

Legal Examination of Military Court Decisions on the Criminal Actions of Indonesian Navy Members in Selling Illegal Timber

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Received: April 19, 2025	<p>Research Objective: This research aims to juridically analyze the Decision of the High Military Court III of Surabaya No. 114-K/PMT.III/BDG/AL/VII/2023 on the involvement of two active members of the Indonesian National Army's Navy in the crime of transporting timber forest produce without valid documents (illegal logging). This analysis focuses on the application of the general norms of the criminal law, the forestry law, and the military law that intersect in this case, as well as how far the "equality before the law" principle is applied to military personnel.</p> <p>Research Method: This research employed the normative juridical method (doctrinal method) with an analytical approach on legal regulations, legal doctrines, as well as court decisions. The analyzed legal materials include Law No. 34 of 2004 on the Indonesian National Army, Law No. 18 of 2013 on the Prevention and Elimination of Forest Destruction, the Criminal Code, the Military Criminal Code, Law No. 31 of 1997 on the Military Court, as well as the Governmental Regulation No. 5 of 2021.</p> <p>Result: Results of this research show that the action of the Indonesian Navy's personnel in this case was proven to violate positive law violations both in the realm of general crime and the realm of military criminal law. Judges' decision was deemed accurate as it considered legal evidence, the losses of the state, as well as the legal equality principle without discriminating against the military institution status. The imposition of penalization in the form of imprisonment and fines in this case</p>
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also reflected consistency in the application of the legal state principle in military justice.

Research Application: This research may become a reference to enforce the law against state apparatus, especially military personnel, who committed legal violations outside of their authority. Apart from that, this analysis may be used as a material for evaluation and improvement of the internal monitoring system in the Indonesian National Army's environment so that it may be more transparent and accountable.

Novelty: The "equality before the law" theory profoundly analyzes this military decision using the *ratio decidendi* theory. This research offers an interdisciplinary analysis between military law, environmental law, the law on permits, and the principle of constitutional justice in one decision, as well as the confirmation that the "equality before the law" principle must still be enforced for all citizens, including the state defense apparatus.

Keywords: Military Decision, Justice, Crime, Illegal Logging.

INTRODUCTION

The Unitary State of the Republic of Indonesia is a country in the form of a republic that has a coordinate that crosses seas and is located between two continents. Its coordinate is 6° N – 11° S and 95° E - 141° W. In carrying out its government, it uses the constitution as the basis, namely the Republic of Indonesia's 1945 Constitution. On the one hand, the confirmation of the highest regulatory hierarchy in this case is the law enforcement that is contained in Article 1 clause 3, which states, "The nation, in this case our Land of Water (a term to call Indonesia), is a legal state." This means that every action and act that violates legal norms will have consequences as written in the applicable regulations (Anggyamurni, Salsabilah, & Salsa, 2020).

Seeing the room of legal substance principle that exists in Indonesia, there is no difference between the existing groups. Everyone is deemed the same, and this is even reflected in an adage, namely "equality before the law", where this legal principle is mandated to the law enforcement apparatus. As a country whose territory stretches from Sabang (the eastern point) to Merauke (the western point of Indonesia), the job to maintain and secure the safety and sovereignty of the area and border, the land, water, and air is carried out by competent and tested soldiers (Supono, 2013).

However, unfortunately, in the existing dynamics, this honorable authority that is given to soldiers is misused for personal gain or what is commonly known as "conflict of interest". In

this case, two soldiers were known to utilize their position to sell illegal timber. This was proven in Decision of the High Military Court III of Surabaya No. 114-K/PMT.III/BDG/AL/VII/2023 on the Criminal Case of the Involvement of Indonesian National Navy Members in Timber Sales (Toloh, 2024).

Ideally, a soldier, especially in the military sector or the navy, should focus on their main tasks and functions. In this case, the navy's authority is to guard the sea and ocean from things that may disturb the state's diversity and security. This also violates Law No. 34 of 2004, Article 83 clause (1) letter b *juncto* Article 12 huruf e of the Republic of Indonesia's Law No. 31 of 1997 on Military Justice and other related legal regulations.

