

**LEGAL ANALYSIS OF LGBT BEHAVIOR AMONG TNI SOLDIERS:
IMPLEMENTATION OF REGULATIONS AND
THEIR IMPACT ON MILITARY DISCIPLINE**

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(Diterima 21 Mei 2025, disetujui 15 Agustus 2025)

ABSTRACT

This study aims to analyze the criminal liability of TNI soldiers involved in Lesbian, Gay, Bisexual, and Transgender (LGBT) behavior in the context of Indonesian military law, focusing on the implementation of regulations at the Palembang I-04 Military Court. Although there is no explicit provision in the Criminal Code (KUHP) that prohibits LGBT behavior, conservative social norms in Indonesia and strict TNI internal regulations on soldier discipline can lead to violations of the ethics and morals accepted by the military institution. This study uses a qualitative approach by analyzing applicable regulations, military justice practices, and the impact of disciplinary policies on TNI soldiers involved in LGBT behavior. The results of the study indicate that TNI soldiers involved in LGBT behavior are at risk of being subject to disciplinary sanctions based on Government Regulation No. 39 of 2010 concerning Military Discipline and TNI Regulation No. 23 of 2010 concerning Mental and Ethical Development of TNI Soldiers. These sanctions can include dishonorable discharge or demotion, although there is no explicit prohibition in general criminal law. In addition, the Palembang I-04 Military Court plays a role in trying disciplinary violations that occur, by assessing whether the LGBT behavior tarnishes the image of the TNI or is contrary to the norms held by the institution. This study provides insight into the application of military law to LGBT issues in a conservative social context, as well as the importance of consistent and fair discipline enforcement in dealing with social developments in Indonesia. In addition, this study also offers recommendations for TNI internal policies to be more responsive to issues of sexual diversity, along with efforts to maintain the integrity and credibility of the institution.

Keywords: Law Analysis; LGBT Behavior; TNI Soldiers: Implementation of Regulations; Impact on Military Discipline

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ABSTRAK

Penelitian ini bertujuan untuk menganalisis pertanggungjawaban pidana prajurit TNI yang terlibat dalam perilaku Lesbian, Gay, Biseksual, dan Transgender (LGBT) dalam konteks hukum militer Indonesia, dengan fokus pada penerapan peraturan di Pengadilan Militer I-04 Palembang. Meskipun tidak ada ketentuan eksplisit dalam Kitab Undang-Undang Hukum Pidana (KUHP) yang melarang perilaku LGBT, norma sosial yang konservatif di Indonesia dan peraturan internal TNI yang ketat tentang disiplin prajurit dapat menyebabkan pelanggaran etika dan moral yang dianut oleh institusi militer. Penelitian ini menggunakan pendekatan kualitatif dengan menganalisis peraturan yang berlaku, praktik peradilan militer, dan dampak kebijakan disiplin terhadap prajurit TNI yang terlibat perilaku LGBT. Hasil penelitian menunjukkan bahwa prajurit TNI yang terlibat perilaku LGBT berisiko dikenakan sanksi disiplin berdasarkan Peraturan Pemerintah No. 39 Tahun 2010 tentang Disiplin Militer dan Peraturan TNI No. 23 Tahun 2010 tentang Pembinaan Mental dan Etika Prajurit TNI. Sanksi tersebut dapat berupa pemberhentian dengan tidak hormat atau penurunan pangkat, meskipun tidak ada larangan yang tegas dalam hukum pidana umum. Selain itu, Pengadilan Militer I-04 Palembang berperan dalam mengadili pelanggaran disiplin yang terjadi, dengan menilai apakah perilaku LGBT tersebut mencoreng citra TNI atau bertentangan dengan norma yang dianut oleh institusi. Studi ini memberikan wawasan tentang penerapan hukum militer terhadap isu-isu LGBT dalam konteks sosial konservatif, serta pentingnya penegakan disiplin yang konsisten dan adil dalam menghadapi perkembangan sosial di Indonesia. Selain itu, studi ini juga menawarkan rekomendasi bagi kebijakan internal TNI agar lebih responsif terhadap isu-isu keberagaman seksual, serta upaya untuk menjaga integritas dan kredibilitas institusi.

