



Study of Terrorism Crimes in Law Number 5 of 2018: Challenges of Law Enforcement and Policy Reform

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ABSTRACT

Terrorism is a serious threat that requires special handling by the state. Indonesia as a democratic country is not immune to the threat of terror events such as bombings in public places, suicide bombings, and the spread of radicalism. Terrorism is an *extraordinary crime*, so its eradication needs to be carried out in a special, planned, and sustainable manner. This research aims to discuss in depth the legal regulation and elements of terrorism crimes in law number 5 of 2018, as well as comprehensively examine the challenges and legal policies (penal and non-penal) in law enforcement of terrorism crimes. The type of research used is normative juridical with a descriptive-analytical approach, discussing existing legal symptoms and problems and testing them based on applicable laws and regulations and legal norms. The results of this study show that Law Number 5 of 2018 concerning the Eradication of Terrorism Crimes has provided a more comprehensive legal basis in regulating the definition, elements and scope of terrorism crimes. The main challenge in law enforcement of terrorism crimes is the growing *modus operandi* of terrorism, as well as the potential for human rights violations in taking firm action against terror perpetrators. Therefore, a legal policy to counter terrorism is needed in the form of penal and non-penal policies.

Keywords: *Terrorism, Radicalism, Law Enforcement, Deradicalization.*

ABSTRAK

Terorisme merupakan ancaman serius yang membutuhkan penanganan khusus dari negara. Indonesia sebagai negara demokrasi tidak kebal terhadap ancaman peristiwa teror seperti pengeboman di tempat umum, bom bunuh diri, dan penyebaran radikalisme. Terorisme merupakan kejahatan luar biasa, sehingga pemberantasannya perlu dilakukan secara khusus, terencana, dan berkelanjutan. Penelitian ini bertujuan untuk membahas secara mendalam regulasi hukum dan unsur-unsur kejahatan terorisme dalam UU Nomor 5 Tahun 2018, serta secara komprehensif mengkaji tantangan dan kebijakan hukum (pidana dan non-pidana) dalam penegakan hukum kejahatan terorisme. Jenis penelitian yang digunakan adalah yuridis normatif dengan pendekatan deskriptif-analitis, membahas gejala dan masalah hukum yang ada serta mengujinya berdasarkan hukum dan peraturan yang berlaku serta norma hukum. Hasil penelitian ini menunjukkan bahwa UU Nomor 5 Tahun 2018 tentang Pemberantasan Kejahatan Terorisme telah memberikan landasan hukum yang lebih komprehensif dalam mengatur definisi, unsur, dan ruang lingkup kejahatan terorisme.

Tantangan utama dalam penegakan hukum terhadap kejahatan terorisme adalah berkembangnya modus operandi terorisme, serta potensi pelanggaran hak asasi manusia dalam mengambil tindakan tegas terhadap pelaku teror. Oleh karena itu, diperlukan kebijakan hukum untuk melawan terorisme dalam bentuk kebijakan pidana dan non-pidana.

Kata kunci: Terorisme, Radikalisme, Penegakan Hukum, Deradikalisasi.

INTRODUCTION

Terrorism crimes, especially those that occur in Indonesia, are serious crimes that endanger state ideology, security, state sovereignty, humanity, and various aspects of people's lives, nation and state, because terrorism is organized, has a specific purpose and has a wide network. Terrorism is an *extraordinary crime*, so its eradication needs to be carried out in a special, planned, and sustainable manner, based on Pancasila and the Constitution of the Republic of Indonesia in 1945 (Paamsyah, 2023).

Terrorism crimes often use extreme violence that takes a large number of lives. This makes terrorism a serious threat that requires special handling by the state. Indonesia as a country of law is not spared from these threats, as evidenced by the emergence of various terror events that have occurred, such as bombings in public places, suicide bombings, to the spread of radicalism that has developed through various media, especially social media (Syihab et al., 2023)

As an effort to overcome the crime of terrorism, the Indonesian government has established legal policies, one of which is through Law Number 15 of 2003, as amended to Law Number 5 of 2018 concerning the Eradication of Terrorism Crimes. This regulation was born in response to the development of increasingly complex and adaptive modus operandi of terrorism, including the use of information technology and global networks. This change also expands the definition of terrorism, strengthens the authority of law enforcement officials, and provides a firmer legal basis in prevention and enforcement efforts (Suparmono, 2019).

