

# Analysis of Potential Human Rights Violations in the Process of Arresting Terrorism Suspects: A Case Study on Lombok Island

Mahmuluddin<sup>1</sup>, Zulkarnain<sup>2</sup>, Y.A. Wahyudin<sup>3</sup>, Sri Maryanti<sup>4</sup>

<sup>1</sup>University of Mataram, e-mail: mahmuludin@unram.ac.id

<sup>2</sup>University of Mataram, e-mail: hizulkarnain3@gmail.com

<sup>3</sup>University of Mataram, e-mail: aria\_wahyuddin@unram.ac.id

<sup>4</sup>University of Mataram, e-mail: maryanti.sri88@gmail.com

## Histori Naskah

Diserahkan:  
15-12-2024

Direvisi:  
28-12-2024

Diterima:  
30-12-2024

## Keywords

: Human Rights; Human Rights Violations; Legal Standards; Anti-Terrorism Regulations; Accountability Mechanisms

## ABSTRACT

*In its efforts to address the threat of terrorism, Indonesia faces a significant challenge in balancing national security with the protection of human rights. This study examines the potential for human rights violations during the arrest of suspected terrorists on Lombok Island, a strategic region and international tourism destination in West Nusa Tenggara. The primary focus of this research is on non-compliance with international and domestic legal standards, including arrests without clear legal grounds, the use of torture, and detention without due judicial process. Changes in anti-terrorism regulations, as outlined in Law No. 5 of 2018 on the Eradication of Terrorism Crimes, raise concerns that arrest procedures may erode public trust in law enforcement agencies and affect social and economic impacts. This study finds that the lack of proper legal procedures and safeguards during the arrest of suspected terrorists often results in violations of both international human rights norms and domestic legal frameworks. The findings highlight the need to uphold human rights within law enforcement practices, alongside an urgent review of anti-terrorism regulations to prevent abuses. Strengthening accountability mechanisms is critical for restoring public trust and ensuring that counter-terrorism efforts do not compromise fundamental freedoms.*

## ABSTRAK

Dalam upayanya untuk mengatasi ancaman terorisme, Indonesia menghadapi tantangan besar dalam menyeimbangkan keamanan nasional dengan perlindungan hak asasi manusia. Penelitian ini mengkaji potensi pelanggaran hak asasi manusia selama penangkapan terduga teroris di Pulau Lombok, sebuah wilayah strategis dan destinasi pariwisata internasional di Nusa Tenggara Barat. Fokus utama penelitian ini adalah ketidakpatuhan terhadap standar hukum internasional dan domestik, termasuk penangkapan tanpa dasar hukum yang jelas, penggunaan penyiksaan, dan penahanan tanpa proses peradilan yang adil. Perubahan dalam peraturan anti-terorisme, seperti yang diatur dalam Undang-Undang No. 5 Tahun 2018 tentang Pemberantasan Tindak Pidana Terorisme, menimbulkan kekhawatiran bahwa prosedur penangkapan dapat merusak kepercayaan publik terhadap lembaga penegak hukum dan berdampak pada aspek sosial dan ekonomi. Penelitian ini menemukan bahwa kurangnya prosedur hukum yang tepat dan jaminan selama penangkapan terduga teroris sering mengakibatkan pelanggaran terhadap norma hak asasi manusia internasional dan kerangka hukum domestik. Temuan ini menyoroti perlunya penegakan hak asasi manusia dalam praktik penegakan hukum, bersama dengan tinjauan mendesak terhadap peraturan anti-terorisme untuk mencegah penyalahgunaan. Memperkuat mekanisme akuntabilitas sangat penting untuk memulihkan kepercayaan publik dan memastikan bahwa upaya pemberantasan terorisme tidak mengorbankan kebebasan dasar.

## Kata Kunci

: Hak Asasi Manusia; Pelanggaran Hak Asasi Manusia; Standar Hukum; Peraturan Anti-Terrorisme; Mekanisme Akuntabilitas

## Corresponding Author

: Mahmuluddin, University of Mataram, Jl. Majapahit No. 62, Gomong, Selaparang, Mataram, Pulau Lombok, Nusa Tenggara Barat, e-mail: mahmuludin@unram.ac.id

## INTRODUCTION

The increasing global adoption of counterterrorism measures has led to significant violations of human rights, often justified under the guise of national security. State actions, such as judicial harassment, undue surveillance, and the dissolution of civil society organizations, have been linked to counterterrorism financing obligations, which marginalize international human rights laws (Yamamoto & Ní Aoláin, 2023). Domestic counterterrorism laws, particularly those with vague or overly broad definitions of terrorism, can become breeding grounds for human rights abuses, including arbitrary detention and torture (Margariti, 2018). While counterterrorism efforts are intended to protect human rights, they often result in the justification of human rights violations, such as arbitrary killings, disappearances, and disproportionate interference with civil rights (Bates, 2011). This troubling trend reflects how counterterrorism actions, instead of upholding international human rights standards, may contribute to the very violations they aim to address (von Schorlemer, 2003). A balanced approach is crucial, as excessive reliance on repressive measures can undermine the fundamental rights it seeks to protect (Abdulrasheed, 2021).

In Indonesia, the government has faced increasingly complex challenges in combating terrorism. Specialized law enforcement units such as Densus 88 play a central role in addressing radical groups that threaten national stability, particularly in regions like Lombok Island, a key tourism destination in West Nusa Tenggara. Lombok faces not only risks to its tourism sector but broader security threats that could destabilize the region's social and economic well-being. Given the stakes, an effective and measured counterterrorism response is essential. However, serious concerns have emerged regarding human rights violations during the process of apprehending suspected terrorists. Reports suggest that arrest procedures often fail to comply with established legal standards, including arrests without clear legal grounds, torture during interrogations, and detention without adequate judicial review. The enactment of Law No. 5 of 2018 on the Eradication of Terrorism Crimes has raised additional concerns, as it allows law enforcement to detain suspects for up to 221 days without judicial oversight. Amnesty International (2018) has criticized this provision for infringing on individuals' rights to be promptly tried or released within a reasonable period, highlighting the risks of undermining basic human rights in the pursuit of counterterrorism. This situation exemplifies the broader trend of counterterrorism measures infringing on human rights, urging the need for a more balanced and rights-respecting approach in addressing terrorism.

