



PERMANENT MISSION OF THE  
REPUBLIC OF INDONESIA TO THE UNITED NATIONS  
WORLD TRADE ORGANIZATION (WTO)  
AND OTHER INTERNATIONAL ORGANIZATIONS  
IN GENEVA

No: 105/POL-II/V/2026

The Permanent Mission of the Republic of Indonesia to the United Nations, the World Trade Organization, and Other International Organizations in Geneva presents its compliments to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on minority issues, and with reference to the Joint Communication (Ref.: OL IDN 1/2026, dated 20 February 2026) regarding concerns about the draft presidential regulation on the role of Indonesia's Military Forces (Tentara Nasional Indonesia/TNI) in counterterrorism measures.

The Permanent Mission has further the honour to convey, as enclosed, the response of the Government of the Republic of Indonesia to the above-mentioned Joint Communication. The response provides additional context on the legislative framework for the Draft Presidential Regulation as an implementing regulation under higher legal norms, which are the TNI Law (2004) and the Counter-Terrorism Law (2018). Instead of expanding authority, the Draft Presidential Regulation aims to clarify the limits of TNI involvement in counterterrorism measures.

The Permanent Mission of the Republic of Indonesia to the United Nations, the World Trade Organization, and Other International Organizations in Geneva, avails itself of this opportunity to renew to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on minority issues, the assurances of its highest consideration.

Geneva, 29 May 2026



**Mr. Ben Saul**, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

**Mr. Matthew Gillet**, Vice-Chair of the Working Group on Arbitrary Detention

**Mr. Morris Tidball-Binz**, Special Rapporteur on extrajudicial, summary or arbitrary executions

**Ms. Gina Romero**, Special Rapporteur on the rights to freedom of peaceful assembly and of association

**Ms. Mary Lawlor**, Special Rapporteur on the situation of human rights defenders

**Ms. Margaret Satterthwaite**, Special Rapporteur on the independence of judges and lawyers

Ms. Nicolas Levrat, Special Rapporteur on minority issues

**Reply of the Government of Indonesia**  
**to the Joint Communication of the Special Procedures Mandate Holders**  
**Ref.: OL IDN 1/2026 of 20 February 2026**

1. The Government of the Republic of Indonesia takes note of the Joint Communication of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on minority issues. We remain committed to our ongoing dialogue with the Special Procedures Mandate Holders regarding the advancement of human rights in Indonesia.
2. The Government considers counter-terrorism an inherent obligation of the State to protect public safety and safeguard national security. At the same time, the Government also believes that such efforts must remain fully consistent with the respect for, protection, promotion, fulfilment, and enforcement of human rights. Therefore, counter-terrorism policies in Indonesia are safeguarded by the rule of law and implemented with full regard for human rights obligations.
3. This commitment is reflected in Law No. 5 of 2018 on the Eradication of Criminal Acts of Terrorism (Counter-Terrorism Law), which provide that the principles of human rights protection and due precaution must be considered in preventive measures against terrorism-related offenses. This approach is consistent with the principles enshrined in the United Nations Global Counter-Terrorism Strategy (UNGCTS), particularly the strengthening of national capacity to prevent and combat terrorism while upholding human rights and the rule of law as fundamental pillars of such efforts.
4. Furthermore, Presidential Regulation No. 8 of 2026 concerning the National Action Plan on the Prevention and Countering of Violent Extremism Leading to Terrorism (RAN PE) also places human rights consideration as the first principle in implementing the national action plan, while adopting a 'whole-of-government' and 'whole-of-society' approach.
5. Against this backdrop, and in response to the concerns reiterated in the Joint Communication regarding the Draft Presidential Regulation on the Duties of the Indonesian National Army in Combating Terrorist Acts (the "Draft Regulation"), the Government provides the following context, as the Draft Regulation is currently in the harmonization phase with the Ministry of Law.

**A. Concern on Expansion of the Military's Role**

6. The Draft Regulation is not intended to create or expand authorities nor to transfer civilian law enforcement functions to the military, but to set out clearer operational arrangements, limited to specific threat spectrums.
7. Under Indonesian law, the role of the Indonesian National Army (*Tentara Nasional Indonesia/TNI*) in addressing terrorist acts is governed primarily by two laws: Law No. 34 of 2004 on the TNI (the "TNI Law") and the Counter-Terrorism Law.
8. Since 2004, the TNI Law has recognized counter-terrorism as part of the TNI's principal duties, as one of the Military Operations Other Than War (*Operasi Militer Selain Perang/OMSP*). In line with this framework, the 2018 Counter-Terrorism Law also provides for a role for the TNI. However, neither law sets out detailed operational parameters for the

scope of the TNI's duties in this respect. Accordingly, the Counter-Terrorism Law mandates the issuance of a presidential regulation to operationalize these provisions.

