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The Driving Factors for Recidivism of Former Terrorism Convicts in Socio-Legal Perspective

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ABSTRACT

The phenomenon of recidivism among former terrorism convicts presents a complex challenge within the socio-legal context. This study aims to explore the driving factors behind the recurrence of terrorism-related offenses among previously incarcerated individuals. By employing a socio-legal perspective, the research examines the interplay of social and legal factors that contribute to the re-engagement of former terrorism convicts in illegal activities. Drawing on existing literature and empirical data, this paper identifies various key factors, including societal stigma, socio-economic struggles, and deficiencies in the legal system. The study underscores the importance of comprehensive policies that address both social and legal dimensions to effectively prevent and address



recidivism in the terrorism context. By understanding and addressing these driving factors, policymakers and practitioners can develop more targeted and nuanced interventions to facilitate successful rehabilitation and reintegration while safeguarding national security and promoting social cohesion.

Keywords: Terrorism Recidivist, De-radicalization of Former Terrorism Convicts, Socio-Legal

INTRODUCTION

Terrorism and radicalism are pressing global concerns that have far-reaching implications for world peace and security. Indonesia, like many other nations, grapples with these issues as well. The crime of terrorism is recognized as an exceptionally grave offense, given its impact on society and the magnitude of its consequences.¹

To address this issue, the Indonesian government implemented Government Regulation in Lieu of Law (hereinafter as Perppu) Number 1 of 2002, which aimed to eradicate criminal acts of terrorism. This regulation, commonly referred to as the *Perppu* of Terrorism, was subsequently integrated into Law Number 15 of 2003, which governs the establishment of government regulations in the country. The enactment of this law served as a replacement for Law No. 1 of 2002 on the Eradication of Criminal Acts of Terrorism. Recognizing the evolving nature of terrorism and the need to adapt legal frameworks accordingly, the law underwent subsequent amendments. These changes led to the enactment of Law Number 5 of 2018, specifically focused on amending Law Number 15 of 2003. The objective of

¹ Ali Masyhar, *Pergulatan Kebijakan Hukum Pidana dalam Ranah Tatahan Sosial*. (Semarang: UNNES Press, 2008).

these amendments was to strengthen the provisions and stipulations pertaining to the eradication of criminal acts of terrorism.²

Despite the amendment of terrorism laws and the government's emphasis on deradicalization programs in recent years, Indonesia continues to face challenges regarding recidivism in terrorism cases. This persistent issue poses a significant threat to the country's security and stability.³ The Indonesian government has recognized the gravity of the situation and established the National Counterterrorism Agency (hereinafter as BNPT) as the primary body responsible for handling terrorism-related matters, including the implementation of deradicalization programs. These programs are specifically designed to address the radicalization and rehabilitation of individuals involved in terrorism, particularly former terrorist offenders.

However, it is evident that the current deradicalization efforts have not produced the desired outcomes. This can be attributed to the unfortunate reality of former terrorist prisoners, also known as former convicts, being involved in numerous bombing incidents. The occurrence of such incidents highlights the challenges faced by the deradicalization program and raises concerns about its effectiveness. The reasons behind the persistence of recidivism in terrorism cases are complex and multifaceted. Factors such as deep-rooted extremist ideologies, the influence of radical

² Republic of Indonesia. *Undang-Undang Republik Indonesia Nomor 5 Tahun 2018 Tentang Perubahan Atas Undang-Undang Nomor 15 Tahun 2003 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2002 Tentang Pemberantasan Tindak Pidana Terorisme Menjadi Undang-Undang*. (Jakarta: Sekretariat Negara, 2018). State Gazette 2018 Number 92, Additional State Gazette Number 6216. Available online at <<https://jdih.bnpt.go.id/dokumen/70m96NBaA>>

³ Gina Fedock, and Stephanie Covington. *The SAGE Encyclopedia of Criminal Psychology*. (Thousand Oaks, SAGE Publication, Inc., 2019). <http://dx.doi.org/10.4135/9781483392240.n170>; Iip Kamaludin, "Efektifitas Pembinaan Narapidana Terorisme dalam Upaya Deradikalisasi di Lembaga Pemasyarakatan." *Al-Adl: Jurnal Hukum* 12, No. 2 (2021): 373-400. <http://dx.doi.org/10.31602/al-adl.v12i2.4327>; Agus Satmoko Adi, "Inovasi program deradikalisasi eks narapidana teroris melalui rumah daulat buku (RUDALKU) dengan pendekatan literasi." *PKN Progresif: Jurnal Pemikiran dan Penelitian Kewarganegaraan* 15, No. 2 (2020): 21-36. <https://doi.org/10.20961/pknp.v15i2.50905>; Abdul Muchzin Guntur Muarif, and Sapto Priyanto. "Pelaksanaan Pembinaan terhadap Para Narapidana Terorisme di Indonesia." *Jurnal Pendidikan dan Konseling (JPDK)* 4, No. 5 (2022): 3168-3179. <https://doi.org/10.31004/jpdk.v4i5.7089>

networks, and gaps in the implementation of the deradicalization program may contribute to this problem. Additionally, the process of disengagement from radical beliefs and reintegrating into society is a delicate and lengthy endeavor that requires tailored approaches and ongoing support.⁴

Addressing the issue of recidivism in terrorism cases requires a comprehensive and multi-dimensional approach. This includes not only the improvement of deradicalization programs but also the enhancement of intelligence gathering, law enforcement measures, community engagement, and international cooperation. It is crucial to develop holistic strategies that effectively target the root causes of radicalization and provide comprehensive support for individuals seeking to disengage from extremist ideologies.

