



Deradicalization of Terrorism Based on a Progressive Legal Approach

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Abstract— Because terrorism represents a grave threat to state sovereignty and a crime against civilization, incidents of terror in Indonesia consistently garner attention on both the domestic and international fronts. The war on terrorism has led to the apprehension and defeat of terrorists. However, this does not allow for an immediate cessation of terrorist activities. Instead, it perpetuates a detrimental cycle of violence that fails to confront the root cause of terrorism. As a consequence, various strategies are necessary to assist in the deradicalization of terrorists. A method of empirical juridical inquiry was utilized in this investigation. Even though cooperation is the most crucial factor in administering deradicalization, Indonesia's program focuses primarily on economics, law enforcement, and religion, according to the study's findings. Progressive legislation is expected to facilitate a paradigm shift away from the status quo, wherein centrist institutions and individuals will no longer be the primary sources of legal inspiration and guidance. Given the historical correlation between ideology and radicalism, progressive law possesses a malleable quality that renders it compatible with the findings of every scientific discipline.

Keywords—Deradicalization, Terrorism, Progressive Legal Approach

I. INTRODUCTION

In recent times, terrorism has surfaced as a significant worldwide concern. The concepts of defense and deterrence are susceptible to change due to evolving concerns and asymmetric threats. As a result, every country will face a diverse range of complex challenges and priorities. There is a paradigm shift in the way security threats are perceived, with increased attention being directed towards perceived adversaries of peace, such as mercenary terrorists, religious fundamentalists, and organized criminals. These actors are gaining proficiency in leveraging modern technology and exploiting economic alienation or radical religious misalignments. However, it is essential to note that the worldwide schism extends beyond mere religious and economic differences.[1]

This analysis commences with the knowledge that "terrorism" is a subject of debate within the social sciences. Internationally, there is no consensus regarding the legal definition of terrorism. State-by-state variations exist regarding the definition of terrorism. Diverse domestic agencies have occasionally formulated their conceptualizations of terrorism, which are mainly consistent with (and potentially rationalize) their respective roles and responsibilities within the extensive array of governmental establishments. Over 150 distinct academic definitions of the term "terrorism" have been identified by Alex Schmid, whose independent and collaborative research may be the most significant in monitoring how the term is defined. Additionally, he has formulated a "consensus" definition of terrorism that encompasses numerous pages and combines the qualities and attributes that academicians have deemed most emblematic of the concept.[2]

An authentic threat to national security is the proliferation of radicalism and intolerance, which are all forms of exclusivism. Terrorist activities in Indonesia consistently garner attention from both domestic and international audiences due to their classification as crimes against civilization and their grave jeopardy to state sovereignty.

Law No. 15 of 2003 is a legislative measure implemented in Indonesia with the dual objective of combating domestic and international terrorism.[3]

Terrorist activities in Indonesia are inextricably linked to the post-New Order political and democratic climate that became more transparent; after the fall of the New Order, radical network figures hiding outside Java or abroad returned to the region. The reform era government's political openness instilled in this group a renewed zeal to express their diverse political aspirations and interests without constraint. Terrorist activities in Indonesia are influenced by historical, ideological, and political factors, as well as regional and international standards. As a consequence, terrorists in recent years have included foreign nationals as well as Indonesian nationals.

As of October 2023, approximately 181 former Napiters are affiliated with Jamaah Ansoru Daulah (JAD), Jamaah Ansoru Syariah (JAS), Ahlusunnah Association for Islamic Communities (HASMI), Indonesian Islamic State (NII), Al Qaeda Al Indonisy, Hisbah, and Jemaah Islamiyah (JI) in the Solo region. The radical status of the 181 formerly incarcerated individuals was categorized into seven levels, determined by their degree of cooperation or uncooperative, inclination towards accepting government programs, interest in participating in deradicalization initiatives, level of activity in establishing new networks, and refusal to extend invitations to invite others into their networks.

Terrorism is an ideology characterized by its propensity to employ coercion, violent acts, and other forms of brutality against members of civil society, motivated by particular causes and origins. An ambiguous scope of work characterizes the current state of deradicalization efforts, as the implemented programs fail to achieve their intended objectives by reducing perpetrators to objects rather than subjects. Most implemented programs adhere to a social and economic deprivation framework.

