



Precarious Struggle to Criminalize Radicalization and Terrorism Doctrine Actions

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Abstract

Radicalism and terrorism are closely related as threats to peace and harmony, as both are flawed manifestations of religious values and ideologies. The radicalization process carried out by members of various terror organizations in Indonesia has not received much attention and hasn't been responded with concrete efforts to stop its spread as the precursor to terrorism. The normative legal research method is used in this study to analyze the positive elements and purposes of regulations related to the educational system, free speech, and radicalism prevention in Indonesia. Findings of this study illustrate the legal urgency in Indonesia to carry out normative construction regarding the criminalization process of radicalization, as well as its limitations and obstacles, as part of the effort to prevent criminal acts of terrorism. As a point of prevention and resistance to the spread of radicalism and terrorism in Indonesia, this criminalization process is juxtaposed with the existing education system.

Keywords:

Criminalization;

Radicalism; Terrorism.

A. INTRODUCTION

Ideology and belief are two terms that cannot be separated from any society. These terms are frequently designated as the legal basis that binds a community.¹ As the foundation of law in the community, ideology and belief can influence a country's development direction, policy priorities, and geopolitical direction. Through its first principle of *Pancasila*,

"Belief in the one and only God," Indonesia is outspoken in its acceptance of God's values. Religious value is one of the elements that contribute to Indonesian identity, and it has existed for a long time, even before Indonesia's independence in 1945. *Pancasila* Ideology is closely related to religions and has evolved into an Indonesian ideology that is strictly adhered to by its people

¹ Widiatama, Hadi Mahmud, and Suparwi, "Ideologi Pancasila Sebagai Dasar Membangun Negara Hukum Indonesia," *Jurnal USM Law Review* 3, No. 2 (2020): 310-327, <https://doi.org/10.26623/julr.v3i2.2774>, p. 313.

of various tribes, religions, and races.² As a region influences a person's entire personality, *Pancasila* influences all aspects of the nation.

Pancasila is the primary legal source in the Indonesian legal system. As a result, *Pancasila* becomes a role model for both the Indonesian government and society.³ It means that *Pancasila* represents the nation's goals and identity. *Pancasila* also serves as the underlying reason for the development and implementation of laws in Indonesia. Consequently, all legal products in Indonesia cannot be contrary to the values contained in *Pancasila*, as this would violate national principles and potentially cause conflict with other legal products that already adhere to *Pancasila*.

Religion, as an inseparable component of *Pancasila* and or in Indonesian culture, is a force for good (force of good), particularly in guiding society in enforcing norms and morality in the face of rising immorality.⁴ Religion's place in socio-culture appears to be closer to the society than *Pancasila*'s. It happens

because the religion's range is wider, the laws and norms are more specific, and it has a broader scope. *Pancasila*'s admission on the God issue legitimizes religious supremacy in the Indonesian socio-cultural order, allowing religion to become the dominant power in Indonesian political scenarios.⁵

Religion can also spur social development through education, even when Indonesia was still under colonial rule, which demonstrates religion's success and effectiveness as a force for good in society. Religion when combined with education has the ability spread many forms of knowledge and doctrines, which can substantially affect religious influence, particularly in Indonesian society. The level of influence that religions can have can rival any modern ideologies, sustaining its relevance in the post-modern world. Consequently, similar to ideologies, religions can also be used in a negative way.

Given its widespread influence in Indonesia, religion has the potential to be a dangerous force, through radicalism

² Siti Aisyah Nurfatimah and Dinie Anggraenie Dewi, "Implementasi Nilai Pancasila Dalam Menumbuhkembangkan Wawasan Kebangsaan Di Kehidupan Bangsa Indonesia," *Jurnal Kewarganegaraan* 5, No. 1 (2021): 176-183, <https://doi.org/10.31316/jk.v5i1.1446>, p. 178.

³ Achmad Hariri, "Dekonstruksi Ideologi Pancasila Sebagai Bentuk Sistem Hukum Di Indonesia," *Ajudikasi: Jurnal Ilmu Hukum* 3, No. 1 (2019): 1-14, <https://doi.org/10.30656/ajudikasi.v3i1.1055>, pp. 8-9.

⁴ Mulyono Mulyono, "Nilai-Nilai Pembentuk Karakter Dalam Filsafat Sosrokartono," *Sabda: Jurnal Kajian Kebudayaan* 11, No. 22 (December 1, 2016): 7-15, <https://ejournal.undip.ac.id/index.php/sabda/article/view/16042>, p. 8.

