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# Legal Actions of Terrorism Case in Central Sulawesi

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## Abstract

This study focused on the legal action of terrorism cases in Poso, Central Sulawesi. The focus of the analysis is to accentuate the contents of the legislation related to the legal handling of terrorism cases in Central Sulawesi. Thus, the study was carried out through statute, comparative law and conceptual approach, as well as using qualitative data analysis method. Data were processed by first describing all the legal materials that had been collected through inventory, identification, classification and systematization according to the problems in this study. Material reconstruction was next, including rearranging legal materials sequentially and logically. The last step was analyzing legal materials systematically based on the sequence of problems. National and global scale terrorism groups have well understood the consequences and legal actions of terror acts. The maximum, multiple layers of punishment have been stated in Law No. 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism as an effort by the Indonesian government to suppress the movement of terrorism groups. The legal action process, especially in the Santoso' Group, is based on Law no. 15 of 2003 with a sentence of 6 to 15 years in prison and a 6 (six) months subsidiary confinement with reference to the Theory of Retribution and Prevention.

**Keywords:** Law, Terrorism, Poso, Retribution and Incapacitation, Prevention, Rehabilitation

## 1. Introduction

The global terrorism phenomenon originated in the 20th century where terrorism has become a part and characteristic of political movements from the extreme right and left groups within the spectrum of a country's political ideology. Terrorism has even become one of the threats and challenges for the international community in the 21st century which requires effective, efficient and reasonable collective security. In the Poso area, the development of radical ideology is rapid because of a mutualism symbiosis that has occurred since the communal conflict. For the Muslims of Poso, the arrival of jihadists was warmly welcomed because they came to strengthen the Muslim ranks of Poso. More than that, Muslims receive a new injection of enthusiasm with a radical ideology that allows them to fight non-Muslims as part of jihad, and the guarantee of heaven by death in jihad (Ali, 2016; Khairil, 2017b).

The conflict and violence that took place in Poso were ended marked by the Malino Declaration. But, it does not necessarily make the people of Poso live side by side safely and peacefully. The Poso conflict which has claimed thousands of lives and material damages makes it difficult for the people of Poso to trust each other and live in

prolonged trauma (Karnavian, 2008; McRae, 2016). Social reality in the community shows a situation that still requires attention and hard work from various parties to realise a peaceful Poso. After the Malino Declaration, or better known as the reconciliation phase, various incidents still occurred but were different from the time of the Poso conflict. Generally, the forms of terror that occur post-conflict are bombings, murders, mutilations, and various other forms of terror (Khairil, Yusaputra, et al., 2020).

The act of terrorism in Poso has a complex problem that cannot be separated from the Poso conflict. Psychological trauma and grudges against each group cannot immediately be abolished by the Malino Declaration. Complexity and uncertainty of the problem increased parallel to the disappointment of the Muslim group over the conflict resolution which was considered to have been engineered to protect the interests of the Christian group. The accumulated disappointment was finally vented in acts of terror.

The word *terrorism* is often synonymous with *Muslims* (Fenton, 2014; West & Lloyd, 2017). Unfortunately, the image of *Muslim terrorism* has been constructed as part of social reality. The image produced an impression of *Islam is a terrorist* and *terrorists are Muslims*. But, the fact is that acts of terrorism were not only carried out by Muslim groups, but also by other religious or non-religious extremist groups. For example, the murder case of a fish seller in Taripa, East Pamona District, revealed that there were 17 terrorists from Christian groups who were then placed in Luwuk Prison (Ali, 2016; Karnavian, 2008).

Normatively, the mass media must be neutral (Creech, 2007; Feintuck & Varney, 2006; Masum & Desa, 2014). But, ideological interests, religions and beliefs often unavoidably influence the production and presentation of news (Istriyani, 2016; West & Lloyd, 2017). In conditions like this, the mass media opens up wide opportunities for the entry of various interests of the communicator (Hornle, 2018; Kurt, 2015). This has been stated by McQuail that the mass media at this time is not just a tool to convey information without any content of interest in it (McQuail, 2010). Today's mass media is believed to always represent certain interests whether it be economic, political, cultural, ideological or religious (Basit, 2016; Istriyani, 2016).

