

**JLPH:**  
**Journal of Law, Politic  
and Humanities**

E-ISSN: 2962-2816  
P-ISSN: 2747-1985

<https://dinastires.org/JLPH> [dinasti.info@gmail.com](mailto:dinasti.info@gmail.com) [+62 811 7404 455](tel:+628117404455)

DOI: <https://doi.org/10.38035/jlph.v5i3>  
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## Authority of the Indonesian National Army in Prevention and Eradication

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**Abstract:** The purpose of analyzing and finding the form of terrorism that is the authority of the Army in preventing and eradicating it. 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. In the procedure for handling cases of terrorism crimes in accordance with Law Number 15 of 2003, it must be carried out by state institutions that are given authority with a full sense of responsibility and seriousness. Both from the TNI, Police and State Intelligence Agency in the context of the investigation and arrest process which both support the smoothness of the investigation process that will be held later. The use of military force to combat terrorism is not taboo, both from a domestic political perspective, in the context of the international humanitarian law framework, and the provisions of the Charter and various UN resolutions. The TNI as a state defense tool, functions as a deterrent against every form of military threat and armed threat from outside and within the country against the sovereignty, territorial integrity, and safety of the nation. Such provisions are in line with what is formulated in Article 30 Paragraph (2) of the 1945 Constitution which reads, "The defense and security efforts of the state are carried out through the total people's defense and security system by the Indonesian National Army and the Republic of Indonesia Police as the main force, and the people as supporters." Law Number 3 of 2002 concerning National Defense states that the position of the TNI is the main component in the state defense system in order to carry out defense tasks in Indonesia. Based on these provisions, the TNI has the authority to eradicate terrorism, especially in carrying out duties to protect the safety of the nation and most importantly as a peacekeeper both nationally and internationally. The participation of the TNI in eradicating terrorism is a preventive effort. The TNI, which is part of society and the nation, has the same responsibility in fighting terrorism. The involvement of the TNI in handling acts of terrorism needs to find a way out and clear legal instruments, namely whether the TNI is the main component, reserve component or supporting component so as not to conflict with the principle of due process of law.

**Keyword:** Authority of the Indonesian National Army, TNI Authority, Indonesian Military Authority, Prevention and eradication of terrorism in Indonesia.

## INTRODUCTION

According to Crayton, terrorism is an attempt to gain or maintain power or control through intimidation. Crayton says that the “big ideas” of terrorist groups “protect group members from shame.” (Richard M. Pearlstein, p. 169: 1991).

Walter Laqueur, who spent his life investigating the phenomenon of terrorism, stated that it is difficult to provide a precise definition. He argued that terrorism cannot be said to be a war because it is very different from war. In addition, it is also outside the field of guerrilla warfare, revolutionary warfare, rebellion or conventional warfare. Conventional warfare aims for total destruction, human and material, guerrilla warfare is a revolutionary war to cause physical damage. While terrorism tends to want psychological damage. (Walter S, p. 10: 2005).

According to Muladi, terrorism is an extraordinary crime that also requires handling by utilizing extraordinary measures because of various things: a. Terrorism is an act that creates the greatest danger to human rights. In this case, the human right to life and the human right to be free from fear. b. The targets of terrorism are random or indiscriminate, which tend to victimize innocent people. c. The possibility of using weapons of mass destruction by utilizing modern technology. d. The tendency for negative synergy between national terrorist organizations and international organizations. 18 e. The possibility of cooperation between terrorist organizations and organized crime, both national and transnational. f. Can endanger international peace and security. (Muladi, 2004.)

According to Muchamad Ali Syafa'at, terrorism is a belief that the use of violent means and creating fear is a legitimate way to achieve goals. (Muchamad Ali Syafa'at, p.59: 2003).

Meanwhile, Nasir Abas, defines terror as an evil reaction that is seen as more evil by the perpetrator, so it is not a stand-alone crime (interactionism) and can be grouped into revenge crimes (hate crimes). (Nasir Abas, p.1: 2012).

