

# The Concept Of Terrorism And Implementation Of The Principles Of Criminalization In The Law On The Eradication Of Criminal Acts Of Terrorism

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## **Abstract.**

*Terrorism is one of the crimes that greatly disturbs the security of the life of the nation and state. Terrorism is not only a problem for the Indonesian people, but has become an international problem. The eradication of criminal acts of terrorism in Indonesia is carried out based on Law Number 5 of 2018 in conjunction with Law Number 15 of 2003. The problem that becomes the object of research is the concept of terrorism and the implementation of criminalization principles in the law on eradicating criminal acts of terrorism. The type of research used is normative legal research with a statute approach, conceptual approach, historical approach, and comparative approach. The results of research in the law on eradicating criminal acts of terrorism have limited the definition of terrorism by including ideological, political and security disturbance motives, in contrast to other countries which on average do not include motives in the definition of terrorism. The principles of criminalization in the preparation of the law on the eradication of criminal acts of terrorism have not been fully fulfilled, namely about avoiding the formulation of vague and general articles.*

**Keywords:** *Terrorism Concept; Criminalization Principle; Eradication; Terrorism Crime*

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## **I. INTRODUCTION**

The purpose of living as a nation and state in Indonesia is to create a safe, peaceful and prosperous life based on Pancasila and the 1945 Constitution. Terrorism is one of the crimes that seriously disturbs the security of the nation and state. The term terrorism was first known during the French Revolution in 1789 because there was a lot of chaos that led to "the reign of terror" in which more than 40,000 French citizens became victims, including King Louis.[1] Terror acts against European businessmen, ministers and including Tsar Alexander II and the Austrian Archduke also occurred since the French revolution (1793-1794) and became the beginning of World War I. [2] According to David C. Rappoport, judging from the goals of terrorism, the development of terrorism in the world is divided into four stages, namely in 1880-1920 terrorism aimed at winning civil political reform from the oppression of authoritarian governments, in the 1920s to 1960s terrorism aimed at fighting for national sovereignty, in 1970 Terrorism has a revolutionary left ideology, the perpetrators

consider themselves as defenders of the interests of Third World countries against the forces of global capitalism and finally terrorism is driven by revolutionary ideologies and religious impulses such as al-Qaeda.[3]

In various countries terrorism continues to occur so that the United Nations Congress in Vienna Austria in 2000 raised the theme The Prevention of Crime and The Treatment of Offenders, among others, mentioning terrorism as a development of acts of violence that need attention. [4] On a regional scale, efforts to effectively tackle international terrorism are based on the assumption that the recognition that the security threats that are currently emerging in the Southeast Asia region are not military in nature and require military cooperation alone, this issue is plural and overarching and therefore inadequate if efforts are made to overcoming it is only unilateral and bilateral. For this reason, countries in Southeast Asia are required to be able to make new breakthroughs in identifying 'new' security issues in the region and reviewing patterns of regional cooperation in the future. In this context, the leaders of the Association of Southeast Asian Nations made a joint declaration with the United States to combat international terrorism on August 1, 2001 in Brunei Darussalam. This declaration essentially contains a framework of cooperation to prevent, disrupt and combat terrorism through the exchange of intelligence information. Then, the leaders of the Association of Southeast Asian Nations at the VII High Level Conference in Bandar Seri Begawan on November 5, 2001 issued a Joint Action to Counter Terrorism.[5] In this agreement, the leaders of the Association of Southeast Asian Nations condemned terrorist attacks as a "direct challenge to the peace, progress and prosperity of the Association of Southeast Asian Nations and rejected any attempt to associate terrorism with any religious or racial identity."

As a form of efforts to prevent and eradicate terrorism, three conventions have been made, namely the International Convention and Supretion of Terrorism (1937), the International Convention for the Supretion of Terrorism Bombing (1997) and the International Convention for the Supretion of Financing of Terrorism (1999).[6] The three conventions include the international convention on international crimes. The 1997 and 1999 conventions have been ratified by Indonesia to prevent and combat terrorism. A country that has ratified an international convention or treaty means that it has bound itself to all the provisions contained in the convention. Cases of terrorism in Indonesia have occurred since the New Order until now. During the New Order era, the number of terrorism cases was 147, during the reformation period there were 595 cases [7] and the case that caused the most victims was the Bali bombing case I with 202 fatalities from 21 countries. Subjectively, terrorists are carried out by hard-line Muslims (right terrorism), namely terrorists who carry out terror in the name of Islam such as the al-Qaeda group. After the diminishing influence of al-Qaeda in 2014 a new group emerged, namely the Islamic State of Iraq al-Sham . [8]. The aim of Indonesia's "right" terrorism is to build a daulah Islamiyah because it does not agree with Pancasila as the legal basis in Indonesia. They want only the Qur'an and al-Hadith to be the legal

