

# **Non Penal Policy for Preventing Terrorism Criminal Acts Through Contextualization Jihad Command in Islamic Sharia**

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## **Abstract**

This research is a research in the field of criminal law with a study of non-criminal policies regarding the prevention of terrorism crimes. The factors that cause some Muslims to commit terrorism crimes and interpret their actions as jihad are the mistake of looking at the glory of Muslims, the mistake of understanding the sharia of Jihad and carelessly interpreting the verses of the Qur'an and then abandoning the ulama. The form of non-penal policy is in the form of prioritizing prevention, understanding the purpose of sharia and straightening the understanding of jihad. The type of research used here is a type of normative research with a conceptual approach, namely comparing the occurrence of terrorism crimes in the name of jihad with the concept of jihad in Islamic law. This research is

appropriate to read for those who want to research the meaning of jihad in Islamic sharia to answer its ambivalence in society.

## Keywords

*Islamophobia, National Security, Policy, Society, Terrorism*

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## I. Introduction

Allah Azza Wa Jalla as the only god who has the right to be worshipped by mankind, is the Supreme One who has established the law for mankind in his Shari'ah with the aim of protecting the soul, property and honor of mankind, only Shari'ah as the way and guide to happiness and salvation in this world and the land of the hereafter. And it is Allah who has made Islam His mercy so that people can love and take care of each other. Allah revealed Islam through His Messenger, namely the Prophet Muhammad Salallahualaihiwassalam, who raised mankind from darkness to light, so that Islam became a blessing to the universe, this is in accordance with the words of Allah in QS Al-Anbiya verse 107. Islam as Rahmatan lil Alamin or mercy for the universe, that is, Islam brings compassion to all the inhabitants of this universe, not only for humans and including non-Muslims, therefore Islam is a noble religion. As a form of Islam as a blessing to the universe, Islam pays important attention to the human soul (life)<sup>1</sup>. the matter of blood is always guarded in Islam so there is a prohibition to take the life or kill of human beings, both Muslims and non-Muslims without a valid reason, and the first thing that will be decided

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<sup>1</sup> Emi Nugraheni Solihah and Ali Masyhar, "The Implementation of Capital Punishment in Indonesia: The Human Rights Discourse," *Journal of Law and Legal Reform* 2, no. 2 (April 30, 2021): 321–28, doi:10.15294/jllr.v2i2.46625.

between humans and other human beings on the Day of Judgment is the matter of blood<sup>23</sup>.

A series of terror and violent incidents occurred one after another in the early 2000s and will continue to haunt the Indonesian people forever. The Bali I bombing incident opened the eyes of the Indonesian people wide open the eyes of terrorism events based on the spirit of jihad against infidels. The incident occurred on October 12, 2002, carried out by some members of *the Jemaah Islamiyah* group, namely Imam Samudera, Ali Ghufron and Amrozy with the aim of showing courage and commemorating the WTC attack on September 9, 2001 according to Ali Imron's confession in a talk show. They consider all these actions to be an attempt to establish Jihad. They use Sharia Jihad in the teachings of Islam as a justification for the crimes they commit by taking several verses in the Qur'an that include the words Jihad and Qital. The bloody incident that has only been seen through television broadcasts has now become a terrifying scourge that can haunt and threaten the lives of the Indonesian people at any time. This event motivated the government to form a Government Regulation in Lieu of Law Number 1 of 2002 concerning the Eradication of Terrorism Crimes which was enforced after 6 days of occurrence, precisely on October 18, 2002, the establishment of this regulation was based on global encouragement as well as national and international commitments to form regulations that refer to international conventions and laws and regulations related to terrorism. All of this cannot be separated from the influence of the United States on the global geopolitical and economic conditions after the Cold War with their ideology of Capitalism has begun to penetrate developing countries, the global economic policy

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<sup>2</sup> Muhammad Nur Jamaluddin, "THE MANIFESTATION OF ISLAM RAHMATAN LIL ÂLAMIN IN THE LIFE OF THE NATION IN INDONESIA," Adliya: Journal of Law and Humanity, December 2020.

