

Revitalization of the Legality of Implementation of the Indonesian National Army Task in the Country Defense System to Realize National Security

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Abstract: This research was carried out with the aim of analyzing and discovering the nature, regulation of formation, and the effect of legality revitalization on the implementation of TNI's main tasks. The revitalization of legality is certainly related to the problem of establishing legislation, influenced by institutions, and influenced by the dynamics of developing conditions. This research is a type of normative legal research, which uses a legal, historical and conceptual approach. While the source of legal material is primary, secondary, and tertiary legal materials that use a qualitative approach.

Keywords: *Legality revitalization, Implementation of TNI, Establishing Legislation*

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I. INTRODUCTION

The National Defense System is one of the functions of government which is an effort to ensure the integrity and upholding of the Unitary State of the Republic of Indonesia (NKRI), and what applies in Indonesia is the Universal Defense System that involves all citizens of the country, region and other national resources, and prepared early by the government and held in a total, integrated, directed and continuing manner to uphold the sovereignty of the country, the integrity of the territory, and the safety of all nations from all threats.¹

The development of the environment and strategic context has and will give birth to the essence of threats and challenges that are increasingly complex. Assessment of the presence or absence of a threat is based on the ability to understand, identify, and analyze. Based on the type of threat can be in the form of Military Threats and Non-Military Threats, if seen from the source can be from abroad or from within the country, and if based on the actor can be done by the state or non-state.²

Therefore, the state needs a comprehensive defense approach in the face of every threat by combining all national forces, both military and non-military. The integration of military power and non-military power is an embodiment of the defense system adopted by the Indonesian people, namely a universal defense system. In that context, the Doctrine of National Defense is then one of the main tools in developing policies and strategies, as well as the National Defense Posture.³

From the description above and see the existing legislation, it can be seen that there are three (3) main problems regarding the legality of the main tasks of the TNI, namely:

1. It is still very far from the expectation of the Implementation of the Main Duty of the TNI in preparing early threat-based TNI professionalism and from the Technical dimension, the Dimension of Institution and the Political Dimension, we describe this in several scope in the TNI Main Task;
2. As a result of all TNI Main Tasks contained in Law No. 34 of 2004 concerning TNI article 7 paragraph (2), while stated in paragraph (3) that the implementation of the main tasks in paragraph (2) is carried out based on "policies" and "political decisions" of the state, this raises uncertainty as to what they are, while other laws or written regulations, do not support or do not exist until now.
3. The lack of similarity of views, opinions and actions of various parties in the external and internal scope of the TNI in law enforcement, and handling cases of violations of disciplines, criminal as well as violations of Human Rights (HAM) in TNI personnel.

¹Republic of Indonesia Law No. 3 of 2002. Page 1.

²Defense white paper. Page 7

³National Defense Doctrine ... Page 3.

II. STATEMENT OF THE PROBLEM

1. What is the principle of revitalization of legality in the implementation of the main tasks of the TNI in the national defense system in order to realize national security?
2. What are the Regulations on Legality Implementation of the Basic Duty of the TNI in the National Defense System?
3. What is the Legal Construction in Revitalizing the Legality of the Implementation of TNI Main Tasks?

III. THEORETICAL FRAMEWORK

A. Theoretical basis

1. Theory of the Law State and the People's Sovereignty.

Our country, a rule of law created from a nation's history by forming a constitution and fulfilling other requirements. The formation of a constitution originating from the nation's personality values (Pancasila) / the State's Foundation to create our autonomous state de facto and de jure (Yamin, 1982). According to Muhammad Yamin: "The rule of law is the same as rechtsstaat or government of law, which states that" the Republic of Indonesia is a legal state (rechtsstaat, government of law), not a state of power".

Even though there are differences in the background of the understanding between rechtstaat and the rule of law, the birth of the "Law State" is inseparable from the influence of these two understandings. By not downplaying the effort to reflect a typical Indonesian term, the term legal state is quite clear, to show that the term legal state is Indonesian understanding, as confirmed in the third amendment to the 1945 Constitution contained in Article 1 paragraph (3), namely "Indonesia is state law".⁴

Regarding the legal function, Bagir Manan⁵ (Manan, 2004) stated that: "In the teachings of the state law contains three (3) important dimensions, namely the political, legal, and socio-economic dimensions. In the political dimension, the state of law contains the principle of limiting power, which is manifested in the necessity of constitutional understanding, division (separation) of power, independence of judicial power, and guarantee of respect for human rights. The legal dimension, in a state of law, must create a legal order and legal protection for everyone without discrimination. Socio-economic dimensions, in the form of state obligations on the government to realize and guarantee social welfare".

