

# Extraordinary Crimes Prevention: A Positive Legal Study and Social-Humanistic Approach

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## ABSTRACT

Terrorism is one of the extraordinary crimes. The government, assisted by various elements of society, has taken the crime of terrorism seriously. On the other hand, apart from the status of terrorism as an extraordinary crime, the approach to terrorism should focus on preventive measures. Preventing the emergence of new terrorists is an action that is much more effective and efficient than carrying out law enforcement which tends to sacrifice many things. This study looks at the roots and factors that can trigger and foster the emergence of terrorists by conducting a literature review of various reliable study results related to attitudes towards terrorism. This study examines 15 scientific articles and other secondary references that focus on the study of terrorism. In general, from the study results, terrorism cases have a close relationship with society's social and law enforcement conditions. Aspects of law enforcement, justice, and economic welfare contribute to the antipasti attitude towards the government, which then gives birth to acts of terrorism. This research is expected to provide a perspective related to the right actions of terrorism prevention by prioritizing a more humanist approach.

**Keywords:** *Extraordinary crimes, Social-Humanistic, Terrorism.*

## 1. INTRODUCTION

From the understanding of Corruption and Terrorism itself, we understand that Corruption and Terrorism are actions that humans wrongly carry out because they violate ethics or the rules that apply in life. Acts of Corruption and Terrorism themselves can harm others and benefit themselves or groups.

Similar to corruption, the crime of terrorism is an extraordinary crime [1]. There is the reason why both corruption and terrorism are categorized as a great crime because they are transboundary crimes that do involve not only networks within the State of Indonesia but also involves international networks [2] that are carried out in an organized manner, whether carried out individually or as a group and have a tremendous impact on the State and the Nation. Moreover, terror acts are used in Structural conflicts rooted in an ideology, either social ideology, political ideology, or religious ideology that gives rise to an understanding of radicalism. These make terrorism and radicalism go hand in hand and cannot be separated [3].

In Indonesia, the terrorist incident began with the Bali bombing case on October 12, 2002, which was located in front of the Paddy's Pub and Sari Club on Jalan Legian Kuta [4], which resulted in the loss of many lives regardless of the victim, caused widespread public fear,

and have a broad impact on social, economic, political, and international relations [5].

Terror has been presented and incarnated in our lives as a scourge, as a vicious virus and a frightening monster that at any time cannot be expected to manifest the occurrence of "national and global tempests," including manifesting human tragedies, castration of national dignity and the history of tragedies on human rights. Terrorism can also be categorized as an international crime as terrorists know no territorial borders in doing their act [6]. Human rights have lost their existence and have been deprived of their sanctity or character in the hands of terror makers who have created savagery in the form of social, political, cultural, and economic animalization. Terrorism has taken part in the life of this nation to show another portrait of and among various types and varieties of crimes, especially violent crimes, organized crimes, and crimes that are classified as extraordinary crimes [7].

On the other hand, crimes and perpetrators must be viewed from various perspectives. Approach legally and in terms of socio-cultural aspects. Therefore, at what level and condition, extraordinary crimes must be placed on and seen.

This research is a literature review that aims to provide several different perspectives on extraordinary crimes. The approach presented in the paper is based on a favorable legal and social-humanitarian approach.

## 2. METHODS

This study uses a normative approach, namely research that aims to apply and examine the rule of law or legislation governing the prevention of criminal acts of terrorism [8]. Several approaches used in this thesis research are the statutory approach and the conceptual approach related to Law Number 15 of 2003 in conjunction with Law Number 5 of 2018 concerning Amendments to Law Number 15 2003 concerning the Stipulation of Government Regulation in Law Number 1 the Year 2002 concerning the Eradication of Criminal Acts of Terrorism

## 3. RESULT AND DISCUSSION

### *3.1 Corruption and Terrorism Measures from the Structure of Human Actions*

According to Thomas Aquinas, Aristotle's opinion is voluntary (desired actions) and involuntary (desired actions). Thomas Aquinas classifies it into two types: directly voluntary (whatever results from a decision or what is directly desired from the decision of the act) and indirect voluntary (what results from not willing or what is a consequence of the action but is not desired).

Corruption and terrorism are human actions that the perpetrators desire. Thus acts of corruption and terrorism are sparks from humans as the main subject of their behavior in acts of corruption, including direct voluntary human actions. In this case, the perpetrators of corruption and terrorism want to do evil actions without considering moral or ethical ethics.

