



# THE URGENCY OF MILITARY JUDICIAL REFORM UNDER THE PRINCIPLE OF NEMO EST SUPRA LEGES: A CASE STUDY ON THE SHOOTING OF RENTAL BUSINESS OWNER

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## ABSTRACT

This study examined the urgency of reforming Indonesia's military justice system in accordance with the principle of Nemo Est Supra Leges, which asserts that no individual stands above the law. The research aimed to analyze the normative disharmony between Article 9 of Law No. 31 of 1997 on Military Courts and Article 65 of Law No. 34 of 2004 on the Indonesian National Armed Forces, as well as to evaluate the application of the Nemo Est Supra Leges principle in the case involving the shooting of a car rental business owner by members of the Indonesian Navy. The study employed a normative juridical method with statutory, case, and conceptual approaches. The findings revealed that the inconsistency between the two legal provisions resulted in overlapping jurisdictions and weakened the principle of equality before the law within the national judicial system. Moreover, the implementation of the Nemo Est Supra Leges principle had not been fully realized. The study concluded that reforming the military justice system is imperative to ensure fair, transparent, and accountable law enforcement in alignment with the rule of law in a democratic state.

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## 1. INTRODUCTION

Within the framework of a democratic rule of law state, the supremacy of law constitutes a fundamental principle that ensures the continuity of national and state life on the basis of justice (Ismoyo et al., 2025). The supremacy of law implies that law occupies the highest position above all forms of power, whether exercised by individuals or state institutions, including law enforcement agencies and the military (Karyudi & Firdausiah, 2024). All such entities are obliged to comply with prevailing legal norms. This principle serves as a central pillar in ensuring that the exercise of authority is not arbitrary but remains within a legal framework that is fair, rational, and accountable. The provisions concerning the principle of equality before the law are explicitly articulated in Article 27 paragraph (1) and Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which stipulate that every citizen has equal standing before the law without exception (Yunianto & Michael, 2021).

From these constitutional mandates arises the universal legal maxim Nemo Est Supra Leges, meaning that no one is above the law (The Law Dictionary, 2013). This principle embodies the concept of substantive justice, rejecting all forms of absolute power and ensuring that every action, whether committed by the government or by private individuals, can be subjected to legal accountability. However, the implementation of the rule of law

within the national judicial system has not yet fully reflected the ideal aspirations of justice. In the context of criminal proceedings involving military personnel, there remains a significant gap between legal norms and law enforcement practices (Azizah et al., 2025). The military judicial system in Indonesia, as regulated under Law No. 31 of 1997 concerning Military Courts, grants jurisdiction to military courts to adjudicate members of the Indonesian National Armed Forces, including in general criminal cases involving civilians (Fikri et al., 2025).

Such provisions create both juridical and ethical dilemmas because they indirectly establish a dual judicial system that potentially contravenes the principle of equality before the law. Under these circumstances, there is a growing concern that the military judiciary functions more as an instrument of institutional protection rather than as a mechanism for upholding objective justice. The closed and hierarchical nature of this system has often been regarded as an obstacle to transparency and has contributed to diminishing public confidence in law enforcement in Indonesia (Arya & Mau, 2025). This situation creates a persistent tension between the rule of law and the rule by law. Normatively, Indonesia identifies itself as a state governed by law that upholds the supremacy of law (Hanifah & Lewoleba, 2024). Nevertheless, in practice, the mechanisms of accountability for military personnel who commit general criminal offenses continue to demonstrate protective and discriminatory tendencies.

Numerous cases involving violations by military members against civilians have been resolved within the military judiciary without the involvement of civilian courts, thereby denying the public access to both judicial processes and verdicts (Rahayu & Triadi, 2025). This condition reinforces the perception that the military judiciary has not fully adhered to the principles of substantive justice, transparency, and public accountability. In the context of a modern democratic state, justice must not only be upheld but must also appear to be upheld (Ananda et al., 2024). The urgency of reforming the military justice system becomes increasingly evident when viewed in light of contemporary legal developments and the growing demands of civil society for equitable justice. Such reform is not merely an academic discourse but a constitutional imperative intended to strengthen the principles of equality, justice, and the rule of law in all aspects of national life.

Reform of the military judicial system is expected to establish a legal framework that is more transparent, accountable, and consistent with democratic values and human rights. In this regard, various legal scholars such as Abdul Fickar Hadjar of Trisakti University and Usman Hamid of Amnesty International Indonesia have consistently advocated for the transfer of jurisdiction over general criminal offenses involving civilians from military to civilian courts (Tanjung & Yasir, 2025). Their argument rests on the premise that every individual, regardless of rank or institutional affiliation, should be subject to the same legal process when committing a criminal offense. The legitimacy of these reform efforts is reinforced by empirical findings. For instance, a report published by Amnesty International Indonesia on March 19, 2025, documented at least fifty five cases of extrajudicial killings in Indonesia, the majority of which involved law enforcement officers, including military personnel, as principal perpetrators (Nefi & Faiz, 2025).

