

Law enforcement against criminal acts related to radicalism, extremism, and terrorism in the name of religion within the framework of the Pancasila state

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Abstract--- Terrorist crimes that have occurred in Indonesia are serious crimes that endanger the ideology of the state, state security, state sovereignty, human values, and various aspects of community, national and state life. They are transnational, organised, have extensive networks and specific objectives, so that their eradication must be carried out in a special, planned, targeted, integrated and continuous manner, based on Pancasila and the 1945 Constitution of the Republic of Indonesia. The research method used is normative juridical with a *statute approach* and a *conceptual approach*. The results of this study indicate that law enforcement against terrorism in the name of religion within the framework of the Pancasila state in Indonesia, where the ideology of radicalism and extremism and acts of terrorism in the name of any religion are highly contradictory and incompatible with the basic norms and ideology of

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Pancasila. The conclusion of this study is that law enforcement against radicalism and extremism should begin with *pre-emptive* and *preventive* measures in the form of strengthening the ideology and philosophy of Pancasila through dialogue, mutual cooperation, and eliminating the concepts of majority and minority because they are discriminatory. However, if radicalism and extremism have manifested themselves through criminal acts of terrorism, then it is necessary to take *repressive* law enforcement measures in the form of criminal law enforcement, both general criminal law (*lege generali*) with the Criminal Code and Criminal Procedure Code, as well as special criminal law (*lex specialis*).

Keywords---law enforcement, criminal acts, radicalism, extremism, terrorism.

Introduction

Radicalism is a religious movement that seeks to change the entire political and social order through violent means (Robingatun, 2017) .Based on data, throughout 2020, the Indonesian National Police arrested 228 people involved in radical terrorist groups and committing acts of terrorism (Adyatama, 2020) .

Extremism in Indonesia is an attitude that contradicts the ideology of the state and the values of Pancasila as the basic ideology of Indonesian society (Siagian, 2020) . The proper behaviour of Indonesian society must be based on the values of Pancasila. Otherwise, the nation's way of life will be easily disrupted by other ideologies.

Terrorism is a form of criminal activity that uses violent means carried out by an individual or group of individuals targeting civilians, both people and property, for political purposes with varying motivations. This is what underpins the classification of terrorism as a special crime, namely an extraordinary crime. From the perspective of international criminal law, terrorism is a crime against humanity and is classified as *an extraordinary crime* () .

Radicalism has become a very important issue for a country and cannot be taken lightly. In Indonesia, there has been an increase in cases of radicalism, as well as an increase in research and studies on this important issue. The focus of radicalism is usually on differences in beliefs, in this case, radical conflicts that occur are always related to religion (Rizal et al., 2022) .

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia is a law that aspires to create a welfare state. Article 1 paragraph (3) is not a *password* or mantra, considering that this article is only an ideal (*das sollen*) that is expected to positively *engineer* all activities of national and state life through its institutions so that the law, through its processes, becomes something that is down to earth, factual and *concrete* (*das sein*). This article on the rule of law is a

framework that will govern existing laws and serve as a guiding light for all processes of drafting and formulating legislation (Rizal et al., 2022) .

Criminal acts related to radicalism, extremism, and terrorism in the name of religion within the framework of the Pancasila state are very serious and alarming issues. This phenomenon has caused many casualties and material losses worldwide. Therefore, law enforcement against these crimes is very important. According to the national journal "Law Enforcement Against Crimes of Radicalism and Terrorism", the phenomenon of radicalism, extremism, and terrorism in the name of religion has many root causes. Some of these include poverty, social injustice, and dissatisfaction with the government. Factors such as political and economic instability, as well as perceptions of religious discrimination, also play an important role in the occurrence of these crimes.

Therefore, effective and fair law enforcement is essential to address this issue. This aims to ensure that these crimes can be eradicated and the perpetrators can be prosecuted in accordance with applicable laws. The purpose of this dissertation is to analyse the situation of law enforcement related to crimes of radicalism, extremism, and terrorism in the name of religion within the framework of the Pancasila state, as well as to provide recommendations for improving law enforcement in the future.

