

***CRIMINAL RESPONSIBILITY FOR INDIVIDUALS
WITH DISSOCIATIVE IDENTITY DISORDER WHO
COMMIT THE CRIMINAL ACT OF MURDER***

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ABSTRACT

The problem of crime is a complex social issue so that it becomes serious attention from time to time. Lots of cases of crimes that arise in the middle society, some of them become a phenomenon because of the perpetrator who did it beyond limit reason, wrong the only one individual person with Dissociative Identity Disorder. Based on Article 44 Paragraph (1) of the Book Constitution Law Criminal, which explains that no person can be convicted if the perpetrator is in a condition of no awareness or loss of control over himself because of a disease, mental disorder, or other mental illnesses. Formulation Article 44 does not explain related limit reasons for deletion of criminal acts. In matter This writer will to study related position Dissociative Identity Disorder law as reason eraser crime in Article 44 Paragraph (1) of the Criminal Code which carries out murder . This research uses a normative study type with a constitutional approach and a conceptual approach. As for from this study obtained a problem that can be concluded about that has fulfilled elements of criminal accountability, then with double personality (Dissociative Identity Disorder) can be punished on the murder he committed. This is allow the perpetrator to be sentenced to prison in accordance with threat in Article 338 of the Criminal Code regulates about murder with implementation idea of accountability, so that the judge can to impose punishment in accordance with provision regulation applicable legislation.

Keywords: *Accountability Crime, Murder, Dissociative Identity Disorder, Law*

1. INTRODUCTION

Dissociative Identity Disorder (hereinafter referred to as DID) is a mental condition characterized by the presence of two or more different identities or personalities in one

individual, where each identity can have different behavior, memories, and¹ ways of thinking. The existence of DID raises complex questions regarding the criminal responsibility of individuals with this disorder, especially when involved in serious criminal acts, such as murder.

Criminal liability is one of the fundamental concepts that determine whether a person can be held responsible for his/her actions.² However, when talking about individuals with mental health conditions such as DID sufferers, this issue becomes more complex. In a legal context, a person with a mental disorder is considered incapable of being held criminally responsible. Article 44 paragraph (1) of the Criminal Code (KUHP) states that: "Anyone who commits an act that cannot be held accountable for him/her because his/her soul is disabled in growth or disturbed by illness, shall not be punished."³

The formulation of the Criminal Code does not provide clear boundaries regarding the 2 (two) forms of mental disorders as grounds for eliminating criminal penalties, so this creates ambiguity. This reflects the principle that criminal responsibility is closely related to the awareness and control of the actions carried out by the individual. Given the nature of the disorder, which often involves changes in identity and consciousness, the interpretation and application of criminal responsibility by people with DID is complex.

As experienced by Velrry Idham Helynyansyah or known as Ryan Jombang in the written report: 1036/Pid/B/2008/PN.Dpk.⁴ Menurut, one of the mitigating witnesses, Ryan Jombang was diagnosed with a mental disorder or mental illness in the form of Temporary insanity or experiencing an irreversible mental disorder since he was in high school. In contrast to the opinion of experts who examined Ryan Jombang's mental condition, he had aggressive and impulsive behavior, but he was conscious. Manipulative actions that violate norms and are carried out recklessly without any regret, and lies are carried out consciously in order to achieve the goals desired by the person.

The expert witness also explained that because of Ryan Jombang's awareness in committing the act, he could be held criminally responsible. However, when questioned, Ryan Jombang showed abnormal emotional changes. The Depok District Court as a judicial institution is required to enforce the law as fairly as possible, for the sake of order and legal certainty for the community.⁵ Finally, the Depok District Court sentenced Ryan Jombang to death in 2009 because he was considered to have committed the murder in a conscious state, and of sound mind so that he could be held criminally responsible.

This case shows that the issue of mental disorders in the context of law in Indonesia is still a complex topic, especially in reflecting whether individuals with mental disorders such as DID can be legally responsible for the criminal acts they commit. In cases of crimes involving DID, the court has the primary responsibility to conduct an in-depth examination

¹ Andi Aliyah Fahirah Ahdar, Criminalization of Criminal Acts Suffering from Dissociative Identity Disorder, Thesis, Faculty of Sharia and Law, Syarif Hidayatullah State Islamic University, Jakarta, 2024, p. 1.

