

EFFORTS TO OVERCOME JURIDICAL CONSTRAINTS IN COUNTERING TERRORISM IN INDONESIA BY THE INDONESIAN NATIONAL ARMED FORCES

Arief Fahmi Lubis

Military Law School, PTHM/ AHM, Jakarta, Indonesia

Email: arieffahmilubis0@gmail.com

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ABSTRACT

The description of acts of terrorism as a crime against the state is a serious threat to the sovereignty of each country. Acts of terrorism in Indonesia can now be qualified as military threats, namely threats using organized armed forces, which are considered to have capabilities that endanger the state's sovereignty, the territorial integrity of the country, and the safety of the entire nation. The *TNI's* (Indonesian National Armed Forces) efforts to overcome obstacles in dealing with terrorism in Indonesia are carried out under the Government Regulation in the lie of Law in dealing with it. Through the role of the *TNI* that is shown to the community and government, showing that the *TNI* carries out the rights and obligations according to its position, it carries out a function. From looking at these roles, we can illustrate that roles can also be interpreted as individual behavior, which is important for the social structure of society because social beings tend to live in groups. Also, empirical juridical research, namely conducting studies based on observations of the handling of acts of terrorism in Indonesia involving the *TNI*. It can be concluded that *TNI* institutions can be used as material for consideration in authority to deal with acts of terrorism.

Introduction

The idea of the rule of law based on the principles of democracy and social justice in a unified Indonesian society is an idea that seems to be based on the perception of the founders of the Indonesian state on the historical reality that the Indonesian nation has experienced (Setiardja, 1990). The historical experience of the Indonesian nation under the rule of very oppressive feudal kings and then the western colonizers who also oppressed and exploited natural resources and society, the Indonesian people realized the need to build a state of law based on the principle that all actions and authorities of institutions The state must be based on laws. The roles, duties and authorities of every

State institution, including the roles, duties and authorities of the Indonesian National Armed Forces, must be based on the law as a manifestation of one of the characteristics of the rule of law.

Authority is an important part of the Law of Governance (Administrative Law) because the new government can carry out its functions based on its authority (Ridwan, 2020). The legitimacy of government action is measured based on the authority regulated in the legislation (Koentjoro, 2004). Regarding authority, it can be seen from the State Constitution, which gives legitimacy to Public Bodies and State Institutions in carrying out their functions. Authority is the ability to act

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given by applicable law to carry out legal relationships and actions.

Authority is obtained by attribution, delegation, and mandate. Each of these is explained as follows: Authority obtained by "attribution," namely the granting of new government authority by a provision in the legislation (Indroharto, 2000). Thus, a new government authority is created. In the delegation, there is a delegation of an existing authority by the State administration Agency or Position that has obtained an attributive government authority to another State administration Agency or Position. A delegation is always preceded by the attribution of authority. There is no granting of new authority or delegation of authority from one State Administration Agency or Position to another in the mandate (Marbun, 2011).

Terrorism is "a tactic of coercion that employs or threatens to employ violence to spread fear and achieve political or ideological objectives" (Almaged, 2021). The description of acts of terrorism as a crime against the state and a serious threat to the sovereignty of each country can be seen from the latest developments in acts of terrorism in Indonesia, namely the Santoso armed group in the Poso region, which is the East Indonesia Mujahidin group (MIT), namely the Islamic State terror group (Syafrudin, 2000). In the country and establish relations with ISIS. In dealing with the terrorist acts of Santoso's armed group, the Tinombala operation has been held since January 10, 2016. In this case, the involvement of the *TNI* in assisting the Police has succeeded in shooting dead the MIT leader, Santoso alias Abu Wardah. One of his subordinates, Muchtar from Palu, in a shootout with the *TNI*. Finally, the *TNI* has also succeeded in arresting Jumiatus alias Umi Delima, the second wife of the late Santoso (Ihsan, 2019).

These events have shown that acts of terrorism in Indonesia (Santoso's armed group) have developed, which are not just extraordinary crimes. However, acts of terrorism in Indonesia (related to the ISIS organization) are transnational crimes aimed at separating from the Republic of Indonesia (Sholikin, 2018).

