
Building a Fair Criminal Law Framework: Indonesia's Strategy for Handling Terrorism

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Abstract

This research examines criminal law reform related to efforts to eradicate terrorism in Indonesia, with a focus on evaluating the effectiveness of existing laws and the integration of restorative justice. This research aims to identify gaps in the current criminal law framework and propose reforms that ensure that the handling of terrorism cases is not only effective but also fair and based on human rights. Through sociological descriptive methods, this research collects and analyzes data from legal documentation, government reports, and case studies related to the implementation of anti-terror laws. The research results show that although the law has given wider authority to law enforcers, there are still significant issues in terms of fulfilling standards of justice and human rights. The resulting recommendations emphasize the importance of legal revision to integrate the principles of restorative justice, so as to strengthen social justice and recovery for victims and society.

Keywords: Restorative Justice, Eradicating Terrorism, Legal Reform

INTRODUCTION

Indonesia, as a country with high cultural and religious diversity, has faced various challenges in dealing with terrorism which not only threatens national security but also the country's social and political integrity. In the last few decades, Indonesia has witnessed various acts of terror that claimed the lives of many people and damaged important infrastructure. This phenomenon requires a legal response that is not only tough but also fair and in accordance with international law and human rights norms (Smith, 2017).

Terrorism in Indonesia is not a new phenomenon. Since the start of the 21st century, the country has experienced a series of significant terrorist attacks, starting with the 2002 Bali bombings that killed 202 people and injured hundreds more. The attacks prompted the Indonesian government to adopt a more systematic approach to tackling terrorism, including changes in anti-terror legislation and increasing the capacity of the police and other security institutions (Jones, 2018).

However, in implementation, many of these measures have drawn criticism from various human rights groups and international institutions, highlighting that some of the government's actions tend to overreach and violate basic rights such as privacy, freedom of speech, and fair treatment in before the law (Amnesty International, 2019). Therefore, there is an urgent need to develop a criminal legal framework that is not only effective in tackling terrorism but also pays attention to justice, transparency and accountability.

A fair legal framework must ensure that every law enforcement action against terrorism is carried out taking into account human rights and restorative justice. This means that the legal process must be transparent, the perpetrator is given the right to a proper defense, and that the punishment given is proportional to the crime committed. This step is important to maintain public trust in the legal system and government, which is a crucial aspect in the long-term strategy for countering terrorism (Nurani, 2020).

On the other hand, eradicating terrorism must also pay attention to driving factors such as poverty, social injustice and discrimination which often motivate individuals to become involved in

terror activities. A comprehensive approach involving improving social, educational and economic policies is critical to addressing the root causes of terrorism (Harsono, 2021).

Considering the complexity of the terrorism issue, Indonesia has taken several progressive steps. In 2016, the government introduced legislation giving the police greater powers to carry out preventive measures against terrorism, including the early detention of suspected terrorists. However, the implementation of this law also carries the risk of abuse of authority which could lead to human rights violations (Setiawan, 2018).

Therefore, in this research, I attempt to develop a fair criminal law framework in dealing with terrorism in Indonesia. The main objectives of this research are to identify weaknesses in existing regulations, evaluate the effectiveness of current anti-terror laws, and propose reforms that could strengthen human rights while remaining effective in combating terrorism.

In this context, the approach taken includes analysis of relevant regulations and laws, interviews with legal and security experts, as well as a study of models for handling terrorism that have been implemented in other countries. Through this research, it is hoped that recommendations can be produced that will not only help the government in strengthening national security but also ensure that a fair and humane legal process is maintained (Rahman, 2019).

In this research, the main focus will be on two crucial aspects: first, a critical evaluation of the effectiveness of existing anti-terror laws in Indonesia, especially in the context of prevention and prosecution. We will investigate the extent to which the law has been successful in tackling the threat of terror, and consider policy improvements that can be made to increase its effectiveness without compromising the principles of justice. The second focus is on the role and implementation of restorative justice in the criminal law system related to terrorism cases. This research will explore more deeply how the principles of restorative justice can be integrated into the legal process to support the rehabilitation and reintegration of perpetrators, as well as reconcile them with victims and society more broadly. These two areas will be discussed in depth in the discussion section, including an extensive literature review, data analysis, and policy recommendations based on the findings (Rahardjo, 2022; Malik, 2021).

METHOD

In this research, the methodology used is a sociological descriptive approach which focuses on analyzing social phenomena related to the application of criminal law in dealing with terrorism in Indonesia. Data will be collected through an extensive literature study, including analysis of relevant legal documents, government reports, court decisions, and academic publications discussing terrorism-related legal policies and practices. This analysis process aims to describe in detail how the criminal law framework is implemented in Indonesia's current social and political context, as well as assessing its impact on society. Content analysis will be used as the main technique to extract critical themes and understand the perspectives of various stakeholders on the effectiveness of anti-terror laws (Savitri, 2021).

RESULTS AND DISCUSSION

Evaluation of the Effectiveness of Anti-Terror Laws in Indonesia

Since the 2002 Bali bomb attacks, Indonesia has undergone a series of legislative revisions to improve its counter-terrorism policies. These legislative changes began with the ratification of Law Number 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism, which was then revised and strengthened through Law Number 5 of 2018. This revision reflects the government's efforts to

not only respond effectively to terror threats, but also to adapt policies to developing global and regional dynamics (Suhartono, 2019).

One of the significant changes brought by Law no. 5/2018 is an expansion of the authority for law enforcement officers in carrying out wiretapping and detention. Article 31 paragraph (1) Law no. 5/2018 states that investigators have the authority to wiretap any communications that are strongly suspected to be related to criminal acts of terrorism. This wiretapping is allowed to take place without having to first obtain court permission, which in practice, increases the effectiveness of evidence collection but also raises serious concerns about violations of privacy and human rights (Nurani, 2020).