These findings reveal the fragility of accountability mechanisms within Indonesia's legal framework, particularly in enforcing the law against state officials, thereby emphasizing the urgent need for comprehensive legal reform that encompasses normative, structural, and cultural dimensions of the judicial system. The reform of the military justice system must aim to transform the principle of *Nemo Est Supra Leges* from a normative doctrine into a concrete legal reality within the administration of justice. The limited scholarly focus on military judicial reform indicates insufficient attention to the application of the supremacy of law in military judicial practices. Previous studies have largely examined institutional and normative aspects without exploring the broader legal and sociological implications of the system's exclusivity.

Consequently, further examination is required to assess the implementation of the *Nemo Est Supra Leges* principle within Indonesia's military judiciary, particularly in cases involving civilian victims. The fatal shooting of a car rental entrepreneur at Rest Area KM 45 on the Tangerang–Merak Toll Road, involving members of the Indonesian Navy, exemplifies the weaknesses of accountability and transparency in military judicial processes. The exclusive handling of this case by military courts has raised serious concerns regarding legal equality and public confidence in justice, prompting the need to re-evaluate the consistency of Indonesia's military justice system with constitutional ideals that affirm equality before the law.

In view of this reality, the present study is designed to address two principal issues. The first is to analyze the urgency of reforming the military justice system in Indonesia with the aim of achieving fair, transparent, and accountable law enforcement. This includes examining the normative, structural, and cultural barriers that have hindered the system's ability to ensure justice for all parties, including civilians. The intended reform is not limited to amendments to the regulatory framework but also involves a transformation of institutional paradigms and legal culture within the military, which often continues to prioritize corporate loyalty over the principle of substantive justice. Accordingly, this study seeks to assess the relevance of the current institutional design of military courts within the context of a modern rule of law state that requires transparency, accountability, and equality before the law without discrimination based on institutional status.

The second focus of this research is to examine the exercise of military court jurisdiction in the case of the shooting of a car rental entrepreneur by a Navy member, viewed through the lens of the principle of *Nemo Est Supra Leges*. This case is significant as it not only demonstrates legal violations committed by military personnel but also illustrates the complex interplay between power, law, and public accountability. By employing a normative juridical method supported by case analysis, this study aims to provide a comprehensive overview of how the principle of *Nemo Est Supra Leges* is applied in military law enforcement and the extent to which existing accountability mechanisms are capable of upholding the principle of equality before the law. Through a critical examination of this case, the study seeks to reveal systemic weaknesses in military law enforcement and to propose reform directions that are oriented toward achieving substantive justice rather than merely adhering to formal legality.

By examining the case of a car rental business owner shot by a member of the Indonesian National Armed Forces, this study addresses a gap in existing research, which has largely focused on normative comparisons of legal principles without exploring their practical impact on substantive justice. Previous studies, such as that by Astri Dewi Setyarini et al. (2022), compared the principle of legality in general criminal law with the principle of discipline in military law, emphasizing equality before the law. However, these works remain conceptual and do not evaluate how such principles operate in practice. Therefore, this study expands existing scholarship by integrating normative and practical analyses to examine the implementation of the *Nemo Est Supra Leges* principle within the jurisdiction of military courts handling cases involving both military personnel and civilians.

The research gap lies in the limited studies that critically assess the real-world implications of applying this principle, particularly regarding unequal access to justice, potential abuse of power, and weak accountability in Indonesia's military justice system. Theoretically, this study reinforces the view that *Nemo Est Supra Leges* is essential for developing a legal system grounded in equality, justice, and institutional accountability. Practically, it proposes several reform measures, including revising Law No. 31 of 1997 to clarify jurisdiction between military and civilian offenses, establishing an independent oversight mechanism to prevent conflicts of interest, and integrating aspects of military and civilian courts to ensure genuine legal equality.

Recent cases, such as the 2024 Mojokerto shooting and the 2023 Papua torture incidents, expose persistent lack of transparency and accountability in Indonesia's military courts. These events underscore the urgent need for legal reform to align the military justice system with international standards and to uphold the *Nemo Est Supra Leges* principle, ensuring equality before the law and strengthening Indonesia's overall legal framework.