The BNPT has consistently emphasized that recidivists are individuals who have neither participated in nor benefited from its deradicalization program.⁵ However, this claim is contradicted by evidence that emerged in 2018 when a series of bombings occurred, with the majority of them perpetrated by terrorists who had been released from prison on parole.⁶ This raises questions about the effectiveness of BNPT's deradicalization program in guiding prisoners towards repentance and reintegration into society.

An example that highlights the shortcomings of the BNPT's deradicalization efforts is the case of Isnaini Ramdoni, who was convicted

⁴ Muhammad Ghafar, Pryla Rochmahwati, and Mukhibat Mukhibat. "Virtual pesantren: New trend of Islamic education model in Indonesia." *ICONIS International Conference on Islam and Muslim Societies* (2018): 189-199. <http://iconis.iainsalatiga.ac.id/iconis-2018/>; Ali Masyhar, "Regeneration Modus and Strategy of Terrorism." *South East Asia Journal of Contemporary Business, Economics and Law* 18, No. 4 (2019): 13-17. https://seajbel.com/wp-content/uploads/2019/05/SEAJBEL-18_39.pdf.

⁵ Adi, "Inovasi Program Deradikalisasi Eks Narapidana Teroris Melalui Rumah Daulat Buku (RUDALKU) Dengan Pendekatan Literasi". See also Imam Safi'i, "Strategi Komunikasi Yayasan Lingkar Perdamaian dalam Melaksanakan Deradikalisasi Terhadap Mantan Narapidana Teroris." *Jurnal Dakwah* 20, No. 1 (2019): 50-67. <https://doi.org/10.14421/jd.1426>; Edwi Azmi Mulyani Mardlatillah, and Zainal Hidayat. "Peran Pemerintah Daerah dalam Upaya Deradikalisasi Eks Napiter di Wilayah Kota Semarang." *Journal of Public Policy and Management Review* 8, No. 4 (2019): 539-545. <https://doi.org/10.14710/jppmr.v8i4.25128>

⁶ Kamaludin, "Efektifitas Pembinaan Narapidana Teroris dalam Upaya Deradikalisasi di Lembaga Pemasyarakatan".

in the Surabaya bombing case in 2018. Despite having gone through a program at the BNPT Deradicalization Center (hereinafter as *Pusderad*) and being granted parole after serving only two months, Isnaini returned to engaging in bomb-making activities. This case demonstrates how a former convict, despite undergoing the BNPT's deradicalization process, failed to reintegrate into society and instead resumed his previous terrorist actions. Another example is Ismarwan, also known as Ismail bin M Yusuf, a former terrorism convict who participated in the deradicalization program but was subsequently rearrested in November 2019. This case further underscores the fact that the BNPT's deradicalization efforts do not guarantee long-term success in preventing individuals from relapsing into terrorist activities.⁷

These instances shed light on the limitations of the current deradicalization program implemented by the BNPT. While the program may provide temporary interventions and address certain aspects of radicalization, it appears to fall short in creating sustained behavioral changes and preventing recidivism. This calls for a critical examination and reevaluation of the program's methodologies, as well as a comprehensive assessment of the factors contributing to prisoners' relapse into terrorism.⁸

Efforts to address recidivism in terrorism cases require a more nuanced and holistic approach. It should include ongoing monitoring, comprehensive psychological counseling, religious guidance, vocational training, and community reintegration programs. By considering the complex nature of radicalization and adopting evidence-based practices,

⁷ Mohamad Ismed, "Deradikalisasi Penanganan Terorisme Secara Terintegrasi di Indonesia." *Jurnal Penelitian Hukum Legalitas* 15, No. 2 (2021): 59-64; Ali Masyhar, Rasdi Rasdi, and Fendi Setyo Harmoko. "Peran Khutbah Jum'at dalam Mengantisipasi Radikalisme Beragama." *Jurnal Pengabdian Hukum Indonesia (Indonesian Journal of Legal Community Engagement) JPHI* 1, No. 2 (2019): 178-183. <https://doi.org/10.15294/jphi.v1i2.28578>; Ali Masyhar, and Ridwan Arifin. "Urgensi Pembentengan Masyarakat dari Radikalisme dan Terorisme (Upaya Terhadap Jamiyyah Nahdlatul Ulama Kecamatan Bonang Kabupaten Demak)." *Jurnal Pengabdian Hukum Indonesia (Indonesian Journal of Legal Community Engagement) JPHI* 1, No. 1 (2018): 1-12. <https://doi.org/10.15294/jphi.v1i01.27259>

⁸ Ismed, "Deradikalisasi Penanganan Terorisme Secara Terintegrasi di Indonesia". See also Masyhar, Rasdi, and Harmoko, "Peran Khutbah Jum'at dalam Mengantisipasi Radikalisme Beragama"; Masyhar and Arifin, "Urgensi Pembentengan Masyarakat dari Radikalisme dan Terorisme (Upaya Terhadap Jamiyyah Nahdlatul Ulama Kecamatan Bonang Kabupaten Demak)".

the BNPT and relevant authorities can work towards reducing the risk of recidivism and ensuring a more effective long-term solution to counter terrorism in Indonesia.

