

Legal Politics Formation of the Directorate of Terrorism and Transnational Crimes in Countering Terrorism in Indonesia (Political Law Establishment of the Directorate of Terrorism and Transnational Crimes in Combating Terrorism in Indonesia)

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Abstract: *The Directorate of Terrorism and Transnational Crimes at the Attorney General's Office has the task of carrying out the preparation of policy formulation and handling cases in the field of criminal acts of terrorism and transnational crimes. It is stated in the Regulation of the Attorney General of the Republic of Indonesia Number PER-006 / A/JA/07 /2017 concerning the Organization and Work Procedure of the Attorney General's Office of the Republic of Indonesia Article 335, concerning the Organizational Structure of the Attorney General's Office. The Crime of Terrorism is regulated in Law Number 5 of 2018 Regarding Amendments to Law Number 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism into Laws. Prosecutors and other law enforcers are expected to be able to prevent and overcome criminal acts of terrorism, because based on social and political developments in society, the challenges to the problem of terrorism crimes will be more diverse. The writing of this article aims to examine how the Legal Politics of Establishing the Directorate of Terrorism and Cross Crimes The State in Combating Terrorism in Indonesia is a form of prevention of Terrorism Crimes carried out by the Directorate of Terrorism and Transnational Crimes and looks at the inhibiting and supporting factors in the implementation of efforts to prevent Terrorism Crimes. To obtain data, literature research and field research were conducted. Literature research to obtain secondary data by studying books, laws, which has to do with the title of this article. And the purpose of this paper is expected to all law enforcement agencies to be more leverage in making efforts to prevent this crime, by being more active in conducting counseling about the dangers of terrorism. The relevant government must also coordinate with related agencies engaged in counter-terrorism so that the inhibiting factors encountered by personnel in the field can be found together.*

Keywords: Crime, Terrorism, Directorate of Security Intelligence

1. Introduction

Indonesia is a state of law, this is stated in Article 1 paragraph 3 of the 1945 Constitution. Every behavior of the Indonesian people is regulated according to applicable law. The law is believed to be a means of protecting individuals from evil deeds. One of them is criminal law. Criminal law itself is public law, because it regulates the relationship between individuals and their communities as a society. Criminal law is carried out for the benefit of the community and is also only carried out in terms of the public interest.¹

In Law of the Republic of Indonesia Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism. Explaining the Crime of Terrorism in Article 1 Paragraph (1) and Article 1 Paragraph (2) which reads:²

¹ E Utrecht, Series Sari lectures on Criminal Law I, Bandung: Bandung Faculty of Law, page 58.

² Law of the Republic of Indonesia Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism, Becomes Law on Eradication of Criminal Acts of Terrorism. Article 1 Paragraphs (1 and 2) concerning the definition of criminal acts of terrorism and acts of terrorism.

"Criminal acts of terrorism are all acts that meet the elements of a criminal act in accordance with the provisions of this law".

"Terrorism is an act that uses violence or threats of violence that creates an atmosphere of terror or widespread fear, which can cause mass casualties, and/or cause damage or destruction to strategic vital objects, the environment, public facilities, or international facilities with ideological, political or security motives".

One of the law enforcement efforts in dealing with a series of cases of criminal acts of terrorism in Indonesia is to carry out a preventive process which is the countermeasure stage, for this reason, in an effort to assist the process of combating terrorism. Then in a meeting held by the Head of the National Counterterrorism Agency (BNPT) Komjen Pol Boy Rafli Amar with Attorney General Sanitiar Burhanuddin on Tuesday, June 9, 2020 in terms of improving coordination between the two institutions in handling terrorism cases, both at the level of prevention and prosecution of terrorism activities. in Indonesia. In this meeting, Hari Setiono, Head of the Legal Information Center stated that:³

³ Mevi Linawati, "Head of BNPT Meets with Attorney General, Coordination of Countering Terrorism", published in <https://www.liputan6.com/news/read/4275143/head-bnpt-temui->

"Prosecutor General Burhanuddin emphasized that the Attorney General's Office will coordinate with BNPT investigators and investigators in terrorism cases where the prosecution is at the Attorney General's Office under the Deputy Attorney General for General Crimes and carried out by the Directorate of Terrorism and Transnational Crimes based on the Regulation of the Attorney General of the Republic of Indonesia Number 9 of 2020 concerning the revocation of the Attorney General's Regulation Number: PER-001/A/JA/09/2005 concerning the Establishment of the Task Force on Terrorism and Transnational Crimes".

