

Human Rights Approach in the Disparity of Terrorism Court Decisions

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ABSTRACT

The increasingly diverse crimes of terrorism have resulted in many trials in the Supreme Court. However, every terrorism case in Indonesia does not receive the same criminal penalty, which is known as a disparity in criminal Court decisions. With a normative juridical approach and using secondary data, this paper discusses possible solutions to minimize disparities in decision-making in terrorism cases using a human rights approach by prosecuting terrorists through a legal process that prioritizes the principle of *due process of law* within the corridors of the criminal justice system, without doubting the human rights of terrorists. Thus, the terrorism decisions taken can be more just according to their actions.

Keywords: Court Council, Disparity in Criminal Court Decisions, Due Process of Law, Human Rights, Terrorism.

1. INTRODUCTION

Indonesia is a state based on the law (*rechtsstaat*), which mandates it as an ideology to create order, security, justice, and welfare for citizens as stated in the 1945 Constitution of the Republic of Indonesia [1]. Nevertheless, the fact is that over the years, more and more crimes have developed and are very disturbing to the community. One of them is the crime of terrorism, which continues to grow and haunts society and creates many threats and hostilities between religious communities.

Not just acts of terror, but in fact, crimes of terrorism also violate human rights as a fundamental right inherent in human nature, namely the right to feel comfortable and safe or the right to live. Apart from that, terrorism also causes casualties and damage to property, destroys the country's stability, especially in terms of economy, defense, security, and others. Moreover, the methods used are now increasingly broad and varied, making acts of terror not an ordinary form of destructive, violent crime but is already a crime against peace and security of humanity (*crimes against peace and security of humanity*) [2]. This action is not agreeable with the principle of Pancasila in the 3rd principle of "Indonesian Unity" that people must uphold

differences and accept with tolerance according to the symbol of the Garuda bird. "Unity in Diversity."

Criminal acts of terrorism are increasingly troubling because many occur in various big cities in Indonesia, especially in the capital city. The perpetrators admitted that violent incidents categorized as acts of terrorism, occurring in the last few decades, claiming many lives and property have religious motives [3]. For example, the terrorism incident on Jalan MH. Thamrin Jakarta in 2016 until cases of terrorism in several churches in East Java which caused injuries and traumatic conditions. Acts of terrorism also involve many political issues; for example, before the simultaneous regional elections on June 27, 2018, there were bomb explosions in Pasuruan, East Java and Depok, and many others [4].

With the existence of crimes of terrorism which are increasingly diverse and numerous, the Court has tried many cases. Thus, the term disparity in criminal verdicts appears, namely in the form of imposing different crimes against convicted persons in the same case or cases with almost the same level of crime, whether carried out jointly or without a justifiable basis [5]. This disparity in rulings can occur in the verdicts of any crime, including terrorism.

Where many cases of terrorism are subject to penalties under Article 15 of Law No. 15 of 2013 concerning Government Regulation in lieu of Law of the Republic of Indonesia Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism which reads, "Anyone who commits a malicious consensus, tries, or helps to commit crimes. The criminal acts of terrorism as referred to in Article 6, Article 7, Article 8, Article 9, Article 10, Article 11, and Article 12 shall be punished with the same crime as the perpetrator of the crime with a minimum penalty of 3 (years) and a maximum death penalty. However, the sentences handed down by the judge in each terrorism case are not the same; some are immediately sentenced to death, in the sentence of three years, five years, and even life.

This decision certainly raises questions about the reasons for the judge's legal verdict in every terrorism case, resulting in legal disparities. The basis for making judges' decisions that resulted in disparity is due to three things, among others, the legal factor itself, the factor of the perpetrator, and the judge concerned [5]. The disparity is due to the absence of guidelines for convictions of terrorism in Indonesia and the consequences for the formulation of alternative sanctions. So, it is not surprising that many crimes have disparities in criminal decisions. [6]

Even so, the issue of disparity in punishment has been a concern of the Supreme Court for a long time. The issue is evident in the Supreme Court Circular Letter, Number 14 of 2009 concerning the Development of Judge Personnel, one of which instructs the Chairperson of the Court of Appeal to maintain disparity in decisions. However, there is an alternative to the criminal threat in the provisions of the Articles of the Criminal Code, so there is no firmness. For example, Article 188 of the Criminal Code provides for three main types of threats, so the judge is free to choose. However, due to the absence of a criminal guideline in the General Provisions of book I of the Criminal Code providing guidelines for convictions and different understandings, knowledge, and backgrounds of judges, it is possible to have disparity in decisions.

