

# The Effectiveness of Legal Protection for Former Terrorist Convicts Associated With the Deradicalization Program

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## Abstract

Purpose of writing to find out the effectiveness of legal protection for former terrorist convicts related to the deradicalization program linked to Law Number 5 of 2018 concerning Eradication of Criminal Acts of Terrorism and to find out the dangers of understanding radicalism and acts of terrorism. Therefore the research method includes research specifications, namely analytical descriptive The normative juridical approach method, through the library research stage, namely researching and reviewing secondary data obtained through library study data collection techniques, which then secondary data is analyzed in a juridical -qualitative manner. This research draws conclusions regarding the effectiveness of legal protection for former terrorist convicts related to the de-radicalization program. In connection with Law Number 5 of 2018 concerning the Eradication of Criminal Acts of Terrorism, it is felt to be less effective. This is known based on the example of the suicide bombing terror case at the Astana Anyar Police Office. , Bandung West Java. Thus automatically not fulfilling legal protection for ex-convicts of terrorism and the dangers of understanding radicalism and acts of radical terrorism in the sense of understanding Islamic religious teachings in depth down to their roots is a positive thing. However, terrorist radicalism is a stream or views that have the belief to achieve change or refreshment in social and political matters through the use of violence.

Terrorism as a form of crime through the use of violence shows different characteristics and characteristics than general crimes. In accordance with Thomas Santoso's view, terrorism is not merely violence itself, but is a political method that utilizes acts of violence. The perpetrators of terrorism do not regard violence as an end in itself, but as a tool to demonstrate threats and as an effective way to express power and intimidate opponents . . 2

However, acts of terrorism committed by terrorist groups are often based on extreme radicalism. Therefore, it is necessary to carry out a juridical analysis of terrorist thinking and understanding of radicalism in relation to Law Number 5 of 2018 concerning Criminal Acts of Terrorism in Indonesia.

The existence of acts of terror in Indonesia has caused a loss of sense of security in society, in

addition to reducing the authority of the government as a protective agency that should provide protection and a sense of security to the community. Indonesia is one of the countries that is considered to have a major threat against acts of terrorism, especially the rampant terrorist bombings in several places. As an example of the case that occurred recently at the Astana Anyar Police, Bandung City, West Java.

Terrorism has appeared in life as a vicious virus and frightening monster that appears at any time and cannot be predicted, capable of transforming into a "national and global tempest", including in realizing human tragedy, castration of national dignity and the history of the tragedy of Human Rights (HAM). . Human Rights have lost their existence and their sanctity or nature has been uprooted at the hands of terror makers who have

created barbaric acts that have social, political, cultural and economic impacts.

The development of terrorism in Indonesia cannot be separated from the Indonesian political landscape. Terrorism and Indonesia's political landscape can be seen from the spectrum of handling terrorism in Indonesia the handling of terrorism in Indonesia can be analyzed from the causes that have arisen. There are at least two major factors that give rise to terrorism in Indonesia. The causal factors are discussed according to the version of the government and pressure groups. The first factor is the internal factor of religion, namely errors in understanding and understanding Islam. The second factor is the external factor, namely the influence and interaction from outside. These two factors were the initial tensions in post-9/11 counter-terrorism policies in Indonesia between the government and pressure groups.

Terrorism is a serious crime and has endangered the sovereignty and security of the state. In dealing with terrorism and the war on terrorism the government must increase vigilance and organize every force to be more effective and efficient in eradicating terrorism, especially when viewed from a series of bomb attacks, acts of terrorism in the form of bomb attacks cannot be underestimated. In dealing with threats from acts of terrorism, the Unitary State of the Republic of Indonesia in eradicating criminal acts of terrorism, has a legal product, namely Law Number 5 of 2018 concerning Criminal Acts of Terrorism. 3A Law regarding amendments to Law Number 15 of 2003 regarding a stipulation of a Government Regulation in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism Becomes an Act.

