

A Legal Intervention in Combatting Terrorism and Violent Extremism in Malaysia

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In the era of globalization and information and communication technology, the modus operandi of ‘terrorists and violent extremists’ have transcended from the real world to cyberspace. The cyber environment provides a safe haven for them to spread propaganda, promote radicalization, and as a source for recruitments. Despite having legislative sanctions to combat the problem, soft modalities are also imperative in preventing and countering terrorism and violent extremism (PVE/CVE). The objective of this paper is to examine the use of the Internet in violent extremism and the PVE/CVE efforts in the existing legal and non-legal modalities in governing such criminality. This paper adopts a library-based research methodology through content analysis and doctrinal legal analysis in which the secondary data consists of primary sources, which are the terrorism-related laws and the Penal Code. The secondary sources include books, law reports, journals, and online databases. The authors contend that the internet provides a safe refuge to spread VE without detection via anonymity and trans-border connectivity. As VE has shifted from the real world to cyberspace, it posed a greater risk worldwide. The governance of such crime through hard and soft approaches is imperative given the seriousness and impact of such crime.

Key words: *Violent Extremism, Terrorist use of the Internet, cybercrime, Countering Violent Extremism, Preventing Violent extremism.*

Introduction

Traditionally, terrorism and violent extremism (VE) are synonymous with ground attacks, suicide bombers, or armed conflict. However, recent literature suggests that over the past decade, terrorists have been using the Internet not only in spreading their propaganda but also for recruitment and financing. The new ways of spreading VE narratives have posed a worldwide threat where radical propaganda can reach a wider audience, which may trigger an increase of terrorist attacks. Malaysia is one of the key targets of extremist groups in running their terror operations and is yet to have its own PVE/CVE model in preventing and countering violent extremism (PVE/CVE) on the Internet. In 2018, the percentage of Internet users, particularly social media users, has increased up to eighty-six percent (86%) from seventy-three percent (73%) in 2017 (MCMC, 2018).

Violent Extremism (VE) had been discussed by various researchers, and it does not possess a single agreed definition as it is often used interchangeably with terrorism. The Federal Bureau of Investigation (2018) defined VE as encouraging, condoning, justifying, or supporting the commission of a violent act to achieve political, ideological, religious, social, or economic goals. Thiessen (2019) highlighted that violent attacks by those who are labelled as “extremists” around the world have been regarded as a significant threat to global peace and development. VE has begun to spread following the 9/11 attacks of 2001 and became entrenched in domestic and international discourse and practice as the principal ‘root’ of terrorism. Hussain (2007) argues that the definition of extremism is a preamble to terrorism. Despite the lack of definite meanings, VE suggests the willingness to use violence, or to support the use of violence, to further particular beliefs of a political, social, economic, or ideological nature (European Parliament, 2017). Responding to the worldwide threat of VE, the UN had introduced a Plan of Action in 2016 to Prevent Violent extremism, which recognizes the scale of global threat and lays the groundwork for Preventing Violent Extremism (PVE).

The Internet notably works as a double-edged sword whereby VE is disseminated throughout the Internet and seen as a facilitating factor for radicalisation and indoctrination (Conway, 2017; Bartlett, 2019). The literature indicates that 2019 will be the year of online extremism, which calls for states around the world to have a PVE/CVE model in place to combat the threats of VE (Bartlett, 2019). LaFree et al. (2019) contend that the Internet acts as an active vector for violent radicalization, which facilitates the proliferation of extremist ideologies due to its low cost, fast, decentralized, and globally connected networks. This enables terrorists to network across borders and bypasses time and space in spreading extremist narratives worldwide (LaFree et al., 2019). Hoffman (2019) argues that VE driven by ideology can be effectively countered by powerful ideological arguments. Realizing the devastating effect of the Internet in the spread of VE, many countries such as

the US, Australia, Canada, and the United Kingdom have formulated the Prevention of Violent Extremism Model (PVEM), a specific model in PVE/CVE, through the Internet (Gov. UK, 2018). Mansor et al. (2017) contend that Malaysia has yet to have an effective Model in PVE/CVE, which is made evident by the failure to prevent the recruitment of new members and the radicalisation of Malaysian citizens into ISIS. In 2018, the Malaysian Minister of Defence contended that terrorism is the number one security risk faced by the country (Naidu, 2018). However, despite the staggering effect of the Internet for VE, Malaysia has yet to implement a PVE/CVE Model that is in line with the UN PVE/CVE Model (U.S Embassy, 2018).

