

**Type: Research Article**

# Legal Disharmony in Terrorism Countermeasures in Indonesia: Legal Implications and Future Arrangements

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## ABSTRACT

Terrorism is an extraordinary crime aimed at threatening and even causing loss of life, whether based on ideological motives or other motives. In Indonesia, law enforcement related to terrorism is carried out by three institutions: the Indonesian National Army (TNI), the National Counterterrorism Agency (BNPT), and the Police, which creates the potential for disharmony in authority in counterterrorism efforts in Indonesia. This research is normative legal research with a conceptual and legislative approach. The research findings confirm that the legal implications arising from the disharmony of authority in counterterrorism efforts in Indonesia after the enactment of Law Number 3 of 2025 have resulted in overlapping authority between the Indonesian National Army (TNI), the National Counterterrorism Agency (BNPT), and the Police. This research recommends vertical harmonization efforts, including adjusting and implementing regulations to be consistent with Law Number 3 of 2025 and related regulations, as well as horizontal harmonization aimed at aligning roles and duties between institutions to prevent conflicts of authority. This harmonization effort must be based on the principles of accountability, transparency, and respect for human rights, with a clear division of authority where the BNPT serves as the national controller and preventer of terrorism, the Police enforce terrorism-related criminal laws, and the TNI handles terrorism threats potentially related to national defense.

## KEYWORDS

Disharmony;  
Legal  
Harmonization;  
Authority;  
Terrorism



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## INTRODUCTION

Terrorism is a type of crime that is characterized as an extraordinary crime.<sup>1</sup> As a crime of an extraordinary nature, terrorism can be said to be “extraordinary” when compared to crimes in general, in that terrorism is generally transnational, inhumane, and disturbing or even frightening to the public.<sup>2</sup> This view is in line with the *Kamus Besar Bahasa Indonesia* (Great Dictionary of the Indonesian Language), which defines terrorism as the use of violence to frighten and unsettle the public to achieve the goals of those carrying out the terrorism.<sup>3</sup>

Another view on terrorism, as expressed by James H. Wolfe, emphasizes that terrorism has several characteristics, namely: (i) the use of violence and/or other actions that disturb the public, (ii) based on certain motives such as politics, religious and ethnic extremism, and other motives, (iii) targeting civilians and/or public facilities, and (iv) violating or even opposing national and/or international law.<sup>4</sup> In general, James H. Wolfe’s view is not much different from the definition of terrorism as stated in the *Kamus Besar Bahasa Indonesia* (Great Dictionary of the Indonesian Language), which emphasizes attacks or attempts to disturb the general public that are contrary to national and/or international law.

In Indonesia, Article 1 paragraph 2 of Law No. 5 of 2018 concerning Amendments to Law No. 15 of 2003 concerning the Stipulation of Government Regulation instead of Law No. 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism into Law (hereinafter referred to as the Terrorism Criminal Law) clearly states that terrorism is the use of violence or the threat of violence aimed at causing unrest or fear among the public, which can result in casualties and is of a mass nature, targeting public facilities based on political, ideological, or other motives. As terrorism is a systematic crime with widespread impact in Indonesia, the country has established various state institutions with the authority to combat terrorism.<sup>5</sup>

The transformation of the paradigm for countering terrorism in Indonesia has now reached a new stage, marked by significant changes that give greater flexibility to law enforcement agencies. The Terrorism Criminal Act emphasizes a holistic approach that encompasses three main pillars: prevention, enforcement, and victim recovery.<sup>6</sup> The most visible fundamental shift is the broadening of the definition of terrorism, whereby the intention to commit a terrorist act, whether successful, unsuccessful, or merely attempted, is now categorized as a criminal act of

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<sup>1</sup> Yopy Kurniawan Situmorang, “Kriminalisasi Kelalaian dalam Perbuatan Persiapan Tindak Pidana Terorisme di Indonesia” (2019) 5:1 *Al-Jinayah J Huk Pidana Islam* 78–107.

<sup>2</sup> Fakhri Usmita, “DISENGAGEMENT; STRATEGI PENANGGULANGAN TERORISME DI INDONESIA” (2021) 17:1 *J Sosiol J Ilm Kaji Ilmu Sos dan Budaya* 49–63.

<sup>3</sup> KBBI, *Kamus Besar Bahasa Indonesia Online* (KBBI, 2022).

<sup>4</sup> Genta Pratama Syukur & Josias Simon Runturambi, “Evaluate The Role of The Community in Intelligence Gathering on Local Terrorism Activities” (2024) 3:4 *Asian J Eng Soc Heal* 883–892.

<sup>5</sup> Arief Fahmi Lubis, “Implementasi Kewenangan TNI dalam Mengatasi Aksi Terorisme di Indonesia” (2022) 7:4 *Syntax Lit* 3777.