When referring to the formulation of Article 7 paragraph (2) and its explanation, it

is very clear and firmly determined that a military threat is a threat that uses organized armed force, which is considered to have capabilities that endanger the sovereignty of the state, the territorial integrity of the state and the safety of the entire nation. One form of military threat is armed terror acts formulated in the elucidation of Article 7 paragraph (2) letter e. The most important thing and needs to be understood by all components of the nation is that the military threat places the *TNI* as the main component, including in overcoming armed terror acts in Indonesia.

The problem is because, in the explanation of Article 7 paragraph (2), there is no limitation on when the *TNI* is given the authority to directly handle the armed terrorism act, including the forms of armed terrorism that the *TNI* can handle, so that if an armed terror act occurs, the role of the *TNI* is still limited to assisting the Police, such as in the Tinombala operation in Poso.

Furthermore, Article 7 paragraph (2) letter b number 3 of Law Number 34 of 2004 concerning the *TNI* states, "(2) The main tasks as referred to in paragraph (1) are carried out by "b. military operations other than war" and point 3. "Overcoming acts of terrorism." Thus, if we refer to the formulation of Article 7 paragraph (2) letter b number 3 above, it is very clear that one of the main tasks of the *TNI* in military operations other than war is "overcoming acts of terrorism." This means that the *TNI's* authority in dealing with acts of terrorism can be exercised through a request or without a request from the Police as formulated in Article 7 paragraph (2) lift 10 of the *TNI* Law. In other words, the *TNI* "could" have the "authority" to deal directly with acts of terrorism, especially armed terror acts that occurred in Indonesia, without going through a request for assistance (Indonesia, 2004).

The question is "whether the authority of the *TNI* as stipulated in Article 7 paragraph (2) letter b number 3 can be implemented without waiting for other laws and regulations or implementing regulations?". To answer this question, we need to look at the formulation of Article 7 paragraph (3) of the *TNI* Law, which states, "(3) The provisions as referred to in paragraph (2) are implemented based on state political policies and decisions". The formulation of the article above explicitly

stipulates that the duties of the *TNI* in Military Operations Other Than War (*OMSP*), including the authority of the *TNI* in "overcoming acts of terrorism," can only be carried out if there are state policies and political decisions." According to the Elucidation of Article 5 of Law Number 34 of 2004 concerning the *TNI* that "What is meant by state political policies and decisions are the political policies of the government together with the House of Representatives which are formulated through a working relationship mechanism between the government and the House of Representatives, such as consultation meetings and working meeting under the laws and regulations" (Indonesia, 2004).

Thus, the *TNI* can handle acts of terrorism directly without going through a request if a state policy and political decision are issued between the Government/President and the *DPR RI* (Government committee). The next problem is that until now, there have been no state political policies and decisions from the President and the *DPR RI* related to the *TNI's* task of dealing with acts of terrorism, so the provisions as formulated in Article 7 paragraph (2) letter b number 3 cannot be implemented.

The concept of *rechtstaat* and the rule of law are conceptions of the rule of law in our language in Indonesia. *Rechtstaat* is the concept of the rule of law according to the European version and tradition. However, the notion as it is understood today is different from the classical period (Siallagan, 2016). Likewise, the concept of the rule of law, which is more or less also the conception of the rule of law according to the Anglo-American version and tradition, has also developed its meaning from time to time. If we look at the rule of law in Indonesia, it is related to the ideas and inspirations of the founders of the Republic of Indonesia. It is peculiar that the Indonesian rule of law is built on democracy and social justice principles in a unified Indonesian society. This can be seen clearly when we read the main ideas contained in the Preamble to the 1945 Constitution, which contain the following main ideas: a) The state protects the entire Indonesian nation and the entire homeland of Indonesia based on unity by realizing social justice for all Indonesian people. b) A

sovereign state of the people, which is a state-based on populist and representative deliberation.

