

Legal Protection for Suspects in the Investigation Process of Terrorism Criminal Acts in Order to Fulfill Human Rights in the Region of the Riau Islands Police

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Legal Protection for Suspects in the Investigation Process of Terrorism Criminal Acts in Order to Fulfill Human Rights in the Region of the Riau Islands Police

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Abstract The background of this study is the high number of terrorism cases in Indonesia that require strict law enforcement measures but must still respect human rights. Legal protection for suspects in the investigation process is crucial to ensure a fair legal process and in accordance with human rights standards regulated in various laws and regulations, including the Criminal Procedure Code, Law No. 5 of 2018, the 1945 Constitution, and Law No. 39 of 1999. The purpose of this study is to analyze the implementation of legal protection for suspects of terrorism crimes in the Riau Islands Police area, identify obstacles faced in implementing this protection, and formulate solutions to overcome these obstacles. The research method used is the empirical legal method with a qualitative approach involving data collection through interviews, observations, and document studies. The results of the study indicate that the implementation of legal protection for suspects in the Riau Islands Police area is still less than optimal. The main obstacles identified include abuse of authority by law enforcement officers, lack of resources and capacity, and social stigma and discrimination against suspects. Abuse of authority often occurs in the form of unprocedural arrests and detentions, while limited resources result in a lack of adequate equipment and training for officers. Social stigma worsens the situation by hindering fair and humane legal protection. Based on the results of the study, it is recommended that supervision and accountability for the actions of law enforcement officers be strengthened, training and capacity building for officers be carried out continuously, and anti-stigma education and campaigns be carried out for the community. These steps are expected to increase the effectiveness of human rights protection for suspects, so that the process of investigating terrorism crimes can be carried out more fairly and in accordance with the principles of law and justice.

Keywords: Legal Protection, Suspects, Terrorism Crimes

1. INTRODUCTION

Terrorism is a serious threat to the security and stability of the state and the international community. Terrorism can threaten human safety, create fear, disrupt social order, and violate human rights. In efforts to handle terrorism, investigation is a crucial stage, because this process is the beginning of the criminal justice process and can have a significant impact on the human rights of the suspects. The Republic of Indonesia is a country based on democratic law, based on Pancasila and the 1945 Constitution of the Republic of Indonesia, not based on force alone. The rule of law determines that its equipment acts according to and is bound by the regulations determined in advance by the equipment controlled to implement those regulations. (Abu Daud Busroh,2015)

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In Law Number 48 of 2009 concerning Judicial Power, which is one of the sources of criminal procedural law, there is a fundamental principle related to the rights of suspects, namely the principle of the presumption of innocence, which states: Every person who is suspected, arrested, charged, and/or brought before a court must be considered innocent before a decision is made stating his/her guilt and has obtained permanent legal force. (Budi Gunawan,2016)

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¹³ Human rights are basic rights that are inherent in humans, are universal and eternal, therefore they must be protected, respected, maintained, and must not be ignored, reduced or taken away by anyone. ⁸ Human rights (HAM) which are universally interpreted as "those rights which are inherent in our nature and without which we cannot live as human beings" by people in the world, their formulation and recognition have been fought for over a long period of time. Even until now this is still ongoing, with various dimensions of problems that arise due to the various interpretations ¹² related to it.

Legal protection for suspects in the process of investigating terrorism crimes is very important to ensure that the legal process is fair, transparent, and meets internationally recognized human rights standards. ⁴ Protection of the human rights of suspects in the process of investigating terrorism crimes is also an integral part of the government's commitment to respecting human rights and implementing justice. (F. Budi Hardiman,2005)

By analyzing real cases, applicable laws and regulations, and the legal approaches used, this study is expected to contribute to finding solutions and policy recommendations that focus on protecting human rights for suspects in the process of investigating terrorism crimes. In addition, this study is also expected to provide a better understanding of the importance of ensuring equality and justice for all parties involved in handling terrorism crimes in order to realize universal human rights and respect human dignity.

⁹ Based on the background description above, the author raises several issues that will be discussed further. The issues are as follows:

1. How is the regulation of legal protection for suspects in the process of investigating acts of terrorism in order to fulfill human rights
2. How is the implementation of legal protection for suspects in the process of investigating acts of terrorism in order to fulfill human rights in the Polda Kepri area?
3. What are the obstacles and solutions to legal protection for suspects in the process of investigating acts of terrorism in order to fulfill human rights in the Polda Kepri area?

