



Counter-Terrorism Policy Brief Series

**The Role and Involvement of TNI
in Countering Terrorism**



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About Counter-Terrorism Policy Brief Series

Countering Terrorism and Violent Extremism in Indonesia: Towards Inclusive and Data-Based Framework

Counter-Terrorism Policy Brief Series is produced by The Habibie Center as part of the Countering Terrorism and Violent Extremism in Indonesia: Towards Inclusive and Data-Based Framework project to provide policy analysis and recommendation on countering terrorism and violent extremism in Indonesia.

Countering Terrorism and Violent Extremism in Indonesia: Towards Inclusive and Data-Based Framework has been conducted by The Habibie Center since 2017. The ultimate goal is the resilience of Indonesian society against the threats of radicalization, violent extremism and terrorism. This initiative is driven by the need to develop a data-based counter-terrorism and violent extremism response system which inclusively involved all components of the society and consistent with principles of democracy and human rights promotion. The project aims to achieve three main objectives: (1) to strengthen the capacity to utilize database in policy-making and strategy formulation; (2) to increase the capacity and involvement of civil society in countering terrorism and violent extremism; and (3) to increase the quality of legal instruments.

In addition to the thematic policy brief published regularly every four month, The Habibie Center conducts following activities:

1. Developing regularly-updated and publicly accessible database of terrorist attacks and counter-terrorism measures;
2. Producing a monograph on a number of issues to be covered in the revised law on terrorism;
3. Conducting in-depth research on Indonesian experience in countering terrorism and violent

extremism;

4. Disseminating the research through seminars, workshops, and websites;
5. Organizing discussion and consultation with the government on the research findings and analysis;
6. Conducting training and capacity-building for government officials and civil society elements in four provinces;
7. Conducting knowledge-sharing meetings to strengthen the network of civil society organizations; and
8. Campaigning through infographic and other media to initiate wider public discussion.

This project is supported by the Department of Foreign Affairs, Trade and Development of Canada through the Counter-Terrorism Capacity Building Program (CTCBP).

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The Role and Involvement of TNI in Countering Terrorism

By: Research Team of The Habibie Center

Background

At least in the past two years, the discourse about the role of Indonesian National Armed Forces (TNI) in countering terrorism in Indonesia has been intensified. A number of terrorist attacks –Thamrin dan Kampung Melayu bombings- triggered the discourse. On 14 January 2016, there were several bomb attacks and shootings at Sarinah. Eight people were killed during the attack, including the four suspects. The Islamic State of Iraq and Syria (ISIS) claimed responsibility for the attack. The ‘Thamrin bombing’ sparked public debate with regard to the urgency to speed up the revision of the Law No. 15 Year 2003 on Stipulation of Government Regulation in lieu of Law No. 1 Year 2002 on the Eradication of the Criminal Acts of Terrorism (Anti-terrorism law). Some people believe that the existing law is not sufficient for security forces and intelligent to take preventive actions against any terror attacks. The discourse on TNI’s involvement in countering terrorism began to surface. Then, in 24 May 2017, two suicide bombings occurred at a bus terminal in Kampung Melayu, East Jakarta. Five people were killed in the attack, including 2 attackers and three policemen. After the Kampung Melayu bombing, the discussion on the strengthening of the prevention and criminalization aspects against the initial action or actions related to the preparation of terror (auxiliary crimes) started to rise. However, beyond that, Kampung Melayu bombing later became an important momentum for the heightened discourse on the expansion of the role of TNI in countering terrorism. Several

days after the bomb attack, President Joko Widodo issued a statement about the need of the revised anti-terrorism law to provide more authority for TNI to engage in counterterrorism.

Pros and cons occurred during the development of the discourse on the expansion of the role of TNI in countering terrorism in Indonesia. They who support, based their argument from the fact that TNI’s capability can be utilized to prevent and combat terrorism as part of the main task of TNI to maintain the sovereignty of the Unitary State of the Republic of Indonesia.¹ Acts of terrorism, according to this argument, can no longer be qualified as merely criminal act which disrupts the security and public order but it also relates to issues of beliefs and politics, as well as threatening ideology and sovereignty of the state, territorial integrity, and the safety of the people. The fact that terrorism is considered as a threat to ideology, sovereignty, and state’s territorial integrity, can be used as an entrance for the TNI’s role expansion proposal.² Meanwhile, those who criticize the notion of TNI’s role expansion in counterterrorism, in general, cited the risk of human rights violation as the reason for the rejection of direct engagement of TNI in counterterrorism. In addition, TNI who are active and engage directly with counterterrorism, are considered to be potentially harmful for the democratization agenda and security sector reform through which TNI’s role as law enforcement instrument was revoked.

In the development, the discussion of anti-terrorism law revision has reached its final stage. After several

¹ Kristian Erdianto, “Alasan Panglima Usulkan Pelibatan TNI Menanggulangi Terorisme,” *KOMPAS.COM*, 2018, <https://nasional.kompas.com/read/2018/01/29/13050731/alasan-panglima-usulkan-pelibatan-tni-menanggulangi-terorisme>.

² TNI headquarters office, “Lampiran Surat Panglima TNI Nomor B/91/I/2018: Usulan TNI Terhadap Proses Pembahasan RUU Penanggulangan Tindak Pidana Terorisme,” 2018.

* Some part of this article has been published by Civil Society Against Violent Extremism as a policy paper entitled “Peran dan Keterlibatan TNI dalam Penanggulangan Terorisme”

delays, policy leaders have reached an agreement that the anti-terrorism law revision needs to be concluded.³ It is agreed that the revision cannot drastically change the anti-terrorism law and regarding the technicality of TNI's involvement in countering terrorism will be regulated by Presidential Regulation.

This policy paper aims to provide considerations with regard to the role expansion of TNI in countering terrorism in Indonesia. A number of points that will be elaborated in this policy paper, including the nature of the role of military in counterterrorism with the argument built upon the history of TNI's role in countering terrorism in Indonesia, as well as a brief comparative study with the case of military involvement in counterterrorism in other countries; the rationale of the role expansion of TNI in countering terrorism in Indonesia, and; the possible implications that need to be anticipated from the expansion of TNI's role in countering terrorism in Indonesia. The policy paper will end with a set of policy recommendations regarding TNI's role expansion in countering terrorism in Indonesia.

The History of TNI's involvement in Countering Terrorism in Indonesia

In assessing the need of role expansion of TNI's role, it is important to see how far TNI has been played a role in countering terrorism in Indonesia. Based on historical review, TNI actually has long been

developing capability and carry out counterterrorism operations.

This can be seen, for example, in the pattern of TNI capacity building which is stipulated under the Strategic Plan of Defence and Security (*Renstra Hankam*). *Renstra Hankam I 1974-1978* prescribes national defence and security (*hankamnas*) target consisting of 20 *hankamnas* capability, including, among others, fight against terror.

Later, *Renstra Hankam II 1979-1983* was implemented by enlarging the scope of activity based on the achievements of *Renstra I*, including the development of capability to fight terror. Furthermore, in the *Renstra III 1984-1988* there were also some improvements from *Renstra I* and *II*. Several developments of operational forces became the focus of *Renstra III*. One of the defence and security capabilities mentioned before was the Capability to Act Against Security Disorder so as to be able to conduct action against crimes including "act of counter terror in preventing and acting quickly and efficiently against any form of terror". International terror phenomenon, such as hijacking and hostage, that had occurred more often in the end of 1970s and beginning of 1980s had become one of the motive to emphasis for the establishment of defence and security capability in fighting against terror. *Renstra Hankam V 1989-1993* that became the last *Renstra* issued by the New Order, basically, was a continuation of the previous *Renstra* in terms

³ Ray Jordan, "Wiranto: UU Terorisme Segera Keluar, Tetap Ada Keterlibatan TNI," *Detiknews*, 2018, <https://news.detik.com/berita/3900076/wiranto-uu-terorisme-segera-keluar-tetap-ada-keterlibatan-tni>.

No	National Defense and Security Capability
1	Strategic Intelligence
2	Territorial Management
3	Counter Subversion
4	Counter Mass Unrest
5	Counter Terrorism
6	Maritime Surveillance
7	Offshore Surveillance and Patrol
8	Naval Warfare
9	Ground Warfare
10	Aerial Warfare

No	National Defense and Security Capability
11	Air Defence
12	Aerial Attack
13	Amphibious Warfare
14	Airborne Assault
15	Guerrilla Warfare
16	Strategic Transport
17	Public Order
18	Public Rescue
19	Law Enforcement
20	Territorial Warfare

Table I. *Renstra Hankamnas Capability 1974-1978* (Referred from Andi Widjajanto, "Evolusi Doktrin Pertahanan Indonesia," *Prisma* 29, no. 1 (2010))

No.	Military Tasks
1	Defence against military invasion / aggression of other countries
2	Defence against armed rebellion / armed separatists movements
3	Defence of vital objects
4	Law enforcement at sea and in the air
5	Maintenance of sovereignty at border areas with other countries
6	Military intelligence functions
7	Defence against threats electronic and information warfare
8	VVIP security
9	Counter terrorism
10	Defence against hijacking and/or armed piracy
11	Territorial control
12	Defence diplomacy according to Indonesia's defence and foreign policy
13	Maintenance of world peace
14	Management of conscription
15	Provision of assistance to civil authorities
16	Civic mission

Table 2 Indonesian Military Tasks based on the Law No. 3 Year 2002 on State Defense (Referred from Andi Widjanto, "Evolusi Doktrin Pertahanan Indonesia," *Prisma* 29, no. 1 (2010))

No.	Military Operations Other Than War
1	Defence against armed separatist movements
2	Defence against armed rebellion
3	Counter terrorism
4	Border security
5	Security of strategic national vital objects
6	Maintenance of world peace according to foreign policy
7	Security of the president and vice president along with their family
8	Empowerment of defence areas and their supporting system according to total defence system
9	Provision of assistance to local government
10	Provision of assistance to Indonesian National Police within the framework of security and public order
11	Security of state guests at the level of head and foreign government representatives who are in Indonesia
12	Provision of assistance to cope with natural disasters, displacement, and humanitarian assistance
13	Search and rescue
14	Provision of assistance for the government in securing shipping and aviation against hijacking, piracy, and smuggling

Table 3 Main tasks of TNI's Military Operation other than War based on the TNI Law

of national resource management so whenever needed it can be utilized for the implementation of defence and security.