Law enforcement in the context of eradicating terrorism can be carried out formally through the SPP, or informally to prevent or combat crime without using criminal (penal) channels, and non-formally through deradicalisation and de-ideologisation so that terrorism can be eradicated in an integrated manner (Zaidan, 2016).

Based on the above descriptions, the research questions to be addressed in this study are as follows: 1) How is the law enforced on radicalism and extremism related to criminal acts of terrorism in the name of religion within the framework of the Pancasila state?; 2) Why is it necessary to regulate radicalism and extremism related to criminal acts of terrorism in the name of religion within the framework of the Pancasila state?; 3) How should the legal regulation of radicalism and extremism related to terrorism offences committed in the name of religion be implemented within the framework of the Pancasila state?

Method

The type of legal research used in this study is essentially normative legal research, supplemented by empirical interviews to strengthen the research data, where the starting point of the research is an analysis of the laws and regulations related to the issues raised (Khairi, 2017).

The approaches used in this study are *the statute approach* and the *conceptual approach*. The *statute approach* involves tracing and studying the relevant laws and regulations and other provisions relevant to this study, starting from the philosophical basis of the Pancasila state ideology, the- Constitution of the Republic of Indonesia of 1945, Law Number 5 of 2018 concerning Amendments to

Law Number 15 of 2003 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism into Law, and Law Number 9 of 2013 concerning the Prevention and Eradication of Terrorism Financing Crimes, and the Criminal Code (KUHP).

In legal research, there are two types of data required, the first type is called primary data and the second type is called secondary data. Secondary data is data obtained in a ready-made form, in the form of legislation, court decisions, or publications or reports (Supranto, 2003)

Discussion

Law Enforcement on Criminal Acts of Terrorism in the Name of Religion within the Framework of the Pancasila State

Since this country gained independence, the founders of the Indonesian State have agreed to place Pancasila as the foundation of the state, ideology and philosophy of life for the Indonesian people. This means that all aspects of society, the nation and the Indonesian State, including the system of government and state administration, are based on the five principles contained in Pancasila (Tanamal & Siagian, 2022) .

Sekar Maridjan Kartosuwiryo was one of the figures behind the emergence of religious-based radicalism, extremism and terrorism in Indonesia. Since the 1920s, Kartosuwiryo, together with Tjokroaminoto, had been fighting for the comprehensive implementation of Islamic law in Indonesia. Thus, on 7 August 1949, Kartosuwiryo declared the establishment of the Islamic State of Indonesia as the embodiment of his ideals. This was certainly contrary to what the Proclamation heroes and the founders of the Indonesian nation had fought for, as it constituted a rebellion () against the Unitary State of the Republic of Indonesia, which had just been proclaimed on 17 August 1945 (Dengel, 1995) .

The Indonesia Institute for Society Empowerment (INSEP) conducted a study in 2011-2012 titled "Motivation and Root Causes of Terrorism in Indonesia." The results of the study found that perpetrators of terrorism in Indonesia were not only Muslims, but also non-Muslims. The dominant motivation for acts of terrorism in Indonesia was ideology (religion), as the majority of perpetrators justified their acts of terrorism with verses taken from holy scriptures (Mufid, 2012) .

Based on the data and explanations above, the ideology of religious radicalism is very much at odds with the ideology of Pancasila. The Indonesian people base their philosophy of life on the values contained in Pancasila by respecting and appreciating the various differences/diversity that exist. This is what guarantees every Indonesian citizen the right to practise their religion and perform their religious duties without fear. Therefore, as explained above, steps to strengthen the Pancasila ideology can be taken through various approaches, including dialogue, mutual cooperation, and eliminating the inappropriate concepts of majority and minority. These steps can be taken to prevent Indonesian society from becoming discriminatory in the face of diversity. The Pancasila ideology is

the philosophical foundation of the Indonesian nation, which contains noble values and must be upheld by every element of the nation. The Pancasila ideology acts as an antidote to religious radicalism because it promotes values of respect for God Almighty, respect for humanity, maintaining unity, democracy and social justice (Saingo, 2022) .

