



## AN ANALYSIS OF INDONESIAN CHILDREN REPATRIATION IN SYRIA

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### Abstract

Some Indonesians in refugee camps in Syria state they want to return to Indonesia. The plan to repatriate the Indonesian ex-ISIS then raises the pros and cons. Some consider that Indonesian citizen who have joined ISIS deserve to be given the opportunity to improve themselves and have a right to be returned to Indonesia if they really want to repent. Some are worried that the repatriation of Indonesian citizen who join ISIS would create new problems in Indonesia. The problem is that among them there are dozens of children, and they are not combatants who took up arms against Iraq and Syria. They just follow where their parents go. Using the normative juridical study method, this paper explains the potential impact that can arise on national security if the Indonesian government adopts a policy of repatriating Indonesian children who used to join ISIS. The results in this study then provide a prescription that should be carried out by the Indonesian government towards Indonesian children who used to join ISIS.

**Keyword:** Children; Ex-ISIS; Indonesian Citizen

### INTRODUCTION

Children are the most valuable resource of a nation. They are the foundation of hope to continue the struggle to realize the ideals of the nation. Children as the next generation of the nation who are naturally still very vulnerable to various obstacles and challenges in their lives certainly have the most important place to get protection from the state, so that they can grow up as strong and reliable ones to be great component of the nation in the future. The Fourth paragraph of the Preamble of the 1945 State Constitution of the Republic of Indonesia (UUD 1945) mandates the Government to protect all the people of Indonesia including children. Children that are immature physically and mentally need special protection and care, including appropriate legal protection, before and after birth.

Children's rights are part of human rights contained in Article 28B paragraph (2) of the 1945 State Constitution which states that every child has the right to survival, growth and development and is entitled to protection from violence and discrimination. Then in 1989, governments in all around the world promised equal rights for all children by adopting the United Nations Convention for the Rights of the Child. This convention regulates what the state must do so that each child can grow as healthy as

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possible, go to school, be protected, be heard, and be treated fairly. it is said in the opening of the convention that children must be fully prepared to live the lives of individuals in society, and be grown within the spirit of ideals stated in the UN Charter, and in particular within the spirit of peace, dignity, tolerance, freedom, equality, and solidarity (UNICEF, n.d.).

In 1990, Indonesia ratified the Convention on the Rights of the Child based on Presidential Decree Number 36 of 1990 dated August 25, 1990. In accordance with the provisions of the convention Article 49 paragraph (2), the Convention on the Rights of the Child was declared effectively in Indonesia since October 5, 1990. As a consequence, the Indonesian government is obliged to make every effort to fulfill children's rights in Indonesia. The Convention on the Rights of the Child arises from the awareness of the member states of the United Nations, including Indonesia, that children are by their nature vulnerable, dependent, innocent, and have special needs. Therefore, children also need special care and protection, both physically and mentally.

In its efforts to guarantee and realize child protection and welfare, the Government of Indonesia has formulated and enacted Law Number 23 of 2002 concerning Child Protection. In the context of adjusting some of the provisions therein, several changes were made to certain articles, so then enacted Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection (Child Protection Act).

Several time ago, there was a debate about the return of Indonesian citizen (WNI) who had joined the Islamic State in Iraq and Syria (ISIS). Some Indonesian citizen found among thousands of ISIS foreign combatants said they wanted to return to Indonesia. Among them were dozens of children and women who were in refugee camps in Al-Hol, eastern Syria. The plan to return the ex-ISIS citizen later appeared. There are pros and cons regarding the plan to return these Indonesians. Some consider that Indonesian citizen who have joined ISIS deserve to be given the opportunity to improve themselves and deserve to be returned to Indonesia if they really want to repent. Some are worried that the repatriation of Indonesian citizen who have joined ISIS has created new problems in Indonesia.

Professor of International Law of the University of Indonesia, Hikmahanto Juwana, said that Indonesian citizen who were previously affiliated with ISIS automatically had lost their Indonesian citizenship based on Article 23 letters d and f of Law Number 12 of 2006 concerning Citizenship (Citizenship Act). Letter (d) mentions the loss of citizenship caused by "entering the foreign army service without prior permission from the President". While the letter (f) states "voluntarily take an oath or declare a pledge of loyalty to a foreign country or a part of that foreign country". If they had not lost their citizenship, the Indonesian Ministry of Foreign Affairs or Indonesian Representatives in Syria would have provided protection, and in fact that did not happen. From the beginning these Indonesians wanted to join ISIS, so they considered ISIS as their country, therefore since then they have been willing to give up their Indonesian citizenship. Some of them even tore up their Indonesian passports as a symbol that they no longer wanted to become Indonesian citizen. In theory, this former Indonesian citizen are stateless, so the government has no obligation to make them return as Indonesian citizen (Liputan6.com, 2020).