That normatively, Law Number 5 of 2018 has become a comprehensive legal instrument in the eradication of terrorism. This arrangement includes aspects of prevention, enforcement, victim protection, and deradicalization. However, in practice, law enforcement of terrorism crimes still faces various obstacles and challenges. One of them is the potential for human rights violations in the enforcement and enforcement of laws related to terrorism.

The dynamics of terrorism that continue to develop are also a challenge for law enforcement officials. Terrorist groups carry out various modus operandi in carrying out their actions, one of which is using digital technology intermediaries to carry out propaganda, recruitment, and coordination of actions. This requires the ability to adapt quickly from law enforcement officials, both in terms of technology, human resources, and coordination between institutions. Without such capacity building, the effectiveness of law enforcement against terrorism crimes will be difficult to achieve (Rozaq, 2023).

Data on the enforcement of terrorism laws by Densus 88 of the National Police Headquarters throughout 2025 has determined as many as 51 terrorism suspects who are carried out in various regions of Indonesia. In addition, for the

suppression of acts of terrorism in cyberspace, the National Agency for Countering Terrorism (BNPT), has found as many as 6,402 content containing radicalism and terrorism. From the data, it consists of propaganda as many as 4,863 findings, funding 424 findings, logistics providers 30 findings, implementation of attacks 817 findings, recruitment 108 findings, training 73 findings, planning 24 findings, hiding 33 findings, and paramilitary 30 findings (Antara, 2025).

The occurrence of gaps and disparities in law enforcement between repressive and preventive approaches in countering terrorism is a challenge in itself. Handling terrorism tends to focus more on the enforcement aspect, while the prevention aspect, such as deradicalization and counter-radicalization, is not fully optimal. Preventive efforts are essential to break the chain of radicalism. Therefore, a more balanced policy is needed between the *security approach* and the *welfare approach* (Sitinjak, 2025).

Law enforcement of terrorism faces a dilemma between the need to maintain national security and respect for human rights (*liberty*). Repressive actions by law enforcement officials are often considered contrary to the principle of *due process of law*. Coordination between law enforcement agencies and related agencies is also an important factor in the effectiveness of countering terrorism. The involvement of various parties, such as the police and intelligence agencies, requires strong and integrated synergy. In addition to formal legal aspects, law enforcement against terrorism also deals with social and ideological issues (Kamsari, 2025). Even though Law Number 5 of 2018 has become a strong legal foundation in the eradication of terrorism crimes, there are still many complex challenges. Therefore, an effective and efficient legal policy is needed in overcoming these various obstacles and challenges (Iskandar, 2021).

METODE

The research conducted is normative juridical, which is research that analyzes legal rules, jurisprudence, and norms that live in society. The descriptive-analytical approach aims to take systematic, factual, and accurate data about a problem based on applicable laws and legal norms and analyze it based on laws and regulations. The data collection technique is carried out through literature research, namely obtaining data through literature studies by collecting legal materials in the form of laws and regulations, government regulations, village regulations, books and scientific papers or journals. As well as other supporting materials such as magazines, newspapers, and articles (Triono Eddy, 2025)

RESULTS AND DISCUSSION

Legal Regulations and Elements of Terrorism Crimes in Law Number 5 of 2018

The regulation of terrorism crimes in Indonesia has undergone significant developments after the birth of Law Number 5 of 2018 as an amendment to Law Number 15 of 2003. Law Number 5 of 2018 provides comprehensive regulations compared to previous regulations. One important change is the expansion of the definition of terrorism to not only focus on acts of violence, but also to include threats of violence, creating an atmosphere of terror or fear broadly in society. In

addition, the purpose of these actions is also an important element, namely to cause mass casualties, damage strategic vital objects, the environment, public facilities, or international facilities (Servasius Edwin Telaumbanua, 2025).

