

The Role of The Guardians in Deradicalization of Terrorist Caps Outside The Super Maximum Security Nusakambangan

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Abstract--Terrorist Prisoners in the Super Maximum Security Nusakambangan Penitentiary" Guidance for convicts of terrorism cases in prisons is of course very necessary. This is so that when the prisoner has finished serving his sentence, it is hoped that he will be able to return well to the community and not repeat his actions. This study uses a juridical normative and empirical juridical approach that this research will examine the existence of the role of the guardian or guardian companion for terrorism convicts in prison. The approach used in solving problems is through a statutory approach and is also assisted by an approach in the form of concept analysis (legal analytic and conceptual approach) related to the role of the guardian or guardian as well as a comparative approach.

Keywords : *Terrorism; Deradicalization; Terrorism Convicts; and Correctional Guardians*

I. INTRODUCTION

Indonesia is a constitutional state, a country that must guarantee the independence of every individual in exercising their human rights, in the aspirations of the Indonesian people as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia is to protect the entire Indonesian nation and all the blood of Indonesia and promote prosperity. general, educate the life of the nation and participate in implementing world order based on freedom, eternal peace and social justice. One form that is also the ideal of the Indonesian nation is to maintain the sustainability of national development in a safe, serene and dynamic atmosphere, both in the national and international environment, it is necessary to increase the prevention of something that disrupts national stability [1].

Various terror incidents in the form of bomb detonations that have occurred in Indonesia since 2002 [2], has caused many victims of life and property. Concerns arise when religion is seen as a source of violence or used as a basis for justifying terror against followers of other religions. Such conditions provide awareness of the need for various conflict resolution activities and a re-understanding of peaceful religious texts. Peace building can be done by promoting the spirit of tolerance, promoting

peace, upholding human rights, and respecting people of different religions and different belief [3].

Terrorism is coordinated attacks aimed at arousing feelings of terror against a group of people. Unlike war, acts of terrorism are not subject to the procedures of warfare, such as the time of execution which is always sudden and the target of casualties is random and often civilians. The term terrorist is said by counterterrorism experts to refer to perpetrators who are not part of a known armed force or who do not comply with the regulations of the armed forces. Acts of terrorism also imply that terrorist attacks carried out are inhumane and have no justification, and therefore the perpetrators ("terrorists") deserve cruel reprisals. Meanwhile, Terrorists are people who use violence to cause fear (usually for political purposes).

The existence of terrorism convicts in prisons allows self-indoctrination and doctrine of other prisoners, except for prisoners who have already been sentenced to death. The impact that emerges can lead to the process of indoctrination of society in general by free terrorism convicts, or community rejection of the presence of former terrorism convicts in the midst of everyday life. Guidance for terrorism convicts and the community can be part of the effort to fight against terrorism by using a peace-building approach inside and outside prisons.

The relationship between the role of correctional supervisors and efforts to radicalize terrorist convicts in the Super Maximum Security Nusakambangan Penitentiary, namely that the impact of the successful implementation of the duties and functions of the correctional supervisors social guidance can maximize the function of the correctional institution by means of radicalizing terrorist convicts in prisons.

In Law Number 12 of 1995 concerning Corrections, it is stated that the social adviser is a correctional officer who is categorized as a functional law enforcement official who carries out the task of guiding the prisoners in prison.

The appointment of a Correctional Guardian is an effort to optimize the radicalization of terrorist convicts in the Super Maximum Security

Nusakambangan Penitentiary. This consideration was then followed up with the issuance of Permenkumham Number: M.02.PK.04.10 of 2007 concerning Correctional Guardians and further elaborated in the technical guidelines for the implementation of guardianship of prisoners and correctional students (Circular of the Director General of PAS Number: E.PK.04.10- 90 Dated 12 July 2007), it was explained that the optimization of the implementation of coaching for prisoners in the coaching process and interacting with officers, fellow residents, with family and community members.

II. PROBLEMS

Based on the research background, the following problems can be identified: what is the role of guardians in radicalizing terrorist prisoners in the Super Maximum Security Nusakambangan Penitentiary?

III. RESEARCH METHOD

1. Approach methods

This study uses a normative and empirical juridical approach. The normative juridical approach is an approach that is based on statutory regulations, theories and concepts related to this thesis research, while the empirical juridical approach is to conduct research in the field by looking at the existing facts [4].

2. Research specifications

Empirical Legal Research, namely the research method carried out to obtain primary data and find the truth using inductive thinking methods and correspondent truth criteria and the facts used to carry out the induction process from correspondent truth testing are current facts. Legal normative research-empirical law (combined), namely legal research that examines the factual implementation or implementation of positive legal provisions (legislation) on any particular legal event that occurs in society.

