

## Criminal Law Policy in the Prevention and Eradication of Terrorism in Indonesia

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### Abstract

*Terrorism is an extraordinary crime that requires being dealt with in extraordinary ways. The formulation of the problem in this study is how is the Prevention and Eradication of Terrorism Crimes in Indonesia? and what is the concept of criminal law policy formulation in the prevention and eradication of terrorism in Indonesia? This research uses a normative juridical approach. The type of legal material used is primary, secondary and tertiary legal material the analysis used is to use qualitative analysis. Based on the results of the study, it shows that various government efforts have issued various policies in order to prevent and eradicate terrorism, one of which is Law Number 5 of 2018 concerning the Eradication of Terrorism Crimes. The formulation of criminal law policies in the eradication of terrorism is through an educational / education approach and the involvement of community leaders, even RT / RW in the prevention and eradication of terrorism contained in the terrorism law and regional regulations. Furthermore, it must immediately replace Article 43 C paragraph (1) of the terrorism law.*

### Keywords

*criminal law policy; eradication of terrorism; legal certainty*



## I. Introduction

The important wisdom in resolving terrorism is based on the preamble of the 1945 Lower Law, if the country prevents the Indonesian nation and all Indonesian bloodshed. This means that the state is responsible for preventing each of its country's people from every danger of mistakes of good national, transnational and global habits. So the fight against terrorism is a mandate to prevent the people of the country from all forms of destruction (Djari, 2013).

After the formation of the Bali bombings on October 12, 2002, the authorities cited some important stages of terrorism behavior in the form of strengthening legal features and the bodies on which they were based. The intensity of the Indonesian rulers in tackling terrorism can be seen from the ruler's efforts to produce 4 meaningful provisions in avoiding and overcoming the behavior of terrorism, Law of the Republic of Indonesia No. 1 of 2002 concerning the eradication of terrorism crimes which is subsequently approved by the Representative Body of the Person who justifies Perpu No. 1 of 2002 to Law No. 15 of 2003 concerning the Determination of The Rule of Attorney in Lieu of Law No. 1 of 2002 concerning the Eradication of Crimes Terrorism became a Law that was passed on April 4, 2003. Currently, it is continued with Law No. 5 of 2018 concerning the changeover of Law no. 15 of 2003 concerning the determination of the ruling regulation in lieu of law no. 1 of 2002 (Djari, 2013).

The issuance of the law is a clear form of the ruling stage in an effort to resolve acts of terrorism crimes in Indonesia. The ruler thinks that there needs to be a special regulation

that criminalizes the guilt of terrorism, because terrorism is a form of special wrongdoing that can lead to great losses for a country. As a result of the loss caused, there are those whose characters are directly experienced, there are also those whose characters are indirect. The direct result of loss can take the form of physical destruction near the position where the act of terrorism takes place which gives rise to a lot of losses, for example the position that was used as a bomb blast site. Continuing to be a dense rush that terrorists are trying to do, continues to be a huge amount of immediate loss caused. The impact of acts of terror, the situation of terror victims causes people or groups of people to feel uncomfortable and in situations of worry (tense). Not only does it have an impact on people or groups of people, moreover, it can have a big impact or impact on the economic, political life and independence of the country. Acts of terrorism that are difficult to find and have enormous consequences, must find solutions to deterrence and countermeasures are really good by the rulers or citizens (Mudzakkir, 2008). Development is a systematic and continuous effort made to realize something that is aspired. Development is a change towards improvement. Changes towards improvement require the mobilization of all human resources and reason to realize what is aspired. In addition, development is also very dependent on the availability of natural resource wealth. The availability of natural resources is one of the keys to economic growth in an area. (Shah, M. et al. 2020)

The effort and wisdom to make good criminal law regulations cannot in essence be separated from the purpose of resolving errors. So, the wisdom or politics of crime law is also part of criminal politics. Efforts to resolve the crime law are also essentially part of efforts to strengthen the law (specifically strengthening the crime law) therefore, it is often also said that politics or the wisdom of the crime law is also part of the law enforcement policy. Efforts to resolve mistakes through the making of crime laws are essentially also an integral part of efforts to protect citizens (social welfare) therefore, it is natural that the wisdom or politics of crime law is also an integral part of wisdom or social politics (social policy). Social policy can be referred to as all logical efforts to achieve the safety of residents and cover the protection of residents (Arief., 2008).