II. LITERATURE REVIEW

Terrorism is classified as a distinct category of criminal activity due to its particular distinctions over other forms of criminal offenses. Specific individuals continue to categorize terrorism as a form of hostility towards humanity (hosted humanis generis) and a constituent of extraordinary crimes (extraordinary crimes). The consequences of this are intrinsically linked to the devastation it causes; apart from the loss of life and property, infliction of physical and mental injury, and property destruction, it also engenders a pervasive atmosphere of panic within society.[4] Terrorism constitutes a significant peril to the integrity of nations, endangering public safety and exerting an adverse influence on societal welfare. A transgression against civilization and humanity it is. It is rational for specific individuals to argue that terrorism has evolved into an extraordinary offense falling under the classification of crimes against humanity as opposed to an ordinary criminal offense. Specialized handling techniques are required. Presently, nations across the globe are unified in their determination to combat terrorism. Criminal law enforcement, also known as penal law enforcement, has traditionally been employed to combat terrorism.[5]

Terrorist acts in Indonesia are intertwined with political, ideological, and historical factors. Additionally, they are subject to regional and international influence; thus, not all militants in recent years have been Indonesian citizens; a number of them have been foreign nationals as well. Acts of terrorism cannot be divorced from the repercussions of Indonesia's increasingly democratic and open political environment since the fall of the New Order. Radical network members concealed overseas or elsewhere have returned to Java. The reform era administration's political openness incited renewed enthusiasm among this group, allowing them to articulate their political interests and objectives freely.[6]

Terrorism can be historically linked to a form of religious fanaticism that inspired acts of violence, which solitary individuals or collectives could execute. Initially, terrorist attacks were confined to a specific geographical region, directed towards particular individuals, and classified as low-intensity conflicts. However, contemporary acts of terrorism are no longer regarded as low-intensity conflicts because they transcend national boundaries, are intertwined with numerous aspects of life, and have extensive dimensions.[7]

The implementation of the Deradicalization Program is executed progressively to ensure the successful attainment of its objectives. However, many deradicalization efforts are believed to have needed to be improved in addressing instances of terrorist-related crimes. The aim of the deradicalization program is not to confront ideology. The scope of government-mandated Deradicalization is restricted to reforming radical behavior; it cannot eradicate radical ideology. Aside from that, the implementation of Deradicalization that eliminates the fundamental purpose of punishing terrorists prioritizes law enforcement, and adheres to the same principles of justice, clarity, and utility that Gustav Radbruch discovered constitutes excellent legislation; there is no other necessity.

Deradicalization refers to the systematic transformation of radical ideologies or ideas into non-radical alternatives for those affected by them through a multidisciplinary and cross-cultural approach. Deradicalization, as defined by the United Nations, entails relinquishing an extreme perspective and concluding that the use of violence to effect social change is abhorrent.

III. METHOD

The normative legal methodology employed in this study was derived from a comprehensive review of the literature. This article draws upon a variety of primary and secondary legal sources, including legislation, literature, and periodicals. This research study employs legislative methodology to ascertain the legal foundation

and evaluate regulations pertaining to Indonesia's terrorism policy. In order to construct defense and security, security-related concepts are unveiled through the application of a conceptual framework. In the interim, a comparative methodology is employed to evaluate the variances in security policies among Indonesia and other nations.

IV. RESULT AND DISCUSSION

Even if abbreviations and acronyms have already been defined in the abstract, they should be designated the initial time they are used in the text. The definitions of abbreviations such as IEEE, SI, MKS, CGS, sc, dc, and rms need to be revised. Unless strictly necessary, refrain from employing abbreviations in the title or headings.[8]

The emergence and progression of radical ideology are inextricably linked to external factors originating from the Middle East. The Arab Spring, also known as the Arab Awakening, was a popular uprising that sought to replace the ruling regimes in North Africa and the Middle East. A turning point in history, the Islamic social, constitutional, and modernist reform movement contributed to the formation of Salafi-Wahabi radical organizations. These organizations flourished during periods of democratic transition in Egypt, Libya, Tunisia (Jasmine Revolution), and Yemen, all while claiming to be responsible for "enforcing Islamic law." This organization persisted in adopting the position of "establishing the Islamic Daulah" and reached its zenith in Syria, where its objective was to topple the Assad regime.[9]

The emergence of extremist ideology cannot be separated from external influences originating in the Middle East. The Arab Spring, or Arab Awakening, constituted a surge of popular uprisings that swept across the Middle East and North Africa. The Islamic social, constitutional, and modernist reform movement played a pivotal role in history by providing impetus for the emergence and expansion of militant Salafi-Wahabi organizations. These factions thrived during democratic transitions in Egypt, Libya, Tunisia (Jasmine Revolution), and Yemen, all while ostensibly "enforcing Islamic law." The section persisted in embracing the stance of "establishing the Islamic Daulah" after its zenith in Syria, where its objective was the overthrow of the Assad regime.[10]

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As several extremist networks emerge in Indonesia, the struggle against terrorism has unveiled them alongside the apprehension and eradication of terrorists. Despite its inability to halt terrorist activities immediately, it may spark violent retaliation on occasion due to the perpetrators' perception that they have been unjustly punished. This is inextricably linked to the ideological dilemma faced by the militants.[12]

Therefore, deradicalization is required to eradicate terrorism. The deradicalization program employs an array of tactics to eliminate the radical ideology that extremist groups and terrorists espouse. Nonetheless, deradicalization efforts may encounter opposition from specific Muslim factions, especially those affiliated with revolutionary organizations.

