ABSTRACT

In the aftermath of Bali Bombing 12 October 2002, which is considered as the biggest terrorism attack ever in Indonesia, the Indonesian government launched so called ‘war against terrorism’. Laws on terrorism were soon enacted and applied retroactively. Special Police to Combat Terrorism, namely Detachment of 88 was formed. Special Agency to coordinate counterterrorism measures was soon established, namely Badan Nasional PenangguhlananTerorisme or National Agency for Terrorism Countermeasures. Since early 2010’s it has conducted special program to combat terrorism namely deradicalization program while the Detachment of 88 has launched more massive manhunt for suspected terrorism all over Indonesia, supported by Indonesian military. Deradicalization program targets former terrorism suspects and former inmates. Also, it targets schools, universities, and other academic institutions suspected as being an agent for radical ideology dissemination in Indonesia. Both deradicalization program and massive manhunt have created problems. At one side the Agency claimed that they have prevented terrorism, but on the other hand, they have victimized innocent people such as family of terrorist suspects and violated civil rights of former inmates. In addition, by targeting specific academic institutions, the agency has been accused as arbitrarily labeling people as terrorist or future terrorist, which is a clear violation of human rights. This research, therefore, is a study of counter-terrorism, including deradicalization program in Indonesia. It tries to describe the dynamic of the program between the need of law enforcement in the name of law enforcement and its impact to human rights and civil liberty.

Keywords: Deradicalization, Terrorism, Victimization, Indonesia, Human Rights

I. BACKGROUND

Indonesia is the third largest democracy in the world after India and USA, the world’s largest archipelago and also the most populous Muslim country with around 225 million Muslim populations in 2017. However, the archipelago also a home for numerous terrorism attacks.

Among of the notable terrorism attacks are Bali Bombing in 2002 and 2005, Ambassador of Philippines’ Residence Bombing in Jakarta 2000, Australian Embassy in Jakarta Bombing in 2004, Jakarta churches bombing right on the Christmas Eve 2000, J.W. Marriot Hotel Bombing in Jakarta 2005 and 2009 (The J.W. Marriot Hotel in Jakarta has been attacked by bomb in 2005 and 2009. In 2009, the Ritz Carlton Hotel which is situated adjacent to J.W. Marriot Hotel was also attacked by bomb), the shooting of civilians in Aceh in 2010, the robbery of CIMB Niaga Bank in Medan in September 2010, suicide bombing inside the headquarter of Cirebon City District Police in 2011, grenade attack to various police station in Solo City in 2012, suicide bombing inside the headquarter of Poso Regency Police, and the most shocking ones are suicide bombing attacks to three different churches in Surabaya City in May 2018 committed by a family consist of father, mother and their four children.

Since the first Bali Bomb in October 2002, Indonesian government applied harsher policy to combat terrorism. More than 202 people were killed and over 300 injured in a bombing outside a packed tourist bar – Sari and Padi Café- in Legian Bali. Over thirty of the dead were British and most of the remainder was Australian. Another 29 suspected members have been arrested. Al Qaeda and local Islamic groups were blamed. The group wishes to create and Islamic super-state comprising of Malaysia, Indonesia and the Southern Philippines. (Thackrah, 2004: 23). The government was strongly pressed by internal and external parties to immediately prepare specific regulation on combatting the terrorism. Right in 2003, Indonesian government enacted Law No. 15, 2003 about on elimination / eradication of terrorism acts. This Law provides the protection of victims and their heirs due to criminal acts of terrorism (Mansur, 2007).

The latest progress, expedited by Surabaya suicide bombing in May 2018, the state amended Law on Terrorism No. 15/ 2003 in May 2018, which provides larger authority and justification for law enforcement officers to conduct longer arrest, deeper surveillance, suppress the recruitment of ‘future terrorist’, monitoring radical ideologies as well as conducting deradicalization and counter radicalization program. Special agency for eradicating terrorism, namely BNPT (Badan Nasional Penangguhlanan Terorisme - or National Agency of Terrorism Eradication) was founded in 2010. Among of its job is to conduct deradicalization program. Deradicalisation or deradicalization is the process of changing an individual belief
system, rejecting the extremist ideology and embracing mainstream values. (Rabasa et al. Deradicalizing Islamist Extremists, https://www.rand.org/content/dam/rand/pubs/monographs/2010/RAND MG1053.pdf)

The harsher policies on counter terrorism, either conducted by repressive actions or by deradicalization and counter radicalization program are actually part of law enforcement program needed to combat terrorism. However, on the other hand, the excessive and massive ‘war against terrorism’ shown by Indonesian legal enforcement authorities area also subject to human rights violation.