<sup>3</sup> HR. Bukhari No. 6533

pioneered by the United States with its world banks has actually made developing countries poorer. This is because the fiat money/banknote exchange system is increasingly causing inflation, causing instability in the world economy. This has led to poverty in different parts of the world leading to the emergence of extreme radical groups that want instant change, especially since the 2001 WTC incident, United States President George W. Bush declared a "crusade" against "Islamic terrorists" which means he declared a holy war against Islamic terrorists, of which he is a Christian, this is a statement that fuels Islamophobia and can incite Muslims to fight Christians.<sup>4</sup>

This series of terrorist incidents has caused slander against Muslims, veiled women are seen as cynical, bearded men often get negative sentiments from society, this is a cruel accusation made by ordinary people with their superficial knowledge, even though all their appearance styles are in order to carry out religious orders. The acts of terrorists who call their actions Jihad certainly tarnish the glory of Islam which brings blessings to the universe, but it is inappropriate to say that Islam is synonymous with terrorists. The increasing spread of slander against Muslims, especially for Salafists who are similar in appearance to terrorists. The problem of slander caused by the style of dress, namely the phenomenon of accusations or sentiments of terrorism against people who wear beards, robes or veils, there is even a rector of an Islamic campus in Yogyakarta who prohibits his female students from wearing the veil because it invites radicalism and an impression of exclusivity<sup>14</sup>. According to people who do not know Islamic law, the style of dress and physical appearance are considered similar to those generally worn by terrorist criminals, this certainly causes ambivalence in society, even though the style of dress is part of the command of Allah, the Lord of the Universe in Islamic teachings to regulate how to dress well

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<sup>4</sup> Ali Masyhar, GAYA INDONESIA MENGBANGANG TERRORISM (Bandung: PUBLISHER MANDAR MAJU, 2009).

and politely. However, it is ironic that the general public often labels people who perform in accordance with Islamic law with the words "beware of terrorists". Densus 88 Anti-Terror was formed by the Government of the Republic of Indonesia as a form of legal structure in this case to eradicate radicalism and terrorism. This problem arose when Densus 88 repeatedly arrested the wrong person on the suspicion that the person was a perpetrator of terrorist crimes in the name of Islam. This raises questions about the professionalism of Densus 88. The thing to think about is whether Densus 88 only sees his appearance. If we see the many cases of wrongful arrest of terrorist suspects by Densus 88, then the judge should need expert assistance to determine the suspect of terrorist crimes, and the expert must be sworn and really understand the stream, beliefs and intricacies of Islam, Perppu No. 1 of 2002 concerning the Eradication of Terrorism Crimes in Article 26 paragraph (1) states that intelligence reports are sufficient preliminary evidence. If we see the number of cases of wrongful arrest by Densus 88, then the report is certainly not enough for the judge to determine the suspect, the intelligence report must also be accompanied by the help of experts<sup>16</sup>, because we cannot be sure whether the intelligence officer is really an expert and understands the ins and outs of Islam.<sup>56</sup>

Terrorism must be prevented and eradicated for the sake of national harmony, security and welfare. The government, clerics and all citizens must take part in efforts to prevent terrorism crimes in the name of religious orders. Prevention and eradication efforts can be carried out through two approaches, namely hard approach and soft approach. The harsh approach is carried out through military methods such as the formation of anti-terror units, spies,

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<sup>5</sup> Mehulika Sitepu, "The Ban on Veils at UIN Sunan Kalijaga Yogyakarta Abolished Due to Social Pressure?," March 13, 2018.

<sup>6</sup> Nabilla Tashandra, "Repeatedly Wrongly Arrested, Professionalism of Densus 88 Questioned," December 13, 2015.

and others. While the soft approach is an approach that emphasizes more on preventing or correcting the understanding of terrorist perpetrators. This study discusses soft approaches, one of which is through non-criminal policies as an effort to prevent terrorism crimes through the contextualization of the command of Jihad in Islamic teachings. Non-criminal policy is one of the efforts of criminal law policy in preventing a criminal act, this can be done by influencing or straightening the public's view of a crime so that it can be prevented and not occur. "Prevention is better than cure" is an apt saying to describe non-criminal policy. Non-criminal efforts are preventive, namely preventing criminal acts from occurring, while criminal efforts are more repressive, namely imposing criminal penalties. Criminalization is not the benefit and ultimate goal in the goal of criminal law<sup>7</sup>. Non-criminal policies in dealing with acts of terrorism in the name of Jihad in Islamic law can be carried out through the study of the contextualization of the commands of Jihad and the verses about Qital in the Qur'an to straighten out the public's understanding of the word Jihad and acts of terrorism, considering that Islam is a blessing to the universe, then there can be no teachings in it to do damage and not by liberalizing terrorism is eradicated. Professor of Criminal Law from the Faculty of Law, State University of Semarang, Professor Ali Masyhar Mursyid said in his journal:<sup>8,9,10</sup>

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<sup>7</sup> Ali Masyhar et al., "Digital Transformation of Youth Movement for Counter Radicalism," 2022, 030010, doi:10.1063/5.0109808.

