



## Criminal Responsibility for Perpetrators in Terrorism Criminal Acts in Indonesia

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**Abstract** *The crime of terrorism is a form of crime with an international dimension that is very frightening to the public. Terrorism is a crime against humanity which is classified as an extraordinary crime because it has succeeded in creating chaos based on religion, sect or organization. This crime against humanity is regulated in Law of the Republic of Indonesia Number 5 of 2018 concerning Terrorism Crimes. Terrorist networks that are difficult to trace and have wide access make the problem of terrorism difficult to eradicate. Easy access between countries is one of the reasons why it is difficult to break the chain of terrorist networks. So efforts are needed through bilateral, regional and international cooperation to eradicate terrorism. The research method used in this paper uses normative legal research based on legal theories. By taking a legislative approach through literature study. This research aiming to find out what causes perpetrators to commit criminal acts of terrorism and to find out what form of criminal law accountability exists for perpetrators who participate in criminal acts of terrorism in Indonesia .*

**Keywords :** *Criminal Law Accountability, Crimes, Perpetrators, Terrorism.*

### 1. INTRODUCTION

#### Background Behind

Terrorism is enemy Indonesian nation is the enemy of the world . In general academic , terrorism classified as crime outside normal to humanity in need Handling Serious Because impact straight to safety soul human . In Opening The 1945 Constitution of the Republic of Indonesia states : that the goal of the Indonesian state is protect all over the Indonesian nation and all spilled his blood , advancing welfare general , intelligent life nation , and contribute in realize world order based on freedom , peace eternal , and justice social .

Since 2000s , various action terrorism start happen , cause damage infrastructure , giving rise to fear in society , and worsen connection between people religious with increasing sense of mutual suspicious . Impact bad from terrorism This has bother stability life nation and state , especially Because group terrorist own extensive and organized network . Action terror from they are also one of the violations in the field right basic man Because in fact man have right For live and And right For feel safe And comfortable . Which Where right basic man Alone set up in provision Chapter 1 paragraph 3 Law - The 1945 Constitution of the Republic of Indonesia. Which after being amended set up in Article 28 and Article 28A-28J of the 1945 Constitution of the Republic of Indonesia .

In effort protect right basic man from crime terrorism , the Indonesian government

issued Regulation Government Replacement Law ( Perpu ) Number 1 of 2002 concerning Eradication Action Criminal Terrorism . Perpu This Then approved become Constitution Republic of Indonesia Number 15 of 2003 on April 4, 2003. Based on Article 1 paragraph 1 of the Law Republic of Indonesia Number 5 of 2018 concerning Eradication Action Criminal Terrorism and its Changes , Action criminal terrorism defined as all act of fulfilling elements act criminal as set up in Constitution said . Terrorism is crimes committed by individuals or group through action violence directed to public civil , community , or treasure objects , with objective various politics depends on motivation the perpetrator .

Amen Rais to argue that act criminal terrorism is form violence , good in a way direct and also No direct , which reflects action that is not unreasonable and inappropriate . Violence This done solely For cause fear among society · While According to Brian Jenkin, what is meant by with act criminal terrorism is a strategy designed violence For scare public general with hope the occurrence political change . Various action terror that occurs in Indonesia tends to carried out by the perpetrator who has understanding of religion that is radical as well as customized with the goals that have been determined by the group of actors said . Radicalism due to Because there is a feeling of not being satisfied and feel removed so that despair . Although lately This news about terrorism increasingly quiet but Indonesia must still standby remember at any time threat terror This Can just happened.

Accountability is a action despicable thing to do accounted for by the the perpetrator . According to Roeslan Saleh, who is meant with accountability criminal is someone who is asked accountability Because has do action criminal or crime <sup>13</sup> A person who is proven do act criminal need given action firmly so as not to bother sovereignty and security every citizen .

On the other hand, accountability criminal law also emphasizes importance a error made into size as imposition sanctions No as effort For charge the fault of the perpetrator . Understanding beginning This very important remember the amount bachelor the law that is still own opinion about accountability criminal as theory law only . Synergized perspective with ability For analyze law in order to produce A understanding will what should be done. <sup>14</sup>

Based on description on so writer feel interested For to study more in Again through A work write journal the law entitled “ **Accountability Criminal For Perpetrator In Action Criminal Terrorism In Indonesia** ”.

### **Formulation Problem**

From the description background back on top so formulation the problem that will under review in writing This is :

1. What just factors that become reason perpetrator do act criminal terrorism in Indonesia?

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## 2. How form accountability law criminal in act criminal terrorism in Indonesia?

### 2. METHOD STUDY

According to opinion expert Sugiyono , what is meant by with study is business in a way scientific use look for data with objective certain For finish a problems . While method study Alone interpreted as description stages in a way systematic to object law . Good science , the rules that nature dogmatic , and also implementation and response public will existence law.<sup>15</sup> Work scientific This use type research law normative Which called Also as study law doctrinal Which use approach statute *approach* and legal approach conceptual ( *conceptual approach* ). In study this , researcher use technique data collection in library research , namely with to study information related focus problems that originate from various writing required by researcher . Next outlined in a way descriptive qualitative use to obtain the image that can be understood in a way clear and answer formulations existing problems in study This .