II. PROBLEM IDENTIFICATION

This paper scrutinizes the counter terrorism program in Indonesia in the aftermath of post Bali Bombing 2002 with the objective to examine whether the program are still in conjunction with the grounds and corridors of law enforcement or, on the contrary, creating another victimization and human rights violation in the name of law enforcement.

III. COUNTER TERRORISM PROGRAM IN INDONESIA


Special police unit designated to combat terrorism, namely Special Detachment 88 was formed. The number of 88 was choosen for specific reasons : eighty eight means a tirelessly efforts to combat terrorism, a never ending efforts, however some people believed that the number of “88” is taken from the number of Australian casualties in Bali Bombing 2002. Australia financially and technically supported the foundation of this special detachment. Many terrorism suspects were immediately hunted, arrested, tortured, jailed and convicted. Since then, terrorism issues have been widely exposed by the media. Coincidently, at that period was also media booming period. Many TV stations were founded and aired.

However, media booming, to some extent, did not bring positive impact for family of terrorist suspects. In many cases the media even investigate to the place where the person suspected as terrorists used to live, exposed their family and even the face of children of the terrorist. Definitely, the family was subsequently being socially isolated, even being rejected from public (Nugroho, 2011)

As part of efforts to counter violent extremist narratives, Indonesia continued to amplify the voices of victims of terrorism as well as former terrorists who have renounced violence. Numerous NGOs and religious organizations sponsored workshops and conferences, emphasizing the need to respect diversity and foster greater tolerance. Indonesia also invited religious leaders, in coordination with civil society and faith-based organizations, to be part of outreach efforts to violent extremists.

Although domestic counterterrorism efforts are civilian-led, the Indonesian military maintains counterterrorism units that could be mobilized to support domestic operations if needed. These units train regularly with law enforcement to ensure greater capability and coordination for potential domestic counterterrorism operations. However, the Indonesian military and its counterterrorism units are primarily responsible for external terrorist threats to the archipelago and in certain other specific situations.

The latest military efforts to combat terrorism took place in Poso, Central Sulawesi on 30-31 March 2015. However, since the Indonesian Military (Tentara Nasional Indonesia or TNI) has no legal mandate to enforce domestic security, thus they pretend as if only conducting a military training. Yet, actually the ‘military training’ lead to massive manhunt to target terrorism suspects. (Jakarta Post, 2015, Military exercise aids terrorist hunt, http://www.thejakartapost.com/news/2015/04/05/military-exercise-aids-terrorist-hunt.html).

In 2014, Poso, the northeastern coast of Central Sulawesi, Indonesia, remained the epicenter of terrorism in Indonesia this year, followed by Bima in West Nusa Tenggara. The Mujahidin Indonesia Timur (Mujahidin of Eastern Indonesia), or MIT, led by Santoso, was allegedly behind a series of terrorist attacks targeting the police. In general, the Indonesian police remained key targets of terrorist attacks throughout 2014 reflecting the continuity in the shift from the “far enemy” to the “near enemy” – a trend that has manifested more intensively since the dismantling of the Aceh terrorist training camp in 2010. At the same time, police’s anti-terror unit -Detachment 88 - foiled several terrorist plots during raids conducted across the country and captured at least 54 terrorist suspects – a majority of whom were linked to the MIT. (Arianti, 2015: 9-12).

