

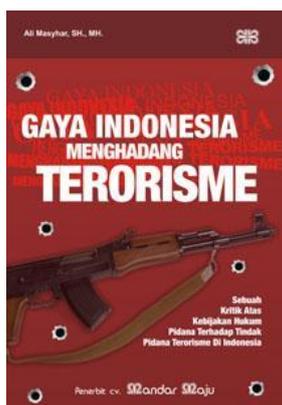
Volume 3 Issue 01
JILS 3 (1) 2018, pp. 147-150

MAY 2018
ISSN (Print) 2548-1584
ISSN (Online) 2548-1592

BOOK REVIEW

Tackling Terrorism, an Indonesian Style on Penal and Non-Penal Policy Perspective: A Book Review *Gaya Indonesia Menghadang Terrorisme*, Ali Masyhar

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DATA of BOOK

Author : Ali Masyhar
Published Year : 2009
Title : *Gaya Indonesia Menghadang
Terrorisme: Sebuah Kritik atas
Kebijakan Hukum Pidana
Terhadap Tindak Pidana
Terrorisme di Indonesia*
Language : Indonesia, *Bahasa*
City Published : Bandung, West Java, Indonesia
Publisher : Mandar Maju
ISBN : 978-979-538-338-3
Page : xiii, 355 pages; 26 cm

THERE are many interesting theses contained in two books written by Ali Masyhar. The first book entitled *Gaya Indonesia Menghadang Terrorisme: Sebuah Kritik Atas Kebijakan Hukum*

Pidana Terhadap Tindak Pidana Terorisme di Indonesia or Indonesia Style Hampering Terrorism: A Critique of Criminal Law Policy against Criminal Acts of Terrorism in Indonesia has at least three theses. The first thesis is quoted from Muladi and Arief stating that the imposition of a criminal to a

person is not solely because the person has committed a crime. The penalty is imposed with the aim that no one should carry out a crime. This thesis is interesting because in reality in the field, the criminal is imposed against the person who has committed a criminal. Criminal is imposed after sufficient evidence and based on a court decision that a person has committed a crime and must be sentenced to criminal (Masyhar, 2009: 154).

This means that if the purpose of criminal law is as stated in the first thesis, then the application of criminal law in the field has not been in accordance with the purpose of criminal law. Almost all people who have been sentenced to criminal because the person has committed a crime. The question is whether the person does not understand criminal or law enforcement objectives that do not understand the criminal so that the person who has committed the crime is always criminalized? If law enforcers interpret the criminal purpose according to the first thesis then the person committing the crime does not have to be penalized. Criminal as a repressive act is used as a last resort. Law enforcers do not have to take a criminal act first. Law enforcers may make other efforts such as non-penalty efforts. If the non-penalty effort is more prevalent then the criminal goal will be achieved. This means that a person who commits a crime does not have to be imposed a criminal but can be done with other efforts that are more humane.

The second thesis of the book written in Ali Masyhar in 2009 is Criminal which is contained in the Criminal Code or Criminal Code is too light. In addition, intellectual actors cannot be severely punished. Implementation of criminal law also takes a long time because it must be juxtaposed with criminal procedure law or formal law (Masyhar, 2009: 155-156). The thesis can at least conclude that criminal law and its application have substantial problems. The problem contained in the criminal law is the lack of criminal law as mentioned in the second thesis.

The shortcomings of the criminal law should be corrected so that criminal law has a fair value. In addition, the application of criminal law can achieve justice. Therefore, criminal law policy is time to be evaluated and improved. The criminal law policies that are widely contained in the Criminal Code are time to be replaced. Criminal Code that is used now there are many shortcomings and cause not reached the value of justice. Therefore, the existing Criminal Code should be replaced immediately so that the problems and shortcomings contained in the Criminal Code can be eliminated or minimized, especially in substance and application. In addition, the criminal procedure law contained in the Criminal Procedure Code or Criminal Procedure Code also needs to be revised or replaced. It is so that between the *Kitab Undang-Undang Hukum Pidana* or Criminal Code and *Kitab Undang-Undang Hukum Acara Pidana* or Criminal Procedure Code can synergize and answer the challenges of the future era that increasingly complex in particular the problem of criminal acts.