Pancasila must be paramount in Indonesian society. The concept of open ideology does not mean that Indonesia can accept all kinds of ideologies from outside, because in this case it is limited by Pancasila itself. Pancasila is a form of filtering, and will reject foreign ideologies that contradict the five principles of Pancasila. Threats will always exist, therefore this study was conducted to assess the extent of the influence of other ideologies on the Pancasila ideology (Rizal et al., 2022) .

Law Enforcement in Various Legislation

The laws and regulations that have been used to enforce the law against perpetrators of terrorism in Indonesia are:

1. Law Number 15 of 2003: Stipulates Government Regulation in Lieu of Law (PPPU) Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism into Law.
2. Law No. 5 of 2018: Amendment to Law No. 15 of 2003.
3. Law No. 9 of 2013: On the Prevention and Eradication of Terrorism Financing Crimes.
4. Law No. 16 of 2003: Stipulating PPPU 2-2002 concerning the Enforcement of PPPU 1-2002 concerning the Eradication of Criminal Acts of Terrorism in the Bali Bombing Incident on 12 October 2002 into Law.

Law Enforcement Efforts to Combat Terrorism within the Framework of the Pancasila State

The implementation of deradicalisation in Indonesia is formulated as a comprehensive, integrative, and continuous programme with two classifications, namely Deradicalisation Outside Prisons and Deradicalisation Inside Prisons. Deradicalisation Outside Prisons includes the stages of identification, counter-radicalisation guidance, and monitoring and evaluation. Meanwhile, Deradicalisation Inside Prisons includes the stages of identification, rehabilitation, re-education, resocialisation, and monitoring and evaluation. The Deradicalisation Programme is implemented in stages so that its objectives and targets can be achieved effectively.

Deradicalisation within prisons targets prisoners convicted of terrorism offences who are spread across various prisons in Indonesia. Meanwhile, deradicalisation outside prisons targets: 1) *Individuals*, namely persons indicated to have radical-terrorist ideologies; 2) *Groups*, namely groups of people who have joined

organisations indicated to have radical-terrorist ideologies; 3) *Families*, namely the immediate families of individuals or groups indicated to be radical. These families can also be extended to their immediate families if it is considered that the immediate family is also suspected of having radical beliefs or providing support for radical terrorist beliefs/actions; 4) *Former Terrorist Prisoners*, namely people who have been released from prison as terrorist prisoners. (Deradicalisation Blueprint, BNPT)(*Deradicalisation Blueprint*, 2014) .

Indonesia's National Security System within the Framework of the Legal System for Countering Terrorism

The concept of national security itself originated from the concept of security, which has continued to evolve with the times. In the past, the traditional view defined security in military terms, which of course focused primarily on protecting the state from threats to national interests. Then, at the end of the 20th century, after the end of the Cold War, the concept of national security was expanded. There were increasing problems related to, among other things: human rights, globalisation and technology.

In addition, there were also organised crime, nuclear disarmament and, of course, terrorism – reasons for expanding the concept. The latter issue is currently the focus of discussion in the fields of national, regional and international security. National security as a concept often undergoes changes due to the international political constellation. Defining national security is not easy, therefore, within the framework of international law, it is left to each country, provided that it does not violate the concept of a democratic state.

Law Enforcement on Criminal Acts of Radicalism, Extremism and Terrorism in the Name of Religion within the Framework of the Pancasila State

The process of becoming radical and a terrorist is like climbing a ladder, where there are stages leading to radical terrorism. These stages provide an overview of the psychological process of how a person becomes involved in deadly, destructive and harmful acts of terrorism, both psychologically and materially (Syahputra, 2021) .

Ideological factors are the root cause of radicalism. However, ideological factors do not stand alone; there are other external factors that influence them, namely political factors, social conditions and the environment. This understanding is important for formulating policies by policymakers and decision-makers to address the issue of terrorism in Indonesia. Law enforcement remains a necessary step, but the reactive nature of law enforcement is insufficient because terrorism is highly dynamic and progressive. (Syahputra, 2021) .