The problem is what about the fate of the children of Indonesian citizen who have joined ISIS. Because, they were not combatants who took up arms to Iraq and Syria. They only follow where their parents go, and may never be given the choice to go with their parents or stay in Indonesia. Even if given a choice, they will definitely choose to follow their parents. For children, no one in this world can replace parents. They also

may never even understand why they left Indonesia, leaving their families, schools and friends, to join ISIS along with their parents.

Institute for Policy Analysis of Conflict's (IPAC) researcher, Sidney Jones said that children of Indonesian citizen who had joined ISIS in Syria would not be at risk if they were sent home, especially if they were scouted at the Handayani Center led by the Ministry of Social Affairs. He therefore appealed to the government to gradually restore orphans from camps in Syria. He said it was important because in that place, children witnessed intimidation and violence. In fact, the place was not feasible in terms of health or sanitation. Furthermore, Sidney also said it would be more dangerous if the children lived in Syria because they could potentially become the second generation of Mujahid ISIS and they might also collaborate with terrorist children from other countries in the camp to carry out terrorist movements in the future (BBC News Indonesia, 2020).

Based on the background above, the writer then concerned about potential impacts that could arise on national security if the Indonesian government adopts a policy of repatriating the children of Indonesian citizen who have joined ISIS. However, this would also result in prescription on what the government should do towards Indonesian children ex-ISIS.

## **RESEARCH METHOD**

To answer the problems, the writer uses normative juridical research to find solutions to legal issues as formulated. The results of this study provide a prescriptive that should be applied to the legal issue. A statutory approach and a concept approach are subsequently conducted in this research.

## **FINDING AND DISCUSSION**

### **Weekend Detention Formulation Policy in Indonesian Positive Law**

Until now, there is no universally accepted definition of terrorism. Terrorism is usually only defined as the use of deliberate violence and intimidation directed at a broad audience to compel people and governments to recognize demands that are politically or ideologically motivated. However, the absence of a uniform definition under international law on terrorism does not necessarily remove the definition of the law of terrorism. Each country defines according to its national laws to regulate, prevent and fight terrorism. Basically the term terrorism is a concept that has a sensitive connotation because terrorism results in the emergence of innocent civilian victims (Adji, 2001).

The academic consensus definition of terrorism as an example is as provided by the United Nations Office on Drugs and Crime (UNODC), namely: Terrorism is a method that inspires anxiety from repetitive acts of violence committed by individuals, groups or state actors, for special reasons, criminal or political, where the direct target of violence is not the main target.

Victims of human violence are generally chosen randomly or selectively (representative or symbolic targets) of the target population, and functioned as message makers. The process of threat-based and violent communication between terrorists, victims, and the main purpose is used to manipulate the main target, and to turn it into a terrorist target, demand target, or target of interest, depending on whether intimidation, coercion, or propaganda is needed.

Referring to the understanding given by UNODC, it proves that to define terrorism is not an easy matter. Yet, it is very important to develop an adequate understanding of it and to deal with it effectively. However, whatever the definition of terrorist that is given, in essence these evil deeds are always and surely related to violence. The use of violence with the aim of creating fear, and preventing a person or party from doing something, or vice versa, has existed since human civilization. The Roman Empire used violence from the crucifixion of individuals to genocide to force individuals and colonies to submit. The French Revolution sent more than 20,000 people to the guillotine for several months. Modern examples of state terrorism are Nazi Germany, the Stalinist Soviet Union, Chinese communists in the Mao period, Pol Pot Cambodia, and several other dictatorships and totalitarian regimes (Mockaitis, 2007).

There are also non-state actors who use violence to force their enemies through fear. The Jewish Zealots killed the enemy in their struggle against the Roman Empire, the Assassins killed the crusaders in the Holy Land. In 1605, Guy Fawkes almost destroyed the British Parliament and anarchists killed various high-ranking officials and heads of state. In acts of terrorism with perhaps the most dangerous consequences in human history, Serb nationalist Gavrilo Princip shot dead Archduke Franz Ferdinand, which triggered the First World War, and the immense suffering of millions of people. The September 11 attacks also showed that organizations motivated by religion were equally willing to use violence to achieve their goals (Männik, 2009). These events provide a glimpse of a broad spectrum of perpetrators and the objectives that have been linked to the use of violence in a manner called 'terrorism'.

The definition of terrorism has only been born in Indonesian law, since the enactment of Law Number 5 of 2018 concerning Amendment to Law Number 15 of 2003 concerning the Establishment of Government Regulations in lieu of Law Number 1 of 2002 concerning Eradication of Terrorism Criminal Act into Law (Law TP Terrorism). Article 1 paragraph (2) of the Terrorism Act states that terrorism is an act that uses violence or threat of violence that causes an atmosphere of terror or widespread fear, which can cause mass victims, and / or cause damage or destruction to vital objects that are strategic, living environment, public facilities, or international facilities with ideological, political or security interference. Earlier in Article 1 paragraph (1) it was stated that the intended criminal act of terrorism is all acts that meet the elements of a criminal act in accordance with the provisions in this Law.