In the investigation and investigation of criminal acts of terrorism, there must be coordination between institutions that have the authority to enforce the law in criminal acts of terrorism. The investigation itself is a series of investigators' actions to seek and find an event that is suspected of being a criminal act in order to determine whether or not an investigation can be carried out according to the method regulated by law. Investigation is not a stand-alone function separated from the investigation function, but is only a method or method or sub-function of investigation, which precedes other actions, namely actions in the form of arrest, detention, search and confiscation which are investigative functions. However, not all events that are suspected of being criminal acts must always be preceded by an investigation. If it is clear that it is a criminal act because preliminary evidence has been obtained, for example being caught red-handed, then an investigation can be carried out immediately. The investigative authority related to the process of arresting people suspected of being involved in terrorism is not specifically regulated who is authorized so that it still refers to the regulations in the Indonesian Criminal Procedure Code, namely the investigator is a state police official of the Republic of Indonesia or certain civil servant officials who are given special authority by law. to conduct an investigation.⁴ So in law enforcement related to criminal acts of terrorism, law enforcement agencies must coordinate with each other in order to prove the crime of terrorism as an extraordinary crime in order to provide understanding to the public so that people are aware of the dangers of terrorism, so this too becomes part of prevention efforts because people need quality information. in the form of a good understanding of the dangers of acts of terrorism.⁵

The form of coordination between institutions is implemented based on the results of monitoring and information obtained from Densus 88/AT at the National Police Headquarters, there are cases of Terrorism Crimes handled by the High Prosecutor's Office / District Attorney's Office which are the results of investigations from the Regional Police or the local Resort Police, but the High Prosecutor's Office / Prosecutor's Office The State does not report its handling to the Deputy Attorney General for General Crimes, through the Important Case Reporting

jaksa-agung-coordinate-handling-terrorism, accessed on 25/02/2021, at 18:30 WIB.

⁴Law Number 8 of 1981 concerning the Criminal Procedure Code of the State Gazette of the Republic of Indonesia of 1981 Number. 76, Article 1 point 1.

⁵Education and Training Agency for the Attorney General's Office of the Republic of Indonesia, Criminal Procedure Code Module. Jakarta 2019, p. 87.

mechanism (PKTING) as stipulated in the Instruction of the Attorney General of the Republic of Indonesia Number: INS-004/JA/3/1994 dated March 9, 1994, Letter of the Deputy Attorney General for Crimes General Number: R-05/E/ES/2/95 dated February 9, 1995 and PERJA Number: 036/A/JA/09/2011 concerning Standard Operating Procedures (SOP). Regarding the handling of cases of criminal acts of terrorism,⁶

- 1) That if there is a case of a criminal act of terrorism whose investigation is carried out by the Criminal Investigation Unit of the POLDA and POLRES which is submitted, then the High Prosecutor's Office and the local District Attorney can carry out prosecutions based on applicable laws, with the obligation of the High Prosecutor's Office/local District Attorney to report any developments to JAMPIDUM with a copy. Head of the Terrorism TP Task Force and Transnational TP, starting from the receipt of the Notification of Commencement of Investigation (SPDP), in accordance with the PK handling and reporting mechanism. Ting is in accordance with the Instructions of the Attorney General of the Republic of Indonesia Number: INS-004/JA/3/1994 dated March 9, 1994, Letter of the Deputy Attorney General for General Crimes Number: R-05/E/ES/95 dated February 9, 1995 and PERJA Number: 036/A/JA/09/2011 concerning Standard Operating Procedures (SOP).
- 2) In the event that it is deemed necessary and for the sake of successful handling of the case, taking into account regional security conditions or due to the danger of natural disasters in the jurisdiction of the District Court, which is supposed to be attending the case (according to Locus Delicti), and for the sake of law, the Head of the District Prosecutor's Office may submit a proposal to relocate the trial venue to the Chief Justice of the Supreme Court of the Republic of Indonesia through the Head of the local High Prosecutor's Office with a copy to the Attorney General of the Republic of Indonesia, Investigators and the Head of the local District Court.
- 3) Submission of the proposal to move the venue of the trial in point (2) is accompanied by the reasons as stipulated in the Criminal Procedure Code. The procedure for submitting a transfer of trial and its administration refers to Article 60 PERJA RI Number: PER-036/A/JA/09/2011 dated September 21, 2011 concerning Standard Operating Procedures (SOP) for Handling General Crime Cases.
- 4) If in the process of proposing to move the venue of the trial there is a delay in the issuance of the SK MA (Supreme Court Decree), the Head of the High Court may immediately order the Head of the local District Attorney to delegate the case to the local District Court where the case occurred, to avoid releasing the accused from detention by law.