The misuse of power permitted under this law raises the risk of HR violations, particularly against suspects who have not been proven guilty in court. Violations of suspects' rights during arrest procedures not only lead to injustice but also erode public trust in law enforcement and government institutions. Such erosion of trust could ultimately weaken the effectiveness of future counter-terrorism strategies if these violations persist.

It is crucial to recognize that HR violations in counter-terrorism operations are not an issue unique to Indonesia. Many countries globally, including the United States and nations in the Middle East, face similar dilemmas. A 2024 report from the Office of the High Commissioner for Human Rights (OHCHR) highlights frequent HR violations in counter-terrorism operations worldwide, detailing issues such as arrests without clear legal procedures, the use of torture as an interrogation method, and indefinite detention without judicial recourse.

This study focuses on investigating and analyzing the potential HR violations involved in the arrest of terrorism suspects on Lombok Island. By examining current arrest practices and evaluating their compliance with HR standards, this research aims to shed light on the challenges faced in the enforcement of anti-terrorism laws. Additionally, this analysis seeks to offer recommendations for improving arrest procedures to ensure that human rights are upheld while national security efforts are effectively maintained.

Based on these considerations, the central issue addressed in this study is the potential for human rights violations in the process of arresting terrorism suspects on Lombok Island. This research aims to answer the primary question: "Is there potential for human rights violations in the arrest process of terrorism suspects on Lombok Island, and if so, what specific forms do these violations take?" This question is vital for understanding the extent to which law enforcement officers adhere to internationally recognized HR principles while fulfilling their duties. By identifying whether arrest practices align with relevant legal standards and respect suspects' fundamental rights, this study also explores potential abuses that may occur in practice. Thus, it contributes to efforts to enhance oversight mechanisms and accountability within law enforcement to achieve a balance between national security and human rights protection.

The main objective of this research is to conduct a comprehensive analysis of the potential human rights violations involved in the arrest of suspected terrorists on Lombok Island, with a particular focus on identifying specific forms of violations that may occur. Through an assessment of arrest practices, this study seeks to determine whether these actions are conducted in alignment with both national and international legal standards, especially regarding fundamental rights such as protection from torture, the right to a fair trial, and the right to be promptly tried or released. By investigating these issues, the study aims to provide a broader understanding of law enforcement dynamics in Lombok within the context of anti-terrorism efforts, and to offer recommendations for improving oversight and accountability mechanisms to better align with HR norms.

This research holds academic significance, as it will enrich the literature on human rights and law enforcement in security crises, while also making a valuable contribution to the formulation of policies that balance national security needs with the protection of civil rights.

## RESEARCH METHOD

This study employed a qualitative approach to gain an in-depth understanding of the potential human rights violations in the process of arresting terrorism suspects on Lombok Island. The qualitative approach allowed for a thorough exploration of the experiences and perspectives of the research subjects, as well as the context of the issues faced (Creswell, 2014). The research was conducted on Lombok Island, chosen because it had experienced significant incidents involving the arrest of terrorist suspects. The subjects of the study included relevant individuals. The selection of these subjects aimed to provide a comprehensive perspective on the arrest process and the potential for human rights violations.

Data collection techniques in this study included interviews and document analysis. Interviews were conducted with relevant subjects to gather information about the arrest process and potential violations. Additionally, document analysis was carried out on case reports, news articles, and other relevant data to complement the interviews and provide a broader context of human rights violations. The data collected were analyzed using thematic analysis techniques. This technique involved identifying patterns and themes within the data to understand the key issues related to human rights violations in the arrest process (Braun & Clarke, 2006). Data analysis was conducted iteratively with data verification to ensure the accuracy and validity of the findings.

## RESULTS AND DISCUSSION

### A. Human Rights and Arrest Procedures

Human rights (HR) are a universal concept that protects individuals' dignity, freedom, and fundamental rights, including those of suspects during arrest procedures. A key international instrument that upholds these protections is the International Covenant on Civil and Political Rights (ICCPR), adopted by the United Nations General Assembly on December 16, 1966, and effective as of March 23, 1976. The ICCPR establishes global standards for civil

and political rights that member states must safeguard, including the rights of suspects during law enforcement proceedings.

Article 9 of the ICCPR affirms the right of every individual to personal liberty and security, prohibiting arbitrary arrest and detention while obligating states to ensure all arrests are lawful. Arrests must be based on clear grounds, and suspects must be promptly informed of the reasons for their arrest and the charges against them—an essential process to secure suspects' rights to self-defense and uphold transparency in legal procedures (United Nations, 1966). The ICCPR defines “arbitrary arrest” as actions taken without legal justification or in violation of legal processes, a principle echoed by Article 9 of the Universal Declaration of Human Rights (UDHR), which states that “no one shall be subjected to arbitrary arrest, detention, or exile” (United Nations, 1948).

Article 9(3) further stipulates that detained individuals must be brought promptly before a judge or authorized official to verify the legality of their detention. This principle also requires timely trials or provisional release before trial. Delays in presenting suspects to a judge or denying them an opportunity to challenge the legality of their detention violate international standards established in the ICCPR (Office of the High Commissioner for Human Rights [OHCHR], 1999). Additionally, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the UN in 1988, underscores that suspects are entitled to immediate presentation before judicial authorities to ensure the legality of their detention (United Nations, 1988).