Countering radicalism and terrorism is a very important task for the police in maintaining public security and order. The police's responsibilities in addressing these challenges cover various aspects, including prevention, detection, enforcement, and rehabilitation. The role and responsibilities of the police in countering radicalism and terrorism. An effective approach involves cooperation with various parties, including government agencies, intelligence agencies, and the wider community. The police have a responsibility to prevent radicalism and terrorism (Rusli, 2023) .

The above involves socialisation, education and advocacy activities in the community to raise awareness of the dangers of radicalism and terrorism and encourage active participation in prevention efforts. The police have an important role in early detection and terrorism intelligence. This involves gathering information, analysing data, monitoring radical groups, and monitoring suspicious communications to identify potential terrorist threats early on. The police are responsible for taking action against radical and terrorist groups. This involves the arrest, investigation, and prosecution of perpetrators of terrorist crimes in accordance with applicable laws.

The police also play a role in dismantling terrorist networks, foiling attack plans, and protecting the public from existing dangers. The police are responsible for the rehabilitation and deradicalisation of individuals involved in radical or terrorist activities. This involves a holistic approach, including social rehabilitation, education, training, and reintegration into society. These efforts aim to prevent recruitment and ensure that individuals involved in radicalism or terrorism become productive and responsible members of society in the fight against radicalism and terrorism.

Analysis of Law Enforcement in Radicalism Crimes

Analysing law enforcement in relation to radicalism, extremism and terrorism offences in Indonesia requires a multidisciplinary approach involving legal, social, political and security aspects. Regarding law enforcement against these crimes, it should be noted that Law No. 5 of 2018 on the Eradication of Terrorism, which is a revision of Law No. 15 of 2003, offers a broader definition of terrorism and gives more authority to law enforcement officials. Other laws include the Law on Transnational Organised Crime and the Law on the Eradication of Money Laundering.

To prevent radicalism, two strategies can be employed: *the hard approach* and *the soft approach*. The strategy combines enforcement and prevention and is carried out simultaneously by adopting a "*proactive law enforcement*" approach without neglecting the principles of "*rule of law*" and "*legality principle*". With this approach, efforts can be made to prevent radicalism that leads to terrorism

without having to wait for an act to occur and its consequences.

Aspects of Law Enforcement on Extremist Criminal Acts

The enforcement of law on extremist criminal acts in Indonesia is a complex and multi-dimensional process. In Indonesia, extremism is often defined as attitudes or actions that exceed social and legal norms, usually related to ideology or religion. Extremist crimes often include hate propaganda, discrimination against certain groups, or violence motivated by radical beliefs.

Indonesia has various laws that deal with extremist crimes, including Law No. 5 of 2018 on the Eradication of Terrorism Crimes, which also covers several aspects of extremism. In addition, laws related to hate speech and discrimination are also relevant in cases of extremism. The Indonesian National Police, particularly the Anti-Terrorism Special Forces (Densus 88), plays a major role in combating extremism crimes. Their duties include not only prosecuting perpetrators, but also investigating and gathering evidence related to extremist activities.

The Indonesian government has implemented deradicalisation programmes as part of its strategy to prevent extremism. This approach involves interfaith dialogue, promoting the values of pluralism, and understanding that diversity is the strength of Indonesian society. Tackling extremism requires cross-sector cooperation, including the involvement of civil society, religious organisations, education, and the media. This cooperation aims to create social awareness about the dangers of extremism and promote values of tolerance.

In dealing with extremism, it is very important to maintain a balance between law enforcement and respect for human rights. Enforcement must be carried out with due regard for the principles of fair and non-discriminatory law. In the digital age, radicalisation often occurs through the internet. The government and law enforcement agencies must respond with strategies involving cyber surveillance and policies to limit the spread of radical content online without hindering the right to freedom of expression.

