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Research Article

NON-REPRESSIVE LAW IN THE SCOPE OF CRIMINAL IMPLEMENTATION FOR THE TERRORISM INMATES IN INDONESIA

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ABSTRACT

The consequences of terrorism regulated both in international and national law, makes the counter-terrorism model system in handling prisoners through the implementation of a non-repressive approach (soft approach) to terrorism inmates as an effective choice. Guidance for prisoners of terrorism in prisons has not been implemented optimally. This can be seen from the formation of a network of terrorism carried out in prisons. Former inmates also returned to acts of terrorism after leaving prison, requiring a non-repressive approach (soft approach) to terrorism inmates in the implementation of crimes with a humanist approach is a breakthrough in completing the de-radicalization of terrorism inmates. The effectiveness of the non-repressive (soft approach) approach to terrorism inmates is a substitute or complementary alternative to terrorist deradicalization programs. The non-repressive approach (soft approach) towards terrorist inmates with a humanist approach can be an important component in terrorist and conflict transformation in order to find constructive resolution which is a breakthrough in completing de-radicalization in the handling of terrorism inmates as an effort to build humanist awareness and wholeness in thinking terrorists which must be done in an integrated manner, disengagement with a humanist approach, soul approach, and dismissal of the spread of ideology, multiculturalism, and independence in the form of resocialization, reintegration, and at the same time the example that the government's steps are not discriminatory in order to protect Indonesian citizens.

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INTRODUCTION

The slants in overcoming crime of theoreticalism is known through three approaches, namely: pre-emptive, preventive and repressive. The three approaches are carried out in order to achieve integrated law enforcement. Conceptual and persuasive approaches are needed in certain circumstances by relying on the power of social action. The counter-terrorism measures in Indonesia still utilize the method by developing a counter-terrorism strategy with a model (combination) of hard approach and soft approach with the concept of deradicalization that has become a reference until now. De-radicalization efforts by relying on the prison system are also completely ineffective. This is evidenced by several cases where former imprisoned terrorists became perpetrators of terrorism for the next case. In this case, fighting terrorism requires coordinated efforts across agencies and institutions, active involvement of the community, and repressive, preventive, preemptive and rehabilitation measures must be carried out simultaneously. In several other countries, only prioritizing many who only prioritize repressive actions have failed to overcome terrorism. The importance of touching the root causes of terrorism (roots

of terrorism) is by measures of socialization and reintegration of perpetrators of terrorism into society.

Deradicalization can be understood as all efforts to neutralize radical notions through interdisciplinary approaches, such as religion, psychology, law and sociology, aimed at those who are influenced by radicalism. As a series of ongoing programs, this de-radicalization includes many programs consisting of reorientation of motivation, reeducation, socialization, and seeking social welfare and equality with other communities for those involved in terrorism (terrorism convicts) (Golose, 2009: 63). Deradicalization should not always be understood as a process of moderation towards the beliefs and behavior of someone previously involved in radical organizations but as early detection, counteracting from the start, and targeting various potential layers with various forms and variants relevant to each target group. Meaning must be developed in Indonesia so that de-radicalization is not only limited to former combatants who are captured and put in prison but can also be carried out in various public spaces and through various media (Arifin, 2014: 397-398).

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Counter-terrorism efforts using the de-radicalization strategy carried out in several countries. The strategies that have been practiced varied by many countries are seen as one of the strategies to deal with terrorism. However, according to him, the de-radicalization program for terrorism prisoners in prisons in Indonesia is still faced with various obstacles. Formally, the new prison has a regular development program for all inmates, has not yet had a special coaching program for terrorist inmates so it has not shown the expected results. It is precisely what happens that some prisoners fight against de-radicalization, so that Lapas becomes a place to sow radicalism, while also giving birth to recidivism (Setiyawan, 2017: 66). The war on terrorism in Indonesia consists of two strategies, namely hard power, by enforcing and enforcing the law and soft power, namely seeking de-radicalization, disengagement and incapacitation, all of which are joined in efforts to counter terrorism prevention and control of terrorism (Todd Sandler, 2005: 75). The process of de-radicalization in prisons faces several obstacles, among others, the overcapacity of prisons, the limited resources of the apparatus both in quantity and expertise in the process of deradicalisation, infrastructure and behavior of terrorist prisoners in prisons.

These obstacles cause prisons to have difficulty placing terrorist prisoners in prisons who have special characteristics and a high level of risk (high risk). The placement of prisoners in prisons must be done carefully by considering the level of risk of each individual terrorist prisoner, the implementation of a coaching program and the ability of prisoners to foster terrorist prisoners. Because this will affect the success of the counter radicalization and deradicalisation process to awaken and straighten out the ideology of terrorist prisoners so as not to repeat terrorist acts. The approach to eradicating terrorism in prisons through national preparedness, counter-radicalization and deradicalization of the basis of Law No. 5 of 2018 is considered not fully successful for handling terrorism in Indonesia. Counter-radicalization, including increased alertness, increased deterrence, and media literacy. Whereas the de-radicalization efforts are carried out through fostering terrorist prisoners, both ex-prisoners, families of former terrorists and their networks. The principle held in de-radicalization is cross-sectoral coordination, involvement of ministries and institutions, public participation, and local wisdom. The national strategy for preventing terrorism is aimed at the outermost layer of society, so that it is protected from radicalism. It was then addressed to residents who were sympathizers, supporters, militants and finally the core group. Counter-radicalization is aimed at the general public by involving government elements, community leaders, religious leaders, education, traditional leaders, youth, non-governmental organizations, the media and other parties. The de-radicalization program in prisons was addressed to terrorism prisoners as the main target. Guidance to the community with the aim of limiting radical potential, monitoring former terrorists, former terrorism prisoners, networks and families (Irfan Idris, 2018: 30).

