

The Implications of Legal Uncertainty of the Provisions on Hybrid Threats in the Indonesia National Defense System

Muhammad Hamdi Karim¹, Mhd. Halkis², Susaningtyas Nefo Kertopati³

^{1,2,3} Universitas Pertahanan Republik Indonesia

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ABSTRACT

The inclusion of hybrid threats in Law No. 23/2019 concerning Management of National Resources for National Defense can be considered an early preparation made within the national defense system to confront increasingly complex and multidimensional threats. However, it is important to question whether the addition of a new type of threat, namely hybrid threats, in Law No. 23/2019 on Management of National Resources for National Defense, which was not previously regulated in Law No. 3/2002 concerning National Defense, is in line with the principle of legal certainty. This legal research aims to analyze the legal certainty of the provisions regarding hybrid threats in Law No. 23/2019 concerning Management of National Resources for National Defense and its implications on policies related to state emergencies and the mobilization of reserve components. The study adopts a normative legal research method. The literature review collects information from document analysis, which is qualitatively analyzed. The data analysis is descriptive-analytical in nature. The results of the study show that the provisions regarding hybrid threats in Law No. 23/2019 concerning Management of National Resources for National Defense create legal uncertainty due to the disharmony in the legislative regulations. There is a need to fill the legal gap in addressing complex and multidimensional threats through the formulation of hybrid threats. However, this has led to a situation of legal uncertainty regarding the regulation of mobilizing reserve components, which should only be mobilized to face military threats when the President declares a state of military emergency or a state of war.

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Corresponding Author:

Name: Muhammad Hamdi Karim

Institution Address: Universitas Pertahanan Republik Indonesia. Kawasan IPSC Sentul, Sukahati, Kec.

Citeureup, Kabupaten Bogor, Jawa Barat 16810

e-mail: muhammad.karim@sp.idu.ac.id

1. INTRODUCTION

The spectrum of complex threats and its impact on national defense is not only limited to military threats but also includes non-military and hybrid threats. The state requires a comprehensive defense approach to face each threat by combining all national capabilities, both military and non-military. This integration reflects the implementation of Indonesia's universal defense system [1]. Therefore, national defense policies must be adjusted to the developments in actual and potential threats, both internal and external. Addressing the complexity of threats should not solely rely on the defense department but also involve all relevant agencies with a sense of responsibility and sacrifice in serving the nation.

The definitions, types, and forms of threats are regulated in Law No. 3 of 2002 on National Defense, Law No. 23 of 2019 on the Management of National Resources for National Defense, and Law No. 34 of 2004 on the Indonesian National Armed Forces (TNI). These three laws form a cohesive legal system in Indonesia, interpreting legislative regulations by connecting them with other laws or the overall legal system or so-called systematic interpretation [2]. Thus, these laws are not seen as standalone regulations but as part of a system.

Law No. 3 of 2002 on National Defense divides threats into two types: military threats and non-military threats. Initially, threats to national sovereignty were conventional (physical), but they have now evolved into multidimensional threats (both physical and non-physical). In contrast, Law No. 23 of 2019 on the Management of National Resources for National Defense has a broader scope of threats, including military, non-military, and hybrid threats. The inclusion of "hybrid threats" in Law No. 23 of 2019 on the Management of National Resources for National Defense is a continuation of the explanation provided in Law No. 3 of 2002 on National Defense, aiming to address threats that have evolved from conventional (physical) to multidimensional (physical and

non-physical). By expanding the coverage of threats to include hybrid threats, the law responds to the increasingly diverse and complex challenges to national sovereignty, involving various elements such as politics, economics, society, technology, and others. Consequently, Law No. 23 of 2019 on the Management of National Resources for National Defense provides a more comprehensive legal framework for dealing with evolving national defense challenges.

However, this expansion of threats in Law No. 23 of 2019 on the Management of National Resources for National Defense raises certain issues. The inclusion of hybrid threats may lead to overlapping or confusion in implementing authority by government institutions compared to the formulation of threats in the explanation of Law No. 3 of 2002 on National Defense. The addition of a threat type not recognized in the identification of threats in Law No. 3 of 2002 on National Defense creates a lack of synchronization between the two laws. Law No. 3 of 2002 on National Defense specifically categorizes threats and corresponding strategies for each type of threat faced. This includes the organization of national defense by the government, utilizing the Indonesian National Armed Forces (TNI) as the main component to address military threats, supported by reserve and support components, and the role of non-defense government agencies in dealing with non-military threats as the main element, supported by other elements of national power.

