

LEGAL REVIEW OF THE CAUSES OF A PERSON ASSISTING IN THE COMMISSION OF A CRIMINAL OFFENSE

Syahril¹, Zulkarnain Hasibuan², Ahmad Husein³, Sarmadan Pohan⁴

¹Faculty of Law, Universitas Muhammadiyah Tapanuli Selatan, E-mail: syahril@um-tapsel.ac.id

²Faculty of Law, Universitas Muhammadiyah Tapanuli Selatan, E-mail: zulkarnaian.hasibuan@um-tapsel.ac.id

³Faculty of Law, Universitas Muhammadiyah Tapanuli Selatan, E-mail: ahmad.husein@um-tapsel.ac.id

⁴Faculty of Law, Universitas Muhammadiyah Tapanuli Selatan, E-mail: sarmadan.pohan@um-tapsel.ac.id

Abstract

Law as a social phenomenon is a reality of social life, or in other words, all forms of human relationships within society, whether they conform to human norms or rules of life or are prohibited, are described in law. Therefore, it can be said that what is established in law serves as a standard for governance and prohibitions in human life within society, aimed at creating a just, orderly, and prosperous life, thereby fostering a safe and happy existence. This situation can be seen specifically in the depiction of the national legal system, where the government of the Republic of Indonesia, since its independence, has sought to establish a national legal system to create a clean and authoritative state, thereby hoping to achieve the objectives of the Republic of Indonesia as stated in the 1945 Constitution to create a just and prosperous society, both materially and spiritually. The method used to analyze the problem will employ a descriptive research approach through library research and field research, utilizing data collection techniques such as interviews and document analysis. Once the data is collected, it will be tested using deductive and inductive testing techniques. From the data generated in the research, it is evident that the factors causing criminal acts are to assist in committing criminal acts to obtain rewards in the form of goods or objects and/or destruction due to the intimate relationship with the perpetrator and/or revenge against the victim.

Keywords: Legal Review, Criminal Offenses.

I. INTRODUCTION

Law as a social phenomenon is a reality of social life, or in other words, all forms of human relationships within society, whether they conform to human norms or rules of life or are prohibited, are described in the law. Legal Review, Criminal Acts. In everyday life, humans as social beings follow norms of living determined by their own attitudes and the rules they have established as guidelines. This can only be achieved through social awareness. The ability to think, will, and feel determines human consciousness.¹ With these norms in society, social control is necessary for human behavior. Human behavior is regulated by written laws or official legislation.²

¹ Sardjana Orba Manullang, *Sosiologi Hukum* (Jakarta: Bidik-Phronesis Publishing, 2019), p. 9.

² Hartanto, *Metodologi Penelitian Hukum* (Bekasi: Cakrawala Cendekia, 2018), p. 18

Initially, the law had a theory of liability as proposed by Roscoe Pound, "An obligation to compensate for the revenge of a person against whom an injury has been committed, either by the person himself or by something under his control".³ Therefore, it can be said that what has been stipulated in the law is already a benchmark in the form of governance and prohibitions for human life in society, with the aim of creating a just, orderly, and prosperous life so that a safe and happy life can be achieved. This situation can be seen specifically in the description of the national legal system, where the government of the Republic of Indonesia has, since its independence, sought to establish a national legal system in order to create a clean and authoritative state. thereby hoping that the objectives of the Republic of Indonesia as enshrined in the 1945 Constitution to create a just and prosperous society, both materially and spiritually, will be achieved.

The national legal development efforts that have been implemented by the government should receive serious attention from all levels of society, both from government officials as law enforcers and from the general public, in order to prevent violations of the rights and interests of all individuals. An act whose perpetrator is subject to criminal punishment, and this perpetrator can be said to be the "subject" of the criminal act.⁴

The commission of a criminal offense may be carried out by any individual or by two or more persons acting in concert to commit a criminal offense, therefore, several terms are recognized in criminal law, such as the perpetrator (Pleger), the instigator (Doen Plegen), the accomplice (Medelleger), and the instigator who, through bribery, abuse of power, use of violence, or other means, intentionally persuades another to commit the act, referred to as the (Uitlokker). Then there is another term in criminal law called aiding and abetting (Medeplichtig), which refers to a person who deliberately provides assistance, opportunity, effort, or information for the commission of a crime or criminal act.⁵

Aiding and abetting crimes often occur in the commission of a criminal act. This is based on the author's opinion that it is impossible, for example, for a thief or robber from another place to know the situation or conditions of a place (lorang) where the crime is committed or to know the strategic entrances and exits without the help or information from other people. With the help of information, opportunities, and efforts, criminal organizations will be able to identify targets or victims, places or locations, and situations that are most suitable for carrying out their malicious intentions against individuals or households. Therefore, the Criminal Code (KUHP) explicitly threatens punishment for acts of aiding and abetting a criminal offense. This is clearly stipulated in Articles 56 and 57 of the Criminal Code (KUHP).