⁵ Agna Suaila and Johny Krisnan, "Menggali Kembali Peran Pancasila Sebagai Ideologi Bangsa dan Dasar Negara Dalam Pembangunan Hukum Nasional Di Era Global," *Jurnal Law & Justice* 4, No. 1 (2019): 46-55, <https://doi.org/doi.org/10.23917/laj.v4i1.8066>, p. 55.

which masks religious sources to justify intolerant behaviors.⁶ The closer relationship between religion and social norms than *Pancasila's* can cause society to forget the essentials of *Pancasila*, which is the *de facto* ideology and goal of the Indonesians. Religion, as a belief system that exists and develops in society, has the potential to evolve into a fanaticism and radicalism development platform, filling the religion with radical thoughts related to racist, non-tolerant, and discriminatory ideas.⁷ Because religion has such a strong influence on education development in Indonesia, it has the potential to breed radicalism. Teachers, who are supposed to brighten the country's future by educating the next generation, can be agents of chaos and disharmony in Indonesia.

Radicalism is a precursor to terrorism, which is a heinous crime against humanity.⁸ Although radicalism and terrorism can arise from any religion

or belief system, radicalism and terrorism enslave Indonesia.⁹ In the eyes of perpetrators of criminal acts of terrorism, Indonesia, as the country with the largest Muslim population and a country with diverse religious backgrounds, is a potential place to develop radicalism that can encourage someone to justify or even commit acts of terrorism.¹⁰ To ensure social harmony and national security, a strong legal foundation is required to defend *Pancasila* as the nation's ideology in the face of radicalism and terrorism.¹¹

Ideology has been highlighted as one of the main driving forces in radicalism, as explained in a study conducted by Hertog, which also connects radicalism to dangerous traits of the persons behind it.¹² The traits identified are the need for closure, the contrast of treatment to people inside and outside of the group, and a strong disdain against actions that are deemed wrong by traditional morality. The traits identified by this

⁶ Hasani Ahmad Said, "Radikalisme Agama Dalam Perspektif Hukum Islam," *Jurnal Al-Adalah* 12, No. 1 (2019): 593-610, <https://doi.org/10.24042/adalah.v12i1.238>, p. 603.

⁷ Tehmina Rafiq and Muhammad Kalim Ullah Khan, "Islamophobia: Radical Western Thoughts and It's Encounter in the Light of Islam," *Journal of Islamic and Religious Studies* 6, No. 2 (December 28, 2021): 39-55, <https://doi.org/10.36476/JIRS.6:2.12.2021.12>, pp. 51-52.

⁸ Arif Hidayat and Laga Sugiarto, "Strategi Penangkalan & Penanggulangan Radikalisme Melalui Cultural Reinforcement Masyarakat Jawa Tengah," *Jurnal USM Law Review* 3, No. 1 (2020): 135-54, <https://doi.org/10.26623/julr.v3i1.2203>, p. 137.

⁹ Marthsian Yeksi Anakotta, "Soft-Medium-Hard: Pendekatan Cerdas Indonesian Menanggulangi Kejahatan Terorisme," *Jurnal Belo* 7, No. 1 (2021): 15-36, <https://doi.org/10.30598/belovol7issue1page15-36>, p. 16.

¹⁰ Ahmad Sholikin, "Potret Sikap Radikalisme Menuju Pada Perilaku Terorisme Di Kabupaten Lamongan," *Journal of Governance* 3, No. 2 (2018): 184-202, <https://doi.org/10.31506/jog.v3i2.3255>, p. 187.

¹¹ Abdurrakhman Alhakim and Rinto Sibarani, "Kebijakan Pemberian Hukuman Mati Terhadap Pelaku Terorisme Dibawah Umur Yang Ada Di Indonesia," *JUSTITIA: Jurnal Ilmu Hukum Dan Humaniora* 9, No. 1 (2020): 62-71, <https://doi.org/10.31604/justitia.v9i1.62-71>, pp. 62-63.

¹² Steffen Hertog, "Dangerous Ideas: The Force of Ideology and Personality in Driving Radicalization," *Critical Review* 31, No. 1 (2019): 95-101, <https://doi.org/10.1080/08913811.2019.1596379>, pp. 96-97.

study is closely linked to some of the problematic traits that some religious groups have. Study conducted by Schmid analyzed radicalism and terrorism more extensively, by separating between radicalism, violent extremism, and terrorism.¹³ Radicalism was described by this study as a movement particularly in contrast with the current political movement, while extremism was defined as a social movement in service of a political program. The link between the two with terrorism according to this study is the fact that it's creating chaos within society during peace time. Regarding deradicalization, a study conducted by Feddes & Gallucci highlighted the serious urgency for multi-dimension approach, including monitoring the convicted terrorists to prevent recidivism.¹⁴

Based on the literatures, there's currently no emphasis on the effort to criminalize radicalization, despite its consistent links with extremism and terrorism, which have threatened the safety of many people and stricken fear into the public's hearts. This research will bridge this analysis gap by examining the conceptualization of the abuse of religion and ideology's social

control function. The multidimensional aspects of terrorism and radicalism in Indonesia are the legal conceptualization of radicalization and its manifestations in the field of education, and legal constructions to criminalize acts of radicalization in Indonesia. Findings of this research can contribute to the effort to criminalize radicalization, by providing important legal aspects that can be used as a part of the potential normative construction.

