

# The Legal Framework of the State Intelligence Agency (BIN) as Coordinator of Intelligence Activities in Indonesia

Gede Agung Patra Wicaksana <sup>a✉</sup>, R. Benny Riyanto <sup>b</sup>,  
 Zainal Muttaqin <sup>c</sup>, Edward Omar Sharif Hiariej <sup>d</sup>, Eman Suparman <sup>e</sup>.

<sup>a</sup> Fakultas Hukum, Universitas Padjadjaran, Indonesia,  
[gede21006@mail.unpad.ac.id](mailto:gede21006@mail.unpad.ac.id), <https://orcid.org/0009-0005-7102-9913>

<sup>b</sup> Fakultas Hukum, Universitas Negeri Semarang, Indonesia  
[bennyriyanto@mail.unnes.ac.id](mailto:bennyriyanto@mail.unnes.ac.id)

<sup>c</sup> Fakultas Hukum, Universitas Padjadjaran, Indonesia,  
[zaenal.muttaqin@unpad.ac.id](mailto:zaenal.muttaqin@unpad.ac.id), <https://orcid.org/0009-0002-4055-9987>

<sup>d</sup> Fakultas Hukum, Universitas Gadjah Mada, Indonesia  
[edward.omar@mail.ugm.ac.id](mailto:edward.omar@mail.ugm.ac.id)

<sup>e</sup> Fakultas Hukum, Universitas Padjadjaran, Indonesia,  
[eman@unpad.ac.id](mailto:eman@unpad.ac.id), <https://orcid.org/0009-0009-3852-2596>

✉ Corresponding email: [gede21006@mail.unpad.ac.id](mailto:gede21006@mail.unpad.ac.id)

## Abstract

This study analyzes the legal and operational challenges hindering Indonesia's State Intelligence Agency (BIN) from effectively coordinating national intelligence activities. Findings reveal that BIN's establishment via presidential regulation, rather than statutory law, weakens its authority over law-based agencies like TNI and Polri, causing coordination failures. The absence of constitutional

recognition, a permanent coordinating body, and enforcement mechanisms further exacerbates these issues. Urgently, the research proposes: (1) elevating BIN's legal status through constitutional amendment, (2) creating a binding coordination body, and (3) implementing oversight safeguards. These reforms aim to strengthen Indonesia's intelligence system against dynamic threats while balancing centralized authority with democratic accountability. The study contributes a practical framework aligned with international best practices (Thailand and Netherlands) to address critical national security gaps.

**KEYWORDS** *authority, intelligence agency, state, coordinator*

## Introduction

In Indonesia, there is the State Intelligence Agency, hereinafter referred to as BIN, which serves as a state apparatus tasked with performing intelligence functions both domestically and internationally, as mandated by Article 10 of Law Number 17 of 2011 on State Intelligence (State Intelligence Law)<sup>1</sup>. BIN is established as a state apparatus authorized to conduct intelligence activities and operations aimed at early detection and warning to support efforts in countering any threats that endanger Indonesia's existence and integrity<sup>2</sup>. This mandate aligns with the national goals outlined in the Preamble of the 1945 Constitution of Indonesia (UUD 1945), which include protecting all Indonesian citizens and the entirety of the nation's territory, advancing public welfare, improving national education, and contributing to a global order based on independence, eternal peace, and social justice<sup>3</sup>.

BIN plays a crucial role as the coordinator of state intelligence operations, encompassing military intelligence (TNI), police

<sup>1</sup> Suwardono Suwardono and Masyithoh Annisa Ramadhani, "Content Analysis of Indonesian National Security Architecture Surwandono International Relations," *Advances in Social Science, Education and Humanities Research* 84, no. Iconeg 2016 (2017): 138–42; Peter Gill and Lee Wilson, "Intelligence and Security-Sector Reform in Indonesia," *Intelligence Elsewhere: Spies and Espionage Outside the Anglosphere*, no. January 2013 (2013): 157–79.

<sup>2</sup> Makarim A. Mufti, "Indonesian Intelligence Reform: Recent Challenges and Opportunities for Encouraging Democratic and Professional Intelligence," *Connections* 20, no. 1 (2021): 75–90, <https://doi.org/10.11610/Connections.20.1.05>; Shania Kaulika Katuuk, Max Sepang, and Nurhikmah Nachrawy, "Fungsi, Tugas Dan Wewenang BIN Berdasarkan UU Nomor 17 Tahun 2011 Tentang Intelijen Negara," *Lex Privatum* XI, no. 3 (2023).

<sup>3</sup> Andi Widjajanto and Artanti Wardhani, "Hubungan Intelijen-Negara, 1945-2004," 2008, 109–113.

intelligence (Polri), intelligence from the Attorney General's Office, and intelligence within ministries and non-ministerial government agencies. Based on this mandate, BIN has the authority to orchestrate all state intelligence bodies to gather information related to activities that pose threats to national interests and security. These threats include various dimensions such as ideology, politics, economics, socio-cultural aspects, defense and security, as well as critical sectors like food security, energy, natural resources, environmental sustainability, terrorism, separatism, espionage, and sabotage that endanger the sovereignty, safety, and security of the nation<sup>4</sup>.

However, previous studies have revealed that BIN's coordination efforts have not been sufficiently effective or optimal. Suwardono and Ramadhani argue that the current architecture of Indonesia's national security does not explicitly articulate the concept of security threats, leaving space for subjective interpretations by authoritative institutions<sup>5</sup>. They highlight the absence of integrated regulations governing synergy and role distribution as a significant obstacle to achieving clarity in Indonesia's national security architecture. Similarly, Wahyudi and Syauquillah<sup>6</sup> state that one of the reasons for criticism of intelligence agencies lies in their perceived ineffectiveness in providing security and comfort, as intelligence functions within each agency operate independently.

The complexity of coordination between state intelligence agencies in Indonesia, as identified by Sunarko et al.<sup>7</sup>, stems from several key issues. First, there is a misperception regarding the legal basis for organizing coordination. Coordination is often mistakenly understood as solely the coordination between military (TNI) and

---

<sup>4</sup> Rakhbir Singh and Irwan Triadi, "Peran Intelejen Dalam Meningkatkan Kemampuan Negara Dalam Pertahanan Nasional," *Civilia : Jurnal Kajian Hukum Dan Pendidikan Kewarganegaraan* 2, no. 5 (2023).

<sup>5</sup> Suwardono and Ramadhani, "Content Analysis of Indonesian National Security Architecture Surwandono International Relations."

<sup>6</sup> Rizki Wahyudi and Muhammad Syauquillah, "Strengthening Cooperation among Intelligence Agencies in the Enforcement of Law on Terrorism: The Case of Indonesia," *JISPO Jurnal Ilmu Sosial Dan Ilmu Politik* 12, no. 1 (2022): 23–38, <https://doi.org/10.15575/jispo.v12i1.14370>.

<sup>7</sup> M. R. Sunarko, Khaiul Muluk, and Bambang S. Hariyono, "The Role of Effective and Efficient Coordination between Intelligence Agencies," *International Journal of Innovation, Creativity and Change* 13, no. 1 (2020): 154–70.

police (Polri) intelligence agencies. This limited interpretation overlooks the broader role of BIN in coordinating all state intelligence agencies, including those from ministries and non-ministerial government institutions, as mandated by the State Intelligence Law. Second, the dependency on coordination appears weak, as coordination tends to remain internal within each intelligence agency. For example, coordination primarily occurs within the TNI intelligence apparatus or the Polri intelligence structure, rather than being coordinated across agencies. This internal focus hampers the development of a cohesive, national-level intelligence effort.

Third, there are significant differences in the attitudes and working methods of each intelligence agency. These differences arise due to the distinct roles, responsibilities, and authority each agency holds. While these divergences may be understandable, they create challenges in achieving effective coordination, as each agency operates within its own framework and according to its unique priorities. Finally, BIN's organizational structure itself still requires significant improvements. Despite its role as the coordinator of national intelligence, there is a notable absence of specific divisions or officials within BIN who are explicitly and fully accountable for coordinating intelligence efforts across various state intelligence agencies. This structural limitation weakens BIN's ability to fully execute its coordinating functions, further complicating the process of establishing unified and efficient intelligence operations across the country.

