



## Legal Consequences for Children Who Commit Criminal Acts of Terrorism Based on Law Number 5 of 2018 Concerning the Eradication of Criminal Acts of Terrorism

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### Article Information:

Received November 22, 2023

Revised December 3, 2023

Accepted December 20, 2023

### ABSTRACT

Terrorism is an extraordinary crime (Extra Ordinary Crime), the international world created the concept of constitution through international conventions, namely the "Universal Declaration Of Human Rights" as a foundation of human rights, specifically the United Nations passed the "Convention On The Right Of The Child" to protect children and uphold children's human rights throughout the world. Terrorism eradication efforts of the government and the private sector are expected to focus on increasing integrated cooperation at all levels of society and creating the right legal concept for perpetrators of terrorism and legal certainty for children involved in criminal acts of terrorism. In this study using the Empirical Juridical research method is done by conducting legal research on the application of normative law directly on certain legal events that occur in society supported by data and facts. Descriptive Analysis, because the data collected in the form of words and images and not numbers that can provide a description of the subject of the research conducted, the data collected becomes a node of what has been researched. It can be concluded that the consequences of acts of terrorism result in losses in the form of loss of life, material, economic instability in the field of investment in the form of reduced foreign investors investing with security considerations and fear of loss.

**Keywords:** *Child Protection, Legal Consequences, Terrorism*

Journal Homepage <https://journal.ypidathu.or.id/index.php/solj/oai>

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How to cite:

Irfandi, A. R., Arjawa. A. A. G. P., & Anggapurana. I. B. (2023). Legal Consequences for Children Who Commit Criminal Acts of Terrorism Based on Law Number 5 of 2018 Concerning the Eradication of Criminal Acts of Terrorism. *Sharia Oikonomia Law Journal*, 1(4). 255-263 <https://doi.org/10.55849/solj.v1i4.644>

Published by:

Yayasan Pendidikan Islam Daarut Thufulah

## INTRODUCTION

The term terrorism is a concept that has a sensitive connotation because acts of terrorism can cause innocent civilian casualties (Bader dkk., 2019; Bassil dkk., 2019; Zheng dkk., 2021). However, in recent years, terrorism has occurred in several regions in Indonesia and has been perpetrated by Indonesians and a few outside actors, collaborating in a system where the perpetrators are Indonesians with those who have international networks. Although each country defines terrorism according to its national law in order to regulate, tackle and prevent the notion of terrorism, but until now no one has been able to define terrorism with certainty so that it can be generally accepted (Busher dkk., 2019; Samitas dkk., 2018; Wang & Young, 2020). Efforts to deal with terrorism as an extra ordinary crime require extra efforts by the government and society. Terrorism destroys human civilization against the background of religious, political and business agendas, they do it rapidly and organized by forming international to national networks, carried out professionally, one of which uses children as a medium for ambition to control the world (Bildirici & Gokmenoglu, 2020; Corbet dkk., 2019; Seabra dkk., 2020). The world community is united against Terrorism both through the United Nations Security Council Resolution and independently to save life.

The international instrument as the basis for the protection of children's rights is the "Universal Declaration of Human Rights" (1948), as evidence that the world shows a general statement about human rights, this statement outlines the views of the General Assembly of the United Nations (UN) on the guarantee of human rights for human life (Ataants dkk., 2018; Gieysztor dkk., 2018; Giordano dkk., 2021). In particular, the United Nations passed the Convention on the Rights of the Child to protect the human rights of children around the world, the world child protection agency "United nation Children's Fund" (UNICEF) summarized 54 articles on child protection (Clark dkk., 2020; Lennox dkk., 2021; Sambala dkk., 2019). In International Criminal Law, the crime of terrorism is classified as an "Extraordinary Crime" because it is a crime against humanity, materially harmful and causes economic imbalance in a nation (Kfir, 2020; Mahor dkk., 2021; Shechory Bitton & Silawi, 2019). The government has made a new law in an effort to prevent the occurrence of criminal acts of terrorism through Government Regulation in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism as stipulated as a law by Law Number 15 of 2003, Law No. 5 of 2018 on the Stipulation of Government Regulation in Lieu of Law No. 1 of 2002 on the Eradication of the Criminal Acts of Terrorism into Law, Law No. 11 of 2012 on the Juvenile Justice System, Law No. 35 of 2014 on the Amendment to Law No. 23 of 2002 on Child Protection. Minister of Social Affairs Regulation Number 9 of 2015 concerning Guidelines for Social Rehabilitation of Children in Conflict with the Law. 2 Presidential Regulation Number 46 of 2010 concerning the National Counterterrorism Agency (BNPT) as well as Regulation of the Head of the National Counterterrorism Agency Number PER-01/K.BNPT/I/2017 concerning the Deradicalization Program. The article contains criminal provisions against children involved in terrorism. In relation to children's human rights, the 1945 Constitution of the Republic of Indonesia

Article 28B paragraph (2) reads "Every child has the right to survival, growth and development and the right to protection from violence and discrimination."

The importance of limiting between the perpetrators of terrorism crimes and children as perpetrators who are involved not because of their own will or awareness but get influence through doctrine and coercion. There is legal certainty where the State is obliged to take legal protection measures through norms that regulate systematically as prevention, handling and rehabilitation measures. So that the State considers it necessary to create definite Laws and take sides with the human rights of children as citizens who are still in the protection status of the State and parents. This research is expected to add reference and insight into: Legal Protection of Children Involved in the Crime of Terrorism.