In accordance with the explanation of this article, judges are given the authority to punish those who assist in committing a crime, either by reducing their sentence by one-third of the original sentence, or by reducing their sentence by one-third of the

³ Roscoe Pound, *Pengantar Filsafat Hukum* Jakarta: Bharata Karya Aksara, 1982, p. 80

⁴ Wiryono Prijodikoro, *Azas-Azas Hukum Pidana di Indonesia*, Jakarta: Eresco, 1981, p. 50

⁵ R. Soesilo, *Kitab Undang-Undang Hukum Pidana*. Bogor: Politeia, 1986, p. 75

sentence imposed on the perpetrator, or by considering other possibilities depending on the circumstances of the case.⁶ Of the three possible types of punishment for persons who assist in committing the above acts, the possibility of punishment may differ between judicial jurisdictions, so it is necessary to examine the punishments imposed by judges on persons who assist in committing these crimes.

II. RESEARCH METHOD

This study uses a personal approach to the required sources of information, both primary data and secondary data sources. The type of research conducted is observational research using a survey method, which is research carried out in the field to obtain the necessary data and ultimately answer the problems faced. The sources used in this study are primary and secondary data. After the data was collected, both primary and secondary data obtained from the field through interviews were then processed by grouping the data according to type.

III. ANALYSIS AND DISCUSSION

Procedures for Determining a Person Who Assists in Committing a Criminal Offense

When discussing the procedure for determining whether someone is involved in aiding and abetting a crime, the authority to qualify this lies solely with the judge in deciding the case and the prosecutor as the public prosecutor in proving it. The task of a judge to decide a case by determining that a defendant has "aided and abetted a criminal offense" and the task of a public prosecutor to prosecute and prove that a person has aided and abetted a criminal offense is not an easy job in the judicial process, because to qualify an act as aiding and abetting, one must review the police investigation report and the evidence already received by the prosecutor's office, and then the prosecutor, as the public prosecutor, prepares the indictment to be presented in court, and subsequently the judge analyzes the indictment in light of the provisions of the Criminal Code.

Factors Contributing to the Occurrence of Aiding and Abetting a Crime

When discussing the factors that cause a person to assist in committing a crime, we cannot avoid discussing the motives or factors that drive the perpetrator to assist in committing a crime. Therefore, the motivation may take the form of the perpetrator's desire to commit an act with the expectation of receiving some form of reward, or due to pressure from a threat or enticement, or even out of hatred. It is important to understand that a person who assists in committing a crime is not acting as the perpetrator of the crime, but rather as an accomplice to the crime. With the information

⁶ R. Sugandhi, *Kitab Undang – Undang Hukum Pidana dengan Penjelasannya*, Surabaya: Usaha nasional, 1980, p.72-73

provided by the person assisting in the crime, the crime committed by another person will be carried out according to the instructions given.

As for the motive behind committing the crime, we have not yet seen any evidence of hatred towards the employer due to low wages, competition within the business, or jealousy towards others, which would cause the person concerned to feel comfortable providing information to others to commit a crime in a certain place or house. What remains unclear from the respondents' explanations of the motives or factors behind their involvement in this crime, in the author's opinion, is that those who are caught rarely tell investigators (the police) that there are other people involved in the crime. yet in reality, when observing a criminal incident at a particular location, the perpetrator is often someone from outside the area, yet they are familiar with the ins and outs of a specific house or location—something that, in our view, the criminal themselves would not be able to know.

Penalties Imposed by Judges on Persons Who Assist in the Commission of Crimes

The punishment referred to in this discussion is the length of the sentence imposed by a judge on a person who has aided and abetted a criminal offense as a result and punishment for their actions. Criminal liability for persons who aid and abet a criminal offense must be viewed from the perspective of the role of the person who participated in the criminal offense, so it depends on the elements, because not all cases require a reduction of 1/3 of the sentence.

If only a statement is given, the punishment may be slightly reduced, but if the perpetrator is also given the opportunity to supervise others who may commit crimes against the property under his supervision, the punishment will be more severe. Therefore, in order to determine the punishment for a person who assists in committing a criminal offense, the judge must examine the extent of the person's actions in assisting in the commission of the criminal offense. As a result, the punishment is not always as described in the explanation of Article 57 of the Criminal Code (KUHP) because the punishment may vary for persons who involved in the act of aiding and abetting a criminal offense, for example, some may have their sentence reduced by one-third of the principal sentence, some may have their sentence reduced by one-third of the sentence imposed on the perpetrator, and some may only be sentenced to more than one-third of the sentence imposed on the perpetrator, while others may only be sentenced to probation. In various criminal law literature, the term “aiding and abetting” is commonly used.⁷ In the case of incitement, the person who is incited cannot be punished, but on the other hand, the person who incites another to

⁷ Ramelan, *Perluasan Ajaran Turut Serta Dalam Pemberantasan Tindak Pidana Terorisme Transnasional* (Jakarta: Sekretariat Jenderal Departemen Pertahanan Biro Hukum, 2009).

commit a criminal act can be punished. This is the sharp distinction between incitement and instigation.⁸

Procedures for Determining a Person Who Assisted in Committing a Crime

When we discuss the procedure for determining whether someone is involved in a criminal act as an accomplice, what is meant here is how a judge determines that a person is clearly and undoubtedly an accomplice to the crime. For example, in the case of theft, where the perpetrator is someone residing in another area and has never been seen near the crime scene, but knows the location and storage of the money and can escape through the quiet alleys away from the local residents' crowds.

