

# The Role and Duties of the Indonesian National Army (TNI) in Combating Terrorism in Military Operations Other than War

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**Abstract**—The handling of criminal acts of terrorism has been carried out by the Police as the leading sector. The broad scope of the handling of terrorism resulted in the emergence of the idea of involving the Indonesian National Army (TNI) in efforts to eradicate terrorism. The purpose of this article is to analyse the role and task of the Indonesian National Army (TNI) in Combating Terrorism in Military Operations Other Than War. The research method in this article is using a qualitative method with snowball sampling technique. The conclusion of this article is that the use of military force or involvement of the TNI needs to be regulated in a presidential regulation which is a rule that must contain the basic principles governing in what situations and under what conditions the TNI can be involved, as well as what things can be done and TNI may not be used in combating terrorism.

**Keywords:** *Indonesian National Army, terrorism, military operations, war*

## I. INTRODUCTION

The handling of criminal acts of terrorism has been carried out by the Police as the main task. The breadth of challenges in dealing with terrorism requires the involvement of the Indonesian National Army (TNI) in the fight against terrorism. This can be seen from the nature of threats from acts of terror that are not limited to criminal acts, but can also be seen as threats to the defence of the Unitary Republic of Indonesia (NKRI). Therefore, the handling is not enough just by law enforcement, but requires handling national defence so that responses to terrorism are more easily understood and disputes related to terrorism can be resolved as a whole. The use of military force or TNI involvement needs to be regulated in a presidential regulation which is the main regulation that must be obeyed by basic principles that contain what and what the TNI can do.

Terrorism must be recognized as a global problem and become a new form of war that is a threat from time to time and becomes a real threat to the world. When viewed from current and future development trends, terrorist activities are increasing both in quality and quantity that has the potential to disrupt security stability at the international, regional and

national levels. As one of the threats that can jeopardize a country's security situation, terrorism has now become a global threat with international networks. This means, if the TNI is involved, clear and clear rules are needed under what conditions the TNI must be involved, and what the TNI must do. This is to prevent not only competition between the TNI and the Police, but also because the duties of the Police and the TNI are very different. For example, is the TNI assigned to eliminate terrorist forces that are difficult to overcome or only cripple terrorist forces. Based on Law No. 34 of 2002 article 7, the TNI as a means of national defence has the duty to deal with acts of terrorism in Military Operations Other Than War.

In an effort to overcome terrorist acts carried out by terrorist groups, the TNI is required to be able to act quickly and proactively through various efforts that have been made so that the task can be carried out properly. The handling of criminal acts of terrorism has so far been carried out by the Police as the main sector in handling terrorism.

The expansion of the scope of the threat of terrorism which was originally considered a security threat to be a threat to defence requires a paradigm shift in efforts to eradicate terrorism. The threat of terrorism to the security of the Republic of Indonesia requires the handling of various parties responsible for maintaining national defence and security. Therefore, the involvement of the TNI in efforts to combat terrorism has become very strategic. Terrorism is a threat to national defence and security and to anticipate this threat, the 1945 Constitution of the Republic of Indonesia has mandated the establishment of two state institutions tasked with carrying out national defence and security, namely the Police and the TNI. The 1945 Constitution distinguishes the functions and duties of the TNI and the Police. The TNI is tasked with maintaining, protecting and maintaining the integrity and sovereignty of the state. The police function as a state instrument that maintains the security and order of the people with the task of protecting, protecting, serving the community, and enforcing the law. The practice of handling terrorist acts so far has been based on the Anti-Terrorism Law. Based on the provisions of the Act, the institution that is deemed authorized to handle this problem is the Police. In exercising this

authority, the Police have a special team to combat terrorism, namely the Special Detachment 88 Team (Detachment 88). Detachment 88 is the main sector in the operation to counter terrorism in Indonesia. Detachment 88 is designed as an anti-terrorism unit that has the ability to overcome terrorist harassment from bomb threats to hostage taking. In addition to Detachment 88 which is under the auspices of the Police, there are several other anti-terror units under the auspices of the TNI, such as Detachment 81, Detachment Bravo 90, and Detachment Jala Mangkara.