The Urgency of Legal Regulation on Violence in the Name of Religion that Contains Elements of Radicalism, Extremism and Terrorism as Reviewed from Positive Law in Indonesia

Legal Provisions on Violence in the Name of Religion that Contains Elements of Radicalism, Extremism and Terrorism as an Embodiment of the Constitution

Violence is closely related to conflict, although not all conflicts take the form of violence. In the literature "Violence in the Name of Religion: A Political Perspective" written by Cornelis Lay, the roots of this violence can be said to be quite varied, ranging from socio-psychological approaches, structural causes, to

those related to values inherent in culture or ideology (including religion). Violence from a psychological approach argues that violence arises as a result of a battle between two instincts inherent in the libido, while structural causes stem from systems such as economic, political, and social systems.

To unravel the third root cause, where violence is closely related to religion, this review will examine the process of how the roots of violence based on values inherent in religion become a conflict that has a massive impact and how to resolve such conflicts.

Positive Legal Regulations on Violence in the Name of Religion

Applicable Indonesian positive law regulations: a. Law Number 1/PNPS/1965 concerning the Prevention of Abuse and/or Blasphemy of Religion; b. Law Number 39 of 1999 concerning Human Rights; c. Law No. 12 of 2005 concerning the Ratification of the International Covenant on Civil and Political Rights (ICCPR); d. Related articles in the Criminal Code, such as Article 156a concerning blasphemy.

There have been various incidents in Indonesia where individuals or groups have been accused of blasphemy or violence in the name of religion. The importance of freedom of expression and religion needs to be balanced with protection against violence in the name of religion. There needs to be clearer clarification and guidance in the law to avoid abuse. Existing regulations have provided a legal framework, but there are still grey areas and challenges in their implementation.

Regulations on Radicalism, Extremism and Terrorism

Increasing social awareness of the dangers of extremism is key to prevention. Teaching tolerance, diversity, and interfaith dialogue is important to cultivate from an early age. Dealing with extremism and terrorism remains a challenge in Indonesia. Enhancing international cooperation, monitoring the spread of radical ideology online, and maintaining social harmony are important steps that must continue to be pursued. By addressing the causes of extremism and using a holistic approach in dealing with it, Indonesia can strive to prevent terrorism and maintain the country's socio-political stability. Victim protection in positive law is abstract or indirect protection. This is because criminal acts under positive law are not seen as acts that attack or violate the legal interests of a person (victim) personally and concretely, but only as violations of legal norms or order in abstracto. As a result, the protection of victims is not direct and in concreto. Protection for victims of criminal acts of corruption is outlined in Article 35A of Law Number 5 of 2018 concerning the Eradication of Criminal Acts of Terrorism.

Although efforts to eradicate terrorism continue, terrorist groups continue to grow and develop. On the other hand, traditional terrorist groups continue to operate, and new forms of terrorism have emerged.

Legal Regulations on Future Terrorism Crimes (*Ius Constituendum*) Can Become a Legal Umbrella in the Enforcement of Terrorism Crimes
Regulation of the Draft National Security Law (RUU) *Ius Constituendum*

Countering terrorism in the present and future cannot rely solely on law enforcement efforts because the escalating threat not only threatens security and law and order in society. More than that, it threatens national security, which consists of national defence, state security, public security and human security, which could endanger the existence of the sovereignty of the Republic of Indonesia. This highlights the importance of Indonesia's role as a country based on the rule of law in continuing to develop the Indonesian National Security System based on the Pancasila framework. The aim is for Indonesia to be able to comprehensively combat terrorism in the future through strategic efforts.

Densus 88 Anti-Terrorism Police is a special unit formed to combat terrorism. This unit is tasked with conducting investigations and special operations related to criminal acts of terrorism, operating under the coordination of the Indonesian National Police and with special authority granted by law. The National Counterterrorism Agency (BNPT) acts as the coordinator in the national strategy to combat terrorism. This agency is tasked with formulating and implementing policies and programmes for the prevention of terrorism, including deradicalisation and counter-radicalisation efforts. Within the national security system, integration and intelligence sharing between agencies is key. This involves cooperation between the Indonesian National Police, the Indonesian Armed Forces, the BNPT, and other intelligence agencies to ensure an effective and responsive flow of information. Indonesia also actively participates in international cooperation, both at the regional and global levels, to combat terrorism. This includes intelligence sharing, joint training, and cooperation in law and security enforcement (Saingo, 2022) .