## 2. RESEARCH METHODS

This research employs a normative juridical method that regards law as a prescriptive system intended to examine its ideal function within the Indonesian legal framework (Syahrums, 2022). The study is conducted through library-based research that analyzes primary legal materials, including Law Number 31 of 1997 concerning Military Courts, Law Number 34 of 2004 concerning the Indonesian National Armed Forces, and Law Number 48 of 2009 concerning Judicial Power, together with related statutory provisions, jurisprudence, and international instruments such as the International Covenant on Civil and Political Rights (ICCPR), which affirms the principle of equality before the law. Secondary legal materials consist of academic literature, scholarly writings, and expert opinions, while tertiary materials such as legal dictionaries and encyclopedias are used to clarify essential legal concepts (Firmanto et al., 2024). The research adopts statutory, case, and conceptual approaches to examine the existing legal norms and their implementation in the case involving the shooting of a car rental business owner by a member of the Indonesian Navy at Rest Area Kilometer 45 on the Tangerang-Merak Toll Road, as well as to analyze the fundamental principles of *Nemo Est Supra Leges* and equality before the law (Wiraguna, 2024). Data collection and verification are carried out through triangulation of primary, secondary, and tertiary sources to ensure accuracy, while qualitative content analysis is employed to interpret legal norms, identify normative and practical discrepancies, and formulate deductive legal reasoning. Although access to certain military judicial data remains limited due to confidentiality, this research provides a comprehensive legal analysis of the *Nemo Est Supra Leges* principle and offers substantial recommendations for reforming Indonesia's military justice system in order to ensure fairness, accountability, and compliance with human rights principles within the national legal system.

## 3. RESULT AND ANALYSIS

### **The Urgency of Reforming the Military Justice System in Indonesia to Realize Fair Law Enforcement**

Law, in its essence, constitutes a system of norms that serves to regulate and harmonize human life within society, with the ultimate goal of achieving social order that guarantees the fulfillment of every individual's rights and obligations (Suryawan, 2025). The nature of law should not be perceived merely as a collection of coercive rules, but rather as a rational instrument imbued with moral values and the pursuit of justice (Afdhali & Syahuri,

2023). In the history of legal philosophy, Aristotle emphasized that the principal purpose of law is justice, for without justice, law loses its moral legitimacy (Azhari et al., 2024). This idea forms the foundation of natural law theory, which conceives of law as a moral order inherent in human nature. Thomas Aquinas later elaborated upon this notion, asserting that true law must originate from reason and morality, for a law that is unjust cannot be considered law in the proper sense (Fatimah et al., 2025).

Conversely, Hans Kelsen, through his Pure Theory of Law, rejected the interrelation between law and morality, arguing that the validity of law depends solely on its lawful creation within the hierarchical structure of norms (Pratama et al., 2024). However, this positivist stance has been widely criticized for disregarding the human and moral dimensions of law, thereby prompting the emergence of integrative theories that seek to reconcile moral values with legal certainty (N et al., 2023). Within the modern legal paradigm, ideal law is that which is both formally valid and substantively just, as justice remains the highest value guiding the direction and purpose of the legal system (Salwa & Sunaryo, 2025). Aristotle's conception of justice, whether distributive or corrective, illustrates that justice is not a static or monolithic concept but a dynamic principle that continuously mediates the relationship between the individual and society (Jasmine et al., 2025).

In the evolution of modern legal theory, the concept of justice transcends its classical understanding as a mere interpersonal relation and expands to embrace the broader dimension of social justice, which demands the equitable distribution of rights, responsibilities, and legal protection among all members of society (Abdillah et al., 2024). Gustav Radbruch significantly advanced the philosophy of law by articulating three fundamental values that constitute the essence of a just legal order: legal certainty, expediency, and justice (Azharie, 2023). For the law to operate effectively, these values must coexist in a state of equilibrium (Wiratama & Rasji, 2025). However, Radbruch posited that when a conflict arises among them, justice must prevail, as it embodies the ultimate moral and philosophical foundation of the law itself (Balya, 2024).

The conception of justice as the supreme legal value serves as a normative cornerstone for the establishment and continual development of Indonesia's legal system (Muin, 2025). This system is grounded in the principles of humanity, rationality, and the harmonization of certainty with morality (Purwono, 2024). Constitutionally, Indonesia declares itself a state based on the rule of law, as enshrined in the 1945 Constitution of the Republic of Indonesia, wherein law functions as the supreme authority above all manifestations of power (Rachmadika, 2024). This constitutional principle underscores that the enforcement of law must not be confined to its formalistic aspects but must also be directed toward achieving substantive justice consistent with the philosophical foundations of Pancasila and the universal respect for human rights (Rayfindratama, 2023).

