

Evolving Threats, Evolving Laws: Balancing Rights and Security in Indonesia's Terror Law and Counterterrorism Strategy

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Abstract. *This research examines the legal approach to terrorism in Indonesia, focusing on the regulatory framework established by Government Regulation in Lieu of Law No. 1 and No. 2 of 2002, later amended into Law No. 15 of 2003. The background of the study involves a series of terrorism events, such as the Bali bombings in October 2002, prompting the government to respond with significant legal changes. The aim of this research is to analyze the impact and effectiveness of legal changes in addressing terrorism, considering both preventive and repressive aspects. The research method involves analyzing legal texts and related documents, utilizing a descriptive approach to understand the implementation of these laws. The problem formulations include evaluating the concepts of counter-radicalization and deradicalization as preventive strategies, as well as examining the sustainability of law enforcement efforts and terrorism financing. The research findings indicate that existing laws reflect the government's responsibility to protect citizens and secure the territory from cross-border terrorist threats. However, there are criticisms of the universal definition of terrorism and substantial weaknesses in the Terrorism Law, including aspects of criminal procedural law and human rights. In conclusion, there is a need for improvements in positive law, including the possibility of amending the Terrorism Law to ensure an effective response to evolving and complex terrorism threats.*

Keywords: *Criminal Law; Radicalization; Terrorism; Terrorism Laws; Terrorism Prevention*

1. Introduction

Terrorism is one of the most serious threats to global peace and security, as well as to human rights and democracy. Terrorism can cause mass casualties, damage, and fear, as well as undermine the stability and development of nations and regions. Terrorism can also have various motives and forms, such as ideological, political, religious, ethnic, or sectarian, as well as conventional, cyber, or biological.^{1,2} Therefore, terrorism requires a comprehensive and coordinated response from the international community, as well as from individual countries, to prevent and combat it effectively and proportionally.³

Indonesia, as the largest Muslim-majority country and the third-largest democracy in the world, has experienced and witnessed the devastating impacts of terrorism, especially since the 2002 Bali bombings, which killed 202 people, mostly foreign tourists. Since then, Indonesia has faced several other terrorist attacks, such as the 2003 JW Marriott Hotel bombing, the 2004 Australian Embassy bombing, the 2005 Bali bombings, the 2009 JW Marriott and Ritz-Carlton Hotel bombings, the 2016 Thamrin attack, and the 2018 Surabaya bombings, among others. These attacks have claimed hundreds of lives and injured thousands more, as well as damaged public facilities and infrastructure, and harmed the tourism and economy sectors.⁴

In response to these terrorist threats, Indonesia has adopted various legal measures and policies to prevent and eradicate terrorism, both at the national and international levels.⁵ At the national level, Indonesia has enacted several laws and regulations related to terrorism, such as Law Number 15 of 2003 on the Stipulation of Government Regulation in Lieu of Law Number 1 of 2002 on the Eradication of Criminal Acts of Terrorism into Law, which was amended by Law Number 5 of 2018 on the Amendment to Law Number 15 of 2003 on the Stipulation of Government Regulation in Lieu of Law Number 1 of 2002 on the Eradication of Criminal Acts of Terrorism into Law. Indonesia has also established several institutions and agencies to deal with terrorism, such as the National Counterterrorism Agency (*Badan Nasional Penanggulangan Terorisme*/BNPT), the Special Detachment 88 (*Detasemen Khusus 88/Densus 88*) of the National Police, the Counterterrorism

¹ Murat Şengöz, "Regarding the Current National Security Challenges," *Uluslararası Yönetim Akademisi Dergisi* 5, no. 2 (2022): 34.

² Denny Suwondo, "The Legal Protection of Personal Data in the Perspective of Human Rights," *Law Development Journal* 5, no. 4 (2021): 420.

³ Hadi Ismanto, Gunarto Gunarto, and Sri Endah Wahyuningsih, "The Juridical Formulation of Hate Speech Cyber Crime and Its Law Enforcement Implementation," *Law Development Journal* 3, no. 4 (2021): 713.

⁴ Lazarus Tri Setyawanta and Joko Setiono, "Criminal Policy in Countering Terrorism in Indonesia," *International Journal of Law and Politics Studies* 5, no. 1 (2023): 151.

⁵ Joko Setiyono, "Regulatory strategies and legal issues for countering terrorism in Indonesia," *J. Legal Ethical & Regul. Issues* 24 (2021): 3.