<sup>8</sup> Elfrida Ratnawati Gultom Abdul Karim Rahanar, "COUNTERING TERRORISM CRIMES IN INDONESIA WITH A PENAL AND NON-PENAL APPROACH," PALAR (Pakuan Law Review Volume (January 2023): 14–25.

<sup>9</sup> Luh Nila Winarni, "NON-PENAL CRIMINAL LAW POLICY IN COUNTERING THE CRIME OF RADICALISM IN THE FORM OF TERRORISM," DiH: Journal of Law 12, no. 23 (February 9, 2016): 56–63, doi:10.30996/dih.v12i23.894.

<sup>10</sup> Ali Masyhar, "URGENCY OF REVISION OF TERRORISM LAW," LEGAL ISSUES, January 1, 2016, 25–32.

*"This latest crime (terrorism crime) cannot be dealt with with just conventional legislation and regulations, as these crimes are "extra ordinary crimes" that require "extra ordinary measures" as well. And terror is usually carried out randomly and indiscriminately (ind is c iran minate) so that it often kills innocent people including women and children and is often carried out in an organized and transnational manner (transnational organized crime)."*

Based on the description of the background and the level of urgency of the legal issue above , there are various problem formulations that are formed, namely; What factors cause the perpetrators of terrorist crimes to interpret their actions as the exercise of jihad? And what form of non-criminal policy to combat the crime of terrorism as a result of misunderstandings about the meaning of jihad?

Previous research or State of The Art of this research is sourced from the Journal with the title "THE CONCEPT OF JIHAD IN AL-MARAGHI TAFSIR (THEMATIC INTERPRETATION STUDY OF JIHAD IN QS.AT-TAUBAH)" the background of the study explains the core of the research problem, namely that some people think that Islam creates excessive fanaticism above average, brings terror and even teachings. The researcher stated that many understand that jihad is diverse. However, most say that jihad is more identical to war, bombing (suicide bombing), and murder. stated that Jihad loses its form and meaning of variation. The researcher uses the interpretation of Ahmad Musthafa al-Maragi in the book of tafsir al-Maragi in which he applies a combined method between the bi al-ma'tsur tafsir method (argument with argument) and the bi al-ma'qul method (argument with reason). Ahmad Musthafa al-Maraghi is an Egyptian cleric who was born in an area called al-Maragho, he served as Chancellor of Al-Azhar University in 1928 at the age of 47, so he

was recorded as the youngest chancellor in history at Al-Azhar University, and at the age of 48, he received the title of Sheikh. The conclusion drawn from this research is the concept of jihad offered by al-Maragi in the At-Taubah letter that jihad is an effort to mobilize all one's abilities to fight infidels, polytheists or hypocrites verbally first, then if the evil continues to increase, then one may deny it using one's hands, all of which is to elevate Allah's word and guarantee. The similarity with previous research lies in examining the concept of Jihad from an Islamic perspective with the contextualization method, then there are similarities in the purpose of the research, namely using the contextualization method as a means of non-penal policy in overcoming acts of terrorism, in addition there are similarities in using the interpretation method, namely using the interpretation method *bi al-ma'tsur* (argument with argument) and *bi al-ma'qul* (argument with reason). Then the difference lies in the source of reference for scholars, in this study only refers to Egyptian scholars while my research, apart from being sourced from scholars who are oriented towards Egyptian scholars who tend to have progressive thinking, are slightly loose towards philosophy and the use of reason, I also add the perspective of scholars who are oriented towards Saudi Arabian scholars who have a conservative mindset and also limit the use of reason, where the interpretation tends to be *bi al-ma'tsur*, namely argument with argument.

