



The Role Of Densus 88 In Eradication Of Terrorism In Indonesia According To Law No. 15 Of 2003 Concerning Terrorism And The Perspective Of Islamic Legal

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ABSTRACT

Terrorism is one of the most serious crimes that threatens national security, public order, and human life. In Indonesia, the Indonesian National Police established a special counter-terrorism unit known as Detachment 88 (Densus 88) to combat terrorism and maintain national stability. This study aims to analyze the role of Densus 88 in combating terrorism in Indonesia, identify the obstacles faced in the process of counter-terrorism enforcement, and examine terrorism from the perspective of Islamic law. This research employs a normative juridical approach using conceptual, statutory, and historical approaches. The data used in this study are secondary data obtained through library research, including legislation, legal literature, journals, and other relevant documents related to terrorism and law enforcement in Indonesia. The findings of this research indicate that Densus 88 plays a significant role in preventing and combating terrorism through intelligence operations, investigation, arrest, and law enforcement against terrorist networks operating in Indonesia. The unit has successfully uncovered various terrorist activities, including bombings and organized terror networks in several regions. However, several obstacles still hinder effective counter-terrorism efforts, including ideological differences, weak legal support for intelligence operations, socio-economic conditions that facilitate recruitment into terrorist groups, and limited supervision of materials used for making explosives. From the perspective of Islamic law, terrorism is considered a serious crime because it spreads fear, threatens public safety, and causes destruction. In Islamic criminal law (fiqh jinayah), such acts can be categorized as hirabah, which refers to crimes that create terror, violence, and insecurity in society.

Keywords: Densus 88; Terrorism; Law Enforcement; Counter-Terrorism; Islamic Law

INTRODUCTION

Terrorism in Indonesia is like a plant that has become a thriving plant. It breaks and grows, and disappears. After Dr. Azhari was shot dead, Noordin M. Top remained. After Noordin M. Top died in a shootout in Solo, there are still other "brides" (potential suicide bombers) still breathing free air. As recently as May 2013, the Densus 88 Anti-Terror Unit successfully shot dead seven terrorist members and captured 10 members of the network alive. One of them was captured by the Deputy Chief of Police and the West Java Regional Police Chief in a bathroom while the Deputy Chief was going to perform ablutions at a resident's house.

As of May 2013 alone, the number of terrorist members who had been captured alive reached 800, and half of them were soon awaiting the end of their sentences. It seems that the terrorist network in Indonesia shows no signs of stopping its actions, as the saying goes, "One dies, a thousand grow." This means that the increasing number of terrorists shot dead does not stop their activities, but instead encourages the growth and development of new terrorist networks. There is no guarantee that their actions will stop. Therefore, all parties must be cautious and remain vigilant, as terrorist networks continue to thrive in Indonesia. Judging by the terrorist acts that have occurred, terrorist behavior is more closely tied to theological beliefs. This means that perpetrators can be arrested, even killed, but their beliefs are not easily defeated.

The terrorist crackdown conducted by Densus 88 has indeed arrested a large number of terrorist figures operating in Indonesia. Several key figures have even been shot dead by the National Police's Densus 88 Anti-Terror Squad. However, there are concerns that the number of convicted terrorists whose sentences have expired will grow again. This is exacerbated by news that a number of convicted terrorist kingpins from neighboring Malaysia have been released due to the completion of their sentences. They are feared to infiltrate Indonesia and carry out bomb attacks.

Even more worrying, it turns out that many Indonesians are easily seduced by the seduction of suicide bombers. Terrorist leaderpins promise them that they will die as martyrs and go straight to heaven if they are willing to fight jihad by becoming suicide bombers. They are promised that they will immediately marry beautiful angels in heaven upon their death. This is why suicide bombers are called the prospective brides. To counter the terrorist movements and attacks mentioned above, the role of the Densus 88 Anti-Terror Squad is crucial to protect the public from the dangers of terrorist attacks that could one day threaten human safety.

