

## CHAPTER ONE

### INTRODUCTION

#### A. Background

Indonesia has conducted robust efforts to contribute in countering terrorism and a strong supporter for the measures to counter terrorism under the United Nations framework.<sup>1</sup> In this regard, Indonesia has engaged in various cooperation with the United Nations Counter Terrorism Implementation Task Force (CTITF), the Terrorism Prevention Branch-United Nation Office for Drugs and Crime (TPB-UNODC), and the United Nations Counter Terrorism Executive Directorate (UNCTED). Furthermore, Indonesia also undertakes efforts to implement the four pillars of the United Nations Global Counter-Terrorism Strategy (UNGCTS).

Counter terrorism is indeed a priority for Indonesia as practised in other countries. However, the mechanisms used should be in accordance with law.<sup>2</sup> On the one hand, the state must protect the people from terrorism act, yet on the other hand, they also have to protect the basic rights of individuals, including persons suspected or accused of committing acts of terrorism. While in the fight against terrorism, standards and principles protection of human rights should not be

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<sup>1</sup> Ministry of Foreign Affairs RI, "Indonesia and Counter-Terrorism", available at <http://www.kemlu.go.id/en/kebijakan/isu-khusus/Pages/Combating-Terrorism.aspx>, accessed on Thursday, October 27, 2016, at 1.44 pm.

<sup>2</sup> Marguerite Afra Safiie, "Rights Activists to Treat Siyono's Death as Criminal Case", available at <http://www.thejakartapost.com/news/2016/04/13/rights-activists-to-treat-siyonos-death-as-criminal-case.html>, accessed on Friday, October 28, 2016, at 8.23 pm.

ignored, but should be enforced.<sup>3</sup> Terrorism must be fought, but without sacrificing the protection of human rights.<sup>4</sup>

Based on the Article 104 of Law No. 39 of 1999 on Human Rights that “the most strict human rights violations“ are the mass killings (genocide), arbitrary killings or outside the court decision (arbiter/extra judicial killing), torture, enforced disappearances, enslavement, systematic discrimination.<sup>5</sup>

Although the International Covenant on Civil and Political Rights (ICCPR) protects fundamental rights, such as liberty and freedom from arbitrary arrest or detention. It guarantees human treatment if people are detained according to law.<sup>6</sup>

The Covenant says that every human being has an 'inherent right to life' - but the Covenant allows capital punishment in some circumstances. It prohibits torture - deliberate treatment causing very serious and cruel suffering - and cruel, inhuman and degrading treatment (which is different only in degree). It prohibits slavery or forced labor; guarantees freedom to move around and choose where to live; promises fair trials; and protects our right to 'privacy, family, home or correspondence' and 'unlawful attacks on a person's reputation or honor. This

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<sup>3</sup> Enrille C.A, “Perlindungan Hak Tersangka/Terdakwa Terorisme dalam Sistem Peradilan Pidana Indonesia”, Available at [http://repo.unsrat.ac.id/387/1/perlindungan\\_hak\\_tersangka\\_terdakwa\\_terorisme\\_dalam\\_sistem\\_peradilan\\_pidana\\_indonesia.pdf](http://repo.unsrat.ac.id/387/1/perlindungan_hak_tersangka_terdakwa_terorisme_dalam_sistem_peradilan_pidana_indonesia.pdf), accessed on Monday, October 31, 2016, at 10.46 am.

<sup>4</sup> Suara Media, “Perang Melawan Teroris Jadi Ancaman HAM”, available at <http://www.suaramedia.com/berita-dunia/eropa/2238-perang-melawan-teroris-jadi-ancaman-ham.html>, accessed on Monday, October 31, 2016, at 11.03 am.

<sup>5</sup> See at the explanation of Law No. 30 of 1999 on Human Rights, article 104 paragraph 1.

<sup>6</sup> Kim Gleeson, “Worldwide Influence of the Universal Declaration of Human Rights and the International Bill of Rights”, available at <http://www.universalrights.net/main/world.htm>, accessed on Tuesday, November 1, 2016, at 12.41 pm.

could include vilification, such as falsely claiming that a political opponent is a sexual deviant, to discredit the person.<sup>7</sup>

Referring to the some cases happened, like a case of Siyono 39 year old, an alleged terrorist, in Brengkungan of Klaten regency of Central Java on March 13, 2016. Siyono died during the police investigation. No information is available about his cause of death.<sup>8</sup> On March 8, 2016, Siyono was apprehended by three men, suspected to be Densus 88 members, after he had performed Maghrib prayers in a mosque close to his home in Klaten, Central Java. After a four-day interval, his body, showing signs of physical abuse, was sent home from Bhayangkara Police Hospital in Jakarta.<sup>9</sup>

In other case, a young terrorism suspect captured by three fellow Syrian refugees in Germany was found dead of an apparent hanging in his prison cell. Jaber al-Bakr, 22 year old was detained on Monday on suspicion of plotting to bomb an airport in Berlin. Al-Bakr arrived to Germany on February 18, 2015, and received asylum on June 9. He has lived in northern Saxony since then. Recently, he came to Chemnitz and moved in with Khalil A. Khalil A. arrived in Germany on November 25, 2015, and was arrested on Saturday as a possible accomplice.<sup>10</sup>

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<sup>7</sup> *Ibid.*

<sup>8</sup> The Jakarta Post, "Police Chief Orders Probe into Police Custody Death of Suspected Terrorist", available at <http://www.thejakartapost.com/news/2016/03/29/police-chief-orders-probe-police-custody-death-suspected-terrorist.html>, accessed on Tuesday, October 1, 2016, at 1.35 pm.

<sup>9</sup> Laporan Singkat Rapat Dengar Pendapat Umum Komisi III DPR RI dengan Komnas HAM, PP Muhammadiyah dan Kontras, available at <http://dpr.go.id/dokakd/dokumen/K3-14-246c7868ad8d1e917673b61bee0945e0.pdf>, accessed on Tuesday, October 1, 2016, at 2.58 pm.

<sup>10</sup> Der Spiegel, "Syrian Terror Suspect Captured by Refugees Found Dead in German Prison Cell", available at <https://www.thestar.com/news/world/2016/10/12/syrian-terror-suspect-captured-by-refugees-found-dead-in-german-prison-cell.html>, accessed on Wednesday, November 9, 2016, 2.56 pm.

The case assumed that there are indications of violation by the police investigators.

Regarding to the cases tortured above it against the principles of human rights as mention in the provision of ICCPR “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived his liberty except on such grounds and in accordance with such procedure as are established by law”.<sup>11</sup>

## **B. Statement of Problem**

How does the International Covenant protect the human rights of the suspected of Terrorism Actor?

## **C. Objective of Research**

The objectives of this research are:

1. To understand some international covenants which protect the rights of the suspect of terrorism actor.
2. To analyze some cases related to the violation of rights of suspect of terrorism actor.
3. To suggest better recommendation to the protection of the rights terrorism actor in the future.

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<sup>11</sup> Article 6 of ICCPR

#### **D. Benefit of Research**

1. Theoretical Aspect;

The research would give theoretical understanding on analysis how the International Covenants protect the Human Rights of the suspect of terrorism actor in Indonesia.

2. Practical Aspect:

To propose the recommendation for better policy in combating terrorism.