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Indonesian Legal Politics in the Future in Accommodizing the Role of the Army in the Prevention and Eradication of Terrorism

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Abstract: The purpose of finding Indonesian legal policy in the future in accommodating the role of the military in preventing and eradicating terrorism. This research is a normative legal research, to determine the differences and similarities between the legal systems of one country and another. Comparison of Indonesia and Malaysia. The government and the military are tied by a regulatory knot to build a formal legal basis that regulates the duties and functions of the military in the state system. The TNI is a state apparatus that handles the defense sector and in its implementation is assisted by other components, namely supporting components and reserve components from the people. The direction of Indonesian legal policy in the future in efforts to prevent and eradicate terrorism is indeed a complex problem, therefore multi-party synergy is needed in handling it. In the past era, the TNI carried out duties not only in the defense sector but also in the socio-political sector, so after we entered the reform era, the TNI immediately placed its right position in accordance with the democratic state order. We have left the socio-political role and we only concentrate on the field of defense and state security, in the future it could help maintain public security and order in order to build the duties of the Police. Handling criminal acts of terrorism in Indonesia is part of law enforcement under the authority of law enforcement officers. So that the TNI cannot enter the realm of law enforcement because its main tasks and functions are different. So that the involvement of the TNI in eradicating terrorism as regulated in Article 7 Paragraph (2) and Paragraph (3) of Law Number 34 of 2004 concerning the TNI must be emphasized that the TNI can play a role when a terrorist attack threatens state sovereignty and/or when it is related to military operations and law enforcement officers themselves are no longer able to handle a terrorism problem.

Keywords : Indonesian Legal Politics, Legal Policy, Prevention and Eradication of Terrorism.

INTRODUCTION

Unlike the TNI and State Intelligence, BNPT is also a non-ministerial government institution (LPNK) that carries out government duties in the field of counter-terrorism. In carrying out its duties and functions, BNPT is coordinated by the Coordinating Minister for Political, Legal, and Security Affairs. BNPT is led by a head who is under and responsible to the president. The duties of BNPT are contained in Article 2 paragraph (1), which clearly states: BNPT has the following duties: a. Formulating national policies, strategies, and programs in

the field of counter-terrorism; b. Coordinating related government agencies in implementing and implementing policies in the field of counter-terrorism; c. Implementing policies in the field of counter-terrorism by forming task forces consisting of elements of related government agencies in accordance with their respective duties, functions, and authorities.

The field of counter-terrorism includes prevention, protection, deradicalization, prosecution, and preparation of national preparedness. There are specific differences in the authority held by the POLRI, TNI, State Intelligence, and BNPT in dealing with and eradicating acts of terrorism. If grouped, then the POLRI does not have the authority to resolve or participate in dealing with and eradicating terrorism if the acts of terror by certain parties are related to National Defense which aims to maintain and protect the sovereignty of the state. However, the TNI, State Intelligence, and BNPT have the authority to collaborate in resolving terror whose main goal is the destruction of state sovereignty. Likewise, the TNI does not have the authority to resolve or participate in dealing with and eradicating terrorism if the acts of terror by certain parties are not intended as a threat to state sovereignty. Thus, the crime of terrorism, whether carried out domestically or internationally, if the main goal of the act of terror is related to the integrity of the state and state sovereignty, then the TNI has an important role in dealing with and eradicating terrorism.

That in reality so far, the central role of the TNI in dealing with and eradicating terrorism has always received a thumbs up from other countries. In recent years, the TNI has succeeded in releasing hostages from acts of terror by certain groups. For example, the release of an Indonesian citizen who was held hostage by the Abu Sayyaf group in the southern Philippines in 2005. This secretive release operation involving the TNI, the State Intelligence Agency (BIN), the Strategic Intelligence Agency (BAIS) and the National Police, succeeded in freeing a crew member of the Bonggaya 91 ship, Ahmad Resmiadi, in March 2005, from being held hostage by the Abu Sayyaf group. After successfully freeing the hostages from the Abu Sayyaf group, the TNI's existence in combating and eradicating terrorism has also become increasingly visible. In 2011, the TNI became the spearhead in releasing hostages from the MV Sinar Kudus Hijacking, which occurred in Somali waters on March 16, 2011. In carrying out this mission, the TNI deployed 2 frigates, 1 helicopter, and special forces from the Marines, Kopassus, and the Frogman Command (Kopaska).