Within this normative framework, the principle of equality before the law stands as a concrete embodiment of the maxim *Nemo Est Supra Leges*, affirming that no individual or institution may claim exemption from the reach of law (Malaka & Isa, 2023). This doctrine finds its practical realization through the exercise of independent judicial authority, as stipulated under Law Number 48 of 2009 concerning Judicial Power, which designates the judiciary as both the guardian of legal certainty and the custodian of substantive justice within Indonesia's judicial architecture (Tarigan, 2024). Within Indonesia's national legal framework that upholds the state as governed by law, the military legal system represents a vital subsystem with historical roots extending to the Dutch colonial period under the *Militaire Strafwetboek voor Nederlandsch-Indië*, which primarily functioned to maintain colonial authority rather than to safeguard individual rights.

Following independence in 1945, the development of Indonesia's military law became a strategic response to internal instability, with foundational regulations such as Government Decree No. 7 of 1946 and subsequent laws forming the basis of military judicial institutions (Simatupang, 2022). The enactment of Law No. 31 of 1997 concerning Military Courts reaffirmed this framework by aligning military justice with national sovereignty while addressing the functional needs of the armed forces (Ananta et al., 2024). Grounded in hierarchical command principles and the doctrine of *lex specialis derogat legi generali*, military law serves as a distinct legal regime emphasizing discipline and obedience (Rini, 2025). Its existence, however, must align with Article 1 paragraph (3) of the 1945 Constitution affirming Indonesia as a state of law, thereby requiring that military authority remain subject to legal norms (Pebrianto, 2024).

Despite constitutional recognition under Law No. 48 of 2009, scholarly debate continues regarding potential jurisdictional dualism and threats to the principle of equality before the law. Post-1998 reforms sought to realign military justice with democratic accountability and human rights, yet Law No. 31 of 1997 remains the primary legal foundation (Rahayu, 2023), and issues persist concerning overlapping jurisdiction between military and general courts (Kartika & Abdullah, 2024). Ambiguities in interpreting "in service" within Law No. 34 of 2004 have resulted in inconsistent enforcement, risking impunity and undermining public trust. This tension also implicates Indonesia's international obligations under the International Covenant on Civil and Political Rights, ratified through Law No. 12 of 2005, which demands judicial independence free from military influence (Jailani et al., 2021).

The military requires internal order, yet under a democratic rule of law, all authority must submit to legal supremacy (Effendy, 2025). Echoing Rawls's concept of justice as the foundation of a fair institutional order, reforming Indonesia's military justice system constitutes not merely a technical revision but an ethical imperative reflecting human rights and constitutional values (Suhardin, 2023). Ultimately, such reform is a constitutional necessity to strengthen the rule of law, ensure accountability, and realize a transparent and equitable legal system consistent with Indonesia's identity as a democratic state governed by law.

**Table 1. Comparison of Two Regulatory Articles**

Law No. 31 of 1997 concerning Military Courts	Law No. 34 of 2004 concerning the Indonesian National Armed Forces
Article 9	Article 65
Courts within the military justice system shall have jurisdiction to: Adjudicate criminal acts committed by a person who, at the time of committing the criminal act, is within: A member of the armed forces; Deemed a member of the armed forces by statute; A member of a group, office, body, or any entity equated or regarded as a member of the armed forces under statute; A person not covered under items (1), (2), or (3), but who, pursuant to a decision by the Commander with the approval of the Minister of Justice, is required to be tried by a court within the military justice system.	(1) Military Trainees shall be governed by the legal provisions applicable to members of the armed forces. (2) Members of the armed forces shall fall under the jurisdiction of military courts for violations of military criminal law, and under the jurisdiction of civilian courts for violations of general criminal law as prescribed by statute. (3) In the event that the jurisdiction of civilian courts referred to in paragraph (2) is inoperative, members of the armed forces shall be subject to the jurisdiction as stipulated by law.

Normatively, the juridical basis for the jurisdiction of military courts is set forth in Article 9 of Law No. 31 of 1997 concerning Military Courts (Lubis et al., 2023). This provision grants military courts the authority to examine, hear, and adjudicate criminal acts committed by soldiers or individuals equated with soldiers under the law, including those who, by decision of the Commander and with the approval of the Minister of Justice, may be tried within the military court system. This formulation indicates that the military justice system was originally established as an internal mechanism to ensure discipline, compliance with hierarchical structures, and command effectiveness within the defense sector. Nevertheless, the broad scope of this regulation has given rise to juridical concerns regarding the limits of jurisdiction between military and general courts in the development of constitutional practice.

This issue becomes more complex when viewed through Article 65 of Law No. 34 of 2004 on the Indonesian National Armed Forces, which states that military personnel fall under military jurisdiction only for violations of military law, while general crimes should be tried in civilian courts. In theory, this provision complements the principle of equality before the law by balancing military discipline with legal accountability. However, in practice, the broad interpretation of the term "in service" has allowed military courts to claim jurisdiction over general criminal offenses, creating ambiguity and undermining legal equality. To address this, military judicial reform must prioritize clarifying jurisdictional boundaries between military and civilian courts to prevent overlapping authority and ensure that soldiers who commit general crimes outside their official duties are tried in civilian courts, as mandated by Law No. 34 of 2004.