## **II. Method**

This research uses a conceptual approach, this approach comes from concepts, doctrines, and understanding in legal science. The research approach aims to find answers to legal problems in a research. Researchers use this approach because in the Qur'an and the Hadith of the Prophet Muhammad there are concepts or rules of Jihad that are often abused by perpetrators of



acts of terrorism so that they can straighten out and answer the issue of acts of terrorism in the name of Jihad.<sup>11</sup>

The type of research here uses normative legal research (doctrinal research). Normative legal research is research that is sourced from legal material, namely primary legal material, secondary legal material, and tertiary legal material. The legal material is useful for providing legal arguments when there is emptiness, ambiguity and conflict of norms. The researcher uses this type of normative legal research with the aim of analyzing the norms and rules of jihad in the form of war orders in the Qur'an and Hadith as primary legal material. so that it becomes clear that there are deviations from the norms in Islamic Law committed by perpetrators of terrorist crimes in the name of Jihad.<sup>12</sup>

The data collection technique in this study uses bibliographic study techniques for legal materials. The researchers collected books, journals, dictionaries and other literature related to the legal issues at hand, namely the crime of terrorism. The data of this research was collected through bibliographic study techniques.

### **III. Results & Discussion**

#### **A. Factors Causing Terrorists to Interpret Their Actions as Jihad**

Based on the data obtained by the researcher in this study, namely in the form of several legal materials and studies on terrorism incidents which were then analyzed, the researcher found several factors that cause the perpetrators of terrorist crimes to interpret their actions as jihad, including:

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<sup>11</sup> Muhaimin, LEGAL RESEARCH METHODS, ed. Fatia Hijriyanti, First Edition (Mataram: Mataram University Press, 2020).

<sup>12</sup> I Made Pasek Diantha, NORMATIVE LEGAL RESEARCH METHODOLOGY IN JUSTIFICATION OF LEGAL THEORY, ED. Irfan Fahmi, 2nd edition (Jakarta: PRENADA MEDIA GROUP, 2016).

### **1. Mistakes of Muslims in Viewing the Glory of Islam**

Muslims have experienced glory during the time of the Prophet Muhammad and his companions until at that time they succeeded in controlling the two great kingdoms of the world, namely Rome and Persia. This shows that Muslims have succeeded in achieving glory where at first Muslims were just a group of inhabitants of a small civilization flanked by two superpowers, namely the Roman Empire and the Persian Empire. According to Ustadz Yazid bin Abdul Qadir Jawas in his book "Sharia Jihad and Application in Islamic Law" he explained that there are groups that are wrong in viewing the glory of Muslims influenced by being too busy observing news or misleading information of infidels regarding conflicts in Muslim countries. The group in question argues that the defeat and weakness of Muslims is caused by conspiracies or racial deceit, so this group argues that Muslims should always watch the latest news and media so that Muslims always feel vigilant. We can see that the news media is now increasingly highlighting the war situation in Muslim countries such as the Middle East, as well as content on social media that shows the same. They show a situation that is currently heating up, by showing amateur videos of war and oppression. Such things can trigger the emotions of the audience, namely Muslims who witness the conflict that hit the Muslim country, not to mention that the media often displays news headlines that invite curiosity about the oppression experienced by the Muslim country. This conflict performance can also be witnessed through social media content where people can comment on the content, often the content of comments on the content is in the form of debates, this certainly adds to a situation full of anger and emotions and is even more chaotic. This can trigger anarchist actions and conflicts carried out by provoked people. In fact, Allah Azza wa Jalla has commanded us

to be careful of information, in His words, the Qur'an, Surah Al-Hujjurat verse 6 which means<sup>1314</sup>

*"O you who have believed, if the wicked come to you with news, then check carefully so that you do not cause disaster to a nation without knowing the circumstances that will cause you to regret your deeds."*

We have experienced chaos or conflict in the Middle East, there are many groups or organizations that have colored the post-war war. World War to date, we can see Al-Qaeda, ISIS, Houthis, Hezbollah and others. Didn't they use the symbols of Islam, and group or establish organizations to break away from the power of their leaders under the pretext of jihad? Far from the fire, in fact they fought among the Muslims, even to the point of killing each other, even though they both used the symbol of Islam and said the sentence Lailahailallah, this deviates from what the Prophet taught, where in the Prophet ordered the Muslims to unite and not be divided, it is not allowed to fight in the name of group fanaticism, tribalism and others.

