



## Certainty of the Death Penalty in Terrorism Crimes from the Perspective of International Criminal Law

Angga Satria Bintang<sup>1</sup>, Helvis<sup>2</sup>

Esa Unggul University, Indonesia, email: [anggasatriabintang03@gmail.com](mailto:anggasatriabintang03@gmail.com)

Esa Unggul University, Indonesia, email: [helvis@esaunggul.ac.id](mailto:helvis@esaunggul.ac.id)

**Abstract.** Terrorism is an extraordinary crime which is classified as a crime against humanity (Crime Against Humanity), and is a serious threat to the supervision of every country because terrorism is an international crime which poses a danger to security, world peace and is detrimental to the welfare of society. It needs to be eradicated systematically, planned and sustainable so that the human rights of many people can be protected and upheld. The aim of this research is to find out the certainty of the Death Penalty in Terrorism crimes from an International Criminal Law Perspective and to find out regarding Human Rights to the certainty of the Death Penalty in Terrorism Crimes from an International Criminal Law Perspective. Data collection in legal writing is library research (library research). The debate regarding the death penalty is also related to the right to life which in international legal instruments and in the 1945 Constitution is included in the category of rights that cannot be reduced under any circumstances (non-derogable rights). The practice of capital punishment in Indonesia is still considered class biased and discriminatory, because in both the Criminal Code and the ICCPR the death penalty is permitted for the most serious types of crimes, including the crime of terrorism.

**Keywords:** Terrorism, Death Penalty, Criminal Law

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### INTRODUCTION

Terrorism is an extraordinary crime that is of concern to the world today which is classified as a crime against humanity (*Crime Against Humanity*), and is a serious threat to the sovereignty of every country because terrorism is already an international crime that poses a danger to security, world peace and harms public welfare needs to be eradicated in a planned and sustainable manner So that the human rights of many people can be protected and upheld.

Terrorism as an extraordinary *crime (Extra Ordinary crime)* certainly requires handling by utilizing *extraordinary means (Extra Ordinary Measure)*. In this regard, Muladi stated: Every effort to overcome terrorism, even if it is said to be domestic because its characteristics contain elements of "*Ethno Socio or Religios Identity*", in overcoming it inevitably must consider extraordinary standards considering the advancement of modern communication, informatics and transportation technology.

In line with that, Romly Atmasasmita said that from a sociological background, terrorism is a crime that is very detrimental to society both nationally and internationally, even at the same time a rape of human rights. In addition, terrorism also causes casualties and damage to property, terrorism crimes also damage the stability of the country, especially in terms of economy, defense, security, and so on. Meanwhile, sociologically, the crime of terrorism damages spiritual values in the order of social life by causing religious arguments as justification for these acts of terror.

The crime of terrorism is one form of crime with an international dimension that greatly frightens society. In various countries in the world there have been terrorism crimes both in developed and developing countries, acts of terror committed have taken victims indiscriminately. Terrorism is one of the crimes that has received sharp attention from the international community caused by the event or crime itself which is of such a nature and more so the consequences for the international community. (I Wayan Parthiana; 2003; p. 70).

The nature of the actions, perpetrators, strategic objectives, motivations, expected and achieved results, targets and methods of Terrorism is now increasingly broad and varied, making it increasingly clear that terror is not an ordinary form of destructive violent crime, but is already a crime against *peace and security of mankind*. (Mulyana W. Kusumah; 2002; p. 22). In line with this, causing the United Nations (UN) in its congress in Vienna Austria in 2000 to raise the theme *The Prevention of Crime and The Treatment of Offenders*, among others, mentioned terrorism as a development of violent acts that need attention.

According to Muladi, terrorism is an extraordinary crime that also requires handling by utilizing extraordinary measures for various things (Muladi; 2004.)

1. Terrorism is the act that creates the greatest danger to human rights. In this case the human right *to life and the human right to be free from fear*;
2. Targets of terrorism are random or indiscriminate at the expense of innocent people;
3. The possibility of using weapons of mass destruction using modern technology;
4. The tendency of negative synergies between national terrorism organizations and international organizations;
5. Possible cooperation between terrorist organizations and organized crime of both national and transnational nature;
6. May endanger international peace and security.

