

Role and Responsibility of The Command in Supervising Indonesian National Army Soldiers Against Excise Violations (Case Study of Kodim 0819/Pasuruan)

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Abstract. *This research aims to analyze the role and command responsibility in supervising members of the Indonesian National Armed Forces (TNI) regarding customs violations, with a case study at the Military District Command (Kodim) 0819/Pasuruan. Previous research has examined customs violations from the perspectives of economic criminal law and fiscal policy; however, studies that specifically connect these issues with the internal military oversight mechanism remain limited. This research employs a juridical-sociological method. The method was chosen because it not only examines legal norms textually through statutory regulations, doctrines, and relevant judicial decisions but also observes how these norms are implemented in practice through interviews, field observations, and data analysis. This combined approach allows for a balanced analysis between normative and empirical aspects, ensuring that the research findings are scientifically accountable. The results show that the supervision of TNI personnel concerning customs violations at the regional level, such as within Kodim 0819/Pasuruan, constitutes a duty to act implemented within the framework of command and control (C2). This framework includes the refinement of the commander's intent, the strengthening of unity of command, reliable information flow, and a well-documented prevent–detect–correct mechanism. The effectiveness of this supervision depends on the integration between the positive legal framework (Law No. 34 of 2004 on the Indonesian National Armed Forces, Law No. 31 of 1997 on Military Courts, and the customs law regime) and risk-based operational instruments such as Standard Operating Procedures (SOPs), internal supervision (waskat), spot inspections, early-warning systems, interagency cooperation, and after-action reviews. Supervisory challenges are multidimensional, encompassing structural, regulatory,*

cultural, technical, forensic, human resource, and socio-economic factors. These conditions require a precisely designed and adaptive control and coordination system. The threshold of command accountability is measured through three elements of command responsibility: effective control, actual or constructive knowledge (knew or should have known), and failure to prevent or punish, which are evidenced by objective indicators such as consistency in duty rosters, leave permits outside the garrison, vehicle movement patterns, invoice–cargo discrepancies, financial anomalies, and ignored reports.

Keywords: *Command Responsibility, Customs Violations, Military Law.*

1. Introduction

Indonesia is the world's largest archipelagic country, comprising over 17,000 islands, stretching from Sabang to Merauke, encompassing 1.9 million square kilometers of land and 6.3 million square kilometers of water. Its strategic location at the crossroads of international trade routes presents Indonesia with significant economic potential, as well as serious security challenges. Connie Rahakundini Bakrie (Defense University/UNHAN) emphasized that this geostrategic position places Indonesia in the archipelagic state category, vulnerable to cross-border threats, including the smuggling of excisable goods, which can be detrimental to the country's economy.¹

Indonesia's national security situation is influenced not only by external threats but also by internal threats involving state officials. The national defense system, as stipulated in Law Number 3 of 2002 concerning National Defense, affirms that the Indonesian National Armed Forces (TNI) is a key component in safeguarding the nation's sovereignty, territorial integrity, and security. However, as Retired Admiral Agus Suhartono (UNHAN) warned, non-military threats, such as violations of the law by state officials themselves, can weaken national resilience if not addressed decisively and measurably.²

Within the framework of the Indonesian legal system, the principle of the rule of law as stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia places the law as the highest supremacy that binds all citizens without exception. National law covers various branches, from general criminal law to special laws, including military law. Gunarto (UNISSULA) explained that military law in Indonesia is a subsystem of criminal law that regulates

¹Bakrie, CR (2020). *Geostrategy and Defense of Archipelagic States*. Jakarta: Universitas Pertahanan Press.

²Suhartono, A. (2019). Challenges of National Resilience in Facing Non-Military Threats. *Journal of Defense & National Defense*, 9(2), 1–20. <https://doi.org/10.33172/jpbn.v9i2.548>

criminal acts, discipline, and rules of order that apply to members of the TNI, and has special jurisdiction through military courts.³

Military law in Indonesia is specifically regulated by Law Number 31 of 1997 concerning Military Justice and Law Number 34 of 2004 concerning the Indonesian National Armed Forces (TNI). These regulations stipulate that every soldier is bound by a military code of conduct derived from the Sapta Marga (Servant's Pledge), the Soldier's Oath, and the Eight Obligations of the TNI (Indonesian National Armed Forces). According to H. Jawade Hafidz (UNISSULA), these norms not only have positive legal force but also contain a moral dimension that is binding internally within the military.⁴

However, in practice, it cannot be denied that some military personnel are involved in violations of the law, including in the excise sector. Excise violations can include the illegal production, distribution, or trade of excisable goods without complying with the provisions of Law Number 39 of 2007 concerning Excise. This phenomenon indicates a potential oversight gap within the Indonesian National Armed Forces (TNI). Research published in the *Journal of Defense & National Defense* (UNHAN) reveals that weak internal oversight is often a driving factor behind the involvement of officers in the illegal trade of goods.⁵

The results of the inspection revealed that the two vehicles were carrying large quantities of illegal cigarettes, accompanied by evidence of financial transactions indicating the flow of billions of rupiah in funds from the sale of these goods.⁶ The total state losses from this act are estimated to exceed Rp 1.3 billion. Another aggravating fact is that Aris Toifin did not have permission to leave the garrison from his superiors during this trip, which also violates military discipline.

