

# Intellectual Discourse

Volume 33

Special Issue

2025



Special Issue on

**The Intersection of Theory, Identity,  
and Security in PCVE (Preventing and  
Countering Violent Extremism)**



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# *Intellectual Discourse*

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Volume 33

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## Transliteration Table: Consonants

Arabic	Roman		Arabic	Roman
ب	b		ط	ṭ
ت	t		ظ	ẓ
ث	th		ع	‘
ج	j		غ	gh
ح	ḥ		ف	f
خ	kh		ق	q
د	d		ك	k
ذ	dh		ل	l
ر	r		م	m
ز	z		ن	n
س	s		ه	h
ش	sh		و	w
ص	ṣ		ء	’
ض	ḍ		ي	y

## Transliteration Table: Vowels and Diphthongs

Arabic	Roman		Arabic	Roman
اَ	a		اَ، اِ، اِيَّ	an
اُ	u		اُو	un
اِ	i		اِي	in
اَ، اِ، اِيَّ، اِيَّ	ā		اَو	aw
اُو	ū		اِيَّ	ay
اِي	ī		اَو	uww, ū (in final position)
			اِيَّ	iyy, ī (in final position)

*Source: ROTAS Transliteration Kit: <http://rotas.iium.edu.my>*



# **The Roles of the Indonesian Armed Forces and Police in Counter-terrorism: A Structural Functionalist Approach**

**Eva Achjani Zulfa\***

**Sapto Priyanto\*\***

**Mohd Mizan Aslam\*\*\***

**Abstract:** Terrorism is an extraordinary crime, and each government makes different attempts to combat it. Before the New Order era, Indonesia's military was mainly used for counter-terrorism issues. With the changing political landscape and nature of terrorism in Indonesia, the country has implemented a law enforcement approach covering a soft approach. The Indonesian National Armed Forces (TNI) were tasked with the mission of counter-terrorism as part of military operations other than war, following their primary tasks and functions based on an amendment to the Terrorism Law (Law No. 15/2003). The TNI's involvement in counter-terrorism in Indonesia has elicited both support and resistance, with some institutions and the general public raising worries about potential human rights issues. Despite this, the Indonesian National Police (Polri) and the TNI take different approaches to counter-terrorism, which are regulated by separate legal frameworks: Polri operates under Law No. 2/2002 that applies to the Indonesian National Police, whereas the TNI operates under Law No. 34/2004 that applies to the Indonesian National Armed Forces. The authors believe that the possibility of overlapping authorities between these entities may hinder Indonesia's success at counter-terrorism. As a result, it is

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essential to develop coordination and synchronisation among institutions that deal with terrorism issues, potentially through establishing a supervisory body or institution.

**Keywords:** prevention, terrorism, TNI, Polri, differentiation.

**Abstrak:** Keganasan adalah jenayah yang luar biasa dan setiap negara melakukan sedaya upaya dalam menanganinya. Di Indonesia sendiri sebelum era Orde Baru, TNI lebih cenderung digunakan untuk menangani keganasan. Dengan perubahan politik semasa dan perkembangan keganasan di Indonesia, negara ini telah membuat perubahan dengan menggunakan penguatkuasaan undang-undang di samping memperkenalkan program pendekatan lembut atau “soft approach”. Melalui penyemakan Undang-undang 15/2003, TNI diberi tugas untuk menangani tindakan keganasan yang merupakan sebahagian daripada operasi ketenteraan selain daripada konteks perang yang dilakukan melalui tugas dan fungsi pokok mereka. Penglibatan TNI dalam menangani keganasan di Indonesia mempunyai pro dan kontra, malah terdapat penolakan oleh institusi dan masyarakat kerana dilihat berkaitan dengan isu hak asasi manusia. Namun demikian, Polri dan TNI mempunyai pendekatan yang berbeza dalam kegiatan mereka di mana Kepolisian Negara mengikuti Undang-Undang No. 2 Tahun 2002 bagi Kepolisian Negara Republik Indonesia, dan TNI mengikuti Undang-Undang No. 34 Tahun 2004 bagi Tentera Negara Indonesia. Tentera Negara. Penulis-penulis artikel ini percaya terdapat potensi pertindihan kuasa yang boleh menghalang kejayaan Indonesia menangani isu keganasan. Oleh itu, kami menegaskan perlunya mewujudkan entiti yang khusus untuk penyelarasan dan menyegerakkan badan-badan yang mengendalikan isu keganasan di Indonesia.

**Kata kunci:** pencegahan, keganasan, TNI, Polri, pembezaan.

## Introduction

Terrorist crimes are serious offenses with unique characteristics distinct from other criminal activities. These crimes frequently involve national security and issues of violence, public order, or public safety. Furthermore, terrorist acts often have explicit political motivations and goals, such as attempts to replace existing governments with those based on Islamic law as interpreted by each terrorist group. Beyond the ideological spread by terrorist organisations, the problem



poses serious risks to international relations and social, political, and economic stability. This emphasises how important it is for countries to take counter-terrorism seriously. Globally, counter-terrorism initiatives are divided into two categories: the hard and soft approaches. The hard approach is characterised by military involvement, while the soft approach involves rehabilitation or deradicalisation programmes. Many countries combine these approaches to achieve more effective outcomes in counter-terrorism.