The definition of terrorism is still an international debate, although there are experts who formulate and also formulate it in the law. The absence of a uniform definition under international law on terrorism does not have to negate the definition of terrorism that has been formulated in law. Each country defines according to national law to regulate, prevent and fight terrorism. At the international level, there is a debate that led to the issuance of a resolution from the UN Security Council to fight terrorism. The definitions issued by various international organizations show that terrorism is more than a crime within the framework of the criminal justice system. The General Explanation of the Anti-Terrorism Law states that: "terrorism is a crime against humanity and civilization and is a serious threat to the sovereignty of each country, because terrorism is an international crime that poses a danger to security, world peace and harms the welfare of society so It is necessary to eradicate in a planned and continuous manner so that the human rights of many people can be protected.

The broad scope of the definition of terrorism because terrorism is an international crime that poses a danger to security, world peace, and harms the welfare of society, terrorism can not only be categorized as a criminal offense. Terrorism must be seen as a threat to the defence and security of the Republic of Indonesia. Therefore, the handling is not enough just by law enforcement, but requires handling and handling the threat of national defence so that the response to the threat of terrorism is more comprehensive and problems related to terrorism can be fully resolved. Terrorism must be seen from two different perspectives, namely, first: terrorism as a criminal act that places the police and law enforcement agencies as the main sector in combating terrorism. So that the involvement of the TNI and other institutions is helping the police and other law enforcement agencies. Second, see terrorism as a threat to national security. In this perspective, the state conducts an assessment of the security situation which is the basis for the dissemination of security instruments including the TNI or military forces in combating terrorism. If the state determines that the security situation has been threatened and makes political decisions to mobilize military power, terrorism will no longer be considered a criminal offense, so laws that see terrorism as a criminal offense need to be expanded using the legal basis of threats to the state. At the international level, the United Nations has also opened up space for countries to use military force in combating terrorism. For example, by authorizing an attack on Afghanistan based on UN Security Council Resolutions.

## II. PROBLEM IDENTIFICATION

What is the urgency of the TNI's involvement with the role and task of the TNI in combating terrorism and what is the model of TNI involvement in Combating Terrorism Crimes?

## III. RESEARCH METHODS

This research is a quantitative method with a normative juridical approach relating to legal principles, basic legal concepts, rules or norms, institutions and legal processes. This approach is supported and complemented by empirical juridical approaches, historical approaches and comparative juridical approaches [1].

The proposed approach is in accordance with current research trends which can no longer use only one approach or method, because to examine social phenomena it is often necessary to combine various research methods even though they always depart and are dominated by one scientific discipline [2].

The juridical normative approach is the main approach in this study, because the focus of attention is the policy of legislation regarding the use of military force in combating terrorism. Formulating or combining policies based on philosophical background, cultural values, conceptions, teachings of certain theories, even those motivated by empirical findings into legislation products are clearly technical works or juridical and systematic activities [3].

The forms of normative research that will be carried out include; positive legal inventory, legal principle research, in concrete legal research, legal synchronization research, legal system research and legal comparison [4].

An empirical juridical approach is needed to find an overview of counter and counter policies towards terrorism in Indonesia. A historical approach is needed to see the policies outlined in the law that cannot be separated from the legal process itself, while the comparative approach is to better understand and develop national law. Comparative juridical research concerns the formation of new laws, which aim at social engineering [5].

The development of criminal law and efforts to reform criminal law need to be supported by comparative studies. Comparative study of law is a very important and necessary part of legal science and is useful in being able to better understand and develop national law [6].

The main data used in this study are secondary data, which includes primary legal materials, including: Law Number 15 of 2003 concerning Eradication of Terrorism Crimes, TNI Law No. 34 of 2004, Law No. 2 of 2003 concerning National Defence, research results, and journals on terrorism, and the use of military force in combating terrorism. Tertiary Law material includes: Encyclopaedia of Crime and Justice, Dictionary of Black law, and materials in the field of terrorism.

Researchers use data collection techniques in the form, the type of data that includes data obtained directly from the public (officials related to eradicating terrorism) called primary data and obtained from library data (secondary data), but because this research is more normative research law, then more

focuses on secondary data, while primary data is more supportive.

Researchers use qualitative juridical data analysis methods, because this research is a qualitative study with the object of research in the form of principles, basic concepts, and legal norms. Data analysis can be formulated as a process of formulating certain symptoms systematically and consistently which are formulated descriptively and prescriptive, based on legal theories, legal principles and legal norms on the phenomenon under study. The data obtained were analysed through qualitative analysis through three activity streams namely data reduction, data presentation and drawing conclusions.