Regarding duties and authorities Directorate of Terrorism and Transnational Crime, which is part of the Junior Attorney General for General Crimes at the Indonesian

⁶ Regulation of the Attorney General of the Republic of Indonesia, Number: PER-001/A/JA/09/2005 dated September 8, 2005 concerning the Establishment of a Task Force for Handling Terrorism Crimes and Transnational Crimes.

Attorney General's Office. Based on the Regulation of the Attorney General of the Republic of Indonesia Number PER-006 / A / JA / 07 /2017 concerning the Organization and Work Procedure of the Attorney General of the Republic of Indonesia Article 335:⁷

"The Directorate of Terrorism and Transnational Crimes has the task of carrying out the preparation of policy formulation and handling cases in the field of criminal acts of terrorism and transnational crimes".

Indirectly, the emergence of terrorism stems from the notion of radicalism, which means a concept or spirit that seeks to make a complete and fundamental change in political life without taking into account the existing constitutional, social and political regulations/provisions. Radicalism itself arises from an excessive sense of dissatisfaction with a policy or rule that is seen as not in line with the wishes of a personal or group that creates a spirit of change in the policy or rule so that it can be forced to change according to the wishes and desires of the individual or group.⁸ Therefore, the establishment of the Directorate of Terrorism and Cross-State Crimes is a legal political policy in order to realize better handling, prevention, and eradication of terrorism crimes.

On the basis of the above description, in writing this thesis will try to discuss the "Legal Politics of the Establishment of the Directorate of Terrorism and Transnational Crimes in Countering Terrorism in Indonesia".

1.1. Formulation of the problem

Considering the magnitude of the danger of terrorists to the state and society, the Attorney General of the Republic of Indonesia must continue to increase awareness of the dangers of radicalism, especially those from the ISIS terrorist group, the involvement of children in terrorist acts, corporate actions in supporting acts of terrorism, and the internet media which is a means of exposing terrorism and radicalism. Therefore, a legal political policy is needed in the context of more optimal handling and law enforcement in eradicating and tackling terrorism. Moreover, threats from these terrorist groups can appear in various forms, ranging from propaganda or the spread of ideology, to open and overt threats to Law Enforcement Officials and the Government of the Republic of Indonesia.⁹

Based on the introduction above, the problems in this writing can be formulated, including:

- 1) How is the implementation of legal politics behind the establishment of the directorate of terrorism and

⁷Regulation of the Attorney General of the Republic of Indonesia Number PER-006 / A/JA/07 /2017 concerning the Organization and Work Procedure of the Attorney General of the Republic of Indonesia Article 335, concerning the Organizational Structure of the Attorney General's Office, p. 170.

⁸Prof. Dr. Ermaya Suradinata, SH. MS. MH. "Geopolitics and Geostrategy Law". (Jakarta: SuaraFree, 2005), p. 131.

⁹Barry Buzan, Ole Waever, and Jaap de Wilde Security: A New Framework for Analysis, (Boulder: Lynne Rienner Publishers, London. 1998), p. 23-24.

transnational crimes in countering terrorism in Indonesia?

- 2) How to strengthen the Directorate of terrorism and transnational crimes in countering terrorism in Indonesia?

1.2. Research purposes

The objectives to be achieved in this thesis research are:

- 1) To find out how the legal politics behind the establishment of the Directorate of Terrorism Crimes and Transnational Crimes in countering terrorism in Indonesia.
- 2) To find out how the functions and roles of the Directorate of Terrorism Crimes and Transnational Crimes are in combating terrorism in Indonesia.

1.3. Benefits of research

The benefits of this thesis research are:

1) Theoretical Benefits

Theoretically, it is useful to contribute ideas in an effort to understand insights in the field of legal science regarding the implementation of legal politics behind the establishment of the directorate of terrorism and transnational crimes in countering terrorism in Indonesia, and strengthening the Directorate of terrorism and transnational crimes in countering terrorism in Indonesia.

2) Practical Benefits

Practically, this research is expected to provide additional knowledge for writers and additional library materials or information materials from various parties who need it related to efforts to eradicate criminal acts of radicalism and terrorism.

1.4. Conceptual Framework and Theoretical Framework

1.4.1. Conceptual framework

Conceptual is a framework that describes the relationship between specific concepts which is a collection of meanings related to the term to be studied¹⁰. To provide a unified understanding of the title of this thesis, below will be discussed about the concept or meaning of several terms used in writing a thesis.

