

Jurisdiction of Military Court for Military Members Who Committed General Crimes in Indonesia's Military Justice System and Comparison with Another Countries

Authors : Dini Dewi Heniarti

Abstract : Military Court which is a judicial institution within the military institution has a heavy duty. Military court has to ensuring a fair legal process for military personnel (due process of law) and enforces military discipline. Military justice must also ensure protects the rights of military personnel. In Indonesia tren of military court changes in vision. The debate is happened on the jurisdiction of military court that allegedly has the potential existence of impunity. The Decree of People's Consultative Assembly Number VII/MPR/2000 which states that the army general who committed the crime should not be tried in military court is one that underlies the proposed amendment limits the jurisdiction of military court. For the identify of the background in a specific format that is limited to juridical review. The goals this research is to gain knowledge, deep understanding and the concept of jurisdiction of military courts for military members who committed general crimes in adjudication procedure from the perspective of legal reform as alternative to establish independency of military judiciary. This research using Rule of Law as Grand Theory, Development Legal Theory as a Middle Theory and Criminal Justice System and concept of jurisdiction as supporting as Applied Theory. This study using a normative juridical approach, and equipped by primary data juridical approach of historical and comparative approach. The author uses descriptive analytical specifications. The main data used in this research is secondary data, which includes primary legal materials, secondary legal material and legal materials tertiary. Analysis primary data and qualitative data is done legally. Technique checking the validity of the data in this study used multiple methods with the research triangulation. This paper will demonstrate the problems concerning the jurisdiction of military courts for military personnel who committed general crimes in perspective of military justice reform Indonesia and adjudication procedures for military member who committed general crimes in the military justice system in Indonesia, as alternative to establish independency of judiciary in military justice in Indonesia. Comparative approached the military justice system from another countries is aimed to development military justice in Indonesia.

Keywords : jurisdiction, military courts, military justice, independency of judiciary

Conference Title : ICLS 2015 : International Conference on Law and Society

Conference Location : Montreal, Canada

Conference Dates : May 11-12, 2015