Various accusations, slander, and speculations that are often premature and sometimes difficult to justify the validity and truth are developed by the media from the United States to Indonesia itself lead to or are identical to the hard-line radical Islamic movements or fundamental Islamic movements (Khairil, Yusaputra, et al., 2020). The arrests of several Islamic movement figures, such as JUT, HRS, ABB, ADS, M Dg L, and AH, as well as the verdicts on various Islamic movements, such as Jamaah Islamiyah, are news packages that had the nuances of terrorism and are identical to the movement of Islamic organizations (Khairil, 2018; Khairil et al., 2017).

Debates about the perpetrators and motives of terrorism often lead to the ideological or religious identification of terrorist actors, because ideology or religion is a source of legitimacy for their actions (Alexander, 2013; Rokhmad, 2017; Triandis, 2013). The state gets the legitimacy of violence or terror because of its constitutional sovereignty or authority, while community groups usually get legitimacy from the ideology or religion they want to fight for (Al-zewairi & Naymat, 2017; Rokhmad, 2017). The issue of *Islamic terrorism* needs to be understood and emphasized further, whether Islam legitimizes terror or terrorist actors, Islamic state or not, and those who have hijacked Islam (Arifin, 2017; Khairil, 2017b; Sinaulan, 2016). The biased perception of terrorism from some circles in the Western world and non-Muslim communities in Indonesia has placed Islam as a threat (Al-zewairi & Naymat, 2017; Törnberg & Törnberg, 2016; Warren, 2019). The impact of this perception seems to be stronger since the terrorist attacks on World Trade Center and Bali were broadcast by the mass media. Thus, resulting in many countries and Islamic community groups becoming targets in the war against terrorism (Khairil et al., 2017).

Law enforcement policies against perpetrators of terrorism are based on a set of laws and regulations. Law enforcement against terror convicts consists of various stages, namely; investigation, arrest, detention, a trial of the accused and ending with the prison of the convict (Nasution, 2018). The international community recognizes that law enforcement against suspected perpetrators of acts of terrorism has had many successes (Tehrani et al., 2013). In the field of arrests and investigations to date, more than a thousand of the suspects have been arrested, brought to court and imprisoned. More than 700 terrorism convicts have finished serving prison and returned, 226 are still being placed in 19 correctional institutions (Khairil, 2018, 2019; Sukabdi, 2015). Our judicial process is

also considered to be following democratic standards because it is conducted openly and transparently (Sukabdi, 2015).

In the Criminal Code (Kitab Undang-Undang Hukum Pidana, KUHP) of Indonesia, the type of crime (*strafsoort*) is divided into two, namely the main crime and the additional crime. The main punishments include capital punishment, imprisonment, confinement, fines, and imprisonment. Meanwhile, additional punishment is in the form of revocation of certain rights, confiscation of certain goods, and announcement of judge's decision. In the Law on the Eradication of Criminal Acts of Terrorism, the types of punishments that are threatened against perpetrators who commit criminal acts are capital punishment, life imprisonment, imprisonment, confinement and fines. The death penalty is presented in Article 6, Article 8, Article 9, Article 10, Article 14, Article 15, and Article 16. Life imprisonment is presented in Article 6, Article 7, Article 8, Article 9, Article 10, Article 14, Article 15, and Article 16. While imprisonment is presented in Article 6, Article 8, Article 9, Article 10, Article 11, Article 12, Article 13, Article 15, Article 16, Article! 20, Article 21, and Article 22, imprisonment is only presented in Article 23, Likewise with fines which are only presented in Article 18 (Republik Indonesia, n.d.).