3. Research location

The place to pick up this research material is in the Super Maximum Security Institution of Pasir Putih Nusakambangan.

4. Data sources

a. Data seconds

Secondary data is obtained by studying the laws and regulations, legal science literature books, and documents related to the object of research.

b. Data Primer

Primary data were obtained by obtaining information from the interns in the Super

Maximum Security Institution of Pasir Putih Nusakambangan.

5. Data collection methods

a. Data seconds

Secondary data is obtained by studying the laws and regulations, legal science books (literature), and documents and journals related to the object of research.

b. Data Primer

In the form of a direct and open interview to the interns at the Super Maximum Security Institution of Pasir Putih Nusakambangan.

6. Data presentation methods

The data obtained will be presented in the form of a systematic description. The point is that data from one another must be relevant to the problem as a whole, sequential, and closely related unit, so that the data presented can be easily understood.

7. Data analysis

The data obtained were analyzed normatively qualitatively using the deductive thinking method (general-specific), namely by describing, interpreting and constructing the data obtained based on norms or rules, theories, legal definitions and doctrines. is in the document, the laws and regulations, to answer the existing problems

IV. DISCUSSION

1. Definition of punishment

Criminalization can be interpreted as the stage of determining sanctions and also the stage of imposing sanctions in criminal law. The word "criminal" is generally defined as law, while "punishment" is defined as punishment. The doctrine distinguishes material criminal law and formal criminal law. J.M. Van Bemmelen explains these two things as follows:

Material criminal law consists of so-called consecutive criminal acts, general rules that can be applied to the act, and offenses that are threatened with the act. Formal criminal law regulates how criminal events should be conducted and determines the discipline to be observed on that occasion [5].

Criminalization as an act against a criminal, can be justified normally, not primarily because it has positive consequences for the convicted person, the victim and other people in society. Therefore this theory is also called the theory of consequentialism. The punishment is imposed not because he has committed a crime but so that the perpetrator of the crime no longer does evil

and that other people are afraid to commit similar crimes.

The above statement shows that the punishment was not intended as an attempt at revenge but as an effort to foster a criminal as well as a preventive measure against the occurrence of a similar crime. Granting of crimes or convictions can really materialize if you look at the following stages of planning.

- a. Giving penalties by legislators;
- b. Giving penalties by the competent authority;
- c. Giving penalties by the authorized executing agency

2. Definition of terrorism crime

The words "terrorist" and terrorism come from the Latin word "terrere" which means to make shaking or shaking. The word terror can also cause horror, but until now there is no universally accepted definition of terrorism. Basically the term terrorism is a concept that has a sensitive connotation because terrorism results in innocent civilian victims [6].

The term criminal offense is a technical-judicial term derived from the translation delict or strafbaarfeit. Besides that, in Indonesian, the term is translated into various terms, such as criminal events, criminal acts, criminal offenses, punishable acts and punishable acts.

Among the six terms as a translation of delict or strafbaarfeit Wantjik Saleh states that the best and most appropriate term to be used is between two terms, namely criminal action or criminal act [7]. Meanwhile, Moeljatno tends to use the term criminal offense which further defines a criminal act as an act which is prohibited by the criminal law and is punishable by criminal who violates the prohibition [8].

From the various opinions and views regarding the understanding related to terrorism above, it can be concluded that terrorism is organized violence, placing violence as awareness, a method of thinking as well as a means of achieving goals. From the various meanings above, according to the opinion of experts, terrorism activities will never be justified because of its main characteristics, namely:

- The actions used use violence and threats to create public fear;
- Addressed to the State, society or certain individuals or groups of society;
- To rule its members by means of terror as well;

- Committing violence with the intention of getting support in a systematic and organized manner [9].

3. Purpose of the Criminalization of Terrorist Prisoners

Terrorism is a crime against humanity and civilization and is a serious threat to the sovereignty of every country, because terrorism is already an international crime that poses a danger to security, world peace and harms people's welfare, so it is necessary to eradicate in a planned and sustainable manner so that the human rights of many people can be protected and upheld. Terrorism as a crime must be followed by punishment, it cannot be, without bargaining. A person gets punished for committing a crime. It does not see any consequences arising from the imposition of a sentence, it does not matter whether the community may be harmed. Retaliation as an excuse to convict a crime.

The placement of terrorist convicts is one form of punishment for an act that has been committed. In the world of criminal law itself, several theories about the purpose of punishment have developed, namely the absolute (retributive) theory, the relative theory (deterrence / utilitarian), the merger theory (integrative), the treatment theory and the social protection theory (social defense). Criminal theories consider various aspects of the goals to be achieved in the imposition of a criminal.