In 2014, Detachment 88 successfully foiled several plots and arrested dozens including those involved in the attacks. It also seized up to 93 motorcycles that were allegedly robbed by MIT members in Central Sulawesi. In early August 2014, the Indonesian government banned Islamic State of Iraq and Greater Syria (ISIS). However, despite the ban, existing legal regime in Indonesia does not give authorities the power to arrest supporters of ISIS unless there is evidence of their involvement in terrorist acts. According to official estimates, the number of Indonesians joining ISIS has soared from 56 in mid-year to over 110 by the end of
IV. DERADICALIZATION PROGRAM

Broadly speaking, the word “radicalization” can be used to describe a process whereby individuals (and even groups) develop, over time a mindset that can under the right circumstances and opportunities increase the risk that he or she will engage in violent extremism or terrorism. It therefore follows that the word "deradicalization" should only be used to refer to the methods and techniques used to undermine and reverse the completed radicalization process, thereby reducing the potential risk to society from terrorism. However, confusion can arise as the term deradicalization is also erroneously used as a broad, catch all to encompass other, different but related methods and techniques aimed at reducing society's risk from terrorism, including counter-radicalization the term used to describe methods to stop or control radicalization as it is occurring) and anti - radicalization (the term used to describe methods to deter and prevent radicalization from occurring in the first place). (Clutterbuck, Deradicalization Program and Counterterrorism: A Perspective on the Challenges and Benefit, https://www.mei.edu/sites/default/files/Clutterbuck.pdf)

Through Presidential Decree No. 46/ 2010 the government created BNPT (Badan Nasional Penanggulangan Terorisme) or National Agency for Terrorism Countermeasures. The mandates of BNPT is as follows (article 2 of President Regulation No. 46/ 2010.):

- Creating policies, strategies and national program in terrorism countermeasures; namely in prevention, protection, deradicalization, action and preparation of national preparedness.
- Coordinating related government agencies in executing policies in terrorism countermeasures;
- Creating related task forces’

Instead of repressive measures, counter terrorism program also enforce deradicalization program. According to Agus Surya Bakti, the objectives of deradicalization program are: (1) Counter terrorism; (2) Preventing radicalism process; (3) Preventing provocation, spreading hatred, inter-religious hostilities; (4) Preventing community from indoctrination; (5) Enlighten people’s knowledge on terrorism; and (6) Learning to understand different ideologies/ school of thoughts. (Bakti, 2014).

At the end of 2013, BNPT developed a de-radicalization blueprint. As envisioned, de-radicalization efforts would include efforts of the Indonesian government in coordination with civil society organizations and selected academic institutions. The BNPT opened six additional branches of the Terrorism Prevention Communication Forum, which is now present in the capital cities of 21 of Indonesia’s 34 provinces. Members of each Forum include civic and religious leaders who coordinate outreach, facilitate communication among key stakeholders at the local level, and work closely with communities and families on reintegration programs for released terrorist prisoners. (US Department of State, Narcotics Control Reports, 2013, http://www.state.gov/j/inl/rls/nrcrpt/index.htm).

In dealing with radicalism, the deradicalization program initiated by the Indonesian National Counterterrorism Agency (BNPT) has been included in Indonesia’s counterterrorism strategy, particularly after the Bali Bombing incident of 2002. At least 700 suspects of JI members have been arrested and some of them are involved within the program. (Hadi in Istiqomah, 2011). However, the success of a deradicalization program is unlikely due to several implemental hindrances such as rejection of such programs by some Muslim communities. The Muslim communities argue that such programs are targeted to suppress Muslims and eradicate the principles of Sharia Law. (Muslimdaily.net in Istiqomah, 2011).

The BNPT and the police start to use ‘soft’ strategy and put more concern on how to stop the spread of the group’s radical ideology. The ‘soft’ approach is based on trust between the terrorist prisoners and the converted JI terrorists who have renounced radical ideology to influence other members to abandon violence and leave their radicalism. Most famous successful story is Nasir Abbas, a former Afghan militant who trained the Bali bombers. After his 2004 release from prison, he has been involved in the police’s de-radicalization program and helped to track down and arrested several of his former companions. Nasir Abbas has travelled to several Indonesian prisons to visit his former colleagues serving imprisonment for terrorist offences and convinced them to stop violence. (Harding in Istiqomah, 2011).