According to Ali Masyhar, while the use of the penal route has shown some improvements in combating terrorism, it has its limitations, especially in addressing transnational organized crimes such as terrorism. Therefore, complementary non-penal policies, including education, economic prevention, moral approaches, and more, are essential to effectively combat terrorism. Although the new terrorism law incorporates deradicalization provisions, their implementation has not been fully optimized.⁹

It is crucial to recognize that the deradicalization program should not conclude once a prisoner completes their sentence, as former terrorists can potentially become even more radicalized after leaving prison. To develop precise strategies for countering terrorism recidivism through non-penal means, it is necessary to thoroughly examine the factors that contribute to the recurrence of terrorist activities among former convicts. By conducting a comprehensive analysis of these factors, policymakers and relevant stakeholders can identify the specific elements that contribute to the reengagement of former terrorist convicts. This knowledge can then inform the development of targeted interventions and initiatives aimed at addressing these factors and reducing the risk of recidivism.

Incorporating a multi-faceted approach that combines penal and non-penal measures is essential in effectively addressing the complex issue of terrorism. Non-penal policies, including educational programs, economic opportunities, moral guidance, and other social initiatives, play a vital role in preventing the resurgence of radical ideologies and promoting long-term reintegration into society.¹⁰ To achieve a comprehensive and sustainable

⁹ Ali Masyhar. *Pergulatan Kebijakan Hukum Pidana dalam Ranah Tatanan Sosial*. (Semarang: UNNES Press, 2008).

¹⁰ Ghafar, et.al., "Virtual Pesantren: New Trend of Islamic Education Model in Indonesia". See also Masyhar, "Regeneration Modus and Strategy of Terrorism". Syafii, "Strategi Komunikasi Yayasan Lingkar Perdamaian dalam Melaksanakan Deradikalisasi Terhadap Mantan Narapidana Teroris"; Mardlatillah and Hidayat. "Peran Pemerintah Daerah dalam Upaya Deradikalisasi Eks Napiter di Wilayah Kota Semarang"; Ismed, "Deradikalisasi Penanganan Terorisme Secara Terintegrasi di Indonesia". See also Cameron I. Crouch, *Managing Terrorism and Insurgency: Regeneration, Recruitment and Attrition*. (London: Routledge, 2009). It is further explained

solution to combat terrorism recidivism, policymakers should collaborate with various sectors, including education, religious institutions, civil society organizations, and communities at large. By combining efforts, sharing resources, and implementing evidence-based practices, it becomes possible to create an environment that discourages the return to extremist ideologies and fosters lasting peace and security.

Understanding the driving factors for the recidivism of former terrorism convicts requires a socio-legal perspective that takes into account both social and legal aspects. This approach enables a comprehensive analysis of the various influences and circumstances that contribute to the recurrence of terrorist activities among individuals who have previously been involved in such acts. The method used for examining the driving factors for recidivism in this context, such as

1. Socio-Cultural Factors

that the regeneration of terrorism has been a complex and multifaceted phenomenon that has plagued societies worldwide. Despite significant efforts to combat terrorism, new challenges and factors have contributed to its regeneration. One crucial aspect is the evolving nature of terrorist organizations, adapting to changes in technology, tactics, and ideological narratives. The rise of the internet and social media has played a significant role in the regeneration of terrorism. Online platforms provide a global reach and a fertile breeding ground for extremist ideologies to spread rapidly. Radicalization can occur remotely, making it challenging for authorities to detect and prevent terrorist activities. Additionally, encrypted communication channels have made it easier for terrorists to plan and coordinate attacks while evading surveillance. Socioeconomic factors, political instability, and grievances also contribute to the resurgence of terrorism. Marginalized communities, regions affected by conflict, and areas with weak governance often become hotspots for recruitment and radicalization. Disenfranchised individuals may turn to terrorism as a means to express their frustrations, seek empowerment, or challenge perceived injustices. Moreover, geopolitical dynamics, unresolved conflicts, and power vacuums provide fertile ground for terrorist groups to thrive. In regions marked by sectarian tensions, ethnic rivalries, or territorial disputes, terrorist organizations can exploit grievances and recruit from vulnerable populations. See Kumar Ramakrishna, ""The Southeast Asian Approach" to Counter-Terrorism: Learning from Indonesia and Malaysia." *Journal of Conflict Studies* 25, No. 1 (2005): 27-47. https://id.erudit.org/iderudit/jcs25_1art02; Achmad Zainal Huda, Arthur Josias Simon Runturambi, and Muhammad Syauqillah. "Social Media as An Incubator of Youth Terrorism in Indonesia: Hybrid Threat and Warfare." *Jurnal Indo-Islamika* 11, No. 1 (2021): 21-40. <https://doi.org/10.15408/jii.v11i1.20362>; Ali Masyhar, et al. "Digital Transformation of Youth Movement for Counter Radicalism." *AIP Conference Proceedings* 2573, No. 1 (2022). <https://doi.org/10.1063/5.0109808>