The existence of terrorism inmates in prisons allows for self indoctrination and doctination of other inmates, except for inmates who have been sentenced to death. Impacts that arise can lead to the process of indoctrination of society in general by free prisoners of terrorism, or also public rejection of the presence of former terrorism prisoners in the midst of daily life.

Guidance on terrorism prisoners and the community can be part of efforts to fight terrorism with a peaceful approach in prisons and outside prisons (Gunaratna & Steven, 2004: 99). Guiding inmates is a specific effort planned to modify the characteristics of one's social psychology. Guidance for prisoners is given as a series of activities to release prisoners from things that cause them to commit criminal acts. The model of guiding prisoners of terrorism is done by looking for causal relationships between acts of violence and economic conditions, understanding of religion, education, social environment, as well as past life that forms awareness.

The existence of terrorist inmates provides its own problems for prisons, because terrorist inmates have different characteristics than prisoners in general. Prisoners tend not to mix and be uncooperative with officers and have the potential to spread radicalism to other inmates or even prison officers. In the implementation of deradicalisation there has been no synchronization between the implementation of deradicalization with Law Number 12 of 1995 concerning Corrections (Law No. 12 of 1995). Various activities carried out by government institutions and private institutions to deal with prisoners in terrorism cases. A number of obstacles were found in the program, including the lack of coordination between government and non-government institutions that made the programs overlapped with each other, and the absence of laws governing the authority of state institutions in dealing with terrorism prisoners in prison was also a problem. In this case, there is a need for good cooperation and synergy between terrorism inmates, prisons and the government, the community, and the private sector in deradicalization programs. Because the de-radicalization program is still considered to be unsuccessful because the community still rejects former terrorism convict cases (Faisal Magrie, 2018).

Penitentiary systems are held in order to establish Correctional Guidance in order to become fully human, aware of mistakes, improve themselves, and not repeat crimes so that they can be accepted back by the community, can actively play a role in development, and live naturally as good and responsible citizens answer (Article 2 of Law No. 12 of 1995). Penitentiary is an integral part of the criminal justice system that carries out law enforcement functions in the field of treatment of prisoners, confiscated objects, and booty. Penitentiary carries out its role from the adjudication process, adjudication, to post-adjudication, which at each of these stages, the Lapas has clear and explicit duties and authority. In terms of prisoner legal protection, it can be interpreted as an effort to protect the law against various rights and freedoms of prisoners as well as various interests related to the welfare of prisoners (Arief, 2016: 155).

The presence of terrorism inmates in prisons allows for self-indoctrination and doctination of other inmates. Problems occur not only in prison but also problems faced after leaving prison and becoming part of the community. Terrorism prisoners while in prison can influence ordinary prisoners and criminal inmates to join in terrorist acts after being released. Terrorism prisoners are individuals who are aware of the actions they take and are able to account for their actions. The level of radicalism of terrorism inmates is strongly related to the perception of their beliefs or ideologies, so that they have the opportunity to be slowly reduced or minimized through

humane treatment. The treatment of terrorism inmates can be in the form of fulfilling their rights both in the right of placement and transfer, the right to prevent torture, the right to security and guidance, the right to care and health, and the right to be able to relate to the outside world relating to the family. The de-radicalization efforts that have been used to awaken terrorists have not been effective enough. Therefore, more special efforts are needed to deal with acts of terrorism and radicalism from the government.

Literature Review

The context that occurs in an advanced legal system with the creation and development of law is designed professionally and logically, no doubt that legal products can influence, even change the joints of people's lives. It's just that a legal product is changed, both by the parliament, the government, and the court, first there has been a shout / need in the community for the change. The sooner the law responds to the sound of legal reforms / changes in society, the greater the role played by the law for the change in society. Conversely, the slower the law responds to the voices of renewal in society, the smaller the function and legal role in changing the society because the community has already changed itself. In this case, the law only functions as ratification and legitimacy so that in a case like this it is not a law that changes society, but a development that changes the law.

The aforementioned context suggests that the formation of law must be adjusted to the development of the dynamics of society and pay attention to aspects of justice and provide protection to create legal order, this is where the law functions as a rule. This is in accordance with the basis of the sociological jurisprudence theory of Roscoe Pound which emphasizes that law is a tool for building society (law as a tool of social engineering), in line with Roscoe Pound's thinking, Eugen Erlich proposes a conception of law that lives with legal meaning that is not found in the materials of formal law but in society. The legal system according to Lawrence M. Friedman in the theory of "Legal System" states that the components of the legal system include three elements, namely: (Lawrence M. Friedman. 1975: 12-16).

