

ABSTRAK

Perspektif politik hukum di Indonesia berkaitan dengan pengaturan pemberantasan tindak pidana pendanaan terorisme di atur dalam UU No. 15 Tahun 2003 tentang Pemberantasan Tindak Pidana Terorisme (UU No. 15/2003 atau disebut UU Terorisme). Kemudian diatur pula dalam Undang-Undang Nomor 9 Tahun 2013 tentang Pencegahan dan Pemberantasan Tindak Pidana Pendanaan Terorisme (UU No. 9/2013 atau disebut UU Pendanaan Terorisme). Dalam kedua undang-undang tersebut terdapat pergeseran politik hukum berkaitan dengan konsep *mens rea* dan *actus reus* berkaitan dengan konsep kriminalisasi pendanaan terorisme yang dapat dipidana. Pergeseran politik hukum tersebut sangat menarik untuk dikaji konsep hukumnya dalam disertasi ini. Permasalahan yang mendasar untuk diteliti dan dikaji dalam disertasi ini adalah (a) Bagaimana bentuk pergeseran politik hukum pengaturan pencegahan dan pemberantasan Tindak Pidana Pendanaan Terorisme yang diatur dalam Undang-Undang No. 9/2013 dibandingkan dengan ketentuan Undang-Undang No. 15/2003. (b) Bagaimana bentuk pencegahan dan pemberantasan tindak pidana pendanaan teroris di Indonesia. (c) Kendala-kendala Apa saja yang dihadapi dalam pencegahan dan pemberantasan tindak pidana pendanaan terorisme di Indonesia dan bagaimana bentuk pengaturan kemungkinannya di masa mendatang terhadap pencegahan dan pemberantasan tindak pidana pendanaan terorisme. Guna meneliti dan mengkajinya, penelitian disertasi ini menggunakan metodologi penelitian hukum normatif yang didekati dengan konsep *statute approach*, *conceptual approach*, *case approach*, dan *comparative approach*, akan terdiskripsikan dan terpreskripsikan bentuk politik hukum pencegahan dan pemberantasan tindak pidana pendanaan terorisme di Indonesia, yang kemudian dianalisis secara mendalam (*in depth*). Hasil temuan dalam disertasi ini diantaranya bahwa, *pertama*, bentuk politik hukum pengaturan pencegahan dan pemberantasan Tindak Pidana Pendanaan Terorisme yang diatur dalam UU Pendanaan Terorisme dibandingkan dengan ketentuan UU Terorisme sangatlah berbeda konsep hukumnya, dimana: (a) dalam UU Pendanaan Terorisme dikenal konsep *follow the money*, sedangkan UU Terorisme dikenal konsep *follow the suspect*; (b) pengertian dana dalam konsep UU Pendanaan Terorisme mengalami perluasan; (c) Dalam UU Pendanaan terorisme diatur konsep kualifikasi dan kriteria pendanaan terorisme; (d) Pelaku subyek hukum tindak pidana pendanaan terorisme dalam UU Pendanaan Terorisme diperluas yaitu subyek hukum “orang” dan “korporasi”, sedangkan dalam UU Terorisme dikenal konsep subyek hukum “orang” saja; (e) Dalam UU Pendanaan Terorisme dikenal konsep bentuk pencegahan dan tindakan berupa upaya pemblokiran, upaya pencantuman daftar nama orang dan korporasi sebagai terduga teroris dan organisasi teroris; (f) Dalam UU Pendanaan Terorisme dikenal konsep upaya perlindungan hak bagi subyek hukum yang terkena pemblokiran dana dan atau pencantuman nama daftar orang atau korporasi sebagai terduga teroris dan organisasi teroris; (g) Dalam UU Pendanaan Terorisme dikenal konsep pemberlakuan wilayah yurisdiksinya. *Kedua*, bentuk pencegahan dan pemberantasan tindak pidana pendanaan terorisme yaitu: (a) tindakan pemidanaan terhadap pelaku subyek hukumnya; (b) tindakan pencegahan; (tindakan pencegahan penggunaan dana berupa tindakan “pemblokiran” dan “pemblokiran secara serta merta”; (d) tindakan pengawasan atas orang atau korporasi yang masuk dalam daftar nama terduga teroris dan organisasi teroris. *Ketiga*, kendala yang dihadapi setelah berlakunya UU Pendanaan Terorisme khususnya dalam kegiatan Organisasi Non Profit (Non Profit Organization) atau dikenal dengan nama NPO yang seringkali dijadikan sarana modus aliran pendanaan terorisme. *Keempat*, belum dilakukan pengaturan yang komprehensif dalam suatu peraturan hukum.