Furthermore, in the Elucidation of the 1945 Constitution, when it was not yet amended, Indonesia was a state based on the law (*Rechtstaat*), not based on mere power (*machtsstaat*). This is stipulated in Article 1 paragraph (3) of the 4th amendment of the 1945 Constitution, which states, "The State of Indonesia is a state of law." The provisions of the article are the constitutional basis that Indonesia is a country based on law, and the law is placed as the only rule of the game in the life of society, nation and state (supremacy of law). The rule of law is our system of government, this is explained by our Constitution (Adji, 1977). It contains "safeguards" regarding the human personality so that it should not be violated, in addition to showing the desire to balance the interests of the community that are protected as well. He aspires that "dignity of men" can be enjoyed by everyone, he upholds human rights among which "free opinion" and "free expression" are fundamental and essential for democratic life in a state of law. Therefore, all aspects of life, both the social, political, cultural, economic, and so on, are regulated by law. All problems or problems that arise in people's lives are resolved according to applicable law.

From the various definitions of authority mentioned above, the researcher concludes that authority has a different meaning from competence. Authority is formal power that comes from the law. At the same time, authority is a specification of authority, meaning that whoever (legal subject) is given authority by law. He is authorized to do something that is within that authority. The authority possessed by government organs (institutions) in carrying out real actions, making arrangements or issuing decisions is always based on the authority obtained from the constitution by attribution, delegation, and mandate.

In addition to attribution, delegation and mandate as sources of authority, other sources of authority are also known, namely "Discretion," which is a decision and action determined and carried out by government officials to overcome concrete problems faced in the administration of government in terms of laws and regulations (Salim, 1994). Which

provides choices, does not regulate, is incomplete or unclear, and there is government stagnation". The need for discretion is due to the development of society. Often, certain urgent circumstances prevent Government Officials/ Administration Agencies from exercising their authority, especially those bound (gebonden bevoegheid) to normally carry out legal and factual actions.

Method

This research was conducted using a normative juridical research method by conducting a comprehensive study based on legislation and empirical juridical research, namely conducting an assessment based on observations of the handling of acts of terrorism in Indonesia involving the *TNI* (Sari et al., 2021). The research method can be described as follows: 1) data collection methods include literature study in order to obtain materials and information needed under the subject matter with data material from primary law and secondary law, then the interview method, interview techniques are carried out directly to the research sample, namely officials who are competent in the field of forming laws and regulations within the ministry of defense of the Republic of Indonesia, the ministry of law and human rights and the *TNI* Headquarters, interviews were conducted with a question guide to deviate from the problems studied. 2) data analysis method, in which the data has been obtained from the study results and then continued with quantitative data analysis, namely analyzing data based on its quality and then described, then it becomes an understandable sentence form (Valerine, 2014).

Moreover lastly, using the approach method used in legal research, there are several approaches. With this approach, the researcher will get information regarding the problems being tried to find answers to. The approach used in this research is to use the approach of legislation. Normative juridical research explains the legal principles contained in the statutory provisions.

Results And Discussion

In an interview with Anang Puji Utama as the Director of Legislation, the Director-General of Stronghold emphasized that if you

look at the formulation of Article 7 paragraph (2) of the *TNI* Law, it is unusual for the mandate as regulated in paragraph (3) because the delegation should be concrete. He suggested that government regulation be formed to implement the provisions of Article 7 paragraph (2) letter b number 3 because it is in line with the spirit of the constitution. In contrast, if it is in the form of a presidential regulation, it is considered not in line with the constitution in Article 5 paragraph (2) of the 1945 Constitution.

Meanwhile, the results of interviews with members of the Indonesian House of Representatives from Commission III of the PPP faction confirmed that implementing the provisions of Article 7 paragraph (2) letter b number 3 is more appropriate if it is made in the form of a Presidential Regulation. The reason is that the *TNI* Law does not regulate the delegation of *OMSP* tasks through the PP as mandated in Article 5 paragraph (2).

Muhammad Syafei conveyed the same thing as Chair of the special committee on the Terrorism Bill from the DPR RI, who emphasized that to implement the provisions of Article 7 paragraph (2) letter b number 3 is through the establishment of a Presidential Regulation as the attribution of Article 4 paragraph (1) of the 1945 Constitution.

There are several discussions in this discussion which consists of sections. First, we will discuss the restructuring of the role of various state institutions, especially the *TNI*, and the role of the Indonesian military as a pioneer, stabilizer and dynamist of nation-building, which during the 32 years of New Order rule seemed untouched, has become a debate—crowded from various circles of society, especially from the college community and civil political elites.