The article that is mistaken for a rumor of noun weakness in the Terrorism Act article 43 C part (1). This section says the interpretation of anti-radicalization as, "something planned, structured, systematic and sustainable that is implemented on people or groups of people who are vulnerable to understanding radical terrorism to end the spread of radical terrorism." This definition is being interpreted and does not contain clarity of meaning. this meaning can be potentially abused. The determination of vulnerable groups can even give rise to subjectivity. Similar to the phrase vulnerable people or groups, the phrase vulnerable group is radicalized and has the potential to be abused by law enforcement officers." Law enforcement officers can arbitrarily ensure that many people have to explore anti-radicalization and deradicalization programs. Some of the illustrations that are thought to be vulnerable to radicalism are all citizens in Indonesia. Surely vulnerable cases that lie in understanding anti-radicalism or radicalism must have real limits so as not to become a controversy in the way of eradicating acts of terrorism in Indonesia.

Without a solid legal foundation, the country wants to be constantly neglected by terrorists who every time they change and switch to their new networks. Therefore, the enforcement of terrorism needs to be addressed with the suitability of the vision of each party referring to legal laws and regulations. At the bottom of some of these matters, it is necessary to try to discuss terrorism in terms of legal political views in the form of legal wisdom from the country in avoiding and eradicating terrorism in Indonesia. The objectives to be achieved in this preparation are to recognize and analyze the deterrence and eradication of terrorism crimes in Indonesia and to recognize and analyze the

formulation of the legal policy of crime in the deterrence and eradication of terrorism crimes to create legal clarity.

The results of the research are expected to be useful for the development of legal science, especially criminal law in terms of the wisdom of crime law in deterring acts of terrorism crimes. In addition, it is able to provide input for parties who want insight into the wisdom of deterrence and eradication of acts of terrorism crimes. As a more in-depth preliminary study material for other researchers who will carry out the discussion of the wisdom of deterrence and eradication of terrorism.

Provide input for related parties or the community in interpreting the legal policy of crime in the deterrence and eradication of acts of terrorism crimes. Not only that, with this research, it is hoped that it can add insight and can provide information on deterrence and eradication of terrorism in Indonesia.

## **II. Research Method**

Normative juridical legal research begins with carrying out a search for legal materials at the bottom to make legal provisions (Sah Decesion Making) to cases, concrete legal cases in other parts of legal research is also an objective activity to share reflections and research figures on legal decisions that have been made intertwined or want to be established. In this study, normative research can be used as the next approach (Ibrahim, 2007): Statute Approach, Abstract Approach, Problem Approach (Case Approach), Origin Approach (Historical Approach) and Metaphysical Approach (Philosophical Approach).

The basis of legal material used in this research is the basis of legal material consisting of: Subject matter, Inferior Law Material and Tertiary Legal Material. In conclusion, normative legal research in this preparation of all legal materials is analyzed in a qualitative way (Soerjono, 2006).

## **III. Result and Discussion**

### **3.1 Prevention and Eradication of Terrorism in Indonesia**

Law of Numbers. 5 Of 2018 concerning the Eradication of Acts of Terrorism Crimes entrusts a comprehensive deterrence effort (Law No. 5 of 2018 concerning the Eradication of Terrorism Crimes., 1945). This contains a void of the law that is very powerful in the view of strengthening the law and similarly does not entrust the view of countering terrorism. In current law, the ruler must carry out a counter-terrorism. Not only that, in an effort to deter acts of terrorism, the ruler is mandated to carry out the prediction stage in a way always, based on the principle of protection of the basic rights of people and prudence. Deterrence efforts are tried through 3 issues, namely national preparedness, counter-radicalization, and deradicalization.

If observed further, efforts to deter terrorism have received important attention from both the ruling and non-ruling factions in the last 2 years. Information Discovery Indonesia proves that 394 efforts have been tried to crack down on the capability of danger or answers to the problem of terrorism in Indonesia. Indonesia's findings describe the enforcement of terrorism as referring to the settlement of terrorism which is spoken of in the Regulation of the Head of State Number. 46 of 2010 and Law Number. 5 Year 2018 concerning the Eradication of Terrorism Crimes (Deteksi-Indonesia, 2022). In that wisdom, the terrorism crackdowns that are spoken of include deterrence, protection, deradicalization, enforcement, and packaging of national preparedness.

