

EXPANSION OF THE MEANING OF INCLUSION OF OFFENSES IN THE LATEST CRIMINAL CODE AND ITS INFLUENCE ON LAW ENFORCEMENT FOR TERRORISM CRIMES

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Article's Information	Abstract
<p>Keywords: Offense of Participation, Criminal Code, Criminal Act of Terrorism.</p> <p>DOI: https://doi.org/10.31599/bmktcm62</p>	<p><i>The renewal of the offense of inclusion in Article 20 of Law Number 1 of 2023 is certainly interesting to discuss further regarding how the renewal of the offense of inclusion will affect the enforcement of criminal law in Indonesia, especially in the field of law enforcement for criminal acts of terrorism, because of the expansion of the meaning of inclusion. This will have its own influence on law enforcement. What is the meaning of the expansion of inclusion offenses in Law Number 1 of 2023? How does it affect law enforcement for criminal acts of terrorism? The research method used in this research is a normative juridical research method. The material studied uses primary, secondary and tertiary legal materials. The results of the research show that the expansion of included offenses in Law Number 1 of 2023 concerning the Criminal Code actually has an influence in the form of strengthening the implementation of law enforcement contained in Law Number 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism. The expansion of the offense of participation, especially to the material of encouraging other people to commit criminal acts by giving or promising something, abusing power or dignity, committing violence, using threats of violence, committing misdirection, or by providing opportunities, means or information, where there is a compatibility between the extensions of the offense of participation can certainly work in harmony in maximizing law enforcement efforts in the form of</i></p>



punishment for criminal offenses contained in legal regulations related to terrorism.

I. INTRODUCTION

With the development of information technology and globalization in the financial sector, there has been an increase in the volume of trade in commodities and services as well as related money flows. Technological developments do not always help a nation. Sometimes it has the opposite effect, acting like a "double-edged sword" offering huge advantages to the economy and trade and also increasing the likelihood that technology will be misused for evil. This makes sense considering that the wider the range of commercial activities that can be carried out through the use of technological advancements, the more attractive it will be for money laundering offenders to use technology as a means to commit crimes involving economic activities.

As confirmed in the 1945 Constitution of the Republic of Indonesia Chapter I Article 1 Paragraph (3), namely "The State of Indonesia is a State of law". As a state of law, of course everything must be based on law, both in the relationship between one state institution and another, the government and the people, and the relationship between the people and the people.¹

As a country of law, Indonesia recognizes legal substance as the basic basis for policy and decision making in various fields, both in the fields of criminal law and civil law. As a rule of law state, one of Indonesia's main agendas should be to defend state sovereignty, in accordance with the provisions of Article 30 paragraph 1 of the 1945 Constitution which states "every citizen has the right and obligation to participate in state defense and security efforts." One of the state's efforts to maintain state sovereignty is to address the problem of terrorism, where terrorism is a problem that not only threatens state sovereignty but also threatens security and order in society.

Acts of terrorism that are known to the public are basically only about acts of bombing and shooting carried out by perpetrators of criminal acts of terrorism, but in reality criminal acts of terrorism themselves consist of various forms of action as regulated in Law Number 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism, which was then updated by Law Number 5 of 2018 concerning Eradication of Criminal

¹Jimly Asshidiqie, *The Idea of the Indonesian Rule of Law*, Secretariat General and Registrar of the Constitutional Court of the Republic of Indonesia, 2009. p. 1

Acts of Terrorism, and Law Number 9 of 2013 concerning Prevention and Eradication of Criminal Acts of Terrorism Financing, among others are :²

1. Executor:
 - a. Planning and carrying out terrorist attacks.
 - b. Being part of a terrorist group or banned organization that carries out violent acts for political or ideological purposes.
 - c. Using violence, threats, or intimidation to achieve terrorist goals.
 - d. Spreading propaganda or extreme ideology that justifies or encourages acts of terrorism.
2. Funding Actors:
 - a. Providing funds or financial resources to support terrorist operations.
 - b. Financing the training, preparation, or travel of terrorists.
 - c. Fund the purchase of weapons, explosives, or other devices used in terrorist attacks.
 - d. Flowing money to terrorist networks to maintain and expand their activities.

