to take disciplinary action against every subordinate who violates the law on soldier discipline and immediately reports it to the Ankom concerned.

KEYWORDS

Army, Commander, Discipline

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INTRODUCTION

The Republic of Indonesia (RI) is a constitutional state, which means every resident, official of the civil servants including Members of the Indonesian National Armed Forces (herewith TNI) are subject to and obey the law that apply in everyday behavior both inside and outside off duty (Kourouxous & Bauer, 2019). Deeds/actions under any form carried out by members of TNI either by

individuals or groups who violate the provisions law, other norms that apply in life or contrary to official regulations, discipline, rules in TNI corps will be punished (Ariel dkk., 2019). Members of the Indonesian National Armed Forces are Indonesian citizens who meet the requirements specified in laws and regulations and are appointed by authorized officials to serve in the military service, as stipulated in Article 21 Law Number 34 of 2004 concerning the TNI (Widarsono dkk., 2020). The Indonesian National Armed Forces, which bears the Sapta Marga and takes the Soldier's Oath as the Bhayangkari of the state and the nation, in the field of state defense and security are the initial actioners and buffers, safeguards, bodyguards, saviors of the nation and state, as well as cadres, pioneers and trainers of the people to prepare the people's strength state defense and security in the face of threats from enemies or opponents wherever they come from (Widarsono dkk., 2020).

The Indonesian National Armed Forces and later abbreviated as (TNI - Army) are soldiers who believe in and fear God Almighty, are loyal to the Unitary State of the Republic of Indonesia (NKRI) which is based on Pancasila and the 1945 Constitution (UUD-1945) (He dkk., 2019), so that every soldier is moral and subject to laws and statutory regulations (Putra, 2013). Besides that, TNI soldiers have high discipline and obey their superiors, and are responsible and carry out their obligations as professional soldiers.

Therefore the life of soldiers is limited by laws and military regulations and regulations of a general nature (Astuti dkk., 2023). So that all decisions and actions must be based on the laws that apply within the TNI (V'kovski dkk., 2019). In the sense that every soldier of the Indonesian Army is obliged to comply with the rules, regulations and always uphold military honor, and avoid actions that can tarnish the good name of the military.

In line with that, it is necessary to realize that as a soldier you are always required to always behave in discipline (Groc & Choquet, 2020). The implementation is complying with and carrying out all the rules and regulations contained in the norms and warrior ethics in everyday life (Wang dkk., 2021). Commitment and consistency to carry out all the rules and regulations regarding soldiering norms and ethics is a consequence of the choice of profession as a soldier in the Indonesian Army (Widarsono dkk., 2020). This is what must be realized and implemented as well as possible to serve as a guideline to avoid all actions that can harm the unit or oneself. Therefore to every soldier of the Indonesian Army to comply with the rules, regulations and laws that apply both within the ranks of the TNI and positive law in Indonesia.

The application of legal sanctions for soldier discipline within the Indonesian Army is an attempt to minimize the existence of violations that occur among Indonesian Army soldiers (Sulaiman dkk., 2023). In this case, every superior has the authority to take disciplinary action against every subordinate who violates the law on soldier discipline and immediately reports it to the Ansum concerned (Moen dkk., 2019). Disciplinary action as intended, can be in the form of physical action and/or verbal warning to raise awareness and prevent the recurrence of violations of the soldier's discipline law. This disciplinary action does not eliminate Ansum's authority to impose disciplinary punishment

The legal function of TNI soldier discipline is to uphold the life order of TNI soldiers so that every soldier in carrying out his duties and obligations must behave and behave in a disciplined manner (Widarsono dkk., 2020). Soldier discipline as intended is realized by complying with all the rules. and norms that apply to soldiers and carry out all official orders or those related to service in an orderly and perfect manner, sincerity, sincerity, based on obedience and a sense of responsibility to leaders and obligations (Schwartz & Graham, 2020). Soldier discipline is regulated in the disciplinary regulations and the provisions of the soldier's code of conduct. Discipline regulations and provisions as intended are further regulated by the Commander in Chief.