Article 7 of the ICCPR strictly prohibits torture or any form of cruel, inhumane, or degrading treatment during detention. This prohibition is absolute and cannot be waived under any circumstances, as affirmed in the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (United Nations, 1984). Torture during arrest or detention not only violates HR but contravenes fundamental principles of justice within all legal processes.

Indonesia also emphasizes the importance of international law in combating global terrorism, having ratified eight international conventions related to counter-terrorism, strengthening its national legal framework (Ministry of Foreign Affairs, 2024). Indonesia's ratification of the ICCPR, through Law No. 12 of 2005, demonstrates its commitment to enacting ICCPR provisions at the national level. Consequently, Indonesia is obligated to ensure that suspects' rights, as outlined in Articles 9 and 7 of the ICCPR, are legally protected.

The effects of this ratification are reflected in several Indonesian laws, such as Law No. 39 of 1999 on Human Rights, which explicitly guarantees individual freedom from arbitrary arrest and the right to legal protection during arrest and detention. Additionally, the Criminal Procedure Code (KUHAP) mandates that individuals must be promptly informed of the reasons for their arrest and are entitled to a pre-trial motion to contest the legality of their arrest. Indonesia has also ratified the Convention Against Torture, through Law No. 5 of 1998, which prohibits torture during arrest and detention.

In Indonesia, Article 16 of the KUHAP specifies that investigators may execute an arrest under the direction of a lead investigator, while only officers holding investigative authority may do so as part of an ongoing investigation. Arrests must be based on sufficient initial evidence, which under Article 184 of the KUHAP requires a minimum of two corroborating pieces of evidence as specified in Article 17 of the KUHAP. In practice, arrests are executed by police officers who must present identification and an arrest warrant to the suspect. This warrant must include the suspect's identity, the basis for arrest, a summary of the alleged offense, and the place of examination (Article 18(1) of the KUHAP). A copy of the arrest warrant must be promptly provided to the suspect's family, no later than seven days after the arrest (Article 18(3) of the KUHAP). In cases of flagrant offense, an arrest warrant is not required, but the suspect and evidence must immediately be handed over to the nearest

investigator (Article 18(2) of the KUHAP). Arrests are limited to one day (Article 19(1) of the KUHAP), and suspects of minor offenses may only be arrested if they have been duly summoned twice and failed to comply without justifiable reason (Article 19(2) of the KUHAP).

The ICCPR and other international instruments thus provide essential guidance on suspects' rights throughout arrest and detention. These principles mandate that arrests are lawful, that suspects are informed of the grounds for their arrest, granted fair trial access, and protected from torture. As a signatory of the ICCPR and various other international agreements, Indonesia is obligated to ensure that national regulations, such as the KUHAP and the Human Rights Law, are implemented to protect these rights.

## **B. Terrorism And Countermeasures in Indonesia**

Terrorism in Indonesia has posed a serious threat to national stability and public safety since the early 21st century, particularly with the rise of radical groups influenced by extremist ideologies (Sukoco, Syauqillah, & Ismail, 2021). Indonesia's counter-terrorism efforts encompass government policies ranging from counter-terrorism operations to strengthening its national legal framework. Indonesia's government, through various agencies, has developed a comprehensive approach to address this threat, combining hard (coercive) measures with soft (preventive) strategies focused on deradicalization (Subagyo, 2021).

The Indonesian government, through the National Counter-Terrorism Agency (BNPT) and the Special Detachment 88 (Densus 88), conducts counter-terrorism operations aimed at dismantling radical groups. Since its establishment in 2004, Densus 88 has played a crucial role in dismantling terrorist networks in Indonesia, including the apprehension and elimination of key figures like Noordin M. Top and Santoso. Densus 88's responsibilities include not only arrests but also the surveillance of terrorist networks within and beyond Indonesia (Military Sphere, 2024). Alongside police and military actions, the government collaborates with intelligence agencies to identify and counter emerging threats before they evolve into acts of terror. Technologies such as communications surveillance and big data analysis have significantly improved early detection of terrorist networks (Military Sphere, 2024).

Following the 2002 Bali bombing, then-President Megawati Sukarnoputri issued Government Regulation in Lieu of Law No. 1 of 2002 on Combating Terrorism Crimes, which was later ratified by the House of Representatives into Law No. 15 of 2003 on Combating Terrorism Crimes. This law strengthened Indonesia's criminal code, granting the government broader authority for investigation, prosecution, and punishment of terrorists. On July 30, 2010, a presidential regulation formally established the BNPT, a national agency tasked with coordinating Indonesia's counter-terrorism units, including Densus 88, the National Intelligence Agency, military anti-terror units, and the Counter-Terrorism Desk (Johnson, 2017). BNPT reports directly to the president, though its day-to-day operations fall under the Ministry of Political, Legal, and Security Affairs. Law No. 15 of 2003 on Combating Terrorism Crimes serves as Indonesia's principal legal foundation in addressing terrorism.

The 2018 revision of the Anti-Terrorism Law further strengthened the legal framework, granting security forces greater authority to prevent terrorist acts through preemptive arrest and detention of terrorism suspects for longer periods, and allowing actions against individuals involved in terrorist organizations or supporting terrorist activities, including overseas military training or jihad. This policy was enacted to counter new threats, such as the return of foreign combatants from Syria and Iraq (Diela, 2018).

In addition to these hard-line approaches, Indonesia also employs softer strategies through deradicalization programs aimed at reshaping extremists' ideological beliefs. BNPT leads these efforts, which include ideological re-education, psychological counseling, and social reintegration, targeting individuals directly involved in terrorism and those exhibiting

early signs of radicalization (Solahudin & McRae, 2013). The government also collaborates with community leaders, religious figures, and educational institutions to prevent radicalization at its roots, such as through the “Religious Moderation” program introduced by the Ministry of Religious Affairs, which promotes moderate Islamic teachings and opposes radicalism across Islamic schools, pesantren, and religious organizations (Ministry of Religious Affairs, 2019).