In light of these challenges, this study seeks to examine the legal status, constitutional regulation, institutional hierarchy, functions, as well as the legal and technical constraints encountered by the State Intelligence Agency (BIN) in fulfilling its role as Indonesia's national intelligence coordinator. The research also aims to shed light on how the authority and functions of state intelligence are governed by statutory and constitutional provisions, with an emphasis on improving the effectiveness and accountability of intelligence operations. Furthermore, this study conducts a comparative analysis between BIN and foreign intelligence agencies specifically the National Intelligence Agency of Thailand (NIA) and the Netherlands' General Intelligence and Security Service (AIVD) to

assess the differences in function, authority, and roles within the national security frameworks of each country.

This study seeks to examine these two core questions by situating BIN within Indonesia's broader constitutional and institutional architecture, particularly in comparison to other national security institutions such as the TNI and Polri. Through a normative legal approach, the research will explore how the legal basis, institutional design, and regulatory instruments shape BIN's capacity to function as the central coordinating agency for state intelligence. Furthermore, this study aims to identify the legal and technical barriers that hinder the realization of BIN's coordination mandate, ranging from the ambiguity of statutory authority to the absence of enforceable mechanisms ensuring inter-agency compliance. By addressing these gaps, the research aspires to contribute to a more coherent and effective national intelligence system, one that is better aligned with constitutional principles, democratic governance, and national security imperatives.

## Method

This study employs a normative legal research method, emphasizing the prescriptive and applied nature of legal science<sup>8</sup>. As a prescriptive discipline, it examines legal objectives, principles of justice, the validity of norms, and legal concepts. As an applied discipline, it establishes standards and procedures for implementing legal rules. The research focuses on legal theory and philosophy to analyze the legal status and existence of the State Intelligence Agency (BIN) as a state apparatus with coordinating authority over national intelligence providers. It also draws comparative references from foreign intelligence institutions that perform similar functions. The study utilizes philosophical, conceptual, and statutory approaches to explore BIN's legal foundation and institutional authority within Indonesia's democratic constitutional system.

The legal materials used in this research are sourced from secondary data, including primary legal materials (laws, regulations, policies), secondary materials (books, journals, research reports),

---

<sup>8</sup> Peter Mahmud Marzuki, "Penelitian Hukum," 2013, 41.

and tertiary materials (dictionaries and legal glossaries)<sup>9</sup>. These materials are analyzed qualitatively, using a structured method consisting of inventory, identification, classification, and systematization. The qualitative analysis is supported by legal interpretation techniques, including grammatical, systematic, historical, teleological, and comparative to examine the relationship between BIN and other intelligence institutions. This analytical process aims to produce objective conclusions on BIN's institutional role and the legislative efforts required to strengthen its legal authority as the national intelligence coordinator.

## Result & Discussion

### A. Foundation of Indonesian State Institutions

State institutions regulated and established by the 1945 Constitution are constitutional institution, whereas those established by law are considered statutory Institution. Institutions created by presidential decisions or regulations hold a lower status and legal standing than those formed by law<sup>10</sup>. Similarly, institutions established and granted authority through regional regulations have even lower status. State institutions can be classified into constitutional state organs and state auxiliary organs. Constitutional state organs derive their authority from the 1945 Constitution, while state auxiliary organs derive their authority from statutory provisions<sup>11</sup>.

Several legal scholars have provided definitions regarding state apparatus, including Hans Kelsen. According to Kelsen<sup>12</sup>, the state apparatus encompasses the legal system and institutions established by the state to enforce the law, maintain social order, and protect the public interest. George Jellinek also argues that the state apparatus comprises three essential elements: power, organization, and law<sup>13</sup>. The state apparatus reflects the exercise of

<sup>9</sup> Moh Nazir, "Metode Penelitian, Cetakan Kedelapan," *Bogor: Ghalia Indonesia*, 2013, 84.

<sup>10</sup> Sunarko, Muluk, and Hariyono, "The Role of Effective and Efficient Coordination between Intelligence Agencies."

<sup>11</sup> Jimly Asshiddiqie, "Perkembangan Dan Konsolidasi Lembaga Negara Pasca Reformasi," 2006, 5.

<sup>12</sup> Hans Kelsen, *General Theory of Law and State* (Routledge, 2017), 304.

<sup>13</sup> Georg Jellinek, *Allgemeine Staatslehre, Allgemeine Staatslehre*, 1929, 218, <https://doi.org/10.1007/978-3-642-50936-0>.

power organized and regulated by law to achieve the state's objectives<sup>14</sup>. Jellinek posits that the state apparatus is the mechanism used by the state to exercise its political power in an organized and orderly manner, within a legal framework that governs and limits government actions.

In Jellinek's view, the state apparatus comprises various elements such as government institutions, legal bodies, and the legal system, which carry out the state's political power<sup>15</sup>. This apparatus operates according to rules and procedures established by law to ensure that the government acts within its limits and authority. Jellinek also emphasizes the importance of law in regulating and restricting state power. He argues that the state apparatus must operate within a clear and transparent legal framework to protect individual rights and ensure justice in exercising political power.

The formation of the state apparatus can also be explained through Emile Durkheim's functional theory, which views the state apparatus as a result of fulfilling essential functions in society<sup>16</sup>. The state apparatus emerges in response to the societal need to maintain social order, protect security, provide public services, and regulate relationships between individuals and groups.

Padmo Wahjono states that state apparatuses, or commonly referred to as state instruments, in a country are state institutions that play a fundamental role in state activities<sup>17</sup>. Furthermore, Jimly Asshiddiqie argues that state institutions are any institutions established not as societal institutions<sup>18</sup>. Based on the views of these legal scholars, it can be understood that Indonesia does not strictly distinguish between the definitions of state institutions, state organs, state apparatuses, or state instruments. Essentially, all organizations established to carry out the functions of the state constitution are referred to as state institutions.

---

<sup>14</sup> Christopher Pierson, *The Modern State*, 2nd ed. (Taylor & Francis, 2004).

<sup>15</sup> Jellinek, *Allg. Staatslehre*, 219.

<sup>16</sup> Emile Durkheim, "The Division of Labour in Society," in *Social Theory Re-Wired* (Routledge, 2023), 141.

<sup>17</sup> Padmo Wahjono, "Beberapa Masalah Ketatanegaraan Di Indonesia," *Detail* 320 (1984): 98.

<sup>18</sup> Jimly Asshiddiqie, "Perkembangan Dan Konsolidasi Lembaga Negara Pasca Amandemen" (Jakarta: Konpress, 2006), 45.

Jelinek<sup>19</sup> also developed the concept of "authority" as a critical dimension of state apparatuses. According to him, authority is the right or power granted by law to individuals or institutions to act on behalf of the state. This authority provides the legal basis for state apparatuses to carry out their duties. Based on the definitions, theories of formation, and authority of state apparatuses proposed by legal scholars, it can be concluded that state apparatuses are institutions established by the state that possess power or authority, organization, and apply laws to maintain social order and protect the public interest in achieving state objectives<sup>20</sup>.

## B. The Historical Evolution and Institutional Framework of BIN

The National Intelligence Agency (BIN) has undergone a long historical evolution, starting as BRANI (Badan Rahasia Negara Indonesia) and later transitioning through several organizational transformations, including BKI (Badan Koordinasi Intelijen), BPI (Badan Pusat Intelijen), KIN (Komando Intelijen Negara), and BAKIN (Badan Koordinasi Intelijen Negara), before becoming BIN<sup>21</sup>. Initially, BIN was established based on Presidential Decree No. 166/2000 on the Position, Duties, Functions, Authorities, Organizational Structure, and Work Procedures of Non-Departmental Government Agencies. This decree was later replaced by Presidential Decree No. 103/2001, which has undergone multiple amendments, most recently through Presidential Regulation No. 145/2015<sup>22</sup>.

In response to the growing demands, threats, and challenges posed by the strategic environment and to improve BIN's effectiveness and efficiency, organizational revitalization was carried out. This was reflected in changes to Presidential Decree No. 166 of 2000 through Presidential Regulation No. 34/2010 concerning BIN, which was subsequently replaced by Presidential Regulation No. 90 of 2012 and later amended by Presidential Regulation No. 79/2020<sup>23</sup>.

<sup>19</sup> Jellinek, *Allg. Staatslehre*, 220.

<sup>20</sup> Asshiddiqie, "Perkembangan Dan Konsolidasi Lembaga Negara Pasca Amandemen.", 5.

<sup>21</sup> Mufti, "Indonesian Intelligence Reform: Recent Challenges and Opportunities for Encouraging Democratic and Professional Intelligence."