Detachment of the Indonesian Armed Forces, and the State Intelligence Agency.⁶ At the international level, Indonesia has ratified and implemented several conventions and resolutions of the United Nations related to terrorism, such as the International Convention for the Suppression of the Financing of Terrorism, the International Convention for the Suppression of Acts of Nuclear Terrorism, and the United Nations Global Counter-Terrorism Strategy. Indonesia has also participated and cooperated in various regional and sub-regional forums and initiatives to prevent and combat terrorism, such as the Association of Southeast Asian Nations (ASEAN), the ASEAN Regional Forum (ARF), the ASEAN Plus Three (APT), the East Asia Summit (EAS), the ASEAN Defence Ministers' Meeting Plus (ADMM Plus), and the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime.

Although Indonesia has made efforts and progress in addressing terrorism through legal measures, several challenges persist.⁷ One of them is the emergence and influence of new terrorist groups, particularly the Islamic State of Iraq and Syria (ISIS), which has claimed responsibility for recent attacks in Indonesia. ISIS has also recruited and trained Indonesian citizens as Foreign Terrorist Fighters (FTF) in Syria and Iraq.⁸ Another challenge involves the potential and risk of human rights violations by law enforcement and security agencies during anti-terrorism operations.⁹ This includes arbitrary arrests, detentions, searches, seizures, as well as torture, enforced disappearances, and extrajudicial killings of suspected or alleged terrorists.

The lack of coordination, communication, and synergy among relevant institutions and agencies in preventing and combating terrorism at both the central and local levels, as well as among the executive, legislative, and judicial branches of the government, poses a serious challenge.¹⁰ Additionally, the inadequacy and inconsistency of the legal framework and judicial system in handling terrorism cases, including the definition, prevention, and rehabilitation of terrorism, as well as the investigation, prosecution, and adjudication of terrorism suspects and

⁶ Milda Istiqomah, and Fachrizal Afandi, "The Urgency of Gender-Based Counterterrorism Policy Regulation in Indonesia," *Sriwijaya Law Review* 6, no. 2 (2022): 211.

⁷ Alif Satria and Cameron Sumpter, "Recognizing trade-offs in Indonesian counterterrorism strategy," *Perspectives on Terrorism* 16, no. 5 (2022): 37.

⁸ Luthfi Ghifariz and Endri Ahmadi, "ISIS Returnees: A Potential Treats to the National Security in the Disruptive Era," *Politika: Jurnal Ilmu Politik* 12, no. 2 (2021): 300.

⁹ Helen Fenwick and Daniel Fenwick, "National Counter-Terrorism (CT) Policies and Challenges to Human Rights and Civil Liberties: Case Study of United Kingdom: Developing a Multifaceted Preventive Counter-Terror Response in the UK," *International Human Rights and Counter-Terrorism* (2019): 323.

¹⁰ Eric Rosand, "The UN-Led Multilateral Institutional Response to Jihadist Terrorism: Is a Global Counterterrorism Body Needed?," *Journal of Conflict and Security Law* 11, no. 3 (2006): 403.

perpetrators, need attention.¹¹ A more comprehensive and holistic approach is required to prevent and eradicate terrorism, not only focusing on the hard or repressive aspects but also on the soft or preventive aspects. This includes empowering, educating, advocating, and researching civil society, religious organizations, and communities, as well as addressing the needs of victims and former terrorists.¹²

Therefore, this research aims to analyze and evaluate the legal approach to criminal acts of terrorism in Indonesia, by examining the existing laws and regulations, institutions and agencies, policies and strategies, as well as the challenges and problems related to terrorism in Indonesia. This research also aims to provide recommendations and suggestions for improving and enhancing the legal approach to criminal acts of terrorism in Indonesia, by considering the principles and values of democracy, human rights, and the rule of law, as well as the national and international standards and best practices in preventing and combating terrorism. This research is expected to contribute to the academic and practical knowledge and understanding of the legal issues and aspects of terrorism in Indonesia, as well as to the development and improvement of the legal framework and system in preventing and eradicating terrorism in Indonesia.

