

RESEARCH ARTICLE

# The Urgency of Indonesian Anti-Terrorism Law: How We Combat Terrorist for the Future?

Ridhow Dwiky Tastama

Indonesian Anti-Terrorism Networks

Surakarta, Central Java, Indonesia

✉ dodotastama@gmail.com

## OPEN ACCESS

**Citation:** Tastama, R. D. (2021). The Urgency of Indonesian Anti-Terrorism Law: How We Combat Terrorist for the Future?. *Law Research Review Quarterly*, 7(3), 333-344. <https://doi.org/10.15294/lrrq.v7i3.48166>

**Submitted :** March 25, 2021  
**Revised :** May 2, 2021  
**Accepted :** August 11, 2021

© The Author(s)



This work is licensed under a [Creative Commons Attribution-ShareAlike 4.0 International License](https://creativecommons.org/licenses/by-sa/4.0/). All writings published in this journal are personal views of the authors and do not represent the views of this journal and the author's affiliated institutions.

ISSN 2716-3415

*Law Research Review Quarterly* published by Faculty of Law, Universitas Negeri Semarang, Indonesia. Published quarterly on February, May, August, and November.

### Abstract

On 18 October 2002, Anti-Terrorism Law also known as ATL was signed into law by Megawati Soekarnoputri. This kind of law has caused a significant legal controversy in because this law signed only six days after the unfamous Bali Bombings took place on 12 October 2002. The law itself had first been drafted in 2002 more precisely in April on response to the then most recent terrorist incident which opened the eyes of global citizen from the danger of terrorism, the 9/11 incident in New York 2001. From 2002, The Anti-Terrorism Law has been used to punish and investigate those who involved in the many incidents such as the bombing of the Marriot Hotel in 2003, the Australian Embassy incident in September 2004, and the round two of Bali bombing which take place in October 2005. Since 2005 the proposed revision of the Anti-Terrorism Law getting stronger and stronger. The proposed revision mainly talks about the addition of term of arrest and detention. This paper is intended to analyze the urgency of anti-terrorism law, as well as revision of anti-terrorism law on combating terrorism in Indonesia.

**Keywords:** *Anti-terrorism Law; Revision of Law; Combating Terrorism; Law and Policy*

## 1. INTRODUCTION

Recent crimes, not only in the form of conventional crimes such as theft, murder, robbery, rape and so on, but have led

to organized crime, white collar crime, top hat crime, cyber-crime, corruption, terrorist terrain. The latest crimes of crime cannot be repudiated by regular conventional laws and regulations, because they are "*extraordinary crimes*" that require "*extraordinary measures*" as well. The crime of "extraordinary crime" which has recently become the focus, not only the Indonesian government but also the international spotlight, is terrorism. This is because terrorists are "*hostis humanis generis*" enemies of mankind. the fight against terrorism is like fighting against a guerrilla group with an opponent and an obscure strategy. the regime was made unprepared for terrorism in Bali in 2002. the condition is quite reasonable because Indonesia did not have a law that regulate the eradication of crime-terrorism (Mustofa, 2002; Qamaruddin, 2000).

Before we start, it seems nice to begin with the definition of terrorism. Terrorism comes from the word Terror which comes from Latin *terrere*, which means "tremble" or "frighten." Which is similar to fear, panic, and anxiety. In Indonesia term terrorism itself can be called new but in fact the term terrorism has been around for centuries. The term terrorism first mentioned in The Dictionaried of The Academic Francaise in 1789 as *regime de terreur*. The term Terrorism began to widely known since 2001 to be precisely when the 9/11 incident occurs. That incident makes many nations began to make its own Law including Indonesia who start making a draft about Anti-Terrorism Law in April 2002 (Hainsworth, 2007; Juwana, 2014).

The main function of the Anti-Terrorism Law is to be a source to make investigation, prosecution, and conviction of the terrorist much easier. Anti-Terrorism Law also provides substantial penalties which include death for people who commit, or attempt to commit, terrorist offences and people who incite and assist them (Zulfi, 2012; Wijayanto, 2003; Ramraj, Hor, & Roach, 2009). Since its creation, the Anti-Terrorism Law never get out from controversy. The debate mainly concerned about is the Anti-Terrorism Law enough to stop any incident happen in Indonesia. Or why although there is Anti-Terrorism Law the terrorist incident in Indonesia never really stops? So, people begin to worry about the credibility of Anti-Terrorism Law and started to argue if the Anti-Terrorism Law need a revision.

