Relation of Social Justice between Counter-Terrorism

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Abstract— **Terrorism as a form of crime that has occured a lot lately, in reality, has damaged the joints of Indonesian people's lives. The development of this crime, in actuality, is closely related to the issue of social welfare, which is inherent in the issue of justice. The research method used is normative legal research with a conceptual approach and comparative approach. The main focus of this research study is the relationship of social justice with the issues of developing terrorism and the need for changes in future strategies for counter-terrorism policies. The results of the study show that the existence of social inequality is a driving factor for the proliferation of terrorism in many countries, including Indonesia. Furthermore, it reveals that the criminal law enforcement policy with the extension of types of actions and the weighting of criminal sanctions as had been done so far, could not optimally reduce the crime rate of terrorism in Indonesia. The primary basis is the issue of social justice in the country.**

Keywords— *Social Justice, Terrorism, Crime.*

I. INTRODUCTION

New countermeasures for terrorism have become a significant problem for many countries, including Indonesia. The current series of terrorism events forces countries to mobilize their most optimal capabilities to reduce the potential for these crimes to occur. Global cooperation continues to be encouraged in various fields by state leaders to overcome this crime.

Terrorism not only threatens state security but also destroys the country's economy. There has been a significant absorption of funds to overcome terrorism by the state. In the case of the United States, to combat terrorism, public expenditure on internal security and military operations has increased significantly in the country's government [1]. Not only in large countries but also emerging countries such as in Afghanistan, in fact, experienced economic difficulties due to the financing of counter-terrorism measures, following the fall of the Taliban regime [2].

Terrorism has conceptually been pushed to become an enemy of any country, even considered as a common enemy of humanity. This crime cannot be justified in any measure by the culprit or the motivation of his struggle. In reality, this crime has the effect of an extraordinary loss of life [3].

Referring to the Global Terrorism Index data issued by a non-governmental organization, the Institutes for Economic and Peace, the deaths caused by terrorism amounted to 25,673 deaths in 2016 throughout the world. This figure decreased 13 percent from 2015 data and fell by around 22 percent since its peak in 2014. Some countries with the highest impact of terrorism recorded a reduction in the number of deaths. These countries include Afghanistan, Nigeria, Syria, and Pakistan. Together with Iraq, these five countries accounted for three-quarters of all deaths due to terrorism in 2016 [4].

In many cases, the primary victims of terrorism are indeed civil society. So that, above, Kofi Annan and Marry Robinson called the crime of terrorism a crime against humanity [5]. Crime against humanity itself considered as a form of gross violation of human rights violations under international rights law.

In his research, Paliwal revealed that the motivation for terrorism lies in psychosocial reasons. Psychosocial reasons include frustration in life, oppression by others, lack of equal opportunities, predisposition, deprivation, poverty, caste hierarchy, lack of robust group policies, cultural diversity, changes in the value system, fundamentalism and resurrection, insecurity, ethnic identity, lack of social support, increased stress and decreased quality of life, and other things are the root causes of the behavior of terrorism [6].

A social discrepancy in several studies revealed as a driving factor for the occurrence of global terrorism. Interestingly, social inequality here does not only refer explicitly to problems in certain countries, but also it refers to foreign policies of certain developed countries such as the United States.

Using survey data from Algeria and Jordan, Tessler and Robbins show that negative attitudes towards U.S. foreign policy. They were related to increased support for attacks on Americans. In the Algerian, researchers examined the agreement for religious extremists who hijacked civilian aircraft during the September 11 attacks in the United States, while Jordanian respondents were asked to report the level of their support for jihad against the United States and their level. Believe in al Qaeda and Osama Bin Laden [7]. It occured the same thing in Pakistan [8].

The results of the above research further prove that the issue of terrorism is a problem that is so complex. Terrorism is not an ordinary crime. The complexity of terrorism as a crime leads to the need for limited excavations to find the right strategy for dealing with it. To find the right formulation for counter-terrorism, the exploration of the causes of terrorism is significant. Legal policy as a solution cannot just be present without examining the factors that cause this crime against humanity. Criminal law is only the last means to overcome crime. However, the effectiveness of legal policies depends on other factors.

Social welfare issues that ultimately refer to the issue of social justice are things that must explore. The reason is that

social justice continues to reveal itself as a fundamental problem of developing terrorism. Terrorism is no longer a matter of the existence of a radical belief in certain ideologies; however, more about the issue of social justice. From the background of the problems above, two main problems raised, first, how are the relationship between social justice and the problem of developing terrorism? Second, what are the future strategies for dealing with Indonesian terrorism in the future?

