

Eradication of Terrorism Criminal Acts in the Digital Era

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Abstract. *In its development, human life, both on a community scale and a nation, both on a local scale and an international scale, cannot be separated from the changes that occur as a result of events that fundamentally change the world order. This can be seen, for example, in the collapse of the World Trade Center or WTC in the United States in 2001. The collapse of the WTC has become an event that fundamentally changed the model of American international politics. This clearly also sequentially changes the model of world politics. The type of legal research used is non-doctrinal. In this non-doctrinal legal research, law is conceptualized as a manifestation of the symbolic meanings of social actors as seen in the interactions between them. That the real reality of life does not exist in the empirical world which is also the world of observation, does not appear in the form of objectively patterned and structured behavior (let alone normative) and therefore can be measured to produce quantitative data. The reality of life actually only exists in the realm of meaning which appears in the form of symbols that can only be understood after being interpreted. The implementation of digital-based terrorism prevention has not been able to be realized effectively, this is indicated by the increasing recruitment of terrorist members, financing of terrorism, and the spread of terror through digital media today.*

Keywords: *Conceptualized; Development; Implementation; Media.*

1. Introduction

The Republic of Indonesia is a country of law, as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). This is a realization of the mandate for the protection of human values in a balanced manner as stated in the First, Second, and Third Principles of Pancasila and the Fourth Paragraph of the Opening of the 1945 UUD NRI. The existence of a legal basis as a ratio legis and basic law as a legal basis in the creation of various political products of legislation in this country, it is also clear that all legal policies

in Indonesia must be the latest instruments in realizing the ratio legis and legal basis in the life of the nation and state in order to realize the national goals as summarized in the Fourth Paragraph of the 1945 UUD NRI.

In its development, human life, both on a community scale and a nation, both on a local scale and an international scale, cannot be separated from the changes that occur as a result of events that fundamentally change the world order. This can be seen, for example, in the collapse of the World Trade Center or WTC in the United States in 2001. The collapse of the WTC has become an event that fundamentally changed the model of American international politics. This clearly also sequentially changes the model of world politics.

This is because the United States is a superpower that regulates politics, economics, and the military in the international order.¹This can also be seen clearly in the United States invasion of Iraq. The US treatment became the spark for the birth of the era of terrorism in the world. Most parties in the world saw that the American invasion was the US's way to control Weapons of Mass Destruction or WMD in the era of Saddam Hussein.²

The US under the guise of fighting terrorists carried out a military invasion in Iraq. This situation in its development has made the US an eternal enemy for a group of parties who feel oppressed and disadvantaged. This opinion is in line with Chomsky's view which states that "the US invasion of Iraq actually expanded the global terrorist network, and ultimately made Iraq a training base for global terrorists."³

Apart from US international politics, the transformational changes from the cold war to the modern hegemonic war have affected the national security life order. Terrorism in Indonesia has also grown rapidly. This has become a catalyst for national security threats in Indonesia. In the past, threats emerged from world wars, both the first and second world wars, which then turned into a cold war with the hegemony of the advancement of nuclear weapons technology for mass destruction.

The current military power that is often carried out with violence to crimes against humanity (genocide), has gradually changed. Violence and war crimes are no longer only associated with the military, but civilians who are organized, trained and indoctrinated have become militants who often carry out terrorist movements that have disturbed the lives of humanity and world peace.

¹ www.ifip.org, Terrorism And US Hegemony And Regional Implications, Accessed March 12, 2020.

² Joseph E. Stiglitz and Linda J. Bilmes, *The Three Trillion Dollars: The True Cost of the Iraq Conflict*, WW Norton & Company, Inc, New York, 2008, p. 23.

³ Noam Chomsky, *Failed State: The Abuse of Power and the Assault on Democracy*, Metropolitan Books, New York, 2006, p. 117.

This metamorphosis also occurred in Indonesia, if during the colonial era until the September 30th Movement the PKI used the cruelty of armed groups to facilitate the hegemony of colonialism and its power politics, it was different in the 2000s, the object of violence was no longer against fighters and anti-communist groups, but even entertainment enthusiasts in cafes could also become objects of violence for terrorists. This was seen in the cases of the Bali Bombing I and Bali Bombing II.