- 1) According to Soedarto, argues that: "Legal politics is a policy of the state through state agencies authorized to establish the desired regulations, which are expected to be used to express what is contained in society and to achieve what is aspired to".¹¹
- 2) The Directorate of General Crimes and Transnational Crimes at the Indonesian Prosecutor's Office was formed based on the RI Prosecutor's Regulation Number 9 of 2020 concerning the Revocation of the Attorney General's Regulation Number: PER-001/A/JA/09/2005 concerning the Establishment of a

¹⁰SoerjonoSoekanto, Op.cit, page 124.

¹¹Soedarto, "Criminal Law and Community Development in the Study of Criminal Law", (Bandung: Sinar Baru, 1983), p. 20.

Terrorism and Non-Criminal Crime Task Force Country.¹² “

Article: 1 of the Attorney General's Regulation Number: PER-001/JA/09/2005 concerning the Establishment of a Terrorism and Transnational Crime Task Force, is revoked and declared invalid and Article 1: 2 of this Prosecutor's Regulation shall come into force on the date of its promulgation. For public cognizance, ordering the promulgation of this Prosecutor's Regulation by placing it in the State Gazette of the Republic of Indonesia. Set in Jakarta".¹³

- 3) In the Black Law Dictionary, terrorism is defined as, "the use of threat of violence to intimidate or cause panic, esp. as a means of affecting political conduct", while in the Big Indonesian Dictionary terrorism is defined as the use of violence to cause fear in an effort to achieve a goal, especially a political goal, if we look closely, the definition of terrorism, both described in the Black Law Dictionary and in the Big Indonesian Dictionary, has the same conclusion, that terrorism is an act of violence that causes panic or fear to achieve certain goals.¹⁴

1.4.2. Terror and Terrorism

Terrorism is an ideology that holds that the use of violent and fear-inducing means is a legitimate means to achieve goals.¹⁵

Paul Wilkinsin, argues that:¹⁶

The definition of terrorism is a systematic, neat and organized terrorist act carried out by a particular organization. In its actions, acts of terror usually have the following characteristics.

- Terrorists are motivated by a strong ideology.
- Perpetrators perform coercive intimidation.
- Carry out systematic killing and destruction as a means to a particular end.
- The target of terror is chosen, even though the determination of the target is carried out in secret, but the purpose of its implementation is to get publicity.
- Victims are not an end but a means to create fear for many.
- Although explicit, the message of terror is quite clear.

Terror acts of terrorism can have physical and/or non-physical (psychological) consequences. Physical acts of terror usually result in physical harm to the victim, such as beatings, driving, killing, detonating bombs and so on, while

non-physical (psychological) consequences can be carried out by spreading issues, threats, and so on. As a result of this act of terror, every person or group of people who are victims of terror feel insecure and in a state of fear (traumatic). It can even have a wider impact, that is, it can affect the economic, political and sovereign life of the state. Therefore, acts of terrorism must obtain solutions both in prevention and control from especially law enforcers of the Police, TNI, Attorney of the Republic of Indonesia, BNPT, Supreme Court, as well as Executive and Legislative Institutions as well as the community.¹⁷

According to Barry R. Posen in his article entitled *The Struggle against Terrorism: Grand Strategy, Strategy and Tactics*, he argues:¹⁸

“What a country must do in an effort to tackle terrorism is with a strategy to determine priorities and focus on using a country's resources, both in the form of money, time, and capital. This includes political resources, law enforcement institutions, and the country's military power. Countries that are trying to overcome the terror threat must increase their diplomatic and defense capabilities because these two factors play a major role in counter-terror efforts. Through the priority scale on the use of state resources, the country will save more energy than fighting terror with an attrition war.”

The basic characteristics developed in dealing with terrorism must be dynamic, timely and in the right situation. In addition, these three characteristics must be implemented simultaneously in accordance with their respective functions, namely: preventive, repressive, and rehabilitative functions. Thus, the policies and steps in preventing, handling, and eradicating terrorism using the said trinity basis can maintain an orderly, safe, peaceful, just, and prosperous life for the Indonesian people and nation.¹⁹

1.4.3. Theoretical Framework

Theoretical frameworks are concepts that are actually abstractions from the results of thoughts or frames of reference which basically aim to identify social dimensions that are considered relevant by researchers. In general, theories are sourced from laws, books or scientific papers and research reports, as well as journals. Each research will have a theoretical framework that becomes a reference and aims to identify the social dimensions that are considered relevant by researchers. The theoretical framework is an arrangement of several assumptions, opinions, methods, rules, principles, information as a logical unit that becomes the basis, reference, and guideline for achieving goals in research or writing.

