
PROCESS OF INVESTIGATION OF MILITARY MEMBERS WHO COMPLETE CRIMES OF DOMESTIC VIOLENCE IN THE MILITARY ENVIRONMENT

Bintara Sura Priambada¹, S Andi Sutrasno², Dania Rama Pratiwi³

^{1,3}Universitas Surakarta, ²Universitas Soerjo Ngawi, Indonesia

Email: bintara.sp@gmail.com¹, andi.sutrasno@gmail.com²,

dania.rama.pratiwi83@gmail.com³

ABSTRACT

Domestic violence perpetrated by members of the military or the Indonesian National Armed Forces. Cases of criminal acts of domestic violence allegedly committed by unscrupulous TNI-AD soldiers at Denpom IV/5 Diponegoro Semarang are cases with a priority scale. Military Police Investigators are obliged to immediately conduct investigations into criminal cases of crimes of domestic violence since knowing or receiving reports of the occurrence of the case, this happens because, in addition to criminal acts of domestic violence are cases that are easy to prove, it is also intended that the case be completed quickly. so that it is hoped that the perpetrator can immediately serve his sentence and return to his family immediately as one of the objectives of the birth of the Law on the Elimination of Domestic Violence as stated in Article 4 letter d of the Law of the Republic of Indonesia Number 23 of 2004 concerning the Elimination of Domestic Violence, namely maintaining the integrity of the harmonious and prosperous household. The function of the Military Police agency, in this case Pomdam IV/Diponegoro, in the process of resolving criminal cases allegedly committed by TNI-AD personnel is only limited to the investigation stage. Procedures carried out in carrying out investigations include reports, complaints, being caught red-handed, submission/delegation from superiors with the right to punish (Ankum)/officers submitting cases (Papera).

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INTRODUCTION

The unitary state (NKRI) of the Republic of Indonesia is a state of law (rule of law) (Febriansyah, 2018). Thus, in Article 1 Paragraph 3 of the 1945 Constitution, what is meant by a state of law is that the state is obliged to take various aspects of regulation and impose strict sanctions for someone who violates them. The rule of law itself is based on law that guarantees justice for all citizens. In Indonesia, the rule of law is based on the values of Pancasila. The values of Pancasila are the nation 's lifestyle and the source of all legal information. In addition, the province of Indonesia is also a country that highly upholds the One Godhead, as stated in Article 29 of the 1945 Constitution. This is based on belief in the one and only God. This is one of the most important values in the struggle for independence. Used to refer to Indonesia as a country or a country that cannot be separated from religious teachings (Abdullah, 2017).

Marriage has a meaning, namely social bonds or legal agreements between individuals that form a kinship relationship between husband and wife so that a family is formed. Based on article 1 of Law no. 1 of 1974 concerning marriage, has also explained the definition of marriage "Marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family based on the One Godhead." Although not many understandings of marriage have been found, in legal science trying to make a definition of marriage as a bond between a man and a woman that is recognized as valid by state legislation and has the aim of forming an eternal family.

If there is already a marriage term, the term household is also created. The household is the smallest community in society (Gregorio, 2020). Home to be a happy, safe, comfortable, serene and peaceful place is everyone's dream. Therefore, everyone in the family must have a religious foundation and a sense of humanity in carrying out their rights and obligations (Kawangung, 2019). This situation must be absolute and must be raised to build a harmonious family. However, unless based on religion and humanity, members have poor control over self-control and behavior, which can often hinder family harmony and integrity.

Currently, there are many conflicts and problems in social life which are very complex and growing rapidly. With regard to matters closely related to the development of criminal acts, the development of these problems will lead to the emergence of more and more laws and regulations.

The problem of violence that often occurs in social life and the family environment (Campbell, 2020). Domestic violence is a form of crime that has damaged and polluted human dignity and must be considered a violation of humanitarian law. Criminal law is also one of the important instruments made to protect victims and follow up on how a form of crime or violence occurred (van den Herik & Schrijver, 2010). Criminal law also aims to protect every individual rights of society which is very relevant to protect women from violent crimes.