In addition to the main criminal offences above, Law no. 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism (Republik Indonesia, 2003) also recognizes other types of crime in the form of freezing or revocation of corporate licenses as referred to in Article 18 paragraph (3). In the explanation of this law, it is stated that the suspension or revocation of permits is an administrative sanction, although it must be admitted that among experts there are still differences of opinion whether the freezing or revocation of corporate license is an administrative sanction or an action sanction (*maatregel*). However, it should be noted that administrative sanctions are essentially lighter than criminal sanctions. Thus, it is a mistake to categorise the suspension or revocation of a corporate license as an administrative sanction. When a corporation commits a crime and its operating license is revoked, this condition is the same as imposing a death penalty on the corporation. Because with the revocation of the corporation's license, the corporation is ceased to exist or is dead. Suspension or revocation of corporate licenses is more appropriate if they are categorized as action sanctions, not administrative sanctions. The imposition of sanctions in the form of freezing or revocation of corporate licenses in the terrorism law can only be imposed on corporations that are identified and registered with the Ministry of Law and Human Rights. For corporations that are part of a transnational crime, such sanctions cannot be imposed.

## 2. Methods

This study focused on the legal action of terrorism cases in Central Sulawesi. Thus, we utilised a conceptual-normative approach. The normative legal research explored the nature and scope of legal discipline which was defined as a system of teachings about reality and included within the scope of analytical disciplines and prescriptive disciplines. Legal disciplines are usually included in prescriptive disciplines if the law is seen to only cover the normative aspect. Normative legal research tends to image law as a prescriptive discipline by only looking at law from the point of view of its norms (Irwansyah, 2020; Ishaq, 2017; Kusuma, 2013).

Therefore, this study emphasised document study for data collection and disclosure of the meaning of a positive legal norm. The focus of the analysis is to accentuate the contents of the legislation related to the legal handling of terrorism cases in Central Sulawesi. Thus, the study was carried out through statute, comparative law and conceptual approach, as well as using qualitative data analysis method. In this study, we provide a problem solving and analytical point of view seen from the aspects of the legal concepts and values contained in the norming of law concerning the concepts used. The case approach will also be used in this study where we build legal arguments from the perspective of a concrete case (Putman, 2018). The main aspect that was studied in each of these decisions is the judge's consideration of the decision itself.

The sources of materials used in this study are as follows: (1) primary materials in the form of laws and regulations that contain rules regarding the provision of legal aid to the poor, including Law No. 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism; (2) secondary materials in the form of books, journals, research results and papers that are relevant to the research problem; and (3) tertiary materials, in the form of legal materials that provide instructions and explanations of primary and secondary materials, such as dictionaries and encyclopedias.

In this study, data were processed by first describing all the legal materials that had been collected through inventory, identification, classification and systematization according to the problems in this study. Material reconstruction was next, including rearranging legal materials sequentially and logically. The last step was analysing legal materials systematically based on the sequence of problems.

### 3. Results and Discussion

This study focuses on the results of the court decision Number: 487/Pid.Sus/2013/PN.JKT.TIM.; 970/Pid.Sus/2014/PN.JKT.TIM.; 629/PID/Sus/PN.JKT. TIM.; 859/PID.SUS/2014/PN.JKT.TIM.; and 1047/Pid. Sus/2015/PN.JKT.TIM. All these decisions were handed down to the terrorist groups of Santoso who at the time of the trial process for all of the defendants were still hunted by the anti-terror Detachment 88. The sanctions imposed on the defendants were relatively diverse.

First, the court decision number 487/Pid.Sus/2013/PN.JKT.TIM. focused on defendant JOKO SANTOSO alias SANTO. The panel of judges stated that the defendant, JOKO SANTOSO or also known as SANTOSO or SANTO, had been legally and convincingly proven guilty of committing the Criminal Acts of Terrorism as regulated in Article 15 in conjunction with Article 9 of Law No. 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law of the Republic of Indonesia Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism became a law in the Second Indictment. In the end, the panel of judges sentenced the defendant JOKO SANTOSO or also known as SANTOSO or SANTO in the form of six years imprisonment with a reduction as long as the temporary detention with the order that the defendant remained in custody.