This lack of synchronization has led to the ambiguity of definitions and types of threats, resulting in legal uncertainty concerning the formulation of hybrid threats in Law No. 23 of 2019 on the Management of National Resources for National Defense. This legal uncertainty may have implications when the President declares a state of military emergency or war and orders the mobilization of reserve components.

Based on Article 7(2) of Law No. 3 of 2002 on National Defense, the mobilization of reserve components is only for facing military

threats as a support to the TNI, which is the main component. Moreover, Article 63(1) and Article 64(1) of Law No. 23 of 2019 on the Management of National Resources for National Defense state that the President can order the mobilization of reserve components when the entire or part of the territory of the Republic of Indonesia is in a state of military or wartime emergency.

However, what happens when facing hybrid threats, which involve the integration of both military and non-military threats? Can the President mobilize reserve components in such a situation? Since Law No. 3 of 2002 on National Defense does not account for reserve components in dealing with hybrid threats, and because the law does not recognize the formulation of "hybrid threats," there is no harmonization between the regulations concerning the types of threats and the mobilization of reserve components.

Harmonization in law includes the adjustment of legislation, government decisions, judicial decisions, the legal system, and legal principles, with the goal of enhancing legal unity, legal certainty, justice, and fairness [3]. The law should be clear and understandable to the general public. Failure to make rules understandable can lead to a deficient legal system, or even something that cannot be considered a legal system at all.

This legal uncertainty arises because the phrase "hybrid threats" in Article 4(2) of Law No. 23 of 2019 on the Management of National Resources for National Defense does not synchronize with Law No. 3 of 2002 on National Defense. This situation does not reflect the guarantee, protection, and fair legal certainty that should be provided. Therefore, it is essential to uphold the principles of legality and legal certainty in a legal state like Indonesia. The concept of a legal state is enshrined in Article 1(3) of the 1945 Indonesian Constitution, which states, "Indonesia is a legal state." Consequently, Article 28D(1) of the 1945 Indonesian Constitution asserts that "Every person shall have the right to recognition, guarantees, protection, and legal certainty in a just and

equitable manner and equal treatment before the law."

This legal uncertainty leads to ambiguity in the definition and types of threats, which, in turn, affects the occurrence of legal uncertainty in cases such as the declaration of military or wartime emergencies and the mobilization of reserve components. According to Gustav Radbruch, the law must embody three identity values: (1) Legal Certainty (*rechtmatigheid*), this principle reviews from a juridical point of view, (2) Legal Justice (*gerechtigheit*), this principle reviews from a philosophical point of view, and (3) Legal Benefits (*zwechmatigheid*) or *doelmatigheid* or utility [4]. Fuller also points out that one of the principles the law must fulfill is to create rules that are understandable to the general public. Failure to do so will result in a deficient legal system or even a system that cannot be called a legal system at all [5].

In conclusion, the ambiguity caused by the inclusion of "hybrid threats" in Article 4(2) of Law No. 23 of 2019 on the Management of National Resources for National Defense, without corresponding provisions in Law No. 3 of 2002 on National Defense, has resulted in legal uncertainty and undermines the principles of legality and legal certainty in a legal state. Harmonization between regulations concerning the types of threats and the mobilization of reserve components is necessary to ensure a coherent and effective national defense system.

2. LITERATURE REVIEW

2.1 *Hybrid Threats in the Indonesia Defense System*

The threat refers to all efforts and activities, both domestic and foreign, which are deemed to endanger national sovereignty, territorial integrity, and the safety of the entire nation. Threats are a crucial factor in designing the national defense system, both in terms of actual and potential threats. As the identification of dynamic threats progresses, various types of threats can be combined and termed as hybrid threats. Considering the

current and future forms of threats, they can be categorized into three types: military threats (both armed and unarmed), non-military threats, and hybrid threats [6].

