

**Mandates 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**

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20 February 2026

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 58/14, 60/8, 53/4, 59/4, 52/4, 53/12 and 52/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **draft Presidential Regulation ("Regulation") on the Duties of the Indonesian National Army in Combating Terrorist Acts**, as publicly circulated in January 2026. We are concerned that the manner in which the Regulation would expand the role of the military in countering terrorism in peacetime would bring serious risks to human rights, the rule of law, and Indonesian civil society.

*The Regulation*

The Regulation expands the powers of the Indonesian National Armed Forces (TNI) to combat terrorism through prevention, enforcement and recovery, as part of military operations other than war (article 2). Terrorism is defined in article 1, in large part consistently with the definition in Indonesian criminal law.

Prevention is defined to include intelligence activities and operations (including through investigation, security, and mobilization), territorial activities and operations (including through regional resilience development, humanitarian and physical/non-physical social assistance, and social communication), information activities and operations (including through information gathering and analysis, public communication, documentation, and information systems) and military operations other than war (articles 3-4), and further unspecified activities under articles 3-4 "determined by the [TNI] Commander" (article 5).

Prevention under article 3-4 is carried out by special or temporary TNI units (article 6). The TNI is additionally empowered to prevent terrorist acts more generally in accordance with laws and regulations (article 7).

Enforcement of prevention, enforcement and recovery is carried out by TNI forces under the TNI Commander, based on the Indonesian President's orders (article 8). Article 9 lists various potential targets of terrorism in relation to which TNI enforcement is directed; as well as in relation to "[o]ther acts of terrorism that endanger the ideology of the state, the sovereignty of the state, the integrity of the territory of Indonesia, and the safety of the entire nation" (but only upon the President's decision). Article 9 also requires the TNI to operate according to its governing laws, and in coordination with the Indonesian National Police (POLRI), as the agency responsible for counter-terrorism, and with relevant ministries and institutions.

Under article 10, the results of enforcement action under article 9 "shall be immediately handed over to the Indonesian National Police for further legal proceedings in accordance with the provisions of laws and regulations".

Article 11 gives the TNI Commander a broad discretion to determine "[f]urther provisions regarding enforcement" under articles 8 to 10.

Article 12 mandates the TNI to carry out recovery under the coordination of POLRI and in accordance with laws and regulations.

Article 13 permits, but does not require, the TNI to cooperate with relevant ministries/institutions, other countries, and international organisations in accordance with the provisions of laws and regulations.

#### *Human rights concerns*

We are concerned that by expanding the role of the military in counter-terrorism in ill-defined and overbroad ways, and without a clear legal basis or sufficient accountability, the Regulation could pose serious risks to human rights, including the rights to life, liberty and privacy, freedoms of movement, expression, association and peaceful assembly, economic and social rights, effective remedy, and the rights of human rights defenders. These rights are protected under the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Political Rights, both ratified by Indonesia on 23 February 2006. The Regulation could further undermine the rule of law and measures to effectively address the conditions conducive to the spread of terrorism, as outlined under Pillars I and IV of the United Nations Global Counter-Terrorism Strategy 2006 ([A/RES/60/288](#)).

#### *Legality*

Firstly, we are concerned that the Regulation appears to conflict with other provisions of Indonesian law, raising doubts about whether the exercise of the military's powers to restrict human rights would be in accordance with law and legality as required by human rights law. People's Consultative Assembly (MPR) Decree No. VII of 2000 on The Roles of TNI and POLRI, and article 7 of the Act No. 34 of 2004 on the Indonesian National Armed Forces ("TNI Law"), require that military assistance in national security matters must be regulated by "law", not merely by a Presidential decree, although a 2025 amendment authorized the TNI to conduct "military operations other than war" (Law No. 3 of 2025 amending Law No. 34 of 2004). MPR Decree VII/2000 separates the TNI's defence functions (article 2) from POLRI's security and

public order functions (article 6), and article 4 of the Decree provides that the TNI shall assist POLRI with security duties only “upon request, as regulated by law”. The separation of military and policing functions is also addressed in MPR Decree VI/2000 on The Separation of TNI and POLRI and article 30 of the 1945 Constitution. Further, Indonesia’s Counter-Terrorism Law assigns competency for prevention of terrorism to various civilian authorities, not the military; although article 43I of Law No. 5 of 2018 on the amendment of the Counter-Terrorism Law allows TNI officers to be involved in combating terrorism as part of “military operations other than war”. The lack of clarity surrounding whether the military’s role in counter-terrorism is duly authorised by law brings serious risks of human rights violations.