Based on the description above, added with various argumentation, description, opinion, and substance that have been elaborated in the introduction, this research aims to carry out a juridical analysis on the Decision of the High Military Court No. 114-K/PMT.III/BDG/AL/VII/2023 on the Case of Indonesian Navy members' involvement in the forestry criminal action. Apart from that, it also aims to carry out a legal interdisciplinary analysis on the "equality before the law" principle in the military decision on the Indonesian Navy members' involvement in the forestry criminal action.

RESEARCH METHOD

This research employed the normative juridical approach (Rizkia & Fardiansyah, 2018), namely a legal research method which departs from a study towards applicable legal norms (Saebani, 2021). The normative juridical approach emphasizes an analysis towards written legal principles in various legal regulations, court decisions, legal doctrines, and legal principles that live in society (Wiratraman & Putro, 2019). This method is used to analyze legal certainty, consistency of norms, as well as the relationship between one regulation and other regulations that are relevant to the analyzed issue (Wiratraman, 2018).

In this research, the normative juridical approach was used to analyze the Decision of the High Military Court No. 114-K/PMT.III/BDG/AL/VII/2023, by analyzing the legal bases that judges used to make the decision, including its link to Law No. 34 of 2004 on the Indonesian National Army, Law No. 18 of 2013 on the Prevention and Elimination of Forest Destruction, the Criminal Code, the Military Criminal Code, and Law No. 31 of 1997 on the Military Court (Wiraguna, 2024). The secondary legal materials used in this research included primary legal research (legal regulations and court decisions), secondary legal materials (textbooks, scientific

journals, and opinions of legal experts), as well as tertiary legal materials in the form of legal dictionaries and encyclopedia. The analysis was carried out in a qualitative manner by interpreting applicable legal regulations and principles, as well as linking them with the legal facts in the analyzed court decisions (Suganda, 2022).

RESULTS AND DISCUSSION

A. The Juridical Analysis of the Decision of the High Military Court III of Surabaya No. 114-K/PMT.III/BDG/AL/VII/2023 in the Case of the Involvement of Indonesian National Navy Personnel in a Forest Criminal Action

This case involves two active members of the Indonesian National Navy from the 2nd Marine Howitzer Battalion, namely Marine Corporal I, initialed I.B. and Marine Corporal II, initialed K.W. who were indicted to be involved in the act of transporting forest produce in the form of Indian rosewood (*Dalbergia latifolia* or locally known as *sonokeling*) type of timber without official documents (Salim, 2022).

The two were validly and certainly proven to have committed the criminal act of transporting forest produce in the form of *sonokeling* type of timber without official documents (Soedarsono, 2010). The two defendants obtained the request to escort the transportation of *sonokeling* type of timber (R. E. Sari & Syahrudin, 2023). This request originated from the party of the buyer who have previously carried out communication with the timber seller (Utama, Pawennei, & Sutiawati, 2024). In their position as active military members, the two defendants carried out the task of escorting this from the location of felling to the destination of the buyer without having it completed by the Statement Letter of Forest Produce Validity, as obliged in Law No. 18 of 2013 on the Prevention and Elimination of Forest Destruction. This action happened in the Kediri, Nganjuk, and Lamongan areas, East Java Province, Indonesia, which was under the jurisdiction of the Military Court III-13 of Madiun (Maulana & Setiawan, 2023).

The act of escorting these timbers was carried out twice in the period between October 3rd and 11th, 2022. In the first occurrence, the timbers were taken from the Nganjuk area and were transported to Lamongan. The two defendants obtained rewards in the form of some money over the escorting service, which was transferred through a personal bank account as well as given in cash (Situmorang & Zarzani, 2023). The second transportation and escorting process of the harvested timber happened in a more systematic manner, involving several people

and vehicles (Anis, Rahman, & Arsyad, 2022). However, this activity was then known by several people after obtaining a report on the existence of *Amorphophallus muelleri* (locally known as *porang*) land destruction due to illegal logging activities that felled trees on people's plantation land (Junaedi, Nurhayati, Nasruddin, Setyadi, & Sugianto, 2025).