B. RESEARCH METHODS

This research is categorized as doctrinal legal research, and employs normative legal research method, focusing on the analysis of the norms within the existing positive laws, particularly those that can be used to build a case for the criminalization of radicalism. Specifically, this research delves into how the relevant laws within the Indonesian legal system can be interpreted and applied to address and potentially criminalize acts of radicalism. To support the analysis, this research utilizes the statutory approach, by using secondary data in the form of primary law sources, namely, Law Number 5 of

¹³ Alex Schmid, "Radicalisation, De-Radicalisation, Counter-Radicalisation: A Conceptual Discussion and Literature Review," *Terrorism and Counter-Terrorism Studies*, 2013, 1-91, <https://doi.org/10.19165/2013.1.02>, p. 5.

¹⁴ Allard R. Feddes and Marcello Gallucci, "A Literature Review on Methodology Used in Evaluating Effects of Preventive and De-Radicalisation Interventions," *Journal for Deradicalization*, No. 5 (2015): 1-30, <http://ebooks.cambridge.org/ref/id/CBO9781107415324A009>, pp. 19-21.

2018 on Amendments to Law Number 15 of 2003 on Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 on the Eradication of Criminal Acts of Terrorism to Become Laws, and Laws No. 14 of 2005 on Teachers and Lecturers. These data are obtained through a literature study technique and then analyzed using the qualitative descriptive data analysis technique.

C. RESULTS AND DISCUSSIONS

1. The Abuse of Social Control Function in Ideology and Religion

Religion has existed as an inseparable part of society long before Indonesia was colonized, even already establishing educational institutions.¹⁵ Religion has a real and growing influence at all levels of society. It has an impact on various aspects of the Indonesian people. Even today's official religions in Indonesia are influenced by previous religions that were concrete social orders. However, those previous religions had vanished and been replaced by cultures that shared the same moral values as today's religious order. This change is more than just a shift in praying objects from animism and dynamism to belief in God, as explained by Indonesia's major

religions today. In fact, this process involves a change in social control power.

As one of religion's functions, social control is used to justify the society's active participation in enforcing morality and goodness values in the lives of people in a country. Social control is essentially the ability of a group of relevant people in a particular religion to act individually and represent the society's willingness to enforce norms and morality in various ways. Religion, in essence, admits that its teachings can be misused at any time by irresponsible people through thoughts of corruption that can be performed by a religious person to abuse his/her power/authority.¹⁶ Despite the fact that this topic is frequently associated with politics, the major religions in Indonesia do not explicitly limit this basic concept, allowing it to be interpreted in the context of social control on a smaller scale.

Unlike religions, ideology is a collection of ideas that refer to specific social, economic, and political theories. Because of its importance in the political world which is closely related to many socio-economic aspects, ideology is capable of maintaining its influence no less than religion. In contrast to religions, which rely on belief as their primary pillar, ideology can stand on its own

¹⁵ Muhammad Fuad Ikhwanasyah, "Periodesasi Pendidikan Islam Indonesia: Pesantren Dan Madrasah," *Innovative: Journal Of Social Science Research* 3, No. 3 (August 5, 2023): 8594-8608, <https://doi.org/10.31004/innovative.v3i3.3016>, p. 8607.

¹⁶ K. Khodijah, "Agama Dan Budaya Malu Sebagai Kontrol Sosial Terhadap Perilaku Koruptif," *Jurnal Social Budaya* 15, No. 2 (2018): 122-135, <https://doi.org/10.24014/sb.v15i2.7606>, p. 123.

and develop with opinions or voices paired with empirical data and specific approaches such as the comparative approach. Because of its direct and indirect influence on the country's economic and social development, this factor has the potential to elevate ideology to a very high level in society. For example, *Pancasila* is a relatively new technology, but it has greater legal significance than religion. Furthermore, *Pancasila* can help religious adherents in Indonesia obtain legal protection.