All hostages were released, and 4 Somali pirates became victims of the shootout between the TNI and the Somali pirates themselves. In addition to Indonesia, other countries also have steps to handle and combat terrorism based on their own regulations. One country that has steps to handle and combat terrorism is Malaysia. The Malaysian government's form of preventing and combating acts of terrorism and all actions related to Malaysia's security and safety is carried out by issuing the Internal Security Act or what is often referred to as the Malaysian Internal Security Act or abbreviated as ISA Malaysia. On this basis, a comparison will be made of the regulation of the eradication of criminal acts of terrorism in Indonesia and Malaysia. In terms of comparative jurisprudence, Indonesian positive law is included in the Civil Law System family while the study of criminal law in England, Malaysia, and Australia is included in the Common Law System.

Terrorism according to Law Number 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism The universal nature of Human Rights is proposed by referring to the recognition of Human Rights by various cultures in various eras. Adnan Buyung Nasution, p. 161: 1995).

Terrorism is an extraordinary crime that has become the world's concern today. Not just an act of terror, but in reality, acts of terrorism also violate human rights as basic rights that are inherently inherent in humans, namely the right to feel comfortable and safe or the right to live. In addition, terrorism also causes loss of life and damage to property, acts of terrorism also damage the stability of the state, especially in terms of economy, defense, security, and so on.

Terrorism is clearly a scourge for modern civilization. The nature, actions, perpetrators, strategic goals, motivations, expected and achieved results, targets and methods of terrorism are now increasingly broad and varied, so that it is increasingly clear that terror is not a form of ordinary destructive violent crime, but rather a crime against the peace and security of mankind (crimes against peace and security of mankind). (Mulyana W. Kusumah, p. 22: 2002).

In Indonesia itself, the Bali bombing incident was one of the answers to the question of whether or not there was terrorism in Indonesia. The hundreds of victims, both Indonesian citizens and foreign citizens, put Indonesia in a situation where it had no other choice but to seriously combat terrorism. At the insistence of various parties, the government finally issued Government Regulation in Lieu of Law (Perpu) No. 1 and 2 of 2002 concerning the Eradication of Criminal Acts of Terrorism, which was then approved by the DPR to become Law Number 15 of 2003. (T. Nasrullah, p. 66: 2005).

For this reason, the Indonesian government feels the need to form a Law on the Eradication of Criminal Acts of Terrorism, namely by drafting Government Regulation in Lieu of Law (PERPU) Number 1 of 2002 which on April 4, 2003 was ratified as Law Number 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism. The existence of this legislation, in addition to the Criminal Code and Law Number 8 of 1981 concerning Criminal Procedure Law (KUHAP), is a Special Criminal Law. This is possible, considering that special Criminal Law provisions can be created because: a. There is a criminalization process for a certain act in society. Due to the influence of the development of the times, there is a change in views in society. b. Existing laws are considered inadequate for changes in norms and technological developments in a society, while changes to existing laws are considered time-consuming. c. A compelling situation so that it is considered necessary to create special regulations to handle it immediately d. The existence of a special act where if the process regulated in existing laws and regulations is used, there will be difficulties in proving it. (Loebby Loqman, p. 98: 1990).