One terrorist group whose presence has received enough attention is the Islamic State of Iraq and Syria or the Islamic State in Iraq and al-Sham (ISIS), which in Arabic, the group called Al-Dawla al-Islamiya fi al-Iraq wa al-Sham The Associated Press and the United States call it the Islamic State in Iraq and The Levant (ISIL) (Gabil, 2006). They are Sunni extremists led by Abu Bakr al-Baghdadi, with the aim of conquering and uniting Syria, Iraq, Egypt, Lebanon, Jordan and Israel into a unitary state under the banner of the Khilafah, a territory which fully implements Islamic law. In its journey since 2014, ISIS's influence has spread to several countries in the world. Not only to the mainland of Arab countries in the Middle East, but also to several countries in Europe, Africa, America and even Asia. People decided to join ISIS based on the assumption that ISIS movements and struggles were "jihad" ordered by Islam (Waid, 2014).

ISIS is related to the Salafiyah Jihadiyah movement, a group or movement that wants changes in the Islamic world, especially in political governance and governance, which must be carried out in a revolutionary way. The resistance of this group is directed directly to Western countries which are considered responsible for the suffering of Muslims (Figueira, 2011). ISIS is also an affiliate of Al Qa'ida until when they were

expelled by Al Qaeda's core leaders in early 2014. Although ISIS is basically a reincarnation of Al Qaeda, the relationship between the two is marked by distrust, competition (open competition) and hostility (hostility). ISIS and Al Qaeda are actually two groups that are involved in war for supremacy as a global jihadist movement. Both fight over supremacy to claim their group as a global jihadist movement or group (Zelin, 2014). Even ISIS and Al Qaeda are two brothers who kill each other (Jenkins, 2014).

The ISIS doctrine emphasize that for those who are allied with ISIS and support all forms of struggle, they will get the prize of heaven. In other words, ISIS claims that its movement carries a "holy" mission in accordance with Islamic teachings carried by the Prophet Muhammad (Jones, 2014). Everyone who openly joins the ISIS movement rejects a form of state that is not based on Islamic law. The form of a country like Indonesia, for example, is considered to be contrary to Islam and therefore must be fought. Indonesian law is considered to have no binding provisions for every citizen because it is considered not in accordance with Islamic teachings. Therefore, it is certain that every follower of ISIS is anti-state which can lead to national integration. Thus, the existence of ISIS is actually a threat to the integrity of a country (Waid, 2014).

In the long run, ISIS seeks to dominate the entire world with a single political system, namely the Islamic caliphate. To achieve this goal, ISIS has proclaimed the Islamic caliphate to all countries in the world as the only way to unite political entities throughout the world. His call to the world is a request for support and join this group. This statement seems to be quite effective. Evidently a number of people in several countries firmly stated joining ISIS, including several Indonesian citizen. As the Islamic caliphate, ISIS claims to have religious, political and military authority so that all Muslims in the world invite all Muslims to join in supporting the existence of the declared Islamic caliphate (Rijal, 2017). The Islamic Khilafah campaign echoed by ISIS seems to be accepted by a number of lay and radical Muslim groups in a number of countries in the world, including Indonesia (Waid, 2014).

From the historical background of Islamic movements in Indonesia such as the Islamic State of Indonesia (NII) in the 1970s and Jemaah Islamiyah in the 1990s, the movement to form an Islamic State in Iraq and Syria by ISIS received the attention of several Islamic organizations in Indonesia and they began to express their support for the movement to establish an Islamic State by ISIS (Hasyim, 2015). Some Islamic groups in Indonesia whose teachings often intersect with the state ideology can be classified as a transnational Islamic movement. Transnational Islamic Movement is a movement whose activities transcend national boundaries (Kementerian Agama RI, 2011). This group has a closed network and the application of group ideology in the name of Islam that is contrary to the cultural values and ideology of the Indonesian state so that it can lead to separatist actions. This group often causes various friction in social life such as acts of destruction, the spread of threats through terror.

Some of them are Islamic movement groups in Indonesia which state that they support ISIS's actions in forming an Islamic State, for example support coming from Jemaah Islamiyah, the Islamic State of Indonesia and Jemaah Ansharut Tauhid (JAT), which is led by Abu Bakar Ba'asyir. Members of this movement group were then recruited by ISIS and joined directly with ISIS forces in Iraq and Syria. While other groups in Indonesia such as the Islamic Sharia Activist Forum (FAKSI) and the Daulah Islamiyah Support Forum (FKDI) which support the Islamic State movement by ISIS, mobilized several activists and supporters of the movement by holding a series of meetings in several areas such as in Tangerang, Bekasi, Bima, Sumbawa and Jakarta (Gunaratma, 2015). This situation then led to the emergence of groups and forums in Indonesia that supported the ISIS movement to form an Islamic State and spread its

control and influence.

