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Fundraising Aspect of International Terrorism Organization in ASEAN: Legal and Political Aspects

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Abstract *Since the Bali Bombing I and Bali Bombing II Tragedy, the seriousness of combating international terrorism have become increasingly apparent. Each member of ASEAN hand in hand together enforces both international cooperation and bilateral cooperation to prevent and counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations, whether such financing is direct or indirect through organizations. International community efforts to combat terrorism activities, not only comprise the criminalization of terrorists the act criminalization financing of terrorism, and the criminalization of terrorist financing. Since that moment, the topic of money laundering is an inherent element of organized crime, with its strong linkage to terrorism, has found and always will find new methods to satisfy the also new necessities for financing terrorism. ASEAN already make a policy about terrorism*

which is the convention on counter-terrorist called ASEAN Convention on Counter-Terrorism (ACCT). The convention of ACCT, in article 6 Areas of Cooperation, ASEAN emphasizes the prevention of giving the fund to the terrorist group. Indonesia had given responses to financing terrorism by ratifying The International Convention for the Suppression of the Financing of Terrorism, 1999, and subsequently with the enacted Law Number 6 Year 2006 and also enacted the new Prevention and Eradication Money Laundering Offence, Law Number 8 of 2010.

Keywords Terrorism, Financing of Terrorism, Money Laundering, International Convention

1. Introduction

In recent years, some ASEAN member countries have experienced security disturbances due to terrorist acts carried out by armed groups in the Southeast Asian region. The Abu Sayyaf group often hijacks and takes hostage in the border area between Indonesia-Malaysia-Philippines waters. Indonesia was a country prone to terrorists in the early 2000s. Terrorists need a lot of money to carry out their actions. Funds are needed to prepare for operations, such as to promote propaganda, fund terrorist members and their families, fund travel and lodging, train recruits, fake documents, and buy weapons.¹

¹ Financing terrorism is a grave global concern that threatens the security and stability of nations worldwide. It refers to the process of providing funds or financial support to individuals, groups, or organizations involved in terrorist activities. These illicit financial activities can include money laundering, illicit trade, fraud, and exploitation of legitimate financial systems. Financing terrorism poses a significant challenge for law enforcement agencies and requires international cooperation to disrupt these networks. Efforts to combat this menace involve implementing stringent anti-money laundering and counter-terrorism financing measures, enhancing intelligence sharing, and promoting financial transparency. By tackling the financing of terrorism, we can weaken the operational capabilities of terrorist organizations and safeguard the safety and well-being of societies. *See* Noura Ahmed Al-Suwaidi, and Haitham Nobanee. "Anti-money

Terrorism is a crime against humanity that threatens the country's sovereignty. The state must protect the public from criminal acts of terrorism and activities that support terrorism. Romli Atmasasmita, one of Indonesian legal scholars, highlighted that terrorism is an extraordinary crime, both in its motive, modus operandi, funding, and organizational structure. The motives for international and domestic terrorism activities are often covered by extremist forces in fighting for ideology, in religion, and also by extremities in assessing social disparities that occur in society.²

To criminalize the Financing of Terrorism, Indonesia ratifies the International Convention for the Suppression of the Financing of Terrorism 1999 (established as Law Number 6 the Year 2006 concerning the Ratification of the International Convention for the Suppression of the Financing of Terrorism 1999), therefore Indonesia is obliged to include and synchronize the elements in the convention with the associated positive law.

Furthermore, in the same context, principally, there are two methods of terrorism financing, first, supported by the state (state-sponsored terrorism), and second, direct financing by terrorism. Article 8 International Convention for the Suppression of the Financing of Terrorism, 1999 has explicitly prescribed each party to take appropriate measures, following its domestic legal principles, for the identification, detection, and freezing or seizure of any funds used or allocated to commit the terrorism offenses.³

laundering and anti-terrorism financing: a survey of the existing literature and a future research agenda." *Journal of Money Laundering Control* 24, No. 2 (2021): 396-426; Jeanne K. Giraldo, and Harold A. Trinkunas. "The Political Economy of Terrorism Financing." In *Terrorism Financing and State Responses*. (Stanford: Stanford University Press, 2022), pp. 7-20; Sylvia Windya Laksmi. "Nexus between charities and terrorist financing in Indonesia." *Counter Terrorist Trends and Analyses* 11, No. 7 (2019): 6-10; Oktii Putri Andini, "Cyber Terrorism Criminal Acts in the Perspective of Transnational Organized Crime." *Unnes Law Journal* 7, No. 2 (2021): 333-346.

² Romli Atmasasmita, "Strategy for Combating Terrorism and Its Implication in Indonesia", *Indonesia Law Journal* 1, No.1 (2016): 36-39. Available online at <http://www.bphn.go.id/data/thumbnails/romli.pdf>

³ See also Jean-Marc Sorel, "Some questions about the definition of terrorism and the fight against its financing." *European Journal of International Law* 14, No. 2 (2003): 365-378; Mark Pieth, "Criminalizing the Financing of Terrorism." *Journal of International Criminal Justice* 4, No. 5 (2006): 1074-1086.

