

THE LEGAL PROTECTION AGAINST TERRORISM SUSPECTS IN INDONESIA (CASE STUDY OF THE ARREST PROCESS OF TERRORISM SUSPECTS BY DENSUS 88)

Sholahuddin Al-Fatih

Faculty of Law, University of Muhammadiyah Malang
Jl. Raya Tlogomas No. 246, Malang, East Java, Indonesia
E-mail : sholahuddin.alfath@gmail.com

Zaka Firma Aditya

Center for Research and Case Analyse, and Library Management, Constitutional Court of The
Republic of Indonesia
Jl. Medan Merdeka Barat No. 6, Jakarta Pusat, DKI Jakarta, Indonesia
E-mail ; zaka.aditya@gmail.com

Abstract

Terrorism is a form of extraordinary crime that not only leads to lives and material losses, but also creates a continuing fear in society. Backed by the many cases of terrorism with suicide bombing mode, especially in the case of Bali Bombing 1 and 2, then born special dataachment 88 (Densus 88) which has the obligation to combat terrorism. Unfortunately, in cracking down on the perpetrators of terror, even those still suspected as terrorist suspects, Densus 88 often uses violence and even shoots off on the spot. The late Siyono was one of the victims of repressive measures carried out by Densus 88. In other cases, Densus 88 is also often proven to mis-arrest after the suspect has lost his life. This condition is certainly contrary to the spirit of democracy and efforts to guarantee human rights protection in Indonesia. This paper discusses: (1) the Standard Operational Procedure of terrorist suspected arrest process by Densus 88 and its comparison with anti terrorism agency in other country; and (2) Guarantees and legal protection in the fulfillment of the rights of suspected terrorists.

Keywords : Legal Protection, Terrorism Suspect, Densus 88

Abstrak

Terorisme merupakan salah satu bentuk kejahatan luar biasa yang bisa menimbulkan jatuhnya korban jiwa dan kerugian materiil. Dilatarbelakangi oleh banyaknya kasus terorisme dengan modus bom bunuh diri, terutama kasus Bom Bali 1 dan 2, lahirlah Densus 88 yang bertugas untuk memerangi pelaku teror dan terorisme. Sayangnya, dalam menindak para pelaku teror, bahkan yang masih berstatus sebagai terduga teroris, Densus 88 seringkali menggunakan kekerasan bahkan tembak mati di tempat. Almarhum Siyono merupakan salah satu korban tindakan represif yang dilakukan oleh Densus 88. Dalam kasus lain, Densus 88 juga sering terbukti

melakukan salah tangkap. Kondisi ini tentunya bertentangan dengan semangat demokrasi dan upaya jaminan perlindungan HAM di Indonesia. Sehingga dalam tulisan ini akan dibahas mendalam mengenai dua permasalahan, yaitu: (1) SOP proses penangkapan terduga teroris oleh Densus 88 serta perbandingannya dengan lembaga atau badan anti terorisme di negara lain; dan (2) Jaminan dan perlindungan hukum dalam pemenuhan hak asasi terduga teroris

Kata Kunci : Perlindungan Hukum, Terduga Teroris, Densus 88

A. INTRODUCTION

Terrorism has become a divider of sovereignty and national unity. In this millennial century, the targets of terror are not only countries that are in conflict, but also have targeted developed countries, such as the United States, France, Britain and so on. The 9/11 tragedy that befell the United States, has left nearly 3000 people dead, including 11 terrorists who were on board in the plane that crashed into the twin towers of the World Trade Center (WTC) in New York.¹ This incident made the United States angry and became a reason for President George W. Bush to invade Iraq, because he was suspected of being the actor behind the 9/11.² Since then, the war against terrorism has been intensified globally. Even the United States finally made 911 an emergency call number, which was inspired by the 9/11 incident on the WTC.