According to Didik Novi Rahmanto, one of the factors that drives people who are desperate to join ISIS is a belief in the concept of a just world. This belief refers to the belief that the world works in a consistent and fair way. This kind of justice is believed to be only realized by ISIS, which from the beginning claimed to be a khilafah that would restore the glory of Islam. This means that ISIS not only promises heaven, which can only be achieved after death, but also a better quality of life in this world. This is demonstrated by a series of ISIS propaganda that says they provide job vacancies as well as free schools, hospitals, water and electricity. Those promises attract the attention of many people, including those who know nothing about the illusion of the khilafah which is the main "selling" of ISIS. Some of these people even think that traveling to Iraq and Syria only migrates to other countries, where they can work and make money to send their families at home. Nevertheless, in Syria, they did not find the khilafah, it was a problem. Dreams and hopes for a better life have vanished. In fact, not a few of them are victims of ISIS atrocities, especially women and children (Rahmanto, 2020).

In line with Abdullah Mustafa Rahhal, an Ulama in Syria, there are several reasons why people join ISIS, including their ignorance of the real condition of ISIS. Most of those who join ISIS come from outside Syria, while inside Syria no one sympathizes with ISIS. Syrian society, especially young men, have known and witnessed the cruelty and irregularities of ISIS all this time. They killed, raped women, destroyed buildings and tortured civil society. Those outside do not know anything about ISIS in the field, only knowing from ISIS propaganda media that presents positive things about the ideals of the Islamic state, so that this remains attractive to them. Especially for Indonesia there is anti-ISIS propaganda. This is the reason for some young jihadists (Indonesian) who are also anti-government (for refusing ISIS) to join. They consider the enemy of the government to be the enemy of the mujahidin. Another cause is that they are tempted by the money or salary many times promised if they can join ISIS. ISIS is said to be able to provide salaries of US \$ 400-500 per month per person. It is true that the ISIS movement is veiled in Islam, as if it were beautiful with Islamic symbols, flags and so on, but the content is precisely to destroy Islam (Iqbal, 2015).

The joining of several Indonesian citizen with ISIS, for some parties is considered a phenomenon known as Foreign Terrorist Fighters. According to the Global Counterterrorism Forum (GCTF), an international forum from 29 countries and the European Union with the mission of reducing the vulnerability of people around the world to terrorism, foreign terrorist fighters are people who travel abroad to a country other than to be involved in, doing, plan, prepare, carry out or support terrorist activities or to provide or receive training to do so (often referred to as "terrorist training") (Global Counterterrorism Forum (GCTF), 2019). However, as stated by the author, not all Indonesian citizen who join ISIS can be said to be foreign terrorist fighters.

For example, one of ISIS sympathizers, who managed to escape after more than two years living in Syria, Nurshadrina Khaira Dhanian, said that she was interested in ISIS because she was interested in a number of rumors that told the lives of Muslims under the ISIS government in Syria. He also saw other ISIS sympathizers' recognition videos that made his desire to leave even higher. In addition, ISIS promised itself and five family members to reimburse all departure costs and guarantee his life after arriving in Syria. He was influenced by ISSI propaganda that the obligation to migrate would go to heaven. ISIS also claims life in Syria is like the time of the prophet Muhammad. Yet, all that turned out to be a mere ISIS lie, and deeply regretted having left for Syria (Wadrianto, 2017).

It can be concluded that Nurshadrina did not leave for Syria for war and joining ISIS, but for pursuing a life that according to her, in accordance with the beliefs embraced namely Islam. This means, not all Indonesian citizen who go to Syria aim to join the struggle with ISIS or become ISIS military combatants. Then what about the children who were taken by their parents to join ISIS? In the author's view, they are clearly not foreign terrorist fighters. Although there is still much debate about the use of the term foreign terrorist fighters, but based on the definition given by GCTF, the conclusion is that a person becoming a foreign terrorist fighters is carried out with awareness and without coercion because it is related to their beliefs and ideology.

### **Potential Impacts of Indonesian Children Repratriation who Have Joined ISIS**

Based on the Head of BNPT (National Counter-Terrorism Agency) Suhardi Alius, currently there are around 600 Indonesian citizen who are still displaced in Syria spread in three refugee camps, Al Roj, Al Hol, and Ainisa which are controlled by 3 (three) power authorities, namely Syrian Democratic Forces (SDF), the Syrian Government, and the Kurdistan Government. BNPT obtained this information from a number of Middle Eastern and International Red Cross (ICRC) intelligence agencies. Even though they already have information, BNPT cannot directly confirm the existence of Indonesian citizen, because the three camps are guarded by three authorities who are still in a state of war (cnnindonesia, 2020).

