

# JURIDICAL ANALYSIS OF PROVING THE PERPETRATORS OF TERRORISM CRIMES AS AN EFFORT TO MINIMIZE THE RECURRENCE OF TERRORISM CRIMES IN LAMPUNG PROVINCE (Study on Lampung Satbrimobda)

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## **Abstract**

*Terrorism is a crime that is attracting the world's attention at the moment, it is classified as a crime against humanity (crime against humanity), and seriously threatens the sovereignty of all nations because terrorism is an international crime which is a danger to security, world peace and an evil act, the crime of terrorism can also be categorized as a crime against humanity and of course is very contrary to Human Rights (HAM). The research method in this research is a normative juridical approach and an empirical approach and is concluded using deductive thinking so that it becomes a general picture of the answer to the problem based on the research results. The results of the research show that the factors that cause a person to become a perpetrator of criminal acts of terrorism in Lampung Province are: ethnicity, nationalism/separatism which is usually due to inter-ethnic conflict and wanting to be liberated; Poverty, inequality and globalization are factors that cause acts of terrorism, because choosing the last resort as an effort to meet life's needs or to survive and radicalism in the name of religion are no stranger to the world as causes of terrorism, in this case adherents feel called to defend their religion as a form of worship of their religion and is usually carried out by deviant teachings, because no religion allows its followers to engage in radicalism. Criminal liability for perpetrators of criminal acts of terrorism in an effort to minimize the occurrence of criminal acts of terrorism is by imposing Law Number 5 of 2018 concerning the Eradication of Criminal Acts of Terrorism, with the following elements: Every person; carry out an evil conspiracy, prepare, attempt or assist to commit a criminal act of terrorism and deliberately use violence or threats of violence with the intention of creating an atmosphere of widespread terror or fear of people or causing mass casualties by taking away freedom or loss of life or property other people, or to cause damage or destruction to vital strategic or environmental objects, or public facilities, or international facilities.*

**Keywords:** *Evidence, Crime, Terrorism, Satbrimob.*

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## **Abstrak**

Terorisme merupakan kejahatan yang sangat menarik perhatian dunia saat ini, tergolong kejahatan terhadap kemanusiaan (*crime against humanity*), dan sangat mengancam kedaulatan semua bangsa karena terorisme merupakan kejahatan internasional yang merupakan bahaya terhadap keamanan, perdamaian dunia dan

tindakan jahat, kejahatan terorisme juga bisa dikategorikan sebagai kejahatan kemanusiaan dan tentunya sangat bertentangan dengan Hak asasi Manusia (HAM). Metode penelitian dalam penelitian ini adalah pendekatan yuridis normatif dan pendekatan empiris dan disimpulkan dengan cara pikir deduktif sehingga menjadi gambaran umum jawaban permasalahan berdasarkan hasil penelitian. Hasil penelitian menunjukkan Faktor penyebab seseorang menjadi pelaku tindak pidana terorisme di Provinsi Lampung adalah: kesukuan, nasionalisme/separatisme yang biasanya karena terjadinya konflik antar etnis dan ingin memerdekakan diri; kemiskinan, kesenjangan dan globalisasi merupakan faktor penyebab terjadinya aksi terorisme, dikarenakan memilih jalan terakhir sebagai upaya memenuhi kebutuhan hidup atau untuk bertahan hidup serta radikalisme mengatas amakan agama tidak asing lagi bagi dunia sebagai penyebab terjadinya terorisme, dalam hal ini penganutnya serasa terpenggil untuk membela agamanya sebagai wujud ibadah terhadap agamanya dan biasanya dilakukan oleh ajaran yang menyimpang, sebab tidak satupun agama yang mengizinkan umatnya untuk radikalisme. Pertanggungjawaban pidana bagi pelaku tindak pidana terorisme dalam upaya meminimalisir terjadinya tindak pidana terorisme adalah dengan mengenakan Undang-Undang Nomor 5 Tahun 2018 tentang Pemberantasan Tindak Pidana Terorisme, dengan unsur-unsur sebagai berikut: Setiap orang; melakukan permufakatan jahat, persiapan, percobaan atau pembantuan untuk melakukan tindak pidana terorisme dan dengan sengaja menggunakan kekerasan atau ancaman kekerasan bermaksud untuk menimbulkan suasana teror atau rasa takut terhadap orang secara meluas atau menimbulkan korban yang bersifat massal dengan cara merampas kemerdekaan atau hilangnya nyawa atau harta benda orang lain, atau untuk menimbulkan kerusakan atau kehancuran terhadap obyek-obyek vital yang strategis atau lingkungan hidup, atau fasilitas publik, atau fasilitas internasional.