The next legal function according to Mochtar Kusumaatmadja (Kusumaatmadja, 2002), states: "The function of law as a means of renewal in society (a tool of social engineering)". In the process Mochtar Kusumaatmadja added the existence of pragmatic goals (for development) as input from Roscoe Pound and Eugen Ehrlich where there was a correlation between Laswell and McDougal's statement that: "Cooperation between legal studies and practical law bearers should ideally produce theory about law, theories that have pragmatic or practical uses"⁶

2. Political Theory of Law.

a. Politics of law

The word legal politics is an Indonesian translation of the Dutch legal term rechttoleek, which is a formation of two words recht and politiek. This term should not be confused with terms that appear later, politiekrecht or political law, which was stated hence hence Maarseveen Karen both have different connotations. The latter term relates to another term offered by Hence van Maarseveen to replace the term constitutional law. For this purpose he wrote an essay entitled "Politiekrecht, als Opvolger van het Staatsrecht".⁷

With regard to the term policy (this policy), this term turns out to have a variety of meanings, we can see it from the viewpoint of some figures who try to explain what the policy actually is. Klein, for example, explains that the policy is a conscious and systematic action, using suitable means, with clear political goals as a means, which are carried out step by step.⁸ Similar to Klein, Kuypers explains, the policy is an arrangement of: (1) objectives chosen by public administrators for both self-interest and group interests; (2) roads and facilities chosen by him; and (3) times they choose.⁹ The Friend understands that policy is essentially a position that once declared will affect the success of decisions that will be made in the future.¹⁰

⁴Fourth Amendment to the 1945 Constitution of the Republic of Indonesia. Page 2

⁵Bagir Manan. Problems of Indonesian State Administration, Edition II. Page 78.

⁶Kusumaatmadja, M. Introduction to Law. Page 34

⁷Achmad Ali, Strengthening the Law Veil: A Philosophical and Sociological Study, Page 19

⁸Hoogerwerf "Policy Content and Patterns", Page 7

⁹Hoogerwerf. Loc. cit. Page 11.

¹⁰Friend, J. m. Power and C. J. L. Yewlett, Public Planning: The Inter Corporate Dimension, Page. 40.

b. Revitalizing Legality in legal politics.

Revitalization means "the process, method, and action of reviving something previously less powerful".¹¹ Actually revitalization means making things or actions vital. While vital words have very important or very important meanings (for life and so on). Understanding through other languages revitalization can mean processes, methods, and or actions to revive or reactivate any program of activities. Or more clearly revitalization is to revive vitality. So, the notion of revitalization in general is efforts to make something important and necessary.

In revitalizing legality, legal philosophy has a very important role, because with the legal philosophy the implementation of positive law development will be able to provide answers to the legal needs that live in society (living law). Legal philosophy offers the right choices for the law to be built. Thus the law that is born and the product of national law development will have various moral dimensions, dimensions of justice, dimensions of certainty and dimensions of expediency. In revitalizing legality, what needs to be given primary attention is the issue of legal awareness of all parties so that it is embedded in all levels of society in fact and becomes aware of the importance of legal compliance.

In revitalizing legality, what needs to be given primary attention is the issue of legal awareness of all parties so that it is embedded in all levels of society in fact and becomes aware of the importance of legal compliance. The legal development of all institutions including the TNI while taking into account the history and structure of this Indonesian culture is very plural, so that the resulting legal products can be accepted by the whole community in accordance with the norms of the society.

3. Theory of Establishing Legislation Regulations.

a. Legislation Theory.