After a long debate in the community, the Indonesian Government finally decided not to repatriate Indonesian citizen who had joined ISIS from the Middle East. The move was decided because the government did not want if the former Indonesian citizen who had once joined ISIS disturbed national security. According to Coordinating Minister for Political, Legal and Security Affairs Mahfud MD, hundreds of terrorists who cross borders between countries are considered dangerous and can threaten security if they return to their respective homelands. Therefore, with regard to Indonesian citizen who had joined ISIS, the government refused their return as a form of providing security for the people. If Indonesian citizen who have joined ISIS or the Foreign Terrorist Fighters are repatriated, it could become a new virus that makes around 267 million Indonesian citizen feel insecure, so the government will not repatriate the Foreign Terrorist Fighters to Indonesia. The decision refers to a cabinet meeting chaired by President Joko Widodo (Purnamasari, 2020). The government's decision also brings about the pros and cons, especially regarding the fate of the children who were taken or born by their parents in Syria.

Related to the pros and cons, Mahfud MD affirmed that the government continues to open options to repatriate children of Indonesian citizen suspected of being cross-border terrorists (foreign terrorist fighter) and former members of ISIS to Indonesia. Allowance will be given to their children who are not involved in acts of terrorism from their parents. Although the government does not yet have detail data on the number of children from a total group of Indonesian citizen suspected of cross-border terrorism and former ISIS. Children under 10 will be considered on a case-by-case basis, whether there are parents or not, orphans or not (Yahya, 2020).

Responding to this, Hikmahanto Juwana requested that the government be careful in considering the return of Indonesian children ex-ISIS. The government must be cautious in the repatriation process so as not to cause problems later on. First, how deep the child is exposed to ISIS. Second, the government must ensure surrogate parents for former ISIS guerrillas. They must have surrogate parents after returning to

their homeland. It must be ensured these children do not have perceptions about the state that separates them (from their parents), so that they grow without a grudge against the state. And third, the government also needs to be aware of children who have participated in ISIS military training because they have pledged allegiance to ISIS (Chandra Iswinarno & Erick Tanjung, 2020).

Meanwhile, according to Sidney Jones, the government's decision to repatriate children of former ISIS members is a good thing because he thinks it will be very dangerous if minors are allowed to live in camps where radicalization will continue to grow. Especially when considering humanitarian reasons. Children under the age of 10 can always change their minds through counseling, psychologists and also through the kindness of others, but he reminded the government not only to repatriate them without considering who would receive them. He referred to this phenomenon after a series of bomb blasts in Surabaya, where children whose parents were the perpetrators of the attack were ostracized by the community. According to him, people's attitudes can change if the government succeeds in delivering a good argument and provides a kind of public information campaign. The return of children from former ISIS members can begin with orphans, but the government must not rule out the addition of children aged 10-15 years, or even adult women (Wardah, 2020).

The Imparsial Non-Governmental Organization (NGO) also suggested that the government first identify the role of Indonesian citizen when they were still active members of ISIS. The government can use the Anti-Terrorism Law to punish them in Indonesia. Different conditions are aimed at children and women. Governments can de-radicalize on condition that they have never been active in ISIS. Meanwhile, Indonesian International Amnesty believes that everyone has basic rights that must be guaranteed, especially children, including citizenship rights without which they will lose basic rights such as health services, education or other rights. Every country has an obligation to protect its citizen. In international and national law, it is regulated how to deal with citizen proven to participate in armed organizations and training with groups that commit crimes (Chandra Iswinarno & Erick Tanjung, 2020).

The government's consideration to repatriate these children to Indonesia needs serious attention because it concerns about the fate of human safety. Basically, the author agrees with the proposed repatriation of these children, however the decision taken by the Government must be careful and not in a rush, but it should not be too long so that it does not become a prolonged polemic. If the Government officially decides to accept these children, the government must try to carry out rehabilitation and de-radicalization which is humane, so that the ISIS ideology can be eliminated and not transmitted to children or other citizen. The government must look at these children from the perspective of victims, not terrorists. They are one of the subjects that must be protected as mandated by Law Number 35 Year 2014 concerning Amendments to Law Number 23 Year 2002 concerning Child Protection.

However, it must also be recognized that conducting the best method of rehabilitation and deradicalization cannot guarantee that one's ideology will change, and for this reason supervision and monitoring of the development of these children must be carried out continuously and sustainably. If the process of deradicalization and rehabilitation in these children is not successful, then according to the authors there are at least three risks that might be faced. First, they will continue to look for ways to join radical groups. Second, if they join a radical organization, it will be those who will brainwash and further radicalize their friends in this organization. Third, they can move themselves to commit terror, by learning independently through online media in making weapons as well as planning violent strategies.



