TERRORISM AND THE PERPPU NO.1/2002

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I. Introduction

The occurrence of the Bali bomb explosion has brought about several important impacts on Indonesia's political and security policies. First, the government immediately issued Government Regulation in lieu of Law (PERPPU) No.1 of 2002 regarding Eradication of Terrorism, and PERPPU No.2 of 2002 regarding the use of PERPPU No. 1 to conduct investigation on the bomb explosion case at Kuta, Bali. Second, the government declared the *Jemaah Islamiyah organization as a terrorist organization responsible for the occurrence of the bomb explosion action in Bali and through the Ministry of Foreign Affairs listed the Jemaah Islamiyah organization as a terrorist organization all of the activities of which may be categorized as violating PERPPU No. 1 of 2002.*

On the one hand the three matters constitute impacts directly related to the occurrence of bomb explosion in Bali, on the other hand what has to be studied is the 'inherent' impact of the three direct effects mentioned above, which are related to the domestic political policy in Indonesia calling for further attention, because they are related to better quality protection of human rights and democratization efforts. These brief basic considerations will attempt to divide into five parts, namely: First, evaluating the terminology of terrorism itself as discursive field; Second, analyzing the material of PERPPU No.1/2002; Third, looking into the relationship between international law context and material of PERPPU No.1/2002; Fourth, analyzing and predicting the inherent impact of government policy with the issuance of PERPPU No. 1/2002 and designation of terrorist organization on the political policy at the national level, particularly in relation to the development of the resolution of the Aceh case the negotiation which is now ongoing at Geneve, and the HAM (Human Rights) violation case occurring at Papua; Fifth, providing evaluation and basic considerations on all terrorism problems and their relationship with PERPPU No. I/2002.

II. Terrorism and the Limits of Discourse

Apart from all possibilities regarding various motifs, PERPPU No. 1/2002 regarding Eradication of Terrorism Crime has become the only legal guide and political tool of the government to fight what is referred to as terrorism.

In the context of criticism and assessment of this legal product, besides the material-procedural aspects as disclosed in the assessment of many parties, there still are several variables that have to be taken into account, that can serve as the basis for additional foothold to formulate certain attitudes on it, amongst others:

1. In the current specific situations and social-politic context developed post-authoritarian periods, which are more need reinforcement for the democratic security, whether or not this PERPPU (Government Regulation Substituting Law) is capable to give guarantee to the efforts on the democracy expansion? Are the crimes incompatible to the needs for reinforcing the institution as well as democratic practices? (capability to support democratization process?)

2. The second factor is how far this PERPPU as a legal product of the post-authoritarian period may give sufficient understanding not merely to be criminal instrument of the terror but moreover how can it extend people understanding on the importance to reject violence and to settle violence politic in general such as impunity etc. (capacity to settle structural violence).

In order to answer the two problems above, the following article wishes to give brief considerations, which maybe used to see, particularly the meaning of terrorism action and its relationship to the violence conception in general.

II. 1. One Dimensional Conception on Terrorism

Concerning the construction of its ideas, the terrorism is dominantly and officially defined in the frame of *one direction* meaning that the actor to be appointed is single namely merely *non-state actors*, so that terrorism action in this understanding shall always be seen in the activity that according to the term of Johan Galtung as the *terrorism from below.*[1] Such construction model can be called as *one-dimensional conception*. It can be seen from a number of definitions as follows:

"Anybody who intentionally uses violence or violence threat that may rise terror condition or fear to the other persons in general or causing massive victims, by way of taking by force their freedom or causing death or lost of property to other persons, or causing damage or destruction to vital and strategic objects environment or public facilities or international facilities shall be confined by the dead sentence or long life imprisonment or imprisonment at least 4 (four) years and at the longest 20 (twenty) years". (Article 6 PERPPU No. 1/2002).[2]

One dimension definition may also be seen from old definition presented by the League of Nations year 1937. Terrorism is seen as a crime that may only be conducted by non-state actors.

"All types of criminal action conducted against a state that is aimed to create terror condition to someone mental or a certain group or public community". (League of Nations Convention, 1937).