<sup>6</sup> M Zen Abdullah, “Analisis Yuridis Terhadap Undang- Undang Nomor 15 Tahun 2003 jo Undang-Undang Nomor 5 Tahun 2018 Tentang Pemberantasan Tindak Pidana Terorisme Dalam Hubungan Dengan Hak Azasi Manusia” (2021) 13:1 *Leg J Huk* 26.



terrorism.<sup>7</sup> This expansion allows countermeasures to be taken early on, even before acts of terrorism occur, to disrupt the chain of terrorist planning as much as possible.

Although the revision of terrorism-related regulations brings many benefits, it cannot be denied that it also causes conflicts of norms, especially with the involvement of the Indonesian National Armed Forces (TNI) in counterterrorism efforts.<sup>8</sup> The involvement of the TNI has the potential to grant overly broad authority, covering functions ranging from deterrence and enforcement to restoration, which could revive the dual function of the military, threaten civilian supremacy, and undermine human rights principles.<sup>9</sup> Various parties strongly reject the involvement of the TNI in this civilian sphere, fearing the potential for overlapping authority and abuse of power.

Despite this rejection, the government continues to maintain counterterrorism as one of the duties of the TNI, which has been further strengthened by the enactment of Law No. 3 of 2025 on the Indonesian National Armed Forces (New TNI Law). Article 7, paragraph (2), letter b of the TNI Law specifically mandates the TNI to “counter acts of terrorism.” Unfortunately, the TNI Law does not specify the TNI's tasks and authorities in countering terrorism, creating ambiguity regarding its role and potentially leading to overlap with other institutions such as the Indonesian National Police (POLRI) and the National Counter-Terrorism Agency (BNPT), which also have tasks and authorities in the same field.

This problem is exacerbated by the absence of a “Considering” clause in the new TNI Law that refers to other fundamental legal pillars, such as Law No. 2 of 2002 on the Indonesian National Police (Polri Law) and the Law on Counterterrorism. The absence of these references has the potential to weaken the legal, philosophical, and sociological foundations of the TNI Law and indicates a disregard for horizontal harmonization in the legislative process. As a result, the risk of overlapping authority between the TNI, Polri, and BNPT is very high, and could even lead to a legal vacuum in aspects involving the TNI, given that the three different agencies may not be able to effectively carry out the same tasks and functions.

This regulatory disharmony is evident in Article 7, paragraph (2), letter b of the TNI Law, which mandates the TNI to “overcome acts of terrorism” without specifying the specific authorities. This is inconsistent with other laws and regulations, such as Article 4(2)(b) of the Regulation of the Chief of the Indonesian National Police No. 5 of 2024 on the Handling of Crime Scenes of Terrorism-Related Criminal Acts, which explicitly states that one of the police's authorities in the field of terrorism is “to lead and control all activities related to the handling of crime scenes of terrorism-related criminal acts.” Similarly, Article 43F of Law No. 5 of 2018 emphasizes the BNPT's role in “formulating and establishing national policies, strategies, and programs in the field of countering terrorism.” To date, there are no

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<sup>7</sup> Gede Ari, Pratama Putra & R Pitojo Budiono, “Former Terrorism Convicts and Politics of Citizenship ( A Study About The Struggle of Former Terrorism Convicts To Receive Cultural Recognition From The Community in” (2023) 12:2 *Perspektif* 492–498.

<sup>8</sup> Jumino Boston R Sihotang, Edi Susilo, “Optimalisasi Sinergitas TNI-Polri Dalam Penanggulangan Terorisme di Indonesia” (2021) 9:2 *Ilmu Adm Negara* 264.

<sup>9</sup> Komnas HAM, “Perpres Pelibatan TNI Tangani Terorisme Ancaman bagi Demokrasi dan HAM”, (2020), online: [komnasham.go.id](http://komnasham.go.id).



specific regulations delineating the respective authorities of state institutions (the Indonesian National Armed Forces, the Indonesian National Police, and the BNPT) in countering terrorism, resulting in a significant risk of overlapping authorities due to regulatory disharmony, which requires a comprehensive solution.

Disharmonization in legislation is a condition in which there are two or more regulations that have similar content but differ in terms of technical implementation.<sup>10</sup> This disharmony is not merely related to technical or legal aspects, but also reflects a paradigm shift in the context of national security, particularly about the development of a broad military role without adequate coordination with the existing criminal justice system. This disharmony is evident in the context of the Indonesian National Armed Forces Act (UU TNI) and the Counterterrorism Act, where, to date, there has been no clear and detailed regulation regarding the role and duties of the TNI in counterterrorism. This situation has led to ambiguity and overlapping authority between the TNI, the Indonesian National Police (Polri), and the National Counter-Terrorism Agency (BNPT), which should have distinct yet synergistic functions and scopes in addressing terrorist threats.

