

Prevention of Terrorism with a Regulatory Model of Violent-Based Extremism that Leads to Terrorism

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Article history:

Received 2023-05-11

Revised 2023-07-09

Accepted 2023-08-01

Keywords:

Extremism; Violence;
Terrorism..

DOI:

doi.org/10.26905/idjch.v14i2.10814.

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Abstract: Among the reasons behind the occurrence of criminal acts of terrorism is the existence of radical terrorism, which can then develop into violent-based extremism that ends in terrorism. Understanding beyond the limits of normal based on the justification of acts of violence or threats of violence to support the occurrence of criminal acts of terrorism is referred to as acts of violence-based extremism that lead to terrorism. This is under the definition of violence-based extremism that leads to terrorism in article 1 point 2 of the Presidential Regulation of the Republic of Indonesia Number 7 of 2021 concerning the National Action Plan for the Prevention and Mitigation of Violent-Based Extremism Leading to Terrorism 2020-2024, which states that "Violent-Based Extremism Leading to Terrorism are beliefs or actions that use violence or threats of extreme violence intending to support or commit acts of terrorism. The beliefs or actions of these people or groups of people then receive the attention of the State so that efforts can be made to prevent the development of beliefs or actions aimed at supporting terrorism into crimes that can threaten the stability of state security, namely terrorism.

1. Introduction

As a country in a cross position, both from a territorial and socio-political aspect, it is possible for Indonesia to become a stopover for crimes, one of which is terrorism.¹ Terrorism crimes are still often found in Indonesia with various motives and goals, even though there are regulations that regulate them. This is indicated by the high data on terrorism crimes and their funding found by the Financial Transaction Reports and Reporting Center (PPATK). The data obtained by PPATK 2023 from January to March are 20 Results of the Analysis of Terrorism Funding in Indonesia. Based on data from the Indonesian National Police (Polri), it was stated that terrorism cases increased in 2018 compared to 2017. Based on Polri records, there were 176 suspected terrorists arrested in 2017, and in 2018 there were 396 people. Throughout 2018, the number of terror acts in-

¹ Luthfi Hafidz Rafsanjani, "Konsep Pembuktian Terbalik Sebagai Strategi Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang Pada Sektor Pasar Modal Untuk Sarana Pendanaan Terorisme," *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 1, no. 2 (December 31, 2021): 130-41, <https://doi.org/10.15294/ipmhi.v1i2.53264>.

creased by 42 percent compared to 2017, from 12 to 17 cases. Likewise, the number of terror actors successfully uncovered throughout 2018 increased by 113 percent.²

The thing that becomes the background of the occurrence of criminal acts of terrorism, among others, is the existence of a radical understanding. This radical understanding can then develop into a violence-based understanding that leads to criminal acts of terrorism. Idznursham Ismail quoted the opinion of Jamie Bartle and Carl J Miller as saying that one's journey to becoming a hard-line extremist has been interpreted as radicalization.³ This implies that a person will first have a radical understanding of terrorism; only then will it develop into an extreme understanding based on violence that can lead to terrorism.

Understanding beyond the bounds of the norm, which is based on the justification of acts of violence to support the occurrence of criminal acts of terrorism, is referred to as acts of extremism. This act of extremism is based on violence that leads to terrorism, as contained in Article 1, paragraph (2) of the Presidential Regulation of the Republic of Indonesia Number 7 of 2021 concerning the National Action Plan for the Prevention and Mitigation of Violent-Based Extremism Leading to Terrorism 2020-2024 (in the future referred to as Perpres). Anti Extremism). Article 1, paragraph (2) of the Perpres on Extremism states that "Violence-Based Extremism Leading to Terrorism is a belief or action that uses violent means or threats of extreme violence to support or carry out acts of terrorism. The beliefs or actions of these people or groups of people then get the attention of the State so that efforts can be taken to prevent these beliefs or actions, which aim to support terrorism, not developing into a crime that can threaten the stability of the state security, namely terrorism.

Indonesia already has laws and regulations that specifically regulate the handling of criminal acts of terrorism, namely Law of the Republic of Indonesia Number 5 of 2018, concerning Amendments to Law Number 15 of 2003 concerning Stipulation of Government Regulations in place of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism to Become Law (in the future referred to as the Anti-Terrorism Law), then Regulation of the Government of the Republic of Indonesia Number 77 of 2019 concerning Prevention of Criminal Acts of Terrorism and Protection of Investigators, Public Prosecutors, Judges, and Correctional Officers. Law Number 9 of 2013 concerning the Prevention and Eradication of Criminal Acts of Terrorism Financing and the Presidential Decree on Anti-Extremism. The number of regulations that specifically regulate the handling of criminal acts of terrorism must be correlated to complement each other so that implementation does not cause problems.