Furthermore, as it will be further explained in another part of this policy paper, the development of defence and security capability had been performed

under the context of democratization and Security Sector Reform that began in the end of 1990s. One of the outputs of the *Reformasi* is the Defense Law No. 3 Year 2002 on State Defence. The law stipulates that the evolvement of defence and security of TNI is directed to encounter a number of threats,

including terrorism.

Another output that is considered as an important achievement from the *Reformasi* is the Law No. 34 Year 2004 on the Indonesian National Armed Forces. The TNI law stipulates, among other, the roles, functions, and duties, as well as the deployment and the use of TNI. Article No. 7 TNI law defines TNI's main duty to assert state sovereignty, to maintain the Unitary State of the Republic of Indonesia's territorial integrity, as well as to protect the nation and the state from any threat and interference on the nation and the state's integrity. TNI's main duty is divided into "military operation for war" and "military operation other than war". Under the "military operation other than war", counterterrorism operations is arranged as part of TNI's tasks.

The History of TNI's Counterterrorism Operation

In his writing, Paul Wilkinson mentioned that terrorism is an activity, special method of armed rebellion or, citing Brian Jenkins, weapon system that can be used by any entities including the government and non-state actor.⁴ The Act of terrorism, thus, can stand alone or can be a part of a broader armed campaign.⁵ If terrorism is seen as a method instead of a philosophy or a movement, then TNI has been playing an active role in countering terrorism in Indonesia throughout history.

Since the early years of the Unitary State of the Republic of Indonesia, terrorism method had been used by different insurgent groups in the country. Darul Islam group and Islamic State of Indonesia led by Sekarmadji Maridjan Kartosuwirjo used terrorism method in its fighting against the central government between 1950s to 1960s. The *jihād* doctrine believed by Kartosuwirjo considered that acts of terror to those who do not support his movement, even though moslem, as legitimate. Solahudin's note recorded the activity of Darul Islam in West Java during 1950s which, using the contemporary definition, can be categorized as an act of terrorism,

Their main source of income was the various fees levied on communities in territory they controlled,

as well as armed robberies. Darul Islam forces would enter villages at night to collect money from the population. If anyone was unwilling to pay, Darul Islam troops would normally enter his or her house directly and seize all available possessions. Darul Islam forces would also frequently enter towns in West Java and occupy them for several hours, usually looting what they could. They destroyed houses and public facilities, killing in the process. In September 1956, for example, fighters carried out attacks for seventeen days in the Tasikmalaya area of East Priangan and burned 254 houses, two mosques and a school. At the end of the year, the terror campaign escalated further. In November, a Darul Islam force of 320 men attacked Terayu and burned 100 houses, while in East Priangan fighters murdered 20 civilians and burned 373 houses in the space of a week. In total, in 1956 they killed 224 people and burned 2044 houses.⁶

The military, especially the Army, became the main instrument for the central government to tackle the Darul Islam rebellion. After implementing the persuasive approach through incidental and local military operation, since 1959 the central government conducted eradication operations with *Operasi Merdeka* code that combined territorial warfare concept and people's defence doctrine. With this military operation, the Army became the main component of the operation with the active involvement of people in a system called "*Pagar Betis*". The movement of the Army in the "*Pagar Betis*" system was supported by espionage, aerial ground support, and logistics support provided by the Air Force. Military operation opposing Darul Islam took place for almost 13 years until Kartosuwiryo was captured in 1962.

After the arrest of Kartosuwiryo, Darul Islam movement in Java changed its approach and operated more clandestinely. During this period, the military implemented intelligence operation to rally the leadership figures of Darul Islam. A number of concessions were given to the former members of Darul Islam in the attempt to reduce their radical ideology. The rallying of the former members of Darul Islam at that time was needed to gather political legitimacy to the New Order that

4 Paul Wilkinson, *Terrorism versus Democracy: The Liberal State Response*, 3rd ed. (New York: Routledge, 2011), 6.

5 Ibid., 10.

6 Solahudin and Dave McRae, *The Roots of Terrorism in Indonesia: From Darul Islam to Jema'ah Islamiyah* (Sidney: The Lowy Institute for International Policy, 2013), 40-41.

was just established by the Military, particularly the Army, after the coup d'état allegedly carried out by the Indonesian Communist Party (*Partai Komunis Indonesia*) in 1965.⁷

Meanwhile in other areas, such as Aceh, Darul Islam insurgency campaign continued with the rise of new leader figures, such as Daud Beureueh. The movement that later transformed into The Free Aceh Movement (*Gerakan Aceh Merdeka*) also used the terror method in its actions, including the murder of foreign citizens and public figures, the burning of migrant residents' houses, and the attacks of vital installations. Like in West Java, the military took the combat approach and intelligence to tackle insurgency in Aceh. Military operations had been done intensely in the end of 1970s.

In 1970an, the effort to revitalize the Darul Islam's campaign was done and the government labelled it as Jihad Command (*Komando Jihad*). Several other terrorism actions, in the name of *jihad* against the government was also organized by the *Komando Jihad* in 1976. This include the bombing at Immanuel Hospital in Bukittinggi, the bombing of a Methodist church and Budi Murni College in Medan, bombing and grenades launcher in Nurul Iman Mosque in Padang.⁸ In Medan, this group also attacked a number of entertainment places.⁹ In 1978, members of *Komando Jihad* allegedly attacked the Special Session of the People's Consultative Assembly. A month after the attack in the People's Consultative Assembly's building, a bomb also exploded at Istiqlal Mosque, Jakarta.

Bombs terrors kept occurring entering the 1980s, including the bomb explosion at Borobudur Temple and the bombing plan in Bali in 1985. During this period, there was also a plane hijacking of DC-9 "Woyla" by a group affiliated with *Komando Jihad*. Special force from the Special Forces Command (Kopasandha) successfully rescued the hostages and disabled five hijackers when the plane landed in Bangkok, Thailand. The "Woyla" operation was referred until now as a proof for TNI's anti-terror capability.

Terrorism attack pattern in Indonesia entered a new phase since the end of 1990s. This had to do with

the change of target attacks from the symbols of the government of Indonesia to *jihad* against the United States and its allies. Aside from the shift in terms of target, bomb tactics and suicide bombing have been used more often by the terror groups. The 9/11 attack in the United States, was then followed by a bomb explosion in Kuta, Bali, in October 2002. Previously, in the eve of Christmas in 2000, numerous bomb exploded in a number of churches across the country. Bomb attacks allegedly carried out by the *Jemaah Islamiyah*, the contemporary manifestation of the *jihad salafi* movement, continued to take place in the years after. Including the JW Marriot Hotel, Jakarta in August 2003; the embassy of Australia, Jakarta in September 2004; in Jimbaran and Kuta, Bali, in October 2005, in JW Marriot Hotel and Ritz-Carlton, Jakarta in July 2009.

At the same time of the change of attack pattern, state's response to the terrorism threats also changed. As it will be elaborated further in later part of the paper, democratization and Security Sector Reform that has happened since the end of 1990s to some extent has strengthened the position and the legitimacy of the police *vis-à-vis* TNI in terms of internal security operations. Strict separation, albeit problematic, between security and defence restricts TNI to be actively involved in countering new terrorism attacks after 2001. Strengthening the capacity of the Indonesian National Police (POLRI)—for example, through the establishment of the Special Detachment 88—as well as the international agenda of "War on Terror" has given the momentum for a massive law enforcement approach to counter any terrorist threats. Although, as mentioned above, counterterrorism is still part of TNI's main duty, it is in practice still dominated by POLRI after the *Reformasi*.

Based on the brief historical perspective regarding the terrorism threat patterns in Indonesia and state's response in deploying TNI, it can be summarized that military deployment has long been a part of counterterrorism approach in Indonesia. In the era before the *Reformasi*, the acts of terrorism were used as part of insurgency campaign and disintegration by a number of groups. Terrorism threats in that era, therefore, were more attached to a threat to state sovereignty and territorial integrity so that

7 With regard to the role of the Army in the establishment of the New Order, see Salim Said, *Tumbuh Dan Kembangnya Dwifungsi: Perkembangan Pemikiran Politik Militer Indonesia 1958-2002* (Jakarta: Aksara Karunia, 2002).