2. Methods

The research for this study adopts a normative juridical method, focusing on the examination of legal norms, principles, and doctrines, complemented by a comparative analysis with the laws and experiences of other countries. Additionally, an empirical juridical method will be employed, encompassing the collection and analysis of data from primary and secondary sources. This includes scrutinizing legislation, court decisions, official reports, academic articles, media reports, and conducting interviews with pertinent stakeholders. Meanwhile, government regulations used as sources in this research include the 1945 Constitution (UUD 1945); Government Regulation in Lieu of Law Number 1 and Number 2 of 2002, then changed to Law Number 15 of 2003; Law Number 15 of 2003 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism into Law; Law Number 6 of 2006 concerning Ratification of the International Convention for the Eradication of Terrorism Financing; Law Number 9 of 2013 concerning Prevention and Eradication of Terrorism Financing Crimes. The

¹¹ Shirin Sinnar, "Separate and unequal: The law of " domestic" and" international" terrorism," *Michigan Law Review* (2019): 1334.

¹² Emeka Thaddues Njoku, "State-oriented service-delivery partnership with civil society organizations in the context of counter-terrorism in Nigeria," *Development Policy Review* 39, no. 5 (2021): 760.

combination of these methods aims to provide a comprehensive understanding of the legal landscape and its practical implications.

3. Results and Discussion

3.1. Legal Basis for Handling Terrorism

The emergence of terrorism cases in the homeland, such as the Bali bombing on October 12, 2002, led the government to issue Government Regulation in Lieu of Law Number 1 of 2002 concerning the Eradication of Terrorism Crimes. Subsequently, Government Regulation in Lieu of Law Number 2 of 2002 concerning the Implementation of Government Regulation in Lieu of Law Number 1 of 2002 concerning the Eradication of Terrorism Crimes was enacted. However, the Criminal Code does not regulate this, and the regulation applies retroactively to the perpetrators of the Bali bombing I, allowing them to be prosecuted and tried to be held accountable for their actions.

Until now, to apprehend and prosecute perpetrators of terrorism crimes, law enforcement agencies use the Government Regulation in Lieu of Law that has been enacted into Law Number 15 of 2003 concerning the Determination of Government Regulation in Lieu of Law Number 1 of 2002 concerning the Eradication of Terrorism Crimes as Law. In the counter-terrorism efforts, the government also issued Presidential Regulation Number 46 of 2010 concerning the Establishment of the National Counter-Terrorism Agency, amended in 2012 by Presidential Regulation Number 12 of 2012.¹³

The resolution of terrorism through law enforcement and preventive efforts employs two strategies. First, counter-radicalization, involving the instillation of Indonesian values and non-violence through formal and non-formal education in collaboration with religious, educational, community, and other stakeholders. Second, deradicalization, aimed at sympathizers, supporters, core members, and militants inside and outside prisons, encouraging them to abandon violence and terror in line with the spirit of moderate Islamic groups and in harmony with the national mission that strengthens the Unitary State of the Republic of Indonesia (NKRI).¹⁴ Meanwhile, indicators of the level of radicalism include:¹⁵ hate the

¹³ M. Rafiqul Islam, and Jakerul Abedin, "National security, terrorism and counterterrorism law, policy and practice in Bangladesh," *Austl. J. Asian L.* 21 (2020): 141.

¹⁴ Badan Nasional Penanggulangan Terorisme, "Strategi Menghadapi Paham Radikalisme Terorisme-ISIS," *Jakarta: Belmawa* (2016), 52.

¹⁵ Ahmad Syafi'i Mufid, "Peta Gerakan Radikalisme di Indonesia," In *makalah dipresentasikan dalam Workshop Membangun Kesadaran dan Strategi Menghadapi Radikalisasi Agama*, Palu, vol. 22. 2012, 7.

government for not implementing Islamic law, refuse to sing the National Anthem and salute the flag, some wear distinctive clothing (said to be in accordance with Islamic teachings), Muslims outside the group are ungodly and infidels before emigrating (joining them).