Arrangements for the prevention of criminal acts of Terrorism, regulated in chapter VIIA concerning Prevention of Criminal Acts of Terrorism, then in article 43A paragraph 1, states that "The government is obliged to prevent acts of terrorism," then in paragraph 3, explains that "prevention as referred to in paragraph 1, implemented through a. National Preparedness, b. Counter Radicalization, and c. Deradicalization. National Preparedness is interpreted as a condition of being prepared to anticipate the occurrence of Criminal Acts of Terrorism through a planned, integrated, systematic, and continuous process, which is carried out through community empowerment, in-

² Eprina Mawati, Lies Sulistiani, and Agus Takariawan, "Kebijakan Hukum Pidana Mengenai Rehabilitasi Psikososial Korban Tindak Pidana Terorisme Dalam Sistem Peradilan Pidana," *Jurnal Belo* 5, no. 2 (May 17, 2020): 34-56, <https://doi.org/10.30598/belovol5issue2page34-56>.

³ Idznursham Ismail, *Menghalau Ekstremisme Konsep & Strategi Mengatasi Ekstremisme Kekerasan di Indonesia*, (Jakarta: Wahid Foundation, 2020) 133.

creasing apparatus capabilities, protecting and improving infrastructure, developing Terrorism studies, and mapping areas prone to a radical understanding of Terrorism. Counter-radicalization is interpreted as an effort to prevent people or groups of people who are vulnerable from being exposed to a radical understanding of Terrorism. It is intended to stop the spread of radical understanding of Terrorism, which is carried out through counter-narratives, counter-propaganda, and counter ideology Deradicalization is interpreted as an effort to prevent carried out to eliminate or reduce and reverse the understanding of radical Terrorism that has occurred. The regulation on efforts to prevent criminal acts of Terrorism in the Anti-Terrorism Law does not regulate the person or group of people mentioned in the Perpres on Extremism about people or groups of people who have beliefs or actions that use violent means or threats of extreme violence to support or carry out acts of Terrorism.

From the description of the background of the problem above, a legal problem arises, namely the incomplete norm regarding the regulation of Violent-Based Extremism That Leads to Terrorism as an Effort to Prevent Criminal Acts of Terrorism in Indonesia. The legal issue raised in this paper is How is the Concept of Regulating Violent Extremism Leading to Terrorism as an Effort to Prevent Criminal Acts of Terrorism in Indonesia? Several writings raise the crime of Terrorism. However, there are differences in characteristics and problems with writing in this paper. There are these differences, as well as what was written by Yudi Adnan and Rini Utami Ningsih in the Syntax Transformation Journal. The problem raised in this writing is to analyze the involvement of the public policy triangle in making the Regulation of the State Minister for Women's Empowerment Number 7 of 2019, related to the preparation of PPPA Ministerial Regulation (Permen) Number 7 of 2019 concerning Guidelines for the Protection of Children from Radicalism and Criminal Acts of Terrorism.⁴

The writing written by Mohamad Oky Muji Ashari in the Airlangga University Jurish-Diction Journal raises the Position and Authority of the Indonesian Armed Forces in preventing Criminal Acts of Terrorism. Becoming a Law after there are rules governing terrorism does not reduce the intention, and many groups of people and individuals are still committing acts of terrorism. Even though the Indonesian National Armed Forces already have the power and certainty in the eyes of the law as stated in the 1945 Constitution in Chapter XII Article 30, some laws regulate more specifically regarding the Indonesian National Armed Forces.⁵

The writing written by Elia Aninda Sukriya⁶ in the Airlangga University Jurish-Diction Journal raised the topic of Prevention and Eradication of Criminal Acts of Terrorism by the Joint Special Operations Command of the Indonesian National Armed Forces (KOOPSSUSGAB TNI). The authority of the TNI given by law to deal with acts of terrorism is limited to the scope of arrest because the TNI is a tool of national defense that only assists the police, not as law enforcers who can carry out investigations. Based on the above, the problems described in this paper are different from the journals that previous authors have written.

⁴ Yudi Adnan and Rini Utami Ningsih, "Analisis Peraturan Menteri Pemberdayaan Perempuan Dan Perlindungan Anak RI Nomor 7 Tahun 2019 Tentang Pedoman Perlindungan Anak Dari Radikalisme Dan Tindak Pidana Terorisme," *Jurnal Syntax Transformation* 1, no. 4 (June 22, 2020): 68-78, <https://doi.org/10.46799/jst.v1i4.50>.