The theories in question are:

1) Legal Political Theory

¹²Mudzakkir, *Legal Studies on Legal Protection for Victims of Terrorism*, (Jakarta, National Legal Development Agency, Ministry of Law and Human Rights RI), 2008, p. 6-7.

¹³Barry R. Posen, “The Struggle against Terrorism: Grand Strategy, Strategy and Tactics”, (*International Security* Vol 26, No. 3, 2001), p. 39-55.

¹⁴Romli Atmasmita, *Terrorism Regulatory Issues and Indonesian Perspectives*, (Jakarta: National Legal Development Agency, Ministry of Justice and Human Rights, 2002), p. 2-3.

¹² The Meaning of the Word Team, “Definition of Establishment”, is published in: <https://www.artikata.com/arti-359758-formation.html>, accessed on 12/03/2021, at 20:30 WIB.

¹³ Indonesian Attorney General's Office Regulation Number 9 of 2020 concerning the Revocation of the Attorney General's Regulation Number: PER-001/A/JA/09/2005 concerning the Establishment of a Transnational Terrorism and Non-Criminal Task Force.

¹⁴ Hariman Satria, “Anatomy of Special Criminal Law”, (Yogyakarta: UII Press, 2014), p. 100.

¹⁵Muchamad Ali Syafa'at, “The Crime of Terror, New Shackles for Freedom” in *Terrorism, Definition, Action and Regulation*, (Jakarta: Imparsial, 2003), p. 59.

¹⁶Paul Wilkinson, *Terrorism versus democracy: the liberal state response*, Routledge: Oxon, 2001, p. 44.

In order to complete the description above, the author presents the definitions of legal politics formulated by several legal experts who have been quite concerned about observing the development of this discipline, namely:

Teuku Muhammad Radhie, argues that:²⁰

"Concepting legal politics as a statement of the will of the state authorities regarding the applicable law in the territory of a country and regarding the direction in which law is to be developed".

Sunaryati Hartono with regard to legal politics does not define legal politics explicitly, but he sees that legal politics as a tool or means and steps that can be used by the government to create the desired national legal system and with the national legal system the ideals will be realized, the ideals of the Indonesian nation.²¹

Moh. Mahfud MD, argues that:²²

"Legal politics is a legal policy or official line (policy) on law that will be enforced either by new law or by replacing old law, in order to achieve state goals".

From the understanding of legal politics according to the legal experts above, it can be concluded that what is meant by legal politics is a series of concepts, principles, basic policies and statements of the will of the state authorities which contain the politics of law formation, the politics of determining law and the politics of implementing and enforcing the law. institutions and development of law enforcement officers to determine the direction, form and content of the law to be formed, the applicable law in its territory and regarding the direction of development of the law that is built and to achieve state goals. Legal politics also implies how to seek or make and formulate a good criminal legislation.

2) Law Enforcement Theory

Harun M. Husen is of the opinion that:²³

"Law enforcement can also be interpreted as the implementation of law by law enforcement officers and by everyone who has an interest in accordance with their respective authorities according to the applicable legal rules. The enforcement of criminal law is an integral part of the process, beginning with the investigation, arrest, detention, trial of the accused and ending with the prison of the convict".

Criminal law enforcement is the concrete application of criminal law by law enforcement officers. In other words, criminal law enforcement is the implementation of criminal regulations. Thus, law enforcement is a system that involves the harmonization of values with rules and real human behavior. These rules then become guidelines or

benchmarks for behavior or actions that are considered appropriate or should be. The behavior or attitude of the act aims to create, maintain, and maintain peace.

According to Moeljatno, he argues that:²⁴

"The term criminal law which says that law enforcement is part of the overall law applicable in a country that contains elements and rules, namely:

- 1) Determine actions that should not be carried out accompanied by threats or sanctions in the form of certain crimes for anyone who violates the prohibition.
- 2) Determining and in what cases those who violate the prohibitions can be imposed or sentenced to criminal as has been threatened.
- 3) Determining how the imposition of the punishment can be carried out if the person suspected of having violated the prohibition.