## **2. Ignorance in Understanding Shariah Jihad**

There are many Muslims who are still innocent whose religious knowledge is still minimal but have a burning fighting spirit with the intention of fighting for Islam. The false doctrine of jihad has been injected by irresponsible people into Muslims who still have minimal religious knowledge so that there is only an

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<sup>13</sup> Shaykh Shafiyyurrahman Al-Mubarakfuri, SIRAH NABAWIYAH Original Title: Ar-Rahiq Al-Makhtum Bahtsun Fis Siratin Nabawiyati 'ala Shahibiha Afdhalush Shalati Was Sallam, ed. Ferry Irwan (Jakarta: Ummul Qura, 2011).

<sup>14</sup> Yazid bin Abdul Qadir Jawas, Sharia Jihad and Its Application in Islam, ed. Editorial Team of Pustaka Imam asy-Syafi'i, Second Edition (Jakarta: PUSTAKA IMAM ASY-SYAFI'I, 2019).

overflow of enthusiasm that is based only on emotional factors, without considering the factors of *masalah* and *mafsadah*. Reporting from the magazine entitled "Why Terrorists Never Run Out" presents some examples of the stupidity of terrorist criminals are as follows: <sup>15</sup>

#### **A. Not Knowing the Rules of Jihad Advising Leaders**

The perpetrators of terrorist crimes feel that in their actions they are practicing the hadith *"The most important thing about jihad is fair advice to deal with evil rulers"*<sup>16</sup> The scholars explain that the purpose of the hadith is to convey advice face-to-face and personally, not to the general public and that the advice is conveyed with knowledge and wisdom. It is true that every Muslim is obliged to uphold *amar ma'ruf nahi munkar*, that every visible evil must be denied, but in such a case there is a rule in response to evil, in this case what the leader does, which is in the words of the Prophet as follows:

*"Whoever wants to advise a ruler on a matter, let him not do it openly. Instead, he had to hold his hand and be alone with her. If the ruler is willing to accept his advice, that is what is expected. If he doesn't want to, then the advisor has fulfilled his duty."*<sup>17</sup>

The rules of notification to the authorities should be by following what the Prophet recommended, which is to advise him directly face-to-face in a closed and quiet and solemn forum. The logic of the order is to prevent the leader from being humiliated, to cover the leader's disgrace from the public so that the leader can more

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<sup>15</sup> Qomar, "Why Do Terrorists Never Run Out?," Oase Media Publisher (Sleman, 2017).

<sup>16</sup> HR. Abu Dawud No. 4344, at-Tirmidhi No. 2174 and Ibn Majah No. 4011

<sup>17</sup> HR. Ibn Abi' Asim No. 1097

easily receive input. However, the reality is that most people criticize the ruler in public, causing anger from the authorities which causes bloodshed.

### **B. Easy to Disbelieve Leaders**

Terrorists find it very easy to pronounce the verdict that the Muslim government is, they misunderstand the meaning of the Qur'anic verse, Surah AlMaidah, verse 44, which means *"Whoever does not judge by the law that Allah has revealed, they are disbelievers"* With this verse, the perpetrators of terrorist crimes legitimize their actions against the Muslim government that does not use the law that Allah has revealed as, they understood the verse with their own haphazard understanding. In fact, the companion of the Prophet Muhammad, namely Ibn Abbas, has given the following interpretation<sup>18</sup> :

*"Indeed, that deed (which rules other than the law of Allah) is not disbelief as they understand it. It is not disbelief that makes the perpetrator leave religion. On the contrary, it is disbelief (small) whose level is below (great) disbelief."*

From this narration we have seen that the Companions have interpreted the Qur'an Surah AlMaidah verse 44, the interpretation by the Companions is certainly more important than the interpretation of the perpetrators of terrorist crimes who interpret it with their own minds. Ibn Abbas was a companion of the Prophet who was once prayed by the Prophet himself for Allah to provide understanding and teaching to Ibn Abbas about the interpretation of the Qur'an. Ibn Abbas interpreted that the verse was revealed about two Jews who were in dispute, so that it should not be applied to the Muslim rulers, even though they ruled with

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<sup>18</sup> HR. Al-Hakim 2/313

nothing other than the law of Allah, but in fact they originally believed in Allah and the Prophet, the Prophet Muhammad. It should also be noted that Ibn Abbas was someone who gave understanding to the Khawarij at that time who rebelled against the leaders of the Muslims, namely Uthman bin Affan and Ali bin Abi Talib.