<sup>22</sup> Wahyu Kuncoro, "Aparat Pengawas Intern Pemerintah: Perannya Dalam Pengawasan Intelijen Yang Akuntabel Di Badan Intelijen Negara," *Jurnal Ilmiah Ilmu Pemerintahan* 4, no. 2 (2019): 155–68, <https://doi.org/10.14710/jiip.v4i2.5629>.

<sup>23</sup> Singh and Triadi, "Peran Intelijen Dalam Meningkatkan Kemampuan Negara Dalam Pertahanan Nasional."



Article 1(1) of Presidential Regulation No. 34/2010 explicitly states that BIN operates as a Non-Ministerial Government Agency directly responsible to the President. Article 2 affirms BIN's primary task of conducting governmental intelligence functions in accordance with applicable laws, thereby positioning BIN as an executor of government intelligence functions.

The hierarchical coordination of BIN is further reinforced by the State Intelligence Law, which stipulates that BIN is directly accountable to the President, as outlined in Article 27 in conjunction with Article 42 of the law<sup>24</sup>. This arrangement is consistent with Article 1(2) and Article 3(h) of Presidential Regulation No. 90/2012, emphasizing BIN's position under and responsibility to the President<sup>25</sup>.

Before the enactment of the State Intelligence Law, BIN's establishment under Presidential and Regulatory Decrees classified it as a Non-Ministerial State Institution. However, post-enactment, BIN's status shifted to that of a state apparatus or purely a state institution, with its legal framework established through legislation. Article 10(1) of the State Intelligence Law identifies BIN as a state apparatus conducting intelligence functions domestically and internationally. The term "state apparatus" can be substituted with "state institution," affirming BIN's position as a state entity.

Historically, BIN operated under the coordination of the Coordinating Ministry for Political, Legal, and Security Affairs, as stipulated in Presidential Regulation No. 43/2015. However, this arrangement ceased with the enactment of Presidential Regulation No. 73/2020, which revised the structure of the Coordinating Ministry for Political, Legal, and Security Affairs.

A significant issue arose concerning BIN's coordination under the Coordinating Ministry. According to Article 27 in conjunction with Article 42 of the State Intelligence Law, BIN is directly responsible to the President, submitting written reports and accountability directly to the President. Thus, BIN's placement under the Coordinating Ministry is inconsistent with the legislative hierarchy.

In January 2023, President Joko Widodo emphasized the need for the Ministry of Defense to orchestrate intelligence information gathered by BIN, TNI, Polri, and other relevant agencies. The aim

---

<sup>24</sup> Suwardono and Ramadhani, "Content Analysis of Indonesian National Security Architecture Surwandono International Relations."

<sup>25</sup> Kuncoro, "Aparat Pengawas Intern Pemerintah: Perannya Dalam Pengawasan Intelijen Yang Akuntabel Di Badan Intelijen Negara"; Singh and Triadi, "Peran Intelijen Dalam Meningkatkan Kemampuan Negara Dalam Pertahanan Nasional."

was to consolidate intelligence data to inform effective policymaking. However, this directive faces legislative challenges. Assigning intelligence coordination to the Ministry of Defense would contravene the State Intelligence Law, potentially disrupting the functional, structural, and objective integrity of intelligence operations. BIN's direct responsibility and accountability to the President remain a legislative imperative.

### C. Legal Status of BIN as State Institutions

BIN, functioning as a state apparatus responsible for domestic and international intelligence, is mandated by Article 10 of Law Number 17 of 2011 concerning State Intelligence (State Intelligence Law)<sup>26</sup>. The establishment of BIN as a state apparatus aims to enable early detection and warning to counter threats that endanger the existence and integrity of Indonesia. This effort aligns with national objectives to protect all Indonesian people and the nation's territory, promote public welfare, advance national education, and contribute to global peace and order, as mandated by the Preamble of the 1945 Constitution<sup>27</sup>.

In the practice of state governance, state institutions are either established based on or given power by the 1945 Constitution, established and granted authority by laws, or even created solely through presidential decrees or regulations<sup>28</sup>. The hierarchy or ranking of their status naturally depends on the degree of regulation stipulated by the applicable legislation.

State institutions directly established by the 1945 Constitution hold constitutional status, while those formed through legislative acts implementing constitutional provisions are statutory institutions. Meanwhile, institutions formed by presidential decrees or regulations hold a lower status regarding legal treatment of the officials within them. Likewise, institutions established and granted authority by regional regulations are ranked even lower. State institutions can be categorized into constitutional state organs and state auxiliary organs. Constitutional state organs derive their authority directly from the 1945 Constitution, while state auxiliary

<sup>26</sup> Fitri Atur Arum, "Reposisi Intelijen Dalam Badan Intelijen Negara Pasca Lahirnya Undang-Undang No. 17 Tahun 2011 Tentang Intelijen Negara" (Universitas Islam Indonesia, 2016), 178-192.

<sup>27</sup> Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 17 Tahun 2011 Tentang Intelijen Negara" (2011).

<sup>28</sup> Prayudi, "Intelijen Pertahanan Dan Politik Supremasi Sipil," *Majalah INFO Singkat Pemerintahan Dalam Negeri* VIII, no. 18 (2016): 17–20, [https://berkas.dpr.go.id/puslit/files/info\\_singkat/Info\\_Singkat-VIII-18-II-P3DI-September-2016-3.pdf](https://berkas.dpr.go.id/puslit/files/info_singkat/Info_Singkat-VIII-18-II-P3DI-September-2016-3.pdf).

organs gain authority from statutory provisions<sup>29</sup>.

State institutions can be divided into three tiers in terms of hierarchy. The first tier comprises high state institutions, all of which derive their authority from the 1945 Constitution<sup>30</sup>. Examples include the Presidency, the People's Consultative Assembly (MPR), the House of Representatives (DPR), the Regional Representative Council (DPD), the Supreme Court, the Constitutional Court, and the Supreme Audit Agency (BPK).

The second tier includes institutions that are simply referred to as state institutions, such as the Ministers, the Indonesian National Armed Forces (TNI), the Indonesian National Police (Polri), the Judicial Commission, the General Election Commission (KPU), and Central Bank of Indonesia (BI). These institutions may derive their authority from the 1945 Constitution or statutory laws. The third tier consists of state institutions whose authority comes from regulators or lawmakers below the level of statutory law. Examples include the National Commission on Human Rights (Komnas HAM), the Corruption Eradication Commission (KPK), and the Commission for the Protection of Women Against Violence.

The institutional position of BIN is as a state apparatus, similar to TNI and Polri, which also hold status as state apparatuses<sup>31</sup>. In this context, BIN is a state institution established through a presidential regulation concerning the State Intelligence Agency, with its authority derived from the State Intelligence Law. This differs from TNI and Polri, formed based on laws and delegated authority from the 1945 Constitution. The implications of this difference result in BIN having distinct functions and institutional hierarchy.

BIN is classified as a third-tier state institution, while TNI and Polri, established by law, are considered second-tier state institutions. Some legal scholars argue that there is no difference in the functioning of primary constitutional organs and auxiliary state organs. However, the fact that BIN is established solely through presidential regulation significantly impacts its duties and functions

---

<sup>29</sup> Asshiddiqie, "Perkembangan Dan Konsolidasi Lembaga Negara Pasca Amandemen.", 312.

<sup>30</sup> Haeruman Jayadi, AD Basniwati, and Sofwan Sofwan, "Lembaga-Lembaga Negara Sederajat Dalam Struktur Kelembagaan Negara Berdasarkan Undang-Undang Dasar 1945," *Journal Kompilasi Hukum* 7, no. 2 (2022), <https://doi.org/10.29303/jkh.v7i2.122>.

<sup>31</sup> Wahyudi and Syauqillah, "Strengthening Cooperation among Intelligence Agencies in the Enforcement of Law on Terrorism: The Case of Indonesia"; Muhamad Haripin, Chaula Rininta Anindya, and Adhi Priamarizki, "The Indonesian Military and Counter Terrorism in Poso, 2015–2022," *Journal of Policing, Intelligence and Counter Terrorism* 19, no. 3 (2024): 305–19, <https://doi.org/10.1080/18335330.2023.2290044>.

as a state apparatus with a specific role in intelligence, which sets it apart from ministries or other state institutions created by law <sup>32</sup>. BIN's position as a third-tier state institution arises from its establishment through presidential regulation <sup>33</sup>. Thus, within the framework of state institutions, BIN is classified as a third-tier state institution, in contrast to institutions such as the TNI and the National Police which have a stronger legal basis because they are formed based on the law.