II. RESEARCH METHODS

This research is normative legal research that examines the concept of legal norms applied in society [9-10]. The research approach uses a conceptual approach and comparative approach [11]. The legal materials used are primary, secondary, and tertiary legal materials. Primary legal material in the form of laws and regulations related to criminal acts of terrorism. Secondary legal materials in the form of legal science textbooks as well as journal articles related to the discussion — tertiary legal material in the form of statutory abstract [11]. The entire legal material, both primary and secondary, is analyzed to answer the formulated problem statement.

III. RESULTS AND DISCUSION

A. Relationship between Social Justice and Terrorism

The definition of terrorism first discussed in the European Convention on the Suppression of Terrorism (ECST) in Europe in 1977. There was expansion paradigm meaning crime against the state. It became a crime against humanity. Terrorism is categorizing as a widespread or systematic attack; the attack was aimed directly at the civilian population, primarily aimed at the souls of innocent people [12]. Waluyadi said that terrorism is an extraordinary crime and categorized as a crime of humanity [13].

From the aspect of the cause, terrorism suspected of having developed in Indonesia due to several factors, namely:

1. Economy, poverty is one reason for the emergence of generations of terrorists where economic difficulties then lead to frustration, and so on, this condition facilitates recruitment by terrorist networks in Indonesia;
2. Education, lack of knowledge about religion, especially Islam, fosters the terror axis where jihad defined as suicide bombings;
3. Culture, the development of a culture is not in line with Islamic teachings suspected as the cause of anger from those who classified as radical Islam;
4. Politics, political policies that are felt to be pro-American, and their allies are the most central reason for acts of terror in Indonesia [14].

Agreeing with Ridwan's opinion above, here the author indeed wants to emphasize that the emergence and development of terrorism crimes strongly indeed has a close correlation with the problems of the economy, education, culture and politics of the people in the country. For example, in some cases, it was revealed that previous suicide bombers were quickly recruited into terrorist organizations because they had problems with the absence of permanent jobs where there was a problem of poverty in them. While in other parts, education in reality also becomes a very decisive factor in the development of radical ideas that lead to terrorist activities within the country. From the disclosure of the identity of the suicide bomber, in reality, most of the perpetrators in question have a minimum level of education.

The problems of economics, education, culture, and politics as elements of the causes of terrorism crimes such as those described above are only practical derivatives of the issue of social justice in the country. For this reason, the use of criminal law facilities is only the final choice, where the application of the choice does not have a significant effect on the decline in terrorism crime. The complexity of the problem of terrorism crime, in reality, is related to the issue of the fundamentals of state life.

It is interesting to uncover the facts behind the motivation to become terrorists in Indonesia. Schmid, in his research, cited the existence of social and psychological factors that encouraged terrorists to carry out their actions [15]. Therefore, terrorism not only caused by mere ideological problems but also caused by factors indicated above.

In his assertion, Brecher revealed that the issue of social justice, in reality, was a driving factor for the flourishing of terrorism globally. Terrorism is closely related to the issue of social justice, whereas social justice consists of health, education, housing, and employment issues. The social justice gap is a significant problem globally. As a solution, developed countries are expected to help improve the financial capacity of emerging countries [16].

The existence of a relationship between terrorism and the issue of social justice is essential in the prevention of terrorism. Terrorism as a crime cannot only be observed as an ordinary crime, so the response cannot only use the criminal law enforcement approach.

In this case, terrorism has a factor causing social injustice. Identification of factors social injustice as the cause of the problem of terrorism, the approach to terrorism must change [17]. A social approach must also complement the criminal law policy approach.

The correlation of the issue of social justice against the crime of terrorism reveals the fact that the issue of social justice cannot be ruled out in the context of this crime prevention effort. What occures is because economics, education, culture, and politics are elements forming the concept of social justice itself. In a nutshell, the causes of the intended crime because the problems of economics, education, culture, and politics are complex interlocking in the issue of social justice issues which encourage this crime to develop extraordinarily.