⁵ Mohamad Oky Muji Ashari, "Kedudukan Dan Kewenangan TNI Dalam Mencegah Tindak Pidana Terorisme," *Jurist-Diction*, (March 11, 2020), <https://doi.org/10.20473/jd.v3i2.18199>.

⁶ Elia Aninda Syukriya, "Pencegahan Dan Pemberantasan Tindak Pidana Terorisme Oleh Komando Operasi Khusus Gabungan Tentara Nasional Indonesia (KOOPSSUSGAB TNI)," *Jurist-Diction*, (April 13, 2020), <https://doi.org/10.20473/jd.v3i3.18632>.

2. Method

This research uses normative research methods or also known as doctrinal research. Normative research is testing a norm or applicable provision to find the truth using scientific logic from the normative side in solving legal problems. This study's problem approaches are the Statute Approach and the Conceptual Approach. Approach: ApproachThe statutory approach examines all laws and regulations related to the legal issues being handled. In contrast, the conceptual approach emphasizes efforts to find a concept because there are no or no rules – the law.

3. Analysis of Anti-Extremism Presidential Decree

Terrorism is a type of “extraordinary crime” and is also categorized as a “crime against humanity” or “crime against humanity.”⁷ Terrorism comes from the English language to terror and in Latin *Terrere*, which means shaking, shaking, extraordinary fear. Terrorism in the Big Indonesian Dictionary (KBBI) means using violence to create fear to achieve goals (especially political ones). *Terrorism* is an international crime that endangers world security and peace and severely violates human rights, especially the right to life. The series of criminal acts of terrorism that occurred in the territory of the Unitary State of the Republic of Indonesia have resulted in loss of life regardless of the victim, fear of the wider community, and loss of property, so that it has a broad impact on social, economic, political life and international relations.⁸

The 1937 UN Convention defines *terrorism* as any form of crime aimed directly at the state to create a form of terror against certain people or groups of people or the wider community. While the US Department of Defense 1990 defined terrorism as an unlawful act or action that contains threats of violence or coercion against individuals or property to coerce or intimidate the government or society with political, religious, or ideological goals.⁹ Acts of terrorism threaten world peace and security that can arise unexpectedly, at any time, and explosively.¹⁰ The crime of terrorism is included in the category of human rights violations as fundamental rights that are naturally inherent in humans, namely the right to life and the right to feel safe and comfortable. Recognition of human rights is one manifestation of the concept of the rule of law regulated in the provisions of Article 1, paragraph (3) of the 1945 Constitution. Prior to the amendments to the 1945 Constitution, human rights recognition was regulated in Article 28 of the 1945 Constitution. Whereas after or after the amendments to the 1945 Constitution, the arrangements regarding human rights are increasingly clarified and detailed as stipulated in Articles 28 and 28A-28J of the 1945 Constitution.¹¹

Before 2002 Indonesia still had no regulations or norms regarding terrorism that governed it. However, since the bomb in Bali, Indonesia has issued PERPU and the latest law of 2018 concern-

⁷ Agung Mafazi, Achmad Bahroni. Pencegahan tindak pidana terorisme di Indonesia. *Jurnal Cakrawala Hukum*, 12(2), (2021): 121-128. Doi: <https://doi.org/10.26905/idjch.v12i2.4936>.

⁸ Dian Eko Timuriyono. (2020). “Kebijakan Pencegahan Tindak Pidana Terorisme Melalui Kontra Radikalisasi di Kabupaten Jember.” *JURNAL RECHTENS*, 9(1), 1-18. <https://doi.org/10.36835/rechtens.v9i1.657>.

⁹ Syukri Kurniawan, Anditya Rahayu Putri, Tendy Septiyo, dan Pujiyono Pujiyono. “Upaya Non Penal Dalam Menanggulangi Tindak Pidana Terorisme Dengan Program Deradikalisasi di Indonesia.” *Jurnal Yustisiabel* 4 no. 1 (2020): 14-26. DOI: [10.30598/belovol5issue2page34-56](https://doi.org/10.30598/belovol5issue2page34-56).

¹⁰ Miski Miski, “Tindak Pidana Terorisme Dalam Perspektif Hukum Pidana Islam Dan Hukum Positif,” *Jurnal Al-Mazaahib* 9, no. 1 (November 27, 2021): 83, <https://doi.org/10.14421/al-mazaahib.v9i1.2367>.