The court decision number 970/Pid.Sus/2014/PN.JKT.TIM. focused on defendant WIKRA WARDHANA or also known as ACO or OCHA or ABU FAHRI. The panel of judges stated that the defendant was guilty of committing a crime of terrorism as regulated and threatened with a crime in Article 15 in conjunction with Article 7 of Government Regulation in Lieu of Law no. 1 of 2002 which was enacted into law following Law No. 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism. Thus imposing a criminal sentence in the form of imprisonment for six years with a reduction as long as the temporary detention, with the order that the defendant remains detained.

The court decision number 629/PID/Sus/PN.JKT.TIM. focused on defendant RIYANTO or also known as ATO MARGONO or ABU ULYA. The panel of judges decided and declared that the defendant was legally and convincingly proven guilty of committing a criminal act of terrorism as regulated and was subject to criminal sanctions in Article 15 in conjunction with Article 9 Government Regulation in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism as has been stipulated as a law based on Law Number 15 of 2003. In its decision, the panel of judges sentenced the defendant RIYANTO or also known as ATO MARGONO or ABU ULYA to a criminal sentence of fifteen years imprisonment and is reduced as long as the temporary detention, with an order that the defendant remains in custody and a fine of Rp. 50,000,000,- subsidiary of six months in confinement. The defendant had caused the loss of lives of innocent people. Noldi Ambolando was targeted for being drunk. The suspect attacked the victim by pretending to approach the victim. When the victim was seen off guard, Ato alias Abu Ulya pointed a gun and opened fire at the victim. Two bullets pierced the victim's head and resulted in his death.

The murder cases by the terrorist group of Santoso seems very trivial. Santoso as the *imam* and the highest leader of this group wanted a gift for his marriage. This inhumane reason hurt the victim's family, especially because the victim was not the focus of the Santoso group's target where it was known that the Police and TNI were the main targets of the Santoso group's terror. The bombing incidents and the disappearance of innocent human lives in a series of terror acts by Santoso's group had also become a phenomenon of anonymity. Because, people, especially those within the movement radius of Santoso's group, can become the next victim regardless of their gender, religion, and profession.

The court decision number 859/PID.SUS/2014/PN.JKT.TIM. focused on defendant MUHADI or also known as SUAIB or ADI. The panel of judges stated that the defendant was guilty of committing a crime of terrorism as

regulated and threatened with a crime in Article 15 in conjunction with Article 7 of Government Regulation in Lieu of Law no. 1 of 2002 which was enacted into law following Law No. 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism. Thus, imposing a criminal sentence in the form of imprisonment for six years with a reduction as long as the temporary detention, with the order that the defendant remains detained.

Court decision number 1047/Pid.Sus/2015/PN.JKT.TIM. focused on defendant BUSRON ABU BAKAR or also known as BUSRAH or ATIF or DAN. The panel of judges decided and declared that the defendant was legally and convincingly proven guilty of committing a criminal act of terrorism as regulated and was subject to criminal sanctions in Article 15 in conjunction with Article 9 Government Regulation in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism as has been stipulated as a law based on Law Number 15 of 2003. Thus, imposing a criminal sentence in the form of imprisonment for six years with a reduction as long as the temporary detention, with the order that the defendant remains detained.

## 2. The Retribution and Incapacitation: The Case of Santoso's Group

G. Peter Hoefnagels stated that retribution is the oldest criminal theory in the history of human civilization which is based on giving recompense to people who violate the provisions of criminal law. The earliest idea of retribution used the concept of private revenge in which the victim or his family gave the same actions to the perpetrator or his family for the loss suffered by the victim or his family. The subjective beginning of this theory is an *eye for an eye and a tooth for a tooth* (Kain & Recinella, 2017; Luthan, 2009). For the next development, *personal revenge* turns into *social revenge*, and again into *state revenge* (Jackson et al., 2019). Even though the victims are individuals, it is the state that bears the responsibility to punish the perpetrators (Wahyuni, 2019).