This disparity is also directly related to implementing the State's obligation to protect, implement, and fulfill human rights (HAM) as the fundamental rights of its citizens because the different sentences for each terrorist must follow the rules and principles of justice and be impartial. Furthermore, punishment is not intended to deprive the perpetrators of their inherent human rights.

Therefore, as the rule of law, the rights of terrorists must be respected and protected even though they have violated the law [7].

Human rights are God-given rights inherent in everyone. As a gift, human rights are closely attached to every human being, whoever they are, including terrorists. No one or any party can arbitrarily revoke someone's human rights, including the government. Therefore, the government may respect human rights by trying terrorists through a legal process, prioritizing the principle of *due process of law* in the corridor of *criminal justice systems*[8].

Due process of law, according to the *Black Law Dictionary*[9] is " *Due Process of law implies the right of the person affected to be present before the tribunal which pronounces judgments upon the question of life, liberty, or property, in its broadest sense: to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved. If any question of fact or liability is conclusively presumed against him, this is no due process of law.*" Thus the criminal justice system model that applies the *Due Process Model* is a criminal justice model that emphasizes human rights as described in Article 9 paragraph (2) of Law Number 39 of 1999 concerning Human Rights.

In contrast to the previous study, which explained the disparity of criminal terrorism with a victimization approach[10], namely an approach that focuses on victims, especially in terrorism crimes, often victims do not receive serious attention from the State. Through the Terrorism Criminal Act, the State focuses more on legal protection for the suspect/defendant of the crime. Meanwhile, victims of the occurrence of criminal acts of terrorism have not fully received the attention of the State. For example, The May 1998 riots and the Bali Bombings I and Bali Bombing II are facts that the State has not paid attention to the fate of the victims as a result of this crime. Therefore, this study will focus on minimizing the disparity of decisions on terrorism crimes with a human rights approach. Because even though they violate the law, terrorists are citizens who are also protected and have the right to get justice, including fairness in receiving criminal sentences according to the available evidence following the legal principle of *Equality Before The Law*, as stated in the 1945 Constitution, that everyone has the same position before the law and justice[10]. Therefore, this study focuses on recommendations for the

preparation of guidelines for criminalizing terrorism, ensuring no violation of the human rights of any individual, despite their position as suspects, by prosecuting terrorists through a legal process that prioritizes the principle of *due process of law* in the corridor of the *criminal justice system*.

With the human rights approach, this study is expected to reduce the number of cases of terrorism and minimize the disparity in criminal decisions so that terrorists still get their rights as citizens. For this reason, this study will explain the reasons for the disparity of criminal decisions on terrorism in Indonesia. Furthermore, the study will also look into the implementation of human rights regarding the disparity in terrorism criminal decisions.

2. RESEARCH METHOD

The method used in the research "The Human Rights Approach in the Disparity of Terrorism Criminal Decisions" is *qualitative* with a normative juridical approach, namely an approach using the provisions of the legislation in force in a country or a doctrinal legal approach method, namely legal theories and opinions of legal scientists, especially those related to with the problems discussed[11], meaning that research is carried out on laws that regulate legal issues to minimize the occurrence of disparities in terrorism criminal decisions. This study uses secondary data, with secondary legal materials obtained from literature studies and primary legal materials in the form of laws and regulations, including the 1945 Constitution of the Republic of Indonesia, Law no. 8 of 1981 concerning the Criminal Procedure Code, Law no. 39 of 1999 concerning Human Rights and Law No. 15 of 2013 concerning Government Regulation in lieu of Law of the Republic of Indonesia Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism as well as books, theses, and other literature, as well as data collection carried out with tertiary legal materials with browse news from both printed and online media.