8 Solahudin and McRae, *The Roots of Terrorism in Indonesia: From Darul Islam to Jema'ah Islamiyah*, 62–63.

9 Ibid., 63.

it gave a strong legitimacy for TNI to dominate counterterrorism efforts. The domination of military, especially the Army, in the political sphere during the New Order also gave plenty of rooms for TNI to conduct counterterrorism operations, be it in the forms of combat operation or intelligent operation. This condition has started to change after the *Reformasi* and democratization that started in the end of 1990s. The Security Sector Reform agenda through the segregation of TNI and POLRI, each with its own tasks and functions, as well as the public sentiment towards the use of TNI force for internal security has limited the room for TNI to engage in counterterrorism which has been dominated by POLRI through law enforcement.

Comparative Review of the Role of Military in Countering Terrorism in Other Countries

With regard to the discussion on the role and involvement of TNI in countering terrorism in Indonesia, and the resistance towards the plan, it is important to understand the practice in other countries to give an illustration regarding the norms and international standards. Basically, almost in every country that face terrorism threats, there is room for military involvement.

In general, state will involve military in counterterrorism within two frameworks: full militarization of counterterrorism and military aid to the civil authority (MACA). Military involvement in counterterrorism is based on operational reasons: firepower and tactical mobility owned by the military are needed in counterterrorism especially that involves territorial occupation and the use of organized military force. Another qualification such as bomb disposal, hostage rescue, and intelligent gathering are also crucial.

The United States' military operation in Afghanistan and Iraq after the 9/11 attack (war on terror) is a classic example of full militarization of counterterrorism. Legally, this operation is based on the Congress decision that allows the use of the US' military to fight against terrorism (Authorisation for Use of Military Force Against Terrorism). As is known later, military campaign by the coalition forces led by the US succeeded in bringing down Taliban Regime in Afghanistan and cornered Al Qaeda in a relatively

short time. The leader of Al Qaeda, Osama bin Laden was successfully eliminated through a special operation that involved the US' special force in 2011.

The handling of terrorism case by the United Kingdom in Northern Ireland becomes an example of the second approach where the military element used in the assistance framework for the law enforcement authority. In the case of the UK, military involvement within the MACA framework was conducted based on the request of the Home Office to the Defence Ministry. Furthermore, military involvement can only be done when a set of requirements are fulfilled, including: the use of military forces as the last resort, possible victims if military is not involved, and military can only utilize resource which is directly under its command. Cooperation between the military forces and police in the policy maker level up to operational level prevents the conflict in Northern Ireland to be escalated out of control.

In the recent development, the government of Australia issues a regulation regarding military assistance in counterterrorism. In the case of Australia, the police still lead the countermeasures against terrorism. Military is given the opportunity to engage through training for the police. In addition, military also is also used for incidents that cannot be handled by the police, such as the hostage crisis in Sydney, in 2014.

TNI, Military Reform, and Counterterrorism

The discourse on the expansion of the role of TNI in counterterrorism needs to be understood in the context of democratization and Security Sector Reform that are still on-going in Indonesia. As a matter of fact, the arguments of some people who disagree with the discourse are often linked to the effort to reform security governance and how the implication of the role expansion of TNI will impact the Security Sector Reform. Some of them, for example, consider that the counterterrorism authority by TNI contradict the reform mandate that emphasize the strict distinction between law enforcement and state defence.¹⁰ Military involvement in internal security and civil area, in a broader sense, is also considered threatening democracy and human rights.¹¹ There is a concern

¹⁰ Martahan Sohuturon, "Pelibatan TNI Basmi Terorisme Berpotensi Khianati Reformasi," *CNN Indonesia*, 2018, <https://www.cnnindonesia.com/nasional/20170531192257-32-218634/pelibatan-tni-basmi-terorisme-berpotensi-khianati-reformasi>.

¹¹ Imparsial, "72 Tahun TNI Dan Tantangan Reformasi Militer," 2017.

that TNI's active involvement in counterterrorism might disturb the effort to implement security sector reform agenda, particularly in shifting the focus from the development of TNI as the defence force that are strong and professional to face the conventional military threat.

As part of the democratization agenda that has begun in the end of 1990s, the Security Sector Reform, basically, attempted to undertake structural, legislation, and culture transformation of the security institutions, including the military and the police. In general, Security Sector Reform tried to develop security institutions that are strong, modern, and professional so that they can address contemporary security threats within the framework of democratic governance. Security Sector Reform also tried to fix the situation after the distortion of TNI's socio-political role during the New Order which was made possible by the *Dwifungsi* doctrine. Professional military is then interpreted as military that (1) has competency to undertake its role as a state instrument in the field of defence, (2) obey the law, (3) has its welfare guaranteed, (4) do not practice politics, and (5) has its equipment needs fulfilled.

Another consideration for the commencement of the Security Sector Reform is the overlapping roles and functions of TNI as a state's instrument for defence and POLRI's duty as the state's instrument for internal security and public order. Based on the People's Consultative Assembly Resolution No. VI Year 2000, there is a diametric separation between the role and tasks of TNI and POLRI. The details of the role, tasks, and functions of TNI and POLRI later are regulated in detail under the National Law No. 34 Year 2004 on the TNI and the National Law No. 2 Year 2002 on POLRI.

In its development, the Security Sector Reform led to a security-defence dichotomy where defence issues (against military threats, particularly from abroad) became military working area, meanwhile internal security became police's working area. In reality, the nature of contemporary terrorism that has international dimension, transnational, networked, and organized requires a national security system that is flexible, one hand, but on the other hand must be forceful to ensure the proportional use of violent instrument. Hence, the debate whether military involvement in counterterrorism in Indonesia should shift from "could TNI be involved"

into "when and how TNI should be involved".

Counterterrorism efforts in Indonesia, thus, should use as much and as effectively as possible the existing institutional infrastructure – such as POLRI, BNPT, and TNI – without having to establish a new institution. In this regard, what is needed is institutional arrangements to clarify the role of the TNI in counterterrorism as well as the need to regulate the coordination and involvement mechanism of these institutions.

Reasons for Expanding the Role of the TNI in Countering Terrorism

Regardless of the political and historical context, the role and involvement of TNI in countering terrorism in Indonesia must be based on operational need. As mentioned before, the nature of contemporary terrorism threat has international dimension, transnational, networked, and organized. In this context, defence (military) and security (law enforcement) dichotomy becomes less effective to be used to look at the issues of terrorism and the state's response to it. The dividing line between the military and non-military as well as internal and external threat characteristics that has been increasingly blurred requires a relatively flexible national security system that gives room for all security institutions, with their respective qualifications, to be actively involved in countering terrorism. At the same time, national security system must also be firmed enough to ensure that repressive force are not used outside the democratic corridor.

The act of contemporary terrorism, such as hostage-taking and large-scale terror attacks that happened in Mumbay in 2008, required special expertise that is owned by TNI anti-terror units. As mentioned previously, TNI has long been developing anti-terror abilities in its unit. Currently, in each service within TNI, there are units that are qualified as anti-terror units: Anti Terror Unit 81 (of the Army's Special Forces Command), Frogmen Command (of the Navy), *Jala Mangkara* Detachment (of the Navy's Marines), and Bravo 90 Detachment (of the Air Force's Special Force). These units are trained and armed to tackle terrorism threats against selected strategic objects such as plane hijacking, hostage rescue in vital objects (i.e. embassy), hijacking in tall

buildings, and et cetera.

At some point, act of terror can also be a part of insurgency campaign that involves territorial occupation and control and the use of armed forces in an organized manner. As mentioned earlier, in the history of counterterrorism in Indonesia, the act of terror has been used by insurgent groups in their disintegration campaigns. From the rebellion of Darul Islam in West Java to contemporary jungle warfare in Poso, the act of terror cannot stand alone. Instead, it is part of a wider insurgency movement. In these scenarios, law enforcement approach will not be able to resolve terrorism threat that is part of insurgency campaign that endanger state's sovereignty and territorial integrity. Therefore, in these scenarios, military deployment through combat operation, intelligence, and guerrilla warfare are needed for operational reasons.

The act of terror as part of insurgency campaign and separatism is among the scenarios where TNI's involvement becomes crucial. By definition, separatism means declaration of resistance against state's sovereignty and any form of applicable law. In addition to this political motives, separatism that involves organized armed resistance and territorial occupation and control require specialization owned by the military that is trained to face conventional "war", either symmetric or asymmetrical. The UK's experience in the Northern Ireland, the coalition's military campaign against the Islamic State (IS) in Iraq and Syria, as well as Marawi case serve as important evidences of the role and involvement of military in countering terrorism threat as part of separatism and insurgency. On that account, it is important to formulate procedures regarding the involvement of TNI.

In the Draft of the Law No. 15 Year 2003 on Stipulation of Government Regulation in lieu of Law No. 1 Year 2002 on the Eradication of the Criminal Acts of Terrorism (Anti-terrorism law), the role and involvement of TNI in counterterrorism are stipulated under the draft article 43B (1) that said "National policies and strategies to overcome terrorism crimes are implemented by the national police and military, along with related government institutions which are coordinated by a non-ministerial government institution which is tasked with anti-terror programs" and (2) "The national military's role, as stipulated by point 1, is to provide assistance to the Indonesian police."

The draft implies that the role and involvement of TNI in counterterrorism in Indonesia are limited within the framework of assistance to civil authorities, in this case is the Indonesian National Police. Terrorism can also be seen as a criminal act whose countermeasures using a law enforcement approach. Besides, the role and involvement of TNI is also under the coordination framework of non-ministerial government agency tasked to organize counterterrorism efforts, in this case is the National Agency for Combating Terrorism (BNPT).

