

THE IDEA OF RENEWING TERRORISM CRIMINAL LAW IN INDONESIA AS AN EFFORT TO OVERCOME TERRORISM BASED ON THE JUSTICE VALUES

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Abstract

This study aims to reconstructs the Constitution Act on Criminal Terrorism in Indonesia, with the objective of strengthening the framework law to cope with terrorism while ensuring protection, mark justice, and basic human rights. The purpose of this research to analyze about Terrorism Crime, Constitution Act Criminal Terrorism that occurs in Indonesia at the moment This Not yet can fulfill a sense of justice and Reconstruction Constitution Act Criminal Terrorism as effort countermeasures terrorism in Indonesia based mark justice. With a juridical, normative, and qualitative data analysis approach and analyze legal norms and principles relevant to justice with regard to criminal terrorism. The main problem found covers the following definitions: criminal extensive terrorism, potential abuse authority in detention and wiretapping, as well as the need for enhancement efforts to prevent terrorism. Research results show the necessity of a revision of the law to clarify the definition of criminal terrorism, limit detention and wiretapping with tight supervision, and also focus more on prevention through education and deradicalization. Proposed recommendations include strengthening cooperation between the government, institutions, security, and civil society, as well as integrating deradicalization and education programs to prevent the spread of ideological terrorism.

Keywords: *Criminal; Justice; Terrorism; Values.*

A. INTRODUCTION

The law has created a benchmark for the public to act up to create order and peace in life together, however, there is always one, and even lately As more people attempt to violate legal norms, the more likely they are to commit crimes. Mr. WA Bonger stated that a crime is a criminal act that is classified as serious, more serious than an offense; highly anti-social acts, which the state consciously opposes by imposing punishment. Mr. Paul Moedikdo Moeliono said that crime is an act of violating legal norms that is

interpreted or should be interpreted by society as an act that is detrimental, annoying, and should not be tolerated. Meanwhile, Mr. JM van Bammelen said that crime is an anti-social act that causes harm and impropriety in society, so that in society there is anxiety, and to reassure society, the state must impose punishment on society.¹

Society doesn't like to happen crime, because harm as well as bother peace and quiet forever This they maintain. Displeasure public to crime that will look from reaction public that alone. Reaction public to the various, including: Shaped mockery means the perpetrator of a crime is ridiculed. Excommunicated; the perpetrator of crime is excluded from society's public daily. Demonstrated; the perpetrator crime is widely demonstrated, usually addressed to people in power. Hurt the person concerned. Caught and given punishment by the authorities. Community reactions to crime, as one aspect of criminological studies, can be realized formally as a criminal system but can also be realized informally, including independent crime prevention efforts by the community.

So, it was said that public reaction to crimes and perpetrators crimes is a penalty for violations of existing legal norms they agree to. For order, the public still maintained, so the government (*overheid*) was forced to use tools to force more hard, that is, more sanctions than normal sanctions (in law, private), like punishment dead. The government operates punishment dead. This is because it is certain that with more sanctions, no one can convict an offender; he cannot harm others by reasons and methods that endanger the order of the of the public.

Indonesia is a rule-of-law country based on the Constitution, which was the foundation of the Republic of Indonesia in 1945. Basically, the concept of the rule of law is an inseparable part of the *rule of law doctrine*, where according to AV Dicey, the "*rule of law*" consists of three elements, namely the supremacy of law., equality before *the law*, and a *constitution based on individual rights*. Furthermore, the characteristic meaning of "*rule of law*" is²

The principles, institutions, and procedures, not always identical, are a bit broadly similar, and the experience and traditions of lawyers in different countries of the world, often having themselves varying political structures and economic backgrounds, have been shown to be important to protect the individual from arbitrary government and to enable him to enjoy the dignity of man.

The characteristics of a rule-of-law state include the supremacy of the law, guarantees of human rights, and legal legality. In a rule-of-law country, statutory regulations culminating in the basic law (constitution) constitute a unified legal system as the basis for every exercise of power. One that is arranged is question eradication terrorism.

1 Simorangkir, J. C. T., Erwin, R. T., & Prasetyo, J. T., *Kamus Hukum*, Aksara Baru, 1987, page.15

2 Fitrianto, B., T Riza Zarzani, & Simanjuntak, A., Analisa Ilmu Hukum Terhadap Kajian Normatif Kebenaran dan Keadilan, *Soumatera Law Review*, Vol. 4, No. 1, 2021, page. 93–103

The crime of terrorism is a transnational crime and has been classified as an extraordinary crime *that* has an extraordinary impact on the realization of a country's security. Acts and acts of terror are currently occurring not only in countries experiencing conflict but also in countries where security is relatively stable and conducive. Currently, terrorist crimes can occur anywhere, including in countries with the most modern and best security systems in the world, such as the United States, England, and so on.