Relative theory in the execution of punishment in Indonesia is set out in the Law of the Republic of Indonesia Number 12 of 1995 on Prisons (Penal Code). The law considers that treatment of incarcerated inmates based on the prison system is not in accordance with the penal system based on Pancasila and the 1945 Constitution which is the final part of the sentencing system. Law enforcement aims to make community members aware of their mistakes, improve themselves, and not repeat crimes so that they can be accepted back by the community, can play an active role in development, and can live normally as good and responsible citizens.

From the two laws and regulations both the Criminal Code and the Correctional Law which are associated with the theory of the purpose of punishment, it is known that the purpose of criminalizing terrorists uses a combined theory (integrative), where terrorist prisoners who are detained in prisons on the one hand are a form of punishment and retribution for their actions. terrorism that

he has committed, and on the other hand aims to foster the convict to become a good person and to realize his mistake. Therefore, placing terrorist prisoners must be in accordance with the expected criminal objective.

4. The Notion of Deradicalization

Deradicalization comes from the word "radical" with the affix "de" which means reducing or reducing, and the word "basic", behind the word radical means process, method or action. Be deradicalized. Be deradicalized is an effort to reduce radical activities and neutralize radicalism for those involved in terrorists and their sympathizers as well as members of society who have been exposed to radical terrorist views, (Deradicalization Nusantara, ASB).

Deradicalization is all efforts to transform radical beliefs or ideologies into non-radical ones with multi and interdisciplinary approaches (religious, social, cultural, and others) for people who are affected by radical beliefs. On that basis, deradicalisation is more about making cognitive changes or moderating a person's thoughts or beliefs. Thus, deradicalisation has a long-term program. He works at the ideological level with the aim of changing the doctrine and interpretation of terrorist religious understanding (Barrett & Bokhari, 2009; Boucek, 2008; Abuza, 2009).

The general purpose of deradicalization is to make terrorists or groups that commit violence willing to leave or to escape from terrorist acts and activities. Specifically, the goals of deradicalisation are:

Deradicalization is a very interesting topic in dealing with terrorism today. Countries whose territories are often hit by terrorism cases implement deradicalisation as an effort to reduce and eliminate recurrent acts of terror. Some of these countries, among others; Saudi Arabia, Yemen, Egypt, Singapore, Malaysia, Colombia, Al-Jazair, Tajikistan, and Indonesia. Although some of these countries implement deradicalization as a program, the implementation of each is different [10].

The de-radicalization program carried out in a persuasive manner was able to overcome the limitations of criminal law. The program is intended so as not to conflict with human rights protected by international law. Programs of a social nature are provided to the families of the

perpetrators and sympathizers who have not been involved in the criminal act of terrorism. They need to be involved in the program as an effort to avoid latent terrorism. The stages of implementation of deradicalization in Indonesia are formulated as a program that is comprehensive, integrated and sustainable. The program is clarified into two areas, namely deradicalization outside of prison and deradicalization within prisons. Deradicalization outside prisons includes the identification stage, coaching against radicalization, and monitoring and evaluation. Meanwhile deradicalization in prisons includes the identification, rehabilitation, re-education, resocialization, and monitoring and evaluation stages [10].

5. The Role of the Guardian in Deradicalizing Terrorist Prisoners in the Nusakambangan Super Maximum Security Institution.

In the history of the criminal justice system in Indonesia, the existence of social advisers has been known since the Dutch colonial era. At that time the social adviser was called *Ambtenaar der Reclassering* or *Bijzondere Ambtenaar* "special civil servant" which in English is known as the Probation Officer, which means "social worker". changes to the title of the Criminal Code which took effect on January 1, 1918 [11].

Article 14b point 2 of the Criminal Code states that judges may require certain officials to provide assistance or assistance to the convicted person in fulfilling the special conditions subject to probation. What is meant by a certain official is a social supervisor. In addition, based on the conditional and parole ordinances, *Stbl. Number 251* dated May 4, 1926 and *G. General Number 18* which came into force on July 9, 1926, that in every district court there is a special officer or employee (social adviser) whose place and position are determined by the Minister of Justice. This special employee has the duty to supervise the convict who is serving a conditional sentence and is on parole [11].

Then the term Community Guidance was introduced in 1968 along with the development of the correctional concept put forward by Saharjo. However, Law Number 12 of 1995 concerning Corrections does not explicitly mention / use the term social adviser. The law only states that the task of guiding WBP is carried out by correctional officers who are functional law enforcement officials and

the institution that carries out correctional clients is the Correctional Center.