Also, Indonesia has established Law Number 9 of 2013 concerning the Prevention and Eradication of Terrorism Financing Crimes. Law Number 9 of 2013 is expected to regulate comprehensive reporting, compliance monitoring, blocking mechanisms, investigations, prosecutions, and court' examinations, as well as national and international cooperation in the prevention and eradication of terrorism financing crimes.⁴

The fundraising aspect of international terrorism organizations in the Association of Southeast Asian Nations (ASEAN) region is a critical concern in global security. These organizations employ various illicit methods to generate funds, enabling them to sustain their operations and perpetrate acts of violence and destabilization. Understanding the intricacies of their fundraising networks is crucial for governments and international agencies to devise effective strategies to counter terrorism and safeguard regional

⁴ See Yunita Prananda Maulida, "The History of Terrorism in Indonesia and Efforts to Prevent Terrorism in Indonesia." *Jurnal Scientia Indonesia* 3, No. 2 (2017). In the further discussion and context, the history of Indonesia's anti-terrorism act can be traced back to the early 2000s when the country faced a series of deadly terrorist attacks. One of the most notable incidents was the Bali bombings in 2002, which claimed the lives of over 200 people, including foreign tourists. In response to these attacks and growing concerns over terrorism, the Indonesian government recognized the need for comprehensive legislation to combat terrorism effectively. The initial legal framework for counterterrorism efforts was established through the enactment of Law No. 15/2003 on Terrorism, also known as the Indonesian Anti-Terrorism Act. This act provided a legal basis for prosecuting individuals involved in acts of terrorism and established penalties for various terrorism-related offenses. It granted law enforcement agencies broader powers to investigate and prevent terrorist activities, including enhanced surveillance capabilities and the ability to detain suspects for longer periods without charge. However, as the threat of terrorism continued to evolve, the Indonesian government recognized the need for further strengthening its legal framework. In 2018, the country passed a significant revision to the Anti-Terrorism Act with the enactment of Law No. 5/2018 on the Amendment to Law No. 15/2003. The amended law introduced several important provisions to enhance Indonesia's counterterrorism efforts. It expanded the definition of terrorism to encompass broader forms of terrorist acts and organizations. It also established mechanisms to prevent radicalization and address the financing of terrorism. See also Ridho Dwiki Tastama, "The Urgency of Completing Revision of Indonesia's Anti-Terrorism Law". *Indonesian Journal of Counter Terrorism and National Security* 1, No. 1 (2022): 1-20. <https://doi.org/10.15294/ijctns.v1i1.56721>; Dani Muhtada, "Finding Some Alternatives in Indonesian Legal Development". *Journal of Indonesian Legal Studies* 1, No. 1 (2017): 1-2. <https://doi.org/10.15294/jils.v1i01.16576>

stability. This article aims to shed light on the fundraising mechanisms employed by international terrorism organizations within the ASEAN context and explore the challenges associated with disrupting their financial networks in the legal and political context.

2. Method

The type of research used in solving the problem is normative legal research, legal research is conducted by examining literature and interview results. The collection of legal materials is done by literature research which is collecting books of law, both books from domestic and foreign books, papers, web articles, and law magazines relevant to the research object. Since the legal material required in the research has been collected, the data is processed and analyzed by the author. The qualitative method is used to analyze the data, meaning the author sees the value of the legal materials (evaluation). Where evaluation is evaluating whether the opinions, statements, norms, and decisions lied in the written materials are appropriate or inappropriate, true or false, valid, or invalid.

3. Result and Discussion

A. The Methods of Terrorism Fundraising

In general, the 2 (two) important aspects of terrorism funding are the funding of special terrorism operations and the funding of cross-border organizations that build up infrastructure and/or spread the terrorism ideology. They have ranged from a variety of sources including, but not limited to the use of charitable organizations, corporate “front” entities, financial institutions, and Internet-based funding. The following patterns describe only some of the many possibilities that have been applied in the past to finance terrorism, especially in the International Terrorism Organization and its supporting societies. One may find the modifications and variations of these patterns, but in general, they act as the guideline in the search for money laundering crimes and may lead one in the right

direction. Therefore, these patterns/methods are intended to be indicators that will assist in piecing the puzzle together.

1) Charities/ Non-profit Organizations

Charities could be classified as non-profit organizations (NPOs). NPOs can be defined as non-governmental organizations and non-political parties that are autonomous and self-regulating, formed and managed freely by a group of people to give positive feedback in society.⁵ Also, NPOs do not share their profits with the members, the directors, or the asset holders. These days, there are more than 21 (twenty-one) thousand organizations classified as NPOs, with the majority of their legal entity status being foundations (98%) and the rest of their status being associations (2%).