Hence, the draft does not allow any room for TNI deployment in countering terrorism threats outside the assistance framework. In the case of assistance, it is also not highlighted the technical mechanism of TNI deployment, i.e. authority who have the right for undertaking threat assessment which underlies TNI force deployment or the transition mechanism of type and command of operations when terrorism threats can no longer be addressed by criminal law enforcement infrastructure.

In its development, the discourse on the role and involvement of TNI in counterterrorism has been narrowed down to a consensus where such arrangement can be regulated through Presidential Regulation. Technical mechanism as mentioned before, should be one of consideration points in the formulation of such Presidential Regulation that will later regulate the role and involvement of TNI in counterterrorism.

Potential Implications of the Expansion of the Role of TNI

It is also important to pay attention to the potential negative implications of the TNI involvement in counterterrorism. Wilkinson (2011) mentioned that a number of dilemma that the country may face when military is deployed massively to counter the threat of terrorism include, among others, the possibility that the policy is seen as overreaction. The administration of George W. Bush received a lot of criticism because it was considered to react disproportionately with military campaigns in Afghanistan and Iraq. The military campaign that was initially intended to destroy Al Qaeda in a short period turned into the widespread and persistent conflict; the cost to be incurred became too great compared to the benefits of military involvement.

In the Northern Ireland, military involvement also

... the use of military forces in counterterrorism can also be seen as an extreme securitization of terrorism issue.

came under fire. In July 1979, Falls Curfew ended with a clash between the UK's military and IRA's paramilitary that caused a lot of casualties and damage. Imprisonment policy without trial that was set in 1971 and Bloody Sunday incident in 1972 where 13 people were killed by the UK's military, negatively impacted the military campaign itself by increasing the public support to the nationalist groups.

Besides, the use of military forces in counterterrorism can also be seen as an extreme securitization of terrorism issue. When an issue, through a political process, is considered as a real threat to reference objects, i.e. state or society, state will have justifications to undertake extraordinary measures (Buzan dan Waever, 1998). On one hand, securitization of terrorism issue can appear as state's commitment to deal with certain threats. On the other hand, securitization can also be interpreted as a form of recognition and provision of legitimacy for terrorists groups. Instead of weakening, this policy might strengthen terrorist commitment to achieve its goals. The direct and full handling of terrorism by TNI can psychologically make terrorist feel "equal" with the state.

In the context of securitization and militarization, TNI deployment in counterterrorism might also potentially become irreversible. As mentioned previously, the use of military forces to face terrorism threats should be interpreted as an exceptional condition that is outside normal politics. Experience of several countries, including Indonesia, shows how difficult it is to de-securitise or in other words, pulling back TNI after the level of terrorism threats decreases.

Lastly, the prospect of human rights violation by the military might also pose a problem. The US' experience in Afghanistan and Iraq as well as the UK

in the Northern Ireland show how even the most well-trained military with fully-equipped weaponry are still vulnerable to human rights negligence.

Policy Recommendations

The expansion of the role of TNI in countering terrorism, as the above analysis shows, is inevitable. The history of terrorism threats development and the development of TNI forces show that counterterrorism has long become part of the military tasks. Reflecting on experiences in other countries, the discourse of TNI's involvement in counterterrorism in Indonesia is not unique. What unique is that the discourse of the expansion of the role of TNI in Indonesia is evolving amid the context of democratization and Security Sector Reform. It is in this context that the discussion on several potential negative implications from the role expansion of TNI, such as human right violation and the setback of TNI professionalism agenda, must be placed. With such background and analysis, this policy paper recommends policy leaders to undertake a number of steps.

- First, the expansion of the role of TNI in counterterrorism should be done within the framework of civilian supremacy and democracy as well as not interfering the Security Sector Reform agenda. Civilian supremacy, in this regard, is manifested through regulations that allows TNI deployment in counterterrorism to be based on political decision. The Presidential Regulation should address the technicalities and operational mechanism of the related political decision-making. In dealing with the threat of terrorism that is very dynamic and requires a fast response, TNI deployment mechanism should ensure the operation will be executed quickly and precisely.

- Second, the expansion of the role of TNI in counterterrorism needs to be based on threat assessment that is carried out by civilian authority followed by political decision to utilize TNI forces. The Presidential Regulation that regulates TNI's role in counterterrorism should arrange the threat assessment mechanism which underlies TNI deployment, specific civilian institution that has the right to undertake threat assessment, and the mechanism for operational command transition when terrorism threats can no longer be addressed by criminal law enforcement infrastructure. In the short-run, the National Agency for Combating Terrorism, as a crisis centre will facilitate the President to do threat assessment and decide policies and steps to handle the crisis, including the deployment of resources in dealing with terrorism. In the long-run, the plan to expand TNI's role in counterterrorism should be used as a momentum to revitalize the discourse on the formation of the National Security Council which will later serve as an assessment forum for the intensity of all forms of threat to national security, including terrorism. The National Security Council led by the President and consisted of the Vice President, Minister of Defence, Minister of Foreign Affairs, Home Minister, TNI Commander, Chief of Police, and the Head of State Intelligent Agency, as well as non-permanent members consisting of government and non-government officials that is considered necessary according to the problems encountered.
- Third, the use of military forces in counterterrorism must be guaranteed to be the last resort, ad-hoc, and carried out proportionally. This is to ensure that the securitization process towards terrorism threats can still be controlled and it does not lead to excessive use of TNI forces for tasks outside its main tasks and function as state's instrument to defend against military threats.
- With regard to the role and involvement of TNI in counterterrorism in Indonesia, therefore, there is a need for scenario-based planning. In this regard, there is a need to conduct rules of engagement of TNI in counterterrorism. In other word, in what kind of conditions and threats degree TNI can involve in counterterrorism.
- In countering terrorism in Indonesia and TNI's involvement in it, there are four possible scenarios. First, a scenario where terror threats can still be managed by normal criminal law enforcement instruments, the police holds the operational controls; law enforcement operation is fully run by civilian authority. Second, in the occasion where threat intensity increased, civil authority can request assistance from the military through the MACA mechanism. Third scenario contains conditions where the intensity of the terror threats is increasing and requires operations led by military institutions. In other words, the military will take over the operation from the law enforcement authority (the police). In last scenario, intensity and characteristic of the threats, from the beginning, is considered to require active involvement of the military. The military, in this scenario, is the main instrument of counterterrorism (full militarization). The last scenario can be accompanied by a declaration of martial law where normal law enforcement can be suspended, replaced by emergency law, in the name of national security. A number of practical and administrative reasons –i.e. regarding the regulations that prohibits the change of the name of the law if it is revised –, make arrangement for TNI's involvement outside the assistance context becomes problematic. Nevertheless, in an ideal situation, the rules and regulation that currently and will be drafted, either a national law or presidential regulation should cover the four scenarios mentioned above. In other words, the regulations should comprise institutional arrangements in facing terrorism threats both within the law enforcement framework (Scenario I and II) and emergency situation where TNI deployment is needed within the framework of national security operations (Scenario III and IV).



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Legitimizing TNI's Involvement in Countering Terrorism in Indonesia

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This article discusses the involvement of military in counter-terrorism, with the purpose of assessment and policy recommendation in regards to TNI involvement in counter-terrorism policy in Indonesian. The main argument that this article emphasizes is that TNI involvement in responding to terrorism threat entails a number of pre-determined requirements that should be applied in a legal-formal structure and counter-terrorism policy framework. The main requirement is strengthening the effective control of civilian leader in planning and executing the aforementioned policy; second, the control of information spread across the theatre of military involvement in counter-terrorism; third, coordination between security and non-security bodies that are involved in violence operation and post-violence rehabilitation; fourth, preemptive operation by the military as the last resort; and fifth, the involvement of military should not cause spill-over effect to terrorist campaign in other regions. Considering that these requirements have not been fulfilled, the involvement of military in Indonesia can only be done in such limited manner, such as in the scenario of terrorism in the state's periphery, since it shows a higher risk of territorial disintegration compare to those that happened in big cities.

This article comprises of several parts. The first part reviews the framework of military involvement in counter-terrorism. This part will explain why military involvement is only a small fraction of counter-terrorism, and what are the necessary requirements to ensure military involvement is not counter-productive towards the overall counter-terrorism endeavour. The second part reviews

the requirements to be fulfilled, so that military involvement in counter-terrorism could support accountable criminal justice system and terrorism prevention. The third part is a reflection towards the history of military involvement in counter-terrorism in Indonesia. This article concludes that the use of force without accountable criminal justice system consideration has dominated the history of Indonesia's counter-terrorism, including the involvement of the military during pre-Reformasi Era, or the police force during Reformasi Era. It shows that the Indonesian government has no pre-determined requirements to control military involvement in counter-terrorism at domestic level to support criminal justice system.

Framework of Military Involvement in Counter-Terrorism Policy

The response towards terrorism is not limited to the use of coercion but also the availability of security as a whole, because terrorism requires multi-sectoral approach and terrorist groups have already enjoyed the product of globalization to advance their action.¹ Through counter-terrorism policy, the government could mobilize various public working sectors, in order to attain the better quality of security and welfare provision.² Improving the well being of terrorism inmates in the prison to prevent recidivism, for example, will improve detention system, immigration system, and civil registration,³ with a special emphasize that policy response to terrorism is well-coordinated. Not only particular agency, but also the whole national agencies should have clear roles in responding to terrorism.

