

THEMATIC TITLE	LEGAL PROBLEMS ON A GUIDELINE ACCORDING TO THE DETERMINATION OF THE POWERS AND DUTIES AMONG COURTS TO HAVE CASES TRANSFERRED TO THE MILITARY COURT: A CASE STUDY ON THE OUTCOME OF AN INJURED PERSON WHO IS NOT UNDER THE MILITARY COURT'S JURISDICTION
KEYWORDS	AN INJURED PERSON WHO IS NOT UNDER THE MILITARY COURT'S JURISDICTION
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ABSTRACT

The purposes of this Thematic Paper were to study the meanings, concepts, theories about prosecution and trial procedure in courts, legal problems concerning a guideline in compliance with the determination of the powers and duties among courts to have cases transferred to the Military Court in case an injured person who is the plaintiff, is not subject to the Military Court's jurisdiction, and a solution to amend the relevant legislation in order to solve the military prosecutor's duty to be in line with the Law on the Determination of the Powers and Duties among Courts.

The analysis revealed that, once the Court of Justice's decision on trial proceeding in the previous court has been made, the decision to transfer the case to the Military Court, to dispose of the case in order to let the party file the case to the Military Court's jurisdiction, and the verdict of the Committee relating to Court's Jurisdiction under Section 10 of the Determination of the Powers and Duties among Courts B.E. 2542, shall be final. In addition, the higher court is not allowed to raise the issue to reconsider the court's jurisdiction. This caused problems in the case where the

Court of Justice or the Determination of the Powers and Duties among Courts Committee had decided to transfer a case to the Military Court, an injured person who is not subject to the jurisdiction of the Military Court, is forbidden to file the criminal case directly to the Military Court. The injured person must assign such case to the military prosecutor to make a prosecution on his behalf under Section 49 of the Organization of Military Courts B.E. 2498.

Thus, the writer proposed to amend the provision by repealing Section 49 paragraph 1 of the Organization of Military Courts B.E. 2498 and replace by the following clause “Section 49 in normal time, a military prosecutor or an injured person who is under Military Court’s jurisdiction has the authority to be a plaintiff in criminal case. If an injured person is not the person under Military Court’s jurisdiction, the case must be handled to the military prosecutor unless the case which has been decided to transfer or dispose of the case in order to let the party file the case to the Military Court’s jurisdiction under the Law on the Determination of the Powers and Duties among Courts, such injured person who is not subject to Military Court’s jurisdiction, is authorized to file the criminal case”, and to launch “Regulation on Judicial Service of the Military Prosecutor on Rules, Procedures, Measures in relation to Assigning the Prosecution Authority to the Military Prosecutor under Section 49 of the Organization of Military Courts B.E.....”