² Septa Candra, Criminal Law Reform; The Concept of Criminal Responsibility in the Future National Criminal Law, *Jurnal Cita Hukum*, Vol. 1, No. 1, June 2013, p. 40.

³Wempie JH. Kumendong, Scope of Responsible Ability Based on Article 44 of the Criminal Code, Scientific Work, Sam Ratulangi University, Manado, 2016, p. 24

⁴ Directory of Decisions of the Supreme Court of the Republic of Indonesia, Decision Number: 1036/Pid/B/2008/PN.Dpk, 2008, p.106.

⁵ Nanda Pratama, et al., Legal Analysis of Judges' Considerations in the Decision to Impose the Death Penalty for Premeditated Murder (Study of the verdict pomor: 1036/Pid/B/2008/PN.Dpk), *Diponegoro Law Journal*, Vol. 5, No. 3, Year 2016, p. 2.

with the aim of reflecting whether the criminal act was committed by a personality change that occurred outside the perpetrator's consciousness. This process requires psychological and psychiatric examinations to identify changes in the perpetrator's identity.

Thus, the court must ensure that any sentence reflects a comprehensive consideration of criminal liability based on the mental condition experienced by the individual with DID. In the Criminal Law in Indonesia, Article 44 of the Criminal Code still experiences errors regarding how DID is recognized as a form of mental disorder that can be the basis for the elimination of criminal penalties, and how the Indonesian legal system positions DID in the context of criminal liability. This is because there is no deeper explanation regarding the article.

Based on the researcher's interest in the aspect of criminal responsibility for perpetrators suffering from DID, in order to study, understand, and research in more depth, the researcher conducted a study entitled "Criminal Responsibility for Individuals Suffering from Dissociative Identity Disorder Who Commit the Crime of Murder."

2. RESEARCH METHODS

Research Method is a way of doing something by using careful thinking to achieve goals by searching, recording and formulating and analyzing until compiling a report. To facilitate the writing of this research, the author uses the type of Normative Juridical research through the Legislation research approach with a prescriptive research form which is carried out to provide an overview or formulate problems according to existing conditions or facts.⁶ This study aims to provide a comprehensive understanding of the legal issues related to criminal liability for individuals with Dissociative Identity Disorder, through in-depth analysis. This research seeks to shed light on a more complex topic and offers important insights into the challenges faced by individuals with mental disorders.

3. RESULTS

In the Indonesian Dictionary (KBBI), responsibility is the state of being obliged to bear all its obligations if a crime occurs, it can be blamed, prosecuted, and so on.⁷ Legal responsibility is interpreted as an obligation to carry out a crime or conduct in a manner that does not deviate from existing regulations. Criminal responsibility is the result of the behavior of a person who commits a crime. Thus, a person can be held criminally responsible if there are legal regulations that regulate the entirety of the crime. Roelslan Saleh stated that: "In discussing criminal liability, it cannot be separated from one aspect that must be seen from a philosophical perspective".⁸ One of them is justice, so that discussing criminal

⁶Ibid.

⁷ Big Indonesian Dictionary, online version of the dictionary Responsibility, <https://kbbi.web.id/tanggung%20jawab>. Accessed on September 10, 2024.

⁸ Hartono Achien, Theory of Criminal Responsibility, <https://hartonoachiencom.wordpress.com/2018/09/14/teori-pertanggung-pidana/>. Accessed on September 13, 2024.

liability will provide a clearer context. Criminal liability as a matter of criminal law is intertwined with justice as a matter of philosophy".⁹

Criminal liability in criminal law is also called criminal liability or responsibility.¹⁰ If a person has committed a criminal offense, he can be punished for his crime, so that the person can be held accountable in criminal law. The basis of criminal law is the principle of legality, namely the principle that reflects that the law of law is prohibited and is threatened with criminal penalties, while the basis of criminal sanctions is the principle of *greeln strafzondelrschuld*, namely the principle of not being punished if there is no fault. The ability to be responsible is reflected based on 2 (two) factors. The first factor is related to reason which distinguishes between permissible law and law that is not permitted or prohibited. The second factor is will, which is related to how individuals act towards permissible and impermissible actions. A person is considered capable of being responsible if he/she fulfills the following criteria:

- a. Realizes the meaning of each of his/her actions;
- b. Realizes that his/her actions cannot be considered appropriate in social interaction; and
- c. Able to reflect the intention or will in carrying out the action.