¹¹ Samud Samud, “DERADIKALISASI DALAM PENANGGULANGAN TINDAK PIDANA PERSPEKTIF UNDANG-UNDANG TERORISME DI INDONESIA,” *Mahkamah*, May 3, (2021), <https://doi.org/10.24235/mahkamah.v6i1.8275>.

ing eradicating criminal acts of terrorism.¹² Because terrorism is a criminal act that the government must consider because it involves the human rights of other people. Because Human Rights are rights that belong to every individual because they are human. Human rights are not new for all human beings, including the Indonesian nation and the Islamic world, which have only been formulated as a codification of law or its name.¹³ Law number 5 of 2018 concerning amendments to law number 15 of 2003 concerning the stipulation of government regulations in place of law number 1 of 2002 concerning eradicating criminal acts of terrorism law. It is stated in Article 1 paragraph (2) that “terrorism is an act that uses violence or threats of violence that creates a widespread atmosphere of terror or fear, which can cause mass casualties, or cause damage or destruction to strategic vital objects, environment, public facilities, or international facilities with ideological, political, or security disturbance motives.¹⁴

Efforts to prevent and overcome violence-based extremism that lead to terrorism are currently regulated in the Anti-Extremism Presidential Decree. The prevention and mitigation efforts regulated in this Presidential Decree are more complementary to various other laws and regulations related to criminal acts of terrorism, and the approach used is more of a soft approach; then, in implementing the program, this Presidential Decree gives a mandate to related ministries or institutions, which implies that this presidential regulation is more of a guideline or guideline that is used as a basis as well as a reference by the relevant ministries or institutions in implementing programs for preventing and overcoming violent-based extremism that leads to terrorism.

The involvement of relevant ministries or institutions in implementing the prevention and control program shows that this Presidential Decree is significant and crucial in preventing and overcoming violence-based extremism that leads to terrorism. What personally emerged was that the Anti-Terrorism Law did not mention the term violence-based extremism that leads to terrorism to prevent criminal acts of terrorism. This is because this Perpres came after the anti-terrorism law so that ideas or ideas for preventing and tackling violent-based extremism that lead to terrorism are not contained in the anti-terrorism law. According to the author, regulation of violence-based extremism that leads to terrorism needs to be accommodated in the anti-terrorism law so that its legal power is more guaranteed because it has a higher hierarchy, and the anti-terrorism law itself will be more perfect in regulating the handling of criminal acts of terrorism.

The regulation of violence-based extremism that leads to terrorism in the anti-terrorism law has consequences, namely the revision of the anti-terrorism law, namely the addition of an article in chapter VIIA which regulates the prevention of criminal acts of terrorism. The addition of this article can be placed in the fifth part of article 43E with the title De-Extremization, interpreted as an effort to prevent and overcome the development of violence-based extremism that leads to terrorism.

¹² Made Vira Sadvika Dewi, “KAJIAN YURIDIS PASAL 31 TENTANG FRASA BUKTI PERMULAAN YANG CUKUP DAN PASAL 31A TENTANG FRASA KEADAAN MENDESAK DALAM UNDANG-UNDANG NOMOR 5 TAHUN 2018 TENTANG PEMBERANTASAN TINDAK PIDANA TERORISME,” *ejournal.undiksha.ac.id*, (August 20, 2021), <https://doi.org/10.23887/jatayu.v4i2.38110>.

¹³ Denni Lilik Juniawan, “PERTANGGUNGJAWABAN PIDANA ANAK DI BAWAH UMUR YANG TERLIBAT TINDAK PIDANA TERORISME,” *Veritas: Jurnal Program Pascasarjana Ilmu Hukum Universitas Islam As-Syafi'iyah*, (September 1, 2020), <https://doi.org/10.34005/veritas.v6i2.901>.

¹⁴ Samsul Arifin, “Perlindungan Hukum Terhadap Anak Dalam Tindak Pidana Terorisme,” *Jurnal Panorama Hukum* 5, no. 1 (June 5, 2020): 49–62, <https://doi.org/10.21067/jph.v5i1.4317>.

4. The Concept of Regulating Violent Extremism Leading to Terrorism

The concept of regulation of violence-based extremism that leads to terrorism is added to the regulation on de-extremization in Chapter VIIA, namely the fifth part with the editorial section, the fifth part of Article 43E, regarding de-extremization. De-extremization is an effort that is carried out in a systematic, planned, and integrated manner in order to prevent and overcome violent extremism that leads to terrorism. De-extremization aims to deal with drivers and build community resilience in general in counteracting Violent-Based Extremism that Leads to Terrorism.

