

Reconstruction of the Authority to Seize Evidence by Military Police Investigators in Corruption Crimes to Realize Legal Certainty

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Abstract

Seizure of evidence is one of the key instruments in the law enforcement process, including in corruption crimes involving members of the military. However, the authority of Military Police (PM) investigators in conducting seizures still faces various normative and procedural obstacles. This research aims to analyze the legal framework governing this authority and offer an ideal reconstruction model to ensure legal certainty. By using normative juridical methods and a multidimensional approach—namely legislative, historical, comparative, and conceptual approaches—this research reveals the existence of inconsistencies among the Military Justice Law, the KPK Law, and the Corruption Crime Law, which have implications for uncertainties regarding the authority of PM investigators in corruption cases, especially in the context of military-civilian *konektivitas*. This research proposes a legal reconstruction that includes regulatory harmonization, the formation of a cross-agency *tim konektivitas*, standardized seizure standard operating procedures (SOPs), and strengthening the supervision of the military court. The novelty of this research lies in its specific focus on seizures by PM investigators in corruption crimes and the development of applicable operational legal models. The contribution is significant for the development of military criminal law and the reform of the law enforcement system within the *Tentara Nasional Indonesia* (TNI).

Keywords: Military Police, Confiscation, Evidence, Corruption.

INTRODUCTION

Corruption in the military environment is a form of extraordinary crime that not only harms the state's finances but also has a serious impact on the readiness and integrity of national defense (Sitorus et al., 2021; Wattimena, 2016). The Indonesian National Army (*Tentara Nasional Indonesia*, TNI), as a state defense institution, plays a strategic role in maintaining national sovereignty and security, so every form of legal deviation in the TNI, especially corruption, must receive special attention (Emmanuel, 2019; Huda, 2014). Corruption occurring within the military, if not handled appropriately, can undermine public trust in defense institutions and damage the professionalism and morality of soldiers.

In this context, the role of Military Police (PM) investigators is crucial. One of the key authorities in the investigation process is the confiscation of evidence directly related to corruption crimes (Djuniarti, 2022; Hattu & Fadillah, 2023). However, the legal reality in Indonesia reveals a normative gap and overlapping authority between Military Police investigators and other law enforcement institutions, especially in cases involving *konektivitas* between military and civilian jurisdictions. The provisions in Article 42 of Law Number 19 of 2019 concerning the Corruption Eradication Commission (*Komisi*

Pemberantasan Korupsi, KPK) do not explicitly regulate the mechanism for confiscation by Military Police investigators, thereby creating legal uncertainty and potentially hindering the effectiveness of state asset recovery (Brown, 2018; Pakpahan et al., 2021).

Moreover, in law enforcement practice, technical and juridical obstacles remain prevalent in implementing evidence confiscation by the Military Police. This situation is exacerbated by the lack of a functional *tim konektivitas* and weak coordination between military law enforcement agencies and general law enforcement bodies such as the prosecutor's office and the KPK. PM investigators frequently encounter challenges when confiscations involve assets or documents beyond their jurisdiction, particularly those controlled by civilian parties. This predicament underscores the urgency of reconstructing the seizure authority of Military Police investigators to ensure legal certainty.

Previous studies have focused more on the military judiciary regarding its institutional aspects, independence, and position within the national legal system (Hutomo & Soge, 2021; Kurniawati et al., 2018; Rifandhana, 2016). Several studies have also reviewed issues of *konektivitas* and military law reform in general (Prabandari et al., 2022). However, no studies have been found that specifically and comprehensively discuss the mechanism and legality of evidence confiscation by Military Police investigators in the context of corruption crimes, nor how the existing normative framework can be reconstructed to overcome jurisdictional dualism and legal vacuums. This research aims to address this gap.

This study is theoretically significant for enriching the corpus of criminal and military law and holds considerable practical value in supporting effective and equitable law enforcement within the military environment. By presenting a model for reconstructing confiscation law applicable to Military Police investigators, it is anticipated that corruption case handling can proceed more efficiently and accountably, aligning with the principles of due process and legal certainty.