The first issue stems from the blurring of the line between religion and ideology, or, put another way, from the thickening of the line between religion and ideology. Problems arising from the blurring of the line separating religion and ideology can lead to the emergence of assumptions depicting religion and ideology as the same thing, or even as two things that cannot be separated. This can allow dominant religions or ideologies to influence or even change the values contained in other religions or ideologies, possibly creating frictions among religions and ideologies, or between an ideology and a religion. These two things are extremely dangerous because they can endanger social peace and stability, as well as disrupt the function of social control of religion and ideology, both of which are critical for the continuity of the nation's and state's

life. This social control function can even be abused, endangering societal peace, harmony, and stability.

Abusing religion's role as a form of social control can be dangerous because it threatens the peace and harmony among many religious groups in Indonesia.¹⁷ This is because religion already has a big impact on the lives of Indonesians and affects every part of their lives. The fact that religion is a set of beliefs that are spread through dogma can even make it easier for people to abuse their power in this way. Dogma is a religious teaching that cannot always be questioned but does not have to be answered using the standards of logic and rationalism embedded in scientific questions and answers.

As with religion, the abuse of the function of ideological social control can have a significant impact despite its short history and development in society. In contrast to religion, ideology is a more limited set of beliefs or perspectives on life. Ideology is limited in the sense that it does not regulate all aspects of life like religion does. Rather, ideology tends to regulate the application of values based on particular social and economic theories or viewpoints, as well as supervise this application in society and government. Even though ideology is more accustomed to being in a climate of mutual opposition, ideology can

¹⁷ Febri Hijroh Mukhlis, "Teologi Pancasila: Teologi Kerukunan Umat Beragama," *FIKRAH* 4, No. 2 (2016): 171-186, <https://doi.org/10.21043/fikrah.v4i2.1885>, pp. 171-172.

serve as a social control mechanism if there are too many social and economic problems in society. Typically, social and economic problems that are difficult for the government and society to resolve are the source of ideological conflicts. In this position, at least one ideology will rise and confront its opposition, which according to it, has failed to perform its function of social control in society and to guide the social and economic policies of a region or country.

This misuse of the function of social control over religion and ideology has the potential to lead to radicalism and terrorism. It should be noted that radicalism differs from the term radical, which only refers to completely different or new ideas or old ideas whose application can only be carried out completely. Radicalism is a radical understanding in the sense that it wishes to change the social order that already exists in society, which is accompanied by utterances, invitations, or ideas related to acts of violence.¹⁸ This way of thinking was influenced by previous democracy fighters, who frequently developed radical ideas to bring about change in society, which at the time had not been

educated and was frequently oppressed by the authorities, as democracy fighters did during the reform era.¹⁹

Radicalism seeks a change that cannot be compromised with opposing viewpoints, and it seeks to directly and indirectly suppress anyone who opposes it.²⁰ Terrorism is defined as any activity that includes elements of violence and is directed against specific countries, groups, communities, or societies.²¹ Terrorism is typically carried out with the assistance of foreign parties who are part of specific international terrorist networks affiliated with domestic terrorism groups due to its nature as a form of planned crime. Terrorism is intimidating, and it can even be carried out solely for the purpose of intimidating others, even if it means killing innocent people. As a result, terrorism cannot be separated from the term “systematic,” because everything terror groups do is always done to achieve specific outcomes. The link between radicalism and terrorism is radical ideas and a proclivity to use violence, while the main distinction between the two is the presence or action of a systematic element in each of their activities. The transition

¹⁸ Yani Tri Wijayanti, “Radicalism Prevention through Propaganda Awareness on Social Media,” *Jurnal Aspikom* 5, No. 1 (2020): 142-155, <https://doi.org/10.24329/aspikom.v5i1.501>, p. 146.

¹⁹ Nur Khamid, “Bahaya Radikalisme Terhadap NKRI,” *Millati: Journal of Islamic Studies and Humanities* 1, No. 1 (2016): 123-52, <https://doi.org/10.18326/mlt.v1i1.123-152>, p. 126.

²⁰ Fitri Lestari Haloho, “Tinjauan Hukum Terhadap Organisasi Radikalisme Di Indonesia,” *Jurnal Warta Dharmawangsa* 15, No. 3 (2021): 389-396, <https://doi.org/10.46576/wdw.v15i3.1360>, p. 390.

²¹ Partha Sarathi Bhattacharjee, “Terrorism and Victimization,” *International Journal of Advanced Scientific Research & Development (IJASRD)* 4, No. 9 (2017): 1-12, <https://doi.org/10.26836/ijasrd/2017/v4/i9/4901>, p. 5.

from radicalism to terrorism is typically marked by the emergence of systematic elements that do not begin with acts of intimidation, which, as previously stated, are carried out to achieve specific results.²² The connection between these two perspectives is obvious, and it is even possible to argue that radicalism is the precursor to terrorism, though not all radicalism evolves into terrorism.