**c. Not knowing the infidels who are being fought and who cannot be fought**

The perpetrators of terrorism crimes deviate from the law of Jihad, so they do not distinguish between those who may be killed and those who should not be killed. Not everyone can be fought, Islamic law mandates that those who do not fight Muslims must do justice to them. This is the rule of muamalah between Muslims and. When the Prophet Muhammad came to Medina it was divided into 3 groups, the first group was those who made a covenant and made peace with the Prophet, the second group was the one who fought and was hostile to him, the third group was the group who left the Prophet alone, they did not fight him and did not make a covenant with him. Imam Ibn Qayyim said: "After the Surah Bab'ah (at-Taubah) came down, the matter was divided into three groups: harbi (al-muhâribîn), mu'ahad (ahlu al-'ahd) and dzimmi (ahlu adz-dzimmah) Here is the explanation:<sup>1920</sup>

**Harbi (the one who fought against the Muslims)**

The Harbi were a group that the Prophet fought against because their hostility towards the Muslims was clear and they expelled the Muslims from their land (Mecca). Allah Azza wa Jalla said in (QS Al-Hajj [22]: 39) which reads: *"Permission (to fight) is given to those who are fighting because they have been persecuted. And indeed, Allah Almighty helps them."*

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<sup>19</sup> Kholid Syamhudi, "Are All Infidels the Same?," November 2009.

<sup>20</sup> Syu'aib Al-Arna'uth Abdul Qadir Al-Arna'uth, ZADUL MA'AD IBNU QAYYIM AL-JAUZIYAH, N.D.

The context of the verse concerns the event when the Prophet was expelled from Mecca. Narrated by Ibn Abbas, he said: "When the Prophet was expelled from Mecca, Abu Bakr stated: 'Did they expel their Prophet? Innalillahi wa inna ilaihi raji'un. They will surely perish' then the verse came down and Abu Bakr knew that there would be war. Ibn Abbas said: "That was the first verse that was revealed about war"<sup>21</sup>

Even though it was a war, the words of the Prophet in many of his narrations say that it is forbidden to kill people who have not participated in the war, such as children, women, the elderly, the paralyzed, the transvestite, priests, the blind, the dhimmah and it is also forbidden to cut off corpses. It is also forbidden to fight when the condition of Muslims is weak, such as when the Prophet and Muslims lived in Mecca, because it is not allowed for Muslims to plunge themselves into destruction. War in Islam is aimed solely at exalting the word of Allah and protecting religion, not for riyah or showing courage, one must act justly even against the enemy. Jihad must be carried out with Ulil Amri (the leader), so it is not right if jihad is carried out using the Lone Wolf route as some terrorists do **Dhimmi (who accompany the Muslims, do not attack and they pay jizyah/tax)**

They are people who do not fight, This group gets a lot of rights over Muslims compared to other groups. They live under the protection and escort of Muslims by paying taxes and they are in a state of submission. The fuqaha define dhimmah as a group of non-believers on the condition of paying jizyah (taxes) and committing to the regulations made by the Islamic government. Allah Subhanahu wa Ta'ala says in At-Taubah verse 29:

*"Fight against those who do not believe in Allah and the Last Day, do not forbid (shun) what has been forbidden (by)*

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<sup>21</sup> Hasan. HR. Ahmad (1/216)

*Allah and His Messenger, and do not follow the true religion (Islam), namely those to whom the Book has been given (Jews and Christians) until they pay the jizyah obediently and they submit."*

Ibn Kathir in his tafsir argues that this verse is the first verse that commands Muslims to fight against the People of the Book (Jews and Christians). Kitabar members are fought by Muslims so that they convert to Islam, if they do not want to convert to Islam, then they are required to pay Jizyah (taxes) so that they get the right to live in Muslim territory and get protection.