Regarding al-Jamaah al-Islamiyah, Abuza states that some of the terrorist organization's funding comes from charities. Several foundations or charities originating from Saudi Arabia operate in the Southeast Asia region. Some of them such as Komite Penanggulangan Krisis (KOMPAK); Al Haramain Foundation; the Islamic International Relief Organization (IIRO); and the World Assembly of Muslim Youth (WAMY), are indicated to fund al-Jamaah al-Islamiyah.

In Author's opinion, the vulnerability of the NPO sector in Indonesia is the complexity of the NPO regulations resulting in a less effective synergy among the NPO regulations. The registration and legalization of NPOs' legal entities haven't been well-ordered the cross-ministerial level. The below diagram shows how legally earned money for financing illegal activities:⁶

⁵ Rusli Safrudin, "Penanggulangan Terorisme Di Indonesia Melalui Penanganan Pendanaan Terorisme: Studi Kasus Al-Jamaah Al-Islamiyah (JI)," *Jurnal Pertahanan dan Bela Negara* 3, No. 1 (2013): 126, <https://jurnal.idu.ac.id/index.php/JPBH/article/view/378/252>

⁶ Rohan Gunaratna, *Combating Terrorism* (Singapore: Marshall Cavendish Academic, 2005).

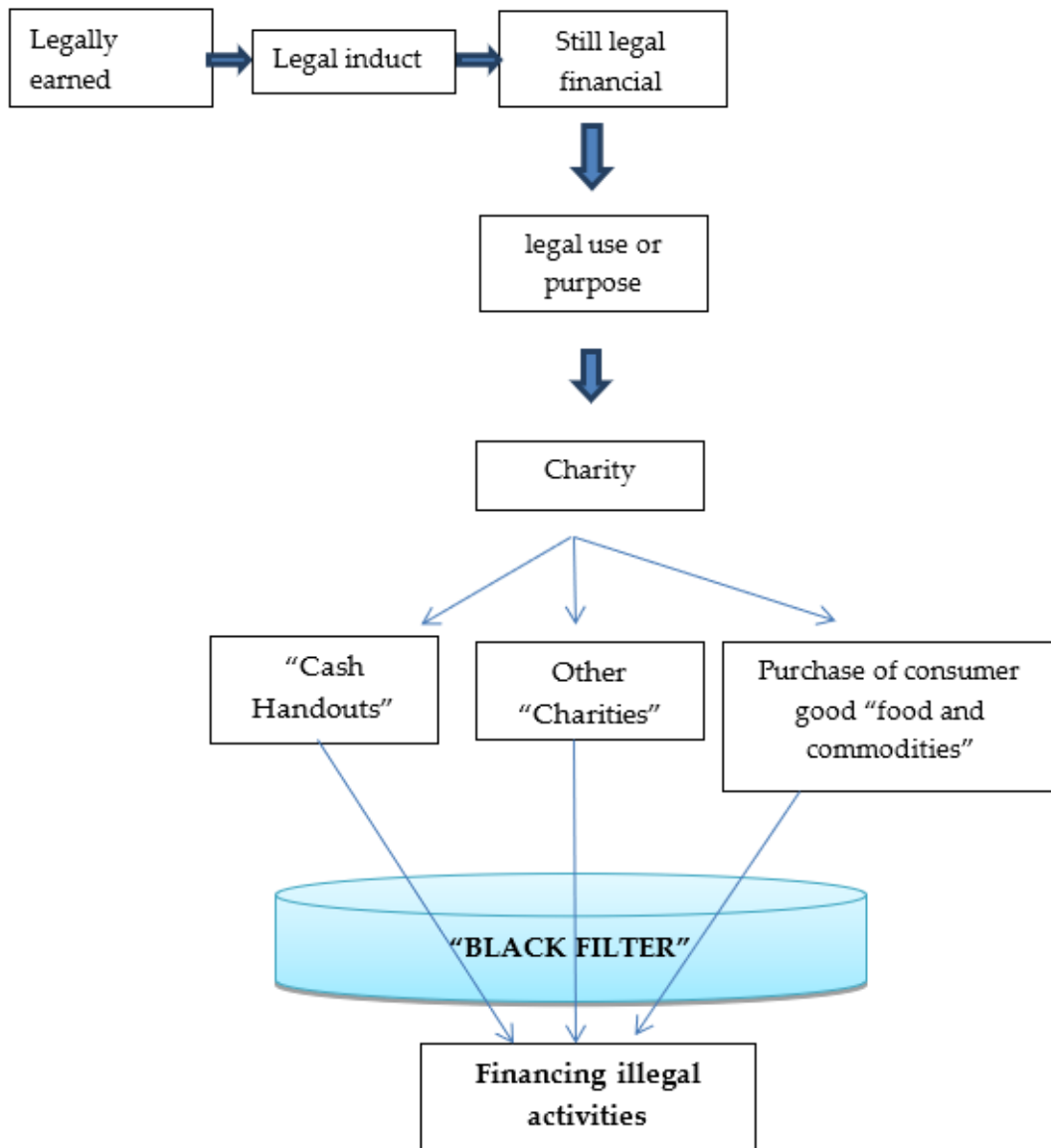


FIGURE 1. Financing Illegal Activities

Indonesian Financial Transaction Reports and Analysis Center states there are only a small number of reports from financial service providers regarding suspicious transactions of NPO entities in terrorism cases. There have not been any obligations that require NPOs to report the receipt, management, and fund expenditure. Although, the funds could be in large amounts.