The legal process for this case was carried out in accordance with military justice procedures as regulated in Article 72 paragraph (2) in conjunction with Article 101 paragraph (1) of Law Number 31 of 1997 concerning Military Justice.⁷ The case files were handed over to the case-handing officer and the military prosecutor, then transferred to the Semarang II-10 Military Court. During the trial, prosecutors presented witnesses, physical evidence, and financial transaction records, all of which corroborated Aris Toifin's involvement in the illegal cigarette distribution network.

³Gunarto, G. (2021). *Criminal Law and the Indonesian Criminal Justice System*. Semarang: UNISSULA Press.

⁴Hafidz, J. (2020). *Aspects of Evidence in Indonesian Criminal Law*. Semarang: UNISSULA Press.

⁵Andriani, N., & Prasetyo, H. (2021). Internal Oversight of Defense Apparatus on the Circulation of Illegal Goods. *Journal of Defense & National Defense*, 11(1), 45–64. <https://doi.org/10.33172/jpbn.v11i1.621>

⁶Results of Examination of Evidence and Accounts, Central Java-DIY Customs, 2024.

⁷Law of the Republic of Indonesia Number 31 of 1997 concerning Military Justice.

On February 4, 2025, the Panel of Judges at the Semarang II-10 Military Court ruled that Private Moch Aris Toifin was legally and convincingly proven guilty of committing the crime of “offering and selling excise goods without excise stamps together.” He was sentenced to 1 year in prison, minus the temporary detention period, and was ordered to pay a fine of Rp2,611,296,160.00, with the provision that if not paid, he would be replaced with 2 months in prison. Evidence of illegal cigarettes was confiscated for destruction, while personal belongings were returned. This decision sets an important precedent and a strong warning that violations of the law by TNI soldiers, especially those that harm the state, will be dealt with firmly according to legal provisions.

Following the ruling, important questions arose regarding the effectiveness of internal oversight mechanisms within the military. From a national defense perspective, Connie Rahakundini Bakrie (UNHAN) emphasized that soldier integrity is an integral part of national resilience.⁸ When a member of the Indonesian National Armed Forces (TNI) is involved in a crime that causes financial losses to the state, it not only tarnishes the institution's reputation but also has the potential to undermine public confidence in the TNI's ability to maintain security and order. Therefore, the oversight system implemented by the command must be able to detect, prevent, and respond to indications of violations early on.

Furthermore, the oversight dimension within the TNI cannot be separated from the legal framework governing command responsibility. Retired Admiral Marsetio (UNHAN) emphasized that effective oversight is not only repressive after a violation occurs, but also preventive through ongoing moral, mental, and disciplinary development.⁹ This approach requires the command to thoroughly understand the socio-economic situation, network of relationships, and potential vulnerabilities that could lead soldiers to engage in legal violations, including excise crimes. In the context of the Kodim 0819/Pasuruan case, this is a crucial indicator for assessing the extent to which command responsibilities have been carried out in accordance with legal mandates and military doctrine.

The role of the command in supervising soldiers has legal and administrative dimensions. The retired Indonesian Air Force officer who last served as Sesko Commander TNI Air Marsda TNI (Ret.) Diyah Yudanardi, M.Sc. CHRMP stated that mentality is the “driving force and controller of all behavior of TNI personnel,” and that mental development is the responsibility of the command in the Command Function Bintal.¹⁰ When excise tax violations occur, command

⁸Bakrie, CR (2020). *Geostrategy and Defense of Archipelagic States*. Jakarta: Universitas Pertahanan Press.

⁹Marsetio. (2017). *Strategic Military Leadership in the Era of Globalization*. Jakarta: Universitas Pertahanan Press.

¹⁰Air Marshal TNI Diyah Yudanardi, Bintal Fungsi Komando Has a Strategic Role in Building Soldiers' Mentality, *Jernih.co*, October 20, 2020, accessed on August 11, 2025

responsibility can be traced through the principle of command responsibility, which stipulates that military superiors can be held accountable for negligence or for allowing violations to occur under their authority. Previous studies have largely examined command responsibility in the context of human rights violations or military crimes, but specific studies on excise tax violations are still very limited.

From a public law perspective, supervision of Indonesian National Armed Forces (TNI) personnel involved in excise tax violations lies at the intersection of two legal regimes: military law and state administrative law. Gunarto, in his research on the Indonesian criminal justice system, emphasized that overlapping authorities often hinder law enforcement, particularly when violations are committed by state officials.¹¹In the context of excise violations, coordination between military institutions and the Directorate General of Customs and Excise is a very crucial aspect, considering its impact not only on the aspect of legal compliance, but also on state revenues which are part of fiscal sovereignty.