**Kata Kunci: Pembuktian, Tindak Pidana, Terorisme, Satbrimob.**

## INTRODUCTION

Criminal law is part of the overall law that applies in a country. Criminal law consists of norms that contain imperatives and prohibitions that the lawmakers have associated with a sanction in the form of punishment, which is a special suffering. Thus, it can also be said that criminal law is a system of norms that determine the acts of doing something or not doing something where there is a necessity to do something under the circumstances of how the punishment can be imposed and how the punishment is imposed for those acts.

The law must reflect justice, so ideally the law enforcement process is one of the means to uphold justice for everyone. The Preamble to the 1945 Constitution in the Fourth Alenia formulated that one of the national goals of the Republic of Indonesia was to realize social justice for all Indonesian people. In the context of *penal law enforcement*, as an effort to achieve justice, one of them can be carried out by preventing and overcoming a crime that is part of criminal *policy*. The policy is carried out using criminal

legal means (penal means), especially at the judicial policy stage (*in-abstracto*) to the applicative stage and the execution stage (*in-concreto* criminal law enforcement). Ideally, at each stage, it must continue to pay attention to and lead to the achievement of the national goal of the State of Indonesia as stipulated in the Preamble to the 1945 Constitution, namely realizing equitable justice for all Indonesian people.<sup>1</sup>

Crime prevention policies should always be able to keep up with the development of crime itself because the development of law results in the development of crime methods and vice versa. One type of crime that continues to develop and is a concern both globally and nationally is the crime of terrorism. The crime of terrorism even includes the National Legislation both in the Criminal Code Law (KUHP) and the revision of the Terrorism Law because the public considers that the existing rules are not able and maximally overcome terrorism crimes.

Discussing the crime of terrorism, in principle, cannot be separated from the main problem, namely as a form of crime. According to Ali Masyar, globally, crime occurs due to the arbitrariness of actions carried out by most countries through their government apparatus, such as often causing disappointment, even the most extreme is to give rise to radicalism in certain countries or groups that feel oppressed. Radical acts like this are what eventually give birth to acts of terror or terrorism.<sup>2</sup>

Abdul Wahid stated that terrorism was born and grew from a sense of disappointment due to unfair treatment that lasted for a long time and there was no hope for change. However, the case of terrorism in Indonesia has another motive that can underlie a person to carry out terror activities, namely the existence of negative religious beliefs and fanaticism, which ultimately considers a government or other religious teachings to be wrong. This factor encourages the emergence of radical actions of a group of people who seek the attention of the government and even the world by creating fear in the community, causing a loss of life or property of the community.<sup>3</sup>

Punishment for perpetrators of terrorism in positive law in Indonesia is not only imposed on the main perpetrators such as the perpetrators of bombing or murder, but also

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<sup>1</sup> Taste the premiere. 2016. *Reconstruction of Criminalization of Terrorism Perpetrators in Indonesia*, Ius Quia Iustum Law Journal No. 4 Vol. 23 October 2016, p. 674.

<sup>2</sup> Ali Masyar. 2009. *Gaya Indonesia Menghadang Terorisme: Sebuah Kritik Atas Kebijakan Hukum Pidana Terhadap Tindak Pidana Terorisme di Indonesia*, Mandar Maju, Bandung, hlm. 1.

<sup>3</sup> Randy Pradityo. 2016. *Kebijakan Hukum Pidana dalam Upaya Penganggulangan Tindak Pidana Pendanaan Terorisme*, Jurnal Rechtsvinding, Volume 5, Nomor 1, April 2016, hlm. 28-30.

imposed on people who have a connection with the perpetrators of the crime, for example, people who deliberately provide assistance or convenience to the perpetrators, or provide money or financial support to the perpetrators, people who conceal the perpetrators of terrorism or people who conceal information about the perpetrators of terrorism. terrorism crimes as regulated in Article 13 of Law Number 5 of 2018 concerning the Eradication of Terrorism Crimes.<sup>4</sup>

Terrorism is a crime that attracts the attention of the world today, is classified as a crime against humanity, and seriously threatens the sovereignty of all nations because terrorism is an international crime which is a danger to world security, peace and evil acts, terrorism crimes can also be categorized as crimes against humanity and of course very contrary to Human Rights (HAM). Terrorism as an extra *ordinary crime* that inevitably requires handling with extraordinary methods (*extra ordinary measures*) because the impact of this crime is very complex. In the study of international law, terrorism is classified as an international crime because the individual who commits this crime has transnational relationships or networks (crossing national borders or between countries), then the actions of the individual or group can be counted directly at the international level and these people can be counted at the international level as subjects of international law. More specifically, terrorism falls within the scope of international crimes.<sup>5</sup>