The debates that sound like lawsuits even tend to blaspheme and corner, among others, as the biggest human rights violator in Indonesia, dominating the role in the political field, and there are many other lawsuits which, if not handled wisely and wisely by the *TNI* leadership will cause new problems. The emergence of blasphemous claims from various circles of society against the *TNI* so far considers that the *TNI* is less professional in managing and handling every problem faced by the nation and state, both in its role in the field of defense and security and socio-politics. In the context of a

complete understanding of the role of the *TNI* in the present and the future, it includes firstly, defending the country's sovereignty from external threats, secondly, maintaining domestic security from internal threats, and thirdly, making an active contribution to nation-building. Fourth, encourage the development of democracy and civil society, fifth, help improve people's welfare in the broadest sense and sixth, play an active role in peacekeeping tasks in the context of efforts to realize world peace.

Flowing from the dynamics of the strategic environment, the potential threats to face are potential. There are water security issues in the region, border areas, territorial violations, human rights, environmental pollution, and natural disasters, which are factual. Security of the Malacca Strait and outer islands, terrorism, separatism, illegal activities, horizontal conflicts and energy scarcity.

To respond to the geographical constellation of the country and possible threats, as well as being confronted with the roles and tasks of the *TNI*, it is felt that there is a need for restructuring or realigning the roles, functions and duties of institutions, especially the *TNI* so that it is hoped that in the future the *TNI* will become a professional, effective, efficient and modern defense force. Moreover, always ready to secure and maintain the sovereignty of the State, territorial integrity and the safety of the entire Indonesian nation.

It is hoped that in the future, the role of the *TNI* as regulated in Article 10 paragraph (1) of the *TNI* Law, which states that the Indonesian National Army acts as a tool for the defense of the Unitary State of the Republic of Indonesia, "is no longer interpreted narrowly or limitedly" to deal with threats or attacks from outside countries (Invasion of the Republic of Indonesia), (aggression), but much more broadly, namely that national defense is one of the functions of state government which is an effort to realize a unified national defense in order to achieve national goals, namely to protect the entire nation and the entire homeland of Indonesia, promote the general welfare, educate the life of the nation. Nation and participate in carrying out world order based on freedom, eternal peace and social justice.

The main tasks formulated in Article 7 paragraph (1) are carried out through *OMP* and *OMSP*, whose state political policies and decisions must be implemented. The use of *TNI* forces in *OMSP* is carried out in accordance with state political policies and decisions with a priority in deploying *TNI* forces to carry out border security with neighboring countries in the form of coordinated patrols (*Patkor*); deploying *TNI* forces in conflict-prone areas and prone to lawlessness at sea and in the air; provide security for the President and Vice President and their families; alerting *TNI* forces to carry out operations to overcome armed separatist movements, overcome armed insurgencies, overcome acts of terrorism, secure strategic national vital objects, carry out world peace tasks, empower defense areas, assist local government tasks, assist the Indonesian National Police, help secure guests the state, helping to cope with the consequences of disasters, SAR, assisting the Government in securing shipping and aviation; build military cooperation with other countries, guided by the three substances of the military cooperation framework established by the Ministry of Defense, in order to build mutual trust, prevent conflict, and jointly seek the best solution, in the form of coordinated patrols, joint exercises, exchange of soldiers, visits/goodwill and other military cooperation forums, optimizing the role of the *TNI* in the form of *TNI* Service in order to support national development and improve the welfare of the community, especially remote and disadvantaged areas.

The existence of a narrow meaning of the role of the *TNI* as a means of state defense which is only tasked with dealing with threats or attacks from outside countries, has resulted in the involvement of the *TNI* in dealing with various national problems, which always gets the spotlight and criticism from various circles of society. One of them is the implementation of the *TNI's* duties in *OMSP* to overcome acts of terrorism, which getting rejection by various NGOs, human rights observers and other community groups. In general, the reason for the refusal is that acts of terrorism are the domain of the Police, and the *TNI* has no legal basis and has taken over the role of the police in the field of Kamtibmas and law enforcement.