The justification for the existence of the relation of state social justice to the crime of terrorism can prove by dismantling the concept of social justice itself. In this context, it is interesting to see John Rawls's opinion regarding social justice. Base on Rawls quoted in Safaat that the main interests

of justice are (1) guaranteeing the stability of human life, and (2) a balance between personal life and shared life. Rawls believes that the ideal structure of an ideal society is the basic structure of the original society, where fundamental rights, freedom, power, authority, opportunity, income, and welfare fulfilled. This ideal category of community structure is used to: first, assess whether the existing social institutions are fair or not. Second, make corrections to social injustice. Rawls argues that what causes injustice is a social situation, so it needs to re-examine where the principles of justice can be used to shape a good community situation [18].

Slightly different, Asshidiqqie said that social justice is asynonymous with economic justice or legal justice. Even social justice is not the same as the values of justice conceived of in the philosophy of life commonly developed by philosophers. However, according to Asshidiqqie, the end of thinking and desire about justice is actual justice in real life reflected in the structure of collective life in society. That is, the end of all the idea of legal justice and economic justice is real social justice. In a nutshell, the concept of social justice is a node of all dimensions and aspects of humanitarian ideas about justice. The term social justice is closely related to the formation of the structure of people's lives based on the principles of equality and solidarity. In the concept of social justice, there is an acknowledgment of human dignity that has the same rights that are of a fundamental nature [19].

While in the context of law enforcement, justice always occupies the highest position. Justice is the main thing in implementing the law. Based on Radbruch on Satjipto Rahardjo, mentions the fundamental values of law, which include justice, usability, and legal certainty. According to Radbruch, in these three values, there is a unique relationship, namely interdependence between one another [20].

Meanwhile, for the context of living in this country, social justice is related to the issue of equality between citizens and open access to enjoy and get all services in various fields of life by the state towards individuals and groups of citizens. The issue of guaranteeing human rights is the main issue here. In the context of Indonesia, Indonesia's human rights are full of the rights, obligations, and sense of responsibility of every person / and Indonesian legal entity that flows continuously and develops following the philosophy and foundation of the Pancasila state [21].

B. Strategy for the Prevention of Terrorism in the Future

Nationally, Law Number 5 of 2018 has been present as the latest regulation, explicitly regulating the Eradication of Terrorism. This Law renews the two previous legal products, namely Perppu Number 1 of 2002 which has stipulated as Law through Law Number 15 of 2003. In the weighing section of Law Number 5 Year 2018 it is stated that the criminal acts of terrorism that have occurred so far in Indonesia is a severe crime that endangers the state ideology, state security, national sovereignty, humanitarian values, and various aspects of life in society, nation and state, and is transnational, organized, and has a broad network and has particular objectives so that

eradication needs to be carried out precisely, planned, directed, integrated, and sustainable, based on Pancasila and the Republic of Indonesia's Republic of 1945 Constitution.

The policy in the latest terrorism law above is to use an approach to expanding the types of actions and weighing criminal sanctions, extending the authority of law enforcement, and increasing coordination among state institutions tasked with counter this crime. It must admit that criminal law policies like this are indeed mandatory given that the perpetrators must be sanction according to the type of action. However, the practical and optimal size of the results of the new provisions is very doubtful. This matter means that there are doubts about the positive impact that will later refer to the decline in the number of terrorist crimes in Indonesia through this regulation. Therefore, additional strategies are needed to complement and maximize the current counter-terrorism efforts.

Terrorism, in its presence, is a crime that aims to spread fear in the community. Altheide, in his research, even called terrorism a political crime with a focus on efforts to spread fear [22]. Terrorism as a crime related to presenting a sense of insecurity and comfort in people's lives must resist by a strategy of presenting comfort and well-being in society. This strategy must state to maximize regulations governing equitable access to health, education, employment, and housing services.

More clearly, for the context of Indonesia, the spread of terrorism crimes in this country is closely related to the fact that sectoral services in the economic, cultural, and political education sectors have not maximized. Economic difficulties from the aspect of the structure correlated with the role of the government and its apparatus in providing jobs along with adequate income to avoid individual citizens from the trap of poverty. Equality, in this case, also actually refers to the same rights of every citizen to get equal opportunities in working and enjoying their income. More or less, the same thing applies to the fields of education, culture, and politics. In the context of a prosperous society, the potential for actual crime will be significantly reduced compared to the opposite condition of society.