While prior research has broadly discussed military justice institutions and the independence of their legal systems, it has not specifically emphasized the seizure of evidence in corruption cases by Military Police investigators as a critical component of law enforcement. This research addresses that gap by proposing a legal reconstruction approach that considers not only prevailing positive norms but also institutional effectiveness and principles of coordination between law enforcement agencies.

The urgency of this research arises from the increasing complexity of corruption cases within the military, which often involve cross-jurisdictional elements requiring seamless coordination among multiple law enforcement agencies. Current legal frameworks, such as the Military Justice Law and the KPK Law, lack harmonization, resulting in ambiguities concerning PM investigators' authority during evidence confiscation. These ambiguities lead to investigation delays and risk the loss or mishandling of critical evidence, thereby compromising the pursuit of justice. Addressing these issues is essential to uphold legal certainty and ensure that corruption cases are resolved efficiently and transparently, reinforcing public trust in military institutions.

This study contributes novelty by focusing on the confiscation of evidence by PM investigators, a previously underexplored aspect of military law. Although previous research has examined military justice broadly, this investigation provides a detailed analysis of procedural and normative challenges specific to seizure actions, highlighting their legal and operational implications. This bridges a critical gap in literature and forms a foundation for future studies on military law enforcement practices. Moreover, the

research proposes a reconstruction model integrating legislative, institutional, and procedural reforms, marking a departure from conventional theoretical discussions.

The primary objective of this research is to analyze the existing legal framework governing PM investigators' confiscation authority and identify shortcomings in addressing corruption cases. Using a normative juridical approach, the study examines relevant laws and regulations, including the Military Justice Law and the KPK Law, to identify inconsistencies and gaps. This analysis is supplemented by historical, comparative, and conceptual approaches, providing a comprehensive understanding of the evolution and current state of seizure protocols in military investigations. The ultimate aim is to propose practical solutions that enhance legal clarity and operational efficiency.

This research makes a significant contribution to military criminal law by offering a detailed examination of evidence confiscation procedures—an area that has received limited attention in academic discourse. The findings are expected to enrich legal scholarship by introducing a multidimensional perspective combining theoretical analysis with practical recommendations. Additionally, the proposed reconstruction model serves as a blueprint for policymakers and law enforcement agencies, facilitating reforms that align military justice practices with wider anti-corruption efforts. The research also emphasizes the importance of interdisciplinary collaboration in addressing complex legal challenges.

The benefits of this research span both theoretical and practical domains. Academically, it expands the scope of military law studies by focusing on a niche yet pivotal component of investigations. Practically, the recommendations—such as regulatory harmonization, establishment of *tim konektivitas*, and development of standardized operating procedures—provide concrete tools for improving law enforcement practices. These measures are designed to mitigate bureaucratic inefficiencies and foster inter-agency collaboration, ultimately strengthening the integrity of military justice systems.

For policymakers, the insights generated offer a roadmap for legislative and institutional reforms. By highlighting discrepancies between existing laws and the practical realities of corruption investigations, the study underscores the need for cohesive legal frameworks accommodating the unique demands of military cases. Similarly, law enforcement agencies can utilize the proposed reconstruction model to refine investigative methods, ensuring that evidence confiscation is conducted lawfully and effectively. The research thus acts as a catalyst for systemic change, promoting accountability and transparency in military law enforcement.

The broader societal impact of this research lies in its potential to bolster public confidence in the military's capacity to self-regulate and combat corruption. By addressing procedural weaknesses and advocating for robust legal mechanisms, the study aligns with national efforts to eradicate corruption and uphold the rule of law. Furthermore, emphasizing due process and human rights protections ensures that the proposed reforms are not only effective but also equitable, safeguarding the rights of all parties involved in corruption cases.

METHOD

This research used a normative juridical approach, involving examination of relevant primary and secondary legal materials to address the formulated legal problems. This approach was chosen because the study focused on normative analysis of applicable

laws and regulations, as well as legal theories related to the authority of Military Police investigators to confiscate evidence in corruption cases.

