

UNOFFICIAL TRANSLATION

INDONESIAN COUNTERTERRORISM BILL

REVISIONS ON LAW NUMBER 15/2003 ON THE TRANSFORMATION OF THE IMPLEMENTATION OF GOVERNMENT REGULATION IN LIEU OF LAW NUMBER 1/2002 ON THE ERADICATION OF TERRORISM CRIMES INTO A LAW

Considering that:

- a. Terrorism crimes in Indonesia are classified as a serious crime and/or extraordinary crime against humanity, state security and national sovereignty as well as to numerous aspects of communal, societal and national life, hence counterterrorism efforts need to be implemented in a synchronized, well-directed and comprehensive manner covering preventive and eradication aspects in order to maintain secure, peaceful and prosperous life in alignment with the principles of the state ideology *Pancasila* [five pillars] and the Indonesian Constitution of 1945;
- b. That a number of events involving Indonesians who join certain radical organizations or organizations with harmful intentions which could lead to terrorism acts, both locally and internationally, have caused fear among Indonesians and have impacted the society's political, economic and social-cultural aspects while having also affected its security and order as well as international relations;
- c. That certain radical organizations with tendencies to commit terrorism crimes as stipulated by point b are part of cross-national criminal syndicates, which are organized and possess a wide network which have caused a number of massive terrorism crimes which, if not acted upon immediately, could threaten both national and international peace and security;
- d. That to lay down a stronger legal foundation to guarantee legal protection and certainty in eradicating terrorism crimes, all the while fulfilling the society's legal needs and developments, we need to revise Law Number 15/2003 on the transformation of the implementation of government regulation in lieu of law number 1/2002 on the eradication of terrorism crimes into a law;
- e. That according to the considerations expressed in points a to d, we need to formulate a law on the transformation of law number 15/2003 on the implementation of a government regulation in lieu of law no 1/2002 on the eradication of terrorism crimes into a law;

Taking into account:

1. Article 5 (1) and Article 20 of the 1945 Indonesian Constitution;

2. Law number 15/2003 on turning the government regulation in lieu of law number 1/2002 on the eradication of terrorism crimes into a law.

We decide to make the following changes on several articles:

A. Changes on article 1

Definitions:

1. Terrorism acts are all actions containing the elements of criminal acts according to the regulations stated in this law.
2. Every person covers individuals and groups of people, be they civilians, members of the military or the police who are responsible individually or as a corporation.
3. Corporations are a group of people or accumulated wealth which are organized, be they legal bodies or not, including those operating overseas.
4. Violence covers every abuse of physical strength, with or without weapons, which violates the law and threatens other people's physical safety, life or liberty, including causing other people to lose consciousness or rendering them helpless.
5. Threats of violence cover all law-violating actions in forms of speech, writings, pictures, symbols or bodily gestures, through electronic or non-electronic facilities, causing other people to be fearful in order to fetter an individual/the society's freedom.
6. The Indonesian government covers local officials and Indonesia's diplomatic mission in foreign countries.
7. Foreign diplomatic mission includes other countries' diplomatic representatives and consulates and their members.
8. Effort to curb radicalism (*deradikalisasi*) is a process involving actions aiming at changing ways of thinking or actions that could encourage terrorism crimes.
9. International organizations are organizations that are part of the United Nations (UN)' organizational structure or those that represent the UN.
10. Wealth comprises static and dynamic objects.
11. Strategic vital objects are places, locations or buildings that possess economical, political, social, cultural or military defense values, including international facilities.
12. Public facilities are places that could be utilized for common societal purposes.

13. Explosives are all objects that could explode; including bombs, gunpowder, mines, handheld grenade and all chemical substances or other types of substance used to create explosions.

B. Changes on article 6:

Everyone who deliberately uses violence or threats of violence that:

- a. Creates a sense of terror or fear among the wide public;
- b. Claiming massive victims, taking away freedom, properties or lives of other human beings, and/or
- c. Causing damage or destruction of strategic vital objects, the environment, public facilities and/or international facilities,

are charged with death penalty, life sentence or a prison sentence with a minimum period of four years and maximum 20 years.

C. Between Article 10 and 11, we insert one article called article 10A stipulating that:

1. Everyone who illegally carries explosives, radioactive, microorganism, nuclear or chemical weapons from other countries to Indonesia or from Indonesia to other countries, as well as everyone who creates, receives, hands over, keeps or hoards such objects with the intention of carrying out terrorism crimes, will be charged with a minimum prison sentence of five years and maximum 20 years.
2. Everyone who trades potent explosives or their components, or chemical, biological, radiological, radioactive, microorganism or nuclear weapons with the intention to commit terrorism crimes will be charged with a minimum prison sentence of two years or maximum seven years.
3. Should evidence show that someone uses potent explosives or their components as stipulated in article 2 to commit terrorism crimes, he or she will be charged with a minimum prison sentence of four years and maximum 15 years.
4. Everyone who brings such explosives or weapons from other countries to Indonesia or vice versa in order to commit terrorism crimes will be charged with a minimum prison sentence of three years and maximum 12 years.

D. Between article 12 and 13, we insert two articles, namely 12A and 12B, which stipulate that:

Article 12A

1. Everyone who illegally connects with everyone else in Indonesia or overseas in order to commit terrorism crimes in Indonesia or other countries will be charged with a minimum prison sentence of three years and maximum 12 years.
2. Everyone who deliberately becomes a member of a terrorism corporation or recruit people to become its members will be charged with a minimum prison sentence of two years and maximum seven years.
3. Founders, leaders, committee members or people who direct the activities of terrorism corporations will be charged with a minimum prison sentence of three years and maximum 12 years.

