

THE IMPACT OF MILITARY PERSONNEL INVOLVEMENT IN CIVILIAN POSITIONS IN THE REFORM ERA: A REVIEW OF THE INDONESIAN NATIONAL ARMED FORCES (TNI) LAW

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Abstract: After the birth of the reform era, the political conditions of the Indonesian state experienced quite big changes, one of which was the limitation of the military's role in political practice in Indonesia. The military's role was returned to the national defense function in order to maintain the professionalism of the Indonesian National Army (INA). The involvement of active military members in civilian positions which is now starting to reappear has given rise to political and legal turmoil which indicates the emergence of dual functions of Indonesia Armed Forces (IAF) as during the New Order era. This harms the goals of reform and the meaning of democracy in Indonesia. This requires providing views on the impact of involvement of military members in civilian positions both from a legal, social and political perspective. Through a statutory regulatory approach, a historical approach, and a conceptual approach using qualitative normative research, we can analyze the impact of military members' involvement in civilian positions in a descriptive analytical manner. The existence of civil-military stability makes government administration strong and of high quality, however, legal uncertainty, weakening of democracy, and inequality in political practices will give rise to injustice and disrupt the nation's welfare.

Keywords: Civilian Position, Dual Function of IAF, INA Law, military involvement, Reform

I. INTRODUCTION

After the collapse of the New Order era, it has given birth to an era of reform that brings significant changes to the nation and the State of Indonesia. One of the significant changes is in the defense and security sectors. The reform of the Indonesian National Army (TNI) after the collapse of the New Order became an important part of the meaning of democracy in Indonesia. The TNI, formerly known as the Armed Forces of the Republic of Indonesia (ABRI), has a major role in political practices given privileges by President Soeharto. After President Suharto stepped down and was replaced by President B.J Habibie, the TNI was given the opportunity to reform itself and form a new TNI functional structure [1]. The emergence of a paradigm shift in the context of civil-military relations in the TNI reform has changed the perspective of the TNI body related to doctrine, organization, education, training, logistics and others aimed at increasing the effectiveness and professionalism of the TNI as a defense function. This means that the demands of reform seek to eliminate the role of the military in political and civil affairs [2].

Various attempts to place the military in its function and efforts to remain under civilian control were often carried out after the collapse of the New Order, one example of which was the prohibition for active military members to participate in general elections, run for state office, or be involved in civilian bureaucratic affairs [3]. The birth of Law Number 34 of 2004 concerning the Indonesian National Army (UU TNI)

emphasized the limitation of the military's role in civil relations. This law is the legal basis for the TNI to return to its main function as a tool of state defense and end the dual functions of the Indonesian Armed Forces which previously provided a dual role for the military in the defense and political fields.

In the developments in this reform era, the involvement of military members in civilian affairs reappeared and became more widespread. The existence of a restructuring plan for TNI members has drawn strong criticism from the community. The restructuring of the TNI occurred during the presidency of Joko Widodo, which involved the military in civil affairs, was increasingly emphasized as well as providing opportunities for TNI officers to occupy positions in ministries or state institutions [4]. Retired General Luhut Binsar Panjaitan was made by Joko Widodo as the Coordinating Minister for Maritime Affairs of Indonesia and appointed other retired generals to fill the positions of Defense Ministers Ryamizard Ryacudu and Prabowo Subianto [5]. This does not contradict the TNI Law, because it has been regulated in Article 47 of the TNI Law, however, this condition raises concerns about the re-enactment of the dual functions of the Indonesian Armed Forces.

The problem faced today is the increasing number of military members who have not retired or are still active who occupy civilian positions. This further confirms that the community's concern has been realized by the shift in the function of the TNI Return. Not only members of the TNI but

also members of the National Police are also involved in state political activities [6]. On time. Joko Widodo, Marsdya TNI Andi Pahril Pawi was appointed as Commissioner of PT Bukit Asam, Admiral TNI Achmad Djamiludin has dual positions as Secretary General of Wantannas and President Commissioner of PT Pelabuhan Indonesia I [7]. In addition, during the leadership of President Prabowo Subianto, he also continued this legacy such as, Major Inf Teddy Indra Wijaya who was appointed as Cabinet Secretary, Major General TNI Novi Helmy Prasetya who was appointed as the president director of Bulog, TNI General Maruli Simanjuntak was appointed as President Commissioner of PT Pindad, and many others who held civilian positions [8]. This has violated the provisions of laws and regulations, injured the meaning of democracy, and is a setback for Reformasi. The involvement of active military members in civilian positions clearly violates Article 47 of Law No. 34 of 2004 concerning the TNI which states that TNI soldiers are prohibited from occupying civilian positions except in 10 specific strategic agencies.