This aspect focuses on the social and cultural environment in which former terrorism convicts are embedded. It involves analyzing factors such as family background, peer influence, community dynamics, religious or ideological beliefs, and societal attitudes towards terrorism. Understanding how these social and cultural factors shape individuals' perceptions, motivations, and support networks is essential for identifying the drivers of recidivism.¹¹

2. Psychological Factors

Examining the psychological aspects is crucial in understanding the mindset and emotional state of former terrorism convicts. Factors such as radicalization processes, personal grievances, trauma, ideological commitment, and the allure of violence need to be considered. Psychological vulnerabilities and the manipulation of emotions by extremist groups can significantly impact an individual's likelihood of reengaging in terrorist activities.¹²

3. Structural and Economic Factors

Socio-economic conditions can contribute to the vulnerability of individuals to radicalization and recidivism. Factors such as poverty, unemployment, lack of educational opportunities, and social marginalization can create an environment conducive to extremism. Analyzing these structural and economic factors helps identify the socio-legal interventions needed to address underlying grievances and provide pathways to socio-economic empowerment.¹³

4. Legal and Rehabilitation Policies

Evaluating the effectiveness of legal frameworks and rehabilitation policies is crucial. This involves assessing the adequacy of laws,

¹¹ See Jerrold M. Post, "The New Face of Terrorism: Socio-Cultural Foundations of Contemporary Terrorism." *Behavioral Sciences and The Law* 23, No. 4 (2005): 451-465.

¹² David Webber, and Arie W. Kruglanski. "The Social Psychological Makings of a Terrorist." *Current Opinion in Psychology* 19, No. 1 (2018): 131-134. See also M. Brooke Rogers, et al. "The Role of Religious Fundamentalism in Terrorist Violence: A Social Psychological Analysis." *International Review of Psychiatry* 19, No. 3 (2007): 253-262.

¹³ Tim Krieger, and Daniel Meierrieks. "What causes terrorism?." *Public Choice* 147 (2011): 3-27; S. Brock Blomberg, Gregory D. Hess, and Athanasios Orphanides. "The macroeconomic consequences of terrorism." *Journal of monetary economics* 51, No. 5 (2004): 1007-1032. See also Dipak K. Gupta. "Exploring Roots of Terrorism." In *Root Causes of Terrorism*. (London: Routledge, 2005), pp. 34-50.

sentencing procedures, and the availability and quality of deradicalization programs and post-release support systems. Examining the legal and rehabilitation landscape provides insights into potential gaps, weaknesses, or barriers that might contribute to recidivism.¹⁴

5. Comparative Analysis

A comparative analysis of recidivism patterns and practices in different jurisdictions can provide valuable insights. Comparing the experiences of countries that have implemented successful measures to prevent recidivism with those struggling in this regard can help identify best practices and innovative approaches.

By adopting a socio-legal perspective and utilizing these analytical methods, policymakers, researchers, and practitioners can gain a comprehensive understanding of the driving factors for recidivism among former terrorism convicts. This research serves as the foundation for developing evidence-based strategies, policies, and interventions to effectively address and mitigate the risk of individuals returning to terrorist activities.

TERRORISM & RADICALISM IN INDONESIA: THE ROLE OF GOVERNMENT ON COUNTERING TERRORISM

The government's repressive measures alone have not been sufficient in effectively curbing radicalism and terrorism. Despite the significant number of individuals who have been apprehended and participated in

¹⁴ Dian Damayanti, "Implementation of the Cyber Terrorism Prevention, and Rehabilitation Policy in Polda Metro Jaya Police in Central Jakarta." *Journal of Information Assurance & Cybersecurity* 2021, No. 1 (2021): 1-10. See also Daniel Koehler. "Violence and terrorism from the far-right: Policy options to counter an elusive threat". *ICCT Policy Brief*, 2019. (The Hague: International Centre for Counter-Terrorism, 2019); Rohan Gunaratna, and Sabariah Hussin, eds. *Deradicalisation and terrorist rehabilitation: A framework for policy-making and implementation*. (London: Routledge, 2018).

deradicalization programs, there has not been a proportional decrease in the occurrence of terrorist acts in the country. Based on available data, it is noteworthy that the National Counterterrorism Agency (BNPT) planned to engage in deradicalization efforts with 1,192 former terrorist convicts in 2022. Surprisingly, out of those who had undergone deradicalization, 1,036 individuals were still identified as holding radical beliefs. This outcome highlights the challenges and limitations of the current deradicalization efforts in completely transforming individuals' extremist ideologies. Furthermore, in terrorism cases, a concerning number of 116 individuals have relapsed into terrorist activities, indicating a significant rate of recidivism. This emphasizes the complexity of addressing the root causes and factors contributing to the recurrence of terrorism among former convicts.