Terrorism is not only a regional crime but a transnational, organized crime, and even an international crime that has a wide network, which threatens national and international peace and security. The Government of Indonesia in line with the mandate as stipulated in the Preamble to the Constitution of the Republic of Indonesia Year 1945 namely protecting the entire Indonesian nation and all Indonesian bloodshed, promoting general welfare, educating the life of the nation and participating in maintaining world order based on independence and lasting peace and social justice, is obliged to protect its citizens from every threat of crime both national in nature, transnational, as well as international.

The government is also obliged to defend sovereignty and maintain national integrity and integrity from every form of threat both from outside and from within. In terms of government obligations, the government is obliged to carry out law enforcement against an act that includes criminal acts. Terrorism is a pure criminal act (*mala perse*) which is distinguished from administrative criminal law (*mala prohibita*). With this statement, it is absolutely necessary to enforce law and order consistently and continuously.

The Constitution of the Republic of Indonesia Year 1945 as Article 28 A, there are provisions regarding everyone has the right to live and has the right to defend his life and life. The legal basis that guarantees the right to life in Indonesia is also contained in Article 9 of Law Number 39 of 1999 concerning Human Rights, in paragraph (2). Looking at this article, it can be understood that a person's right to live in comfort and security is the duty of the state to fulfill it. It is the obligation of the state to provide protection for the implementation and fulfillment of human rights as the basic rights of its citizens. One form of protection provided by the state to its citizens is the right of a person to live safely, comfortably and peacefully.

The formulation of laws and regulations related to terrorism, starting from the existence of Government Regulation in Lieu of Law (hereinafter written PERPU) Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism, strengthened by Law Number 15 of 2003 concerning the Stipulation of PERPU Number 1 of 2002 into Law, and Law Number 9 of 2013 concerning the Prevention and Eradication of Terosrime Crimes.

Efforts to formulate a definition of terrorism acceptable to all parties continue to be undertaken by the international community, either individually or through global and regional international organizations. In addition to the existence of national legal regulations, countries that form national anti-terrorism laws include:

1. India (Prevention Of Terrorism Ordinance on October 16, 2001);
2. France ( October 31, 2001);

3. United Kingdom (Terrorism Act, 2000), Canada (Anti Terrorism Act, on October 15, 2001);
4. Indonesia (Perpu Number 1 and 2 of 2002 which has been replaced by Law Number 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism);

The international community (states) make partial efforts in determining a crime classified as terrorism by making international conventions whose substitutions relate to terrorism or linking conventions that regulate certain crimes as a form of terrorism. Some conventions whose substance relates to terrorism include (I Wayan Parthiana; 2003; p. 74):

1. *International Convention for the Suppression of Terrorist Bombing* (UN General Assembly Resolution, 1997/ New York Convention, 15 December 1997);
2. *International Convention for the Suppression of the Financing of Terrorism* (New York Convention, 9 December 1999);

One form of fulfillment of this right is to provide protection to citizens from terrorism crimes. The realization is in addition to convicting perpetrators of terrorism, of course by forming laws and regulations related to criminal acts of terrorism. Strive for the fulfillment of human rights for citizens to obtain protection from terrorism crimes. The formulation of these laws and regulations is not only a form of protection provided by the state in the aspect of legal / legal certainty, but also as evidence of the need for active participation of each state to take over the role in eradicating terrorism crimes, considering that this crime is an extraordinary crime, and the common thread of terrorism crimes is the same as criminal acts, which is also explicitly and implicitly justified in the formulation of laws and regulations.

## **LITERATURE**

The Indonesian state, actually before the bombing terror attack on the World Trade Center (WTC), United States on September 11, 2001, and long before the Bali bombing tragedy on October 12, 2002, since 1999 has experienced and overcome acts of terror in the country. Data available from the Indonesian National Police (POLRI) shows that in the period from 1999 to 2002 bombs exploded recorded 185 pieces, with 62 people killed and seriously injured 22 people. (Susilo Bambang Yudhoyono, 1st Cet., p. 7.2002). The Bali bomb explosion in Legian tourist area, Kuta, Bali has added to the black sheet of crimes against humanity in Ind The Government of the Republic of Indonesia is based on the provisions of Article 22 paragraph (1)

of the Law of the Republic of Indonesia Year 1945, namely the requirement of "compelling emergency matters" determined to act immediately to reveal the Bali bombing event by anticipating all possibilities that will occur again events that cost lives and property thing. For this reason, the government issued a policy by establishing Government Regulation in Lieu of Law (Perppu) Number 2 of 2002 concerning the enactment of Government Regulation in Lieu of Law (Perppu) Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism in the Bali.indonesia bomb blast event. (Ryan Aditama, October, 2019, p. 185).