There is a discourse to revise the TNI Law to expand the space for military members to fill positions in civilian institutions. This discourse sparked a debate among academics, politicians, and civil society about the potential impact on democracy, civilian supremacy, and the professionalism of the TNI. Some researchers say that civilian-military relations will be better if the military is strictly in its professional field and civil-military relations will be bad if the military is outside its field [9]. In Indonesia, TNI reform has not been able to be realized because civilians have not been able to realize a professional military and leadership from civilians who are still considered weak [10]. The existence of the TNI Bill is a crucial issue for the nation that will affect many joints of state life. There will be many inequality of legal certainty that will provide democratic injustice. Therefore, it is important to study in depth the involvement of military members in civilian positions because it will affect the principles of democracy, civil supremacy, and professionalism of the TNI as well as the legal, social and political impacts regarding the involvement of military members in occupying civilian positions.

This research aims to analyze the impact of the TNI Bill and provide policy recommendations on the relationship between the military and civilian positions in Indonesia. Through normative-empirical research, examining the implementation or implementation of related laws and regulations and contracts factually on the phenomenon that occurs to achieve the predetermined goals [11]. This research has a descriptive-qualitative nature by describing the subject and object of research using words instead of numbers [12]. The approaches used are the statute *approach*, historical *approach*, and conceptual *approach* [13].

II. RESEARCH METHODS

The research method used in this study is normative-empirical legal research with a qualitative descriptive approach. This research aims to analyze the involvement of members of the Indonesian National Armed Forces (TNI) in civilian positions during the reform era and its impact on democracy, civilian supremacy, and legal certainty. Normative research is conducted by examining legal norms contained in laws and

regulations, particularly Law Number 34 of 2004 concerning the Indonesian National Armed Forces and its amendments, as well as other relevant regulations. Meanwhile, the empirical approach is used to observe the implementation of these legal norms in Indonesian constitutional practice. This research is descriptive in nature as it seeks to systematically and factually describe the phenomenon of military involvement in civilian positions. The data used consist of primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations as well as relevant legal decisions. Secondary legal materials consist of books, scientific journals, and previous studies related to the research topic.

The approaches applied in this study include the statutory approach, historical approach, and conceptual approach. The statutory approach is used to examine the conformity of military involvement in civilian positions with the prevailing positive law. The historical approach is employed to trace the development of civil-military relations in Indonesia from the pre-reform period to the reform era. The conceptual approach is used to analyze the concepts of democracy, civilian supremacy, and military professionalism within the framework of civil-military relations. Data collection is conducted through library research by reviewing various legal sources and academic literature. Data analysis is carried out qualitatively by interpreting the data and linking them to relevant theories and legal provisions. The results of the analysis are presented in the form of systematic and argumentative narrative explanations. Through this method, the study is expected to provide a comprehensive understanding of the impact of military involvement in civilian positions during the reform era.

III. RESEARCH RESULT

Involvement of Military Members in Civilian Positions

The involvement of military members in civilian positions is inseparable from a long historical process. Starting from before Indonesia's independence, the struggle of the Indonesian nation was very difficult in dealing with the colonizers who changed one after another. During the Dutch colonial period, Indonesia was still unable to establish its own organizations chaired by natives, until finally during the Japanese colonial period, organizations led by indigenous were formed, one of which was the Pioneer of the Volunteer Army for the Defense of the Homeland (PETA) [14]. After Indonesia's independence, on August 20, 1945, Indonesia established the People's Security Agency (BKR) as a forum for indigenous military groups formed by Japan. Furthermore, on October 5, 1945 through Presidential Decree Number 10-1-1945, the BKR was changed to the People's Security Army (TKR) by giving responsibility to Urip Simuharjo, a retired KNIL officer, to unite all armed forces in Indonesia at that time [15].

TKR changed its name to the Indonesian People's Army (TRI) on February 23, 1946, by appointing Sudirman as the Grand General of the TRI. The name of TRI was then changed to the Indonesian National Army (TNI) on June 3, 1947, then as a result of the inclusion of the Police as the fourth armed force besides the army, navy, and air, the name of the

TNI was changed again to the Armed Forces of the Republic of Indonesia (ABRI) in 1963. The dual functions of the Indonesian Armed Forces began to appear in the 1960s when Indonesia was experiencing a complex political and security situation caused by the Indonesian Communist Party Movement and conflicts armed in some areas. This became the basis for the Government to expand military power during the reign of Soeharti (new order) [16].

The concept of the dual function of the Indonesian Armed Forces in the new order is a development of the understanding of the old order initiated by A.H Nasution which is called the "middle way" as expressed in his speech on the anniversary of the National Military Academy. He called it the "middle way" because the ABRI did not want to be used only as a tool in a government controlled by civilians. Then, he also wants the role of the ABRI to control politics absolutely, as exemplified by most militaries in other countries [17]. During the New Order period, the dual function of the Indonesian Armed Forces provided a very broad role in political, social, and economic life in Indonesia, so that the Indonesian Armed Forces were a tool of political power at that time [18].