For Indonesia, national security stability has dynamic characteristics and is heavily influenced by developments and changes in strategic environmental conditions. Factors such as globalization, including democratization, upholding human rights, and the phenomenon of terrorism, have developed a broader perspective in dealing with the complexity of threats. This has an impact on the stability of national security faced by Indonesia.<sup>4</sup> Based on this explanation, the following is identified: How is the effectiveness of legal protection for former terrorist convicts related to the deradicalization program related to

Law Number 5 of 2018 concerning Eradication of Criminal Acts of Terrorism and how is the danger of understanding radicalism and acts of terrorism. Research Methods

In the research described in this journal, the research method used is a normative juridical approach. This approach is a method in legal research that focuses on normative aspects, using secondary data sources or primary literature. Secondary data in the context of legal research refers to information obtained through literature review or a review of various literature or library materials that are relevant to the problem or research material which is generally referred to as legal material. Legal materials consist of:

1. Primary legal material, namely binding legal material, which includes statutory regulations.
2. Secondary legal materials, namely legal materials that provide explanations regarding primary legal materials, such as research results, works of books written by experts, scientific articles, journals, and so on.
3. Tertiary legal materials, which are legal materials that provide guidance or explanation regarding primary and secondary legal materials, such as dictionaries, encyclopedias. In the context of this study, tertiary law materials are processed selectively.
4. Secondary data, which includes primary legal materials, secondary legal materials, and tertiary legal materials, is managed selectively and systematically, without using statistical analysis.

## Results and Discussion

The Effectiveness of Legal Protection for Former Terrorist Convicts Related to the Deradicalization Program Linked to Law Number 5 of 2018 concerning Eradication of Criminal Acts of Terrorism

### HistoryThe Birth of Terrorism Crime Arrangements in Indonesia

The bombing incident that occurred in Bali on 12 October 2002 created an atmosphere of terror or fear for people at large, resulted in loss of life and loss of property, thus having an unfavorable impact on social, economic and political life.

<sup>3</sup>Article 43 paragraphs 1 and 2 Number 5 of 2018 Concerning Terrorism Crimes

<sup>4</sup>Indonesian Ministry of Defense, Indonesian Defense White Paper , 2008 p. 63.

And Indonesia's relationship with the international world.

The government, at the urging of various parties, finally issued Regulation in Lieu of Law (Perpu) Number 1 of 2002 concerning Eradication of Terrorism and Perpu Number 1 of 2002 on the Bali Bombing Explosion incident on October 12, 2002, which was then passed by the DPR with Law Number 15 of 2002. 2003 and Law Number 16 of 2003. The Perpu was issued because the government considered that the existing legal norms as contained in the Criminal Code (KUHP) and other legislation such as firearms only contain ordinary crimes. ) and inadequate for acts of terrorism which are extraordinary crimes and classified as crimes against humanity. The objectives to be achieved from drafting the law on eradicating criminal acts of terrorism are:

- a. Providing a strong and comprehensive legal basis in order to achieve legal certainty in carrying out investigations, investigations, prosecutions and examinations of criminal acts of terrorism;
- b. Creating a safe, orderly and peaceful atmosphere that encourages the realization of a prosperous life for the nation and Indonesia;
- c. To prevent the negative impact of terrorism from spreading in people's lives and at the same time to prevent abuse of authority by state apparatus who are tasked with preventing and eradicating terrorism;
- d. To carry out the principles of transparency and accountability in law enforcement against terrorist activities;
- e. To protect the sovereignty of the territory of the Unitary State of the Republic of Indonesia and all of its contents from terrorist activities with a background of local, national and international issues or problems and prevent the grip and pressure from powerful countries under the pretext of fighting terrorism.

Terrorism throughout history has become something scary, this is because terrorism as a movement always causes many casualties from civil society that are not directly related. Therefore terrorism is always synonymous with blood and violence. Regardless of any polemics and perceptions surrounding the definition and

conflict of interest of terrorism, where there is terrorism, that is where many victims fall.

### Human Rights Protection Theory

The theory of protection of human rights (HAM) discusses how human rights are protected in a country, and how law enforcement must be carried out with respect for human rights. This theory can be used to understand the impact of terrorist thinking and radicalism on society and how Law Number 5 of 2018 concerning Criminal Acts of Terrorism can protect human rights.

Maintenance of dignity and honor, together with the recognition of human rights owned by individuals based on legal provisions, refers to rules or a set of regulations that aim to protect an entity from actions that are detrimental to other entities.<sup>5</sup>

The law aims to protect their human rights from anything that can hinder the fulfillment of the human rights attached to them.