2) Corporations/ For-Profit Entities

Whereas charities and other similar non-profit entities provide excellent cover for terrorists, the usage of for-profit corporations and entities for funneling money to international terrorists has also been uncovered as a part of the support infrastructure. These for-profit bodies can alter their balance sheets and financial statements to hide the fact that profits from various commercial enterprises (including real estate deals, internet ventures, and other seemingly innocuous business transactions) were used to finance terrorism worldwide. With this accounting mechanism in place, a corporate model allows terrorists to transfer money between branches around the world with little public or government scrutiny.

In early July 2019, Para Wijayanto, the leader of the al-Jamaah al-Islamiyah terrorist network were arrested.⁷ The terrorist network responsible for Bali Bombing 1 in 2002 is still existed and active. The latest arrest reveals that al-Jamaah al-Islamiyah uses the oil palm plantation business to raise funds. The new leader of al-Jamaah al-Islamiyah runs the plantation business to both raise funds and recruit more members. The goal is to establish an Islamic state in Indonesia.

Oil palm plantations are a huge business in Indonesia.⁸ The country is the world's largest palm oil exporter. This business could obtain a large income. Besides, plantations may provide the opportunity to purchase large quantities of chemicals, such as fertilizers, which use to make bombs.

⁷ Sylvia Laksmi "Hasil Riset: Kelompok Teroris Di Indonesia Lakukan Bisnis Legal Untuk Mendanai Operasi Mereka" *THE CONVERSATIONS*, 15 July, accessed from <https://theconversation.com/hasil-riset-kelompok-teroris-di-indonesia-lakukan-bisnis-legal-untuk-mendanai-operasi-mereka-120288>

⁸ ASEAN Studies Center "The Challenges of Indonesia's Palm Oil Industry: An overview" *ASEAN Studies Center*, 21 December, accessed from <https://asc.fisipol.ugm.ac.id/2018/12/21/challenges-indonesias-palm-oil-industry-overview/>

3) Banking System and Financial Technology

As one of the financial services sectors, the bank is vulnerable to terrorism funding. Al-Jamaah al-Islamiyah often uses the banking facility to fund its actions. Bank offers convenience to keep, fast transfer both nationally and internationally, and withdraw money from Automated Teller Machines which are provided everywhere. These conditions make the banking sector an attractive vehicle for terrorist organizations.

The terrorists started entering the banking sector by using aliases hiding their real identities and obscuring the funding purpose in the bank accounts. The most suitable method to overcome terrorism in the banking system is to freeze its funds and assets, as listed in the Financial Action Task Force special recommendation. Currently, there are 17 (seventeen) Indonesian Citizens registered in the United Nations Security Council Resolution 1267⁹. The three among those names have been frozen successfully, namely Encep Nurjaman als Hambali, Zulkarnaen, and Umar Patek.

Another developing area, where terrorists have found success in their fundraising efforts is through the medium of the internet.¹⁰ The internet is a low-cost means for terrorist groups to reach a larger audience than has been historically possible, and perhaps provide contact with a higher-income demographic. It is a simple way for a group to solicit donations and raise funds while bearing minimal overhead costs. Terrorist groups raise funds via the Internet through the five primary methods¹¹ :

- a. By making appeals via e-mail or directly through their websites;
- b. By selling goods through their websites;
- c. Through side businesses that are not identified as group-owned but are nevertheless associated;

⁹ Yuliana Andhika Risang Putri, "Peran Rekomendasi Financial Action Task Force (FATF)". *Journal International Relations* 1, no. 2 (2015): 90, <https://doi.org/10.14710/jirud.v1i2.8885>.

¹⁰ V. Arianti and Kenneth Yeo Yaoren "How Terrorists Use Cryptocurrency in Southeast Asia", *THE DIPLOMAT*, 30 June, accessed from <https://thediplomat.com/2020/06/how-terrorists-use-cryptocurrency-in-southeast-asia/>.

¹¹ Rohan Gunaratna, *The Changing Face of Terrorism*, (Singapore: Eastern Universities Press, 2004).

- d. Through online organizations that resemble humanitarian charity groups; and;
- e. Through fraud, gambling, or online brokering.