To strengthen the analysis, several approaches were employed. First, the statute approach involved examining relevant regulations such as Law Number 31 of 1997 concerning Military Justice, Law Number 8 of 1981 concerning the Criminal Procedure Law (*Kitab Undang-Undang Hukum Acara Pidana*, KUHP), Law Number 20 of 2001 concerning the Eradication of Corruption, and Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the *Komisi Pemberantasan Korupsi* (KPK).

Second, the historical approach traced the evolution of military legal authority in the context of enforcing corruption crime regulations. This approach helped to understand the root of the problem and the development of legal regulations in both military and general justice environments.

Third, a conceptual approach was employed, utilizing relevant legal theories—particularly the theory of legal certainty, the theory of the criminal justice system, and the theory of responsive law—as a framework for analysis. These theories were synergistically applied to examine prevailing positive legal norms and provide a foundation for adaptive and applicable legal reconstruction.

Additionally, a comparative approach was used to contrast seizure mechanisms in the general justice system and the military justice system, aiming to identify regulatory gaps and differences in investigative and confiscation practices.

The primary data sources for this study were primary legal materials such as laws, regulations, and court decisions. Secondary legal materials included legal literature, scientific articles, journals, previous dissertations, and expert opinions relevant to the topics discussed. Tertiary legal materials, such as legal dictionaries and encyclopedias, supported clarification of concepts employed in the research.

Data analysis was conducted qualitatively by interpreting the legal norms found in the materials to answer research questions and construct logical legal arguments. The analysis results were then systematically compiled to demonstrate the existence of legal vacancies, misalignments in norms, and the necessity of reconstructing the confiscation authority of Military Police investigators in the context of corruption crimes.

RESULT AND DISCUSSION

Construction of Arrangements for the Confiscation of Evidence by Military Police Investigators in Corruption Crimes

This research shows that the current legal construction regarding the authority of Military Police investigators in confiscating evidence in corruption cases is still weak, inharmonious, and inadequate. In the Indonesian legal system, the authority to confiscate is basically part of the coercive action in the investigation process as stipulated in the Criminal Code. (Afandi, 2016; Rahim et al., 2020) However, in the Military Criminal Procedure Law (HAPMIL) system, this authority is regulated differently and seems minimalist. (Arianto, 2020).

Articles 87 and 88 of Law Number 31 of 1997 concerning Military Justice do provide a legal basis for Military Police investigators to carry out confiscations, but the provisions are very limited, especially related to evidence that is in the control of civilian parties or that is involved in a network of corruption crimes across jurisdictions. This is exacerbated by the absence of external supervision mechanisms and the lack of

synchronization of legal norms between the military justice system and the general justice system.

The absence of clear technical arrangements in the implementation of confiscation leads to potential violations of suspects' human rights as well as the loss of vital evidence. In the case of connectivity, which is a case involving TNI soldiers and civilians at the same time, the lack of an operational connectivity team also adds to the complexity. (Septiana & Hamonangan P., 2023; Syamsuddin, 2017) The inconsistency of Article 42 of the KPK Law with the Military Justice Law and the Corruption Law exacerbates this fragmentation, which has an impact on the weak security of state assets resulting from corruption. Thus, the formulation of the first problem is answered: the current legal construction has not been able to provide adequate legal certainty for Military Police investigators in confiscating evidence of corruption, especially in the context of cross-jurisdictional cases.

Ideal Reconstruction of Evidence Confiscation by Military Police Investigators to Realize Legal Certainty

Based on the weaknesses of the legal construction described earlier, this study offers an ideal model of confiscation reconstruction. The goal is to create a mechanism that guarantees legal certainty, investigative effectiveness, and protection of human rights.