3. FINDINGS AND DISCUSSION

Terrorism cases are very disturbing to the community because they cause many victims and create enmity between religious communities. No religion orders its followers to kill themselves or other people or to cause losses to the State. However, there are many cases of

terrorism with the same motive, namely in the name of religious justification but have different judges' decisions.

The disparity is a concern in this paper because it raises allegations of injustice (substantive justice) for convicts committed by law enforcers, especially judges, in making criminal decisions. Moreover, this happened in terrorism, which is considered a threat to human rights (HAM). The United Nations (UN) has even noted that national countermeasures against people accused of committing terrorism are arrested and detained without meeting fair legal standards, clearly violating human rights values [12].

Therefore, it is necessary to apply the principle of *due process of law*, which requires the law to have a standard of law that applies to the rule of law [9]. The 10th UN Congress, which was held on 10-17 April 2000 in Vienna, confirmed the rights that must be fulfilled by the State for the perpetrators of crimes, in this case, the suspect terrorists, among others, *a. the right not to be subject to arbitrary arrest, detention, search or seizure; b. the right to know the nature of the charges and evidence; c. the right to counsel; d. the presumption of innocence; e. the standard of proof (beyond a reasonable doubt); f. the right to a public trial by an independent court; g. the right to test prosecution evidence (e.g., cross-examine witness); h. the to give and call evidence; i. the right to appeal*. These rights are reflected in the KUHAP principle, namely the *presumption of innocence*.

3.1. Disparities in Terrorism Criminal Decisions

Applying unequal punishment to the same crime or different criminal offenses to relatively similar crimes is referred to as criminal disparity (disparity of sentencing). According to the *US Bureau of Justice, Punishment disparity* is defined as a person who commits an act with similar conditions and is proven to have committed a similar crime should be sentenced to a similar punishment'[13]. Cassia C. Spohn also defines disparity in a punishment more specifically, namely as a difference in treatment or punishment not based on an intentional bias (e.g., gender, skin color, ethnicity, and so on)[14].

This decision disparity can be categorized as unwarranted if a country does not have detailed numerical punishment guidelines. The United States is one of the countries with numerical guidelines for discrimination and uses the *consistency of outcomes* approach. The *consistency*

of outcomes approach emphasizes the uniformity of the amount of punishment handed down by judges. This sentencing guide considers various variables, including the seriousness of the crime, the loss of the victim, aggravating and mitigating factors, the background of the perpetrator's crime, and others. In addition to *consistency of outcomes*, there is a *consistency of process* approach focusing on the consistency of the judges' stages in making decisions. Because the amount of sentencing is not the primary goal, the most important thing is that the judge follows the steps required by the guidelines and writes down the factors that form the basis for imposing a sentence. One of the countries using the *consistency of process* approaches is the United Kingdom[15].

In this section, the following two cases are used as examples of disparities in decisions. The reason is that even though they have the same motive and violation, the judge decides the sentence differently based on proportional considerations and following the facts at the trial.

The first case is based on the decision of the Supreme Court Number: 169_PK_PID.SUS_2013 [16], the defendant on behalf of Masykur Rahmat bin Mahmud (20 years at the time of the incident) DKK from Aceh Besar, who is a teacher at the Al Manar Modern Islamic Boarding School, was accused of carrying out military training activities in the mountains of Jalin Village Jantho Subdistrict, Aceh Besar District. In this military exercise, the defendant and his friends were able to master military knowledge which was not appropriate for civilians so that after the training was completed, the military training participants, including the defendant Laode Afip alias Hadid alias Hafis alias Abu Najwa, the defendant Masykur Rahmat and the defendant Mukhtar Khairi alias Umar alias Herman. as well as MUKHSIN Kamal are capable of using firearms of the AR 15, AK-27, M-16 types. The training was allegedly initiated by Abu Bakar Ba'asyir, who was also a terrorist suspect. The Decision of the West Jakarta District Court Number: 1638 / PID.B / 2010 / PN.JKT.BAR, dated December 30, 2010, stated that the Defendants were found guilty and sentenced the Defendants to imprisonment for 8 (eight) years each based on evidence and facts at the trial.