So, based on the results of the incident, we assume that there were local people who provided information to the perpetrator, and after the perpetrator was arrested by the police, during the investigation, the perpetrator only said that no one else was involved in the case. Therefore, the task of identifying perpetrators who aid and abet criminal acts is a job that requires hard work on the part of the police and prosecutors in order to apprehend the perpetrators. The prosecutorial duties assigned to public prosecutors, as stipulated in Article 137 of the Indonesian Criminal Procedure Code (KUHAP), mandate the prosecution of anyone accused of committing a criminal offense within their jurisdiction by referring the case to the competent court for adjudication.

Then, in Article 138 paragraph (1) of the Criminal Procedure Code (KUHAP), after receiving the results of the investigation from the investigator, the public prosecutor shall immediately study and examine them and, within 7 (seven) days, notify the investigator whether the results of the investigation are complete or not, and if they are not complete or incomplete, then in accordance with paragraph (2), the public prosecutor shall return the case files to the investigator along with instructions on what needs to be done to complete it. Within 14 (fourteen) days of receiving the case file, the investigator must resubmit the case file to the public prosecutor.

Therefore, with investigative authority vested in the police and prosecutorial authority vested in prosecutors, it can be said that, based on the data obtained from the research, the role of judges in the judicial process is limited to adjudicating cases brought before them. Given that the court's authority is limited to adjudicating cases in accordance with the law as stipulated by the relevant legislation, it is most hoped that the involvement of an individual as an accomplice will be revealed by the investigating officers, supplemented by the prosecutor's meticulous analysis of the case files received to determine whether there are any other individuals implicated in the case

⁸ Fahrurrozi dan Samsul Bahri M. Gare, "Sistem Pemidanaan Dalam Penyertaan Tindak Pidana Menurut KUHP," *Media Keadilan: Jurnal Ilmu Hukum* 10, no. 1 (2019): p. 59.

files in question. From this analysis, it can be seen that the procedure carried out by the judge in determining whether a person is involved in a case as an accomplice is based on the public prosecutor's indictment and the evidence presented, as well as the testimony given by witnesses. If the judge is convinced by all the facts presented by the public prosecutor, then the person is determined to have committed a criminal act as an accomplice.

Factors Contributing to the Occurrence of Criminal Acts of Aiding and Abetting

When discussing the factors that cause a particular act, we are referring to the things that drive a person to commit a certain act, or what can also be called a motive, so that we can distinguish between one factor and another. In this case, the factors causing assistance in committing a criminal act are the motives that drive an individual to commit a criminal act, such as providing information, opportunities, or guidance to others, enabling them to understand the details of the location, circumstances, or target of a criminal act. That the factors contributing to the commission of criminal acts, according to his observations, are:

1. Because they want to gain benefits for themselves or others.
2. Due to threats from the perpetrator (main perpetrator).
3. Because of their intimacy or closeness with the perpetrator, the person is willing to help carry out the act.

Similarly, lawyers argue that contributing factors help to commit the crime:

1. Because poverty expects rewards.
2. Because of resentment.

With these various factors, it can be understood that each type of crime that occurs has a specific motive for the person who assists in committing it. Some due to family or kinship ties, leading them to become involved as accomplices in criminal acts; others may expect monetary compensation due to coercion or threats; some may be motivated by friendship, while others may act out of hatred or revenge toward others, thereby willingly providing information, assistance, or opportunities to facilitate the commission of the crime.

Imposition of Punishment for Persons Who Assist in the Commission of Criminal Offenses

Legal accountability for persons who aid in the commission of a criminal offense can be interpreted as the imposition of punishment on persons who commit crimes as a consequence of their actions, which violate the law and cause harm to others in terms of property, life, honor, or public order. Then, in another explanation, it is mentioned that in criminal practice, judges rarely impose additional penalties on perpetrators or accomplices, unless there are very strong factors that support the imposition of such penalties. However, the penalties imposed on the main perpetrators must be heavier than those imposed on the accomplices.

With regard to legal responsibility for persons who assist in committing this crime, the lawyer explained that in order to impose a sentence, the role of the person who assisted in committing the crime must be considered, so it depends on the elements of the crime, because not all sentences must be reduced by one-third. So, in practice, the person who helped can get a punishment that's about a third less than the punishment given to the criminal they helped, but this doesn't mean it's always like that. It's possible that, depending on the case, the judge will punish the criminal themselves, but the punishment can't be more than the main punishment threatened, minus a third.

IV. CONCLUSION

The review concludes that the act of assisting in committing a crime can arise from various factors, both personal and external. Legal accountability in such cases typically hinges on the intention and knowledge of the accomplice regarding the criminal activity. Factors like coercion, influence, or complicity play significant roles in understanding why someone may assist in an offense. Furthermore, the legal system holds individuals responsible based on their involvement, whether as a direct participant, facilitator, or instigator. A deeper analysis of intent, motives, and evidence is essential to determine the extent of their liability under criminal law.

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