On the one hand, terrorism itself is basically a criminal act that cannot stand alone, but also requires participation and assistance from other people, for example in terms of funding, providing access and other assistance, this is because terrorism itself is a criminal act that is usually involving an organization.³

The participation referred to in the explanation above is about a person's participation in committing a criminal act. This can be explained if we interpret the meaning of Article 55 of the Criminal Code which states that " Convicted as a perpetrator criminal acts In paragraph 1 states those who commit, who order to commit, and who participate in committing the criminal act. In paragraph 2, those who, by giving or promising something, by abusing power or dignity, by violence, threats or misdirection, or by providing opportunities, means or information, deliberately encourage other people to commit that criminal act."⁴

Based on the provisions of article 55 of the Criminal Code above, the elements of inclusion in Article 55 of the Criminal Code are:

² Alfianti Dwi Rachma, *Legal Comparison of Terrorism Crimes in Indonesia and Philippines*, Legal Reform Journal Volume 1 No 1, 2020. p. 4

³ Rilliana Aisyah Rahman, *Legal Challenges in Eradicating Terrorism in Indonesia: Evaluation and Future Prospects*, World Journal of Law and Political Science, Vol.2, No.3, 2024. p. 293

⁴I Ketut Mertha, *Textbook of Criminal Law*, Denpasar : Udayana Press, 2016. p. 112

- a. Those who do,
- b. Who ordered to do it, and
- c. Those who participated in committing the crime.

Related to the inclusion of elements of inclusion in Article 55 of the Criminal Code according to Utrecht are:

- a. Intervening in criminal events
- b. Also committing an offense
- c. Participate.⁵

According to Prof. Moelyatno's inclusion is seen as a special form of criminal act and inclusion is an offense, only the form is special. The first view is in accordance with nature/individual view because what is prioritized is "*strafbaarheid van de person*" (things that people can be punished for), the second view is in accordance with Indonesian nature because what is prioritized are actions that must not be done, so more emphasis is placed on "*strafbaarheid van het feit*" (things that can be punished).⁶ In the latest Criminal Law Book itself, namely Law Number 1 of 2023, it is known that the participation arrangements have been updated with the provisions of Article 20 of Law Number 1 of 2023, where regarding participation it is stated that. Every person is convicted as a perpetrator of a criminal offense if:

- a. commit a criminal act yourself;
- b. committing a criminal act by means of a tool or ordering another person who cannot be held responsible;
- c. participate in committing a criminal act; or
- d. encouraging other people to commit criminal acts by giving or promising something, abusing power or dignity, committing violence, using threats of violence, committing misdirection, or by providing opportunities, means or information.

The renewal of the offense of inclusion in Article 20 of Law Number 1 of 2023 is certainly interesting to discuss further regarding how the renewal of the offense of inclusion will affect the enforcement of criminal law in Indonesia, especially in the field of law enforcement for criminal acts of terrorism, because of the expansion of its meaning. This inclusion will have its own influence on law enforcement, so this issue will be discussed further in this research with the theme "Expanding the Meaning of Inclusion

⁵ Muladi, *Capita Selecta Criminal Justice System*, Undip Publishing Agency, Semarang, 2002.

⁶ Moeljatno, *Principles of Criminal Law*, Jakarta : Rhineka Cipta, 2013., p. 143

Offenses in the Latest Criminal Code and Its Influence on Law Enforcement for Terrorism Crimes"

II. METHODS

In this research, the researcher used the Normative Juridical Type Research method, namely legal research that emphasizes secondary data in research and examines the principles of positive law originating from library data.⁷ The research approaches used in this research include: the statutory approach (*statute approach*) is an approach taken by examining all laws and regulations related to the legal issue being discussed. Conceptual Approach (*Conceptual Approach*) is an approach in legal research that provides an analytical perspective on problem solving in legal research seen from the aspect of the legal concepts behind it, or can even be seen from the values contained in the norming of a regulation in relation to the concepts used. *Analytical Approach* is an analysis of legal materials to find out the meaning contained in the terms used in statutory regulations conceptually, as well as knowing their application in legal practices and decisions.