The purpose of punishment according to the theory of retribution is *to satisfy the claims of justice*, while its beneficial effects are secondary (Makarao, 2005). This absolute demand for justice is seen in Immanuel Kant's that punishments are never solely done as a means to promote other goals, but in all cases must be imposed only because the person concerned has committed a crime (Byrd, 1989). This must be done because everyone should receive retribution for their actions. The urge for revenge should not remain with the members of the community. Otherwise, they could all be viewed as people who took part in the killing which was a violation of public justice. It should be noted that the theory of retribution basically does not attempt to *eliminate all criminal actions* (Herszenbaun, 2019). It is more of an effort to create a fair distribution of good and bad between criminals and law-abiding individuals, by limiting the freedom of the perpetrators with relatively proportional penalties (Luna, 2002; Skaret, 2002). In connection with the principle of proportionality, John Finnis stated that the presence of criminal law is to create a quality of life for the community (Alexy, 1998; Hon, 2000). This aspect of proportionality indicates that there must be a balance between the law-breaking actions of the perpetrators with the losses caused by said actions.

The theory of incapacitation is the act of making a person incapable of committing a crime (Pereboom, 2020). If a criminal is put in prison for committing a crime, it means that the community is protected from the next crime that the offender may commit for the period of time (Arief, 1996; Euston & Neilson, 1993; Kaiser & Hagan, 2018). Thus, it is said that incapacitation has been practised in various societies. Thieves' hands are cut off to prevent further theft and sex offenders are castrated so they don't commit more sexual crimes. On this note, castration as an alternative to prison is no longer practised (Luthan, 2009). Now incapacitation takes the form of detention or imprisonment, therefore, theoretically, the offenders cannot harm society (Cavadino & Dignan, 2007). This theory is also known as *isolation, separation, restriction, and confinement*. The theory of incapacitation is also similar to the theory of prevention, although prevention in incapacitation theory is narrower in meaning than prevention theory, as it only leads to specific deterrence (Cotton, 2000; Kaiser & Hagan, 2018).

The handling of terrorism cases, in Central Sulawesi in particular and in Indonesia in general, is focused on the perpetrators and how to eradicate the group more resulting in the lack of attention from the government towards the victims of terrorism and their families. The government as well as the media seem to see victims only as secondary subjects. In the terrorism case of Santoso's group, the victim's family felt did not accept the loss of their family members' lives as a result of this group's acts of terrorism. The tragedy is proof that terrorism is a sadistic

act, does not take into account and heed universal human values (Khairil, 2017a). Because humans are God's most noble creatures and have the right to live, even in any religious teaching, killing one soul is a major sin. Innocent people become victims of the savagery of a group of people who suppress acts of terror as the truth of their group.

The court's decision for the terrorism case of Santoso shows that with the inclusion of imprisonment of the perpetrators, this terrorist group power was getting weaker. The National Police have set up nature-based prisons or barricades for terrorists. Their presence in the vicinity of Gunung Biru or around the Tambarana village has been known thanks to the information from the community and various statements from Santoso's members who were caught and tried. The defendants of the terrorist group were cooperative in explaining in detail the pattern of the Santoso group's guerrilla movement, which was named *the guerrilla pattern of the Anoa*. The movement of this group is increasingly being pushed deep into the forest and far from settlements. Although the movement pattern of this group is relatively reduced due to the location of their guerrillas being identified by the National Police. Still, the people around the base location of this terrorist group feel disturbed and have not been able to feel a peaceful life as before. The imprisonment of the members of the terrorist group also proved to have a deterrent effect.

The results of the revision of Law No. 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism (Republik Indonesia, 2003) also have pros and cons. Moreover, one of the decisions was the death penalty for the defendants in terrorism cases. Considering that their actions are classified in the criminal case of premeditated and systematic murder. Thus, the death penalty is considered appropriate for the defendants. But on the other hand, the death penalty also cannot fundamentally solve the problem. The death penalty is considered to only cause endless grudges between the perpetrators and law enforcement officers.

For example, in the Bali Bombing terrorism case, one of the defendants was Ali Imron. In an interview session with the media, it was stated that it only takes two hours for someone to be recruited to carry out an act of terror (Erdianto, 2017). Thus, if the perpetrators of lower-class terrorism are sentenced to death, it will result in their family, colleagues and society having the potential to hold grudges against the police and this can lead to the future seeds of terrorism.