Since that time, the international community has been more preventive against the issue of terrorism, and even tends to be excessive. Various instruments are prepared to anticipate terrorism, ranging from forming legal instruments to forming a special anti-terror body in several countries. This condition also occurs in Indonesia. In the aftermath of the Bali Bombing tragedy that occurred in 2002 and 2005, or a year after the 9/11 incident at the WTC, the United States, Indonesian people were panicked and traumatized by terrorism cases. As a preventive and repressive effort, the Indonesian government responded to the terror tragedy by making a Peraturan Pemerintah Pengganti Undang-Undang (Perppu) Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism and Peraturan Pemerintah Pengganti Undang-Undang (Perppu) Number 2 of 2002 concerning the Implementation of Perppu Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism.

Before the 9/11 tragedy at WTC, the United States and Bali Bombing 1 in Bali, bomb attacks had occurred in Indonesia, including³ :

¹ wartakota.tribunnews.com/2017/09/12/tragedi-runtuh-wtc/ diakses pada tanggal 18 Agustus 2018

² m.republika.com/berita/internasional/timur-tengah/ diakses pada tanggal 18 Agustus 2018

³ m.hukumonline.com/baca/berita/ diakses pada tanggal 18 Agustus 2018

1. In 2000, there was a bomb terror at the Malaysian Embassy, terrorist bombings on the Indonesia Stock Exchange (IDX), Jakarta and terrorist bombs during the Christmas Eve night;
2. In 2001, there was a bomb terror at Santa Anna-HKBP Church, bomb terror at the Senen Plaza Atrium Mall, Jakarta, bomb terror at KFC Makassar, bomb terror in the Australian School, Jakarta and mangosteen grenade bomb terror in front of the Bulungan chicken house, Jakarta.

A series of bomb terror events, as if a sign of a bigger bomb terror. Civil psychological has been frightened for almost the last 2 years, precisely from 2000 to 2002. So once the Bali Bombing 1 exploded, the people were truly in a state of extreme fear. The tourism climate in Bali has become quiet due to several countries issuing travel warnings for their citizens. So, it is very fair if the government, which headed by President Megawati Soekarno Putri, issued the Perppu. The two types of Perppu were then stipulated as Law Number 15-16 of 2003 and entered into force since 2003.

In addition to issuing Perppu, the government through the National Police, also formed a special team tasked with handling terrorist acts. This team will become the forerunner of the establishment of the Detasemen Khusus 88 Anti Teror or better known as Densus 88. Densus 88 began working and gained legal legitimacy to eradicate terrorism since June 20, 2003. From that moment on, Densus 88 continued to comb the pockets terrorist and trying to condition the situation. Some suspected terrorists were arrested and others were successfully tried and sentenced.

Even though there are true and binding legal instruments, the terrorist acts in Indonesia continue to occur. After the Bali Bombing 1 in 2002, there were recorded several terror bombings in several regions in Indonesia, such as⁴ :

1. At the end of 2002, after the Bali Bombing 1 tragedy, there was a bomb terror in McD Makassar;
2. In early 2003, there were terror bombs at the National Police Headquarters Complex, Jakarta, Soekarno Hatta International Airport, JW Marriot Hotel and at Bukit Sempodo Indah Cafe;
3. In 2004, there was a bomb terror at the Australian Embassy, Jakarta and bomb terror in Pamulang, Tangerang

The bomb terror occurred in a fairly close range of time, until it was followed by the Bali Bombing II tragedy in 2005. The bomb terror pattern was then applied randomly and massively in several regions, involving terrorist cells scattered in the regions. At that time,

⁴ *Ibid.*

terrorists seemed to target places that were inhabited by foreign tourists, especially tourists from the United States, Britain and Australia, as evidenced by the terrorist acts in front of the Australian Embassy and so on.

After the terror of the Bali Bombing II and the arrest of several terrorists, the terrorist activity of the bombs was somewhat reduced. It's just that the terrorists returned to their actions in early 2009, following a number of bomb terror incidents after the Bali Bombing II⁵:

1. In 2009, the bomb terror occurred at the Ritz Carlton and JW Marriot Hotels, Jakarta;
2. In 2011, terrorist bombings took place at the Mapolresta Cirebon Mosque and GBIS Kepunton, Solo;
3. In 2012, terrorist bomb attacks Pospam Gladak, Solo; and
4. In 2013 bomb terror attacks the Poso District Police.