Criminal acts of terrorism will occur at any time with unpredictable targets; their actions will cause widespread fear in the community, cause significant loss of life and property, and also have a very broad impact on the lives of the nation and state. These crimes have specific characteristics that conventional crimes do not have, namely that they are carried out systematically, are widespread, and are organized so that they constitute a very serious threat to society, the nation, and the state.³

Terrorist crimes have specific characteristics that conventional crimes do not have, namely that they are carried out systematically and widely, including recruitment of brides, planning, and organization. Currently, terrorist perpetrators in recruiting use subjective jihadist ideology indoctrination based on the *soft power doctrine*, which is defined as attracting people using various methods accompanied by a co-optation process so that people voluntarily obey whatever other parties want, so that terrorism is a very serious threat to society nation, and state. A significant impact is the disruption of the stability of the Home Ministry.

Terrorism today is comprehensively superior in terms of organization, infrastructure, funding, and operational technology used, as well as the recruitment system for members involved in each terror act, compared to terrorist activities in the 1990s. Besides that, the problem of terrorism is not merely a national problem but rather an international problem, so terrorist activities anywhere and the resulting impacts will soon become the world's attention. To anticipate this crime of terrorism, cross-sectoral strengthening is needed through making cooperation more effective in order to prevent or deter society from crimes with high integrity that are categorized as *extraordinary crimes* in the form of crimes of terrorism or violent crimes related to terrorism (radicalism), both directly and indirectly. Indirectly, it has resulted in the condition or stability of the Home Affairs Ministry being disturbed.⁴

Terrorism has claimed many innocent civilian lives as well as incalculable material losses. With the occurrence of structured terrorist attacks in Indonesia from year to year until now, all components of society need to be involved in dealing with them. The bombing incident that occurred in Bali on October 12, 2002, has created an atmosphere of terror

3 Purba, J. E. M., Civil Legal Actions against Criminal Activities Under the Age of Theft. *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)*, Vol. 4, No. 4, 2021, page.13171–13179

4 Brown, M. T., Lum, J. L., & Voyle, K. Roe Revisited: A Call for The Reappraisal of The Theory of Personality Development and Career Choice, *Journal of Vocational Behavior*, Vol. 51, No. 2, 1997, page. 283–294

or fear among people at large, resulting in loss of life and loss of property, thus having an unfavorable influence on social, economic, and political life and Indonesia's relations with the world. international. The government, at the pressure of various parties, finally issued Regulation in Lieu of Law (*Perpu*) Number 1 of 2002 concerning the eradication of terrorism and *Perpu* Number 1 of 2002 regarding the Bali Bombing Incident on October 12, 2002, which was then ratified by the DPR with Law No. 5 of 2002 and Law No. 15 of 2003.

The *Perpu* was issued because the government considered that the existing legal norms, as contained in the Criminal Code (KUHP) and other legislation such as firearms, only contained criminal acts (*ordinary crimes*) and were inadequate for criminal acts of terrorism, which constitute extraordinary crimes *and* are also classified as crimes against humanity.⁵

Indonesia is one of 17 countries included in the second group and identified as a country where there has been no significant progress to overcome strategic deficiencies and no commitment to develop an action plan for anti-money laundering and eradicating the financing of terrorism. Regarding Indonesia, the FATF calls for: Criminalize funding terrorism; Set procedures for identification and freezing asset terrorists; and Change and apply the Constitution or instrument law.⁶ The FATF Recommendations are a comprehensive and consistent framework of measures that must be implemented by countries to combat money laundering and terrorist financing, as well as the financing of the proliferation of weapons of mass destruction.

Ambition The Indonesian nation, as listed in the Opening of the 1945 Constitution of the Republic of Indonesia (hereinafter called the 1945 Constitution of the Republic of Indonesia), is to protect all Indonesian nation and all spilled Indonesian blood, advance well-being in general, enlighten life nation, and carry out world order based on independence, peace eternal, and social justice. To reach ambition and look after it, continuity of development national in an atmosphere safe, peaceful, and dynamic, good in an environment national and international, and necessary improved prevention of something annoying, stability national.

One of the things that makes disturbed stability national is crime terrorism. Following a summary from a number of sources related to terrorism that ever happened in Indonesia:

The first Bali bombing that occurred in 2002 was a Suite 3 incident bombing that continuously occurred at night on October 12, 2002. There were four people who were named as suspects in the Bali Bombing tragedy I on October 12 2002. The suspects were sentenced to life imprisonment up to the death penalty. The first suspect is Amrozi bin H Nurhasyim who was sentenced to death.