III. DISCUSSION

Expansion of Inclusion of Offenses in the New Criminal Code

In Europe, the old criminal law did not yet realize the importance of punishing the movers and abettors. At that time, people were satisfied that the perpetrators of crimes were punished to compensate the harmed person or family. ⁹ As time progressed, it was also deemed necessary to punish the instigators and accomplices of criminal acts.⁸ Van Hamel believes that the teaching of inclusion (*deelneming*) is a general teaching about responsibility and distribution. This shows that an offense can be committed by two or more individuals who work together physically and psychologically (intellectually). Criminal acts involving more than one person are called criminal acts of participation.⁹

For example, three people were charged with theft. B and C went into the victim's house to get his things, and A stayed outside to make sure that no one found out what they were doing. As a result, B woke up and attacked the homeowner. Say, theft and harassment are the two criminal offenses that occurred in the incident. Will A be held responsible for the incident as well? In addition, B may also be responsible

⁷Mukti Fajar ND, *Dualism in Legal Research*, Student Library: Yogyakarta, 2013. p. 23

⁸Andi Sofyan and Nur Azisa, *Textbook of Criminal Law*, Makassar: Pustaka Pena, 2016. p.98

⁹Emy Rosnawati and Abdul Fatah, *Criminal Law*, Sidoarjo : Umsida Press, 2020. p. 36

for beating C because C was in the house, even though he did not hit him.¹⁰ Based on the doctrine that the perpetrator must fulfill all aspects of the criminal act, a person who only lives in the victim's house is not considered a perpetrator because he does not fulfill the requirements of the article regarding theft. Apart from that, the bait is struggling. Here, A holds the victim, and B kills him with a knife. Can A also be held responsible for murder, even though he does not meet the requirements for murder? As a result, the Criminal Code classifies perpetrators and accomplices in the event of a criminal act.¹¹

Some people argue that involvement is a criminal act in itself before it is explained who the perpetrator of the criminal act is according to the provisions of the Criminal Code. Moeljatno agrees with Pompe's opinion that inclusion, like experimentation, is an independent offense. Therefore, there are accomplice offenses, attempted offenses and ordinary offenses. His ideas about how someone could be punished were adapted to this idea. In other words, before anyone can be held accountable, their actions must be proven.¹²

Therefore, each person involved must prove that they have actually complied with the requirements of the law, including the events of the criminal offense with which they are charged. One can feel uncomfortable, although more experienced scholars point out that involvement is an expansion. The individual, however, did not meet all the criteria for a criminal offense.¹³ The provisions of Articles 55 and 56 of the Criminal Code regulate the issue of perpetrators (*dader*) and involvement (*deelneming*). Where the provisions of Article 55 state:

1. Sentenced as a person who committed a criminal event:
 - a. The person who commits, orders or participates in carrying out the act;
 - b. A person who, by means of gifts, agreements, wrongful use of power or influence, violence, threats or deception or by providing opportunities, efforts or information, deliberately induces someone to do something.
2. Regarding the people mentioned in sub 2e, only the actions that they deliberately induce and the consequences may be liable to them.

Furthermore, the provisions of Article 56 of the Criminal Code are known to state, "To be punished as a person who helps commit a crime:

¹⁰Andi Sofyan and Nur Azisa, *Textbook of Criminal Law, Op. Cit.*, p. 176

¹¹Lukman Hakim, *Principles of Criminal Law*, Yogyakarta : Deppublisher, 2020. p. 25

¹²Moeljatno, *Principles of Criminal Law*, Jakarta : Rhineka Cipta, 2013. p. 96

¹³ *Ibid.*, p. 96

1. Whoever intentionally helps commit the crime.
2. Anyone who deliberately provides an opportunity, effort or information to commit a crime.

Meanwhile, in the new Criminal Code, namely in Law Number 1 of 2023, the provisions regarding the offense of participation are regulated in article 20 which states that, "Every person is punished as a perpetrator of a criminal act if:¹⁴

1. Committing a Crime yourself;
2. Committing a criminal act through means or ordering other people who cannot be accounted for;
3. Participating in committing a criminal act; or
4. Motivating other people to commit criminal acts by giving or promising something, abusing power or dignity, committing violence, using threats of violence, committing misdirection, or by providing opportunities, means or information.