## **D. Challenges of BIN Constitutional Recognition in Defense and Security Systems**

The 1945 Constitution does not explicitly regulate intelligence matters. On an operational level <sup>34</sup>, Shulsky and Schmitt identify four essential characteristics of intelligence: it is a part of the national security system, a warning system, information management, and a strategic analysis system, aimed at preventing strategic surprises in national security and protecting a democratic state <sup>35</sup>. Thus, the essence of intelligence is to safeguard a democratic nation by establishing a warning system and strategic analysis framework to preempt strategic surprises in national security <sup>36</sup>.

Based on the above concepts, intelligence, within the context of the 1945 Constitution, serves as an instrument for maintaining national security and defense, supporting the president as the holder of state power, as mandated by Article 4, paragraph (1) of the Constitution: "The President of the Republic of Indonesia holds the power of government according to the Constitution."

In contrast to the Attorney General's Office, while the 1945 Constitution does not explicitly state that its institution is established by law, Article 24, paragraph (3) indicates that "other bodies related to judicial power are regulated by law." This implies that, in addition to the Supreme Court and the Constitutional Court, as well as the Judicial Commission and the National Police, which are explicitly mentioned in the 1945 Constitution, other bodies fulfill

---

<sup>32</sup> Mufti, "Indonesian Intelligence Reform: Recent Challenges and Opportunities for Encouraging Democratic and Professional Intelligence."

<sup>33</sup> Asshiddiqie, "Perkembangan Dan Konsolidasi Lembaga Negara Pasca Amandemen.", 5.

<sup>34</sup> Shania Kaulika Katuuk, Max Sepang, and Nurhikmah Nachrawy, "Fungsi, Tugas Dan Wewenang BIN Berdasarkan UU Nomor 17 Tahun 2011 Tentang Intelijen Negara."

<sup>35</sup> Ikrar Nusa Bhakti, "Intelijen Dan Keamanan Negara: Reformasi Intelijen Negara," *Jakarta: Pacivis UI & FES*, 2005, 4.

<sup>36</sup> Ali Abdullah Wibisono and Faisal Idris, "Menguak Intelijen 'Hitam' Indonesia," *Jakarta: Pacivis UI*, 2006., 14.

functions related to judicial power. These bodies include the Attorney General's Office, originally proposed in the draft amendment of the 1945 Constitution to be regulated in the chapter on judicial power, but this proposal did not reach consensus, resulting in its exclusion from the 1945 Constitution.

Based on the provisions of Article 24, paragraph (3), the term "bodies" implies that more than one entity is involved. This means that in addition to the Attorney General's Office, there are other institutions whose functions are also related to judicial power, specifically those that perform investigation, prosecution, and/or legal action. These institutions include the Komnas HAM, KPK, and others. Although not explicitly mentioned in the 1945 Constitution, these institutions, like the Attorney General's Office, hold constitutional significance within the constitutional system established by the 1945 Constitution.

The main issue is that in Chapter XII concerning National Defense, Article 30 of the 1945 Constitution does not provide space for other state institutions such as BIN, which also serves as a state apparatus conducting intelligence functions both domestically and internationally, to be established by law, as stipulated in Article 24, paragraph (3) of the 1945 Constitution, which allows for institutions related to judicial power to conduct judicial processes to uphold law and justice.

Article 30 of the 1945 Constitution explicitly mentions only the TNI and the National Police as state apparatuses responsible for national defense and security <sup>37</sup>. BIN also holds constitutional significance comparable to that of TNI and Polri, as well as the Attorney General's Office. Therefore, there is a need for constitutional guarantees regarding the institutional status of BIN within the 1945 Constitution, necessitating that the establishment of BIN be regulated by law, reflecting the special authority that BIN possesses.

## **E. The Role of BIN as the Coordinator of National Intelligence**

One of the special functions and authorities granted to BIN by the State Intelligence Law is the power to coordinate the intelligence functions of other state intelligence agencies, as stipulated in Article 38 of the State Intelligence Law. These agencies include the BIN, TNI intelligence, Polri intelligence, attorney general's intelligence, and intelligence units from ministries and non-ministerial

---

<sup>37</sup> Suwardono and Ramadhani, "Content Analysis of Indonesian National Security Architecture Surwandono International Relations."

government agencies. To achieve synergy among all state intelligence bodies and to provide integrated and comprehensive intelligence, the coordination of state intelligence activities is managed by BIN<sup>38</sup>.

As the coordinator for state intelligence operations, BIN is positioned under and directly accountable to the President, as stipulated in Article 27 of the State Intelligence Law. In this context, the concept of a state apparatus positions BIN as answerable to the President in their capacity as Head of State, rather than merely as Head of Government. A state apparatus refers to the mechanisms utilized by a nation to exercise its political authority in an organized and orderly manner, adhering to a legal framework that governs and limits governmental actions<sup>39</sup>. State apparatuses reflect the organized application of power regulated by law to achieve the objectives of the state.

As the coordinator, BIN has the authority to coordinate the intelligence functions of other state intelligence agencies, including receiving reports from each agency at the earliest opportunity<sup>40</sup>. As the coordinator, these reports will be analyzed to take necessary actions based on the intelligence received. Subsequently, this intelligence report will be submitted to the president as the head of state to inform appropriate policy decisions that support national security and stability.

According to Max Weber's concept of bureaucracy, the primary focus is on efficiency, rationality, and organized regulation within the organizational structure. Weber describes bureaucracy as a system based on clear rules, laws that refer to defined roles and responsibilities, and standardized procedures<sup>41</sup>. Concerning the intelligence organization in Indonesia, other state intelligence agencies must comply with all reporting rules and procedures as outlined in the State Intelligence Law and Presidential Regulation No. 67/2013 concerning State Intelligence Coordination.

In this context, there is a mandatory requirement to report promptly to the Head of BIN. However, the coordination function has not yet been fully executed effectively. This inefficiency is likely

---

<sup>38</sup> Asshiddiqie, "Perkembangan Dan Konsolidasi Lembaga Negara Pasca Amandemen.", 5.

<sup>39</sup> Jimly Asshiddiqie, "Kedudukan Konstitusional Kepolisian Dalam Tata-Pemerintahan Negara," *Artikel Dalam Http://Www. Jimly. Com/Makalah/Namafile/180/KEPOLISIAN\_DALAM\_TATA. Pdf*, Diakses 5 (2023).

<sup>40</sup> Presiden Republik Indonesia, "Peraturan Presiden Republik Indonesia Nomor 67 Tahun 2013" (2013).

<sup>41</sup> Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, vol. 1 (University of California press, 1978), 135.

influenced by BIN's relatively lower or weaker institutional hierarchy, as it is established through a presidential regulation, unlike other intelligence agencies such as TNI (military intelligence), Police Intelligence, and the Attorney General's Intelligence, which are established under national laws.

Another factor contributing to the ineffectiveness of intelligence coordination is the absence of detailed technical implementing regulations that elaborate on BIN's coordination authority, as stipulated in Article 40 of the State Intelligence Law. While a Presidential Regulation on State Intelligence Coordination does exist, its provisions fail to comprehensively define the coordinator's functions and authorities<sup>42</sup>.

Another reason for the inadequate coordination execution may stem from the lack of legal enforcement regarding violations of reporting obligations within the applicable regulations. The enforcement of regulations will not be effective without corresponding legal backing. Legal enforcement of a regulation can take various forms, one of which includes sanctions, which may be criminal, civil, or administrative<sup>43</sup>. Furthermore, there are no technical regulations governing certification or other forms of compliance with BIN as the intelligence coordinator from other state intelligence agencies<sup>44</sup>. This reflects BIN's authority in establishing the intelligence system as mandated by the State Intelligence Law.

## **F. Challenges in Intelligence Coordination: The Gap Between Das Sollen and Das Sein**

Based on these facts, the "das sollen" (what should be) and "das sein" (what is) in this study can be formulated into two parts. The first part, das sollen, states that according to Article 10(1) of the State Intelligence Law, BIN is a state apparatus responsible for conducting both domestic and international intelligence functions. The term "state apparatus" is not explicitly defined in the current Indonesian legal framework. However, various concepts and theories depict state apparatuses as entities that serve the interests and objectives of the state.

On the other hand, das sein reflects the reality that BIN, as the intelligence coordinator, is institutionally established only through a

<sup>42</sup> Shania Kaulika Katuuk, Max Sepang, and Nurhikmah Nachrawy, "Fungsi, Tugas Dan Wewenang BIN Berdasarkan UU Nomor 17 Tahun 2011 Tentang Intelijen Negara."