From the above description, this study is novel in that it formulates efforts to harmonize laws related to counterterrorism authority in Indonesia. The legal issues addressed in this study are: (i) the legal implications of disharmony in counterterrorism authority laws in Indonesia, and (ii) future efforts to harmonize counterterrorism authority laws in Indonesia. Previous research on counterterrorism authority in Indonesia has been conducted in three studies, namely: first, a study conducted by Tantimin et al. (2023) analyzing the role of the National Counter-Terrorism Agency (BNPT) in counter-terrorism efforts.<sup>11</sup> The novelty of the research by Tantimin et al. (2023) is that, in practice, the BNPT plays an important role in creating regulations and policies related to various efforts to combat terrorism in Indonesia. Further research, as conducted by Syahdi and Sujono (2024), analyzed the authority of the TNI in handling terrorism as military operations other than war.<sup>12</sup> The novelty of Syahdi and Sujono's (2024) research focuses on the aspect of the TNI's authority related to terrorism, which requires clarification of technical regulations so as to clarify the TNI's authority in the field of terrorism. Another study was conducted by Sitinjak et al. (2025), which discussed law enforcement by the police, particularly Densus 88, about terrorism.<sup>13</sup> The novelty of Syahdi and Sujono's (2024) research focuses on the aspect of the TNI's authority related to terrorism, which requires clarification of technical regulations so as to clarify the TNI's authority in the field of terrorism. Another study was

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<sup>10</sup> Zaenal Arifin & Adhi Putra Satria, "Disharmonisasi Peraturan Perundang-Undangan Di Indonesia: Antara Bentuk, Penyebab Dan Solus" (2020) 9:1 J Pro Huk J Penelit Bid Huk Univ Gresik 55–63.

<sup>11</sup> Tantimin Tantimin, Ampuan Situmeang & Indri Ceria Agustin, "Peran Badan Nasional Penanggulangan Terorisme (BNPT) dalam Menanggulangi Radikalisme dan Terorisme di Indonesia The Role of the National Counterterrorism Agency (BNPT) in Overcoming Radicalism and Terrorism in Indonesia" (2023) 12:2 Fundam J Ilm Huk 354–383.

<sup>12</sup> Ikhwan Syahdi & Sujono, "Kajian Yuridis Peran Tentara Nasional Indonesia (TNI) Dalam Operasi Militer Selain Perang (OMSP) terkait Penanggulangan Tindak Pidana Terorisme" (2024) 3:2 Indones J Multidiscip Sci 236–260.

<sup>13</sup> Rizal Sitinjak et al, "Efektivitas Penegakan Hukum Terhadap Tindak Pidana Terorisme di Indonesia: Studi Kasus Densus 88 AT Polri" (2025) 3:1 Humaniorum 100–105.



conducted by Sitinjak et al. (2025), which discussed law enforcement by the police, particularly Densus 88, about terrorism.

From the three previous studies above, it can be seen that this study is original because its novelty confirms the existence of legal prescriptions or solutions in the form of legal harmonization related to the authority to combat terrorism in Indonesia by integrating the three institutions that have authority in the field of terrorism, namely: BNPT, the Police, and the TNI. This differs from the three previous studies, which still discussed the authority in the field of terrorism within each institution and had not yet addressed the legal harmonization related to the authority for countering terrorism in Indonesia.

## METHOD

This research is normative legal research, also known as doctrinal legal research, because it emphasizes legal doctrine, legal theory, and legislation as the main legal materials analyzed.<sup>14</sup> The approach used in this study is conceptual and legislative. The primary legal materials in this study include: the 1945 Constitution of the Republic of Indonesia, Law No. 5 of 2018 concerning Amendments to Law No. 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism, Law No. 2 of 2002 concerning the Indonesian National Police, and Law No. 3 of 2025 concerning the Indonesian National Armed Forces. The secondary legal materials in this study include books, journal articles, and other research results that discuss terrorism, the enforcement of terrorism laws, and legal disharmony. The non-legal material is a language dictionary, in this case, using the KBBI. The existing legal materials are then analyzed prescriptively with reference to existing legal issues to formulate legal solutions to the legal issues that have been presented.<sup>15</sup>

## RESULT & DISCUSSION

### I. Legal Implications of Legal Disharmony in Terrorism Countermeasures in Indonesia

Terrorism is an act that uses violence or threats of violence to create widespread terror or fear among the public or cause mass casualties, motivated by ideology, politics, or specific interests.<sup>16</sup> The main characteristics of terrorism are attacks that target civilians, vital infrastructure, and state officials, using highly destructive methods such as bombings, hijackings, shootings, or cyber attacks.<sup>17</sup> These crimes are often organized and involve networks at the local, national, and international levels, so efforts to combat them require intensive cooperation between various countries and international institutions.<sup>18</sup>

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<sup>14</sup> I Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum* (Jakarta: Kencana, 2017).

<sup>15</sup> Achmad Irwan Hamzani et al, "Legal Research Method: Theoretical and Implementative Review" (2023) 10:2 Int J Membr Sci Technol 3610–3619.

<sup>16</sup> Sri Suatmiati & Edy Kastro, "Legal and Institutional Framework on Counter-Terrorism in Indonesia" (2020) 27:1 J Media Huk 68–78.

<sup>17</sup> Situmorang, *supra* note 1.