Secondly, the Regulation would provide the TNI with undefined, vague and overbroad powers in relation to prevention, enforcement, and recovery, particularly under articles 3-4 and 7-8, which are also not clearly related to its constitutional and legislative mandate of national defence. In addition to these already wide powers, further indeterminate powers are given to TNI Commander under article 5 (in relation to the powers under articles 3-4) and article 11 (concerning enforcement under articles 8-10); such broad discretion to take further measures not specified in the Regulation is not consistent with the requirement of legal certainty under article 15 of the ICCPR.

Furthermore, the predicate definition of terrorism in article 1(1) of the Regulation is vague and overbroad, for instance in referring to “damage or destruction to strategic vital objects, the environment, public facilities, or international facilities with ideological, political, or security disruption motives”; and a second definition of terrorism in article 1(2) is likewise vague and overbroad (“endanger the sovereignty of the state, the integrity of its territory, and the safety of the entire nation”). Also ambiguous is the authority of the TNI to take enforcement action under article 9 in relation to “[o]ther acts of terrorism that endanger the ideology of the state, the sovereignty of the state, the integrity of the territory of Indonesia, and the safety of the entire nation”.

The principle of legality under article 15 of the ICCPR requires that criminal laws are sufficiently precise so that it is clear what types of behaviour constitute a criminal offence and what would be the legal consequences. This principle seeks to prevent ill-defined and/or overly broad laws which are open to arbitrary application and abuse, including to target civil society on political or other unjustified grounds (A/70/371, para. 46(b)) and suppress the exercise of fundamental rights and freedoms (A/HRC/40/52). The principle of legality also applies in the requirement that restrictions on rights under the ICCPR must be authorized by law.

#### *Over-securitization*

We are concerned that the Regulation would normalize and make permanent the use of the military in peacetime counter-terrorism, regardless of the level of terrorist threat at any given time, and in tension with the existing authority of POLRI as the key actor. According to international standards, outside armed conflict, the military should only be used to assist civilian law enforcement authorities temporarily and in exceptional situations, where the civilian authorities are not able to adequately address the threat, for instance in a public emergency threatening the life of the nation that is

duly declared under article 4 of the ICCPR, or in other grave situations. Since the military are trained and equipped primarily for armed conflict, it is not usually appropriate to involve them in civilian law enforcement activities such as peacetime counter-terrorism, and their involvement increases the risk of excessive use of force (see e.g. A/80/214, para. 26). Further, authorities should strictly refrain from deploying military forces in the context of peaceful protests outside the official law enforcement chain of command (A/HRC/55/60, para. 38).

Where, in exceptional circumstances, military personnel carry out law enforcement functions they must be bound by the domestic and international human rights law standards applicable to law enforcement (see e.g. general comment No. 37, para. 80). The duty to prevent arbitrary deprivations of life under article 6 of the ICCPR requires military personnel to respect the rules on necessity and proportionality when using force, including the use of potentially lethal force only in response to an imminent threat to life, in accordance with the Human Rights Committee's general comment No. 36 and principles 4 and 9 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (see also general comment No. 36, para. 14, and A/HRC/55/60, para. 79(h)). Military personnel should also be adequately trained in human rights and human rights-based law enforcement (Special Rapporteur on extrajudicial, summary or arbitrary executions, A/66/330, para. 96; see also A/HRC/31/66, para. 66; general comment No. 37, para. 80). Further, the military should be subordinate to the civilian authorities and shall be held accountable to civilian law (Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, A/HRC/31/66, para. 66; Model protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests, A/HRC/55/60, para. 88).

While the results of enforcement action under article 9 “shall be immediately handed over to the Indonesian National Police for further legal proceedings in accordance with the provisions of laws and regulations” (article 10), military powers under the Regulation are not limited to arrest and collection of evidence, and there is a real risk that an inappropriate military response to terrorism will come to take precedence over a more appropriate policing response.

Moreover, other ministries and authorities have greater expertise than the military in matters such as development, humanitarian and social assistance, and public communication. The United Nations emphasizes the need for a “whole of society” approach to countering terrorism and experience suggests that such preventive measures can be delivered more effectively by civilian authorities. There are risks that development, humanitarian and social measures would be instrumentalized by the military, and the military's provision of them may be not only ineffective but also counter-productive from a security standpoint.

#### *Barriers to accountability*

We are concerned that the Indonesian military is still not subject to adequate accountability mechanisms so as to guarantee the right to an effective remedy of any victims of human rights violations by the military under the Regulation (ICCPR, article 2), including in relation to the right to life, freedom from torture and other ill-

treatment, liberty and security of person, humane and dignified treatment in detention, and other civil and political rights and freedoms. Military justice reforms required by article 3(4)(a) of MPR Decree No. VII of 2000 on The Roles of TNI and POLRI, and the TNI Law, have still not been implemented, including the requirement to prosecute in independent civilian courts military personnel who commit crimes against civilians. The Regulation does not itself subject military personnel to the jurisdiction of civilian courts, and the application of the existing Military Court Law raises concerns that trials may be conducted before closed and opaque military tribunals.