5 Sholehuddin., *Sistem Sanksi Dalam Hukum Pidana, Ide Dasar Double Rack Sistem & Implementasinya*, Jakarta, Raja Grafindo Persada, 2003, page.22

6 Atmasasmita, R., *Masalah pengaturan terorisme dan perspektif Indonesia. Departemen Kehakiman dan HAM RI*. Badan Pembinaan Hukum Nasional. 2002, page. 51

The bomb that occurred at the JW Marriott hotel in the Mega Kuningan area of Jakarta on Tuesday, August 5, 2003. The 2003 Jakarta bombing (also called the 2003 JW Marriott bombing) was a bomb explosion at the JW Marriott hotel in the Mega Kuningan area, Jakarta, Indonesia at 12:45 and 12:55 WIB on Tuesday, 5 August 2003. The explosion came from a bomb suicide car using a Toyota Kijang car with plate number B 7462 ZN driven by Asmar Latin Sani. The explosion killed 12 people and injured 150 people.⁷

A terror bombing occurred right in front of the Australian Embassy in Kuningan, Jakarta. A terror bomb exploded on September 9, 2004. The 2004 Australian Embassy bombing or what is usually called the Kuningan Bombing occurred on September 9 2004 in Jakarta. This is the third major act of terrorism directed against Australia to occur in Indonesia after the 2002 Bali Bombing and the 2003 Marriott Hotel Bombing.

Bali Bombing II returned on October 1, 2005. The 2005 Bali bombings (also called the Bali Bombings II) were a series of bombings that occurred in Bali on 1 October 2005. There were three bombings, one in Kuta and two in Jimbaran with at least 23 people killed and 196 others injured.

An incident of a bomb kill occurred in the Mega Kuningan area of Jakarta on July 17, 2009. The suicide bombing killed 9 people and injured more than 50 other people, both Indonesians and foreigners. Apart from the two low-explosive homemade bombs that exploded, a similar unexploded bomb was found in room 1808 of the JW Marriott Hotel which was occupied two days earlier by a hotel guest suspected of being the bomber. This incident occurred nine days after the Indonesian Presidential and Vice Presidential Elections and two days before the planned arrival of the Manchester United football team at the Ritz-Carlton Hotel which would play a match with the Indonesian All Star team on July 20 2009.

An explosion bomb kill occurred at the Cirebon Police Headquarters Mosque at the time. The mosque will perform Friday prayers on April 15, 2011.

The Sarinah bomb is a series of incidents involving as many as six explosions and terror shootings in the area around Plaza Sarinah, Jalan MH Thamrin, Jakarta, on January 14, 2016.

Police Chief Police General Tito Karnavian says that as long as 2016 follow up crime terrorism experience increases, as many as 170 perpetrators follow criminal terrorists. "For crime, terrorists experienced an increase of 107 percent. If compared to the only year in which 82 perpetrators of this occurred, the more proof that Indonesia is one of the countries where network terrorism international operations operate. Indonesia is one of the potential areas to be used as one of the places for operational network terrorist activity.

The application of legislation about terrorism in Indonesia is experiencing a number of developments. Various theories and practices of

7 Mengenang 13 Tahun Tragedi Bom JW Marriott dan Ritz-Carlton 2009 di Jakarta, <https://nasional.kompas.com/read/2022/07/18/16223131/mengenang-13-tahun-tragedi-bom-jw-marriott-dan-ritz-carlton-2009-di-jakarta?Page=all>

criminal law are in force in Indonesia at the moment. This is a criminal offense that originates and applies in the Netherlands. In Indonesia still just enforce law criminal legacy race invaders, the text the original Still inscribed in Dutch language. As an independent and sovereign country, Indonesia has been around for a long time to make efforts to renew the law, including business renewal within the scope of the criminal law. On the criminal law, comprehensive reform must cover renewal law criminal material (*strafrecht*), law formal criminal or criminal procedural law (*strafvorderingsrecht*), and law implementation criminal (*stravoll streckungrecht*). Third-field criminal law That must, in a way, be updated, because if just one field is updated and others are not, then there will be difficulty in implementation, and objectives from the renewal law in the frame realize something of national service to interest nationals (based on Pancasila and the 1945 Constitution). No will be achieved completely. With the existence of a clear policy and a and a clear law, it is expected to create something conditional in life: public laws that are harmonious, harmonious, and balanced with the existence of a regulation. True law reflects a living sense of justice in public.

The House of Representatives has validated the revision of Constitution Number 15 of 2013 concerning the Eradication Act on Criminal Terrorism. Endorsement This still reaps polemic. Because in the law there are a number of potential problems, the eradication process follows categorized crimes as crimes outside normal That. The potency problem is first found in the definition. In Article 1 of the Law, terrorism is defined as "the act of using violence or threat resulting in violence, atmosphere, terror, or fear in a way widespread, causing serious casualties bulk, and/or giving rise to damage or destruction to strategic vital objects, environment, life, facility, public, or facility international with ideological, political, or motives disturbance security."

The second potency problem arises from Article 25 of the Eradication Law on Terrorism. Rule: arrange usable time to withhold suspect and accused cases of terrorism. Total time regulated by detention regulations that, starting from the stage of investigation until extension detention, a maximum 290 days. Duration: That exceeds the total time regulated by the Book Constitution Law Program Criminal Code (KUHAP) for 170 days.