In Southeast Asia, an early proponent of using cryptocurrency for terrorism financing was Bahrin Naim, an Indonesian IS fighter based in Syria (now deceased).¹² In his online manual published in 2016, Naim listed Bitcoin as one of the fund-moving methods to launder the proceeds from “carding” (fraudulent credit card transactions). At the time, Indonesia’s Financial Intelligence Unit, Indonesian Financial Transaction Reports and Analysis Centre (In Bahasa Pusat Pelaporan Dan Analisis Transaksi Keuangan) reported Bahrin Naim had moved monies to his associates using PayPal, with the funds originated from Bitcoin. The money was eventually used to fund a suicide attack at the Solo Police Headquarters, Central Java, in July 2016.

4) Couriers

In the Republic of Indonesia, al-Jamaah al-Islamiyah once received funding from Al-Qaeda with a total of US \$ 95,500.¹³ Khalid Sheikh Mohammed handed over the fund to al-Jamaah al-Islamiyah's member, Hambali. Then, Hambali handed the fund to the courier network of al-Jamaah al-Islamiyah in Southeast Asia, Wan Min bin Wan Mat. Next, Wan Min divides it as follows US\$ 60,000 for operations in Singapore and US\$ 35,500 for operations in Indonesia. The money handed over separately to

¹² Nafix Farhan, “Terrorist Financing: Emerging Role of Cryptocurrency”. *BIPSS COMMENTARY*, accessed from <https://bipss.org.bd/pdf/Terrorist%20Financing%20Emerging%20Role%20of%20Cryptocurrency.pdf>

¹³ Shofyan Hendriyan. “Hukuman Tindak Pidana Pendanaan Terorisme Menurut Hukum Pidana Islam (Studi Analisis Pasal 4 UU RI Nomor 9 Tahun 2013 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pendanaan Terorisme),” *Thesis* (Semarang: UIN Walisongo Semarang, 2019).

Noordin M. Top, Azmi Rahim, and Mukhlas for the project of Bali Bombing I.¹⁴

Al-Jamaah al-Islamiyah thought couriers as the most effective way to distribute funding. Based on research findings, Al-Jamaah al-Islamiyah prefers taking illegal routes through the underground than using official customs routes, when crossing border areas into Indonesian territory. Additionally, the border length between Indonesia and neighboring countries makes the border area vulnerable to being used for the smuggling of goods and money to support terrorism in Indonesia.

Due to Al-Jamaah al-Islamiyah being divided into four territories that cover several South East Asia countries such as Malaysia, Singapore, Indonesia, Philippines, and Australia, cash courier activities are extremely possible for cash distribution to support its operational fund and its terrorist acts. Indonesia as an archipelago country has many open doors whether through land or sea.

B. The Methods to Combat Terrorism Funding

ACCT or ASEAN Convention on Counter-Terrorism (ACCT) is also known as the ASEAN convention in countering acts of terrorism carried out at the 12th ASEAN Summit in Cebu, Philippines January 13, 2007.¹⁵ The purpose of this convention is for regional cooperation work. To fight, prevent, and eradicate terrorism in all its forms and manifestations and deepen cooperation between law enforcement agencies and relevant authorities from the 10 countries in ASEAN to counter-terrorism. Before the existence of the ACCT, countries in the Southeast Asia region had conducted discussion forums related to the prevention of acts of terrorism, such as the ASEAN Ministerial Meeting on Transnational Crime (AMMTC) in this forum, a Ministerial-level meeting was held specifically to discuss

¹⁴ Quinton Temby, "Jihadist Assemble: The Rise of Militant Islamism in Southeast Asia," *PhD Thesis* (Canberra: Department of Political & Social Change Coral Bell School of Asia Pacific Affairs College of Asia & the Pacific Australian National University, 2017).

¹⁵ Member Countries of the Association of Southeast Asian Nations (ASEAN), "Asean Convention on Counter-Terrorism (ACCT)," ASEAN, (2008).

issues related to crime in the following countries The ASEAN Regional Forum (ARF), which means that the forum has started discussing cooperation with ASEAN countries in overcoming security issues in the Southeast Asia region.¹⁶

Over time, the ACCT convention provides freedom for all countries that signed the convention, such as Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam, to determine jurisdictional policies regarding how actions should be taken if violations in the act of terrorism occur, ACCT will not give the state the right to exercise jurisdiction or carry out functions within the territory of another country.¹⁷ This convention also applies if the act of terrorism is committed in a member state's territory where the alleged perpetrator of the act and the victims are citizens of the country itself. Indonesia itself, in implementing the ACCT convention, has ratified the ACCT convention. This is evidenced by the existence of Law Number 5 of 2012 concerning Ratification of the ASEAN Convention on Counter-Terrorism, which was stipulated on April 9, 2012, where the ratification of the convention is set out in Law Number 5 of the Year 2012 aims for Indonesia to consider that Indonesia needs to play an important role in the development of cooperation in the Southeast Asian region, especially concerning the crime of terrorism which at that time was very rapidly developing. Security cooperation in handling this is needed to realize stability and peace in the Southeast Asia region. This cooperation is also based on the pillars of the