basis in Indonesia [9]. Historically, according to As'ad Said Ali that the embryo of terrorism existed after the death of the Prophet Muhammad, namely when Abdurrahman Bin Muljam killed Ali Bin Abi Talib because of political problems, the perpetrator accused Ali Bin Abi Talib of not following the guidance of a verse in the Qur'an. an which means "whoever decides something that is not based on the provisions of Allah SWT, then he is an infidel". Abdurrahman Bin Muljam's group was later known as the Khawarij group. [10].

In modern times, the growing understanding is Wahhabism. Wahhabism is related to terrorism, as stated by Kaled Abou El Fadl in his book *The Great Theft: Wrestling Islam From The Extremist* (2005), which emphasizes the relationship between Wahhabism and acts of terrorism supported by al-Qaeda and the Taliban movement in Afghanistan.[11] Wahhabism is an ideology and movement founded by Muhammad Bin Abdul Wahab in the eighth century. This ideology develops puritanism on the one hand and extremism on the other. According to the Wahhabi view, there have been many deviations from the pure and straight teachings of Islam, so efforts and movements are needed to return to the Qur'an.[12] and Sunnah. There is nothing wrong with this view because returning to the Qur'an and Sunnah is a necessity for Muslims because the Qur'an and Sunnah are the primary sources in Islam. However, this becomes a problem because it is commodified in such a way as to form an absolute-puritanistic religious reasoning. That is, only the views of the Wahhabis are considered correct, while the views of others are considered wrong, even heretical and infidels. Wahhabis really hate non-Muslims. Therefore, they appealed to Muslims not to make friends and not to follow the customs of non-Muslims. For the Wahhabis it is clear that non-Muslims are infidels but apostates Muslims are much worse than unbelievers. This view is recognized by Sayyid Quthub, who considers westerners to be modern Jahiliyah.[13]

Wahhabism views are very dangerous because they make puritanical religious views as a way to assert political interests on the one hand and extreme actions on the other, for example in the 1980s many Iranians were massacred and many Sunnis were killed in Mecca and Medina. Not only that, this puritan view has become the official law of the Kingdom of Saudi Arabia. At least until the 1980s the Wahhabis had executed 40,000 people and amputated 350,000 people using Islamic legal claims [14]. In various countries terrorism continues to occur so that the United Nations Congress in Vienna Austria in 2000 raised the theme *The Prevention of Crime and The Treatment of Offenders*, among others, mentioning terrorism as a development of acts of violence that need attention. [15]. On a regional scale, efforts to effectively tackle international terrorism are based on the assumption that the recognition that the security threats that are currently emerging in the Southeast Asia region are not military in nature and require military cooperation alone, this issue is plural and overarching and therefore inadequate if efforts are made to overcoming it is only unilateral and bilateral. For this reason, countries in Southeast Asia are required to be

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In this agreement, the leaders of the Association of Southeast Asian Nations condemned terrorist attacks as a "direct challenge to the peace, progress and prosperity of the Association of Southeast Asian Nations and rejected any attempt to associate terrorism with any religious or racial identity". As a form of efforts to prevent and eradicate terrorism, three conventions have been made, namely the International Convention and Supretion of Terrorism (1937), the International Convention for the Supretion of Terrorism Bombing (1997) and the International Convention for the Supretion of Financing of Terrorism (1999).[17] The three conventions include the international convention on international crimes. The 1997 and 1999 conventions have been ratified by Indonesia to prevent and combat terrorism. A country that has ratified a convention or international agreement means that it has bound itself to all the provisions contained in the convention. Based on this, at the end of 2002 Indonesia issued a Government Regulation in Lieu of Law No. 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism. The issuance of this Government Regulation in Lieu of Law to criminalize terrorism so that terrorism can be eradicated using criminal law. In 2003, Government Regulation in Lieu of Law No. 1 of 2002 was enacted into Law No. 15 of 2003 concerning Stipulation of Government Regulation in Lieu of Law No. 1 of 2002 to become Law. Then in 2018 changes were made to the Law on the eradication of criminal acts of terrorism to become Law Number 5 of 2018 because Law Number 15 of 2003 has many weaknesses, one of which is that there are no restrictions on terrorism. With the amendments to the Law on the eradication of criminal acts of terrorism, the concept of counter-terrorism is carried out through penal and non-penal efforts or preventive and repressive efforts. From the description of the background above, the problem raised from this research is how is the concept of terrorism in Law Number 5 of 2018 and its comparison with other countries and how is the application of the principles of criminalization in Law Number 5 of 2018.