Observing the phenomena of reality and objective conditions that are increasingly becoming and ongoing while the existing regulations are far from adequate to be used as an instrument to prevent and overcome, encouraging the Government together with the Indonesian House of Representatives to immediately finalize the revision of Law Number 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law -InviteNumber 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism Becomes a Law. Law Number 5 of 2018 which was passed on June 21, 2018 which is more proactive in nature (proactive law enforcement), contains regulatory substances that are more responsive than existing laws. In this regard, at least we note that there are several advantages of Law Number 5 of 2018, including:²⁵

- 1) Expanding the principle of extended criminalization for perpetrators of terrorism, so that this law can not only be applied to actions that have already occurred, but can also cover various forms of precursor activities, starting from recruitment activities, betrayal, organizing, training and various other radical movements which are indicated as initial acts and preparations for the commission of criminal acts of terrorism.
- 2) Determining the involvement of corporations as terrorist organizations which no longer has to go through a court decision that has obtained permanent legal force (inkracht van gewijzde), but simply through a judge's determination, is a progressive step in an effort to prevent and overcome the development of terrorists within an organization as well as the symptom of the foreign terrorist fighter phenomenon.
- 3) The involvement of the Indonesian National Armed Forces in combating terrorism can be felt to be very helpful, considering that basically terrorism movements and acts are not only a matter of violating positive laws, but have become social and security issues that tend to

²⁰ Teuku Muhammad Radhie, "Legal Politics" in PRISMA magazine, Number. 6th year II, December 1973, p. 4.

²¹ Sunaryati Hartono, "Legal Politics Towards One National Legal System", Bandung: Alumni, 1991, p.1.

²² Moh. Mahfud MD, "Legal Politics in Indonesia", Jakarta: PT RajaGrafindo Persada, 2009, p. 2

²³ Harun M. Husen, "Crime and Law Enforcement in Indonesia", Jakarta: Rineka Cipta, 1990, p. 58.

²⁴ Moeljatno, "Principles of Criminal Law", Surabaya: Putra Harsa, 1993, p. 23.

²⁵ Republic of Indonesia, Law Number 5 of 2018, Regarding Amendments to Law Number 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism into Laws.

potentially threaten state ideology, state sovereignty, territorial integrity and national safety.

In order to cope with the growth and development of aggressive acts of terror that are increasingly happening like this, institutionally the Prosecutor's Office has also made serious efforts to seriously optimize the prevention and eradication of terrorist crimes, including the establishment of the Directorate of Terrorism Crimes and Transnational Crimes, which initially only is a Task Force, so with thus attention and handling of terrorism problems, both in the form of prevention and integrated action with all related parties, can be carried out more optimally.²⁶

2. Discussion

A. Legal Politics Formation of the Directorate of Terrorism and Transnational Crimes in Combating Terrorism

The Regulation of the Attorney General of the Republic of Indonesia Number: PER 001/A/JA/09/2005 dated September 8, 2005 concerning the Establishment of a Task Force for Handling Terrorism Crimes and Transnational Crimes, is the basis for the establishment of a Terrorism and Transnational Crime Task Force. Which then The Indonesian Attorney General's Office issued the Indonesian Attorney's Office Regulation Number 9 of 2020 concerning the Revocation of the Attorney General's Regulation Number: PER-001/A/JA/09/2005 concerning the Establishment of a Transnational Terrorism and Non-Criminal Crime Task Force, with the revocation of the Task Force which was later changed to Directorate of Terrorism and Transnational Crimes which are under the responsibility of the Deputy Attorney General for General Crimes at the Indonesian Attorney General's Office.²⁷ With this regulation, the duties of the directorate of terrorism and transnational crimes are: The handling, control and administration of Terrorism Crime cases is centralized in the Task Force for Handling Terrorism Crimes and Transnational Crimes at the Indonesian Attorney General's Office, so that if there are cases of Terrorism Crimes handled by the High Prosecutor's Office and the District Attorney's Office, instructions are hereby given. -the following:²⁸

- 1) That if there is a case of a criminal act of terrorism whose investigation is carried out by the Criminal Investigation Unit of the POLDA and POLRES which is submitted, then the High Prosecutor's Office and the local District Attorney can carry out prosecutions based on applicable laws, with the obligation of the High

Prosecutor's Office/local District Attorney to report any developments to JAMPIDUM with a copy. Head of the Terrorism TP Task Force and Transnational TP, starting from the receipt of the Notification of Commencement of Investigation (SPDP), in accordance with the PK handling and reporting mechanism. Ting is in accordance with the Instructions of the Attorney General of the Republic of Indonesia Number: INS-004/JA/3/1994 dated March 9, 1994, Letter of the Deputy Attorney General for General Crimes Number: R-05/E/ES/95 dated February 9, 1995 and PERJA Number: 036/A/JA/09/2011 concerning Standard Operating Procedures (SOP).