Most terrorist groups use cyberspace, for example the group found by Abu Musab Al-Zarqawi from the Al-Qaeda faction in Saudi almost never had direct contact with the mass media, they focused their communication activities in cyberspace. This method prevented them from receiving widespread media attention. Paradoxically, the mass media itself uses the web to search for traces and messages about the latest terrorism they do which will encourage the emergence of public opinion internationally.⁴

Al-Qaeda view that the Internet is not only a method to achieve safer and faster media, but also a turning point in the rise of effective communication strategies compared to traditional media. For the first time, cyber-space is able to enable direct communication between terrorists and their public. The Internet not only fills the limitations of mass media, but the Internet also allows them to avoid a number of moral rules contained in mass media and limit their actions, and this is beneficial for their terrorist action strategy. As a group of jihadists did along with the invasion of Iraq in 2003, the Internet not only allowed them to avoid operational risks, but allowed them to gain access by infiltrating traditional media systems such as Al-Jazeera.⁵ So it is clear that in handling terrorism can no longer use traditional approaches. In its development, the approach to eradicating terrorism in Indonesia has undergone various changes.

Various acts of terror during the Old Order era were motivated by separatism or the desire to carry out a coup. This can be seen in the case of the rebellion of the Revolutionary Government of the Republic of Indonesia (PRRI), the Struggle of the Universal People (Permesta) and the Ratu Adil Army (APRA). The existence of movements based on certain religious symbols such as Darul Islam/Tentara Islam Indonesia (DI/TII), with figures such as Kahar Muzakar, Kartosuwiryo and Daud Beureuh, but their spirit was separatism. All of these movements were dealt with by the state through a hard approach method, involving armed confrontation with military force. Some examples include PRRI which was crushed with the largest military force ever recorded in Indonesian military history. In addition, Permesta, which was involved in armed contact with the government several

⁴Location, cit.

⁵Location, cit.

times, before realizing its position was getting more difficult and then deciding to return to the Republic of Indonesia and declare its dissolution.⁶

The New Order era in the following period began to see acts of terrorism based on the interpretation of certain religious teachings. This can be seen in the case of the hijacking of a Garuda plane on March 28, 1981, or the bombing of Borobudur Temple on January 21, 1985. At that time the country was still using a hard approach. However, the New Order relied more on a relatively quiet intelligence strategy than the armed confrontation strategy as practiced in the Old Order era. Presidential Decree of the Republic of Indonesia Number 11 of 1963, which had previously been the basis for eradicating acts of terrorism, was considered invalid when the New Order era began. However, in 1969, the regulation was strengthened into Law Number 11 of 1969, which then again became the basis for taking action against acts of terrorism using the hard approach method.⁷

Then on Reformation era, Law No. 11/PNPS/1963 was officially revoked through the enactment of Law No. 26 of 1999. Meanwhile, acts of terrorism such as bombings and suicide bombings continued to emerge, this time targeting houses of worship, crowded centers and embassies of friendly countries. The act of terrorism in Indonesia that attracted the most attention was the Bali Bombing 1 incident on October 12, 2002. This incident was responded to quickly by the government. After several years of countering acts of terrorism without a specific legal umbrella, this time the government issued Government Regulation in Lieu of Law (Perpu) number 1 of 2002. This regulation was then ratified as Law number 15 of 2003, concerning the Eradication of Criminal Acts of Terrorism. This step was followed by Presidential Instruction Number 4 of 2002, which gave a mandate to the Coordinating Minister for Political and Security Affairs (Menkopolkam) to create a national strategy and policy in dealing with terrorism. The Coordinating Minister for Political, Legal and Security Affairs then issued a decree numbered 26/Menko/Polkam/11/2002, concerning the establishment of the Terrorism Eradication Coordination Desk (DKPT).⁸

After Perppu No. 1 of 2002 and Perppu No. 2 of 2002 were issued, terror bomb attacks in Indonesia continued to occur. In fact, almost every year terror bomb attacks took place in remote parts of the Indonesian archipelago. The terror attacks did not stop until Perppu No. 1 of 2002 was stipulated as Law Number 15

⁶ <https://damailahindonesiaku.com/terorisme/sejarah-terorisme>, Downloaded on March 12, 2024.

⁷Location, cit.

⁸Location, cit.

of 2003 and Perppu No. 2 of 2002 was stipulated as Law Number 16 of 2003 in early 2003.⁹

Then pOn January 14, 2016, there was an explosion and bomb attack on Jalan MH Thamrin, Sarinah building, Central Jakarta. The attack in the middle of Jakarta shocked many parties. The Coordinating Minister for Political, Legal and Security Affairs at that time, Luhut Binsar Panjaitan, asked the DPR to revise Law No. 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism. The hope is that the new law can prevent terrorist acts preventively so that attacks do not occur. Then on February 11, 2016 the draft of the Anti-Terrorism Bill was submitted to the DPR. Then, the DPR formed a special committee to discuss the Anti-Terrorism Bill. The existence of the Anti-Terrorism Bill Special Committee members was ratified on April 12, 2016.