<sup>18</sup> Guri Nordtorp Mølmen & Jacob Aasland Ravndal, "Mechanisms of online radicalisation: how the internet affects the radicalisation of extreme-right lone actor terrorists" (2023) 15:4 Behav Sci Terror Polit Aggress 463–487.



The threat of terrorism to a country is very serious and multidimensional. Directly, terrorism can cause loss of life, physical damage, and prolonged psychological trauma within society.<sup>19</sup> Indirectly, terrorism also causes significant economic losses, such as a decline in investment, disruption of business activities, and increased national security costs. In addition to security and economic aspects, terrorism can also weaken a country's political stability, exacerbate social divisions, and disrupt public order. Terrorism can ultimately undermine public confidence in the government if the response and handling are not carried out quickly, appropriately, and transparently.

Countries facing the threat of terrorism must develop early detection systems, strengthen intelligence, enhance cross-border cooperation, and carry out comprehensive deradicalization involving religious leaders, communities, and families. Additionally, countries need to strengthen legal regulations and establish comprehensive counter-terrorism policies, including protection for victims and preventive measures through education and economic well-being. Thus, combating terrorist crimes and addressing the threats they pose are the primary responsibilities of nations to uphold national integrity, ensure the safety of their citizens, and maintain national resilience in the face of an increasingly complex globalized era.

Terrorism is a serious violation of the Constitution of the Republic of Indonesia, as stipulated in the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), as well as a violation of the human rights guaranteed therein. Constitutionally, terrorism is contrary to the fundamental principles of the state that protect the right to life, safety, security, and freedom of every citizen as stipulated in Articles 28 and 28I of the 1945 Constitution. Terrorism, through systematic acts of violence and threats, disrupts public peace and security and undermines state sovereignty, which is the primary responsibility of the state in maintaining the integrity of its territory and the welfare of its people. Therefore, acts of terrorism are contrary to Article 1 paragraph (3) of the 1945 Constitution, which states that Indonesia is a state based on the rule of law, so that all actions must be carried out by fair legal regulations and uphold human rights.

From a human rights perspective, acts of terrorism threaten fundamental rights of citizens such as the right to life, the right to security, and the right to freedom to live without fear.<sup>20</sup> Acts of terrorism often cause significant harm not only to physical victims but also to the psychological well-being of the broader community, thereby violating fundamental rights by universal human rights norms. However, the state's efforts to combat terrorism must still comply with the legal and human rights protections enshrined in Article 28I of the 1945 Constitution, which states that human rights cannot be diminished under any circumstances, including in the context of enforcing the law against perpetrators of terrorism. This means

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<sup>19</sup> Agus Suntoro, "Penerapan Asas dan Norma Hak Asasi Manusia dalam Undang-Undang Pemberantasan Tindak Pidana Terorisme (The Application of Human Rights Principles and Norm in the Law on Combating Criminal Acts of Terrorism)" (2020) 11:1 Negara Huk Membangun Huk untuk Keadilan dan Kesejaht 63–81.

<sup>20</sup> Dmytro Chornomordenko Nashwan Mohammed Suleiman, Saud Suwaid Armoosh, Rami Salih, Bushra Salman Husain Al-Obaidi, "Integrating Islamic Criminal Law and International Human Rights Law in Counter-Terrorism Efforts: A Critical Analysis" (2024) 9:1 Al-Istinbath 395–410.



that the state is obligated to carry out enforcement actions in a proportional, transparent, and accountable manner to prevent the legal process from being used as a tool for abuse of power that could lead to new human rights violations.

The authority of various institutions in handling terrorism in Indonesia is specifically divided between the Indonesian National Police (Polri), the National Counterterrorism Agency (BNPT), and the Indonesian National Armed Forces (TNI), each of which has complementary strategic and operational functions but sometimes causes overlapping authority. Polri, as the primary law enforcement agency, has dominant authority in combating terrorist crimes based on Law No. 15 of 2003 and Law No. 2 of 2002 on the Police. In carrying out its functions, the National Police established the Special Detachment 88 Anti-Terrorism Unit, an elite force tasked with conducting preventive actions, enforcement, arrests, investigations, and prosecutions against terrorism perpetrators.<sup>21</sup> The Indonesian National Police has the authority to monitor the community through the Community Police (Polmas) program as a form of early detection and to take legal action against individuals or groups believed to be affiliated with terrorist networks or radical ideologies, including counter-radicalization efforts through community development.<sup>22</sup>

BNPT, as an institution specifically established to deal with national terrorism threats, plays a strategic role in coordinating and controlling counterterrorism policies involving various parties, including the Indonesian National Police, the Indonesian Armed Forces, and other agencies. BNPT focuses on prevention efforts, deradicalization, intelligence coordination, and the systematic development of counter-radicalization programs. BNPT's authority encompasses comprehensive and synergistic terrorism threat management, particularly in terms of planning, monitoring, and evaluating national counter-terrorism programs, while also serving as a coordination center for community involvement and related institutions.<sup>23</sup>

Meanwhile, the TNI has more limited authority than the Polri in terms of enforcing terrorism laws. The TNI plays a role in dealing with military threats of terrorism related to national defense, such as when acts of terrorism threaten territorial sovereignty or when armed conflict occurs that requires military intervention. The TNI focuses on its main tasks of national defense, border security, and supporting security operations in emergencies that threaten national stability. The TNI's authority in countering terrorism must always be coordinated with the Polri and the National Counterterrorism Agency (BNPT) to avoid overlapping that could hinder the effectiveness of counterterrorism efforts.