¹⁶ Henry Ramdani Hidayat Korompis, "Strategi Indonesia dalam Menangani Terorisme Melalui ASEAN Convention on Counter Terrorism (ACCT)", *Thesis* (Makassar: Universitas Bosowa, 2020). See also Harmaji Harmaji. "Tackling Terrorism, an Indonesian Style on Penal and Non-Penal Policy Perspective: A Book Review Gaya Indonesia Menghadang Terorisme, Ali Masyhar." *Journal of Indonesian Legal Studies* 3, No. 1 (2018): 147-150; Dewa Gede Sudika Mangku, and Ni Putu Rai Yuliantini. "Indonesia's Role in Combating Terrorism in Southeast Asia." *Unnes Law Journal* 7, No. 1 (2021): 89-114; Rohadhatul Aisy, "Non-Penal Deradicalization of Former Terrorist Prisoners (Study at Lingkar Perdamaian Foundation)." *Journal of Law and Legal Reform* 2, No. 2 (2021): 243-262.

¹⁷ Member Countries of the Association of Southeast Asian Nations (ASEAN), "ASEAN Convention on Counter-Terrorism (ACCT)," ASEAN, (2008).

ASEAN organization. The three pillars are intended to consist of the political, security, economic and social communities' culture.¹⁸

Political commitment, proportional regulation, powerful financial intelligence, financial sector supervision, law enforcement, and international cooperation are needed to achieve effective regulation of anti-money laundering and terrorism funding. Regarding the national development of the law sector, National Legislation Program (*Program Legislasi Nasional/Prolegnas*) has issued many regulatory laws that regulate the eradication of terrorism funding as follows:

- a. Law Number 9 the Year 2013 concerning the Prevention and Eradication of Terrorism Funding Crime;
- b. Law Number 3 the Year 2011 concerning Transfer of Funds;
- c. Law Number 6 the Year 2006 concerning the Ratification of International Convention for The Suppression of the Financing Terrorism, 1999;
- d. Bank Indonesia Regulation Number 11/28/PBI/2009 concerning the Implementation of the Program of Anti Money Laundering and Prevention of Terrorism Funding for Public Banks;
- e. The decision of Head of Indonesian Financial Transaction Reports and Analysis Center Number KEP-13/1.02.2/PUSAT PELAPORAN DAN ANALISIS TRANSAKSI KEUANGAN/02/08 concerning Identification Guidance of Suspicious Financial Transaction regarding Terrorism Funding for Financial Service Providers;
- f. Decision Letter of Attorney General the Republic of Indonesia, Head of Police the Republic of Indonesia and Governor of Bank Indonesia Number KEP-902/A/J.A/12/2004, Police Number: SKep/924/XII/2004, Number 6/91/ KEP.GBI/2004 Concerning Corporation of Handling Crime in Banking Sector.

Article 1 clause (1) Law Number 9 the Year 2013 concerning the Prevention and Eradication of Terrorism Funding Crime states that terrorism funding is any act to provide, collect, give, lend funding, whether

¹⁸ ASEAN, "Our Communities". *Association of Southeast Asian Nations*, accessed from <https://asean.org/our-communities/>

direct or indirect, aim to be used and/or known would be used for terrorist activities, terrorist organizations, or terrorism. Also, Law Number 9 the Year 2013 mentions that any assets or movable properties or immovable properties, whether tangible or intangible, obtained by any methods and in any forms, including in digital or electronic formats, ownership proofs regarding all assets or all goods, including but unlimited to bank credits, travel checks, bank checks, money transfer orders, securities, obligations, bank drafts and acknowledgment of indebtedness.¹⁹ The explanation above shows that terrorism funding has a broad definition that could be distinguished from terrorism crime. The crimes of terrorism funding have been defined in the Law of Terrorism Fund as follows:

- a. Everyone who purposely, collect, give, or lend fund, whether directly or indirectly, to be used completely or partially to do Terrorism Acts, terrorism organizations, or terror is convicted because of doing Terrorism Funding Crimes with imprisonment the maximum 15 (fifteen) years and fine the maximum Rp1.000.000.000 (one billion rupiahs) (Article 4 of Law of Terrorism Fund).
- b. Everyone who conspires tries, or helps to do terrorism funding crimes is convicted because of doing Terrorism Funding Crimes with the same charge as stated in Article 4 of the Law of Terrorism Fund (Article 5 of Law of Terrorism Fund).
- c. Everyone who purposely plans, organizes, or orders another person to do crimes as mentioned in Article 4 is convicted because of doing Terrorism Funding Crimes with life imprisonment or imprisonment of a maximum of 20 (twenty) years (Article 6 of Law of Terrorism Fund).
- d. In case the terrorism funding crimes as stated in Article 4, Article 5, and Article 6 are done by the corporation, the conviction is dropped toward the managing personnel corporation (Article 8 of Law of Terrorism Fund). However, the imprisonment for the corporation has not been regulated, there are only fines and corporation freeze as regulated in

¹⁹ The President of Republic Indonesia, "Law of the Republic of Indonesia Number 9," Indonesian Financial Transaction Reports and Analysis Center/INTRAC, (2013).