V. COUNTER TERRORISM AND HUMAN RIGHTS VIOLATIONS

Law enforcement officials, particularly Detachment 88 has aggressively and successfully pursued terrorists and disrupted their networks since its inception. In 2013 only they arrested at least 75 suspects in more than 40 separate raids in 2013. (Country Report on Terrorism, 2013, http://www.state.gov/j/ct/crs/ctr/2013/224821.htm). The arrests of dozens of suspected terrorists indicated that Detachment 88 continues to remain pro-active and mostly successful in cracking down on terrorism in the country. (Arianti, 2015: 9-12).

However, the arrest, detention, and other repressive measures conducted by Detachment 88 and other law enforcement officials were also subject to unlawful victimization which lead to human rights violation.

In Poso Regency, Central Sulawesi, 14 people were wrongfully arrested from 20 to 27 December 2012 by the police. They were arrested based on wrongful allegation of killing four policemen a week before. In the detention center, they were kept incommunicado. No access to the families and legal representatives. Within seven days, they were abused and tortured by the officials. Most of them got serious injuries. (Ramadhan, 2013, Polisi Bebaskan 14 Korban Salah Tangkap Kasus Poso, https://www.republika.co.id/berita/nasional/hukum/130102/mgd05-polisi-bebaskan-14-korban-salah-tangkap-kasus-poso).


The continuing human rights violations and abuses committed by detachment 88 lead to protest and anger, particularly from Muslim organization. Muslim groups have called on the National Police to dissolve the country’s anti-terror squad (Densus 88) in the wake of allegations it has tortured, wrongfully arrested or killed suspected terrorists while battling terrorism. Muhammadiyah chairman Din Syamsuddin, who is also deputy chairman of the Indonesian Ulama Council (MUI), said the police force must change its current approach to combating terrorism as it would prove counterproductive to terrorism eradication efforts. Din and representatives of other Islamic groups, including Nadhlatul Ulama (NU), DDH and Persatuan Islam (Persis), reported alleged human rights abuses perpetrated by Densus members against suspected terrorists. The groups claimed to have presented to the police video footage depicting men in Densus 88 uniforms intimidating and torturing what appears to be a suspected terrorist. (Jakarta Post, 2013, Muslim groups want Densus 88 dissolved over rights abuses, http://www.thejakartapost.com/news/2013/03/01/muslim-groups-want-densus-88-dissolved-over-rights-abuses.html).

In 2013, a video was aired virally contained a man who was tortured by alleged Detachment 88 officers. The man’s legs and hands were tied when the supposedly Detachment 88 officers verbally abused and shot him. “You are going to die, now istighfar [go ask for God’s mercy],” The video insulted Islam and could arouse sympathy among Indonesian Muslims, who largely opposed terrorism, for the militants. “Densus 88 should be evaluated, or dissolved if necessary. It could be replaced by another institution that promotes a different approach, to combat terrorism together because terrorism is our common enemy,” Din Syamsuddin, the Chairman of Muhammadiyah said. (Jakarta Post, 2013, Muslim groups want Densus 88 dissolved over rights abuses, http://www.thejakartapost.com/news/2013/03/01/muslim-groups-want-densus-88-dissolved-over-rights-abuses.html).

Siyono case is another problem in counter terrorism. Siyono, a terrorism suspect, was arrested after a prayer at a masjid near his residence in Klaten Central Java, in March 2016. He was arrested in front of his parents, but the officers did not explain the reason of the arrest and said that Siyono had a debt problem. Two days after the arrest, police officers searched Siyono’s house without explaining his condition to the wife. The next day, police contacted Siyono’s family delivering news that Siyono had died without explaining the death cause. Police then told Siyono’s family to pick up the body in Jakarta. At the same time, Siyono’s parents were intimidated by the Klaten Precinct Police and the head of the village. According to Satrio, they were asked to sign a statement saying that they would not file a lawsuit for Siyono’s death. The National Police said that Siyono died on the way to a hospital after being involved in a brawl with an anti-terror member escorting him. (Faiz, 2016, Densus 88 Violates Procedures in Arresting Siyono: KontraS, https://en.tempo.co/read/news/2016/03/26/055757096/Densus-88-Violates-Procedures-in-Arresting-Siyono-KontraS).