### **Musta'min (who guarantees security for Muslims)**

They are the ones who do not fight, because they ask for protection from the Muslims. Shaykh Ibn 'Uthaymeen stated: "al-musta'minûn has the right to receive protection from Muslims at a predetermined time and place. Allah Ta'ala says in At-Taubah verse 6:

*"If one of the polytheists asks you (the Prophet Muhammad) for protection, protect him so that he can hear the words of Allah and then take him to a place of safety. This is because they are a people who do not know."*

In the Book of Tafsir Ibn Kathir, the meaning of this verse explains that Allah Ta'ala commanded the Messenger of Allah that if people ask for protection, fulfill their request, and so that they have the opportunity to listen to the Qur'an and understand Islam. Like some Quraysh who came to the Prophet to explain their problems until they (the people) knew the greatness of the Messenger of Allah, events like this are what made them embrace Islam, the meaning of all this is that even if a person comes from a country, even if his arrival is for trade, messengers, armistice and not for war, he is given a guarantee of security until he returns to his country,



And this is the kind of thing that terrorists who use the name of jihad don't do, they don't learn lessons.<sup>22</sup>

## **B. Non-Pedana Policy to Prevent Terrorism Crimes**

### **1. Prioritize Crime Prevention**

"Prevention is better than cure" is an apt saying to describe the concept of non-criminal policy. Non-criminal policy is one of two paths in criminal law policy besides criminal paths. Non-criminal policy is a criminal law policy effort intended to prevent criminal acts by using other channels other than criminal channels. The non-criminal path focuses on finding the cause of the crime and then handling it by providing understanding as a deterrent so that crimes do not occur. The non-criminal policy path is wiser to achieve the goals of criminal law, because non-criminal policy tries to prevent rather than having to punish people with criminal law. If we continue to punish with criminal law, then the question will arise "how long will we continue to punish? Wouldn't it be better to prevent?" The non-criminal policy path is very basic where there are consequences in the form of having to know the core cause of a crime. Concrete steps from the non-criminal path can be taken in the form of education, religious studies and other activities to straighten out and provide understanding so that criminal acts do not occur, non-criminal roads are present as a companion to the criminal road so that they become a complement to criminal law policies. Professor Ali Masyhar in his book "IDEAL RETROACTIVE FORMULATION" stated that Professor

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<sup>22</sup> Abdullah bin Muhammad bin Abdurrahman bin Ishaq Alu Syaikh, TAFSIR IBNU KATSIR, ed. Farid Achmad Okbah, Yazid Abdul Qodir Jawas, Taufik Saleh Alkatsiri Yusuf Harun, 14th Edition (Jakarta: Pustaka Imam Ash-Syafii, 2008).

Muladi explained that there are 3 groups of crime prevention, namely:<sup>23</sup>

### **Primary Prevention**

This prevention is intended for potential victims, perpetrators who have not been caught and potential perpetrators, meaning that the potential is the possibility that someone will be involved in criminal acts in the future both as a victim and a perpetrator.

### **Secondary Prevention**

This prevention is different from the first prevention, the difference lies in certain groups in the sense that it focuses more on certain areas where criminal acts have the potential to occur.

### **Tertiary Prevention**

The final prevention is more focused and more specific, namely the prevention of victims or perpetrators of certain crimes who have been involved in a criminal incident. It can be concluded that the division of the types of prevention is divided into general to specific where primary prevention emphasizes more on the wider community who may potentially be involved in criminal acts both as victims and perpetrators, then secondary prevention emphasizes more on certain victims or perpetrators who have a greater potential to be involved, The last is tertiary prevention which is more specific, Namely to the victim or perpetrator who has been involved in a criminal event but repeats it.

Evil is something that comes to destroy human life that is fundamentally peaceful, calm and upright. Crime is a social problem that must be prevented and eradicated, because it can lead humans to crime and destruction that will harm humans themselves. Evil will always exist from the beginning of man on this earth to the end of the world, so since evil is a definite nature in

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<sup>23</sup> Ali Masyhar Mursyid, *IDEAL RETROACTIVE FORMULATION*, ed. Khoirul Umam RGP TEAM, 1st Edition (Depok: RAJAWALI PERS, 2023).

man, like the lust that Satan sometimes whispers into man's heart, then the whisper will lead man into evil.

This research focuses on countering acts of terrorism through prevention that is closer to non-criminal pathways in criminal policy theory. The types of prevention that can be applied to acts of terrorism are primary and secondary prevention. The researcher considers that the type of primary prevention is appropriate to be applied to the prevention of acts of terrorism because terrorism can be carried out by anyone and whatever the motive (religious, political, ethnic) primary prevention can be carried out to the wider community by providing a general understanding of acts of terrorism, while the type of secondary prevention can be applied to certain groups of people who have the potential to be involved in certain criminal events that in this study are against terrorism motivated by the motive of upholding jihad in Islamic law, secondary prevention can be addressed to Muslims, scholars, Islamic activists, governments, law enforcement officials, embassies and other potential parties by providing an understanding of direct Jihad.