Literature Review

The literature on violent extremism in Malaysia indicates that the government successfully countered new extremist elements or insurgency during the Malayan Emergency (1948-1960) (Jani, 2017; Ahmad el-Muhammady, 2016). Such success is informing the current strategies in countering radical Islamist tendencies and recruitment of extremist groups such as Al Maunah, Kumpulan Mujahidin Malaysia (KMM), Jemaah Islamiah (JI) terrorists, Al-Qaeda linked terrorists and the Islamic State (IS) (Jani, 2017; Ahmad el-Muhammady, 2016). The recent Global Terrorism Index 2018 published by the Institute of Economic and Peace ranked Malaysia at 70th, an increase from the 90th spot in 2012 of the countries facing the impacts of terrorism (Malik and Kepeli, 2018). Such an index also suggests that South-East Asia is one of the emerging hotspots for terrorism, joining the Sahel region near the Sahara and Nigeria's middle belt. (Global Terrorism Index 2018).

The advancement of technology had not only served as a conduit for connectivity around the world, but it has also provided pathways for extremist ideologies to take place. The use of the Internet and social media by a terrorist, particularly the self-proclaimed Islamic State (ISIS), had galvanised the US, UK, Australia, and Canada, to name a few, to respond to such activities (Fidler, 2015). The concept of violent extremism (VE) does not possess any single agreed definition and is often used interchangeably with terrorism (Stephens, 2019). The broader meaning of VE suggests that VE includes terrorism and may extend beyond such crimes (LaFree, 2019). Despite the lack of definite meanings, several commentators have suggested that VE implies the willingness of an individual or groups to use violence, or to support the use of violence, to further particular beliefs of a political, social, economic or ideological nature (Logan & Lloyd, 2017, Jenkins, 2019).

The literature highlights that the Internet has been used as a tool for radicalization (UNESCO, 2018). In this new information age, terrorists had found new ways to spread terror where they have exploited the Internet for propaganda, recruiting, fundraising, and cyber-attacks (Dorado, 2018). Violent extremism has become more strategic online It

demonstrates superior media sophistication, large scale operations, and reaches out to a larger audience through the Internet (Bartlett,2019). To date, Twitter has suspended more than one point two million (1.2 million) accounts for terrorist content (ABC News, 2018). In 2018, the UK, through its Police Counter-Terrorism Internet Referral Unit (CTIRU), had removed over three hundred thousand (300,000) pieces of terrorist contents from the Internet (CONTEST UK, 2018). Facebook had also removed one point nine million (1.9 million) of ISIS and al-Qaeda-linked contents in 2018 (Hoffman, 2019). Interestingly, UNESCO states that rather than being initiators or causes of violent behaviours, the Internet, specifically social media, can become facilitators in countering violent extremism (UNESCO, 2018). The literature also highlights that the characteristics of social media make it an optimal breeding ground of extremism, which tends to attract younger audiences, disseminate extremist, violent, and criminal contents, identify potential participants and encourage one to one dialogue with potential recruits (Jenkins, 2019).