Potency furthermore there is on article 43C paragraph (1). Paragraph This mentions understanding counter radicalization as "a planned, integrated, systematic, and continuous process that is implemented towards people or vulnerable groups of people exposed to radical terrorism. For stop spread, understand radical terrorism." Lastly, obscurity Definition of "understand radical terrorism." This phrase is listed starting in Chapter VIIA about the Prevention Act on Criminal Terrorism. Read also: Debate a Tough Definition Before the Terrorism Bill Ratified by the National Police Chief's DPR Suggestion Revised Terrorism Law Arranges Action Against "Secret Societies" Pros and cons The involvement of the TNI in the revision of the tough terrorism law can be targeted Against Political Until Violating the Criminal Procedure Code Question Definition, which is a multiinterpretative thing. This could have potential misuse. For take action group, group during

is critical to government. Should Yesterday The government and DPR do not enter elements about political motives, or ideology, and interference security.

Research conducted by Rico Abdi Pribadi⁸ entitled Towards Legal Certainty: A Review of the Latest Terrorism Crime Regulations in Indonesia states that reforming criminal law related to terrorism in Indonesia is an important step to create legal certainty and protect society. In dealing with terrorism, active participation of the community, religious leaders, and protection of human rights are crucial aspects. It is hoped that updating the terrorism law with tougher sanctions, preventive efforts and special guidance for perpetrators of terrorism will be effective in fighting the threat of terrorism and radicalism.

Research conducted by Abdul Karim Rahanar⁹ with the title Countering Criminal Acts of Terrorism in Indonesia Using a Penal and Non-Penal Approach states that as a form of protection for Indonesian citizens, the Indonesian government has revised several existing provisions in Law No. 15 of 2018 concerning amendments to the law. Law No. 5 of 2003, concerning the government's implementation of a replacement for Law No. 1 of 2002 concerning the eradication of criminal acts of non-penal terrorism can cover a very broad field of all social policy sectors. Law enforcement must be balanced with preventive measures using a humanitarian approach so as not to create feelings of revenge or give birth to new forms of violence.

Several phenomena regarding these legal issues require reform of criminal law so that countering terrorism is more justice-based based on Pancasila. On this basis, the purpose of this research To Analyze about Terrorism Crime, Constitution Act Criminal Terrorism that occurs in Indonesia at the moment This Not yet can fulfill a sense of justice and Reconstruction Constitution Act Criminal Terrorism as effort countermeasures terrorism in Indonesia based mark justice.

B. RESEARCH METHODS

Study This is a study of prescriptive, purposeful analysis. To formulate ideal legal norms to handle criminal terrorism in Indonesia, with a focus on evaluation effectiveness, punishment, and its suitability with principle justice. This research is normative legal research or library research, which is research that examines document studies using various secondary data. With a juridical, normative, and qualitative data analysis approach, research This identify and analyze legal norms and principles relevant to justice with regard to criminal terrorism, giving a deep outlook

8 Rico Abdi Pribadi, Towards Legal Certainty: A Review of the Latest Terrorism Crime Regulations in Indonesia, *Journal STIH Iblam*, 2023, page.1-8

9 Abdul Karim Rahanar, Countering Criminal Acts of Terrorism In Indonesia using a Penal and Non-Penal Approach States that as a Form Of Protection for Indonesian Citizens, *Palar Pakuan Law Review*, Vol. 9, No. 1, 2023, page.14-25

on the issue as well as concrete recommendations for repairing criminal-related terrorism in Indonesia.¹⁰

C. RESULTS AND DISCUSSION

1. The Terrorism Crime

The crime of terrorism is a form of cross-border crime that seriously threatens world order and peace. Terrorism is a crime that cannot be classified as an ordinary crime. Academically, terrorism is categorized as an "extraordinary crime" or "*extraordinary crime*" and is also categorized as a "crime against humanity" or "*crime against humanity*".¹¹

Linguistically, the term terrorism means scary scare (*to terrify*). This word originates from Language Latin "terror" which means with causes trembling or worried. This word in a way general used in understanding politics, for example something attack to order civil. Terrorism is thus interpreted as a violation of power by the government, and the people provide resistance.¹²

Considering this category, its eradication certainly cannot use ordinary methods such as dealing with ordinary criminal acts such as theft, murder, and assault. Criminal acts of terrorism always use threats or acts of violence that threaten the safety of life without choosing who will be the victim.

Terrorism can be defined as the use or threat of physical violence that is planned, prepared, and launched suddenly against direct targets who are usually *non-combatants* to achieve a political goal. The definition of terrorism in the long formulation by James Adams is: the use or threat of physical violence by individuals or groups for political purposes, either for the benefit of or against the existing powers, if the acts of terrorism are intended to shock, disable, or intimidate a target group larger than its immediate victims. Terrorism involves groups seeking to overthrow certain regimes to correct group or national grievances or to undermine the existing international political order.¹³

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10 Marshall, C., & Rossman, G. R., *Designing Qualitative Research*, Sage Publications, 1994, page.32

11 Kooops, E. J., Lips, A. M. B., Prins, J. E. J., & Schellekens, M. H. M. *tarting Points for ICT Regulation; Deconstructing Prevalent Policy One-Liners*. TMC Asser Press, 2006, page.46