The Government started to think the same and since then the plan to revise the Anti-Terrorism Law are getting serious. The pressure to begin revising Anti-Terrorism Law has gained a major urgency following the January 2016 terrorist attacks in Jakarta. This was the first attack since the 2009 bombings in JW Mariot Hotels and this attack also mark the first in Joko Widodo's presidential era which began in October 2014. One of the main reasons why deliberations have been dragging on for so long is that the government and the House have failed to reach on an agreement on what constitutes terrorism. While the government argue that terrorism is "any deed that uses any violence or threats of violence on a public/massive scale, and/or causes damage to public/strategic (Atmasasmita, et.al., 2012; Eddyono, 2016; Prajarto, 2004).

Vital objects including the environment, public facilities or international facilities", the House argue that terrorism as a crime must include "*any deed that is based on a political and ideological motives or threats to state security.*" Government argue that terrorism is "any deed that uses any violence or threats of violence on a public/massive scale, and/or causes damage to public/strategic. Vital objects including the environment, public facilities or international facilities", the House argue that terrorism as a crime must include "*any deed that is based on a political and ideological motives or threats to state security*" (Riza, 1991; Muladi, 2002; Saputro, 2009).

## 2. METHOD

The method used in this paper is a data collection. The following is data on terrorism incidents occurring in Indonesia from 1999 to 2009:

No	Year	Notes
1	1999	1. Ramayana Bombings 2. Mall Kelapa Gading's Bombings 3. Hayam Wuruk Plaza Bombings
2	2000	1. Philippine Embassy Bombings, August 1, 2000. Bomb exploded from a car parked in front of Duta's house Philippines Raya, Menteng, Central Jakarta. 2 people killed and 21 others were injured, including the Ambassador Philippines Leonides T Caday.

		2. Malaysia Embassy Bombings, Grenade exploded at the Malaysian Embassy complex at Kuningan, Jakarta. No casualties.
		3. Jakarta stock exchange bombings
		4. Christmas's night bombings in Jakarta
3	2001	1. Santa Anna Church Bombings
		2. Atrium Plaza Jakarta Bombings
		3. KFC Bombings in Makasar
		4. Australia International School Bombings in Jakarta
4	2002	1. New Year's Eve Bombings in Jakarta
		2. Bali Bombings 1
		3. McDonalds Bombings in Makassar
5	2003	1. Mabes Polri Bombings
		2. Soekarno Hatta Airport Bombings
		3. JW Marriot Bombings
6	2004	1. Palopo Bombins
		2. Australia Embassy Bombings
		3. Immanuel Church Bombings in Palu
7	2005	1. Ambon Bombings
		2. Tentena Bombings
		3. Bali Bombings
		4. Palu Market Bombings
8	2009	1. JW Marriot Bombings

Since 1999 there has been an increase in action terrorism in the form of bombing in public places and with civilian targets compared to previous years. Between 1990 and with 1997 (as noted Forum Indonesia Peace quoted by Wijayanto (2003) occurred a maximum of two bombing incidents in a year. New drastic increase occurred in 1988 (6 cases), and subsequently in 1999 (7 cases), 2000 (32 cases), and 2001 (81 cases). Increased frequency of bombings since 1999 compared with previous years brought many analysts mentioned that terrorism in Indonesia is related to the transition to democracy, or in other words, part of the problem of political transition when old and new political forces fought place in the political order that is being contested. Actions the bombardment subsided for about four or five years since 2005, then back with the bombing of the JW Marriot and Ritz Carlton ensured by the same terrorist group as the perpetrator bombings in Bali and some

other places (Shidqi, 2013; Mustofa, 2002; Bungin, 2001; Butt, 2008).

### 3. RESULT AND DISCUSSION

#### A. The Pros and Cons of Anti-Terrorism Law Revision: in a Broader Perspective

The revision of the Anti-Terrorism Law is more necessary in view of the rise of new extremist groups specially in Indonesia and the growing threat of radicalism and terrorism worldwide. Furthermore, also to prevent the threat proposed by Indonesian returnees after fighting and providing help for the radical Islamic State in Iraq and Syria also known as ISIS. Indonesia will be in a much stronger position to deal with international and national terrorism if its anti-terrorism laws are stronger rather than what they have right now. The goal is to make the Indonesian police and its anti-terrorist department to act before terrorist violence had taken place rather than after the incident. Despite so far there are six major attacks and more than 25 minor attacks, Indonesia's anti-terrorism law has been so weak.