The same character of definition may also be founded in the United Nations resolution of 1995 formulating the terrorism action and method as:

"Actions purposed to destroy human rights, basic freedom and democracy, threatening territorial integrity and state security, destabilize a constitutional governance legitimacy, damaging pluralism of social and community as well as influencing the economic and social development condition of a state" (UN General Assembly, Resolution No. 50/186, 22 December 1995).

II. 2. Weaknesses of One Dimen-sional Conception

Based on the above definition, it is clearly seen that the dominant and official understanding of terrorism may be seen merely as an action that at the ending is purposed to make injury the state, it may be equalized with a subversive politic. On the other word, this definition is more purposed to protect the existing official interest and power. It neglects reality that terrorism as a crime to the human being is indeed many occurred in relation to the capacity of the dominant power in the certain government or states, so that its suppression must firstly be seen as an effort to control the power protecting the ruling political regimes.

Finally, this one dimensional conception is totally fail to understand the most substantial meaning of structural causes and the sources of arising the crime like this. Galtung considers that all kinds of violence and subversion conducted by non-state actors are something that is not related to political practices occurred in the history of previous power. It is what called by Galtung as political autism namely an official view assuming that whatever occurred and conducted by other group is not related to whatever conducted by us. In addition, this idea has also neglected the meaning or root of the violence in each terrorism action and its relation with the power. In many cases for a number of groups, terrorism is considered as a way of violence as the only one language to express injustice situation to suffer. It is the reason that may become terrorism background although it cannot be excused and served as legitimate basis. However, it must be understood in deeper and adequately.

II. 3. Two-Dimensional Concept on Terrorism

By looking at the above weaknesses in the end it becomes important to refer to what is stated by Michael Tilger that terrorism has two basic forms, namely first the state-sponsored terrorism (such as paramilitary in

Colombia and various states in Latin America funded by the United States to kill leftists and labor union activists, paramilitary previously operating in East Timor, and so on). The second is insurgence-group terrorism usually started as reaction against and triggered by social and political injustice causes in society.[3] With regard to this, Galtung stated that for example in the September 11 case, Bin Laden to Al Jazeera said that 'our nation has been tasting this humiliation and this degradation for more than 80 years…' [4] Containing the same matter, Chomsky in a more detailed manner disclosed that for example the U.S. embassy and U.S. Navy barrack bombing cases in Beirut in 1983 gave birth to two types of interpretation, namely the first originating from the dominant and official view of the U.S. government which looked at the event as constituting "the most violent acts of international terrorism have generally reflected some clear logic … which were attempts to drive the United States from Lebanon". Meanwhile on the other hand a fundamentalist group interpreted the event with this view: "*The American people must know, that their civilians who got killed are not better than those who are getting killed by the American weapons and support*".[5]

Besides Chomsky and Galtung, in the Indonesian context we can also see that for example the hardening of ideological character in the "hard line" groups using the violence means in politics must also be seen as an effect and reaction on the experience of repression in politics, security, and intelligence of the New Order. Therefore their emergence lately must also be seen as a kind of 'revenge' and continuation of the subversion politics of the New Order.[6]

At this point in the end we see that unlike the dominant and official view, basically in practice the two-dimensional view sees there is linkage connecting between one terrorist action committed by a country with another terrorist action: namely, that in many aspects terorism emerges as a means of revenge against the state terrorism itself. At this point both are connected by the same number of entities, namely that:

"Terrorism (carried out by men and women without uniform) and state terrorism (carried out by men and women in uniform, a difference of little importance to the victims) have the following characteristics in common: they use violence for political ends, they harm people not directly involved in struggle; the are designed to spread panic/terror to bring about capitulation; they have an element of surprise in the choice of who, where, and when; they make perpetrators unavailable for retaliation or incapacitation". (Galtung, 2002).[7]

At this point it must be understood within the framework of "process of violence recycling". What is done by non-state actors sometimes and in many cases can be understood as a kind of 'direct violence' used as a means to face 'structural violence' (injustice, relationship imbalance, and economic absorption, cultural domination). It is at this point that there is ideological foundation that many terrorist actions are in fact getting support and the players as well as the leaders are worshipped and admired by many followers. The course of violence practice in the long history of mankind shows that a number of terrorist movements that from below were started and inspired by failure of social movements trying to destroy all forms of structural violence. This is the crucial point to understand the existence of the crime.