Legal protection is an action taken to ensure that human rights that may be disturbed by the actions of other people are guaranteed. This protection effort is aimed at the community so that they can enjoy all the rights guaranteed by law. In other words, legal protection is a series of legal steps taken by law enforcement officials to ensure that individuals feel safe, both psychologically and physically, from disturbances and threats that may come from any party.<sup>6</sup>

Discussing legal protection is certainly closely related to human rights (HAM). In terms of the Legal Dictionary, Human Rights are defined as rights that are inherent in every human being from birth, not granted by society or the state. In its efforts to protect the human rights of citizens and uphold a fair legal process, the concept of legal protection includes at least:<sup>7</sup>

- a. Protection from arbitrary actions by state officials.
- b. The court has the right to determine whether the suspect or defendant is guilty or not;
- c. Court hearings must be open to the public (must not be secret);
- d. Suspects and defendants must be given guarantees to be able to fully defend themselves.

<sup>5</sup>Phillipus M. Hadjon, Legal Protection for Indonesian People, PT. Science Development, Surabaya, 1987, p. 25  
<sup>6</sup>Satjipto Raharjo, Law Studies, Bandung: PT. Citra Aditya Bakti, 2000, p. 74

<sup>7</sup>Mien Rukmini, Protection of Human Rights Through the Presumption of Innocence and the Principle of Equality Position in Law in the Indonesian Criminal Justice System, Bandung: Alumni, 2003, p. 32.

Legal protection through the maintenance of individual human rights continues to apply at all times, even if the person is in prison. When a person is still a prisoner, legal protection remains relevant, especially when the person is an ex-convict. It is necessary to increase the legal protection of human rights in this context because there are often legal obstacles that arise in practice, especially when someone has been released from prison status. This principle also applies to those who were previously involved in acts of terrorism. It cannot be denied that terrorism is an act that involves the use of violence or threats of violence which causes a widespread sense of terror or fear, and may result in a large number of victims, as well as damaging or destroying strategic vital objects, the environment, public facilities or international facilities. These actions may have ideological, political motives, or be related to security disturbances.

Regarding legal protection, one of the efforts to protect the law for the perpetrators of criminal acts of terrorism is to carry out a deradicalization process. The deradicalization process is carried out to restore human rights that terrorist perpetrators should have. This is based on the following reasons:

- a. Mentioned in Article 3 of Law no. 39 of 1999 concerning Human Rights (hereinafter referred to as the Human Rights Law) that every person has the right to protection of human rights and human freedoms, without discrimination. The protection of a human being from being discriminated against is carried out in the deradicalization process so that the mindset of the terrorism convict changes and later will not be discriminated against in society.
- b. Article 5 of the Human Rights Law also states that everyone who belongs to a vulnerable group of people has the right to receive more treatment and protection with respect to their specificity. An ex-terrorist is a vulnerable group in society so he must receive extra legal protection.

According to Olivier Serrat, vulnerability refers to the feeling of insecurity that arises in the lives of individuals, families and communities when they are faced with changes outside their

environment. Vulnerability can be interpreted as a condition that is influenced by physical, socio-economic, and environmental factors, or as a process that makes society more vulnerable to the impact of threats. People or groups living in certain areas often feel this vulnerability, which can put their lives and property at risk. Several factors that drive vulnerability are the existence of disaster-prone areas, the dominance of single trade, and acts of thuggery which often result in losses for individuals or groups. All of this leads to feelings of insecurity and discomfort that affect the daily routine of the people in the area.<sup>8</sup>

So based on this opinion, former terrorism convicts can be categorized as a vulnerable group because when they are in a new environment where they live, they can feel insecure because of the stigma that has already been attached to them. As for referring to the notion of deradicalization based on positive legal rules, apart from being contained in the 2018 Terrorism Law, it is also contained in the Government Regulation 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 (hereinafter referred to as PP No. 77 of 2019), in article 1 number 6 which states that deradicalization is a planned, integrated, systematic and continuous process carried out to eliminate or reduce and reversing the understanding of radical terrorism that has occurred deradicalization of behavior emphasizing changes in aspects of individual action, namely the cessation of involvement in acts of violence.<sup>9</sup> This cannot be interpreted that individuals or groups who are exposed to radical ideas are no longer trying to bring about political change, but rather that the goal of political change is to be carried out by not damaging the prevailing social system, through means that are in accordance with the democratic legal system.