² Based on the formulation of the problem stated above, it can be seen that the objectives of this study are:

1. To find out and analyze the regulation of legal protection for suspects in the process of investigating acts of terrorism in order to fulfill human rights.
2. To find out and analyze the implementation of legal protection for suspects in the process of investigating acts of terrorism in order to fulfill human rights in the Polda Kepri area.
3. To find out and analyze the obstacles and solutions to legal protection for suspects in the process of investigating acts of terrorism in order to fulfill human rights in the Polda Kepri

area.

2. LITERATURE REVIEW

Legal protection is an important concept in legal science and justice practice that refers to mechanisms, procedures, and institutions designed to safeguard the rights and freedoms of individuals or entities in society. This concept involves a series of legal actions or policies aimed at ensuring that the rights of every person are recognized, respected, and protected by law, and to provide remedies or compensation if those rights are violated. According to legal experts, legal protection has several dimensions. One aspect involves preventing rights violations through clear regulations and effective law enforcement. Legal experts such as Lawrence M. Friedman emphasize the legal system as a tool to regulate societal behavior through norms and sanctions. In this context, legal protection becomes a way to ensure social justice through the implementation and enforcement of fair rules. Another aspect of legal protection is the ability of individuals to access the justice system to claim rights or obtain redress for losses suffered.

Legal protection in the law enforcement process, especially against criminal acts, has several main objectives that are interrelated and aim to maintain a balance between the need to enforce the law and uphold individual rights. These objectives reflect the basic values in the criminal justice system and the wider society, which emphasize justice, legal certainty, and protection of human rights. (Bagir Manan,2019)

These rights include, but are not limited to, the right to be informed of the charges against him, the right to legal aid, the right to remain silent and not to incriminate oneself, the right to a speedy and fair trial, and the right to appeal against court decisions. The right to legal aid, for example, ensures that the accused can be represented by a lawyer during the investigation, prosecution, and trial, which assists in the defense and protection of his rights. (Barda Nawawi,2019)

Legal protection for suspects ¹in the law enforcement process, including the stages of investigation, prosecution, and trial examination in court, is a key element of a fair and effective criminal justice system. This protection aims to ensure that the rights of suspects are respected throughout the legal process, from the time the investigation begins until the court decides. At the investigation stage, legal protection for suspects includes the right to be informed of the reasons for arrest or investigation, ¹¹the right not to be intimidated or tortured, the right to liberty and personal security, and the right to obtain legal assistance. Suspects also have the right to communicate with lawyers and family.

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Law enforcement can guarantee legal certainty, order and legal protection in the current era of modernization and globalization can be implemented, if various dimensions of legal life always maintain harmony, balance and harmony between civil morality based on actual values in a civilized society. As a process of activities that include various parties including the community in order to achieve goals, it is a must to see criminal law enforcement as a criminal justice system.

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Law enforcement itself must be interpreted within the framework of three concepts, namely:

1. The concept of total law enforcement (total enforcement concept) which demands that all values behind the legal norms be enforced without exception.
2. The concept of full law enforcement (full enforcement concept) which realizes that the total concept needs to be limited by procedural law and so on for the sake of protecting individual interests.
3. The concept of actual law enforcement (actual enforcement concept) which emerged after

It was believed that there was discretion in law enforcement due to limitations, both related to infrastructure, quality of human resources, quality of legislation and lack of community participation. (Mardjono Reksodipuro, 2017)

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In line with Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which expressly states that the Republic of Indonesia is a State of Law. Thus national development in the legal field is aimed at ensuring that society obtains certainty, order and legal protection based on truth and justice and provides a sense of security and peace. Its overly formal nature if based only for the sake of legal certainty alone will bring disaster in the form of injustice. Thus, for the sake of what is called precise justice, then material measures, which are actually based on general principles of justice, must really be considered in law enforcement. (Romli Atmasasmita)

the granting of authority to someone to take care of something. According to the law, a power of attorney is a form of agreement in which a person authorizes another person to carry out an affair on his behalf. The legal basis for a general power of attorney is stated in Article 1796 of the Civil Code, while a special power of attorney is stated in Article 1795 of the Civil Code. So, in general, a power of attorney is a document that gives authority to another party to carry out legal actions on behalf of the grantor. This is because the grantor is currently unable to do so themselves. This other party can be a lawyer, family member, or other related individual.