Purnomo Sucipto, an observer of laws and regulations, in his article "What you need to know to make laws and regulations," emphasized that in drafting laws and regulations, the use of language is very important. If the public can understand the language used in the legislation, it can be expected that the legislation will be implemented. On the other hand, if the language cannot be understood, it will not be easy to expect the objectives of the legislation to be achieved. The general public (ordinary person) should easily understand the language in laws and regulations, not only by the maker, legal scholars, or legal practitioners. The language of laws and regulations is subject to Indonesian grammar rules, word formation, sentence structure, writing techniques, and spelling. However, the language of laws and regulations has its style, characterized by clarity or clarity of understanding, straightforwardness, standardization, harmony, and adherence to principles under legal requirements, both in the formulation and the way of writing. Concerning the realignment of the role of the *TNI* in regulations, it is necessary to avoid mistakes in the narrow meaning of the role of the *TNI*. The substance of the role of the *TNI* in legislation must be formulated firmly and clearly so that the limits of the formulation of the role of the *TNI* as a State tool in the defense sector are not only facing threats or attacks from outside (traditional threats) but also facing threats and disturbances from within (non-traditional threats) through *OMSP*.

The role is a dynamic aspect of the position (status) owned by a person, while status is a set of rights and obligations that a person has. If a person performs the rights and obligations according to his position, he carries out a function. The role can also be formulated as a series of certain behaviors caused by a certain position. A person's personality also affects how that role should be carried out. The roles played are essentially no different, whether those played by top, middle or lower-level leaders will have the same role.

The role is a concept of what behavior can be carried out by individuals in society as an organization. The role can also be said to individual behavior, which is important for the social structure of society. A role is an orderly

sequence that results from a position. Humans as social beings tend to live in groups. There will be interactions between community members and other members in group life. In the growing interaction between them, there is interdependence. In social life, what is called a role appears. The role is a dynamic aspect of a person's position. If a person carries out his rights and obligations according to his position, the person concerned carries out a role. To provide a clearer understanding, it is better first to understand the meaning of the role (Thoha, 1997). From some of the definitions above, the researcher can conclude that the role is an attitude or behavior that many people or groups expect of people towards someone who has a certain status or position. When associated with the *TNI*, the role does not mean the rights and obligations of individual *TNI* soldiers. However, it is the duty and authority of the *TNI* as an institution/institution.

Indonesia is a state of law. The main pillar in realizing the principle of the rule of law is the formation of laws and regulations and the arrangement of state institutions. According to the definition of experts, the definition of the role is a dynamic aspect of position or status. A person carrying out rights and obligations means that he has carried out a role.

Second, regarding the improvement of laws and regulations, the formation of laws and regulations is one of the requirements in the framework of developing national law, which can only be realized if it is supported by definite, standard, and standards methods and methods that bind all institutions authorized to make laws and regulations.

There are two kinds of legal development strategies which ultimately have implications for the character of the legal product, namely the development of "orthodox" law and the development of "responsive" law. In the orthodox legal development strategy, the role of state institutions (government and parliament) is very dominant in determining the direction of legal development. It is more positivist-instrumentalist, a powerful tool for implementing state ideology and programs. Meanwhile, in a responsive legal development strategy, it produces laws responsive to the

demands of various social groups and individuals in society.

The law concerning the formation of laws and regulations implements Article 22 A of the 1945 Constitution of the Republic of Indonesia, confirming that further provisions regarding the formation of laws are further regulated by law. The order has been implemented, namely with the enactment of Law Number 10 of 2004 concerning the Establishment of Legislation which was later replaced by Law Number 12 of 2011 concerning the Establishment of Legislation (Indonesia, 2011).

However, from the several improvements made to the Law on the formation of legislation, there is no limitation on the phrase changing the umpteenth time in the law title. As a result, law users are confused about which arrangements are still in use and the mention of a law. This happened in 3 (three) laws revised up to the third and some even up to the fourth, which can be seen from the law's title. Eventually, this will affect the parties related to the regulation.

According to Purnomo Sucipto, an observer of laws and regulations, in his article "What you need to know to make laws and regulations," Legislation is not an opinion or academic article made based on opinion or theory alone. Opinions and articles do not have the power to compel others to do or not to do. On the other hand, laws and regulations are legal documents with sanctions and consequences for regulated ones. Legislation is also a political document that contains the interests of various parties. Several things that lawmakers need to know include: 1) knowing the theory of legislation, 2) knowing the process of making laws and regulations, 3) knowing special things, and 4) knowing general things.