Acts of Corruption and terrorism are virtues that are entirely within the power of the perpetrators, whether consciously or unconsciously, remain the responsibility of the perpetrators of crimes in this particular category because he is an actor and enjoys the results of the crime. Because man is the master of his actions.

People who steal out of necessity (hunger) are different from people who steal out of greed, such as corruption. Corruption is carried out willingly, freely, and the decline in moral-ethical values in oneself, so conscience does not function. Likewise, people who do not defend themselves to cause death or disability to their opponents are undoubtedly different from those who commit acts of violence to instill fear (terror), such as terrorists.

According to Socrates, when the brain and logic are no longer functioning, the last thing is the conscience to answer what is being thought and narrated by the brain and logic. Knowledge about conscience is the knowledge that is poured out, embedded, embedded in our hearts. Conscience is also referred to as the voice of Allah SWT.

Because it is said that conscience is the capacity for a corruptor or terrorist, it can be said that their conscience is no longer functioning or is lost. Therefore, there is only a will and a sense of human dissatisfaction so that humans carry out an action that destroys the order in society, in this case, corruption and terrorism.

### *3.2 Corruption and Terrorism in an Objective Moral Order*

The objective moral order explores the moral order of life with the elements of its discussion. Therefore, it is directly related to the collective paradigm. It starts from life with a family to the life of the nation and state. Some rules apply in the life of the nation and state, both those regulated in customary law and those regulated in the constitution. There must be sanctions for violations from every rule of law, ranging from light punishments to the death penalty. Law in Latin is *lex* from *Ligare*, which means binding, and *legere*, which means collect, which is more appropriate.

Law binds, but at the same time, it is what we read as various rules put together. For example, corruption is an act that violates the law and is regulated by Law No. 31 of 1999. Law No. 20 of 2001 concerning the Eradication of Corruption Crimes (UU Tipikor) was adopted in the RKUH.

As a law, this order of reason must be promulgated whenever the law applies as a punishment and responds to a command. According to Hibes, the law is the will of the ruler. From Hibes' thought, if it is associated with corruption, then corruption occurs because of power. Moreover, it is no wonder that many corruption cases in Indonesia are carried out by businessmen, both in the government and on the private side. More or less, the above is also the cause of acts of terrorism.

Why did someone commit acts of corruption or terrorism? Because they experience shallowness in living life. This value crisis is not considered a crisis of concepts or ideas, but it is a matter of the value of goodness. If humans have awareness, then humans will not commit violations contrary to the moral-ethical order of human life, which is regulated in the rules of customs and laws.

### *3.3 Terrorism Prevention in Positive Legal Context*

#### 1. Counter-Terrorism Policy

There are two views on terrorism activities that are currently developing. Namely, terrorism is a political activity, whether it has a political background, political purpose, or activity sponsored by political interests. Another view is that terrorist activities are criminal activities that are very detrimental and endanger the life and peace of the nation. The two fundamentally different views, of course, also bring differences in the ways of eradicating them.

The first view is often conveyed with the justification that to prevent and eradicate terrorism activities, and it is necessary to reveal the roots of the problem of terrorism". The second view is often conveyed with the justification of "global protection for humankind" (global protection for humankind). Both ideas will affect any laws that will be used to prevent and eradicate criminal acts of terrorism.

The first view, of course, does not agree with repressive laws because the problem of injustice at the

root of the problem of terrorism cannot be solved simply by arresting, prosecuting, and imprisoning the perpetrators, but what must be prioritized are preventive measures.

a) National Policy

Terror incidents in Indonesia are a signal that Indonesia has become one of the targets of terrorist organizations' operations both internationally and domestically. However, increasing physical vigilance alone is not enough to deal with international terrorism organizations because, organizationally, these groups already have very calculated planning and preparation in terms of operations, personnel, and infrastructure, and funding support.

The forecasting terrors act should also be prioritized. All elements should be encouraged. Experts found that studies and research for terrorism commonly have present orientation and less in forecasting the future of terrorist acts [9]. The approaches to terrorism should be efficient and effective.