Several articles were called controversial by the civil society coalition. For example, regarding detention for 6 months without clear legal status, which is called the Guantanamo article. Then, the article on the involvement and position of the TNI in eradicating terrorism. Up to the definition of suspected terrorists and the broad scope of acts of terrorism and violence. Along with the discussion of the Anti-Terrorism Bill, bomb attacks continued to take place. For example, the bomb exploded at the Surakarta Police Headquarters on July 5, 2016. The bombing of the Catholic Church of Stasi Santo Yosep, Medan on August 28, 2016. The bombing of the Oikumene Church, Samarinda and the Bombing of the Budi Dharma Vihara, Singkawang City, West Kalimantan on November 13 and 14, 2016 respectively.¹⁰

The problem of handling terrorism in Indonesia is caused by the political stagnation of terrorism law which still has the paradigm of traditional law enforcement. This is different from several other countries. In America, efforts to eradicate terrorism are carried out not only by law enforcement but also handling which includes prevention and supervision. Prevention begins by classifying the causes of terrorism, this can be seen in the United States National Strategy For Combating Terrorism which states that:¹¹

To wage the battle of ideas effectively, we must recognize what does and does not give rise to terrorism:

1) *Terrorism is not the inevitable by-product of poverty. Many of the September 11 hijackers were from middle-class backgrounds, and many terrorist leaders, like bin Laden, were from privileged upbringings.*

⁹ <https://www.hukumonline.com/berita/baca/lt5b0531a3c651d/sekelumit-kisah-perjalanan-uu-anti-terorisme/>, Accessed March 12, 2024.

¹⁰Location, cit.

¹¹United States, *United States National Strategy For Combating Terrorism*, United States Of America, 2006, p. 9-10.

2) *Terrorism is not simply a result of hostility to US policy in Iraq. The United States was attacked on September 11 and many years earlier, well before we toppled the Saddam Hussein regime. Moreover, countries that did not participate in Coalition efforts in Iraq have not been spared from terror attacks.*

3) *Terrorism is not simply a result of Israeli-Palestinian issues. Al-Qaida plotting for the September 11 attacks began in the 1990s, during an active period in the peace process.*

4) *Terrorism is not simply a response to our efforts to prevent terror attacks. The al-Qaida network targeted the United States long before the United States targeted al-Qaida. Indeed, the terrorists are emboldened more by perceptions of weakness than by demonstrations of resolve. Terrorists lure recruits by telling them that we are decadent, easily intimidated, and will retreat if attacked.*

After classifying the issues that are the root of terrorism, prevention is carried out by building a democratic system that is able to realize protection and guarantee the recognition of human rights for all parties, then supervising terrorist networks that are able to damage the country through armed terror, and international political war by refusing cooperation with institutions or countries involved in terrorism. This can also be seen in the statement in *United States National Strategy For Combating Terrorism* which reads:¹²

In response to our efforts, the terrorists have adjusted, and so we must continue to refine our strategy to meet the evolving threat. Today, we face a global terrorist movement and must confront the radical ideology that justifies the use of violence against innocents in the name of religion. As laid out in this strategy, to win the War on Terror, we will:

- 1) *Advance effective democracies as the long-term antidote to the ideology of terrorism;*
- 2) *Prevent attacks by terrorist networks;*
- 3) *Deny weapons of mass destruction to rogue states and terrorist allies who seek to use them;*
- 4) *Deny terrorists the support and sanctuary of rogue states;*
- 5) *Deny terrorists control of any nation they would use as a base and launching pad for terror; and*
- 6) *Lay the foundations and build the institutions and structures we need to carry the fight forward against terror and help ensure our ultimate success.*

¹²Ibid, p. 1.

In addition to the absence of a formulation related to prevention and handling in the existing terrorism law, the problem of poor coordination between related law enforcers is also a separate problem due to the lack of clear regulation of the coordination system of the task force that functions to eradicate existing terrorism. Sri Endah Wahyuningsih stated that there needs to be good coordination between existing law enforcement agencies regarding a problem of existing law violations or crimes.¹³

2. Research Methods

The type of legal research used is non-doctrinal. In this non-doctrinal legal research, law is conceptualized as a manifestation of the symbolic meanings of social actors as seen in the interactions between them. That the real reality of life does not exist in the empirical world which is also the world of observation, does not appear in the form of objectively patterned and structured behavior (let alone normative) and therefore can be measured to produce quantitative data. The reality of life actually only exists in the realm of meaning which appears in the form of symbols that can only be understood after being interpreted. Such realities cannot be easily "captured" through external observation and measurement. These realities can only be "captured" through experience and internal experiences that produce a complete picture of understanding.¹⁴