## II. METHODS

Legal research is related to legal phenomena: Legal research is a relatively new phenomenon. The legal research banner is not one dimensional. It includes both doctrinal and non-doctrinal methodologies and covers the varied prisms of legal activity not encompassed in practice oriented research conducted challenges the reader to broaden

their view OJ possible research perspectives within the legal discline area [18].The type of research in this research is normative legal research with a statute approach, conceptual approach, historical approach, comparative approach and case approach. [19]. Legal materials for normative research in the form of library-based doctrine [20]. The primary legal materials used are laws and regulations, namely Law No. 8 of 1981 concerning the Criminal Procedure Code, Law No. 2 of 2002 concerning the Police, Law No. 5 of 2018 concerning amendments to Law Number. 15 of 2003 concerning Stipulation of Government Regulation in Lieu of Law Number. 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism. Secondary legal materials can be classified into secondary legal materials in the form of legal books containing teachings and doctrines, periodical publications in the form of articles on legal reviews or law reviews. [21].

### **III. RESULT AND DISCUSSION**

#### **A. The Concept of Terrorism in Law Number 5 Year 2018**

Terrorism is a crime that is very dangerous and disturbing, so it must be overcome through criminalization efforts so that it can be enforced based on criminal law. The criminalization of terrorism through the Law on the eradication of criminal acts of terrorism is a manifestation that Indonesia is a legal state based on the 1945 Constitution so that Indonesia can protect the public from acts of terrorism. Terrorism according to Article 1 (2) of the Law on the eradication of criminal acts of terrorism is an act that uses violence or threats of violence that creates an atmosphere of terror or widespread fear, which can cause mass casualties, and/or cause damage or destruction to vital objects. strategic, environmental, public facilities, or international facilities with ideological, political, or security disturbance motives. Meanwhile, criminal acts of terrorism are all acts that fulfill the elements of a criminal act in accordance with the provisions of the Act on the eradication of criminal acts of terrorism.

In addition to the regulation of material and formal offenses in the Act on the eradication of criminal acts of terrorism in an authentic manner, there are restrictions on the definition of terrorism as contained in the general provisions of the Law on the eradication of criminal acts of terrorism. Limiting the definition of terrorism and criminal acts of terrorism is part of the criminal law policy so that there are no multiple interpretations of the two terms. The definition of "terrorism" is an act that uses violence or threats of violence that creates an atmosphere of terror or widespread fear, which can cause mass casualties, and/or cause damage or destruction to strategic vital objects, the environment, public facilities, or facilities. international organizations with ideological, political or security motives". Several terms in the definition of terrorism have been explained further, namely violence, threats of violence, strategic vital objects, public facilities, everyone. While several other terms, namely the atmosphere of terror, widespread fear, mass victims, ideological motives, political motives, and security disturbances, there is no authentic explanation in the

Law on eradicating criminal acts of terrorism. Of course this will lead to multiple interpretations from law enforcement officials and the potential for arbitrary actions against the suspect/defendant and the potential for human rights violations to occur because law enforcement officers can tend to be subjective.