The occurrence of the dual functions of the ABRI or military involvement in civilian positions is due to the lack of civilian professional ability to carry out their duties [19]. The dual dominance of the ABRI gave birth to authoritarian attitudes in the administrative, social, political, and economic order in Indonesia. This makes the people make demands for Reform to restore the meaning of democracy. In 1998, the dual functions of the ABRI were abolished which was part of the people's demands for reform for political change. The elimination of the dual functions of the ABRI is the beginning of a paradigm shift in the Indonesian political system, by prioritizing civil supremacy, democracy, and respect for human rights.

After Suharto resigned, there were all kinds of reforms, both bureaucratic reform and TNI reform [20]. President B.J. Habibie gave the military the opportunity to reformulate into a new concept. Then it was continued by President Abdurrahman Wahid who tried to give more space to civilian groups to contribute more to the country's defense affairs [1]. This is done to restore the professionalism of the TNI to carry out defense functions and provide space for civilians to carry out administrative activities in various fields so that the meaning of democracy is returned to its true meaning. In 2004, Law Number 34 of 2004 concerning the Indonesian National Army (TNI Law) was born as a form of restriction on military power. There are restrictions on filling positions that can be occupied by active military members as many as 15 state institutions as stated in Article 47 of the TNI Law which has been amended to Law Number 3 of 2025 concerning Amendments to the TNI Law.

In addition to the institutions regulated in Article 47 of the TNI Law, the military member must resign from the membership of the TNI. The filling of positions by military members regulated in the TNI Law in addition to providing a limiting space for military members in holding civilian positions is also a necessity for the administration of government through TNI competencies that are not owned by civilians. This is in line with the Pragmatic Theory of Civil

Control developed by Donald Travis who is an observer of Civil-Military Relations. He said that the civilian and military must be viewed flexibly, meaning that the military is in a democratic social and political environment. Therefore, both institutionally and individually, the military can play a role in politics, but this is limited only to the process of formulating public policies in the field of defense and national security [2]. **The impact of military involvement in civilian positions in the reform era**

The collapse of the New Order became a new foundation for the birth of the Reform Era in Indonesia. The involvement of military members in the socio-political role or Dual Function of the ABRI is one of the important highlights. The role of the Indonesian Armed Forces in the economy is considered to be an obstacle to the creation of a healthy democratic climate for the Indonesian nation, so the Indonesian Armed Forces need to reformulate its functions to return to the Defense function [3]. Although there is no most perfect model of democracy in the world, according to Koesnadi Kardi, the closest model of Indonesian democracy is the Theory of Democracy from Chris Donnelly which states that the control of deliberation is the directing authority owned by the government on military activities and the role of parliament in providing supervision to the military and the government [4].

Dunn revealed that in the normative approach, the involvement of TNI members in filling positions is permissible, with the provision that it must be in accordance with the ability, background, competence, and knowledge of the civilian position [5]. If many TNI members do not have jobs, the competence, capacity and capability of the TNI will be questioned in terms of state resilience and security. Therefore, it must be encouraged to offer one productive policy, one of which is to develop the capacity of the TNI. The presence of Article 47 of the TNI Law brings a breath of fresh air for military members to be able to fill Civil Positions, not only that Civilians can also occupy the scope of the TNI as stipulated in Article 20 of Law Number 20 of 2023 concerning the State Civil Apparatus (ASN Law).

The filling of Civil Positions by the TNI is certainly based on the qualifications that have been determined in the AN Law using the merit system. In 2019, President Joko Widodo provided space for the TNI to occupy more institutions and ministries. This is based on the fact that too many active TNI who have ranks do not have positions that are appropriate to their level, so it is necessary to provide additional new posts [6]. The existence of military involvement in the Civil Service and civilian involvement in the Military Service is a balance and equality in the development of their careers and also for the stability of the country. This is used to provide more space than what has been stipulated by the TNI Law. During the administration of Joko Widodo, there were many active military members who held civilian positions outside the provisions of Article 47 of the TNI Law.

In the second period of Joko Widodo's administration, there were many TNI members who held civilian and state-owned positions, such as Admiral TNI Achmad Djamaludin who held the position of Secretary General of the National Resilience Council and also served as President Commissioner of PT Pelabuhan Indonesia I. TNI Marsdya Andi Pahril Pawi

served as Commissioner of PT Bukit Asam [7]. In addition, there was also the nomination of the Temporary Officer of the Regional Head/Regent of West Seram, namely, Brigadier General TNI Andi Chandra Assaudin [8]. During the current Prabowo Subianto administration, there were still many such phenomena such as, Major Inf Teddy Indra Wijaya who was appointed as Cabinet Secretary, Major General TNI Novi Helmy Prasetya who was appointed as the president director of Bulog, TNI General Maruli Simanjuntak was appointed as President Commissioner of PT Pindad, and many others who occupied civilian positions [9].