Counter-terrorism became a major issue in Indonesia beginning in 2000, notably after the first and second Bali Bombings. These incidents prompted the enactment of Government Regulation in Lieu of Law No. 1 of 2002 on the Eradication of Terrorism Crime, which was later approved as Law No. 15 of 2003 (Law 15/2003). Until 2018, the dominant opinion in Indonesia was that terrorism was caused by the growth of extremist ideologies based on religious idealism. This viewpoint significantly influenced the path of Indonesia's criminal law enforcement and counter-terrorism policies. However, there has been a reconceptualisation of terrorism over time, notably when extremism has become recognised as a component of terrorist actions. This transformation has fundamentally impacted the paradigm of law enforcement approaches to counter-terrorism.

In 2018, significant changes in terrorism-related regulations were marked by the enactment of Law No. 5 of 2018 (Law 5/2018), which amended Law No. 15 of 2003. This new law establishes a more comprehensive framework for combating terrorism and significantly changes the previous law. One major alteration is the introduction of laws governing the role of the Indonesian National Armed Forces (TNI) in counter-terrorism operations, as outlined in Article 43I of the TNI Law. The involvement of the TNI signifies a shift in the direction of counter-terrorism policy. The rationale for involving the TNI in counter-terrorism is based on the perceived limitations of the Indonesian National Police (Polri) force in counter-terrorism cases, necessitating TNI support. This involvement has been evident in law enforcement actions against terrorists conducting military training in the Jalin Jantho Mountains of Aceh in 2010 and joint operations in Central Sulawesi since 2015 (Kemhan 2015). However, the involvement of TNI authorities in counter-terrorism, as established by Presidential Regulation No. 7 of 2021, has caused significant disputes (Alfons 2021). Despite issuing

Presidential Regulation No. 7 of 2021, which formalises the TNI's involvement in counter-terrorism, the policy remains disputed. It has been criticised for being inconsistent with Law 5/2018, prioritising a law enforcement strategy. Furthermore, this programme raises serious legal and human rights problems because it promotes a military approach over a legal framework.

Amid the previously mentioned debates, there is concern regarding the potential for overlapping authorities between the TNI and other law enforcement agencies involved in counter-terrorism, including the National Counter-terrorism Agency (BNPT), the State Intelligence Agency (BIN), and particularly the Polri. The involvement of the TNI in law enforcement issues implicitly recognises it as part of the criminal justice subsystem. Being a part of this subsystem means functioning within an integrated and systemic framework. However, despite the principle of functional differentiation within each subsystem of the criminal justice system, the vastly different institutional characteristics between the TNI and other agencies raise doubts about the effectiveness of this policy approach. Functional differentiation indicates that each law enforcement entity has unique roles and authorities. The possibility of overlapping authorities between the police and the TNI, as stated in the aforementioned Presidential Regulation, is viewed as threatening the integrity of law enforcement efforts.

The issue of institutional roles concerning the theory of functional differentiation, particularly in the context of counter-terrorism policy and law enforcement, is an intriguing area of study. This issue merits investigation not only from a criminal law perspective but also in terms of the relationship between two organisations with differing organisational characteristics and objectives. This study serves as essential for understanding the impact of the TNI's involvement in its collaboration with the Polri in counter-terrorism cases within an integrated criminal justice system.

## **Methodology**

Qualitative research methodology was used for this study. This study, which aimed to interpret the significance of particular occurrences based on theory and data, underscored the observation of phenomena from the author's perspective in line with the qualities of qualitative approaches. The author employed secondary data sourced from

books, papers, documents, and online news outlets. The functional differentiation theory was used to examine and demonstrate the data, focusing on the effects of the TNI's intervention in counter-terrorism efforts in Indonesia.

## **Results and Discussion**

### *The Issue of Functional Differentiation and the Roles of Institutions within the Structure and Function of the Criminal Justice System*

The theory of functional differentiation fundamentally examines the relationships among the institutions within the criminal justice subsystem in Indonesia, which comprises four main subsystems: the police with their investigative authority (including investigation and interrogation), the prosecution with its prosecutorial authority, the courts, and the correctional system. The integration and cooperation among these subsystems are crucial for achieving the goals of crime prevention and control as mandated by various criminal justice policies in Indonesia.

The basic concept of the functioning criminal justice system involves crime control efforts through cooperation and coordination among law enforcement agencies. Ensuring such cooperation requires a structure that guarantees coherence, coordination, and integration to achieve goals effectively, efficiently, and maximally (Kaligis 2006). The institutional approach in the criminal justice system is characterised by several aspects, including: 1) Emphasis on coordination and synchronisation of the criminal justice components; 2) Supervision and deployment of authority by the criminal justice components; 3) Prioritising the effectiveness of crime control systems over the efficiency of case resolution; and 4) Legal instruments serve as the primary means and fundamental rules for administering justice (Kaligis 2006).