12 Bonger, W. A. *Pengantar Tentang Kriminologi*, Jakarta, PT. Pembangunan, 1986, page.18

13 Kusamaatmadja, M. *Pengantar Hukum Internasional (Ke-9)*. Jakarta, Putra Abardin, 1999, Page 7

seeking to overthrow certain regimes to correct group or national grievances or to undermine the existing international political order.¹⁴

The phenomenon of terrorism is characterized by radicalism for any reason that is not justified, both within the framework of positive law and from a religious perspective. The violent methods carried out by terrorists have claimed many lives and property, taken away the right to life, and disturbed the peace of society. For this reason, terrorism in its form must be addressed and prevented through a program to straighten out religious understanding (deradicalization), from an understanding that deviates from Islamic religious teachings to a correct understanding (*arruju' ilal haq*) based on the Al-Quran and As-Sunnah.

This deviation in understanding gives rise to attitudes such as that suicide bombing is haram because it is a form of act of despair (*Al-ya'su*) and self-harm, whether carried out in peaceful areas or in war areas. Acts of terrorism that use the Koran and Al-Sunnah as the basis of the movement are seen as very wrong and can even be categorized as deviance from Islamic teachings because the form of religious understanding is not only deviant but also contrary to the substance or core teachings of Islam as a religion of mercy for all nature (*rahmatan lil 'alamin*). For this reason, it is the responsibility of all parties, especially the government, the Indonesian Ulema Council, Islamic organizations, and Islamic religious figures, with the support of law enforcement officials, to correct religious understandings that deviate from the basic teachings of Islam.

The problem of narrow religious understanding is the root of the problem, which can give rise to misunderstandings and even wrong understandings of the religious teachings adhered to, such as the issue of stolen property. Also, seen from the perspective of robbery, this has two views: namely, robbery is an act that is categorized as taking away human rights and someone's property through violence, even if it is intended for good deeds such as helping poor people to help mosques, going on the Hajj, or jihad. Good intentions but done in a false way are categorized as falsehood. Committing corruption with the intention of helping victims of natural disasters is still considered *criminal finance*.

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14 Assegaf, N. T. *Terorisme Internasional, Indonesia Dan Dinamika Internasional*, Jakarta, Penerbit Ombak, 2010, page.67

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Facts show that factor ideology is a strong tie for return play. Lack of systematic training in correctional institutions is a major contributor to the emergence of new terrorists.¹⁵ For instance, there is no mapping of the motifs and levels of involvement in criminal terrorism. Like a doctor, the state gives drugs to all patients with the same medicine, even though they come with complaints and consequences. There is coaching that is concrete and continuous, such as pushing them to integrate into society, even though it is complicated when relating to institutions finances.

When exes are terrorists This liberation is conditional. Because they are undergoing two thirds of the sentence, they often cannot return to my hometown because the public has looked at them. Phenomenon This will cause them to continue the jihad and return with the radical group. That is, the country, as it were a recycling factory, repeats violence.

Training military by terrorists caused somebody to become robbed on a historic scale at a foreign bank, CIMB Niaga, Medan, on August 18, 2010, involving the biggest perpetrator in history robbery in Indonesia. 21 robbers took control of the bank in the afternoon hole, of which 8 people armed with AK 46, M 16, FN, and Grenades shot dead member Brimob and paralyzed two security guards, and they showed his greatness. Good like a film fight, with control banks, roads, and areas around, during about 10 minutes.

Target foreign banks are considered very important and strategic for terrorists because the news will spread worldwide. He killed member Brimob in an operation that, add One again, big news at a time, blow

15 Marry Beth Altier, Returning to the Fight: An Empirical Analysis of Terrorist Reengagement and Recidivism, *Terrorism and Political Violence*, Vol. 33, Issue. 4, 2021, page.102

heavy for institutions The police must do it because it lost its members without resistance. The perpetrators actions were reckless. This, directed by Fadli Sadama with commander Taufik Hidayat Field, assisted by Wak Geng and Dhani alias Bekam, according to existing information from perpetrator That himself was involved directly with the robbery spectacular That is not an amount; it's the money that's important. Around three hundred million rupiah will be stolen, but robbery is what they call it. *Fai* has felt fear among institutions in finance. By intelligence robbery with the amount of personnel. Enough big ones yet. Once happen in Indonesian history since independence in 1945, gave rise to sign ask big Because it was recorded by a camera and circulated widely throughout the world. As if there is *grand design* or parties, certain ones are playing in a devastating heist drama.

However, the culprit is the same person in the series previous bank robberies in Medan, which still exist and are connected; it's there in a way veiled to their seniors, that is The current ToniTogar is still undergoing legal proceedings in Nusakambangan. Perpetrator: CIMB Niaga Robberies This part is for members of Jemaah Anshorut Tauhid (JAT), Indonesian Mujahideen Council, Jemaah Islamiah, and recruitment newly entered in cells *underground* for guard confidentiality. But in a way, structural *leadearshib*, they still refer to Abu Bakr Ba'asyir as Amir's main For All Plan big enforcement Sharia Islam.