The data underscores the need to reassess and strengthen the existing deradicalization programs. Merely engaging individuals in the deradicalization process during their imprisonment or shortly after their release is insufficient to ensure long-term success in preventing recidivism and reducing the threat of terrorism. It highlights the importance of comprehensive and sustained support, including ongoing monitoring, psychological counseling, education, vocational training, community reintegration, and addressing the underlying social, economic, and ideological factors that contribute to radicalization.

Effectively combating terrorism requires a multifaceted approach that goes beyond punitive measures. It necessitates a comprehensive strategy that addresses both the immediate security concerns and the underlying drivers of radicalization. By recognizing the limitations of current approaches and investing in holistic, evidence-based interventions, Indonesia can strive to achieve a more lasting impact in countering radicalism and preventing recidivism in terrorism cases.

It has been discovered that individuals who were previously convicted for terrorism and have completed their prison sentences may not necessarily undergo effective deradicalization. In fact, there are claims suggesting that terrorist convicts in prisons might further solidify their

extremist beliefs or even contribute to the emergence of new radical ideologies.

The ideology of radicalism has the ability to infiltrate and influence an individual's subconscious mind. Under certain conditions, this radical ideology becomes deeply ingrained in a person's nature and behavior. Interestingly, one can often observe the level of radicalism in a person by their outward appearance. Furthermore, individuals who have been exposed to this ideology tend to propagate and develop it among their peers. A person who has been radicalized by this ideology actively seeks followers and aims to influence others to adopt the same radical beliefs, ultimately encouraging them to join their group. The term "*recruitment*" simplifies the process of spreading this ideology. It is generally easier to recruit individuals who are already interested in joining radical organizations such as Jamaah Anshorut Tauhid¹⁵, Jamaah Anshorud

¹⁵ Jamaah Anshorut Tauhid (JAT) is an Islamic organization based in Indonesia. It was founded by Abu Bakar Ba'asyir, an Indonesian Muslim cleric, in 2008. JAT's ideology revolves around the establishment of an Islamic state in Indonesia based on strict interpretations of Islamic law. The organization has been designated as a terrorist group by the Indonesian government and the United Nations due to its alleged involvement in terrorist activities. It has been accused of recruiting and training militants, supporting acts of violence, and promoting radical ideologies. JAT has been linked to various terrorist attacks in Indonesia, including the 2009 Marriott and Ritz-Carlton bombings in Jakarta. Following the arrest and conviction of its leader Abu Bakar Ba'asyir, JAT has faced significant setbacks, and its influence has diminished. However, it is important to note that the activities and influence of extremist groups like JAT can evolve and manifest in different forms over time. See Asman Abdullah, "Radikalisasi Gerakan Jamaah Ansharut Tauhid dan Pengaruh ISIS di Indonesia." *Jurnal Sosiologi Reflektif* 12, No. 2 (2018): 213-232. <https://doi.org/10.14421/jsr.v12i2.1295>; Arif Rudi Setiyawan, "Penanggulangan Terorisme Berdasarkan Konsep Problem-Solving Approach (Kajian Pada Respons Pemerintah Terhadap Gerakan Jamaah Ansharut Tauhid)." *Jurnal Damai dan Resolusi Konflik* 3, No. 2 (2017): 61-76.

Daulah¹⁶, Ikhwanul Muslimin¹⁷, and others. Therefore, the process of radicalization simply fuels the flames of indoctrination, as the seeds of radicalism may have already been planted in the person's mind, possibly as early as their school years, where they developed an interest in the concept of jihad in relation to armed conflict.¹⁸

¹⁶ Jamaah Ansharut Daulah (JAD) is an extremist organization based in Indonesia. It emerged in 2015 and has been linked to various acts of terrorism in the country. JAD is known for its affiliation with the Islamic State (IS) and its objective of establishing an Islamic caliphate in Indonesia. JAD is considered a terrorist group by the Indonesian government and has been responsible for several high-profile attacks, including the 2016 Jakarta bombings and the 2018 Surabaya church bombings. The group has been involved in recruiting, radicalizing, and training individuals for acts of violence. It has targeted vulnerable individuals, particularly young people, through online propaganda and social media recruitment. Indonesian authorities have taken significant measures to counter JAD's activities, including arrests and disrupting its networks. However, the organization continues to pose a security threat in the region. The government's efforts are focused on dismantling the group's infrastructure, arresting its leaders, and countering its ideological influence through deradicalization programs and community engagement. It is important to note that extremist organizations like JAD can evolve and adapt, potentially rebranding or forming new alliances to continue their activities. Continuous monitoring, intelligence sharing, and collaborative efforts among governments are crucial in combating the threat posed by such organizations. See Bella Widya, "Pemahaman Takfiri Terhadap Kelompok Teror di Indonesia Studi Komparasi Jamaah Islamiyah dan Jamaah Ansharut Daulah." *Jurnal Studi Diplomasi dan Keamanan* 12, No. 2 (2020): 76-93. <https://doi.org/10.31315/jsdk.v12i2.3525.g2668>