We recall relevant international standards on accountability and remedies, including article 2 of the ICCPR, the Basic Principles on the Use of Force and Firearms, the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, and the Minnesota Protocol on the Investigation of Potentially Unlawful Death. All violations require independent, impartial and thorough investigations aimed at ensuring that those responsible are brought to justice, promoting accountability and preventing impunity. Where a violation is found, full reparation must be provided, including adequate compensation, rehabilitation and satisfaction, and steps to prevent re-occurrence in the future.

#### *Stigmatization of civil society*

Finally, we are concerned that the risk of abuse of the Regulation is heightened given that some senior political figures in Indonesia have unjustifiably labelled public demonstrations and dissenting civil society actors as “terrorism”, “anarchism” or “treason”, including students and others who participated in the August 2025 protests. Protest movements in West Papua have also previously been labelled as acts of terrorism and treason. We note further that the Human Rights Committee during its review of Indonesia in 2024 was concerned at counter-terrorism laws and policies that task the Indonesian National Army with “combatting acts of terrorism”, highlighting the lack of adequate guarantees against racial profiling and racially-motivated excessive use of force (CCPR/C/IDN/CO/2, paras. 12-13).

Unjustified stigmatization of peaceful protesters as terrorists or other security threats, and the misuse of counter-terrorism laws against them, is a major threat to the exercise of the rights of peaceful assembly and association under articles 21 and 22 of the ICCPR (see A/79/263, paras. 31-38). Such narratives can also undermine the due process and fair trial rights of accused persons and enable the negation and denial of abuses against civil society and protesters, thus shifting liability and preventing accountability for violations (A/79/263, paras. 76 and 87; see also A/HRC/53/38, para. 15).

In such a climate, there is therefore a heightened risk that the Regulation, including the President’s power to deploy the military and the military’s own authority under it, might be misused to enable the military to suppress a range of civil society actors, including student movements, trade unions, human rights defenders, journalists, peoples or minorities, and marginalized communities, thereby potentially infringing the rights to life, liberty, privacy, freedoms of movement, expression, association, and peaceful assembly, the right to take part in public affairs, minority rights, and potentially the right of self-determination. We highlight that the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and

Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the United Nations Declaration on Human Rights Defenders, states that everyone has the right to meet or assemble peacefully and to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms (articles 5 and 6).

We note that particularly prior to its democratization, the people of Indonesia suffered many human rights violations under periods of military rule, and that *Reformasi* (reformation) after 1998 included the legal separation of the military and the police and efforts to end the doctrine of the military's dual security and socio-political functions (*dwifungsi*). The renewed expansion of military powers into ordinary law enforcement against terrorism risks enabling arbitrary and politicised human rights violations that could also potentially undermine the rule of law and democracy.

We stand ready to provide any technical advice your Excellency's Government may require in ensuring that counter-terrorism measures are consistent with international human rights law and international humanitarian law.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned analysis.
2. Please explain why regular police, law enforcement and other relevant civilian authorities are not capable of effectively preventing and combating terrorist threats in Indonesia, particularly in the absence of any declared public emergency under article 4 of the ICCPR or any armed conflict under international humanitarian law, and how the use of the military under the Regulation would involve only necessary and proportionate restrictions on human rights in compliance with international law and standards.
3. Please explain how the Regulation is consistent with the legal limits on the role of the military under article 30 of the 1945 Constitution, the MPR Decree No. VII of 2000, and Article 7 of the TNI Law, and with the allocation of competencies for prevention under the Counter-Terrorism Law.
4. Please indicate whether the numerous vague and overbroad terms used in the Regulation will be reviewed and repealed or amended, including to ensure that the terms used are sufficiently precise and foreseeable to satisfy the requirement of legality.
5. Please explain how the proposed use of the military would ensure the right to an accessible and effective remedy for victims of alleged violations of human rights by the military, including through trials by civilian courts and reform of the Military Court Law.

6. Please indicate what measures will be taken to ensure compliance with the rights to freedom of expression, peaceful assembly, and association under articles 19, 21 and 22 of the ICCPR, and in particular, what safeguards will be put in place to prevent public authorities and officials from labelling civil society, including peaceful protestors, human rights defenders, lawyers, journalists, and political opponents as “terrorists”, in order to prevent stigmatization and mitigate risks of abuse of the Regulation.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency’s Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Ben Saul

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