Coordination is further complicated by the different legal mechanisms and internal procedures of the two institutions. The Directorate General of Customs and Excise operates under state administrative law and general criminal law, while the Indonesian National Armed Forces (TNI) operates a military legal system with its own court system.¹²This difference in jurisdiction can create a jurisdictional gap if there is no consensus on how cases are handled. Connie Rahakundini Bakrie (UNHAN) emphasized that in the context of national defense, any legal loophole exploited by individuals poses a serious non-military security threat and has the potential to undermine national stability.¹³

Furthermore, the dynamics of civil-military relations in law enforcement also influence the effectiveness of military oversight. Research in the Journal of Defense & National Defense (UNHAN) shows that the success of handling legal violations by military personnel in the civilian sphere depends heavily on the political will of military leaders to be transparent and cooperative with civilian law enforcement agencies.¹⁴When the command is defensive or protective of its members, the law enforcement process tends to be hampered, and accountability is difficult to achieve.

<https://jernih.co/crispy/tni-bintal-fungsi-komando-miliki-peran-strategis-membangun-mental-prajurit/>.

¹¹Gunarto, G. (2021). *Criminal Law and the Indonesian Criminal Justice System*. Semarang: UNISSULA Press.

¹²Law of the Republic of Indonesia Number 31 of 1997 concerning Military Justice.

¹³Bakrie, CR (2020). *Geostrategy and Defense of Archipelagic States*. Jakarta: Universitas Pertahanan Press.

¹⁴Prasetyo, H., & Andriani, N. (2021). Dynamics of Civil-Military Relations in Law Enforcement: A Study on Handling Military Violations in the Civilian Sphere. *Journal of Defense & National Defense*, 11(1), 45–64. <https://doi.org/10.33172/jpbn.v11i1.621>

A number of empirical findings in UNISSULA academic publications show that weak internal oversight mechanisms are often a trigger for violations by officials.¹⁵ For example, research in the *Khaira Ummah Law Journal* revealed that the lack of surprise inspections and multi-layered supervision opens up loopholes for individuals to engage in smuggling or illegal distribution of excise goods.¹⁶ In a military environment, this situation can be exacerbated by corps solidarity, which sometimes hinders the law enforcement process, especially if it is not accompanied by a strong commitment from the command elements to act objectively.

The excise tax violation case that occurred in the 0819/Pasuruan Military District Command (Kodim) area is highly relevant to study because it has characteristics that distinguish it from similar cases in civilian society. Based on available news reports and legal data, this incident not only involved the actions of individual soldiers but also raised indications of negligence in oversight by the command. In a military system that adheres to a strict hierarchical structure, every action of a subordinate essentially reflects the quality of supervision from their superiors. This aligns with the view of Muhammad Ngazis, who asserted that command effectiveness is measured by the extent to which superiors are able to ensure subordinates' compliance with applicable laws and regulations.¹⁷

From an Islamic legal perspective, the principle of responsibility (*al-mas'uliyah* or responsibility) asserts that a leader has a moral and legal obligation to ensure that his subordinates do not commit acts that cause harm to society. H. Fathurrahman Djamil explains that within the framework of *fiqh siyasah*, a military leader's negligence in supervising his subordinates can result in accountability, both before positive law and morally and religiously.¹⁸ Therefore, command supervision in cases of excise violations is not merely an administrative matter, but also an ethical responsibility that has a spiritual dimension.

While previous studies have addressed excise tax violations from the perspective of economic criminal law and fiscal policy, specific discussions linking them to internal military oversight are rare. This study attempts to fill this gap by combining a normative juridical approach and empirical research, thereby providing a more comprehensive picture of the role and responsibilities of command. Therefore, the results of this study are expected to enrich the body of legal knowledge, particularly in the realm of military law and state administrative

¹⁵ Wahyudi, A., & Nurcahyo, B. (2022). The Effectiveness of Supervisory Mechanisms in Hierarchical Organizations. *Khaira Ummah Law Journal*, 17(1), 112–130. <https://journal.unissula.ac.id/index.php/khaira>

¹⁶ Setiawan, R. (2022). The Role of Command in Preventing Violations of the Law by Soldiers. *Khaira Ummah Law Journal*, 17(3), 310–325.

¹⁷ Ngazis, M. (2019). Command Leadership and Supervision Effectiveness in the Military. *Khaira Ummah Law Journal*, 14(2), 145–160.

¹⁸ Djamil, F. (2018). *Fiqh Siyasah: Concept and Implementation in Islamic Law*. Jakarta: Kencana.

law. Therefore, this study is entitled "The Role and Responsibilities of Command in Supervising TNI Soldiers Against Excise Tax Violations (Case Study of KODIM 0819/Pasuruan)."

2. Research Methods

This research uses a normative juridical method. This method focuses on analyzing relevant laws and regulations, legal doctrine, and court decisions. This approach emphasizes the study of written legal norms (law on books) to understand the principles, concepts, and legal rules governing command responsibility in handling excise violations by military personnel.