#### IV. DISCUSSION

##### A. *The Urgency of TNI Involvement in Combating Terrorism Crimes*

The absence of an international legal agreement on the definition of terrorism does not mean invalidating the legal definition of terrorism. The words "terrorist" (perpetrator) and "terrorism" (action) are derived from the Latin word "terrere" which more or less means to make shaking or trembling [7]. Understanding the typology of terrorism is needed in efforts to eradicate criminal acts of terrorism. There is debate in determining terrorism as a terrorism crime. Cassese argues, that terrorism is categorized as an international crime if, first the effect occurs in more than one country; the second is carried out and centred in a country and then leads to the promotion of the state, state tolerance, or state approval, so that there is sufficient reason to be handled internationally or bilaterally; the third becomes a problem for the international community and threatens world peace; and fourth, acts that are so serious or so great that they can be called international crimes [8]. In general, the state engages the military in combating terrorism within two frameworks: full militarization combating terrorism and assistance to law enforcement authorities, or better known as Military Assistance for Civil Authorities (MACA).

Military involvement in fighting terrorism is based on operational reasons; firepower and tactical mobility possessed by the military are urgently needed in combating terrorism, especially those involving territorial control and organized use of military force. Other qualifications such as taming explosives, saving hostages, and gathering intelligence are also very important. In general, the Security Sector Reform seeks to build strong, modern and professional security institutions so that they can respond to contemporary security challenges and threats within a democratic governance framework. In its development, security sector reform was led by a defence dichotomy in which the problem of defence (against military threats, especially from abroad) became the field of military work while security (domestic) became the field of police. There is an understanding that terrorism, as a form of domestic threat and criminal offense, becomes the exclusive domain of law enforcement authorities.

The fight against terrorism is an urgent need undertaken to protect the sovereignty of the Republic of Indonesia and the safety of Indonesian citizens and other Indonesian citizens.

Tackling acts of terrorism in a country requires a legal and legislative approach and it is hoped that problems related to terrorism can be quickly dealt with using criminal law. In Joko Putranto's writings on the Hardline Approach in Combating Terrorism Efforts (The Use of the Military in Combating Terrorism Efforts) says that the need for military involvement in efforts to combat terror and of course this cannot be separated from political decisions and suitability in national and international contexts. In addition, the role of the military is seen as important because terrorism not only causes the impact of innocent civilian casualties, but also national security is at stake. This is considered necessary even though Indonesia treats terrorism as a criminal act that makes the eradication of authority on the shoulders of the police [9]. The involvement of the TNI in combating terrorism in Indonesia must be based on operational reasons. Throughout the history of fighting terrorism in Indonesia, the TNI has played an important role. The role and involvement of the TNI is also generally regulated in statutory provisions, including TNI Law No. 34 of 2004, as part of the main task of military operations other than war (OMSP). In its development, the modus operandi of terrorism is increasingly diverse, including hostage-taking, large-scale terror attacks such as those that occurred in Mumbai in 2008 or acts of terrorism as part of a rebellion campaign involving territorial control and organized use of weapons. Powers like those in the Middle East and the Philippines. In this scenario, the state can use anti-terror qualifications possessed by units under military command and other units if needed. However, greater TNI involvement in combating terrorism in Indonesia [10]. Various approaches to terrorism can be approached from the perspective of law enforcement or the military. The first is older and previously dominant [11].

Various approaches to Terrorism can be approached from a law enforcement or military perspective. However, countries have begun to argue that traditional law enforcement mechanisms are sometimes inadequate in the fight against terrorism and that the military must be responsible for fighting this threat. Both perspectives have positive and negative aspects. Law enforcement ensures thorough investigation and litigation with appropriate legal guarantees, but this has proven ineffective on many occasions because terrorists have taken advantage of legal loopholes and lack of international cooperation, as Erickson and Maogoto said [12], "But in the 1980s The state began to argue that traditional law enforcement mechanisms were sometimes inadequate in the fight against terrorism and that the military must take responsibility for combating this threat. Both perspectives have positive and negative aspects. Law enforcement ensures a thorough investigation and litigation with appropriate legal guarantees, but this has proved ineffective on many occasions because terrorists have taken advantage of legal loopholes and lack of international cooperation".