Overall, the Indonesian National Police (Polri) has more authority in law enforcement and direct action against perpetrators of terrorism, while the National Counterterrorism Agency (BNPT) is tasked with policy control and national coordination in deradicalization and prevention, and the Indonesian National Armed Forces (TNI) plays a strategic role related to national defense and security. However, research indicates that this division of authority is not yet clearly and

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<sup>21</sup> Boston R Sihotang, Edi Susilo, *supra* note 8.

<sup>22</sup> Rahmad Syahputra, Manahan Budiarto Pandjaitan & Agus Prabowo Adi, "Kerjasama TNI-Polri dalam Penguatan Pertahanan Guna Menanggulangi Terorisme di Indonesia" (2024) 7:10 JIIP - J Ilm Ilmu Pendidik 11691-11696.

<sup>23</sup> Tantimin, Situmeang & Agustin, *supra* note 11.



definitively regulated in legislation, leading to challenges in harmonizing and synergizing efforts among relevant institutions in countering terrorism in Indonesia. A clear restructuring of authority and effective coordination among the National Police, BNPT, and TNI are urgently needed to ensure that counter-terrorism efforts are carried out optimally, avoid task conflicts, and guarantee the security and well-being of the entire community.

The lack of clarity regarding the regulation of counterterrorism measures handled by the Indonesian National Police, the National Counterterrorism Agency, and the Indonesian Armed Forces became even more apparent when Law No. 3 of 2025 concerning Amendments to Law No. 34 of 2004 was officially enacted on May 15, 2025, following thorough deliberations in the House of Representatives of the Republic of Indonesia (DPR RI) and approval by the President of the Republic of Indonesia. The enactment of this Law is part of the government's efforts to strengthen and adapt the authority and role of the Indonesian National Armed Forces (TNI) in addressing the increasingly complex dynamics of security threats in the modern era. With the enactment of this Law, it is hoped that the TNI can carry out its duties more effectively and optimally in line with the demands of the times, particularly in maintaining national sovereignty and supporting national stability. This legislative process also involved input from various stakeholders, including defense institutions, academics, and the general public, to ensure that the resulting law addresses strategic challenges while respecting democratic principles and human rights.

Law No. 3 of 2025 amending Law No. 34 of 2004 regulates a number of important provisions that update and strengthen the role and functions of the Indonesian National Armed Forces (TNI) in line with the dynamics and challenges of contemporary defense. One of the main aspects amended concerns the status of the TNI, which is now explicitly placed under the authority of the President as the Supreme Commander with the authority to deploy and use military force, thereby clarifying the chain of command and accountability in the execution of national defense tasks. The law also regulates adjustments to the TNI's primary duties, which are no longer solely focused on defending the nation from conventional military threats but also expand its authority to address non-military threats and maintain national stability, through support from various ministries or state agencies when necessary.

In addition, the Law specifically regulates the placement of TNI soldiers in ministries and state institutions as part of the integration of the military's role in non-combat operations, both in the context of domestic security and the implementation of other strategic tasks that support national defense. This law also updates provisions regarding the length of military service for TNI personnel, providing flexibility in managing military human resources to align with operational needs and adaptive defense strategies in response to evolving national and global security situations.

Furthermore, Law No. 3 of 2025 mandates the strengthening of defense policy coordination and administrative support for TNI strategic planning under the coordination of the Ministry of Defense, in order to ensure the synchronization of policies and the effective and efficient implementation of national defense programs. This change also reflects the affirmation of civilian supremacy in the



management of the TNI in accordance with democratic principles and human rights, so that the TNI's role remains relevant and professional in safeguarding sovereignty while contributing to the realization of sustainable security. Thus, the substance of Law No. 3 of 2025 addresses various important aspects, including the status, primary duties, deployment of personnel, service periods, and strategic management of the TNI organization, all aimed at optimizing the TNI's role in the increasingly complex context of national defense in the modern era. One of the provisions regulated by Law No. 3 of 2025 pertains to the TNI's authority regarding terrorism.

Law No. 3 of 2025 concerning Amendments to Law No. 34 of 2004 explicitly regulates the authority of the Indonesian National Armed Forces (TNI) in dealing with and overcoming terrorism as part of its main duties in maintaining the sovereignty and integrity of the Unitary State of the Republic of Indonesia (NKRI). Under Article 7 of the Law, one of the TNI's primary tasks is to counter terrorist acts through military operations other than war (OMSP), meaning the TNI has the authority to take military actions on a limited and controlled scale against terrorist threats. The TNI's involvement is not intended to replace the law enforcement role of the Police, but rather as a supportive and enforcement effort against terrorist threats that endanger national stability and security on a broader scale.