De-extremization is carried out against people or groups of people who have beliefs or have committed acts using violent means or threats of violence—extremists to support or carry out acts of terrorism. Discrimination is carried out through 3 main pillars, namely (1). The prevention pillar includes preparedness, counter-radicalization, and deradicalization; (2). Pillars of law enforcement, protection of witnesses and victims, and strengthening of the national legislative framework; and (3). The pillars of international partnership and cooperation. De-extremization is carried out by the Government, which is coordinated by the agency that organizes affairs in the field of counter-terrorism by involving the relevant ministries/agencies. Changes/Revisions to the Anti-Terrorism Law will be more transparent in tabular form, which can be described as follows: In the concept table, regarding changes or revisions to the Anti-Terrorism Law mentioned above, it can be seen that there are additions to the contents of the Article. These additions are contained in Part Five of De-Extremization, Article 43E.

Table of Concept Changes / Revisions to the Anti-Terrorism Law

No	Anti-Terrorism Act before Amendment	the Anti-Terrorism Law after being changed to;
1	CHAPTER VIIA Prevention of Criminal Acts of Terrorism, which consists of: <ul style="list-style-type: none"> • Part One – General, Article 43A • Part Two – National Preparedness, Article 43B • Part Three - Counter Radicalization, Article 43C • Part Four Deradicalization, Article 43D 	CHAPTER VIIA Prevention of Criminal Acts of Terrorism consisting of: <ul style="list-style-type: none"> • Part One – General, Article 43A • Part Two – National Preparedness, Article 43B • Part Three - Counter Radicalization, Article 43C • Part Four Deradicalization, Article 43D • Part Five De-Extremization, Article 43E
2	Article 43E <ol style="list-style-type: none"> 1. The agency administering affairs in the field of counterterrorism, in the future referred to as the National Counterterrorism Agency is under and responsible to the President. 2. The National Agency for Combating Terrorism is a crisis analysis and control center that functions as a facility for the President to establish policies and measures for handling crises, including mobilizing resources in dealing with Terrorism. 3. The National Counterterrorism Agency is domiciled in the capital city of the Republic of Indonesia. 	Article 43E <ol style="list-style-type: none"> 1. De-extremization is an effort that is carried out in a systematic, planned, and integrated manner in order to prevent and overcome violence-based extremism that leads to terrorism. 2. De-extremization aims to deal with drivers and build community resilience in general in preventing Violent-Based Extremism Leading to Terrorism. 3. De-extremization is carried out against people or groups of people who have beliefs or have committed acts of violence or threats of extreme violence to support or carry out acts of terrorism. 4. The de-trimerization, as referred to in paragraph (1), is carried out through 3 main pillars, namely: <ol style="list-style-type: none"> 1) The pillar of prevention, which includes preparedness, counter-radicalization, and deradicalization; 2) The pillars of law enforcement, protection of witnesses and victims, and strengthening of the national legislative framework; And 3) The pillars of international partnership and cooperation.

5. De-extremization, as referred to in paragraph (1), is carried out by the Government and coordinated by the agency that organizes affairs in the field of counter-terrorism by involving the relevant ministries/agencies.
 6. Further provisions regarding the implementation of de-extremization, as referred to in paragraph (1), shall be regulated by a Presidential Regulation.
32. Article 43E changed to article 43F, article 43F changed to article 43G, article 43H changed to article 43I, article 43I changed to article 43J, article 43J changed to article 43K, article 43L changed to article 43M.

In the concept table, regarding changes or revisions to the Anti-Terrorism Law mentioned above, it can be seen that there are additional contents of the Article. These additions are contained in Part Five of De-Extremization, Article 43E. The changes contained in the Terrorism Law aim to provide a more substantial legal basis to ensure legal protection and certainty in the prevention and eradication of Criminal Acts of Terrorism. In addition, the formulation of changes to the Terrorism Law aims to fulfill the needs and legal developments of society while maintaining a balance between the needs of law enforcement, protection of human rights, and socio-political conditions in Indonesia.

5. Conclusion

Based on the discussion above, it can be concluded that the concept of regulating violent extremism that leads to terrorism is included in the Anti-Terrorism Law, with the addition of a section, namely in the fifth part of Chapter VIIA, and the addition of an article with changes, namely the title of article 43E which changed to De-Extremization with the addition of six paragraphs which are the contents of the regulatory material on De-Extremization.

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