However, deterrence efforts with unconventional ordinances were also tried even in smaller ratios. This matter can be observed from the activities tried by Tanoker Ledokombo who is a body of ordinary citizens in Jember. They regularly carry out activities known as Egrang Performances. The activity is held by Tanoker once a year and has now reached its ninth year (Tanoker, 2022). The meaning of this performance is an embedded record. He did not directly voice the record of war or anti to radicalism or terrorism, but instead centered on creating closeness between shops and communities and producing an inclusive space that urged similar activities among all parties (Coverage 6, 2018).

The eradication of acts of terrorism in Indonesia is a proactive wisdom and anticipatory stage based on prudence and far-time habits because: Initially, Indonesians are multi-ethnic citizens with a variety of legal religions recognized by the ruler and live on hundreds of thousands of islands scattered in all areas of the archipelago and some whose positions are bordering other countries. Second, with the character of Indonesian citizens, all parts of the Indonesian nation are responsible for maintaining and increasing the accuracy of experiencing all forms of activities that are acts of terrorism crimes with a global habit. Third, the conflicts that have been established lately are very young in the life of the nation and state and are the decline of civilization and can be used as a productive place for the growth of terrorism crimes with a good global standard that are carried out by the people of Indonesia or tried by foreigners" (General Explanation of Regulations in Lieu of Law of the Republic of Indonesia Number 1 of 2002 concerning the Eradication of Terrorism Crimes.) .

Efforts to eradicate acts of terrorism crimes with the three objectives above prove that the Indonesian nation is a nation that upholds the great civilization of people and has a feeling of peace and dreams of safety and has a firm commitment to always protect the perfection of the area of the unitary state of the Republic of Indonesia which is in power in the midst of a tidal wave of peace and security of the earth (General Explanation of Regulations in Lieu of Law of the Republic of Indonesia Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism.,) . The eradication of acts of terrorism in Indonesia is not a legal problem and legal strengthening alone because it is also linked to social problems of statehood, custom, economy and also its relationship with the defense of the country. There are many methods or efforts that can be tried by citizens or the country to carry out the eradication of terrorism and the suppression of other mistakes. But that effort cannot be eliminated by ending the error, it may only be able to reduce the quantity.

The eradication of the crime of terrorism does not want to be efficient if it is only tried and focused on strengthening the crime law to the problem, but a legal strengthening system is needed through a counter terrorism approach that uses all tools in a systemic and prolonged way, not only entrusting the strengthening of the law of crime that is repressively motivated but a pre-emptive approach is needed and protect, for example through the efforts of penal and non-penal wisdom.

### **3.2 Formulation of Criminal Law Policy in the Prevention and Eradication of Criminal Acts of Terrorism to Realize Legal Certainty**

Law of the Republic of Indonesia No. 5 of 2018 concerning The Amendment of Law No. 15 of 2003 concerning the Determination of The Ruler's Regulation in Lieu of Law No. 1 of 2002 concerning the Eradication of Acts of Terrorism Crimes is part of the regulation on the deterrence and eradication of terrorism that has been implemented in Indonesia. But the faults of terrorism along with the progress of the past era exist and

grow. As a result, it requires the formulation of the right wisdom so that the mistakes of terrorism can be stopped.

Researchers assume that the legal wisdom of crime for the deterrence and eradication of acts of terrorism crimes is formulated as follows: Initially, terrorism actors who uphold the values of people's basic rights (HAM) are instilled in the crime system. This matter is very meaningful in Indonesia and also replaces the hope of social development. The nursery of terrorist actors is designed to allow terrorist actors to rejoin social life while being acquired by the citizens themselves. For terrorism actors, the resocialization stage is a way of planning to return to become a good state society and welcome Pancasila as under the law and the Unitary State of the Republic of Indonesia as its country.

Second, balanced academics, citizen figures, youth figures, women's figures or PKK, religious figures, RT or RW participate in the control of progress in the immediate area in the non-crime policy of deterrence and eradication of acts of terrorism crimes, which are instructed in the eradication chart of terrorism crimes. Any advance in terrorism is detected quickly and correctly. In each area of the near residents, the regional ruler needs to produce laws and regulations that require each citizen to be responsible for the development of the surrounding residents. as well as leaving the area. Researchers think that the wisdom of non-crime rewards in the deterrence of terrorism is very appropriate, most importantly to strengthen the RT or RW, PKK and citizen figures, because so far RT or RW and others no longer monitor well any progress made in their environment. Because, there is no clear provision to enforce it. The trick is to carry out langlang hamlet. Therefore, the usefulness of rt or RW, PKK and citizen figures should greatly influence the perfect method of early discovery of deterrence and eradication of acts of terrorism crimes to find out progress in close residents.