1. The substance rule of the law encompasses all written and unwritten rules, both material law and formal law;
2. The structure of the law covers legal institutions, legal apparatus and law enforcement systems. Legal structures are closely related to the justice system carried out by law enforcement officials, in the criminal justice system, the application of law enforcement is carried out by investigators, prosecutors, judges and advocates; and
3. Legal culture, is an emphasis in terms of culture in general, habits, opinions, ways of acting and thinking, which direct social power in society.

The means of community renewal is based on the assumption that the existence of order or order in the effort of development and renewal is a desired or deemed necessary. Another assumption contained in the legal conception as a means of renewal is that law in terms of rules or legal rules can indeed function as a tool (regulator) or means of development in the sense of channeling the direction of human activity in the direction desired by development and renewal.

The pressure of public interest is not so urgent, but there is a need to adjust to the needs in the field of public security and make new compromises continuously in the community because of the changes that occur in the community continuously and therefore adjustments are needed - adjustment. Therefore, it is always felt that there is a need to make changes to the law and adjust it according to circumstances, so that the result is a perfect law. Mochtar Kusumaatmadja (2006: 13-14), states that law is a tool for community renewal, which in detail states: Law is a tool to maintain order in society. Considering its legal nature, basically it is conservative, meaning that the law is nurturing and maintaining what has been achieved. Such functions are needed in every society, including the people who are developing, because here too there are results that must be maintained, protected and secured. However, a developing society, which in our definition means a society that is changing rapidly, the law does not have enough to have such a function. He also must be able to help the process of change of society. An old-fashioned view of law that emphasizes the function of maintaining order in a static sense, and emphasizes the conservative nature of law, considers that law cannot play a meaningful role in the renewal process.

DISCUSSION

Terrorism is a crime that has a complex root and network that can not only be approached with an institutional approach through mere law enforcement. Increasing good cooperation between domestic institutions also needs cooperation with anti-terrorism institutions abroad which are of course based on the legal framework, because with a solid legal basis will be the basis of national policies and actions in combating terrorism. In addition, with a strong legal basis, it is expected to be able to protect various interests of both the public interest and human rights. Prevention and overcoming terrorism requires a comprehensive collaboration. In addition to the quality and quantity of the apparatus established by the government, it is also necessary to support community awareness, because involving the community in the early stages of prevention and prevention of all acts or activities of terrorism can be easily overcome. The involvement of the community, especially the educational institutions, families and the environment of the community and the young generation itself in preventing terrorism is very important. That is why it requires the involvement of all components of society in combating terrorism in order to sustain the lives of a beloved, fair and prosperous nation and country.

The implementation of the de-radicalization program will be carried out in stages so that the goals and objectives can be achieved effectively. In addition, so that each stage can also be known and obtained as output and outcome parameters of success of each stage and consideration of sustainability to the next stage. Each stage will have a form of program, goals, objectives, indicators of success, strategies, program flow framework and program development. The stages in each program both in the community and in the Lapas are a whole and comprehensive unit. In this case the stages have a systematic and sustainable flow (BNPT, 2014: 78). The de-radicalization in Lapas is certainly different from that in the community. Identification is an effort to identify and determine the identity of individual suspected terrorists and their networks

regarding their understanding and attitude which leads to radical acts and terrorism. The identification program is intended as an overall effort to identify suspected terrorists who have been arrested both those who have not yet undergone trials, are currently undergoing trials and who do not have legal certainty. The rehabilitation program is carried out for terrorists who have obtained permanent legal force by the court and have been placed in Lapas as terrorism criminal inmates. In addition, the rehabilitation program is also aimed at families of terrorist prisoners who have and support radical understandings and attitudes.

Handling of terrorists often stops when they have been caught or sentenced to crime. Attention to treating terrorism offenders who have been sentenced to crime and included in prisons is often overlooked. Handling of them is solely the responsibility of Lapas officers. Therefore, it is necessary to involve all elements and disciplines such as religious leaders, community leaders, psychologists, and so on in handling terrorism inmates in an integrated and sustainable manner. The rehabilitation program is an initial intervention given to terrorism inmates during the period of punishment and coaching in prisons. Because of its extraordinary crime, terrorism inmates must also get special placement, treatment, and coaching. They cannot be equated with other case inmates. The placement, treatment and guidance of them must be regulated and prepared to eliminate the opportunity for them to be re-involved in terrorist activities, both within and within the community.

The rehabilitation program is a systematic effort to change radical ideological orientation and violence towards an ideological orientation that is inclusive, peaceful and tolerant and makes efforts to foster religious, personality and independence to terrorism prisoners and their families. The aim of the rehabilitation program is to awaken terrorist prisoners about the mistakes of radical understanding and acts of terror that have been committed. Awaken families of terrorism inmates who have and support radical understandings, attitudes and actions. Moderate radical understanding and attitudes of terrorism prisoners and their families to be inclusive, peaceful and tolerant. Conduct religious training for terrorism inmates and their families. Conduct personality development to terrorism inmates and their families. Fostering independence to terrorism inmates and their families.