- 2) In the event that it is deemed necessary and for the sake of successful handling of the case, taking into account regional security conditions or due to the danger of natural disasters in the jurisdiction of the District Court, which is supposed to be attending the case (according to Locus Delicti), and for the sake of law, the Head of the District Prosecutor's Office may submit a proposal to relocate the trial venue to the Chief Justice of the Supreme Court of the Republic of Indonesia through the Head of the local High Prosecutor's Office with a copy to the Attorney General of the Republic of Indonesia, Investigators and the Head of the local District Court.
- 3) Submission of the proposal to move the venue of the trial in point (2) is accompanied by the reasons as stipulated in the Criminal Procedure Code. The procedure for submitting a transfer of trial and its administration refers to Article 60 PERJA RI Number: PER-036/A/JA/09/2011 dated September 21, 2011 concerning Standard Operating Procedures (SOP) for Handling General Crime Cases.
- 4) If in the process of proposing to move the venue of the trial there is a delay in the issuance of the SK MA (Supreme Court Decree), the Head of the High Court may immediately order the Head of the local District Attorney to delegate the case to the local District Court where the case occurred, to avoid releasing the accused from detention by law.

Furthermore, regarding the duties and authorities The Directorate of Terrorism and Transnational Crimes, which is part of the Deputy Attorney General for General Crimes at the Indonesian Attorney General's Office, is regulated. Based on the Regulation of the Attorney General of the Republic of Indonesia Number PER-006 / A / JA / 07 / 2017 concerning the Organization and Work Procedure of the Attorney General of the Republic of Indonesia Article 335 that:²⁹

"The Directorate of Terrorism and Transnational Crimes has the task of carrying out the preparation of policy formulation and handling cases in the field of criminal acts of terrorism and transnational crimes".

It was changed to become the Directorate of the Task Force as a political policy for law enforcement aimed at

²⁶ The Attorney General's Office of the Republic of Indonesia, "Remarks by the Indonesian Attorney General at the Signing of the Memorandum of Understanding and Cooperation Agreement between BNPT and the Indonesian Attorney General's Office Jakarta, July 03 2018" <https://www.kejaksaan.go.id/pidato.php?idu=0&id=208&hal=8>, accessed 01032021, at 21:40 WIB.

²⁷ The Meaning of the Word Team, "Definition of Establishment", is published in: <https://www.artikata.com/arti-359758-formation.html>, accessed on 12032021, at 20:30 WIB.

²⁸ Regulation of the Attorney General of the Republic of Indonesia, Number: PER-001/A/JA/09/2005 dated September 8, 2005 concerning the Establishment of a Task Force for Handling Terrorism Crimes and Transnational Crimes.

²⁹ Regulation of the Attorney General of the Republic of Indonesia Number PER-006 / A/JA/07 /2017 concerning the Organization and Work Procedure of the Attorney General of the Republic of Indonesia Article 335, concerning the Organizational Structure of the Attorney General's Office, p. 170.

confirming the seriousness of the eradication of terrorism. The war against terrorism continues to be carried out by mobilizing all capabilities and efforts to reduce the rate of criminal acts of terrorism in Indonesia. With the enactment of Law Number 5 of 2018 which contains many new rules, forcing law enforcers, both investigators and public prosecutors to improve their intellectual abilities and integrity in finding and obtaining the evidence needed to support proving the elements of a criminal act of terrorism. This encourages the Directorate of Terrorism and Transnational Crimes at the Deputy Attorney General for General Crimes at the Indonesian Attorney General's Office to carry out their duties as best they can.³⁰

On that basis, in the context of eradicating terrorism, legal politics is defined as a legal policy that will or has been implemented nationally by the government, including the configuration of political power that affects law and law enforcement to eradicate terrorism in terms of the *Ius Constituendum* and positive law that is currently in effect. *Iusconstitutum*).³¹

In order to carry out state responsibilities and realize the *Iusconstituendum*, political will in eradicating terrorism is through the establishment of an Anti-terrorism law. The existence of this law shows that the state has made efforts to realize the *Iusconstituendum* which is based on the legal ideals of the Indonesian nation. However, at the implementation level, the formulation of the provisions in the Anti-terrorism law is far from perfect so that it becomes an obstacle in eradicating terrorism. This is because, among other things, there are multiple interpretations of the definition of terrorism and terrorists; ineffective coordination between law enforcement agencies has not comprehensively regulated terrorism related to terrorism prevention and countermeasures strategies, as well as deradicalization;³²

In line with revising Law No. 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law No. 1 of 2002 concerning Eradication of Criminal Acts of Terrorism. Become Law Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism into Law. With the enactment of Law Number 5 of 2018 it is a form of legal politics with the renewal of the

³⁰ Directorate of Terrorism and Transnational Crimes, Guidelines for Handling Terrorism Crimes, (Jakarta: Directorate of Terrorism and Cross-State Criminal Acts of the Indonesian Attorney General's Office, 2020), Prolog.