Such information from society led to the act of siege and blockade by people in the Nganjuk area with the support of the police force and forest patrol. When the timber-transporting truck wanted to pass through the location that had been blocked by society, the vehicle was stopped, and the timber cargo was forcefully opened (Nasir & Sodikin, 2025). People found 46 *sonokeling* timber logs without valid documents, which become strong proof of illegal logging activities. The two defendants and other parties that were involved in this activity were directly arrested by the police force and were taken to the Nganjuk Police Station with some evidence. This phenomenon triggered a legal process which led to the examination and trials in the Military Court forum, with the lawsuit of forestry-related criminal violations as well as failure to comply with military service orders. This case was then tried at the appeal level by the High Military Court III of Surabaya (Putra, 2023).

The involvement of military members in such illegal business activities clearly violates the basic principles and ethics of the Indonesian National Army soldiers as regulated in Law No. 34 of 2004 on the Indonesian National Army, especially Article 39 clause (3), which firmly prohibits active military members from being involved in business activities. Apart from that, the action of these defendants also violates the stipulations in Law No. 18 of 2013 on the Prevention and Elimination of Forest Destruction as well as the stipulations in the Criminal Code and the Military Criminal Code, especially related to the neglect towards service orders, exceeding their authority as military apparatuses (Suharman & Basoddin, 2022).

Based on the description in the Decision of the High Military Court III of Surabaya No. 114-K/PMT.III/BDG/AL/VII/2023, the following is the analysis of the elements of criminal actions that have been fulfilled based on the indictment filed against Defendant-1 (I.B.) and Defendant-2 (K.W.):

1) The Elements of Criminal Actions in the First Indictment

The violated article:

Article 83 clause (1) letter b, which was amended into Article 12 letter e of Law No. 18 of 2013 on the Prevention and Elimination of Forest Destruction, was amended into Article 55 clause (1) of the Criminal Code.

a. Anyone who

This element refers to anyone without exception, including members of the Indonesian National Army. I.B. and K.W. are individuals who are valid legal subjects according to the law, even though they have the status OF military members. The law still binds every citizen (the principle of “equality before the law”) (Ruslan & Gassing, 2021).

b. Deliberately

The element of deliberation is fulfilled because the actions of I.B. and K.W. were carried out with full awareness and planning. It has also happened twice, proven by coordination, the use of vehicles, communication with buyers and sellers, as well as the division of the transaction’s profits.

c. Transport, have power over, or own forest timber products

This element was fulfilled as the defendants had an active role in escorting, transporting, and having physical power over the *sonokeling* type of timber in two illegal logging activities. Even, the defendants became a mediator between buyers and sellers.

d. Which is not simultaneously completed with a valid statement letter of forest produce

This is the central element in the forestry criminal action. The timber that was transported was not completed with a valid statement letter of forest produce, as acknowledged in the facts in the court. This shows administrative and criminal violations against forestry regulations (Zamzamah, Faisol, & Anadi, 2025)

e. Carried out cooperatively (Article 55 of the Criminal Code)

This element was proven because the two defendants carried out this deed in a cooperative manner as they divided tasks and shared profits. The two defendants also communicated with other parties, such as truck drivers and porters, who showed the existence of an agreement and **cooperation**.

2) The Elements of Criminal Actions in the Second Indictment

The violated article:

Article 103 clause (1) of the Military Criminal Code.

a. Military members who reject or deliberately fail to comply with service orders.

I.B. and K.W. were active members of the Indonesian Navy who have the

obligation to comply with service orders. The actions of these two defendants violated Naval Technology College No. 045/Sintel/0722, which prohibits involvement in illegal escorts, including the escort of illegal businesses (Lengkong, Gerungan, & Voges, 2025).