The next case is based on the decision of the Supreme Court Number: 170_PK_PID.SUS_2013 [17], the defendant on behalf of AGAM FITRIADY alias SYAMIL alias AFIT bin DARWIN MIZANA (27) years old at the time of the incident) who came from Banda Aceh and

worked as a civil servant at the Meurexa General Hospital Aceh. The criminal act of assisting the formation of terrorists by sending and picking up youths to participate in illegal military training for the benefit of the State and threatening the safety of the community in a military training group calling itself Tanzim Al Qaeda Serambi Mekkah, killing three Brimob members and one citizen for committing suicide. The decision of the West Jakarta District Court Number 1806 / Pid.B / 2010 / PN.JKT.BAR, dated January 6, 2011, found the defendant guilty and sentenced him to imprisonment for 7 (seven) because he had been legally and convincingly proven guilty of a criminal act of terrorism, "deliberately providing assistance or convenience to perpetrators of criminal acts of terrorism by hiding information about criminal acts of terrorism."

Even though the two cases have similarities between each other regarding the violation of Article 15 of Law No. 15 of 2013 concerning Government Regulation in lieu of Law of the Republic of Indonesia Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism which reads, "Anyone who commits a malicious conspiracy, trial, or assistance to commit a criminal act of terrorism as referred to in Article 6, Article 7, Article 8, Article 9, Article 10, Article 11, and Article 12 shall be punished with the same punishment as the perpetrator of the crime ". However, the two cases received different court decisions.

The first case of committing a criminal act of terrorism deliberately against the law by joining a military group, namely, practicing martial arts, using weapons without law enforcement permits, and committing acts of disturbance to the public, will be sentenced to imprisonment of 8 (eight) years. The sentence is classified as moderate because the criminal threat in the first case, as described in Article 6, has a minimum of 4 years and a maximum death sentence. By the considerations of the Supreme Court (MA), the criminal sentence received by the defendant in the first case is proportional, meaning that it follows the actions the defendant committed without any leniency or partiality. The defendant did not take another person's life or rioted and caused the loss of the life of law enforcement officials. The defendant was only a follower, not a plotter.

Meanwhile, in the second case, the defendant received a criminal sentence of 7 (seven) years. This sentence is lower than in the first case, even though the severity of the defendant's crime in the second case, in this author's opinion, is heavier than the defendant in the first

case. Because the defendant assisted in committing the criminal act of terrorism by bringing in several youths from various regions to be trained as terrorists and creating riots which caused 4 (four) deaths, besides, considering that his profession as a civil servant is supposed to help, serve and protect the State as a state servant employee. However, the defendant violated his profession and betrayed the State by becoming the aid of a terrorist group. Thus, the 7 (seven) year sentence imposed on the defendant in the second case is classified as low considering the maximum sentence of the death penalty.

Even the disparity in verdicts was evident in the terrorism case that was only tried in 2020, namely the case Number: 1580 / Pid.Sus / 2020 / PN Jkt.User with the same motive as the first case, where the defendant had carried out military, physical, military training activities, and assembling bombs but was not directly involved in the action, only committing acts of assistance (helping to lend motorbikes and money) [18]. The court decision sentenced the defendant to 3 (three) years and 6 (six) months.

Judges' considerations on terrorism cases are almost the same but can result in a much different sentence. The result is the disparity in criminal decisions in Indonesia due to the formulation of alternative sanctions, the absence of criminal guidelines in the Criminal Code, and the freedom of judges in determining the severity of crimes. According to Young and King, Guidelines for criminalization are designed to close the *democratic deficit* that judges can carry out as a neutral party and do not interfere in the political arena (and indirectly only responsible for the public interest) [19]. Therefore, the guidelines for the punishment of terrorism are considered necessary to create legal justice following one of the objectives of the criminal guidelines, which is to create harmony in the sentencing of crimes, not equality in the sentencing of crimes. The guiding principle for the criminalization of terrorism here, according to the author, is aimed at the disparity in irresponsible punishment. These sentencing guidelines do not seek to eliminate the independence of judges but to help judges achieving proportional justice. This guideline is used as a guide for judges in determining the severity of the crime (straftoemeting) with approach *consistency of process*. The *consistency of process* approach focuses on the consistency of the stages of judges in making decisions. In the approach *consistency of process*, the amount of punishment is not the primary goal, but the most important thing is that the judge