Radicalism and terrorism are two things that go hand in hand, and are threats that endanger the unity and unity of the Indonesian State, so they need to be pursued through preventive and repressive efforts, including carrying out positive legal reforms.¹⁶ A fundamentalist community that emphasizes strong adherence to religious rules with a literal and passionate interpretation of the Koran and Sunnah,¹⁷ at least it colors human civilization and in its extreme form gives rise to attitudes of radicalism.¹⁸

Fazlur Rahman views fundamentalism as an effort against westernism,¹⁹ Meanwhile, Kuntowijoyo sees fundamentalism as a movement of radicalism and terrorism because it has dangerous political implications for industrial countries in the West.²⁰ Meanwhile, according to Azyumardi Azra, radicalism is an extreme form of revivalism, namely the intensification of Islam which is more inward oriented where a belief is applied to the individual. Meanwhile, the form of radicalism which tends to be outward oriented, or whose application tends to use violent action is called fundamentalism.²¹

The issuance of Law Number 9 of 2013 concerning the Prevention and Eradication of the Crime of Terrorism Financing, particularly in Chapter V on Prevention, involves supervision of suspected terrorism financing.²² In Article 11, it is stated that terrorism financing prevention includes the application of principles in recognizing Financial Service Users; reporting and supervising the compliance of Financial Service Providers; and overseeing money transfer activities through transfer systems or other systems. It can be said that Law Number 9 of 2013 is the state's effort to protect society from terrorism acts by preventing terrorism financing and criminalizing such funding.

¹⁶ Yaza Azzahara Ulyana. "The Theories of Transnational Terrorism, Relative Deprivation and Fundamentalism in Terrorism Act: The Case Study in Indonesia." *International Journal of Business, Economics, and Social Development* 2, no. 3 (2021): 128.

¹⁷ John Obert Voll, *Politik Islam: Kelangsungan dan Perubahan di Dunia Modern*, trans. oleh Ajat Sudrajat (Yogyakarta: Titian Ilahi Press, 1997), 55.

¹⁸ Or Honig, and Ido Yahel, "A fifth wave of terrorism? The emergence of terrorist semi-states," *Terrorism and Political Violence* 31, no. 6 (2019): 1217.

¹⁹ Fazlur Rahman, *Islam and Modernity* (Chicago: The University of Chicago Press, 1982), 136.

²⁰ Kuntowijoyo, *Identitas Politik Umat Islam* (Bandung: Mizan, 1997), 49.

²¹ Azyumardi Azra, *Islam Reformis: Dinamika Intelektual dan Gerakan* (Jakarta: Raja Grafindo Persada, 1999), 46.

²² Zeynab Malakoutikhah, "Financial exclusion as a consequence of counter-terrorism financing," *Journal of Financial Crime* 27, no. 2 (2020): 672.

This is in line with Law Number 6 of 2006 concerning the Ratification of the International Convention for the Suppression of the Financing of Terrorism (1999), obliging Indonesia to synchronize elements in the convention into positive law. Although it was previously regulated in Law Number 15 of 2003 concerning the Eradication of Terrorism, it was not sufficient to prevent the flow of funding for terrorist activities.²³ The handling of terrorism crimes is an international responsibility, given that such crimes cross territorial borders, are organized, have extensive networks, and are massive in nature.²⁴ Therefore, they must be promptly addressed as they can affect both national and international peace and security.

3.2. Legal Aspects in Preventing and Suppressing Terrorism

The fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) states, "then, from there, to establish a government of the State of Indonesia that protects the entire Indonesian people and the entire homeland of Indonesia and to advance the common welfare, educate the life of the nation, and participate in implementing world order based on freedom, eternal peace, and social justice...". Therefore, based on this foundation, the constitutional and continuous enforcement of law and order is required.

A series of bombing incidents that have occurred in the territory of the Republic of Indonesia, such as in Jakarta and Bali in recent years, has instilled widespread fear in the community, resulting in the loss of hundreds of lives and property damage. It has also had unfavorable effects on social, economic, political life, and Indonesia's relations with the international community. Some countries have issued travel warnings or travel bans to their citizens traveling to Indonesia, citing the non-conducive security situation in Indonesia.

The bombings are one of the terrorism methods that have become a common phenomenon in several countries, organized and having extensive networks that threaten both national and international peace and security. The Indonesian government, in line with the mandate of the fourth paragraph of the preamble to the 1945 Constitution, especially in the function of protecting the entire Indonesian people and the entire homeland of Indonesia, is obligated to protect its territory and citizens from any criminal threats, whether national or

²³ M. Zen Abdullah, "Analisis Yuridis Terhadap Undang-Undang Nomor 15 Tahun 2003 jo Undang-Undang Nomor 5 Tahun 2018 Tentang Pemberantasan Tindak Pidana Terorisme Dalam Hubungan Dengan Hak Azasi Manusia," *Legalitas: Jurnal Hukum* 13, no. 1 (2021): 29.