2. Multidimensional Aspects of Terrorism and Radicalism in Indonesia

Terrorism and radicalism grow and develop quickly in various social circles full of debates and discussions about life philosophy and its relationship to society's social and economic problems. Indonesia, as a country that recognizes the existence of God in its constitution, is extremely vulnerable to the growth and development of terrorism and radicalism. Technology advancements have also enabled Indonesians to study and deepen their interest in religion and ideology. Because technological advancements have accelerated and

facilitated the growth and development of terrorism and radicalism, there is a need for concrete resistance that is also timely in order to avoid being left behind by the mechanisms for spreading the notions of terrorism and radicalism that affect Indonesian society.²³ The importance of this issue cannot be overstated, given that social media users in Indonesia are not only emotionally stable adults, but also the younger generation, both underage and slightly above the age of maturity.²⁴

First, it is necessary to explain how terrorism and radicalism can emerge in Indonesian society. Given the similarities between radicalism and terrorism, the first phase of prevention and resistance to various types of criminal acts of terrorism can be carried out by focusing on radicalism. Terrorism and radicalism are distinct from extremism, which is an unquestioning belief that can motivate someone to commit violence if that belief is challenged. As a result, extremism and radicalism can be considered precursors to terrorism.²⁵ Radicalism has adapted to technological advancements and has begun to infiltrate people's minds,

²² Kristy Campion, "'Unstructured Terrorism'? Assessing Left Wing Extremism in Australia," *Critical Studies on Terrorism* 13, No. 4 (2020): 545-567, <https://doi.org/10.1080/17539153.2020.1810992>, p. 559.

²³ Imam Fauzi Ghifari, "Radikalisme Di Internet," *Religious: Jurnal Studi Agama-Agama Dan Lintas Budaya* 1, No. 2 (2017): 123-134, <https://doi.org/10.15575/rjsalb.v1i2.1391>, p. 132.

²⁴ Dahlia Lubis and Husna Sari Siregar, "Bahaya Radikalisme Terhadap Moralitas Remaja Melalui Teknologi Informasi (Media Sosial)," *Aplikasia: Jurnal Aplikasi Ilmu-Ilmu Agama* 20, No. 1 (2020): 21-34, <https://doi.org/10.14421/aplikasia.v20i1.2360>, p. 25.

²⁵ Ridwan Arifin, Ali Masyhar, and Btari Amira, "The Invisible Big Waves: How Indonesia Combat with Radicalism and Terrorism in Global Perspective," *HIKMATUNA: Journal for Integrative Islamic Studies* 6, No. 1 (2020): 105-121, <https://doi.org/10.28918/hikmatuna.v6i1.2365>, p. 118.

particularly the younger generation. Through the internet, social control has also begun to take on a virtual form. Abuse of social control takes many forms, including comments or conversations on social media, bullying on social media, and, at its most extreme, hacking and recruiting members of terrorist organizations.

Radicalization can also grow and develop through direct indoctrination, specifically through a teaching system that connects radicalizers as educators or teachers with radicalized victims as students. This can be found in various layers of society, particularly among those who are still active in carrying out various types of religious events, discussing social and economic issues, and participating in other activities aimed at educating and expanding the participants' knowledge. Religious studies, public lectures, and even recitations, as long as they do not deviate from related religious teachings, are actually very good platforms for teaching people about religious tolerance, especially among students who are still thirsty for knowledge.²⁶ This is critical in

efforts to prevent radicalization in society and should be used to its full potential, given the significant contribution of formal and non-formal religious education institutions to the development of norms and the advancement of science in Indonesia.

The argument that is frequently used to defend this doctrinal act is freedom of opinion and thought, which is supported by the Republic of Indonesia's constitution. Following on from this argument, radical groups associate these two things with freedom of association, which is also protected by the Republic of Indonesia's constitution.²⁷ Even though the group explicitly states that its mission is to establish a new government order for its group, the government's efforts to limit the space for the development of terrorism and radicalism are often seen as an effort to form an authoritarian government system. Although it is not specified how the order will be formed, this can already be interpreted as a threat to the sovereignty of the state, which can only have one sovereign government.²⁸ Furthermore, it should be noted that terrorism does not always

²⁶ Dewi Sadiyah, "Strategi Dakwah UIN Dalam Menangani Radikalisme Di Kalangan Mahasiswa," *Jurnal Anida (Aktualisasi Nuansa Ilmu Dakwah)* 18, No. 2 (2018): 219-238, <https://doi.org/10.15575/anida.v18i2.5064>, p. 220.