³¹ Directorate of Terrorism and Transnational Crimes, Guidelines for Handling Terrorism Crimes, (Jakarta: Directorate of Terrorism and Cross-State Criminal Acts of the Indonesian Attorney General's Office, 2020), Prolog.

³² Djafar, Wahyudi and Bernhard Ruben Fritz Sumigar. (2016). "Revision of the Act on the Eradication of Acts 5 Brief Info © 2009, Research Center of the Indonesian House of Representatives Expertise Agency <http://puslit.dpr.go.id> ISSN 2088-2351 All rights reserved. It is prohibited to quote or reproduce part or all of the contents of this paper without the permission of the publisher. Criminal Terrorism: The Need to Balance Between National Security Needs and Protection of Human Rights." Policy Brief. Jakarta: ELSAM.

rule of law to change its substance to make it more relevant to the current social, political, legal, defense and security conditions.³³

With the revision of the law on terrorism and social developments, politics in society is deemed necessary to realize the state's goals, namely the protection function, welfare function, education (educational function), and peace (peacefulness function). So with the obligation to carry out the mandate of the constitution as the juridical basis for our country, this has become the basis for the formation of the Directorate of Terrorism and State Crimes, where the directorate is formed which is part of the Junior Attorney General for General Crimes at the Indonesian Attorney General's Office for the purpose of carrying out his duties preparing the formulation of policies and handling cases in the field of criminal acts of terrorism and transnational crimes.³⁴

In essence, there must be good cooperation and mutual coordination between Ministries/Institutions such as PPATK, Densus 88 Anti-Terror, the Supreme Court, Director General of PAS, and BNPT as well as being an effective fuel in resolving cases of criminal acts of terrorism. In order for the food to run optimally, both from law enforcement, prevention of criminal acts of terrorism, to counter terrorism efforts, with deradicalization efforts.³⁵

3. Conclusion

Considering the magnitude of the threat of acts of terrorism against the sovereignty of the state, the counter-terrorism system should be improved to be more assertive. Because, for Indonesia and all countries in the world, acts of terrorism are very threatening the joints of the life of the nation, state and society. Several things that must be focused and optimized by law enforcers, in this case the role of the prosecutor at the Directorate of Terrorism and Transnational Crime, as well as other law enforcement elements with the government in countering terrorism in Indonesia, are to significantly increase and perfect the resources they have. especially related to budget and regulatory issues. While the program that needs to be improved is the terrorism deradicalization program.

4. Suggestion

In addition, the government also needs to increase the role of every Indonesian anti-terror apparatus that has been formed to prevent and combat government terrorism. These tools include the BNPT, Densus 88, the Counter Terrorism Detachment, and Intelligence, as well as enhancing the capacity of other law enforcement officers who must synergize with each other maximally in dealing with and even preventing the occurrence of terrorism in Indonesia. Another thing that is also important and must be improved is the implementation of cooperation in gathering international support for eradicating terrorism, especially in Indonesia and

³³ *Ibid*, Prologue.

³⁴ Siagian, Henri Solomon. "Revised Anti-terrorism Law Don't Disturb Democracy", Media Indonesia, 15 May 2018, p. 3.

³⁵ *Ibid*, Prologue.

generally in the world as mandated by the opening of the 1945 Constitution of the Republic of Indonesia. To protect the entire Indonesian nation and the entire homeland of Indonesia and to promote public welfare, educate the nation's life and participate in carrying out world order based on freedom, eternal peace and social justice. The next step that can be taken is to increase the integrity of law enforcement in carrying out the enforcement of criminal acts of terrorism as regulated in law number 5 of 2018. With the revised legal regulations, it requires law enforcement officials and Indonesian anti-terror services to take more effective actions. in the context of early detection and prevention of terrorism. The existence of appropriate regulations and law enforcement with integrity as well as community participation in tackling terrorist acts, and efforts to increase the state's overall deterrence and deterrence against terrorist threats. In addition, the existing regulations are also expected to support the capacity of law enforcers and agencies specially formed to tackle acts of terrorism and other special units.

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