In addition, Law No. 3 of 2025 stipulates that the use of TNI military force in handling terrorism must be under the command of the President as Commander-in-Chief and must remain coordinated with the National Counterterrorism Agency (BNPT) and the Police, so as not to cause overlapping of authority and to maintain harmony in the national counterterrorism system. This law also emphasizes that the involvement of the TNI in countering terrorism includes functions of deterrence, prevention, enforcement, and recovery, with involvement that is limited and focused on strategic and specific targets that require military capabilities. Structurally, defense policies and strategies related to the implementation of terrorism security tasks are coordinated by the Ministry of Defense, enabling the TNI to respond to terrorism threats swiftly and effectively in the national interest.

Thus, the substance of Law No. 3 of 2025 provides formal legal reinforcement regarding the authority of the TNI in the context of counterterrorism, which is an integral part of military operations other than war. This reflects a shift in the paradigm of terrorism response in Indonesia from relying solely on law enforcement agencies to an approach that involves the military in a limited, measured, and responsible manner, particularly in addressing complex and organized armed threats. The existence of this norm also reaffirms the state's commitment to safeguarding sovereignty and national security while prioritizing inter-agency coordination and strict control mechanisms to ensure that the involvement of the TNI aligns with legal frameworks and principles of human rights.

The issue of terrorism authority involving the Indonesian National Armed Forces (TNI), the National Counterterrorism Agency (BNPT), and the National Police (Polri), as stipulated in Law No. 3 of 2025, has the potential to cause significant legal disharmony due to overlapping and unclear boundaries of authority between these institutions. This law grants the TNI the authority to conduct military operations other than war (OMSP) in countering terrorist acts, particularly in high-escalation situations that threaten the sovereignty and territorial integrity of the state.



However, these authorities appear to be inadequately detailed and measured in terms of implementation, thereby opening the door to multiple interpretations and conflicts with the authorities of the BNPT, which serves as the primary coordinator and controller of counter-terrorism policies, and the Police, which plays a central role in enforcing criminal law against terrorism perpetrators. For example, the TNI's functions in preventing, suppressing, and countering terrorism through military means sometimes overlap with the tasks of the BNPT and the police, particularly in the areas of intelligence and operations in civilian areas, which traditionally fall under the domain of law enforcement agencies.

Conceptually, the involvement of the TNI in counterterrorism efforts should be based on political decisions that take into account the escalation of threats and should be a last resort after law enforcement efforts by the Polri. However, in practice, there is often a mismatch between formal authority and the reality of the task, leading to potential role competition, functional confusion, and even institutional friction that could result in weak legal protection for citizens and reduced public trust in national law enforcement. Therefore, the main issue that arises is the need for clearer and more detailed legal norms for implementation, a clear division of authority, and effective coordination and control mechanisms between the National Counter-Terrorism Agency (BNPT), the TNI, and the National Police to ensure that counter-terrorism efforts can be carried out without causing conflicts of authority or human rights violations.

The legal disharmony related to counterterrorism authority in Indonesia, as stipulated in Law No. 3 of 2025, has crucial and complex legal implications. This disharmony arises from overlapping authorities between the Indonesian National Armed Forces (TNI), the National Counter-Terrorism Agency (BNPT), and the Police (Polri), each of which has different mandates but operates in the same domain, namely counter-terrorism. This also poses serious legal risks, such as abuse of authority, human rights violations, and legal uncertainty for the public, due to the lack of oversight and control over the actions of law enforcement agencies that may conduct operations in civilian areas without strict procedures.

This disharmony can cause problems in terms of accountability and transparency in the enforcement of anti-terrorism laws, where each institution can claim conflicting authority or carry out operations that are not well integrated, making it difficult to be legally accountable to the public and supervisory institutions. In this context, the unclear role of the TNI in counter-terrorism operations, which should be under the coordination of the BNPT and Polri, creates a risk of deviation that could potentially threaten the principle of the rule of law as mandated in Article 1 paragraph (3) of the 1945 Constitution. Additionally, this disharmony also has the potential to weaken public trust in the enforcement of national law, as allegations of abuse of power and human rights violations frequently arise in the context of poorly coordinated counter-terrorism operations.

## **II. Future Efforts to Harmonize Laws on Counterterrorism Authorities in Indonesia**

Legal harmonization in legislation is a crucial aspect in creating an effective, consistent, and reliable legal system in a country. Without harmonization, various regulations made by legislative bodies may conflict with each other, overlap, or even



create legal vacuums that weaken legal certainty for the public and law enforcement officials. Legal harmonization aims to align various norms, principles, and provisions within the legal framework to prevent rule conflicts that could cause confusion in the practical implementation of the law.<sup>24</sup> In addition, harmonization is also important to ensure consistency between new laws and existing legal frameworks so as not to undermine the integrity of the national legal system as a whole. With harmonization, the function of legislation in providing certainty, justice, and benefits can be optimally realized.