In this context, "hybrid" refers to hybrid attacks, hybrid wars, hybrid warfare, and hybrid threats. It signifies conflicts where all involved parties combine conventional (regular) and irregular approaches [7]. Hybrid threats are a combination of various forms of warfare, involving different modes such as conventional capabilities, irregular tactics and formations, indiscriminate violence and coercion through terrorism, and criminal disruption. Hybrid wars may involve various actors, including states and non-state actors [8]. These threats encompass diverse and multimodal forms with low intensity, impacting international peace and security. They include cyber warfare, asymmetric conflicts, global terrorism, piracy, transnational organized crime, demographic challenges, resource security, negative effects of globalization, and proliferation of weapons of mass destruction [9]. Therefore, based on the aforementioned perspective, "hybrid" refers to a wide range of threats that encompass physical (kinetic) and non-physical (non-kinetic) elements, as well as low intensity aspects. These threats can emanate from both state and non-state actors, employing various tactics, methods, and tools, as illustrated below.

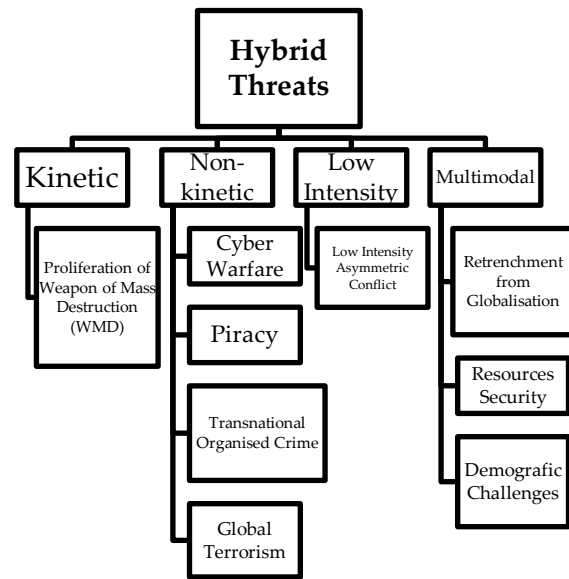


Figure 1. Hybrid Threats

Source: Jitka Richterová, "NATO & Hybrid Threats", (2016)

According to the Minister of Defense Regulation No. 19 of 2015 on State Defense Policy for 2015-2019, the essence of hybrid threats is a mixed threat that integrates both military and non-military threats. Hybrid threats combine various types of threats, such as conventional, asymmetric, terrorist, and cyber warfare, as well as criminal activities, into dynamic and diverse forms. Hybrid threats can also involve attacks using chemical, biological, radiological, nuclear, and explosive (CBRNE) weapons and information warfare.

Hybrid threats in the national defense system are clearly regulated in Article 4(2) of Law No. 23/2019 on the Management of National Defense Resources. According to the Constitutional Court (MK) in Constitutional Court Decision No. 27/PUU-XIX/2021, this provision accommodates the principle of predictability in facing the dynamic developments of various threats. This is different from the provisions in Law No. 3/2002 on National Defense when it was enacted. The addition of hybrid threats in Article 4(2) of Law No. 23/2019 on the Management of National Defense Resources aims to complete the coverage of threats in Law No. 3/2002 on National Defense, which

did not include mixed threats, namely threats that are a combination of military and non-military threats. Additionally, the inclusion of this type of threat aims to anticipate the development of multidimensional and strategic threats in line with global dynamics.

According to the Constitutional Court, if Law No. 23/2019 on the Management of National Defense Resources does not regulate provisions regarding hybrid threats, there will be a legal vacuum in dealing with multidimensional threats that combine both military and non-military aspects. This is because neither Law No. 3/2002 on National Defense nor Law No. 34/2004 on the Indonesian National Armed Forces (TNI) formulates such threats. On the other hand, the Constitutional Court acknowledges that the definition of threats in Law No. 23/2019 on the Management of National Defense Resources is vague and creates legal uncertainty. The Constitutional Court has ordered the legislative body to revise this provision through the amendment of Law No. 23/2019 on the Management of National Defense Resources, which is already on the Legislative Program (Prolegnas).

Therefore, according to the author, revising the related laws is necessary to create harmonization and synchronization to achieve legal certainty in dealing with complex and dynamic threats. This will provide clear and reliable guidance when facing challenging situations. Legal certainty is essential so that individuals and government institutions can know their rights, obligations, and responsibilities in addressing emerging threats. With legal certainty, stability, order, and justice can be established in handling threats.