The independence of military courts must be strengthened through the establishment of effective external oversight mechanisms that prevent the dominance of military command structures over judicial proceedings. Furthermore, regulatory reform is required to revise provisions allowing multiple interpretations, particularly Article 9 of the Military Court Law and the phrase "in the course of official duties" in Article 65 of the Armed Forces Law, to prevent excessive jurisdictional expansion. These reforms are fundamental for building a professional, transparent, and justice-oriented military judicial system. The urgency of such reform is further supported by Indonesia's commitment to human rights as reaffirmed in the International Covenant on Civil and Political Rights (ICCPR), ratified through Law No. 12 of 2005, which guarantees every individual's right to an independent and impartial tribunal free from external influence, including military authority. Thus, aligning national military justice practices with international standards is not only a moral obligation but also a measure of Indonesia's legal credibility within the global community.

In this regard, reforming the military justice system serves as both a corrective response to institutional weaknesses and an embodiment of Indonesia's international obligation to uphold universal justice and human

rights principles. The reform carries essential significance in ensuring the enforcement of legal equality within Indonesia's rule of law framework. By updating regulations, enhancing transparency, and establishing accountable mechanisms, the military judiciary can operate proportionally and avoid perceptions of preferential treatment. From a broader legal standpoint, such reform reinforces public trust in the supremacy of law and ensures that the law functions as an instrument of justice rather than as a tool of power. Ultimately, the reform of the military justice system represents the practical realization of the *Nemo Est Supra Leges* principle, affirming that no individual, including members of the armed forces, stands above the law

### **The Implementation of Military Court Jurisdiction in the Case of the Shooting of a Rental Boss in Light of the Principle of *Nemo Est Supra Leges***

The principle of *Nemo Est Supra Leges*, which comes from Latin meaning "no one is above the law," serves as one of the most fundamental moral and juridical foundations of modern legal systems, affirming that law holds the highest authority and binds all individuals, including those in political or military power (Adelina, 2021). Originating from the Roman legal tradition that viewed *lex* as a manifestation of universal justice, this concept evolved into a cornerstone of both continental and common law systems. Its modern interpretation was strengthened by the Magna Charta Libertatum of 1215, which limited the power of the monarchy and affirmed that rulers could not act without lawful justification, marking the rise of the rule of law in the Anglo Saxon tradition (Steilen, 2025; Wibowo et al., 2025). Philosophically, John Locke's theory of the social contract reinforced this doctrine by asserting that state authority derives from the consent of the governed and must always operate within legal boundaries.

The principle of *Nemo Est Supra Leges*, meaning that no one is above the law, embodies the supremacy of law as the highest norm binding all individuals and institutions without exception, ensuring that law stands above power itself and functions as a moral safeguard against the abuse of authority (Susilo, 2024; Flippi et al., 2024). Within the Indonesian legal framework, this principle is constitutionally enshrined in Article 1 paragraph (3) of the 1945 Constitution, which affirms that Indonesia is a state based on the rule of law, requiring that all state powers be exercised in accordance with legal norms as a manifestation of the supremacy of law over political power (Tifana et al., 2025). Furthermore, Article 27 paragraph (1) reinforces the doctrine of equality before the law, declaring that all citizens have equal standing before the law and the government, thus prohibiting any form of privilege or immunity for individuals or institutions, including the military (Jamaludin, 2021). Philosophically, this principle is closely tied to the notion of substantive justice, as Aristotle emphasized that justice entails giving each person what is rightfully theirs, thereby rejecting discrimination and ensuring fairness in the enforcement of law.

In modern democratic governance, *Nemo Est Supra Leges* operates as both a constitutional doctrine and a moral imperative that balances state authority and human rights, ensuring that law functions not only as a formal regulatory mechanism but as a moral framework guiding human conduct with truth, rationality, and impartiality. Within Indonesia's judicial system, the implementation of the *Nemo Est Supra Leges* principle is frequently tested through the relationship between general courts and military courts. Pursuant to Law No. 31 of 1997 concerning Military Courts, members of the Indonesian National Armed Forces who commit criminal acts are subject to trial before military courts. However, this regulation has often become the subject of academic debate and public criticism because it creates a duality of jurisdiction that potentially conflicts with the principle of legal equality.