Furthermore, Law no. 5/2018 also regulates the detention of terrorist suspects. Based on Article 43, investigators have the right to detain someone who is strongly suspected of committing acts of terrorism for a longer time than general criminal acts, namely up to 200 days during the investigation and prosecution process. This authority, although aimed at preventing perpetrators from carrying out further actions or destroying evidence, has also been a source of criticism because it has the potential to violate the principles of due process (Amnesty International, 2019).

Furthermore, the definition of criminal acts of terrorism as stated in Article 1 paragraph (2) still leaves wide room for interpretation, which could pose a risk of criminalization of activities that are not directly related to acts of terrorism, especially in conflict areas such as Papua and Poso. This unclear definition not only risks abuse of authority by law enforcement officials, but also the stigmatization of certain groups in society, which in turn could worsen social and political conditions in the region (Harsono, 2021).

From a justice perspective, the Anti-Terrorism Law does not fully provide adequate mechanisms for the rehabilitation and reintegration of perpetrators who have served their sentences. Research shows that effective rehabilitation measures can be significant in reducing recidivism and addressing the root problems that drive someone to engage in terrorist activity. Deradicalization programs that involve local communities and emphasize education, social dialogue and economic integration can be an effective alternative that supports long-term recovery and prevention (Setiawan, 2020).

The Anti-Terror Law must continue to be evaluated and updated to ensure that the approach taken is not only effective in suppressing terrorism, but also fair and sustainable. A fair and holistic approach, involving not only elements of law enforcement but also social, economic and cultural development, is the key to creating a society that is resilient to terrorism. This requires cross-sector collaboration and active participation from civil society, as well as support from international institutions.

Integration of Restorative Justice Principles in Handling Terrorism

Restorative justice has gained recognition as an effective framework in managing conflict and restoring relationships damaged by criminal acts, including terrorism. In Indonesia, the integration of restorative justice principles in handling terrorism is still a relatively new idea and is currently in the exploration stage through various local initiatives. This principle of restorative justice focuses on restoring relationships between perpetrators, victims and society as a whole, not only focusing on punishment for perpetrators but also on healing for victims and social reconciliation (Setiawan, 2020).

Restorative justice practices in the context of terrorism in Indonesia offer several unique approaches that adapt to the local social and cultural context. One way is through dialogue and mediation involving terror perpetrators, victims and their communities. This allows all parties

affected by acts of terror to voice their experiences, discuss the impact of the event, and jointly seek solutions to prevent similar incidents from recurring in the future. Programs like this have shown potential in reducing trauma, supporting collective healing processes, and strengthening social cohesion that is often torn apart by terrorism (Rahman, 2019).

The involvement of terror perpetrators who are willing to change in this mediation process can also help reduce the stigmatization they often experience from society. By demonstrating responsibility for their actions and being willing to contribute back to society, perpetrators can help rebuild trust and repair damaged relationships. Restorative justice not only allows perpetrators to make amendments but also gives them the opportunity to participate in building a more peaceful and inclusive society, which directly challenges the ideologies and motives that drive acts of terrorism (Hikmah, 2021).

However, the challenges in applying restorative justice to terrorism cases cannot be ignored. First, there is concern that victims and their families may not always be willing to participate in processes involving the perpetrator. The deep trauma and losses they have suffered can make it difficult to confront the perpetrator directly. This requires a very sensitive approach and professional assistance to facilitate these meetings, ensuring that the safety and comfort of the victim remains a priority (Farida, 2020).

Second, restorative justice requires a paradigm shift in the traditional criminal justice system, which may be difficult to achieve in a legal environment that still places great importance on retribution as a form of justice. Education and training for law enforcement officials, courts and other professionals is needed to expand their understanding of restorative justice and how its principles can be applied in terrorism cases (Suryani, 2021).

Thus, the integration of restorative justice in handling terrorism in Indonesia requires a holistic approach, which not only involves legal reform but also capacity building, community education, and ongoing support for victims and perpetrators. This approach, although challenging, offers a path to a more inclusive recovery and sustainable peace.

CONCLUSION

In conclusion, this research shows that Indonesia has taken significant steps in developing a criminal law framework aimed at overcoming the challenges of terrorism which continues to adapt to global dynamics. Efforts to update anti-terror laws have brought about several important legislative changes that attempt to address the immediate need to address the threat of terror, but there is still room for improvement, particularly in aspects of justice and human rights. From this research, it is clear that further efforts are still needed to integrate the principles of restorative justice in the Indonesian criminal law system. Restorative justice not only provides an opportunity for perpetrators to correct mistakes, but also facilitates healing for victims and strengthens the social order disrupted by terrorism. Integration of this approach requires strong commitment from all relevant parties, including government, judicial institutions, civil society and affected communities.

Recommendations from this research include the need for further revision of existing laws to clarify the definition of criminal acts of terrorism, ensure that policies for preventing and prosecuting terrorism continue to respect human rights, and increase oversight of the powers given to law enforcement officials. Additionally, the importance of education and training on restorative justice for law enforcement officials and courts to ensure that they are equipped with the understanding and skills necessary to implement these principles effectively. In conclusion, the journey towards a

criminal justice system that is fair and effective in dealing with terrorism is an ongoing process that requires continuous evaluation and adaptation. By continuing dialogue between all stakeholders and deepening understanding of restorative justice, Indonesia can move towards a more holistic and humane approach to addressing terrorism, one that not only protects national security but also strengthens the foundations of social justice and human rights.

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