Law Number 5 of 2018 concerning the Eradication of Terrorism Crimes, which is used as a legal basis in the eradication of terrorism crimes in Indonesia, states that what is meant by terrorism crimes is all acts that meet the elements of a criminal act in accordance with the provisions of Article 1 paragraph (1) of Law Number 5 of 2018 concerning the Eradication of Terrorism Crimes. The elements of terrorism in Article 1 paragraph (1) of Law Number 5 of 2018 concerning the Eradication of Terrorism Crimes above are unlawful acts carried out systematically with the intention of destroying the sovereignty of the nation and state. In practice, it is usually done by using violence or threats so as to cause fear of people in general. Often resulting in many deaths accompanied by the destruction of public property and facilities.

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<sup>4</sup> <https://www.tempo.co/read/kolom/16/11/22/2429/penjara-tak-membuatnya-jera>, diakses pada tanggal 3 Juli 2023.

<sup>5</sup> Rahmatullah. 2022. *Kejahatan Terorisme Sebagai Extraordinary Crime dalam Perspektif Hukum Pidana Internasional*, Jurnal Ilmu Hukum Sui Generis Volume 2 Nomor 1, Januari, hlm. 46.

It is stated in Article 6 of Law Number 5 of 2018 concerning the Eradication of Terrorism Crimes, that every person who deliberately uses violence or threats of violence creates an atmosphere of terror or fear against people widely or causes mass casualties, by depriving others of their independence or loss of life and property, or causing damage or destruction to strategic vital objects or the environment or public facilities or international facilities, punishable by the death penalty or life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years.<sup>6</sup>

Based on Law Number 5 of 2018 concerning the Eradication of Terrorism Crimes, terrorism crimes in accordance with the Law are threatened with strict punishments, namely the death penalty, with an alternative to life imprisonment, and a prison sentence of 20 years. The death penalty is the highest punishment, especially for criminal acts that are declared very dangerous such as murder where if there is no forgiveness from the family by paying a substitute fine, the perpetrator can be sentenced to death as a form of reciprocal law. In this case, the crime is retaliated with a similar punishment. In the case of the determination of the death penalty, several conditions are stipulated, including: that the person concerned has committed murder against a person who is not "allowed" to be killed, or a person who is "allowed" to be killed, but has not yet been decided by the Judge. The perpetrator can be sentenced to death on the condition that at the time of committing the crime he was of sufficient age and sane.<sup>7</sup>

So many perpetrators of terrorism who have been subject to prison sanctions, apparently do not discourage the perpetrators from continuing to commit terror as a form of revenge for their group that has been criminalized. Subjectively, the perpetrators who have been subject to criminal sanctions after serving their sentences (*recidives*) are not able to provide an improvement effect both to themselves and to their groups. The radical traits that exist in the convictions and thoughts of the perpetrators are still firmly ingrained, even though they have served their sentences. Prison sentences are incapable of having a subjective rehabilitation and resocialization effect for the perpetrator after serving his sentence. In practice, prison is used as a turning point for terrorism convicts to act more recklessly. Since the second Marriot Hotel bombing in 2009, acts of terrorism in Indonesia have involved former terrorism convicts. The second time is involved,

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<sup>6</sup> Jack Donnelly. 2020, *Universal Human Rights in Theory and Practice*, Ithaca and London Cornell University Press, London, hlm. 70

<sup>7</sup> Abdul Wahab Khalaf. 2019. *Ilmu Ushul Fiqh*, Daral al-Qalam, Kuwait, hlm.198.

because there is an increase in roles and actions. For example, Urwah, one of the perpetrators of the 2009 Marriot Hotel bombing. When first arrested, Urwah played a role in hiding information about the whereabouts of Noordin M. Top. The second action, Urwah became one of the planners of the deadly attack. Likewise with Afif alias Sunakim, the perpetrator of the 2016 Sarinah bombing. Initially, Afif was only involved in military training in Aceh in 2010. After being released, Afif became the main perpetrator of the attack at the beginning of this year.<sup>8</sup>

Lampung Province which has an area of 35,288.35 km<sup>2</sup> and a population of 9.01 million people based on the results of the 2020 Population Census by the Central Statistics Agency which is predominantly Muslim with various tribes in it that have different cultural configurations so as to enrich the culture of the indigenous people of Lampung where the original culture and the foreign culture that are each maintained can coexist in cultural pluralism, ethnicity, language and religion.