From the understanding of existence of the two dimensions of the concept regarding terrorism themselves we need to analyze and study and at the same time conduct evaluation of the issuance of PERPPU No. 1/2002 in connection with the bomb explosion action at Legian, Kuta, Bali.

III. Issuance of PERPPU No. 1/2002

The issuance of Regulation in lieu of Law No. 1 of 2002 gave birth to many controversies. On the one hand this PERPPU obtained support because it was expected that it could prevent or anticipate the growth of terrorism crime taking place extensively in several Southeast Asian countries, particularly Indonesia; on the other hand, this PERPPU encountered a lot of resistance because it legally and formally uses the principle of retroactivity that actually cannot be applied because terrorism in not included in the category of crime that can apply the principle of retroactivity. This PERPPU also has strong potentiality for the occurrence of human right violation, because with this PERPPU the government can arbitrarily conduct labeling on the action that they categorize as terrorism crime and also the use of intelligence report as initial proof for investigation. Two matters that can be seen from the material of this PERPPU; first, this PERPPU

constitutes special and specific stipulation because it contains new stipulations that cannot be found in the laws and regulations that existed previously, and deviating from the general stipulation contained in the Criminal Code and the Criminal Procedure Code (see Elucidation). Se cond, in Article 25 paragraph (1) it is explained that investigation, prosecution, and review in court trial in terrorism criminal act cases are conducted based on the prevailing procedural law, unless stipulated otherwise in this PERPPU.

The impression that can be evaluated from the issuance of this PERPPU is PERPPU No. 1/2002 was prepared in a panic situation (panic regulation) thereby deviating from the principles of law and prevailing without limitation. The stipulations of PERPPU No. 1/2002 that is contradictory to law clearly will impair the image of law enforcement that has thus far been weak and corrupt. However the attitude of wariness (crime control) against the possibility of existence of elements developing a common purpose in committing acts that can be categorized as "terrorism" and/or international criminals must be adopted without prejudice to the implementation of democracy and by protecting the individual rights (due process of law) of the Indonesian people.

This controversy also caused the YLBHI to adopt the attitude to reject the application of this PERPPU with several considerations: first, regarding PERPPU No. 1/2002. In various discussions, debates and materials of the PERPPU itself it was bluntly stated that it was intended to carry out arrest of people accused of being terrorists with a quicker, briefer method without requiring the procedure or rule as provided for in the Criminal Procedural Code. From the formal and material dictum it is clear that the action categorized as terrorism and the threatened prosecution are almost not different from what is in Law No. 51 or other criminal rules such as planned murder that can also be sanctioned with the maximum death penalty. In PERPPU No. 1/2002 Article 26 with regard to procedural law it is explained that the security force is able to make arrest and detention only based on intelligence report as initial proof supported by ruling of the Chief Judge or Deputy Judge of the High Court, without having to take into consideration the right to legal protection and the principle of presumption of innocence of the accused (Article 26 paragraph 1). Elucidation of intelligence report: this is a report related to national security, from the Ministry of Home Affairs, Ministry of Foreign Affairs, Ministry of Defense, Ministry of Justice and Human Rights, Ministry of Finance, Indonesian National Police, Office of the Attorney General, BIN (Intelligence Board), and related agencies. Although in the elucidation it is stated that new hearing and legal audit institutions have been introduced to test the intelligence report, but there is still specialization, namely the universal jurisdiction. Where according to the Criminal Procedural Code it is provided for that the scope of duties of the investigator and/or public prosecutor is to follow the relative competence of the authorized district court, so that PERPPU No. 1/2002 will not again apply the relative exception as provided for in Article 143 of the Criminal Procedural Code. Thus the basic assumption of the purpose of this PERPPU is very clear, namely to provide wide authority to security apparatuses in providing convenience in making arrest or detention.