Law Number 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism divides criminal acts of Terrorism into 2 parts, namely: Criminal Acts of Terrorism in Articles 6 to 19, and Other Criminal Acts related to Criminal Acts of Terrorism in Articles 20 to 24.(See Explanation, Law on the Eradication of Criminal Acts of Terrorism, Law Number 15 of 2003, State Gazette Number 45 of 2003)

As a special law, it means that Law Number 15 of 2003 regulates both materially and formally, so that there are exceptions to the principles that are generally regulated in the Criminal Code (KUHP) and the Criminal Procedure Code (KUHAP) according to the principle of "Lex specialis derogat lex generalis". The validity of this principle must of course meet the following criteria: a. That exceptions to general laws are made by regulations of the same level as themselves, namely laws. b. That the exceptions are stated in the special law, so that the exceptions only apply to the extent of the exceptions stated and the parts that are not excluded remain valid as long as they do not conflict with the implementation of the special law. (Sudikno Mertokusumo, p. 17: 1996).

Special criminal law not only regulates the material criminal law, but also the procedural law. Therefore, it must be noted that these rules should still pay attention to the general principles contained in the general provisions contained in the Criminal Code for material criminal law, while for formal criminal law must comply with the provisions contained in Law Number 8 of 1981 concerning Criminal Procedure Law (KUHAP). (Loeby Loqman, p. 149: 1990).

Article 1 Paragraph (1), Law on the Eradication of Criminal Acts of Terrorism, Law Number 15 of 2003, State Gazette Number 45 of 2003. In Government Regulation in Lieu of Law Number 1 of 2002 which has been ratified as Law Number 15 of 2003 on the Eradication of Criminal Acts of Terrorism which is used as the legal basis for the eradication of Criminal

Acts of Terrorism in Indonesia, it states that what is meant by criminal acts of terrorism is as follows: criminal acts of terrorism are all acts which fulfill the elements of a criminal act in accordance with the provisions of this Law.

What is meant by the elements of terrorism in Article 1 of Law Number 15 of 2003 concerning the Criminal Act of Eradicating Terrorism above is an unlawful act carried out systematically with the intention of destroying the sovereignty of the nation and state by endangering the sovereignty of the nation and state which is carried out using violence or threats of violence, creating an atmosphere of terror, or a widespread sense of fear towards people or causing mass casualties by depriving freedom or loss of life and property of others, or causing damage or destruction to vital strategic objects, the environment, or public facilities or international facilities. (KHA Hasyim Muzadi, pp. 76-82: 2004).

Based on various questions related to the background with the topic of study as explained above, it will then be used as a starting point to conduct research on the research theme entitled "How is Indonesia's future legal policy in accommodating the role of the military in preventing and eradicating terrorism?". Thus, through the research in question, the various questions as stated can be answered comprehensively and can be scientifically accounted for.

METHOD

This research is a normative legal research, to determine the differences and similarities between the legal systems of one country and another. Comparison of Indonesia and Malaysia. Application of the Concept of Terrorism in Positive Law in Indonesia. Using a qualitative descriptive approach using a systematic review that summarizes the results of primary research to present more comprehensive and balanced facts to find a description of a problem or topic being studied. Data collection techniques are carried out by collecting various documents related to the focus of the research. The data that has been collected is then studied in depth to find out the results of the research that can be trusted.

RESULTS AND DISCUSSION

Indonesia's Future Legal Policy in Accommodating the Role of the Army in Preventing and Eradicating Terrorism A. Strategic Policy of the Indonesian National Army in the State Defense and Security System We often hear on various occasions military officials talking about national defense. But of course not everyone understands what is meant by national defense. Usually when people talk about national defense, the connotation is war, or at least it is only a military matter. It is not really wrong, but it is certainly incomplete. (Connie Rahakundini Bakrie, p. 49: 2007).

Meanwhile, the national defense system is a universal defense system that involves all citizens, territories, and other national resources. Then, this system is prepared early by the government and is implemented in a total, integrated, directed, and continuous manner to uphold the sovereignty of the state, territorial integrity, and the safety of the entire nation from all threats. (Andi Widjajanto, p.73: 2007).