### 3. DISCUSSION

#### **Factors That Become Reason Perpetrator Do Action Criminal Terrorism In Indonesia**

The Republic of Indonesia is an archipelagic country formed from various ethnicity , tribe a nation that has different languages , religions and cultures . Differences This make Indonesia called as a unitary state Republic of Indonesia (NKRI). As a nation that has base national 4 ( four ) pillars nationality , Indonesia must still hold firmly adhere to Pancasila, the 1945 Constitution, the Republic of Indonesia and Bhineka Tunggal Ika . Pancasila is identity and character self Indonesian nation . Experience show that Pancasila is often experience various threats and betrayals carried out by a group of people, but the fact until moment This is still Pancasila stand sturdy as the basis of the state and the state ideology . Threats serious and frequent terror arise originate from a number of mass organizations that are anti - Pancasila. They want Pancasila to be replaced with other ideologies and the Republic of Indonesia was replaced become a caliphate state . This is happen Because they consider Pancasila to be infidel.

Terrorism interpreted as violence politics carried out by individuals , groups or countries to cause feeling terrorized and not empowered on a population , with objective influence a process of taking decision or change behavior.<sup>16</sup> Terror or terrorism very identical with violence . terror is A a threat that must be destroyed Because very dangerous and threatening safety people human . Already as befits the perpetrators action terrorism that is not humane This given appropriate punishment to get it give effect deterrent .

Pancasila as ideology this Indonesian nation of course , it is expected capable finish

problem terrorism in Indonesia. Because Pancasila is instructions , views life Indonesian society in act and do in life nation and state . Emergence terrorist naturally triggered by various factors , between other :

- 1) Abuse of religion with utilise mass . In matter This group terrorist usually utilise ignorance mass about religion as tools for purpose personal those who lead astray can achieved ;
- 2) Feeling of breaking up hope Because poverty . Someone with condition psychological like This very vulnerable For provoked . Because people who feel neglected in the environment public will with easy given suggestion For to vent anger with method violence For to obtain attention from public around and also the government in power ;
- 3) Bad company . Terrorist. can develop If have members who many . They always influence and utilize people in to bad company . The way is with give understanding - wrong understanding but according to they That Correct ;
- 4) The existence of desired nature form a new country with method liberate one's own country;
- 5) Problem the state which is usually triggered by the presence of feelings that are not fairness and inequality felt by a country that has similarity a week triggering hatred within the perpetrators themselves ;
- 6) Unemployment . For expand network terrorism usually they will targeting the unemployed with promising or to lure present or reward yes big . And need We know that the most dominant and most frequent lure they say it is dead martyrs . Because they believe If dead martyr is a very terrible death noble and blessed by God ; And
- 7) The existence of violation dignity humanity . This appear If There is discrimination between ethnicity or group in community . The group being treated No The same because of color skin and religion different .

### **Form Accountability Law Criminal The Actors Who Participated In Action Criminal Terrorism In Indonesia**

In the opening The 1945 Constitution of the Republic of Indonesia has listed ideals the Indonesian nation , namely protect all the Indonesian nation and all spilled Indonesian blood , advancing welfare general , intelligent life nation and join carry out world order based on independence , peace eternal and justice social . For reach ideals and maintaining continuity development national the very need increase prevention to a annoying thing stability national . One of them is do prevention to action terror that is insulting mark humanity and religious norms . This is carried out so that activities terrorism No enter room life nation and state of the Republic of Indonesia. Because of the activities terrorism very impact negative to politics , economy , social , order and security society . With implementation strategy prevention and

eradication terrorism This it is hoped that the order social and cultural We still harmonious without There is any changes

Criminal is a a tool that works For prevent the emergence a crime with the aim is to ensure order public still maintained . Criminal or punishment is a intentional suffering given by the judge to someone who does error Because proven do related violations with interest general regulated in Constitution criminal . Definition criminal according to expert The Sudartos is intentional suffering charged to the person who does act of fulfilling terms and conditions certain . While according to expert Roeslan , what is meant with criminal is form reaction on deliberate crime imposed by the state on perpetrators of crime .

Action Criminal is a the act in which the perpetrator can charged punishment criminal . According to Simons, what is meant by with act criminal is a the act ( *handeling* ) that is threatened with criminal by law , contrary to law with law ( *legality* ) and done with error ( *schuld* ) by someone who can held accountable : As for elements accountability criminal among others :

- a. The existence of a action criminal ;
- b. Done on base will Alone ;
- c. Perpetrator realize on the act of committing and also the consequences caused from his actions.