In stemming repeated acts of terrorism, it is necessary to provide social protection for ex-convicts in this case. Social protection is a system provided through a series of public policies to minimize the impact of economic and social shocks that can be caused by loss or reduction of income as a result of illness, pregnancy, work accidents, unemployment, disability, old age, or

<sup>8</sup>Sahadi Humaedi, et al, Vulnerable Groups and Their Needs (A Study of PT Indonesia Power UPJP Kamojang's CSR Social Mapping Results), Social Work Journal Vol 10, 2018, p. 64, accessed July 23, 2023, at 23:14 WIB.

<sup>9</sup>Rabasa, A., et al. Deradicalizing Islamist Extremists. RAND Corp Arlington VA National Security Research Div. 2010.

death. A comprehensive social protection system may consist of social security programs, social assistance, and include aid and guarantee schemes funded by the government or contributions from its participants.<sup>10</sup>

### Deradicalization

The implementation of deradicalization is supervised and controlled by the National Counterterrorism Agency (BNPT). In efforts to implement deradicalization, the BNPT involves academics, practitioners, religious leaders or community leaders. Deradicalization measures aimed at former terrorism convicts and individuals or groups exposed to radical terrorism are carried out by the BNPT in cooperation with various ministries/agencies and local governments. In implementing this deradicalization, the BNPT can also involve the private sector and the community, in accordance with Government Regulation no. 77 of 2019, especially in Article 30.

Law of the Republic of Indonesia Number 5 of 2018 regarding Amendments to Law Number 15 of 2003 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism to Become Laws, defines terrorism in Article 1 paragraph 2 as an act who use violence or the threat of violence to create a widespread sense of terror or fear. The impact could involve a large number of victims, as well as damaging or destroying strategically important objects, the environment, public facilities, or international facilities, with ideological, political, or security disturbance motives. Meanwhile, according to the definition of the Big Indonesian Dictionary (KBBI), terrorism is an attempt to create fear, horror and cruelty by certain individuals or groups. <sup>11</sup>

Approach to deradicalization of criminal acts of terrorism pursuant to Article 47 PP 77 of 2019 deradicalization carried out on former terrorism convicts, people or groups of people who have been exposed to radical terrorism can be carried out through:

a. development of national insight.

b. fostering religious insight; and/or  
c. entrepreneurship.

Explanation

- a. Development of national insight can be in the form of:
- 1) state defense activities;
  - 2) guard the Unitary State of the Republic of Indonesia;
  - 3) maintain the state ideology;
  - 4) practice and appreciation of Pancasila;
  - 5) archipelago insight; and/or
  - 6) strengthening of national values.
- b. Development of religious insight can be in the form of:
- 1) religious tolerance;
  - 2) social harmony within the framework of national unity and integrity;
  - 3) religious harmony.
- c. Entrepreneurship programs can be in the form of mentoring, mentoring, and empowerment in the fields of:
- 1) work training;
  - 2) business cooperation;
  - 3) venture capital.

If based on the explanation above, the deradicalization process is essentially a legal protection for convicts until they have the status of ex-convicts.

If referring to its meaning, legal protection is:

- a. Providing protection for human rights that are harmed by other people and this protection is given to the community so that they can enjoy all the rights granted by law or in other words legal protection are various legal remedies that must be given by law enforcement officials to provide a sense of security, both mentally and physically from disturbances and various threats from any party.<sup>12</sup>
- b. Protection of dignity, as well as recognition of human rights owned by legal subjects based on legal provisions of arbitrariness or as a collection of rules or rules that will be able to protect one thing from another.<sup>13</sup>
- c. Legal protection is a narrowing of the meaning of protection, in this case only protection by law. The protection provided by law is also related to the existence of rights

<sup>10</sup>Ministry of National Development Planning, Social Protection in Indonesia: Challenges and Future Directions, Directorate of Community Protection and Welfare Ministry of National Development Planning/ National Development Planning Agency, 2014, p. m . 5

<sup>11</sup>Ministry of National Education, Big Indonesian Dictionary Language Center, Jakarta, Gramedia Pustaka Utama, Jakarta, 2008, p . 137 .