Perppu Number 1 of 2002 which was later approved into the Law on the Eradication of Criminal Acts of Terrorism, namely Law Number 15 of 2003. Of course, this contains the embodiment of the provisions issued by the United Nations (UN) in the Convention Against Terrorism Bombing (1997), that the use of explosives other than as an international crime is also a form of terrorism crime. (Eddy O.S. Hiariej, pp. 66,2009).

The policy of the Republic of Indonesia in dealing with terrorism crimes during the New Order period was very different from the Reformation period. During the New Order era, counterterrorism prioritized the approach to the role of the Indonesian National Army (TNI) as a means of state defense. As well as the laws used are subversive laws. Meanwhile, during the Reformation period the subversive law was repealed and replaced using Law of the Republic of Indonesia Number 15 of 2003. The law is a development of state policy in the form of Government Regulation in Lieu of Law Number 2 of 2002. During the Old Order era, the counterterrorism approach used more security and military approaches. At this time, Indonesia was in the process of establishing a regime and self-defense from the threat of colonialism that sought to return to Indonesia. The Armed Forces of the Republic of Indonesia (ABRI), now the Indonesian National Army (TNI) plays a very dominant role in the field of defense and internal security. The role of the military also includes efforts to maintain the integrity of the nation and sovereignty, including overcoming various insurgency attempts and terrorism at home. (Sidratahta Mukhtar, pp. 146, 2016).

The current policy of the United States towards international terrorism cannot be separated from Osama bin Laden and Al-Qaeda who are the main suspects in the WTC tragedy of September 11, 2001. The tragedy that destroyed the World Trade Center in New York and damaged one side of the Pentagon building in Washington DC aroused "anger" in various efforts to eradicate terrorism carried out by the United States and received full support from the United Nations (UN). Of course, the series of acts of terrorism published by the United States Department of State is a perspective of U.S. interests. The aftermath of the collapse of the WTC

was not only felt by the United States itself but had a direct impact on the collapse of the offices of several very prominent financial institutions in the United States and the world. But in its counterterrorism politics, legally it seems that the United States can also seem to do anything.

The United States is now aggressively waging war on anyone who protects those seen as terrorists, especially those with ties to its number one enemy, Osama bin Laden. State-sponsored terrorism occurs when a government uses terrorism as a tool of its foreign policy. By renting, training, providing hiding places, financing, and even sheltering terrorists, the country can carry out underground resistance movements against its enemies at home and abroad. And this reality is exactly what the United States and its allies are facing in their efforts to destroy the Taliban and bin Laden. In the fight against terrorism, countries have also adopted national laws criminalizing criminal acts of terrorism. The main objectives of international criminal law on terrorism are to prevent acts of terrorism, pursue and punish perpetrators of terrorism, and protect society from the threat of terrorism. Therefore, international cooperation becomes important in the effort to combat terrorism effectively.

## **METHOD**

This type of research in legal writing is normative legal research, which is research that provides a systematic explanation of the rules governing a particular legal category, as well as analyzing the relationship between regulations (Peter Mahmud Marzuki, 2011). This research is based on primary, secondary and tertiary legal materials with interpretation and systematization between laws and regulations.

## **DISCUSSION**

The death penalty consists of two words "punishment" and "death". According to the General Dictionary Indonesian, punishment is a rule made by a power or custom that is considered applicable to many people in social life. (KBB. Third Edition). Then punishment is a sanction given to someone who violates the law. While death has the meaning of loss of life, thus the meaning of the death penalty is an attempt to kill carried out deliberately by an official court of a country, on the basis of criminal acts committed by the convict. (W.J.S Poer Dodarminta, 1983).