A major challenge in addressing terrorism in the digital age is online radicalization. Terrorist groups like Jemaah Islamiyah (JI) and ISIS have exploited social media and websites to spread propaganda and recruit new members. Online radicalization often goes undetected, especially as individuals targeted by terrorist propaganda tend to act alone, without direct affiliations to specific organizations (Arshad, 2016). The Indonesian government has responded by blocking extremist websites and monitoring social media (Kominfo, 2021). However, these efforts are challenged by terrorists' use of new platforms and encryption techniques to conceal their activities.

Human rights protection remains a crucial challenge in Indonesia's counter-terrorism efforts. Certain counter-terrorism operations have drawn criticism for alleged HR abuses, such as excessive force during arrests, torture, and detentions without clear legal basis (Amnesty International, 2020). High-profile cases of human rights violations have emerged from Densus 88's operations, sparking concerns regarding the misuse of authority and disproportionate punishment.

### **C. Human Rights Violations in Counterterrorism Operations in Indonesia**

As one of the world's most populous and culturally diverse countries, Indonesia has faced a significant terrorism threat over the past few decades. Since the Bali bombing in 2002, the Indonesian government has intensified its efforts to counter terrorism, implementing various policies and actions to ensure national security, including establishing special anti-terrorism forces, enacting stricter legislation, and enhancing surveillance of suspected groups involved in terrorist activities.

However, these counterterrorism measures have sparked controversy due to human rights (HR) violations occurring during the arrest, detention, and interrogation of suspected terrorists. This study aims to review the literature on HR issues associated with counterterrorism arrests in Indonesia, drawing from credible sources that address this issue. The main focus is on how Indonesian counterterrorism policies and practices impact human rights and how the international community responds to these measures.

A crucial aspect of Indonesia's counterterrorism approach has been legal reform, especially after major terrorist attacks across the country. In 2018, the Indonesian government enacted Law No. 5/2018 on the Eradication of Criminal Acts of Terrorism, updating previous anti-terrorism legislation. However, Amnesty International (2018a) has expressed deep concern that this law grants excessive authority to security forces without adequate HR protections. For example, the new amendments authorize prolonged detentions without clear legal processes.

These concerns are further underscored by Amnesty International (2018b), which highlights that the definition of terrorism in the law has been broadened to include actions not necessarily related to violence. This raises the risk of innocent individuals being targeted or detained without justifiable grounds. Additionally, the law permits excessive use of force during terrorist apprehensions, potentially leading to HR abuses.

Amnesty International has also reported that the anti-terrorism law grants broad authority to the military to participate in domestic operations, often raising accountability concerns. Military involvement in counterterrorism operations is frequently criticized for a lack of transparency and oversight, potentially resulting in unreported HR violations.

Cases of HR violations during terrorist arrests in Indonesia have been highlighted by various international and national organizations. Amnesty International (2016) reported that Indonesia's Chief of Police openly acknowledged the use of torture in interrogating terrorist suspects. However, the report suggests that this admission is only the "tip of the iceberg" of a much larger problem, with torture and other abusive practices being relatively common in counterterrorism efforts. This admission also underscores a lack of significant reforms in the security sector, particularly concerning accountability for security personnel involved in torture.

According to Human Rights Watch (2018), the new anti-terrorism law expands the authority of police and military forces to conduct detentions and interrogations without strict oversight. This raises concerns that security forces' use of torture and violence could escalate, given Indonesia's long history of HR violations in handling terrorism cases. In several instances, suspected terrorists have reportedly faced physical abuse, unjust detention, and unlawful interrogation practices.

KontraS (2013) identified various legal and HR abuses allegedly perpetrated by Densus 88. These violations often involved excessive use of force leading to suspect fatalities, infringements on public safety rights, misdirected shootings of innocent civilians, and inhumane treatment, including arbitrary arrests, detention, and wrongful accusations. KontraS' monitoring and investigations between 2011 and 2013 recorded at least 93 violent incidents linked to Densus 88's counterterrorism operations.

One incident reported by KontraS occurred in Sukoharjo, Central Java, where Densus 88 was pursuing two suspected terrorists, Sigit Qordhowi and Hendro Yuniarto. During the operation, a civilian named Nur Iman, uninvolved in the case, was mistakenly shot. This incident added to the long list of abuses involving security forces' misdirected actions (KontraS, 2013). In Lampung, a similar case involved the wrongful arrest of Wahono, a civilian, whose arrest disrupted his wedding plans, despite his non-involvement in the alleged terrorist activities. This case highlights the negative impacts of procedural errors in apprehension by security forces (KontraS, 2013).

In Cawang, East Jakarta, Densus 88 shot two unidentified individuals, resulting in fatalities without adequate explanation regarding their involvement in terrorist activities. This incident reflects insufficient verification procedures, intensifying concerns about Densus 88's aggressive approach (KontraS, 2013). In Tulungagung, East Java, two innocent civilians, Mugi Hartanto, a school teacher, and Sapari, a private employee, were detained for seven days before being released due to lack of evidence connecting them to terrorism. Their arrests expose weaknesses in investigation processes and the need for improved HR protections (KontraS, 2013).

Additionally, in Poso, Central Sulawesi, Densus 88 was accused of torturing a suspected terrorist. This incident drew public attention after a 13-minute video showing inhumane treatment by Densus members was uploaded to YouTube, sparking protests and criticism regarding HR violations in counterterrorism efforts (KontraS, 2013).

Komnas HAM (2016) has also addressed HR abuses in counterterrorism operations in Indonesia, emphasizing that these abuses, including arbitrary detention and torture during interrogations, not only harm the victims but also tarnish the credibility of Indonesian law enforcement and government in the eyes of the international community. Although the Indonesian government has worked to improve its image through stricter legislation, there remains a significant gap in applying HR principles in counterterrorism practices.