The polemic regarding terrorism in Lampung in general does not have a strong resonance among the people of Lampung, because the majority of the population of Lampung is moderately Muslim, and the Lampung culture is very resistant to acts of violence and even terrorism. Likewise, the cultural customs brought by the immigrant community to Lampung do not accept the narrative of terrorism spread by terrorist groups and deviant groups. However, considering that the potential for terrorism in Lampung Province in recent years has become more and more obvious, it needs to be addressed with full vigilance by every element of society, because Lampung Province with its strategic geographical location and the existing ethnic and cultural plurality is quite vulnerable to being polarized by terrorist ideas that can divide the peace that has been maintained in the Lampung area.<sup>9</sup>

According to the Founder of the NII Crisis Center, Ken Setiawan, the current case of terrorism and terrorism in Lampung is like the tip of the iceberg. This means that the actual case in the Lampung area is much more serious and will become a time bomb if not followed up seriously. The former member of the Islamic State of Indonesia (NII) said that the map of terrorism movements in Lampung was considered worrying. On

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<sup>8</sup> <http://huda-drchairulhudashmh.blogspot.co.id/01/urengensi-revisi-undang-undang-terorisme.html>, diakses tanggal 3 Juli 2023.

<sup>9</sup> Abdul Syukur. 2015. *Gerakan Dakwah dalam Upaya Pencegahan Dini terhadap Penyebaran dan Penerimaan Islamisme Kelompok Radikalisme di Lampung*, Jurnal Studi Keislaman, Volume 15, Nomor 1, Juni, Universitas Islam Negeri Raden Intan, Bandar Lampung, hlm. 248.

average, the perpetrators of terrorism in Lampung are Jamaah Islamiah (JI) and Jamaah Ansharut Daulah (JAD) groups. Mostly, the basis of their terrorism thinking can be obtained from studying at NII and Khilafatul Muslimin. Around 90% of Khilafatul Muslimin leaders are NII followers who change their clothes, including the imam or caliph or Amirul Mukminin Khilafatul Muslimin, Abdul Qadir Hasan Baraja, who is an NII figure and a former prisoner of the Borobudur bombing. While it is estimated that the number of active followers of NII who have now transformed into Khilafatul Muslimin in Lampung is around 2,500 people spread across 15 regencies/cities, now they are also spread across every province in Indonesia. For this reason, Ken invites all parties to be vigilant and not feel safe. Precisely when we feel safe it is a very dangerous thing because we are easily complacent.<sup>10</sup>

One of the activities of terrorist groups that is of concern in Lampung Province is Khilafatul Muslimin, where the Police arrested 6 leaders of Khilafatul Muslimin. Starting with the arrest of Abdul Qadir Hasan Baraja as an Imam or Caliph who spread terrorist ideas that are contrary to the ideology of Pancasila to his followers. Furthermore, in front of the Lampung Forkominda, sympathizers or the Khilafatul Muslimin (KM) congregation in Bandar Lampung City handed over the identity and attributes of KM to the Bandar Lampung Police and they restated to Pancasila and the Unitary State of the Republic of Indonesia (NKRI), while in East Lampung Regency in the presence of the Regent, the same thing was done to Khilafatul Muslimin worshippers who were exposed to extreme ideas that could endanger the Unitary State of the Republic of Indonesia. However, of course, it is undeniable that even though various efforts to eradicate the development of terrorist ideology in the community have been made, all parties, especially the police, must always be vigilant because the ideology developed is certainly still alive so that it is impossible for ideas that endanger state security to develop in the future, especially suspected by Khilafatul Muslimin sympathizers spreading to every district in Lampung Province and even other regions in Indonesia.

When examining the causal relationship between terrorism crimes that are mostly committed by recidivists and by people who have a close relationship with previous perpetrators, it raises questions and debates about whether the purpose of criminalization

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<sup>10</sup> Ken Setiawan. 2023. *Ken Setiawan Ungkap Ada Kampung Khilafah di Lampung Selatan* diakses dari <https://www.beritasatu.com/news/932413>, pada Tanggal 16 Januari 2024.



has been a topic of conversation from time to time and has become a central issue in criminal law has been achieved in practice. Because crime or punishment is always related to actions carried out by the state based on the law which of course can be a means of preventing and countering crime itself. The development of crime and punishment in modern legal schools, the penal system began to be oriented towards perpetrators and deeds (*daad-dader strafrecht*), which is the type of sanctions that are applied not only criminal sanctions but also include action sanctions. The criminal aspect is one of the aspects that has become a public spotlight on efforts to eradicate terrorism crimes.