Threats to National Defense and Security The General Policy of National Defense has outlined that the deployment of national defense forces is carried out in accordance with the scale of the threat and certain conditions that affect national interests. The meaning of threats based on the General Policy of National Defense, namely: a. Facing military threats. Military threats are threats that use armed and organized forces and are considered to have the ability to endanger state sovereignty, the integrity of the state's territory, and the safety of the entire nation. The deployment of military defense forces is carried out by placing the TNI as the main component supported by the Reserve and supporting components; b. Facing non-military

threats. Non-military threats are threats that use non-military factors that are classified into threats that have ideological, political, economic, socio-cultural, public safety, technological and legislative dimensions, which are considered to be able to endanger state sovereignty, the integrity of the state's territory and the safety of the entire nation. The deployment of non-military defense forces is carried out by placing ministries/institutions outside the defense sector and the Regional Government as the 280 main elements supported by the TNI and other elements of the nation's strength. The main elements referred to are ministries/institutions and Regional Governments that handle affairs in the field according to non-military threats that have dimensions of ideology, politics, economy, socio-culture, public safety, technology, and legislation. c. Facing the threat of hybrid war. The threat of hybrid war is a mixed threat and is an integration between military threats and non-military threats. The threat of hybrid war is faced using a military defense pattern with non-military defense forces that are formed into Supporting Components according to the nature and escalation of the hybrid threats that arise.

Although the possibility of a conventional war has decreased, threats in the context of national security have increased, especially non-military threats. Various threats to national interests are very difficult to identify and analyze with a conventional approach. One of the most real threats faced by the Indonesian nation today is the national problem. (International Institute for Assistance to Democracy and Elections, pp. 15-17: 2000).

The concept of national security that developed after the Cold War emphasizes more on the aspect of non-traditional or non-conventional threats. This concept of security has a more flexible definition, which includes non-military aspects and involves non-state actors. A number of experts state that the military is only one important aspect in the concept of security, because broader securityand comprehensively will also be determined by political, economic, social and environmental aspects. These five aspects, both military and non-military, can have a relationship between each other and can be analyzed at the individual, national, regional and international levels. (Buzan, Barry, 1998).

Assessment of national security is also seen as inseparable from the subjective perception of security actors. On the one hand, some think that understanding national security is based on the conception of national goals. They tend to understand it by first formulating what is called national interest. On the other hand, understanding of national security is more based on functional conception, thinking from this side generally starts from the understanding that "defense" is an effort and "security" is a result. There is also thinking from the other side that talks more about priorities, not the substance, of national security. (National Security, pp. 1-2: 2004).

In his article entitled, Pertabanan and Security Our Common Problem, Juwono Soedarsono also reminded that even though defense and security have a lot of technological content, in the end everything still depends on the success of its leaders. So the success or failure of defense and security issues is in the hands of the people who take care of it, the leaders in this field. (See Indira Samego, p. 37: 2001).

Analysis of National Defense Policy in Indonesia Up to here we see that the discussion of the defense and security system has many dimensions in it such as technology, ideology and involvement of all parties. Policy is a general planning guideline to achieve goals. Policy as a basis for compiling planning for the formulation of concepts, strategies, strength posts and defense and security strength development programs and legal basis. The formulated policy must be simple, flexible, balanced, brief and comprehensive. That's what Beishline said. (Beishline, John Robert, pp. 57-59: 1950).

The heated debate in the BPUPKI meeting between Soekarno and Soepomo on the one hand and Hatta and Yamin on the other hand about whether or not it was necessary to include human rights content in the 1945 Constitution, related to Soepomo and Soekarno's doubts about the possibility that excessive use of individual rights could actually threaten state security. (Erdianto Effendi, p. 44: 2015).

Finally, a middle ground was reached by including limitations on the use of human rights with the words regulated by law. Mahfud MD assessed that this debate is what often becomes the reason for human rights violations on the grounds that what is important is the rights of society as a whole under the jargon of "public interest", while the measurements of public interest itself are never clear so that public interest becomes identical with government interest. (Mahfud, MD, p. 168: 2000).

What Mahfud said is in line with what Rozali Abdullah said that public interest is something that is difficult to prove, especially since until now there have been no objective measures of what is meant by public interest. (Rozali Abdullah, p. 35: 1994).