²⁴ Idemudia Edetalehn Oaihimore, and Paul Atagamen Aidonojie, "The Innovative concept and Issues Concerning the Non-Custodial Sentence in Nigerian Criminal Justice System," *Law Development Journal* 5, no. 3 (2007): 358-379.

international in nature. The government is also obligated to maintain sovereignty and preserve the unity and national integration from any form of threats, whether coming from external or internal sources. Therefore, the consistent and continuous enforcement of law and order is crucial.

Terrorism is a crime that must be combated and eradicated, requiring good cooperation from the Indonesian government, law enforcement agencies (POLRI, judges, prosecutors, lawyers, and correctional institutions), security forces (TNI), and the entire Indonesian society. However, this is not enough, and cooperation with other countries is essential in the efforts to combat and eradicate terrorism.²⁵

As a crime that needs to be collectively fought against, numerous international legal rules (conventions) have been established. There are 12 multilateral conventions related to terrorism, namely:

1. Convention on Offences and Certain Other Acts Committed on Board Aircraft ("Tokyo Convention", 1963).
2. Convention for the Suppression of Unlawful Seizure of Aircraft ("Hague Convention", 1970).
3. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation ("Montreal Convention", 1971).
4. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, 1973.
5. International Convention Against the Taking of Hostages ("Hostages Convention", 1979).
6. Convention on the Physical Protection of Nuclear Material ("Nuclear Materials Convention", 1980).
7. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1988
8. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988.

²⁵ Jin Wang, and Dehang Kong. "Counter-terrorism cooperation between China and Central Asian states in the Shanghai Cooperation Organization." *China Quarterly of International Strategic Studies* 5, no. 01 (2019): 68.

2002 concerning the Eradication of Terrorism Crimes in the Bombing Incident in Bali on October 12, 2002 as Law). The issuance of this regulation aimed to legally entangle the perpetrators of the Bali bombing I, which occurred before the issuance of Government Regulation in Lieu of Law Number 1 of 2002. Although legally violating the principles of "Nullum Delictum Noela Poena Lege Praevia" (no crime can be punished without prior legislation containing criminal sanctions - Article 1 paragraph (1) of the Criminal Code) and the principle of "non-retroactive" (laws cannot have retroactive effect), in some perspectives, with the reasons and basis of serious human rights violations, both principles can be set aside. However, in reality, Government Regulation in Lieu of Law Number 2 of 2002 was eventually annulled by the Constitutional Court because it violated the non-retroactive principle.

In 2006, as part of the fight against terrorism, the Indonesian government ratified the international convention on the suppression of terrorism financing through Law Number 6 of 2006 concerning the Ratification of the International Convention for the Suppression of the Financing of Terrorism, 1999. In the explanatory notes of this law, the Indonesian government stated that "the suppression of terrorism and its financing will be more effective if carried out through international cooperation in the formation of an international rule that becomes a common reference." This forms the basis for the Indonesian government's consideration to participate as one of the parties in the convention. Regarding this convention, the Indonesian government also made reservations, namely, regarding Article 24 paragraph (1), where Indonesia disagrees with the content of the article, which essentially regulates the provisions for settling differences in interpretation or disputes over the implementation of the convention. The International Court of Justice has the authority to adjudicate such disputes at the request of any disputing State Party. Indonesia stated a reservation to not be bound by this article because Indonesia believes that the submission of a dispute to the International Court of Justice can only be done based on the agreement of the disputing parties.

A thesis by Vety Zurrifatul Laily (2003) titled "A Study of Terrorism in the Perspective of Indonesian Criminal Law (An Overview of the Republic of Indonesia Law Number 15 and Number 16 of 2003 concerning the Determination of Government Regulation in Lieu of Law (Perpu) Number 1 and Number 2 concerning the Eradication of Terrorism Crimes)"²⁶ explicitly mentions fundamental weaknesses in the legislation, including the form of legislation, limitations on terrorism itself, classification of criminal acts, the scope of applicability, its relation to other legislation, including evidence and legal

²⁶ Vety Zurrifatul Laily, "Kajian Terorisme Dalam Perspektif Hukum Pidana Indonesia (Suatu Tinjauan Terhadap Undang-Undang Republik Indonesia Nomor 15 Dan Nomor 16 Tahun 2003 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang (PERPU) Nomor 1 dan Nomor 2 Tentang Pemberantasan Tindak Pidana Terorisme)," PhD diss., University of Muhammadiyah Malang, 2004, 24.