1 B. Lia, *Globalisation and the Future of Terrorism: Patterns and Predictions*, Oxon: Routledge, 2005, pp. 24-37

2 Geoffrey Hainsworth, "Rule of Law, Anti-Corruption, Anti-Terrorism and Militant Islam: Coping with Threats to Democratic Pluralism and National Unity in Indonesia." *Asia Pacific Viewpoint* 48, no. 1 (April 2007): 128-44, doi:10.1111/j.1467-8373.2007.00335.x.

3 Henar Criado, "Bullets and Votes: Public Opinion and Terrorist Strategies," *Journal of Peace Research* 48, no. 4 (2011): 497-508; D. Bigo, "The (In) securitization Practices of the Three Universes of EU Border Control: Military/Navy - Border Guards/police - Database Analysts," *Security Dialogue* 45, no. 3 (2014): 209-25, doi:10.1177/0967010614530459.

The state's response to terrorism has covered many measures, which are aimed to end terrorism by using aggression towards those who commit the act of terror, and at the same time by addressing the roots of the problem.⁴ Counter-terrorism is the aggressive response from state towards terrorism, kinetically (physical aggression towards terrorists) and philosophically (nullifying the relevance of terrorists' ideology). Literatures on the study of terrorism commonly agree that an effective counter terrorism is the one limited by law; terrorist acts in democratic state are usually aimed to attack democracy and legal certainty, values that should be protected by counter-terrorism itself. The higher the level of counter-terrorism escalation that a state chooses to do—in terms of freedom of speech limitation, private rights violation, use of force that affects civilians personal security—the higher the risk for counter-terrorism to lose its legitimacy and it will put counter-terrorism at the same degree with terrorism. The use of force in counter-terrorism, including the involvement of military force, requires precise and measured target that suit the level of danger posed by terror actors; the use of force is an instrument that will support the domination of criminal justice system and terrorism prevention.⁵

What is the meaning of military involvement in terrorism prevention and where is its position in the whole state's responses towards terrorism? Theoretically, military is one of the instruments for counter-terrorism goals. There are at least eight goals that should be completed through an effective domestic counter-terrorism policy that prioritize crime prevention, i.e. 1) deterrence against involvement in terrorist activities; 2) terrorism prevention or termination; 3) elimination of terrorist ability to attack, including targeted killing aimed at key actors of terrorist network and their successor; 4) soft target protection; 5) damage prevention or mitigation as the result of terrorism; 6) decrease or eliminate what can be achieved from terrorism act, including media exposure that exaggerates the danger of certain terrorist group, instead of raising

public's awareness; 7) accommodate individual terrorist disengagement and interrupt radicalization process; 8) build and maintain normative barrier on violence in civilian life.⁶ We can see that at least in the first three goals, combat skill, weapon technology, intelligence, and military logistical capability are necessary.

One of the main concerns from the public with regard to military involvement in this issue is the changing nature of counter-terrorism, from law enforcement effort to an act of war. This idea refers to a certain framework that categorizes traditional typology of counter-terrorism into 3 types. First, terrorism as a problem of political representative. It associates terrorism with the missing access of certain group represented by the terrorists towards legitimized political process, so political leaders or diplomats are involved to negotiate peace by expanding access to these marginalized group.⁷ Response towards terrorism becomes a peace negotiation when terrorism comes in the form of separatism, which was then responded by state's military instrument, as what happened in the Philippines with Moro Islamic Liberation Front or the United Kingdom with Irish Republican Army. Second, terrorism as an act of war, so that it requires military force to completely disable terrorist groups. Response by military force usually occurred as retaliation towards group attack responded by state, such as The United States of America's response towards Qaddafi's administration in Libya and Taliban in Afghanistan, or Turkey's response towards Kurdistan's Worker Party. Third, law enforcement approach associates terrorism with criminal act and responds it with the available criminal justice system,⁸ which are applied by some of the most democratic states for domestic terrorism, as in the case of West Europe and New Left terrorist group in the 1970s.

These traditional typology is not really accurate, because there are a number of measures by democratic states in counter-terrorism that could not be categorized fully in one of these three types

4 This is reflected within the UN Global CT Strategy, UNGA Res 60/288 (8 September 2006) Plan of Action, especially Pillar I on 'Measures to address the conditions conducive to the spread of terrorism'.

5 Ana María Salinas de Frias, Katja LH Samuel, and Nigel D White, eds., *Counter-Terrorism: International Law and Practice* (Oxford & New York: Oxford University Press, 2012).

6 Tore Bjørgo, "Counter-Terrorism as Crime Prevention: A Holistic Approach," *Behavioral Sciences of Terrorism and Political Aggression* 8, no. 1 (2016): pp. 25–44.

7 Peter C. Sederberg, "Conciliation as Counter-Terrorist Strategy," *Journal of Peace Research* 32, no. 3 (1995): 295–312; Lihat juga Alex P. Schmid, "Force or Conciliation? An Overview of Some Problems Associated with Current Anti-Terrorist Response Strategies," *Violence, Aggression and Terrorism* 2, no. 2 (1988): 149–78.

8 Ronald D. Crelinden, "The Discourse and Practice of Counter-Terrorism in Liberal Democracies," *Australian Journal of Politics and History*, 44, no. 4 (1998): pp. 307–40;

of response. There are certain measures led by law enforcement that are aimed not only to enforce the law but also to disable terrorist groups and their ideologies. This category includes interruptive efforts towards radicalization process or other measures taken against someone who associates him/herself with terrorism network, and people who disseminate terrorism propaganda. In addition to that, there are also semi-military police force unit that are part of counter-terrorism efforts. This measure intensifies the use of violence compare to the regular law enforcement method. This further added by the different practice of procedural law, for instance, the detainment of suspected terrorists without evidence and accusation, political decision to ban certain organizations, and counter-terrorism effort against groups that have transformed into guerrilla forces. Some academics also categorize this as a form of broadened law enforcement.⁹ The problem is, applying the concept of law enforcement to the whole counter-terrorism measures, especially in domestic counter-terrorism within the state, has the potential to shift the attention from the main goal, that is to stop terrorism and bring the perpetrators to court—an absolute achievement by law enforcement agency. Therefore, we need a more thorough typology to map various types domestic counter-terrorism in a democratic state.

According to Arie Perliger, domestic counter-terrorism policy of democratic states is a combination of operational-coercive policy dimension and legal dimension.¹⁰ Operational response of democratic states towards terrorism has gradually escalated from: prioritizing peace reconciliation or negotiation and political change over violence; the use of police force; the use of special unit police force or special intelligence to counter-terrorism; semi-military police unit and limited military involvement; and the use of total military unit and secret unit. Legal escalation also escalated gradually from: the absent of anti-terrorism law (the use of the book of criminal law); anti-terrorism law that doesn't include official's authority and limit the suspect rights but not civilian rights; the use of special court to limit suspect and civilian rights; the implementation of emergency law, and military justice.

Democratic states could apply the combination of law strengthening and anti-terrorism violence instrument according to the level of their respective institutionalisation of democracy. The stronger the institutionalization of democracy, the little the possibility of states to use military or emergency law, because internal force deployment is becoming the last option. It doesn't mean that the use of military and anti-terrorism law with civilian limitation is completely useless—around 20% of strong democratic states still combine both of these policies. The reason is because military power has combat skills, arms technology, and logistics, which are sometimes needed in certain terrorist scenario. Therefore, the involvement of military force is a form of counter-terrorism escalation needed within the context of democratic states. This escalation needs to be done as minimum as possible and as temporary as possible. Military involvement in domestic counter-terrorism of democratic states doesn't necessarily transform counter-terrorism into a war, because the end goal is still to bring terrorists to the face of the court. Military force is used in certain scenarios that are too dangerous for law enforcement to handle beyond their capacity.

According to Isabelle Duyvesteyn, there are at least four functions of military in counter-terrorism.¹¹ **First**, military power could be used to help police force or law enforcement authority to deal with terrorist scenario that has caused the collapse of order in certain part of the state. Specifically, the scenario is marked with escalated threat of terrorism which transforms into communal conflict, control over vital infrastructure in certain state (embassy and diplomats and state officials, or a hostage situation).

Second, military could also be used as prevention or preemption towards specific terrorist group or cell before they could perform their action and cost lives. If it is done effectively, preemptive measure could deter the terrorist group or political violence aspiration with civilian victims in general. Building up legitimacy for preemptive measure in democratic state could be problematic. When the measure is done by the police force, there won't be as many questions as to why terrorism is a never-ending

9 Ami Pedahzur & Ranstorp, "A Tertiary Model for Countering Terrorism in Liberal Democracies" dalam James M. Ludes & Audrey K. Cronin (eds.), *Attacking Terrorism*, Washington, DC: Georgetown University Press, 2004, h. 140–61.

10 Arie Perliger, "How Democracies Respond to Terrorism: Regime Characteristics, Symbolic Power and Counterterrorism," *Security Studies* 21, no. 3 (2012): h. 490–528.

11 Isabelle Duyvesteyn, "Great Expectations: The Use of Armed Force to Combat Terrorism," *Small Wars & Insurgencies* 19, no. 3 (September 2008): 328–51.

cause.