Second, the term terrorism itself is not explained in detail, therefore the assumptions that can be applied in carrying out categorization on the action meeting the terrorism elements (Article 6 and Article 7 of PERPPU No. 1/2002). To valid arbitrary labeling for political purposes of the government, the defini-tion regarding terrorism must be clear and limiting. Therefore law enforcement for terrorism crime must be able to guarantee there is balance between the rights of citizens and the authority of the state to avoid the occurrence of misuse of authority, requiring accountability of state violence equipment and tools that may not at all violate basic human rights (non-dirigible rights).[8] In principle, the criteria or categorization – if we do not want to call it definition – regarding what is "terrorism crime" itself is substantially contained in the articles of the Criminal Code, some that can serve as examples: Articles regarding Crime against State Security (Articles 101-129 of the Criminal Code), articles regarding Crime against Implementation of Obligations and Citizenship Rights (articles 146, 147, 148), articles regarding Crima Endangering Public Safety for People and Goods (articles 187-206), and articles provided for in the emergency law regarding Misuse of Explosives. Thus substantially the argument that the Criminal Code is not adequate in providing legal basis for crime categorized as "terrorism crime" can be said to be wrong.

Third, PERPPU No. 1/2002 is contradic-tory to the hierarchy of laws serving as the legal basis as provided for in Ruling of the People's Consultative Assembly of the Republic of Indonesia No. III/2000, particularly

article 4 paragraph (1) stating that any legal rule that is lower may not be contradictory to a legal rule that is higher (the principle of *lex superiory derogat legi inferiori*), because in the Human Right Law No. 39 of 1999 Article 73 it is clearly stated that in exercising his/her rights and freedom, anyone is obliged to abide by the limitation established by law with the purpose of guaranteeing acknowledge-ment of and respect for the principle of presumption of innocence and freedom of other people and to fulfill just demand in accordance with the consideration of moral judgment, religious values, security and public order of a democratic society. Meanwhile in several articles of PERPPU No. 1/2002 there are many contradictions with various laws and regulations that are higher.

Fourth, in the case of arresting and detaining someone, this PERPPU has violated and contrary to the other regula-tion such as the Law. According to the Law No.8 year 1981 (Civil Law Code) in Article 19 paragraph (1) someone may only be arrested at the longest for one day. Meanwhile, in this PERPPU No. 1/2002 article 28, it may be conducted up to the longest seven days. Also in the detainment of someone, according to KUHAP, at investigation level it may only be done up to maximum 60 days (2 months), while in the litigation level may only 50 days. Meanwhile, PERPPU 1/2002 gives very long authority. It can be seen in Article 25 paragraph (2) where detainment may be carried out for 6 (six) months respectively for investiga-tion (4 months) and litigation (2 months).

Fifth, other provision in PERPPU No. 1/2002 that is contrary to KUHAP is about witness protection on granting information without face-to-face meeting with the suspected (Article 33 in conjunction with 34 paragraph 1 c). This regulation will neglect regulation that witness investigation must be carried out before the session and the right to conduct confrontation (examination) that becomes the 'soul' of crime justice.

The legal action in PERPPU 1/2002 has also deduced the right of suspected who have been guaranteed by KUHAP and the Basic Law of Justice Power (14/1970 jo. 35/1999), where someone who has been subjected to an in-absentia session shall not be given right to appeal, it may only be given cessation (Article 35 para-graph 1 jo. paragraph 4). Whereas, in Article 67 jo. 233 KUHAP the suspected is entitled to appeal. Each victim or legal heir shall be given compensation or restitution by stating in the dictum of the court judgment. In Article 36 paragraph 4, if we adopt PERPPU No. 1/2002 then all victims on the 'terrorism crime' must be presented in the session by judge. Otherwise, the judge could not make stipulation in its judgment to give the compensation, rehabilitation and or

restitution.