2.2 Regulation of Types of Threats in Legislation

In the hierarchical system of law as regulated in Article 7, paragraph (1) of Law Number 12 of 2011 concerning the Formation of Legislation, as amended by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation, the following are the levels:

- a. The 1945 Constitution of the Republic of Indonesia;
- b. Decisions of the People's Consultative Assembly;
- c. Laws/Regulations in lieu of Law;
- d. Government Regulations;
- e. Presidential Regulations;
- f. Provincial Regional Regulations; and
- g. District/City Regional Regulations

This hierarchical system of law is in line with the concept of the rule of law in a unitary state that requires the supremacy of the law. The supremacy of the law is manifested in the hierarchy of legal norms. According to Hans Kelsen, lower-level norms (inferior) can be formed based on higher-level norms (superior), resulting in a hierarchical and layered structure of law [10]. The principle of *lex superior derogate legi inferior* states that lower-level regulations must not contradict higher-level regulations. According to the stufenbau theory, a higher-level regulation serves as the grundnorm (basic norm) for lower-level regulations [11].

The same applies to laws that regulate types of threats, namely Law No. 3/2002 concerning National Defense, Law No. 34/2004 concerning the Indonesian National Armed Forces (TNI), and Law No. 23/2019 concerning Management of National Resources for National Defense, which hold an equal position in the legal hierarchy as mandated by the norm above them, namely the 1945 Constitution. Specifically, Article 27, paragraph (3) of the 1945 Constitution states, "Every citizen has the right and duty to participate in the defense of the state," and Article 30 of the 1945 Constitution regulates defense and national security.

The enactment of Law No. 23/2019 and Law No. 34/2004 is an implementation of one of the substances in Law No. 3/2002 concerning National Defense. According to the principle of *lex specialis derogat legi generali*, Law No. 3/2002 concerning National Defense serves as the general norm regarding national defense, while Law No. 23/2019 and Law No. 34/2004 are developments of specific parts of Law No. 3/2002 that require further elaboration. Therefore, Law No. 23/2019 and

Law No. 34/2004 are formed to regulate more specific matters. The principle of *lex specialis derogat legi generali* is a legal principle that states that a specific norm prevails over a general norm. According to Purnadi Purbacaraka and Soerjono Soekanto, this principle means that specific events must be regulated by laws that specifically mention those events, even though broader or more general laws may also apply to those specific events [12].

The formulation of threat provisions is a fundamental aspect of the national defense system. Article 4 of Law No. 3/2002 concerning National Defense states that national defense aims to preserve and protect the state's sovereignty, territorial integrity, and the safety of the entire nation from all forms of threats. The term "threat" refers to any effort and activity, whether from within or outside the country, deemed to endanger the state's sovereignty, territorial integrity, and the safety of the entire nation. Based on this law, threats to national sovereignty are classified into two forms: conventional (physical) threats and multidimensional (physical and non-physical) threats. Multidimensional threats can originate from issues of ideology, politics, economy, socio-culture, as well as security issues related to transnational crimes, including terrorism, illegal immigration, drug abuse, theft of natural resources, piracy, and environmental degradation. This law does not explicitly mention hybrid threats but formulates multidimensional threats, which are a combination of physical and non-physical threats. Further definition of multidimensional threats is elaborated in the Indonesian Defense White Paper, encompassing military threats, non-military threats, and hybrid threats that can be categorized as real and potential threats [6].

On the other hand, Law No. 23/2019 concerning Management of National Resources for National Defense covers a broader scope of threats as stipulated in Article 4, namely military threats, non-military threats, and hybrid threats. These threats may take the form of aggression,

terrorism, communism, separatism, armed rebellion, natural disasters, environmental damage, violations of border areas, piracy, theft of natural resources, disease outbreaks, circulation and abuse of drugs, cyber-attacks, nuclear attacks, biological attacks, chemical attacks, or any form of threat endangering the state's sovereignty, territorial integrity, and the safety of the entire nation.

Meanwhile, Law No. 34/2004 concerning the TNI divides threats into two types: military threats and armed threats. Military threats refer to threats conducted by the military of one country against another (Article 1 number 23). Armed threats are threats that come from armed power movements (Article 1 number 24).

Therefore, Law No. 3/2002 concerning National Defense and Law No. 34/2004 concerning the TNI do not specifically regulate hybrid threats like Law No. 23/2019 concerning Management of National Resources for National Defense. Law No. 34/2004 concerning the TNI only regulates military threats and armed threats, which are both categorized as military threats. Meanwhile, Law No. 3/2002 concerning National Defense does not explicitly address hybrid threats but formulates multidimensional threats as physical and non-physical threats that can originate from issues of ideology, politics, economy, socio-culture, as well as security issues related to international crimes, including terrorism, illegal immigration, drug dangers, theft of natural resources, piracy, and environmental destruction.