The third thesis contained in the book *Indonesia Style Hampering Terrorism: A Critique of Criminal Law Policy Against Criminal Acts of*

Terrorism in Indonesia written by Ali Masyhar is related to democracy. The thesis states that democracy is part of countering criminal acts especially terrorism crime. This is because in democracy there are persuasive efforts, negotiate, and prioritize tolerance. Democracy also prohibits violence and coercion. Democracy also promotes the freedom and security of the people, and protects human rights. This condition can only be achieved by conducting a democratic value social policy. When it has happened then the prevention of terrorism can be done (Masyhar, 2009: 177-178).

If democracy is a way to prevent the occurrence of terrorism because of the advantages of democracy as mentioned earlier, next question is why big democracies are often terrorist acts? Does the country not implement real democracy? or in fact a democracy that cannot prevent the occurrence of terrorism. The United States and Indonesia are the largest democracies in the world. The United States is the world's largest democracy. Indonesia is the third largest dominant country in the world after the United States and India. But in reality the two countries are often criminal acts of terrorism.

The United States is often attacked with acts of terrorism such as events at the WTC building in 2001 and other bombing events that occurred in cities like Boston and others. Indonesia is almost the same. After the Bomb attacks in 2002, terrorism in Indonesia is like a tit for tat. Terrorism incidents in Indonesia continue to emerge including the Bali Bomb II—the bombing at the Ritz Carlton Hotel and J.W. Marriot—and lately is bombing on the street M.H. Thamrin Jakarta. Not to mention other terrorist events.

The number of criminal acts of terrorism occurring in the two major democracies indicates that democracy as a means of preventing criminal acts of terrorism receives great pros and cons and debate. For some democracy countries to be an effort to prevent the crime of terrorism, and it is also possible that in the United States and in Indonesia criminal acts of terrorism are not caused by democracy or the two countries are democracy but there is no balance between democracy and other prevention efforts. But in reality criminal acts of terrorism can thrive in a democratic country. Therefore, the advancement of democracy should be synergized with fair law enforcement, protection of security, prosperity and prosperity for the people as well as tolerance.

In addition to the three theses that have been analyzed from the Indonesian Style of Confronting Terrorism: A Critique of Criminal Law Policy Against Terrorism Crime in Indonesia. There is one thesis contained in the book of *Pergulatan Kebijakan Hukum Pidana dalam Ranah Tatanan Sosial* or Criminal Law Policy Struggle in the Social Order Area written by Ali Masyhar in 2008. One of the theses in this book is that criminal countermeasures must be carried out first with non-penalty efforts. If non penalty efforts cannot overcome the crime then just use penal efforts. This is because penal efforts cannot reach the causes of the crime. In addition, penal efforts that use the Criminal Code still have many shortcomings or weaknesses (Masyhar, 2008: 69).

The thesis is interesting to review because it states that it should be in the prevention of criminal acts using non penalty efforts in order to achieve the causes of criminal acts. If that is the case then law enforcers should in handling criminal offenses first prioritize non-penal efforts, and if a non-penal policy has not been made in the form of a strong legal product then the role of the legal agent is very important in enforcing the non-penalty effort. Law enforcers must first understand non-penalty efforts and then enforce a fair non-penal effort in tackling criminal offenses. If law enforcers can prioritize non penal efforts in tackling criminal offenses then the causes of criminal offenses can be resolved. In addition, substantive justice will be easier to achieve.

References

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- _____. 2009. *Gaya Indonesia Menghadang Terorisme: Sebuah Kritik Atas Kebijakan Hukum Pidana Terhadap Tindak Pidana Terorisme di Indonesia*. Bandung: Mandar Maju.
- The Indonesian Criminal Code (KUHP)
- The Indonesian Criminal Law Procedural (KUHAP)
- The Indonesian Anti-Terrorism Act