Globally the military approach to Al Qaeda organizations carried out by several countries such as the United States and Britain after the case of the September 11, 2001 attacks, seems unable to reduce the occurrence of acts of terror [23]. While on the one hand, the financing of military operations depletes these countries. This matter is a serious challenge to counter-terrorism. Indonesia must reflect on such cases.

The need to change terrorism prevention policies could not avoid. The approach could no longer rely solely on criminal law. The need for a change in policy is actually due to the fact the development of terrorist crime itself. Terrorism is no longer caused purely because of the motivation for independence and belief that refers to certain radical ideologies. However, in reality, terrorism occurs by being driven by factors in changing social conditions. Therefore, the response policy must change.

Terrorism causes confusion of values and norms in society [24]. In ideal conditions, this certainly will not occure the value of recognition of legitimate rulers seeking to be nullified by terrorists. The effort to spread terror can lead to public distrust of the authorities.

At the conceptual level, social justice is the ideals of Indonesia, which manifested in the fifth five precepts of Pancasila. Asshidiqqie mentions that this fifth precept is nothing but the end of hope for all other precepts. The first precepts up to the fourth precepts are related to one another. The One Godhead, Just and Civilized Humanity, Indonesian Unity, Popularism Led by Wisdom of Wisdom in Consultation / Representation. All of this must produce social justice for all people [19].

Philosophically, enjoying social justice for all the people of Indonesia must be measured by the presence or absence of all the fundamental values of civic life and especially statehood such as spiritual values, human values, values of unity and popular values in all legal policy products in Indonesia. This matter is absolute. Based on these values, the concept of Indonesian social justice built.

Practically the concept of social justice is explained in the constitution of the 1945 Constitution, especially Article 28 A to Article 28 J. The fulfillment of the provisions of several articles on human rights has a high level of urgency related to its implementation in the state in the interest of counter-terrorism. By taking into account the ability of the state to advance public welfare, the normative provisions above actually have binding consequences for all forms of government policy for all sectors that need to promote in the country. The sector intended is the economy, education, culture, and politics.

In this context, it would say that promotion and fulfillment of human rights as mentioned in a number of the provisions above are mandatory to encourage the presence of a socially just society in the framework of the Indonesian state. This condition is essential, keeping in mind that social justice is the main idea of the establishment of the Indonesian state. The description of social justice becomes very important in the aspiration to present a safe and prosperous country.

Enforcement of criminal law is essential in terms of giving a positive impression of the presence of the state to the terrorism issue, which significantly threatens the comfort and peace of life of the people of Indonesia. However, by realizing the background of the emerging factors and the spread of terrorism crimes raises new thoughts on this crime prevention strategy, which indeed cannot be absolute only from the aspect of criminal law enforcement. The failure to achieve the goal of social justice, in reality, can shape the personalities of terrorists in the lives of Indonesian people. Improvements on this condition can make by seeking comprehensive countermeasures in the context of maximizing the fulfillment of rights to various service fields that belong to each citizen. It expected that the potential for the emergence of terror acts due to the existence of radical notions by nation individuals who feel structurally marginalized in various fields of life could minimize.

IV. Conclusion

A common understanding needed that nullifying the potential of terrorism crimes is not something easy by referring to the fact that terrorism is so involved in its existence. The handling of terrorism crimes really cannot only depend on the enforcement of criminal law but also must refer to the background complexity of the emergence of this crime.

Social justice closely connected as a background to the existence of this type of crime. The terrorism crime prevention policy must place the fulfillment of several matters related to welfare, such as optimizing equitable access to health, education, employment, and housing as the main things in the country. This policy must outline in the form of presenting several regulations related to the area of improvement in the socio-economic conditions of the community generally. The policy must be simultaneously and integrally carried out together with the criminal law enforcement approach to show optimal results.

References

[1]   OECD, "Economic Consequences of Terrorism," *OECD Economic Outlook 71*, 2002. [Online]. Available: https://www.oecd.org/eco/outlook/1935314.pdf. [Accessed: 10-Mar-2019].

[2]   AIHRC, "The Negative Effect of Terrorism on the Enjoyment of All Human Rights in Afghanistan," *Afghanistan Independent Human Rights Commission*, 2015. [Online]. Available: https://www.ohchr.org/Documents/Issues/RuleOfLaw/NegativeEffectsTerrorism/NHRI-Afghanistan.pdf. [Accessed: 10-Mar-2019].

