

Comparative Study of Setting and Handling Criminal Acts of Terrorism in Aircraft Under The Laws Of Indonesia, Singapore, And Malaysia

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Abstract. The crime of terrorism is considered an extraordinary crime that requires separate handling. Several incidents of aircraft hijacking prompted the international community to make special rules to deter and punish terrorist perpetrators. This study aims to compare the regulation and handling of criminal acts of terrorism on airplanes based on Indonesian, Singaporean, and Malaysian laws as well as criminal sanctions for the perpetrators. Through an analysis of relevant legislation and related literature, this study seeks to identify comparisons of the three laws. From the results of the comparison of each of the rules used in the three countries, there are several factors in terms of similarities, differences, advantages, and disadvantages of each of these rules.

Keywords: Terrorism, aircraft hijacking, law.

1. Introduction

Crime can be defined as an action that can harm others or even oneself. Both Islam and Christianity believe that the first fall of mankind into sin began with the first humans on earth, namely Adam and Eve. However, the definitions as well as the types of crimes recognized and punished by society have changed over time and with different cultures. Initially, criminal acts may have more to do with a form of action that harms certain individuals or groups, such as murder, theft, or rape.

In the present context, factors such as poverty, social injustice, business competition, and political conflicts can also play a role in increasing crime rates in society and the state. However, crimes are also often triggered by psychological factors, such as the desire for power, jealousy, or feelings of dissatisfaction and frustration in life [1]. Crime also often occurs because of human needs and desires to survive and make a profit. In essence, many things can encourage or even force a person or group to commit a crime [2]. Of the various factors that cause crime in the world and various types of crime in society, one of the crimes that emerge is the crime of terrorism.

The words terrorist (as an actor) and terrorism (as an action or activity) originate from the Latin, namely "*terrere*" which means to create one tremble or cause horror due to great fear [3]. Terror as per the Indonesian Dictionary (KBBI) is a business or activity to create terrified, horrified, and brutality by a person or group[4]. Whereas, terrorism is a form of coordinated attack action to create terror.

Terrorism is considered as a behavior of violence or threats of violence aimed at individuals, factions/groups, or the general public to create fear and encourage certain actions or to gain certain political, ideological, religious or economic goals[5]. However, modern terrorism as we know it today is generally considered to have started in the 20th century, particularly after World War II along with increasing globalization, technological developments, and the spread of extreme ideologies, terrorism is becoming increasingly complex and spreading throughout the world which then leads to more specific matters and one of them is the crime of terrorism on airplanes.

Since the airplane was first discovered and flown by the Wright Brothers, namely Orville Wright and Wilbur Wright [6] airplanes have experienced rapid development in terms of design and technology. Even though modern aircraft are equipped with *up-to-date* navigation and communication systems and highly sophisticated security, this does not guarantee that they will escape the threat of danger, especially in terms of security and safety, namely aircraft hijacking, especially civil and cargo aircraft leading to acts of terrorism.

Aircraft hijacking is a crime that is considered relatively new and the motive behind the hijacking is varied, ranging from economic to political motives. World society finally judged that the act of piracy could threaten the situation of national and even international security and peace. To combat this crime of aircraft hijacking, the international community made various conventions the 1963 Tokyo Convention, the 1970 Hague Convention, and the 1971 Montreal Convention [7].

Under ICAO, from 30 August to 10 September 2010, the ICAO Diplomatic Conference was held in Beijing China [8]. In the end, the Commission of the Whole agreed and adopted the text that had been discussed and named it: The Convention on the Suppression of Unlawful Acts relating to International Civil Aviation as a replacement for the 1971 Montreal Convention and the 1988 Airport Protocol [9]. The Whole also approved and adopted the draft that had been discussed and named The Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft as an amendment to the 1970 Hague Convention. Furthermore, the new Convention and the amendment Protocol were opened for signature by the participating countries participating in a conference in Beijing that same day.

However, there is still an open opportunity for other member countries that did not participate in the conference to sign it after September 27, 2010, at ICAO Headquarters in Montreal, Canada. The background and spirit of these changes/amendments were driven by the terrorist strike on the World Trade Center Building on September 11, 2001. One of the fundamental changes stipulated in the Beijing Convention was to expand the old provisions to include new aviation crimes, including: use of civil aircraft as weapons, unlawful use of civil aircraft to distribute Biological, Chemical and Nuclear (BCN) materials, utilization of biological, chemical, and nuclear materials to assault civil aircraft.