Therefore, the operations of institutions within the criminal justice system are based on the principle of “functional differentiation” in accordance with the authority granted by law to each institution. From a classical perspective, Roeslan Saleh described the criminal justice system as a “wheel in motion,” where one subsystem operates while the others await their turn (Saleh 1979). However, it remains to be seen whether this sequential case-handling process can proceed smoothly and efficiently.

*Functional Differentiation and the Roles of Criminal Justice Subsystem Institutions from a Structural Functionalist Perspective*

The theory of functional differentiation is based on the idea that the criminal justice system is divided into multiple subsystems, each with its own particular function. According to Mardjono Reksodiputro, the criminal justice system is a crime control system comprising the police, prosecution, courts, and correctional institutions. He also emphasises that these four components are expected to collaborate to form an “Integrated Criminal Justice System” (Reksodiputro 1997). This process functions sequentially, meaning each stage must follow the previous one without skipping any steps. The entire process operates within a system, where each institution is a subsystem interconnected and influencing one another.

Each component interacts and coordinates with the others in this criminal justice system. As Alan Coffey notes that:

“Criminal justice can function systematically only to the degrees that each segment of the system takes into account all other segments. In other words, the system is no more systematic than the relationships between police and prosecution, Police and Court Prosecution and Corrections, Corrections and law, and so forth. In the absence of functional relationships between segments, the criminal justice system is vulnerable to fragmentation and ineffectiveness” (Reksodiputro 1997).

In this context, it is essential to consider the concept of an “Integrated Approach.” According to Hiroshi Ishikawa, although the functional components differ and operate independently (diversity), they must share a common goal and perception. This shared objective binds them together, creating a cohesive and unified force (Ishikawa 2024).

The concept of distinct roles, known as functional differentiation, demonstrates the existence of many roles in achieving the common goal of crime control. Each subsystem is expected to recognise its role boundaries to prevent overlap or conflicts that could hinder the attainment of this common goal. This concept of roles is intriguing when viewed from a sociological perspective, where each member of society has different roles within the community, as articulated by structural-functional theory.

Structural functional theory was a hugely prominent sociological perspective, especially in the 1960s. Theorists trace this tradition back to Auguste Comte (1798-1857). Comte, who developed positivistic philosophy, believed that knowledge and society are in a state of evolutionary transition. Sociological theory provides essential information regarding the inevitable and necessary factors for the evolutionary history of society. Ultimately, it aims to bring societal life into a new social order. The evolution toward a new social order is achieved through three stages: theological (fictionalism), metaphysical or abstract, and scientific or positive stage (Maliki, 2003).

Thinkers influenced by Comte's positivism include Herbert Spencer (1820-1903), who viewed social change as parallel to the evolution of species, considering society as a system composed of interdependent parts. Emile Durkheim (1858-1917), deeply influenced by Comte and Spencer, believed that society could be studied through rational positivistic investigation. Durkheim introduced the concept of objective reality, referred to as „social facts,“ which exist outside the individual and drive actions or changes (Maliki, 2003).

In historical terms, Talcott Parsons is still the most renowned figure in structural functionalism. In 1937, Parsons published his work “The Structure of Social Action.” He is well-known for his work on action and social systems within structural functionalism. Consequently, his inquiries are directed toward achieving social equilibrium, order, and stability commitments. Durkheim's impact is apparent in Parsons' responses to issues about social order. Parsons broadened Durkheim's concept of social facts as empirical, external, coercive, and pervasive factors to explain a wide range of social behaviors.

Robert King Merton, a student of Talcott Parsons at Harvard University, offered substantial critiques of earlier functional theories, including those of his mentor. As a result, Merton proposed five perspectives he considered improvements: First, functional structural theory is too focused on grand theory, and Merton is more concentrated on developing a middle ring theory that is more empirical. Second, society was viewed as fully integrated due to the macro nature of previous functional theories. The varying degrees of integration among social units become apparent by applying middle-range theory, revealing both functional and dysfunctional aspects. Third, traditional functional

theories posited that all enduring elements are functional, while non-functional elements disappear. Merton agreed but emphasised the need to differentiate the types of contributions. He distinguished between functions that cause the emergence of something (prerequisite functions) and those that cause its persistence (requisite functions). Fourth, previous functional theories mixed subjective dispositions (expected consequences of actions) with objective consequences (objective outcomes of actions). Merton argued for a clear distinction between manifest functions (intended and recognised) and latent functions (unintended and unrecognised). The last one, the previous functional theories, were criticised for their lack of attention to change, typically viewing any change as linear evolution. Merton, therefore, introduced the concept of social change. He suggested that societal integration occurs when the majority of actions are directed toward achieving goals aligned with prevailing values, norms, and means (Maliki, 2003).