If terrorism is seen as a crime, then the current form of terrorism has crossed national borders which can threaten world peace and tranquility, Romli Atmasasmita stated that in its development it can later cause jurisdictional conflicts that can disrupt international relations between countries that have an interest in handling dangerous criminal cases that are cross-territorial in nature. (Romli Atmasasmita, page 58: 2000). Article 25 paragraph (1) of Perpu Number 12 of 2002 concerning the Eradication of Criminal Acts of Terrorism which has been ratified by Law Number 15 of 2003 and Perpu Number 1 of 2002 which was later ratified as the Law on Terrorism has been running for almost fourteen years since it was enacted in October 2002. The regulation of the eradication of criminal acts of terrorism with this Law focuses more on the Indonesian National Police (Polri) as 21 investigators based on applicable procedural law.

See the Consideration Considering letter c, Law on Law Number 34 of 2004 concerning the Indonesian National Armed Forces, Law Number 34 of 2004, State Gazette Number 127 of 2004. That the TNI as a tool The defense of the Unitary State of the Republic of Indonesia, is tasked with implementing the state defense policy to uphold state sovereignty, maintain territorial integrity, and protect the safety of the nation, carry out military operations for war and military operations other than war, and actively participate in regional and international peacekeeping tasks.

See Article 6 paragraph (1) in conjunction with Article 8 paragraph (1) of Law Number 17 of 2011 concerning State Intelligence. Likewise, from the perspective of State Intelligence, its formation was deliberately made as a supporter of the smooth handling of this pre-emptive act of terrorism which has its own legal corridor. Intelligence itself consists of a group of TNI and POLRI members and others who are both actors in eradicating terrorism, and are funded by the State. In fact, it is not uncommon for state intelligence to also receive tactical funding assistance from third parties who in fact support the smooth

running of the law enforcement system in Indonesia, especially in the issue of countering terrorism. The existence of state intelligence in countering and eradicating terrorism, although not expressly regulated in the Law on Terrorism, the Law on Intelligence has regulated that the overall function of intelligence is 25 to conduct investigations, security, and mobilization both from within the country and abroad.

Based on the background as mentioned above, the main problem that will be studied in this Journal. What form of terror action is the authority of the Army in preventing and eradicating it?.

## **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**

The Authority of the Army in Preventing and Eradicating Terrorism A. Legal Policy in Implementing National Security In the procedure for handling cases of terrorism crimes, this is in accordance with Law Number 15 of 2003, which must be implemented by state institutions that are given authority with a full sense of responsibility and seriousness. Both from the TNI, Police and State Intelligence Agency in the context of the investigation and arrest process which all support the smooth running of the investigation process that will be held later. The existence of the police in Indonesia, although it is an institution left over from the colonialists, theoretically its birth began from the needs and desires of the community to create a safe, orderly, peaceful and peaceful situation and condition in everyday life. Then it developed in line with the development and changes in the condition of the country where the police became a state need as a tool to deal with the community. This is where the shift in the function of the police occurred, which was originally born from the desires of the community then became the desires of the state, so that it was conceptualized that the police were on the side of the state. (Sadjijino, p. 21: 2007.)

The attention to the problem of terrorism in Indonesia has prompted the President of the Republic of Indonesia to create Presidential Regulation Number 46 of 2010 concerning the National Counterterrorism Agency (BNPT) which is fully under the responsibility of the president and this organization was created solely to assist other organizations such as Densus 88 from the police, the State Intelligence Agency (BIN), or from the TNI and POLRI intelligence organizations which are all in charge of counterterrorism in Indonesia. The Director of the National Counterterrorism Agency (BNPT) Irfan Idris emphasized that acts of terrorism cannot simply be associated with religious motives, namely jihad. There are always acts of terrorism like this, the perpetrators are santri, then associated with jihad. Finally Islam becomes the accused. ( [http://nasional.kompas.com/read/2012/09/08/123\\_10237/BNPT](http://nasional.kompas.com/read/2012/09/08/123_10237/BNPT) . Do not equate acts of terrorism with jihad. Accessed at 19.33 WIB on July 9, 2017.)