<sup>43</sup> Wicipto Setiadi, "Instrumen Penegakan Hukum Dalam Peraturan Perundang-Undangan," *Jurnal Legislasi Indonesia* 6, no. 4 (2009): 1.

<sup>44</sup> Aldila Kun Satriya, "Penguatan Tata Kelola Komunitas Intelijen Dalam Sistem Keamanan Nasional Di Indonesia," *Syntax Literate; Jurnal Ilmiah Indonesia* 8, no. 3 (2023): 2093–2106.

presidential regulation, with authority delegated by the State Intelligence Law. This creates a disparity in institutional status when compared to TNI, Polri, and the Attorney General's Office, which derive their authority directly from the 1945 Constitution. Despite BIN having a specific mandate to coordinate national intelligence operations involving TNI, Polri, the Attorney General's Office, and ministries or agencies regulated by law, TNI and Polri derive their authority from the 1945 Constitution, while the Attorney General's Office is established through laws delegated by Article 24(3) of the Constitution.

The positions of TNI, Polri, the Attorney General's Office, and state ministries are comparable, as they hold equivalent institutional and hierarchical statuses<sup>45</sup>. In contrast, BIN is established solely through a presidential regulation, placing it at a third-tier level beneath these second-tier entities. The difference in institutional status and hierarchy also impacts BIN's responsibilities and functions in coordinating the activities of national intelligence agencies. Furthermore, institutions such as TNI, Polri, the Attorney General's Office, and other ministries explicitly mentioned in laws cannot be dissolved or eliminated simply due to legislative policy changes. In contrast, BIN is solely established by a presidential regulation.<sup>46</sup> This means that its legal existence is based only on presidential policy (presidential policy). If the president decides to dissolve BIN, then the president has the authority to do so. Thus, its existence entirely depends on presidential policy. However, BIN is a state apparatus that is accountable to the head of state, not to the president as the head of the executive branch.

The second part of *das sollen* states that according to Article 38 of the State Intelligence Law, BIN is granted the authority and position as the coordinator for all intelligence providers in Indonesia. This provision implies that other state intelligence agencies, such as the TNI intelligence, Polri intelligence, the Attorney General's Office intelligence, and intelligence from ministries/non-ministerial government institutions, are required to coordinate with BIN. The Presidential Regulation on National Intelligence Coordination outlines the derivative regulations that govern intelligence coordination. According to Article 12(3) of this regulation, the outcomes of coordination meetings must serve as guidelines for each intelligence provider and should be reported to the Head of BIN,

---

<sup>45</sup> Jayadi, Basniwati, and Sofwan, "Lembaga-Lembaga Negara Sederajat Dalam Struktur Kelembagaan Negara Berdasarkan Undang-Undang Dasar 1945."

<sup>46</sup> Mufti, "Indonesian Intelligence Reform: Recent Challenges and Opportunities for Encouraging Democratic and Professional Intelligence."



as the coordinator, without delay. The coordination task described in Article 40 of the State Intelligence Law also mandates BIN to regulate policies in the intelligence sector, establish intelligence operation systems, and oversee the use of intelligence equipment and materials.

On the other hand, das sein reflects the reality that BIN, as the national intelligence coordinator, has not been functioning effectively. This can be observed in how intelligence providers such as TNI intelligence, Polri intelligence, the Attorney General's Office intelligence, and ministry/non-ministerial government agency intelligence have not consistently submitted intelligence reports to BIN as outlined in the relevant laws and regulations.

## G. Comparison Between Foreign Intelligence Agencies and BIN

The evolving geopolitical landscape and the increasing complexity of global threats necessitate well-integrated and legally empowered intelligence coordination mechanisms. A comparative analysis of Thailand's National Intelligence Agency (NIA), the Netherlands' Algemene Inlichtingen- en Veiligheidsdienst (AIVD), and Indonesia's State Intelligence Agency (BIN) reveals notable differences in terms of structural integration, legal mandates, and coordination effectiveness, all of which significantly affect their operational capacities.

Both the NIA and AIVD benefit from robust statutory frameworks that clearly define their roles as national intelligence coordinators<sup>47</sup>. Thailand's NIA, established under the National Intelligence Act B.E. 2562/2019, operates directly under the Office of the Prime Minister and holds a comprehensive mandate to collect, analyze, and disseminate intelligence<sup>48</sup>. Article 5 of the Act explicitly outlines its authority over key intelligence domains such as counterterrorism, counterespionage, and civil security, while Articles 12 and 13 establish the National Intelligence Coordinating Centre (NICC) as a permanent and institutionalized hub for inter-agency

<sup>47</sup> Eleni Braat, "Dutch Intelligence and Security Services," *AFIO's Guide to the Study of Intelligence*, 2015, 661–70; Napat Dumkhum, "Understanding the Security Community in Thailand: How to Improve Human Rights Education for Thai Security Personnel" (Columbia University, 2020).

<sup>48</sup> Natthamon Petchkla and Sumonthip Chitsawang, "Government Sector's Response in Counter-Cyberterrorism in Thailand," *International Journal of Crime, Law and Social Issues* 9, no. 2 (2022): 1–11; Hathairat Ketmaneechairat, Maleerat Maliyaem, and Puttakul Puttawattanakul, "Towards a Management System Framework for the Integration of Personal Data Protection and Data Governance: A Case Study of Thai Laws and Practices," *International Journal of Technology* 15, no. 1 (2024): 219–29, <https://doi.org/10.14716/ijtech.v15i1.5885>.

collaboration, early warning, and strategic decision-making. This legal foundation not only authorizes but compels coordination with agencies such as the Royal Thai Police and the Royal Thai Armed Forces, making NIA the de facto national intelligence integrator<sup>49</sup>.

In a similar vein, the Netherlands' AIVD derives its authority from the Intelligence and Security Act 2017 (Wiv 2017)<sup>50</sup>. Article 7a of this act mandates AIVD to serve as the principal coordinator for all Dutch intelligence and security services. While the AIVD does not maintain a separate coordinating center like Thailand's NICC, its coordination function is deeply embedded in the operational framework and supported by a unified legal system. This structure ensures seamless collaboration across multiple agencies, including the Military Intelligence and Security Service (MIVD), the National Police, the Royal Netherlands Marechaussee, and the Nationaal Coördinator Terrorismebestrijding en Veiligheid (NCTV)<sup>51</sup>. The statutory integration of these entities under a single legal framework facilitates synchronized intelligence sharing, proactive threat management, and operational cohesion across security sectors.

In contrast, Indonesia's BIN, although designated as the national intelligence coordinator under Law No. 17/2011 on State Intelligence and Presidential Regulation No. 67/2013, faces inherent structural and legal limitations<sup>52</sup>. While Article 9 of the law acknowledges BIN's coordinating function, the actual enforcement of coordination remains weak due to the fragmented legal architecture governing Indonesia's intelligence system. Other major intelligence entities—such as the TNI Intelligence, the Polri Intelligence, and the Attorney General's Office—are all established through separate laws and operate with autonomous mandates. BIN lacks both a statutory mechanism and a structurally integrated body equivalent to Thailand's NICC or the embedded operational authority of the Netherlands' AIVD. Consequently, BIN must rely on periodic and non-binding meetings to coordinate national intelligence, which results in episodic rather than continuous cooperation and limits BIN's ability to direct or enforce joint intelligence actions.

---

<sup>49</sup> Petchkla and Chitsawang, "Government Sector's Response in Counter-Cyberterrorism in Thailand."

<sup>50</sup> Christiaan Menkveld, "Understanding the Complexity of Intelligence Problems," *Intelligence and National Security* 36, no. 5 (2021): 621–41, <https://doi.org/10.1080/02684527.2021.1881865>.

<sup>51</sup> Braat, "Dutch Intelligence and Security Services."

<sup>52</sup> Shania Kaulika Katuuk, Max Sepang, and Nurhikmah Nachrawy, "Fungsi, Tugas Dan Wewenang BIN Berdasarkan UU Nomor 17 Tahun 2011 Tentang Intelijen Negara"; Satriya, "Penguatan Tata Kelola Komunitas Intelijen Dalam Sistem Keamanan Nasional Di Indonesia."

The comparative insights from Thailand and the Netherlands offer critical lessons for Indonesia. Effective intelligence coordination requires more than just nominal authority; it demands a firm legal basis, a structurally integrated coordination body, and clearly delineated hierarchical authority over all intelligence agencies. Both the NIA and AIVD demonstrate how statutory empowerment and institutional integration can produce efficient and cohesive intelligence systems<sup>53</sup>. In contrast, the Indonesian model, characterized by legal fragmentation and reliance on presidential-level regulations, lacks the enforceability needed to coordinate a national intelligence effort effectively.