Judging from the target, after the Bali Bombing II, terror bombs targeted many places of worship and police headquarters. The series of bomb terror events was basically accompanied by the government's intention to make changes to the Anti-Terrorism Act. Until finally the draft revision of the Anti-Terrorism Act was included in the National Legislation Program (Program Legislasi Nasional/Prolegnas) in 2016. A series of tug-of-war over the contents of the draft Anti-Terrorism Act, then accompanied by various bomb terror incidents in several regions in Indonesia. Until finally the government succeeded in creating the latest Anti-Terrorism Act, namely Act Number 5 of 2018 concerning Amendments to Act Number 15 of 2003 concerning the Stipulation of Peraturan Pemerintah Pengganti Undang-Undang (Perppu) Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism to be Act.

The long way to fight againsts terrorism in Indonesia, besides being colored by the dynamics of juridical regulatory changes and the establishment of Densus 88, also cannot be separated from the many cases of malpractice arresting suspected terrorists. For example, a case of wrongful arrest experienced by Arifin, a Malang citizen, who was reportedly a perpetrator or involved in bomb terror in early 2018. The wrong arrest case was also experienced by Ayom Penggalih and Nur Syafruddin in Solo in 2015. In fact, in 2016, the community was made excited by the death of Siyono, a Muhammadiyah youth from Klaten who allegedly had been the victim of Densus 88's arrest. Unfortunately, Siyono could not reveal in detail the chronology of the incident that happened to him because he died in an alleged arrest case by Densus 88 of these.

This condition finally raises many questions. How is the Standar Operational Procedure or SOP to arresting suspected terrorists so that many cases of wrong arrest occur. The community also often witnessed the occurrence of the alleged terrorists who were shot dead on the spot, not captured in living conditions and then asked for information and transferred to

⁵ *Ibid.*

court to be tried. In fact, every human being has the right to life, which is included in non-derogable rights or basic rights that cannot be reduced. With the status of being a suspected terrorist, they have the right to live. The human rights of the alleged terrorists are guaranteed by the state and the law. So, in this paper, the author would like to examine the SOP for the capture of suspected terrorists by Densus 88 and the comparison with anti-terrorism institutions or bodies in other countries; and also legal guarantees and protection in fulfilling the alleged rights of terrorists.

B. RESULT AND DISCUSSION

1. The Process of Arresting Terrorist Suspects by Densus 88

The Special Detachment 88 Anti-Terror (Densus 88 AT) is a special unit under the Indonesian National Police, which was formed based on the Decree of the Chief of the National Police Number 30 / VI / 2003. In addition to Densus 88, in Indonesia there are several anti-terror units, including Detachment C of the Police Mobile Brigade, Detachment of the Terrorism of the Indonesian Army, Detachment of 81 Kopassus TNI AD, Detachment of the Navy Corps of the Indonesian Navy, Detachment of the Bravo TNI AU and Anti-Terrorism Unit BIN.

Although there are many special units in charge of handling terrorism cases, Densus 88 is more popular among the public. Moreover, Densus 88 is a form of manifestation of the mandate in Act Number 5 of 2018 concerning Amendments to Act Number 15 of 2003 concerning the Stipulation of Peraturan Pemerintah Pengganti Undang-Undang (Perppu) Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism enter to be Act. Densus 88 is increasingly popular because of its ability to deal with many cases of terrorism and in arresting suspected terrorism.