However, the act of putting the defendants in prison is indeed considered commensurate with the results of their actions. Life imprisonment is considered sufficient to have a deterrent effect on the defendants (Bove & Böhmelt, 2020). At the same time, it is considered to provide an opportunity for the defendants to repent and regret their actions. The families will not feel too disappointed with the decision. This life imprisonment sentence is also considered to be able to distance the defendants from the influence of the outside world and make them unable to commit crimes within the community. The judge has used the punishment based on the theory of incapacitation by placing the members of Santoso's terrorism group in prison. Thus, it can be said that if the judge imposes a sentence of imprisonment or confinement, in essence, the judge has stripped the possibility of future criminal actions done by the defendant for a certain period.

Barda Nawawi Arief stated that the nature of imprisonment, especially in terms of controlling crime, is a deprivation of liberty. With the deprivation of the perpetrator's freedom, the space for committing a crime can be limited. On the other hand, it also means that the community feels safe from being disturbed by criminal acts as long as the perpetrator is deprived of his freedom (Arief, 1996). Van Bemmelen once stated that the deprivation of liberty is more secure in society. The power to secure, according to Van Bemmelen, is one of the goals that can be included in the relative theory in addition to specific prevention and general prevention (van Bemmelen, 1987).

### **3. Prevention and The Possibility of Rehabilitation for Terrorists**

Prevention theory has an assumption that humans are always rational and always think before acting to take maximum rational benefit. In this case, the prospects for profit and loss are weighed against calculative decisions and choices (Luthan, 2009). Each individual chooses whether to or not to commit a crime. If the individual chooses to commit a crime, the punishment is imposed on that person, provided that the perpetrator is arrested (Kessler & Levitt, 1999). The perpetrators of national and even global terrorism groups have well understood the

consequences of their activities and the legal punishment that threaten them. All acts of terror, either to the public or to the nation's institutions, have been calculated carefully and in detail by the perpetrators.

Another assumption of the preventive theory is that criminal acts can be prevented if people are afraid of punishment. Punishment for certain criminals, or specific deterrence, may be related to physical restrictions or incapacity, such as confinement or the death penalty. The preventive theory also assumes that members of the community may be deterred from choosing to participate in criminal acts. Prevention of terror acts is expected to serve as an example to potential perpetrators (Luthan, 2009). The perspective of prevention theory in particular also refers to the perpetrator as a rational actor who can weigh the pros and cons of committing a crime and the imposition of a criminal offence (such as imprisonment) will make potential candidates think about how much it will cost if proven guilty.

The multiple layers of punishment had been stated in Law No. 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism as an effort by the Indonesian government to suppress the movement of terrorist groups. Article 1 paragraph 1 of Law no. 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism reveals various criminal elements to ensnare the perpetrators, including action against the law, carried out in a structured and systematic manner, aims to destroy the sovereignty of the Indonesian nation by spreading terror, threats of violence or creating fear in civil society and resulting in casualties on a large scale, and or depriving the liberty or intentionally taking people's lives, and destroying vital and strategic objects or disturbing the living environment or public facilities (Republik Indonesia, 2003). The terrorism group led by Santoso has been deemed to have fulfilled the criminal aspects mentioned above, wherein its various actions this group spread terror to the wider community, carried out murders of innocent people, damaged public facilities and their actions disrupted the ecosystem by displaying his actions of killing and eating the Anoa, an endemic and protected animal of Sulawesi.

Prevention theory is influenced by Cesare Beccaria and Jeremy Bentham. Cesare Beccaria viewed that if the same sentence were imposed for two different crimes, people would not have a stronger deterrent against a more dangerous crime if they found it worthwhile to do (Beccaria et al., 2017; Varkey & Nair, 2021). Meanwhile, Jeremy Bentham viewed the purpose of a sanction as to persuade someone to always choose the lightest crimes (Katyal, 1997; Quinn, 2017; Riley, 2018; Rossmo & Summers, 2021).