proceedings. Therefore, what needs to be done is to address various weaknesses to solve terrorism issues and always adhere to principles such as the protection of civil liberties, respect and protection of individual rights, and the limitation and prevention of the abuse of state power.²⁷

A discussion about terrorism also raises the pros and cons of the substance of the Terrorism Law, one of the problems that arises is the definition of terrorism that applies universally,²⁸ As explained in the previous section, up to now, there has been no universally agreed-upon definition of terrorism that is accepted by all parties. Each party defines terrorism according to its own perception. However, the lack of agreement on the definition of terrorism does not mean that terrorism is allowed to escape legal scrutiny. What is certain is the shared vision that terrorism in any form and modus operandi must be fought against and eradicated.²⁹

Articles related to criminal procedure and Human Rights Law are also substantive issues in the Anti-Terrorism Law. For example, Article 25 paragraph (1) of the Anti-Terrorism Law states, "Investigation, prosecution, and trial in criminal terrorism cases shall be carried out based on applicable procedural laws, unless otherwise specified in Government Regulation in Lieu of Law." Thus, the Criminal Procedure Code (*Kitab Undang-Undang Hukum Acara Pidana/KUHAP*) is used for proceedings in handling terrorism offenses. Continuing in Article 26 paragraphs (1), (2), and (3) of the Anti-Terrorism Law, it is mentioned that to obtain preliminary evidence, investigators can use any intelligence report which is examined by the Chief or Vice Chief of the District Court in a closed manner to determine whether the intelligence report contains sufficient preliminary evidence to be followed up in the investigation process. The problem lies in the closed examination process, which could potentially lead to abuses by authorities in arresting or designating suspects for terrorism offenses without control from other parties (the public). If this happens, it would be a violation of human rights.

Voices calling for changes to the Anti-Terrorism Law have also been expressed by former Coordinating Minister for Political, Legal, and Security Affairs, Widodo AS. He believes that combating terrorism requires a broader role for the Indonesian National Armed Forces (*Tentara Nasional Indonesia/TNI*). The involvement of the TNI in counter-terrorism efforts is seen as a national strengthening effort that needs to be supported by legislation. In certain scales and escalations of specific terror threats, the deployment of specific resources and capabilities beyond the capacity of the National Police (*Kepolisian Republik Indonesia/Polri*) may be necessary. For example, in incidents of hijacking at sea, aircraft hijacking, hostage-

²⁷ Laily, "Kajian Terorisme Dalam Perspektif Hukum Pidana Indonesia", 25.

²⁸ La Sina, "Aspek Hukum Pemberantasan Terorisme di Indonesia," *Risalah Hukum* (2009): 61.

²⁹ Keren Cohen-Louck, "Perception of the threat of terrorism," *Journal of interpersonal violence* 34, no. 5 (2019): 889.

taking in remote areas, and the use of weapons of mass destruction. Given the increasing complexity of the issues in handling terrorism, there is a need to consider amending Law Number 15 of 2003 concerning the Eradication of Terrorism.³⁰ This particularly relates to the position and role of intelligence and the National Police, aiming for them to handle terrorism maximally and effectively. The opinions have some validity and need special attention, considering that effective counterterrorism efforts require good cooperation and the avoidance of sectoral egos among authorized agencies and authorities. This is to achieve the common goal of a conducive national security situation and public order free from terrorism threats. The current Anti-Terrorism Law does not facilitate the involvement of the TNI in counterterrorism efforts.

4. Conclusion

The legal approach to combating terrorism in Indonesia is based on legal foundations, particularly Government Regulation in Lieu of Law Number 1 of 2002 and Number 2 of 2002, which were later amended into Law Number 15 of 2003. Additionally, the prevention of terrorism financing is regulated by Law Number 9 of 2013. Counterterrorism efforts involve strategies of counter-radicalization and deradicalization, focusing on Indonesian values, non-violence, and both formal and non-formal education. The establishment of the National Counterterrorism Agency (*Badan Nasional Penanggulangan Terorisme*/BNPT) and efforts to prevent terrorism financing are integral parts of the legal approach. Changes in positive law reflect Indonesia's responsibility in addressing the terrorism threat, considered a cross-border menace requiring international cooperation to maintain peace and security.