Re-education is a continuation of the rehabilitation program. Re-education is intended as an effort to provide a re-understanding and stabilization of terrorism inmates, former terrorism inmates, and their families about peaceful national values and religious teachings. Re-education is a continuation of intervention for terrorism prisoners and their families who have taken part in the rehabilitation program and / or have received recommendations to continue this reeducation program. Re-education is a process of strengthening moderate and open thinking, understanding and attitudes by giving enlightenment to terrorism inmates and their families about the teachings of religion and nationality that carry the values of peace and tolerance. In the re-education the transformation of thought, understanding and attitude was carried out by enlightening terrorist inmates, terrorism ex-convicts and their families about the teachings of religion and nationality which carried the values of peace, tolerance, and an open attitude towards differences in religious life, community and

nationhood. Therefore, the presentation of material emphasizes moral education. In addition, the reeducation also emphasizes the development of independence which is a continuation of the rehabilitation that has been carried out previously.

In an effort to prevent terrorism, the Government continues to take anticipatory steps based on human rights protection principles and the principle of prudence. Prevention is carried out through de-radicalization (Article 43A of Law No. 5 of 2018). The government has made changes to Law No. 15 of 2003, which was amended by Law No. 5 of 2018, where deradicalisation arrangements are regulated in Article 43D of Law No. 5 of 2018, states that de-radicalization is a planned, integrated, systematic and sustainable process that is carried out to eliminate or reduce and reverse the radical understanding of terrorism that has occurred. Deradicalization is carried out on suspects, defendants, convicts, prisoners, former terrorism prisoners, or people or groups of people who have been exposed to radical understanding of terrorism. Deradicalization is carried out by the Government which is coordinated by the agency that organizes affairs in the field of counter-terrorism by involving relevant ministries / institutions. Deradicalization of people is given through stages of identification and assessment, rehabilitation, reeducation, and social reintegration. Deradicalization of people or groups of people can be carried out through fostering national insight, fostering religious and / or entrepreneurial insight. The de-radicalization implementation is based on identification and assessment.

The Indonesian government carried out deradicalization as one of the soft approaches to overcome terrorism in Indonesia after the 2002 Bali bombing, but this program did not go well. Deradicalization to change or eliminate radical ideologies including in Indonesia proved to be ineffective. This method also failed to be applied to people who had been influenced by radical understanding even long before the ideology of Takfiri entered Indonesia along with the entry of ISIS. The government should look at the idea of a humanization program as a substitute or complementary alternative. One of the humanization activities is humanities education, both formal and informal so that terrorists know other humans. The terrorists are also humans who will change their minds if given education and introduction to a more plural and multicultural community. This will give birth to hidden reflections that will change the ideology of the terrorists. The indicator of the success of deradicalisation is when former terrorists think reflective about: "what does it mean to be human". Good humans don't usually kill other humans. Humanization is the willingness to acknowledge the opponent's humanity. Humanization can help remove stereotypes about a person or group of people who are considered evil (Al Haidar, 2016).

Terrorism is an extraordinary crime that has complex factors and dimensions, especially ideological motivational factors. The root of the problem of terrorism is ideology, it must be opposed to ideology. Because understanding terrorism inmates is wrong. In this case, it must be understood. Dealing with terrorism prisoners is indeed not easy to carry out ideological transformations and extreme beliefs by using a coaching approach as applied to other general prisoners. For this reason, there is a need for synergy between BNPT, the Directorate General of Corrections of the Ministry of Law and Human Rights in dealing with terrorism inmates requiring special

authority, handling, and policies in their efforts to overcome them, including in carrying out the perpetrators' guidance programs. The de-radicalization program in Indonesia is still unsuccessful with the occurrence of several acts of terrorism, should the law be mandated in Article 43D paragraph (7) of Law No. 5 of 2018, there are more technical arrangements regarding the de-radicalization process involving three approaches, namely coaching, mentoring, and empowerment. Guidance seeks to guide the religious mindset and understanding of prisoners of terrorism.

Humanization can also pave the way for reciprocal relations of hostile parties while building confidence by doing equality among humans, creating common norms to limit conflict. Prisoners in terrorism cases generally also have hatred to be seen by groups or parties who are different from them. Therefore, the introduction of different cultures and groups is also important to them. Humanization can be done through intensive dialogue and the introduction of cultures or groups that are different from them (terrorists). Violence can only be faced with tenderness. One of the humanization programs is to teach terrorism inmates to dialogue with ulama and elements of the community, training to make things, entering new understandings through films, or bringing terrorists to victims of terrorism. This is one way to touch their hearts, and make them realize that their actions have caused suffering to others. In this case, to prevent the spread of radical understanding in prisons, it must be done as soon as possible the segregation of terrorism inmates with other inmates.