The two judges' decisions, in this case, look different. One of the defendants was sentenced to 15 years in prison (court decision number 629/PID/Sus/PN.JKT.TIM), while the other defendants were only sentenced to 6 years in prison (court decision number 487/Pid.Sus/2013/PN.JKT.TIM., 970/Pid.Sus/2014/PN.JKT.TIM., 859/PID.SUS/2014/ PN.JKT.TIM., and 1047/PID.SUS/2014/PN.JKT.TIM.), each with a reduced term of detention. This is in line with Cesare Beccaria and Jeremy Bentham by having a different level of punishment for each different kind of crime that the members of Santoso's group did. This way, terrorists or people who are tempted to join terrorist groups should think and consider. In addition to criminal threats for the defendants, social sanctions also await the families of the accused. Their wife, children and other families members will suffer the consequences of the terror acts.

However, another case of the murder of the victim by ex-members of Santoso's group occurred at a traditional gold mining location of Parigi Moutong, Central Sulawesi. On the afternoon of 30<sup>th</sup> December 2018, two residents in Salubanga village of Sausu District, Parigi Moutong, a human corpse was found. The victim of the terrorism violence was found by residents in a pathetic condition where the victim's body was mutilated and the victim's head and body were found separately. The victim was identified as one of the traditional mining workers in the village. It was confirmed that the body was a victim of the terrorism group because when the victim was about to be evacuated by security officers, a series of gunfire from an unknown direction rained down on officers and residents. Thus, there was a shootout between the security officers and the terror group (Jurnaliston, 2018; Santoso & Gua, 2019).

Louis Michael Seidman stated that the main premise of prevention theory is that the criminal justice system should minimize the amount of harm caused by crime and there should be efforts to prevent crime. Since the meaning of social calculation also includes the welfare of each individual, the cost of preventing crime is not only the cost of

law enforcement by the police and the cost of the judicial process but also the punishment of the criminals (Seidman, 1984).

For sentencing to optimally run, two steps need to be taken. First, create total prevention costs at a level that minimizes the sum of the costs of crime and prevention efforts. This level can only be realized when additional prevention costs are brought into a situation where the cost of prevention is equal to the cost of the crime to be tackled. Second, achieve a proportional balance between the following two components: punishment and law enforcement costs (Tonry, 2006). It must be decided whether it is more efficient to add police personnel and judges who are capable of arresting and processing a greater number of criminals while reducing the sentences handed down to each criminal caught, or to achieve the level of punishment that is expected to be commensurate with the imposition of heavier penalties (Damayanti, 2021; Fantrov et al., 2021).

The emergence of rehabilitation theory begins with the view that corporal punishment is no longer relevant to be applied. The provision of corporal punishment often causes the perpetrators of crimes to become disabled to prevent future violations of the law (Luthan, 2009). The rehabilitation theory is also often referred to as the reparation theory. This theory assumes that criminals are sick people who need treatment. Like a doctor who prescribes medicine, the judge must administer the punishment that is predicted to be most effective to turn criminals into a good citizens. The imposed sentence must match the conditions of the criminal instead of the nature of the crime. This means that sentencing refers to criminal individualization.

Seeing the results of the judges' decision on court decision number 487/Pid.Sus/2013/PN.JKT.TIM., 970/Pid.Sus/2014/PN.JKT.TIM., 859/PID.SUS/2014/ PN.JKT.TIM. and 1047/PID.SUS/2014/PN.JKT.TIM. related to the rehabilitation theory, it can be analyzed that the six-year prison sentence for terrorists is still considered relatively light, compared to the consequences or predictions of possible losses that will result from this group's acts of terrorism. Thus, it is hoped that within six years of imprisonment, when returned to society, the defendant will get valuable lessons and awareness to no longer carry out terror acts.