To address these gaps, Indonesia could consider legislative reform aimed at strengthening BIN's mandate through statutory law, thereby elevating its authority to a level equal to or higher than other intelligence bodies. Furthermore, the establishment of a permanent, centralized coordination entity—akin to Thailand's NICC—would greatly enhance Indonesia's ability to respond rapidly and coherently to emerging threats. Embedding intelligence coordination within a unified legal and institutional framework would not only improve operational efficiency but also ensure alignment with democratic governance, national security imperatives, and international best practices.

## H. Discussion

BIN occupies a critical yet structurally precarious position within Indonesia's national security architecture. Its legal standing, derived from presidential regulations rather than statutory law, places it at a distinct disadvantage compared to other key institutions like the Indonesian National Armed Forces (TNI) and the National Police (Polri), which are firmly anchored in laws and the 1945 Constitution. This foundational disparity underscores a broader constitutional ambiguity, as the 1945 Constitution explicitly mentions the TNI and Polri in Article 30 while remaining silent on intelligence agencies. This omission not only diminishes BIN's institutional legitimacy but also renders its existence contingent on presidential discretion, unlike Thailand's National Intelligence Agency (NIA) or the Netherlands' General Intelligence and Security Service (AIVD), both of which operate under robust national laws.

---

<sup>53</sup> Braat, "Dutch Intelligence and Security Services"; Arthit Thongin, "International Terrorism in Thailand: Situation, Prevention, and Solution," *PSAKU International Journal of Interdisciplinary Research* 3, no. 1 (2014): 27–36; Krisana Kitiyadisai, "Information Systems for National Security in Thailand: Ethical Issues and Policy Implications," ed. Ken Himma, *Journal of Information, Communication and Ethics in Society* 6, no. 2 (June 27, 2008): 141–60, <https://doi.org/10.1108/14779960810888356>.

The absence of constitutional recognition for BIN creates a hierarchy of authority that undermines its coordinating role, as agencies established by law often perceive themselves as equals or superiors to BIN, leading to fragmented and inconsistent compliance with its directives.

The institutional hierarchy further complicates BIN's mandate as Indonesia's national intelligence coordinator. Despite being designated as such under Article 38 of Law No. 17/2011 on State Intelligence, BIN's third-tier status—stemming from its establishment via presidential regulation—weakens its ability to enforce coordination among agencies like the TNI Intelligence or the Attorney General's Intelligence, which derive their authority from higher-tier legal instruments. This structural inequality is exacerbated by the lack of a permanent, integrated coordinating body akin to Thailand's National Intelligence Coordinating Centre (NICC), which operates under explicit statutory mandate to ensure continuous inter-agency collaboration<sup>54</sup>. Instead, BIN relies on ad-hoc coordination meetings (Kominpus and Kominda), a system that pales in comparison to the Netherlands' AIVD, where intelligence coordination is embedded within a unified legal and operational framework<sup>55</sup>. The resulting inefficiencies highlight a critical gap between BIN's formal responsibilities and its practical capacity to unify Indonesia's intelligence efforts.

Operational challenges further illustrate the disconnect between BIN's legal mandates and its real-world effectiveness. The agency's coordination struggles are rooted in weak enforcement mechanisms, as evidenced by Presidential Regulation No. 67/2013, which outlines intelligence coordination but fails to impose sanctions for non-compliance. Unlike the AIVD or NIA, which operate with clear authority to compel cooperation, BIN lacks the tools to ensure timely intelligence sharing or standardized reporting across agencies. This deficiency is compounded by the absence of technical regulations to codify procedures or certify compliance, leaving BIN's coordinating role largely aspirational. The dissonance between theory and practice is starkly visible in cases where agencies like the TNI or Polri bypass BIN entirely, citing their autonomous legal mandates. A telling example is President Joko Widodo's 2023 directive for the Ministry of Defense to consolidate intelligence, a move that inadvertently sidelined BIN and exposed the jurisdictional

---

<sup>54</sup> Petchkla and Chitsawang, "Government Sector's Response in Counter-Cyberterrorism in Thailand."

<sup>55</sup> Braat, "Dutch Intelligence and Security Services."

ambiguities plaguing Indonesia's intelligence community<sup>56</sup>.

Addressing these challenges requires a multifaceted reform agenda. First, elevating BIN's legal status through constitutional amendment or a dedicated State Intelligence Law would provide the institutional permanence and authority it currently lacks. Embedding intelligence within the 1945 Constitution, perhaps under an expanded Article 30, would align Indonesia with peers like Thailand and the Netherlands, where intelligence agencies derive their legitimacy from foundational legal texts. Second, establishing a permanent Indonesian Intelligence Coordinating Centre (IICC), modeled after Thailand's NICC, would replace ad-hoc meetings with a structured, continuous mechanism for intelligence integration. Third, introducing enforceable sanctions for non-compliance and technical regulations to standardize procedures would bridge the gap between BIN's de jure authority and its de facto limitations. These reforms would not only clarify BIN's hierarchical position but also empower it to fulfill its coordinating role effectively, ensuring that Indonesia's intelligence system can respond cohesively to evolving security threats.

In conclusion, BIN's struggles reflect broader systemic issues—constitutional neglect, structural fragmentation, and operational inefficiency—that hinder Indonesia's intelligence coordination<sup>57</sup>. By drawing lessons from Thailand and the Netherlands, Indonesia can transform BIN into a more effective institution, capable of navigating the complexities of modern national security. Legislative and institutional reforms must prioritize constitutional recognition, structural integration, and binding authority to align BIN's capabilities with its responsibilities, safeguarding Indonesia's democratic governance and security imperatives in an increasingly uncertain world. The urgency of these reforms cannot be overstated, as the gap between BIN's potential and its current limitations poses a significant risk to Indonesia's ability to anticipate and counter emerging threats.

The structural positioning of Indonesia's State Intelligence

---

<sup>56</sup> Nico Julianto, "Tata Kelola Intelijen : Netralitas BIN Dalam Politik Kepentingan Tata Kelola Intelijen : Netralitas BIN Dalam Politik Kepentingan," *Jurnal Kajian Stratejik Ketahanan Nasional* 7, no. 1 (2024), <https://doi.org/10.7454/jkskn.v7i1.10091>; Dwi Surjatmodjo et al., "The State Intelligence Agency (BIN) amid the 2024 General Election in Indonesia," *Journal of Infrastructure, Policy and Development* 8, no. 8 (2024): 1–19, <https://doi.org/10.24294/jipd.v8i8.7287>.

<sup>57</sup> Satriya, "Penguatan Tata Kelola Komunitas Intelijen Dalam Sistem Keamanan Nasional Di Indonesia"; Shania Kaulika Katuuk, Max Sepang, and Nurhikmah Nachrawy, "Fungsi, Tugas Dan Wewenang BIN Berdasarkan UU Nomor 17 Tahun 2011 Tentang Intelijen Negara."

Agency (BIN) within the nation's institutional hierarchy reveals fundamental challenges in its operational effectiveness and constitutional legitimacy<sup>58</sup>. As a third-tier state institution established through presidential regulation rather than statutory law, BIN occupies a significantly different position from its counterparts in national defense and security - the Indonesian National Armed Forces (TNI) and National Police (Polri), which enjoy second-tier status as institutions created by laws derived from the 1945 Constitution.

This hierarchical distinction carries profound implications for BIN's authority and permanence. The TNI and Polri benefit from constitutional anchoring that requires legislative involvement for any substantive changes to their structure or mandate. Their establishment through Law No. 34/2004 (TNI) and Law No. 2/2002 (Polri), both rooted in Article 30(5) of the 1945 Constitution, ensures institutional stability and elevates their standing in the state apparatus. In stark contrast, BIN's foundation in Presidential Regulation No. 90/2012 (as amended) renders it vulnerable to unilateral executive action, lacking the constitutional safeguards afforded to its counterparts<sup>59</sup>.

The constitutional implications of this arrangement become particularly apparent when examining BIN's mandated role as national intelligence coordinator under Articles 28(2) and 38 of the State Intelligence Law. Despite being tasked with integrating intelligence activities across agencies, BIN's subordinate legal status creates an inherent power asymmetry when coordinating with TNI and Polri intelligence units. This structural imbalance manifests in practical challenges, including inconsistent compliance with coordination protocols and difficulties in enforcing intelligence-sharing requirements.