Apart from international reports, several academic studies have discussed HR issues in counterterrorism arrests in Indonesia. Fadila (2017) notes that terrorist arrests often violate fundamental individual rights, such as the right to freedom and humane treatment, as exemplified in Siyono's case. Fadila (2017) alleges that Densus 88 violated administrative procedures in Siyono's arrest, who was suspected of terrorism. Densus 88 reportedly breached

criminal procedure rules by lacking an official arrest warrant and failing to present a search warrant during a raid on Siyono's residence. Siyono's parents were allegedly intimidated into signing a document agreeing not to pursue legal action.

Istiqomah (2015) argues that Densus 88 employs heavy-handed tactics when dealing with terrorism suspects. Methods such as shooting, physical violence, and intimidation are frequently used during investigations and arrests, drawing widespread public criticism and calls for the unit's dissolution. Furthermore, when detention conditions do not meet the minimum standards prescribed by national and international law, such conditions can constitute cruel, inhuman, or degrading treatment or punishment. Suspects and defendants should not experience suffering or restrictions beyond the loss of freedom; they still retain HR protections, limited only by the requirements of a secure environment.

According to Article 1(2) of Government Regulation in Lieu of Law No. 1/2002, later amended by Law No. 5/2018 (Perpu 1/2002 jo. Law 5/2018), terrorism is defined as "an act using violence or threats of violence that creates a widespread atmosphere of terror or fear. This act may result in significant casualties and/or cause destruction or damage to strategic vital objects, the environment, public facilities, or international facilities, with ideological, political, or security motives."

The criteria considered acts of terrorism under Law No. 5/2018 are outlined in detail below. These criteria encompass various violent or threatening actions and their impacts on society, facilities, and both national and international security.

**Tabel 1. Acts of terrorism under Law No. 5/2018**

<i>No</i>	<i>Criteria</i>	<i>Explanation</i>
1	<i>Use of Violence or Threat of Violence</i>	<i>Actions using or threatening violence as the primary means to achieve objectives.</i>
2	<i>Creating Widespread Terror or Fear</i>	<i>Actions that generate widespread fear or anxiety within society.</i>
3	<i>Mass Casualties</i>	<i>Actions that may result in a large number of fatalities or injuries.</i>
4	<i>Damage to Strategic Vital Infrastructure</i>	<i>Causing damage to critical infrastructure that affects national interests.</i>
5	<i>Environmental Damage</i>	<i>Resulting in negative impacts on the environment, such as pollution or ecosystem destruction.</i>
6	<i>Damage to Public Facilities</i>	<i>Destroying facilities used for public purposes, such as bridges or hospitals.</i>
7	<i>Damage to International Facilities</i>	<i>Damaging facilities related to international organizations or international relations.</i>
8	<i>Ideological, Political, or Security Motives</i>	<i>Driven by ideological, political aims, or intentions to destabilize national or regional security.</i>

Istiqomah (2015) argues that Densus 88 employs heavy-handed tactics when dealing with terrorism suspects. Methods such as shooting, physical violence, and intimidation are frequently used during investigations and arrests, drawing widespread public criticism and calls for the unit's dissolution. Furthermore, when detention conditions do not meet the minimum standards prescribed by national and international law, such conditions can constitute cruel, inhuman, or degrading treatment or punishment. Suspects and defendants should not experience suffering or restrictions beyond the loss of freedom; they still retain HR protections, limited only by the requirements of a secure environment.

According to Article 1(2) of Government Regulation in Lieu of Law No. 1/2002, later amended by Law No. 5/2018 (Perpu 1/2002 jo. Law 5/2018), terrorism is defined as "an act using violence or threats of violence that creates a widespread atmosphere of terror or fear. This act may result in significant casualties and/or cause destruction or damage to strategic

vital objects, the environment, public facilities, or international facilities, with ideological, political, or security motives.”

The criteria considered acts of terrorism under Law No. 5/2018 are outlined in detail below. These criteria encompass various violent or threatening actions and their impacts on society, facilities, and both national and international security.

In handling terrorism cases, the process of arrest is detailed in Law No. 5/2018. Article 28, paragraph (1) of Law No. 5/2018 stipulates that investigators have the authority to arrest individuals suspected of involvement in terrorism-related crimes based on sufficient preliminary evidence, with a maximum detention period of 14 days. If this period is deemed insufficient, in accordance with Article 28, paragraph (2), investigators may request an extension of the arrest for an additional 7 days from the head of the District Court whose jurisdiction covers the location of the investigator.

The handling of terrorism in Indonesia, while crucial for maintaining national security, is often accompanied by serious human rights violations. Several reports and studies have shown that the new anti-terrorism law grants excessive powers to security forces without sufficient oversight, which could lead to abuse of power and violations of individual rights. Cases of torture and violence during the arrest of suspected terrorists highlight that deep reforms are needed in the structure and policies of law enforcement in Indonesia.

Increased oversight of law enforcement, particularly in the context of counter-terrorism operations, is necessary to ensure that law enforcement actions are conducted in accordance with international human rights principles. Additionally, more comprehensive legal reforms should be implemented to strike a balance between the need to protect national security and the protection of human rights.

#### **D. The Arrest of HSN/HN alias UL in Selong in East Lombok and OS alias O at Lembar Harbor, West Lombok, on October 19, 2023**

The arrest of HN by Densus 88 in East Lombok, when examined from a legal and human rights perspective, demonstrates potential procedural violations that could have implications for human rights abuses. This becomes evident when compared to the terrorism criteria outlined in Law No. 5 of 2018, as well as the arrest procedures stipulated in the Criminal Procedure Code (KUHAP) and Police Regulation PERKAP No. 23 of 2011.