According to Mahfud, it is very clear that in the debate and throughout Indonesian history there has been a push and pull between individual human rights rooted in the American and French revolutions with the framework of liberalism and legal state and communal human rights or the understanding of second generation human rights with the framework of welfare state. The New Order government, according to Mahfud, tends to establish the idea of Soekarno-Soepomo or the understanding of second generation human rights (communalism) with the welfare state and with the risk of the emergence of an undemocratic political system because the government always states its actions as actions taken to protect society as a community (unity). (Mahfud, MD, p. 169: 2000).

The New Order approach that prioritizes the safety and security of the state over human rights is in line with the theory of the goals and functions of the classical state. As previously stated in Chapter I, one of the ultimate goals of every state is to carry out several minimum functions that are absolutely necessary, including implementing law and order. To achieve common goals and prevent clashes in society, the state must implement law and order. It can be said that the state acts as a stabilizer. In addition, the state is also obliged to strive for the welfare and prosperity of its people, defense to guard against possible attacks from outside, and uphold justice. This is carried out through judicial bodies. (Miriam Budiardjo, p. 234: 2010). Law contains a set of rules regarding justice and order. (Marsillam Simanjuntak, p. 24: 1994).

The use of the first function, namely order, is in line with Lord Shang's opinion that in a country there are subjects that are always facing and conflicting, namely the Government and the People. If one is strong, the other is certainly weak. On the contrary, the government is stronger than the people, so that chaos and anarchy do not arise. Therefore, the Government must always try to be stronger than the people. (M. Solly Lubis, p. 44: 2007).

B. Future Indonesian Legal Politics in Accommodating the Role of the Army in Preventing and Eradicating Terrorism The following will explain the direction of future Indonesian legal politics. In the Effort to Prevent and Eradicating Terrorism, the problem is indeed complex, therefore multi-party synergy is needed in handling it. 1. Multi-party Synergy in Efforts to Prevent and Eradicating Terrorism Terrorism is the enemy of the state. This statement is not an exaggeration. All countries, especially countries that have had experience or are often shaken by brutal acts of terrorism, have the same view of terrorism as an enemy. (Agus SB, pp. 177-178: 2016).

Seeing the complexity of the problem of terrorism, it is clear that efforts to eradicate terrorism cannot be carried out by the police alone without involving many parties. Various parties who have an interest in eradicating terrorism with their respective abilities and interests, ideally work in a coordinated manner to form a synergy. (Petrus Reinhard Golose, p. 151: 2009).

The lack of public understanding of counter-terrorism, not a few parties still assume that radicalism and terrorism are the enemies of the TNI and Polri. Some people seem to let go and are skeptical about the dangers posed by radical movements and acts of terrorism that sell the name of religion and try to extinguish the light of religious universalism by instilling hatred towards parties. (Irfan Idris, pp. 48-49: 2017).

Terrorism, an issue that is currently global. Its echo is heard from the west to the far east. And ends in the motherland, Indonesia. We are currently the center of world attention. Not as a trend setter for technological progress or other creative products, but as an incumbent and follower in the field of terrorism. Indonesia is suspected of being a hotbed of terrorism after Afghanistan and Pakistan. It is interesting to connect it with the largest Muslim population in a country in the world. This is what then boosted Indonesia's name in the global arena, especially in the terrorism arena. (Agus SB, p. 10: 2014).

State terrorism arises inseparable from the concept of state sovereignty, which is inherently inherent in the authority of the state. State sovereignty cannot be separated from its elements, namely territory, citizens, foreign citizens and obligations to international agreements. In a theoretical perspective, Anthony Allott, as quoted by Iain Scobbie, sovereignty is the preserve of States, and projects an authority based view of society. An organized state has sovereign authority over a certain territory, membership as a resident in a non-exclusive society, and has awareness and ideals that may differ from the state. (Iain Scobbie, pp. 80-81: 2003).