With the goal of strengthening the anti-terrorism program, several new details have been proposed since the 2016 Jakarta incidents. These rules include widening the definition of terrorism and radicalism, strengthening detention powers and for heavier detention for various acts of terrorism including those who not actually involved (Fitriani, Putri, Sari, & Adriana, 2018; Ashraf, 2007; Singh, 2004). Indonesia's government already making a draft to Indonesia's Anti-Terrorism Law, such as:

- a. A change to period of captivity for those who involved in terrorism from six months to ten months
- b. A change to period of arrest for those who involved in terrorism from seven days to thirty days
- c. Tapping no longer need a permission from Chief Justice of the District Court and only need permissions from the judge.
- d. Investigation and prosecution now can be given to corporation.
- e. There is expansion to the definition of terrorism including planning, attempting, and supporting any terrorism act.

- f. Revocation of passport for those who join military training in other country
- g. Terrorist control.
- h. Rehabilitation for terrorist.
- i. Giving intelligences officers the right to arrest suspects of terrorism.

There have also been discussions for more real and effective deradicalization and counter-radicalization measures. These programs include strengthening the prison system which is currently seen as the epicentre for the main terrorist recruitment in Indonesia. Right now, special, and high security prisons for leading jihadists and ideologues already been proposed. The goal is to make Indonesia's anti-terrorism policies more effective and stronger. From that proposal, we can find a mixed reaction from public. For those who agree with that proposal argue that there is no mercy to those who involved in any terrorism act. And people who disagree with that proposal mainly argue about if we want to cope with terrorist, we must see it from both eyes, the victim, and the terrorist because sometimes terrorism initiated with something really personal and even taboo such as religion.

Furthermore, a dreadful series of terror acts in the many cities in Indonesia including Jakarta, Depok and Surabaya within the past week have shocked the nation, once again. The attacks once again have put the country on high alert on the dangerous of terrorism. The terror acts, which killed many of people, including police officers and the terrorists themselves, shocked the nation, considering that the incident happen right before Ramadhan. The attacks were devastating not only for the victims and their group or family, but also for the people of Indonesia and citizen of the world. Worse, the Indonesian police — who are solely responsible for domestic security—looked not in a very good situation while dealing with such sudden attacks, prompting calls for the Indonesian Military (TNI) to making support in the fight against terrorism.

In fact, the presence of TNI has been a fresh air to Indonesia citizen in general because the presence of TNI around can make people feel safer and there have been many demands to make legal umbrella should the TNI legally join the fight against terror in the country. But that doesn't mean that there is no problem with that. Many

people including experts and human rights activists having doubt on making TNI a right to join in anti-terrorist forces. This happen because particularly on measures to prevent human rights abuse in a fight against terrorism (Lee, 2009; Febrica, 2010; Singh, 2004).

Calls for a legal umbrella for the TNI's involvement in counterterrorism activities have come from a variety of circles, with President Joko "Jokowi" Widodo being the first to ask the House of Representatives to expedite the deliberation of a draft revision to the 2003 Terrorism Law (Effendy, et.al., 2014; Asmawi, et.al., 2019). The amendment has been in limbo ever since the draft revision was submitted two years ago. The President has even threatened to issue a regulation in lieu of law on the Terrorism Law if the House fails to conclude deliberations on the amendment by June.

## **B. The Future Threats of Terrorism**

It is a fact that Indonesia's anti-terrorism laws need to be powered with pre-emptive powers with the lines practiced in Singapore and Malaysia. The Indonesia government's commitment to this is evident with the revision of anti-terrorism laws are to be added to the list of prioritized legislations. Indonesia is faced by the danger of terrorism especially from ISIS. There are allegedly more than a thousand Indonesians fighting in the name of ISIS. With hundreds of them return and already positioned in Indonesia, the moment when the green light is given by Islamic State for Indonesia to become their jihadi target, Indonesia would really need a strong and legal framework to back its hard and also soft approaches to deal with the looming threat.

According to the Minister of Justice and Human Rights, Yasonna H. Laoly, the purpose of the revision of the Anti-Terrorism Act is for law enforcers to respond early if there are indications or threats of terrorism. In addition, the revision of the Anti-Terrorism Law will pay more attention to the rehabilitation and compensation of victims of terrorism crimes. The Special Detachment (Densus) 88 Police representative, Kombes Faisal Thayib stated the same thing. According to him, the current Anti-Terrorism Law is minimally a preventive aspect. Faisal said that Densus 88 Police often follow terrorist suspects who do shooting

exercises and make bombs but cannot arrest them because the Densus 88 Police can only catch when they want to commit acts of terrorism. This makes it difficult for the performance of Densus 88 Polri to suppress the criminal acts of terrorism in the field. Therefore, Faisal hopes that the prevention aspect is included in the revision of the Antiterrorism Act, so that the victims can be minimized, and terrorism does not spread freely (Aji, 2013; Wahyuni, 2019; Rofi'i, 2018).