The two terms, deradicalization inside and outside prisons, delineate Indonesia's comprehensive, integrative, and enduring deradicalization initiative. Identification, counter-radicalization development, monitoring, and evaluation are all components of deradicalization outside correctional facilities. Deradicalization in correctional facilities consists of the subsequent stages: identification, rehabilitation, re-education, resocialization, monitoring, and assessment.[13]

As a result of apprehensions regarding the legal landscape in Indonesia, specifically regarding the legislative reform that occurred in mid-1997, the notion of Progressive Law emerged. This article examines alternative approaches to deradicalization within a progressive legal framework and provides an overview. Advanced law is a well-considered legal philosophy that aims to eliminate traditional rule-based and text-based legal systems. An additional strategy advanced law offers is to position individuals as the legal framework's central focus and

ultimate goal. To address radicalism in a manner that upholds human dignity and values, deradicalization will concentrate on or aim to eliminate radical actors and networks.[14]

Predicated on the notion that human beings are the intended beneficiaries of the law, progressive law operates on this premise. According to positive legal science, the purpose of the law is to promote the well-being and contentment of humanity; it does not exist for its benefit. Taken from this perspective, the law appears to be "law in the making"—that is, it is in a perpetual state of transformation.

Progressive legislation aligns with the principles and ideals of social justice, which underpin human existence, given that it serves as the political foundation of Indonesian law in social life. The function of the law, as it pertains to legal politics, is to ensure and protect the achievement of specific facets of justice. Hence, in this progressive legal framework, the legal system must prevent a strong-weak flow in the interaction between individuals concerning welfare issues.

Progressive legislation applies to a wide range of academic disciplines. The central concern regarding radicalization in the context of radical management is ideology. Even if it means resolving the ideological disputes of extreme networks, progressive legislation welcomes all creeds. Pancasila's philosophy, precisely the second and fifth principles of "Just and civilized humanity" and "Social justice for all Indonesian people," respectively, has the potential to halt and eradicate extremism. The second principle states that individuals ought to be situated in a rational and refined manner, consistent with their intrinsic worth as noble beings.[15]

Concerning deradicalization, how institutions and administrations collaborate to combat extremism is central. Thus far, counter-radicalization has been the sole method by which synergy has been operationalized, targeting individuals who have not encountered extremism. Simultaneously, entrepreneurial initiatives targeting formerly incarcerated terrorists (referred to as "waiters" at times) serve as a mechanism to cultivate synergy among these individuals. Complete implementation of synergy is required for radical networks and former terrorists, early detection, prosecution, and management. When considering progressive law, one must shift their focus from document texts or regulations to the outcome, including the benefits and repercussions of the law. This is expected to facilitate a departure from the prevailing paradigm prioritizing institutional interests. Progressive law and reactive law, founded on two fundamental tenets—first, that the law must be practical, reasonable, helpful, and purposeful—are inextricably linked. Second, competence is the criterion for evaluating the execution of every legal provision. Access to public participation is broadly permitted in the context of legal considerations being oriented toward goals and consequences that benefit society, the morality of cooperation functioning as a fundamental principle in the application of the law, competence being a critical norm and a responsive legal order prioritizing substantive justice as the foundation for legal legitimacy, and regulations being subordinate to principles and policies.

V. CONCLUSION

While the deradicalization program in Indonesia has thus far primarily concentrated on religion, law enforcement, and the economy, synergy is an essential element in effectively addressing this challenge. It is anticipated that progressive law will facilitate a departure from status quo thinking, wherein law's orientation and ultimate purpose will no longer be centered on centrist institutions and individuals. The progressive legal system is receptive to all scientific disciplines, including ideology, which has historically served as the primary source of radicalism. One ideology that possesses the capacity to repel radicalism is Pancasila.