Laws are the basis and limits for government activities that guarantee state demands based on law, which require predictability due to a rule of law, and the existence of certainty in law. In the technical sense of Indonesian constitution, the Law is a product formed jointly between the House of Representatives and the President, in order to organize the State government Article 5 paragraph (1) and Article 20 of the 1945 Constitution as a result of the first amendment.¹²

According to S.J. Fockema Andrea in his book "Rechtsgeleerd handwoordenboek", legislation or legislation / wetgeving / gesetzgebung has two different senses, namely "Legislation is the process of formation or the process of forming state regulations both at the central and regional levels. Legislation is all state regulations, which are the result of the formation of regulations, both at the central and regional levels."¹³

b. Basis for Forming Legislation

According to Bagir Manan so that the formation of legislation regulations produces a tough and quality law, three bases can be used in drafting the Law, namely: First, Juridical Platform (Juridische gelding); second, the sociological foundation (sociologische gelding); and third philosophical foundation.¹⁴

According to Jimly Assiddiqie, related to the foundation of law formation by looking at the technical side of the formation of legislation, the basis for the formation of laws must be reflected in the "consideration" of a law. In considering a law, it must contain good legal norms, which are the basis for the application of the law, which consists of: First, a philosophical foundation. Laws always contain legal norms idealized by a society towards which noble ideals of community life. The state wants to be directed. Second, the sociological foundation. That every legal norm set forth in the law must reflect the demands of the people's own needs for legal norms that are in accordance with the reality of public legal awareness. Third, the political basis that in the consideration must also be reflected in the existence of a constitutional referral system according to the ideals and basic norms contained in the 1945 Constitution of the Republic of Indonesia as a source of basic policies or legal political sources which underlie the formation of the relevant law. Fourth, the juridical basis, in the formulation of each law, this juridical basis must be set in the "remembering" consideration section. Fifth, administrative basis. This basis is "facultative" (as needed), in the sense that not all laws include this foundation. In the technical formulation of laws, usually the foundation is included in the consideration "pay attention" to this foundation containing the inclusion of references in the case of an order to regulate administratively¹⁵

¹¹Language center. Large Indonesian language dictionary

¹²Hamid S Attamimi. Legal Regulations in Indonesia, Page 80

¹³Maria Farida Indrati. Law and Regulatory Science; Formation Process and Technique. Page 168

¹⁴Bagir Manan. Loc.cit. Page 3.

¹⁵Jimly assiddiqie. Principles of Post-Reformation Indonesian Constitutional Law. Page 240

c. Principles for Establishing Legislation Regulations

The discussion on the principles of the establishment of statutory regulations is a conversation that is closely related to the politics of the formation of legislation. The principles of establishing legislation constitute a guideline or a sign that must be followed by legislators (DPR, President and DPD) in the formation of legislation.¹⁶

d. Legislation Regulation Hierarchy

Hans Kelsen as one of the exponents of the genre of legal positivist constructs a model that suffers from the descendant or the hierarchy of norms which is used as a theoretical reference by many countries in the construction of the rules of legislation. Although there are actually some thinkers who construct the hierarchy of laws and regulations, but with different models or elements.¹⁷

In the dogmatic context of Indonesian State law, the determination of the type and hierarchy of legal norms at the level of legislation has been specifically regulated until now. In 1966, a legal norm was established which regulated the type and hierarchy of legal norms at the level of legislation, namely the Decree of the MPRS number XX / MPRS / 1966 concerning the Memorandum of the People's Representative Council on the Source of Legal Order of the Republic of Indonesia and the Regulations of the Republic of Indonesia. The material content of the legal norms determines that the form and order of the rules are as follows. 1) Basic Laws 2) MPR Provisions. 3) Government Laws / Regulations Substitute for Laws. 4) Government Regulations. 5) Presidential Decrees. 6) Other implementing regulations such as Ministerial Regulation, Ministerial Instruction, and Etc.

e. Procedure for Forming Laws

Establishment of general and abstract legal norms in the form of written regulations (statutory forms), generally based on several things. First, its formation is ordered by constitution, second, its formation is deemed necessary because of legal needs.¹⁸

According to A. Hamid S. Attamimi that like the process of a state policy or government in general, the legislative process also includes various levels of settlement such as the level of preparation, determination, implementation, assessment and re-guiding of finished products. However, the various levels of the legislative process that need to be well understood by a legislative design expert are the level of preparation and the level of its determination.¹⁹

Provisions regarding the procedure for establishing laws have been stipulated in Law Number 12 of 2011 concerning the Establishment of Legislation. The definition of "Establishment of Legislation", as stated in article 1 paragraph (1) is formulated as follows: "Establishment of legislation is the making of legislation that includes the stages of planning, drafting, discussion, endorsement or stipulation and promulgation. So, in broad outline, the procedure for establishing the law includes several main stages, namely: (1) the planning stage; (2) Preparation stage; (3) discussion stage; (4) The stage of ratification or stipulation; and (5) Stage of enactment.