For Indonesia, the prevention and eradication of terrorism require careful observation of the culture, condition of society, and government's political stability. These three factors significantly affect the effectiveness of the law. The concept of western and Islamic countries regarding terrorism is complicated for Indonesia because the political conditions in Islamic-based countries are fundamentally different in terms of background and development from those in Indonesia. Likewise, the culture of the people from these countries and western countries is different from the culture of the Indonesian people. Nevertheless, Indonesian people recognize the existence of multi-religious, multi-ethnic, and peaceful coexistence. The counter-terrorism strategy carried out by the government is implemented through preventive and repressive measures.

1. Preventive Efforts.

Given the limitations of the penal effort, it is necessary to prevent penal crime and use non-penal means or policies. This non-penal effort is crime prevention, which is carried out before the crime occurs, better known as preventive or preventive efforts. This should take precedence over repressive measures. There is an opinion that prevention is better than cure.

Judging from the efficiency and effectiveness of prevention efforts are better than repressive efforts. In the world of criminal medicine, there has been a consensus on the idea that preventing crime is better than trying to educate criminals to be good again; better here also means easier, cheaper, and more successful in achieving its goals [10].

The purpose of non-penal efforts is to improve certain social conditions and indirectly affect crime. In general, crime prevention can be done by combining several methods. The first method is a moralistic (oblique) method which is carried out by disseminating religious and moral teachings, good laws, and other means that can curb the desire to commit evil. In contrast, the second method is the abiliostinistic method which seeks to eradicate the causes. For example, we know that

economic pressure (destitution) is one of the contributing factors, so the effort to achieve prosperity to reduce crime caused by economic factors is an abiliostinistic method. Finally, the prevention of crime through a community approach, commonly called Community Based Crime Prevention, involves all activities to improve the capacity of the community in reducing crime by increasing informal social control [11]. Thus, by using a preventive approach, the efficiency of counter-terrorism will grow and be long-term.

Expert propose regarding the preventive efforts for terrorism are; implementing a wholistic counter-terrorism strategy and promoting values of diversity and unity to the public [12].

2. Repressive Efforts

Crime prevention efforts are essentially an effort to secure the community (social defense) to avoid crime or at least control the crime that occurs so that it is within the limits of community tolerance. In this case, the repressive approach cannot be connoted as a brutal and indiscriminate act. Still, in essence, it prevents the widespread impact of the damage of a crime with the applicable protocols and rules.

Of course, overcoming crime using criminal law is the oldest method, as old as human civilization.<sup>14</sup> The repressive steps taken by the government in the context of dealing with criminal acts of terrorism are as follows:

- 1) Establishment of the Agency for Combating Criminal Acts of Terrorism and the establishment of a particular unit as a measure to eradicate criminal acts of terrorism.
- 2) Attacks on hiding places for terrorists.
- 3) The imposition of strict criminal sanctions against perpetrators of criminal acts of terrorism who have been proven guilty based on the available evidence.

Recognizing the importance of the role of personnel in balancing technological advances and the modus operandi of various types of crimes, including terrorism, the National Police seeks to improve the quality of human resources, both through continuous system improvements and collaboration with domestic and foreign parties. In addition, education and the exchange of information aim to prevent acts of terrorism before they arise [13].

### ***3.4 Terrorism Prevention with Humanitarian Social Approach***

a) Law Enforcement that Upholds Human Rights

The most basic definition of *law enforcement* is the giving or imposition of a crime by law enforcement officers to perpetrators of criminal acts. More broadly, it means the implementation/supervision of unlawful acts that occur (onrecht in adu) well as unlawful acts that might happen (onrecht in potentie) [14].

One of the government's tasks is to enforce the law, especially criminal law. The enforcement of criminal law on the technical side is related to the implementation of criminal procedural law, which regulates how material

criminal law is carried out, including the rights of suspects and victims [15].

The Police are the front line in criminal law enforcement, so it is not an exaggeration to say that the Police are living criminal law [16]. In Article 4 of the POLRI Law, it is emphasized that the Indonesian National Police aims to realize internal security, which includes the maintenance of public security and order, order, and law enforcement, the implementation of protection, protection, and service to the community, as well as the establishment of public peace by upholding human rights.

The use of violence by the Police is a tool or part of the equipment to carry out their work, namely fostering and maintaining order in society [17]. It is not the leading media in responding to a crime.