Concerning the formation, refinement and synchronization of legislation related to the handling/eradication of acts of terrorism, it is necessary to apply the principles of establishing laws and regulations. Based on Article 5 of Law Number 12 of 2011 concerning the Establishment of Legislations (Indonesia, 2011), forming laws and regulations must be carried out based on the principles of establishing good laws and regulations, including a) the principle of clarity of purpose, b) the principle of

institutional or official the right form, c) the principle of conformity between types, hierarchies, and content material, d) the principle can be implemented, e) the principle of usability and usability, f) the principle of clarity of formulation, g) the principle of openness.

Several laws that need to be amended or revised include: 1) Law Number 3 of 2002 concerning National Defense (*Hanneg Law*), 2) Law Number 34 of 2004 concerning the Indonesian National Armed Forces (*TNI's Law*), 3) Revised Law No. 15 of 2003 concerning the eradication of criminal acts of terrorism, 4) establishment of regulations for implementing *OMSP's* duties in overcoming acts of terrorism (Indonesia, 2004).

Meanwhile, the results of interviews with members of the House of Representatives from Commission III of the PPP faction confirmed that it is more appropriate to implement the provisions of Article 7 paragraph (2) letter b number 3 if it is made in the form of a Presidential Regulation. The reason is that the TNI Law does not regulate the delegation of OMSP tasks through the PP as mandated in Article 5 paragraph (2).

Muhammad Syafei expressed the same thing as Chair of the special committee for the Terrorism Bill from the DPR RI, who emphasized that to implement the provisions of Article 7 paragraph (2) letter b number 3 is through the establishment of a Presidential Regulation as the attribution of Article 4 paragraph (1) of the 1945 Constitution. Researchers do not agree with Dirikum Strahah Kemhan Anang Puji Utama, who emphasized that if the provisions in Article 7 paragraph (2) letter b number 3 are implemented based on a Presidential Regulation, then it is not in line with the constitution Article 5 paragraph (2). According to the researcher, the regulation in the Government Regulation will contradict the provisions of Article 5 paragraph (2), considering that in Article 7 paragraph (2), there is no delegation of *OMSP* tasks regulated by Government regulations. Meanwhile, the formation of PP is a statutory regulation in Indonesia that the President determines to carry out the Act as it should.

The content of the Government Regulation is material for implementing the Law. In the Law of the Republic of Indonesia

Number 12 of 2011 concerning the Establishment of Legislations (Indonesia, 2011), it is stated that Government Regulations as "organic" rules rather than laws according to their hierarchy must not overlap or contradict. Based on the description above, the researcher can conclude that the Government Regulation cannot be formed if there is no law that is its parent, PP cannot include criminal sanctions if the Act which is its parent does not include criminal sanctions, PP cannot expand or reduce from the provisions of the parent law, and the PP is not intended to implement the 1945 Constitution or the MPR provisions, but the law as stipulated in Article 10 of Law no. 12 of 2011. This is in line with Article 1, number 5, which states, "Government regulations are laws and regulations stipulated by the President to carry out the Act properly (Indonesia, 2011).

The last is the ratification of international conventions tied to terrorism. As a manifestation of the commitment of the Indonesian people to fight and eradicate terrorism in the world, Indonesia needs to ratify several international conventions dealing with terrorism. This is important considering that Indonesia needs a legal umbrella to combat acts of terrorism both at home and abroad. The general regulations of the government instead of law Number 1 of 2002 include 1) international conventions on terrorism and 2) international conventions relating to international conventions on terrorism.

It is hoped that the Indonesian government and the Indonesian House of Representatives will ratify all international conventions related to terrorism to anticipate if terrorist acts occur outside the territory of Indonesia so that they have a legal umbrella that can be used to combat acts of terrorism in various countries.