VI. REFERENCES

- [1] A. Masyhar and S. O. Emovwodo, "Techno-Prevention in Counterterrorism: Between Countering Crime and Human Rights Protection," *J. Hum. Rights, Cult. Leg. Syst.*, vol. 3, no. 3, pp. 625–655, Nov. 2023, doi: 10.53955/jhcls.v3i3.176.
- [2] M. Haghani, E. Kuligowski, A. Rajabifard, and P. Lentini, "Fifty years of scholarly research on terrorism: Intellectual progression, structural composition, trends and knowledge gaps of the field," *Int. J. Disaster Risk Reduct.*, vol. 68, p. 102714, Jan. 2022, doi: 10.1016/j.ijdr.2021.102714.
- [3] J. O. Akanni, "A non-linear optimal control model for illicit drug use and terrorism dynamics in developing countries with time-dependent control variables," *Decis. Anal. J.*, vol. 8, p. 100281, Sep. 2023, doi: 10.1016/j.dajour.2023.100281.
- [4] A. Nugroho, R. O. Kusumaningtyas, R. Danendra, G. F. Aliya, and F. U. Najicha, "Implementation of Worker Rights Protection for Government Employees with Employment Agreements," 2021. doi: 10.2991/assehr.k.211014.023.
- [5] L. Fu, X. Wang, B. Liu, and L. Li, "Investigation into the role of human and organizational factors in security work against terrorism at large-scale events," *Saf. Sci.*, vol. 128, p. 104764, Aug. 2020, doi: 10.1016/j.ssci.2020.104764.
- [6] H. Mahardika, J. French, and A. Sembada, "Keep Calm and Eat Satay: Indonesia's Consumption-Themed Signals of Defiance against Terrorism," *Australas. Mark. J.*, vol. 26, no. 3, pp. 231–238, Aug.

- 2018, doi: 10.1016/j.ausmj.2018.06.002.
- [7] B. Spalek and S. El-Awa, "Governance and counter-terrorism: Engaging moderate and non-violent extremist movements in combatting jihadist-linked terrorism," *Int. J. Law, Crime Justice*, vol. 72, p. 100367, Mar. 2023, doi: 10.1016/j.ijlcj.2019.100367.
- [8] M. Bakry, A. Syatar, A. Abubakar, C. Risal, A. Ahmad, and M. M. Amiruddin, "Strengthening the Cyber Terrorism Law Enforcement in Indonesia: Assimilation from Islamic Jurisdiction," *Int. J. Criminol. Sociol.*, vol. 10, pp. 1267–1276, Aug. 2021, doi: 10.6000/1929-4409.2021.10.146.
- [9] M. K. D. Cross, "Counter-terrorism & the intelligence network in Europe," *Int. J. Law, Crime Justice*, vol. 72, p. 100368, Mar. 2023, doi: 10.1016/j.ijlcj.2019.100368.
- [10] A. K. Jaelani and R. D. Luthviati, "The Crime Of Damage After the Constitutional Court's Decision Number 76/PUU-XV/2017," *J. Hum. Rights, Cult. Leg. Syst.*, vol. 1, no. 1, Mar. 2021, doi: 10.53955/jhcls.v1i1.5.
- [11] X. Wei, "A critical evaluation of China's legal responses to cyberterrorism," *Comput. Law Secur. Rev.*, vol. 47, p. 105768, Nov. 2022, doi: 10.1016/j.clsr.2022.105768.
- [12] G. Montanari Vergallo *et al.*, "Health care providers ethical use of risk assessment to identify and prevent terrorism," *Ethics, Med. Public Heal.*, vol. 12, p. 100436, Jan. 2020, doi: 10.1016/j.jemep.2019.100436.
- [13] D. S. Wisnubroto, K. Khairul, F. Basuki, and E. Kristuti, "Preventing and countering insider threats and radicalism in an Indonesian research reactor: Development of a human reliability program (HRP)," *Heliyon*, vol. 9, no. 5, p. e15685, May 2023, doi: 10.1016/j.heliyon.2023.e15685.
- [14] G. O. Adebayo, "Counter-radicalization policies and policing in education: making a case for human security in Europe," *Heliyon*, vol. 7, no. 2, p. e05721, Feb. 2021, doi: 10.1016/j.heliyon.2020.e05721.
- [15] A. Budiono, A. Absori, K. Wardiono, W. Yuspin, and S. S. Gulyamov, "Cyber Indoctrination Victims in Indonesia and Uzbekistan: Victim Protection and Indoctrination in Practice," *J. Hum. Rights, Cult. Leg. Syst.*, vol. 3, no. 3, pp. 441–475, Nov. 2023, doi: 10.53955/jhcls.v3i3.127.

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