²⁷ Fuqoha, Ahmad Sururi, and Hasuri, "Gerakan Sosial Islam Diantara Gagasan Demokrasi Konstitusional dan Ancaman Radikalisme Di Indonesia," *Jurnal Mahkamah: Kajian Ilmu Hukum Dan Hukum Islam* 3, No. 1 (2018): 112-140, <https://doi.org/10.25217/jm.v3i1.252>, pp. 114-115.

²⁸ Vieta Imelda Cornelis, "Kajian Yuridis Organisasi Masyarakat Pada Komitmen Kehidupan Bermasyarakat dan Bernegara DI Wilayah NKRI," *Lex Journal: Kajian Hukum & Keadilan* 1, No. 2 (2017): 1-15, <https://doi.org/10.25139/lex.v1i2.553>, p. 8.

begin with radicalism and is not always rooted in religion, but can also stem from other factors such as social and economic inequality, and that not all acts of terrorism in Indonesia are motivated by religious radicalism or a specific ideology.²⁹

3. The Conceptualization of Radicalization from a Legal Perspective and Its Manifestations in Education

Radicalism is the result of radicalization. Radicalization itself can be considered as the collateral impacts of societal issues, such as social, economic, and other facets of society, where these problems can indirectly encourage people to adopt increasingly extreme political, social, or religious ideologies.³⁰ Although radicalization can occur without direct encouragement from others, radicalization as a social phenomenon cannot be separated from the influence of the environment. This is because radical ideas can spread mouth-to-mouth, and now, through social media, even though those radical ideas aren't necessarily spoken and/or written to a specific target audience. It can also

take the more structured form, and perhaps more dangerous, where it can spread through deliberate indoctrination under the guise of many social interactions. Because of its multifaceted nature, radicalization is challenging to be described legally and manifested into preventive norms.

The many unquantifiable elements in the contextualization of radicalization have put Indonesian law in a difficult position. Law in Indonesia, like law in other countries, must evolve in order to keep up with the times and to address various issues that are troubling or even threaten the security of society and the state. Acts of radicalization have existed in Indonesian society since the early days of the development of religion and ideology. In other words, radicalization is a natural negative effect caused by human thoughts. The urgency to prevent acts of radicalization is an issue of high importance, as it can affect national security due to its close relation to terrorism as a form of violent extremism.³¹ The societal unrest that results from this is also a reasonable reaction, and the law must be able to present a solution to this problem.

²⁹ Tengku Riza Zarzani, "Eksplorasi Akar Radikalisme Pada Aksi-Aksi Terorisme," *Jurnal Notarius: Program Studi Kenotariatan Pascasarjana UMSU* 3, No. 2 (2018): 149-159, <https://jurnal.umsu.ac.id/index.php/notarius/article/view/1334>, p. 152.

³⁰ Manuele Santoprete, "Global Stability in a Mathematical Model of De-Radicalization," *Physica A: Statistical Mechanics and Its Applications* 509, 2018, 1-15, <https://doi.org/10.1016/j.physa.2018.06.027>, p. 12.

³¹ Christer Mattsson and Roger Säljö, "Violent Extremism, National Security and Prevention. Institutional Discourses and Their Implications for Schooling," *British Journal of Educational Studies* 66, No. 1 (2018): 109-125, <https://doi.org/10.1080/00071005.2017.1337870>, p. 3.

The first issue arises from the Indonesian legal system in the conceptualization of radicalization through criminal law. As a civil law country, Indonesia's law relies heavily on codification. In Indonesia, there is currently no legal product that can conceptualize radicalization as a criminal act. Even outside of Indonesian legal circles, radicalization remains a difficult concept to explain. As previously stated, there are numerous causal and constituent elements of the radicalization act that cannot be measured. These elements must be evaluated in light of the razor-thin line between freedom of thought, opinion, and association and the spread of radicalism that threatens state sovereignty.³² Terrorist organizations will easily twist arrangements that ignore the benchmarks of these elements in order to continue developing their understanding of radicalism through various types of radicalization actions.

To carry out a legal construction regarding the prevention of radicalization acts, the importance of this regulation must first be explained, as well as the relationship between the urgency of this legally concrete conceptualization and the facts in society. This has actually been quite well explained in Law No. 5 of 2018 on Amendments to Law No. 15 of 2003 on Stipulation of Government Regulations in Lieu of Law No. 1 of 2002 on Eradication of Criminal Acts

of Terrorism to Become Law (Anti-Terrorism Law), which links radicalism with terrorism in a general explanation "Terrorism crimes can be accompanied by ideological or political motivations, as well as personal, economic, and radical goals that threaten the ideology and security of the state. Therefore, the Criminal Act of Terrorism is always threatened with severe penalties under state criminal law."