One of the goals of the rehabilitation theory is for the process of reintegrating perpetrators after serving a period of detention back into society. Through proper treatment and good coaching programs, a criminal is expected to turn into a good citizen. This theory emerged as a reaction to cruel criminal practices against convicts in various countries. Thus, the rehabilitation theory is the antithesis of the retributive theory which considers criminals to be worthy of punishment for violating the law (Damayanti, 2021; Luthan, 2009; Sukabdi, 2015). For the rehabilitation program to be able to reduce the crime rate, the sentencing policy should not be rigid. The rigidity of the sentence will become a barrier to the efforts of rehabilitation. For example, drug addicts treatment programs must be directed at the characteristics and needs which require individualization (Widiasyam et al., 2020). That is, if the perpetrator of a terror act needs to be imposed with a criminal sanction, the criminal sanction should be adjusted to the condition of the perpetrator and the characteristics of the committed crime (Hettiarachchi, 2018; Horgan & Braddock, 2010).

In the case of the members of Santoso's group, the best step for terrorism defendants is to provide them with the right religious understanding (Hettiarachchi, 2018; Khairil, Alatas, et al., 2020). Because terrorists, like Santoso for example, usually cite verses from the Quran to brainwash potential perpetrators by providing and embedding a wrong understanding of jihad in the minds of the new cadres. Santoso's shrewdness in processing words and reference sources in the form of fragments of Qur'anic Verses and Hadith became the justification for each of his actions (Khairil, 2017b; Khairil, Yusaputra, et al., 2020). Even though the teachings of any religion, especially Islam in correlation to Santoso's case, killing a human soul is a major sin and it is difficult to get forgiveness from God. This proves that the perpetrators of the crime of terrorism are a group of people who are victims of the inappropriate indoctrination process of religious beliefs (Khairil et al., 2021).

Michele Cotton states that the theory of rehabilitation is also called *reform*. According to this theory, the state system should be used as a means to provide training in skills that are physically and psychologically beneficial such as dealing with problems and drug addiction, or even as a means of self-reflection. Rehabilitation theory also justifies short imprisonment terms or diversion to non-imprisoning programs that are held outside the prison

building (Cotton, 2000). In this instance, one of the examples is Basri, one of the ex-leader of the group after Santoso, who surrendered himself to the authorities and persuaded other members who are still being hunted to also surrender themselves (Jbr & Idh, 2021; Khairil et al., 2021).

The theory of rehabilitation has currently undergone a radical change. Evidence from research, studies and practical experience by experts shows that good management and programs can reduce the possibility of repeating crimes. Programs that are widely accepted that could decrease repeating crimes include but are not limited to: training for drug addicts, cognitive skills programs, and training for sexual criminals (Cullen et al., 2000). However, these positive findings do not mean that said programs are easy to enrol in. That is, the results are not automatically used as a new official program by the state (Tonry, 2006). Despite the positive side of the rehabilitation theory, Hart reminded that rehabilitation is a healing measure that only has the opportunity to be used when criminal law has failed in its main task which is defending society from criminals who violate the law. Society can at any time be divided into two classes: (1) those who break the law; and (2) those who have not. Placing rehabilitation as the dominant goal means giving up hope of influencing the second group (Solehuddin, 2003).

#### 4. Conclusion

Indonesian government gave legal actions as retribution and incapacitation of the terrorist group as an example to deter future terrorism seeds, arrested terrorists are also being given rehabilitation opportunities to redeem themselves. The essence of prevention of future terrorism acts in the court decisions regarding Santoso's group is apparent on the different levels of the sentence, considering the weight of each crime done. While the decisions are constructed to deter and decrease future terrorism acts, the terrorism case of Santoso's group in Poso, Central Sulawesi certainly didn't stop with the imprisonment of the leaders of the group. The root of these problems can be traced back to the time of the communal conflict of Poso where grudges are still present today. Sympathizers of Santoso's group are extant and its ex-members are still being hunted as of the time of this study. Thus, there is still present the opportunity for radicalism to grow in Poso and the surrounding areas.

Based on this study, we would like to recommend future studies which focus on the deradicalisation model and application; the counter-terrorism model; and the development of the law on terrorism in Indonesia. A comparative study between red zones and hotspots of terrorism in Indonesia is also recommended, as it would provide a deeper understanding of terrorism in Indonesia.

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