## **RESEARCH METHODOLOGY**

Based on the problems that occur, the author conducts research for the preparation of reports using the Empirical Juridical research method, which is "a legal research method that uses empirical facts taken from human behavior, both verbal behavior obtained from interviews and real behavior carried out through direct observation. Researchers conduct verbal interactions with respondents to collect information and data (Apostolaros dkk., 2020; Chua & Engel, 2019; Poteat dkk., 2019). For the author, the advantage of using interview instruments is a higher and more certain response rate. Interviews with competent parties are considered more representative of the achievement of information in a case, so that data collection time by researchers becomes more efficient.

Descriptive Analysis, because the data collected is in the form of words and images and not in the form of numbers that can provide a description of the subject of the research conducted, the data collected becomes a node of what has been researched (Castro & Tumibay, 2021; Mishra dkk., 2019; van Valkengoed & Steg, 2019). So in this study the author will describe by conveying an overview of the Legal Consequences Against Children Who Commit the Crime of Terrorism Based on Law Number 5 of 2018 concerning Eradication of the Crime of Terrorism.

### **Type of Research**

This research uses a legal approach that is juridical Empirical examines how normative provisions are realized in reality in society.

### **Data Source**

#### **Primary Data**

Obtained from interviews as a primary data source which is a question and answer process between two or more people, with the intention of getting an explanation or answer. Usually primary data sources obtained from interviews are in the form of conversation quotes that are considered appropriate to the problem or research topic.

#### **Secondary Data**

Secondary is a type of data obtained by researchers through second parties or not direct sources, for example documents, literature related to the research.

### **Data Type**

#### **Primary Data**

Primary data is data obtained or collected directly in the field by the person conducting the research or the person concerned needs it. Primary data is obtained from informant sources, namely individuals or individuals such as the results of interviews conducted by researchers.

#### **Secondary Data**

Secondary data is data obtained or collected by people conducting research from existing sources.

### **Data Collection Technique**

Data collection techniques in empirical legal research, the author conducts interviews, where data is obtained and identifies events that occur and what norms apply therein.

### **Data Analysis**

Data analysis is a process where the available data is collected and generally analyzed by the author, and the data is described in sentence form, then summarizes it into information that is easy to understand as a description of what has been researched and formed into conclusions.

## **RESULT AND DISCUSSION**

Terrorism has become part of the history of the nation's civilization that its actions are full of violations of the law and all of its actions are inconsistent or incompatible with the principles of life of society in general (Anwar, 2020; Longhi, 2021; Uzel dkk., 2018). Regarding the standard and definitive definition of what is called the Crime of Terrorism, until now there is no uniformity. According to Prof. M. Cherif Bassiouni, an expert on International Criminal Law, it is not easy to create an identical definition that can be universally accepted, making it difficult to monitor the meaning of Terrorism (Blackbourn dkk., 2019; Gill dkk., 2019; Sageman, 2021). Therefore, according to Prof. Brian Jenkins, Ph.D., Terrorism is a subjective view.

In International Criminal Law, the crime of terrorism is classified as an extraordinary crime because it is a crime against humanity, materially detrimental and causes economic imbalance of a nation (Elmas, 2021; Marchment dkk., 2020; Yonucu, 2018). In practice, the perpetrators of criminal acts of terrorism systematically involve international networks across countries to succeed in all operations, in this case the success of handling and solving the problem of cross-country terrorism cases depends on the ability and professionalism of police officers who are responsible for security and order.

A.C.Manulang said that whoever the perpetrator and whatever the motive behind the act of terror cannot be tolerated, the act is an extraordinary crime "Extra Ordinary Crime" The act of terror in public space is seen as a crime, not merely in the act but the subsequent impact it causes. In addition to causing fear, bombings and other types of violence lead to various motives of sentiment in the community between pros and cons,

potentially triggering further social conflicts. Therefore, terrorism is an extraordinary crime against humanity and civilization. Terrorism is a threat to humanity and an enemy of all religions. The war against terrorism is a joint commitment that has been agreed upon by various countries.

In the Child Protection Law, violations of the protection of children's rights, in addition to being a violation of human rights, are also a huge obstacle to survival. Legal protection for children involved in terrorism crimes can be maximally implemented, authorized law enforcement officials should provide more than one form of legal protection for children in accordance with applicable statutory provisions (Kisely dkk., 2018; Rasella dkk., 2018; Seddighi dkk., 2021). To anticipate the involvement of children in acts of terror or other crimes, education, family, and environmental factors should be the determining factors.

If children are involved in criminal acts of terrorism, they cannot be considered as perpetrators of crime, but rather victims of crime, victims of terrorism networks, victims of doctrine, exploitation of thought, propaganda from the invitation of parents or adults around them so that they must be specially protected. Children like this are only *manus minstra*, should not be sentenced to prison, but must be educated, given counseling, rehabilitated and social assistance. Include special rules and articles on children as perpetrators of terrorism in the Law on the Eradication of the Crime of Terrorism. Because the procedures and processes of handling children involved in terrorism have not been fully based on the Law on Juvenile Justice System, both by Densus 88 when arresting and investigating, Prosecutors and Judges during detention placement and trial process, Correctional Institutions in providing guidance, and the National Counterterrorism Agency in conducting deradicalization.

## **CONCLUSION**

Terrorism causes a lot of harm, for example in the social sector, namely community life, mutual suspicion, grudges and others, in the economic sector it can hamper the economy because investors are afraid to invest in a country that is not safe, in the security sector, as a result the life of the state and society becomes uneasy because of riots and wars. It is the duty of the State to protect all of its people and strive for security measures, legal protection by making, establishing final legislation against perpetrators of criminal acts of terrorism and special regulations for children involved in criminal acts of terrorism.

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