3. Results and Discussion

3.1. Regulation of Eradicating Terrorism in the Current Digital Era

Talking about globalization, basically globalization is an era marked by the advancement of information technology, telecommunications, and transportation which is increasingly rapid and sophisticated, the orientation of thinking, interests, and all human efforts to realize thoughts and achieve their interests, the scope of which covers an increasingly global area and creates a situation where people in parts of the world can easily.¹⁵ This is in line with what was conveyed by Syed Muhammad Atif, Mudit Srivastav, Moldir Sauytbekova, and Udeni Kathri Arachchige in an article entitled "Globalization on Income Inequality" which states that "there are social, political, cultural origins of

¹³Sri Endah Wahyuningsih and Agus Sunaryo, "The Role of Prosecutor Office in the Eradication of Corruption Criminal Acts in Indonesia", *Journal of Legal Reform*, Volume IV No. 2 May - August 2017, p. 248.

¹⁴Soetandyo Wignjosoebroto, *Law, Paradigm, Method, and the Dynamics of the Problem*, HUMA, Jakarta, 2002, p. 198.

¹⁵Emil Salim, Sri Edi Swasono, Yudo Swasono, Tanri Abeng, Yaumil C. Agoes Achir, and Marco P. Sumampouw, 1997, *Management in the Era of Globalization*, Elex Media Komputindo, LEMHANNAS, Labora Management College, Jakarta, p. ix.

globalization, but most concerns are related to economic globalization and its consequences."¹⁶

Further regarding globalization, Jan Aart Scholte put forward five broad definitions of globalization, namely:¹⁷

1) Globalization is internationalization, namely seen as activities between countries that go beyond their respective territorial boundaries so that there is mutual exchange and international interdependence, especially concerning capital and trade;

2) Globalization as liberalization refers to the process of eliminating various political restrictions so that the world economy becomes more open and limitless;

3) Globalization as the universalization of information, communication, and transportation and various other activities of world society.¹⁸ where in relation to this aspect Oliver Reiser and B. Davies state that globalization is the process of spreading objects and experiences to all people in the world.¹⁹;

4) Globalization as westernization or modernization is the spread of western modernity structures throughout the world which involve capitalism, rationalism, industrialism, bureaucracy and so on which tend to destroy local cultures that already existed.²⁰ This is reinforced by Spybey, Martin Khor, Taylor, Schiller, and Ling who stated that globalization is identical to colonization and imperialism which destroys local culture;

5) Globalization as deterritorialization where there is a reconfiguration of geography, so that social space is no longer mapped based on territorial maps, distance and territorial boundaries. In relation to globalization as deterritorialization which results in the problem of state borderless, Anthony Giddens states that globalization is an intensification of world-level social relations that bring together various places (localities) in such a way that events that occur in one area are influenced by events that take place in very distant places and vice versa.²¹

¹⁶Syed Muhammad Atif, Mudit Srivastav, Moldir Sauytbekova, and Udeni Kathri Arachchige, 2012, *Globalization on Income Inequality, A Panel Data Analysis of 68 Developing Countries*, EconStor, www.ECONSTOR.EU, Downloaded on 12 January 2018

¹⁷Mohammad Amien Rais, 2007, *Urgent Agenda of the Nation, Save Indonesia!*, PPSK, Yogyakarta, pp. 13-14.

¹⁸Loc.cit.,

¹⁹Bagong Suyanto, 2013, *Economic Sociology, Capitalism and Consumption in the Era of Post-Modern Society*, Kencana, Jakarta, p. 93.

²⁰Moh. Amien Rais, Op.cit.,

²¹Ibid., p. 14

This is because globalization has massively changed the way of life by internationalizing western culture to all corners of the world. Therefore, the influence of globalization in everyday life is the same as the influence of globalization throughout the world.²² The negative side as an impact of globalization is an unexpected result or consequence of modernization. Modernization as a result of globalization forms a standardization of space and time for the international world through the formation of a connection between local authorities and global authorities.

The use of cyberspace also allows the terrorists to send an attack that includes several consecutive attacks from just one location. Terrorists can carry out their actions from a great distance, even different continents or countries with the Internet. Even if they use computers close to their target area, terrorists do not need to be at the location so the use of cyberspace means that their actions do not need to sacrifice their members.²³ For example, in the Middle East, the website of the Islamic militant group, Hezbollah, was created by Hamas supporters to announce their killing of a group of Jews. Cyber war broke out between the Arabs and the Jews.²⁴ Not only as a medium for propaganda and cyber war, the internet media is also used by terrorists to raise funds, coordinate attacks, and even conduct bomb-making training.

This further shows the importance of continuing to update the law, especially in the field of terrorism, so that prevention and eradication of criminal acts of terrorism can run effectively. Currently, the policy of preventing criminal acts of terrorism digitally has not been able to be realized effectively. This problem can be seen in several cases below:²⁵

1) Case in Decision No. 544/Pid.B/2011/PN.Jkt. Tim.