The *death penalty or capital punishment* is understood as "*the lawful infliction of death as a punishment*". As a form of punishment, the death penalty is part of the criminal *law system* which is also related to theories about punishment in general. (Arle SIsiwanto, 2009). The discussion about the death penalty in *dasamya* becomes a question of whether the death penalty

is *legitimate* or *illegitimate*. About this, there are two thoughts between Pros and Cons. First those who oppose the death penalty, who support the idea of abolishing the death penalty from the legal systems of countries (abolitionists). While the second Pro is those who support the death penalty as an instrument of criminal law to crack down on crime (*retentionists*). In the middle of these two extremes there is the opinion of those who agree with the death penalty, as long as the death penalty is limited to certain crimes and is carried out under strict conditions.

In terms of the death penalty, although many parties oppose it, there are still many who support it. Pros and cons always arise. Every time there is an execution, every time there is a debate. The argument against or abolishing the ordinary (abolitionist) death penalty revolves around moral or religious arguments, that only God brings man to life and only He has the right to revoke it. In some countries such as China, Saudi Arabia, Iran, the United States, and Indonesia are some countries that still carry out the death penalty, both in law and in practice. China is the most highlighted country because of the large number of death sentences. It is estimated that about 60% of the death sentences in the world are carried out there, which number in the thousands. (Topo Santoso, 2016).

Some of the experts who support the existence of *pidan amati* are Jonkers, Lambroso, Garofalo, Hazewinkel Suringa, van Hattum barda Nawawi Arief, Oemar Senoadji and T.B Simatupang. Jonkers supports the death penalty because it is found that "the reason for the death penalty cannot be withdrawn, if it has been carried out" is not an accepted reason for stating "the death penalty cannot be accepted, because in court the judge's decision is usually based on rational and correct reasons". Furthermore, Lambroso and Garofalo argue that the death penalty is an absolute tool that must exist in society to eliminate irreparable individuals. These individuals are certainly people who commit extraordinary crimes that are taken seriously (*extraordinary crime*). On another occasion, Suringa argued that crime is a form of punishment that is needed in a period, especially in terms of transitions of power that take place in a simple time. (Hazewinkel Suringa, *Inleiding Tot de studie van het Nederlandf Strafrecht*, H.D., T.W & Zoon N.V. Haaelem., 19968).

There are various arguments that are often put forward by those who are pro-death penalty. Some arguments relate to theories of punishment, while others concern moral, religious and even economic aspects. Some of the main propositions often put forward by proponents of the death penalty are as follows:

1. The death penalty permanently eliminates the worst criminals of civilized society (*incapacitation of the criminal*).

2. The death penalty contains a *retributive effect* that can satisfy the sense of justice of crime victims and their families.
3. Crime has a *deterrent effect* on other members of society.
4. The death penalty is not prohibited by major religious norms.

Meanwhile, those who contradict the death penalty also put forward convincing arguments to support their position. Some of the main arguments of those who disagree with the death penalty are as follows:

1. The death penalty assumes that human beings cannot change and negates the possibility that an evildoer may at some point repent.
2. The death penalty cannot be corrected (*undone*), especially in the case of the death penalty found to be imposed on people who mistakenly must be convicted as a result of the inadequacy of the criminal justice system. By using another sentence, based on this proposition the death penalty has the opportunity to be imposed on people who have not actually committed the crime charged.
3. The death penalty brings unnecessary suffering to other people, especially the family of the death row inmate during the waiting and execution of the death penalty.

In addition to the arguments of the Tensionists and Abolitionists above about the death penalty also discusses the arguments put forward by those who are Tensionists of the death penalty, looking at these arguments from a very different side. Regarding *the incapacitation of criminal*, abolitionists hold the view that the death penalty is not the only way to eliminate criminals from society. According to them there is a more "civilized" and "humane" way, namely imprisonment. For death row abolitionists, imprisonment is not only more "civilized" and "humane", but it can also give the convict a chance to be repaired. With regard to the retributive effect, basically the abolitionists say that the idea of justice that is solely retributive in nature, as reflected by the *lex talionis*, has no place in modern society. The *deterrent effect* of the death penalty is one of the hot spots in the debate about the pros and cons of the death penalty. While tensionists believe that the death penalty can have a preventive effect, abolitionists say otherwise. For them, the death penalty has no significant effect in reducing the crime rate. In contrast, proponents of the death penalty, as has been argued before, emphasize the deterrent effect believed to exist on the death penalty. (Hashem Dezbakhsh & Joanna M. Shepperd, 2006).