Based on the Law of the Republic of Indonesia No. 23 of 2014 Article 1 paragraph (1) regarding the Elimination of Domestic Violence, what is meant by Domestic Violence are:

"Every act against a person, especially a woman, which results in physical, sexual, psychological misery or suffering, and/or neglect of the household, including threats to commit acts, coercion, or unlawful deprivation of liberty within the household".

Efforts to prevent and protect victims as well as handle perpetrators of domestic violence are required to prevent, protect and prosecute perpetrators in accordance with the philosophy of Pancasila and the 1945 Constitution.

In general, household problems are related to economic problems, ethnicity, age, education, and even religion. However, the violence experienced by family members is very layered, such as violence that occurs in physical, psychological, and sexual violence. Domestic violence perpetrated by members of the military or the Indonesian National Armed Forces is a serious social problem and has attracted public attention, because the family is the safest environment and paradise for the family, but in reality, the family is life threatening. Domestic violence usually involves perpetrators and victims in the family in the house, and the form of violence that occurs is in the form of physical and/or verbal violence (threats of violence) (Bettinson & Bishop, 2015).

Considering the seriousness of the domestic violence crime, which originally referred to criminal law, the Lex Specialis rule has been regulated in Law Number 23 of the Republic of Indonesia of 2014 concerning the Elimination of Domestic Violence. This crime can be committed by anyone who uses the victim and may have been committed mainly by the military soldier element dedicated to his wife. The Indonesian National Armed Forces are citizens who meet the requirements specified in the legislation and are appointed by authorized officials to serve in the soldiering service which can be defined in general terms as the Indonesian National Armed Forces, consisting of the Air Force, Navy, and Army.

When you want to start a military family as a prospective husband, when choosing a prospective wife, there must be someone who is the best partner in every way, based on his views, opinions, and judgments at that time. There are various reasons a wife becomes a victim of domestic violence later in her family journey, dealing with/acting both psychologically, physically and sexually, which culminates in the collapse of the family and marriage. future by. Soldiers not only harm their families, but also cause moral and material losses for soldiers, so it can be concluded that domestic violence occurs.

There are many violations that members of the TNI have committed, in the period of 2020 there were 79 cases of violations that went to the Military Court II-10 Semarang, of which there were 5 cases of domestic violence that had been decided by the Court. In 2021, there will also be 88 cases, including 3 cases of domestic violence that have received verdicts, and the perpetrators received appropriate punishments for what they had done.

As a citizen, a military soldier has the same position in the eyes of the law, as explained in Article 27 paragraph (1) of the 1946 Constitution which states that: "All citizens have the same position under the law."

A member of the military always has a unit, in which the members are formed in a "whole" family, so at first glance it seems as if a military unit has formed a separate "autonomous power" (which applies specifically to the military unit concerned). , and this military unit has a commander and a deputy commander, in addition to being assisted by section officers and commanders of existing units, so if a problem arises within the military unit concerned, as far as possible it will be resolved by the appointed unit commander.

The existence of these stages is also related to the division of tasks and functions of various institutions and law enforcement units within the TNI whose authority arrangements are the Unit Commander as a superior who has the right to punish (Ankum) and/or Case Handing Officer (Papera), Military Police (POM). as investigators, Military Oditur (Odmil) as investigators, public prosecutors and executors, and Military Judges at the Military Courts who hear, examine and decide criminal cases committed by TNI Soldiers or who are equated as TNI soldiers according to the law.

The implementation of the duties of the Military Police refers to Law No. 26 of 1997 concerning the Disciplinary Law of the TNI and other related laws in it, how is the mechanism for implementing the Law in practice and what obstacles are encountered by the Military Police in implementing the Law. As a commander of a military unit, he can submit cases (laws) relating to members who commit criminal acts or violate severe military discipline to the Military Court, while the handling of security is carried out by the Military Police. On the other hand, as ANKUM, a unit commander only has tasks that will be implemented within the unit and the handling of its security is carried out by the Military Police service.

The duties of the Military Police also include two kinds, namely tasks that are preventive in nature and those of a repressive nature (Lessa, 2011). The tasks of the Military Police that are preventive in nature are the tasks of the Military Police in preventing a member from committing a military crime (Mathebula, 2018), while the tasks of the Military Police that are repressive are the tasks of the Military Police in examining a member of the military who is suspected of committing a crime. .