The preamble of the State Intelligence Law highlights BIN's constitutional significance in supporting early threat detection and national security objectives. The agency's operational mandate - encompassing wiretapping authority, financial flow examination, and counterterrorism intelligence gathering - reflects its critical role in safeguarding state sovereignty. However, the disconnect between these substantial responsibilities and BIN's weaker institutional standing creates a paradox where operational expectations outstrip

<sup>58</sup> Satriya, "Penguatan Tata Kelola Komunitas Intelijen Dalam Sistem Keamanan Nasional Di Indonesia."

<sup>59</sup> Sri Ayu Astuti and Murjiono, "Perlindungan Hukum Agen Intelijen Dalam Pelaksanaan Tugas Operasi Intelijen Berdasarkan Undang-Undang Nomor 17 Tahun 2011 Tentang Intelijen Negara," *Perfecto: Jurnal Ilmu Hukum* 1, no. 4 (2024): 355–66, <https://doi.org/10.32884/jih.v1i4.1639>.

constitutional support<sup>60</sup>.

BIN's coordination functions, as outlined in Presidential Regulation No. 67/2013, include consolidating intelligence products, providing security for national leaders, and establishing the national intelligence system<sup>61</sup>. These responsibilities align with the state's strategic objectives but are hampered by the absence of robust enforcement mechanisms. While Article 40(a) of the State Intelligence Law grants BIN policy coordination authority, the lack of accompanying sanctions for non-compliance undermines its ability to ensure unified intelligence efforts.

The current regulatory framework reveals several critical weaknesses. First, the absence of comprehensive implementing regulations creates ambiguity in coordination procedures. Second, the lack of clear classification systems for intelligence materials and standardized equipment protocols hampers interoperability. Third, the presidential regulation basis for BIN's establishment fails to provide the institutional permanence required for effective long-term intelligence planning and capability development.

From a Weberian perspective<sup>62</sup>, this arrangement contradicts principles of institutional checks and balances. The intelligence function's importance to national security warrants constitutional recognition comparable to that afforded to defense and law enforcement institutions. The current system creates an asymmetry where BIN, despite its strategic role, lacks the legal standing to effectively coordinate with constitutionally-anchored agencies.

The solution lies in elevating BIN's legal foundation to statutory level, preferably through constitutional amendment to include intelligence alongside defense and security in Article 30<sup>63</sup>. This study suggests providing BIN with institutional parity with TNI and Polri, establishing clear legislative oversight mechanisms, creating a more balanced national security architecture, enhancing coordination effectiveness through equal institutional standing, and providing greater permanence and stability to the intelligence function.

Such reform would align Indonesia's practice with international norms observed in Thailand and the Netherlands, where intelligence

---

<sup>60</sup> Julianto, "Tata Kelola Intelijen : Netralitas BIN Dalam Politik Kepentingan Tata Kelola Intelijen : Netralitas BIN Dalam Politik Kepentingan."

<sup>61</sup> Rizki Hernawan, Eko Arie Kurniawan, and Kristiyono Kristiyono, "Optimalisasi Intelijen Negara Dalam Menghadapi Ancaman Di Lingkungan Strategis," *JlIP - Jurnal Ilmiah Ilmu Pendidikan* 7, no. 8 (2024): 8298–8302, <https://doi.org/10.54371/jiip.v7i8.5678>.

<sup>62</sup> Weber, *Economy and Society: An Outline of Interpretive Sociology*.

<sup>63</sup> Shania Kaulika Katuuk, Max Sepang, and Nurhikmah Nachrawy, "Fungsi, Tugas Dan Wewenang BIN Berdasarkan UU Nomor 17 Tahun 2011 Tentang Intelijen Negara."

agencies operate with clear statutory mandates and institutional equality with other security sectors. It would also address the current paradox where BIN bears significant national security responsibilities without corresponding constitutional recognition.

The implementation challenges of such reform should not be underestimated, requiring careful navigation of political sensitivities and institutional interests. However, the constitutional and operational imperatives for creating a more cohesive, effective intelligence coordination system justify this substantive restructuring of Indonesia's national security framework.

## Conclusion

BIN serves as the central coordinator of Indonesia's national intelligence apparatus, tasked with overseeing intelligence units across the TNI, Polri, Attorney General's Office, and various ministries. This coordinating role encompasses critical functions including policy formulation, operational oversight, system standardization, intelligence classification, and resource management. However, as demonstrated throughout this study, BIN's effectiveness in executing these responsibilities faces fundamental structural and legal challenges that demand urgent reform.

The research reveals three key limitations undermining BIN's coordinating authority. First, its establishment through presidential regulation rather than statutory law creates an institutional hierarchy disparity with law-based agencies like TNI and Polri, resulting in frequent non-compliance with coordination directives. Second, the absence of a permanent coordinating body akin to Thailand's NICC forces reliance on ad-hoc mechanisms that lack continuity and enforcement capacity. Third, as critically identified in the findings, the current framework fails to establish binding compliance measures - whether through certification requirements for intelligence personnel or administrative sanctions for non-cooperating agencies.

These deficiencies have tangible operational consequences. The case analysis shows how intelligence silos persist between military, police, and civilian agencies, creating gaps in threat assessment and response coordination. The Netherlands' comparative example demonstrates how statutory integration of intelligence coordination (through Article 7a of its 2017 Intelligence Act) enables more cohesive operations. Furthermore, the absence of oversight mechanisms raises legitimate concerns about potential power concentration without adequate checks - an issue successfully addressed in Thailand's model through the NICC's



transparent reporting structure.

To enhance BIN's effectiveness as a national intelligence coordinator, the study proposes a concise reform strategy centered on three key areas. First, legal empowerment calls for constitutional recognition of BIN in Article 30 of the 1945 Constitution, supported by enabling legislation that affirms its authority. Second, structural integration involves establishing a permanent Indonesian Intelligence Coordinating Center (IICC) with clear operational procedures to ensure ongoing and systematic inter-agency collaboration. Third, a compliance framework is needed to uphold coordination discipline, which includes mandatory certification for intelligence personnel, enforceable sanctions for non-compliance, and strengthened parliamentary oversight to ensure accountability. This integrated approach aims to provide BIN with the legal foundation, institutional structure, and regulatory mechanisms necessary to effectively coordinate Indonesia's national intelligence system.

These reforms would address both the "authority gap" identified in BIN's current presidential regulation basis and the "compliance gap" in enforcement mechanisms, while maintaining democratic accountability. The proposed model adapts international best practices to Indonesia's constitutional context, particularly Thailand's NICC structure and the Netherlands' integrated legal framework.

Ultimately, strengthening BIN's coordinating role is not about expanding power, but about creating an effective, rules-based intelligence ecosystem. As Indonesia faces increasingly complex security threats - from transnational terrorism to hybrid warfare - a cohesive, legally-anchored intelligence coordination system becomes not just preferable, but imperative for national resilience. This study provides both the diagnostic analysis of current shortcomings and a actionable roadmap for building that essential capability.

## References

- Arum, Fitri Atur. "Reposisi Intelijen Dalam Badan Intelijen Negara Pasca Lahirnya Undang-Undang No. 17 Tahun 2011 Tentang Intelijen Negara." Universitas Islam Indonesia, 2016.
- Asshiddiqie, Jimly. "Kedudukan Konstitusional Kepolisian Dalam Tata-Pemerintahan Negara." *Artikel Dalam Http://Www. Jimly. Com/Makalah/Namafile/180/KEPOLISIAN\_DALAM\_TATA. Pdf, Diakses 5 (2023).*