The pros and cons of the existence of the death penalty are still ongoing today, both on a national and international scale. In international developments, it can be traced about criminal arrangements in several international documents on human rights (HAM). As in the International Covenant on Civil and Political Rights (ICCPR) and the 1969 American Convention on Human Rights, these developments can be further examined related to the steps to reform the death penalty in the 2006 Draft Criminal Code.

The existence of the death penalty is not only a problem that occurs in Indonesia but also occurs in many other countries. This can be seen from the opinion of Von Henting who openly rejected the existence of the institution of the death penalty or the death penalty. He argued, there is a criminogenic influence of the death penalty mainly because the State has set a bad example with the death penalty or the death penalty is actually the State that is obliged to defend human life, under any circumstances. ( Djoko Prakoso & Nurwachid, 1984).

In addition to the loss of one's right to life, the death penalty also raises other problems that are no less complicated and also have a close relationship with the realm of human rights, namely about when the execution is carried out. This incident occurred because in Indonesia there are no regulations that regulate the *time limit* for execution of the convict. This is what resulted in a "criminal cumulation". Normatively, this criminal cumulation will never have a legal basis and recognition of its existence, but in practice it will often be raised. So the author can say that too long a delay in execution led to the "criminal cumulation" of imprisonment and the death penalty of the convict.

International legal norms are more or less in touch with the issue of the death penalty. There are two types of instruments specifically observed, namely international human rights instruments and instruments in the form of statutes of international criminal courts. For the first category, there are two instruments to be discussed, namely the *Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR)*. These two instruments were chosen for discussion because they are often used as an argument to say that international legal norms prohibit the application of the death penalty. As for the second category, the international legal instruments to be observed are *the Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, the Statute of the International Criminal Tribunal for the former Yugoslavia (ICTY), the Statute of the International Criminal Tribunal for Rwanda (ICTR)* and the Rome Statute of 1998 which became the basis for the establishment of the International Criminal Court (ICC).

## **International Human Rights Instruments**

### a. Universal Declaration of Human Rights 1948

Although the Universal Declaration of Human Rights is considered not to have strong enough characteristics to be considered an international legal norm, there is a fairly widely accepted opinion that views that through *customary international law* the Universal Declaration of Human Rights has become one of the sources of international law. Part of the Universal Declaration of Human Rights related to the issue of the death penalty is Article 3 which states that, "*everyone has the right to life, liberty and security of person.*" This article is often used as one of the main weapons to say that the death penalty has no place in international law, especially with regard to human rights norms. On the basis of the idea that everyone has the right to life, opponents of the death penalty simplistically then put forward the argument that the death penalty violates people's right to life, so it must be abolished.

### b. *International Covenant on Civil and Political Rights (ICCPR)*.

With the death penalty, the provisions in the ICCPR directly related to the subject matter of the death penalty which in full read as follows:

- 1) *Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.*
- 2) *In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.*
- 3) *When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.*
- 4) *Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.*
- 5) *Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.*

- 6) *Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.*

The drafters of the ICCPR seem to be fully aware that in order for the instrument to be widely accepted by countries with a wide variety of ideologies, politics, values, economic systems and cultural backgrounds, it must avoid imperative norms that would lay a fine line dividing countries. This realistic approach makes it easier to understand that substantially the ICCPR is not: it expressly prohibits the death penalty. However, such an interpretation is not: popular among international communities. International societies tend to assume that the death penalty is a violation of the right to life. This trend can be seen, among others, from the creation of international legal instruments containing this idea, namely: (a) *Second Optional Protocol to the International Covenant on Civil and Political Rights 1989*; (b) *Protocols No. 6 (1982) and No. 13 (2002) to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)*; and (c) *Protocol to the American Convention on Human Rights to Abolish the Death Penalty 1990*.