The development of terrorist networks and the phenomenon of perpetrators by recidivists, as well as law enforcement, is a serious question whether the current criminal policy is still relevant or requires material criminal law reform as also revealed by Chairul Huda who stated that the revision of the Terrorism Law has become a necessity. Therefore, a comprehensive and in-depth scientific study is needed on the concept of imposing sanctions for perpetrators of terrorism crimes in an effort to prevent and counter terrorism crimes.<sup>11</sup>

The threat of terrorism is not only a problem of a country or region, but a global threat. Therefore, Indonesia is also one of the countries that is the base for the growth of the ISIS network and other terrorist groups, so the government always strives to improve the countermeasures of existing terrorism movements. Currently, the government continues to effectively build global cooperation in dealing with the threat of terrorism, especially against the expansion of the ISIS network into the Southeast Asian region. The government also continues to strengthen the capabilities and cooperation between the main elements of institutions that handle counterterrorism, namely the Indonesian National Police (Polri), BIN (National Intelligence Agency), and BNPT (National Counterterrorism Agency) and various other elements including community participation in efforts to fight terrorism.<sup>12</sup>

The war on terrorism is in fact not necessarily able to stop acts of terrorism. This is inseparable from the ideological problem of terrorism. According to Sarlito Wirawan, the perpetrators of terrorism are ordinary people who happen to have different ideologies,

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<sup>11</sup> Chairul Huda. 2006. *Dari Tiada Pidana Tanpa Kesalahan Menuju Kepada Tiada Pertanggungjawaban Pidana Tanpa Kesalahan*, Kencana, Jakarta, hlm. 26.

<sup>12</sup> Thomas Santoso. 2012. *Teori-Teori Kekerasan*, Ghalia Indonesia, Jakarta, hlm. 20.



who strongly believe as if their ideology is the most correct, beyond that it is wrong and destroys humanity because it must be fought.<sup>13</sup>

Proof is a process in which by using valid evidence is carried out with special procedures to find out whether a fact or statement, especially a fact or statement submitted to the court, is true or not as stated. An evidence used in court needs to meet several conditions, including: Allowed by law to be used as evidence, *reability* , namely the evidence can be trusted for its validity, *Necessity* , namely the evidence submitted is indeed needed to prove a fact and *relevance* , namely the evidence submitted has relevance to the facts to be proved.<sup>14</sup>

The examination of valid evidence in proving cases of terrorism crimes and examinations in court hearings related to the proof of cases of terrorism crimes, is part of law enforcement efforts to prevent and eradicate terrorism crimes. An evidence that will be submitted to the court is an evidence that must be relevant to what will be proven. Irrelevant evidence will carry risks in the process of seeking justice, among others, it will give rise to unnecessary presumptions that are a waste of time, the assessment of the issues raised is disproportionate because it exaggerates small problems or downplays the real big problems, where this will cause the judicial process to become no longer in accordance with the principles of justice that are carried out quickly, simple and low cost as well as free, honest and impartial.

## RESEARCH METHODS

The research methods in this study are normative juridical approach and empirical approach and are concluded with deductive thinking so that it becomes a general overview of the answer to the problem based on the results of the research. After the data is obtained, it is then analyzed using a qualitative juridical analysis method, that is, after the data is obtained, it is systematically described and concluded in a deductive way of thinking so that it becomes a general picture of the answer to the problem based on the results of the research.

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<sup>13</sup> Sarlito Wirawan Sarwono. 2012. *Terrorism in Indonesia in Psychology Review*, Alfabeta and LaKIP Literature, Jakarta, p. 16.

<sup>14</sup> Sri Ayu Astuti. 2015. *Law Enforcement of Cyber Terrorism in Indonesia*, Rechtsidee. Vol. 2 (2), December 2015, pp. 79-80.

## RESULTS AND DISCUSSION

### A. Factors Causing Someone to Become a Perpetrator of Terrorism Crimes in Lampung Province

Handling terrorism as an extra *ordinary crime* requires extra *ordinary effort*. All agencies, both government and private, must focus on their respective roles in handling terrorism and increasing cooperation from all levels of society, including analyzing the causes of terrorism. The following are the factors that cause a person to become a perpetrator of terrorism crimes in Lampung Province in general:

The results of the interview with Yustanto Mujiharso as the Commander of the Lampung Satbrimobda stated that related to the crime of terrorism, it is clear that acts of terror are a crime involving many people that threaten the comfort of the community itself. Socializing in society can change a person's behavior, both in thought, personality and others. The more you associate with bad people, the more you will definitely make someone follow suit and tend to want to do the same thing. Environmental factors are usually very, very influential in shaping a person's personality to behave.

