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Revising Indonesia's Anti-Terrorism Laws

By Bilveer Singh

Synopsis

Although much has been done to strengthen the country's legal framework to overcome the terrorism threat since 2002, the law enforcement regime is still weak. Pre-emptive and preventive measures are being proposed to strengthen the capacity to deal with a growing terrorist threat especially after the January 2016 attacks in Jakarta.

Commentary

THE PRESSURE to revise Indonesia's 2003 anti-terrorism laws has gained great urgency following the January 2016 terrorist attacks in Jakarta. The attacks were the first since the 2009 bombings of the Ritz Carlton and Marriott hotels in the Indonesian capital and were also President Joko Widodo's first experience of a terror attack since he took office in October 2014.

Indonesian police must be credited for having arrested and sentenced more than 1200 terrorists in the past 12 years, with more than 100 of them killed in counter-terrorist operations. Still, a major consensus that emerged following the Jakarta attacks was that the existing laws were weak and needed strengthening. Additions of new provisions were needed to preempt and prevent future attacks.

Why Revise Existing Anti-Terrorism Laws?

This was all the more necessary in view of the rise of new extremist groups in Indonesia and the growing threat of radicalisation and terrorism worldwide. It was also to prevent the threat posed by Indonesian returnees after fighting and providing support for the self-styled Islamic State in Iraq and Syria (ISIS).

Indonesia would be in a much stronger position to deal with national and international terrorism if its anti-terrorism laws had stronger teeth. The aim is to give the Indonesian police and its anti-terrorist apparatus powers to act before terrorist violence had taken place rather than after.

Despite six major attacks and more than 20 minor ones, Indonesia's anti-terrorism framework remains relatively weak. This has to be understood as undertaking counter-terrorism operations in the largest Muslim state within a paradigm of democratic consolidation.

Proposed Changes to Anti-terrorism Laws

With the aim of strengthening the anti-terrorism regime, a number of new measures have been proposed since the 2016 Jakarta attacks. These include widening the definition of radicalism and terrorism, strengthening detention powers and for heavier penalties for various acts of terrorism. Some of the proposed new measures are:

1. Granting the security apparatus powers to hold a suspect longer than a week without a criminal charge to allow the police more time to gather sufficient evidence to charge an individual.
2. Permitting the police to detain an individual for 180 days rather than the current 120 days so that a strong case can be made against suspects. Widening the definition of radicalism and terrorism will allow this in cases of incipient acts of terrorism.
3. Permitting communication, financial transactions and intelligence reports to be used as evidence in courts to charge suspects for terrorism.
4. Giving intelligence officers the right to arrest terrorist suspects.
5. The revocation of citizenship for Indonesians who join a foreign terrorist group or participate in wars in a foreign country.
6. That acts of insulting the Indonesian State be criminalised, including viewing an Indonesian as a traitor if he fights for or pledges loyalty to other states such as ISIS.

There have also been discussions for more effective de-radicalisation and counter-radicalisation measures. These also include strengthening the prison system, currently seen as the epicentre for terrorist recruitment in Indonesia. Here, special high security prisons for leading jihadists and ideologues have been proposed. In essence, the measures are aimed at making Indonesia's anti-terrorism policies more effective, and having a more pre-emptive and preventive regime.

Challenges Confronting Indonesia

However Indonesians loathe giving the authorities powers that they fear may be abused. This alone poses serious challenges to Indonesia's attempt to revise the 2003 Anti-Terrorism Law today.

Many question whether there is really a need to revise the 2003 law since the security apparatus has been able to deal with the threat of terrorism with existing laws all these years. Also, who should take the lead in revising the anti-terrorism laws? While the Executive can recommend, the final powers rest with the legislature, namely, the Parliament.

There are two parliamentary commissions involved in the debate. Commission I has oversight over defence and intelligence while Commission III has oversight over legal affairs and security. The debate is a simple one - is this revision of the terrorist law a defence or law and order issue?

There is also concerted opposition from the main secular and Islamist political parties as well as civil society groups. Issues have been raised about the new laws being too restrictive and arbitrary. There is fear that the new laws could be abused and used against political dissenters rather than the terrorists and to trample on human rights. Many also oppose involving the military and intelligence agencies in anti-terrorism operations.

Even if the new laws are passed, there would be the challenge of coordination among the various anti-terrorist agencies with new powers. Already, the competition among the police, military and national intelligence agency has been a stumbling block to a more effective anti-terrorism policy in the country.

The Looming Threat

Clearly, Indonesia's anti-terrorism laws need to be strengthened with pre-emptive powers along the lines practised in Singapore and Malaysia. The Jokowi government's commitment to this is evident with the revision of anti-terrorism laws being added to the list of prioritised legislations.

It is hoped that the revised laws could be passed by mid-2016. Indonesia is faced with the threat of terrorism especially from Islamic State. There are more than a thousand Indonesians fighting for ISIS. With a few hundred returnees already positioned in Indonesia, the moment the green light is given by ISIS for Indonesia to become a legitimate jihadi target, Indonesia would need a strong legal framework to back its hard and soft approaches to deal with the looming threat.

Bilveer Singh, an Associate Professor of Political Science at the National University of Singapore, is an Adjunct Senior Fellow at the Centre of Excellence for National Security (CENS), S. Rajaratnam School of International Studies (RSIS), Nanyang Technological University, Singapore. He is also the current President, Political Science Association, Singapore and National Coordinator, Southeast Asian Conflict Studies Network.