Mortgage Rights are an object of collateral for debt repayment, with priority rights,

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with the object of the collateral being Land Rights as regulated in Law Number 5 of 1960 concerning the Basic Principles of Agrarian Law. (Kartini Muljadi dan Gunawan Widjaja ,2006) Mortgage rights can also be imposed on land rights ⁶including buildings, plants and works of art that already exist or will exist which are an integral part of the land, and which are the property of the holder of land rights, the burden of which is expressly stated in the deed granting the mortgage rights in question. Legal Agreement of Receivables there is a term about an Agreement that when someone promises then the Promise must be kept because its Weight is like a Debt that must be paid. It also applies when someone starts a business or makes an agreement in Business where if there is an agreement in the form of a Business Agreement then both parties must keep the Agreement.

3. RESEARCH METHOD

The approach method ¹in this study is a combination of the normative approach "Legal Research" with the empirical approach method "Juridical Sociologies". The research mechanism with this combined approach method is carried out by describing the explanation of the inductive research method leading to the deductive method and vice versa. This is done by the author ¹to help explain the relationship between research variables and research objects so that it can produce an understanding that is very helpful for readers, especially researchers and academics.

The location of this research was carried out in the Riau Islands Province, precisely at the Riau Islands Regional Police. The population is all law enforcement officers and the community in the jurisdiction of the Riau Islands Regional Police (Polda).

¹This type of research is included in the combined research category between normative legal research (library research) and observational research, while in terms of its nature it is analytical, where the author makes efforts to explore verbal data sourced from literature obtained by the author in the library and data obtained in the field, then analyzed to obtain conclusions deductively. As ¹data and data sources used in this study are primary data and secondary data. (Ronny Hanitijo Soemitro,2003)

⁷In this study, data analysis is carried out qualitatively by describing the research, then conducting a comparison between ⁷the data and legal theories, legal experts and laws and regulations, where the analysis begins with data collection, data processing and finally data presentation. While the conclusion drawing will use the ¹deductive method, namely the author takes data, statements, opinions, which are general in nature and then draws specific conclusions.

4. RESULTS AND DISCUSSION

Legal Protection Arrangements for Suspects in the Investigation Process of Terrorism Crimes to Fulfill Human Rights in the Riau Islands Regional Police Area

During the investigation stage, law enforcement officers must treat suspects as people who are not necessarily guilty. Arrests, detentions, and examinations must be carried out while respecting the rights of suspects. Public prosecutors must file charges based on strong and valid evidence. During the prosecution process, the accused must be given the opportunity to defend themselves and present mitigating evidence. Judges must examine and decide cases based on the evidence presented at trial. The accused must be presumed innocent until the judge decides otherwise based on sufficient and valid evidence. A verdict stating the guilt of the accused must be based on the facts and evidence revealed at trial. The accused is presumed innocent until the verdict has permanent legal force.

These provisions are designed to protect every individual from actions that may cause serious physical or mental suffering, and to ensure that all forms of human interaction, especially those involving law enforcement authorities, are carried out with respect and recognition of human values. This protection includes a prohibition on all forms of torture, whether carried out to obtain a confession, information, or punishment, or other actions aimed at intimidating or punishing someone. The implementation of this protection is realized through several mechanisms and concrete steps.

The right to liberty and personal security as regulated in Article 28D paragraph (1) of the 1945 Constitution states that everyone has the right to recognition, guarantee, protection, and certainty of fair law and equal treatment before the law. This article emphasizes that every individual must be protected from arbitrary actions that threaten their liberty and personal security, including unlawful arrest and detention. This protection includes the right not to be arrested, detained, or tried without a valid legal basis and fair legal process. This right also ensures that everyone, without discrimination, has equal access to protection by law and to obtain justice. (Emiyanti, Roni Syahputra, 2024)

Pretrial procedures are regulated in the Criminal Procedure Code (KUHP) in Articles 77-83. In the pretrial process, the judge will assess whether the arrest and detention were carried out in accordance with the law, and whether there is sufficient evidence to support the action. If it is found that the arrest or detention was unlawful, the judge can order the release of the suspect and provide compensation for the unlawful detention. This provides an important control mechanism against abuse of authority by law enforcement officers. In addition, the role

of the court in overseeing arrests and detentions also includes regular reviews of the status of the suspect's detention. For example, in certain cases such as terrorism crimes, the law stipulates that extensions of detention must be approved by the court to ensure that the detention is still necessary and proportionate. The court must independently assess whether the reasons for detention remain valid and whether the suspect's rights, including the right to be accompanied by legal counsel and the right not to be tortured, have been respected. (Soerya Respatono, Guntur Hamzah,2013)

The right to liberty and security of person as regulated in Article 9 of Law Number 39 of 1999 concerning Human Rights states that every person has the right to liberty and security of person, including freedom from arbitrary arrest or detention and all other forms of deprivation of liberty that are not in accordance with the law. This article guarantees that every individual must be protected from actions that violate his/her liberty and security of person without a legitimate and fair legal procedure. This protection includes the right not to be detained or arrested without a clear and legal reason, as well as the right to be immediately informed of the reasons for the arrest and detention.