Densus 88 which in 2004 was chaired by Adjunct Senior Commissioner of Police (AKBP) Tito Karnavian (who in 2018 served as Chief of Police) initially consisted of only 75 people. Densus 88 then continued to increase the number of its troops to reach hundreds. In fact, Densus 88 was reportedly also prepared in each Regional Police to overcome and follow up on terrorists or suspected terrorists in the area. The number 88 behind the word Densus is taken from the spelling ATA, which if pronounced is similar to eighty eight. ATA stands for Anti Terrorism Act. Because Densus 88, as mentioned above, is a mandate from Act Number 15 of 2003 or more popularly referred to as the Anti-Terrorism Act.

In carrying out its operations, Densus 88 can make arrests with initial evidence from any intelligence report for a period of 7 x 24 hours. These provisions are set forth in Article 26 and Article 28 of Act Number 15 of 2003. In general, the Act states the standard procedure for arresting suspected terrorists by Densus 88, namely:

- a. There is sufficient preliminary evidence obtained from the initial report of each intelligence regarding the existence of suspected terrorists in an area;
- b. Central Densus 88 (whose office is in Megamendung, Jakarta), then coordinates with Densus 88 in the area;
- c. Coordination is intended to divide tasks according to competency, because if sufficient personnel and strength are possible, the Densus 88 in the Regional Police is down, but if it is not enough, it is necessary to get assistance from the Central Densus 88;
- d. During a period of 7 x 24 hours, suspected terrorists are monitored and then arrested and handed over to investigators for further legal proceedings.

The process of arresting suspected terrorists in Act No. 15 of 2003, has several weaknesses, including:

- a. There is no standardization and guarantee of the protection of human rights suspected by terrorists who will be arrested by Detachment 88;
- b. Provisions related to "every intelligence report" raise doubts, that in the process of arresting suspected terrorists, Detachment 88 could have experienced "wrong arrest". Although Detachment 88 has an Investigation Division in collaboration with BIN, the phrase "every intelligence report" seems to ignore the existence of a special field of investigation in the Detachment 88. Because, even though the preliminary evidence does not come from the Detachment 88 Investigation Field, provided that the report of the initial evidence is an intelligence, then it can be used as initial evidence.⁶
- c. Provisions on the time of arrest of suspected terrorists 7 x 24 hours, could be a psychological burden from the Detachment 88 troops, so that it could lead to arrests with the method of shooting dead on the spot and other procedural errors.

The impact of the rules and standards of arrest of suspected terrorists in Act No. 15 of 2003 has been felt by the community, for example in the form of cases of wrongful arrest, even to the point of loss of life. Several cases of misappropriation and malpractice procedures for the arrest of suspected terrorists in Indonesia within the period 2003-2018 (the validity of Act No. 15 of 2003 until the enactment of the latest law, Act Number 5 of 2018), including⁷ :

⁶ An interview with Dr. Sri Ayu Astuti, a Terrorism and Criminal Law expert, 19 Agustus 2018

⁷ Nabilla Tashandra, *Berulang Kali Salah Tangkap, Profesionalisme Densus 88 Dipertanyakan*, <https://nasional.kompas.com/read/2015/12/31/10435901/Berulang.Kali.Salah.Tangkap.Profesionalisme.Densus.88.Dipertanyakan>. diakses pada tanggal 19 Agustus 2018

- a. In 2018, Densus 88 has committed a wrongful arrest. The wrong arrest case was experienced by Arifin, a resident of Malang, who was reportedly a perpetrator or involved in bomb terror in Surabaya;
- b. In 2016, the community was made excited by the death of Siyono, a Muhammadiyah young man from Klaten who allegedly had been the victim of Densus 88's arrest. Unfortunately, Siyono could not reveal in detail the chronology of the incident that happened to him because he died in an alleged arrest case by Densus 88 of these. The then National Police Chief, General Badrodin Haiti, explained that Densus 88 had violated the procedure of arresting suspected terrorists, namely: a) not handcuffing suspected terrorists; and b) only provide one bodyguard for suspected terrorists. In a report released by the Advocacy Division of PP Muhammadiyah along with Komnas HAM, based on the autopsy results, Siyono died due to a broken rib and chest. This results in damage to the tissues of the heart organ. In addition, there were no signs of resistance from autopsy bruises around the wrist. This also became an anti-thesis from the statement of the National Police Headquarters stating that Siyono was fighting.⁸
- c. Densus 88 made a wrong arrest on Tuesday (12/29/2015) in Solo, Central Java. Two Solo residents who wanted to go to the mosque were arrested by Densus 88. However, when examined, it turned out that they were not terrorists. Both are named Ayom Penggalih and Nur Syafruddin.
- d. Mid-May 2014, Densus 88 was wrongly arrested in Solo. The victim who was arrested at that time was named Kadir from Banyu Harjo Village.
- e. Another case occurred at the end of July 2013. Densus 88 also arrested two Muhammadiyah residents, who were finally released due to wrong arrest.
- f. Other arrests were made against 14 Poso residents in 2012 and proven wrong in arrest, then released.