### What Indonesian Government Should Do

Children need care, protection, and guidance of parents or other caregivers especially during the early years when they are very dependent. While their emerging abilities and capacities change the nature of this vulnerability from childhood to adolescence, their need for attention and guidance at every stage remains. Parents and the community have the primary responsibility to protect and care for their children and initiate them into culturally relevant skills, attitudes and ways of thinking. Intervention by outsiders is very important insofar as they strengthen (or inadvertently undermine) the capacity of families and communities to provide this care and protection. There are circumstances where the immediate needs of children or adolescents must be met directly, but maintaining a long-term view is very important to find ways that allow families and communities to care for and protect children in a sustainable manner.

Children's rights are inherent in every child and are accommodated by law. The legal basis governing the fulfillment of children's rights includes:

- a. The 1945 Constitution, Article 28B paragraph 2 says: "Every child has the right to survival, growth and development and is entitled to protection from violence and discrimination".
- b. Indonesian Law Number 4 of 1979 concerning Child Welfare, article 2 paragraph 1-4:
  - (1) Children have the right to welfare, care, care and guidance based on love both in their families and in special care to grow and develop properly.
  - (2) Children have the right to service to develop their abilities and social life, in accordance with the culture and personality of the nation, to become good and useful citizen.
  - (3) Children have the right to care and protection, both during in the womb and after birth.
  - (4) Children have the right to protection of the environment which can harm or hinder their growth and development properly.
- c. The Convention on the Rights of the Child was approved by the United Nations on November 20, 1989 and was signed by the Government of the Republic of Indonesia in New York on January 26, 1990 through Presidential Decree Number 36 of 1990 concerning Ratification of the Convention on The Rights of the Child. All parts of this Convention regulate the fulfillment of children's rights. There are 4 basic principles of child rights contained in the Convention on the Rights of the Child, such as:
  - (1) Non-discrimination.
  - (2) The best interests of the child.
  - (3) The right to life, survival, and development.
  - (4) Appreciation of children's opinions.

Every adult, community, and government is obliged to respect, protect and fulfill the rights of children from the time the child is still in the womb, meeting the basic needs of children in the form of compassion (biological physical needs including health services), honing (love and emotional needs), and nurturing (early stimulation needs) so that children grow and develop according to their potential. In addition to fulfilling the rights inherent in children, children's development must also be directed to raise and increase awareness of children's obligations and responsibilities to parents, society, nation and state.

Article 330 of the Civil Code states that minors are those who have not reached the age of 21 years and have never been married. So the child is anyone who is not yet 21 years old and not married. If a child is married before the age of 21 then divorced or abandoned by her husband before the age of 21, then he is still considered an adult who is not a child (Tjitrosudibio, 2002). While Article 45 of the Criminal Code (KUHP) states that children are those whose age has not reached 16 years. In addition, Law Number 11 Year 2012 Concerning the Criminal Justice System for Children, where Article 1 paragraph (3) states that children are 12 years old, but not yet 18 years of age who are suspected of committing criminal offenses. Then according to Article 1 point 2 of Law Number 4 of 1979 concerning Child Welfare, child is someone who has not reached the age of 21 and has never been married. Regarding the age limit of children in various legal rules in Indonesia, it seems that there is still no consistency and certainty. According to the author, this is one of the evidences of the country's lack of attention towards children, because in some cases involving children, these laws and regulations are still being applied.

Therefore, the author used the age limit as stipulated in the Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection (Law on Child Protection) and Law Number 39 of 1999 concerning Human Rights (Law on Human Rights). In Article 1 Paragraph 1 of the Child Protection Act, a child is someone who is not yet 18 years old, including children who are still in the womb. Then in Article 1 number 5 of the Human Rights Act, every child is under the age of 18 years and not married, including children who are still in the womb if it is in their interests.

The restriction given in these two laws are the same as those given by the Convention on the Rights of the Child which was approved by the General Assembly of the United Nations on November 20, 1989, which was later ratified by Indonesia through a Presidential Decree in 1990. In Part 1 Article 1 The Convention on the Rights of the Child is stated, the meaning of a Child is any person under the age of 18, except under the law applicable to children it is determined that the age of adulthood is reached earlier. In the author's view, this is the only consistency or conformity between national law and international law. And therefore, the age restrictions that are different and stated in various other legal rules in Indonesia, should be ruled out. Although it remains the author's note regarding the Convention on the Rights of the Child ratified by Indonesia "only" by Presidential Decree, not by law or Government Regulation in lieu of Law, as customary.