According to structural-functional theory, society is a social system comprising interconnected and integrated elements or parts that maintain balance. Changes in one part will consequently affect other parts. Conversely, if it is not functional, the structure will either not exist or disappear on its own. Adherents of this theory tend to focus solely on the contributions of one system or event to another system, thereby overlooking the possibility that an event or system may operate against other functions within a social system (Ritzer, 2013). Structural functionalism views society as inherently stable, tending towards equilibrium. Consequently, no social element can stand alone, and each element has interdependent relationships with others (Johnson, 1986).

Parson and Durkheim's thoughts on structures and systems are outlined in three main principles. These principles underpin the assumption that the social system is fundamentally in a state of equilibrium: 1) Integrity indicating that the components of the system do not stand alone; 2) Stability emphasising the state of stability (relative) within the social system; and 3) Consensus striving for agreement or harmony in perceptions, sentiments, values, and beliefs within the system (Wuradji, 1988).

Ralph Dahrendorf's formulation of structural-functional theory asserts the following principles: (a) every society consists of various elements that are relatively structured, firm, and stable; (b) these structured elements are well-integrated; (c) each element within the

structure serves a function, contributing to the maintenance of the structure as a system; (d) every functional structure is based on a consensus of values among its members (Damsar, 2011).

Talcott Parsons' application to the criminal justice system defined the principles of integrity, stability, and consensus by functionally differentiating each subsystem. The criminal justice system comprises various subsystems with their respective roles, as articulated by Hiroshi Ishikawa, who stated:

“Criminal justice agencies, including the police, prosecution, and judiciary institutions, should be compared with a chain of gears, and each of them should be precise and tenacious in maintaining good combination with each other” (Faal 1991).

According to Dahrendorf's definition of structural-functional theory, legal regulations within criminal justice subsystems contain the essential elements for preserving stability, uniformity, steadfastness, and integration. Legal provisions serve as authoritative references, delineating the scope of authority and specifying the roles undertaken by each institution and the

#### *Military Involvement in Counter-terrorism in Various Countries*

In countering the issue of terrorism, each country employs distinct approaches. Some countries prioritise the hard approach principle, utilising military methods in counter-terrorism. In contrast, others emphasise the soft approach, such as deradicalisation, and even a combination of hard and soft approaches. Varying opinions and approaches among countries contribute to ongoing debates and controversies. These differences stem from diverse perspectives on how terrorism is perceived and defined.

Strategically, in some countries, terrorism is considered an extraordinary crime that threatens national security, necessitating military involvement, which is frequently deemed more suitable than legal enforcement. This is because judicial proceedings need evidence collection and lengthy legal processes, which may limit public freedom and risk human rights violations. Successful anti-terrorism initiatives receive enormous support locally and globally, intended to minimise civilian fatalities and diminish widespread resentment against the state (Karnavian 2017). Each country devises its own method, and the



following are examples of countries that use military action to combat terrorism, covering the United States (US), Burkina Faso, Thailand, Peru, Chad, and Congo.

The USA has been a critical player in counter-terrorism through its declaration of the “War on Terror.” Following the September 11, 2001 attacks targeting the World Trade Center and the Pentagon, the US government established robust and sophisticated counter-terrorism efforts to mitigate the threat of further terrorist attacks (Counter-terrorism 2022). In 2019, the US and its allies, through a global coalition, defeated Islamic State in Iraq and Syria (ISIS) in March, and in October, launched a military operation resulting in the death of Abu Bakr Al-Baghdadi, who proclaimed himself as the caliph of ISIS. The US also shifted its approach to counter-terrorism from one centered on the military to one prioritising diplomacy, capacity building, and prevention. Achieving a new balance in counter-terrorism efforts between military and civilian approaches requires collaboration across all counter-terrorism mechanisms and must be sustainable. Considering the shift in approach by the US, the author believes that addressing terrorism necessitates integrating both hard and soft approaches to strike a balance between security and public opinion. The US launched a military operation in 2003 to overthrow Saddam Hussein from power (George Bush Library 2003). The author viewed these humanitarian actions by the US military as strategic efforts aimed at winning public opinion and garnering support for counter-terrorism initiatives. In 2019, the US and its allies, through a global coalition, defeated ISIS in March and, in October, launched a military operation resulting in the death of Abu Bakr Al-Baghdadi, who proclaimed himself as the caliph of ISIS. The US also shifted its approach to counter-terrorism from one centered on the military to one prioritising diplomacy, capacity building, and prevention. Achieving a new balance in counter-terrorism efforts between military and civilian approaches requires collaboration across all counter-terrorism mechanisms and must be sustainable. Considering the shift in approach by the US, the author believes that counter-terrorism necessitates integrating both hard and soft approaches to strike a balance between security and public opinion.