## **2, Correcting the Mistakes of Jihad in the Terrorist Version**

**a.**

### **a. Suicide Is Absolutely Haram**

The suicide bombing incident in the name of jihad is certainly a heartbreaking thing, an explosion in the middle of a crowd of people where there are Muslims in the intended place, even though jihad is to fight. Suicide bombings are a form of deviation in jihad, although against it, it must be remembered that Islam is a noble religion, there are rules in war. The series of suicide bombings in Indonesia from the early 2000s to any time is a heartbreaking fact.

Suicide in Sharia law is absolutely haram, this was conveyed by the Prophet Muhammad in a history that emphasized that a

person who commits suicide will be punished on the Day of Resurrection with the same punishment as he did when he committed suicide, to the point that the Prophet did not want to pray for the body of someone who committed suicide. The real threat of suicide in Sharia is of course a rebuttal to terrorist acts.

### **b. Jihad is carried out when Muslims have power**

It is the same as banging your head against a wall, which is to fight the forces of the enemies of Islam when the condition of Muslims is under pressure. Muslims are allowed to wage jihad when they are strong, i.e. strong in monotheism, religious knowledge, good deeds, physical strength and adequate weaponry. We can learn from what happened in the time of the Prophet, Muslims when they were oppressed in the city of Mecca were not allowed to wage jihad against the people, only after they migrated was the Qur'an revealed, Surah Al-Hajj verse 39, which allowed Muslims to fight.

In fact, the condition of Muslims is currently declining, they slander, contradict each other, be terrorized, and slaughtered. The grip of the enemies of Islam cannot be loosed from the people before Muslims have truly learned about their religion.

### **c. Jihad is carried out simultaneously with a legitimate leader**

Jihad is a noble deed, and Islam does not allow jihad to be carried out sporadically, jihad should not be carried out by individuals like the actions of a lone wolf in most cases of terrorism, nor should jihad be carried out by establishing groups, so the scholars give their rules. The Prophet Muhammad said<sup>24</sup> *"Indeed, the government is a protector, the enemy is fought and its danger is avoided under the leadership of the government"* A legitimate government is the only one that has full control over the decisions to make peace, go to war, and provide security guarantees for its people. Shaikh Salih al-Uthaymeen in his fatwa said that war is not

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<sup>24</sup> HR. Bukhari No. 2957 and Muslim No. 1841

allowed except with the permission of the government, because if people are allowed to fight individually there will be chaos.

## **IV. Conclusion**

It can be concluded that if the command of jihad is contextualized, then it will be found that the command of Jihad in Islamic law is full of caution, not everyone can be killed, it is just and Jihad is carried out when Muslims are truly strong in religious knowledge, in knowledge, physically and in weapons. It can be seen in history that Muslims in Mecca before they migrated were not allowed to fight people, because in law a Muslim was forbidden to destroy himself. This is different from what is done by terrorist criminals who commit their actions in the name of jihad even though the goal is not solely for the sake of Allah, often they do their actions on the basis of revenge, wanting to be seen as great, fighting in the name of the group, to pursue wealth and other worldly things then they do their actions with a careless attitude so that we can see the many victims of women and children both from non-Muslims and from non-Muslims from the Muslims themselves.

It is appropriate that a non-criminal policy against terrorism crimes is applied to achieve the goals of criminal law. The government, clerics and the people, especially Muslims, must work together to prevent terrorism. by continuing to socialize and hold lectures with a correct understanding of jihad and the crime of terrorism. Muslims must remain obedient to their leaders, always obey Allah and seek knowledge about Islam so that what Muslims aspire to in the form of the glory of Muslims will be achieved. Pursuing knowledge of Islamic religious law with a correct understanding is an obligation for every Muslim. Islam will win with the knowledge possessed by its people. Muslims are the best people created by Allah on this earth, who command good and

prevent evil. So it is not appropriate for heartbreaking terrorism incidents to be associated with the noble religion of Islam.

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