Kata kunci: Analisis Hukum, Perilaku LGBT, Prajurit TNI, Implementasi Peraturan, Dampak terhadap Disiplin Militer

I. Introduction

The issue of Lesbian, Gay, Bisexual, and Transgender (LGBT) in the context of the Indonesian National Armed Forces (TNI) has become an increasingly relevant topic in legal and social developments in Indonesia, given the TNI's important position as a military institution that plays a role in maintaining state sovereignty and social stability. The TNI, as an institution that has very strict disciplinary norms and maintains the integrity and morality of its soldiers, faces major challenges related to the issue of sexual diversity, especially LGBT. On the one hand, Indonesia does not have a legal regulation that explicitly prohibits LGBT behavior in the Criminal Code (KUHP), but on the other hand, social norms and internal policies of the TNI require every member to adhere to very high moral standards (AN Hijriyanti: 2022).

The TNI has internal regulations governing the discipline and moral behavior of soldiers, which can sometimes conflict with policies or personal views regarding the existence of the LGBT community. In this case, although the TNI Regulation or Government Regulation does not expressly prohibit individual TNI soldiers from having different sexual orientations, there are still norms that require TNI soldiers to maintain the image and integrity of the institution, and to comply with standards of behavior accepted by the general public, most of whom consider LGBT behavior to be a deviation from prevailing moral norms. As a result, TNI soldiers who engage in LGBT behavior often face serious problems in terms of discipline, which can even lead to sanctions or dismissal (Muhammad: 2020).

On the other hand, military law in Indonesia provides a legal basis for enforcing discipline among TNI soldiers, with the Military Court having the authority to try soldiers involved in violations of military law and discipline. In this case, if TNI soldiers commit violations related to LGBT behavior that are contrary to TNI ethics, they can be tried through the Military Court. However, because there is no explicit legal rule governing LGBT behavior in the context of general or military criminal law, there is ambiguity in the application of fair and proportional sanctions or legal decisions (Syafari, etc: 2023).

As one of the state institutions that has a central position in the life of the nation and state, the TNI needs to maintain harmony between military discipline, internal policies, and social dynamics that develop in society. Understanding how criminal liability is applied in cases involving TNI soldiers with different sexual orientations is becoming increasingly important to clarify how military law can respond to this issue, as well as how existing policies can accommodate more inclusive social developments.

This study aims to examine the criminal liability of TNI soldiers involved in LGBT behavior in the context of Indonesian law, with a focus on the application of law in the Palembang I-04 Military Court. This focus is very relevant because military courts have the authority to process disciplinary violations and military crimes committed by TNI soldiers. By analyzing various legal regulations, court practices, and social dynamics that influence legal decisions in cases involving TNI soldiers and LGBT behavior, this study is expected to contribute to the

development of military legal policies and practices that are more responsive to issues of sexual diversity (Nur Huda: 2024).

As awareness of human rights and sexual diversity in global society increases, it is important to examine the extent to which military institutions, especially the TNI, can respond to these issues without ignoring applicable legal norms and the values held firmly by the Indonesian people. This study also aims to provide recommendations regarding TNI's legal policies and internal regulations in dealing with developing social phenomena, while also prioritizing the principles of justice and human rights in the Indonesian military justice system (Sugistiyoko: 2017).

Problem Formulation in this research is what is the legal perspective on transparency, accountability, and fairness in the implementation of direct appointment by the Selection Working Group at the Palembang Aviation Polytechnic?

II. Research methods

This study uses a normative legal research method with a statutory approach and case study. The normative approach is used to analyze legal rules relevant to the procurement of goods and services, especially related to the authority of the Selection Working Group in implementing the direct appointment method in the procurement of consulting services at the Palembang Aviation Polytechnic (Muhaimin: 2016).

III. Discussion and Results

Criminal Liability for Lesbian, Gay, Bisexual, and Transgender (LGBT) by TNI Soldiers in the Jurisdiction of the I-04 Palembang Military Court The application of the law to TNI members involved in LGBT behavior in Indonesia involves specific laws and regulations, both related to general criminal law and internal TNI regulations. Here, we will discuss the criminal liability of TNI soldiers involved in Lesbian, Gay, Bisexual, and Transgender (LGBT) behavior based on the laws applicable in the jurisdiction of the I-04 Palembang Military Court (Hambali Yusuf and Mahfuz: 2022).