From the definition of terrorism in the Law on the eradication of criminal acts of terrorism, the definition is very dependent on actions "using violence or threats of violence that create an atmosphere of terror or widespread fear, which can cause mass casualties, and/or cause damage or destruction. against strategic vital objects, the environment, public facilities, or international facilities" is only categorized as terrorism if it is carried out with ideological, political, or security disturbance motives. This means that if it is not accompanied by ideological, political, or security disturbances, then the act is not considered terrorism. The key term in the law on the eradication of criminal acts of terrorism is terrorism is a criminal act with a dissertation motive. Some understanding of the motive, among others, namely the drive that has been tied to a goal. The motive refers to a systematic relationship between a response to a certain state of encouragement. The motives that exist in a person will realize a behavior that is directed at the goal of achieving the goal of satisfaction [22]. According to Sherif & Sherif (1956): motive as a generic term that includes all internal factors that lead to various types of purposeful behavior, all internal influences, such as needs (needs) originating from organism functions, drives and desires, aspirations, and social tastes, which originate from these functions and according to Giddens (1991:64): motives as impulses or impulses that provide energy to human action along the cognitive/behavioral trajectory towards the satisfaction of needs.

According to Giddens, motives do not have to be perceived consciously. It is more of a "state of feeling". Harold Koontz and colleagues (1980:632) cite the opinion of Berelson and Steiner, motive is an internal state that gives strength, activates, moves or channels behavior towards goals. [23]. Motives are things that encourage someone to do something or someone's reason for doing an action. The motive in relation to crime means the impulse contained in the inner attitude of the perpetrator to commit a crime. According to Bonger, as quoted by Soedjono Dirdjosisworo, criminology categorizes crimes into four groups, namely: Economic crimes (theft, robbery, fraud, etc.), Sexual crimes (eg rape, sexual deviation, etc.), crimes violence (such as persecution, murder, Political crimes such as treason to overthrow a government or rebellion)[24].

The definition of terrorism by several countries is in accordance with the laws and regulations, including:

1. Malaysia, as stipulated in Article 2 of the National Security Act (Internal Security Act) Number 82 of 1960: "Terrorist" means any person who:
  - a. by the use of any firearm, explosive or ammunition acts in a prejudicial manner to the public safety or to the maintenance of public order or incites to violence or counsels disobedience to the law or to any lawful order

b. carriers or has in his possession or under his control any firearm, ammunition or explosive without legal authority therefor; or demands, collects or receives any supplies for the use of any person who intends or is about to act, or has recently acted, in a manner prejudicial to public safety or the maintenance of public order[25].

2. The United States has defined terrorism according to the Federal Criminal Code (Chapter 113B of Part I of Title 18 of The United States Code, on terrorism and the list of criminal acts related to terrorism). In Section 2331 of Chapter 113b, terrorism is defined as:“ activities that involve violent ... or life-threatening acts ... that are a violation of the criminal laws of the United States or of any State and ... appear to be intended (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the[26].

3. The UK defines terrorism in the Terrorism Act 2000, as the use of threats that “the use of threat is designed to influence the government or to intimidate the public or a section of the public ... and the use of threat is made for the purpose of advancing a political, religious or ideological cause ... it involves serious violence against a person, involves serious damage to property, endangers a person's life, other than that of the person committing the action ... creates a serious risk to the health or safety of the public or a section of the public or is designed seriously to interfere with or seriously to disrupt an electronic system[27].

4. Countries that are members of the European Union provide an understanding of terrorism as stated in Art. 1 of the Framework Decision on Combating Terrorism (2002). Here it is stated that terrorism is: Certain criminal offenses set out in a list comprised largely of serious offenses against persons and property which given their nature or context, may seriously damage a country or an international organization where committed with the aim of seriously intimidating a population ; or unduly compelling a government or international organization to perform or abstain from performing any act; or seriously destabilizing or destroying the fundamental political constitutional, economic or social structures of a country or an international organization[28].

5. The definition of terrorism also comes from countries in certain regions, which are members of a forum to work together to fight terrorism. Like the countries that are members of the Arab League through The Arab Convention for the Suppression of Terrorism, adopted by the Council of Arab Ministers of the Interior and the Council of Arab Ministers of Justice. Which was held in Cairo in April 1998 defines terrorism as follows: "Any act or threat of violence, whatever its motives or purposes, that occurs in the advancement of an individual or collective criminal agenda and seeking to see panic among people, causing fear by harming them, or placing their lives, liberty or security in danger, or seeking to cause damage to the environment or to public or private installations or property or to occupying or seizing them, or seeking to jeopardize a national resources" [29].