Third, the deterrence function. A critic towards this function is that in the case of terrorism the enemy simply cannot be deterred. However, there are some parts or forms of certain terrorist movement that makes them prone to deterrence. The level of radicalization within terrorism movement is not the same: high level of radicalization means high determination, but at the supporter and sympathizer level, they are more prone towards deterrence. Furthermore, terrorist groups who opt for certain geographical basis and at the state's periphery are more prone than those cells who are active in big cities. This is a scenario that should be anticipated immediately to stop the fall of a city or region to terrorist groups, as what we have witnessed in Syria and the Philippines. For this kind of scenario where the terrorist groups have taken the form of insurgency, the availability of heavy arms could make terrorist groups reconsider their presence.

Fourth, targeted killing of terrorist groups' key person is one of military roles as illustrated in terrorism literatures from the West and Israel, which tends to emphasize the disbandment of these organizations through the elimination of their key figures.¹² But the importance of doing such operation within the country depends on the ability/inability of police force to do the same thing.

A number of other academics in terrorism study have explained some prerequisites to make sure that military involvement in counter-terrorism is effective. Generally, Peter Chalk noted some requirements about military force deployment for internal counter-terrorism to have a strong legitimation, to convince the public that military counter-terrorism is established for a clear and identifiable goal; second, force deployment is conducted in a controlled manner with precision after all measures have been taken.¹³ How to achieve these general prerequisites?

First, full government control towards internal military operation is the determining factor for

military deployment effectiveness, because the force needs to have clearer deployment goals, and at the same time, stays confident with their performance on the field. If political control constrains the force movement, there could be a military uncertainty that will cost some disadvantage or the failure to achieve the objective, but without effective control the force might violate the procedure and human rights with impunity.¹⁴ These two scenarios could cause unnecessary escalation and victims would come from civilians and non-combatants. To prevent this, valid and actionable intelligence (produced from a good intelligence cycle) would be essential before executing force deployment.

Democratic states often use military force for clandestine operations against terrorism. The United Kingdom even utilizes military clandestine in extensive counter-terrorism operations in the colony or internally. A contrast difference appears in the comparison between military counter-terrorism with strong and weak political control by civilian leaders. In the case of Turkey, the use of Jandarma force in clandestine operation to counter Kurdish terrorists was controlled by military officer and security agency, while the use of Special Reconnaissance Regiment (SRR), 14 Intelligence Company (14 Int) and Force Research Unit (FRU) was conducted with specific legal framework under the control of UK Ministry of Defence. As the result, Turkish military counter-terrorism is jeopardized with severe human rights violation towards Kurdish and Jandarma's involvement in narcotics. Meanwhile, the use of the UK's military clandestine could strengthen the moderate elements of the Republicans and Unionist who marginalized extremism factors.¹⁵

Second, the government's ability to control information about the military involvement in counter-terrorism is crucial, because we need to mitigate terrorist groups and their supporters' efforts in circulating false information through the glorification of their action against the government.¹⁶ This could delegitimize government's counter-terrorism authority right then and in the future. On

12 Richard Shultz & Andreas Vogt, *It's War! Fighting Post-11 September Global Terrorism through a Doctrine of Preemption, Terrorism and Political Violence*, vol. 15, 2003.

13 Peter Chalk et al., *The Evolving Terrorist Threat to Southeast Asia* (Santa Monica: RAND, 2009).

14 Charles T. Eppright, "'Counterterrorism' and Conventional Military Force: The Relationship between Political Effect and Utility," *Studies in Conflict & Terrorism* 20, no. 4 (October 1997): pp. 333–344.

15 Geraint Hughes, "The Use of Undercover Military Units in Counter-Terrorist Operations: A Historical Analysis with Reference to Contemporary Anti-Terrorism," *Small Wars & Insurgencies* 21, no. 4 (December 2010): pp. 561–90.

16 Stuart Kaufman, "Narratives and Symbols in Violent Mobilization: The Palestinian-Israeli Case," *Security Studies* 18, no. 3 (2009): 400–434.

the other side, the deployed force requires enough training, to not only perform small-scale combat operation that requires a long period of time, but also to protect and interact with unarmed civilians. The force needs to have confidence to distinguish combatant and non-combatant and the government needs to be ready to compensate victims and be responsible when human rights violations occur.

Third, the importance to maintain the coordination between security agency (including military) and other institutions that need to be involved, especially after security operation ends. This coordination element is often being discussed in security study literature in Indonesia because it associates closely with legitimate competition between institutions. Coordination is also associated with the growing concern of clashes between military and police force, because of their different operational doctrines. However, coordination is needed to achieve tactical flexibility against operational frictions in response to terrorism. Besides coordination, field force also needs to maintain public communication in counter-terrorism area to separate non-combatant civilians from the counter-terrorism theatre. The problem of operational doctrine and competition among institutions has no instant solution, except the effectiveness of political leader, so that the force doesn't face the risk all by themselves on the field. Because, these people are there in order to finish the state's mission, not theirs. The force discretion needs to be minimized to the tactical level, related to capacity, facilities and infrastructure that are required to defeat the enemy.

Fourth, military preemptive attack is the last resort after law enforcement operation in the form of arrest is difficult to execute due to its posed risk (the risk of victims from the force or the risk of long process that attack could happened) and preemptive operation by anti-terrorism police force also requires military help.¹⁷ In this case, field force could contribute their judgement to the situation effectively, whether they could deal the scenario or

military accuracy and silent combat skills is needed for a successful preemptive attack.¹⁸

Fifth, deterrence effect that is applied in certain area should not force terrorist group to shift their theatre to other area. In a country where the counter-terrorism operation is using deterrence by military within the domestic context, the possibility of that same group is doing the same attack in other cities should be considered. Deterrence could also be applied through retaliation against terrorism, a scenario that should also be considered; looking at how often Indonesians become the victim of hostage and hijacking by the Abu Sayyaf terrorist group.

Finally, military involvement can only be causing military defeat of terrorist groups (the dead of key actors and the disbandment of logistic and combat). Terrorist movement itself could transform after its military defeat. In the cases of Narodnaya Volya revolutionary populist movement in Russia at the end of the 19th century, Shining Path in Peru, Kurdistan's Worker Party in Turkey, Islamic Jihad in Egypt, military counter-terrorism have successfully defeated these groups militarily. But, Narodnaya Volya was then taken over by Bolshevik Revolution movement, while other groups could not be considered done with their mission¹⁹ The same thing happened with the transformation of Jemaah Islamiyah movement in Indonesia, which has temporarily stopped itself from "physical jihad" but continue to be active in *dakwah* dan even education for early-year children.

Counter-terrorism with military instrument is basically an escalation of state and terrorist group interaction that are equally carrying political values and goals. The victory of tactical combat from military force in combatting terrorist group should not be a narrative that facilitates recruitment and radicalization; this is especially important in the context of terrorist group with high determination and strong international network. In addition to precision and speed to eliminate key actors and combatants, military deployment for counter-

17 Thierry Balzacq, "A Theory of Securitization: Origins, Core Assumptions, and Variants," in *Securitization Theory: How Security Problems Emerge and Dissolve* (Oxon & New York: Routledge, 2011), 1–26, <http://scholar.google.com/scholar?hl=en&btnG=Search&q=intitle:A+theory+of+securitization+Origins+,+core+assumptions+,+and+variants#0>.

18 William C. Banks, "Troops Defending the Homeland: The Posse Comitatus Act and the Legal Environment for a Military Role in Domestic Counter Terrorism," *Terrorism and Political Violence* 14, no. 3 (2002): pp. 1–41.

19 Charity Butcher, "Terrorism and External Audiences: Influencing Foreign Intervention Into Civil Wars," *Terrorism and Political Violence* 28, no. 4 (2014): pp. 1–21 this study analyzes how the use of terrorism as a tactic affects external interventions on behalf of opposition groups, interventions on behalf of governments, and diplomatic interventions. While some authors would suggest that groups might utilize terrorism as a tactic to gain external support, this study finds little evidence that groups are actually successful in gaining such support. In fact, terrorism that targets civilians appears to actually decrease the likelihood of military interventions on behalf of opposition groups. Furthermore, in civil wars with high numbers of terrorist attacks there is a greater likelihood of economic intervention on behalf of governments, further weakening the potential benefit for groups in utilizing terrorism as a tactic. While this is certainly a welcome finding, a consideration of five case studies of suicide terrorism (Lebanon, Sri Lanka, Iraq, India, and Turkey

terrorism should be followed with the public order and public service recovery. In addition to that, information control is also crucial to prevent the glorification and apostasy of terrorist group in the cyber world.

The History of Military Involvement in Indonesia's Counter Terrorism

Although terrorist attacks are perpetrated mostly by state's own citizens, the problem of Indonesia's terrorism is essentially always transnational. Islamist violence movement, which caused many terror action in Indonesia since Darul Islam, was led by Daud Beureuh in the 1970s and up to now they have strong determination to build transnational relations with Islamist violence movement in other countries. Indonesia is also surrounded by strong Islamic political movement with violence (Pattani in Thailand and Bangsa Moro in the Philippines) or without violence (Malaysia);²⁰ it means that the financial flow, human resources, and para-military training facility have always been available for them to keep their activism alive.