The three types of threats specified in Law No. 23/2019 concerning Management of National Resources for National Defense are actually further elaborations of the provisions in Article 4 of Law No. 3/2002 concerning National Defense, which states, "National defense aims to preserve and protect the state's sovereignty, territorial integrity, and the safety of the entire nation from all forms of threats." This is further explained in the General Explanation of Law No. 3/2002 concerning National Defense, paragraph 4, which states: The era of globalization

characterized by advances in science, technology, communication, and information greatly influences the patterns and forms of threats. Threats to national sovereignty, which were originally conventional (physical), have now evolved into multidimensional (physical and non-physical) threats, both from abroad and from within the country. Multidimensional threats may arise from issues of ideology, politics, economy, socio-culture, as well as security issues related to international crimes, including terrorism, illegal immigration, drug dangers, theft of natural resources, piracy, and environmental destruction.

Therefore, it is necessary to align the legislation to provide comprehensive clarity in distinguishing the forms of threats as military threats, non-military threats, and hybrid threats. This serves as the basis for declaring a state of military emergency and state of war, as well as ensuring clarity when the President declares mobilization where all or part of the Republic of Indonesia is in a state of military emergency or state of war.

2.3 Legal Certainty

Jan Michiel Otto explains that legal certainty has a more juridical dimension. However, Otto provides a more in-depth understanding of legal certainty by illustrating the possibilities in specific situations and the limitations of legal certainty. According to Otto, legal certainty is the likelihood that in certain conditions: [13]

1. Clear, consistent, and easily accessible rules are available, issued and recognized by the state's (authority);
2. Government institutions apply these legal rules consistently and are subject to them;
3. Citizens, in principle, adjust their behavior to these rules;
4. Independent and impartial judges apply these legal rules consistently when resolving legal disputes, and;
5. Concrete court decisions are enforced.

Richard Fallon Jr. also discusses the elements that shape legal rules even further, claiming that they are intrinsic to legal certainty. He states, "addresses these forming elements and goes even further, by claiming

that it is inherent to the legal certainty – or as he prefers, the rule of law – a legal supremacy, limiting not only individuals but also the empowered authorities." [14]

Fallon writes that there are generally five elements that constitute the rule of law, namely:

1. The first element is the capacity of legal rules, standards, or principles to guide individuals in their affairs. People should be able to understand the law and comply with it.
2. The second element of the Rule of Law is effectiveness. The law should genuinely guide individuals, at least for the most part.
3. The third element is stability. The law should be sufficiently stable to facilitate planning and coordinated actions over time.
4. The fourth element of the Rule of Law is the supremacy of legal authority. The law should govern officials, including judges, as well as ordinary citizens.
5. The final element involves impartial justice mechanisms. Courts must be available to enforce the law and must employ fair procedures.

Raz's viewpoint is similar to Fallon's. For him, the legal certainty must be understood cumulatively, namely as individuals should be governed by the law and obey it; and the law should be capable of guiding people. To achieve legal provisions must be relatively stable, clear, and open, as ambiguous, vague, inaccurate, or unknown laws will not be able to guide human behavior; and individuals should be provided with broad access to the courts, so that they can seek protection, including as a remedy against unfair legal changes [15].

Based on the opinions of legal experts as explained above, the concept of legal certainty should, at the very least, encompass elements such as the availability of clear rules, relatively stable legal provisions, and the absence of ambiguity. These elements must be met in order to maintain the consistency of rules with their implementation, as the alignment of rules with their execution serves

as the benchmark for the legal system to ensure fair legal certainty for the public. If these elements are not met, it can lead to legal uncertainty, resulting in an unjust legal system.

3. METHODS

This research is a juridical-normative study with a descriptive qualitative research approach. Juridical-normative legal research considers law as what is written in legislation (law in books) or as norms and standards that serve as guidelines for human behavior, deemed appropriate [16]. The descriptive qualitative approach is a research method where data collected consists of words, images, and not numerical figures [17].

In normative legal research (doctrinal), secondary data is employed. This includes data obtained indirectly through legal literature, books, and other documents [18]. The research utilizes primary legal materials such as legislation and secondary legal materials, which include explanations of primary legal materials, legal books, and research findings related to the research topic.