The definition of terrorism in several countries as described above, there is no law that regulates the definition of terrorism which includes elements of ideological, political and security disturbances because basically the motive for criminal acts is not included in the elements of a criminal act. The elements of a crime consist of a subjective element and an objective element. Subjective elements are elements that are attached to the perpetrator or related to the perpetrator and are included in it, namely everything that is contained in his heart [30]. While the objective elements are elements that have to do with the circumstances, namely in the circumstances in which the actions of the perpetrator must be carried out. The subjective element of a crime is intentional (*dolus*) or unintentional (*culpa*), intention or *voornemen* in an experiment or *poging* as referred to in Article 53 paragraph (1) of the Criminal Code, various intentions or *oogbrands*, as contained in the crimes of theft, fraud, extortion, forgery, and others, planning in advance or *voorbédachte raad*, as contained in the crime of premeditated murder in Article 340 of the Criminal Code, feelings of fear or *vrees*, as contained in the formulation of a crime according to Article 308 of the Criminal Code. The objective elements of a criminal act are: the nature of breaking the law or *wederrechtelijkheid*, the quality of the perpetrator, for example "the state as a civil servant" in a crime of office or "the condition as a manager or commissioner of a limited liability company" in a crime according to Article 398 of the Criminal Code, causality, namely the relationship between an action as a cause and a reality as a result [31].

The definition of terrorism contained in the Law on the Eradication of Criminal Acts of Terrorism according to the author is an unclear article, therefore it does not need to be included in the Law on the Eradication of Criminal Acts of Terrorism. Terrorism is very abstract and to date there is no universally accepted definition. However, historically, since the term terrorism was first introduced in France until now, it can be understood that terrorism does have political and ideological motives that encourage perpetrators to commit terrorism. For example, the Bali bombings carried out by Amrozi et al were also carried out for ideological and political motives. The background of the suicide bombing is to give a more sinister effect to the community. With the suicide bombing, it is hoped that the public will feel the effect of fear which should be in accordance with the purpose of the bombing. The Bali bombing started from several previous events [32]. Bali was chosen as the location of the bomb because Bali is a symbol that is widely known by the international community. By choosing Bali as the location of the bombings, it is hoped that the desired effect will be more global than if the bombs were detonated in other locations. Many foreigners are in Bali so that the targets of the terrorists are aimed at these foreigners, especially Americans.

The background of the first Bali bombings also came from the events in Poso and Ambon. The Bali bombings were the revenge of the terrorists because in both events many Muslims were killed as a result of the conflict. In addition, the Bali



bombings were carried out to defend the people in the history of the Afghan war against the oppression by the United States because the terrorists considered the cause of the Afghan war to have greatly oppressed the people there. The Bali bombing incident also occurred because the terrorists thought that Bali was a center of immorality and a location that was not in accordance with Islamic teachings.

The terrorists in general do target locations that they consider to be centers of immorality. They also use the term jihad as a justification for these violent acts and justify the fall of victims to achieve the greater good. The perpetrators of the Bali bombings are still related to Darul Islam, a successor organization to the Islamic State of Indonesia. In 2002, Darul Islam broke away and changed its name to Jamaah Islamiyah, but they continued to pursue the goals of the Islamic State of Indonesia. According to Ali Imron, the bomb was planned to be detonated on September 11, 2002, a year after the World Trade Center incident in the United States. When planning the background for the Bali bombings in Solo in 2002, Imam Samudera wanted the Bali bombings to be a memorial to the World Trade Center incident. Preparations in West Java were led by Mukhlas and Imam Samudra during August and September. Judging from the background of the Bali bombing above, the motive of the perpetrators is "revenge" for several events that harmed their group, such as what happened in Afghanistan which was mostly carried out by America and its allies.

Historically, the eradication of terrorism has not only been in the interest of a country but has become the interest of the international community. So that each country needs to have the same perception about the meaning of terrorism. Authentic at this time the definition of terrorism in the Law on the Eradication of Criminal Acts of Terrorism there is a very principle difference, namely related to the motive of terrorism. Indonesia's perception of terrorism is a crime based on a motive, while other countries do not regulate terrorism motives in their laws and regulations. According to the author, this factor will hinder the process of cooperation in counter-terrorism efforts with other countries because there are different juridical views on terrorism.

