

OFFENDER TREATMENT FOR ORGANIZED CRIME MEMBERS AND TERRORISTS

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I. INTRODUCTION

The threat to security of countries both from the homeland and international fronts is taking on a new form. The claw of terrorism has spared no one and has rendered even the most advanced countries vulnerable to this emerging security risk. Terrorism is traced to radicalism in ideologies and religious practice.

From the 1960s to 1970s, domestic terrorism widely increased in the United States of America such as the groups known as the Black Panthers, the Weatherman, and other radicals. It was only during the late 1980s that international terrorism began to proliferate around the world. The war in Lebanon was a result of a terrorist attack. In 1993, the bombing of the World Trade Center in New York City started a new era of international terrorism in the United States. Thereafter, in 1996, the Unabomber, Theodore Kaczynski (an individual terrorist) was arrested and charged for killing three and injuring twenty-three individuals. In 1998, Islamic terrorist Osama Bin Laden attacked American embassies in Kenya and Tanzania, killing American citizens. Then, on a sad day in the history of America, on September 11, 2001, Bin Laden successfully funded and organized an attack on the World Trade Center and Pentagon, killing approximately 3,000 individuals (Rotledge, 2009).

In Central Asia, terrorism is largely a cross-border phenomenon. The source of most terrorist organizations that operate is Pakistan and Afghanistan. Southeast Asia also has faced multiple terrorist attacks in the past, particularly in Indonesia, the Philippines and Malaysia. The Prime Minister of Singapore has called Southeast Asia a “key recruitment area for ISIS.”

II. SETTING

Basically, terrorism consists of criminal activity. The one well-known definition of terrorism is in the Federal Bureau of Investigation’s Policy and Counterterrorism Guidelines. It states that terrorism is “a violent act or an act dangerous to human life in violation of the criminal laws of the United States or of any state to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives. It has a broad definition that includes actions designed to instill fear and intimidation (Schubert, 2016).

A. Human Security Act of 2007

In the Philippines, terrorism is a crime under the Human Security Act of 2007 and is described as causing widespread and extraordinary fear and panic among the populace.” The first group to be listed as a terrorist organization under the law is the Abu Sayyaf Group, as declared by the Basilan Provincial Court on September 10, 2015 (Sun Star, 2015).

Public transport and other gathering places, such as street markets, have been the favoured bombing targets; however, large-scale abductions and shootings have also been carried out by the groups, predominantly by Abu Sayyaf and the Rajah Solaiman Movement.

Most of these (groups of) individuals ended up in jails where the crime was committed. However, due to

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security reasons, these individuals were typically transported and transferred to BJMP jails located at Camp Bagong Diwa, Taguig City. They can be re-committed to jail upon issuance of an appropriate order issued by a competent court or authority so mandated under Philippine laws. As such, by way of imprisonment, there had been several questions as to whether or not imprisonment helps in crime control even for individuals behind the four walls of the jail. Some agents of criminal justice believed that imprisonment can be a form of retribution, deterrence, reformation, and protection, but it can also be a perfect place to radicalize the inmates.

B. BJMP Manual, under Rule 1, Book II, on Safekeeping Functions

The BJMP Manual, under Rule 1, Book II, on Safekeeping Functions (Operations) enumerated the different classification of inmates according to security risk. These involve among others the following: High Profile Inmates, High Risk Inmates, High Value Target (HVT), Security Threat Group, Subversive Group, Terrorist Group, Violent Extremist Offender (VEO), Medium Risk Inmates, and Minimum Risk Inmates (Ordinary Inmates).

Mainly, the very purpose of classification of inmates in the Jail Bureau under the Directorate for Operation Manual is to (a) separate from others those prisoners who, by reason of their criminal records or bad characters, are likely to exercise a bad influence and (b) divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.

The Classification Board is tasked to conduct background investigation of inmates to determine the cell assignment, the appropriate rehabilitative programme, type of supervision and degree of custody and restrictions applicable to him/her. The investigation shall focus on the following: a. Facts and data of the present case; b. Earlier criminal history and if he/she is a recidivist or habitual delinquent, the facts about his/her attitudes and behavior while confined in other institutions; c. Biography or life history; d. Medical History; e. Vocational, recreational, educational and religious background/interests; and f. Psychological characteristics as evaluated by the psychiatrist and psychologist. The inmate is then required to appear before the Classification Board for validation of his/her profile. Upon completion of the classification assessment, the inmate is then apprised of his/her cell assignment and welfare programmes appropriate for him/her.