The duties and functions of the social advisor are the implementation of the 10 principles of correctionalism, namely [12]:

- a. Ayomi and provide life provisions so that they can carry out their role as good and useful citizens of society.
- b. Imposition of punishment is no longer based on a background of retaliation. (This means that there should be no torture of prisoners and students in general, whether in the form of action, treatment, speech, treatment or placement. The only sufferings experienced by prisoners and students are only limited freedom to move freely in free society).
- c. Give guidance (not torture) so that they will repent. Give them an understanding of living norms and social activities to foster a sense of community life.
- d. The state has no right to make them worse or worse than before being convicted. One way is to avoid mixing prisoners with students who have committed serious crimes with minor ones and so on.
- e. As long as they are deprived (limited) of their freedom of movement, prisoners and students should not be isolated from society. There needs to be contact with the community which is manifested in the form of entertainment visits to prisons and remand centers / remand centers by members of the free society and more agreement to gather with friends and family.
- f. Work given to prisoners and students should not be just a filler in spare time.
- g. Guidance and guidance given to prisoners and students is based on Pancasila. This means that they must instill a family spirit and tolerance in addition to increasing the provision of spiritual education to them accompanied by encouragement to perform worship in accordance with their religious beliefs.
- h. Prisoners and students like sick people need to be treated so that they are aware that the violation of the law they have committed is damaging themselves, their families and their environment, then they are guided / guided in the right way. In addition,

they must be treated as ordinary people who have self-respect so that their personalities that believe in their own strength will grow back.

- i. Prisoners and students are only punished by limiting their freedom for a certain period of time.
- j. For the guidance and guidance of prisoners and students, the necessary facilities are provided

The role of community counselors in the radicalization of terrorist convicts in the Super Maximum Security Nusakambangan Penitentiary, namely being actively involved in carrying out the duties and functions of community guidance in 2 processes, namely social reintegration, and fostering prisoners.

Social reintegration is the ultimate goal of correctional institutions in carrying out coaching and guidance to prisoners in prison. As previously explained, social reintegration is a process of preparing prisoners to improve themselves so that they can return and be accepted in the social life of the community.

Community guidance provides guidance to correctional clients during their time outside prison. The guidance consists of 2 types, namely Personality Guidance and Independence Guidance. Personality guidance is a form of giving assistance / guidance to clients which aims to develop or strengthen the personal capacity and behavior of the client. The form of personality guidance activities in the form of counseling and counseling carried out by the PK when the client carries out the obligation to report himself and visits to the client's family / community where the client lives.

Personality guidance and independence is an integral part of the efforts to achieve correctional goals. Community counselors must try to motivate wbp to improve their mental and personality so that they can return and be accepted in social life. In addition, community counselors try to help WBP to earn a living when they are free, therefore the community supervisor / counselor must be able to produce prisoners who still have a livelihood after leaving prison.

Correctional Supervisors supervise the implementation of programs / activities and provide corrective actions, so that programs / activities on judges' decisions or decisions and other decisions related to assimilation and integration.

The results of correctional research assist correctional officers in providing prisoner services that are used to carry out risk assessments, preparation of prisoner service programs and prisoner health care interests, so that detention services are carried out according to the needs of each prisoner.

Likewise, the development of correctional assisted residents in prisons with the role of community supervisors, namely conducting community research on prisoners who have just entered prison. The results of the correctional research serve as the basis for the placement of prisoners according to the convict's risk level.

This task is not easy, the social adviser must have knowledge and abilities. The role of community counselors in the radicalization of terrorist convicts in the Super Maximum Security Nusakambangan Prison is to assist correctional clients so that they no longer repeat their actions.

V. CONCLUSION

Guidance is carried out by the correctional agent for terrorism convicts with the aim that the prisoner can know all things about him, including the reasons for committing a crime, where the prisoner lives, his economic situation, educational background and so on. Correctional Guardians have the task of supervising the attitudes and behavior of prisoners and observing the development of prisoners and assessing their development as intended in Permenkumham RI No. M.01/PK.04.10 Year 2007 concerning Correctional Institution.

The Warden also played a role in receiving various complaints and other matters related to the inmates he built. While the inmate undergoes his training period, observation, introduction and environmental research, a TPP session is held which aims to determine the training program and strategy that will be applied at the next stage.

The implementation of the duties of the Correctional Guardian in the Super Maximum Security Nusakambangan Penitentiary has been running but has not been maximized and there are still many deficiencies in practice in the field due to lack of understanding of the duties, responsibilities and obligations of the Correctional Guardian. With the existence of a Correctional Guardian in accompanying prisoners, especially terrorism, has provided guidance in accordance with the development of prisoners as long as they carry out the guidance program in the correctional institution. This is in the form of field observations, namely

consultations between inmates and their correctional guardians.

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