4. RESULTS AND DISCUSSION

4.1 The Implications of Legal Uncertainty of the Provisions on Hybrid Threats in the Indonesia National Defense System

Legal uncertainty due to the lack of harmonization between legal regulations governing different forms of threats can lead to unfavorable situations and potential harm to various parties involved. Legal harmonization is a principle that must be fulfilled to provide certainty. As stated by Fuller, one of the principles that law must fulfill in providing certainty is that it must be formulated in a way understandable to the general public [19]. If this principle is not met, according to Rundle, it can result in a bad legal system or even something that cannot be properly called a legal system at all [5].

Legal disharmony occurs when there is a lack of consistency between one legal norm and another. According to L.M. Gandhi,

the occurrence of legal disharmony can be traced to the center of general legislation or general norms, such as differences in opinions and aspirations regarding objectives, principles, legal systems, and authority organizations [3].

The expansion of threats, as formulated in Law No. 23/2019 on Management of National Resources for National Defense, actually creates a problem. The expansion of threat forms in Article 4(2), which formulates hybrid threats, can lead to overlaps or confusion in the exercise of authority by relevant government institutions compared to the formulation of threats in Law No. 3/2002 on National Defense. The addition of threat types not recognized in the identification of threats to national defense, as regulated in Article 7 of Law No. 3/2002 on National Defense, creates a situation that is not in sync with Law No. 23/2019 on Management of National Resources for National Defense. This is because Law No. 3/2002 on National Defense has specifically divided the types of threats and corresponding strategies for each type of threat faced. The implementation of national defense based on Article 7 of Law No. 3/2002 on National Defense is as follows:

- (1) National defense, as referred to in Article 6, is carried out by the government and prepared early with a national defense system.
- (2) The national defense system in facing military threats places the Indonesian National Army as the main component, supported by reserve components and supporting components.
- (3) The national defense system in facing non-military threats places government institutions outside the defense sector as the main element, in accordance with the nature and form of the threats faced, supported by other elements of national strength.

This provision covers the organization of national defense by the government, which uses the Indonesian National Army as the main component in facing military threats, supported by reserve

and supporting components, as well as the role of government institutions outside the defense sector in facing non-military threats as the main element, in accordance with the nature and form of the threats faced, supported by other elements of national strength.

4.1.1 Determination State of Emergency

The implications of this legal uncertainty have an impact when the President declares a state of military emergency or war and declares the mobilization and demobilization of reserve components. Article 12 of the 1945 Constitution grants the President the authority to declare a state of danger. Article 12 of the 1945 Constitution focuses on the President's authority as the head of state to protect the nation and state from external threats [20]. Because the term "state of danger" emphasizes external structures [21]. Thus, it is more appropriate if the declaration of a state of danger is intended for national defense. The legal basis determining the levels of such conditions is regulated in Government Regulation in Lieu of Law (Perppu) No. 23 of 1959 concerning the Revocation of Law No. 74 of 1957 (State Gazette No. 160 of 1957) and the Declaration of a State of Danger. According to the Perppu, there are three situations that can be the basis for the President to declare a state of danger, with levels of civil emergency, military emergency, and war emergency.

In general, the concept of a state of emergency has three essential elements that must be cumulatively met: firstly, the presence of a dangerous threat; secondly, the existence of a reasonable necessity, and thirdly, the availability of limited time [22]. Furthermore, when a state is considered to be facing a "pressing necessity," it must exhibit two common characteristics, namely: (1) The presence of a crisis, and (2) Emergency. A crisis situation occurs when there is a disturbance that creates an urgent and sudden condition. Emergency occurs when various unforeseen circumstances demand immediate action without waiting for prior deliberation. Or there are clear indications and, according

to reasonable judgment, if not addressed promptly, it will result in disruptions to both society and the functioning of the government [23].

Although the constitution grants the government the prerogative to declare a "state of emergency" in situations when a country faces a widespread crisis, it does not specifically define the types of crises that can trigger the issuance of emergency policies [24]. Common justifications for declaring a state of emergency typically encompass conditions such as warfare, threats to national security, natural disasters, economic collapses, and health emergencies like the Covid-19 pandemic [25]. Furthermore, the inclusion of the phrase "hybrid threats" in Law No. 23/2019 on the Management of National Resources for National Defense has undoubtedly added confusion and ambiguity to the determination of a state of emergency.