### **B. Implementation of Criminalization Principles in Law Number 5 Year 2018**

Criminalization is also called criminalization or criminalization. In Black's Law Dictionary criminalization: The act or an instance of making a previously lawful act criminal, usually by passing a statute. While in Webster's New World Law Dictionary defines criminalization as To make a particular conduct or omission a crime and to establish penal sanctions for it. From these two sources, criminalization is the process of determining whether an act is in the form of a positive act (doing something) or a negative act (not doing something) as an act that can be subject to criminal sanctions based on the law. Criminalization is one of the central problems of criminal law policy, namely regarding the criminalization policy (formulating what actions should be made into criminal acts) and penalization policies (the threat of criminal sanctions that should be imposed on the offender). [33]. According to

Sudarto, criminalization is the determination of an act that was not originally a crime to become a criminal act. The absolute requirement of a criminalization is that it must be carried out by law. This means that the criminalization process ends with the formation of a law that threatens the act with criminal sanctions. The principles of criminalization include: supporting the achievement of national goals, discriminatory actions resulting in losses or causing victims (subsocialiteit), paying attention to the cost and benefit principle, must be enforceable, paying attention to the principle of criminal law as a last resort (ultimum remedium), avoiding vague or general formulations (precision principle), and criminalized actions must be (clearly described in the provisions of criminal law (clearness principle)[34]

Principles to support the achievement of national goals. In line with the Preamble to the 1945 Constitution, the Republic of Indonesia is a unitary state based on law and has duties and responsibilities to maintain a safe, peaceful and prosperous life and to actively participate in maintaining world peace. This goal in the Law on the Eradication of Criminal Acts of Terrorism is implemented by criminalizing terrorism into a criminal act of terrorism as regulated in the Law on the Eradication of Criminal Acts of Terrorism as well as the criminal threats, namely Article 6, Article 7, Article 8, Article 9, Article 10, Article 10A, Article 11, Article 12, Article 12A, Article 13, Article 13A, Article 14, Article 15, Article 16, Article 16A, Article 17, Article 18, Article 19. Then the victims of criminal acts of terrorism are also given protection in the form of medical assistance, psychosocial and psychological rehabilitation, and compensation for the deceased as well as compensation as stipulated in Article 35A, Article 35 B, Article 36, Article 36A, Article 36B. The principle of discriminatory actions results in losses or causes victims (subsocialiteit). Terrorism that has occurred in Indonesia in the form of terror bombs, suicide bombings, has all caused victims. As an example of the case of the World Trade Center in 2001, the Bali bombing in 2002 caused 202 casualties and other sources put the number of victims at 184 and injuring more than 300 people [35]. The victims came from 21 countries, namely Australia 44.72%, Indonesia 19, 10%, England 11.06%, Sweden 4.52%, United States 3.52% and the rest consisted of several other countries, 513 units damaged buildings and 46 vehicles so that it is economically estimated at 7.2 billion [36]. From the examples of terrorism cases, it shows that terrorism has caused multidimensional dangers, namely mass loss of life, regardless of who is the victim, destruction and destruction of property, environment, economic resources, shocks to social and political life, even threatening the life of the nation and state. Based on these data, the criminalization of terrorism has been in accordance with the "principle of acts that are discriminated against resulting in losses or causing victims (sub-socialiteit) have been fulfilled"

The cost and benefit principle. From the dangers posed by terrorism as described above which are multidimensional in nature, the impact of criminalizing terrorism becomes very valuable, namely the realization of a safe, peaceful, prosperous life for the community, nation and state. Judging from the costs incurred for

eradicating terrorism, it is still very affordable for the State because the apparatus that enforces the Law on the Eradication of Criminal Acts of Terrorism can still be carried out by the Prosecutor's Office, the police and the National Counterterrorism Agency. Principles must be enforceable. One of the articles in Law Number 15 of 2003 is Article 1 concerning general provisions. In the general provisions after being amended, the definition of terrorism is regulated, namely: "Terrorism is an act that uses violence or threats of violence that creates an atmosphere of terror or widespread fear, which can cause mass casualties, and/or cause damage or destruction to objects, strategic vitality, environment, public facilities, or international facilities with ideological, political, or security disturbance motives". This definition of terrorism is very abstract because there is no limit to what is meant by ideological, political and security disturbances. The object that is criminalized in the law on the eradication of criminal acts of terrorism is "terrorism". Normatively, with the condition of the norm being unclear about the boundaries of terrorism because it still gives rise to multiple interpretations of ideological, political and security disturbances, the consequences cannot be determined by the elements of a criminal act of terrorism. If this is enforced, then in the eradication of criminal acts of terrorism there is a chance for human rights violations committed by law enforcement officials to occur. However, in practice in Indonesia since Law No. 5 of 2018 has been used by law enforcement officials, there have been no significant obstacles. This means that the "enforceable" principle has been fulfilled.