Then the offense of assistance is regulated in Article 21 of Law Number 1 of 2023, which states:¹⁵

1. Every person is punished as an accessory to a crime if they intentionally:
 - a) Providing opportunities, means or information to commit criminal acts; or
 - b) Providing assistance when a crime is committed.
2. The provisions as intended in paragraph (1) do not apply to assistance in committing a crime which is only punishable by a maximum fine of category II.
3. The penalty for assisting in committing a criminal act is a maximum of 2/3 (two thirds) of the maximum principal criminal threat for the crime in question.
4. Assistance in committing a crime which is punishable by the death penalty or life imprisonment, is punishable by a maximum imprisonment of 15 (fifteen) years.
5. The additional penalty for assisting in committing a crime is the same as the additional penalty for the crime in question.

Then regarding the conditions with the offense of participation and assistance as well as the provisions regarding sanctions against perpetrators with the offense of

¹⁴ Vience Ratna Multi Wijaya, *Trial, Participation, Combination of Crimes, Loss of Right to Prosecution, Serving a Crime and Recidivism*, Jakarta : Damera Press, 2023. p. 53

¹⁵ *Ibid.*, p. 54

participation and assistance are regulated in Article 22 of Law Number 1 of 2023 which is known to state "The personal circumstances of the perpetrator as intended in Article 20 or the assistant as intended in Article 21 can be remove, reduce or aggravate the punishment."¹⁶ On the one hand, the legislators made criminal provisions in Article 55 of the Criminal Code with the aim of regulating liability according to criminal law for everyone involved in a criminal act except the perpetrator himself. Thus, if there are no criminal provisions in Article 55 of the Criminal Code, these people cannot be punished.¹⁷

Therefore, article 55 of the Criminal Code determines the categories of perpetrators involved in criminal acts, without considering whether they fulfill all the elements of a criminal act. These categories are mentioned in this order:

1. Those who commit criminal acts (*plegen*);
2. Those who order other people to commit criminal acts (*doen plegen*);
3. Those who participate in a criminal act (*medeplegen*);
4. Those who encourage other people to commit criminal acts (*uitlokken*).

Article 55 of the Criminal Code provides different classifications, which will be outlined below to help understand who is considered a perpetrator under the Criminal Code:¹⁸

- 1) Those Who Commit Criminal Acts (*plegen*)

To regulate the accountability under criminal law of every person involved in a criminal act except the perpetrator himself, the law makes criminal provisions in Article 55 of the Criminal Code. Thus, if there are no criminal provisions in Article 55 of the Criminal Code, these people cannot be punished. To determine who actually violated the prohibitions or obligations stated in the law, one must determine who should be considered as *dader* in formal cases, i.e. cases that can be considered to have been committed by the perpetrator, i.e. immediately after the perpetrator committed the act prohibited by the law or immediately after the perpetrator does not take the action required by law.

Sometimes the perpetrator of a crime is not the only one. For example, in the case of a hitman, other people may be involved in the crime committed by one person. Despite the fact that one perpetrator appeared to be responsible for the murder, there were actually many other people involved in the incident. In addition, article 55 of the Criminal

¹⁶ *Ibid.*, p. 55

¹⁷ Didik Endro Purwoleksono, *Criminal Law*, Surabaya : Airlangga University Press, 2014. p.58

¹⁸ Vience Ratna Multi Wijaya, *Trial, Participation, Combination of Crimes, Loss of Right to Prosecution, Serving a Crime and Residin*, *Op.Cit.*, p. 56-66

Code covers all people who commit violations. Article 55 of the Criminal Code can refer to all perpetrators of criminal acts, even if they themselves committed them. However, the article basically discusses complicity, namely when more than one person is involved in a criminal act. Therefore, involvement should include all people who commit criminal acts. People who commit criminal acts are considered perpetrators in the narrow sense, while perpetrators in the broad sense are defined as perpetrators. However, perpetrators usually fall into these four categories: perpetrators who commit, perpetrators who order, perpetrators who participate, and perpetrators who encourage.

2) Those Who Order Others to Commit Criminal Acts (*doen plegen*)

In accompaniment, a person wants to commit a criminal act, but does not do it himself, instead, he asks someone else to do it. So the conditions for the form of participation in order to commit a criminal act:

- a. Someone wants to commit a crime.
- b. He didn't do it himself.
- c. He ordered someone else.
- d. The person being ordered is someone who cannot be held accountable.

