

## URGENCY OF HANDLING THE ACT OF TERRORISM WITH SPECIAL EFFORTS

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Hijacking and sadistic killings at the National Police Mobile Brigade Command Headquarters at Kelapa Dua, Depok, by terrorism prisoners, suicide bombings in 3 (three) churches in Surabaya, bombs at Surabaya City Police Headquarters, followed by an attack at the Riau Police Headquarters that occurred within very close and consecutive time seems is not enough to make these terrorists satisfied. The victims has been fallen from state servants from the Indonesian National Police and innocent Indonesian citizens, but it has not yet made these terrorists end up carrying out their actions. Then do we still have to limit the space for law enforcers in their efforts to combat terrorists?

Article 2.1 of the 1997 International Convention for the Suppression of Terrorist Bombings defines the offence of terrorist bombing as follows:

*“Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally delivers, places, discharges or detonates an explosive or other lethal device in, into or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility:*

- a) With the intent to cause death or serious bodily injury; or*
- b) With the intent to cause extensive destruction of such a place, facility or system, where such a destruction results in or is likely to result in major economic loss.”*

There is no definition of the 1997 International Convention on Anti-Terrorism which specifically refers to certain legal subjects and is associated with politics, ideology, and other factors. As long as it is proof that the perpetrators meet the criminal elements as set forth in the 1997 Convention on International Anti-Terrorism, the subject of such law is qualified as a terrorist and all legal procedures for its handling shall be subject to the International Convention against Terrorism 1997.

The first terrorism incident in Indonesia occurred in 1981, when Garuda Indonesia airline plane was hijacked by 5 (five) terrorists who claimed to be members of Komando Jihad which all of them are undercover as passengers. Then continued in the following years, among others: in 1985 the bombing at Borobudur Temple, 2000 bombs in front of the house of the Philippine Ambassador in Menteng, Jakarta, in 2001 there were even 4 massive events, the Santa Anna Church Bomb and HKBP, Bomb Atrium Plaza Senen, Jakarta, Bomb at KFC Makassar restaurant, and bomb at Australian International School. Until 2002 there was a bomb on the Jakarta Stock Exchange and then followed by four other major attacks, and which we shall not forget is the 2002 Bali Bombing tragedy where 3 (three) bombs rocked Bali at that time. At that time the regulations prevailing in Indonesia have not been

comprehensive and not yet sufficient to combat terrorism. Therefore, the Government Regulation in Lieu of Law no. 1 year 2002, which then passed into law based on Law no. 15 of 2003 on Stipulation of Government Regulation in Lieu of Law Number 1 Year 2002 on Combating Terrorism Crime into Law ("**Indonesian Anti-Terrorism Law**").

Facing terrorists is not the same as facing the perpetrators of ordinary crimes, corruption and narcotics. Narcotics business victims are drug users, and these narcotic users still have the option of using or not using narcotics, and all those options are in the hands of the narcotics users themselves. Corruptor still has the opportunity to choose whether he wants corrupt or not and the state as the injured party is entitled to ask the corruptors to give up his property to recover state's losses. But the victims of terrorism, they have no choice to stay alive when the suicide bombings clearly eliminate their lives. And terrorists will not be able to bomb or commit suicide bombings if without any explosive materials they assemble themselves. As a result, death penalty will not cause a deterrent effect among terrorists, as terrorists adhere to the ideology they believe in. Their targets are not like thieves who get economic benefits so once the punishment is sentence to them then they can arise a repent-sense or make people around him become unwilling to steal because they do not want to be punished. But terrorists, they are more than that.

Speaking of human rights issues, we all agree that no human being can take other human lives unlawfully. But look what terrorists do. The terrorists are unlawfully and deliberately taking the lives of innocent people without thinking about human rights. Do not let human rights be exploited by terrorists to take cover in order to live like ordinary convict prisoners or innocent citizen, which in this case can give them leeway in spreading their networks. Fighting terrorists is different from fighting drugs crime or corruption. The crime of terrorism is not a common crime because it attacks human lives and holds to the ideology that they believe. So it can not be treated equally with other criminal acts.

Facing Indonesia with the current condition of terror, it shall be allowing officials to investigate suspected terrorists without having to wait for sufficient initial evidence. Obtaining the sufficient initial evidence is not easy and certainly obtaining such sufficient initial evidence can not rely solely on intelligence information. It should also be granted clearance for law enforcement officers that in order to obtain sufficient initial evidence, law enforcement officials can search the suspected terrorist without having to see any explosives in a predictable place first. It is common information that this terrorist plans and prepares the action covertly, preparing equipment and assembling bombs not in public places. Then if the law enforcement officers itself are only allowed to investigate terrorist suspects by holding on to "sufficient initial evidence", how is it possible to obtain sufficient initial evidence prior to the bombing? Do not let the law protect the perpetrators of criminal acts. The law should be able to accommodate law enforcement to work in accordance with its authority, rather than blocking it.