9. Under Indonesia's hierarchy of laws, a presidential regulation must be consistent with higher legal norms, including the 1945 Constitution and applicable laws (*undang-undang*). These include not only the TNI Law, the Counter-Terrorism Law, and the Human Rights Law, but also laws that ratify international instruments to which Indonesia is a party, including the ICCPR and the ICESCR. In drafting the Draft Regulation, the Government is therefore required to remain within the authority already provided by existing laws and to ensure full consistency and harmonization with those laws.

## **B. Legality of the Use of Military Force**

10. As noted above, TNI involvement in counter-terrorism efforts is, in principle, permissible under Indonesia's legal system, particularly within the OMSP framework.
11. International legal instruments ratified by Indonesia, including the 1997 International Convention for the Suppression of Terrorist Bombings, the 1999 International Convention for the Suppression of the Financing of Terrorism, and the 2005 International Convention for the Suppression of Acts of Nuclear Terrorism, also **do not prohibit** the involvement of military elements in counter-terrorism efforts, recognizing that counter-terrorism policy falls within the sovereign authority of States.
12. In line with a whole-of-government and whole-of-society approach, TNI involvement is designed for limited, high-escalation threat conditions, including those with cross-regional or transnational dimensions; attacks against strategic vital objects, the President and Vice President; Indonesian citizens or representatives abroad, and Indonesian or foreign vessels and aircraft within Indonesian jurisdiction; and activities occurring within the Exclusive Economic Zone (EEZ), regional, or international areas that require specialized military capabilities within the OMSP framework.
13. The Government believes that this arrangement is not unique to Indonesia and similar arrangement of military involvement in exceptional threat situation exist in other jurisdictions.

## **C. Concern on Militarization of Civilian Space and Stigmatization of Civil Society**

14. The Government affirms that the Draft Regulation is not intended to militarize civilian space or to assume civilian law enforcement functions.
15. The authority to deploy the TNI remains vested in the President as the highest civilian authority, thereby preserving the principle of civilian supremacy. Within the OMSP framework, the TNI's involvement is limited to deterrence, support to enforcement operations, and recovery functions and only under specific threat conditions requiring specialized military capabilities.
16. Implementation is carried out through established inter-agency coordination involving the Indonesian National Police (Polri), the National Counter-Terrorism Agency (BNPT), and the State Intelligence Agency (BIN), including arrangements to transfer relevant operational outcomes from the TNI to Polri for further handling in accordance with applicable criminal procedure law. Polri remains the lead agency for the law enforcement process in terrorism-related offenses.
17. Furthermore, as a proposed implementing regulation under Counter-Terrorism Law, the Draft Regulation is not intended to arbitrarily stigmatize members of civil society, including human rights defenders, journalists, lawyers, academics, community groups, or participants in peaceful assemblies. Nor does it restrict freedom of expression, freedom of peaceful

assembly, or freedom of association as guaranteed under Articles 19, 21, and 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Indonesia is a State Party.

18. Criticism, dissenting opinions, advocacy activities, and peaceful assemblies cannot be automatically characterized as acts of terrorism in the absence of the legal elements explicitly set out in national law, including the use or threat of violence that creates a widespread atmosphere of terror or fear and endangers public safety and state sovereignty. Furthermore, determinations in terrorism-related matters are made through established inter-agency coordination and consultation mechanisms and are therefore neither unilateral nor devoid of legal basis.

#### **D. Accountability Mechanisms in Restricted Operational Contexts**

19. The Government emphasizes that any alleged violations arising during TNI operations, whether involving criminal offenses, disciplinary breaches, ethical misconduct, administrative violations, or allegations of human rights abuses, remain subject to applicable legal mechanisms. Such accountability is exercised through both internal and external oversight instruments while upholding the principles of civilian supremacy, accountability, and the rights of victims to effective remedies.
20. The Government also recognizes the importance of strengthening transparency and accountability, including through ongoing national legal reform initiatives relating to the military justice system. These reforms aim to advance adherence to the rule of law principles, evolving institutional needs, civilian supremacy, and respect for human rights.

#### **Conclusion**

21. In fulfilling its obligation to counter-terrorism and protect its society and territorial integrity, the Government of Indonesia affirms its commitment to upholding human rights, democratic governance, and the rule of law. This commitment is reflected both in Indonesia's domestic legal framework and in its engagement in various international and regional counter-terrorism cooperation platforms, including the Global Counterterrorism Forum (GCTF), the Global Community Engagement and Resilience Fund (GCERF), ASEAN, the BRICS Counter-Terrorism Working Group and other forums promoting accountable, prevention-oriented, and human rights-compliant approaches to counter-terrorism.
22. As an implementing regulation, the substantive element of the Draft Regulation is not intended to expand military authority beyond the framework established under Indonesian law or to militarize civilian space, but rather to provide legal clarity on the complementary TNI involvement in addressing specific terrorism-related threats.
23. The Government will continue to ensure that its counter-terrorism policies and measures remain consistent with its constitutional framework and its international human rights obligations.

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