In fact, in the notes of Haris Abu Ulya, Director of The Community of Islamic Ideology Analyst (CIIA), in 2016, Densus 88 resulted in around 120 suspected terrorists who died in terrorism operations outside the court. In addition to the death toll, there were at least more than 40 suspected terrorists experiencing wrongful arrests and 99 percent of

⁸ <http://www.hukumonline.com/berita/baca/lt571736d3d5486/proses-penangkapan-siyono-ternyata-salah-prosedur> diakses pada tanggal 19 Agustus 2018, seperti juga keterangan yang disampaikan oleh Mokhammad Najih, P.hD, pakar hukum pidana yang terlibat dalam tim Advokasi Hukum PP Muhammadiyah yang menangani kasus Siyono.

those wrongly arrested suffered torture.⁹ Over the many cases of wrongful arrests, even resulting in loss of life, many parties reacted and questioned the professionalism of the performance of Densus 88. The DPR through Commission III, even called the Chief of Police to explain the performance of the Densus 88.

Seeing a strong reaction from the community, especially from human rights observers, such as the National Human Rights Commission (Komnas HAM) and KontraS, the government immediately made changes to the regulations in the Anti-Terrorism Act. The amendment was quite clear and became a differentiator between Act Number 15 of 2003 and Act Number 5 of 2018, particularly in articles 25 and 28 which became the legal basis for the process of arresting suspected terrorists by Densus 88.

Article 25

(7) The detention of Terrorism Criminal suspects as referred to in paragraph (1) to paragraph (6) must be carried out by upholding the principles of human rights.

(8) Any investigator who violates the provisions referred to in paragraph (7) shall be sentenced in accordance with the provisions of the legislation.

Article 28

(3) The arrest of persons suspected of committing Terrorism Crimes as referred to in paragraph (1) and paragraph (2) must be carried out by upholding the principles of human rights.

(4) Every investigator who violates the provisions referred to in paragraph (3) shall be sentenced in accordance with the provisions of the legislation.

The two articles in the latest Anti-Terrorism Act, give mandate to Densus 88 and investigators, so that in their duty to continue to uphold human rights values. In fact, those who violate these provisions can be sentenced. So, in the future, the government will try to minimize the case of the arrest of suspected terrorists accompanied by violence, even to the point of loss of life. Unfortunately, this provision is not retroactive, so individuals who have committed acts of violence in the process of arresting suspected terrorists before the Anti-Terrorism Act is passed cannot be convicted.

Anti-Terrorism Act No. 5/2018 also has no provision for compensation for victims of wrongful arrests. Compensation is only given to victims of bomb terror. This is as explained in articles 35A and 35B concerning Victim Protection. In the explanation of the Act, victims are defined as follows;

Paragraph (2)

Letter a

⁹ Amri Amrullah, Ahad 13 Maret 2016 19:14 WIB, <https://www.republika.co.id/berita/nasional/hukum/16/03/13/o3z8ou394-pengamat-ada-puluhan-korban-salah-tangkap-densus-88> diakses pada tanggal 19 Agustus 2018

What is meant by "direct victims" are victims who directly experience and feel the consequences of criminal acts of terrorism, for example victims die or are seriously injured by a bomb explosion.