B. Concept Review.

1. Main Duty Knowledge.

a. Technical Dimension

If the problem of implementing the main task is "about the level of expertise (expertise, knowledge and skills) that is low",²⁰ usually direct attention leads to aspects of personnel management. Implementation of basic tasks will not be far from the problem of human resources. One of the human resources is strongly related to the opportunity to follow and the quality of education. In terms of education there are still many root causes of various sources of problems. The source of the problems can come from recruitment, education and training, or the placement and development of personnel careers. Many efforts have been made to solve this management problem, including within the TNI Recruitment and Education Institution, by improving policy and its implementation on each source of the problem. The approach used is usually normative and comprehensive, such as by improving the ten components of education in educational institutions within the TNI. In this case we are often trapped in a comprehensive approach, covering all components, but in the end the results achieved are not very significant.

Management issues are not only in the education and training process, but also in the initial recruitment process and career development, which also affects the level of expertise. Touches on a few career coaching

¹⁶Otong Rosadi and Andi Desmon. Legal Political Studies of a Legal Optics, Page 115-116

¹⁷Achmad Ruslan. Theory and Practice Guidelines for Establishing Legislation in Indonesia, Page 47.

¹⁸Jimly Asshiddiqie. Regarding the Act, Page 179

¹⁹Hamid S. Attamimi. Legislation Regulations and Policy Regulations, Page 4

²⁰Mahrosa, Understanding Whole Professionalism. Page 76

questions, such as position placement and appreciation / reward for expertise. Career coaching is the most influential process for building a general perception of expertise. An officer who has special skills or skills, if he does not get a significant appraisal in the personnel management system, there will be a perception in the officer and other officers that the skill or skill is not very important and does not provide significant benefits to the officer concerned, so appreciation skills or skills become low. So, there needs to be consistency in the principle of "right man on the right place", and "proper treat for the proper person".

Challenges in management of personnel coaching, namely how to balance organizational interests and personal interests of the organization's personnel. This is often overlooked. Management orientation emphasizes the interests of the organization, then ignores personal interests. Personal interests are seen as if they are on a different side or separate from the interests of the organization. The indication is, management practices have become very mechanical, with a long and over-efficient process of formal bureaucracy. In other words, management practices pay less attention to humanistic factors (humanity) as an effective factor in achieving organizational goals.

b. Institutional Dimension.

The explanation is the problem of implementing the main task when it comes to expertise. What if the issue of the implementation of the main duties concerns corporateness: "The level of implementation of the main tasks on the criteria of Institutional Dimensions is closely related to the issues of organizational culture, such as solidity, loyalty and adherence to bureaucratic norms and procedures."²¹

Although normatively a leader acts on behalf of an organization, everyone must be able to read whether it is done in accordance with the laws of existing rules and procedures. If this has been entrenched, then every person in the body of the TNI will place personal integrity above everything. The key to personal integrity is obedience to the law. The bond of loyalty that is not based on integrity is false loyalty, which is fragile, easily lost if there is no interest, and is often misleading. The loyalty building that must be built by the TNI in the future is loyalty based on integrity (obedience to the law). This will be the benchmark for the level of implementation of the basic tasks of the TNI institution and its personnel regarding these institutional criteria.

c. Political Dimension

The final criterion of the three criteria for carrying out the main tasks is "social responsibility and professional ethics with political dimensions"²² The initial step in overcoming the problem in these criteria / dimensions must begin with a correct understanding of the boundaries, then try to enforce them. So the fundamental question about this is what are the limits of social responsibility and the ethical boundaries of carrying out TNI's main tasks.