In addition, legal harmonization is a key foundation for maintaining social and political stability because the public will feel protected by clear rules that do not conflict with other laws, thereby increasing the sense of justice and public trust in the state and legal institutions. In the context of a state governed by the rule of law that prioritizes democratic principles and human rights, harmonization not only resolves technical issues of overlapping regulations but also prevents potential abuse of power by state officials due to unclear norms. Therefore, the formulation and amendment of laws and regulations must be carried out through a comprehensive approach that involves various stakeholders, considering the hierarchy and correlation between laws, government regulations, and other implementing regulations.<sup>25</sup> This approach also supports the creation of a national legal system that functions as the commander in regulating all aspects of national and state life in a fair, responsive, and sustainable manner.

Furthermore, legal harmonization also plays a strategic role in ensuring good governance and facilitating coordination between state institutions, both at the central and regional levels.<sup>26</sup> When all regulations are well harmonized, public policies can be implemented more effectively without encountering bureaucratic obstacles due to differences in interpretation or legal conflicts. This, in turn, accelerates the achievement of national development goals and protects the rights of citizens comprehensively. Thus, legal harmonization is not merely an administrative necessity but also a fundamental instrument for strengthening the rule of law, building public trust, and creating a just and civilized nation. Therefore, harmonization efforts must be a top priority in the process of formulating, evaluating, and revising legislation to ensure that the law truly functions as an effective regulatory tool and protector of the rights and interests of all segments of society.

Vertical and horizontal legal harmonization are two important concepts in the system of lawmaking that aim to create harmony and consistency in legal norms.<sup>27</sup> Vertical harmonization refers to the alignment of laws and regulations of different levels or hierarchies, such as harmonization between laws and government

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<sup>24</sup> Ruetaitip Chansrakaero Ermanto Fahamsyah, "The Legal Politics Harmonization of Sustainable Agricultural Policy" (2022) 16:2 J Ilmu Huk 175.

<sup>25</sup> Ahmad Redi, *Hukum Pembentukan Peraturan Perundang-Undangan*, 1st ed (Jakarta: Sinar Grafika, 2018).

<sup>26</sup> Tina Amelia, Evita Isretno Ishardi & Hidayati Hidayati, *Harmonizing Consumer Protection Laws: E-commerce as Challenges and Opportunities for Global Businesses* (Atlantis Press SARL, 2023).

<sup>27</sup> Bagus Surya Dharma et al, "Harmonization of laws regulating the formation of village government work plan drafting teams" (2025) 2:2 Ex Aequo Bono J Law 69–81.



regulations, or between provincial regulations and local regulations.<sup>28</sup> The aim is to ensure that lower-level regulations do not conflict with higher-level regulations, so that the principle of *lex superior derogat legi inferiori*—higher-level regulations override lower-level regulations—can be effectively realized. With vertical harmonization, legal certainty can be maintained, making regulations more effective and efficient in law enforcement.<sup>29</sup> Meanwhile, horizontal harmonization is the process of aligning laws and regulations that are at the same level and regulate similar or related fields.<sup>30</sup> An example of this is the harmonization of various provincial regulations or regulations issued by government agencies at the same level. Horizontal harmonization aims to avoid conflicts or overlapping regulations that could cause legal confusion, as well as to ensure the consistency of policies and regulations based on the principle of *lex posterior derogat legi priori*, whereby newer regulations supersede older regulations at the same level.<sup>31</sup>

These two types of harmonization complement each other and must be carried out systematically from the formulation to the evaluation of regulations, so that overlapping norms and inconsistencies between regulations can be minimized. In addition, good legal harmonization also ensures the integration of the national legal system, provides certainty, justice, and benefits for the community, and supports effective and accountable governance. Without vertical and horizontal harmonization, the legal system is vulnerable to disharmony, which can weaken the supremacy of law and cause confusion for officials and the public in the consistent application of law. Therefore, vertical and horizontal harmonization are the main foundations for creating a legal system that is orderly, integrated, and responsive to the social, economic, and political developments of the country.

Legal disharmony related to counterterrorism authority in Indonesia, as stipulated in Law No. 3 of 2025 and various other laws, creates the potential for overlapping authority between the Indonesian National Armed Forces (TNI), the National Counterterrorism Agency (BNPT), and the Indonesian National Police (Polri), which needs to be resolved through horizontal and vertical harmonization. Legal harmonization strategies, both vertically and horizontally, are crucial to addressing potential overlapping authorities between the Indonesian National Armed Forces (TNI), the National Counter-Terrorism Agency (BNPT), and the Police (Polri) in counter-terrorism efforts as stipulated in Law No. 3 of 2025 and other regulations. Vertical harmonization must be carried out by aligning lower-level implementing regulations, such as government regulations, presidential regulations, and technical regulations, with the principles outlined in the parent law, ensuring that the roles and authorities of each institution are clear and do not conflict. This

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<sup>28</sup> Bimo Tresnadipangga, Fokky Fuad & Suartini Suartini, “Harmonisasi Peraturan Perundang-Undangan Dalam Pelaksanaan Bantuan Sosial di Republik Indonesia” (2023) 12:1 *Binamulia Huk* 213–226.