In the context of preventing and combating terrorism in Indonesia, the legal approach is grounded in the Preamble to the 1945 Constitution of the Republic of Indonesia, emphasizing the protection of the entire Indonesian nation. A series of terrorism events, such as those in Jakarta and Bali, has created widespread fear in society, causing economic, social, and political harm and influencing international relations. In line with constitutional mandates, the Indonesian government has an obligation to protect its citizens from terrorism threats, secure its territory, and uphold national sovereignty and integrity. Efforts to prevent and combat terrorism are carried out through laws, including the Anti-Terrorism Law, which faces criticism, especially regarding the universal definition of terrorism. The ratification

³⁰ Muhammad Ali Farhan, and Dini Dewi Heniarti, "Keterlibatan TNI dan Polri dalam Penanggulangan Tindak Pidana Terorisme berdasarkan Undang-Undang Nomor 5 Tahun 2018 tentang Perubahan Atas Undang-Undang Nomor 15 Tahun 2003 tentang Perubahan Penetapan Peraturan Pemerintah Pengganti Undang-Undang Jo. Undang-Undang Nomor 1 Tahun 2002 tentang Pemberantasan Tindak Pidana Terorisme," *Prosiding Ilmu Hukum* (2019): 752.

of international conventions and cooperation with other countries are also crucial aspects of counterterrorism. Nevertheless, there are critiques of substantial weaknesses in the Anti-Terrorism Law, including issues related to definition, criminal procedural law, and human rights. Calls for changes and broader involvement of the Indonesian National Armed Forces (*Tentara Nasional Indonesia/TNI*) in counterterrorism emerge as issues requiring serious attention, possibly necessitating amendments to the Anti-Terrorism Law to achieve effective cross-sectoral cooperation in facing terrorism threats.

5. References

- Abdullah, M. Zen. "Analisis Yuridis Terhadap Undang-Undang Nomor 15 Tahun 2003 jo Undang-Undang Nomor 5 Tahun 2018 Tentang Pemberantasan Tindak Pidana Terorisme Dalam Hubungan Dengan Hak Azasi Manusia." *Legalitas: Jurnal Hukum* 13, no. 1 (2021): 26-35.
- Azra, Azyumardi. *Islam Reformis: Dinamika Intelektual dan Gerakan*. Jakarta: Raja Grafindo Persada, 1999.
- Badan Nasional Penanggulangan Terorisme. *Strategi Menghadapi Paham Radikalisme Terorisme–ISIS*. Jakarta: Belmawa, 2016.
- Cohen-Louck, Keren. "Perception of the threat of terrorism." *Journal of interpersonal violence* 34, no. 5 (2019): 887-911.
- Farhan, Muhammad Ali, and Dini Dewi Heniarti. "Keterlibatan TNI dan Polri dalam Penanggulangan Tindak Pidana Terorisme berdasarkan Undang-Undang Nomor 5 Tahun 2018 tentang Perubahan Atas Undang-Undang Nomor 15 Tahun 2003 tentang Perubahan Penetapan Peraturan Pemerintah Pengganti Undang-Undang Jo. Undang-Undang Nomor 1 Tahun 2002 tentang Pemberantasan Tindak Pidana Terorisme." *Prosiding Ilmu Hukum* (2019): 749-756.
- Fenwick, Helen, and Daniel Fenwick. "National Counter-Terrorism (CT) Policies and Challenges to Human Rights and Civil Liberties: Case Study of United Kingdom: Developing a Multifaceted Preventive Counter-Terror Response in the UK." *International Human Rights and Counter-Terrorism* (2019): 323-363.
- Ghifariz, Luthfi, and Endri Ahmadi. "ISIS Returnees: A Potential Treats to the National Security in the Disruptive Era." *Politika: Jurnal Ilmu Politik* 12, no. 2 (2021): 297-309.
- Honig, Or, and Ido Yahel. "A fifth wave of terrorism? The emergence of terrorist semi-states." *Terrorism and Political Violence* 31, no. 6 (2019): 1210-1228.
- Islam, M. Rafiqul, and Jakerul Abedin. "National security, terrorism and counterterrorism law, policy and practice in Bangladesh." *Austl. J. Asian L.* 21 (2020): 137.