Implementation of Legal Protection for Suspects in the Investigation Process of Terrorism Crimes to Fulfill Human Rights in the Riau Islands Police Area

Legal protection for suspects of terrorism crimes is regulated by several laws and regulations. The Criminal Procedure Code (KUHP) provides basic rights for suspects, including the right to the presumption of innocence, the right to be assisted by legal counsel, and the right not to be tortured or treated inhumanely. In addition, Law Number 5 of 2018 concerning the Eradication of Criminal Acts of Terrorism adds special provisions regarding the investigation and detention of terrorism suspects, which must still be carried out with respect for human rights as regulated in Article 28G paragraph (2) of the 1945 Constitution and Article 33 of Law Number 39 of 1999 concerning Human Rights.

Although surveillance and intelligence are vital components in law enforcement against terrorism crimes, their implementation is often faced with various weaknesses. ¹One of the main weaknesses is the limited resources, both in terms of the number of trained personnel and the technology available. Security forces in the Riau Islands Police area may not have adequate access to the latest intelligence tools or the logistical support needed to conduct effective and continuous surveillance. In addition, there are also obstacles in terms of inter-agency coordination. Imperfections in information sharing between law enforcement agencies, the military, and intelligence agencies can lead to gaps in monitoring and enforcement. (AKP Yudi Kurniadi,2024)

By addressing these weaknesses, the security forces in the Riau Islands Regional Police can improve the effectiveness of counseling and deradicalization programs, which in turn will help prevent radicalization and reduce the risk of terrorist acts. These efforts are not only important for maintaining national security but also for promoting peace and harmony in society. ¹² The Legal System Theory by Lawrence M. Friedman divides the legal system into three main components: structure, substance, and legal culture. The implementation of legal protection for suspects of terrorism in the Riau Islands Regional Police can be analyzed through the following three components:

a. Legal Structure

The legal structure includes institutions involved in law enforcement, such as the police, prosecutors, and courts. In the Riau Islands Regional Police, the legal structure involves various law enforcement units working together to address terrorism. However, one of the weaknesses in this structure is the limited resources and coordination between institutions which is often not optimal, resulting in inefficiency in the investigation and prosecution process.

b. Legal Substance

Legal substance includes rules, norms, and doctrines that form the basis for law enforcement. In this context, laws governing criminal acts of terrorism and human rights, such as the Criminal Procedure Code, Law No. 5 of 2018 concerning the Eradication of Criminal Acts of Terrorism, and the 1945 Constitution, provide a fairly comprehensive legal framework. However, the implementation of this legal substance often faces challenges, such as abuse of authority by law enforcement officers and a lack of in-depth understanding of human rights.

c. Legal Culture

Legal culture refers to the attitudes, values, and perceptions of the community and law enforcement officers towards the law and law enforcement. In the Riau Islands Regional Police, there is a culture that is still strong towards the negative stigma towards terrorism suspects, which can affect their treatment during the investigation process. In addition, the lack of public trust in law enforcement officers is also an obstacle to the implementation of effective legal protection.

From the analysis using Lawrence M. Friedman's legal system theory and legal protection theory, it can be concluded that although there is an adequate legal framework to protect the human rights of terrorism suspects in the Riau Islands Regional Police Region, its implementation still faces various weaknesses. The legal structure needs to be strengthened

with better resources and coordination. The legal substance must be applied consistently with a deep understanding of human rights. The legal culture must be changed to reduce negative stigma and increase public trust in law enforcement officers. Preventive and repressive legal protection needs to be improved through adequate training, effective supervision, and better access to complaint mechanisms and legal assistance. Thus, human rights protection can be more effective in the process of investigating terrorism.