The ability to be responsible must include:

- a. The ability to distinguish between good actions and bad actions that are in accordance with the law and those that violate the law.
- b. The ability to reflect his/her will based on the awareness of the goodness of the action.

Criminal liability in this case involves a discussion of criminal acts or crimes. However, the concept of criminal liability is not the same as the act or crime itself. Criminal demonstrations only regulate the limitation of actions with the threat of criminal sanctions. Therefore, criminal liability focuses on a person's ability to be punished for the crime of his actions.

1. Dissociative Identity Disorder (DID)

DID or often known as multiple personality disorder is a disorder in which the sufferer has two or more personalities, or identities that take over control of the individual's behavior, and is usually accompanied by an inability to recall important personal information.

Paullett M. Gillig argues that experts believe this disorder has its origins in childhood, usually resulting from trauma to the brain. In ourselves there is something called "Host personality" which is the personality in ourselves that is the main one, while the other personality is called "Alter-Elgo" which is abbreviated as "Alter".¹¹

Melnulrult National Alliance on Melantal Illness,¹² an organization founded by the National Alliance on Melantal Illness, said that DID sufferers will experience what is called a "Switch" or personality change, where the main personality is willingly taken over by its alter. When the alter takes over the body, the sufferer will not remember anything that happened.

⁹ Roeslan Saleh, *Criminal Acts and Criminal Responsibility: Two Basic Understandings in Criminal Law*, Aksara Baru, Jakarta, 1983, p. 75.

¹⁰ Fitri Wahyuni, et al., *Criminal Accountability for Perpetrators of Abuse Against Religious Figures in Indonesia*, *Jurnal Cendikia Hukum*, No. 1, September 2021, p. 4

¹¹ Ferina Hanastasia Andrini, *Getting to Know Multiple Personalities and Their Relationship with Our Past Traumas*, <https://kumparan.com/ferina-hanastasia-andrini/mengenal-kepribadian-ganda-dan-hubungannya-dengan-trauma-masa-lalu-kita-1wyRzM8wt2J/4/> Accessed September 10, 2024.

¹² The National Alliance on Mental Illness is an organization founded by the National Alliance on Mental Illness in 1979 in the United States.

But sometimes the sufferer will know what happened to the body with the permission of the alter. The phenomenon of personality change by alters occurs as a response to changes in emotional conditions or environmental conditions that cannot be overcome by the host personality when it is confronted or reminded of the traumatic event it has experienced, so that another identity emerges to take control.

In his book, Ringrosel states that DID occurs because within the individual there are characteristics with the presence of two or more distinct personalities or has a personality condition that suddenly takes control of the individual's behavior, accompanied by an inability to remember important information about himself.¹³ Meanwhile, Haddock explains Dissociative Identity Disorder or DID as "disconnection from self or world around" which means the reflection of the relationship with the self and the world around it.¹⁴

In the Diagnostic and Statistical Manual for Mental Disorders Fifth Edition or DSM-5 which is a professional mental health regulation of the American Psychiatric Association, it is explained that there are several symptoms that occur from Dissociative Identity Disorder consisting of:¹⁵

- a. Identity Disorder or identity confusion: a person who experiences identity disorder is characterized by two or more personality states that are different from the events that have occurred.
- b. Gaps in remembering information that is inconsistent with the events experienced.

Haddock also added that DID sufferers appear in themselves in the past. This identity becomes interesting because each part must have characteristics that are different from each other. DID sufferers can implant false memories to complete their self-identity.