- Ismanto, Hadi, Gunarto Gunarto, and Sri Endah Wahyuningsih. "The Juridical Formulation of Hate Speech Cyber Crime and Its Law Enforcement Implementation." *Law Development Journal* 3, no. 4 (2021): 710-718.
- Istiqomah, Milda, and Fachrizal Afandi. "The Urgency of Gender-Based Counterterrorism Policy Regulation in Indonesia." *Sriwijaya Law Review* 6, no. 2 (2022): 205-223.
- Kuntowijoyo. *Identitas Politik Umat Islam*. Bandung: Mizan, 1997.
- Laily, Vety Zurrifatul. "Kajian Terorisme Dalam Perspektif Hukum Pidana Indonesia (Suatu Tinjauan Terhadap Undang-Undang Republik Indonesia Nomor 15 Dan Nomor 16 Tahun 2003 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang (PERPU) Nomor 1 dan Nomor 2 Tentang Pemberantasan Tindak Pidana Terorisme)." PhD diss., University of Muhammadiyah Malang, 2004.
- Laily, Vety Zurrifatul. Thesis: "Kajian Terorisme Dalam Perspektif Hukum Pidana Indonesia (Suatu Tinjauan Terhadap Undang-Undang Republik Indonesia Nomor 15 dan Nomor 16 Tahun 2003 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang (Perpu) Nomor 1 dan Nomor 2 tentang Pemberantasan Tindak Pidana Terorisme)". UMM: Malang, 2003.
- Malakoutikhah, Zeynab. "Financial exclusion as a consequence of counter-terrorism financing." *Journal of Financial Crime* 27, no. 2 (2020): 663-682.
- Mufid, Ahmad Syafi'i. "Peta Gerakan Radikalisme di Indonesia." In *makalah dipresentasikan dalam Workshop Membangun Kesadaran dan Strategi Menghadapi Radikalisasi Agama, Palu*, vol. 22. 2012.
- Njoku, Emeka Thaddues. "State-oriented service-delivery partnership with civil society organizations in the context of counter-terrorism in Nigeria." *Development Policy Review* 39, no. 5 (2021): 757-772.
- Oaihimore, Idemudia Edetalehn, and Paul Atagamen Aidonojie. "The Innovative concept and Issues Concerning the Non-Custodial Sentence in Nigerian Criminal Justice System." *Law Development Journal* 5, no. 3 (2007): 358-379.
- Rahman, Fazlur. *Islam and Modernity*. Chicago: The University of Chicago Press, 1982.
- Rosand, Eric. "The UN-Led Multilateral Institutional Response to Jihadist Terrorism: Is a Global Counterterrorism Body Needed?." *Journal of Conflict and Security Law* 11, no. 3 (2006): 399-427.
- Satria, Alif, and Cameron Sumpter. "Recognizing trade-offs in Indonesian counterterrorism strategy." *Perspectives on Terrorism* 16, no. 5 (2022): 34-45.
- Şengöz, Murat. "Regarding the Current National Security Challenges." *Uluslararası Yönetim Akademisi Dergisi* 5, no. 2 (2022): 340-351.
- Setiyono, Joko. "Regulatory strategies and legal issues for countering terrorism in Indonesia." *J. Legal Ethical & Regul. Issues* 24 (2021): 1.



- Setyawanta, Lazarus Tri, and Joko Setiono. "Criminal Policy in Countering Terrorism in Indonesia." *International Journal of Law and Politics Studies* 5, no. 1 (2023): 150-156.
- Sina, La. "Aspek Hukum Pemberantasan Terorisme di Indonesia." *Risalah Hukum* (2009): 60-66.
- Sinnar, Shirin. "Separate and unequal: The law of" domestic" and" international" terrorism." *Michigan Law Review* (2019): 1333-1404.
- Suwondo, Denny. "The Legal Protection of Personal Data in the Perspective of Human Rights." *Law Development Journal* 5, no. 4 (2021): 419-429.
- Ulyana, Yaza Azzahara. "The Theories of Transnational Terrorism, Relative Deprivation and Fundamentalism in Terrorism Act: The Case Study in Indonesia." *International Journal of Business, Economics, and Social Development* 2, no. 3 (2021): 127-134.
- Voll, John Obert. *Politik Islam: Kelangsungan dan Perubahan di Dunia Modern, trans. oleh Ajat Sudrajat*. Yogyakarta: Titian Ilahi Press, 1997.
- Wang, Jin, and Dehang Kong. "Counter-terrorism cooperation between China and Central Asian states in the Shanghai Cooperation Organization." *China Quarterly of International Strategic Studies* 5, no. 01 (2019): 65-79.