In light of the current situation, the Secretary-General of the United Nations has adopted a Model to Prevent Violent Extremism A/RES/70/291 (UN Model), which consists of the need for a comprehensive approach encompassing not only security-based counter-terrorism measures, but also systemic steps in preventing the underlying conditions that drives individuals to become radicalised and join violent extremist groups (UN, 2016). The UN Model also insists on soft power by disarming radicalisation through human rights, the rule of law, strategic communications, and dialogue across boundary lines (UNESCO, 2018). In line with the UN Model, the United Kingdom has also recently reviewed its Prevention of Violent Extremism Model (PVEM), which consists of four main pillars (CONTEST, 2018). Firstly, Prevention, which aims to safeguard people from becoming terrorists. Secondly is Pursual, which aims to stop terrorist attacks in the UK and overseas (CONTEST,2018). Thirdly is Protection, which aims to strengthen protections against terrorist attacks and lastly, is Preparation, which aims to mitigate the impact of terrorist incidents (CONTEST, 2018). The PVEM is formulated to ensure the effectiveness of information sharing in all levels of agencies. Such a model also focuses on the prevention of the dissemination of terrorist materials and building strong counter-narratives to ensure de-radicalisation online (CONTEST, 2018). The said model also seeks to integrate public-private sector relationships, particularly with communication service providers, in order to improve online safety legislation and strike out vulnerabilities (Bartlett,2019).

For the past 18 years and since the September 11 attacks on the World Trade Centre in New York, the threat of Al-Qaeda has been prevalent. Of late, however, threats have been posed by violent radical Islamists associated with the Islamic State of Iraq & Syria (ISIS) or Daesh, which subscribed to the Salafi ideology aiming at freeing Malaysia from the “shackles of Secularism” (New Straits Times, 2014). Their modus operandi is to spread their ideology and recruit fighters via social media to go to Syria. ISIS has claimed one

successful local attack, the grenade attack at a nightclub called Movida in Puchong, Selangor (New Straits Times, 2016). Two local men linked to ISIS were prosecuted and sentenced to 25 years of imprisonment (News Straits Times, 2016). Recently, in 2018, a fifty-one-year-old housewife was arrested after she planned a series of attacks to run over non-Muslims with her car and also crash into non-Muslim places of worship carrying a gas cylinder as a detonator (New Straits Times, 2018). A seventeen-year-old schoolboy was also arrested after pledging his alliance to ISIS and making six Molotov cocktails, which he tested in an open space near Damansara Damai, Selangor (News Straits Times, 2018). The video of the explosion was uploaded on ISIS-affiliated WhatsApp and Telegram groups (News Straits Times, 2018).

The South-East Asian Regional Centre for Counter-Terrorism (SEARCCT) states that terrorist groups such as ISIS use the Internet to reach Malaysians by using alternative narratives. Radicalisation and recruitment in Malaysia has been mainly facilitated by social media platforms, which comprises more than 75 percent of ISIS recruitment efforts (SEARCCT, 2018). Since 2016, the Malaysian Police Special Branch's Counter-Terrorism Division had cautioned that ISIS was getting more aggressive in distributing its propaganda by translating articles from its online magazine Dabiq into Bahasa Melayu and posted them on a website called Isdarat Daulah Islamiyah (SEARCCT, 2018). Apart from that, they have also created Malay-language videos, brochures, and tutorials to entice Malaysian recruits and sympathisers to join their terrorist organisation (SEARCCT, 2018). However, the 'hard' approach in PVE/CVE was criticized as inadequate legal measures. It was recommended that it should be accompanied by the soft approach known as the de-radicalization program or the rehabilitation of VE perpetrators, which involves educating the members of the public, youth, and women through the awareness program (Jani, 2017; Hamidi, 2016; Hamin et al., 2018).

Research Methodology

This paper adopts a library-based research methodology through conceptual and doctrinal legal analysis. The secondary data consists of primary sources including terrorism-related laws and the Penal Code. The primary source is triangulated with secondary sources, including academic books, journals, law reports, decided cases, online databases, official statistics and reports, and other library-based sources. Data analysis of these primary and secondary sources is conducted using thematic and content analysis.

Results

Hard Modalities in PVE/CVE

Malaysia tends to rely on a highly efficient police and anti-terrorism force. Such law enforcement strategies have led to the arrest of many militants, locals, and foreigners alike. Since 2013 and until today, 415 militants have been detained, including 44 women. Most of the detainees (334) were IS members and recruits, 75 were members of Kumpulan Mujahadin Malaysia (KMM), and 6 were members of Jemaah Islamiah (JI) (Zolkepli, 2018).