Trias Palupi Kurnianingrum, a researcher on Legal Affairs, Research Center, DPR RI Expertise Agency, believes that the revision of Anti-Terrorism Law is necessary because terrorism is an extraordinary crime that needs special handling. In addition, the mode of carrying out acts of terrorism has grown (Chalmers, 2017; Suatmiti & Kastro, 2020). The existing Anti-Terrorism Act also has several disadvantages, such as the definition of terrorism and terrorism that are multiple interpretations, the lack of regulation of the sale and distribution of explosive materials, the absence of protection on the rights of victims, there is no provision that regulates the handling mechanism of Indonesian citizen who returned to their homeland after joining radical groups abroad, such as the Islamic State of Iraq and Syria (ISIS), ineffective coordination among law enforcement agencies, and no affirmation of the meaning of unknown "*unexpected*" subject phrases in the Book The Criminal Law (Penal Code) and the Criminal Procedure Code (KUHAP).

#### 4. CONCLUSION

The revision of the Anti-Terrorism Act must be carried out appropriately, considering aspects in human rights. Thus, the handling of terrorism is not only on the side of broad users, but also must pay attention to the human rights protected UUD 1945. With human rights as an opinion in the revision of the Anti-Terrorism Act, the formulation of the articles regulated in the law, the law should be considered, for example to increase the deadline for arrest and detention. The time limits not up to the name of the human copyright stipulated in Article 9 paragraph of the International Covenant on Civil and Political Rights that everyone is entitled to freedom and privacy, and nobody can be exposed or arbitrary. In addition, in the revision of the Anti-



Terrorism Act, there can be no elements existing in the law that can cause human rights suspected terrorists. Law enforcement officers are required to work professionally. Efforts to handle terrorism can proceed without addressing human rights.

## 5. DECLARATION OF CONFLICTING INTERESTS

The Author declares that there is no potential conflict of interest in the research, authorship, and/or publication of this article.

## 6. FUNDING

None

## 7. ACKNOWLEDGEMENT

None

## 8. REFERENCES

- Aji, A. M. (2013). Pemberantasan Tindak Pidana Terorisme di Indonesia (Analisis Terhadap Undang-Undang Nomor 15 dan 16 Tahun 2003 Berdasarkan Teori Hukum). *Jurnal Cita Hukum*, 1(1).
- Arrobi, M. Z. (2018). The Making of Islamist-inspired Terrorism and It's Counter-terrorism in Indonesia. *Politik Indonesia: Indonesian Political Science Review*, 3(2), 217-238.
- Ashraf, A. A. (2007). Transnational cooperation on anti-terrorism: a comparative case study of Saudi Arabia and Indonesia. *Perceptions: Journal of International Affairs*, 12(3), 91-121.
- Asmawi, A., Sopyan, Y., Syarif, M. I., & Rais, I. (2019). Measuring Human Rights and Islamicity of Indonesian Anti-Terrorism Law. *AHKAM: Jurnal Ilmu Syariah*, 19(2).
- Atmasasmita, R., et.al. (2012). *Analisis dan Evaluasi Peraturan Perundang-Undangan tentang Pemberantasan Tindak Pidana Terorisme (Undang-Undang Nomor 15 tahun 2003)*. Jakarta: Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia.
- Budiardjo, M. (2008). *Dasar-Dasar Ilmu Politik*. Jakarta: Gramedia Pustaka Utama.
- Bungin, B. (2001). *Metodelogi Penelitian Sosial*. Surabaya: Airlangga University Press.