Obstacles and Solutions to Legal Protection for Suspects in the Process of Investigating Criminal Acts of Terrorism in Order to Fulfill Human Rights in the Riau Islands

Regional Police Area

Obstacles to legal protection for suspects in the process of investigating terrorism crimes in the Riau Islands Police area, namely:

a. Abuse of Authority by Law Enforcement Officers

One of the main obstacles to legal protection for suspects is abuse of authority by law enforcement officers. This abuse can be in the form of arrests and detentions that are not in accordance with procedures, acts of violence or torture to obtain confessions, and not providing access to legal counsel from the start of the investigation. This abuse of authority not only violates human rights but also damages public trust in the justice system.

These actions not only violate the law and human rights, but also create a climate of fear and distrust of law enforcement institutions. For example, in some cases, suspects may be detained without a strong legal basis or forced to confess through physical and psychological intimidation, which is contrary to internationally recognized principles of justice and human rights. (AKP Yudi Kurniadi,2024)

b. Lack of Resources and Capacity of Officials

Law enforcement officials often face limited resources, both in terms of personnel, budget, and technology. These limitations can hinder their ability to conduct thorough and procedural investigations. In addition, the lack of specific training on human rights and ethical investigative techniques also hinders the provision of adequate legal protection for suspects.

c. Social Stigma and Discrimination

Suspects of terrorism crimes often face strong social stigma. The public and even law enforcement officers tend to view them as dangerous criminals without considering the principle of the presumption of innocence. This stigma can affect the treatment of suspects during the investigation process and lead to discrimination that hinders the protection of their basic rights.

d. Lack of Supervision and Accountability

Supervision of the actions of law enforcement officers during the investigation process is often ineffective. Existing oversight mechanisms, such as pretrial motions, are not always accessed by suspects due to lack of information or pressure from authorities. In addition, oversight institutions such as Komnas HAM or judicial institutions often lack the resources to carry out comprehensive and effective oversight.

Ministry of Agrarian Affairs and Spatial Planning/Head of the Land Agency of the

5.CONCLUSION AND SUGGESTION

Conclusion

Based on the discussion in the previous chapter, the following conclusions can be drawn:

a. The regulation of legal protection for suspects in the process of investigating acts of terrorism in the Riau Islands Regional Police area, is regulated in Article 28D paragraph (1) and Article 28G paragraph (2) of the 1945 Constitution of the Republic of Indonesia, Articles 50-68 of Law Number 8 of 1981 concerning the Criminal Procedure Code, Law Number 5 of 2018 concerning the Eradication of Criminal Acts of Terrorism, and Article 33 of Law Number 39 of 1999 concerning Human Rights, providing a comprehensive legal framework to ensure the protection of human rights.

¹² b. The implementation of legal protection for suspects in the process of investigating acts of terrorism in the Riau Islands Regional Police area is still less than optimal, due to limited resources and capacity, as well as social stigma and discrimination that hinder the protection of human rights for suspects. The implementation of supervision by the courts, monitoring and intelligence, as well as counseling and deradicalization programs are often ineffective due to the lack of coordination, adequate resources, and training. Implementation of the settlement of defaulting debtors with SHGB/SHM guarantees involves quite concrete steps in accordance with the legal provisions in force in Indonesia and the agreement between the creditor and the debtor.

c. The main obstacles in legal protection for suspects in the process of investigating terrorism crimes in the Riau Islands Regional Police area include abuse of authority by law enforcement officers which often occurs in the form of arrests and detentions that are not in accordance with procedures, lack of resources and capacity resulting in a lack of adequate equipment and training for officers, and social stigma and discrimination against suspects also worsen the situation by inhibiting fair and humane legal protection which

hinders the implementation of human rights. The solution to overcome this is strengthening the monitoring and accountability mechanisms, increasing the training and capacity of law enforcement officers, and anti-stigma education and campaigns for the community.

Suggestion

From this conclusion, the author can provide several suggestions, namely:

- a. It is recommended that security forces conduct ongoing training that focuses on ethical investigation techniques and a deeper understanding of human rights to ensure better legal protection for suspects.
- b. It is recommended that the public increase public awareness through campaigns and education on the importance of the principle of the presumption of innocence and respect for human rights, to reduce stigma and discrimination against suspects.
- c. It is recommended that the Government strengthen the monitoring and accountability mechanisms for the actions of law enforcement officers by providing adequate resource support and authority to monitoring institutions such as Komnas HAM and the judiciary. Start with primary data collection, such as a power of attorney to impose mortgage rights used in debt agreement practices in Batam City. You can collect examples of power of attorney from notaries, banking companies, or other financial .

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