follows the steps required by the guidelines and writes down the factors that form the basis for the sentencing. Later, each variable will have a different calculation weight, accumulated and converted into a penalty table [15]. By prosecuting terrorists through a legal process that prioritizes the principle of *due process of law* according to the stages of a responsive legal model that is locked in line with the principles in the Criminal Procedure Code, namely: 1. Equal treatment before the law without any discrimination; 2. Presumption of innocence; 3. The right to obtain compensation (compensation) and rehabilitation; 4. The right to legal aid; 5. The right of the defendant to appear before the Court; 6. Judiciary that is free and carried out quickly, and simply; and 7. Courts are open to the public in the legal process and the imposition of criminal decisions for terrorism crimes. It is hoped that with this model of sentencing guidelines, *unwarranted disparities in sentencing* can be reduced without eliminating the independence of judges (*judiciary independence*). However, currently, there are only guidelines for the punishment of corruption or corruption, namely, PERMA 1/2020 uses a criminal guideline model with a consistent approach (*consistency of approach*) which emphasizes the uniformity or consistency of the stages that the judge must use in determining the sentence imposed [4].

This reality shows one of the weaknesses in implementing criminal justice, especially the *Due Process Model*, which emphasizes human rights, both as legal protections for the suspect/defendant and as legal protection for the victim [20]. Therefore, it is not surprising that the law on terrorism will be revised; quoting Kompas Daily, it must provide a sense of justice and upholding human rights (HAM), in addition to terrorism suspects, as well as protection for victims. Because Law Number 15 of the Year 2003 is currently considered very thick with a repressive legal model [21]. This can be seen from the disparity in criminal decisions that occurred in the three cases, especially the first and second cases, proving that the principle of *due process of law* has not been maximally applied.

3.2. Human Rights (HAM) to the Non-Criminal Actors of Terrorism

Human rights are rights inherent in everyone, which is a gift from God Almighty. Human rights are closely attached to every human being, whoever he is, including terrorists. No one or any party can arbitrarily

revoke someone's human rights, including the government. Article 9 of Law Number 39 of 1999 concerning Human Rights (HAM), in paragraph (2), states that everyone has the right to live peacefully, safely, peacefully, happily, physically, and mentally. Everyone here means that people or individuals who are Indonesian citizens have the right to get the same treatment to live peacefully and peacefully, including terrorists.

Even so, terrorist acts have taken away the right to life and the right to feel safe for the community at large, with threats, bomb attacks, and even terror that have deeply troubled the people. These terrorist attacks came suddenly and in crowded public places so that many innocent people became victims [8]. However, it does not necessarily mean that the handling should be repressive, such as through searches (raids), sieges, or even shooting [22]. This repression violates the implementation of criminal justice, especially the criminal justice model *due process model*, which is a criminal justice model that promotes human rights per the Criminal Procedure Code in terms of the normative approach to criminal justice.

After the entry into force of the Criminal Procedure Code, human rights were adopted, becoming a part of the national legal system, along with the *United Nations Convention Against Corruption*, *International Convention Against Torture*, and *International Covenant on Civil and Political Rights*. Thus, in the current criminal justice process, the paradigm to be developed is that citizens who become suspects or defendants can no longer be seen as "objects" but as "subjects" who have rights and obligations based on law [23].

Therefore, neither the President, the government, nor law enforcement officers, especially judges, can arbitrarily decide criminal decisions. Although judges, as stated in HR October 15. 1968, VR 1968, 121, has the freedom to determine the severity of the sentence he will impose. However, the judge may not determine the severity of the sentence, which will be handed down arbitrarily, but according to adequate reactions to the crime committed by the defendant. It is hoped that this will reduce the disparity in criminal decisions.

For this reason, so that the human rights of each individual are not violated despite their position as a suspect, by trying terrorists through a legal process by prioritizing the principle of *due process of law* in the

corridor of the *criminal justice system*[16]. This criminal justice model takes into account the legal model in the sociology of law introduced by Philippe Nonet and Philip Zelnick, which is a legal model that follows the development and desires of society that is identical to the responsive legal model and is in line with the principles of the Criminal Procedure Code, namely: 1. Equal treatment before the law without any discrimination; 2. Presumption of innocence; 3. The right to obtain compensation (redress) and rehabilitation; 4. The right to receive legal assistance; 5. The right of the presence of the accused before the Court; 6. Free and fast and simple trial; and 7. Courts are open to the public.