4.1.2 Reserve Components Mobilization

Furthermore, regarding the mobilization of reserve components, it is regulated in Article 29 of Law No. 23/2019 on Management of National Resources for National Defense, which states that "Reserve Components as referred to in Article 28 paragraph (1) are prepared to be deployed through Mobilization to increase and strengthen the strength and capabilities of the Main Components in facing military Threats and hybrid Threats." However, returning to the provision of Article 7 paragraph (2) of Law No. 3/2002 on National Defense, which states, "The national defense system in facing military threats places the Indonesian National Army as the main component, supported by reserve and supporting components," it explicitly provides limitations regarding the mobilization of reserve and supporting components, which can only be mobilized to face military threats. This situation creates legal uncertainty due to the expansion of threat types with the addition of the phrase "hybrid threats" in Article 4 paragraph (2) of Law No. 23/2019 on Management of National Resources for National Defense. The Law No. 23/2019 on the

Management of National Resources for National Defense, which should have served as a democratic legal framework for the state to utilize national resources for national defense, has ironically created uncertainty. When the escalation of threats to the state reaches a level of danger, the state will automatically require resources that can be used to protect its interests. This forms one of the foundations for the creation of the Law 23/2019 that regulates the Management of National Resources for National Defense [24].

Although hybrid threats, in simple terms, refer to the integration of military and non-military threats, this can have implications on inter-agency authority. Furthermore, in situations of emergency such as civil emergency, military emergency, or war emergency, it is crucial to clearly identify the types of threats and provide precise definitions and explanations of the threats being faced. The mobilization of reserve components to face military threats should essentially be carried out in a state of war emergency, as stated by the President with reference to the provisions of Article 12 of the 1945 Constitution. Therefore, harmonization between legal regulations is necessary to provide comprehensive clarity in distinguishing between various forms of threats, including military, non-military, and hybrid threats. Referring to the opinion of Jimly Asshiddiqie, the interpretation of legal norms is highly influential in avoiding errors in interpreting a legal norm. Thus, in formulating legal regulations, the drafters are required to use concise, precise, clear, and easily understandable language for the public [25].

The provision in Article 4 paragraph (2) of Law No. 23/2019 on Management of National Resources for National Defense contradicts the principle of legal certainty, which demands a definite law that can be used to anticipate specific events and protect against arbitrariness. Legal rules must be formed based on principles to create legal clarity. This is an essential characteristic of law, especially for written legal norms. Law without certainty loses its meaning as it

cannot be used as a guide for behavior and relations among society. Therefore, clear and easily understandable legal regulations are necessary for the public. In the context of facing threats, legal certainty reflects legal legitimacy and justice in determining the actions taken. These principles provide a framework to ensure that the measures taken to address threats align with legal norms and provide fair protection to all parties involved. Furthermore, legal certainty must also reflect usefulness, meaning that legal rules should be practical and effectively applicable to protect the interests of all parties involved.

5. CONCLUSION

In the face of increasingly complex and multidimensional threats, there is a need to fill legal gaps. This has led to the formulation of the phrase "hybrid threats" in Article 4 paragraph (2) of Law No. 23/2019 on Management of National Resources for National Defense, which was not previously identified in Article 7 of Law No. 3/2002 on National Defense. The addition of this provision on threats aims to address existing legal uncertainties but instead creates legal uncertainty because there is no harmonization between Law No. 3/2002 on National Defense and Law No. 23/2019 on Management of National Resources for National Defense. These laws do not provide comprehensive clarity regarding the differentiation of forms of threats into military threats, non-military threats, and hybrid threats, despite being the basis for declaring a state of military emergency and war, which subsequently affects the President's declaration of mobilizing reserve components. Article 29 of Law No. 23/2019 on Management of National Resources for National Defense regulates reserve components for facing military and hybrid threats. On the other hand, Article 7 paragraph (2) of Law No. 3/2002 on National Defense places reserve components only as support for the Indonesian National Army (TNI) in facing military threats. Article 63 paragraph (1) of Law No. 23/2019 on Management of National Resources for

National Defense also stipulates the mobilization of reserve components only in a state of military emergency or war.

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BIOGRAPHIES OF AUTHORS

	<p>Full Name Muhammad Hamdi Karim Education : Bachelor of Law, University of Lampung (2017-2021) Master of Defense, Indonesia Defense University (2022-2024) Institutional Email: muhammad.karim@sp.idu.ac.id Personal Email: hamdikarim38@gmail.com</p>
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