The results of the interview with Abdul Karim as the Head of Ops Satbrimobda Lampung stated that family factors are the basis for how the formation of a child's character until adulthood will be fostered, whether it will be good or bad in the future. One of the factors for the occurrence of terrorism crimes is due to the lack of upbringing from the family, both in nature and beliefs (religion) that have deviated from the true teachings taught by their own religion. Religious education actually triggers many acts of terror. However, we clearly know that there is no religion that justifies acts of terror being carried out, that teaching has deviated so that the perpetrators commit acts in the name of religion. A messy family can also trigger chaos in the psyche so that there is an intention to enter the world of crime. Teaching/upbringing from the family is also a very influential thing in human behavior.

The results of an interview with Setyo Budi as the Head of the Lampung Satbrimobda Wanteror Sub-District stated that environmental factors that encourage a person to commit crimes include natural conditions (geographical and climatology), economic conditions, the level of civilization and the political state of a country, for example, an increase in crime ahead of the general election or facing the MPR session and others. In this case, the environment in question is the surrounding environment that has a great

influence on society in arranging the personality that will be embedded in a person. The surrounding community can be from a religious perspective, or others who need extra caution in this matter. A little deviation will result in a very big thing. For example, terrorist crimes are considered as *extra-ordinary crimes*.

The results of the next interview with Yustanto Mujiharso as the Commander of the Lampung Satbrimobda stated that economic factors are one of the factors that result in more or less a person committing terrorism crimes. With the inability of the community to provide for their lives/families, it encourages them to commit these dangerous acts. In terms of any crime, it is on average for the reason of insufficient economic factors so that it takes repressive steps. As discussed in the theory of determination which says that social life is generally greatly influenced by the existing economic system, it is considered that social problems such as crime, are also the result of and influenced by the existing economic life. By participating in all activities and training, it is promised to get welfare for individuals and families of perpetrators. The factor of injustice of the rulers in the economic distribution sector is one of the triggers for these actions, which are considered to have overlapped. With a little doctrine in terms of ideology, it is certain that the perpetrators easily follow the teachings.

The results of the subsequent interview with Abdul Karim as the Head of Ops Satbrimobda Lampung stated that in modern society, various crimes arise, the crime factor itself is a form of social phenomenon that does not stand alone, but has to do with the development of technology, means such as gadgets, other social media that make it easier for terror perpetrators to carry out misguided teachings and attractive offers.

The results of the subsequent interview with Setyo Budi as the Head of the Lampung Satbrimobda Wanteror Sub-district stated that as well as accessing unknown sites, there was an invitation to join the movement. The unlimited reach of technology is something that can benefit anarchist movements in the world, with religious differences even it will be very easy to reach each other. Not only in terms of cadre regeneration facilitated by the sophistication of this technology, but also in terms of assembling the tools used to carry out the action, namely; bomb assembly, weapon compounding, and others that can endanger the wider community, even threatening state security. Even ordinary people who are not skilled can learn about this very easily, they can instantly get streaming about everything that is connected to what is needed.

One example of a criminal act of terrorism was committed by a resident of Bandar Lampung, Aris Budianto (46 years old), sentenced to 5 years in prison for committing terrorism crimes. The panel of judges of the East Jakarta District Court (PN Jakarta) declared Aris guilty of raising funds for terrorism. Decision Number 555/Pid.Sus/2023/PN Jkt.Tim states that the Defendant Aris Budianto has been legally and convincingly proven guilty of committing the crime of terrorism and the crime of financing terrorism. Sentenced to 5 years in prison and a fine of Rp 100 million in addition to 4 months of imprisonment. Aris was proven to be the organizer of the lajnah and was given to distribute compensation funds for the wives of Jemaah Islamiah (JI) members in the Sumatra region who were caught. In addition, Aris received Rp 80 million which was distributed to Sirojudin (DPO) and the rest was used for Aris's operations. In April 2021, Aris also received IDR 60 million which was used to rent cars and Eid parcels for JI members. Since 2014, the defendant has collected funds through infak to the JI group with the aim that the funds are used for the benefit of the JI organization, which is a prohibited organization in Indonesia. The incriminating reason is that Aris's actions do not support the government's program in eradicating corruption. Aris has also prepared various kinds of firearms, ammunition, magazines for the terror action stage. The mitigating circumstances are that the defendant regrets his actions and continues to support the sovereignty of the Republic of Indonesia.<sup>15</sup>

This is in accordance with the theory according to Dirdjosisworo Soedjono which states the causes of criminal acts, namely: Environmental Theory, Social Control Theory, Spiritualism Theory, Multi-Factor Theory and Community Participation.

#### Environmental Theory

This school was pioneered by A. Lacassagne. In the theory of the causes of criminal acts that are based on the idea that "the world is more responsible for what it is".