As a result, it is clear that the person giving the instructions did not physically commit the crime in question at all. To fulfill all the elements of a criminal act, the person who orders it must be someone who cannot be held accountable. Of course, because of this involvement, the person who ordered it will not be punished, and the person who ordered it is considered the perpetrator. He is the one responsible for the criminal act. The crime occurred because of his orders.

3) Those Who Participate in a Criminal Act (*medeplegen*)

Compared with other forms of participation, the doctrine of participation in doing (*medeplegen*) has a different characteristic because it requires joint action (*meedoet*) between the material actor (*pleger*) and the perpetrator who participates in doing (*medepleger*). The next form of participation is participation, namely those who take part in the occurrence of a criminal act. There is often a confusion of understanding between *inclusion* and *participation*. Participation is when more than one person is involved in a criminal act, whereas taking part is a form of participation. Participation is included in participation, but not all participation is a form of participation. What is meant by participation must be understood through doctrine because the law does not provide a definitive formulation. The necessary conditions for participation in the form of participation are:¹⁹

¹⁹Moch Choirul Rizal, *Textbook of Criminal Law*, Kediri : LSHP, 2021. p. 225

- a. There must be an awareness of cooperation from each participant
- b. Cooperation in criminal acts must be physical

In participating, the participants are aware that a criminal act will be committed. They are aware that together they will commit a criminal act. Although forming awareness of cooperation does not have to be long before the criminal act is committed. So there is no need for negotiations to plan criminal acts in advance. Awareness of cooperation between participants can occur at the time of the event.²⁰

This means that each participant is threatened with the same punishment even if some of them do not fulfill the elements of the alleged criminal act. Because each participant is considered the perpetrator of the criminal act, all participants are threatened with the same crime. Apart from that, there is a problem regarding the responsibility of each participant in this form of participation.²¹

There is no problem if the criminal act occurs in accordance with the agreement made by the participants. However, what if there is a violation other than the one they decided? For example, there may be two or three people involved in the harassment. They agreed to take violent action. However, it turned out that one of the participants stabbed the victim, resulting in his death. Are the murders borne by other participants' friends too? However, the previous agreement only involved abuse, not murder.²² From the point of view of criminal responsibility and punishment, the perpetrator who participated is only responsible for his actions so that it is possible for criminal disparities to occur between the perpetrator of the crime and the perpetrator who participated. It is even possible that only one of the perpetrators will be punished.

4) Those Who Motivate Others to Commit Criminal Acts (*uitlokken*)

There are various terms to translate *uitlokking* into Indonesian. Some translate it as 'persuade', there are also those who translate it with the term 'suggest'. In this description *uitlokking* is translated by the term 'moving'. Because using the term move indicates that before being moved, the person did not have the will to commit a criminal act. It is only after a certain effort that the person is moved to commit a criminal act.²³ The conditions for this form of 'moving' participation are as follows:²⁴

- a. There is someone who intends to commit a criminal act;

²⁰ *Ibid.* p. 226

²¹ Vience Ratna Multi Wijaya, *Trial, Participation, Combination of Crimes, Loss of Right to Prosecution, Serving a Crime and Residiv, Op.Cit.*, p. 67

²²Destiny, *Getting to Know Criminal Law*, Jakarta: Warriors of Change, 2013. p. 101

²³ *Ibid.*, p. 102

²⁴Muhammad Iqbal, and Suhendar, *Criminal Law*, Pamulang : Unpam Press, 2019. p. 109

- b. He does not carry it out himself;
- c. With an effort that has been determined legally in law;
- d. Motivating other people to carry out desired criminal acts;
- e. The person who is moved to commit a criminal act is the person who can be held responsible.