Special Detachment 88, or Densus 88, is a special unit of the Indonesian National Police (Polri) dedicated to countering terrorism in Indonesia. This red-vested special force is specially trained to handle all terror threats, including bomb threats. Some members are also members of the Gegana (National Bomb Squad) team. Detachment 88 was designed as an anti-terrorist unit capable of handling

terrorist disturbances ranging from bomb threats to hostage situations. Densus 88, based at the National Police Headquarters, has an estimated 400 personnel and consists of investigators, explosives experts (bomb disposal), and a strike unit that includes expert snipers. In addition, each regional police force also has an anti-terror unit called Densus 88, consisting of 45-75 members, but with more limited facilities and capabilities. The function of Densus 88 at the Regional Police is to investigate reports of terrorist activity in the region and to arrest personnel, individuals, or groups of individuals confirmed to be members of terrorist networks that could endanger the integrity and security of the Republic of Indonesia. There has been a growing perception that the role of the Indonesian National Police's Densus 88 Anti-Terror (AT) in eradicating terrorism in Indonesia is considered monopolizing, so that several other institutions that have anti-terror organizations feel they do not get an adequate portion and are not empowered. As is known, in Indonesia, almost all forces and police, as well as intelligence agencies have an anti-terror organizational structure; in the Indonesian Army, there is the Counter-Terror Detachment (Dengultor), called Group 5 Anti-Terror and Detachment 88 which are part of Kopassus, the elite troops of the Indonesian Army; in the Indonesian Navy, there is the Jalamangkara Detachment (Denjaka), which is part of the Marine Corps; in the Indonesian Air Force, there is the Bravo Detachment (Den Bravo), which is part of the Paskhas TNI AU, the elite troops of the Indonesian Air Force; while in the State Intelligence Agency (BIN), there is also a joint unit which is a representation of the anti-terror unit. However, it must be acknowledged that the role carried out by Densus 88 AT Polri provides a perspective that the eradication of terrorism in Indonesia can be said to be successful, at least when linked to the various successes of the organization in arresting and hunting down perpetrators from terrorist networks in Indonesia, as well as narrowing their room for movement.

Densus 88 was established by National Police Chief Decree No. 30/VI/2003 dated June 20, 2003, to implement Law No. 15 of 2003 concerning the stipulation of Government Regulation in Lieu of Law No. 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism, namely with the authority to make arrests based on initial evidence that can come from any intelligence report, within 24/7 (as per articles 26 & 28). This law is popularly known internationally as the "Anti-Terrorism Act (ATA)."

The number 88 comes from the words ATA (Anti-Terrorism Act), which when pronounced in English is Ei Ti Ekt. This pronunciation sounds like Eighty Eight (88). Therefore, the meaning of the number 88 is not, as has been widely circulated, a representation of the highest number of Bali bombing victims (88 people from Australia), nor is it a representation of handcuffs. This special forces unit is funded by the United States government through the Diplomatic Security Service of the U.S. Department of State and trained directly by instructors from the CIA, FBI, and U.S. Secret Service. Most of its teaching staff are former members of U.S.

special forces. This information, sourced from FEER in 2003, was denied by the Head of Public Information (Kabidpenum) of the Indonesian National Police Public Relations Division, Senior Commissioner Zainuri Lubis, and the National Police Chief, General Pol Da'i Bachtiar. However, there was significant assistance from the United States and Australian governments in the formation and operation of Special Detachment 88. After its formation, Densus 88 also collaborated with several other countries such as the United Kingdom and Germany. This is in line with Article 43 of the Anti-Terrorism Law.

This special forces unit of the Indonesian National Police (Polri) is equipped with weapons and combat vehicles made in various countries, such as Colt M4 assault rifles, Steyr AUG assault rifles, HK MP5s, Armalite AR-10 sniper rifles, and Remington 870 shotguns. It is even rumored that the unit will acquire its own C-130 Hercules aircraft to enhance its mobility. However, Densus 88's weaponry and equipment are still far inferior to those of developed countries' counterterrorism forces, such as the US National Police Team.

METHODOLOGY

Based on the problem formulation and research objectives mentioned above, this thesis is conducted using normative legal research. This research attempts to examine legal principles, legal history, legal synchronization, and the systematics of law, specifically legislation related to the crime of terrorism.

This normative research approach was chosen as the primary focus of this thesis because the primary focus is on the legal provisions governing the duties and authorities of the Indonesian National Police (Polri) regarding terrorism in Indonesia. Based on the aforementioned normative legal research method, the approaches used in this study are conceptual, normative, and historical.