Conclusion

Efforts to overcome obstacles related to implementing the TNI's authority: a) terrorism must be redefined not limited to qualifying criminal acts but is a threat to ideology, state sovereignty, territorial integrity and the safety of the nation, national and international state security. b) The terrorism law must be restructured by restructuring the involvement or role of

ministries, institutions and other components of the nation through prevention, prosecution and recovery. c) it is necessary to immediately establish implementing regulations from Article 7 paragraph (2) letter b number 3 of Law Number 34 of 2004 concerning the Indonesian National Army. There is a legal umbrella for the TNI in dealing with acts of terrorism.

Researchers also provide suggestions such as an effort to overcome is to redefine the notion of terrorism as a crime against the State that threatens the sovereignty of the State. In addition, it is necessary to restructure the law by placing various state institutions, especially the TNI, in dealing with acts of terrorism, starting from the stages of prevention, prosecution and recovery. Immediate establishment of implementing regulations from the provisions of Article 7 paragraph (2) letter b number 3 of Law Number 34 of 2004 concerning the Indonesian National Army, namely in the form of a Presidential Regulation whose substance contains the role of the TNI in overcoming acts of terrorism starting from the stages of prevention, prosecution and recovery (Indonesia, 2004).

REFERENCES

- Adji, O. S. (1977). *Pers Aspek-Aspek Hukum*. Erlangga.
- Almaged, S. (2021). Disseminating knowledge: A discourse analysis of terrorism in TED talks. *Heliyon*, *7*(2), e06312. [Scopus](#)
- Ihsan, R. (2019). Peran Militer dalam Kontra-Terrorisme di Indonesia. *Deviance Jurnal Kriminologi*, *3*(1), 54–68. [Google Scholar](#)
- Indonesia, R. (2004). Undang - Undang Nomor 34 Tahun 2004 tentang Tentara Nasional Indonesia. *Sekretariat Kabinet RI, Jakarta*, (34).
- Indonesia, R. (2011). Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan. *Lembaran Negara Republik Indonesia Tahun*.
- Indroharto, S. H. (2000). *Usaha Memahami*

- Undang-Undang tentang Peradilan Tata Usaha Negara, Buku I: Beberapa Pengertian Dasar Hukum Tata Usaha Negara.* [Google Scholar](#)
- Koentjoro, D. H. (2004). *Hukum Administrasi Negara*. Ghalia Indonesia. [Google Scholar](#)
- Marbun, S. F. (2011). Peradilan Tata Usaha Negara dan Upaya Administrasi Indonesia. *Yogyakarta: FH UII.* [Google Scholar](#)
- Ridwan, H. R. (2020). *Hukum administrasi negara.* [Google Scholar](#)
- Salim, A. (1994). Perbuatan Melawan Hukum yang Dilakukan oleh Penguasa Menurut Hukum Perdata Beserta Masalah Ganti Rugi. *Bahan Kuliah Pekan Orientasi Dan Penataran Peradilan Tata Usaha Negara, Jakarta.* [Google Scholar](#)
- Sari, M. Y. A. R., Amalia, M., Ridwan, M., Jumaah, S. H., Septiani, R., Idris, M., ... Wahid, S. H. (2021). *Metodologi Penelitian Hukum.* [Google Scholar](#)
- Setiardja, A. G. (1990). *Dialektika Hukum dan Moral dalam Pembangunan Masyarakat Indonesia.* [Google Scholar](#)
- Sholikin, A. (2018). Potret Sikap Radikalisme Menuju Pada Perilaku Terorisme Di Kabupaten Lamongan. *Journal of Governance, 3(2), 184–202.* [Google Scholar](#)
- Siallagan, H. (2016). Penerapan prinsip negara hukum di Indonesia. *Sosiohumaniora, 18(2), 122–128.* [Google Scholar](#)
- Syafrudin, A. (2000). Menuju Penyelenggaraan Pemerintahan Negara yang Bersih dan Bertanggung Jawab. *Jurnal Pro Justisia Edisi IV, Universitas Parahyangan, Bandung.* [Google Scholar](#)
- Thoha, M. (1997). Dimensi-dimensi Prima Ilmu Administrasi Negara, Jakarta: PT. *Grafindo Pustaka Persada.* [Google Scholar](#)
- Valerine, J. L. K. (2014). Modul Metode Penelitian Hukum. *Edisi Revisi, (Jakarta: Fakultas Hukum Universitas Indonesia, 2014).* [Google Scholar](#)

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