In addition to the US, Burkina Faso experienced an increase in terrorist attacks targeting civilians and security forces from 2018 to 2019. Due to the rising number of attacks, Burkina Faso launched two



primary counter-terrorism operations in the East and North-Central regions with clearance operations. However, the military-led clearance operations in Burkina Faso exacerbated tensions between civilians and the state, potentially leading to civilian recruitment into terrorist groups. This could indicate that inappropriate military use exacerbates public opinion against the government (Counter-terrorism 2019). Therefore, the use of the military or other instruments must have their respective tasks and limits to avoid being counterproductive.

Burkina Faso also established a specialised unit in anti-terrorism investment known as the Brigade Spéciale des Investigations Antiterroristes (BSIAT). BSIAT initiated dialogue with joint military and police units to improve access to military information, confusing the authority responsible for terrorist investigations. Hence, functional differentiation between institutions involved in counter-terrorism must be clear (Counter-terrorism 2022). The Thai government faces similar challenges. In Thailand, various agencies such as the police, special investigation departments, and military components each have law enforcement responsibilities in counter-terrorism cases. Cooperation between agencies is sporadic, and information exchange is limited, while the division of tasks between law enforcement and military units is unclear. Nevertheless, Thailand continues to create laws to regulate the responsibilities of each institution, including the police, special investigation department, and military components in law enforcement regarding terrorism cases. As a result of these laws, in southern Thailand, the military and law enforcement share responsibility for counter-terrorism efforts. Sharing information and coordinating between agencies remain challenges that Thailand needs to address (Counter-terrorism 2022).

The use of the military was also employed by the Congo, a military operation undertaken by the Congo around the end of 2022 to disband terrorist groups. Still, the military operation proved unable to reduce the activities that had been established. Based on the abovementioned examples, the author observed that military intervention can dismantle terrorist groups and eliminate their leaders. However, without a comprehensive approach, it may not be effective, as disbanded terrorist groups may still retain their ideologies and recruit new members. Therefore, prevention, soft approaches, and various efforts are also crucial.

The combination of military and police approaches is widely employed by many countries, almost universally. For instance, Peru has adopted several anti-terrorism laws over the past 30 years and has received widespread public support. Despite facing challenges during the COVID-19 pandemic, the Peruvian military and police, working together, executed over 400 counter-terrorism operations in 2022 (Counter-terrorism 2022). Additionally, Chad, located in Central Africa, actively counters terrorism with both military and police forces. Chad faced significant ISIS and Boko Haram threats along the Lake Chad border in 2022. Chad fought terrorism in Lake Chad and the Sahel region by prioritising military organisations, while the police directorate of Chad conducted counter-terrorism investigations (Counter-terrorism 2022). Chad's investigative operations successfully disrupted the flow of illegal weapons in Lake Chad and seized a quantity of narcotics as part of efforts to prevent narcoterrorism.

In Indonesia, a combined approach based on the country's perspective on terrorism, which views it as a threat to national sovereignty and an extraordinary crime, is adopted. With this perspective, the military and police are obligated to collaborate in counter-terrorism efforts (Muradi 2019). This necessitates Indonesia to establish clear jurisdictional boundaries among its security agencies to avoid overlap and inefficiency. Indonesia used the military more frequently throughout its early years of independence until the New Order era. However, alterations in the political climate and the evolving nature of terrorism have pushed Indonesia to change its counter-terrorism approach, relying not only on the military but also on law enforcement, non-governmental groups, and other softer ways to gain public support. The author contends that counter-terrorism operations should be comprehensive and coordinated. Prioritising collaboration between the police and military, or even with other state institutions, is critical for ensuring job allocation, effective coordination, and long-term efforts.

#### *TNI Authority on Terrorism*

According to Law No. 3 of 2002 on State Defense, Article 2 states, "The essence of state defense is all-encompassing defense efforts based on the awareness of the rights and obligations of citizens and confidence in self-reliance." Article 4 further elaborates, "The purpose of state defense is to safeguard and protect the sovereignty of the state, the integrity

of the territory of the Unitary State of the Republic of Indonesia, and the safety of the entire nation from all threats.” Article 7, paragraph (2), positions the TNI as the primary component of military threats, supported by reserve and supporting components. Article 7, paragraph (3) explains that one of the military threats includes armed terrorist acts carried out by international terrorism networks, domestic terrorism cooperating with international terrorism or high-scale domestic terrorism that endangers state sovereignty, territorial integrity, and the safety of the entire nation.

The explanation of Article 7, paragraph (3) of Law No. 3 of 2002 on State Defense not only extends the authority of the TNI but also redefines the concept of terrorism and the efforts for “prevention and eradication of terrorism” as a form of criminal policy into state security policy.