The conceptual approach is conducted by examining laws and regulations on terrorism. The legislative approach is conducted by examining the formulation of provisions governing terrorism, both in Indonesian positive law and international conventions. The historical approach is conducted by examining the history of legal regulations (sources) related to terrorism, both in positive law and international regulations.

RESULT AND DISCUSSION

The Role of the Indonesian National Police's Densus 88 Anti-Terror Squad in Addressing Terrorism.

The imbalance between developed and wealthy nations in the Northern Hemisphere and poor and developing nations in the Southern Hemisphere has given rise to jealousy. Countries in the Southern Hemisphere, predominantly poor, underdeveloped, and developing, often face repeated pressure from developed and wealthy nations. Globalization and the free market are examples of imbalanced competition. This imbalance breeds disillusionment, ultimately reaching its most

extreme and radical levels.

Extremism or radicalism among the lower-middle class is driven by injustice and disillusionment stemming from disqualifying, dislocating, and depriving socio-economic and political systems. Disqualification is identified by difficulties gaining access to the workforce due to an inability to compete due to low skills and education. The process of socioeconomic dislocation can be seen in the exclusion of the poor from economic, social, and cultural resources.

Meanwhile, the process of sociopolitical deprivation can take the form of the impoverishment of lower-class communities due to the dominance of larger business forces through monopolistic economic institutions, the existence of conglomerates, and the entry of foreign capital in collusion with local ruling elites over control of economic and political resources. All of this leads to the radicalization of individuals and groups in the name of an "ideology of change or theocratic belief" with a "narrow, myopic, and one-sided interpretation," which is radically and brutally misused to commit radical and extreme acts.

These radical and extreme actions are what have recently been called terrorism. The surge in terrorism has continued due to the post-Cold War unipolar world order. The world is centered on a single axis of domination by the United States. Global economic policies introduced by multilateral institutions such as the WTO, IMF, World Bank, and other institutions sponsored by developed countries (the US) have actually worsened the conditions of developing countries, making them increasingly poor and underdeveloped.

The scarcity of fair economic practices and the predominance of exploitative economic practices (capitalism) within a country and within regional and global economic structures have a positive correlation with the increasing vulnerability of a country, region, and the world to the emergence of terrorist movements and acts. Good examples include Latin America and Asia, which are characterized by high social inequality as a legacy of colonial economics and the impact of the strong development of capitalism. Meanwhile, feelings of further marginalization due to the increasingly opaque global economic system have provided fertile ground for the emergence of radical and extremist groups in Asia. Among their goals is to disrupt international security.

International security commanded by the United States has become the target of international terrorist movements and actions due to the existing world order, which is considered to be under the dominant influence of one country, namely the United States (US), which emerged as the sole superpower in the post-Cold War period. The understanding among these radical groups is that if a power or group wants to challenge and replace it with an ideal alternative according to the views of the power or group carrying out the rejection or resistance, then international-scale terrorist actions must be carried out.

In relation to the realization and implementation of state governance, the philosophy of Pancasila constitutes the essence of the fundamental state norms or

fundamental principles. Consequently, Pancasila is the starting point for the derivation of all laws and regulations in Indonesia, including the Basic Law and the entire positive legal system. In relation to national resilience, its conception and implementation must have a clear legal basis. Based on this understanding, the constitutional or legal basis for Indonesian national resilience is the 1945 Constitution, which is rooted in the philosophical foundation of Pancasila. Based on this conceptual understanding, national resilience is defined as a strength that enables a nation and state to survive, strong in the face of threats, disruptions, obstacles, and challenges, including in this case, countering terrorist separatist movements.

If we look at the threats posed by terrorist acts, they are not limited to the destruction of buildings. According to A.M. Hendropriyono, the threats posed by terrorism extend far beyond:

1. Threats to defense and security.
2. Threat to humanity.

Factors That Constitute Obstacles for the Indonesian National Police's Densus 88 Anti-Terror Unit in Eradicating Terrorism in Indonesia.