Regarding the issue of whether Indonesian children who have joined ISIS can be repatriated, there is at least one important point that should be observed from the government's statement like the age limit of children who are planned to be discharged are children under the age of 10. (Mahfud, 2020) The question arises on the government's basic consideration to limit the child's age to only 10 years? The age limit stated by the government is very different from some legal rules as described. The next question is, are children 11-18 years old unsuitable for the opportunity to return to Indonesia? Or the question is even sharper, are they, children who are beyond the age limit is certainly a foreign terrorist fighter so according to the government is included in the category of very dangerous to be repatriated?

According to the author, the government should be wiser in issuing statements. The age limit of a child according to national and international law as outlined is 18 years, not 10 years. If indeed the government will examine the repatriation of Indonesian in Syria on a case-by-case basis, it should also be applied to all children under the age of 18, and again not only until the age of 10 years. the age classification declared by the government is actually a form of discrimination against children, and is carried out not

according to the law regarding the child's age limit itself. Even if the government wants to repatriate these children, do not then limit the child's age to only 10 years. The government in issuing policies must comply with applicable legal rules, as well as national and international law. This is to avoid Indonesia's bad image in the eyes of the world, especially regarding the enforcement of human rights.

Every year, the UN receives reports of children aged 8 or 9 years associated with armed groups. Regardless of their role, child soldiers involved in conflict face acute levels of violence as witnesses, direct victims and forced participants. Some were injured and had to live with disabilities for the rest of their lives. Girls are also recruited and used by troops and armed groups. They have a unique vulnerability to gender and their place in society and suffer specific consequences including, but not limited to, rape and sexual violence, pregnancy and pregnancy-related complications, stigma and rejection by family and community (United Nations Office of the Special Representative of the Secretary General for Children and Armed Conflict, n.d.).

There are many ways for children to be involved in armed forces or groups. Some children are kidnapped and hit to comply with, others join military groups to escape poverty, to defend their community because of feelings of revenge or for other reasons. In many conflicts, children take direct part in battle. However, their role is not limited to battles. Many girls and boys are also used in support functions which also carry significant risks and difficulties. Their duties can vary, from combatants to chefs, spies, couriers and even sex slaves. In addition, the use of children for acts of terror, including as suicide bombers has emerged as a phenomenon of modern warfare (United Nations Office of the Special Representative of the Secretary General for Children and Armed Conflict, n.d.).

Children who are exposed to war and are trapped in war zones, whose families are split-up, can engage in battle and may have to witness or be forced to commit violence sometimes against their own families. This resulted in the child's childhood being destroyed and giving birth to trauma for life. According to the 2007 Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups or commonly referred to as The Paris Principles, children associated with the armed forces or armed groups, refers to anyone under the age of 18 who is or has been recruited or used by the armed forces or armed groups in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, couriers, spies or for sexual purposes. It does not only refer to a child who has taken or has taken part directly in hostility.

If related to terrorism, according to John Horgan, et al, there are at least 6 (six) stages of the socialization of children into terrorist networks, such as seduction, schooling (education), selection, subjugation, specialization, and stationing (placement). Seduction refers to the initial exposure to ISIS ideas, norms and practices through propaganda, participation in public events, and indirect access to supporters. Education refers to routine direct exposure to personnel, accompanied by intense indoctrination. Selection is done through focused attention from recruiters, screening for talent and care for military training or other roles (eg spying). Submission is a form of physical and psychological brutality through intensive training, isolation from the family, wearing uniforms and deepening commitment through acts of loyalty, sacrifice, and discipline to bring solidarity through mutual difficulties. Specialization refers to coaching expertise and exposure to special training. Then the last, placement, refers to the assignment and placement of roles; including participation in public events to recruit additional members (Horgan, 2017). These stages must be explored in depth by the government of the Indonesian children who have joined ISIS. From this, it will be seen to what extent they

have been exposed to radical ISIS doctrine.

Based on the author's interview with one of the Prosecutors who served in the Task Force on the Criminal Acts of Terrorism and the Cross-border Attorney General's Office of the Republic of Indonesia, the seduction stage becomes the initial stage of children's involvement in terrorism. In some cases, children who are involved with terrorism are started by being teased through social media Facebook. These terrorism network recruiters find their prey on social media by getting to know children and offering free "goodness" in the form of gifts, money, credit and so on, which is usually difficult for children to resist. According to the author, this is the entrance of a child to be exposed to radicalism, besides perhaps from the environment such as parents, family, neighbors and so on. Children involved in terrorism are actually victims of recruitment because they are easily brainwashed and become victims of excessive jihadist indoctrination. A child who seeks his identity is captivated by the promise of heaven for those who are jihadists, but his mentor does not explain the true meaning of jihad. They do not understand what is the target of jihad, what conditions must be fulfilled, under what conditions the jihad is carried out. Finally, the victims are themselves and innocent people (Mahyani, 2019).