THE EAST JAKARTA DISTRICT COURT, which examines and tries criminal cases in the first instance with the Regular Examination Procedure has issued the following verdict in the case of Defendant Bintang Juliardhi alias Anggara Nusantara alias Banu. The defendant was detained by the National Police Headquarters Investigator from June 30, 2010 to October 28, 2010. During the investigation process at the police level, the examination of the defendant was also carried out face-to-face between the investigator and the defendant. The investigation process at the police level has not used digital technology to facilitate the examination of the case. In the verdict, the judge stated that the Defendant Bintang Juliardhi alias Anggara Nusantara alias Banu. was not proven

²²Anthony Giddens, 2003, *Runaway World How Globalization Is Transforming Our Lives*, PT. Gramedia Pustaka Utama, Jakarta, p. xvi.

²³Brenner in Eska, *Op.Cit.*, p. 45.

²⁴*Ibid.*,

²⁵ <https://putusan3.mahkamahagung.go.id/>, accessed May 12, 2021.

guilty of committing a crime of terrorism as charged in the first and third charges.

2) Case in Decision No. 229/Pid.B/2012/PN.LSK.

The Lhoksukon District Court, which tries criminal cases with regular examination procedures at the first level, issued the following verdict in the case of Muhammad Jhony Bin Husin. The defendant was detained by the National Police Headquarters Investigator from April 20, 2012 to August 20, 2012. During the investigation process at the police level, the examination of the defendant was also carried out face-to-face between the investigator and the defendant. The investigation process at the police level has not used digital technology to facilitate the examination of the case. In the verdict, the judge stated that the Defendant Muhammad Jhony Bin Husin had been legally and convincingly proven to have committed a crime by intentionally providing convenience to the perpetrator of the crime of terrorism by hiding the perpetrator of the crime of terrorism.

3) Case in Decision No. 776/Pid/Sus/2015/PN.Jkt.Tim.

The East Jakarta District Court, which examines and decides criminal cases at the first level, with the usual examination procedure has handed down a verdict on behalf of the defendant RIO ADI PUTA alias RIO alias ABU RIDHO alias WEWE bin YAMIN. The defendant was detained by the National Police Investigator from September 22, 2014 to January 19, 2015. During the investigation process at the police level, the examination of the defendant was carried out face-to-face between the investigator and the defendant. The investigation process at the police level has not used digital technology to facilitate the examination of the case. In the verdict, the judge stated that the defendant RIO ADI PUTA alias RIO alias ABU RIDHO alias WEWE bin YAMIN has been proven legally and convincingly guilty of committing a crime of terrorism.

The phenomenon of radicalism has recently become increasingly prevalent and has occurred in the world and in Indonesia. Many articles have examined and discussed this matter. It turns out that there is still no common ground in the definition of radicalism. In general, most people consider radicalism to be the same as terrorism. Usually radicalism is identified in the form of violence and its impact is detrimental to many people. Radicalism can occur in the real world or in the virtual world. In actual developments, several young people in several big cities, such as Jakarta and Malang, have pledged allegiance to ISIS. Most of the individuals who departed were young people. On the other hand, in several cases at the elementary and middle school levels, several books were found that taught the values of radicalism. Meanwhile, at the university level, the Minister of Research, Technology, and Higher Education stated that large campuses in Indonesia had been exposed to radicalism. The Head of BIN stated that 39% of

students throughout Indonesia had been exposed to radicalism. Basically, acts of terrorism through digitalization are carried out by conservatives who use religion as a means to attract the masses.²⁶

Starting from conservatives, especially those who hold fast to religious values as the basic benchmark for every individual to act and behave, fundamentalist figures were born who based their actions on existing fundamental values. Giddens mentions in his book about the Iranian revolution led by Ayatollah Khomeini which made the fundamental basis of religion a counter-force to government power. Khomeini spread his teachings and invited the masses through distributed videos and cassettes. This is one example of extensive action by fundamentalists in maintaining traditions, especially in the field of religion.²⁷

3.2. Weaknesses in the Implementation of Eradication of Terrorism in the Current Digital Era

1) Weaknesses of Legal Substance

It has been explained previously that Law Number 5 of 2018 has not regulated the implementation of clear terrorism prevention and the position regarding the protection and recovery of victims of terrorism is not yet clear and the matter of advances in information and communication technology as a means of terrorism has not been clearly regulated.²⁸ In addition, there are no regulations related to efforts to prevent and handle criminal acts of terrorism. So in other words, it can be said that the proliferation of the progress of terrorism methods has not been clearly regulated in the legal policy of handling terrorism. This reality has resulted in terrorism growing and causing many victims.

