

ABSTRAK

Rezim pencegahan dan pemberantasan tindak pidana pendanaan terorisme di Indonesia diatur melalui Undang-Undang Nomor 9 Tahun 2013 tentang Pencegahan dan Pemberantasan Tindak Pidana Pendanaan Terorisme (UU TPPT). Namun, undang-undang yang tergolong sebagai tindak pidana khusus masih mengandung implikasi, yaitu ketentuan yang diatur mengenai pembantuan dalam UU TPPT berpotensi melanggar prinsip proporsionalitas dalam sebuah delik. Pasalnya, pembantu (*medeplechtige*) dalam tindak pidana pendanaan terorisme diancam dengan pidana yang sama dengan pelaku utama (*dader*), padahal menurut ketentuan dalam Pasal 56 KUHP, pembantu hanya diancam pidana maksimum sebanyak sepertiga (1/3) dari tindak pidana asalnya. Implikasi tersebut dapat ditemui dalam Putusan Nomor :312/Pid.Sus/2015/PN Jkt Utr. Spesifikasi yang digunakan dalam penelitian ini berjenis deskriptif analitis dan menggunakan jenis data primer dan sekunder yang diperoleh melalui studi kepustakaan.

Berdasarkan hasil penelitian, diketahui bahwa kebijakan hukum pidana internasional yang mengatur tentang tindak pidana pendanaan terorisme, seperti halnya Konvensi PBB, Rekomendasi FATF, dan Resolusi Dewan Keamanan PBB, diketahui bahwa semua instrumen internasional tersebut memerintahkan seluruh negara peserta, tak terkecuali Indonesia untuk turut memidanakan pembantu tindak pidana pendanaan terorisme. Selanjutnya dalam kebijakan hukum pidana Indonesia, diketahui bahwa pembantu pendanaan terorisme dipidana melalui Pasal 5 *juncto* 4 UU TPPT yang memberikan ancaman bagi pembantu sama dengan pelaku utama sehingga berpotensi melanggar prinsip proporsionalitas. Namun, diketahui pula dalam Putusan Nomor :312/Pid.Sus/2015/PN Jkt Utr, bahwa walaupun UU TPPT memberikan ancaman pidana pembantu sama dengan pelaku utama, Hakim tetap memandang kadar kesalahan dari pembantu TPPT lebih kecil dari pelaku utamanya. Hal tersebut diketahui dari analisa terhadap berbagai ketentuan seperti halnya batas pidana minimum khusus, ketentuan mengenai *concurcus*, perbandingan pidana terhadap pembantu dan pelaku utama, serta pertimbangan filosofis dan sosiologis oleh Hakim.

Kata Kunci : Pidana, Pendanaan Terorisme, Pembantuan

ABSTRACT

*The regime of preventing and eradicating criminal acts of terrorism financing in Indonesia is regulated through Law Number 9 Year 2013 on the Prevention and Eradication of Criminal Acts of Terrorism Financing (TPPT Law). However, the law, which is classified as a special criminal offense, still has implications, namely the provisions regulating assistance in the TPPT Law have the potential to violate the principle of proportionality in an offense. This is because the accomplice (*medeplechtige*) in the crime of terrorism financing is punished with the same punishment as the main perpetrator (*dader*), whereas*

according to the provisions in Article 56 of the Criminal Code, the accomplice is only punishable by a maximum of one-third (1/3) of the original crime. This implication can be found in Decision Number: 312/Pid.Sus/2015/PN Jkt Utr. The specification used in this research is descriptive analytical type and uses primary and secondary data obtained through literature study.

Based on the results of the research, it is known that international criminal law policies governing terrorism financing, such as the UN Convention, FATF Recommendations, and UN Security Council Resolutions, are known that all international instruments instruct all participating countries, including Indonesia, to also criminalize terrorism financing assistants. Furthermore, in Indonesia's criminal law policy, it is known that terrorism financing accomplices are punished through Article 5 juncto 4 of the TPPT Law, which provides the same threat for accomplices as the main perpetrators, thus potentially violating the principle of proportionality. However, it is also known in Decision Number: 312/Pid.Sus/2015/PN Jkt Utr, that even though the TPPT Law provides the same criminal threat for the helper as the main perpetrator, the judge still considers the level of guilt of the TPPT helper to be smaller than the main perpetrator. This is known from the analysis of various provisions such as special minimum criminal limits, provisions regarding concurcus, comparison of punishment against assistants and main perpetrators, as well as philosophical and sociological considerations by the Judge.

Keywords: Criminal, Terrorism Financing, Assistance