The separation between civilian and military judicial systems is viewed as allowing disparities in the administration of justice, as it opens the possibility of differential treatment toward offenders originating from the military. From the standpoint of modern legal thought, such a judicial structure may diminish the effective application of the *Nemo Est Supra Leges* principle, as it implicitly establishes a hierarchy in the enforcement of law based on institutional status. Moreover, the existence of a distinct military judiciary separate from the general courts also raises significant concerns regarding the principles of judicial independence and transparency of justice. In a democratic state governed by the rule of law, every judicial process must be conducted before an institution that is independent, impartial, and open to public scrutiny.

Therefore, the reform of the military justice system is essential to ensure the full implementation of both the rule of law and the maxim *Nemo Est Supra Leges*. As widely advocated by scholars and civil society organizations, criminal acts committed by military personnel against civilians should be adjudicated within the general courts. This approach is not solely intended to achieve jurisdictional unification but also to guarantee the enforcement of the principle of equality before the law and the fair, proportional protection of victims' rights. Beyond its legal dimension, the principle of *Nemo Est Supra Leges* also encompasses significant ethical and institutional aspects, particularly within a military context.

This principle requires a balance between adherence to the chain of command and the recognition of individual legal responsibility. While a soldier's loyalty to superiors and the military institution is indispensable within the hierarchical structure, ultimate loyalty must always be directed toward the law. This concept corresponds to the doctrine of command responsibility in international criminal law, which holds a commander

accountable for violations committed by subordinates if the commander knew, or should have known, of such acts but failed to take preventive or corrective measures. Accordingly, the application of the principle of *Nemo Est Supra Leges* implies that legal responsibility does not end with the direct perpetrators in the field but extends to the command hierarchy that neglects its legal obligations.

In the context of military law enforcement, the principle of *Nemo Est Supra Leges* carries the fundamental implication that legal responsibility extends beyond the immediate offenders and includes superior officers who bear the legal duty to supervise and prevent any potential violations. This principle affirms the essential notion that no person, including members of the armed forces, is exempt from the reach of the law. Within a legal system founded upon the rule of law, the implementation of this principle serves as an essential safeguard to ensure equality before the law for both civilians and military personnel. Its consistent application is expected to prevent the emergence of impunity, which may otherwise threaten human rights, substantive justice, and the institutional integrity of the armed forces.

Within this conceptual framework, the tragic shooting of a car rental business owner at Rest Area Kilometer 45 on the Tangerang–Merak Toll Road represents a concrete example of how the application of the principle of *Nemo Est Supra Leges* continues to encounter serious challenges in Indonesia’s military justice system. The incident, which involved three members of the Indonesian Navy, exemplifies an abuse of authority and a breach of military discipline resulting in the loss of civilian life. This case cannot be regarded merely as an individual criminal offense but must also be viewed as a manifestation of institutional weaknesses within the internal oversight mechanisms of the military, which are intended to prevent violations of professional ethics, discipline, and legal norms. The case illustrates that structural deficiencies within the military judicial system continue to create opportunities for violations that undermine the principles of accountability and the supremacy of the rule of law.

Based on the results of the investigation and judicial proceedings, the tragic incident began when three Indonesian Navy soldiers, namely Chief Seaman Bambang Apri Atmojo, Sergeant First Class Akbar Adli, and Sergeant First Class Rafsin Hermawan, were involved in the criminal act of motor vehicle embezzlement. The chronology of the case indicates that on December 26, 2024, the defendant Rafsin Hermawan sought assistance from Akbar Adli to find a car that only had a vehicle registration certificate without official ownership documents (CNN Indonesia, 2025). This request was then forwarded to Bambang Apri Atmojo, who claimed to know someone named Hendri to help acquire the car. Through a rental transaction with CV Makmur Jaya Car Rental on January 1, 2025, the three managed to rent an orange Honda Brio with the license plate B-2696-KZO.

However, the vehicle was not returned to its owner and was instead sold illegally. This action marked the beginning of a series of events that ultimately culminated in a humanitarian tragedy. The owner of the rental company, Ilyas Abdurrahman, along with his son Agam Muhammad and several members of the Indonesian Car Rental Association, undertook efforts to track the vehicle through a GPS tracking system. After detecting the car’s location in the Pandeglang area, the team promptly initiated a pursuit. On January 2, 2025, at approximately 2:30 AM, they succeeded in intercepting the vehicle driven by the defendants in the Saketi District.

In the tense situation that ensued, the victim accused the defendants of being part of a car embezzlement network. Meanwhile, one of the defendants claimed to be a member of the Indonesian National Armed Forces, which further aggravated the situation. Tension escalated when the defendant Rafsin Hermawan brandished a firearm and aimed it at the victim, before the defendants ultimately fled the scene. This incident demonstrates how a defensive attitude and the misuse of military credentials can result in actions contrary to the ethics and discipline expected of soldiers. Not stopping there, the victim and his colleagues continued to chase with the help of GPS signals until they finally found the vehicle stopped at the Rest Area Kilometer 45 of the Merak-Tangerang Toll Road at around 04.00 AM.