Thus, the notion of the states, especially states that adhere to formalistic state sovereignty, is that formalistic sovereignty cannot accept humanitarian intervention against tyrannical government regimes that oppress their own population, and these states actually damage their own sovereignty. (Jawahir Thantowi, p. 12: 2013).

Future Indonesian Legal Politics in Accommodating the Role of the Army in Preventing and Eradicating Terrorism The role and function of law in development, namely: "as a guiding principle for the implementation of development in order to create people's welfare". This is in accordance with the opinion of Satjipto Raharjo who said that "the law also helps create people's welfare and happiness". (Satjipto Rahardjo, p. 11: 2006).

Peter Mahmud Marzuki also said that the purpose of law is to create peace and prosperity in community life. Thus, in order for development to provide prosperity and happiness to the community, the development should be carried out in accordance with applicable legal provisions. (Peter Mahmud Marzuki, p. 162: 2008).

The legal ideal contains principles that apply as basic norms for justice or injustice of the law. Thus, the legal ideal simultaneously provides double benefits. With the legal ideal we can test the applicable positive law, and can direct positive law towards just law. Just law is positive law that has characteristics in accordance with the legal ideal. Rudolf Stammler argues that the legal ideal is a construction of thought that must direct the law towards the ideals desired by society. The legal ideal functions as a guide (Leitstern) for achieving the ideals of society. More specifically, Stamler identifies the legal ideal as a "juridical will" that is above the subjective will of individuals. The legal will is an objective will. (H. Anton Djawamaku, pp. 150-151: 1982).

Legislation is expected to be one of the instruments to realize the desired National Legal System. Legislation can be said to be good (good legislation), if it is legally valid (legal validity) and is effective because it can be accepted by society fairly and valid for a long time. (I Gde Pantja Astawa and Suprin Na'a, p. 77: 2008).

Good legislation can also be interpreted as "ideal and perfect" legislation. Such regulations will be created if they meet three requirements, namely: (i) the regulation provides legal justice (gerechtigkei); (ii) the regulation provides legal certainty (rechtssicherkeit); (iii) the regulation provides benefits (zweckmassigkeit). Each realm of life has its own icon. The icon for modern law is: legal certainty. Everyone will see the function of modern law as producing legal certainty. Society, especially modern society, really needs certainty in various interactions between its members and that task is placed on the shoulders of law. Legal science is also busy with this problem. (Satjipto Rahardjo, p. 133: 2006).

The principle of the formation of statutory regulations is born from the principle of a state based on law, which means a determination of the use of power that is formally limited in and based on the Constitution or UUD, which is then reaffirmed in the field of the formation of statutory regulations. (Hamid Attamimi, pp. 334–335: 1990). The process of drafting legislation starting from the planning stage to the enactment stage. (Salim HS, p. 35: 2013).

Therefore, A. Hamid Atami by following the construction of thought proposed by Van der Viles, made modifications and updates that were adjusted to the conditions in Indonesia which then concluded that there are 3 (three) principles that are arranged sequentially, as follows: first, the ideals of Indonesian law, namely Pancasila, in addition to being rechtsidee, are also fundamental norms of the state; second, the principle of the state based on law and the principle of government based on the constitutional system; third, other principles which include formal principles and material principles. (Sirajudin, et al., p. 24: 2008).

In the view of A. Hamid Atamimi, the principles of establishing legislation also include formal principles and material principles. Formal principles are about "how" (het 'hoe') a regulation, and material principles are related to "what" (het 'wat') a regulation. (Hamid Attamimi, pp. 335-336: 1990).

That if in the past era the TNI carried out duties not only in the field of defense but also in the socio-political field, then after we entered the reform era, the TNI immediately placed its right position in accordance with the order of a democratic state. We have left the socio-political role and we only concentrate on the field of national defense and security, in the future it could help maintain public security and order in order to build the duties of the Police. (TNI General Endriartono Sutarto, pp. 21-22: 2005).