The eradication of criminal acts of terrorism in Indonesia is not merely a matter of law and law enforcement but is also a social, cultural, and economic problem that is closely related to national security issues so that policies and preventive and eradication measures are aimed at maintaining balance in the obligation to protect state sovereignty, the rights of victims and witnesses, as well as the rights of suspects / defendants. Eradication of non-criminal terrorism with the three objectives above shows that the Indonesian people are a nation that upholds human civilization and has peace and aspires to prosperity and has a strong commitment to maintain the integrity of the sovereign territory of the Republic of Indonesia in the midst of a tidal wave of peace and world security.

Deradicalization is a changing pattern in handling terrorism today. Deradicalization, which is the latest formula for dealing with the threat of terrorism, has to do with deideologization. The word deradicalization is taken from the English term deradicalization with the basic word radical (Golose, 2009: 82). The de-radicalization of terrorism is manifested by a reorientation program of motivation, re-education, socialization, and seeking social welfare or equality with other communities for those who have been involved in terrorism or sympathizers, resulting in a sense of nationalism and willingness to participate as Indonesian citizens. Rehabilitation is a terminology commonly used in explaining efforts to improve terrorist behavior (Golose, 2009: 83). In Black's Law Dictionary, it describes an attempt to improve the behavior of prisoners so that they can return to society and not engage in crime (Bryan A. Garner, 1999: 1311). The Criminal Procedure Code which is a guideline for conducting investigations and prosecutions, until the ruling in Article 1 point 23 of the Criminal Procedure Code, the definition of rehabilitation is:

“The right of a person to recover his rights in position and dignity is given at the level of investigation, prosecution or justice because arrested, detained, prosecuted or tried without reason based on the law or because of a mistake regarding the person or law applied according to the method stipulated in this law”.

Efforts made in the de-radicalization program of terrorism in Indonesia cannot be well represented by the terminology of rehabilitation. In fact, the de-radicalization of terrorism is not limited to the treatment given to prisoners, but also covers the families of prisoners, to the wider community. Likewise in responding to the definition in the Criminal Procedure Code, rehabilitation efforts here are not a recovery of individual rights. The de-radicalization of terrorism is carried out to go beyond the limitations of criminal law itself. Even individuals at the level of suspect deradicalisation programs can be given to them, because this program seeks to provide enlightenment and meaning that is good and true, without having to collide with the enforcement of human rights. So that when used rehabilitation terminology in explaining the de-radicalization of terrorism given to individuals at the level of investigation to examination in the court, it will cause confusion, and be prone to misunderstanding.

The soft approach approach uses methods such as conducting counseling, mentoring, teaching, persuasion for active and converted terror groups. This soft approach can also be done by targeting the wider community so that they are not trapped into radical teachings. The soft approach, which is preventive in nature, aims to turn off the sources of fire from terrorism, namely radical religious ideas. This is the importance of de-radicalization and in this way Indonesian civil society can play a role. According to Petrus Reinhard Golose, to overcome the limitations of the terminology of rehabilitation outlines the efforts to de-radicalize terrorism carried out in Indonesia, namely motivation re-orientation and re-education. Improving motivation in terrorists and their sympathizers, as well as society in general, is vital. Aggressive and destructive behavior in themselves needs to be directed towards motivation to take more positive actions. On the other hand, giving them education both religious education and other knowledge that will open their horizons of thinking, while giving them independence (Golose, 2009: 83-84).

The act of terrorism almost always begins with an understanding of radical ideology which is then triggered by several factors including economic, political injustice to psychology. The radical ideology of terrorism is an understanding that allows the use of methods of violence or threats of violence to achieve goals related to politics, economics, or other things that result in the creation of a fear that extends to society or the loss of casualties and mass material. Terrorism in Indonesia has a diverse spectrum of motives. The motives of “struggle” often intersect with economic motives and the motive for “revenge” to government officials. The terrorism prevention strategy as mentioned above is actually included in two main strategies, namely the counter-radicalization strategy and the de-radicalization strategy. Counter-radicalization strategies are aimed at groups of supporters, sympathizers and people who have not been exposed to radicalism. While the de-radicalization strategy is aimed more at groups that have been exposed to the notion of

terror, core groups and militant terrorism by carrying out identification, rehabilitation, correctional and re-education and correctional activities.

This approach is very important because currently the challenge of eradicating terrorism in Indonesia is quite large. This challenge will be overcome if there are efforts involving all components of the community with BNPT as the leading sector. Efforts in an integrative, persuasive, and comprehensive manner must continue. In this case, without an effort to eradicate terrorism without violating human rights it is impossible to happen. This challenge occurs because the process of radicalization of terrorist perpetrators has been carried out systematically. Terrorism groups continue to make radicalization efforts in society in various media, especially social media. The group often rides forums in the community with radical thoughts with the aim of cadre or marking potential members of terrorism. Seeing the increasingly systematic regeneration in the community, it is necessary to have supervision and counter-propaganda efforts by the parties concerned. The role and involvement of community leaders is very important in this effort. Monitoring and control and counter-propaganda strategies are very important.