- b. Or arbitrarily exceeding their service order by participating in escorting or obtaining profits from illegal activities (outside of service tasks). The defendants have exceeded their authority as military members. Even, they have misused their institutional position and attributes for personal gain.

In making its decision, the High Military Court III of Surabaya considered several legal aspects and court facts in a comprehensive manner. The two defendants were deemed actively involved in the activity of transporting forest produce in the form of *sonokeling* timber without valid documents with full awareness that such an action violates the stipulations of legal regulations. The defendants' awareness of the lack of valid documents, added with their direct involvement in the transporting and escorting processes, shows the existence of an element of bad intention (*mens rea*) and law-violating action (*actus reus*). These two elements have simultaneously been fulfilled and are undeniable (Angela, Santoso, & Wijaya, 2019).

The Assembly assessed that all elements in the two indictments, both the formal and material aspects, have cumulatively been fulfilled. From the formal aspect, the identity and status of the two defendants as active soldiers of the Indonesian Navy have been proven as well. Their actions have concretely violated Article 83 clause (1) letter b *juncto* Article 12 huruf e of the Republic of Indonesia's Law No. 18 of 2013, as well as Article 103 clause (1) on the Military Criminal Code.

In the material aspect, the actions of these two defendants harmed the state, both in the form of environmental damage as well as economic losses over forest produce that is owned by the state. Therefore, the Assembly confirmed that the two defendants were proven to have validly and certainly declared guilty. The Assembly imposed sanctions in the form of imprisonment and fines on both defendants according to their proportion. This decision reflects the application of the equality before the law principle, that every citizen, including active military soldiers, must comply with and are equal in the face of the law (Syahbana, 2024).

Then, the Judge Assembly also paid attention to the validity of the Chief of Naval Staff Telegram Letter No. 045/SINTEL/0722, which strictly prohibits the involvement of Indonesian Navy soldiers in illegal escorts and unauthorized activities outside of service. The action of

these defendants has violated these stipulations and is deemed a form of disobedience towards internal military regulations that are binding and that have legal value. Apart from that, the fact that these two defendants carried out this type of illegal activity twice in a row shows that there is a pattern of repeated behavior (*recidive*) which strengthens the deliberation element in this case. From the juridical aspect, this clarifies that there is no reason for the elimination of criminal penalties or justification or forgiveness that may free these two defendants from legal liability (Telaumbanua, Pagajang, & Butani, 2024).

The Decision of the High Military Court III of Surabaya in case No. 114-K/PMT.III/BDG/AL/VII/2023 firmly strengthens the decision of the Military Court III-13 of Madiun at the first level. In its decision order, the Judge Assembly imposed punishment in the form of imprisonment for one year each to Defendant I.B. (Marine Corporal I) and K.W. (Marine Corporal II), along with fines in the amount of Rp. 500,000,000 (five hundred million rupiahs) for each defendant. If they fail to pay this amount, it will be substituted with an arrest for three months. This decision also imposes appeal-level case fees to each defendant, with the amount of Rp. 10,000 (Agustinus, 2023).

From the perspective of military ethics, the action of these two defendants was a violation of the ethical code, specifically the Indonesian National Army soldiers' ethical code, which emphasizes loyalty, discipline, and integrity. This action harms the institution's dignity and weakens the public trust towards the military as a state apparatus that guards the sovereignty and law (Zuhdi, Siswanto, Dan, & Hirnia, 2022).

The illegal actions that the two active Indonesian National Navy members carried out in the form of transporting forest produce in the form of *sonokeling* wood without valid documents not only lead to moral and legal losses but also have a direct impact on the state's economic and environmental sustainability aspects (Suhendar & Kartono, 2020). Based on the results of the investigation and calculation by authorized parties, the state's losses due to this activity were estimated to reach Rp14,664,590, originating from the economic value of the forest produce that was transported without official permits. Even though this amount may not be significant in the scale of the national budget, it reflects the existence of a state resource leakage due to illegal activities that cannot be ignored, especially when it was committed by the state apparatuses that should ideally become the protector of the state's sovereignty and wealth (Mahmud, 2020).