The principle or vitality of democratic government according to Montesquieu is goodness, not Christian goodness, moral goodness, but political goodness: love of the homeland, love of equality, self-sacrificing patriotism, in short, a wholehearted devotion to the common welfare, which implies a combination of personal and public interests that is almost similar to what Rousseau later described in his The Social Contract. (Montesquieu, p. 48: 2007).

This is possible because the civil authorities have not been able to implement strong control over military policies and decision-making. Moreover, the State was built as an institution to maintain the existence of national defense and security. Therefore, the formation of armed forces in modern countries is intended to protect and defend the sovereignty of the State and Nation of a country. However, in reality, there are several expansions of the role inherent in the armed forces. This expansion is with the ideography and development of a country. In general, it can be interpreted that the influence of the military with its multi-function

in maintaining national security is more due to the history of the struggle of the Indonesian Nation and State. (Syamsul Maarif, pp. 1-2: 2011).

The Minister of Defense will rearrange the State Defense and Security through the Draft Law on National Security which is suspected that the existing laws and regulations are not sufficient to be used effectively in the implementation of National Security so that they need to be changed without evaluation. In order for the National legal system not to overlap, the best solution is to cancel the existence of the Draft Law on National Security. (Syamsul Maarif, pp. 1-2: 2011)

The current laws, both the TNI Law, the Polri Law, and the Defense Law, do not directly discuss the meaning of "National Security". Although there are some overlaps (grey areas), they do not in the least reduce the meaning of the duties and roles of both the TNI and Polri. In the discussion of Law Number 2 of 2002 and Law Number 34 of 2004, it can be clearly seen regarding the duties, 312 functions, and roles of the TNI and Polri. And there it is also seen that there are different but interrelated dimensions between the duties and roles of the TNI and Polri, so that what is really needed is a form of cooperation and coordination so that the duties of the TNI and Polri can be carried out properly within a framework of togetherness. (Journal of TNI Headquarters, page 10: 2013).

Law Number 34 of 2004 Concerning the Indonesian National Army, State Gazette Number 127 of 2004. The Role and Position of the TNI in Law Number 34 of 2004, the role of the TNI is to act as a state apparatus in the field of defense which in carrying out its duties is based on the policies and political decisions of the State, while its Function, the TNI as a state defense apparatus, functions as a deterrent against every form of military threat and armed threat from outside and inside the country against the sovereignty, territorial integrity, and safety of the nation, a response to every form of threat as referred to in paragraph (1) letter a, and a restorer of the state's security conditions that are disturbed due to security chaos. In carrying out the functions as referred to in paragraph (1), the TNI is the main component of the state defense system. The TNI has the main task of upholding state sovereignty, maintaining the territorial integrity of the Unitary State of the Republic of Indonesia which is based on Pancasila and the 1945 Constitution of the Republic of Indonesia, and protecting the entire nation and all of Indonesia's territory from threats and disturbances to the integrity of the nation and state.

CONCLUSION

The government and the military are tied by a regulatory knot to build a formal legal basis that regulates the duties and functions of the military in the state system. The TNI is a state apparatus that handles the defense sector and in its implementation is assisted by other components, namely the supporting component and the reserve component from the people. The direction of Indonesian legal policy in the future in efforts to prevent and eradicate terrorism is indeed a complex problem, therefore multi-party synergy is needed in handling it. In the past era, the TNI carried out duties not only in the defense sector but also in the socio-political sector, so after we entered the reform era, the TNI immediately placed its right position in accordance with the democratic state order. We have left the socio-political role and we only concentrate on the field of national defense and security, in the future it could help maintain public security and order in order to build the duties of the Police.

Combating criminal acts of terrorism in Indonesia is part of law enforcement under the authority of law enforcement officers. So the TNI cannot enter the realm of law enforcement because its main tasks and functions are different. So the involvement of the TNI in eradicating terrorism as regulated in Article 7 Paragraph (2) and Paragraph (3) of Law Number 34 of 2004 concerning the TNI must be emphasized that the TNI can play a role when a terrorist attack

threatens state sovereignty and/or when it is related to military operations and the law enforcement officers themselves are no longer able to handle a terrorism problem.

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