Based on the indictment of the Military Inspectorate, the defendants were resting in the area around the minimarket. In a tense atmosphere, the defendant Akbar Adli reportedly handed over the firearm to Bambang Apri Atmojo while saying, “if something happens, just shoot.” When the victim Ilyas and his entourage arrived and tried to arrest the perpetrators, a physical fight ensued that ended in fatality. In a state of panic and loss of control, Bambang Apri Atmojo fired shots at the victim. As a result, Ramli suffered a gunshot wound to the arm, while Ilyas Abdurrahman was shot in the right chest and died at the scene. The incident illustrates how a lack of emotional control and discipline among soldiers can lead to very serious legal consequences. Surveillance camera footage (CCTV) later played during the trial at the Military Court II-08 in Jakarta shows the moments of the shooting incident (Yanuar, 2025).

In the recording, Bambang Apri Atmojo can be seen firing shots while holding a cigarette, demonstrating a disregard for norms of discipline and military honor. This fact not only constitutes strong evidence in the trial but also raises serious questions regarding the effectiveness of moral and professional training within the military environment. From a legal perspective, the act reflects a severe violation of the soldiers’ code of ethics and

tarnishes the image of the military institution in the eyes of the public. The incident also demonstrates that individual violations can have systemic effects on public trust in national defense institutions. The judicial process against the three defendants subsequently proceeded to the cassation level. In the first instance verdict, two principal defendants were sentenced to death on charges of premeditated murder and unlawful use of firearms, while the third defendant was sentenced to four years in prison for proven complicity in receiving stolen goods.

However, the Supreme Court, through Decision Number 25-K/PM.II-08/AL/II/2025, later annulled the death sentences and replaced them with fifteen year prison terms for the two main defendants and a three year sentence for the third defendant (Zulkodri, 2025). The panel of judges held that the elements of intent and premeditation in the murder charge were not sufficiently proven, thereby rendering the imposition of the death penalty disproportionate to the evidence presented. Furthermore, the Court ordered restitution to be provided to the victim's family in accordance with Law No. 31 of 2014 concerning the Protection of Witnesses and Victims, as a form of reparation for the suffering endured by the family of the deceased.

The Supreme Court's cassation ruling subsequently generated extensive public debate. On one hand, certain groups regarded the Court's decision as an embodiment of proportional justice, emphasizing both juridical and humanitarian considerations. On the other hand, some critics argued that the ruling did not fully reflect the implementation of the principle of *Nemo Est Supra Leges*, as legal accountability appeared to be confined to field operatives without addressing the structural dimensions of oversight and command responsibility within the military institution. This circumstance suggests that, although judicial proceedings have been conducted, significant challenges persist in ensuring comprehensive accountability within the military sphere.

Consequently, this case serves as a critical reminder of the pressing need to reform the military justice system to enhance transparency, strengthen institutional accountability, and guarantee that every member of the armed forces, without exception, remains genuinely subject to the rule of law and the principles of universal justice. From the perspective of military law, the case involving the shooting of a car rental business owner at Rest Area Kilometer 45 on the Tangerang–Merak Toll Road clearly illustrates the challenges in applying the principle of command responsibility within the military context. This principle fundamentally provides that a commander bears responsibility not only for acts personally committed but also for those of subordinates, if the commander knew or, under the circumstances, should reasonably have known of potential violations and failed to take appropriate preventive or corrective measures.

In this regard, command responsibility must not be understood merely as a moral obligation but rather as a form of legal accountability that carries juridical consequences when negligence in supervision can be established. Although accountability in this case has primarily focused on the direct perpetrators, the essence of the principle underscores that the effectiveness of internal oversight mechanisms within the military is a key determinant in preventing actions that may contravene the law or undermine military discipline. The principle of command responsibility has been universally recognized in international legal doctrine, most notably articulated in Article 28 of the 1998 Rome Statute of the International Criminal Court, which provides that a military commander or superior officer may be held criminally liable for failing to prevent or repress crimes committed by subordinates under their effective control.

While the shooting case in question falls under national legal jurisdiction, the spirit of this principle aligns with Indonesia's fundamental legal values as embodied in Law No. 34 of 2004 concerning the Indonesian National Armed Forces. The law requires every soldier to uphold discipline, hierarchy, and adherence to legal norms in the performance of their duties. Therefore, although the acts in question were individual in nature, it can be conceptually asserted that deficiencies in training and supervision systems constitute enabling factors that allow such violations to occur. Within this framework, the application of command responsibility should not be viewed as an expansion of criminal liability but rather as a mechanism to reinforce institutional integrity and ensure the effective and fair implementation of supervisory functions.