Article 8 clause (2), clause (3), clause (4), clause (5), clause (6), and clause (7) of Law of Terrorism Fund.

In the explanatory paragraphs below, the Author elaborates on the Indonesian Law Enforcement to combat terrorism funding in Indonesia per each method:

1) Charities and Corporations

Article 1 number 9 of Law Number 5 the Year 2018 states explicitly that besides a person, a corporation also can be convicted. Article 10 Law 5 the Year 2018 also states that a corporation is the association of people and/or well-organized wealth, whether it has legal standing or not. The explanation of corporations shows some norm blurs regarding the scope of the association of people and/or well-organized wealth, whether it has legal standing or not. Seeing from the word' origin, corporation or corporate is from Latin which is "*corporatio*", which means the production result from embodiment or making the body become a person. According to Wirjono Prodjodikoro, *corporatio* is a set of individuals, usually, the ones who have an interest are the ones who represent the corporation, the corporation' meeting result is the strongest authority tool in the corporation²⁰.

According to Article 1 number 10 of Law Number 5 the Year 2019, the set of individuals also could be considered a corporation. A Group of people also could be considered a corporation if the group is well-organized. The main characteristic of the set of individuals is the set has one leader or more, whereas the individual set that does not have a leader could not be categorized as a well-organized individual set. Besides, the association and its leadership could be permanent or temporary. A group of individuals could be categorized as temporary if it becomes well organized when committing terrorism crimes. The individual group whether permanent or temporary has no obligation to have a statute as an organization. It is considered enough to have one leader or more.

²⁰ H. Santhos Wachjoe P, "Pertanggungjawaban Pidana Terhadap Korporasi", *Jurnal Hukum dan Peradilan* 5, No. 2 (2016): 155-180.

Related to a corporation, well-organized wealth means the wealth ownership could be separated (independent) or has been separated from its original owner. The original owner could be an individual or a group of individuals or an institution that has legal standing. In other words, the requirement of a well-organized wealth of a corporation is whether the wealth is no longer owned by an individual or certain institution but has been owned by the corporation that runs the wealth to fund certain crimes. Also, the wealth must be managed by the corporate administrators who are authorized to act for and on behalf of the corporation regarding its wealth.

According to The Great Dictionary of Indonesian Language (KBBI), an organization could be interpreted as one union (structure of administrators and others) which consists of parts (people and others) in the association and others to aim certain purpose. Regarding the juridical meaning of organization, Author prefers to Law of the Republic of Indonesia Number 17 the Year 2013 concerning Mass Organizations. Article 1 Number 1 of the law states that Mass Organization which will hereby be known as *Ormas* are organizations found and formed voluntarily by the public based on a shared aspiration, will, needs, interest, activity and aim to participate in the development towards reaching a Unitary State of the Republic of Indonesia based on the Five Principles (in Bahasa Indonesia, Pancasila).

Article 9 of the law also states a Mass Organization is founded by 3 (three) persons or more who are citizens of Indonesia, unless for Mass Organizations that are foundation legal entities. Then, Article 10 states that Mass Organizations could be in the form of legal entities or non-legal entities. Article 22 of the law states that Mass organizations have organizational and management structures. Besides, the law also states that an organization in fund management aims at the related organization's vision.

According to the above explanation, the author believes that there are similarities between corporations and organizations. First, both could be in the form of legal entities or non-legal entities. In terrorism law, a corporation could be in the form of legal entities or non-legal entities. Similar to the law of mass organizations, organizations could be in the form

of legal entities or non-legal entities. Second, a corporation is defined as a group of organized people and the group must have a coordinator. The organization also has the same characteristic as stated in the Law of Mass Organization. Third, a corporation is defined as well-organized wealth, and wealth is completely used for the corporation's interest. The thing is also similar to the Law of Mass Organization in that the organization has the right to manage its finance to fulfill its purpose. Based on the similarities, the author concludes that the organization's crimes are similar to the corporation's crimes.

The regulation about the corporation as criminal is further regulated in Law Number 9 the Year 2013 concerning the Prevention and Eradication of Terrorism Funding Crime. It starts from the regulation about the consequences until the punishment for a corporation as criminal²¹. Based on Article 8 clause (1) of the Law, in case the criminal acts as referred to in Article 4, Article 5, and Article 6 are done by the corporation, then the punishment could be thrown at the corporation and/or managing personnel of the corporation.