The principle of criminal law as a last resort (*ultimum remedium*). Government Regulation in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism. From the title of Government Regulation in lieu of Law Number 1 of 2002, it reflects that the eradication of terrorism must be carried out with criminal law, no other policies. Meanwhile, in the Law on the Eradication of Terrorism as a result of the amendment, namely the Law of the Republic of Indonesia Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 200 concerning Eradication of Criminal Acts of Terrorism, it has been regulated non-penal measures regulated in Article 43A, Article 43B, Article 43C, Article 43D.

Non-penal forms of counter-terrorism efforts include national preparedness, counter-radicalization; and deradicalization[37].

1. National preparedness is a state of readiness to anticipate the occurrence of criminal acts of terrorism through a planned, integrated, systematic, and continuous process carried out by the government through community empowerment, increasing the capacity of the apparatus, protecting and improving infrastructure, developing terrorism studies, and mapping areas prone to radicalism terrorism.

2. Counter radicalization is a planned, integrated, systematic, and continuous process that is carried out against people or groups of people who are vulnerable to being exposed to radicalism. Counter-radicalization is carried out by the

Government which is coordinated by the agency that carries out affairs in the field of counter-terrorism by involving the relevant ministries/institutions. Counter radicalization is carried out directly or indirectly through counter narrative, counter propaganda, or counter ideology.

3. Deradicalization is a planned, integrated, continuous process that eliminates or reverses the understanding that has occurred. Deradicalization is carried out on suspects, defendants, convicts, ex-convicts of terrorism or people or groups of people who have been exposed to radical ideas of terrorism. Deradicalization is carried out by the Government which is coordinated by the agency that carries out affairs in the field of counter-terrorism by involving the relevant ministries/institutions. Kesiapsiagaan nasional merupakan suatu kondisi siap siaga untuk mengantisipasi terjadinya Tindak Pidana Terorisme melalui proses yang terencana, terpadu, sistematis, dan berkesinambungan yang dilakukan oleh pemerintah melalui pemberdayaan masyarakat, peningkatan kemampuan aparatur, perlindungan dan peningkatan sarana prasarana, pengembangan kajian Terorisme, serta pemetaan wilayah rawan paham radikal Terorisme.

Non-penal efforts in eradicating terrorism as outlined above show that Law Number 5 of 2018 has fulfilled the *ultimum remedium* principle, each of which has been specifically regulated in government regulations. In addition, Law Number 5 of 2018 is in accordance with the principle of subsidiarity. In the legal dictionary, the principle of subsidiarity which comes from the word *subside* which means additional, namely the application of criminal law is used as an addition if other laws are no longer functioning. In other words, criminal law is the *ultimum remedium* (last resort). The principle of avoiding vague or general formulations (*precision principle*). In Law Number 5 of 2018 there is still a formulation of articles that are vague or unclear, giving rise to multiple interpretations, namely the definition of terrorism. So that the *precision principle* in Law Number 5 of 2018 has not been fulfilled. Meanwhile, the principle of criminalized actions must be clearly described in the provisions of criminal law (*clearness principle*). In Law Number 5 of 2018 in addition to Article 1 which regulates the definition of terrorism, it has been clearly formulated by legislators.

#### IV. CONCLUSION

From the description of the discussion, it can be concluded that the concept of terrorism in Law Number 5 of 2018, Indonesia includes ideological, political and security disturbance motives in the definition of terrorism, while other countries do not include ideological, political and security disturbance motives as part of the limitation of understanding. terrorism. The definition of terrorism in Law No. 5 of 2018 is still multi-interpretive in terms of ideological, political and security disturbances motives because the limits are not regulated in general provisions. The application of criminalization principles in Law Number 5 of 2018 is not completely fulfilled. The principles that are not fulfilled are the principles of avoiding vague or general

formulations. Meanwhile, the principles that have been appropriate are the principles of supporting the achievement of national goals, the principle of discriminatory actions resulting in harm or causing victims, the principle of paying attention to the principle of cost and result, the principle that it must be enforceable, the principle of paying attention to the principle of criminal law as a last resort, and criminalized actions. must be clearly described in the provisions of criminal law.

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