Regulation of Terrorism Offences in Law No. 1 of 2023 on the Criminal Code *Ius Constituendum*

The criminal sanctions for terrorism offences are imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years, life imprisonment, or the death penalty. Furthermore, the Criminal Code *Ius Constituendum* also states that "Any person who uses violence or threats of violence with the intention of creating an atmosphere of terror or fear among the public or causing mass casualties by depriving others of their freedom or causing the loss of life or property, or causing damage or destruction to vital strategic objects, the environment, public facilities,

or international facilities, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 20 (twenty) years or life imprisonment.

Furthermore, the Criminal Code *Ius Constituendum* also regulates the criminal act of financing terrorism, which states that "Any person who provides, collects, gives, or lends funds, either directly or indirectly, with the intention that it be used in whole or in part to commit a criminal act of terrorism, terrorist organisation, or terrorist, shall be punished for the criminal act of financing terrorism with a maximum imprisonment of 15 (fifteen) years and a maximum fine of category V, namely IDR500,000,000.00 (five hundred million rupiah).

Conclusion

1. The enforcement of law on terrorism offences committed in the name of religion within the framework of the Pancasila state in Indonesia, where the ideology of radicalism and extremism as well as acts of terrorism in the name of any religion are highly contradictory and incompatible with the basic norms and ideology of Pancasila. Thus, law enforcement that can be carried out against radicalism and extremism begins with *pre-emptive* and *preventive* measures in the form of strengthening the ideology and philosophy of Pancasila through dialogue, mutual cooperation, and eliminating the concept of majority and minority because it is discriminatory. However, if radicalism and extremism have manifested themselves through criminal acts of terrorism, then it is necessary to take *repressive* law enforcement measures in the form of criminal law enforcement, both general criminal law (*lege generali*) with the Criminal Code and Criminal Procedure Code, and special criminal law (*lex specialis*) such as the Law on the Eradication of Criminal Acts of Terrorism, the Law on the Prevention and Eradication of Terrorism Financing Crimes, and the Law on the Prevention and Eradication of Money Laundering Crimes (TPPU);
2. There is an urgent need for legal regulation of acts of violence in the name of religion that contain elements of radicalism, extremism and terrorism, as viewed from positive law in Indonesia, because Indonesia is a country with a very pluralistic population that adheres to different religions. with such sociological conditions, there is a high potential for friction and clashes of understanding over religious interpretations. Therefore, in order to address these sociological issues, there is a need (urgency) to regulate violence in the name of religion that contains elements of radicalism, extremism and criminal acts of terrorism in positive law in Indonesia, so that Indonesia becomes a safe, peaceful, and prosperous nation in accordance with the ideals of the Constitution and the embodiment of the 1945 Constitution of the Republic of Indonesia.
3. That future positive law in Indonesia (*Ius Constituendum*) could serve as a legal umbrella for the enforcement of terrorism laws, whereby the development of national law against perpetrators of violent crimes that cause mass casualties

by depriving others of their freedom or taking their lives and property, or causing damage or destruction to vital strategic objects, the environment, public facilities, or international facilities, necessitates future amendments (*Ius Constituendum*) to keep pace with the evolving nature of terrorism crimes in the years to come.

Recommendation

1. It is necessary to optimise continuous law enforcement in the form of pre-emptive and preventive measures by strengthening the ideology and philosophy of Pancasila through dialogue, mutual cooperation, and eliminating the concept of majority and minority because it is discriminatory. and if radicalism and extremism have manifested themselves through criminal acts of terrorism, then repressive law enforcement measures need to be taken by strengthening police institutions, particularly Densus 88 AT Polri and the National Counterterrorism Agency (BNPT).
2. That lawmakers should immediately harmonise criminal procedure law with the enactment (*Ius Constituendum*) of Law No. 1 of 2023 concerning the Criminal Code (KUHP).

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