The above offenses are accompanying offenses in the old Criminal Code which have also been accommodated in the newest Criminal Code, and apart from that there are also efforts to expand the accompanying offenses in the newest Criminal Code, namely in Article 20, where the expansion includes efforts to encourage other people to commit criminal acts. , where the provisions of Article 20 paragraph 2 point 4 state "those who, by giving or promising something, by abusing their power or dignity, by violence, threats or misdirection, or by providing opportunities, means or information, deliberately encourage other people to commit criminal acts".²⁵ In the article above, efforts to encourage other people to commit criminal acts are listed in a limited manner, as explained as follows:²⁶

- a. Giving Something, this means that the person being moved is given something. And that something can be money or objects and the like.
- b. Delivering Promises, giving promises is not only giving promises in the form of money or objects, it can also be promised to be promoted in rank, position, job and so on.
- c. Abusing Power, motivating other people to commit criminal acts by abusing the power they have. For example, parents towards their children, employers towards their workers, teachers towards their students and so on.
- d. Abusing Dignity, this effort is not contained in the Dutch Criminal Code. Only found in the Indonesian Criminal Code (*Het Wetboek Van Strafrechts Voor Ned. Indie*). The reason is that Indonesia is known as a feudal society. For example, Regent, Village Head and so on, where it is feared that there will be an abuse of their dignity as found in the structure of society in Indonesia. However, with the current form of Indonesian society, even though there are still Regents, Village Heads and so on, if abuse occurs, it is not an abuse of dignity, but rather an abuse of power or authority.

²⁵ Vience Ratna Multi Wijaya, *Trial, Participation, Combination of Crimes, Loss of Right to Prosecution, Serving a Crime and Residiv*, *Op.Cit.*, p. 67-68

²⁶ *Ibid.*, p. 68-70

- e. Violence, violence here must not be such that it cannot be avoided by the person being moved. Because if the violence is such that it cannot be resolved, then a form of 'coercion' will occur. Because there is coercive force, the person being moved cannot be held accountable. So the form is not 'moving' but 'ordering to do'. Because the person who does it cannot be punished, while in 'mobilization' the person being moved must be someone who can be held accountable.
- f. Threat, this threat can be in the form of words or actions. As in mere violence, this threat must not be so violent that it cannot be avoided by the person being moved. Not to be said to be a form of 'telling to do'.
- g. Misdirection, misdirection (often translated as 'deception') does not mean that the person is deceived and thus cannot be punished, but rather that the person being deceived or deceived is appropriate.
- h. Giving Opportunities, for example, someone does not lock the door of their employer's house so that the person being moved can easily enter their employer's house so that theft can easily be carried out by either the person who committed the theft or the person who provided the opportunity did not lock the door.
- i. Providing Means, for example, someone gives a handheld weapon so that people are moved to commit murder according to the wishes of the person who gave the handheld weapon.
- j. Give information, by providing information about the victim to encourage other people to commit criminal acts. For example, by providing information about the atmosphere of the victim's house, so that people move to commit criminal acts.

From this description, it can be clearly seen that in Law Number 1 of 2023 concerning the Criminal Code, there is an expansion of the meaning of the offense of inclusion, especially in the provisions of Article 20 numbers 2 and 4, namely in the phrase "committing a Criminal Act through mediation using or ordering other people who cannot be accounted for;" and the phrase "those who, by giving or promising something, by abusing power or dignity, by violence, threats or misdirection, or by providing opportunities, means or information, deliberately encourage other people to commit criminal acts".

The Effect of Expanding Inclusion Offenses on Terrorism Law Enforcement

Eradicating terrorism is one of the main priorities for the Indonesian government in maintaining security and peace in this country. Despite continuous efforts, the legal challenges faced in the process of eradicating terrorism remain complex and challenging. This journal aims to evaluate various legal challenges faced by Indonesia in its efforts eradicating terrorism, as well as to formulate future prospects in facing these challenges. The legal challenges faced in eradicating terrorism are not only limited to the legislative aspect, but also include the implementation of existing laws, law enforcement, and the protection of human rights. Even though Indonesia has issued various anti-terrorism laws, including Law Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning Eradication of Criminal Acts of Terrorism, their implementation and effectiveness are still a concern.