The above phenomena raise concerns about the functioning of the Dual Functions of the Indonesian Armed Forces. The large number of active TNI members who occupy civilian positions outside of Article 47 of the TNI Law has caused legal consequences and very influential impacts. The filling of these positions is clearly legally flawed and invalid because Indonesia is a State of Law where there are principles of legality that must be obeyed by all Indonesian Citizens [10]. Jimly Asshiddiqie said that the legality and legitimacy of the government are the main factors in democracy in this era. Governance based on law is a manifestation of the principle of legality and the principle of professionalism and accountability which is a manifestation of trustworthy nature [11]. In addition, TNI members who want to occupy civilian positions outside the provisions of the TNI Law should before taking office must resign from active military membership as stipulated in Article 47 paragraph (2) of the TNI Law [12]. If the filling of the civilian position outside the provisions of the TNI Law is occupied by an active Military member, then the military member is said to be dismissed with respect as stipulated in Article 55 paragraph (1) letter g of the TNI Law.

In accordance with the principle of legality, these phenomena must have a legal consequence in the form of sanctions. In Article 55 of the TNI Law, it has regulated the dismissal of TNI members with respect, one of which is to occupy a position that, according to laws and regulations, cannot be occupied by an active soldier. The sanctions are part of the form of administrative sanctions as regulated in the Government Administration Law, namely heavy administrative sanctions. Not only sanctions to military personnel who occupy civilian positions outside the provisions of Article 47 of the TNI Law, but also to officials who appoint or elect TNI Aktif in business involvement, practical politics, or positions in institutions/institutions outside the provisions of Article 47 of the TNI Law and Article 19 of the ASN Law must also be given a sanction contained in Article 81 of Law No. 30 of 2014 concerning Government Administration, ranging from moderate to severe administrative sanctions.

The involvement of military members in the Civil Service in the reform era had several impacts. *First*, the impact if the civil office is occupied by the Active TNI in accordance with the TNI Law and *second*, the impact if the civilian position is occupied by the Active TNI outside the provisions of the TNI Law. If Military Members actively occupy civilian positions in accordance with the TNI Law, the administration of government will be more stable and strong because civil-military collaboration will improve the quality of competence in the field of each institution. The TNI's participation in

several civilian institutions is not part of the Dual Function, as long as they are not involved in politics, occupy positions listed in the TNI Law, and only carry out government duties in accordance with their expertise [13].

If military members actively occupy civilian positions outside the provisions of the TNI Law, then:

- a. There is legal uncertainty: there is a tug-of-war for the authority to prosecute officers who violate the law. Will military members involved in criminal cases be tried in a general court or a military court? This is because in Law No. 31 of 1997 concerning Military Justice, military members/soldiers who commit military crimes and general crimes will be tried in military courts. Based on the law, it will interfere with the judicial process in the jurisdiction of the judiciary when military members are actively serving in civilian positions.
- b. There is an abuse of authority: the military leadership pattern is *top down*, meaning that everything must be in accordance with and follow the orders of superiors, while the civilian institutional pattern is *bottom-up*, meaning that decisions are made based on the input of the implementers who work with them [14]. If the TNI commits an action or issues a decision that is contrary to the laws and regulations (abuse of authority), it will be tried at the State Administrative Court or the Military Court.
- c. There are concerns about the dual function of the ABRI (weakening of democracy) Although the TNI Law emphasizes that the TNI is prohibited from participating in political parties, participating in practical political activities, business activities, and participating as candidates for legislative members in elections as stipulated in Article 39 of the TNI Law, in reality, the TNI is increasingly active and violates these provisions.

IV. CONCLUSION

Based on the results and discussions, it can be concluded that the involvement of military members in the Civil Service in the reform era is a form of democratic change in Indonesia. Members of the military no longer carry out social and political activities and even dominate state positions as they did in the pre-reform period. Military was returned to the defense function to maintain and improve the professionalism of the TNI. The involvement of military members in the Civil Service has a fairly good impact on the country as long as it is still within the limits of the position regulated by the TNI Law. It is different if the Civil Position filled by the TNI is active outside of the Institution or Agency regulated by the TNI Law, it will have an impact on legal uncertainty due to the withdrawal of judicial authority, the abuse of authority due to the different working culture of the Military and the Military, and the weakening of democracy caused by the fear of the resumption of the dual functions of the ABRI.

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