The definition of social responsibility from the implementation of the military's main tasks in the concept of democracy is social responsibility (to the community / people) of the mandate given to the army to fulfill its main duties. In this case there is political accountability that can be billed through democratic mechanisms. Procedurally the political responsibility is on the shoulders of the head of government (President) and the Minister of Defense, because they are the political authorities in the formation and use of military force. If the military does not show performance in accordance with the people's aspirations in a majority manner, then this political authority holder is held accountable. So, this social responsibility should not be misunderstood as a military responsibility for social matters as interpreted in practical politics, because such understanding is not in accordance with democratic norms and is contrary to the proper interpretation.

Whereas what is meant by the ethics of carrying out the main tasks is ethics that regulates the extent to which the military is deemed appropriate or does not intersect with regions which are not the domain of their duties. In this case, we come to the discussion of the limits to which the military can be considered an intervention in matters that are not the scope of its expertise. In the political area, for example, if we go back to Law No. 3/2002 on National Defense (Indonesia, Law Number 3 of 2002 concerning National Defense, 2004),²³ the question arises what the limits of the TNI may not be involved in practical politics.

A military political expert named Samuel S Finer has formulated in his famous book entitled *The Man on the Horse Back* in the "The Role of the Military in Politics" Chapter²⁴ some restrictions on military and political relations. He stipulates: "Five criteria for military intervention in politics, namely indirect limited, indirect complete, direct quasi-civilianized (semi-civil direct), direct (direct) and dual (double) "

The two criteria for military intervention in politics, which are called first, which are indirectly limited and full, are described as behind-the-scenes military political involvement in controlling the activities of the

²¹ Mahrosa. Loc. cit. Page 34.

²² Mahrosa, Loc. cit. Page 39

²³ Law No. 3 of 2002 Loc. cit. Page 14.

²⁴ Finer, *The Man On The Horse Back ...* Page 122.

civil administration. The third criterion is open but indirect involvement, for example through political parties created by the military or political parties that depend on the military. On the fourth criterion, the military controls politics openly and directly against the chief executive, in this case the president and his ministers. On the last criteria, the military leadership at the same time holds the power of government.

However, this is the same as the issue of the implementation of the main tasks in the technical dimension (expertise) and institutional dimensions, where the level of implementation of the main tasks does not only depend on good understanding, but also influenced by environmental factors. Especially for professional issues on the political dimension, in this case it is influenced by the level of development of the political culture of the community where the TNI is located. In "legal sociology" Satjipto Rahardjo stated that: "If the political culture (democracy) is high (mature), military intervention in politics has been seen as something completely intolerable".²⁵

The level of political culture (democratic maturity) of the community is certainly beyond the reach of the TNI to overcome it. However, understanding this is useful for TNI officers not to be easily tempted, if there are groups of people who intentionally attract TNI officers to help back up their political position, not making it a justification or seeing it as right, the opposite must be seen as immaturity a culture of democratic civic groups, and seen as a process that will continue towards an expected level of maturity. It is very wrong if there are TNI members who take advantage of the immaturity conditions of civil democracy, not only detrimental to the cultural development of political society but also undermine the strengthening of ethics in the implementation of the TNI's main tasks themselves.

2. Regulation to guarantee the legality of the implementation of the implementation of the main tasks

In legislation to guarantee the legality of the implementation of the main tasks it needs to be understood and addressed in full on three important dimensions, namely the technical dimension, the institutional dimension and the political dimension. The implementation of the TNI's main tasks in the future will be closer to the technical dimensions, institutional dimensions and political dimensions, but the challenges will be increasingly complex and full of dynamics., the level of organizational maturity, including the correct meaning of the meaning of loyalty based on personal integrity (obedience to the law), and the proper application of the meaning of professional social responsibility and strengthening the ethics of the implementation of the main tasks. Which of course can only work if within the legality corridor.

From the three dimensions, the Technical Dimension approach, the Institutional Dimension and the political dimension, in the current legislative process there are imbalances, legislation is overwhelmingly controlled by the nuances of the political dimension especially the mandate of Law No. 34 of 2004 on TNI implementation. and State political decisions, or in other words the implementation of tasks is considered as casuistic or there are new cases given the power of law by granting policies or political decisions of the state, rather than in the inclusion of Law No. 34 of 2004 concerning TNI Article 7 paragraph (2) 9 by requiring regulated by the Act, while until now no law that regulates the duty of the TNI has been ratified / approved by the DPR.