Maybe it is impossible for a judge to hear all the victims and or their legal heir. Therefore, compensation for the victim loss could not be given maximally by PERPPU No. 1/2002. The prevailing regulation for TNI (Indone-sian Armed Force) members regulated according to the Law No. 31/1997 Article 74 and 123 has also be nullified by this PERPPU. The superior authority that is entitled to give sanction (Ankum) and the Officers transferring the case (Pepera) are not effective anymore according to Article 44 PERPPU No. 1/2002. It means some crime case process for military shall not be effective anymore by the existence of this PERPPU, in the case the 'terrorism' crime case. It may also be seen from Article 45 on the President authority to take policy and operational steps of PERPPU implementation. The provision of this article shall be coordinating act that should not be available in a legal rule, because it may eliminate the principles of justice and legal certainty for all peoples. This coordinating princi-ples may also give a 'blank check' to the President to take other actions. This article is very potential to retrieve an intelligent role to get rid of the political

enemies silently as occurred in the New Order government.

Responding to the situation at the international level highlighting Indonesia after the occurrence of the bomb explosion in Bali, the Indonesian government declared that the *Jemaah Islamiyah* (JI) organization as terrorist organization, and registered it with the UN. This political policy clearly accommodates international political interest previously classifying JI as part of international terrorism network.

On the other hand, the political policy of the government to submit an organization to be put into the 'terrorist organization' category can have an implication at the national political level. The procedure for category legalization whether an organization meets the criteria or elements as a terrorist organization threatening peace on an international scale must be studied seriously.

Bali bomb explosion is a very serious humanitarian problem, however is it permitted for the government to take action in responding it by violating the democracy foundations that are being built by the civil society power? The answer is of course not, moreover that many incident do not merely rise as militant and destructive movement, that use violence as their political agenda, but it is as a part of carrying aspect of the existence of social injustice and as a heritage of structural violence of the previous regime.

Moreover, some regulations in the international law have clearly focused to the effort on fulfilling the aspect as previously mentioned, and of course it is not allowed for the government to make labeling toward the action that is categorized as the terrorism without observing some basic aspects. The international law in some regulations, covenant and its protocols try to regulate the norms in terrorism case.

IV. PERPPU No. 1/2002 in the International Law Context

Concerning terrorism case, there are 12 conventions including the main protocol rules adopted by the United Nations (UNO). These international agreements principally regulate the norms including responsibility of the state in answering terrorism problems. If it is deeply analyzed, there is no formulation of terrorism definition in the international law standard adopted by the United Nations

Organization, either the international agreements or resolutions issued by the Security Board or General Assembly. Therefore, legal instrument containing the terrorism problem shall directly mention the situation and occurrence or the specific incident.

Situation or incidents that is formulated as terrorism acts among others are: crime conducted on aircraft or frequently called by the aviation security crime (Tokyo Convention, 1963); Aircraft hijacking crime (Hague Convention, 1970), it is also specifically regulated the crime which is conducted to a civil aviation (Montreal Convention, 1971). In short, this crime may threat or give negative impact to the right of life, liberty and security of person and has broad implication for the global security and peace.

In the beginning of era 70-s, the international law standard adopted by the United Nations Organization particularly in respect to the crime against individuals, in which in the international law, its safety is protected. These individuals among others are senior government officials and diplomats. These regulations for example are contained in the Convention for Preventing and Judging Crime to the Protected Individual According to the International Law year 1973.

Then, it is also adopted the regulations such as: the international law standard on Hostages Convention, 1979, Nuclear Materials Convention, 1980, Convention of the Crime to Maritime Navigation Security (1988), Convention in relation to the crime of providing chemical materials used for sabotage (1991), Anti-Terrorist Convention Using Bomb or explosive materials (1997), and Convention on Terrorism Activity Financing (1999).

IV. 1. Principles To be Adhered

From the international law framework, there are basic principles that must be adhered by a state in carrying out the international obligation to prevent and answer the problems in relation to the terrorism crime. There are at least 4 main principles.

First, situation and occurrence or condition offences against penal law. Therefore, the crime to be committed must be proved its criminal elements, and it is not merely based on assump-tions or based on

conspiracy theory. In this context, there is also a principle on the existence of the reasonable grounds to conduct reasonable measures, both in conducting reasonable preventive mea-sures as well as to anticipate the crime by referring to the necessity principle.

Second, all state measures are not permitted to be conducted based on discriminative considerations, both in politic as well as based on race and reli-gion discrimination (non-discrimination principles).