Further, the act of illegal logging is one of the serious threats to environmental sustainability. Systematic illegal logging will lead to deforestation, forest degradation, and the loss of biodiversity. In the long term, its impacts include the increase in the potential of ecological disasters such as floods, landslides, and extreme drought, as well as local and regional climate change. In this case, even societal members have reported that this illegal logging activity has damaged the people's agricultural land, including the destruction of *porang* plants. There was also the concern over the potential for floods to occur due to the loss of water-retaining vegetation (I. Sari, 2019).

The law enforcement approach towards environmental crimes, especially those involving state actors, must be carried out in a firm and holistic manner. Apart from the penalization mechanism, there is also a need for environmental restoration and sustainable education for all state security institutions to prevent them from being trapped in destructive practices over national natural resources (Rumate, Aling, & Maramis, 2023).

From the aspect of procedural law, this justice procedure has passed through appropriate legal stages, starting from the examination, lawsuit, up to the appeal-level court (Ramadhan & Heniarti, 2022). The appeal-level judges stated that the appeal application of the two defendants may be accepted in a formal manner. Then, the main point of the case strengthened the first-level military court's decision. The application for cassation has once been submitted but was revoked, ending the legal process with a law with permanent binding power (*inkracht*) (Wijana, Sepud, & Dewi, 2020).

B. Legal Interdisciplinary Analysis on the Equality Before the Law Principle in the Military Decision on the Indonesian Navy Members' Involvement in the Forestry Criminal Action

An analysis towards this decision needs to be carried out with a juridical normative approach that reflects the integration between legal norms, social norms, and theoretical values in the national legal system (Bolifaar, 2022). Normatively, the Indonesian National Army has a special legal position that is bound by military discipline stipulations as well as internal regulations that demand full loyalty towards *Sapta Marga* (way of life and ethical code of the Indonesian National Army), the Oath of Soldiers, and Law No. 34 of 2004 on the Indonesian National Army (Purwadi, Djafar, Densi, Tumiwa, & Langkamane, 2019).

In this case, the two Indonesian National Navy members with the initials of I.B. and K.W. were proven to have committed illegal business activities, namely the escort and transport of forest produce timber without valid documents, which is categorized as a forestry criminal action. This action has clearly violated Article 39 clause (3) of the Indonesian National Army Law, which explicitly prohibits soldiers from becoming involved in any form of business activities. The active involvement of these two defendants in the transaction process, the communication between the seller and the buyer, as well as the obtainment of profits for their services, shows an element of deliberation (*dolus*) in this violation (Tahir & Istiqamah, 2022).

Then, the action of these two defendants has also violated Article 83 clause (1) letter b *juncto* Article 12 huruf e of the Republic of Indonesia's Law No. 18 of 2013 on the Prevention and Elimination of Forest Destruction. This article stipulates the prohibitions against forest destruction, stating that anyone who deliberately transports, has control over, or owns forest produce without the completion of a valid statement letter of forest produce. This case was completed with physical evidence in the form of *sonokeling* timber and financial transactions. Thus, the elements of the offense in this article have been completely fulfilled (Audina, 2018).

In the general criminal law, the involvement of I.B. and K.W. is also categorized in the scope of inclusion as stipulated in Article 55 of the Criminal Code, where the two defendants simultaneously carry out criminal actions that lead to the state's losses. This article firmly states that every person who participates in a criminal action is also responsible for the legal impacts of that action, even though he does not carry out all elements of the offense (Soeikromo, 2016).

What is no less important is that the violation against Article 103 clause (1) of the Military Criminal Code, which reaches military members' actions that reject or exceed the official orders. The defendants' action in participating in that illegal action was under their own initiative. This shows an insubordinate attitude towards the orders and stipulations of the command, especially Chief of Naval Staff's Telegram Letter which prohibits the Indonesian Navy personnel from carrying out illegal escort (Batubara, Silalahi, & Zai, 2019).