This has clearly resulted in the legal policy of handling criminal acts of terrorism being unable to realize the mandate of Pancasila and the 1945 Constitution of the Republic of Indonesia. This clearly contradicts the hierarchy of laws and regulations in Indonesia which states that Pancasila is the legal basis of the state of Indonesia. Basically, legal policy in Indonesia must contain various values as reflected in the five principles of Pancasila. Legal policy based on the value of Almighty God means that legal policy must be based on the moral value of God. Legal policy based on the value of Just and Civilized Humanity means that existing legal policy must be able to guarantee respect and protection for human rights in a non-discriminatory manner.

Regulations related to the prevention of terrorism in its development are regulated in Article 2 of Law Number 77 of 2019 concerning Prevention of

²⁶Ahmad Zamzamy, "Questioning Radicalism in Digital Media", Journal of Islamic Da'wah and Communication, Volume 5, Number 1, February 2019, pp. 15-16.

²⁷Location, cit.

²⁸Location, cit.

Criminal Acts of Terrorism and Protection of Investigators, Public Prosecutors, Judges and Correctional Officers. Article 2 of Government Regulation Number 77 of 2019 concerning Prevention of Criminal Acts of Terrorism and Protection of Investigators, Public Prosecutors, Judges and Correctional Officers states that:

- (1) The government is obliged to prevent criminal acts of terrorism.
- (2) Prevention as referred to in paragraph (1) is carried out through:
 - a. National Preparedness;
 - b. Counter Radicalization; and
 - c. Deradicalization.

Regarding national preparedness, it is regulated in Article 3 of Government Regulation Number 77 of 2019 concerning Prevention of Criminal Acts of Terrorism and Protection of Investigators, Public Prosecutors, Judges and Correctional Officers which reads:

- (1) National Preparedness is carried out by relevant ministries/agencies.
- (2) Implementation of National Preparedness as referred to in paragraph (1) is under the coordination of BNPT.
- (3) In coordinating the implementation of National Preparedness as referred to in paragraph (2), BNPT carries out:
 - a. coordination meeting;
 - b. exchange of data and information; and
 - c. monitoring and evaluation.
- (4) Coordination meetings, data and information exchange, as well as monitoring and evaluation as referred to in paragraph (3) are held at least once a month or according to needs.
- (5) The implementation of National Preparedness as referred to in paragraph (1) may involve regional governments in accordance with the provisions of statutory regulations.

Regarding the prevention of terrorism in cyberspace, it can be done through efforts to improve facilities and infrastructure in the form of developing information and communication technology and counter-radicalization through digital media. However, this has not been able to be realized properly, considering that there are still quite a lot of terrorism cases that use digital technology advances today. Prevention and handling of digital terrorism crimes as referred to in the provisions above have not been stated firmly and clearly.

2) Weaknesses of Legal Structure

The country's problems are basically also the biggest and most pressing problems related to the enforcement of the supremacy of law in Indonesia, so it is very appropriate if our criticism of these legal problems must also be accompanied by alternative solutions.²⁹When talking about legal supremacy, which positions the law upright and is supported by its three legal pillars in a humane social justice frame, it turns out that to this day it is nothing more than a utopian act that is always directed in idealistic rhetoric for every official and legal figures and experts, especially in Indonesia. Apart from that, the legal concept of upholding the supremacy of law that is processed by the state is not necessarily perfect in terms of its implications, even though it is acknowledged that in general it meets the ideal framework according to the frame of its creator (it is common in Indonesia, especially, for laws to always ignore the characteristics of society which are actually very important and functional).³⁰

Based on the explanation above, we can find the social phenomenon related to the problems of law enforcement in Indonesia as follows: "the decline (corruption) of the supremacy of law which is marked by the increasing number of deviations committed by law enforcement officers which is accompanied by the increasing number of mob judgments against criminal acts in society, correlated with positivistic law.³¹The problem of law enforcement in Indonesia is actually difficult to trace, like looking for the beginning or end of a vicious circle that makes crime increasingly sovereign (rampant). How the vicious circle is grounded in our world of justice, can be simply described in the following diagramIt has been explained previously that related to the prevention of terrorism has not been effective as explained in chapter III. This is because not all areas of law enforcement in Indonesia have adequate facilities and infrastructure and Human Resources that are also adequate in terms of advances in information and communication technology, so that the prevention of terrorism has not been able to run well.

3) Weaknesses of Legal Culture

The issue of national security in its development cannot be separated from the issue of world political economy, starting with the monopoly of the world economy through imperialism and colonialism and military power over third countries to the monopoly of the world economic system in the era of globalization where technological progress and capital surpluses occur which encourage developed countries to perpetuate the capital surplus by expanding the influence of economic intervention to third countries that have abundant

²⁹*Ibid*, pp. 76 – 77.