C. Philippine Criminal Justice System

The institution of the Criminal Justice System in the country has also recognized incarceration as the best tool to prevent and control crime; however, this strategy has remained futile in resolving the growing crime rate in the country, and worse, resulted in progressive overcrowding of detention centres and prisons.

D. Bureau of Jail Management and Penology

The Bureau of Jail Management and Penology (BJMP), created pursuant to Republic Act 6975, is under the Department of Interior and Local Government (DILG) and is responsible for persons detained, awaiting investigation or trial, and/or awaiting final judgement. Similar to the innovations of other correctional institutions, the Jail Bureau emphasized the safekeeping and development of inmates as the two important mandates to ensure the safety of individuals housed in any of its facilities.

E. Special Intensive Care Area

There were different groups of inmates detained in a Special Intensive Care Area (SICA); these include among others: Abu Sayaff Group, Raha Solaiman Movement, Jemaah Islamiah, the Communist Party of the Philippines/New People's Army/National Democratic Front, Moro Islamic Liberation Front, and all other inmates detained and classified according to security risk.

Out of 29,794 NCR inmates, 2,809 inmates are classified as high-risk and high-profile or special management (herein referred to as "high security inmates"). This constituted 10.06% of the population. With this alarmingly increasing number, the emergence of radicalization is very much daunting. Currently, there exists SICA 1 and SICA 2 holding 374 and 317 inmates (as of December 2016 from the database of the Directorate for Operations), respectively. As the Jail Bureau tends to truly gauge its success on continuous achievements, at this point, it is obvious that the jails were now struggling to attain their purpose. Consequently, they cannot be given credence as a formal modernized detention facility to handle high-security inmates.

As prison grows in complexity, the demand for secured facilities and intervention programmes, especially for (radical) inmates in the country, has become essential and challenging. The Jail Bureau, in this regard, finds it necessary to actively develop strategic action plans and preventive measures to safeguard the facility against possible threats of escape, rescue from unfriendly forces, instabilities, riots, siege, and radicalization.

F. Experience Factors

On March 14, 2005, a 29-hour stand-off occurred by an extremist group at Special Intensive Care Area (SICA) 1, Bicutan, Taguig City. The siege was led by Commander Robot, despite being incapacitated inside the jail. This incident, which caused the loss of lives, was presumably a clear and distinct case of radicalization. Although, at that time, radicalization was not yet widely known to have proliferated in the Philippine jails. However, the vulnerability of the jail sector may become a breeding ground for radicalization, and without being aware of it, there are greater chances of bringing surprisingly the same consequences in the future (Bonto, 2012).

Ahmed Sadat, a Palestinian terrorist, commented in 2004 that, "The prison became their best university for finding and teaching recruits" (Speckhard, 2007). It has been said and done in 2005 at SICA, Bicutan, Taguig wherein the extremist led by commander Robot successfully radicalized some inmates to join the Abu Sayyaf groups and put the jail under siege.

It also assumes that terrorists live in places where they can be singled out and hunted down. In fact, terrorists do not fight on traditional battlefields: they live and fight among civilians, making it difficult to know where to aim, and even more difficult to avoid civilian casualties. Their goal is to frighten the enemy into launching attacks that hurt civilians (Stern, 2010).

The terrorist strategy of fighting is within places of civilians, valuable and historical structures, more so in prison jails. These will serve as their shield and part of their glory once unsuccessful and killed. They stand happily with their ideologies that their death is admirable when they killed a lot of civilians and humiliated the government.

However, terrorists are still human beings who need care and treatment. If they are living in a wrong way of thought or ideologies, that is because they are also victims, having been tricked, swayed or seduced into adopting a radical perspective. They are victims, objects of pity and fear who have been dragged away from their homeland into foreign beliefs and alien values (Edwards, 2015). If radicals are products of radicalization, then it is true to believe that there is a chance for them to be deradicalized and to bring back to their normal perspective of life.