Law Number 5 of 2018 also regulates repressive and preventive approaches that are realized through regulations on national preparedness, counter-radicalization, and deradicalization. The state not only acts after a criminal act occurs, but also seeks to prevent the development of radical ideas that have the potential to give birth to acts of terrorism. In addition, there is also an expansion of the authority of law enforcement officials, especially in terms of arrests, detentions, and wiretaps. This is intended to provide a wider space for the apparatus in anticipating and tackling acts of terrorism from an early age (Rachma, 2020).

That the regulation of criminal witness provisions for acts of terrorism is regulated in several articles in Law Number 5 of 2018, including:

Article 6

Any person who deliberately uses violence or threats of violence that creates an atmosphere of terror or fear against people at large, causes mass casualties by depriving others of their liberty or loss of life and property, or causes damage or destruction to strategic vital objects, the environment or public facilities or international facilities shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 5 (five) years 20 (twenty) years, life imprisonment, or the death penalty.

Article 10A

Every Person who unlawfully enters into the territory of the Unitary State of the Republic of Indonesia, makes, receives, acquires, submits, controls, carries, has supplies thereto or has in his possession, stores, transports, conceals, or withdraws from the territory of the Unitary State of the Republic of Indonesia chemical weapons, biological weapons, radiology, microorganisms, nuclear, radioactive or their components, with the intention of committing the Crime of Terrorism shall be punished with criminal penalties imprisonment for a minimum of 3 (three) years and a maximum of 20 (two) years, imprisonment for life, or the death penalty.

Article 12A

1) Any person who with the intention of committing a Crime of Terrorism in the territory of the Unitary State of the Republic of Indonesia or in another country, plans, mobilizes, or organizes a Crime of Terrorism with a person who is in the country and/or abroad or in a foreign country shall be sentenced to imprisonment for a minimum of 3 (three) years and a maximum of 12 (twelve) years.

2) Any person who deliberately becomes a member or recruits a person to become a member of a Corporation designated and/or decided by the court as a Terrorism organization shall be sentenced to imprisonment for a minimum of 2 (two) years and a maximum of 7 (seven) years.

3) The founder, leader, administrator, or person who controls the Corporation as referred to in paragraph (2) shall be sentenced to imprisonment for a minimum of 3 (three) years and a maximum of 12 (twelve) years.

Another arrangement that is no less important is the recognition of corporate involvement in terrorism crimes. This law allows corporations to be held criminally

liable if proven to be involved in financing or supporting terrorist activities. This shows that the eradication of terrorism does not only target individuals, but also entities that have contributed to the occurrence of these criminal acts. The elements of terrorism include:

1) Acts (*Actus Reus*)

The elements of acts in the criminal act of terrorism include various actions, such as:

- a) the use of force or threats of violence;
- b) destruction of vital objects;
- c) dispersion of harmful substances;
- d) other actions that have the potential to cause damage or casualties.

These acts do not always have to be in the form of direct physical acts, but can also be in the form of planning, experimenting, or assistance in the implementation of criminal acts of terrorism. (Hukum et al., 2021)

2) Error (*Mens Rea*)

The element of guilt in the crime of terrorism is related to the intention or will of the perpetrator to commit the act. In this case, the perpetrator must have a specific purpose, such as creating an atmosphere of terror or fear at large, as well as ideological, political, or disruptive goals to state security. This element is the main differentiator between ordinary criminal acts and criminal acts of terrorism.

3) Tujuan (*Specific Intent*)

Law Number 5 of 2018 emphasizes the existence of a special purpose in the crime of terrorism. These goals include causing mass casualties, creating widespread fear, damaging vital objects, or disrupting the stability of state security. Without this specific purpose, an act of violence cannot necessarily be categorized as a criminal act of terrorism.

4) Akibat (*Result*)

The consequences of terrorism crimes are one of the important elements. These consequences can be in the form of casualties, environmental damage, destruction of public facilities, or disturbances to public security and order. However, in some provisions, the threat or potential consequences are also sufficient to qualify as a criminal act of terrorism.

5) Elements of Legal Subjects

The subject of law in the criminal act of terrorism is not only limited to individuals, but also includes groups and corporations. This shows that the law provides space to ensnare various parties involved, either directly or indirectly in terrorist activities (Ambarita, 2018).