Third, other important principle is fair treatment principle. The state is obliged to guarantee fair/justice treatment based on the international standard that is effecttive at each level and stage or legal process to be conducted. This fair treat-ment, for example, it is not justified for the state officers or state authority to conduct human rights crime, namely a crime against living right of someone that is more known by non-derogable rights.

Fourth, in the frame of preventive ac-tions and controlling terrorism, the Uni-ted Nations has also adopted the provi-sions on sovereign right of a state. In the international legal frame, it is not permitted the interpretations made by a state that violating the other state sovereign.

Referring to the legal framework above, actually it can be determined evaluation to the materials of PERPPU No. 1/2002 on Anti-Terrorism. There is no objection to counter crime or to prevent crime that inflicting domestic and international communities. However, it should be considered and carried out a rule that may maintain a sustainable social - politic equilibrium.

In the Indonesian context, this regulation may only be made based on the requirements to strengthen democracy consolidation and to build democratic state system, not to weaken it. Therefore, if indeed it makes weak the democratization, the answer is: it is not needed to make other regulations. Indonesia may adopt the existing international regulation. For example, to ratify the two previous main covenants and then ratify the convention in relation to the terrorism case.

IV. 2. Protecting Citizen Rights

In terrorism case, by referring to the international norm, it is appropriately to be noted that the state has also obligation to protect the citizen right that by other state authority is suspected as the crime actors.

On the other hand, the state is obliged to give information as soon as possible without any delays to an authority in other state that may be considered to protect human rights of 'the suspected'. This obligation includes to give opportu-nity to the suspected to be visited by the official or representative of the state that is considered to have the authority in the case of protecting the 'suspected' rights.

Moreover, in many international agreements or conventions are contained consideration of UNO charter. As a note, Indonesia as a member of the United Nations shall comply to article 55 -- which principally attach itself to the awareness for creating a justice and peace condition – the members of the United Nations are obliged to promote the three main conditions, namely:

The first, the availability of high life standard, job opportunity and fulfillment of economic and social rights of the citizen and development. *Secondly,* it is involved in the formulation and implementation of the international solutions to answer economic, social, health and education problems for the citizen. *The third,* universal respect and fulfilling human rights and basic freedom without any discrimination based on race, gender, language or religion.

Therefore, in one side the state is obliged to carry out effective effort in answering terrorism case by conducting international cooperation. On the other hand, the state is also demanded to perform its obligations to facilitate for creating a condition where the people may enjoy collective justice, prosperous and security.

V. PERPPU No. 1/2002 and Possibilities of Implication on Resolution of Cases in Aceh and Papua

At the domestic level there are tendencies that we predict as constituting the form of tendency of misuse of PERPPU No. 1/2002, particularly in facing upheavals of a separatism nature. Two potential conflict regions where PERPPU No. 1/2002 may be arbitrarily applied are the Aceh and the Papua regions. At these two armed conflict re-gions, the possibilities of application of PERPPU No. 1/2002 are quite big, since the direction of labeling of the separa-tism movement as being equivalent to terrorism crime has been repeatedly de-clared by military officers and ministers handling political-security affairs. The-refore, several following views attempt to describe the tendencies as danger that can make the peaceful resolution efforts at Aceh and Papua become increasingly difficult and reach a dead end.

Law No.18/2001 regarding Special Autonomy of Nangroe Aceh Darussalam provides a picture of the attitude of the Indonesian government to give wider autonomy for the Aceh province with the hope that this can reduce the bloody conflict with the Aceh separatist group. The purpose of giving the autonomy is to bit by bit eliminate the political domination and economic exploitation of the Aceh province by the central government, which is expected to be able to reduce the support of the people for the Aceh freedom movement.

However from another aspect the Indonesian military still carries out offensive military action intended to destroy the armed wing of the Free Aceh Movement (GAM). This action is believed to be not bringing the effort for resolution of conflict at Aceh towards a better phase, because the group of people who are beyond the armed conflict will be drawn into the extended conflict flow. There are many analyses and facts that if conclusion is made it will be considered that solution through military pressure will not succeed because human right violation resulting from the military action will further alienate the Aceh community in general. This conclusion can indeed serve as the basic of evaluation in looking into the development of resolution of the case at Aceh until the last few months, in which the conflict still took place with increasing number of casualties as noted by the Banda Aceh LBH.