Main challenge in law enforcement for criminal acts of terrorism is the balance between the need for national security and the protection of human rights. Efforts to eradicate terrorism often involve preventive measures, arrest and detention of individuals suspected of being involved in terrorist activities.²⁷ Strengthening anti-terrorism laws is an important step in improving law enforcement capabilities in dealing with the threat of terrorism. Evaluation of the corrective steps that have been taken needs to take into account a number of factors. First, the effectiveness of the law in identifying and dealing with various types of terrorist threats, and one of the efforts made by the government is to update the Criminal Code as one of the main instruments of criminal law enforcement in Indonesia.²⁸

It is known from the previous discussion that in Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code), one of the reform efforts in the new Criminal Code which was carried out to strengthen efforts to enforce criminal law was reform in the field of offenses of participation and assistance, where the reform effort made in the offense of participation and assistance is the expansion of the meaning of participation and assistance, as is known in the crime of participation, there is an effort to expand the meaning of participation, namely in the phrase " Committing a criminal act by means of a tool or ordering another person who cannot be accounted for;" and the phrase " those who, by giving or promising something, by abusing power or dignity, by violence, threats or misdirection, or by providing opportunities, means or information, deliberately

²⁷Ministry of Defense of the Republic of Indonesia, *White Paper on Indonesian Defense*, Jakarta: Ministry of Defense of the Republic of Indonesia, 2015. p. 12

²⁸Daniel Saroha, *Smart Young People to Prevent Terrorism*, Jakarta : BNPT, 2018. p. 65

encourage other people to commit criminal acts.” This phrase is found in Article 20, parts two and four. It is known that in the previous Criminal Code offense, namely Article 55 of the Criminal Code, there was no similar regulation.²⁹

Apart from that, it is known that Law Number 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism, which was later updated by Law Number 5 of 2018 concerning the Eradication of Criminal Acts of Terrorism, and Law Number 9 of 2013 concerning the Prevention and Eradication of Financing Crimes. Terrorism, There is also an expansion of the meaning of the offense of participation and assistance which is not specifically mentioned as an offense of participation and assistance, but the classification of the offense of participation and assistance is mentioned in detail, as explained as follows:³⁰

- a. People who import explosives and firearms for terrorist activities as regulated by Article 9 of Perpu Number 1 of 2002 in conjunction with Law Number 15 of 2003 which has been updated with Law Number 9 of 2013, which states " Everyone who unlawfully import into Indonesia, make, receive, attempt to obtain, hand over or try to hand over, control, carry, have stock on him or have in his possession, store, transport, conceal, use or remove to and/or from Indonesia any firearms, ammunition, or explosives or other dangerous materials with the intent to commit a criminal act of terrorism, shall be punished with the death penalty or life imprisonment or imprisonment for a minimum of 3 (three) years and a maximum of 20 (twenty) years”.
- b. People who import and trade without permission chemical weapons, biological weapons, radiology, microorganisms, radioactivity or their components, which are regulated by Article 10A and Perpu Number 1 of 2002 in conjunction with Law Number 15 of 2003 which has been updated with Law Number 9 of 2003 2013.
- c. People who collect funds for terrorist activities as regulated by Article 11 of Perpu Number 1 of 2002 in conjunction with Law Number 15 of 2003 which has been updated with Law Number 9 of 2013.
- d. People who collect funds and follow up on them for terrorist activities, either by carrying out threats or bombings with chemical weapons, biological weapons, radiology, microorganisms, radioactivity or their components as regulated in

²⁹Debby Eka Kartikasari, *Textbook of Criminal Law*, Jakarta : ISBN, 2024. p. 13

³⁰Ari Wibowo, *Terrorism Criminal Law*, Yogyakarta : Graha Ilmu, 2018. p. 42

Article 12 of Perpu Number 1 of 2002 in conjunction with Law Number 15 of 2003 which states has been updated with Law Number 9 of 2013.