From the perspective of the "equality before the law" principle, this decision reflects equality in the face of the law, as guaranteed in Article 27 clause (1) of the 1945 Constitution. The defendants did not obtain special treatment, even though both are active military members. This reflects the consistency of the Indonesian legal state in applying laws without discrimination, similar to legal practices in other countries such as Germany and the

Netherlands that enforce the principle of non-discrimination in their criminal justice system (Lubis, Lubis, Sagala, & Buaton, 2023).

Philosophically, in the state framework of Pancasila (“The Five Principles” that make Indonesia’s state ideals), the justice principle not only has a formal characteristic but also has a substantial one. In this case, the violations that the active military personnel committed were not only perceived as a form of legal violation but also a betrayal towards the basic values that are attached to soldiers as the protectors of the people and the state.

The Decision of the High Military Court III of Surabaya, which strengthens the decision at the first level by imposing a penalization of imprisonment for one year and fines with the amount of Rp. 500,000,000 towards each defendant can be deemed fulfilling the juridical, sociological, and theoretical aspects. This shows that the military legal mechanism can carry out the control function towards the behavior of its two members while still aligning with the constitutional framework and the principles of a legal state (Ramhandra & Marpaung, 2024).

Then, it should be added that even though in general, citizens have the right to make efforts as guaranteed in the Governmental Regulation No. 5 of 2021 on the Establishment of Risk-Based Business Permits, that right does not absolutely apply to active members of the Indonesian National Army (Effendi, Mursalin, & Sonaji, 2021). In this case, the Law on the Indonesian National Army is a power that is hierarchically higher in the legal regulations and has a *lex specialis* characteristic towards active military members. Therefore, the involvement of I.B. and K.W. in illegal business practices, and even worse, their impacts towards environmental damage and state losses, cannot be justified from the legal aspect as well as the ethics of the military profession. Therefore, this decision is not only relevant from the imprisonment aspect, but is also a form of lesson and the strengthening of the monitoring system to military institutions, so that they still stay within the corridor of legal supremacy and institutional integrity (Erlina & Krisnanto, 2022).

CONCLUSION

Decision of the High Military Court III of Surabaya No. 114-K/PMT.III/BDG/AL/VII/2023 shows that the action of active members of the Indonesian National Navy with the initials of I.B. and K.W. was validly and certainly proven to have committed the criminal act of transporting forest produce in the form of *sonokeling* type of timber without official documents, violating stipulations of Article 83 clause (1) letter b *juncto*

Article 12 letter e of the Republic of Indonesia's Law No. 18 of 2013 on the Prevention and Elimination of Forest Destruction. This action not only leads to losses to the state's economic and environmental sustainability aspects but also hurts the good name of military institutions that should ideally become the front line in protecting law and order. By considering the facts in court, the evidence, as well as the violation against the code of ethics and military discipline, the decision that imposes the punishments of imprisonment for one year and fines amounting to five hundred million rupiahs to each defendant have been deemed to fulfill the elements of substantive and reflective justice towards the legal supremacy in the military environment.

From the juridical analysis towards the relevant regulatory framework, it has been proven that the actions of I.B. and K.W. not only violate the norms of the positive law on forestry but also directly violate Article 39 clause (3) of the Law on the Indonesian National Army, which prohibits active soldiers from becoming involved in business activities. Further, this decision is also in line with the principle of equality before the law, as confirmed in Article 27 clause (1) of the 1945 Constitution and the principle of the legal state, which guarantees equality in the face of law without discriminating against social status, institution, or position. In a Pancasila state, legal violations by state apparatuses cannot be tolerated and must be firmly punished, as justice in law does not only have a formal characteristic, but also has substantive and civilization characteristics, as reflected in the values in Pancasila's principles.

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