Even though Law Number 5 of 2018 is sufficient in regulating the crime of terrorism, there are still several aspects that need to be studied critically. One of them is related to the expansion of the definition of terrorism which has the potential to cause multiple interpretations if it is not accompanied by clear limits. This can open up opportunities for abuse of authority by law enforcement officials. Second, elements create an atmosphere of terror or fear in general, relative and subjective, so they require careful interpretation in their application. Without clear parameters, this element can create legal uncertainty. The expansion of the authority of law

enforcement officials must be balanced with effective monitoring mechanisms to prevent human rights violations (Saragih, 2025).

The comprehensive regulation in Law Number 5 of 2018 has a positive impact on the effectiveness of law enforcement, especially in terms of prevention and early action. Law enforcement officials have a stronger legal basis to take preventive measures before an act of terrorism occurs. However, the implementation of such arrangements must be carried out carefully so as not to conflict with the principles of the rule of law and the protection of human rights. Therefore, a balance is needed between the interests of national security and the protection of individual rights (Tin, 2023).

Challenges and Legal Policies (Penal and Non-Penal) in Law Enforcement of Terrorism Crimes

Law enforcement against terrorism crimes in Indonesia faces various complex and multidimensional challenges. These challenges are not only juridical, but also related to social, political, technological, and institutional aspects. In addition, the firm actions of law enforcement officials in overcoming acts of terrorism are also often clashed with human rights violations (Telaumbanua, 2025). The discussion of these obstacles and obstacles includes:

- 1) The development of the modus operandi of terrorism is increasingly sophisticated and developing. Today's terrorist groups no longer rely solely on conventional methods, but have leveraged digital technology for propaganda, recruitment, and action coordination. The spread of radical ideas through social media and digital platforms is difficult to control effectively, requiring adaptive and technology-based law enforcement strategies;
- 2) Potential human rights violations. Expanding the authority of law enforcement officials, such as preventive arrests, prolonged detention, and wiretapping, often raises concerns about abuse of authority. This is a dilemma between maintaining national security and protecting the rights of individuals in the rule of law;
- 3) Difficulties in proving. The characteristics of organized and closed terrorism crimes make the process of collecting evidence more complicated. Many terrorist activities are carried out in secret, use hidden networks, and involve cross-border cooperation, thus requiring strong international cooperation.
- 4) Radicalization and sustainable recruitment. Radical ideologies that are the root of terrorism are still developing in various levels of society. Economic, social, and ideological factors also influence a person to be involved in a terrorism network. This shows that law enforcement alone is not enough to solve the problem of terrorism as a whole;
- 5) Coordination between institutions has not been maximized. The handling of terrorism crimes involves various institutions, such as the police, intelligence agencies, and correctional institutions. Lack of effective coordination can hamper the law enforcement process, both in the prevention and enforcement stages (Butar-Butar, 2023).

That as an effort to overcome these obstacles and challenges, an effective and efficient legal policy is needed in the form of penal and non-penal policies. Legal

policy or often referred to as political law is the effort of the state through institutions with the authority to formulate, determine, and implement regulations to achieve national goals, namely social *defense*, and public *welfare*. This system includes law reform, law enforcement, and crime management both criminal (penal) and non-penal, namely (Sulaiman, 2013).

a) Penal Virtue

Penal law policy is an effort to counter terrorism through criminal law means, namely by providing sanctions against the perpetrators of criminal acts. In this context, Law Number 5 of 2018 is the main legal basis in the prosecution of terrorism perpetrators. The penal policy includes several important aspects, namely:

- 1) criminalization of various forms of acts related to terrorism, including planning, experimentation, funding, and involvement in terrorist organizations. This allows law enforcement officials to act from the initial stage before the terror act occurs.
- 2) Imposition of criminal sanctions for perpetrators of terrorism crimes. Strict sanctions are expected to provide a *deterrent effect* and prevent similar actions in the future. In addition, the law also regulates additional criminal offences, such as the revocation of certain rights and the confiscation of assets related to terrorism crimes.
- 3) Expansion of the authority of law enforcement officials, such as in terms of arrest, detention, and wiretapping. This authority aims to increase the effectiveness of law enforcement, especially in dealing with organized and secret crimes (Saputra et al., 2024).