2. The Constitution Act Criminal Terrorism that occurs in Indonesia at the moment This Not yet can fulfill a sense of justice.

Eradication terrorism in Indonesia has experience development significant, esp with ratified Constitution Number 5 of 2018 concerning Eradication Act Criminal Terrorism. This law is revision from Law No. 15 of 2003 which is considered No Again adequate For face dynamics and evolution follow criminal terrorism. Although change legislative This get welcome positive from various party Because considered give instrument more laws strong in oppose terrorism, there are also critics who highlight it that the Act Not yet fully fulfill a sense of justice, good for victims, perpetrators and public in a way whole.¹⁶

One of the criticisms of the Action Law on Criminal Terrorism is that the definition of terrorism is very broad and ambiguous. Article 1 paragraph 1 of Law No. 5 of 2018 defines criminal terrorism as motivated action, ideology, politics, or disturbance security that causes terror or fear in a way widespread. Definition wide This gives rise to worries that the authorities will abuse authority by enforcing laws where actions are supposed to be part of democratic or struggle-legitimate politics and can easily be labeled as action terrorism.

Apart from that, the Action Law on Criminal Terrorism gives very broad authority to apparatus security, including the ability to arrest and detain suspected individuals involved in activity terrorism without

16 Muladi dan Barda Nawawi Arief, *Teori-teori dan Kebijakan Pidana*, Bandung, Alumni, 1992. page.12

needing permission from a court; formerly,. Article 25 and Article 26 of Law No. 5 of 2018 make it possible to arrest and detain the expected perpetrator of terrorism for 21 days, which can be extended up to 200 days without submission to court. Authority wide This gives rise to serious worries related to violations of basic people and principles based on justice, like the presumption not guilty until proven guilty.¹⁷

In context justice for victims, this law is also assessed Not yet Enough give proper protection and recovery. Even though Article 43 of the Action Law Criminal Terrorism mention about rights of victims of terrorism, provisions the Still classified general and not provide clear and comprehensive mechanism For its implementation. Victims of terrorism often faced deep psychological trauma and significant material losses, however access to compensation, restitution, and assistance rehabilitation Still limited or not systematic.¹⁸

Debate about justice in the Action Law Criminal Nor does terrorism free from controversy use punishment dead. Article 13 Law no. 5 of 2018 maintain punishment dead as one of the penalty For perpetrator follow criminal terrorism. Use punishment dead contradictory with an increasingly global trend leads to deletion or subtraction use punishment the. Punishment dead No proven effective as deterrent crime terrorism and precisely can ignore potency rehabilitation perpetrator.

Fair trials and transparent legal processes is principle base in system justice criminal. However, with give authority wide to apparatus security and rely approach repressive security, Action Law Criminal Terrorism risky drooling trust public to system Justice. This matter potential create an environment of fear and suspicion replacing dialogue and understanding, which is precisely what it is can increase tension and conflict social. In period long, repression - focused approach without enclose effort comprehensive prevention, education and deradicalization can produce cycle violence that is not end.

More further, nothingness clear definition about what is categorized as " ideology terrorists " in the law allows room broad interpretation. This is risky targeting activism political or legitimate religion as " terrorism ", only Because they voice critics or Different view from narrative official government. Implications from circumstances this is very worrying in context freedom argue and gather, which is right basic fundamental human.¹⁹

Action Law Criminal Terrorism is also facing critics Because lack of effective mechanism For supervision and accountability in its implementation. Without Strong supervision exists risk abuse power by the authorities enforcer law, that can culminating in a violation right basic man. This matter need transparency of legal processes and

17 Siantur, R. F., Zarzani, T. R., Fitrianto, B., Anwar, Y., & Sinaga, H. A. Kebijakan Hukum dalam Melindungi Perempuan dari Perzinaan dan Problematika Nikah Sirri, *Seminar of Social Sciences Engineering and Humaniora: Scenario 2020*, 26 Desember 2020, page.585–591

18 Hamzah, A. *Aspek-Aspek Pidana Di Bidang Komputer*, Bandung, Ghalia, 1989, page.11

19 Ahmadjayadi, C. *Dampak Teknologi Komunikasi Dan Informasi Terhadap Kegiatan Terorisme*, Jakarta, Badan Pembinaan Hukum Nasional, 2003, page.41

mechanisms easy complaint accessible to the public, for ensure that every action taken in framework of the Action Law Criminal Terrorism is legal and proportional.

Next, the need more approach holistic and based right basic man in eradication terrorism. Effective strategy in oppose terrorism must covers prevention through education, intercommunity dialogue, improvement chance economy, and strengthening system justice social.²⁰ This matter in line with view that terrorism often rooted in injustice social issues, poverty, marginalization, and dissatisfaction politics. With handle root reason that, will more Possible For reduce Power pull group terrorists and cut off cycle violence.²¹

Lastly, there is need urge For strengthen Work The same international in eradication terrorism, which requires harmonization standard law and practice eradication fair and respectful terrorism right basic ma. Indonesia, as part from community international, must contribute in the establishment of global norms that reject use action repressive ones are not proportional and ensuring protection for all individual, those accused do follow criminal terrorism.