<sup>29</sup> Agnes Fitryantica, “Harmonisasi Peraturan Perundang-Undangan Indonesia melalui Konsep Omnibus Law” (2019) 6:3 *Gema Keadilan* 311.

<sup>30</sup> Atika Ismail Muhammad Syarif Askolani, Serlika Aprita, “Harmonisasi Hukum Terhadap Penundaan Kewajiban Pembayaran Utang Perspektif Substansi Struktur Dan Budaya Hukum Legal” (2023) 1:1 *Marwah Huk* 11–15.

<sup>31</sup> Nurfaqih Irfani, “Asas *Lex Superior*, *Lex Specialis*, dan *Lex Posterior*: Pemaknaan, Problematika, dan Penggunaannya dalam Penalaran dan Argumentasi Hukum” (2020) 16:3 *J Legis Indones* 305–325.



requires the involvement of regulatory agencies together with relevant institutions, including the Ministry of Law and Human Rights, to ensure that each derivative regulation does not cause ambiguity and supports the effective implementation of tasks. Meanwhile, horizontal harmonization is very important to align regulations and policies between the main counterterrorism agencies so that there is no overlap or conflict of operational authority in the field.

Synergy between institutions through official coordination forums, such as those frequently held by the BNPT together with the Indonesian National Police and the Indonesian Armed Forces, needs to be strengthened with clear standard rules and technical guidelines that regulate the mechanism for division of tasks, decision-making procedures, and the implementation of joint operations in countering terrorism. Furthermore, this legal harmonization must also prioritize the principles of accountability, transparency, and respect for human rights to prevent abuse of authority and maintain public trust in law enforcement agencies. Through structured and consistent vertical and horizontal harmonization, the phenomenon of legal disharmony that has long been the root of issues related to the authority of the TNI, BNPT, and Polri can be minimized, thereby making counter-terrorism cooperation more effective, efficient, and aligned with the principles of the rule of law.

The implementation of vertical and horizontal legal harmonization must also be supported by joint training, integrated intelligence information exchange, and regular evaluation of inter-agency coordination mechanisms, so that counterterrorism measures can be implemented without causing internal conflicts or the risk of legal violations. Substantively, integrated and sustainable legal harmonization will ensure legal certainty, clarify the strengthening of each institution's authority, and optimize national efforts to combat terrorism professionally and by national and international legal standards. In this context, it is important to emphasize the respective authorities of each institution, where the BNPT focuses on countering terrorism, the police are involved in enforcing criminal law related to terrorism, and the TNI focuses on terrorism crimes of a more massive nature, particularly those involving threats to national defense.

## **CONCLUSION**

The legal implications of legal disharmony in the authority to combat terrorism in Indonesia, as stipulated in Law No. 3 of 2025, actually reinforce the overlap of authority and hamper the effectiveness of efforts to eradicate terrorism. The overlapping authority between the Indonesian National Armed Forces (TNI), the National Counter-Terrorism Agency (BNPT), and the Police, without clear coordination and boundaries, creates opportunities for inter-institutional conflicts, abuse of authority, and human rights violations. The lack of clarity in roles and the absence of control mechanisms also risk undermining the principle of the rule of law and reducing accountability and transparency in law enforcement, thereby weakening public trust in national law enforcement institutions. Therefore, a more harmonious and synergistic restructuring of authority among relevant institutions is crucial to maintaining legal stability and the success of counter-terrorism efforts in Indonesia.

Future efforts to harmonize laws related to counterterrorism authority in Indonesia must be carried out in an integrated manner through systematic and sustainable vertical



and horizontal harmonization. Vertical harmonization needs to focus on adjusting and aligning lower-level implementing regulations with the provisions of Law -Law No. 3 of 2025 and other relevant laws and regulations, so that the roles and authorities of the Indonesian National Armed Forces (TNI), the National Counter-Terrorism Agency (BNPT), and the Police (Polri) are clearly defined without overlapping or conflicting legal provisions. This harmonization must uphold the principles of accountability, transparency, and respect for human rights, to prevent abuse of authority and strengthen public confidence in counter-terrorism law enforcement efforts. The substance of such structured legal harmonization will provide legal certainty, clarify the division of authority—where the BNPT focuses on national terrorism control and prevention, the Police primarily responsible for enforcing terrorism-related criminal laws, and the TNI tasked with addressing terrorism threats of a national defense nature that are more massive in scale—while optimizing overall counter-terrorism efforts by national and international standards. With a well-developed harmonization strategy, Indonesia can establish an integrated and accountable counterterrorism system that maintains the stability of national security and sovereignty sustainably.

### **DECLARATION OF CONFLICTING INTERESTS**

The authors state that there is no conflict of interest in the publication of this article.

### **FUNDING INFORMATION**

None.

### **ACKNOWLEDGMENT**

None.

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