The Indonesian government since the early years of independence has done military involvement in counter terrorism. During President Sukarno's administration, military force was part of the counter-insurgency policy against Darul Islam/Tentara Islam Indonesia. While during President Suharto's administration, military members became operator of intelligence operation. Their measure towards Islamic extremist group from Darul Islam network is not completely gone even after their insurgence phase.²¹

The involvement of TNI in counter-terrorism carries a dark history about human rights violation and the absent of public accountability about civil combatant and non-combatant victims. The involvement of military personnel in domestic political-security affairs has been a part of the nation's trauma. Even though, with better accountability, public trust could be built, and moreover, more best practices and lessons could be learned. The record of TNI

deployment during the Operation *Pagar Betis* against Darul Islam/Indonesian Islamic Army (*Tentara Islam Indonesia/TII*) in 1959-1962 is a good example of civil-military relations in the context of counter-insurgency against the group that would become the embryo of terrorist group in Indonesia.²² The decision of TNI deployment came from President Soekarno after DI/TII was considered as political issue.

The operation against DI/TII was not concluded through civilian court, but through military court which sentenced Kartosuwiryo, the leader, with capital punishment,²³ therefore, there were not a lot of public understanding about the leverage and the severity of DI/TII threat and the important meaning of military defeat that the group had to endure. TNI involvement during President Soeharto era repeated the absence of accountability, which resulted in the defamation of TNI itself. For example, the controversy of DI/TII members' reappearance, which then transformed into a group named by the Indonesian intelligence community as "Komando Jihad".²⁴ Human rights violation record is also shown in TNI involvement as part of operational Command for the Restoration of Security and Order (KOPKAMTIB) who caught the members of Komando Jihad based on Anti-Subversive law between 1976-1979.²⁵

TNI was then being involved to take measures toward the emerging Darul Islam network, including Warman group who did robbery to fund their violence activity in 1979.²⁶ Special Forces Command (KOPASUS/SAT-81 Gultor Counter-terrorism Group) also led the operation to counter Imran group who hijacked Garuda DC-9 plane, demanding to free the incarcerated Darul Islam members. This hostage drama ended with the whole perpetrators shot dead and one civilian injured. In 1989, TNI led another counter-terrorism operation in Lampung province against Warsidi group who built exclusive Muslim community and para-military training. Col. Hendro Priyono led three force platoons against Warsidi group, which killed 27 people and

20 Ali Wibisono, "Rules and Exceptions in Indonesia's Counterterrorism," *The Jakarta Post*, 2013.

21 Ali Wibisono, "Military Role in Counterterrorism Counterproductive?," *The Jakarta Post*, 2011.

22 Chiara Formichi, *Islam and the Making of the Nation: Kartosuwiryo and Political Islam in Twentieth Century Indonesia* (Leiden: KITLV Press, 2012).

23 Ruslan et.al., *Mengapa Mereka Memberontak? Dedengkot Negara Islam Indonesia*, Yogyakarta: Biopustaka, 2008, h. 39-46

24 D. Jenkins, *Suharto and His Generals: Indonesian Military Politics, 1975-1983*, Ithaca, NY: Modern Indonesia Project, Cornell University Press, 1984, pp. 63-64.

25 Undang-Undang Anti-Subversif atau Undang-Undang No.11/PnPs/1963 tentang Pemberantasan Aktivitas Subversif pada awalnya adalah Keputusan Presiden Sukarno yang kemudian diundangkan menjadi Undang-Undang no. 11/1963.

26 Busyro Muqoddas, *Hegemoni Rezim Intelijen: Sisi Gelap Peradilan Kasus Komando Jihad*, Yogyakarta: PUSHAM-UII, 2011, pp. 109-114.

captured the other 20.²⁷ During the Reformasi era, Islam movement as the representation of state's repression towards Islam in the past resurfaced as an incident remembered as Talangsari Incident.

During Reformasi, terrorism threat in Indonesia is proven to be effective in continuously bringing mid to low level of danger. Despite being the part of the history of political violence in Indonesia since the Independence War, terrorism had not appeared as a familiar word in Indonesian public discourse, not until the terrorist attack on September 11 2001 in the U.S. After taking some cool down time, the face of violence in the name of Islam reappeared in 1998-2001 in the form of vigilante and religious communal violence. The existence of terrorism was not recognized, and attacks were more associated with communal violence and the effort to create political destabilization, instead of a direct threat to the government.²⁸ Between 2001 to 2009, public bombing in big cities have become the choice of Jemaah Islamiyah (JI) group to establish transnational relations with MILF. Since 2010 until this paper is written, Indonesian terrorist movements in the name Islam have been fragmented—some of them associate themselves with Islamic State of Iraq and Syria (ISIS). Affiliation with ISIS has changed their methods to firearm attacks and low-explosive attacks aimed at police force, in addition to guerrilla warfare in Poso, Central Sulawesi between 2011 and 2016. After the first Bali Bombing in 2002, counter-terrorism special forces units have been kept alive under TNI's services, but their duty were revolved around supporting role, such as intelligence gathering for the police force as the main agency dealing with counter-terrorism.

Indonesia's policy response towards terrorism during Reformasi was dominated by POLRI, especially Detachment 88, which was established in 2004. But not until 2010, that National Agency for Combating Terrorism (BNPT) was formed to handle the coordination of counter terrorism. The Detachment 88 counter-terrorism unit are trained and facilitated to do preemptive measures towards terrorist attacks and capture the perpetrators. At the same time, the state's response towards

terrorism is marked with the stagnation of other public sector development, whether it is inside or outside the criminal justice system, to respond terrorism. It includes the judge's capacity, prison, and the most important thing is the coordination agency of counter-terrorism, BNPT. Since the establishment of this agency in 2010, it has witnessed internal rivalry between TNI and police force that results in the ineffectiveness of operational execution. For example, although operation against Santoso's Mujahidin Indonesia Timur could utilize TNI force since its early phase to prevent the strengthening of the Santoso's group, the deployment of TNI as supporting force was only implemented in 2015.²⁹

Since 2015, Indonesian government has also involved TNI more actively as deterrence against terrorist group. Year 2015 saw the increase of TNI's involvement in counter terrorism, including in TNI deployment on Camar Maleo operation led by POLRI to eradicate Mujahidin Indonesia Timur and securing the Indonesia-Philippines border which was suspected as the entry-exit point of NIIS militant from both countries.³⁰ Meanwhile, Indonesian government also further strengthened special anti-terrorism force units in the three TNI services and allocated IDR 1.9 trillion 2016 budget for that requirement.³¹

On June 9, 2015, TNI Commander inaugurated the establishment of Joint-Special Forces Command (Koopssusgab) which was consisted of 90 TNI members from 81 Gultor Kopassus of Indonesian Army, Jala Mangkara Detachment of Marine Indonesian Navy Unit, and Bravo Unit. Koopssusgab was formed to perform trainings and stay standby, so that every time the President commands military deployment for counter-terrorism, they are ready to go. There were no serious resistance back then from DPR members, who instead gave positive supports.³²

Support towards TNI involvement in Indonesia also appeared in the discussion of Anti-Terrorism law revision, while resistance comes from the public and the government. Executive leadership and the chief of police has expressed their support towards the state's ability to utilize law enforcement and

27 TEMPO, "Suara Tembakan Di Lampung Tengah", 18 February 1989.

28 Kirk A. Johnson, "The Longue Duree: Indonesia's Response to the Threat of Jihadist Terrorism 1998-2016" (Naval Postgraduate School, 2016), http://calhoun.nps.edu/bitstream/handle/10945/49499/16jun_Johnson_Kirk.pdf?sequence=1.

29 Institute for Policy Analysis of Conflict, *Countering Violent Extremism in Indonesia: Need for a Rethink* (IPAC Report No. 11). Jakarta: IPAC, 2014.

30 "Animo WNI Ke Suriah Masih Tinggi", *KOMPAS*, 12 Oktober 2016, pp. 5

31 "Polarisasi Sikap DPR Tak Surutkan Pemerintah", *KOMPAS*, 17 Februari 2016, pp. 4

32 Edna Caroline Pattisina, *TNI Resmikan Gabungan Pasukan Khusus*, *KOMPAS*, 9 Juni 2015, pp. 4

military instrument in countering terrorism. TNI involvement in counter-terrorism is supported as part of total response towards terrorism and the release of the apparatus from unnecessary legal limitation in combating terrorism; meanwhile, Chief of Police, Tito Karnavian emphasized the needed capability of TNI, especially on territorial intelligence and measures.³³

The resistance towards TNI involvement highlights three major points. First, TNI involvement is considered as human rights violation, or associated with the risk of human rights violation. Law enforcement approach is associated closely with procedural obedience and ethic, as well as high accountability which could minimize the risk of human rights violation.³⁴ This resistance reflects the need to evaluate human rights violation issues and counter-terrorism in Indonesia, as far as it is used to justify the achievement of counter-terrorism itself. There are no states free from human rights violation when they're dealing with domestic counter-terrorism, from the law enforcement or the military dimension, even in Indonesia. What needs to be remembered is compensation and rehabilitation from state to the victims of human rights violation, legal process for leaders and members of the involved agency, and evaluation on the execution of counter-terrorism policy, especially on how high effectiveness could be achieved with minimum human rights violation.

Second, TNI involvement could potentially cause conflict between TNI and POLRI because both have different operational doctrines. TNI's operational accountability in domestic security operations also considered weak, and has no clear procedure when individual personnel mistake takes place and costs civilian lives.³⁵ This resistance shows the unfinished legislation in national security sector, at least in TNI's involvement in military operations other than war and Presidential regulations that specifically oversee TNI's involvement procedure in counter-terrorism.