#### Article 12B

1. Everyone who conducts, provides or joins military or paramilitary trainings or similar ones both in Indonesia or overseas with the intention to plan, prepare or commit terrorism crimes, or recruiting, hosting or sending people to join such trainings will be charged with a minimum prison charge of four years and maximum 15 years.
2. Everyone who creates, stores and/or disseminates writings or documents – in both digital or analog formats – which are known to be used for such trainings will be charged with a minimum prison sentence of three years and maximum 12 years.
3. He or she will be charged with the same penalty as stipulated in point number 1 if he or she commits such actions overseas to help a region separate from its country or with the intention of illegally annihilating or changing the government system of that country.
4. Aside from receiving main charges, Indonesian citizens who are involved with terrorism acts could receive an additional charge, namely passport revocation.
5. Indonesian citizens who conduct military or paramilitary trainings or other types of such trainings or join wars overseas in order to commit terrorism crimes could have their passports revoked by authoritative officials, also have their Indonesian nationality annulled, in accordance of legal regulations.

E. Between articles 13 and 14, we insert one article, 13A, stipulating that:

Individuals who deliberately disseminate speeches, thoughts, behaviors, or writings that could lead others to commit violence, anarchy and other actions which adversely impact other people/communities or degrading certain individual or community's dignity through intimidation, which leads to terrorism crimes, will be charged with a minimum prison sentence of three years and maximum 12 years.

F. Article 14 has been changed into the following passage:

Everyone who deliberately mobilizes other people to commit terrorism will be charged with death penalty, life sentence or a prison sentence of 20 years.

G. Article 15 has been changed into the following passage:

1. Everyone who commits harmful cooperation by assisting a main perpetrator to commit terrorism crimes – or those who attempt failed terrorist attacks – will be charged with the same penalty as the main perpetrator or those who successfully commit terrorist attacks.
2. People who are involved in actions stipulated in point 1 will only be charged if evidence shows that they intentionally and deliberately prepare their actions.

H. Between articles 16 and 17, we insert one article, 16A, stipulating that:

In cases of terrorism crimes committed by children, the punishment that will be used to charge them will be adjusted according to law on child crime prosecution

I. Article 25 has been changed into the following:

1. Investigation, indictment and examination in the court room for terrorism crimes are conducted based on criminal laws, unless in cases where this law declares otherwise.
2. For investigation purposes, investigators are authorized to detail suspects for a maximum period of 180 days.
3. The period of detention as stipulated by point number 2 could be lengthened to a maximum period of 60 days.
4. For indictment purposes, prosecutors could only extend the detention period of suspects in maximum 60 days.
5. The detention period for indictment purposes as stipulated in point number 4 could be extended by the state court judge to a maximum period of 60 days.
6. With the exception to the detention period stipulated by points three and five, for the purposes of investigation and indictment, the detention period could be extended by the state court judge head in maximum 60 days.

J. Article 28 has been changed into the following passage:

Investigators could nab everyone who is strongly suspected of committing terrorism crimes within a maximum period of 30 days.

K. Between articles 28 and 29, we insert one article, 28A, which reads as follows:

Prosecutors conduct research studies on terrorism crime case documents within a maximum period of 30 days effective since they receive the case documents from investigators.

L. Article 31 has been changed into the following:

1. Based on at least two valid objects of evidence, investigators are authorized to:
  - a. Open up, examine and confiscate letters and any dispatches sent through the post service or other courier services which are related to terrorism crimes currently investigated;
  - b. Wiretap conversations by telephone or other communication modes which are used to plan, prepare and enact terrorism crimes, or to track the whereabouts of someone associated with terrorist networks.

M. We insert one point between points 1 and 2 of article 32, namely point 1a, which reads as follows:

1a. Testimonies by witnesses can be done through telecommunication tools with the help of a monitor screen.

N. We have changed article 33 into the following:

The state is obliged to protect investigators, prosecutors, judges, advocates, whistleblowers, experts, witnesses and penitentiary officers – along with their family members – from possible threats that could endanger their selves, lives and/or private properties, be it before, during and after the case investigation process.

O. Between chapter VII and chapter VIII, we insert two additional chapters, namely chapters VIIA and VIIB, which read as follows:

## CHAPTER VIIA

### OVERCOMING TERRORISM CRIMES

#### Article 43A

1. For the purpose of overcoming terrorism crimes, investigators or prosecutors could relocate anyone suspected of terrorism crimes to a certain area which is under the same jurisdiction of investigators or prosecutors for a maximum period of six months.
2. The president sets up national policies and strategies to overcome terrorism crimes.
3. National policies and strategies to overcome terrorism crimes as stipulated in point number 2 cover:

- a. Prevention,
  - b. Protection,
  - c. Curbing radicalism (*deradikalisasi*),
  - d. Prosecution.
4. Efforts to curb radicalism involve:
- a. Suspects,
  - b. The indicted,
  - c. The sentenced,
  - d. Prisoners,
  - e. Former prisoners,
  - f. Family members of those mentioned above,
  - g. Certain people suspected of intentions to commit terrorism crimes.
5. Further regulations on national policies and strategies on terrorism crimes will be regulated through government regulation.

#### Article 43B

1. National policies and strategies to overcome terrorism crimes are implemented by the national police and military, along with related government institutions which are coordinated by non-ministerial government institutions which are tasked with anti-terror programs.
2. The national military's role, as stipulated by point 1, is to provide assistance to the Indonesian police.

#### CHAPTER VIIB

#### TERMS FOR TRANSITION

#### Article 43C

Until the time this law starts to be implemented, investigations on terrorism crime cases which are still in the stages of investigation, indictment or examination in the courtroom are processed based on the regulations included in Law No. 15/2003 on the

implementation of government regulation in lieu of law number 1/2002 on the eradication of terrorism crimes, which has been transformed into a law.