According to Law No. 5 of 2018, acts of terrorism must meet several criteria, such as the use of violence or the threat of violence, creating an atmosphere of terror or widespread fear, causing mass casualties, damaging vital objects or public facilities, and having ideological, political, or security-related motives. In the case of HN, there is no strong indication that she was involved in activities that fit these criteria. HN, who is known for selling lontong sayur (a traditional dish) and working as a housewife (Netnews, 2023), did not display any involvement in terrorism as defined by the law. Furthermore, there is no concrete evidence supporting her involvement in any terrorist network, raising questions about the legitimacy of her arrest.

From the perspective of KUHAP and PERKAP No. 23 of 2011, several procedural issues seem to have been neglected. The arrest should have been based on sufficient initial evidence, and the reasons for the arrest should have been clearly explained to the individual involved. In HN's case, no clear information was provided about the evidence supporting her arrest, aside from a report that Densus 88 seized items from her house without explaining how these items were relevant to the terrorism allegations. This suggests a potential violation of the due process of law principle, which requires that legal actions be taken based on clear evidence and proper procedures.

Furthermore, the legal uncertainty in this case was highlighted by the police statement that they were "still checking the accuracy of the event" (NTBPost, 2023). This indicates a lack

of certainty in the law enforcement process, as an arrest should be based on firm evidence, not on verification or suspicion. This contradicts the principle of legal certainty in criminal law.

The potential human rights violations in this case also stem from the lack of sufficient evidence and the absence of adequate explanation to the suspect or her family. Such an arrest could be seen as arbitrary, infringing upon the rights to personal freedom and fair treatment under Indonesian constitutional law and international human rights instruments ratified by Indonesia.

In conclusion, the arrest of HN by Densus 88 indicates procedural flaws that may have led to human rights violations. The absence of clear evidence, lack of transparency in the arrest process, and failure to meet the criteria outlined in Law No. 5 of 2018 suggest that the legal process in this case needs to be reassessed to avoid unjust outcomes for individuals who may not be involved in terrorism. Law enforcement procedures must be carried out in accordance with the applicable laws to ensure that the human rights of all citizens are protected.

### **E. The Arrest of HD, MU, and RM/IM in Rumak Village, West Lombok, by Densus 88 National Police on October 23, 2023**

The arrest of three suspected terrorists in Rumak Village, West Lombok, by Densus 88 on October 23, 2023, raised several criticisms regarding the fulfillment of the terrorism criteria outlined in Law No. 5 of 2018 on the Eradication of Terrorism. According to the law, several criteria must be met to categorize an individual as a terrorist, but in this case, not all of these criteria appear to have been fulfilled.

First, there is no evidence or indication that the three suspects—HD, MU, and IM—used or threatened to use violence. In their daily lives, they were known to be friendly individuals who did not exhibit aggressive behavior, as noted by the head of Rumak Village, Mukarram (Paktantb, 2023). This suggests that their arrests did not meet the criterion of using or threatening violence, which is a key element in the definition of terrorism.

Second, there were no reports indicating that the actions or presence of the three suspects caused widespread fear or anxiety in the community. On the contrary, according to the head of Rumak Village, the suspects led normal lives, though they tended to be reclusive and did not engage in social activities (Paktantb, 2023). The testimony of the head of South Rumak District, Ismail, further described RM as someone who was busy with daily routines, working from morning until afternoon, and attending communal prayers at the mosque in the evening. This activity suggests that RM was involved in regular social and religious activities and did not display any suspicious behavior or affiliation with terrorist networks.

Given RM's busy schedule, it seems highly unlikely that he was involved in terrorism activities, which typically require planning, involvement in a terror network, and time to execute operations. The fact that RM worked during the day and participated in religious activities in the evening indicates a normal life, inconsistent with the patterns of engagement in terrorism as outlined in Law No. 5 of 2018.

Furthermore, the head of the village emphasized that there were no suspicions about RM within the local community. This adds to the argument that RM did not meet the criteria of causing fear or anxiety in his neighborhood, which is supposed to be an important indicator for categorizing someone as a terrorist. Thus, their arrests did not align with the "creating an atmosphere of terror or widespread fear" criterion outlined in Law No. 5 of 2018.

Third, there is no evidence that the actions of the three suspects caused mass casualties or injuries. The criterion of mass casualties is a major indicator of terrorism, but in this case, none occurred. Additionally, there is no information suggesting damage to vital strategic objects, public facilities, international facilities, or the environment resulting from the actions of the three suspects. Finally, there is no strong evidence that their motives were based on ideology, politics, or the intent to disrupt national security. Profiling based on their reclusive

lifestyle, without concrete evidence of involvement in terrorist organizations or actions that threaten national security, is insufficient to categorize them as terrorists.

Overall, the arrests did not fully meet the criteria established in Law No. 5 of 2018. Labeling them as "terrorists" without sufficient evidence aligned with the legal provisions potentially violates human rights, particularly the right to fair treatment and protection from arbitrary actions. Therefore, the arrest process should be reviewed to ensure that the actions taken were in accordance with the law and did not harm individuals who were not proven to be involved in terrorism.

Similarly, the arrest of AGS, SLH, and MHDT in Bima (LombokPost, 2022) also reflects procedural flaws, with irrelevant evidence and searches not complying with PERKAP No. 23 of 2011. No explosives were found, only money and documents, which were later returned. Their daily activities did not reflect actions of terrorism as outlined in Law No. 5 of 2018, thus indicating a lack of strong evidence. This process also has the potential to violate human rights, particularly the right to a fair arrest free from arbitrary actions.

## **F. Expert Opinions on Terrorism Arrests in Lombok**

In an interview with the author, Any Suryani, the Vice Chair of the West Nusa Tenggara (NTB) Forum for Counter-Terrorism Coordination (FKPT), explained that individuals considered terrorism suspects and arrested by Densus 88 cannot automatically be categorized as terrorists, as they have not yet met the criteria outlined in Law No. 5 of 2018 (Suryani, 2024). She stated that while there may be signs of extremism, these actions are not sufficient to classify someone as involved in terrorism. Applying terrorism charges without meeting these criteria can result in significant personal and social harm to individuals who have not been proven involved.