b) Non-Penal Policy

In addition to penal policies, countering terrorism is also carried out through non-penal policies, namely prevention efforts that do not use criminal law means (Pranowo, 2023). This approach aims to address the root causes of terrorism and prevent the emergence of new perpetrators, including:

- 1) The deradicalization program is an attempt to change the mindset and contamination of radical ideologies. This program is aimed at terrorism prisoners and people who are exposed to radical ideas. The success of the program depends on the right approach, including psychological, social, and religious aspects.
- 2) Counter-radicalization, which is a preventive effort through the spread of national values, tolerance, and religious moderation. This approach is carried out through education, media, and social activities involving various elements of society (Maulidyawanto, 2023).
- 3) Strengthening the social and economic welfare of the community. Social and economic inequality is one of the driving factors for a person to engage in radicalism. Therefore, it is very important to improve the level of people's welfare as an effective preventive measure in preventing terrorism.
- 4) Community participation and involvement. That the community plays a leading role in early detection of potential radicalization in the surrounding environment. Therefore, it is necessary to increase public awareness and participation in maintaining security and order (Kurniawan, 2020).

In addition, Presidential Regulation Number 12 of 2012 concerning the National Counter-Terrorism Agency (BNPT), is also one of the policies that combines penal and non-penal abbreviations in the enforcement of terrorism acts. **BNPT** is a non-

ministerial government agency formed to deal with terrorism issues in a coordinated, comprehensive, and sustainable manner in Indonesia. BNPT has a strategic role in maintaining national security from the threat of radicalism and terrorism (Tantimin, 2023). In carrying out its duties, BNPT has several main functions, namely:

In the preventive function, BNPT plays an active role in preventing the spread of radical ideology through deradicalization programs for former terrorism convicts, education and socialization to the community, as well as counter-radicalization through the media, education, and community. The protection function is: protecting the public from the threat of terrorism and increasing national vigilance and preparedness. The function of enforcement (repressive) by collaborating with law enforcement officials such as the National Police in arresting and enforcing the law against terrorism perpetrators. The function of deradicalization is by coaching terrorism prisoners and ex-perpetrators to return to society with moderate understanding. The function of coordination and synchronization by uniting various programs between agencies so that countering terrorism runs effectively and does not overlap (Umam et al., 2023).

Effective countermeasures of terrorism require synergy between penal and non-penal policies. These two approaches cannot work alone, but must complement each other. A penal approach is needed to provide a deterrent effect and take action against perpetrators who have committed criminal acts. Meanwhile, the non-penal approach serves to prevent the emergence of new perpetrators by addressing the factors that cause terrorism. This synergy must also be supported by strong inter-agency coordination, capacity building of law enforcement officials, and active participation of the community. Thus, countering terrorism can be carried out effectively and sustainably (Zaidan, 2017).

CONCLUSION

Law Number 5 of 2018 concerning the Eradication of Terrorism Crimes has provided a more comprehensive legal basis in regulating the definition, elements, and scope of terrorism crimes. The provisions for criminal sanctions against terrorism perpetrators are regulated in Article 6, Article 10A, and Article 12A of Law Number 5 of 2018. The elements of terrorism include: elements of acts, mistakes, goals, consequences, and elements of legal subjects. The comprehensive regulation in Law Number 5 of 2018 has a positive impact on the effectiveness of law enforcement, especially in terms of prevention and early action. The main challenge in law enforcement of terrorism crimes is the growing modus operandi of terrorism, as well as the potential for human rights violations in taking firm action against terror perpetrators. Legal policies for countering terrorism include: penal policies in the form of law enforcement Law Number 5 of 2018, such as the application of strict sanctions, criminalization, and enforcement of terror perpetrators. Non-penal policies are an effort to anticipate terrorism crimes in the form of deradicalization programs, counter-radicalization, strengthening the social welfare of the community, and increasing community participation.

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