Determine the punishment for the perpetrators of this aircraft hijacking. One form of effort in the context of tackling this act of aircraft hijacking is by establishing jurisdiction so that it can punish the perpetrators of aircraft hijacking [10]. Indonesia, Singapore, and Malaysia have experienced acts of terrorism committed on airplanes. This of course encourages each government to apply aviation law, especially the law in dealing with

terrorism on airplanes.

Indonesia has a Criminal Code Book Chapter XXIX A concerning Aviation Crime and Crime against Aviation Facilities/Infrastructure [11] Law Number 5 of 2018 concerning Top Change Law Number 15 of 2003 concerning Stipulation of Government Regulation instead of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism to become Law [12] and Law Number 1 of 2009 concerning Aviation Chapter XIV Aviation Security Part Five Countermeasures against Unlawful Acts Article 344 and Chapter XXII Criminal Provisions [13].

Terrorism is qualified as an extraordinary crime and causes death and loss of property, disturbing the stability of the economy and state security.¹⁴ The Government issued a regulation to counter terrorism including Law Number 15 of 2003 about combating criminal acts of terrorism[15], Law Number 9 of 2013 about Preventing and Combating Funding Criminal Acts of Terrorism [16] Presidential Regulation Number 46 of 2010 about the Establishment of a National Counterterrorism Agency amended by Presidential Regulation Number 12 of 2012 [17].

Singapore implements Hijacking of Aircraft and Protection of Aircraft and International Airports (Amendment) Act 2022 which is the Hijacking and Protection of Aircraft and International Airports (Amendment) Act 2022 and comes into force on the date appointed by the Minister through notification in the State Gazette [18]. Singapore uses the Internal Security Act 1960 – 2020 Revised Edition to regulate Singapore's internal security, preventive detention, subversion prevention, and suppression of organized violence against persons and property within Singapore territory [19].

For matters related thereto and the Terrorism (Suppression of Bombings) Act 2007 2020 Revised Edition which is a law to suppress terrorist bombings to give effect to international conventions for the eradication of terrorist bombings and for matters related to it. Meanwhile, for the handling of criminal acts of terrorism on aircraft, especially the handling of aviation and airport safety and security, the Air Navigation Act 1966 - 2020 Revised Edition is used [20].

Malaysia uses the Laws of Malaysia Act 307 Aviation Offenses Act 1984[21] and Civil Aviation Regulations 2016 [22]as the law governing aviation in Malaysia, while *the* Penal Code of Malaysia Act 574 (Kanun Keseksaan Malaysia) is used as one of the important laws in terms of upholding terrorism law in Malaysia [23]. For handling aviation and airport safety and security, Malaysia implemented the Civil Aviation Act 1969 – Civil Aviation (Security) Regulations 2019[24]. Starting from the description above, the main problems that can be researched and outlined in the writing of this article can be formulated as follows:

- [1] How is the regulation and handling of criminal acts of terrorism on airplanes based on the laws of Indonesia, Singapore, and Malaysia?
- [2] What are the criminal sanctions for terrorism on airplanes based on the laws of Indonesia, Singapore, and Malaysia?

2. Methodology

2.1 Comparative Study

Comparative studies and comparative research are often used interchangeably and refer to the same concept in academic and research contexts. Both terms describe the practice of conducting research that involves comparing two or more entities, such as countries, cultures, systems, products, or any other objects of study, to gain insights, identify patterns, and draw conclusions. Comparative study refers to a research approach or academic exercise where two or more subjects, objects, or phenomena are analyzed, contrasted, and evaluated to identify similarities, differences, patterns, or relationships between them [25].

The primary goal of a comparative study is to gain a deeper understanding of the subjects being compared and to draw meaningful conclusions from the comparisons. The comparative research method is *ex post facto*. That is, data is collected after all the events that have been collected have taken place. Researchers can see the results of the available data. By using a comparative approach, this article will assist in understanding the differences and similarities in the law on terrorism crimes on aircraft in the three countries.