G. Prison-Based Disengagement Interventions

Radicals are known people who hold extreme views and ideologies that are not open to any kind of counselling to change their perspective. The BJMP initiated the implementation of Alternative Learning System (ALS) for the deradicalization of inmates at SICA 1 and 2 in 2012. ALS is a kind of programme which serves as an intervention strategy for high-risk and high-profile inmates. The ALS is a national government programme under the Department of Education (DepEd). The programme provides a viable alternative to the existing formal education instruction encompassing both the non-formal and informal sources of knowledge and skills that provide "education for all".

The DepEd's Bureau of Non-Formal Education (BNFE) was renamed as the Bureau of Alternative Learning System (BALS) by virtue of Executive Order No. 356 (2004). It aims to provide a free education programme implemented by the Department of Education (DepEd) under the Bureau of Alternative Learning System which benefits those who cannot afford formal schooling and at their available schedule. It is a ladder-like, modular non-formal education programme in the Philippines for dropouts of elementary and secondary schools, out-of-school youths, non-readers, working Filipinos and even senior citizens. It became part of the educational system of the Philippines but an alternative to the regular classroom studies where Filipino students are required to attend daily.

Through the ALS, it is more fitting to say that a majority of those incarcerated lack formal education. However, despite this fact, the person charged with a crime should not be denied of his/her freedom and protection of the laws. Thus, the present task of today's modern penologists as agents of the government is to

be morally responsible in upholding the fundamental rights of its clientele during their stays in jail.

III. CHALLENGES TO THE BUREAU OF JAIL MANAGEMENT AND PENOLOGY

At the very least, the BJMP must put emphasis on this, and complacency by disregarding radicalization in jails is not an option. The Jail Bureau cannot afford to experience another stand-off brought about by terrorists or other group of high profile inmates that causes loss of lives and destruction of facilities. The BJMP, having the mandate and big role in public safety, must act in a way toward sustainable homeland security.

The rehabilitation programmes of detainees at SICA 1 and 2 are usually part of a larger deradicalization scheme. Different countries used strategies to rehabilitate individuals and vulnerable communities, ranging from engagement to winning their hearts and minds, but the main purpose of the programmes is neutralizing the security threats.

In response to the challenge of terrorism, during the last quarter of 2008 up to the third quarter of 2009, the Prison/De-radicalization/Counter Radicalization Program of the National Intelligence Coordinating Agency (NICA), through its Anti-Terrorism Council Coordinating Center (ATC-CC) began a nationwide information campaign among jail wardens and prison authorities on the phenomenon of terrorists' recruitment inside jail and prison facilities, or what is simply known as "prison radicalization".

Strongly supported by BJMP management and heavily participated in by BJMP Wardens nationwide, the programme continued through its second phase of implementation in early 2010 with the crafting of a National Project Framework for Intensified Prison De-radicalization Program. The second phase of the programme is now organized by the National Counter Terrorism Unit (NCTU) of the NICA.

Towards this end, the proponent as a Commissioned Officer of the Jail Bureau has acknowledged his role in the management of said inmates. Though the detention facilities are places of vulnerability in which radicalization and all other forms of ferocity may take place, nevertheless, these facilities can also become special places for the transformation and reintegration of individuals behind bars, not excluding the radicals. It was necessary to actively develop strategic action plans and preventive measures to deradicalize (radical) inmates in order to safeguard the jail facilities in the country against possible threats of escape, rescue from unfriendly forces, instability, riots, siege and other jail disturbances that affect public safety.

There should be a clear motivation and goal against the current situation of jail management even during the most difficult time of seeking support to improve the administrative, logistical, and operational services of the Jail Bureau. This will eventually set how the organization should be planned and programmed and how the (radical) inmates should be managed during their period of confinement. Hence, certain priorities and developments should be ideally employed in all areas of concern to strengthen the capabilities of the Jail Bureau in the deradicalization programme through the Alternative Learning System in coordination with the Department of Education. This will create and stimulate the foundation on which the Bureau's mission and vision is based.