3. Results and Discussion

3.1. The Role of the Command in Supervising TNI Soldiers Against Excise Violations in the Kodim 0819/Pasuruan Area

The role of command in the context of monitoring excise violations within the 0819/Pasuruan Military District Command (Kodim 0819/Pasuruan) is the authority and duty to act of a commander to design controls, implement waskat, detect early, and take action and remedy any deviations that have the potential to violate the excise regime, while maintaining official accountability in accordance with the Indonesian Army Standard Operating Procedure (SOP). In an academic framework, this role operates through a command and control (C2) cycle that links the commander's intent, unity of command, reliable information flow, and documented prevent-detect-correct mechanisms. Its ethical-religious spirit is based on the mandate of Allah, the benefit of Allah, and justice, so that every command decision is legitimate, proportional, and transparent before state law and the public.¹⁹

Theoretically, this role can be analyzed using Positive Legal Theory. According to Hans Kelsen, positive law is a norm established by the competent authority and binds all legal subjects without exception. In the military context, positive law is embodied in Law Number 34 of 2004 concerning the Indonesian National Armed Forces (TNI), Law Number 31 of 1997 concerning Military Justice, and various implementing regulations that emphasize the command's responsibility as a legal and official function. From a positive legal perspective, the command has a legal obligation to enforce rules and discipline of soldiers, including against suspected involvement of members in excise violations as regulated in Law Number 11 of 1995 in conjunction with Law Number 39 of 2007 concerning Excise.

From the perspective of Command Responsibility Theory, as explained by Antonio Cassese, command responsibility encompasses a military leader's

¹⁹Ministry of Finance of the Republic of Indonesia. (2007). Law Number 39 of 2007 concerning Excise (amendment to Law 11/1995). Jakarta: LN 2007/105.

obligation to prevent, detect, and prosecute any violations committed by his subordinates. This theory emphasizes three important elements:

- (i) the existence of effective control,
- (ii) actual or supposed knowledge (knew or should have known), and
- (iii) failure to prevent or punish violations.

If a commander has the capacity and authority but fails to enforce the law, they can be held accountable for their negligence. In the context of the 0819/Pasuruan Military District Command, elements of effective control are evident in the hierarchical supervisory structure and standard operating procedures (SOPs) designed to ensure compliance with customs laws and soldier discipline.

Working definition & legal corridor. At the definition level, "supervision" is understood as a series of commanders' authorities to ensure legal compliance and discipline through interlocking planning–implementation–control (POAC) mechanisms. At the legal level, Law 34/2004 regulates the chain of command and the task of guiding/using force; the President–Commander-in-Chief holds the deployment/use authority, while the Chief of Staff of the Armed Forces guides the force, which is passed down as a duty to control at each unit commander level.²⁰

In the judicial realm, Law 31/1997 provides accountability channels through the Audit Office and Military Courts, while placing the commander as the initial gateway through the submission of cases (Papera) and reporting obligations when the threshold is met.²¹ In the excise sector, Law 11/1995 in conjunction with Law 39/2007 establishes mandatory permits (NPPBKC), payment (tape/mark), reporting, security, and administrative-criminal sanctions that serve as references when soldiers are suspected of being involved in illicit trade in BKC.²²

The Indonesian Army's doctrinal foundation & standard operating procedures (SOPs). The Indonesian Army's doctrine "Kartika Eka Paksi (KEP)" is stipulated in the Attachment to the Decree of the Indonesian National Armed Forces Commander Kep/1024/XII/2020. It is a capstone doctrine that guides the mindset, attitude, and actions of the command in both training and the use of force. This doctrine explains the principles of unity of command, continuity of binsat-ops, and POAC discipline that are internalized into SOPs (planning,

²⁰Republic of Indonesia. (2004). Law Number 34 of 2004 concerning the Indonesian National Armed Forces. Jakarta.

²¹Republic of Indonesia. (1997). Law Number 31 of 1997 concerning Military Justice. Jakarta.

²²Directorate General of Customs and Excise. (tt). Definition and general provisions of excise—refer to Law 39/2007 & Law 11/1995. Jakarta.

implementation, control/*wasdal*, and after-action review).²³In the practice of the Indonesian Army, legal guidance is emphasized as a command function: the commander as *Ankum* has the authority to conduct initial inspections and impose disciplinary penalties, while simultaneously cultivating compliance with the law through training/*socialization*.²⁴

A hierarchical internal control and oversight architecture. Above the unit level, internal oversight is supported by the Government Internal Oversight Apparatus (APIP) of the Inspectorate General of the Ministry of Defense, the Inspectorate General of the Indonesian National Armed Forces (Ing. Gen. TNI), and the Inspectorate General of the Army (Ing. Gen. AD), which work within the SPIP framework (PP 60/2008) to provide assurance of the adequacy of controls, risk management, and compliance.²⁵Defense Ministerial Regulation 19/2020 affirms the mandate of the Inspectorate General/Admiralty Inspectorate General to oversee the development/use of force and the implementation of governance, risk, and SPIP; the results are used by the command as corrective feedback.²⁶Thus, supervision is not “eventful”, but rather systematic, measurable, traceable, and auditable.

Operational instruments at the Kodim level (based on Indonesian Army SOPs). At the regional command level, for example, Kodim 0819/Pasuruan, the command role is relegated to mutually reinforcing, documented, and auditable operational instruments, as follows.

1. Setting the tone at the top and the commander's intent. The commander translates the *Sapta Marga*, the Soldier's Oath, and the excise legal framework into standing orders, internal rules of engagement (ROE), and a list of red-line behaviors (e.g., prohibiting conflicts of interest with illegal excisable goods networks; prohibiting the use of vehicles/unit inventory space for non-official loads; and prohibiting the misuse of official attributes as cover). The formulation of a concise yet measurable end-state also emphasizes the limits of delegative authority of the *Danramil/Babinsa* so that unity of command is maintained and

²³Indonesian Army Headquarters. (2020). Indonesian Army Kartika Eka Paksi Doctrine (KEP)—Attachment to the Decree of the TNI Commander Kep/1024/XII/2020 (PDF). Magelang: Akmil.