The existence of certain conditions or emergencies above seems to be very well recognized by the international community through MU-UN Resolution 34/169 dated December 17, 1979, concerning the "Code of Conduct for Law Enforcement Officials," which allows law enforcement officials to use force/force. ) as an extraordinary act in carrying out their duties and the 8th United Nations Congress/1990 on "the Prevention of Crime and the Treatment of Offenders" which has received "Basic Principles on the Use of Force and Firearms by Law Enforcement Officials" [15].

Furthermore, the Basic Principles also provide guidelines on requirements or qualifications, training, and guidance for officers who will use force and firearms, as well as guidelines or principles on reporting and assessment procedures [15]. This relates to law enforcement to combat terrorism, which can cause human rights violations if the rules and standards are not prepared beforehand.

Above all things, law enforcement works to ensure fairness and justice are felt by people. The criminal justice system follows the "due process of law" model emphasizing people's rights to have a fair trial [18]. This ideal is the basic concept of law enforcement.

### ***3.5 Eradication of Human Rights-Oriented Terrorism***

In the previous discussion, it was mentioned that the Police and all related institutions are obliged to continue to uphold human rights. In Article 2 of Law Number 5 of 2018, it is emphasized that the eradication of criminal acts of terrorism is a policy and strategic step to strengthen public order and public safety while upholding the law and human rights, not discriminatory, whether based on ethnicity, religion, race, and intergroup. This law has been made with more reliable and effective ways to respond to terrorism [19].

To realize this and refer to the Basic Principles, it is necessary to have a guideline for carrying out the duties of the POLRI that is human rights-oriented, including in combating terrorism, references, and signs to every member of the National Police, including Densus 88 in carrying out their duties in the field.

Article 2 paragraph (2) of this Regulation of the National Police Chief states the objectives, namely:

- a. to ensure the understanding of basic human rights principles by all ranks of the Indonesian National Police so that in carrying out their duties, they always pay attention to human rights principles;
- b. to ensure that there is a change in the pattern of thinking, behaving, and acting following the basic principles of human rights;
- c. to ensure the application of human rights principles and standards in all the implementation of Polri's duties so that every Polri member does not hesitate to take action; and
- d. to be used as guidelines in formulating Polri policies to underlie human rights principles and standards.

The most important part of this Regulation of the National Police Chief is the technical Code of Conduct, namely the Standards of Conduct for Police Officers or Members of the Indonesian National Police in Law Enforcement. Although not much different from the Basic Principles, the standards of behavior here also consist of general standards of behavior and behavior in police actions.

Suspects as parties who are vulnerable to having their rights violated receive special attention in the Regulation of the National Police Chief in Chapter IV, namely:

- 1) The principle of the presumption of innocence.
- 2) The rights of the suspect.
- 3) The right to a fair trial.
- 4) Respect for one's dignity and privacy.

In order to improve the effectiveness of monitoring the implementation of human rights within the Police, cooperation and coordination are held with relevant agencies, academics, and non-governmental organizations. Furthermore, in criminal acts of human rights violations committed by members of the National Police, investigators are carried out following statutory regulations.

The existence of socialization and implementation of the above code of conduct by Densus 88, accompanied by a monitoring system and performance audit of Detachment 88 on an ongoing basis, is expected to realize efforts to eradicate terrorism oriented towards the protection of human rights.

## **4. CONCLUSION**

Corruptors and terrorists kill people directly in the sense of impoverishing, weakening the people's economy, and spreading fear. They should be heavy. We agree that the death penalty is for the corrupt, but for acts of terrorism, a humanitarian approach is needed because the perpetrators of terror may be victims of injustice.

The government's countermeasures against terrorism activities are carried out with a preemptive, preventive and repressive approach to achieve integrated law enforcement and political enforcement efforts. However, in certain circumstances, acts of terror require a conceptually persuasive countermeasure as an effort to resolve outside the law and politics stemming from the

power of social action. Therefore, in the fight against terrorism, it is necessary to coordinate efforts across agencies, national borders and simultaneously take repressive, preventive, pre-emptive, and rehabilitative steps.

Law enforcement aims to protect human rights, as well as the enforcement of human rights themselves. However, in certain/emergency conditions, law enforcement is often considered to violate human rights. Therefore, a police code of conduct must regulate behavior and limit actions that remain within the corridor of law and human rights.

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