<sup>12</sup>Satjipto Raharjo, Op. City, p. 74

<sup>13</sup>Phillipus M. Hadjon, Legal Protection for Indonesian People, PT. Science Development, Surabaya, 1987, p . 25

and obligations, in this case that are owned by humans as legal subjects in their interactions with fellow human beings and their environment. As legal subjects, humans have rights and obligations to take legal action.<sup>14</sup>

- d. Actions or efforts to protect society from arbitrary acts by authorities that are not in accordance with the rule of law, to create order and tranquility so as to enable humans to enjoy their dignity as human beings.<sup>15</sup>
- e. Legal protection is an activity to protect individuals by harmonizing the relationship of values or rules that are embodied in attitudes and actions in creating order in social life among fellow human beings.<sup>16</sup>

So, based on this understanding, it can be seen that deradicalization is a form of legal protection because it has the following elements:

- a. Basically, de-radicalization will provide protection and protect the dignity and human rights of former terrorism convicts who are a vulnerable group in their environment. With deradicalization, the rights of former terrorism convicts in society can be restored, for example the right to freedom of opinion, the right to expression and most importantly the right to be without discrimination and the right to feel safe in their environment. By changing the mindset of former convict terrorism through a deradicalization program, it will be accepted by society again and its rights will be restored.
- b. With the deradicalization program, former terrorism convicts will feel that they are protected from arbitrary actions by both the authorities and society, which they have always felt this way.

The function of Intelkam at the operational level is manifested in three main types of activities which are divided based on the security threats it faces. The three types of activity are:

- a. initiate when a Potential Disturbance (PG) occurs;
- b. accompanies the emergence of the Threshold of Disturbance (AG); And
- c. terminate when a Noticeable Fault (GN) appears.

Internal intelligence activities depart from preceding, accompanying, terminating Polri activities and operations. Therefore, Intelligence Intelligence moves from the existence of a phenomenon to the fact that there is a crime. That is, starting from the potential for disturbance (PG), then followed by the existence of a disturbance threshold (AG) to the presence of real disturbance (GN) in the form of a crime.

Detection in the intelligence function has four kinds of classification, namely first, AF; second, PH, third, Criminogen Correlative Factor (FKK); and fourth, loss or victim, namely the result of the emergence of crime. So, these reliable statements answer the strategic role of intelligence in carrying out Polri's main duties, namely from the preceding stage, accompanying it to ending an event.

Concerning Disturbance Potential (PG) or Correlative Criminogen Factor (FKK) occupies the initial stage/early detection of Intelligence and Security activities which is characterized by dynamics in society. The existence of daily activities in the social and cultural poles, such as political campaigns, trade, and the occupation of a territory by a former terrorism convict with a "red notice", is an activity that has the potential to cause disturbance. Since the beginning, Intelkam has been tasked with detecting the dynamics that exist in society. Intelkam conducts surveillance activities against all sects that develop in community groups or exist within individuals or groups of residents within the territory of the Republic of Indonesia or who come from outside, and have the potential to endanger the people, nation and national security.

Therefore, seen from an internal perspective, Intelligence Intelligence plays a role in providing special information ( Infosus ) to be taken into consideration in decision-making, both in the short and long term. In determining regional mapping, what is seen is the level of vulnerability, and this is useful for compiling long-term programs as input material for making the National Police's annual strategic plan (Renstra) and also useful for compiling five-year strategic intelligence programs or activities.<sup>17</sup>

Social protection is a system provided through a series of public policies to minimize the impact

<sup>14</sup>CST Chancellor. Introduction to Indonesian Law and Legal Studies, Balai Pustaka, Jakarta, 1980, p. 102.  
<sup>15</sup>Ibid.