[3]   W. Anantaya, I. D. G. Palguna, and I. G. P. Ariana, "Tanggung Jawab Negara Terhadap Kejahatan Terorisme Yang Melewati Batas-Batas Nasional Negara-Negara," *J. Kerthanegara*, pp. 1–5, 2015.

[4]   Institute for Economics and Peace, "Measuring and Understanding The Impact of Terrorism," *Global Terrorism Index*, 2017. [Online]. Available: http://visionofhumanity.org/app/uploads/2017/11/Global-Terrorism-Index-2017.pdf. [Accessed: 10-Mar-2019].

[5]   A. R. Nasution, *Terorisme Sebagai Kejahatan Terhadap Kemanusiaan: Dalam Perspektif Hukum Internasional Dan Hak Asasi Manusia*. Jakarta: Kencana Prenada Media Group, 2012.

[6]   V. Paliwal, "Psychological Consequences of Terrorism," *Glob. J. Human-Social Sci.*, vol. 17, no. 2, pp. 105–111, 2017.

[7]   G. LaFree and N. A. Morris, *Does Legitimacy Matter?: Attitudes Toward Anti-American Violence in Egypt, Morocco, and Indonesia*, vol. 58, no. 5. 2012.

[8]   U. Daraz, A. Naz, W. Khan, Q. Khan, and T. Khan, "Sociological Analysis of Terrorism in Pakistan," *Acad. Res. Int.*, vol. 3, no. 1, pp. 203–212, 2012.

[9]   S. Soekanto, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: PT. Raja Grafindo Persada, 2000.

[10]   S. Soerjono and S. Mamudji, *Penelitian Hukum Normatif*. Jakarta: Raja Grafindo Persada, 2006.

[11]   P. M. Marzuki, *Penelitian Hukum*. Kencana Prenada Media Group, 2009.

[12]   H. Firmansyah, "Upaya Penanggulangan Tindak Pidana Terorisme Di Indonesia," *Mimb. Hukum-Fakultas Huk.*, 2011.

[13]   Waluyadi, *Kejahatan, Pengadilan dan Hukum Pidana*. Bandung: Mandar Maju, 2009.

[14]   Ridwan, "Upaya Penangulangan Kejahatan Terorisme Yang Berkarakteristik Hak Asasi Manusia Di Indonesia," *J. Media Huk.*, vol. 17, no. 1, 2015.

[15]   J. Victoroff, "The Mind of The Terrorist: A Review and Critique of Psychological Approaches," *J. Conflict Resolut.*, vol. 49, no. 1, pp. 3–42, 2005.

[16]   I. Brecher, "Terrorism, Freedom, and Social Justice," *Int. J. Canada's J. Glob. Policy Anal.*, vol. 57, no. 1, pp. 141–147, 2001.

[17]   R. Matić, A. Dremel, and M. Šakić, "Terrorism: Social Causes and Perspectives," *J. Crim. Justice Secur.*, vol. 17, no. 1, pp. 46–61, 2015.

[18]   M. Safa'at, "Pemikiran Keadilan (Plato, Aristoteles, John Rawls)," *Universitas Brawijaya*, 2002. [Online]. Available: http://safaat.lecture.ub.ac.id/files/2011/12/keadilan.pdf. [Accessed: 20-Dec-2018].

[19]   J. Asshiddiqie, "Pesan Konstitusional Keadilan Sosial," 2011. [Online]. Available: http://www.jimly.com/makalah/namafile/75/PESAN_KEADILAN_ SOSIAL.pdf. [Accessed: 12-Nov-2018].

[20]   S. Rahardjo, *Ilmu Hukum*. Bandung: Citra Aditya Bakti, 2006.

[21]   Komnas HAM, *Hak Asasi Manusia Dalam Perspektif Budaya Indonesia*. Jakarta: Gramedia Pustaka Utama, 1996.

[22]   D. L. Altheide, "Terrorism and the Politics of Fear," *Cult. Stud. - Crit. Methodol.*, vol. 6, no. 4, pp. 415–439, 2006.

[23]   S. Plous and P. G. Zimbardo, "How Social Science Can Reduce Terrorism," *Chronicle of Higher Education*, 2004. [Online]. Available: https://www.socialpsychology.org/pdf/chronicle04.pdf.

[24]   H. Cinoglu and Suleyman Ozeren, "Classical Schools of Sociology and Terrorism," *Sos. Bilim. Derg.*, vol. 11, no. 2, pp. 43–60, 2010.