¹⁷ The group has faced varying levels of support and opposition in different countries. It has been banned or restricted in some nations due to concerns about its alleged involvement in violence, terrorism, and destabilization activities. Critics argue that the Muslim Brotherhood's ideologies and strategies are incompatible with democratic principles and can potentially undermine national security. See Abi Quhafah, "Kebijakan Arab Saudi Terhadap Gerakan Transnasional Ikhwanul Muslimin Tahun 2017-2020 Ditinjau dari Perspektif Counter Terrorism." *Thesis* (Yogyakarta: Universitas Islam Indonesia, 2022).

¹⁸ Terrorist networks in Indonesia prefer direct or face-to-face (offline) recruitment rather than through social media (online). Social media is only used to spread radicalism. University of Indonesia terrorist observer, Solahudin, said the recruitment of terrorist networks in Indonesia is indeed different from several countries such as in Europe and Malaysia which use more online routes. Extremist groups in Indonesia don't really believe in online recruitment patterns. Because, usually social media users use fake identities. For example, there is a photo of a woman, but it turns out to be a man and vice versa. Solahudin said, of the 75 terrorist convicts he researched and interviewed, only 9 percent or seven cases said they joined extremist groups via social media. The remaining 91 percent said they were recruited by extremist groups offline. This means face-to-face

A total of 116 recidivists have been identified as returning to commit acts of terrorism up until 2022. This significant number indicates that many individuals who have been previously convicted of terrorism have not only reverted back to radicalism but have also repeated their acts of terrorism. It is evident that former terrorism convicts still harbor radical potential that can resurface at any given time, as not all of them have acknowledged their mistakes and willingly pledged allegiance to the unitary state of the Republic of Indonesia. The case of Agus Sujatno, who carried out a suicide bombing at the Astanaanyar Police Station in Bandung, serves as a concrete example highlighting the existence of recidivists among formerly convicted terrorists in Indonesia. This pressing reality necessitates the pursuit of effective solutions. To address the issue of recidivism among former terrorist offenders, a thorough analysis of the contributing factors is essential in order to identify the most impactful methods for combating this problem.

and through religious forums. The religious forum in question is lectures whose material is related to extremism. This is easy to do because of freedom of expression and organization in Indonesia. Even a few years ago, foreign media covered mosques that were used as propaganda places for the ISIS group. However, this cannot be stopped because of the existence of laws that protect freedom of expression. However, the current Terrorism Law also contains no provisions to prosecute those who teach terrorism. See Hery Firmansyah, "Upaya Penanggulangan Tindak Pidana Terorisme di Indonesia." *Mimbar Hukum* 23, No. 2 (2011): 376-393. <https://doi.org/10.22146/jmh.16193>; Muhammad Zulfikar, and Aminah Aminah. "Peran Badan Nasional Penanggulangan Terorisme dalam Pemberantasan Terorisme di Indonesia." *Jurnal Pembangunan Hukum Indonesia* 2, No. 1 (2020): 129-144. <https://doi.org/10.14710/jphi.v2i1.129-144>; Agus Reksoprodjo, Pujo Widodo, and Fauzia Gustarina Cempaka Timur. "Pemetaan Latar Belakang dan Motif Pelaku Tindak Kejahatan Terorisme di Indonesia." *Peperangan Asimetris (PA)* 4, No. 2 (2018): 1-20. <https://doi.org/10.33172/pa.v4i2.236>; Nunu Burhanuddin, "Akar dan Motif Fundamentalisme Islam: Reformulasi Tipologi Fundamentalisme dan Prospeknya di Indonesia." *Wawasan: Jurnal Ilmiah Agama dan Sosial Budaya* 1, No. 2 (2016): 199-210. <https://doi.org/10.15575/jw.v1i2.831>; Hana Fairuz Mestika, "Terrorism and Islam in the Global Perspective". *Indonesian Journal of Counter Terrorism and National Security* 2, No. 1 (2023): 147-178. <https://doi.org/10.15294/ijctns.v2i1.66163>; Alfi Maunah, "Radicalism Among Indonesia's Young Generation: How to Overcome It?". *Indonesian Journal of Counter Terrorism and National Security* 1, No. 2 (2022): 247-266. <https://doi.org/10.15294/ijctns.v1i2.59803>.

DRIVING FACTORS OF THE TERRORISM RECIDIVIST IN SOCIO-LEGAL PERSPECTIVE

Terrorism recidivism refers to the act of individuals returning to terrorism after being released from prison or completing their sentence. This phenomenon is a growing concern among policymakers and law enforcement agencies worldwide. In this essay, we will examine the socio-legal aspects of terrorism recidivism and its impact on society.