These principles must be applied to terrorists because so far, terrorists have lacked the right to proceed, as illustrated in the *due process of law*. The administration of a fair legal process is imperative, especially in protecting suspects and defendants from arbitrariness; therefore, every country must provide guarantees, protection, and fulfillment of the rights of suspects and defendants as an effort to implement a fair legal process (*due process of law*.) in the Criminal Procedure Code [24].

The imposition of crimes without paying attention to human rights (HAM) is considered ineffective in resolving legal problems for any crime, especially terrorism because terrorism convicts usually come from society's ranks who are disappointed in the government and feel neglected. Therefore, crimes that do not emphasize human rights will create chaos and create more terrorists. So that by not blocking or closing the independence of judges (*judiciary independence*) in the imposition of criminal decisions for criminal terrorism. Therefore, imposing a criminal code emphasizing justice and human rights (*due process of law*) is considered minimizing the occurrence of further terrorism crimes and disparity in criminal decisions.

4. CONCLUSION

The disparity in the verdicts of terrorism has caused much debate in the legal world. The crime cases would receive different criminal verdicts even though they violated the same article of the law. Thus, this raises positive and negative views among the public who doubt the verdict of the judges. Whereas in making a decision, the judges have several juridical considerations based on evidence and facts in Court. Therefore, disparities in criminal decisions are legal and can be justified as long as the decisions are

proportional and under the articles of the law that are violated.

However, the disparity in decisions must also be appropriate and fair, following the human rights of each individual, including the perpetrators of terrorism. No one or any party can arbitrarily revoke individual human rights, including the government. By trying terrorists through a legal process, prioritizing the principle of *due process of law* in the corridor of *criminal justice systems*. With the application of a responsive legal model that is in line with the principles of the Criminal Procedure Code, namely: 1. Equal treatment before the law without any discrimination; 2. Presumption of innocence; 3. The right to obtain compensation (redress) and rehabilitation; 4. The right to receive legal assistance; 5. The right of the presence of the accused before the Court; 6. Free and fast and simple trial; and 7. Courts are open to the public in the legal process and the imposition of criminal decisions for criminal terrorism.

In order to minimize the disparity of decisions in terrorism cases, it is necessary to have guidelines for the punishment of terrorism; this guideline is used as a guide for judges in determining the severity of the crime (straftoemeting) with the *consistency of process* approach. In the *consistency of process* approach, the amount of punishment is not the primary goal, but the most important thing is that the judge follows the steps required by the guidelines and writes down the factors that form the basis for the sentencing. It is hoped that with this model of sentencing guidelines, *unwarranted disparities in sentencing* can be reduced without eliminating the independence of judges (*judiciary independence*)

AUTHORS' CONTRIBUTIONS

A single author writes all the parts in this paper, from abstract to reference.