³⁰Sabian Ustman, op.cit., p. 15.

³¹*Ibid*, pp. 15-16.

natural resources and energy, moreover, currently the state borderless phenomenon has resulted in problems in the form of dependence between countries, both developed and developing countries, which have an impact on the stability of national and local policies, so that when a country's economic stability is disturbed, it will also cause other countries as a single organizational unit to also receive the impact, this leads to the instability of the security of a country and people in a country in various sectors where the economic sector in the form of poverty issues becomes the center of national security disturbances. Poverty is one of the causes of terrorism, this occurs as a chain effect of poverty in the form of economic life pressures and low human resources due to the lack of access to adequate education being the main factor for someone to fall into the trap of terrorism.³²

3.3. Solutions to the Problem of Weaknesses in the Implementation of Terrorism Eradication in the Current Digital Era

Regarding Pancasila as the source of all sources of law, Kaelan stated that:³³

The values of Pancasila as the philosophical basis of the Indonesian state are essentially a source of all sources of law in the Indonesian state. As a source of all sources of law, it is objectively a view of life, awareness, legal ideals, and noble moral ideals that encompass the mental atmosphere and character of the Indonesian nation. Then, regarding the purpose of the law, Sri Endah suggested that:³⁴

If what is aspired to by national law is the Pancasila legal system, then it is appropriate to study and develop laws that contain Pancasila values, meaning laws that are oriented towards the value of the Almighty God, laws that are oriented towards the values of Just and Civilized Humanity, laws that are based on the value of Unity, and laws that are imbued with the values of Democracy Led by Wisdom in Deliberation/Representation and the values of Social Justice. For all Indonesian people.

In line with Sri Endah's views above, Notonagoro stated that:³⁵

The benchmark for the practical philosophy of Indonesian national law is Pancasila, which is an abstraction of the noble values of Indonesian society, which contains the nation's ideals, namely a just and prosperous society both materially and spiritually, and the life of Indonesian society as a whole.

³² Kenichi Ohmae, *The End of Nation State*, The 1995 Panglaykim Memorial Lecture, Jakarta, 1995, p. 18.

³³ Kaelan, *op.*, cit., p. 77.

³⁴ Sri Endah Wahyuningsih, *Principles of Criminal Individualization in Islamic Law and Indonesian Legal Reform*, UNDIP, Semarang, 2013, p. 68.

³⁵ *Ibid*, p. 69.

Barda Nawawi Arief stated that:³⁶

Legal development is an effort to revive the values that live in society, to then be studied in depth as material for the preparation of national law, clearly an obligation of the academic world. It is truly ironic if most law faculty graduates understand and master the legal values that live among their own people. Moreover, if he feels foreign and even unconsciously has become hostile or even killed him.

Barda Nawawi Arief further stated:³⁷

That legal reform is essentially an effort to reorient and reevaluate the socio-political, socio-philosophical, and socio-cultural values that underlie and provide content for the normative and substantive content of the law that is aspired to.

With regard to criminal law, the renewal of values needs to be returned to the mandate and perspective that are in accordance with Pancasila. Furthermore, regarding criminal law based on Pancasila values, Ahmad Hanafi stated that:³⁸

Based on the view of Ahmad Hanafi, it is clear that criminal law is not the only means of eradicating a crime, criminal law is only the last remedy in overcoming crime. In relation to this, Helbert L. Packer stated that criminal law at one time can be a guarantor but at another time it can be a threat to human freedom. Criminal law as a guarantor if used sparingly and carefully and humanely and will be a threat if used carelessly and coercively.³⁹ Packer's opinion shows that criminal law can make humanity happy but can also be dangerous for humanity if used incorrectly.

In relation to this view, Nigel Walker stated that in implementing criminal law there must be limiting principles consisting of:⁴⁰

- 1) Criminal law, which is abbreviated to HP, cannot be used solely for the purpose of retaliation;
- 2) HP cannot be used to punish acts that are not detrimental or dangerous;
- 3) HP cannot be used to solve problems that can be solved by other, lighter means;
- 4) HP cannot be used if it causes a loss greater than the act to be punished;

³⁶Barda Nawari Arief, *Several Aspects of Law Enforcement and Development Policy*, Diponegoro University, Semarang, 1984, p. 125.

³⁷Barda Nawawi Arief, *Anthology of Legal Policy*, Diponegoro University, Semarang, 2013, p. 32.

³⁸*Ibid*, p. 71.

³⁹*Ibid*, p. 73.

⁴⁰Sri Endah Wahyuningsih, *op.*, cit., pp. 72-73.