Third, concern with regulating TNI's role in counter-terrorism is that it could turn into war because of TNI's involvement. As explained in the theoretical framework, counter-terrorism typology as war,

law enforcement, and political negotiation are all too simplistic because of the dynamic character of terrorist threat, which tends to evolve and transform. In reality, state is not only constantly applying one approach forever, because terrorist threat appears in different place and location. Indonesia has to be ready to face different counter-terrorism theatre, internally or externally, which requires different approach.

Policy Recommendation on TNI's Involvement in Counter-Terrorism

The history of TNI's involvement in counter-terrorism has been marked with human rights violation and the absence of accountability. It means that TNI involvement in the said issue should not repeat the same mistake. Not only that it costs non-combatant civilian lives and innocent people, it also has the risk of losing public trust towards democratic institutions and the tendency of terrorism reoccurrence and transformation.

Therefore, some major characteristics need to be institutionalized in TNI's counter-terrorism involvement in Indonesia. First, the use of military power in counter-terrorism should be based on rational calculation about the level of terrorism emergency, the effectiveness of terrorist group's ability to attack, and what to expect from the military to mitigate it.³⁶ Counter-terrorism approaches nowadays are too heavily relying on surveillance activity and interrupting terrorist actions by capturing individuals who are going to perform violence. It means that counter-terrorism policy has an ad hoc nature, without any umbrella from national policy to map the respective competence of the involved agencies—including TNI—in order to respond terrorism based on the character that it poses. Considering the rationale of terrorism threat and institutions' capability mapping, prolonged debate on military involvement in counter-terrorism is unnecessary.

Second, the leadership within BNPT in counter-terrorism issue should be consolidated, not only at authority level, but also at the communication chain between executor and decision maker. Counter-

33 "Presiden Desak RUU Terorisme Diselesaikan", *KOMPAS*, 30 Mei 2017, pp. 4

34 Look for example the statement from the Head of Public Relations Division, Polri, Boy Rafli Amar who said, and "As long as it's in the form of law enforcement, is not problem. Law enforcement should be uphold so that every actions have values and high accountability." "Pendekatan tak Berubah", *KOMPAS*, 22 Oktober 2016.

35 "Revisi Sejumlah UU Diperlukan", *KOMPAS*, 10 Juli 2014, pp. 4

36 Ali Wibisono, "Fundamental Issues in Counterterrorism," *The Jakarta Post*, 2016.

terrorism that includes TNI, at the same time will also include POLRI, and possibly intelligence officer from BIN, and the coordination through effective leadership and complete information about the movement of each unit should be strived by BNPT as the coordinating agency. Furthermore, BNPT also needs to maintain good communication line between the highest decision maker in force deployment which is the President and executing units on the field, and vice versa. President, with the assistance of ministers and other competent officials need to possess actionable intelligence that will help him to decide the scale of TNI force deployment; on the other side, decisions from President and his assistants should be translated as a guide for force deployment on the field. Therefore, the government could prevent an excessive force deployment or the opposite, something less than needed.

Third, positive law is required to decide which authorized agency could perform assessment towards the on-going terrorist scenario and whether this scenario requires TNI involvement, either as supporting role or as the main force. This legitimate agency should be the President, but the Presidential body should also make a well-informed decision, so that National Security Council is needed to do the assessment. Law Number 34/2004 (TNI Law) doesn't specifically state that TNI's role in counter-terrorism is limited as supporting role for POLRI, as has been reported in the news;³⁷ on the contrary, TNI law established that the main duty of TNI is to take measures on "armed terror action" from international or domestic terrorists.³⁸ Therefore, what is needed is positive law legislation to regulate National Security Council in National Security law which was once included in National Legislation Program (Prolegnas) of DPR in 2016; and provisions in the Revision of Law on Terrorism that puts BNPT as counter-terrorism coordinator under President, with the assistance of the National Security Council.

In regards with the changing of the title of the law from "Eradication of the Criminal Acts of Terrorism" into "Combating Terrorism", we need to acknowledge that "combating" has more plus points. There are at least two considerations to justify this change. First,

positive law as state's response towards terrorism should provide sufficient room of flexibility for policy innovation. Terrorist groups consist of people with high determination and sufficient knowledge to keep innovating and looking for gaps in security and positive law to strengthen their ideology, either through violence or propaganda. Therefore, it is better for positive law, as a response to terrorism, to be able to address sectoral egoism that exists within state, security, and intelligence agency.

The second consideration is that detaching terrorism from our understanding on criminal justice structure is not necessarily making counter-terrorism as a form of war. The final goal of state's response to terrorism is to take the perpetrators to the court, not to eradicate terrorism's perpetrators. This has been the principle that is being put forward to counter domestic terrorism for democratic states, with or without military instrument. As explained by the Vice Chairman of Anti-Terrorism Law Revision Special Committee, Supiadin Aries, counter-terrorism approach is not merely going to change war approach with TNI's involvement.³⁹ Human rights activists expressed their concern about the different doctrine between TNI and POLRI, which potentially cause conflicts between both, could be addressed by strengthening effective control from political TNI deployment decision maker, as mentioned in the first point.⁴⁰

Fourth, the involvement of TNI in counter-terrorism should be supported with effective information control, including cyber information. There is a serious need to strengthen information control aspect to prevent TNI deployment in becoming a war platform that glorifies terrorist group's ideology or provides information transfer that will enable recruitment and fund/logistic delivery to the deployment area. Considering the government's experience to respond extremists' presence over the past few years, this particular aspect needs serious improvement. Directorate General of Informatics Application of the Ministry of Communication and Informatics requires 3 working days, or 24 hours after the report is received to categorize ISIS-related website to TRUST+Positif or to ask the website

37 "DPR Ingin Peran TNI Ditingkatkan", *KOMPAS*, 21 Oktober 2016, pp. 4

38 The explanation of Article 7 (1) Law. No. 34/2004

39 "Pendekatan Tidak Berubah", *KOMPAS*, 22 Oktober 2016, pp. 4

40 Edna Pattisina, *Lambat Tak Selamat*, *KOMPAS*, 17 Juni 2017, pp. 4

owner to take down the negative content if it's other than domain⁴¹ It means, ISIS-related website has been under the Ministry of Communication and Informatics (Kemenkominfo)'s scrutiny since 2015 through a long chain of bureaucracy between the website reporting and the unit that takes care of these websites.

Meanwhile, the ability of BNPT cyber unit also hasn't been tested in their ability to quickly respond extremist message, and its function limited to clarify wrong conception about Islam. The government needs cyber warfare capability to counter terrorist group. It means, when TNI involvement becomes institutionalized, the government has to anticipate the worst scenario, such as the ability of terrorist group to utilize their telecommunication and computer capability to perform attack on cyber world with the goals of propaganda and to influence the audience to do and think of what they expect them to do.⁴²

Fifth, TNI involvement in domestic counter-terrorism is a form of conflict escalation, therefore this involvement should have a precised target; after the target is achieved, the police force and the government has to bring back civilian order. Long-term escalation could transform TNI deployment area into infiltration target for militant movement to recruit and train.

Finally, we need to think about the need to broaden our state's security perimeter towards terrorism. The government often mentions on how Indonesia is praised for handling terrorism with zero violence. It means that we have strong modality to establish counter-terrorism diplomacy with other countries. Counter-terrorism diplomacy is a relation with other countries, which have critical role in our domestic counter-terrorism effort, due to their ability or their danger potential. With high capability country, Indonesia through BNPT has established cooperation. However, what about those problematic countries? We need further assessment on the role of these security, defence, and intelligence agencies—whether it's in the form of personnel, budget, or ideas, before they reach our border.

Conclusion

TNI's involvement in counter-terrorism requires a number of measures that should be fulfilled first. First, it requires an effective civilian leadership to decide on terrorism threat scenario that would require TNI's presence. Second, TNI's involvement in counter-terrorism doesn't necessarily change the characteristic of counter-terrorism into a form of war; the priority and the final goal of counter-terrorism in Indonesia should be bringing terrorism perpetrator to the court. In addition to being temporary and specific, TNI's involvement should also be complimented with other capabilities—especially on information and connectivity control—to prevent response escalation that will benefit terrorist groups.

The history of counter-terrorism in Indonesia, with or without military involvement, is still symbolized with violence that doesn't support criminal justice system—even though it gets better in mitigating terrorist and their actions. Pre-Reformasi was dominated with violence by military force, while during Reformasi was dominated with violence by police force. On those two scenarios, the fulfilment of TNI involvement requirements in Indonesia's counter-terrorism is still very weak, therefore military involvement hasn't been able to fully support criminal justice system and accountable counter-terrorism.

41 Article 12 to 13 Minister of Communication and Informatics Republic of Indonesia Regulation No. 19/2014 About Combating Website with negative Content

42 Jason Andress & Steve Winterfeld, *Cyber Warfare: Techniques, Tactics and Tools for Security Practitioners* (Waltham, MA, USA: Syngress, Elsevier, 2014), pp. 212-213



The Habibie Center

About The Habibie Center

The Habibie Center was founded by Bacharuddin Jusuf Habibie and family in 1999 as an independent, non-governmental, non-profit organisation. The vision of The Habibie Center is to create a structurally democratic society founded on the morality and integrity of cultural and religious values.

The missions of The Habibie Center are **first**, to establish a structurally and culturally democratic society that recognizes, respects, and promotes human rights by undertaking study and advocacy of issues related to democratization and human rights, and **second**, to increase the effectiveness of the management of human resources and the spread of technology.



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