Based on several understandings of DID that have been explained above, it can be concluded that DID is a psychological disorder that occurs because of chaos in a person's self, which is marked by the presence of two or more personality conditions that affect awareness of reality and self-awareness or the environment, which can be caused by an imbalance of the id, ego, and susceptibility.¹⁶

Several statements about DID from experts that have been explained above lead to one conclusion that the factors that underlie the occurrence of DID are stress conditions, physical or emotional pressure, personality lability, environment, and severe trauma due to physical or sexual violence.

The factors that cause DID are the consistency of the individual's personality, so that in stressful situations or in severe stressors, there are altered identities that can emerge to replace the original personality so that they can commit crimes. Melnurlult Selligman, stated that the factors that cause DID disorders are social factors including genetics and the environment (social and physical), psychological factors including anxiety and depression, and psychobiological factors (psycho-biology) namely the characteristics of a person's cells.¹⁷

¹³ Adebba, and Ramadhanti Noury, *The Influence of Traumatic Experience on Dissociative Identity Disorder Tendency in Students*, Thesis, Faculty of Education, Semarang State University, Semarang, 2019, p. 34.

¹⁴ *Ibid.*

¹⁵ *Ibid.* p. 36

¹⁶ *Ibid.*

¹⁷ *Ibid.* p. 38

DID can be caused by psychological problems. Melnurlult Kartono DID is a psychological and cultural factor that occurs due to innate dispositions such as a weak nervous system, stress due to hardship, disappointment, shock, and bitter experiences that become trauma, wrong discipline in life habits, using negative or incorrect defense mechanisms (defense mechanisms) and maladjustment (unable to adapt), as well as weak physical or organic conditions such as illness or fatigue or the presence of mental and physical disorders.¹⁸

Several statements about DID from experts that have been explained above lead to one conclusion that the factors that underlie the occurrence of DID are stress conditions, physical or emotional pressure, personality lability, factors and the environment, and trauma due to physical or sexual violence.

2. Crime of Murder

Criminal acts are one of the real crimes and have an impact on individuals and society as a whole. Criminal acts or crimes are all actions that violate the law and are threatened with criminal sanctions. According to Simons, Criminal acts are a series of actions or actions that are threatened with criminal penalties by law, contrary to law and carried out through mistakes by people who can be held accountable.¹⁹

According to Wirjono Prodjodikoro, criminal acts mean a series of actions that can be subject to criminal penalties on the perpetrators, so that the perpetrators themselves are considered as subjects of criminal acts.²⁰

Bullying is a very serious and frightening crime that occurs in society. This act causes someone to lose their life either intentionally or unintentionally, so that the impact is not only felt by the victim and their family but also by the wider community. Bullying can cause fear, insecurity, and anxiety about the social order and the law. The phenomenon of bullying cannot be viewed simply, because it involves complex factors that can include psychological, social, economic, and cultural aspects. Some murders are committed with clear motives, such as revenge, financial gain, and even committed by individuals with mental disorders.

The positive law in Indonesia for the crime of murder is regulated in the Criminal Code, Chapter XIX, concerning crimes against life from Article 338 to Article 350 of the Criminal Code, and the text of Article 338 of the Criminal Code is as follows: "Anyone who intentionally takes the life of another person, is threatened, because of murder, with a maximum imprisonment of fifteen years."²¹

The crime of murder is a crime of material nature, namely a crime that can only be considered after it has been committed by the perpetrator until a prohibited or unlawful consequence arises. Thus, murder cannot be said to be murder if the consequence or loss of life of a person has not yet arisen.

¹⁸ Harsono, Overview of Dissociative Trance in Female Students, *Journal of Social and Industrial Psychology* 1, No. 2, 2012, pp. 59-65.

¹⁹ Annisa, Criminal Acts: Definition, Elements and Types, <https://fahum.umsu.ac.id/tindak-pidana-pengertian-unsur-dan-jenisnya/> Accessed September 13, 2024.

²⁰ Wirjono Prodjodikoro, *Principles of Criminal Law in Indonesia*, PT. Eresco, Jakarta-Bandung, 1981, p. 50.

²¹ Criminal Code, Book Two, Chapter XIX Concerning Crimes Against Life, Law Number 8 of 1981, Articles 338-350.