Article 7 outlines the main tasks of the TNI, which include the following authorities:

1. Upholding state sovereignty, maintaining the territorial integrity of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia, and protecting the entire nation and all of Indonesia’s blood from threats and disturbances to national integrity and security.
2. These primary tasks are accomplished through:
  1. Military Operations for War.
  2. Military operations other than war, including:
    - a) Countering armed separatist movements;
    - b) Countering armed rebellions;
    - c) Countering acts of terrorism;
    - d) Securing border areas;
    - e) Securing vital national strategic objects;
    - f) Participating in world peace missions in accordance with foreign policy;
    - g) Securing the President and Vice President and their families;

- h) Empowering defense areas and their supporting forces early on according to the universal defense system;
- i) Assisting government tasks in the regions;
- j) Assisting the Polri in maintaining public security and order as regulated by law;
- k) Assisting in securing state guests at the head of state level and foreign government representatives in Indonesia;
- l) Assisting in mitigating the effects of natural disasters, handling refugees, and providing humanitarian aid;
- m) Assisting in search and rescue operations; and
- n) Assisting the government in securing navigation and aviation against piracy, hijacking, and smuggling.

Counter-terrorism is classified as a military operation other than war, as defined in the law. Compared to Articles 6 and 7 of the Anti-Terrorism Law, which links counter-terrorism efforts to vital and strategic objects, including international organisations, the context of criminal law enforcement is within the authority of the Polri. This is further reinforced by Article 1, Clause 2 of Presidential Regulation No. 7 of 2021, which defines violent extremism leading to terrorism as beliefs or actions that use extreme violence or threats of violence to support or conduct acts of terrorism. This framework is applied in cases such as the Countering of the Armed Criminal Group (KKB) in Papua. However, this framework contradicts Article 5 of Law No. 5 of 2018, which states that terrorism is not a political crime. Conversely, the motives of the KKB Papua have political objectives. Therefore, although Article 1, Clause 2 of the Presidential Regulation categorises them as violent extremists leading to terrorism, they cannot be equated with terrorists. Consequently, in this context, the TNI has more authority than Polri, resulting in a complicated issue of authority.

In counter-terrorism, the Polri is granted authority under Article 15, Clause 2, Letter h, which specifies that “international crimes” are certain crimes agreed upon for inter-state countermeasures, including narcotics, counterfeiting, terrorism, and human trafficking. The police also have a special detachment for counter-terrorism known as Densus 88 AT

(Detachment 88 Anti-Terrorism), established under National Police Chief Decree No. 30/VI/2003. Densus 88 operates under the command of the Polri, not the Indonesian National Armed Forces (Efendi 2014).

In accomplishing their tasks, the Polri and TNI maintain interagency relationships as specified by relevant legislation. According to Article 70, Clause 1 of Law No. 34 of 2004 on the Indonesian National Armed Forces, “The relationship and cooperation of the TNI with domestic institutions and agencies are based on the interests of the TNI’s tasks within the framework of national defense.” Similarly, Law No. 2 of 2002 concerning the Polri regulates interagency relations in Article 42, Clause 1, which states: “The relationship and cooperation of the Indonesian National Police with domestic and international bodies, agencies, and institutions are based on principles of functional relationships, mutual respect, mutual assistance, prioritisation of the public interest, and consideration of hierarchy.”

#### *TNI History in Counter-terrorism*

The involvement of the TNI as a subsystem in counter-terrorism efforts is not a novel idea. Historically, during the New Order era, counter-terrorism efforts in Indonesia were predominantly led by the Armed Forces of the Republic of Indonesia (ABRI), including the TNI, Navy, and Air Force, with Polri playing a “supporting role.” Post-reformation, the operational scope of the TNI in civilian contexts has been limited, positioning the TNI as a supporting component to the police in handling security and law enforcement issues. At the same time, the TNI focuses primarily on national defense. In this context, the involvement of the TNI after the reformation is no longer the leading actor and operationaliser in anti-terrorism actions (Fahrissal 2020).

The initial legislation, Law No. 15/2003, did not grant the TNI authority in counter-terrorism. However, the amended law, Law No. 5/2018, assigns the TNI a role in counter-terrorism as part of military operations other than war, which aligns with the TNI’s primary tasks and functions. The involvement of the TNI in counter-terrorism is feasible and does not overlap with the Polri authority, provided that the terrorist actions are deemed to threaten national integrity and defense. Article 43I of Law No. 5/2018 mandates the President to issue a presidential regulation regarding the implementation of the TNI’s role in counter-terrorism as part of military operations (BPK 2024a). The involvement

of the TNI in counter-terrorism is feasible and does not overlap with the Polri authority, provided that the terrorist actions are deemed to threaten national integrity and defense. Article 43I of Law No. 5/2018 mandates the President to issue a presidential regulation regarding the implementation of the TNI's role in counter-terrorism as part of military operations.

In 2020, the government drafted a Presidential Regulation on the Tasks of the TNI in Counter-terrorism (Presidential Regulation No. 7 of 2021), which faced opposition from various parties, including the National Human Rights Commission (Komnas HAM), public figures, and non-governmental organisations (NGOs). Critics argued that Presidential Regulation No. 7 of 2021, even after its enactment, threatened human rights and democracy and disrupted the criminal justice system (KontraS 2020). This issue is particularly intriguing when related to the case of the KKB in Papua. The approach to countering this case should differ from terrorism under the Terrorism Law, which does not classify it as a political offense. The approach contrasts with the counter-terrorism cases in other regions, such as Poso. The inconsistent definition of terrorism across various laws has led to inconsistencies in policies regarding the authority to counter-terrorism.