- . “Perkembangan Dan Konsolidasi Lembaga Negara Pasca Amandemen.” Jakarta: Konpress, 2006.
- . “Perkembangan Dan Konsolidasi Lembaga Negara Pasca Reformasi,” 2006.
- Astuti, Sri Ayu, and Murjiono. “Perlindungan Hukum Agen Intelijen Dalam Pelaksanaan Tugas Operasi Intelijen Berdasarkan Undang-Undang Nomor 17 Tahun 2011 Tentang Intelijen Negara.” *Perfecto: Jurnal Ilmu Hukum* 1, no. 4 (2024): 355–66. <https://doi.org/10.32884/jih.v1i4.1639>.
- Bhakti, Ikrar Nusa. “Intelijen Dan Keamanan Negara: Reformasi Intelijen Negara.” *Jakarta: Pacivis UI & FES*, 2005.
- Braat, Eleni. “Dutch Intelligence and Security Services.” *AFIO’s Guide to the Study of Intelligence*, 2015, 661–70.
- Dumkhum, Napat. “Understanding the Security Community in Thailand: How to Improve Human Rights Education for Thai Security Personnel.” Columbia University, 2020.
- Durkheim, Emile. “The Division of Labour in Society.” In *Social Theory Re-Wired*, 15–34. Routledge, 2023.
- Gill, Peter, and Lee Wilson. “Intelligence and Security-Sector Reform in Indonesia.” *Intelligence Elsewhere: Spies and Espionage Outside the Anglosphere*, no. January 2013 (2013): 157–79.
- Haripin, Muhamad, Chaula Rininta Anindya, and Adhi Priamarizki. “The Indonesian Military and Counter Terrorism in Poso, 2015–2022.” *Journal of Policing, Intelligence and Counter Terrorism* 19, no. 3 (2024): 305–19. <https://doi.org/10.1080/18335330.2023.2290044>.
- Hernawan, Rizki, Eko Arie Kurniawan, and Kristiyono Kristiyono. “Optimalisasi Intelijen Negara Dalam Menghadapi Ancaman Di Lingkungan Strategis.” *JlIP - Jurnal Ilmiah Ilmu Pendidikan* 7, no. 8 (2024): 8298–8302. <https://doi.org/10.54371/jiip.v7i8.5678>.
- Jayadi, Haeruman, AD Basniwati, and Sofwan Sofwan. “Lembaga-Lembaga Negara Sederajat Dalam Struktur Kelembagaan Negara Berdasarkan Undang-Undang Dasar 1945.” *Journal Kompilasi Hukum* 7, no. 2 (2022). <https://doi.org/10.29303/jkh.v7i2.122>.
- Jellinek, Georg. *Allgemeine Staatslehre. Allgemeine Staatslehre*, 1929. <https://doi.org/10.1007/978-3-642-50936-0>.
- Julianto, Nico. “Tata Kelola Intelijen : Netralitas BIN Dalam Politik Kepentingan Tata Kelola Intelijen : Netralitas BIN Dalam Politik Kepentingan.” *Jurnal Kajian Stratejik Ketahanan Nasional* 7, no. 1 (2024). <https://doi.org/10.7454/jkskn.v7i1.10091>.
- Kelsen, Hans. *General Theory of Law and State*. Routledge, 2017.
- Ketmaneechairat, Hathairat, Maleerat Maliyaem, and Puttakul

- Puttawattanakul. "Towards a Management System Framework for the Integration of Personal Data Protection and Data Governance: A Case Study of Thai Laws and Practices." *International Journal of Technology* 15, no. 1 (2024): 219–29. <https://doi.org/10.14716/ijtech.v15i1.5885>.
- Kitiyadisai, Krisana. "Information Systems for National Security in Thailand: Ethical Issues and Policy Implications." Edited by Ken Himma. *Journal of Information, Communication and Ethics in Society* 6, no. 2 (June 27, 2008): 141–60. <https://doi.org/10.1108/14779960810888356>.
- Kuncoro, Wahyu. "Aparat Pengawas Intern Pemerintah: Perannya Dalam Pengawasan Intelijen Yang Akuntabel Di Badan Intelijen Negara." *Jurnal Ilmiah Ilmu Pemerintahan* 4, no. 2 (2019): 155–68. <https://doi.org/10.14710/jiip.v4i2.5629>.
- Marzuki, Peter Mahmud. "Penelitian Hukum," 2013.
- Menkveld, Christiaan. "Understanding the Complexity of Intelligence Problems." *Intelligence and National Security* 36, no. 5 (2021): 621–41. <https://doi.org/10.1080/02684527.2021.1881865>.
- Mufti, Makarim A. "Indonesian Intelligence Reform: Recent Challenges and Opportunities for Encouraging Democratic and Professional Intelligence." *Connections* 20, no. 1 (2021): 75–90. <https://doi.org/10.11610/Connections.20.1.05>.
- Nazir, Moh. "Metode Penelitian, Cetakan Kedelapan." *Bogor: Ghalia Indonesia*, 2013.
- Petchkla, Natthamon, and Sumonthip Chitsawang. "Government Sector's Response in Counter-Cyberterrorism in Thailand." *International Journal of Crime, Law and Social Issues* 9, no. 2 (2022): 1–11.
- Pierson, Christopher. *The Modern State*. 2nd ed. Taylor & Francis, 2004.
- Prayudi. "Intelijen Pertahanan Dan Politik Supremasi Sipil." *Majalah INFO Singkat Pemerintahan Dalam Negeri* VIII, no. 18 (2016): 17–20. [https://berkas.dpr.go.id/puslit/files/info\\_singkat/InfoSingkat-VIII-18-II-P3DI-September-2016-3.pdf](https://berkas.dpr.go.id/puslit/files/info_singkat/InfoSingkat-VIII-18-II-P3DI-September-2016-3.pdf).
- Presiden Republik Indonesia. Peraturan Presiden Republik Indonesia Nomor 67 Tahun 2013 (2013).
- Republik Indonesia. Undang-Undang Republik Indonesia Nomor 17 Tahun 2011 Tentang Intelijen Negara (2011).
- Satriya, Aldila Kun. "Penguatan Tata Kelola Komunitas Intelijen Dalam Sistem Keamanan Nasional Di Indonesia." *Syntax Literate; Jurnal Ilmiah Indonesia* 8, no. 3 (2023): 2093–2106.
- Setiadi, Wicipto. "Instrumen Penegakan Hukum Dalam Peraturan Perundang-Undangan." *Jurnal Legislasi Indonesia* 6, no. 4 (2009):

603–14.

- Shania Kaulika Katuuk, Max Sepang, and Nurhikmah Nachrawy. "Fungsi, Tugas Dan Wewenang BIN Berdasarkan UU Nomor 17 Tahun 2011 Tentang Intelijen Negara." *Lex Privatum* XI, no. 3 (2023).
- Singh, Rakhbir, and Irwan Triadi. "Peran Intelejen Dalam Meningkatkan Kemampuan Negara Dalam Pertahanan Nasional." *Civilia : Jurnal Kajian Hukum Dan Pendidikan Kewarganegaraan* 2, no. 5 (2023).
- Sunarko, M. R., Khaiul Muluk, and Bambang S. Hariyono. "The Role of Effective and Efficient Coordination between Intelligence Agencies." *International Journal of Innovation, Creativity and Change* 13, no. 1 (2020): 154–70.
- Surjatmodjo, Dwi, Andi Alimuddin Unde, Hafied Cangara, and Zulfajri Hasanuddin. "The State Intelligence Agency (BIN) amid the 2024 General Election in Indonesia." *Journal of Infrastructure, Policy and Development* 8, no. 8 (2024): 1–19. <https://doi.org/10.24294/jipd.v8i8.7287>.
- Suwardono, Suwardono, and Masyithoh Annisa Ramadhani. "Content Analysis of Indonesian National Security Architecture Surwandono International Relations." *Advances in Social Science, Education and Humanities Research* 84, no. Iconeg 2016 (2017): 138–42.
- Thongin, Arthit. "International Terrorism in Thailand: Situation, Prevention, and Solution." *PSAKU International Journal of Interdisciplinary Research* 3, no. 1 (2014): 27–36.
- Wahjono, Padmo. "Beberapa Masalah Ketatanegaraan Di Indonesia." *Detail* 320 (1984): 98.
- Wahyudi, Rizki, and Muhammad Syauqillah. "Strengthening Cooperation among Intelligence Agencies in the Enforcement of Law on Terrorism: The Case of Indonesia." *JISPO Jurnal Ilmu Sosial Dan Ilmu Politik* 12, no. 1 (2022): 23–38. <https://doi.org/10.15575/jispo.v12i1.14370>.
- Weber, Max. *Economy and Society: An Outline of Interpretive Sociology*. Vol. 1. University of California press, 1978.
- Wibisono, Ali Abdullah, and Faisal Idris. "Menguak Intelijen 'Hitam' Indonesia." *Jakarta: Pacivis UI*, 2006.
- Widjajanto, Andi, and Artanti Wardhani. "Hubungan Intelijen-Negara, 1945-2004," 2008, 1–154.

\*\*\*

### **Acknowledgment**

None

### **Funding Information**

None

### **Conflicting Interest Statement**

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

### **History of Article**

Submitted : January 22, 2025

Revised : April 20, 2025

Accepted : July 17, 2025

Published : November 17, 2025