Such a radical mindset certainly needs to be deterred in preventing terrorism. As a pluralistic country, Indonesia has many religions and beliefs. Terrorist actors often emerge from not representing a good understanding in society. For this reason, the deterrence of the notion of terrorism must continue to be carried out, among other things, with inter-religious dialogue or internal religious dialogue. This dialogue must be carried out with the aim not to add divisions but to accommodate deviant ideas or ideas to be straightened back to the correct understanding. Incorrect understanding of human rights and the goals of the state they believe must be de-radicalized before it spreads to the public. Efforts to enforce and implement criminal penalties through imprisonment sanctions and the current death penalty have become a separate dilemma for law enforcement officials. In addition to violating human rights, the death penalty for terrorists also has the potential to cause sympathy for other terrorists. This action could lead to a radical spirit and new terror as if acting in revenge for their former ones. However, on the other hand the looseness of supervision and prison efforts is an open secret for the existence of prisons in Indonesia. Terrorists can carry out new arrests to other prison residents so that new radical seeds emerge (BNPT, 2014: 78). Therefore, there needs to be a policy of a soft conceived approach to terrorism so that new radical seedlings emerge in the Correctional Institution.

The countermeasures carried out by BNPT so far have actually been quite good but apparently have not been able to resolve the root causes. Therefore, efforts to prevent terrorism are needed in order to reduce and anticipate the problem of terrorism in the future. Legal norms are the concretization of those values, which in turn are manifested through behavior. This means that both the norm system (positive law) and the fixed behavior system need to be engineered so that it is loaded with values which, among other things, must contain Pancasila. Renewal of criminal law after the enactment of Law No. 5 of 2018, changes to Law No. 15 of 2003, emphasized more on the establishment of a non-repressive (soft approach) approach to terrorism inmates in tackling terrorism aimed at preventing

terrorism before pre-emptive acts of terrorism, whether through a deradicalisation approach or humanist approach, it is necessary to not confronting the two, but integrating them into a policy that can overcome terrorist problems to the roots.

Guidance for prisoners in prisons requires serious attention by paying attention to the condition of each individual criminal, family and social environment. The problem faced today is especially in dealing with terrorism prisoners, namely the lack of integrated handling of perpetrators of terrorism crimes, in the sense that the handling of perpetrators of terrorism seems to stop when they have been caught or sentenced to crime. Terrorism inmates must get special treatment, in the sense that the treatment of prisoners of terrorism cases cannot be equated with the treatment of other cases of inmates. The treatment of them should as much as possible eliminate the opportunity for them to be involved in terrorist activities both inside and outside the prison. In fact, at the ideal level, the treatment of terrorism inmates can, as far as possible, change the radical notions they hold.

The motive of the acts of terrorism inmates compared to the motives of the actions of other prisoners is clearly very different. The motive for acts of prisoners of terrorism is certain beliefs, ideologies or understandings that are fanatically actualized as life choices. For the sake of belief, ideology or understanding, "legal death" is the life choice of prisoners, and they have no hesitation in taking actions to actualize such beliefs, ideologies or understandings. Even among the perpetrators of criminal acts of terrorism, there are those who seem satisfied and proud after carrying out actions that are considered by the public or the state as terrorist acts. They also did not feel pressured by the harshness of international condemnation of a number of bombings that caused severe damage and resulted in a number of victims suffering, injuries, hundreds of deaths, and causing a very wide-ranging impact.

Criminal acts of terrorism are acts that are against the law that violate the criminal provisions of terrorism, namely committing acts related to terrorism crimes. Crimes committed by several people or inclusion, often cause difficulties in the process of the examination, because many participants participated in committing the crime. In practice criminal acts can be resolved by joining several people, each of whom performs certain forms of behavior and then gives birth to a crime. Criminalization of the perpetrators of inclusion in criminal acts varies. Between the main actors, auxiliary actors and advocates are subject to different criminal sanctions. The occurrence of a criminal offense arises the right of the state to impose a crime, in which people must make a difference between what is called a right and what is called an obligation, because the obligation itself only arises after the goal is to be achieved with a sentence.

The idea and purpose of correctional services is itself for the rehabilitation and resocialization of prisoners through educative, corrective and defensive actions, and not aimed at merely punishing. The inmates are like a sick person who must be cured and fostered so as not to repeat his actions, and not because he has committed a crime. However, in fact the idea and purpose of correctional facilities as a form of guidance for terrorism prisoners spread in several prisons throughout Indonesia has not been effective. One of the decisive important stages in placing terrorists in prisons is the assessment stage of

terrorism inmates used is risk assessment and assessment of the need for risk assessment is an assessment conducted to determine the level of radical and extreme violence for terrorism inmates. Needs Assessment is an assessment conducted to find out the most appropriate guidance or coaching needs for prisoners based on the factors that contribute to the crime they committed. The objectives of the terrorism prisoners assessment program are: Assessing the risk of repetition of terrorist prisoners' crimes; Determine the assessment of the factors needed by terrorism prisoners; and as a guideline in developing coaching programs (Insan Firdaus, 2017: 437).