²⁴Indonesian Army. (2019). Legal training/guidance as a command function, the role of the commander as an *Ankum*. Jakarta: tniad.mil.id.

²⁵Republic of Indonesia. (2008). Government Regulation Number 60 of 2008 concerning the Government Internal Control System (SPIP). Jakarta.

²⁶Ministry of Defense of the Republic of Indonesia. (2020). Regulation of the Minister of Defense Number 19 of 2020 concerning Internal Supervision within the Ministry of Defense and the Indonesian National Armed Forces. Jakarta.

the direction of operations is consistent with the TNI AD Kartika Eka Paksi (KEP) doctrine.²⁷

2. Risk-based SOP design. The SOP includes risk mapping (industrial areas, distribution corridors, toll roads, warehouse nodes), segregation of duties (hierarchical authorization, two-person rule for sensitive processes), inspection checklists, hierarchical reporting lines, and incident reporting that ensures reporter confidentiality. This entire architecture is aligned with the military administration regime, including the obligation to record guidance and enforcement actions, so that every command decision has an orderly administrative trail.²⁸

Standards of proof and command responsibility. From a command responsibility perspective, command accountability is measured through three main elements: (i) effective control, namely the commander's actual ability to direct, supervise, and correct soldier behavior and resource utilization; (ii) actual/constructive knowledge (knew or should have known) – factual or supposed knowledge of risk signs; and (iii) failure to prevent/punish – negligence in taking necessary and reasonable preventive or enforcement measures. At the Kodim level, objective measures include the consistency of duty rosters and garrison exit permits, night movement patterns using large-capacity vehicles, invoice-cargo discrepancies, financial red flags, and unfollowed community/DJBC tips. If these indicators are available but the command response is inadequate, elements (ii)–(iii) are strengthened and pave the way for command accountability within the corridor of Law 31/1997 and military disciplinary norms.²⁹

Direct linkage to the excise regime. The excise regime requires the existence of an Excise Tax Identification Number (NPPBKC) as a license to operate, payment through a stamp/payment mark, and documentary compliance. Therefore, any involvement of soldiers in the production, distribution, or transportation of Excisable Goods (BKC) without stamps, with counterfeit/misappropriated stamps, or through misuse of facilities, constitutes a violation that triggers administrative/criminal sanctions ranging from fines multiples of the excise value to imprisonment according to the gradation of the article. The related technical framework (PMK 66/2018 jo. 68/2023 concerning NPPBKC; PMK 17/2024 concerning confiscation-destruction; and SE-7/BC/2022 concerning

²⁷Indonesian Army Headquarters. (2020). Indonesian Army Doctrine “Kartika Eka Paksi” (Attachment to the Decree of the TNI Commander Kep/1024/XII/2020). Magelang: Military Academy.

²⁸Republic of Indonesia. (2010). Government Regulation Number 39 of 2010 concerning the Administration of TNI Soldiers (and its amendments). Jakarta: BPHN.

²⁹Republic of Indonesia. (1997). Law Number 31 of 1997 concerning Military Justice. Jakarta: BPHN.

misappropriation of stamps) provides operational references for commands in liaison and case-building with the Directorate General of Customs and Excise.³⁰

Ethical-religious values as the north star. Command supervision of excise violations does not stop at procedural compliance, but is also a requirement of sharia to protect public assets, close the door to corruption, and uphold peace. Thus, the command bears the responsibility of preventing mafsadah and achieving maṣlaḥah through preventive-repressive policies that are fair, fast, and evidence-based, while ensuring due process for every party being investigated.³¹

Practical implications for Kodim 0819/Pasuruan. Considering the characteristics of the East Java logistics corridor and the vulnerability of HT/MMEA illicit trade, the focus of supervision needs to be sharpened on: (a) risk mapping of industrial areas and distribution nodes; (b) strengthening of cross-time (night/weekend) waskat and spot checks; (c) evidence-based controls for garrison exit permits (CCTV, e-toll, ANPR/GPS); (d) limited joint operations with DJBC in vulnerable corridors; (e) scheduled after-action reviews (AAR) following incidents along with follow-up SOP updates; and (f) leadership communication that emphasizes zero tolerance for illicit trade BKC. This combination synergizes positive legality with military professional ethics, while strengthening the legitimacy of the Indonesian Army in the eyes of the public that law enforcement, including excise matters, is handled firmly, fairly, and accountably.³²

The author argues that the implementation of the command responsibility principle at the 0819/Pasuruan Military District Command (Kodim) level demonstrates a concrete harmony between positive law and military moral values. Traceable, auditable, and hierarchical oversight demonstrates that the internal control system is operating in accordance with legal norms and the Indonesian Army's Kartika Eka Paksi doctrine. However, its effectiveness depends heavily on the commander's integrity and moral assertiveness in enforcing a zero-tolerance policy against excise violations.