Human rights activists treat the case of Siyono as a criminal investigation, after an autopsy confirmed that torture was the cause of his death. Counterterrorism is indeed a priority for Indonesia as any other country; however, the mechanisms used should be in accordance with law and the national ideology, Pancasila. Dahnil Anzar Simanjuntak, Chairman of Pemuda Muhammadiyah, expressed his concern that counterterrorism efforts in Indonesia still neglected human rights principles and such violations still had not been addressed by those in government. Siyono was one among 121 other victims of Densus 88’s counterterrorism operations that neglected human rights principles, were allegedly conducted without
Hence, counter terrorism program in Indonesia, which partly conducted by Detachment 88 and coordinated by BNPT are subject to controversy. The country definitely need counter-terrorism program to combat numerous terrorism attack in Indonesia. On the hand, the counter-terrorism program must meet with human rights standards. Do not let counter terrorism lead to unlawful victimization or another ‘terrorism’ made by state apparatus (usually called as ‘state terrorism’).

Deradicalization program is also somewhat problematic. Some Muslim organizations reject this program since the program seemed to target “Muslim Terrorist” or ex-terrorist inmates. Counter-radicalization program are also targeted mostly to Muslim community, either at Islamic schools and universities (Siregar, 2018, Perguruan Tinggi Terpapar Radikalisme, https://www.liputan6.com/news/read/3549087/perguruan-tinggi-terpapar-radikalisme, accessed on 12 September 2018), as well as the masjids belonged to state-owned enterprises. (Septianto, 2018, 41 Masjid Kantor Pemerintahan dan BUMN di Jakarta Terindikasi Radikalisme, https://news.okezone.com/read/2018/07/08/338/1919586/41-masjid-kantor-pemerintahan-dan-bumn-di-jakarta-terindikasi-radikalisme, accessed on 12 September 2018). Whereas, terrorists are not only Muslims and radical ideologies can be originated from various sources and ideologies, not just from misinterpretation of Islamic teaching. This is actually a labeling, a condition where people are simply accused as guilty by association, without proper legal process.

The ICG report mention that deradicalization program are important but they will inevitably be trial-and-error in nature; there is no single intervention that can produce a rejection of violence among a disparate group of people who have joined radical movements for many different reasons. Within Jamaah Islamiyah alone there are the ideologues, the thugs, the utopians, the followers and the inadvertent accomplices; local recruits from Poso are motivated by very different factors than those who graduate from JI-affiliated schools in central Java. (International Crisis Group, 2007).

Much more thought needs to be given to how to evaluate the “success” of deradicalisation programs, because there is a danger that many people deemed to have been deradicalised are those who were never the real problem, or that the reasons individuals renounce violence have nothing to do with police programs. Even if we could measure the number of people deradicalised according to specific criteria, that figure would only have meaning if we had some sense of the number of new recruits and knew that the balance was going in the right direction.

Part of the reasons why counter-terrorism program in Indonesia frequently lead to human rights abuses is the flawed Indonesia laws of anti-terrorism. For instance, the definition of ‘terrorism’ on Perpu No. 1/ 2002 (interim law) is still too broad. According to Indonesia experiences in dealing with repressive regime, this “rubber” articles can be used to oppress democratic society.

At the same law, Investigators may arrest any person strongly suspected of committing a criminal act of terrorism based on adequate preliminary evidences as defined in Article 26 (2) for a maximum period of 7 x 24 (seven times twenty-four) hours.

On Article 28 of the said law, for the purpose of investigation and prosecution, the investigator is given authority to detain the accused for a maximum of 6 (six) months. On Article 25 (2), the said law expanded the criminal procedures. Intelligence reports may also be used as legal evidences, the investigators can also examine personal mails and tap telephone or other communication conversations for a period of up to one year. Thus, with these extensive powers, many arbitrary arrests are happen and it is common for the apparatus use extra-ordinary action.

Further, when the suspected person is arrested or detained, it is difficult to get access to her/him. The suspect person is usually put in incommunicado. No access to lawyers and legal aid. In most cases, when someone is arrested, no immediate information to her/his family. Instead, in many cases, the family has to go to many Police stations for several days to find their family member who are informed by their neighbors that she/he was captured.