Firstly, it is important to understand the root causes of terrorism recidivism. Studies have shown that factors such as social exclusion, poverty, and lack of education can contribute to the radicalization of individuals. Therefore, addressing these underlying issues is crucial in preventing terrorism recidivism. Governments and NGOs can work together to provide education and job opportunities to individuals at risk of radicalization. This can help them integrate into society and reduce their vulnerability to extremist ideologies. Moreover, the legal framework plays a significant role in preventing terrorism recidivism. Law enforcement agencies must have the necessary tools to monitor and prevent individuals from engaging in terrorist activities. However, it is equally important to ensure that the legal framework does not violate the human rights of individuals. The use of surveillance and other counter-terrorism measures must be proportionate and not lead to the stigmatization of certain communities.¹⁹

Furthermore, the rehabilitation and reintegration of individuals who have been involved in terrorism is essential in preventing recidivism. Prisons can provide programs that help individuals disengage from

¹⁹ See Sara Pantuliano, et al. "Counter-Terrorism and Humanitarian Action." *HPG Policy Brief* 43 (2011): 1-12. <https://cdn.odi.org/media/documents/7347.pdf>; Rosemary Foot, "The United Nations, Counter Terrorism, and Human Rights: Institutional Adaptation and Embedded Ideas." *Human Rights Quarterly* 29, No. 2 (2007): 489-514. <https://www.jstor.org/stable/20072807>; Eric Rosand, Alistair Millar, and Jason Ipe. *Civil Society and the UN global counter-terrorism strategy: Opportunities and challenges*. (Washington, DC and New York: Center on Global Counterterrorism Cooperation, 2008).

extremist ideologies and reintegrate into society. This can include counseling, education, and vocational training. Additionally, community-based programs can provide ongoing support to individuals after their release from prison.²⁰

According to a study by the Terrorism Recidivism Study (TRS), factors contributing to terrorism recidivism include social exclusion, poverty, and lack of education²¹. These factors can make individuals more vulnerable to extremist ideologies and make them more likely to engage in terrorism even after being released from prison.

Another study found that affiliation with a terrorist organization significantly increases the risk of terrorism recidivism.²² This highlights the importance of monitoring and preventing individuals from joining terrorist organizations in the first place. Additionally, the length of sentence and age upon release can reduce the risk of recidivism. This suggests that providing appropriate sentencing and rehabilitation programs can play a significant role in preventing terrorism recidivism.

In the context of legal framework, the legal framework itself is critical in preventing terrorism recidivism as it provides the necessary tools for law enforcement agencies to monitor and prevent individuals from engaging in terrorist activities. However, it is important to ensure that the legal

²⁰ See Richard Barrett, and Laila Bokhari. "Deradicalization and rehabilitation programmes targeting religious terrorists and extremists in the Muslim world: An overview." *Leaving Terrorism Behind* (2008): 188-198; Malkanthi Hettiarachchi, "Rehabilitation to deradicalise detainees and inmates: A counter-terrorism strategy." *Journal of Policing, Intelligence and Counter Terrorism* 13, No. 2 (2018): 267-283. <https://doi.org/10.1080/18335330.2018.1476774>; Fajar Erikha, and Any Rufaedah. "Dealing with terrorism in Indonesia: An attempt to deradicalize, disengage and reintegrate terror inmates with a social psychology approach." In *Terrorist Rehabilitation and Community Engagement in Malaysia and Southeast Asia*. (London: Routledge, 2019), pp. 131-138; Stanislaus Riyanta, Amy YS Rahayu, and Benny J. Mamoto. "Collaborative governance in the terrorist rehabilitation programme in Indonesia." In *Civil Society Organizations against Terrorism*. (London: Routledge, 2021), pp. 128-148; Chaula Rininta Anindya, "The deradicalisation programme for Indonesian deportees: A vacuum in coordination." *Journal for Deradicalization* 18 (2019): 217-243.

²¹ Omi Hodwitz, "The Terrorism Recidivism Study (TRS): An Update on Data Collection and Results." *Perspectives on Terrorism* 15, No. 4 (2021): 27-38.

²² Badi Hasisi, et al. "Crime and Terror: Examining Criminal Risk Factors for Terrorist Recidivism." *Journal of Quantitative Criminology* 36 (2020): 449-472.

framework does not violate the human rights of individuals and that its use is proportionate. One way in which the legal framework can prevent terrorism recidivism is through surveillance measures. Law enforcement agencies can use surveillance to monitor individuals who have been released from prison and are at risk of engaging in terrorist activities. This can include electronic monitoring, such as ankle bracelets, or physical surveillance.

Additionally, the legal framework can provide for the prosecution of individuals who engage in terrorism or provide support to terrorist organizations. This can act as a deterrent to individuals who may be considering engaging in terrorist activities. However, it is important to ensure that the legal framework does not stigmatize certain communities or violate the human rights of individuals. The use of surveillance and other counter-terrorism measures must be proportionate and not lead to discrimination or the violation of civil liberties.