³⁰Ministry of Finance of the Republic of Indonesia. (2018/2023). PMK 66/PMK.04/2018 jo. PMK 68/2023 concerning Procedures for Granting, Freezing, and Revocation of NPPBKC; Ministry of Finance of the Republic of Indonesia. (2024). PMK 17/2024 concerning Procedures for Settling BKC and Other Goods Confiscated/Controlled/Becoming State Property; Directorate General of Customs and Excise. (2022). SE-7/BC/2022 concerning Settlement of Attaching Inappropriate Excise Stamps (Wrong Designation). Jakarta.

³¹Republic of Indonesia. (2007). Law Number 39 of 2007 concerning Amendments to Law 11/1995 (Excise); and ethical-religious references regarding the principles of جَفُظُ الْمَالِ, سَدُّ الدَّرَائِعِ, and الْعَدَالَةُ in the literature of fiqh siyāsah.

³²Indonesian Army Headquarters. (2020). Indonesian Army Doctrine "Kartika Eka Paksi" (Attachment to the Decree of the TNI Commander Kep/1024/XII/2020); Indonesian Ministry of Defense. (2020). Minister of Defense Regulation Number 19 of 2020 concerning Internal Supervision within the Ministry of Defense and the TNI; Republic of Indonesia. (2008). Government Regulation Number 60 of 2008 concerning SPIP.

Furthermore, the author believes that the concept of command responsibility aligns with Islamic values, particularly the principles of *al-mas'uliyah* (responsibility) and *hisbah* (moral oversight). In Islam, leaders are obligated to uphold justice (*al-'adl*) and prevent corruption (*sadd al-dzari'ah*) within their communities. Therefore, a commander is not only legally required but also morally and spiritually to protect the mandate of his office and safeguard the dignity of the military institution from deviant practices that harm the state.

In the author's opinion, the application of positive legal theory and command accountability theory must be developed simultaneously, while strengthening the values of trust and good morals within the TNI. This step provides a moral basis for every command action to align with positive law, military professional ethics, and the principles of social justice.

3.2. Obstacles and Barriers in Supervising Indonesian Army Soldiers Under Its Command, and How an Islamic Legal Perspective Assesses and Guides the Command's Response to These Obstacles

Oversight of soldiers within the Indonesian Army (TNI AD) takes place within a hierarchical organizational architecture and operates across the spectrum of developmental and operational tasks. At the middle command level (e.g., Kodim), the effectiveness of oversight is often hampered by intertwined structural, procedural, cultural, and technical-forensic constraints. At the same time, Islamic legal perspectives offer ethical-normative institutions to guide command responses that are just, proportional, and due process.

1. Structural and Governance Constraints.

At the structural level, regional commands such as Kodim are faced with three main interrelated problems: (a) the breadth of the span of control, (b) the tension between unity of command and the need for decentralized decision-making, and (c) organizational-personnel dynamics that demand the constant transfer of SOP knowledge.

First, the broad span of control. The vast and heterogeneous nature of the region (demographic, economic, and mobility patterns) demands a wide span of control over command posts, military districts (Koramil), and even Babinsa (village supervisory non-commissioned officers). At the same time, the spectrum of operations other than war (OOTW) tasks, including community engagement, disaster contingency support, limited law and order support, and cross-agency liaison, adds to the command's busy agenda. This combination increases monitoring costs and complicates real-time monitoring by line officers without the support of a disciplined battle rhythm (e.g., commander's update briefs, periodic situation reports, and clear escalation protocols). In terms of norms, Law No. 34/2004 outlines the chain of command and the division of functions for guidance and use of force; however, the effectiveness of day-to-day control is

largely determined by the command's ability to translate these norms into operational control designs (task-authority matrices, delegation, and reporting standards).³³

Second, the tension between unity of command and decentralization of decision-making. At the tactical level, mission command demands subordinate initiative within a clear framework of commander's intent (objectives, authority boundaries, decision points). However, the greater the degree of decentralization for the sake of speed of response, the greater the need for an internal control system to maintain unity of effort across echelons. Without a clear decision rights matrix, segregation of duties, and dual control of sensitive processes (e.g., vehicle access/inventory space), feedback loops tend to be delayed, red flags are missed, and the risk of deviation increases. The Indonesian Army's Kartika Eka Paksi doctrine emphasizes planning-implementation-control (POAC) continuity and after-action review; this serves as a "bridge" between centralized control and decentralized implementation.³⁴

Third, organizational dynamics and personnel transfers/rotations. Rapid job changes (promotions, rotations, tours of duty) have the potential to create knowledge gaps if SOP knowledge transfer is not consistent. This gap is evident in decreased procedural compliance (non-uniformity in checklists, variations in the quality of briefings, or weak documentation of guidance/enforcement). The Government Internal Control System (SPIP) framework requires the five pillars of the control environment, risk assessment, control activities, information-communication, and monitoring to run simultaneously. Low SPIP maturity usually results in paper compliance: procedures are documented but not internalized, so the early warning system stagnates at the administrative level, rather than becoming a viable risk sensor.³⁵

To reduce these structural constraints, regional commands typically combine: (i) a tone at the top that emphasizes red-line behaviors and zero tolerance for conflicts of interest; (ii) sharpening the commander's intent into clear standing orders and reporting lines; (iii) risk-based staffing and the two-person rule at vulnerable points; (iv) disciplined battle rhythm (daily/weekly briefs, incidental

³³Republic of Indonesia. (2004). Law Number 34 of 2004 concerning the Indonesian National Armed Forces. Jakarta: BPHN.