Any Suryani's statement reinforces the argument that the arrests of HSN alias HN and OS by Densus 88 may have involved procedural flaws. Without clear evidence that aligns with the law, labeling them as "terrorists" could be considered premature and potentially harmful. As discussed earlier, the arrest process lacked transparency, with no formal notification or arrest warrant, violating the principles of fair law as outlined in KUHAP and PERKAP No. 23 of 2011.

Moreover, the absence of concrete evidence that aligns with the terrorism definition in Law No. 5 of 2018 suggests that these arrests should be revisited. Labeling someone as a terrorist without strong grounds not only contradicts the law but also poses a risk of human rights violations. Therefore, these actions must be reconsidered to prevent greater harm both at the individual and societal levels.

## **CONCLUSION**

The conclusions drawn from this study emphasize that, in the context of counterterrorism efforts, the process of arresting suspected terrorists in Lombok reveals serious potential human rights violations, particularly regarding non-compliance with both domestic and international legal standards. Discrepancies with the provisions of the Indonesian Criminal Procedure Code (KUHAP), Perkap No. 23 of 2011, and Law No. 5 of 2018 concerning the Eradication of Terrorism Crimes—such as lack of transparency, arrests without clear legal grounds, and flawed procedures—pose significant risks of abuse of authority.

Reports from KontraS further reinforce these findings, highlighting numerous allegations of human rights violations committed by Densus 88 during the arrest of terrorism suspects, including torture and arbitrary treatment that disregards the basic rights of the suspects. As explained by the Deputy of the NTB Forum for Counterterrorism Prevention (FKPT), this underscores that not all suspects should be classified as terrorists without strong evidence in accordance with legal criteria, as this could undermine justice and social integrity.

This conclusion strengthens the recommendation for urgent reform of law enforcement procedures to ensure the protection of individual rights and prevent harm to those not proven to be involved in terrorist activities. Moreover, these reforms should be implemented while maintaining national security and preserving public trust in law enforcement agencies.

## REFERENCES

- Abdulrasheed, A. (2021). Counter-terrorism activities and human rights violation in Nigeria's fourth republic: Gap and lesson. *Lapai International Journal of Administration*, 3(4). Available at SSRN: <https://ssrn.com/abstract=3881649> or <http://dx.doi.org/10.2139/ssrn.3881649>
- Amnesty International. (2016, April 21). Indonesia: Police chief's shocking torture admission only tip of iceberg. Amnesty International. <https://www.amnesty.org/en/latest/press-release/2016/04/indonesia-police-chief-shocking-torture-admission-only-tip-of-iceberg/>
- Amnesty International. (2018a, May 25). Indonesia: Newly amended anti-terror law threatens to undermine human rights. <https://www.amnesty.org/en/latest/news/2018/05/indonesia-newly-amended-anti-terror-law-threatens-to-undermine-human-rights/>
- Amnesty International. (2018b). Indonesia: New anti-terrorism law threatens human rights. <https://www.amnesty.org/en/documents/asa21/8472/2018/en/>
- Arshad, A. (2016, December 15). Woman in Jakarta bomb plot was a maid in Singapore. *The Straits Times*. <https://www.straitstimes.com/asia/se-asia/woman-in-jakarta-bomb-plot-was-a-maid-in-singapore>
- Bates, E. S. (2011). Counter-terrorism in international human rights law. In *Terrorism and International Law: Accountability, Remedies, and Reform: A Report of the IBA Task Force on Terrorism* (online edn, Oxford Academic, April 20, 2015). <https://doi.org/10.1093/acprof:osobl/9780199589180.003.0003>
- Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3(2), 77–101.
- Buchanan, K. (2010). Indonesia: New anti-terrorism agency established. Library of Congress. <https://www.loc.gov/item/global-legal-monitor/2010-08-09/indonesia-new-anti-terrorism-agency-established/>
- Creswell, J. W. (2014). *Research design: Qualitative, quantitative, and mixed methods approaches*. Sage Publications.
- Diela, T. (2018, May 25). Indonesia toughens up anti-terror laws days after worst attack in years. *Reuters*. <https://www.reuters.com/article/us-indonesia-security-bill/indonesia-toughens-up-anti-terror-laws-days-after-worst-attack-in-years-idUSKCN1IQ0DQ/>
- Fadila, I. (2017). Pelanggaran hak asasi manusia oleh Densus 88 dalam kasus terduga terorisme Siyono. Retrieved from <https://repository.uinjkt.ac.id/dspace/bitstream/123456789/44629/1/IKA%20FADILA-FSH.pdf>
- Human Rights Watch. (2018). Letter to Indonesia's new counterterrorism law. <https://www.hrw.org/news/2018/06/20/letter-indonesias-new-counterterrorism-law>
- Istiqomah, M. (2015). In the name of counter-terrorism: Human rights abuses in Indonesia. First Asia Pacific Conference on Advanced Research. [https://apiar.org.au/wp-content/uploads/2015/08/APCAR\\_BRR742.pdf](https://apiar.org.au/wp-content/uploads/2015/08/APCAR_BRR742.pdf)
- Johnson, C. (2017). Indonesia: Call to update terrorism law. Library of Congress. <https://www.loc.gov/item/global-legal-monitor/2017-07-06/indonesia-call-to-update-terrorism-law/>
- Kemenlu. (2024, July). Indonesia dan upaya penanggulangan terorisme. Kementerian Luar Negeri Republik Indonesia. [https://kemlu.go.id/portal/id,%20diakses%2021%20September%202021/i/read/95/hal\\_aman\\_list\\_lainnya/indonesia-dan-upaya-penanggulangan-terorisme#!](https://kemlu.go.id/portal/id,%20diakses%2021%20September%202021/i/read/95/hal_aman_list_lainnya/indonesia-dan-upaya-penanggulangan-terorisme#!)