3.1. Legal Basis and Regulations of the TNI

As a TNI soldier, a person must comply with the rules and discipline regulated by the Criminal Code (KUHP), as well as special rules contained in the Republic of Indonesia Government Regulations (PP RI) and the Indonesian National Army (TNI) Regulations (Mahfuz: 2019).

a. **Regulations on Military Discipline (PP No. 39 of 2010)**

In this context, TNI soldiers are required to adhere to moral and ethical values that form the basis of their professional behavior. This PP regulates violations related to dissertations, unprofessional behavior, and actions that tarnish the good name of the TNI institution.

b. **TNI Regulation No. 23 of 2010 concerning Mental and Ethical Development of TNI Soldiers**

TNI soldiers are expected to have high morals, as well as behavior that is in accordance with the norms of morality that apply in society. If a TNI soldier is involved in LGBT behavior, this action can be considered a violation of the moral norms accepted by the TNI.

c. **Crimes Related to LGBT in the Criminal Code**

In Indonesia, LGBT behavior, such as same-sex relationships (homosexuality), is not explicitly prohibited in the Criminal Code. However, there are provisions related to indecent acts that can be applied if there are elements of violence or sexual deviation that harm other parties. However, at the TNI level, the existence of strict internal regulations allows the TNI to impose disciplinary actions or legal action even though there are no explicit articles prohibiting LGBT.

3.2. Forms of Violations and Sanctions for TNI Soldiers

TNI soldiers involved in LGBT behavior can be sanctioned based on two things: violation of military discipline and general criminal acts. However, the imposition of sanctions is more based on internal rules that regulate the order and ethics of TNI soldiers (Prastopo: 2022).

- a. If LGBT behavior is contrary to the norms in the TNI, then the soldier can be subject to administrative and disciplinary sanctions in accordance with Article 113 of PP No. 39 of 2010 concerning the discipline of TNI soldiers. This disciplinary action can be in the form of a reprimand, demotion, temporary dismissal, or even dishonorable

discharge (PTDH) if it is considered to have tarnished the good name of the TNI.

- b. Military Crimes In the context of criminal acts, if the LGBT behavior involves acts of violence or behavior that is detrimental to others, then TNI soldiers can be subject to criminal sanctions based on the Military Criminal Code or Law Number 31 of 1997 concerning Military Justice. In this case, TNI soldiers can be tried in a Military Court if the violations committed are related to military obligations and discipline.

3.3. Military Court I-04 Palembang and Position of LGBT in Indonesian Law

The Palembang I-04 Military Court is a military court that has the authority to try TNI soldiers involved in military crimes in the South Sumatra region and its surroundings. If a TNI soldier in the jurisdiction of the Palembang I-04 Military Court is involved in LGBT behavior that violates the TNI's internal regulations, then he can be tried based on the applicable military criminal law. The Palembang I-04 Military Court will try soldiers who violate legal provisions by referring to the Military Criminal Code and TNI internal regulations. Usually, cases involving moral or ethical violations can be considered violations of military discipline and will be subject to sanctions in the form of demotion, dismissal, or even military imprisonment if they involve more serious crimes (Simanjutak: 2024).

In Indonesia, the law does not explicitly prohibit same-sex relationships or LGBT behavior in the realm of general law. However, because social and cultural norms in Indonesia still tend to be conservative on this issue, society and institutions such as the TNI respond to this very carefully. While general law does not provide an explicit prohibition on LGBT, the TNI Internal Regulations are stricter in terms of maintaining the image and discipline of soldiers. Therefore, the TNI has the authority to impose sanctions on soldiers who are deemed to have disobeyed applicable norms, even though there is no explicit provision that states LGBT is a criminal offense (Azizi and Simangunsong:2016)

IV. Conclusion and Suggestions

4.1. Conclusion

TNI soldiers who engage in LGBT behavior will face different responsibilities compared to the general public, especially due to the existence of strict military disciplinary regulations. Although there is no explicit prohibition in the Criminal Code regarding LGBT behavior, TNI soldiers can be subject to disciplinary sanctions in accordance with TNI internal regulations if the behavior is considered to damage the image and morality of the TNI. In addition, if the violation involves a criminal act, soldiers can be subject to military criminal sanctions decided by the Palembang I-04 Military Court

4.2. Suggestions

1. Increasing TNI Socialization and Development needs to be more intensive in providing education regarding the norms and ethics that apply within the institution, as well as how personal behavior can affect TNI discipline and image.
2. Strict Discipline EnforcementThe Military Court must strictly enforce the law regarding violations of military discipline, whether in the form of administrative or criminal sanctions, so that the TNI institution maintains its credibility as part of the state apparatus.
3. Sensitive Approach to Social Issues The TNI, in this case, also needs to consider a sensitive approach to social and cultural issues, to understand the dynamics of society and not act too reactively to issues such as LGBT which are still taboo in Indonesia.

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