#### Social Control Theory

The opinion regarding social control was put forward by Reiss who said that: There are three components of social control, namely the lack of reasonable internal control during childhood, the loss of such control and the absence of social norms or conflicts of the norms in question. There are two types of control, namely personal control and social

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<sup>15</sup> Andi Saputra. 2024. *Terrorist Fundraiser in Lampung Sentenced to 5 Years in Prison*, accessed from the website: <https://news.detik.com/berita/d-7154171/penggalang-dana-teroris-di-lampung-dihukum-5-tahun-penjara>, March 12, 2024, at 19.45 WIB.

control. Personal control (internal control) is the ability of a person to restrain himself from achieving his needs by violating the norms that apply in society. While Social Control (external control) is the ability of social groups or institutions in society to implement norms or regulations to be effective.

#### Theories of Spiritualism

According to this theory, the cause of the crime can be seen from a spiritual and religious perspective, because the cause of the crime is a person's lack of religion. Therefore, the farther a person is related to a person's religion, the more likely a person is to commit a criminal act and vice versa, the closer a person is to his religion, the more afraid the person will do things that lead to a criminal act.

#### Multi-Factor Theory

This theory is very different from previous theories in responding to criminal acts by arguing as follows: "The cause of the crime is not determined by one or two factors that are the cause of the criminal act".

#### Community participation.

Supervision and preparedness for the possibility of criminal acts. Criminal countermeasures, if broadly interpreted, will have many parties involved in it, including the formation of laws, prosecutors' offices, civil servants and execution officials as well as ordinary people.<sup>16</sup>

Based on the description above, according to the author's analysis, the factors that cause a person to become a perpetrator of terrorism crimes in Lampung Province are: tribalism, nationalism/separatism which is usually due to inter-ethnic conflicts and wanting to be independent; Poverty, inequality and globalization are the factors that cause acts of terrorism, because choosing the last path as an effort to meet the needs of life or to survive and radicalism on the name of religion that is familiar to the world as the cause of terrorism, in this case its adherents feel called to defend their religion as a form of worship to their religion and usually carried out by deviant teachings, Because no religion allows its people to radicalize.

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<sup>16</sup> Dirdjosisworo Soedjono. 2001. *Op. Cit*, hlm. The 50th Congressional District of

## **B. Criminal Liability for Perpetrators of Terrorism Crimes in an Effort to Minimize the Occurrence of Terrorism Crimes**

The criminal liability system in positive criminal law currently adheres to the principle of error in addition to the principle of legality. Criminal liability is a form of action of the perpetrator of a criminal act for the mistake he committed. Therefore, criminal liability occurs because there is a mistake that is a criminal act committed by a person, and there are rules that regulate the criminal act. In talking about criminal liability, it cannot be separated from one or two aspects that must be seen with philosophical views. One of them is justice, so that the talk about criminal liability will provide a clearer contour, criminal liability is an act that is reprehensible by society that must be held accountable to the perpetrator for the act committed. By accounting for the reprehensible act on the perpetrator, whether the perpetrator is also reproached or whether the perpetrator is not reproached, in the first case the perpetrator is certainly punished, while in the second case the perpetrator is certainly not punished.

The results of the interview with Yustanto Mujiharso as the Commander of the Lampung Satbrimobda stated that criminal liability is intended to determine whether a suspect/defendant is responsible for a crime that occurred or not. In other words, whether the defendant will be convicted or acquitted. If he is convicted, it must be clear that the actions committed are unlawful and the defendant is able to take responsibility. This ability shows the mistakes of the perpetrators in the form of intentionality or forgetfulness. That it turns out that a person can be said to have a mistake, if he at the time of committing a criminal act, seen from the perspective of society, can be reprehensible because of it, that is, why do he commit an act that is detrimental to society even though he is able to know the meaning of the act.

The results of the subsequent interview with Yustanto Mujiharso as the Commander of the Lampung Satbrimobda stated that in an effort to minimize the occurrence of terrorism crimes, it is by imposing Law Number 5 of 2018 concerning the Eradication of Terrorism Crimes which is threatened with a minimum prison sentence of three (3) years and a maximum of fifteen (15) years. It is also possible that the perpetrator of the assistance received the same criminal threat as the perpetrator of the crime.

The results of an interview with Abdul Karim as the Head of Ops Satbrimobda Lampung stated that criminal liability leads to the punishment of the perpetrator, if he has

committed a criminal act and meets the elements that have been determined in the law. From the perspective of the occurrence of a prohibited act, a person will be able to be held responsible for his or her prohibited crime, a person will be able to be held accountable for his or her crime if it is unlawful.