Letter b

What is meant by "indirect victims" are those who depend their lives on direct victims, such as wives who lose husbands who are direct victims or vice versa.

Supposedly, the government is also responsible for restoring the rights and good name of suspected terrorists who are victims of wrongful arrests. Thus, those who are victims of wrongful arrest can be re-accepted in the community and act like ordinary people. A more detailed explanation of the anti-terrorism regulation in the Anti-Terrorism Act in Indonesia, can be seen in table 1 below.

Table 1. The Different Regulation on Anti-Terrorism Act (ATA) in Indonesia

Different	ATA 15/2003	ATA 5/2018
Procedure for arresting suspected terrorists	SOPs and technical guidelines have not yet been made. There are no rules regarding human rights	There are no SOPs and technical instructions. However, there are already rules to uphold human rights values, so that the alleged rights of terrorists must be protected
Sanction	Ethical proceedings for Densus 88 personnel who proved to violate the rules	Imposed criminal sanctions in accordance with the provisions of the law for Densus 88 personnel who proved to violate the rules
Time of arrest	7 x 24 hours since sufficient preliminary evidence is obtained	14 x 24 hours since sufficient preliminary evidence is obtained
Victim	The definition of victims is still very common	There are differences in definitions between direct victims and indirect victims, but there is still no definition for victims of wrongful arrests of suspected terrorists

2. The Process of Arresting Terrorist Suspects by Anti-Terror Institutions Abroad

a. SWAT (Special Weapons and Tactics)

SWAT is a special unit that is used to carry out law enforcement in the United States that uses special tactics and weapons. Founded in 1960, SWAT was originally used to anticipate confrontation which leads to criminal acts.

In its development, SWAT was then used as a tool to combat drug trafficking, such as narcotics. After the 9/11 tragedy, SWAT then took over the role of eradicating terrorism. Like Densus 88, SWAT is also placed in the district or region. SWAT receives emergency calls from the citizen. The famous SWAT unit in America, is under the LAPD (Los Angeles Police District) and NYPD (New York Police District).

Almost like Densus 88 which is under the Police, SWAT is not only focused on eradicating terrorism, but also other emergency matters. If Densus 88 captures suspected terrorists in accordance with preliminary evidence reported by intelligence, SWAT takes action and captures suspected terrorists based on reports from the public.

In working, SWAT often coordinates with the CIA, FBI and US. Secret Services. The combination of reports received from the citizen in coordination with intelligence agencies makes SWAT actions more measurable and targeted, so that cases of wrong capture by SWAT are rarely found. SWAT troops are also trained with special techniques and weapons, so that in dealing with suspected terrorists, they put forward the principles of human rights.

b. SAS (Special Air Services)

SAS is a special unit in the British Army or British Army. First formed in 1941 as a regiment, SAS was later transformed into a corps in 1950. SAS is not only responsible for combating terrorism, but also for overcoming emergency matters, especially in regard to state security. The mission carried out by SAS tends to be closed and confidential, so it is rarely published by the British Government or the British Ministry of Defense.

Unlike the SWAT and Densus 88 which are under the Police, SAS, which is under the military unit, is a collection of trained soldiers. They are equipped with weapons and military-specific strategies. Training for routine SAS members is refreshed within 16 months. In taking action against suspected terrorists, they have a clear SOP regarding the target and tactics used. Because, SAS is responsible for a command of the Director of Special Forces (DSF) with a minimum rank of Major General.

SAS often carry out secret missions. So, in contrast to SWAT that receives reports from the public, or Densus 88 that receives reports from intelligence, actions

carried out by SAS are rarely revealed to the public. However, the missions carried out by SAS in capturing suspected terrorists are in accordance with the established procedures. Thus, it is rare to find suspected cases of wrongful arrests or suspected terrorists died before being tried by SAS.

c. Pasgeras (Pasukan Gerakan Khas)

Pasgeras is an anti-terror unit under the Malaysian National Police (Polis Diraja Malaysia/PDRM). Pasgeras has an undisclosed number of personnel and strength. Pasgeras was formed around 1997. Pasgeras's tasks were quite diverse, in addition to the anti-terror field, Pasgeras was also tasked with securing state leaders, including carrying out assignments abroad, such as a SAR team in Aceh during the tsunami and also assisting in anti-terror countermeasures in operations Astute in East Timor.