The law regulates legal relations. Legal relations consist of bonds between individuals and society and between individuals themselves. These bonds are reflected in rights and obligations. In regulating legal relations it's a diverse way. The law formulates certain events which are conditions for the emergence of legal relations. In each state of law, the perpetrator of the deviation or violation of the legal state is required to account for his actions. Law is a system means that the law is an order, is a whole unit consisting of parts that are closely interrelated with each other, every action that violates the criminal law will be subject to criminal compliance in accordance with applicable law, because clearly in the country of Indonesia is state law. So that anyone who acts wrong is required to be prosecuted before the law in accordance with the applicable law. Related to the placement of terrorism inmates in prison is a form of punishment for the terrorist acts committed.

Law is not a goal, but a means or tool to achieve goals that are non-judicial and develop because of stimuli from outside the law. Those factors outside the law that make law dynamic. Law in general is intended to be a whole set of rules or rules in a shared life, which can be forced to implement with a sanction. The counter-radicalization strategy is an effort to prevent terrorism through the cultivation of Indonesian values and non-violent values in solving problems and in addressing differences. All of these efforts are carried out through peaceful, humane, synergistic and involving all elements of society as a whole. Fostering terrorists prioritizes humanism through the pattern of fostering independence and personality building how to change the mindset of prisoners of terrorism. The root of the terrorist problem is because of a misunderstanding, the government and related parties must ensure that terrorism prisoners are no longer targets to be destroyed. But they are people who must be empowered both economically, socially and politically. Respect for multicultural and human rights ensures the implementation of a more humanist approach to handling terrorism.

Solving the problems of radicalism and terrorism requires a comprehensive and cross-sectoral approach. Not only the repressive (hard approach) of the security apparatus, but must be carried out using persuasive and humanist methods from all elements of the nation. Ideological problems cannot be solved by mere repressive methods, but effective ways of coping must be formulated, using solutions with persuasive patterns in which communication and human factors are very important keys (soft approaches). In this case, it is also unfair to surrender all responsibility for resolving issues of radicalism and terrorism to the government, especially the security apparatus.

For this reason, synergies must be sought from all stakeholders, it must be seen that this issue is not solely the responsibility of the government and officials. There are generations and shoots of the nation that must be saved from the dangers of radicalism and terrorism.

In the penitentiary concept not only to create a deterrent effect and eliminate the right to freedom physically, but it is part of the process of coaching carried out by Penitentiary Institutions and deradicalisation programs that have terrorism prisoners realize their mistakes, straighten radical notions and terrorism, and do not repeat what he did. While in the field, most of the punishments for terrorist perpetrators are based on aspects of retaliation. Punishing as severely as possible the perpetrators of terrorism, especially those who are only ordinary members of the terrorism network. The importance of rehabilitation, de-radicalization efforts, by formulating an approach method in eradicating terrorism with a non-repressive approach (soft approach) to terrorism inmates in handling terrorism inmates through a humanist approach to doctrine which when interpreted incorrectly can motivate radicalism.

Within the framework of the criminal justice system, a non-repressive (soft approach) approach to terrorism prisoners is a process related to the stage of execution or imprisonment in prisons. Nevertheless, as part of the workings of the criminal justice system, the non-repressive approach (soft approach) towards terrorist prisoners through humanists complements the deradicalization of the previous system stages, starting from the formulation of policy formulations by the Actors, and the application phase starting from the investigation by the investigator, the prosecution stage by the public prosecutor, and the stage of adjudicating / ruling by the judge. Therefore, judging from the framework of the criminal law system, the non-repressive approach (soft approach) towards terrorism inmates through a humanist approach is not only related to criminal law, but also a function of material criminal law and formal criminal law as a whole.

The non-repressive (soft approach) approach to terrorism inmates with a humanist approach can allow one party to see the other that their opponents are also dignified people. Thus, a non-repressive approach (soft approach) to terrorist inmates with a humanist approach can be an important component in terrorist transformation and conflict transformation in order to find constructive resolution in the use of criminal sanctions, not only means that the criminal imposed on prisoners must be appropriate and appropriate human values, but also must be able to raise prisoners' awareness of human values and the values of community life.

The Indonesian government must formulate two policies, namely to encourage former terrorist convicts to be accepted back into society and embrace civil society, the government must take a humanist approach to the dissemination of campaigned violent ideas. Going forward, Indonesia needs to adapt more quickly to anticipate the changing trends of terrorist recruitment and mobilization. In addition to addressing the economic needs of the community, it is also necessary to create programs that provide meaning and enhance the social ties that individuals have with their communities. This can be started by properly discussing the important details in the formation of Government Regulations as the implementation of a non-

repressive approach (soft approach) to terrorism prisoners by emphasizing a humanist approach. In this case, the Government Regulation must also ensure clear boundaries in the regulations to provide more room and clarity for the security forces to deal with terrorism.

Radicalization is very determined, driven, and supported by many causes, not a single cause. Causal factors often include widespread complaints that "push" individuals toward radical ideology and "interesting" factors are narrower and more specific that attract them. Ideology (and group support for them) develops in human ecological nested contexts and systems, including family, economy, social structure, and politics. The non-repressive (soft approach) approach to terrorism inmates is an alternative for handling terrorism prisoners, because in Law No. 15 of 2003 Jo. UU no. 5 of 2018 divided into three national preparedness, counter radicalization and deradicalization turns out to be ineffective, it is necessary to deal with terrorism through a non-repressive approach (soft approach) to terrorism inmates through a humanist approach which is a breakthrough in completing de-radicalization in the handling of prisoners of terrorism humanist and wholeness of thinking of terrorists who must be carried out in an integrated manner, disengagement with humanist approaches, soul approach, and de-ideology, multiculturalism, and independence in the form of resocialization, reintegration, and at the same time exemplary that government steps are not discriminatory in order to protect Indonesian citizens.