The reconstruction includes:

1. **Strengthening Legislative Norms:** The revision of Article 42 of the KPK Law is needed to explicitly include the authority of military investigators in the seizure of assets in corruption cases. In addition, synchronization with Article 69 of the Military Justice Law, Article 39 of the Corruption Law, and Article 8 of the Prosecutor's Law is very important so that there is no conflict of jurisdiction.
2. **Establishment of a Permanent Connectivity Team:** It is necessary to form a connectivity team with a clear mandate and legal structure, involving elements of the KPK, the Prosecutor's Office, the TNI, and the Supreme Court. This is important to ensure that investigations and seizures can be carried out across institutions without bureaucratic barriers.
3. **Standardized Confiscation SOPs:** Military Police Investigators need to have technical guidelines (SOP) that regulate the stages of confiscation, authorization, cross-agency coordination, and procedures for handling evidence resulting from corruption. This SOP must adopt the principles of due process of law and rule of law.
4. **Technical Supervision by the Military Police:** To prevent irregularities, the Military Police must have a supervisory function on the implementation of confiscation by the Military Police, including testing the legality and urgency of confiscation actions.

With a responsive legal approach, this reconstruction aims not only to answer the formal weaknesses of positive law, but also to accommodate the needs of the praxis and the public interest in the eradication of corruption. Thus, the formulation of the second problem is completely answered through the proposal of a reconstruction model that is integrative and adaptive to the reality of law enforcement.

Research Contribution to Law

This research has novelty and at the same time makes an important contribution to the development of legal science, especially in the field of military criminal law and criminal procedural law. The main novelty of this study lies in the focus of a study that specifically and in-depth discusses the mechanism for confiscating evidence by Military Police investigators in corruption cases. So far, the issue has not been systematically touched on in legal literature or previous legal dissertations, which generally focus more on the structure and independence of the military judiciary in general.

This research also proposes an operational and applicable legal reconstruction, through the establishment of standard confiscation procedures, supervision mechanisms by prosecutors, and integration of connectivity teams between law enforcement agencies. This reconstruction model not only patches up the existing legal vacuum, but also becomes a form of normative innovation that is oriented towards solutions to the problem of law enforcement preliminaries. This makes this research a pioneer in offering a reformulation of military criminal procedure law that is responsive to the challenges of eradicating corruption across jurisdictions.

Theoretically, this study enriches academic discourse by bringing together three main theories—namely Legal Certainty Theory, Criminal Justice System Theory, and Responsive Legal Theory—in one integrated analytical framework. This merger allows for a comprehensive approach, not only from a legalistic-formal perspective but also from a systemic and socio-legal perspective. Thus, this research contributes to expanding the scope of military criminal law studies in a more contextual and progressive direction.

On the other hand, the practical contribution of this research is very significant for policy makers and law enforcement officials. The recommendations given, such as the harmonization of laws and regulations between the KPK Law, the Military Justice Law, and the Corruption Law, as well as the establishment of a confiscation SOP and a permanent connectivity team, are strategic steps that can be implemented directly. In this regard, this research not only contributes to the development of legal science, but also guides reforms in the practice of investigations in the military environment.

Thus, it can be emphasized that this research not only presents novelty in the scientific aspect, but also has instrumental value for the formation of a more coordinated, fair, and legal enforcement system in Indonesia, especially in dealing with the complexity of corruption cases in the military environment

CONCLUSION

This study reveals that the regulation of Military Police investigators' authority to confiscate evidence in corruption cases lacks an adequate normative foundation, resulting in legal uncertainty. While Law No. 31 of 1997 on Military Justice allows confiscation by Military Police investigators, it fails to detail procedures, limitations, and cross-agency coordination, particularly in *konektivitas* cases involving both military and civilian offenders. Additionally, Article 42 of the KPK Law conflicts with principles of military jurisdiction, creating normative inconsistencies and irregular law enforcement practices. To address these issues and ensure legal certainty, the study proposes a reconstruction model encompassing regulatory harmonization, establishment of permanent connectivity teams among law enforcement agencies, standardized confiscation SOPs, and reinforced supervision by military prosecutors. This model aims to resolve norm desynchronization, procedural barriers, and weak inter-institutional coordination in combating military corruption. By focusing specifically on confiscation by Military Police investigators in corruption cases, this research contributes both theoretically to military criminal law and

practically to national legal reform. Future research should empirically assess the implementation of the proposed reconstruction model and explore its impact on improving coordination and effectiveness in corruption eradication within military contexts.

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