Violations of soldier's discipline law include pure disciplinary law violations and impure disciplinary law violations (Djuanda, 2017). A pure disciplinary law violation is any violation that is not a crime, but contradicts official orders or official regulations or actions that are not in accordance with the soldier's life system (O'Cathain dkk., 2019). Violation of impure disciplinary law is any act that constitutes a criminal offense of such a mild nature that it can be resolved by law on soldier discipline. in determining the legal settlement of soldier discipline is the authority of the Case Submitting Officer hereinafter abbreviated as Papera after receiving legal opinion suggestions from the Authority (Taufik dkk., 2023). Every soldier who has clearly committed a violation of the soldier's disciplinary law is subject to disciplinary action and/or is subject to disciplinary punishment (O'Toole dkk., 2021). However, soldiers who have committed one or more violations of the soldier's disciplinary law can only be subject to one type of disciplinary punishment.

In special cases, the type of disciplinary punishment referred to can be aggravated by an additional detention period of not more than seven days.

Regarding enforcement in the life order of Indonesian Army soldiers, as stated that obedience, obedience and discipline are the basis of everyday life for every soldier in carrying out duties and responsibilities to the nation and the state must be realized by concrete actions (Djuanda, 2017). Therefore it is necessary to realize that as soldiers of the Indonesian Army, they are always required to always behave in a disciplined manner (Widarsono dkk., 2020). Commitment and consistency to carry out all the rules and regulations regarding soldiering norms and ethics is a consequence of the choice of profession as a soldier in the Indonesian Army. This is what must be realized and implemented as well as possible to serve as a guideline to avoid all actions that can harm the unit or oneself.

In writing this journal, the authors identify the problem in two (2) parts, namely:

1. application of sanctions in the disciplinary regulations for TNI soldiers who commit violations of the soldier's disciplinary law
2. the authority of Ankum in the application of the TNI Soldier's Disciplinary Punishment

And also in writing this journal, the authors describe two types of research objectives that will be carried out by the author, namely:

1. To find out the function of Ankum's authority in the application of disciplinary sanctions for TNI soldiers.
2. To determine the effectiveness of the application of disciplinary legal sanctions in order to prevent further violations of the disciplinary law of TNI soldiers.

RESEARCH METHODOLOGY

The research method in this journal is normative juridical research supported by facts in the field through interviews and observations (Chen, 2021). Normative juridical means that the research used refers to the legal norms contained in laws and regulations and norms that apply in society or also those concerning habits that apply in society.

In writing this journal, the authors conducted research at the Yonif Rider 700 Infantry Battalion Makassar, Hasanuddin University Law Faculty Library.

Source of data used in this research is in the form of primary data and secondary data (Croissant & Pelke, 2022). Where is the primary data, that is, data obtained directly from the research subject, in this case the researcher obtains data or information directly by using predetermined instruments. Primary data is collected by researchers to answer research questions and while secondary data, namely data that obtained are processed data from the relevant agencies and data used to support research results from literature, articles and various other sources related to research problems.

Data collection techniques by obtaining data on the results of interviews, reading several articles both via the internet and also at the Hasanuddin University Law Faculty Library.

RESULT AND DISCUSSION

Sanction deployment

Leaders in each unit have tried and repeatedly emphasized and even provided legal counseling to all army corps so that they understand and know both disciplinary and criminal laws and other laws related to their duties. In fact, it has ordered the lower unit to take firm action against the perpetrators of violations and resolve them thoroughly in accordance with applicable law.

However, in reality violations of disciplinary law in all units are still quite high. Disciplinary punishment decisions handed down by superiors who have the right to punish (*Ankum*) have not fully been able to provide a deterrent effect on soldiers who take disciplinary actions or others so that disciplinary violations continue to increase (Mukhibad dkk., 2022). If there are indications of a TNI/Military soldier having committed a disciplinary violation, *Ankum* will take a stance as soon as possible to follow up on the violation in order to provide appropriate and definite sanctions in accordance with applicable law both regulations relates to army or other social ones.

Follow-up of the disciplinary legal process is mandatory and must be given to soldiers who commit disciplinary violations with the aim that these soldiers will not repeat the violations that have been carried out (Asman & Muchsin, 2021). On the other hand the giving/imposing of disciplinary sanctions is to give a deterrent effect both to the violator and other soldiers.