3. Reconstruction Constitution Act Criminal Terrorism as effort countermeasures terrorism in Indonesia based mark justice

Acts that are prohibited in the Terrorism Law are importing into Indonesia, making, receiving, trying to obtain, handing over or trying to hand over, controlling, carrying, having stock on it or having it in its possession, storing, transporting, hiding, using or issuing to and/or from Indonesia, any firearms, ammunition, or explosives or other dangerous materials with the intention of committing a criminal act of terrorism.

In the formulation follow criminal this, maker Constitution feel need for include element oppose law. Possible maker Constitution opinionated with No included element the people who have it are worried authority and do deed That will can punished too. With included element oppose law in formulation chapter. This so must proven that perpetrator of course No entitled or authorized For do deed.²²

Article 9 of this almost similar with Article 1 of the Law Emergency Number 12 Emergency 1951 about Firearms, Ammunition and Explosives. The difference is in this Article 9 there is formulation "ingredients other dangerous ones" as well require existence" meaning for do follow criminal terrorism".

Understanding about material explosive there is in Article 1 number 12 of the law This, namely : Explosives are : all available materials explode, all of them type gunpowder, bomb, bomb incendiaries, mines, grenades hand, or all material explosive from material chemistry or other

20 Martin M Sjoen, Preventing radicalisation in Norwegian schools: how teachers respond to counter-radicalisation efforts, *Critical Studies on Terrorism*, Vol. 13, Issue. 2, 2020,

21 Vatis, M. *Cyber-Terrorism and Information Warfare Threats and Responses*, in *The Terrorism Studies Program at The George Washington University*. The Potomac Institute for Policy Studies, 1998, page.32

22 Golose, P. R., *Invasion Terrorism Into Cyberspace*, Yogyakarta, YPKIK, 2015, page.6

materials used For give rise to explosion. Whereas according to explanation of Article 9, what is meant with ingredients others are dangerous is including toxic gases and materials dangerous chemicals.

Article 10 states that is convicted with the same crime with criminal as intended in Article 6, every person who with on purpose use chemistry weapon, weapons biological, radiological, microorganism, radioactive or components, so give rise to atmosphere terror, or fear towards people widespread, causing serious casualties mass, dangerous to health, happens chaos to life, security, and rights of people, or happen damage, destruction to strategic vital objects, environment living, facilities public, or facility international. Elements of Article 10 is, with on purpose use weapon chemical, weapons biological, radiological, microorganism, radioactive or its components so that give rise to atmosphere terror or fear towards people widespread and causing serious casualties mass as well as endanger to health and happens chaos to life public as well as security and rights of people.

From the formula chapter This sounds with on purpose use weapon chemical, weapons biological, radiology, microorganisms, radioactive or components, so give rise to atmosphere terror, or fear towards people widespread, causing serious casualties mass, dangerous to health and so on", pointed out chapter the formulated "materially". So that's prohibited is the "result" ie emergence atmosphere terror, or fear towards people widespread, causing serious casualties mass, dangerous to health and so on.

With formulation as offense material, then need proven the existence of "consequences" as mentioned above.²³ Consequence mentioned above own connection causal with deed the perpetrator who with on purpose use weapon chemical, weapons biological, radiological, microorganism, radioactive or its components. Understanding about strategic vital objects, damage or destruction environment living and facilities public, same with those who have stated previously. According to explanation of Article 10 provision chapter taken from *Convention on the Physical Protection of Nuclear Material*, which held in Vienna, Austria in 1979 which was ratified by Presidential Decree Number 49 of 1986.²⁴

Article 11 states that is convicted with criminal imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years, for every person with on purpose provide or raise funds with objective will used or proper he knows will used part or entirely For do follow criminal terrorism as intended in Article 6, Article 7, Article 8, Article 9, and Article 10.

Elements of Article 11 is with on purpose provide or raise funds with objective will used or proper he knows will used (some / all of the

23 Dwi Seno Wijanarko, *Juridical Analysis of Terrorism Criminal Sanctions in Indonesia (Case Study of Imam Santoso Criminal Acts)*, *Linguistica Antverpiensia*, Issue-3, 2021, page.1043-1051

24 Nusantara, A. H. G. *Undang-Undang Pemberantasan Tindak Pidana Terorisme Dalam Perspektif Negara Hukum*, Jakarta, Badan Pembinaan Hukum Nasional, 2003, page.15

funds) for do one follow criminal terrorism in Article 6, Article 7, Article 8, Article 9, Article 10.