3. Sanctions in Criminal Law

Sanctions in criminal law are the law of law that are given on the basis of cause and effect. The cause is the case, while the effect is the law. Criminal sanctions are a type of law that is imposed on the actions of a person that can interfere with or endanger the interests of the law. Basically, criminal sanctions function primarily to rehabilitate behavior from crime, but often sanctions are interpreted as threats to the freedom of the individual itself.

Criminal law is suffering or punishment that is intentionally given to a person who commits an act that violates the provisions of the provisions²². Roelslan Saleh emphasized that criminal law is a reaction to a crime, and this is a law that is deliberately delegated by the state to the perpetrator of the crime.²³ The legal provisions contained in Article 10 of the Criminal Code consist of several categories, namely:

a. Principal Penalties

1) Death Penalty

The death penalty is the highest punishment given by executing the perpetrator of a crime, which results in the loss of life as a consequence of the criminal act committed.

2) Imprisonment

Imprisonment involves the detention of the perpetrator of the crime in a correctional institution for a specified period of time, as a form of imprisonment for the violation of the crime committed.

3) Repetition Penalty

Repetition punishment is a punishment given for a crime committed which is included in a minor crime.

4) Additional Criminal Law

Additional criminal law is a law that requires the perpetrator to pay a certain amount of compensation or financial sanctions for the crime committed.

5) Additional Criminal Law

Additional Criminal Law is a type of law that arises from the violation or violation of the rights of the perpetrator, such as the right to carry out certain activities.

b. Additional Criminal Law

Additional criminal law is a criminal law that is intended to add to the main criminal law imposed. Additional criminal law may not be imposed as the only criminal law because it is additional to the main criminal law.²⁴ Based on Article 10 of the Criminal Code, it has been explained that additional penalties include:

1) Revocation of Personal Rights

²² Tri Andrisman, Principles and Basis of Indonesian Criminal Law Rules, Unila, Bandar Lampung, 2009, p.8.

²³ Adami Chazawi, Criminal Law Lesson I, Raja Grafindo Persada, Jakarta, 2011, p. 81.

²⁴ Rofiq Hidayat, Recognizing Various Types of Additional Criminal Penalties in the New Criminal Code, <https://www.hukumonline.com/berita/a/mengenal-bagam-jenis-pidana-tambahan-dalam-kuhp-baru-lt6391ba66673ce/?page=all/>. Accessed September 3, 2024.

In Article 35 of the Criminal Code paragraph (1) it is explained that not all rights can be revoked, including the rights that can be revoked include:²⁵

- a. The right to hold office in his/her position or a personal position;
- b. The right to join the armed forces;
- c. The right to elect and be elected based on legal regulations;
- d. The right to become an advisor or guide to the law, the right to become a guardian, supervisor, collector or supervisor, for a person who has his/her own child;
- e. The right to exercise authority, exercise representation or collection on behalf of one's own children; and
- f. The right to carry out work.

2) Confiscation of Goods

In the new Criminal Code, goods that can be confiscated include goods prepared for use in a criminal act, as well as all goods required to carry out the criminal act.

3) Decision by Judge's Decision

In the explanation of the new Criminal Code, it is stated that "Additional penalties may include decisions based on the decision of the judge, which are intended so that the public knows what penalties and what kind of punishments are imposed on the convict."

D. CONCLUSION

Dissociative identity disorder is a complex and controversial disorder that has given rise to conflicting opinions regarding the existence of the disorder itself and concepts associated with it, such as the legal responsibility of defendants who suffer (or appear to suffer) from multiple personality disorder.

This study uses the existing literature on the topic of multiple personality disorder and has found a tendency for general courts to not accept DID as a reason to justify the insanity of a defendant and thus not to absolve the person from legal responsibility. In part, this tendency is explained by the negative social reaction to cases in which defendants are found not guilty by reason of insanity. Dissociative Identity Disorder is a mental disorder that can be very serious, so in this case there needs to be legal certainty, clearer and more detailed rules that must be applied in order to realize the objectives of the law itself.

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