<sup>16</sup>Setiono, Rule of Law (Law Supremacy), Master of Laws Graduate Program at Sebelas Maret University, Surakarta, 2004, p. 3  
<sup>17</sup>Ibid.

of economic and social shocks that can be caused by loss or reduction of income as a result of illness, pregnancy, work accidents, unemployment, disability, old age, or death. A comprehensive social protection system may consist of social security programs, social assistance, and include aid and guarantee schemes funded by the government or contributions from its participants .18

### Sample case

The suicide bombing terror at the Astana Anyar Police Office, Bandung, West Java, on Wednesday 7 December 2022 at 08:20 WIB became a serious alarm for all parties regarding the latent danger of the rise of terrorist cells in Indonesia. At least 10 people became victims in the suicide bombing at the Astana Anyar Police, namely 9 members of the National Police and a citizen. One member of the National Police on behalf of Aiptu Sofyan died. The perpetrator, Agus Sujatno alias Abu Muslim, was a former terrorist convict who was undergoing a deradicalization program who also died on the spot.

National Police Chief Gen. Listyo Sigit Prabowo said the perpetrators were previously affiliated with the West Java Jemaah Ansharut Daulah (JAD) network. Even though he is currently undergoing a deradicalization program after being released from prison, Listyo said Agus still has a 'red' status. The person concerned was arrested for the Cicendo bombing incident which occurred on February 27 2017 in Bandung, and was sentenced to 4 years in prison. In September or October 2021 those concerned are free, of course the activities concerned.

University of Indonesia (UI) criminologist Ardi Putra Prasetya said the terror attack at Astana Anyar yesterday was in line with the pattern of terror acts in the past which showed an increase at the turn of the year. According to Ardi, what is feared will happen is that yesterday's suicide bombing would actually become a stimulus for other groups to intensify their actions. On the other hand, Ardi also provided notes on the deradicalization process regulated in Law Number 5 of 2018 concerning Eradication of

Criminal Acts of Terrorism. According to him, the law does not regulate the process of deradicalization as something that is coercive. Terrorism observer from The Community of Ideological Islamic Analyst (CIIA) Harits Abu Ulya suspects that the motive for the suicide bombing at the Bandung Astanaanyar Police was due to personal grudges. Harits assessed that the suicide bombing in Bandung was related to recent arrests by Densus 88 and the National Counterterrorism Agency (BNPT). He suspected that the perpetrators were related to Jemaah Islamiyah (JI) or Khilafatul Muslimin because many individuals from the two groups had recently been arrested. So there are one or two people taking action personally , or the lonely "wolf". The motive is not big, not far from the issue of revenge against them, against the actions of the apparatus.19

The tendency for terrorism to occur is due to social pressure or other pressures related to various interests. However, it is not uncommon that the occurrence of terrorism is also caused by the existence of forms of deviant behavior from the perpetrators. If we look at the method of terrorizing, there is physical terror by using certain tools with physical targets through murder, torture, and the like. Apart from that, there is also terror through one's mentality by means of mental terror without having to hurt the victim's body.20

Understanding Radicalism and Acts of Terrorism

### Radicalism

Radicalism is an ideology or flow that has the belief that it wants social and political change or renewal by violent or drastic means . Radicalism can also be interpreted as the essence of the struggle to make changes by using violent means. The use of force which is the main characteristic of Radicalism has shown conflict with any religious teachings in general and Islamic teachings in particular. According to the Big Indonesian Dictionary, radicalism is an ideology or flow that wants social and political change or

18Ministry of National Development Planning, Social Protection in Indonesia: Challenges and Future Directions , Directorate of Community Protection and Welfare Ministry of National Development Planning/ National Development Planning Agency, 2014, p. m . 5

19SuryaDuaArtha Simanjuntak, <https://kabar24.bisnis.com/read/20221207/16/1606141/inikah-motif-pelaku-bom-kill-diri-di-polsek-astanaanyar> . Retrieved June 19, 2023, at 19:34 WIB.