The Use of Military Force in Counter-Terrorism is not a taboo when viewed from the domestic political aspect, or in international provisions, if the power of terrorism has led to a threat to state sovereignty. In the matter of investigation and inquiry regarding the case of the Crime of Terrorism in Indonesia, there are high state agencies or institutions that are specifically designed to carry out the procedures of this case and also have their own

authority. Among others, from the police there is a special team for countering the Crime of Terrorism, namely the DENSUS 88 Anti-Terror Team from the police, detachment 81 which is part of Kopassus (Special Forces Command), elite troops of the Indonesian Army, Indonesian Navy, there is Detachment Jamangkara (Denjaka), which is part of the marine corps, the Indonesian Air Force, there is Detachment Bravo (Denbravo), which is part of the Indonesian Air Force Paskhas, the Indonesian Air Force elite troops while the State Intelligence Agency or abbreviated as BIN also has a joint desk which is a representative of the anti-terror unit. The government currently places TNI troops behind the Polri anti-terror team. Special Detachment 88 becomes the Leading Sector in Operation 214 to combat terrorism in Indonesia. If you look at Densus 88 itself, it is more like GIGN and GSG-9 which are exemplified in the explanation above. The placement of Densus 88 as the vanguard in combating terrorism sometimes causes jealousy among other anti-terror units. This condition often leads to open conflict between anti-terror units in the field, especially related to handling Separatism in Aceh and Papua, as well as communal conflicts such as in Poso and Maluku, where Densus 88 Anti-terror Polri, because it is under the Ditserse Polda, is also involved in the operational cases in the explanation. In fact, if referring to Law Number 2 of 2002 concerning the Indonesian National Police or in the Composition and Position of the Indonesian National Police as stated in Chapter II Article 6, Article 7, Article 8 Article 9 and Article 10 of Law Number 2 of 2002 and Law Number 34 of 2004 concerning the TNI, separatism is the meeting point of the tasks between the TNI and the POLRI. Where the TNI is the main element, and the Polri is the supporting element. So far, the assignment of terror actions related to separatism has been by the Police Mobile Brigade, with the Wanteror Unit and Gegana. (Galih Priatmodjo, Densus 88, The Under cover squad, Jagakarsa, Jakarta, pp. 82-83.)

Furthermore, Detachment 81 has almost the same duties and functions as Detachment 88 Polri, belonging to the TNI such as detachment 81 Kopassus, detachment 81 AD, AL, and AU have duties for national defense where they maintain the condition of the country so that it is conducive at all times. Such as guarding against terrorism actions through the air, sea and land. With reference to the threat of state-owned combat equipment, sabotage of air bases, sea and state borders. Which in fact has the same duties as Detachment 88 Polri. The task of the Counter-Terrorism Troops from the Raider Infantry Battalion is as a fast-reacting and striking element at the Regional Military Command (Kodam) level throughout Indonesia. This troop is specifically designed to deal with security problems, especially terror problems at the provincial level under the command of the Kodam Commander (Pangdam). With three times the capability of other regular Infantry Battalions, it is expected that all forms of threats around the Kodam area can be resolved quickly, quietly and precisely on target, especially problems related to security of a terrorism nature. In certain circumstances, this Troop is ready to be deployed to assist the Police in overcoming disturbances to security and public order at the provincial level based on the orders of the Kodam Commander which are forwarded to the local Raider Battalion Commander. ( [www.TNI.MIL.com](http://www.TNI.MIL.com) . TNI Involvement in Combating Terrorism. Accessed at 20.30 WIB on July 13, 2017.)

