

RINGKASAN

Farida Hanum Nasution 220510239 Analisis Proses Penegakan Hukum Terhadap Tindak Pidana Penembakan Bos Rental Mobil Di Tangerang Oleh Oknum Tentara Nasional Indonesia (TNI)

(Zulfan, S.H., M.Hum & Dr. Muhammad Hatta, S.H., LL.M)

Penelitian ini dilatarbelakangi oleh adanya disharmonisasi pengaturan kewenangan peradilan terhadap prajurit TNI yang melakukan tindak pidana umum antara Pasal 9 ayat (1) Undang-Undang Nomor 31 Tahun 1997 tentang Peradilan Militer dan Pasal 65 ayat (2) Undang-Undang Nomor 34 Tahun 2004 tentang Tentara Nasional Indonesia. Perbedaan pengaturan tersebut menjadi dasar penelitian pada kasus penembakan bos rental mobil di Tangerang yang melibatkan anggota TNI AL. Penelitian ini bertujuan untuk menganalisis ketentuan normatif penegakan hukum serta alasan tidak diterapkannya Pasal 65 ayat (2) Undang-Undang Nomor 34 Tahun 2004 dalam perkara tersebut.

Penelitian ini merupakan penelitian hukum normatif dengan pendekatan perundang-undangan, pendekatan kasus, dan pendekatan konseptual. Bahan hukum primer, sekunder, dan tersier diperoleh melalui studi kepustakaan dan dianalisis secara kualitatif.

Hasil penelitian menunjukkan bahwa berdasarkan Pasal 65 ayat (2) Undang-Undang Nomor 34 Tahun 2004 tentang Tentara Nasional Indonesia, prajurit TNI yang melakukan tindak pidana umum seharusnya tunduk pada kekuasaan peradilan umum. Akan tetapi, dalam kasus penembakan bos rental mobil di Tangerang, ketentuan tersebut belum diterapkan karena Pasal 74 Undang-Undang Nomor 34 Tahun 2004 masih menyatakan bahwa pelaksanaan ketentuan mengenai peradilan bagi prajurit TNI menunggu terbentuknya undang-undang peradilan militer yang baru. Oleh karena itu, Pasal 9 ayat (1) Undang-Undang Nomor 31 Tahun 1997 tentang Peradilan Militer masih dijadikan dasar hukum sehingga perkara tetap diperiksa dan diadili di lingkungan peradilan militer. Kondisi tersebut menimbulkan disharmonisasi pengaturan kewenangan peradilan dan berdampak pada kepastian hukum.

Disarankan agar pemerintah segera melakukan harmonisasi dan pembaruan regulasi peradilan militer melalui revisi Pasal 9 ayat (1) Undang-Undang Nomor 31 Tahun 1997, sehingga pembagian kewenangan antara peradilan umum dan peradilan militer dapat diterapkan secara jelas serta memberikan kepastian hukum.

Kata Kunci: Penegakan Hukum; Peradilan Militer; Prajurit TNI.

SUMMARY

Farida Hanum Nasution *Analysis of the Law Enforcement Process Regarding the Shooting of a Car Rental Business Owner in Tangerang by an Indonesian National Armed Forces (TNI) Member*
220510239

(Zulfan, S.H., M.Hum & Dr. Muhammad Hatta, S.H., LL.M)

This research is motivated by a lack of harmonization regarding judicial jurisdiction over TNI (Indonesian National Armed Forces) soldiers who commit general criminal offenses—specifically between Article 9 paragraph (1) of Law Number 31 of 1997 concerning Military Courts and Article 65 paragraph (2) of Law Number 34 of 2004 concerning the Indonesian National Armed Forces. This regulatory discrepancy forms the basis for examining the case of the shooting of a car rental business owner in Tangerang, which involved a member of the Indonesian Navy (TNI AL). The study aims to analyze the normative provisions regarding law enforcement and the reasons why Article 65 paragraph (2) of Law Number 34 of 2004 was not applied in that case.

This is a normative legal study employing statutory, case, and conceptual approaches. Primary, secondary, and tertiary legal materials were gathered through literature review and analyzed qualitatively.

The research findings indicate that, pursuant to Article 65 paragraph (2) of Law Number 34 of 2004 concerning the Indonesian National Armed Forces, TNI soldiers who commit general criminal offenses should be subject to the jurisdiction of the general courts. However, in the Tangerang car rental owner shooting case, this provision was not applied because Article 74 of Law Number 34 of 2004 stipulates that the implementation of provisions regarding the judiciary for TNI soldiers is contingent upon the enactment of a new military justice law. Consequently, Article 9 paragraph (1) of Law Number 31 of 1997 concerning Military Courts remains the legal basis, resulting in the case being examined and adjudicated within the military justice system. This situation creates a lack of harmonization in judicial jurisdiction regulations and impacts legal certainty. It is recommended that the government immediately harmonize and update military justice regulations by revising Article 9, paragraph (1) of Law Number 31 of 1997, so that the division of jurisdiction between the general courts and military courts can be clearly implemented and legal certainty ensured.

Keywords: Law Enforcement; Military Justice; TNI Soldiers.