³⁴TNI Commander. (2020). TNI Commander's Decree Number Kep/1024/XII/2020 concerning the Indonesian Army Doctrine "Kartika Eka Paksi". Jakarta. Republic of Indonesia. (1997). Law Number 31 of 1997 concerning Military Justice. Jakarta: BPHN.

³⁵Republic of Indonesia. (2008). Government Regulation Number 60 of 2008 concerning the Government Internal Control System (SPIP). Jakarta: BPHN. Financial and Development Supervisory Agency (BPKP). (2016). Regulation of the Head of BPKP Number 4 of 2016 concerning Guidelines for Assessment and Strategy for Increasing SPIP Maturity. Jakarta: BPKP.

spot checks); and (v) AARs linked to SOP improvements. On the ethical horizon, these steps align with the principles of الأمانة (al-amānah, trustworthiness), المسؤولية (al-mas'ūliyyah, responsibility), and العدالة (al-'adālah, justice), so that control design is not merely procedural compliance, but also the embodiment of governance with integrity.

2. Procedural and Regulatory Constraints.

In the realm of connectivity between the Indonesian Army's regional commands and civilian law enforcement (DJBC–Polri–Kejaksaan), differences in procedures, evidentiary standards, and work rhythms often result in jurisdictional gaps, especially when cases touch on excise offenses that rely on the licensing regime (NPPBKC), payment through tape/marks, and document validity. The excise regime requires a strict chain of custody and forensic readiness from the earliest stages to ensure case-building is not formally flawed; without detailed SOPs at the unit level, referrals (Papera) risk being delayed or being assigned incorrect authority.³⁶ On the other hand, the Military Justice Law provides a separate judicial channel for soldiers, requiring synchronization between military disciplinary/crime channels and excise offenses, which fall under the investigative authority of the PPNS DJBC. This synchronization requires detailed work procedures, communication protocols, and clear escalation routes at the Kodim level to prevent overlapping or gaps in handling.³⁷

Furthermore, the management of seized goods (confiscation, storage, and destruction) has specific technical corridors, including validation of the conformity of the tape (brand/class/year), determination of the goods status, and administrative settlement options that must be referred to precisely by the command element when coordinating with the DJBC and the Auditorate. Accuracy in these points is not merely an issue of administrative compliance, but rather a prerequisite for due process (الإجراءات الواجبة) so that evidence in court is not harmed.³⁸

From a governance perspective, weak whistleblowing protection in local settings and minimal transaction traceability exacerbate upward reporting bias. Because

³⁶ Ministry of Finance of the Republic of Indonesia. (2023). PMK 68/PMK.04/2023 concerning Amendments to PMK 66/PMK.04/2018 (NPPBKC and provisions for implementing excise). Jakarta: DJBC. Republic of Indonesia. (2007). Law Number 39 of 2007 concerning Amendments to Law 11/1995 (Excise). Jakarta: BPHN.

³⁷ Republic of Indonesia. (1997). Law Number 31 of 1997 concerning Military Justice. Jakarta: BPHN. Republic of Indonesia. (1996). Government Regulation Number 55 of 1996 concerning Investigation of Criminal Acts in the Field of Customs and Excise. Jakarta.

³⁸ Republic of Indonesia. (2007). Law Number 39 of 2007 concerning Amendments to Law 11/1995 (Excise). Jakarta: BPHN. Ministry of Finance of the Republic of Indonesia. (2024). PMK 17/PMK.04/2024 concerning Management of Goods Declared as State Property Originating from Actions in the Field of Customs and Excise. Jakarta: DJBC.

excise violations require proof of payment stamps/marks, cargo manifests, delivery orders, and the chain of custody of goods, inadequate procedures for managing confiscated goods (confiscation, storage, status determination, and destruction) will reduce deterrence and obscure accountability.³⁹ The thorough implementation of the Government Internal Control System (SPIP) is crucial: the information-communication pillar must ensure that plumbing data (CCTV, e-toll, ANPR, GPS, digitized duty roster) can be quickly retrieved as actionable evidence, while the monitoring pillar ensures consistent rotation of at-risk posts and dual control at vulnerable nodes.⁴⁰

Ethically and normatively, the tone at the top at the Kodim level needs to explicitly emphasize zero tolerance for connections with illicit trade networks, while simultaneously strengthening the Command Function Bintal (Command Function Bintal) to prevent social cohesion from metamorphosing into protective silence. The Kartika Eka Paksi doctrine demands exemplary leadership and POAC discipline; both must be translated into standing orders that bind daily practices: secure speak-up channels, limited joint operations with the Directorate General of Customs and Excise (DJBC) in vulnerable corridors, and after-action reviews (AARs) that translate lessons learned into revised SOPs.⁴¹ In the Islamic value horizon, controlling illicit trade is part of maintaining public welfare (المصلحة, *al-maṣlaḥah*) and justice (العدالة, *al-'adālah*), implemented through the principles of *sadd al-dharā'ī* (closing the door to mafsadah) and the mandate of office (الأمانة, *al-amānah*). Thus, the design of layered supervision is not merely procedural compliance, but an ethical mandate to protect the public good (ḥifẓ al-māl, public property) through lawful, proportional, and transparent enforcement.⁴²