In addition to being an anti-terror force in the maritime region, this force can also be relied on for its capabilities in the land region, in various forms of terrorism targeting office buildings, malls, trains, airports, bus terminals. The task assigned to the Detachment Jala Mangkara troops of the Indonesian Marine Corps is to strike and paralyze every threat of terrorism in the maritime aspect in the territorial waters of the Unitary State of the Republic of Indonesia, not only in the sea region, the Denjaka troops' capabilities in the land region can also paralyze acts of terrorism. 162 Detachment Bravo 90 of the Indonesian Air Force Paskhas Corps has the main task as a special anti-terror unit within the Indonesian Air Force to handle terrorism problems in 161 [www.TNI.MIL.com](http://www.TNI.MIL.com) . TNI Involvement in Combating

Terrorism. Accessed at 20.30 WIB on July 13, 2017. ( [www.TNI.MIL.com](http://www.TNI.MIL.com) . TNI Involvement in Combating Terrorism. Accessed at 20.30 WIB on July 13, 2017.)

The Intelligence Bill has not accommodated the need for supervision of intelligence operations that are not only carried out by the DPR, but it is necessary to form an Intelligence Supervisory Commission. In accordance with the obligations of intelligence members, the same as the rights of State intelligence members, formulated in part two of the Bill on State intelligence, the difference lies only in the placement of the article. If the rights of State intelligence members are regulated in article 16, then the obligations of State intelligence are regulated in article 17. (Ismantoro Dwi Yuwono, p.83: 2012).

The desire of intelligence to have special authority by committing violations of law and human rights, he said, is evidence that intelligence still uses an authoritarian intelligence paradigm. Therefore, the government and the DPR should continue to refer to the rules of law and human rights in discussing intelligence authority in the State Intelligence Bill. The government and DPR must also adhere to the spirit of intelligence reform. The insistence on giving more authority to intelligence to arrest, detain, interrogate and wiretap must be rejected, because this has entered the realm of law enforcement. "Intelligence officers are extra-judicial officers, so they are not allowed to enter the realm of law," In addition, there is an Article in the Intelligence Bill that regulates that intelligence has the authority and duty to carry out security and investigations, without any further and detailed explanation of the terminology, so it is clear that this provision is elastic and open to multiple interpretations. State Intelligence, ideally-theoretically, actually does not have the authority to enforce the law. This State institution only provides warnings or warnings to State users against threats, both from within the country and from abroad.

## CONCLUSION

In the Procedure for handling cases of terrorism crimes, according to Law Number 15 of 2003, it must be carried out by state institutions that are given authority with a full sense of responsibility and seriousness. Both from the TNI, Police and State Intelligence Agency in the context of the investigation and arrest process which all support the smooth running of the investigation process that will be held later. The use of military force to combat terrorism is not taboo, both from a domestic political perspective, in the context of the international humanitarian law framework, and the provisions of the Charter and various UN resolutions. The TNI as a state defense tool, 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. Such provisions are in line with what is formulated in Article 30 Paragraph (2) of the 1945 Constitution which reads, "State defense and security efforts are carried out through a total people's defense and security system by the Indonesian National Army and the Republic of Indonesia Police as the main force, and the people as supporters."

Law Number 3 of 2002 concerning National Defense states that the position of the TNI is the main component in the national defense system in order to carry out defense tasks in Indonesia. Based on these provisions, the TNI has the authority to eradicate terrorism, especially in carrying out tasks to protect the safety of the nation and most importantly as a peacekeeper both nationally and internationally. The participation of the TNI in eradicating terrorism is a preventive effort. The TNI, which is part of society and the nation, has the same responsibility in fighting terrorism. The involvement of the TNI in handling acts of terrorism needs to find a way out and clear legal instruments, namely whether the TNI is the main component, reserve component or supporting component so as not to conflict with the principle of due process of law.



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