This Indonesian National Army, according to Law No. 34 of 2004 concerning TNI Article 2: "The TNI has its identity as a People's Army (Soldiers whose members are from Indonesian Citizens), Army Soldiers, National Army, and Professional Soldiers. As an Army of Fighters, the TNI is an army that struggles to uphold the Republic of Indonesia (NKRI) and does not know surrender in carrying out and carrying out its duties. Meanwhile, the National Army means the Indonesian National Army who are in the interests of the state above the interests of the region, ethnicity, race and religious group. While the Professional Army means soldiers who are trained, educated, well equipped, not practicing politics, not doing business, and guaranteed their welfare, as well as following the country's political policies that adhere to the principles of democracy, civil supremacy, human rights, national law and legal provisions international ratification".

The TNI is expected to always be able to consistently maintain its identity, functions and main tasks. Preparedness as a warrior of professional fighters and soldiers must continue to be built. By upholding the professionalism of soldiers, as well as wanting to work together with the people, and get the full support of all parties, the TNI is expected to always succeed and be better at carrying out its main tasks mandated by law.

3. Implementation of the main tasks of the TNI.

Each personnel should carry out more detailed activities that are carried out clearly and in every part or unit. Details of these tasks are classified into practical and concrete units according to their abilities and functions.

²⁵Sajtipto Rahardjo, Loc.cit Page 68.

The definition of the task itself can be explained as an obligation that must be done, work which is a responsibility, an order to do or do something in order to achieve a goal. Job definition according to experts, namely Dale Yoder in Moekijat (Moekijat, 2010), "The Term Task is often used to describe one portion or element in a job" (The task is used to develop one part or one element in a position). While Stone in Moekijat, stated that: "A task is a specific work activity carried out to achieve a specific purpose" (A task is a special work activity carried out to achieve a certain goal).²⁶

From an academic perspective (Effendy, 2009), some experts refer to these character traits as: "skill or expertise that is closely related to the technical dimension. Then, corporateness (institutions) are closely related to the dimension of value. Furthermore, there are social responsibilities, and professional ethics (professional ethics) that are included in the political dimension".²⁷

From a formal legal perspective, as in the statutory regulations, the characteristics of the implementation of the main tasks of the TNI are increasingly emphasized as the TNI: "Trained, educated, well equipped, not practicing politics, not doing business, and guaranteed welfare, and following the country's political policies. principles of democracy, civil supremacy, human rights, provisions of national law, and ratified international law".²⁸

Back in the formulation of the implementation of the main tasks contained in the TNI Law No. 34/2004 article 2, there is one more important thing to look at. There, there are four points about TNI Identity, namely: "People's Army, Warrior Army, National Army and Professional Army".²⁹

In order to explore the implementation of this main task, there is one important thing to be convinced that the explanation of the implementation of the main tasks in the TNI Law No. 34/2004, especially those with political dimensions is correct and in accordance with democratic norms and theories. Academically, there are two mainstreams that define the implementation of the main tasks differently, but both see from the role of military organizations in a country (Jr., 1997). These two mainstreams in civil-military studies are referred to as the "old professionalism" and "new professionalism" streams.³⁰

The explanation above may slightly illustrate how vulnerable Indonesia is to changes in the flow of foreign policy in other countries. That is, whether militaristic-colored Indonesia was once or more democratic now, regardless of the influence of other countries' international interests. But what is also important to note is that the democratization that occurred in Indonesia is not merely driven from the outside, but also an accumulation of aspirations and democratic movements from within the country. The process of democratization from both directions (from the outside and inside) became a force called the reform movement. In the context of this paper, what needs to be underlined is that the TNI has expressed its commitment and support for democracy and the concept of carrying out the main tasks of the TNI which is adopted is certainly in line with the concept of democracy as stated in TNI Law No. 34/2004, not the flow of "New Professionalism" which was practiced during the New Order period.

IV. DISCUSSION

The implementation of the main tasks of the TNI in the future will be increasingly complex and dynamically the nature of the threat of conflict. Nowadays many conflicts are based on world energy sources, in the future it will be very dynamic with multi-dimensional threats including conflict of food, water and renewable energy, this makes the success of the main task must be seen from various dimensions including technical dimensions, institutional dimensions and political dimensions, all these dimensions the challenges will be increasingly complex and full of dynamics. This means that the success of the TNI's duty in maintaining the integrity of the NKRI will be largely determined by the level of quality of expertise possessed by its officers, the level of maturity of the organization, including the correct meaning of loyalty based on personal integrity, and proper implementation the meaning of professional social responsibility and the strengthening of ethics in carrying out basic tasks. Which of course can only work if it is not within the legality corridor.