There are a number of factors that encourage terrorism ex-convicts to commit acts of terrorism again. In fact, according to the BNPT, out of 1,192 former terrorist convicts, 1,036 were still indicated to be radical. There are at least five factors that encourage former terrorism convicts to remain radical:

1. Less Effective Deradicalization

Deradicalization in the form of rehabilitation in prisons and after release from imprisonment requires further development. Our penal system, which is more oriented towards the absolute theory or the theory of retaliation (retributive/*vergeldingstheorieen*), will only foster grudges and ignite the embers of extremism. This is due to the fact that the absolute theory or theory of retaliation is predicated on the notion that punishment is imposed exclusively because one has committed a crime (*quia peccatum est*). Therefore, punishments are proportional to the severity of the crime perpetrated. Consequently, there is no other consideration besides that vengeance. In fact, punishment (prison) should not be the ultimate objective, which is vengeance; rather, imprisonment is a means to an end. At the very least, the desired outcome is for the perpetrators to return to normal life within society.

The behavioral factor of penitentiary inmates also contributes to the lack of success of the deradicalization program. Theoretical convicts are typically viewed as more knowledgeable about religion by other inmates. Due to this presumption, terrorism convicts are categorized as 'kyai' in correctional institutions. Due to their status and position, Terrorism Convicts frequently lead congregational prayers in correctional institutions as priests. In religious studies activities, theoretical convicts are also a reference for becoming lecturers/ speakers, in addition to conducting congregational prayers. Consciously or not, this circumstance and condition will continue to perpetuate the tradition of comprehending the 'radical' religion to which it adheres. Therefore, it will also gradually impart its understanding to other prisoners.

In addition to being granted the position of "religious leader" as described previously, the potential for radicalism within correctional institutions remains high due to the spread of the media to enter prisons. The inclusion of media distribution is typically included by observers, who are typically family members or well-wishers. Also worthy of note is the fact that communication technologies (mobile phones) can still be utilized in correctional institutions. This makes it feasible for radical leaders/colleagues to maintain control over the radical ideology of prisoners.

2. The blood-infused radical ideology

Once an ideology has penetrated one's mind, it is difficult to eliminate it instantaneously. In some respects, this radical ideology is stronger for its adherents than their own religious beliefs. For instance, every religion teaches tolerance and compassion, but because he has already internalized extreme ideology, the sacred teachings of his religion have been marginalized.

3. Still connected to the former network

The connection between a former terrorism convict and his former group, namely the group that was still struggling in the "jihad" field, was one of the factors that contributed to the maintenance of extremist ideology and the possibility of committing terrorist acts at any

moment. This venerable organization is undoubtedly unwilling to lose any of its adherents, much less the ardent supporters of its "goals". Therefore, they must make every effort to ensure that former terrorists do not abandon their ideology. In order to maintain their radical ideology, former terrorist convicts always establish psychological conditions to remain in their bonds. The design of the dependence of former terrorist convicts on the former network entails the maintenance of the relationship between former terrorist convicts and their former network. This dependence can be due to economic dependence or manifest in other ways, such as strong patron-client relationships.

4. Less established social and economic conditions

The socioeconomic condition of former convicts is a further factor that should not be overlooked. Socioeconomic factors are not the primary causes of terrorism, but it is possible for former convicts of terrorism to return to radicalism and even be willing to commit acts of terrorism again if their socioeconomic situation is completely deficient and financially pressurized. Under certain conditions, some former terrorism convicts experience economic difficulties because of the community's rejection of former terrorism convicts. The stigmatization and negative labelling of former terrorism convicts continues to be embedded even though the person concerned has left the penitentiary.

5. A sense of injustice

A person's perception of injustice contributes to maintaining the existence of radicalism as an ideology. Because of this sense of injustice, a person feels compelled and is obligated to wage jihad, or fight against injustice. Here, the individual feels compelled to act as a hero. This sense of injustice can manifest as vengeance when he is sentenced to prison.

Therefore, to effectively address the issue of recidivism among former terrorist offenders, it is imperative to implement comprehensive deradicalization programs that encompass psychological support, education, vocational training, and reintegration into society. Additionally,

efforts should be made to disrupt the influence of radical inmates within correctional facilities and sever their connections to extremist networks. Addressing socioeconomic challenges and promoting societal acceptance are also crucial in reducing the likelihood of individuals returning to terrorism.

CONCLUSION

This study concluded that the driving factors for recidivism of former terrorism convicts in the socio-legal perspective are complex and multifaceted. While individual motivations and psychological factors can play a role, it is essential to recognize the influence of social and environmental factors that contribute to the likelihood of re-engagement in terrorist activities. Socioeconomic marginalization, lack of social support networks, extremist ideologies, and the presence of radicalization networks all contribute to the recidivism of former terrorism convicts. Additionally, shortcomings in the legal system, such as inadequate rehabilitation and reintegration programs, can further hinder successful reintegration into society. Addressing these driving factors requires a comprehensive approach that combines legal measures with socio-economic support, education, and community-based interventions to effectively counter the risk of recidivism and promote long-term reintegration of former terrorism convicts.

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This is not a battle between the United States of America and terrorism. It is a battle between the free and democratic world and terrorism.

— *Tony Blair, former British Prime Minister*

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