Legal construction can progress from the general explanation provided by the Anti-terrorism Law, but it must then be developed further to explain the multidimensional aspects and impacts of radicalism, as well as its relationship to terrorism. Strengthening the link between radicalism and terrorism will allow for more codification space in linking causes and effects, as well as other societal implications as collateral impacts. The conceptualization of this approach must be able to cover all multidimensional aspects of radicalization acts as well as the roots of radicalism itself. Socioeconomic and cultural approaches are critical for examining the relevance of this regulation and relating the urgency of regulation to societal facts.

By highlighting the risks and effects of acts of radicalization on the security of society and the state, it is also necessary to connect the concepts of criminal law and radicalization. Unfortunately, the Anti-Terrorism Law only makes reference to

³² Ikhwansyah, *op. cit.*, p. 8607.

“radicalization” in rules pertaining to actions taken to stop the dissemination of terrorism and radicalism-related ideas in Indonesia. “(3) Prevention as referred to in paragraph (1) is carried out through: a. national preparedness; b. counter radicalization; and c. deradicalization,” states Article 43A paragraph (3). Furthermore, Articles 43C and 43D elaborate on this type of prevention in more detail. The definition of counter-radicalization is given in Article 43C paragraph (1): “(1) Counter-radicalization is a planned, integrated, systematic and continuous process that is carried out against individuals or groups of individuals who are vulnerable to exposure to radical ideology of terrorism with the intention of preventing the spread of radical understanding of terrorism”. The term radicalization is also used in Article 43D paragraph (1), which states, “(1) Deradicalization is a planned, integrated, systematic, and continuous process carried out to eliminate or reduce and reverse the understanding of radical terrorism that has occurred.”

The arrangements regarding counter-radicalization and deradicalization are actually quite good, as each concept is explained in detail in the relevant articles, which facilitates the government’s application of its concrete form through agencies charged with preventing terrorist crimes in Indonesia. However,

this arrangement cannot be used to criminalize radicalization activities. There must be an explanation declaring radicalization to be a threat to peace and harmony in society. Legal constructions regarding radicalization must make a clear distinction between radicalization and radicalism in order to provide a space for categorization that can be used to ensnare various forms of radical manifestation in society.

In addition, the legal construction to criminalize acts of radicalization must consider the possibility of undermining the protection of fundamental human rights, such as freedom of thought, opinion, and association, which are guaranteed by the Constitution of the Republic of Indonesia, specifically Article 28E of the 1945 Constitution, which states, “Every person has the right to freedom of association, assembly, and expression.” This is significant because if efforts to criminalize acts of radicalization violate fundamental human rights, actors behind the radicalization methods of many terrorist groups might use this problem as a justification. This makes it substantially easier for actors behind radicalization processes to filter out target audience, by simply narrowing their search to individuals who share similarities with certain terrorist organizations, will make it easier to commit acts of radicalization.³³

³³ Similarity meant here is the background such as religion, area, culture, etc., all of which can open the space for empathy and attraction towards terrorist organizations. *See Sholikin, op. cit.*

Such issues can be exploited by terrorist organizations to gain public support and even recruit new members.

Given the significant influence of religion and ideology on the development of education in Indonesia, educational institutions can also be held accountable. Various religious foundations have made significant contributions to the development of education in Indonesia, but they must still be accountable for the learning material taught to the nation's next generation of students who are still in school. The legal construction on this matter can be traced back to arrangements for teaching staff in Indonesia, which are governed by Law No. 14 of 2005 on Teachers and Lecturers (Teacher and Lecturer Law). Articles 20 and 60 of the Teacher and Lecturer Law, which have the same sounding name, regulate fundamental arrangements regarding the professionalism values of Indonesian teaching staff. "c. Act objectively and non-discriminatorily in learning on the basis of gender, religion, ethnicity, race, and certain physical conditions, or family background, as well as students' socioeconomic status; d. Uphold the regulations, laws, and the teacher's code of ethics, as well as religious and ethical values; and e. Maintain and foster national unity and integrity". The arrangement of letters c, d, and e in Articles 20 and 60 of the Teacher and Lecturer Law are essentially manifestations of *Pancasila* values in a legal product that Indonesian teaching staff must always obey.

