



On the Role of the Indonesian Military in Counterterrorism

By

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Abstract

The tabled draft presidential regulation on the role of the Indonesian military in countering terrorism is flawed in several respects. The issues stem from the lack of agreement on the nature of terrorist threat and the role of the military in countering it as well as how the whole security sector should be governed.

The public discussion on the role and deployment of the Indonesian Military (TNI) in countering terrorism has heated again after the government sent a draft Presidential Regulation (*Perpres*) on the matter to the House of Representatives (DPR). The DPR is expected to review the draft with reference to the 2018 Terrorism Law and provide the government with recommendations. President Joko Widodo will then decide whether to proceed with the current draft or to revise it.

Looking at the content of the tabled draft, there are a number of issues that could potentially be counterproductive towards the agenda to strengthen military professionalism, the principle of civilian control over the military, as well as the effectiveness of the counterterrorism effort itself.

What are the Problems?

First, Article 9 (1) of the draft *Perpres* states that the TNI can be deployed to counter terrorist attacks that have escalated to the point that they put state ideology, sovereignty, territorial integrity, and national safety in danger. Furthermore, Article 9 (5) states that the threat analysis and determination of whether a particular situation justifies the deployment of military forces are conducted *together* by the National Police, TNI, and the National Counterterrorism Agency (BNPT).

These articles, in principle if not in substance, are not in line with what has already been agreed upon in the 2018 Terrorism Law. Article 43E (2) of the law states that the BNPT shall serve the role as the



analysis and crisis center to facilitate the president in formulating policy and responses towards any terrorism-related crisis, including policies related to resource mobilisation. The law, in other words, has inaugurated BNPT as the focal point for national counterterrorism efforts especially when it comes to assisting the president in conducting threat assessment. In this framework, other stakeholders, including the Police and TNI, are involved in threat assessment to the extent that they are under the coordination of the BNPT.

Second, the 2018 Terrorism Law stresses that in the context of national counterterrorism effort, the role of the TNI is limited to countering the *acts of terrorism (aksi terorisme)*. The draft *Perpres* further lists acts of terrorism that call for the TNI to step in. The list includes terrorist acts against the state leadership, national strategic and vital objects, as well as Indonesian citizens and diplomatic missions overseas. Using this framework, the space for the civilian authority to use the TNI forces in countering terrorism is actually quite limited. There is not much space, for instance, to use military capabilities in tasks that are preventive in nature such as counter-narrative or counterpropaganda. It might not be a coincidence that in the 2018 Terrorism Law, the phrase of “terrorism acts” (*aksi terorisme*) are only used in the section on the role of the TNI.

A number of provisions in the draft *Perpres* do not appear to fit that logic. In addition to enforcement (*penindakan*), the *Perpres* rules that the TNI is tasked with prevention (*penangkalan*) and restoration (*pemulihan*). *Penangkalan* is intended to be achieved through intelligence operations, territorial operations, information operations, and the so-called “other” operations which the draft *Perpres* does not bother to elaborate. The whole concept of *pemulihan* is also not elaborated. This type of operations, however, could potentially be used to target not the acts of terrorism themselves but other related activities such as the spread of violent extremist ideologies or deradicalisation programs. These are the types of activities that do not require military firepower but could sway the focus of the TNI and are prone to misconducts.

Third, Article 14 of the draft *Perpres* rules that the operational cost of military’s counterterrorism operations will be covered by the national state budget, provincial governments’ budget, or the so-called “other legitimate sources”. The 2004 Law on Local Governments rules that the central government has complete authority over defence-related matters - besides foreign policy, security, judiciary, monetary and fiscal, and religion. That the military is funded by the state budget, as stated in the 2002 Law on State Defence and 2004 Law on the TNI, is a consequence of that stipulation.

Opening up the space for the TNI to get money from sources other than the state budget would lead





to a major setback in military reform. In the past, limited funding from the central government forced the TNI to build a vast network of off-budget sources of funding. Due to the lack of transparency and accountability, off-budget funding had led to the sub-optimal defence posture as money was not effectively used for force modernisation as it should be. It was also difficult for the central government to maintain effective control over the use of budget when the money came from multiple sources.

What Should be Done?

Civil-military relations - how the military views its position vis-à-vis the society and what role and function the society deem legitimate for the military to assume - is always shaped by historical experiences. It is unique for each country, depending on a country's socio-political context. In the case of Indonesia, the memories of living under a military tyranny for over three decades have not escaped the minds of the public. It is not surprising, therefore, that any sign of the military doing non-defence tasks again would trigger anxiety.

In this circumstance, the government must be extra cautious in designing any legal instrument which might lead to the expansion of the role of the military. In the case of the military's role in counterterrorism, a number of principles should always be kept in mind.

First, the military, by law, is the state's legitimate instrument of coercion. It is lethal. As such, the use of military force in countering terrorism should be considered as the last resort, temporary, and proportionate to the level of threat. Related legal instruments should be able to ensure that the securitisation of terrorism remains under control and does not lead to excessive use of coercive force.

Second, the deployment of the TNI in countering terrorism should always respect the principle of civilian control over the military. The 2004 Law on the TNI rules that the TNI carries out its duty as a defence instrument based on the state's policy and political decision. The Law describes "political decision" as policy reached collectively by the government and the DPR through certain working mechanisms. These mechanisms should be elaborated and streamlined to reflect civilian control over the military while ensuring effective use of military forces in responding towards terrorist threats.

Third, military involvement in counterterrorism should be in line with the broader agenda of professionalising and streamlining Indonesian security sector governance. Since the early 2000s, which saw the passing of several foundational security-related laws such as the 2002 Law on State Defence and 2004 Law on the TNI, security sector reform has seemingly lost its momentum. One of the major issues has been the lack of nation-wide conceptual agreement of "national security". Discussion





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on this matter has been counterproductive as the ancient dichotomy between “defence” against external military aggression (*pertahanan*) and internal “security” (*keamanan*) still exists. The current discussion on the role of the military in counterterrorism should become the renewed momentum to go beyond this dichotomy. Legal infrastructure should be streamlined by pressing forward the law on national security which has been pending for too long. Meanwhile, institutional infrastructure should be further developed by establishing a national security council as the ultimate forum for threat assessment and for the president to gather inputs on any matter related to national security.

Finally, discussion on the involvement of the military in countering terrorism, or any non-traditional security challenge, should be redirected. The question is not whether the TNI may be involved in counterterrorism but “when” and “with what mechanism should the TNI be involved”. In any country, the military is and will always be one of the most versatile institutions. Its posture, deployment, command structure and logistical skills often make the military the go-to institution whenever a crisis hits, whether it is caused by terrorist attacks or a pandemic. These potentials should not be wasted. But it should be used in a democratic and accountable manner.





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