In carrying out eradication of terrorist acts, he must continue to pay attention to applicable laws and regulations as well as actions that do not violate human rights. Terrorism that is international or local or that collaborates with each other, in overcoming it is an integrated and coordinated effort across institutions and across countries. In implementing key policy points, the concrete handling of the threat of terrorism can be

pre-emptive, preventive, and repressive. Repressive efforts are carried out through operations to destroy terrorist acts that are within the territory of the Republic of Indonesia and outside the territory of the Republic of Indonesia. The role of intelligence in operational activities to destroy acts of terrorism is so high that the state is not always "cheated", but all of them need support and cooperation between intelligence officers, both those in the TNI and intelligence in the National Police. Besides that the role of the community is clearly the most important [13].

Terrorism in its development has built an organization and has a global network in which terrorist groups operating in various countries have been co-opted by international terrorism networks and have relationships and mechanisms of cooperation with each other both in the operational aspects of infrastructure and supporting infrastructure [14]. Terrorism is increasingly a scourge for modern civilization. The nature of actions, actors, strategic objectives, motivations, expected and achieved results, targets and methods of Terrorism are now increasingly broad and diverse, making it increasingly clear that terror is not an ordinary form of destructive violent crime, but it is already a crime against human peace and security [15]. The key to fighting terrorism requires the unity of civil society and the military. The UN provides a legal framework for the use of military force in combating terrorism.

#### *B. Model of the Use of TNI Force in Combating Terrorism*

Basically, almost all policy makers agree that the involvement of the TNI in combating terrorism in Indonesia is important. There is an understanding, for example about the need to maximize the existing institutional infrastructure while regulating the mechanism of work and coordination among the institutions involved. In relation to the role and involvement of the TNI in combating terrorism in Indonesia, scenario-based rules need to be formulated based on scenarios. In this case, there is a need to regulate the rules of TNI involvement in combating terrorism. In other words, under conditions and levels of threats such as what will the TNI do in combating terrorism. In combating terrorism in Indonesia and the involvement of the TNI in it, there are 4 (four) possible scenarios. First, the scenario where the threat of terror can still be managed by normal criminal law enforcement instruments, the police hold operational control; law enforcement operations are carried out entirely by civil authorities. Second, when the intensity of threats increases, civilian authorities can request assistance from the military through an assistance mechanism (MACA). The third scenario, which contains conditions where the intensity of the threat of terrorism increases and requires operations led by military institutions. In other words, the military took over operations from law enforcement authorities (the police). In the fourth scenario, the intensity and characteristics of the threat from the start are considered to require active military involvement. The military, in this scenario, becomes the main instrument of countermeasures (full militarization). The final scenario can be accompanied by a declaration of martial law in which normal law enforcement can be postponed, replaced by emergency law, in the name of national security.

The process of threat intensity assessment based on the above threat spectrum is carried out by civil authorities by listening to input from a number of parties. Under ideal conditions, the threat assessment must be carried out by the National Security Council led by the President and accompanied by the Vice President, the Minister of Defence, the Minister of Foreign Affairs, the Minister of the Interior, the TNI Commander, Chief of Police and Head of State Intelligence Agency and non-permanent members consisting of government and non-government officials deemed necessary in accordance with the problem at hand. TNI involvement in overcoming terrorism within the framework of assistance to civil authorities and in the form of national security operations must be based on state policies and political decisions as stipulated in TNI Law No. 34 of 2004 concerning the TNI and Law No. 2 of 2002 concerning National Defence. If an urgent situation occurs where a direct placement of the TNI is carried out, the President must report to the House of Representatives within 2x24 hours of a decision on the placement of forces. This is to ensure the upholding of civil supremacy over the military and maintain TNI accountability in the context of combating terrorism. The use of military force in combating terrorism can also be seen as a form of extreme securitization in the issue of terrorism. When a problem, through a political process, is considered to pose a real threat to certain reference objects, for example the state or society, the state has justification for taking action outside of normal procedures [16]. On the one hand, the securitization of the terrorism issue can demonstrate the country's commitment to face certain threats. On the other hand, securitization can also be interpreted as a form of recognition and legitimacy of terrorist groups. This policy can actually strengthen the commitment of terrorists to realize their goals. Directly and fully addressing terrorism by the TNI psychologically can make terrorists feel "equal" with the TNI. In the context of securitization and militarization, the placement of the TNI in combating terrorism also has the potential to be irreversible in the future. As noted above, the use of military force to deal with the threat of terrorism must be interpreted as extraordinary conditions that are outside normal political confinement. The experience of a number of countries, including Indonesia itself, shows how difficult it is to conduct unrest or in other words withdraw the TNI after the threat of terrorism has declined. Military use, under certain conditions can indeed be justified under the UN Charter Article 51 (UN Charter). This article allows countries to have the right to defend themselves in the face of armed attacks. Therefore, if terrorists use armed uniforms, any government can use military force in an effort to defend against attacks [17].