Case of Violence at Aceh that can be Monitored in the January-September 2002 Period:

Type Month	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov
Extrajudicial Killing	210	60	173	109	84	61	90	129	140	115	79
Disappearance	27	6	38	15	29	19	-	45	43	76	34
Torture	160	27	243	383	163	51	158	164	234	57	107
Arbitrary Detention	131	62	102	67	117	54	122	94	108	139	66

Report processed from various sources.

The effort for peaceful resolution at Aceh has also undergone a tidal process viewed from the attitude of the government and military officers. For example, the Army Chief of Staff General Rymizard Ryacudu once said that Indonesian Army rejected the government policy with regard to resolution by means of dialogue for resolution of the conflict at Aceh and the upheaval at Aceh could only be resolved by military operation (Koran Tempo, August 12, 2002). The occurrence of fractionalization in the effort for resolution at Aceh into resolution through dialogue and resolution by means of military action will drag the situation to the effort for application of civilian/military emergency status at Aceh. Although to date the policy has not yet been implemented, but this creates tension between the Indonesian Government and the Aceh community. On the one hand the Army Chief of Staff General Ryamizard approved the effort for application of civilian emergency status at Aceh (Media Indonesia July 25, 2002), on the other hand the House of Representatives and the Governor of Aceh rejected the application of the civilian/military emergency status at Aceh (Media

Indonesia July 17, 2002; Koran Tempo July 15, 2002), including rejection by the Aceh Regional House of Representatives (Kompas July 11, 2002).

The latest development of the Aceh conflict is discourse by the Indonesian Government regarding the GAM terrorism action. This government discourse simply copied the discourse of the West regarding terrorism after the September 11, 2001 event. Coordinator Minister for Political and Security Affairs Susilo Bambang Yudhoyono stated that GAM constituted a terrorist movement and for the purpose the government needs legality to overcome terrorism activity (Kompas, July 5, 2002). The discourse by the Indonesian government regarding terrorism shows how the character of the state that still has authoritarianism breath, by trying to carry out simplification of the problem. The terrorism issue which has become the consumption of the international public has been drawn into a national issue, to obtain the support of the international world for resolution of the Aceh case through military action under the umbrella of "fighting terrorism". For the purpose of supporting the discourse by the Indonesian Government regarding terrorism, Draft Anti-Terrorism Law was prepared, one of the possibilities of which is to provide formal legitimacy in carrying out more systematic military action in facing GAM separatism. This possibility has to be studied since thus far there has almost been no international support for Indonesian military action as part of the Aceh case resolution. The bomb explosion in Bali resulting in 183 casualties – mostly foreigners, has transformed Indonesia to be the focus of attention of the international world on the escalation of terrorism action. In response to this, the government issued PERPPU No. 1/2002.

Then how do we read the development phase of the impact, and more importantly, how do we read the political project to be undertaken by the government in relation to the political interest at the national level, particularly at conflict regions such as at Aceh and Papua?

What happened in Aceh and Papua should be given more serious attention considering Aceh and Papua conflicts are the armed separatism conflict in which if it is seen from the PERPPU No. 1/2002 it may be categorized to meet the requirements and elements as terrorism. However, those substantially make different from the action that is categorized as the terrorism is Aceh and Papua conflicts are the case of incapa-bility of the Indonesian government in regulating and managing community needs, so that there was resistance action which are responded by the excessive armed repression action. The escalation of violence and armed conflict which continuously occurred at both areas (refer to the above table) must be imme-diately brought into the peace negotia-tion process, and dialogic settlement. In this level the people and international community must give fully support to the effort on the peace settlement, beca-use the tendency for increasing armed conflict may end to the categorization of Aceh and Papua conflicts as the terro-rism action. If it is occurred then those, which must be emphasized to the Indo-nesian community and international community that Aceh and Papua problems are internal problems or natio-nal problems, which rise from incapabi-lity of the government to meet economic, social, politic and cultural needs in both areas. Since the international community support to the categorization of Aceh and Papua as the terrorism movement, will inhibit the peace process both in the national level as well as international level. The political instrument such as PERPPU No. 1/2002 will bring the impact that is very danger if it is placed in the context of Aceh and Papua problems. The arrest, kidnapping and murder will more get formal and legal support, so that it may make difficult for the international campaign works in the effort of peace settlement in Aceh.