In the description above, it has been explained that the types/sanctions of disciplinary punishment according to Articles 8 and 9 of Law no. 26 of 1997 are: reprimand (Mulizar dkk., 2022); soft detention for a maximum of 14 days and severe detention for a maximum of 21 days and in special cases it can be aggravated by an additional sentence of a maximum of 7 (seven) days.

The imposition of disciplinary punishment on violators must go through a determined mechanism so that it is legal and not flawed by law, while the imposition mechanism is carried out through activities examination, imposition, and recording.

Examination

Examinations are carried out by *Ankum*, Officers/Non-officers who receive orders or other officials who are authorized to do so (Article 14 of Law No. 26 of 1997). Prior to carrying out an examination, the examiner has the authority to formally summon a soldier/military who is suspected of violating disciplinary law (Ardiansyah Rakhmadi, 2022). The purpose of examining violations of disciplinary law is to obtain the actual facts of events, so that decisions can be made quickly, precisely, objectively and fairly.

Violation of disciplinary law is carried out by the examiner with a summons through the direct supervisor accompanied by an acceptance statement (Abdul Muthalib dkk., 2021). Summons outside the unit were carried out by *Ankum* soldiers who were suspected of violating disciplinary law with a summons through *Ankum* who was summoned as a witness.

If witnesses who are not soldiers are still needed, the examiner can bring these witnesses through an administrative mechanism with an invitation letter addressed directly to the person concerned by providing a copy to the Lurah/Village Head or Head of the Rukun Warga/Head of the Rukun Tetangga (RW/RT) where the witness is domiciled or the head of the witness agency works.

The purpose of examining disciplinary law violators and witnesses apart from obtaining the facts of the incident is to collect the necessary evidence and evidence related to the disciplinary law violations that have been committed.

Imposition of Discipline

Law, before *Ankum* imposes a disciplinary punishment, *Ankum* must decide whether a soldier suspected of violating disciplinary law is guilty or not (Kourouxous & Bauer, 2019). In making this decision, *Ankums* first considering opinion or information of their staffs or the direct superior of the soldier who has violated the disciplinary law and hears statements from the soldiers who violated it and if necessary can hear directly from witnesses.

After hearing suggestions, opinions and statements from both witnesses and soldiers who violated the disciplinary law, *Ankum* must decide whether a soldier suspected of having committed an offense against disciplinary law is guilty or not guilty (Martins dkk., 2019). If *Ankum* believes that the soldier is proven guilty, then *Ankum* is obliged to impose disciplinary sanctions/subject disciplinary sanctions. The imposition of disciplinary punishment is set forth in a Disciplinary Punishment Decree (SKHD) and must be carried out with a disciplinary hearing.

The disciplinary punishment/sanction imposed is in the form of an alternative, namely a warning or light detention for a maximum of 14 days or serious detention for a maximum of 21 days (Aguirre, 2019). When deciding on the type and length of disciplinary punishment, *Ankum* is obliged to strive for justice in addition to a deterrent effect and pay attention to the circumstances at the time the violation was committed and the behavior of soldiers who commit daily violations. After *Ankum* has decided on the type of punishment and has held a disciplinary hearing, the convict is obliged to carry out the disciplinary punishment.

Disciplinary punishment in the form of detention for Officers is carried out at the residence, ship, mess, headquarters, tents or other places designated by *Ankum* (Lubit, 2019). Meanwhile, disciplinary punishment in the form of detention for non-commissioned officers and privates is carried out in the punishment booth or at another place designated by *Ankum* (Article 21 of Law No. 26 of 1997) (Chouksey & Pandey, 2020). The implementation of Disciplinary Punishment is carried out immediately after being imposed by *Ankum*.

Disciplinary punishment in the form of a warning is carried out immediately when *Ankum* imposes a disciplinary punishment in a disciplinary hearing. Disciplinary punishment in the form of light detention is carried out in a designated place (Prescott & Rasmussen, 2020). Convicts undergoing disciplinary punishment may be employed in official duties outside the place of serving their sentence and may receive guests.