In dealing with the challenges of terrorism plaguing the country, Malaysia has created two relevant pieces of legislation, namely the Prevention of Terrorism Act 2015 (POTA) and the Special Measures against Terrorism in Foreign Countries Act 2015 (SMATA). The legislation is consistent with the spirit and purpose of UNSCR 2178, particularly in monitoring the activities and threats of foreign terrorist fighters (Hamidi, 2016). Before this legislation, there was the Internal Security Act 1960 (ISA), which contains numerous executive actions against radical behaviours (Hamidi, 2016). The ISA was unpopular and was finally replaced by the Security Offences (Special Measures) Act (SOSMA) 2012, which is a security-related law (Abdullah & Rahim, 2012).

The POTA 2015, which was created under Article 149 of the Malaysian Federal Constitution (Zubair et al., 2015) enables Malaysian authorities to detain terror suspects without trial for two years, and it does not allow any judicial review on the detention (Section 13(1)(b)). However, the detention will be reviewed by the Prevention of Terrorism Board, which is appointed by the King (Section 19(1)). SOSMA is a preventive law that was created to protect the lives and property of the citizens. The Act provides special measures in dealing with security offenses and recognises the grave risks to internal security and public order presented by the threat of terrorism, sabotage, and espionage (Dhanpal and Sabaruddin, 2017). The Penal Code was also recently amended in 2007 to include offences relating to terrorism under Chapter VIA. The new offences include committing terrorist acts (Section 130C), providing devices to terrorist groups (section 130D), recruiting members of terrorist groups, or to participate in terrorist acts (Section 130E) and providing training and instruction to terrorist groups and persons committing terrorist acts (Section 130F). The Criminal Procedure Code was also amended to include Section 106A and 106C, which are provisions used to intercept, detain and open postal articles and messages transmitted via telecommunications where all intercepted communications can be used as evidence in trials of terrorism (Zubair et al., 2015).

Soft Modalities in PVE/CVE

The legal measures are not adequate and are accompanied by the soft approach known as the de-radicalization program or rehabilitation of VE perpetrators, which educates members of the public, youth, and women through the awareness program (Jani, 2017; Hamidi, 2016). The Malaysian government by combining the soft and hard law approach achieved high success rates of 97.5 percent in the implementation of such programmes (Hamidi, 2016). Hamidi also emphasized that the ideas behind such a de-radicalisation programs are to counter extremist ideas and ideologies with proper guidance and sound religious principles (Jani, 2017; Hamidi, 2016).

The government has recently established a new counter-messaging centre in 2016 which attempts to erode IS appeal by exposing the said group's message of hate and violence, while at the same time providing an alternative and inclusive vision of hope for a better future (Jani, 2017; Hamidi, 2016). In 2017 the Counter-Terrorism Policy, which is stipulated in Directive No. 18 (Revised) by the National Security Council (NSC) was created (Kamaruddin et al., 2017). The policy focuses on five thrusts, namely denouncing any form of terrorist acts, providing protection for hostages' lives and property, preference for negotiated solutions, no exchange of hostages to resolve the crisis, and lastly to only strike as a last resort following the failure of negotiations (Kamaruddin et al., 2017).

However, despite the existence of the 'soft' or bottom-up strategy, Malaysia seemed to focus more on the 'hard' security modalities or the law enforcement-centric approach rather than close collaboration with the civil society. What is glaring is the current inadequacy in tackling terrorism on the Internet, especially in the approach in PVE and CVE in Malaysia. Thus, it is not surprising that in Malaysia, there is no explicit national strategy for countering violent extremism (CVE) as established by the UN Sec-General Preventing Violent Extremism Plan of Action (PVE) 2015, for combatting the use of the Internet in preventing violent extremism.

Conclusion

In conclusion, the use of the Internet, especially the social media in PVE and CVE, is increasingly crucial in the face of growing threats of VE locally and globally. In dealing with such threats, the Malaysian government has taken several initiatives, including soft and hard approaches. However, it is unfortunate that Malaysia has yet to formulate a PVE/CVE model in combatting terrorism, especially by the use of the Internet. Such initiatives would inevitably require continuous adaptation to address the changing security landscape, which would need co-operation across the government, private sectors, and civil society in minimizing violent extremism within the country.



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