The results of the interview with Setyo Budi as the Head of the Wanteror Sub-district of Satbrimobda Lampung stated that in explaining the meaning of mistakes, the ability to be responsible is briefly explained as the mental state of a normal, healthy person. In the Criminal Code, there is no provision for the meaning of the ability to be responsible. The relationship between the situation and the act done in such a way that the person can be reproached for doing the act earlier. There are 3 things that are considered in addition to mistakes, namely the first is the intellectual factor, which is to be able to distinguish between permissible and non-permissible actions. The second is the feeling or will factor (*volitional factor*), which is being able to adjust their behavior to the conversion of what is allowed and what is not. There is a certain psychological (mental) state and the second is that there is a certain relationship between the inner state and the actions performed, so that it causes reproach.

He emphasized that criminal liability is closely related to several things that are quite broad. The human being has the freedom to decide his will or not. The will is a human mental activity which in turn is related to human responsibility for his actions, is the responsibility of people for the criminal acts they commit, because criminal liability occurs because there has been a criminal act committed by a person where the community has agreed to reject a certain act which manifests itself in the form of a prohibition on the act. So that the person who commits the act will be reproached because in that situation, the creator can actually do other things, criminal liability is essentially a mechanism built by criminal law to react to violations of the agreement to refuse a certain act.

Criminal law is a law that regulates acts that are prohibited by law and results in the application of punishment for anyone who commits it and fulfills the elements of the act mentioned in the provisions of the Criminal Law. The law determines that it is man who is recognized as the bearer of rights and obligations, but everything is considered only in terms of what is related or has a legal meaning. In this connection, it can happen that the law determines its own choice as to which human beings it wants to give as bearers of rights and obligations. This means that the law can exclude a human being or a certain



group of humans as legal beings. Even if they are human beings, the law may not accept and recognize them as people in the legal sense. If the law determines this, then it is possible for these people to be able to be the bearers of rights and obligations.

The need for law is to take care of human interests. Since such an interest exists only in living humans, the concept of man in law does not distinguish between living man and man in the imaginary sense, that is, as a legal construction. According to this opinion, both are accepted as persons by law. For it is the law that raises him as such. Considering that there are social changes in various areas of human life, the subject of criminal law can no longer be limited only to natural *persons* but also includes corporations (*legal persons*).

According to the Theory of Criminal Liability according to Van Hammel which states that criminal liability is a state of psychological normality and maturity that brings the ability to behave, which means that the terrorist perpetrator is a person who can be held accountable and can be blamed or regretted, meaning that he is not a crazy person, not a child and not because he is forced.<sup>17</sup>

Based on the description above, according to the author's analysis, the criminal liability for perpetrators of terrorism crimes in an effort to minimize the occurrence of terrorism crimes is to impose Law Number 5 of 2018 concerning the Eradication of Terrorism Crimes, with the following elements: Every person; commits a malicious conspiracy, preparation, experiment or assistance to commit a terrorist crime and deliberately uses violence or The threat of violence is intended to create an atmosphere of widespread terror or fear against people or to cause mass casualties by depriving others of their independence or loss of life or property, or to cause damage or destruction to vital strategic or environmental objects, or public facilities, or international facilities. In addition, in Law Number 5 of 2018 concerning the Eradication of Terrorism Crimes, it is stated that criminal liability as *geen straf zonder schuld*, or known as no crime without fault.

## COVER

Based on the results of the research and discussion, conclusions can be drawn:

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<sup>17</sup> Moeljatno. 2022. *Asas-Asas Hukum Pidana*, Rineka Cipta, Jakarta, hlm. 62.

- 1 The factors that cause a person to become a perpetrator of terrorism crimes in Lampung Province are: tribalism, nationalism/separatism which is usually due to inter-ethnic conflicts and wanting to be independent; Poverty, inequality and globalization are the factors that cause acts of terrorism, because choosing the last path as an effort to meet the needs of life or to survive and radicalism on the name of religion that is familiar to the world as the cause of terrorism, in this case its adherents feel called to defend their religion as a form of worship to their religion and usually carried out by deviant teachings, Because no religion allows its people to radicalize.
- 2 Criminal liability for perpetrators of terrorism crimes in an effort to minimize the occurrence of terrorism crimes is to impose Law Number 5 of 2018 concerning the Eradication of Terrorism Crimes, with the following elements: Every person; commits malicious conspiracies, preparations, attempts or aids to commit the crime of terrorism and deliberately uses violence or threats of violence with the intention of creating an atmosphere of terror or fear against people at large or causing mass casualties by depriving others of their liberty or loss of life or property, or to cause damage or destruction to vital strategic objects or the environment, or public facilities, or international facilities.

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