Accountability criminal very close the connection with act crimes that have been done by someone . In law criminal differentiate between element act criminal and the person who committed the crime act criminal . People who have do act criminal Not yet Of course Can requested accountability on what has been done . But people who have dropped sanctions criminal Already in make sure that He has do act criminal and can requested accountability . So that For request accountability criminal on what has been done by someone element mistake is key from coverage itself . Accountability action referring to responsibility somebody on the actions he has done . Accountability criminal in *common law system* always associated with *mens read* and punishment ( *punishment* ). Accountability have connection with society . The relationship is functional accountability as control social in society so as not to happen criminal act . Basically ability responsible is one of part from element error . While error consists of from a number of elements , including :

- a. Capable responsible ;
- b. Intentional or negligence ;
- c. There is none reason forgiving ; and
- d. In nature oppose law

Completion related cases with act criminal terrorism always based on Article 25 of the Law Republic of Indonesia Number Constitution Republic of Indonesia Number 5 of 2018 concerning Change On Constitution Number 15 of 2002 concerning Determination Regulation Government Replacement Constitution Number 1 of 2002 About Eradication Action Criminal Terrorism . Eradication Action Criminal Terrorism . And the applicable procedural law . until moment this in Indonesia is Constitution Republic of Indonesia Number 8 of 1981 concerning the Law Code Criminal Procedure Code (KUHAP). Actually implementation Constitution special No may opposite with principle law criminal and procedural law . However the fact is in shrimp - law there is a number of distorted article . For example is article that discusses about right basic human on the perpetrator act criminal terrorism . It should be if a perpetrator act criminal special want to given relief punishment should moreover formerly look for the basis that can made into as reference in give relief punishment related with right human rights. Presence law is a system . For That when discuss a law should started with talks about system law That yourself . Because no matter what the presence law is a system will bow down on the limits and characteristics system the .

Constitution eradication act criminal terrorism is Constitution special . In Article 6 of the Law Republic of Indonesia Number 5 of 2018 concerning Eradication Action Criminal Terrorism , stated that " Every person who with on purpose use violence or threat violence that causes atmosphere terror or fear towards people in general widespread , causing serious casualties mass with method to seize independence or the disappearance life and property other people's things or result in damage or destruction to strategic vital objects , environment life or facility public or facility international so convicted with criminal imprisonment for a minimum of 5 (five) years and a maximum of 20 ( two) years. twenty ) years , criminal prison lifelong life or criminal dead " .

Action terrorism is also one of reason damage environment life . Which sanctions the punishment set up in Article 7 of the Law Republic of Indonesia Number 5 of 2018 concerning Eradication Action Criminal Terrorism , stated that : " Any person who with on purpose use violence or threat violence mean to For cause atmosphere terror or fear towards people in general expand or cause victim Which nature mass with method to seize independence or the disappearance life or treasure other people's things or For cause damage or destruction to strategic vital objects or environment life or facility public or facility international so convicted with criminal maximum life imprisonment life " .

In Article 8 of the Law Republic of Indonesia Number 5 of 2018 concerning Eradication Action Criminal Terrorism , stated that " A person who enters or control to Indonesia illegally

in the form of material explosive and also weapon fire that doesn't burn own permission with party related to the intended For interest act criminal terrorism so threatened criminal with criminal dead or prison lifelong life or criminal imprisonment for a minimum of 3 ( three ) years and a maximum of 20 ( two ) years. twenty ) years .

In Article 9 of the Law Republic of Indonesia Number 5 of 2018 concerning Eradication Action Criminal Terrorism , stated that " For they or a person who with intentionally and against law trade ingredients potential main For used as material explosive Then used in act criminal terrorism so threatened criminal imprisonment for a minimum of 2 ( two ) years and a maximum of 7 ( seven ) years ."

In Article 10A paragraph (2) and paragraph (3) explains If proven do sale material potential or component as referred to in paragraph (2) is proven used in act criminal terrorism so shall be punished with a minimum of 4 ( four ) years and a maximum of 15 ( fifteen ) years in accordance with Constitution Republic of Indonesia Number 5 of 2018 about Eradication Action Criminal Terrorism .

For people who with on purpose give help or convenience to perpetrator act criminal terrorism with give or borrow Money or goods or treasure riches to perpetrator act criminal terrorism , hiding perpetrator act criminal terrorism and hiding information including act criminal terrorism so convicted with criminal minimum 3 ( three ) prison terms years and a maximum of 15 ( fifteen ) years . Because with give help That is business deliver help Good before and also When the occurrence act criminal terrorism . While convenience is action give help after act criminal acts committed.

#### **4. CONCLUSION**

From the descriptions results discussion formulation problem on so writer take conclusion as following :

1. Factors that become reason perpetrator do act criminal terrorism in Indonesia is factor abuse of religion with utilise mass , factor separated hope Because poverty , bad social factors , factors existence desired nature forming a new country , factors unemployment and factors violation dignity dignity .
2. Form accountability law criminal to the perpetrators involved as well as in act criminal terrorism in Indonesia is subject to Article 6 of the Law Republic of Indonesia Number 5 of 2018 concerning Eradication Action Criminal Terrorism , namely " Any person who with on purpose use violence or threat violence that causes atmosphere terror or flavor Afraid towards people in general widespread , causing serious casualties mass with method

to seize independence or the disappearance life and property other people's things or result in damage or destruction to strategic vital objects , environment life or facility public or facility international so convicted with criminal imprisonment for a minimum of 5 (five) years and a maximum of 20 ( two) years. twenty ) years , criminal prison lifelong life or criminal dead " .

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