This approach can also assist in identifying the weaknesses and strengths of each legislation and provide a more complete picture of the regulation and handling of criminal acts of terrorism on aircraft in each country. In writing this article using normative juridical legal research often referred to as library research. Peter Mahmud Marzuki interprets legal research as a process to find legal rules, legal principles, and legal doctrines to answer the legal issues faced [26].

3 Result and Discussion

3.1 Basic Regulation

In the provisions of public international air law, there is the 1944 Chicago Convention which is the legal framework for international civil aviation. This convention is used as the basis for forming national law for member countries of the International Civil Aviation Organization (International Civil Aviation Organization, further referred to as ICAO) for the operation of international civil aviation. In fact, since 1902, France, as the forerunner of international air law, has established its jurisdictional competence over criminal offenses and crimes that occur on board aircraft as well as actions that need to be carried out during flights. To against the crime of airplane hijacking, the international community made various conventions, starting from the 1963 Tokyo Convention, the 1970 Hague Convention, and the 1971 Montreal Convention. Several universal legal instruments and legal amendments governing the anticipation of terrorism acts, particularly criminal acts of terrorism on airplanes, among others:

1. 1963 Convention on Offences and Certain Other Acts Committed On Board Aircraft;
2. 1970 Convention for the Suppression of Unlawful Seizure of Aircraft;

3. 1971 Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation;
4. 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;
5. 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation;
6. 2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft;
7. 2014 Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft;
8. 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons;
9. 1979 International Convention Against the Taking of Hostages;
10. 1980 Convention on the Physical Protection of Nuclear Material;
11. 2005 Amendments to the Convention on the Physical Protection of Nuclear Material.

International agreements regarding aviation crimes, especially on civil aviation were then perfected through *The Hague Convention 1970* which was aimed at action/actions/activities that were against the law against the aircraft itself. The deficiencies in the 1963 Tokyo Convention were further refined. Along with the progress and development of the world of aviation, improvements were made to the 1970 Hague Convention by making the 1971 Montreal Convention more focused on the security and safety of civil aviation, because the Montreal Convention was more aimed at actions carried out in and/or from outside aircraft that threaten the safety and security of civil aviation.

The establishment of the 1971 Montreal Convention is expected to reduce and even close meetings against acts of international civil aviation crimes. The act of aviation crimes in other words "*unlawful seizure of aircraft/unruly passengers/disruptive passengers*" in the 1963 Tokyo Convention applies when the crimes are committed on board an aircraft, which is "**in flight**".

3.2 Laws of Three Countries

In Indonesia, the arrangement of criminal acts of terrorism on airplanes is based on Law Number 5 of 2018 Chapter III Criminal Acts of Terrorism Article 8 provides limitations on activities that can be considered dangerous acts of terrorism on airplanes. Whereas Law Number 1 of 2009 concerning Aviation Article 344 describes acts of unlawful that endanger the flight's safety and air transportation, as well as in Chapter XII of the Criminal Provision regarding the number of fines. Chapter XXIX of the Criminal Code explains the criteria for aviation crimes and their sanctions. The KNKP or the National Aviation Security Committee is the national authority tasked with

coordinating the application of the national aviation security program.

In Singapore, a procedure of criminal acts of terrorism on aircraft is arranged in a separate regulation, namely Hijacking of Aircraft and Protection of Aircraft and International Airports (Amendment) Act 2022 Chapter 3 Hijacking and includes fines contained in Chapter 9. Internal Security Act 1960 – 2020 Revised Editions to regulate Singapore's internal security as well as the Terrorism (Suppression of Bombings) Act 2007 2020 Revised Edition which is a law to minimize terrorist bombings to give effect to international conventions for the eradication of terrorist bombings and for matters related to it. Meanwhile, for the handling of flight and airport safety and security, the Air Navigation Act 1966 - 2020 Revised Edition is regulated in the National Civil Aviation Security Authority (NCASA).

In Malaysia, arrangements for dangerous acts of terrorism on aircraft are arranged in the Laws of Malaysia Act 307 Aviation Offenses Act 1984 Part III Section 7 Hijacking and Section 14 as a penalty for this action. Civil Aviation Regulations 2016 Part VIII Section 97-98 outlines the criteria for actions deemed to endanger aviation safety and security. In the Penal Code of Malaysia Act 574 (Kanun Keseksaan Malaysia) Chapter VIA Offenses Relating to Terrorism is a law relating to criminal acts of terrorism and also imposing sanctions on acts of terrorism. Meanwhile, for handling aviation and airport safety and security, Malaysia implemented the Civil Aviation Act 1969 – Civil Aviation (Security) Regulations 2019 regulated in the National Civil Aviation Security Authority (NCASA).