- 5) The prohibitions contained in the HP must not contain elements that are more dangerous than the act being criminalized;
- 6) HP should not contain prohibitions that are not agreed to and supported by the public;
- 7) HP should not contain prohibitions or provisions that cannot be implemented properly.

Walker's view shows that criminal law cannot be solely aimed at acts of torture that exceed the limits of perpetrators of sexual violence against children even if carried out by the government. In line with this view, Soedarto stated that:⁴¹

When discussing criminal law, we must talk about the person who committed the crime. This person is the same as all of us, no different at all except that he has committed a prohibited act and was found guilty by the judge. So that the renewal of criminal law cannot be separated from the discussion of humans so that it cannot be separated from the values of humanity, namely the value of compassion.

This is what Barda Nawawi Arief mentioned above:

Criminal law reform is essentially an effort to reorient and reevaluate the socio-political, socio-philosophical, socio-cultural values that underlie and provide content for the normative and substantive contents of the desired criminal law... And, the national legal system, in addition to being able to support national development and the needs of international relations, must also be sourced from and not ignore the values and aspirations that live and develop in society, the values that live in society can be sourced or explored from customary law values or religious law values.

In order to realize the various explanations above, Barda Nawawi Arief added that there needs to be criminal law thinking based on the idea of balance. The concept of the idea of balance in criminal law as intended by Barda Nawawi Arief includes:⁴²

- 1) Monodualistic balance between public or general interests and individual or personal interests. In the idea of the balance of public or individual interests, it also includes the protection of the interests of victims and the idea of individualization of crime;
- 2) Balance between objective elements or factors or outer and subjective actions or people or inner thoughts or inner attitudes;

⁴¹*Ibid*, p. 74.

⁴²*Ibid*, p. 39.

- 3) Balance between formal and material criteria;
- 4) The balance between legal certainty, legal flexibility or elasticity and legal justice.

The objectives of law according to Islam are basically regulated in the principle *the purpose of the Shariah*. In the principle of maqsid al-Syariah it is explained that the law must be able to protect five things, namely:⁴³

- 1) Religion;
- 2) Reason;
- 3) Soul;
- 4) Property;
- 5) Descendants.

Then realize justice, justice according to Islam in this case is equating something with another thing both in value and in size so that it is not biased or partial between one and the other. Furthermore, fair also has the meaning of siding with the truth.⁴⁴

Basically, Allah SWT is called "The Most Just and Wise towards His servants, meaning that all human actions will not affect the justice of Allah SWT, good and bad human actions will actually receive their own rewards. This can be seen in the Quran, Chapter 41 Verse 46 which states that "whoever does good deeds, the reward is for himself and whoever does evil deeds, the sin is for himself, and your Lord never wrongs His servants".⁴⁵ Meanwhile, the majority of Ulama agree that all of the Prophet's companions were just and there is no need to discuss the justice of the Prophet's companions, which can be seen in the narration of the Hadith.⁴⁶

The development of information technology has an impact on the advancement of aspects of human life, especially social life. This can be seen from the advancement of social communication activities that use sophisticated communication tools with automatic machine devices. Technology works to divert human power with amazing magnification and acceleration with the discovery of new computer formulations, and shift the position of human brain capacity in various fields of science and human activity. The advancement of information and communication technology has been truly recognized and felt to provide many conveniences and comforts for human life, however, technological

⁴³*Ibid*, p. 48.

⁴⁴*Ibid*, p. 51.

⁴⁵Tohaputra Ahmad, Al-Qur'an and its Translation, CV. As Syifa, Semarang, 2000, p. 185.

⁴⁶*Ibid*, p. 1072

advancement has also resulted in the rapid mode of crime in Indonesia. The various narratives above have shown how technological advancement has been utilized by theorists to carry out their actions which have disrupted national stability. For this reason, it is necessary to take several solution steps in the form of:

- a. There is a need to specifically regulate the elements of acts of digital terrorism in Law of the Republic of Indonesia 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.
- b. There is a need to establish a special mechanism and instrument to eradicate terrorism digitally.
- c. It is necessary to regulate digital evidence in the Criminal Procedure Code as a basis for criminalizing perpetrators of digital terrorism.

4. Conclusion

The implementation of digital-based terrorism prevention has not been able to be realized effectively, this is indicated by the increasing recruitment of terrorist members, financing of terrorism, and the spread of terror through digital media today. The weaknesses that exist within handling of terrorism in Indonesia at present is the weakness of legal substance in the form of the lack of regulation of digital-based terrorism prevention, the weakness of the legal structure in the form of inadequate facilities and infrastructure and adequate human resources, and the culture in the form of poverty and technological developments that influence people's way of life and people's antipathy towards the government and the state;

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