Kata Kunci : Politik Hukum-Pencegahan dan Pemberantasan-Tindak Pidana Pendanaan Terorisme. di Indonesia

ABSTRACT

Perspective of legal politic in Indonesia in respect of eradication criminal act of terrorist financing is regulated under the Law Number 15 year 2003 regarding the eradication criminal act of terrorism (here after shall be referred as to terrorism law). Afterward it is regulated further under the law Number 9 Year 2013 regarding the prevention and eradication criminal act of Terrorist Financing law. Under those regulations there is a change of legal politic in respect of mens rea and actus reus concept related to the criminalization concept of terrorist financing which is able to be convicted. Due to such changes it is quite interesting to analyze its legal concept here in. The root issues which are to be examined and analyzed here in as follows: (a) what kind of legal politic implemented to prevent and eradicate the terrorist financing as regulated under the terrorist financing law Number 9 Year 2013 compared to law Number 15 Year 2003 the legal politic as implemented under the terrorism law; (b) how to prevent and eradicate criminal act of the terrorist financing in Indonesia; (c) what kinds of obstacles need to overcome in preventing and eradicating criminal act of terrorism financing in Indonesia. To examine and analyze those issues in normative legal research is used in this dissertation, using the statute approach concept, the conceptual approach, the case approach and the comparative approach, in which will be followed by a description and recommendation the type of legal politic to prevent and eradicate criminal act of the terrorist financing in Indonesia, thus to be deeply analyzed. The finding under this dissertation among others, *Firstly*, the legal politic which is applied to prevent and eradicate the criminal act of terrorist financing as regulated under the terrorist financing law basically implements the different legal concept compared to legal politic as implemented under the terrorism law, i.e. (a) terrorist financing law is recognized follow the money concept while the terrorism law is recognized follow the suspect concept; (b) the term of financing under the terrorism financing law is broadened; (c) under the terrorist financing law is recognized qualification and criteria concept of terrorist financing; (d) the term of legal subject who conduct the criminal act of terrorism under the terrorist financing law is broadened into individual and entity mean while the terrorism law is recognized is legal subject only; (e) under the terrorist financing law is recognized the concept as freezing banks account, insertion under the list of individual and entity who are suspected as a terrorist and terrorist organization; (f) under the terrorist financing law is recognized the right protection upon the legal subject who experience in freezing banks account and or being listed as suspected terrorist and terrorist organization; (g) under the terrorist financing law is recognized the territorial jurisdiction concept. *Secondly*, the act to prevent and eradicate the criminal act of terrorist financing i.e. (a) the punishment upon the person who commit the crime; (b) the prevention act (the act to prevent of using the funds by freezing bank's account or freezing without delay bank's account); (c) the monitoring upon the person or entity who are listed as the suspected terrorist and terrorist organization. *Thirdly*, obstacles need to overcome after the implementation of the terrorist financing law particularly on the activity of non profit organization or known as NPO in which mostly being used as vehicle for the flow of terrorist financing. *Fourthly*, there is no comprehensive regulation yet.

Key Word : Legal Politic prevention and eradication criminal act of the Terrorist Financing in Indonesia