CONCLUSION

The concept of a non-repressive legal approach or soft approach to terrorism inmates is carried out through counter-terrorism and building humanist awareness. Terrorism prisoners will change their minds if given education and the introduction of a more pluralistic and multicultural community in other human communities in various locations that experience the fate of the unfortunate will give birth to hidden reflections that will change the ideology of terrorism prisoners should also be introduced to plural diverse cultures of cultures. language so that they know each other and respect human values. The humanist conceptual approach to open the integrity of the convictions of terrorism so that they can grow compassion for fellow creatures of God who are of different religions, professions, tribes and beliefs. The implementation of a non-repressive (soft approach) approach to terrorism prisoners is an alternative for handling terrorism prisoners, because in Law No. 15 of 2003 Jo. UU no. 5 of 2018, divided into three national preparedness, counter radicalization, and deradicalization turns out to be ineffective, it is necessary to deal with terrorism through a non-repressive approach (soft approach) to terrorist inmates with a humanist approach to enable one to see the other that their opponents also is a dignified person.

Eradication of terrorism divided into three national preparedness, counter radicalization, and de-radicalization has not been effective yet, it is necessary to eradicate terrorism through a non-repressive approach (soft approach) to terrorism inmates which in fact has not become a positive law. UU no. 15 of 2003 Jo. UU no. 5 of 2018 concerning the Eradication of Criminal Acts of Terrorism. The arrangement of a non-repressive approach (soft approach) towards terrorism inmates

in the correctional sub-system has not been integrated with Law Number 12 of 1995 concerning Corrections, this can potentially lead to overlapping and disharmony between legal norms, it is recommended that changes to Law No. 12 of 1995 concerning Correctional Services.

References

- Abdul Wahid. 2002. *Kejahatan Terorisme Perspektif Agama, HAM dan Hukum*. Bandung: Refika Aditama.
- Bambang Sunggono. 2003. *Metodologi Penelitian Hukum*. Jakarta: Rajawali Pres.
- Barda Nawawi Arief. 2016. *Beberapa Kebijakan Penegakan Hukum dan Pengembangan Hukum Pidana*. Bandung: Citra Aditya Bakti.
- Bruce Hoffman. 2006. *Inside Terrorism: Revised and Expanded Edition*. New York: Columbia University Press.
- Bryan A. Garner. 1999. *Black's Law Dictionary*, St. Paul-Minn: West Publishing Co.
- Budi Hardiman., F. 2005. *Memahami Negativitas: Diskursus tentang Massa, Teror, dan Trauma*. Kompas: Jakarta.
- Irfan Idris. 2018. *Penanggulangan Terorisme di Indonesia*. Surabaya: Pustaka Saga.
- John Horgan. 2009. *Walking Away from Terrorism: Accounts of Disengagement from Radical and Extremist Movement*. New York: Routledge.
2009. *Walking Away from Terrorism: Accounts of Disengagement from Radical and Extremist Movements*. New York: Routledge.
- Jonathan R. White. 2012. *Terrorism and Homeland Security*. Belmont: Wadsworth.
- Moeljatno. 2008. *Asas-Asas Hukum Pidana*. Jakarta: Rineka Cipta.
- Morton Deutsch. 2006. *Justice and Conflict in The Handbook of Conflict Resolution: Theory and Practice*. San Francisco: Jossey-Bass.
- Norman K. Denzin dan Yvonna S. Lincoln. 2018. *The Sage Handbook of Qualitative Research*. Los Angeles: Sage Publication.
- Peter Mahmud Marzuki. 2008. *Penelitian Hukum*. Jakarta: Kencana Prenada Media Group.
- Petrus Reinhard Golose. 2009. *Deradikalisasi Terorisme, Humanis, Soul Approach, dan Menyentuh Akar Rumput*. Jakarta: Yayasan Pengembangan Kajian Ilmu Kepolisian.
- Rohan Gunaratna dan Graeme C.S. Steven. 2004. *Counterterrorism: A Reference Handbook*. California: ABC-CLIO Inc.
- Romli Atmasasmita. 1996. *Sistem Peradilan Pidana*. Bandung: Binacipta.
1996. *Sistem Peradilan Pidana, Perspektif Eksistensialisme dan Abilisionisme*. Bandung: Bina Cipta.
2012. *Teori Hukum Integratif: Rekonstruksi Terhadap Teori Hukum Pembangunan dan Teori Hukum Progresif*. Yogyakarta: Genta Publishing.
2013. *Teori dan Kapita Seleka Kriminologi*. Bandung: Rafika Aditama.
- Todd Sandler. 2005. *Collective Versus Unilateral Responses to Terrorism*. Los Angeles: Spinger.