Prohibited actions in formulation chapter This is "providing" or "collecting" funds with objective will used or proper he knows will used part or entirely For do follow criminal terrorism as intended in Article 6, Article 7, Article 8, Article 9 and Article 10. What is meant with funds is some money for finance do deed meant. Connected with elements other, elements with on purpose placed on the face elements other. With thereby element with on purpose covers or influence all elements located at the back. This matter can interpreted that deed. This must done with on purpose. In terms of This the perpetrator " wants " to provide or collecting funds that will used part or entirely For do follow criminal terrorism as intended in Article 6, Article 7, Article 8, Article 9 and Article 10. The perpetrator also knew that provision or collection of the funds will used part or entirely For do follow criminal terrorism as intended in Article 6, Article 7, Article 8, Article 9, and Article 10, or perpetrator at least proper know that fund will used part or entirely For do follow criminal terrorism as intended in articles mentioned above. In terms of This there is element negligence Where according to proper calculation perpetrator can guess that fund will used For do follow criminal terrorism.²⁵

Article 12 states that is convicted Because do follow criminal terrorism with criminal imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years, for every person with on purpose provide or gather treasure riches with objective will used or proper he knows will used part or entirely.²⁶

Reconstruction Constitution Act Criminal Terrorism in Indonesia has become topic important in discourse laws and policies public as response to global and local dynamics related terrorism. Countermeasures effective and based terrorism mark justice need understanding deep to framework existing laws, as well identification possible weaknesses There is in Law no. 5 of 2018 concerning Eradication Act Criminal Terrorism.

Constitution Act Criminal Terrorism that occurs in Indonesia at the moment This is effort legislative For give framework comprehensive law in handle terrorism. One of aspect important in this Law is giving clear definition about what is categorized as action terrorism, includes various potential activity threaten security national, as listed in defining articles follow criminal terrorism. Article 9 Law no. 5 of 2018, for example, regulates about prohibition carry, have, or use weapons and materials explosive with Meaning For do follow criminal terrorism, while Article 10

25 Atmasasmita, R. *Sistem Peradilan Pidana (Criminal Justice System)*, Bandung, Putra Baru, 2005, page.11

26 Sitepu, S. astika B., Purba, J. E. M., & Tanjung, I. U. Tinjauan Yuridis Perlindungan Korban Perdagangan Perempuan Pekerja Seks, *Jurnal Rectum: Tinjauan Yuridis Penanganan Tindak Pidana*, Vol. 4, No. 2, 2022, page.488–497

highlights use weapon chemical and biological causes atmosphere terror or mass casualties.²⁷

Even though this law has set foundation Strong laws exist room for refinement, esp in aspect justice and rights basic man. First, it's important For ensure that definition follow criminal terrorism No too wide so that can give rise to potential over-interpretation threaten freedom civil and rights basic man. Second, the need mechanism more supervision and control strict to enforcement of this law, in particular in application action like detention and wiretapping, for prevent abuse authority.

Reconstruction of this Law must weigh principles justice, like certainty law, proportionality, and accountability. This matter including evaluate provision current detention This possible detention in period a long time without court, potentially violate principle justice procedural and rights For get fair trial. Required clear restrictions to duration and conditions detention, as well no access limited for prisoner to help law and communication with family. Approach to follow criminal terrorism must too more focuses on aspects prevention, incl through deradicalization and education programs. This requires more cooperation tightly between government, institutions security, and society civil, for handle root reason terrorism, like injustice social issues, discrimination and marginalization.

Reconstruction of this law is also a must consider use technology and media in spread ideology terrorism. This matter demand framework the law can overcome spread content terrorism on the internet while honor freedom expression and privacy.

D. CONCLUSION

Application of the provisions of the Terrorism Crime Laws that apply in Indonesia, namely have a number of possible goals classified based on theories about punishment. About objective punishment This can outlined based on retributive, deterrence, treatment, social goals defense. Understanding to criminal law as tool is very important thing For help understand is with tool the has can achieved. Problem social and religious being strong in Indonesia is weakness from culture the law in which society can with radicalism. Problem policy social is series choice action government to tackle terrorism crimes in Indonesia and to answer challenge or solve something problem life society and Wrong One necessary problem solved is problem crime or action criminal, because hinder achievement well-being public. Contained value in please the two Pancasila are required value become etiquette for regulation legislation that has provisions for criminal acts of Terrorism as an Effort to Counter Terrorism in Indonesia, meanwhile Reconstruction juridical on applicable norms that is Constitution Number 5 of 2018 Author recommend change namely in: Article 1 number 2 concerning

27 Zarzani, R. Konsepsi Perlindungan Anak Dari Tindakan Eksploitasi Seksual Komersial Anak Pada Hukum Internasional Dan Penerapannya Dalam Hukum Nasional, *De Lega Lata: Jurnal Ilmu Hukum*, Vol. 2, No. 2, 2017, page.402

definition terrorism, Article 12A number 1 threat the punishment plus, Article 28 paragraph (1) arrest period adjusted with KUHP, Article 25 number 1 detention period customized with the Criminal Procedure Code and Article 31 for deleted in accordance with mandate Decision Court Constitution.

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