However, military use cannot be alone, must also be accompanied by accurate intelligence, cooperation with the police and judiciary, concrete actions to prevent terrorists from gaining access to conventional weapons and weapons of mass destruction, strict sanctions against terrorists, dismantling networks terrorist funding, and so on. Because terrorism is violence committed by one group, it must be faced by the mobilization of the military and other resources [18]. But military resistance is not the only way to fight. Other non-military efforts are also needed, for example by strengthening law enforcement, promoting the role of intelligence through its detection and forecasting capabilities, optimizing the roles of

democratic institutions, upholding human rights, eliminating poverty and improving the performance of local governments. So from the previous elaboration, military involvement in the context of combating terrorism needs to be done only regarding the boundaries and the scope of motion it needs to be regulated and clarified in the Act. In any case, the military still has a big hand in bringing stability to national security and protecting the country from terror attacks and not just training and continues to be filled with a sense of uncertainty when it will be included in operations.

So from the explanation above, to involve the military in combating terrorism must pay attention to the following matters: a) Must be a decision or the last thing (if taking legal action is no longer able); b) Limited duration (because if the duration is long and if something happens outside the scenario, the political leader will act as a policy maker); c) Legal framework or must work within a legal framework because law is the best solution in a democratic system.

The use of military force under certain conditions can also mean that it needs to involve trained units and that the police themselves do not have the ability to deal with terrorists who dare to die and are well organized. Like what happened in Indonesia, the military is very eager to get involved and take over because of the police's performance factor which according to the military lacks good expertise than they do. But this again clashes with policies and rules that oppose military involvement. Because it must be made and clarified regarding the Military Assistance Law. In addition, the military must also comply with applicable civil law so that its operations do not cause new polemics.

#### V. CONCLUSION

The task of handling acts of terrorism is carried out by the Police as its main task. The broad scope for handling terrorism has led to the emergence of discourse about the use of military force through TNI involvement in the fight against terrorism. This can be seen from the nature of threats from acts of terror that are not limited to criminal acts, but can also be seen as threats to the defence of the Unitary Republic of Indonesia (NKRI). TNI involvement in fighting terrorism is something that can be done and has a legal basis because it has been regulated in Law No. 34 of 2004 concerning the TNI namely Article 7 paragraph (2), specifically regarding the main tasks of the TNI in conducting military operations other than war;

Thus, the handling of terrorism in Indonesia has become the task and authority of the police because the problem of terrorism itself is a matter that concerns state security. However, further questions arise regarding the ability of the police themselves to deal with the problem of terrorism. On the one hand, the police have improved and strengthened their ability to deal with the problem of terrorism. Then with adequate capabilities, it has indirectly eliminated the military's share in helping eradicate terrorism in Indonesia. In other words, the military does not have any activities and is only involved if the police need help.

#### VI. RECOMMENDATION

Given the broad scope of the definition of terrorism. Because terrorism is an international crime that endangers security, world peace, and harms people's welfare. Terrorism cannot be categorized as mere criminal activity. Terrorism must be seen as a threat to the defence and security of the Republic of Indonesia. Therefore, the handling is not enough just by law enforcement, but requires handling and handling the threat of national defence so that the response to the threat of terrorism is more comprehensive and problems related to terrorism can be fully resolved. Terrorism must be seen from two different perspectives, namely, first: terrorism as a criminal act that places the police and law enforcement agencies as the main sector in combating terrorism. So that the involvement of the TNI and other institutions helps the police and other law enforcement institutions. Second, see terrorism as a threat to national security. In this perspective, the state conducts an assessment of the security situation which is the basis for the dissemination of security instruments including the TNI or military forces in combating terrorism;

Military use can only be done if the situation and decision are unanimous. The use of military force under certain conditions can also mean that it needs to involve trained units and that the police themselves do not have the ability to deal with terrorists who dare to die and are well organized. Like what happened in Indonesia, the military is very eager to get involved and take over because of the police's performance factor which according to the military lacks good expertise than they do. But this again clashes with policies and rules that oppose military involvement. Because it must be made and clarified regarding the Military Assistance Law. In addition, the military must also comply with applicable civil law so that its operations do not cause new polemics.

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