According to the author, the application of command accountability theory to the Indonesian Army (TNI AD) faces complex conceptual and practical challenges. On the one hand, this theory provides a basis for substantive justice to ensure that command is not merely symbolic but actually accountable for the actions of its subordinates. However, on the other hand, the extensive hierarchical structure, rapid personnel rotation, and weak supervisory documentation systems often make effective control difficult to measure concretely.

³⁹Ministry of Finance of the Republic of Indonesia. (2024). PMK 17/PMK.04/2024 concerning the Management of Goods Declared as State Property Originating from Actions in the Customs and Excise Sector. Jakarta: DJBC.

⁴⁰Republic of Indonesia. (2008). Government Regulation Number 60 of 2008 concerning the Government Internal Control System (SPIP). Jakarta: BPHN; see also BPKP. (2016). BPKP Regulation No. 4/2016 concerning Guidelines for Assessment and Strategy for Increasing SPIP Maturity. Jakarta: BPKP.

⁴¹TNI Commander. (2020). TNI Commander's Decree Number Kep/1024/XII/2020 concerning the Indonesian Army Doctrine "Kartika Eka Paksi". Jakarta.

⁴²Al-Shāṭibī. (1997). *Al-Muwāfaqāt fī Uṣūl al-Sharī'ah* (Vols. 1–4). Beirut: Dār al-Kutub al-'Ilmiyyah.

The root of the problem lies not solely in the weaknesses of individual commanders, but rather in the institutional design of oversight, which is not yet fully evidence-based and a risk-based system. The widespread presence of paper compliance, where oversight documents are administratively complete but do not function as a viable early warning system, indicates that command responsibility has not fully operated within the framework of command accountability as defined by positive legal theory.

From a positive legal theory perspective, the author believes that the national legal system needs to strengthen the standards for proving command accountability to align with the principle of constructive knowledge. This means that a commander cannot hide behind the excuse of "not knowing" if he or she objectively should have known through available oversight mechanisms. This principle aligns with the principle of *vigilantibus non dormientibus jura subveniunt*, meaning the law helps those who are vigilant, not those who are negligent. In the military context, vigilance is a concrete form of practicing the principle of official responsibility (*al-amānah*), which is also emphasized in Islamic law.

The application of the theory of command accountability should not be understood merely as a repressive instrument to punish commanders, but also as a preventive, educational mechanism that fosters a culture of attached supervision. This aligns with the concept of *al-hisbah* in Islamic law, namely moral-institutional oversight to prevent deviations before they occur. Thus, positive legal theory and Islamic legal principles can synergize in strengthening just and integrated military governance.

The author argues that the Indonesian Army's command response must be directed at establishing an evidence-based, digital, and accountable oversight system, so that the theory of command accountability does not remain normative but is truly operational in practice. Data-driven oversight, job rotation at vulnerable points, and ongoing legal training are key to ensuring that the command maintains effective control that is both legally and ethically accountable.

4. Conclusion

This study confirms that the supervision of Indonesian Army soldiers against excise violations at the regional level, using the case study of Kodim 0819/Pasuruan, is a duty to act that operates within the command and control (C2) cycle: sharpening the commander's intent, strengthening unity of command, reliable information flow, and documented prevent-detect-correct mechanisms. Its effectiveness depends on the integration of a positive legal framework (Law 34/2004, Law 31/1997, and the excise regime) with risk-based operational tools (SOPs, waskat, inspections/spot checks, early-warning systems, inter-agency

liaisons, and after-action reviews). Oversight constraints arise in structural, procedural-regulatory, cultural-ethical, technical-forensic, human resource capacity, and socio-economic layers that require precise control design and connectivity coordination. The command accountability threshold is measured through three elements of command responsibility: effective control, actual/constructive knowledge (known or should have known), and failure to prevent/punish as evidenced by objective indicators (consistency of duty roster/garrison exit permits, night movement patterns of large-capacity vehicles, invoice-cargo misalignment, financial red flags, and ignored tips). The Islamic legal perspective provides an ethical compass to assess and guide command responses through الأمانة (trust), المسؤولية (responsibility), العدالة (justice), الجسبة (inherent supervision), and the rules of سَدِّ الدَّرَائِعِ (closing the door to damage) within the framework of مقاصد الشريعة especially حِفْظُ الْمَالِ (safeguarding of public property) as well as guarantees الإِجْرَاءَاتُ Due process. This convergence of values results in a legally valid and ethically sound oversight model: a firm tone at the top, risk-based SOPs, forensic readiness, clear inter-agency connectivity, whistleblowing protection, and continuous improvement (AAR). Success is measured not simply by the "absence of incidents," but by a reduction in the incident rate, an increase in inspection coverage/hit rate, consistent sanctions, and recovery capabilities (network termination and asset recovery).

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