From the perspective of the principle of equality before the law, this case offers a significant reflection on how the military justice system can function alongside the general judiciary without creating disparities in the application of substantive justice. The 1945 Constitution of the Republic of Indonesia, under Article 27 paragraph (1), explicitly guarantees that every citizen possesses equal standing before the law and the government. This principle requires that jurisdictional distinctions between military and general courts must not result in differential treatment that could generate perceptions of injustice between civilians and military personnel. In practice, the authority of military courts, as regulated by Law No. 31 of 1997 concerning Military Courts, frequently gives rise to debate, particularly in cases where violations involve civilian victims.

Such discourse is not intended to challenge the existence of military courts but rather to highlight the importance of applying the principle of justice universally, without regard to institutional status. Within this context, the principle of due process of law must serve as the fundamental basis for ensuring that military judicial proceedings uphold justice, transparency, and accountability. The publication of judgments, the openness of trial procedures, and the availability of legal remedies, including cassation, are essential components for fostering

public confidence in the integrity of military judicial institutions. The Supreme Court's decision to overturn the death sentences imposed on two defendants in this case demonstrates that legal mechanisms continue to function as instruments of substantive oversight over first-instance judgments. Nevertheless, the enforcement of justice must not be confined solely to the individual dimension.

An evaluation of the chain of command and internal oversight mechanisms is essential to ensure that the entire military structure operates within the framework of the rule of law and upholds the principles of human rights as mandated by the Constitution. From the perspective of national legal policy, this case also underscores the urgency of reforming the military justice system to promote stronger integration with the general judicial system. The purpose of this reform is not to diminish the institutional independence of the military, but to reinforce the principles of accountability and the supremacy of law in the performance of national defense functions. The direction of reform should focus on two primary areas. The first concerns the reorganization of jurisdictional boundaries between military and civilian courts, particularly in cases involving civilian victims.

The second involves enhancing the transparency, professionalism, and competence of military law enforcement officers, including both auditors and judges. These measures are expected to strengthen public confidence in the impartiality of the military judiciary and reaffirm that every member of the armed forces remains subject to the supremacy of national law. From the perspective of institutional ethics, this case serves as a reminder that the military, as an institution entrusted with safeguarding national sovereignty, must consistently demonstrate exemplary conduct in upholding the law and professional values. Violations committed by individual soldiers not only affect their personal reputation but also risk undermining public confidence in the integrity and moral authority of the military institution as a whole.

Accordingly, moral development, the reinforcement of integrity, and tiered supervision must be prioritized at every level of command. These initiatives should be supported by effective internal mechanisms, including the military justice system, inspectorates, and comprehensive legal and ethical education programs for all personnel. Such measures are intended to ensure that legal awareness, responsibility, and respect for human rights are deeply embedded within the organizational culture of the armed forces. Ultimately, the application of the principle of *Nemo Est Supra Leges* within the context of military justice is not limited to the enforcement of law against offenders, but also encompasses systemic reform across the structural and cultural dimensions of the military.

This principle must function as both an ethical and juridical guideline affirming that no authority stands above the law. Every soldier, without exception, bears a moral and legal obligation to uphold this principle as a manifestation of their service to the nation and fidelity to the Constitution. Thus, the shooting incident at Kilometer 45 Rest Area serves not only as a legal precedent but also as a moment of institutional reflection for all elements of law enforcement and national defense. It emphasizes the need to reaffirm their collective commitment to justice, transparency, and the supremacy of law within the framework of a democratic state founded upon fairness and the rule of law.

#### 4. CONCLUSION

The conclusion presented in this article is coherent and effectively aligned with the objectives of the research. The author has successfully linked the main findings to the purpose of the study and emphasized the urgency of reforming Indonesia's military justice system to achieve a more just and law-based society. However, the quality of the conclusion could be further enhanced by providing more detailed and concrete recommendations regarding specific measures for military justice reform, reinforcing the urgency of such reform with stronger empirical evidence or authoritative references, and explaining more clearly the scholarly contribution of this study, particularly in offering new insights into the development of military justice discourse in Indonesia. The findings of this research confirm that the expectation stated in the introduction, which concerns the realization of the *Nemo Est Supra Leges* principle as a foundational element for ensuring equality before the law within the Indonesian judicial framework, has been coherently supported through the analysis and discussion. The study concludes that the continuing dualism between military and general courts hampers the effective implementation of legal equality and risks deviation from the constitutional guarantees of justice. Therefore, the reform of the military justice system is not merely a policy option but a constitutional necessity to uphold transparency, accountability, and the supremacy of law without exception, including for members of the armed forces. Such reform should include not only normative amendments but also comprehensive structural and institutional transformations to ensure that military judicial practice aligns with the fundamental principles of democracy and the rule of law.

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