20Budi Gunawan, Terrorism: Myths and Conspiracies Jakarta: Main Media Forum, 2006, p. 8-10.

renewal by violent or drastic means; or extreme attitudes in political flow.<sup>21</sup>

Related to radicalism, this is often based on a narrow understanding of religion which ends in acts of terror bombing growing with the system. This extreme attitude breeds in the middle of a stage that displays poverty, social inequality or injustice. Political elite actors who are not accommodating to the interests of the people and only their groups or parties become fertile seedbeds for radicalism. Therefore, suppressing radicalism is not enough just to arrest and bring the perpetrators of terror to justice. In fact, the death penalty is not enough to quell the flames of radicalism.<sup>22</sup>

It can be understood that Islamic radicalism is an Islamic-based movement that is intended to make reforms in social, political or religious issues, carried out in a drastic, harsh and uncompromising way to parties who are considered enemies, with one principle that only Islamic Sharia who were able to overcome it so that the establishment of an Islamic State and the application of Islamic Sharia became the idea of his struggle.<sup>23</sup>

Judging from its history, the movement of Islamic fundamentalism does not only occur in the Middle East, but also in other countries with Muslim populations, such as Indonesia. Even though there are cultural differences and maybe also understandings of Islam, Islamic fundamentalism movements in these countries seem to have the same goal. Solidarity among Islamic movements which see that Muslims have been dominated by state or international forces which tend to attack the credibility of Islam, make them wake up and fight in the name of Islam.<sup>24</sup>

The emergence of hardline or radical Islamic groups cannot be separated from their social background and perspective. There are at least two reasons that encourage radical behavior, first, hardline Muslims experience a kind of disappointment and alienation because Muslims are left behind by western progress, finally they use violence to block materialistic offensives and western penetration. Second, the emergence of

these hardline groups is inseparable from the existence of religious simplification among Muslims themselves, especially the younger generation.

This siltation occurs because they are influenced by or involved in radical or hard-line Islamic movements, which generally consist of those with exact educational and economic backgrounds. Such a background causes their minds to be full of rational mathematical and economic calculations and there is no time to study Islam in depth. They content themselves with religious interpretations based on literal or textual understanding. Their recitation or memorization of the holy verses of the Qur'an and Hadith in large numbers is indeed amazing. However, their understanding of the substance of Islamic teachings is weak because they do not study various existing interpretations, the principles of ushul fiqh, as well as variations in understanding of existing texts.<sup>25</sup>

### **Terrorism**

The theory of terrorism discusses how terrorism arises, why people are involved in acts of terrorism, and how terrorism can be overcome. This theory can be used to understand how terrorist thinking and radicalism can influence the occurrence of criminal acts of terrorism.

According to the Black's Law Dictionary, terrorism is an activity that involves elements of violence or that creates harmful effects on human life that violates criminal law, which is clearly intended to intimidate the civilian population, influence government policy and influence the administration of the state by kidnapping or killing.

Terror implies the use of violence, to create or condition a climate of fear within a broad group of people, rather than just falling victim to violence. In its development, a concept emerges that gives the sense that terrorism is a method or technique of intimidation with systematic targets, for the sake of a particular political interest. Hendropriyono in his book entitled *Terrorism: Christian, Jewish and Islamic Fundamentalists* cites Whittaker's opinion on several definitions of

21Muslih, Resocialization and Rehabilitation of BNPT in the public dialogue "Radicalization, Terrorism and Deradicalization of Radical Understanding", presented at the DKI Jakarta MUI Office, 2014.

22Zuly Qadir, Op. Cit, p. 116 - 117

2362 Nurjannah, Trigger Factors for the Emergence of Islamic Radicalism in the Name of Da'wah, (Journal of Da'wah, Vol. XIV, No. 2 of 2003), p. 181

24Endang Turmudi & Riza Sihbudi, *Islam and Radicalism in Indonesia*, Jakarta, LIPI Press, 2005, p. 105.

25Abdurrahman Wahid, *My Islam is Your Islam and Our Islam: "The Religion of the People of a Democratic State"*, Jakarta: The Wahid Institute, 2006, p. xxvi.



terrorism, including according to Walter Reich who stated that terrorism is a strategy of violence designed to increase the desired results, by instilling fear in among the general public. Terrorism is the use or threat of using violence with the aim of achieving political change.