While the implementation of severe detention sentences, one convict is separated from the other convicts and cannot be employed outside the place where he is serving his sentence and may not receive guests (Agustanti & Astuti, 2022). If the convict has objections to the *Ankum* decision, he is given the right to submit an objection regarding part or all of the formulation of the reasons for the sentence, the type and or the severity of the disciplinary punishment imposed on him (Boute, 2020). Objections are submitted to *Ankum* superiors through direct superiors within a period of 4 (four) days after the sentence is handed down.

Recording in the Punishment Book

Each disciplinary sentence is recorded in a disciplinary punishment book containing the identity of the convicted person, the number and date of the decree Disciplinary Punishment (SKHD), type of disciplinary punishment imposed, length of sentence, start and finish date of carrying out the sentence. Apart from being recorded in the disciplinary punishment book, disciplinary punishment is also recorded in the personnel data book.

Recording in the punishment book is to find out that the personnel has committed an offense and has been sentenced to disciplinary punishment (Jagannathan & Delhi, 2019). So that the career development process will not be equated with other personnel who have never committed an offense,

so that a sense of justice for soldiers is fulfilled (Hansen, 2019). Recording in the punishment book cannot be cleaned/whitened. This record is valid until the perpetrator of the violation reaches retirement.

Ankum's authority in the deployment of sanctions

There are still many disciplinary violations committed by TNI soldiers, even though discipline is always emphasized in each unit (Amirudin dkk., 2022). Enforcement of discipline in units is carried out by providing understanding and confirmation to soldiers regarding military regulations and other regulations that apply in society, at apples, commander's hours or through counseling. Imposing sanctions on soldiers who violate them in the form of disciplinary action or disciplinary punishment as stipulated in Law Number 25 of 2014 concerning Military Discipline Law in lieu of Law Number 26 of 1997 concerning ABRI Soldier Discipline Laws.

Disciplinary action is carried out by superiors who directly see soldiers who violate or based on reports, while disciplinary punishment is carried out by Superiors with the Right to Punish (Ankum) through a Disciplinary Punishment Session or is delegated to the Military Court (Amirudin dkk., 2022). The sanctions range from physical actions in the form of running, marching, entering battalion cells, Military Police cells and Military Detention Centers to administrative actions such as postponement of promotion, release from office, postponement of education and development, suspension and dishonorable discharge (PTDH).

The tendency for behavior to violate soldier discipline is influenced by 2 (two) factors, namely internal and external factors.

- 1) Internal Factors, Including Physical and Personality
- 2) External Factors, including environmental factors outside of individual soldiers.

CONCLUSION

By identifying problems, conducting research, and through discussions, several conclusion can be provided:

1. Application of sanctions in the disciplinary regulations for TNI soldiers who violate the soldier's disciplinary law as stipulated in Law no. 26 of 1997 followed by administrative sanctions is a pretty good and positive action against members who have violated official regulations ("Existence of Cointegration between the Public and Private Bank Index," 2021). On the other hand, punishment and the imposition of administrative sanctions actually create a deterrent effect and legal certainty in the development of military careers.
2. Ankum's authority in implementing TNI Soldier Discipline Punishment sanctions which effectively encourages a decrease in the level of violations in the Unit. In leadership there are four elements, namely the human element that leads, the human element that is led, the element of means to lead and the element of leadership objectives. The tendency for behavior to violate soldier discipline is influenced by 2 (two) kinds of factors, namely internal and external factors. individual soldiers include physical and psychological conditions. External factors, are environmental factors outside the individual soldiers.

The author also suggests that:

1. Observing the description above, the sanctions/types of disciplinary punishment reflect a sense of justice, namely carrying out detention at a predetermined place and receiving administrative sanctions in the form of postponement of education/delay of rank or postponement of position for (Officers) and for (Nintara/Tamtama) in the form of postponement of education or deferment.

2. Thus leadership, through the implementation of effective leadership and the provision of appropriate and proportional disciplinary sanctions, the level of violations of soldiers in units can be minimized.

AUTHORS' CONTRIBUTION

Author 1: Project administration; Data curation; Writing report

Author 2: Conceptualization; formal analysis dan writing manuscript

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