From the Technical Dimension approach, the Institutional Dimension and the current political dimension are very unbalanced which is dominated by the nuances of the political dimension in which all TNI duties are carried out on the basis of the State's political policies and decisions, or in other words legal force by granting policies or political decisions of the state rather than in the inclusion of Law No. 34 of 2004 concerning the Indonesian National Army article 7 paragraph (2) point 9 by requiring a law to be regulated until now no law regulates national defense in which there is a TNI, ratified by the DPR.

²⁶ Moekijat. Loc. cit. Page 59

²⁷ Effendy, M. Internet. Study of Phenomenology of the Pattern of Formation of TNI Professionalism.

²⁸ Law No. 34 of 2004. Loc. cit

²⁹ Law No. 34 of 2004, Loc. cit.

³⁰ Jr, F. D. Internet. Origins of the New Professionalism.

So that the very clear task is only based on a fixed procedure whose legality is very questionable so that the implementation of the main tasks of the TNI is meaningless because it is spayed by such matters, with the low legality of implementing basic tasks it can be ensured that protection of TNI personnel will be very low.

Internally the development of the TNI is also a lot of problems, internal TNI reforms which until now are still constrained such as the number of violations of law carried out by soldiers, career development problems with the return of TNI personnel from TNI work and increasing retirement age of soldiers, development of organizations with Zero Growth, and imbalance the demands of the task with the preparation budget etc.

Judging from the 14 main tasks of the TNI in the task of Military Operations Other Than War (OMSP) the effectiveness of the TNI's performance is still considered to be very lacking because the level of success of the TNI has not been measured properly because there is no standard size or how to make an Output that is not clear must be implemented or not, especially if it is withdrawn how the process of planning and preparing the ability to carry out these basic tasks. So that our government considers it not effective in managing state institutions, especially the TNI, especially constrained by the legality of carrying out basic tasks.

To increase legal compliance in the TNI, there is still much need to review and reflect whether or not the proper application of the principle of government, among other things, is unclear form of policy and political decisions in carrying out basic tasks of the TNI make decisions.

Every time there is a concept of Law concerning defense or concerning national defense, in which the main tasks of the TNI proposed by the government are always made into political commodities and the results can always be guessed, cannot be continued, even ratified as soon as they arrive at the DPR. legislation concerning defense as a follow-up to the implementation of the main tasks of the TNI whereas in the principle of proper governance there is a principle not to abuse authority where every government official and state apparatus that has the authority given by the applicable legislation or based on the principle of legality does not apply other interests, Likewise on the principle of justice or prohibition of arbitrary acts that require every action of the body or State administrative officials to always pay attention to justice and fairness aspects.

With a highly developed democracy but not accompanied by advances in the quality of human resources and democratic maturity, creating democracy is only a legality to seek power and even end corruption because it requires expensive prices, many tricks and strategies that are dangerous in democracy which are indirectly dangerous tonation's safety and sovereignty. The issue of human rights violations among members of the TNI, including those targeting military commanders or leaders, also often adorns political issues without clear solutions, is also in the interests of various LSM and foreign parties so that the protection of the TNI Law must be noted.

V. CONCLUSION

Revitalizing the Legality of the Implementation of Basic Tasks The TNI essentially determines policies relating to the legitimacy of the TNI in carrying out its duties both in Military Operations for War and Military Operations other than War in accordance with the principles contained in Pancasila, the 1945 Constitution through a predetermined procedure, in the context of realizing a more professional TNI and in implementing its main tasks the legal umbrella is obtained.

The regulation establishing the Legality of the implementation of the main tasks of the TNI, in its development has undergone a shift towards a better direction but is still very far from optimal. To implement the TNI Main Duty, legal construction is still very much needed to establish legality, especially in: a. Counteract military / military threats originating from abroad. b) Overcoming separatists, armed rebellion and social conflict. c) Tackling terrorism. d) Border security. And e) Empowerment of Defense Areas.

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