The role of the government and the public in preventing and combating terrorism has shown significant success, but many obstacles remain in creating a sense of security within the community from acts of terrorism. The recent bombing tragedy demonstrates the need for continued vigilance against terrorism, as its movements and networks continue to evolve, making them difficult to track. The difficulty in resolving this terrorism problem stems from the numerous factors that contribute to its continued growth. Obstacles to preventing terrorism in Indonesia include:

1. Differences in ideology and religious understanding.
2. The lack of a strong legal framework for intelligence activities to support efforts to prevent and combat terrorism.
3. Traditional communities facing economic and social challenges are highly susceptible to influence or recruitment into terrorist groups.
4. The lack of guidance to ensure the transformation of radical thinking into moderate thinking. Meanwhile, the weak monitoring system for the circulation of various bomb-making materials allows terrorists to freely assemble bombs, which, if undetected, can cause chaos in various locations.
5. Terrorist networks are difficult to trace.
6. Furthermore, conditions of poverty and social inequality.

Efforts to Address Terrorism in Indonesia

The impact of terrorism can have a significant impact, both on security and public unrest, as well as on the economic climate and tourism, which requires vigilance from intelligence and security forces for prevention and response. Terrorism remains a potential threat to national security stability, although following the arrest

of Dr. Azhari and several key figures in the Jemaah Islamiyah (JI) group, terrorist acts by this group have tended to decline. This is evidenced by the absence of any terrorist bombings in the nearly five years that have had national or international impact. Similarly, the executions of the three Bali bombing convicts (Amrozi, Ali Gufron, and Imam Samudera), which raised concerns about retaliation from the radical group, have not materialized. However, the shootings of several police officers in Jakarta demonstrate that the terrorist threat remains present in Indonesia. In fact, the terrorist movement's modus operandi has shifted from bombings to direct shootings of police officers, who are considered enemies rather than terrorists. Considering the current situation in Indonesia, Indonesia has a significant potential for terrorism and requires extra careful anticipatory measures. Government policies, sometimes misunderstood by some, are sufficient justification for terrorism. Terrorism perpetrated by other countries in Indonesia's border areas. Several times, other countries have violated Indonesian territory using weapons of war, which is actually a form of terrorism. Even more dangerous would be if neighboring countries carried out terrorism by exploiting Indonesian citizens living along the border who receive little attention from the government. Lack of nationalism and economic demands can easily lead people to commit terror.

Terrorism is perpetrated by citizens dissatisfied with state policies. For example, the terrorism in Papua carried out by the Free Papua Movement (OPM). Their demand for independence is motivated by a desire to manage their own region without government interference. The perceived lack of government attention is the reason they must achieve independence for the welfare of the people. This type of terrorism is also dangerous, and is specifically directed at security forces.

In preventing and combating terrorism, the Government remains guided by previously established principles of preventive and repressive measures, supported by efforts to strengthen the legal framework as a basis for proactive action in addressing activities, particularly in uncovering terrorist networks. Intelligence cooperation, both domestically and with foreign intelligence agencies, continues to be enhanced through the exchange of information and other assistance. To narrow the scope for terrorist activities, the Government will continue to encourage authorized agencies to strengthen control and oversight of the movement of people and goods at airports, seaports, and border areas, including the flow of funds, both domestically and internationally.

Control and oversight will also be implemented regarding the trade and use of explosives, chemicals, firearms, and ammunition within the Indonesian National Armed Forces (TNI), the Indonesian National Police (Polri), and government agencies. Furthermore, the TNI, the Indonesian National Police, and government agencies will continue to conduct in-depth studies in collaboration with academics, community leaders, and religious leaders. Improving the capabilities of various counter-terrorism and intelligence units in utilizing primary sources and information networks is necessary to establish a professional and integrated counter-terrorism

apparatus comprising the Indonesian National Armed Forces (TNI), the Indonesian National Police (Polri), and the State Intelligence Agency (BIN). Furthermore, international cooperation is crucial because terrorism is a cross-border problem with networks and channels that extend beyond Indonesia.

In addition to the efforts mentioned above, the following actions must be taken by the government to prevent and combat terrorism:

1. Strengthening coordination and cooperation among government agencies;
2. Increasing the capacity of government agencies in preventing and combating terrorism, particularly regional units;
3. Strengthening counter-terrorism operations and strengthening early detection efforts for potential terrorist acts;
4. Strengthening the active role of the community and intensifying dialogue with radical community groups;
5. Increasing security in public areas and strategic areas targeted by terrorist activities;
6. Raising awareness and efforts to protect the community from acts of terrorism;
7. Strengthening deradicalization through coaching efforts (soft approach) to prevent recruitment of terrorist groups and rehabilitate terrorist perpetrators who have been caught.