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REFERENCES

- [1] Assihiddiqie Jimly, "Composition in a Manuscript of the 1945 Constitution, Fourth Amendment of 2002", Jakarta: Center for Constitutional Law Studies, FHUI, 2002
- [2] Kusumah W Mulyana, "Terrorism from a Political and Legal Perspective". Indonesian Journal of Criminology, FISIP UI, vol 2 no III, 2002. Pp 22-29.
- [3] Naharong Muis Abdul, "Terrorism in the Name of Religion", Reflection on Volume 13, Number 5 October 2013. PP 593-622. DOI: [10.15408/ref.v13i5.915](https://doi.org/10.15408/ref.v13i5.915).
- [4] Supreme Court (MA), "Pocket Book of Perma No. 1 of 2020", Jakarta: MA with the Indonesian Judiciary Monitoring Society and MaPPi FHUI.
- [5] Abdurrachman Hamidah, Praptono Eddhie and Rizkianto Kus, "Disparity in Judges' Decisions in Drug Cases", Journal of Unnes Vol7, No 2, 2012. Pp 215-228. DOI : 10.15294/pandecta.v13i1.9220.
- [6] Adwitya Dwi Agung Bagus Ida, Darmajaya Surya Bagus Ida and I Gusti Ngurah Parwata, "Disparities in Corruption Crime Decisions (Case Study of the Gianyar and Denpasar District Court Decisions)", (Bali, Udayana University), Accessed September 30, 2019, Abstract, <ile:/// C: / Users / Ahmad% 20M% 20Suud / Downloads / 14341- 1-26898-1-10-20150729.pdf>.
- [7] Ahmad Dani, "Remission For Terrorist", In Right Journal of Religion and Human Rights Vol 1, No May 2, 2012.
- [8] Hartono Dwi Mimin, "Why Human Rights Are Important in Prevention", accessed October 21, 2020, <<https://nasional.kompas.com/read/2017/07/11/21084441/mengapa.ha.m.important.in.countering.terrorism.->>>.
- [9] Hieriej, OS Eddy, "Theory and Law of Evidence, Jakarta: Erlangga. 2012.
- [10] Kleden Laga Kristoforus. "Victimology Approach Minimizes Criminal Disparity", Journal of Law Magnus Opus Vol 2 No. 2 August 2019. Pp. 68-78. DOI: <https://doi.org/10.30996/jhmo.v0i0.1761>.
- [11] Soemitro, Legal and Jurimetric Research Methodology, Jakarta: Ghalia Indonesia, 1998.
- [12] Hamid Usman. "Counter-Terrorism: Punishing Terrorists and Protecting Human Rights", Indonesian Journal of Criminology Vol. 4 No. I September 2005: 49 - 64.

- [13] Rhodes William, Kling Ryan, Luallen Jeremy, dan Dyous Christina. *Federal Sentencing Disparity: 2005-2012*, Bureau of Justice Statistics Working Papers Series, 22 Oktober 2015. <<https://www.bjs.gov/content/pub/pdf/fsd0512.pdf>>.
- [14] Spohn C. Cassia. *How do Judge Decide: The search for Fairness and Justice in Punishment*. Washington: Sage Publication, 2008.
- [15] Krasnostein, Sarah dan Arie Freiberg. "Pursuing Consistency in An Individualistic Sentencing Framework; If you Know Where You're Going, How Do You Know When You've Got There?" dalam *Law and Contemporary Problems*, 76. (2013). 265-288.
- [16] Supreme Court, *Decision Number 169_PK_PID.SUS_2013*, Director of the Supreme Court, 2013, accessed September 30, 2020.
- [17] Supreme Court, *Decision Number 170_PK_PID.SUS_2013*, Direktor MA, 2013, accessed September 30, 2017.
- [18] Supreme Court, *Decision Number: 1580 / Pid.Sus / 2020 PN Jkt.Utr* <<https://putusan3.mahkamahagung.go.id/dirdir/putusan/zaeb912f9bf1fc369a79313531323033.html>>, accessed April 26, 2021.
- [19] Sakinah Rakhma Diah Setiawan, "Two Cases of Terrorism that Haunt the Pilkada", accessed on 21 October 2020. <<https://nasional.kompas.com/read/2018/07/06/18054711/dua-case-terrorism-yang-hantui-pilkada>>.
- [20] Young Warren and King Andrea. "The origins and Evolution of Sentencing Guidelines: A Comparison of England and Wales and New Zealand" in Andrew Ashworth and Julian V. Roberts, *Sentencing Guidelines: Exploring the English Model*, Oxford: Oxford University Press, 2013.
- [21] Atmasasmita Romli, "The Criminal Justice System", Bandung: Bina Cipta, 1996.
- [22] Wijaya Endra, "The Role of Court Decisions in the Deradicalization Program of Terrorism in Indonesia ", *Judicial Journal of the Complexity of Penitas* Vol III No. 02, August 2010. PP. 109-121. DOI: <http://dx.doi.org/10.29123/jy.v3i2.225>.
- [23] Muladi, "Kapita Selekt of the Criminal Justice System", Semarang: Publisher UNDIP. 1998.
- [24] Tahir Heri. "Fair Legal Process in the Criminal Justice System in Indonesia", first printing, Yogyakarta: LaksBang PRESSindo, 2010.