- e. People who give and lend money to perpetrators of terrorism, which is regulated by Article 13 letter A of Perpu Number 1 of 2002 in conjunction with Law Number 15 of 2003 which has been updated with Law Number 9 of 2013, which was later replaced by the provisions of Article 4 of the Law -Law Number 9 of 2013.
- f. People who hide perpetrators of criminal acts of terrorism as regulated in Article 13 letter B of Perpu Number 1 of 2002 in conjunction with Law Number 15 of 2003 which has been updated with Law Number 9 of 2013.
- g. People who hide information about criminal acts of terrorism as regulated in Article 13 letter C of Perpu Number 1 of 2002 in conjunction with Law Number 15 of 2003 which has been updated with Law Number 9 of 2013.
- h. People who plan, mobilize other people to carry out terrorism as regulated in Article 14 of Perpu Number 1 of 2002 in conjunction with Law Number 15 of 2003 which has been updated with Law Number 9 of 2013, which was later replaced by the provisions of Article 6 of the Law Number 9 of 2013.
- i. People who carry out evil conspiracy, attempts and/or assistance to commit terrorism as regulated in Article 15 of Perpu Number 1 of 2002 in conjunction with Law Number 15 of 2003 which has been updated with Law Number 9 of 2013, which was later replaced by the provisions of Article 5 Law Number 9 of 2013 provides that Article 15 actions are accompanied by funding.

So, with the expansion of the inclusion of offenses in Law Number 1 of 2023 concerning the Criminal Code, it actually has an influence in the form of strengthening the implementation of law enforcement contained in Law Number 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism, which was then revised. update Law Number 5 of 2018 concerning the Eradication of Criminal Acts of Terrorism, and Law Number 9 of 2013 concerning the Prevention and Eradication of Criminal Acts of Terrorist Financing , where there is an expansion of the offense of participation, especially in material encouraging other people to commit criminal acts by giving or promising something, abusing power or dignity, committing violence, using threats of violence, committing misdirection, or by providing opportunities, means, or information , where there is compatibility between the expansion of the offense of participation can certainly

work in harmony in maximizing law enforcement efforts in the form of punishment for the offense -criminal offenses contained in legal regulations related to terrorism.

IV. CONCLUSION

The expansion of the meaning of the offense of inclusion in Law Number 1 of 2023 concerning the Criminal Code, is contained in the provisions of Article 20 numbers 2 and 4, namely in the phrase " Committing a criminal act through means or ordering another person who cannot be held accountable." ; " and the phrase " those who, by giving or promising something, by abusing power or dignity, by violence, threats or misdirection, or by providing opportunities, means or information, deliberately encourage other people to commit criminal acts." Where in the previous Criminal Code, namely Article 55 of the Criminal Code, there was no similar regulation.

The expansion of the offense of inclusion in Law Number 1 of 2023 concerning the Criminal Code actually has an influence in the form of strengthening the implementation of law enforcement contained in Law Number 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism, which was later updated. -Law Number 5 of 2018 concerning Eradication of Criminal Acts of Terrorism, and Law Number 9 of 2013 concerning Prevention and Eradication of Criminal Acts of Terrorism Funding, where there is an expansion of the offense of participation, especially in material encouraging other people to commit criminal acts by giving or promising something. , abusing power or dignity, committing violence, using threats of violence, committing misdirection, or by providing opportunities, means, or information, where there is compatibility between the expansion of the offense of participation can certainly work in harmony in maximizing law enforcement efforts in the form of punishment for offenses criminal acts contained in legal regulations related to terrorism.

V. SUGESTIONS

It is recommended that in the future the expansion of the meaning of the offense of inclusion needs to be disseminated to all POLRI personnel and personnel in related agencies, involving higher education institutions and internal education of the POLRI and related agencies, so that the application of the offense of inclusion is expanded in the provisions of Article 20 of Law Number 1 of the Year 2023 concerning the Criminal Code can run effectively, especially to strengthen criminal law enforcement in the field of terrorism which is known to have quite diverse classifications of perpetrator roles, as

outlined in Law Number 5 of 2018 concerning Eradication of Criminal Acts of Terrorism, and Law Number 9 of 2018 2013 concerning Prevention and Eradication of Criminal Acts of Terrorism Financing, so that law enforcement related to offenses of participation can be effective and on target.

It is recommended that in the future, apart from outreach to relevant law enforcement agencies, government support is also needed in the form of improving the necessary equipment, facilities and infrastructure as well as strengthening cooperation between agencies in order to maximize efforts to disclose and enforce criminal law, especially in the field of criminal acts of terrorism, such as cooperation between Densus 88 with BNPT, State Intelligence Agency, Disdukcapil, PPATK, and BPK, in order to maximize disclosure efforts and law enforcement to be able to examine the role and form of assistance of each perpetrator and maximize evidentiary efforts to link the roles of the perpetrators to each other.

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