The implementation of the duties of the Military Police in conducting the investigation of a member of the TNI suspected of committing a crime must have permission from the commander in question, either for internal reasons for the sake of the good name of the TNI and its unit in the eyes of the public or for reasons of the duty of the violator. the implementation of criminal investigations within the military still has the influence of the unit (Magaloni & Rodriguez, 2020).

Based on the description above, the authors are interested in conducting research with the title "Analysis of the Investigation Process Against Military Members Who Do Criminal Acts of Domestic Violence in the Military Environment".

RESEARCH METHOD

The legal research method used by the author in this legal research is empirical legal research. Empirical legal research itself is legal research that is carried out by researching directly into the field so that factual real data is obtained because the data is directly taken from the source (Dobinson & Johns, 2017).

Empirical or sociological legal research is research based on certain methods, systematics and thoughts, which aims to study one or several certain social phenomena by analyzing them (Cotterrell, 2017). In addition, an in-depth examination of these social facts is also carried out to then seek a solution to a problem that arises from the phenomenon in question. In empirical or sociological legal research, what is studied initially is secondary data, and then proceeds to primary data research in the field, or on the community.

In this study, the authors chose the research location and interviewed investigators from the Military Denpom IV/5 Semarang. Because at that location there are data that the author needs in writing a research proposal.

RESULT AND DISCUSSION

There are quite clear differences in the handling of civil criminal cases and military cases (Warner & Armstrong, 2020). In other words, there is a pretrial process in the settlement of civil criminal cases. In resolving a civil criminal case, the parties to the proceedings are usually accompanied by a lawyer or advocate who accompanies the settlement of the case. However, unlike criminal cases in the military, there is no pre-trial procedure, and every military personnel who hears the case is accompanied by a disciplinary superior (Ankum).

Cases of criminal acts of domestic violence allegedly committed by unscrupulous TNI-AD soldiers at Denpom IV/5 Diponegoro Semarang are cases with a priority scale, meaning that investigations of criminal acts of domestic violence are prioritized or take precedence over other cases. Military Police Investigators are obliged to immediately conduct investigations into criminal cases of crimes of domestic violence since knowing or receiving reports of the occurrence of the case (Inbau, Reid, Buckley, & Jayne, 2013), this happens because, in addition to criminal acts of domestic violence are cases that are easy to prove, it is also intended that the case be completed quickly.

So that it is hoped that the perpetrator can immediately serve his sentence and return to his family immediately as one of the objectives of the birth of the Law on the Elimination of Domestic Violence as stated in Article 4 letter d of the Law of the Republic of Indonesia Number 23 of 2004 concerning the Elimination of Domestic Violence, namely maintaining the integrity of the harmonious and prosperous household.

Based on the Decree of the Commander of the TNI Number KEP/I/III/2004 dated March 26, 2004 concerning the Implementation of the Duties and Functions of the Military Police within the TNI, it stipulates that the implementation of the duties and functions of the military police within the TNI is carried out by the Army Military Police (Pomad), the Military Police Force The Marines (Pomal), and the Air Force Military Police (Pomau) with the main task of maintaining and enforcing the law, discipline and order in the environment and for the benefit of the TNI. The decision of the TNI Commander in Chief regulates the functions of the military police as follows:

- a. Criminal investigation and physical security.
- b. Law enforcement.
- c. Enforcement of military discipline and order.
- d. Investigation.
- e. Management of prisoners in danger/military operations, prisoners of war and internees of war.
- f. State Protocol Control.
- g. Control of military traffic and the administration of a TNI SIM.

According to Mr. Major Cpm Dadang Dwi Saputro, SH Position Deputy Commander of Military Police Detachment IV/5 Semarang, explained that the settlement of criminal acts of domestic violence allegedly committed by unscrupulous TNI-AD soldiers was carried out as other crimes, namely guided by the Republic of Indonesia Law. Indonesia Number 31 of 1997 concerning Military Courts, which begins with the preparation of a Police Report and then examines witnesses and suspects.