Another typical violation is that the strictly limitation of access of the family to the arrested or detained person. The family found it difficult to see the condition of the alleged persons. These kinds of limitations and lack of judicial oversight have given broad chances for the investigator to commit torture or other cruel, inhuman or degrading treatment. Unfortunately, no serious responses from the authorities, including the court whenever there is a report on torture. Some of defendants who call for the court attention regarding the use of torture get no adequate response.

The amended law on terrorism in 2018 has also created another problems. It is quite good in protecting right of victims of terrorism, but it does has potentiality to abuse the rights of innocent persons. Law enforcers will have greater powers. The new terrorism law will include numerous provisions on terrorism prevention measures -- something that is not dealt with comprehensively in the prevailing terror law. (Ompusunggu and Ramadhani, 2018, How new antiterrorism law will change Indonesia's war on terror,
The bill stipulates that a person accused of terrorism could be held in custody from seven to 14 days without charges. Law enforcers could hold them for up to 200 days after officially charging them with terrorism. People who import explosives or components such as chemical, biological, radiological, nuclear or radioactive weapons for terrorism purposes into the country, or make, receive or possess them, can be charged under Article 10a of the bill, which carries a maximum sentence of 20 years’ imprisonment. The bill also charges people who mastermind terror attacks, partake in paramilitary training with the purpose of launching terror attacks or join overseas wars related to terror attacks, with maximum terms ranging from 12 years, 15 years, 20 years to life sentence and the death penalty. (Ompusunggu and Ramadhani, 2018, How new antiterrorism law will change Indonesia’s war on terror, http://www.thejakartapost.com/news/2018/05/19/how-new-antiterrorism-law-will-change-indonesias-war-on-terror-.html).

Therefore, the counter-terrorism laws, policies and practices have actually given the impact to freedom of expression, right of freedom from fear and right to liberty and security of person. The people feel frightened regarding the excessive power of judicial and non-judicial institutions because no adequate guarantee for fair trial and from wrongful arrest.


Prior to 2nd Amendment of 1945 Constitution, Indonesia has ratified CEDAW through Law No. 7 of 1984, Convention on The Rights of Children in 1990, Convention Against Torture, Inhuman and Degrading Treatment and Punishment through Law No. 5 of 1998.

Two major human rights convention, namely International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights were also ratified by Indonesia in 2005 through Law No. 11 of 2005 and Law No. 12 of 2005 respectively.

The abovementioned laws and human rights conventions explicitly mention the prohibition of torture, abuses and other forms of inhuman and degrading treatment and punishment to the criminal suspects as well as to the families/ surrounding relatives.

VI. CONCLUSION

As a country well known for numerous terrorism attack, counter-terrorism program is a must and mandatory to maintain the order, security and peaceful of the country. Repressive measures committed by law enforcement officials are understandable to some extent. Terrorist instigated and committed violence ubiquitously, therefore the countermeasure must be in line with various methods of crimes.

Nevertheless, even in ‘war against terrorism’ or counter terrorism program, human rights are still applied. The law enforcement officials could not simply neglect it in the name of ‘war against terrorism.’ The principle of presumption of innocence, fair arrest, fair detention, fair trial, and also freedom from torture, inhuman and degrading treatment and punishment must also be taken into account.


The tortures, wrongful arrest, wrongful detention and wrongful killing must be hindered at all costs. The country also needs to amend the flawed law on Anti-Terrorism namely Perpu No. 1 of 2002 and Law No. 15 of 2003, to avoid future human rights violations. Do not counter terrorism lead to another ‘terrorism’ committed by the state apparatus. Counter-terrorism measures must be reviewed and redefined.


Last but not least, a deradicalization program which have been introduced in the aftermath of Bali Bombing 2002 must not jeopardize and victimize innocent people. Labeling and guilty by association for specific communities just because their appearances and their socio-cultural association to a group of terrorist must be hindered. Justice, rule of law and certainty of law must be prevailed.
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Regulation

President Regulation No. 46/ 2010. Article 2.

Internet