Third, the form of the citizen approach emphasizes the view of the error deterrence expertise of the citizen body itself. The people of the country must be involved in all efforts to deter mistakes by inviting them not to carry out or share opportunities for the formation of mistakes, for example, people who enter and leave the area must always notify the progress around them, if the community is planned to prevent or hide from Report to RT or RW or citizen figures and they must be given severe rewards. In the form of compensation or let alone bui for ordinary discipline.

Fourth, there must be a discussion forum with dreams of increasing interaction and data alteration to minimize criminal acts, such as the emergence of terrorist seeds, control visitors or current waitresses who doubt, and block access to transportation at night. Through discussion forums, the progress of each citizen area can be explored, and through togetherness with the ruling unit and the manager of needs, we can consider a solution together.

In this regard, various binding cooperation is needed between the regional rulers and the National Police and citizen figures in deterrence and eradication of terrorism. The important figures obtained are to open the path for the police's efforts to eradicate terrorism crimes. Therefore, it is necessary to create a triangular bond between the police, regional rulers, and citizen figures. This bond is conceptualized as a familiar bond that connects the police, regional rulers and citizen figures. This familiar relationship is intended to strengthen the bond of cooperation between the National Police, local government, and citizen figures as the previous pillars in deterrence and eradication of terrorism.

Not only the change in the type and pattern of criminal wisdom, it must also be observed that non-penal wisdom can be offered as a form of criminal re-enactment as a form of innovation in the criminal law related to punishment for the implementation of Terrorism Crimes to achieve equality for the parties. The purpose of the usual prevalence



conviction is to distribute warnings to citizens not to carry out the wrongdoing of terrorism. Special prevention is intended that with Action can share the deterrence effect on the performer as a result of not repeating his actions back (R. A. Duff and David Garland, 1995).

Rewards for criminal acts can reduce violations by the methods of: 1) making a kapok of the perpetrators of acts of terrorism crimes, namely by remembering the rewards imposed, inviting the actors not to violate the law or to end violating the law; 2) avoiding the offender from carrying out the offense. law; would-be plagiarists; 3) rehabilitate the performer, is to justify the attitude of the performer, as a result of which the understanding of the performer seems to lead to not carrying out any more, although there is no fear of the danger of error; 4) the cheerfulness of citizens to pay more attention to the formation of acts of terrorism crimes, which in an indirect way can reduce the wave of acts of terrorism crimes. Not only that, the reward of attitude in punishment is used as processing for the purpose of punishment. The reason for this positive movement is based on the fact that the perpetrator is a sick person who wants maintenance and correction (Jeffery, 1977).

Not only that, the subsequent formulation of the law of crime is that the Administrator as well as the legislature quickly amend the article article 43 C section (1). This part is being raised and worrying. this meaning can potentially be abused to deal with groups that have been critical to the ruler. Articles in the Law can be used as a weapon to empty groups that are critical of authority. the vagueness of the phrase "people or groups of people who are vulnerable to radical terrorism". the determination of vulnerable groups can even lead to clashes. Similar to the phrase of vulnerable people or groups, the phrase understanding radical terrorism is not real as a result of potentially making interrogators abuse authority. "Interrogators can arbitrarily ensure that many people have to explore anti-radicalization and deradicalization programs".

#### IV. Conclusion

The Deterrence and Eradication of Acts of Terrorism in Indonesia in terms of positive law has been tried through the Law of the Republic of Indonesia No. 5 of 2018 concerning The Amendment of Law No. 15 of 2003 concerning the Determination of The Rule of Attorney in Lieu of Law No. 1 of 2002 concerning the Eradication of Acts of Terrorism Crimes, namely through efforts to protect, preemptive and repressive. The existence of deterrence and eradication efforts was shown to respond to residents' anxiety over the acts of terror that were intertwined but until now the mistakes of terrorism were being established.

Formulation of the policy of crime law in the deterrence and eradication of acts of terrorism in Indonesia which is more focused on deterrence or non-penal purposes. On the contrary, the legal politics of the Terrorism Act is a legal update to innovate the law and take over article 43 C of section (1). This update in the law is shown by the improvement of the limits of interpretation and meaning in the ordinary determination and adding some of the latest modules that were not previously regulated in the terrorism law. This matter is intended to deter and eradicate to go well by sharing a strong and thorough legal basis for organizing terrorism.

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