According to Article 7 of Law No. 34 of 2004 on the Indonesian National Armed Forces (TNI Law), the primary duty of the TNI is to uphold state sovereignty, maintain the territorial integrity of the Republic of Indonesia, and protect against threats and disturbances to national unity, which can be accomplished through military operations other than war in counter-terrorism actions. These military operations are conducted to preserve the national defense (Article 20, paragraph 2, TNI Law). However, Presidential Regulation No. 7 of 2021 grants TNI authorities that exceed those outlined in the TNI Law, Law No. 15 of 2003, and Law No. 5 of 2018, specifically in the areas of prevention and enforcement.

Article 3 of Presidential Regulation No. 7 of 2021 on preventive functions authorises the TNI to conduct territorial operations, intelligence, information operations, and other operations. This preventive function overlaps with the tasks of the National Counter-terrorism Agency (BNPT), which is responsible for formulating, establishing, and implementing national policies, strategies, and

programmes for counter-terrorism (Alfons 2021). According to Articles 43E through 43G of Law No. 5 of 2018, the TNI does not perform counter-terrorism functions; instead, the BNPT does. The “other operations” mentioned are not further detailed, potentially granting the TNI a broad mandate beyond the scope defined by law and Presidential Regulation No. 7 of 2021.

Actually, apart from Presidential Regulation No. 7 of 2021, the TNI’s function in law enforcement is to assist the Polri in ensuring public security and order. However, Presidential Regulation No. 7 of 2021 authorises the TNI to act directly rather than provide assistance (BPK 2024b). In addition to these two issues, there are also funding-related problems. This draft regulation stipulates that TNI funding for counter-terrorism operations should come from The Regional Revenue and Expenditure Budget (APBD) and other legitimate sources, which contradicts Article 66 of the TNI Law that states TNI funding should come from the national budget (APBN). This could potentially create new financial burdens for local governments.

Under the pretext of “terrorism crimes,” the tasks related to this issue do not position the TNI as a law enforcement agency that independently conducts preventive and repressive functions when addressing terrorism in Indonesia. The fundamental purpose of the TNI is national defense, not law enforcement, which is the role of the police. Although the draft regulation has a strong legal basis, as provided by Law No. 5/2018, its formulation must still consider the main tasks and functions of the TNI. This is to ensure there is no overlap with the authority of the Polri or other agencies, to avoid granting the TNI excessively broad powers in counter-terrorism, and to ensure it does not contradict existing laws.

### *The Influence of TNI in Prevention and Counter-terrorism*

James T. Ayres defined Military Operations Other Than War (MOOTW) as types of military operations conducted outside the context of warfare aimed at maintaining peace or preventing war (Franklin 1947). On the other hand, Samuel Huntington contended that military involvement in humanitarian operations and various other civil activities could occur; however, the fundamental principle of the military’s existence was inherently anti-humanitarian, with its primary purpose being to engage in warfare (Travis 2017).

The TNI's prosecution function in the process of prosecuting criminal acts of terrorism is primarily a form of assistance to law enforcement officials; however, under Law No. 5/2018 Eradication of Criminal Acts of Terrorism, the TNI can take direct action, which may result in overlap between the TNI and Polri. Law No. 5 of 2018 incorporates the TNI's role in counter-terrorism, which aligns with Law No. 34 of 2004 on the TNI, where counter-terrorism efforts are considered MOOTW, as also regulated by Law No. 3 of 2002 on National Defense (Fahrissal 2020).

Regarding the TNI's role in counter-terrorism, Article 7 of Law No. 34 of 2004 on the Indonesian National Armed Forces states that one of the primary tasks of the TNI is to do counter-terrorism. As previously mentioned, the fundamental principle of the TNI's existence is inherently anti-humanitarian, with its primary purpose being warfare. The TNI's involvement in counter-terrorism is intended to assist the Polri, which holds the authority for investigations, as stipulated in Article 25(1) of Law No. 5 of 2018 on the Eradication of Criminal Acts of Terrorism, which states that investigations, prosecutions, and examinations in terrorism cases must follow the law of criminal procedure.

In terms of TNI involvement in countering criminal acts of terrorism, it is a form of assistance to the main task of the Polri, such as the case that occurred in Poso where the Polri became the main target of terrorism in Poso, which the mechanism of involvement is based on fixed procedures owned by the police and by the TNI itself. However, these fixed procedures are not formal regulations or part of the legislative framework and lack legally binding authority. In practice, this sometimes leads to rivalry and a lack of coordination due to the weak regulation of the assistance role. Hence, it is necessary to adopt a different approach, applying Law No. 34 of 2004 on the TNI to frame its involvement in counter-terrorism as part of MOOTW.