- Butt, S. (2008). *Anti-terrorism Law and Criminal Process in Indonesia*. University of Melbourne: Centre for Islamic Law and Society. ARC Federation Fellowship.
- Chalmers, I. (2017). Countering violent extremism in Indonesia: Bringing back the Jihadists. *Asian Studies Review*, 41(3), 331-351.
- Eddyono, S. W. (2016). *Minimnya Hak Korban dalam RUU Pemberantasan Terorisme Usulan Rekomendasi atas RUU Pemberantasan terorisme di Indonesia (DIM terkait Hak Korban Terorisme)*. Jakarta: Institute for Criminal Justice Reform (ICJR).
- Effendy, U., Andi Gani, A. Y., Wijaya, A. F., & Wijaya, A. F. (2014). Analysis of Anti-Terrorism Policy in Indonesia: A Preventive Study in Preventing Terror Action from the Perspective of Collective Action Theory. *Asian Journal of Management Sciences & Education*, 3(3), 141-147.
- Febrica, S. (2010). Securitizing terrorism in Southeast Asia: Accounting for the varying responses of Singapore and Indonesia. *Asian Survey*, 50(3), 569-590.
- Fitriani, A. S., Putri, P., Sari, N., & Adriana, R. (2018). *The Current State of Terrorism in Indonesia: Vulnerable Groups, Networks, and Responses*. Jakarta: Center for Strategic and International Studies.
- Hainsworth, G. (2007). Rule of law, anti-corruption, anti-terrorism and militant Islam: Coping with threats to democratic pluralism and national unity in Indonesia. *Asia Pacific Viewpoint*, 48(1), 128-144.
- Indonesia. (2002). Perpu Nomor 1 Tahun 2002 tentang Pemberantasan Tindak Pidana Terorisme.
- Indonesia. (2003). Undang Undang Nomor 15 Tahun 2003 tentang Pemberantasan Tindak Pidana Terorisme.
- Indonesia. (2003). Undang-Undang No.15 Tahun 2003 tentang Penetapan Peraturan Pemerintah Pengganti Undang Undang No.1 Tahun 2002 tentang Pemberantasan Tindak Pidana Terorisme, menjadi Undang-Undang.
- Juwana, H. (2014). Anti-Terrorism Efforts in Indonesia. *Indonesian Journal of International Law*, 11(2), 151-175.
- Lee, D. Y. (2009). Politics of anti-terrorism policy in Southeast Asia: a comparative study of the

- Philippines and Indonesia. *Pacific Focus*, 24(2), 247-269.
- Muladi, M. (2002). *Demokratisasi, Hak Asasi Manusia dan Reformasi Hukum di Indonesia*. Jakarta: The Habibie Center.
- Mustofa, M. (2002). Memahami Teorisme: Suatu Perspektif Kriminologi. *Jurnal Kriminologi Indonesia*, 2(3), 30-38.
- Prajarto, N. (2004). Terorisme dan Media Massa: Debat Keterlibatan Media. *Jurnal Ilmu Sosial dan Ilmu Politik*, 8(1), 37-52.
- Qamaruddin, S. F. (2000). *Bertuhan Secara Radikal*. Jakarta: Serambi.
- Ramraj, V. V., Hor, M., & Roach, K. (Eds.). (2009). *Global Anti-terrorism Law and Policy*. Cambridge: Cambridge University Press.
- Riza, S. M. (1991). *Barat Timur Tengah: Islam, Dunia Arab, Iran*. Bandung: Mizan.
- Rofi'i, A. (2018). Prevention of Radicalism and Terrorism in Indonesia Through Law Enforcement in Terrorism Law. *Central European Journal of International & Security Studies*, 12(4).
- Saputro, B. (2009). Indonesia dan Negara Islam. *Jurnal Ilmu Politik*, 1(2).
- Shidqi, A. (2013). Respon Nahdlatul Ulama (NU) terhadap Wahabisme dan Implikasinya bagi Deradikalisasi Pendidikan Islam. *Jurnal Pendidikan Islam*, 2(1), 109-130.
- Singh, B. (2004). The challenge of militant Islam and terrorism in Indonesia. *Australian Journal of International Affairs*, 58(1), 47-68.
- Solahudin, S. (2011). *NII sampai JI: Salafi Jihadisme di Indonesia*. Depok: Komunitas Bambu.
- Suatmiati, S., & Kastro, E. (2020). Legal and Institutional Framework on Counter-Terrorism in Indonesia. *Jurnal Media Hukum*, 27(1), 68-78.
- Wahyuni, F. (2019). Causes of radicalism based on terrorism in aspect of criminal law policy in Indonesia. *Jurnal Hukum dan Peradilan*, 8(2), 196-213.
- Wijayanto, A. (2003). "Menangkal Terorisme Global", in *Terorisme: Definisi, Aksi, dan Regulasi*. Jakarta: Koalisi untuk Keselamatan Masyarakat Sipil.

---

Zulfi, M. (2012). Fenomena terorisme di Indonesia: Kajian Aspek Teologi, Ideologi dan Gerakan. *Salam: Jurnal Studi Masyarakat Islam*, 15(2).

*Terrorism isn't a crime against people or property. It's a crime against our minds, using the death of innocents and destruction of property to make us fearful. Terrorists use the media to magnify their actions and further spread fear. And when we react out of fear, when we change our policy to make our country less open, the terrorists succeed -- even if their attacks fail. But when we refuse to be terrorized, when we're indomitable in the face of terror, the terrorists fail -- even if their attacks succeed.*

**Bruce Schneier**