Signing the agreement of stopping hostility between the Indonesian Government and GAM (Independence Aceh movement) are expected to open dialogue and create a peace in Aceh, or at least to decrease armed conflict that for the time being may cause civil community as victim with the largest number. Signing this agreement must be a starting point in the effort of democratic security enforcement in Aceh and it must not be violated, moreover by justifying terrorism activity or action in Aceh, which of course will inflict the recovery of economic-social-politic condition of Aceh community which have been ruined as a result of long armed conflict.

VI. Epilogue

By considering two dimensions in the terrorism, then it is clear that actually terrorism that become the dominant discourse for the time being may only be understood clearly if we see it in the frame of the relationship between the structural of violence and direct violen-ce. Therefore, based on the fundamental problems relating to this terrorism that merely can be settled through a longer way and the structural namely by under-standing main causes of injustice and political repression that become as the background. The effort of terrorism eradication must be conducted in line with the effort:

1. Preceded by eliminating all kinds of the state terrorism and at once as the terrorism action conducted by non-state actors.

2. Understanding structural aspects as the basis of the person to follow a request of the political leaders supporting terror action (injustice, poverty, etc.)

3. To support all kinds of the effort to struggle justice particularly in the repressed groups in politic, in accordance with the basis of the human rights.

In order to eradicate terrorism, it must also discover all covers protecting the state-sponsored terrorism, so that the impunity cover may be disclosed and broader justice may be created. In addition, the war against terrorism must be an effort to give a way for providing information in the dark aspects in social life which then may give expectation and real recovery to those which for the time being are neglected and they are not easily brought into a violence and hostility appeal.

By such obligatory, then it is clear, if we return to the evaluation on PERPPU No. 1/2002, it can be concluded that this PERPPU is not appropriate way that can be taken as a way to eliminate terrorism, indeed on the other hand this PERPPU may strengthen the structural violence roots in the community since the existence of repressive potency therein. In this point, it can be ensured that in the long term, terrorism may present in various types of direct violence even they will get new facility.

Something that must be paid attention in this situation is very important for us to place the international and national problems in Indonesia into two different areas. The international terrorism problem is a problem that must be responded seriously by all states in preventing violence actions that causes many victims in the community. However, it should also become serious attention to see that the national problem in Indonesia as occurred in Aceh and Papua are the domestic problem produced from incapability of the government in managing and fulfilling political, economic, and social needs and demolishment of the cultural values producing a number of resistance movement contrary to the social injustice. However, on the other side, the Indonesian government has tried to bring the international problem, namely the existence of terrorism risk into the national political problem to anticipate the political oppositions, as well as resistance actions arising in some areas. PERPPU No. 1 and Anti-Terrorism Law which are being submitted have potency to become the most effective instrument for the government particularly military to carry out repressive action in encountering the political opponents, as well as in responding the community dynamic which is in the progress.

Political policy of Indonesian security in the future will be sufficiently determined from how does the government manage PERPPU or Anti-Terrorism Law. The tendency of state character which is still authoritarian will bring PERPPU and Law as instruments to break ray of democracy, promotional works of human rights, and strengthening of civil community will be threatened. Therefore, we ask all components and elements in the Indonesian community and also the international communities to jointly maintain these ray of hopes in order to continuously grow and develop, not to be broken and dead, which indeed will give the larger space for rising terrorism with other faces, namely state terrorism.

1 For further understanding refer to Johan Galtung (2001), *11 September 2001: Diagnosis, Prognosis, Therapy (http//:www.transcend.org)*

2 In the above definition in the meaning of the word anybody although included also the state officials such as military or police (article 1 paragraph 2), however the understanding of 'military' or police is more directed to the definition concerning the corporation released from the accountability relation in official as the reflection of the state power or state apparatus