Given this background, the Presidential Regulation must emphasise that the deployment of military forces is solely possible following a political decision by the government. According to Law No. 34 of 2014 on the Indonesian National Armed Forces, the involvement of the TNI in MOOTW in the context of terrorism must be based on a political decision from the state, particularly one issued by the President with the approval of the House of Representatives (DPR) as the representative of civil authority. A political decision from the state



is essential as it relates to the assessment of the current threat situation and the effectiveness of the TNI's contribution to countering terrorist actions. Regardless of the political and historical context, the role and involvement of the TNI in counter-terrorism in Indonesia must be based on operational needs. Furthermore, the importance of a political decision from the state is also tied to the principle of civilian supremacy, which is upheld by democratic nations. This principle is crucial in a stringent and accountable framework for TNI involvement in counter-terrorism. Within the MOOTW framework, one of the main foundations for regulating military assistance tasks is the legitimacy reflected in the form of political decisions issued by civil authorities.

Referring to the components of the criminal justice system, which include key law enforcement institutions, the cooperation established must be capable of producing an Integrated Criminal Justice System. This system should be based on the principle of functional differentiation, which regulates the roles and authorities of law enforcement agencies according to the stages of the process as determined by law. When considering the components of the criminal justice system, the key law enforcement institutions play a crucial role. The cooperation established among these institutions must be capable of producing an integrated criminal justice system. This system should be based on the principle of functional differentiation, which regulates the roles and authorities of law enforcement agencies according to the stages of the legal process as determined by law (Harahap 2000). The principle of functional differentiation emphasises the structural division of tasks and authorities among various law enforcement agencies. The Criminal Procedure Code (KUHAP) clearly outlines this principle, involving the clarification and adjustment of the functions and authorities of each law enforcement agency. This categorisation is designed to ensure mutual supervision and coordination among law enforcement agencies throughout the interconnected and continuous law enforcement process. From the initial investigation by the police to the execution of court decisions by the prosecution, there is a continuous functional relationship that creates a mechanism of mutual supervision among law enforcement agencies within a coordinated, Integrated Criminal Justice System.

The involvement of the TNI in countering criminal acts of terrorism, in terms of cooperation between the TNI and Polri, will inevitably lead to overlaps, impacting the process in the following ways: first, roles and

authorities mean that overlapping authorities can create ambiguity and conflicts regarding the division of tasks and responsibilities; second, differences in approach mean that the Polri and TNI have different approaches governed by different regulations. The Polri operates under Law No. 2 of 2002 on the Indonesian National Police, while the TNI operates under Law No. 34 of 2004 on the Indonesian National Armed Forces. The last one is delays in Handling, which means that overlapping authorities between the TNI and Polri can cause delays in addressing terrorism. The Polri, which has the right to conduct investigations, and the TNI, which is supposed to assist the Polri, may experience conflicts in their collaborative efforts.

## **Conclusion**

Terrorism is a major worldwide security threat, having effects that go beyond national security and include negative social and economic consequences, making it an extraordinary crime. Each country faces different terrorism threats, leading to distinct definitions of terrorism and varying counter-terrorism strategies. Initially, when terrorism emerged as a global security issue, many countries prioritised military intervention (hard approach) in their counter-terrorism efforts. However, with the evolution of politics and terrorism, many countries now combine a hard approach with law enforcement and other activities employing a soft approach. The military's involvement in counter-terrorism has become a subject of debate in many countries, particularly concerning human rights issues and public opinion. Inappropriate military use can lead to negative public opinion and counterproductive outcomes. Some countries have successfully integrated military and law enforcement efforts. The authors believe that military involvement in counter-terrorism must be regulated and coordinated to avoid overlapping authorities among agencies. This view is based on structural-functional theory, which emphasises the need for differentiation to ensure a system operates harmoniously and productively within the existing framework.

In Indonesia, prior to the New Order era, the military was indeed used as a counter-terrorism instrument. With the development of politics and terrorism, Indonesia has since adopted a combination of approaches to counter-terrorism. The involvement of the TNI has faced opposition from various institutions and the public, particularly concerning human rights and disruptions to democracy. However, through the revision of

Law No. 15/2003, the TNI was assigned the task of counter-terrorism as part of MOOTW, in alignment with the TNI's primary tasks and functions. This assignment is based on the view that terrorism threatens national sovereignty. In the context of "terrorism crimes," the TNI is not part of the law enforcement apparatus that independently and directly performs preventive and repressive functions of counter-terrorism in Indonesia. The authors argue that this situation could lead to overlapping authorities, potentially slowing down the response to terrorism. Therefore, it is essential to have coordination and synchronisation among the counter-terrorism institutions, along with a dedicated body or institution to perform supervisory functions.

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(ii) Ibn Hanbal, vol. 1, p. 1

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(i) Al-Bukhārī, M. (1981). *Ṣaḥīḥ al-Bukhārī*. Beirut: Dār al-Fikr.

(ii) Ibn Ḥanbal, A. (1982). *Musnad Aḥmad Ibn Ḥanbal*. Istanbul: Cagri Yayinlari.

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