### **Statutes of the International Courts**

The tendency of states to reject the death penalty can be clearly seen through the statutes underlying the establishment of several international courts, notably the Nurnberg Tribunal, ICTY, ICTR and ICC.

a. Nurenberg Tribunal

The Nurenberg Tribunal was a military tribunal administered by the victorious nations of World War II to try military personnel deemed to have committed international crimes during World War II. The agreement that underpinned the implementation of the Nurenberg Trial, namely the *Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis of August 8, 1945* expressly contained the threat of the death penalty. (Jens David Ohlin, 2005). The provision was consistently enforced and at the end of the trial several top military and Nazi Party officials were executed. Ohlin notes that previously, when the Allies declared they would implement criminal punishment in Nurenberg's trial, it was not: many countries opposed the decision on the grounds that the death penalty violated international law. If anything, objections to the Allied decision were based more on humanitarian and moral arguments, rather than legal arguments. This shows that at that time the death penalty was not considered contrary to international law.

b. ICTY and ICTR.

The ICTY (*International Criminal Tribunal for the Former Yugoslavia*) and ICTR (*International Criminal Tribunal for Rwanda*) were two ad hoc international criminal tribunals established in the 1990s, about four decades after the Nodg. Although separated by only four decades, there were fundamental changes that took place between the Nurenberg Court and the ICTY and the ICTR, especially regarding the death penalty. Although not explicitly, there is a strong idea in the ICTY Statute and the ICTR Statute to reject the application of the death penalty. Article 24 of the ICTY Statute and Article 23 of the ICTR Statute affirm that, "*the penalty imposed by the Trial Chamber shall be limited to imprisonment.*" This means that in the ICTY and ICTR justice systems, the death penalty will never be applied. It also means that perpetrators of genocide, perpetrators of war crimes and perpetrators of crimes against humanity, including those manifested in acts of torture, biological experiments in war, hostage taking of civilians, bombing of villages that are not military objects in war, slavery, murder, torture and rape will not be sentenced to death at any time under the ICTY and ICTR systems.

c. International Criminal Court

What has been started by the ICTY and ICTR related to the death penalty was later affirmed by the Rome Statute of 1998 which became the basis for the implementation of the ICC (*International Criminal Court*). Article 77 of the Rome Statute of 1998 expressly states that the principal penalties that can be imposed against perpetrators of *genocide*, crimes against humanity, *war crimes* and *the crime of aggression* are:

- 1) *Imprisonment for a specified number of years, which may not exceed a maximum of 30 years; or;*
- 2) *A term of life imprisonment when justified by the extreme gravity of the crime and the individual circumstances of the convicted person;*

While additional penalties that can be imposed are:

- 1) *A fine under the criteria provided for in the Rules of Procedure and Evidence;*
- 2) *A forfeiture of proceeds, property and assets derived directly or indirectly from that crime, without prejudice to the rights of bona fide third parties*

As with the ICTY Statutes and the ICTR, *imprisonment* in the ICC system will make perpetrators of international crimes provided for in Article 5 of the Rome Statute (genocide, war crimes, crimes against humanity and crimes of aggression) will never be touched by the death penalty, however for example the perpetrators of these crimes are extraordinarily cruel and their actions cause the death of thousands of people, including women and children.

At some point a paradoxical situation may arise. If the abolition of the death penalty as strongly reflected in the ICTY Statute, the ICTR and the ICC is regarded as a *protection of "the right to life" from international criminals, then that protection has given privilege to the wrong person, who may have violently and excessively trampled on "the right to life"* Several thousand people are victims of the perpetrator's actions. At this point, too, the sense of justice can become very disturbed

## CONCLUSION

The conclusion drawn from the previous explanation is that the death penalty for terrorism crimes can still be maintained, because both in the Criminal Code and ICCPR the death penalty is allowed for the most serious crimes types of crimes where terrorism crimes are included. Further, based on the construction of social agreements (*Contract Social*), the perpetrators of criminal acts have been deemed to have waived the right to life, which is protected by law, by committing acts that result in the loss of another person's life. Therefore, by "consciously" realizing that their actions could lead to the death penalty, they have indirectly given their "consent" to be threatened with the death penalty.

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