Terrorism Seen from an Islamic Legal Perspective.

According to Law No. 5 of 2018 concerning the Eradication of Criminal Acts of Terrorism, terrorism is an act that uses violence or the threat of violence that creates a widespread atmosphere of terror or fear, which can result in mass casualties, and/or cause damage or destruction to vital strategic objects, the environment, public facilities, or international facilities for ideological, political, or security reasons.

According to Islamic Criminal Law, which types of crimes are considered under terrorism? Types of Criminal Acts in Islamic Criminal Law: "Jarim" can be divided into several types and kinds according to the aspects they emphasize.

Generally, scholars classify jarimah based on the severity of the punishment and whether or not it is confirmed by the Quran or Hadith.

Based on this, they divide them into three types:

1) Hudud Crimes

Hudud crimes are unlawful acts whose types and penalties are determined by the text, namely, had punishment (God's right). These had punishments have no upper or lower limits and cannot be waived by individuals (the victim or their guardian) or community representatives (ulil amri).

2) Kisas Crimes

Kisas and diyat crimes are crimes punishable by kisas or diyat. Both kisas and diyat are punishments determined by sharia. The difference with had punishments is that had punishments are the right of Allah, while kisas and diyat are human rights

(individual rights). There are several possibilities for implementing kisas and diyat laws, such as kisas being changed to diyat, diyat being forgiven, and if forgiven, the punishment is revoked.

3) Jarimah Takzir

In the language, takzir means al-Man'u (prevention). According to the term, takzir means at-Ta'dib (education) and at-Tankil (restraint). Jarimah takzir is a jarimah where the punishment is handed over to the judge or ruler. In this case, the judge is given the authority to impose a sentence on the perpetrator of jarimah takzir. Takzir is a punishment for criminal acts for which there is no provision in the text regarding the punishment. Takzir punishment does not have specific punishment limits, because syara' only mentions a set of punishments, starting from the lightest punishment to the heaviest punishment. In other words, it is the judge who has the right to determine the type of criminal act and its punishment, because legal certainty has not been determined by sharia'.

From the definition stated above, it is clear that takzir is a term for punishment for Jarima for which the punishment has not been determined by the Sharia'. Among jurists, crimes for which punishment has not been determined by sharia are called takzir crimes. Therefore, the term takzir can be used for both punishment and criminal offenses.

CONCLUSION

The role played by the Indonesian National Police's Densus 88 Anti-Terrorism Unit in countering terrorism can be seen in its successful actions. In addition to capturing and shooting dead perpetrators of bombings in Indonesia, Densus 88 Anti-Terrorism units have successfully disrupted terrorist movements, limiting the terrorist network's ability to operate. 2. Factors hindering Densus 88 Anti-Terrorism in combating terrorism in Indonesia include: a. Differences in ideology and religious understanding. b. The lack of a strong legal framework for intelligence activities to support terrorism prevention and response efforts. c. Traditional communities facing economic and social challenges are highly susceptible to influence or recruitment into terrorist groups. d. The lack of guidance to transform radical thinking into moderate thinking. e. The weak monitoring system for the circulation of various bomb-making materials allows terrorists to freely assemble bombs, which, if undetected, can cause chaos in various locations. e. Terrorist networks are difficult to trace. g. Furthermore, conditions of poverty and social inequality. 3. Efforts that need to be made to address terrorism in Indonesia include: Strengthening coordination and cooperation among government agencies; a. Increasing the capacity of government agencies in preventing and dealing with terrorism, especially regional units, is necessary. b. Strengthening counter-terrorism operations and strengthening efforts to detect potential terrorist acts early on is necessary; c. Strengthening the active role of the community and intensifying dialogue with

radical community groups. d. Increasing security in public areas and strategic areas targeted by terrorist activities; e. Strengthening deradicalization through development efforts to prevent social disparities. Cooperation with foreign countries needs to be increased in efforts to address terrorism. g. The existing intelligence system should be more effectively utilized. Terrorism, viewed from the perspective of Islamic law (fiqh jinayah), is considered a serious crime, especially hirabah. Hirabah is an action: 1. Spread fear 2. Committing armed violence 3. Seize property or kill 4. Disturbing public security.

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