Theoretically, it is possible to view terrorism from different points of view, and those differences often have their own reasons. Differences of view are valid and each individual may have his own views. If this is said to be a difference, then the different views on terrorism can be categorized as follows:<sup>26</sup>

- a. The first possible difference of opinion is the terrorist organization itself. "Bad" terrorism, namely terrorism which is mostly small and slim, very strict and selective and does not use a bureaucracy that is convoluted, homogeneous, politically, and in general develops influence by carrying out acts of terror clearly visible (visible) because most of them have not/not / lack an established infrastructure to achieve their actions. For example the Red Army Faction and Revolutionary Cells in West Germany and the Red Brigade in Italy.<sup>27</sup>
- b. The second possible difference is the terrorist organization that is taken for granted . White-collar terrorism of this kind is considered normal and natural because it is so widespread, large, uses a complicated bureaucracy, is heterogeneous, is politically and economically accepted without reserve because the motives for terrorism are not clearly visible because most of them have established infrastructure to achieve their actions and that of the general public. not/not/less aware of this act of white-collar terrorism because it has already taken over the cornerstones of their lives. Economic terrorism in the form of white-collar transnational and national crimes that carry out usury economic-financial-monetary. This is not only in the form of interest-bearing money loans that cause creditors to live from the debtor's sweat, but also transactions based on fraud that generate profits or profits that are obtained unfairly. For example, the mechanism of fractional reserve banking and quantitative easing is deceptive and creates wealth out of nothing.<sup>28</sup>

- c. The third possibility of different views on terrorism is acts of terrorism related to rebellion. Rebellions often have goals that can be interpreted as ethnic separatist groups or a desire to separate themselves from a country to form their own country. For example, the New People's Army , the military wing of the Philippine Communist Party in disruptive activities, carries out acts of terror to reduce the credibility or legitimacy of the Philippine government which cannot protect its people. <sup>29</sup>
- d. The fourth possible difference of view is that the state acts as a sponsor of terrorism. Sponsors of terrorism directly or provide frank or hidden support to terrorist groups to carry out terrorist acts in a country or finance and arm terrorist groups to overthrow the legitimate government regime in a country. For example the US brought down the Taliban regime in 2013, the Libyan Gaddafi regime in 2010.<sup>30</sup>

Broadly speaking, the objectives of acts of terrorism can be divided into 4 broad categories, namely:

#### **Irrational Terrorism**

Irrational Terrorism is terror whose motives or goals can be said to make no sense, which can be categorized in this category, for example, salvation (self-sacrifice) and madness (madness).

#### **Criminal Terrorism**

Criminal Terrorism is terror motivated by motives or goals based on group interests, terror by certain religious or belief groups can be categorized into this type. This includes group activities motivated by revenge .

#### **Political Terrorism**

Political Terrorism is politically motivated terror. There is no standardized international agreement on political terror so far. The figure of Yasser Arrafat for the Israeli people is a terrorist figure who must be executed, but for the Palestinian people he is a freedom fighter. And vice versa with the founding fathers of the state of Israel who at that time were branded as terrorists, after

<sup>26</sup>Adjie, Terrorism (Jakarta: Sinar Harapan, 2015), p. xii

<sup>27</sup>Ibid.

<sup>28</sup>Ibid.

<sup>29</sup>Ibid.

<sup>30</sup>Ibid.

Israel's independence they were regarded as national heroes and respected.

### State Terrorism

State Terrorism was originally used by the United Nations (United Nations) when looking at social and political conditions in South Africa, Israel and Eastern European countries. State violence against citizens is full of intimidation and various abuses and other threats, many of which are perpetrated by state actors including law enforcers, for example activist kidnappings.

### Conclusions and Recommendations

#### Conclusion

Regarding the effectiveness of legal protection for former terrorist convicts related to the deradicalization program in connection with Law Number 5 of 2018 concerning the Eradication of Criminal Acts of Terrorism, it is felt to be less effective. . Thus automatically not fulfilling legal protection for ex-convicts of terrorism and the dangers of understanding radicalism and acts of radical terrorism in the sense that understanding Islamic religious teachings in depth to their roots is a positive thing, however, terrorist radicalism is an understanding or flow that has beliefs want change or social and political renewal by means of violence.

#### Suggestion

Suggestions for policy makers should ensure that Law Number 5 of 2018 concerning Eradication of Criminal Acts of Terrorism allows for effective monitoring of individuals or groups suspected of being involved in radicalism or planning acts of terrorism to create a balance between security and rights. Individuals and the Government should continuously evaluate the effectiveness of deradicalization programs and monitor the development of ex-convicts over a longer period of time and remain committed to the values of Diversity and Tolerance in all aspects of deradicalization policies and programs.

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