- Kementerian Agama. (2019). Materi moderasi beragama. [https://jdih.kemenag.go.id/assets/uploads/regulation/Materi\\_Moderasi\\_Beragama.pdf](https://jdih.kemenag.go.id/assets/uploads/regulation/Materi_Moderasi_Beragama.pdf)
- Kementerian Komunikasi dan Informatika. (2021, June 23). Penegasan komitmen Kominfo dalam menindak konten radikalisme terorisme. Kominfo. [https://www.kominfo.go.id/content/detail/35228/siaran-pers-no219hmkominfo062021-tentang-penegasan-komitmen-kominfo-dalam-menindak-konten-radikalisme-terorisme/0/siaran\\_pers](https://www.kominfo.go.id/content/detail/35228/siaran-pers-no219hmkominfo062021-tentang-penegasan-komitmen-kominfo-dalam-menindak-konten-radikalisme-terorisme/0/siaran_pers)
- Komnas HAM. (2016). Penanganan terorisme dan HAM. Retrieved from <https://www.komnasham.go.id/index.php/news/2016/1/19/77/penanganan-terorisme-dan-ham.html>
- KontraS. (2013). Potret buram Densus 88 anti-teror dalam bingkai HAM. Retrieved from <https://www.kontras.org/backup/buletin/indo/DENSUS.pdf>
- Lombokpost. (2022, July). Keluarga terduga teroris Bima bantah ada bahan peledak. Lombokpost. <https://lombokpost.jawapos.com/bima-dompu/1502790324/keluarga-terduga-teroris-bima-bantah-ada-bahan-peledak>
- Margariti, S. (2018). Defining international terrorism to protect human rights in the context of counter-terrorism. *Security and Human Rights*, 29(1-4), 173-198. <https://doi.org/10.1163/18750230-02901004>
- Military Sphere. (2024, June 20). The Special Detachment 88 (Densus 88): Unveiling Indonesia's elite counterterrorism unit. *Military Sphere*. <https://militarysphere.com/detasemen-khusus-88-densus-88/>
- Netnews. (2023, July). Ibu pedagang lontong sayur ditangkap Densus 88 Anti Teror di Selong. Netnews. <https://www.rnetnews.com/2023/07/ibu-pedagang-lontong-sayur-ditangkap.html>
- NTBPost. (2023, July). Ibu pedagang lontong sayur ditangkap Densus 88 Anti Teror di Selong. NTBPost. <https://www.ntbpost.com/2023/07/ibu-pedagang-lontong-sayur-ditangkap.html>
- PAKTANTB. (2023, October). Tiga orang terduga teroris di Desa Rumak Kec. Kediri, Lobar ditangkap Densus 88 Mabespolri. PAKTANTB. <https://www.paktantb.com/2023/10/tiga-orang-terduga-teroris-di-desa.html>
- Sabine von Schorlemer. (2003). Human rights: Substantive and institutional implications of the war against terrorism. *European Journal of International Law*, 14(2), 265–282. <https://doi.org/10.1093/ejil/14.2.265>
- Solahudin, & McRae, D. (2013). *The roots of terrorism in Indonesia: From Darul Islam to Jem'ah Islamiyah*. Cornell University Press. <http://www.jstor.org/stable/10.7591/j.ctt20d87rx>
- Subagyo, A. (2021). The implementation of the pentahelix model for the terrorism deradicalization program in Indonesia. *Cogent Social Sciences*, 7(1), 1964720. <https://doi.org/10.1080/23311886.2021.1964720>
- Sukoco, A., Syauqillah, M., & Ismail, A. U. (2021). Media, globalisasi dan ancaman terorisme. *Journal of Terrorism Studies*, 3(2), Article 5. <https://doi.org/10.7454/jts.v3i2.1039>
- United Nations. (1948). Universal Declaration of Human Rights. Retrieved from <https://www.un.org/en/about-us/universal-declaration-of-human-rights>
- United Nations. (1966). International Covenant on Civil and Political Rights. Retrieved from <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- United Nations. (1984). Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

- United Nations. (1988). Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Retrieved from <https://www.un.org/ruleoflaw/blog/document/body-of-principles-for-the-protection-of-all-persons-under-any-form-of-detention-or-imprisonment>
- United Nations Office of the High Commissioner for Human Rights. (2024, March 10). Rampant abuse of counter-terrorism laws threaten human rights globally, warns UN expert. Retrieved from <https://www.ohchr.org/en/press-releases/2024/03/rampant-abuse-counter-terrorism-laws-threaten-human-rights-globally-warns-un>
- Undang-Undang No. 5 Tahun 2018 tentang Perubahan atas 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. (2018). JDIH BNPT. Retrieved from <https://jdih.bnpt.go.id/dokumen/70m96NBaA>
- Undang-Undang No. 8 Tahun 1981 tentang Kitab Undang-Undang Hukum Acara Pidana (KUHAP). (1981). Retrieved from <https://peraturan.bpk.go.id/Details/47041/uu-no-8-tahun-1981>
- Undang-Undang No. 39 Tahun 1999 tentang Hak Asasi Manusia. (1999). Retrieved from <https://peraturan.bpk.go.id/Details/45361/uu-no-39-tahun-1999>
- Van der Laan, J. (2018). Indonesia's counterterrorism measures and its impact on human rights. *Journal of Indonesian Legal Studies*, 4(2), 213–235.
- Yamamoto, A. T., & Ní Aoláin, F. (2023). State responsibility for human rights violations perpetrated in the name of international counter-terrorism financing obligations. *Fordham International Law Journal*, 46, 691. [https://scholarship.law.umn.edu/faculty\\_articles/1034/](https://scholarship.law.umn.edu/faculty_articles/1034/)