Pasgeras conducts covert operations in invading terrorists. Confidential operations conducted by Pasgeras are carried out based on SOPs that have been instructed by the Pasgeras commander. Like the Fajr Operations conducted in 2000, to capture Al-Ma'unah terrorists who have stolen several weapons from the police headquarters and will be used to carry out rebellions and overthrow Yang Dipertuan Agung's to be converted to an Islamic state. Terrorists were finally defeated, some members of Al-Ma'unah were also captured and some others surrendered.

Through this anti-terror operation, Pasgeras rarely takes action outside the applicable SOP, let alone commit wrongful arrests or loss of life due to violating Pasgeras SOP procedures.

3. The Guarantees and Legal Protection in Fulfillment of the Right of Suspected Terrorist

In preventing acts of terrorism, countries in the world, especially those who are members of the United Nations, have agreed to a joint rule regarding counter-terrorism measures. Since 1963, the international community has elaborated 19 international legal instruments to prevent terrorist acts. They are developed under the auspices of the United Nations and the International Atomic Energy Agency (IAEA), and are open to participation by all Member States.¹⁰ The legal instrument is the basis for the international community to protect its citizens and also foreign nationals from the threat of terrorism.

Although terrorism is a common enemy, protecting the human rights of terrorists is also an obligation for a legal state. The right to life is one of the rights that cannot be reduced or non derogable rights. Thus, the revision of the Anti-Terrorism Act in Indonesia

¹⁰ <http://www.un.org/en/counterterrorism/legal-instruments.shtml> diakses pada tanggal 18 Agustus 2018

by including guarantees of protection of human rights, is a strategic step to eradicate terrorism, especially in Indonesia itself.

The issue of human rights protection has become a global issue. Instead of combating terrorism, a country can be accused of being a human rights violator if the approaches and methods used to eradicate terrorism are not in accordance with human rights principles. This condition has become a simalakama fruit for several countries in ASEAN, such as Singapore and Malaysia. The ratification of the Internal Security Act (ISA) in both countries is alleged to be a repressive attempt for the state to spy on its own citizens, act authoritarily and eliminate political opponents in the ruling country.

In fact, the ISA in Malaysia was used as one of the points of the opposition campaign which finally won the election. Therefore, Article 26 and Article 28 in Act Number 5 of 2018 can be called as a progressive step by the government in eradicating criminal acts of terrorism with a more humane method.

After all, suspected terrorists are human beings who are inherent in their human rights, one of which is the right to life. Indonesia needs to leave the bar bar ways, such as interrogating suspected terrorists by closing their eyes and beating them with weapons. The process of investigating and investigating suspected terrorists should be carried out in a humanistic manner by upholding human rights. In addition to basing on the rules in Act No. 5 of 2018, Police or Densus 88 also need to make SOP arrest suspected terrorists by promoting and upholding human rights values.

C. CONCLUSION

Based on the results of the research and explanation above, it can be concluded that:

1. Densus 88 has not made SOP the process of arresting suspected terrorists, so that in the period 2003-2018 or since the Densus 88 was formed to date, there are more than 120 victims killed in the arrest of suspected terrorists and 40 more cases of wrongful arrests. Unlike what has been done by SWAT, SAS or Pasgeras, they have SOPs in capturing suspected terrorists, so that cases of wrongful arrests or arrests that cause death victims can be minimized.
2. The guarantee and legal protection in fulfilling the human rights of suspected terrorists by the Government of Indonesia have been accommodated in Article 26 and Article 28 of Act No. 5 of 2018 that well known as the new Anti-Terrorism Act in Indonesia.

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