So that the function of the Military Police institution in this case Pomdam IV/Diponegoro in the process of resolving criminal cases suspected of being carried out by TNI-AD personnel is only limited to the investigation stage. Items from:

- a. Report
- b. Complaint
- c. Caught

- d. Submission/delegation from superiors who have the right to punish (Ankum)/officers submitting cases (Papera)

Several stages of the investigation carried out in handling a case in Military Detachment IV Semarang;

- a. After the POM investigator / Prosecutor receives a report / complaint regarding the occurrence of a criminal act, he is obliged to immediately carry out an investigation, in the case that he receives an Ankum report, he immediately submits an investigation to the POM investigator / Prosecutor then the POM investigator / Prosecutor conducts an investigation and reports it to the Ankum.
- b. Everyone who becomes a victim or experiences, witnesses or hears about a criminal act, has the right to file a report, and after receiving the report, the investigator makes a receipt.
- c. After completing the investigation, the investigator must submit the case file to the Ankum, papera and the original to the Prosecutor.
- d. Papera may terminate the investigation with a decision letter based on the legal opinion of the Prosecutor.
- e. In the case of being caught red-handed, everyone has the right to arrest, while those who are authorized in the task of public peace, order and security are obliged to arrest the suspect and hand him over to the investigator.
- f. After receiving the report, the investigator carries out an examination and other necessary actions: coming to the scene of the incident, and prohibiting people from leaving the place during the examination to summon suspects and witnesses.
- g. The summons of the suspect/witness soldier through the commander/head of the unit of the person being summoned must comply, and if the second summons is also not heeded, the commander/head in question may be forced to summon his members to comply with the summons.
- h. The investigator is obliged to inform the suspect's right to accompany legal counsel. In an investigation the legal advisor can see and hear the course of the examination, but in the case of crimes against state security, the legal advisor can see, but not hear.
- i. If it is assumed that the witness is not present at the trial, the witness is sworn in during the examination.
- j. Witnesses are examined individually, but may be brought together.
- k. The suspect can present a mitigating witness.
- l. Suspects/witnesses should not be suppressed and all their statements recorded in the minutes of examination. If the examinee does not want to sign, it must be recorded in the official report. In the case of a traffic violation, it is sufficient to make a report of the traffic violation to be submitted to the Prosecutor.
- m. local investigators
- n. Investigators may ask for the opinion of an expert, unless due to late work he is required to keep a secret he can refuse to give an opinion.
- o. Investigators are required to make an official report that establishes the date, the crime committed by mentioning the date and place and the circumstances when the crime was committed, the identity of the suspect/witness.
- p. If the suspect is detained, within one day after he was detained, the investigation must begin.
- q. Investigators in conducting searches and confiscations must make an official report, a copy of which is given to the person from whom the object was confiscated / the family of the lurah.

- r. In the event that an investigator handles a victim of a criminal act, whether injured, poisoned or dead, he is authorized to request expert information from a judicial medical expert/doctor/other expert in writing. In cases where it is absolutely necessary, a post-mortem may be requested for the purpose or excavation of a corpse.

Based on the provisions of Article 55 of the Law of the Republic of Indonesia Number 23 of 2004 concerning the Elimination of Domestic Violence mentioned above, it is a deviation from the principle of criminal law which states "one witness is not a witness", as stipulated in the Criminal Procedure Code. Because in the Criminal Procedure Code, the number of witnesses in a case must be more than one, while in the case of domestic violence crimes, the testimony of a victim witness alone accompanied by other valid evidence is sufficient to prove that the defendant is guilty (Astari & Harefa, 2021).

Other legal evidence other than witness statements in accordance with the provisions of the Criminal Procedure Code and Law Number 31 of 1997 concerning Military Courts are expert statements, statements of suspects/defendant, letters and instructions.

CONCLUSION

The function of the Military Police agency, in this case Pomdam IV/Diponegoro, in the process of resolving criminal cases allegedly committed by TNI-AD personnel is only limited to the investigation stage. Procedures carried out in carrying out investigations include reports, complaints, being caught red-handed, submission/delegation from superiors with the right to punish (Ankum)/officers submitting cases (Papera).

The existence of socialization of enforcement and investigation in the military environment, so that the public is able to understand and know the similarities and differences in the process of investigating criminal cases in the general environment and in the military environment, which later is expected to be no more misunderstanding from the community regarding the process of enforcing and investigating criminal acts in the military environment.

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