3.3 Important Point

Of the three countries which have their own rules, especially about regulation and handling of dangerous acts of terrorism on airplanes, several points can be drawn, including:

1. **Similarity:** All three countries have laws that regulate the aviation industry and provide legal guidance for the regulation, supervision, and management of aviation. These laws can cover various aspects, such as flight licenses, airline operations, security, flight safety, and aircraft maintenance, and include sanctions related to violations of the law. Aviation laws in these three countries have aviation security and safety standards that must be followed by airlines and all other aviation stakeholders, including measures to prevent terrorist attacks, aircraft hijacking, and other threats to aviation safety and security. This involves working with security agencies, setting up security procedures at airports, and protecting aircraft and passengers. The three countries imposed the death penalty, imprisonment, and fines for the perpetrators of dangerous acts of terrorism on airplanes, in the three sanctions have their criteria according to each country which aim to provide a deterrent effect as well as a preventive measure.
2. **Difference:** Only Singapore has its **own rules** regarding aircraft hijacking, while Indonesia and Malaysia have rules regarding criminal acts of terrorism

aircraft under special rules regarding terrorism. The three laws have differences in the penalties and sanctions imposed on the perpetrators of dangerous acts of terrorism which include criminal decisions, sentence spans, fines, supervision, and other preventive measures. Each statute operates within a different legal context and legal system in each country. This includes differences in legal principles, law enforcement institutions, and applied justice systems.

3. **Excess:** Each country is very committed in terms of dangerous acts of terrorism on airplanes by imposing very severe sanctions, namely **the death penalty**.
4. **Shortage;** Indonesian aviation law can be **complex and difficult to understand** because it involves many different laws, regulations, decrees, and regulations and does not have a specific law on aircraft piracy. *Hijacking of Aircraft and Protection of Aircraft and International Airports (Amendment) Act 2022* does not impose the death penalty for perpetrators of aircraft hijacking unless accompanied by threats using firearms, ammunition, and explosives. This can lead to debate in **the criteria for the form of violations** of dangerous acts of terrorism on airplanes. *Malaysia's Penal Code* imposes the death penalty for perpetrators of dangerous acts of terrorism on airplanes, while based on *the Malaysia Aviation Offenses Act 1984* imposes life imprisonment. This can **lead to debate** in determining the penalty for the perpetrators of aircraft hijacking.

4. Conclusion

Finally, from the results of a comparison of the aviation laws of the three countries, it can be concluded that each country has a unique approach and regulations for regulating aviation safety and operational aspects. This comparison provides valuable insight into the diverse legal approaches used in the global aviation industry. By understanding these comparisons, we can learn valuable lessons to improve the aviation legal system in our country and contribute to higher aviation safety standards globally. Based on these comparative results, suggestions that can be considered include:

1. The three can establish cooperation to create harmonization of aviation laws to facilitate coordination in terms of handling dangerous acts of terrorism on aircraft as well as enhancing regional cooperation in terms of exchanging intelligence information, joint training, and coordinating counter-terrorism actions on aircraft as well as strengthening security and regional aviation safety in the region.
2. There is legal certainty regarding the criteria for forms of violations that lead to dangerous acts of terrorism on airplanes and sanctions for dangerous acts of terrorism on airplanes so that debate does not occur in court and at the same time as the maximum power to prevent acts of terrorism in the world of aviation.
3. Indonesia can follow Singapore's example in terms of handling security and

safety at airports which are very strict as an initial shield to prevent cases of aircraft hijacking because non-penal measures will be far more effective in preventing criminal acts of terrorism on airplanes.

On progress concerning terrorism in Indonesia, namely Law Number 5 Year 2018 is considered very effective because in it there are several additional Chapters which clearly regulate the implementation of efforts other than repressive measures, namely preventive efforts where prevention and prevention of acts of terrorism that are still indicated and affiliated can be directly implemented by law enforcement.

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