Likewise with the children of Indonesian citizen who have joined ISIS, they are actually victims. When they were taken by their parents to Syria to join ISIS, they were never given a choice, and if indeed they had been given a choice, they would definitely choose to follow their parents for whatever reason. They may not even understand what is really happening, but for them the most important thing is to be close to their parents and family. This should really be considered by the government in evaluating the return of children who have joined ISIS.

Violence has a severe impact on a child's physical and mental well-being. This is not limited to children in conflict areas, but also applies to children returning from foreign conflict areas, whether they are traveling alone or taken by their parents. According to the Handbook on Children Recruited and Exploited by Terrorist and Extremist Groups of the United Nations Office on Drugs and Crime, there are at least 2 things that must be done for children who have been involved with terrorist groups, rehabilitation and reintegration (United Nations Office on Drugs and Crime, 2017). Concerning about rehabilitation, or commonly known by the public as a de-radicalization program, those programs have been carried out by the National Counter-terrorism Agency (BNPT) since 2014 in prison that detain prisoners of criminal acts of terrorism and radicalism. Indonesian children who have joined ISIS must also be put into those programs. However, the government must provide a better place to accommodate these children but prison.

The next step which is also the biggest challenge is the social reintegration of children. Social reintegration is understood as the process of restoring a child's ability to take a constructive role in society. The reintegration process begins by identifying "disturbances" that have an impact on the lives of children and their personal development. When developing policies and programs to promote social reintegration, governments must also consider various dimensions of this multi-disciplinary process. The main component of children's social reintegration are as follows (United Nations Office on Drugs and Crime, 2017):

- (1) Health and psychosocial recovery and support.

This is done to overcome the effects of recruitment, violence, and conflict on the physical and mental well-being of children. This step focuses on preventing health-related problems from having a long-term impact on a child's development.

## (2) Educational and vocational opportunities.

This step focuses on the goal of promoting independence in the lives of children. Interventions must consider the needs and aspirations of children, as well as the social and economic environment in which reintegration occurs.

## (3) Back to family and community life.

Recruitment, exploitation, conflict, and criminal activities not only negatively affect a child's personal life, but also interfere with his/her relationships with family and society. The process of reintegration in the family and community should overcome conflict and stigma and must be able to rebuild social networks for children. To do this, related initiatives must consider the needs of children, as well as the needs of their families and communities, by paying special attention to social norms that require recognition to overcome the disorder.

The aspects mentioned above are highly interdependent, and failure to address them is likely to have a negative impact on the overall results of the reintegration process. Programs and services that focus on children must follow a holistic approach by taking into account the needs and rights of individual children, the hopes and needs of families, communities, and the characteristics of the environment in which the reintegration process will take place. Indonesian children who have joined ISIS would face a specific set of complex challenges during their reintegration process. At this stage, the responsibility is not only the domain that belongs to the government, but the community itself or the entire Indonesian people. Its success will depend very much on whether we want and are ready to accept these children.

## CONCLUSION

The method of rehabilitation or deradicalization cannot guarantee that the children of Indonesian citizen who have joined their parents to join ISIS are free from radicalism that might have been indoctrinated. Therefore it is necessary to control and monitor the children developments continuously and sustainably. There are three impacts / risks that will be faced if the rehabilitation process is not successful such as children will continue to look for ways to join radical groups, children who later join radical organizations will brainwash and further radicalize their friends in this organization, and children can move independently to commit terror.

There are 6 stages of the socialization of children into terrorist networks, namely seduction, schooling, selection, subjugation, specialization and stationing. These stages can be used as indicators by the government to assess the extent to which a child has been exposed to ISIS radicalism. If the repatriation of these children is indeed carried out, then the most important thing to be done by the government besides rehabilitation is the social reintegration of children into the community, the main components of which are health and psychosocial recovery and support, educational and vocational opportunities, and returning them to family life and community.

Based on the results of the discussion, the suggestion that the author can propose is that the government in determining the age limit of the Indonesian children who have joined ISIS, is guided by national law and applicable international law, which is under 18 years. The government should conduct case-by-case studies or analyze the extent of the role of children while they are in Syria. To do this, the government must coordinate with international institutions and organizations relating to the protection of the rights of children who have been involved in the conflict in Syria. This is done in order to make the government policy be in line with the protection of human rights

within international perspective.

In addition, the government should also begin to prepare a place that will later be used to accommodate and carry out rehabilitation and deradicalization programs for these children. The government should coordinate with the regional government and the community leaders before conducting the intended programs. Initial socialization to the community around the rehabilitation center becomes important to avoid any rejection or conflict with the local community which in the end can endanger the physical and mental condition of children.

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## Criminal Justice Quote

“The use of guns and militarized equipment undermines the basic ethos of school as a learning environment and replaces it with fear and control.”

**Alex Vitale**