The provisions described in Articles 20 and 60 of the Teacher and Lecturer Law can be used to criminalize acts of radicalization by stating that radicalization is actually an attempt to indoctrinate non-Pancasilaist values, which is contrary to the provisions described in points c, d, and e. Non-Pancasilaist values are values that are inherently the opposite of what Pancasila, the national spirit of Indonesia, offers. Values such as tolerance, deliberations, mutual cooperation, and unity of Indonesia are often threatened by non-Pancasilaist values that are promoted by actors behind radicalization, which are destructive and divisive in nature. The responsibility of Indonesian teachers can be linked to the concept of criminalization of acts of radicalization because, by violating the regulations in this regard, a teaching staff, both a teacher and a lecturer, is already close to the previously explained concept of an act of radicalization. The legal construction of this agreement will be able to aid the process of finding legal facts in future cases of radicalization acts.

To advance national education without opening up opportunities for the growth and development of radicalism in Indonesia, legal construction must be adapted to the education agenda so that Indonesian teaching staff can create a curriculum that is more decentralized according to their respective environment. According to research conducted in the Middle East, this is true, particularly where the average level of

education is less than primary school.³⁴ This is consistent with the findings of other studies that discovered a link between the development of radicalism and terrorism and the adolescent phase.³⁵ Aside from that, the regulation regarding the criminalization of acts of radicalization is also required in light of the findings concerning individuals from certain terror organizations who appear to have very good educational backgrounds that are above the average of their country of origin.³⁶

Educational spaces such as school and campus environment influence how a student perceives the world. Weak social control functions performed by educational institutions can make the school and campus environment appealing for radicalization. Based on previous findings, efforts to prevent radicalization in education can greatly aid the state and society's resistance to the development of terrorism and radicalism, as long as these efforts are combined with a good learning system.³⁷

The education sector has the potential to be a key partner in the fight against radicalization and violent extremism.

Four recommendations are made to overcome these limitations. First, the national education system must be able to persuade young people that going to school is a better option than joining extremist groups. Second, students' vulnerability to radicalization can be reduced by creating a safe school environment that encourages critical thinking and free exploration of different ideas. Third, educational reform should not only focus on secondary education, but should also consider primary and university education. Fourth, labor market adaptation to the level of graduate education is required to prevent youth dissatisfaction, which can make them more vulnerable to radicalization. Finally, while changes in the education sector can produce very positive results in the medium term, they must be accompanied by ongoing interventions in other sectors and domains.

³⁴ Royce Hutson, Taylor Long, and Michael Page, "Pathways to Violent Radicalisation in the Middle East: A Model for Future Studies of Transnational Jihad," *The RUSI Journal* 154, No. 2 (2009): 18-26, <https://doi.org/10.1080/03071840902965570>, p. 22.

³⁵ Stijn Sieckelink, Femke Kaulingfreks, and Micha De Winter, "Neither Villains Nor Victims: Towards an Educational Perspective on Radicalisation," *British Journal of Educational Studies* 63, No. 3 (2015): 329-343, <https://doi.org/10.1080/00071005.2015.1076566>, p. 331.

³⁶ Zahid Shahab Ahmed and Qamar Abbas Jafri, "Drivers of Violent Extremism in Higher Education Institutions of Pakistan," *Dynamics of Asymmetric Conflict: Pathways toward Terrorism and Genocide* 13, No. 3 (2020): 230-244, <https://doi.org/10.1080/17467586.2020.1821068>, p. 241.

³⁷ Christian E Skotnes and Martin M Sjøen, "Citizenship to (Counter) Terrorism: The Need to de-Securitize the Norwegian Education System and Create Space for Democratic Resilience," *International Journal of Social Pedagogy* 12, No. 1 (2023): 1-14, <https://doi.org/10.14324/111.444.ijsp.2023.v12.x.001>, pp. 6-7.

D. CONCLUSIONS

Analysis highlights the serious urgency to carry out legal constructions that would allow Indonesian law to criminalize radicalization acts. The urgency also warrants punitive approach to those who play significant roles in the process of radicalization, to further curb the spread and impact of radicalism. This measure can suppress key figures in radicalization, as it sends a strong message about the seriousness of this offense and acts as a deterrent to others who might engage in such activities. It can also disrupt radicalism networks and channels, while also addressing the underlying causes of radicalism. This legal construction must be made so that it does not violate fundamental human rights guaranteed by the 1945 Constitution and embraces the Indonesian education system to prevent terrorist crimes. This collaboration with the education system must be facilitated by the legal system to give Indonesians a more proactive role, while making sure that ideologies and religious values can still thrive and positively impact Indonesian society under the guidance of Pancasila.

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