Article 8 of Law Number 9 the Year 2013 defines clearly the requirements to determine whether a corporation committing crimes as meant in the law, such as:

- 1) done or ordered by managing personnel of the corporation;
- 2) done to fulfill the corporation's purpose;
- 3) done according to the duties and the functions of the perpetrator; or
- 4) done by a corporation controlling personnel with the purpose to fulfill the corporation's gain.

If legal entities or corporations commit terrorism funding crimes, then they could be threatened by a fine of Rp100.000.000.000,00 (one hundred billion rupiahs). The corporations would receive charges if the crime is done or ordered by managing personnel of the corporation; done to fulfill the corporation's purpose; done according to the duties and the functions of the

²¹ Hendriyan. "Hukuman Tindak Pidana Pendanaan Terorisme Menurut Hukum Pidana Islam (Studi Analisis Pasal 4 UU RI Nomor 9 Tahun 2013 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pendanaan Terorisme)," *Thesis* (Semarang: UIN Walisongo Semarang, 2019).

perpetrator, or done by controlling personnel with the purpose to fulfill the corporation's gain.

Besides receiving fines and punishment threats to the corporation controlling personnel, the corporation involved in terrorism funding crimes could be threatened with other heavy punishments which are:

- 1) Froze partially or completely for the corporation activities;
- 2) Withdrawn its permit and entered into the list of prohibited corporations;
- 3) Liquidation of the corporation;
- 4) Seizing of corporation assets for the country;
- 5) A takeover of the corporation by the country; and/or
- 6) Court Decisions.

If the corporation could not afford the fine verdict, then it would be changed with the seizing of assets owned by the corporation and/or corporation controlling personnel. The assets must have related to the terrorism funding crimes and must have the same value as the fine's verdict. If the sales of the seized corporation assets could not cover the fine, then the confinement is also given to the corporation controlling personnel by considering the paid fine. Additional punishment is allowed if the judges consider it necessary. However, the additional punishment could not be given without giving the primary punishment such as fine punishment.

According to Article 8 of Law Number 9 of the Year 2013, the legal consequences of corporations who commit criminal acts of terrorism funding could be given to Corporation, Corporation and Corporation Controlling Personnel, or Corporation Controlling Personnel. The corporation only could be given with fine punishment and additional punishment as mentioned prior. Whereas Corporation Controlling personnel could be given with fine and/or confinement. These conditions give choices to the judge to determine which law subjects that truly responsible for the criminal acts of terrorism funding.

2) Banking and Financial Service Providers

Indonesia as a country vulnerable to terrorism threats have committed acts to fulfill Financial Action Task Force Special Recommendations on Terrorism Financing. Besides ratifying the International Convention for the Suppression of the Financing of Terrorism Year 1999, there is a regulation which especially regulates about prevention of prevention terrorism funding such as Bank Indonesia Regulation Number 11/28/PBI/2009 concerning the Implementation of the Program of Anti Money Laundering and Prevention of Terrorism Funding for Public Banks²².

Banks must obey a variety of obligations to fulfill the standard of the program of anti-money laundering and prevention of terrorism funding. Among the obligations, banks must have policies and written procedures at the minimum of the request of information and documents; Beneficial Owner; document verification; a simpler Customer Due Diligence; relationship closing and transaction refusal; rules for high-risked areas and Politically Exposed Persons; implementation of Customer Due Diligence by the third party; update and supervision; Cross Border Correspondent Banking; fund transfer; and document administration.

General Explanation of Law Number 8 of the Year 2010 explains that the audit of the wealth that resulted from the criminal acts is normally done by financial institutions through a mechanism that is regulated in the written laws. Financial institutions have an important role especially in applying the principle of identifying service users and reporting the certain transaction to authority (financial intelligence unit).²³ Both of them would be useful as analysis materials for investigators. Bank would be fined:

- a. Rp. 1.000.000,00 (one million rupiahs) per late day per report if late in submitting the report of the plan and the realization of data update or late in submitting the report of Suspicious Financial Transaction; the report of Cash Financial Transaction; and other reports as related in

²² Erwin Asmadi. "Peran Perbankan dalam Pencegahan Pendanaan Terorisme", *Delegata Jurnal Ilmu Hukum* 1, No. 1 (2016): 75. <http://dx.doi.org/10.30596%2Fdll.v1i1.782>.

²³ The President of Republic Indonesia, "Law of the Republic of Indonesia Number 8," Indonesian Financial Transaction Reports and Analysis Center/INTRAC, (2010).

Law Number 8 the Year 2010 concerning the Crime of Money Laundering.

- b. Rp. 50.000.000,00 (fifty million rupiahs) and a written warning if have not submitted guidelines or reports of Suspicious Financial Transactions more than 1 (one) month after the submission deadline.
- c. Maximum Rp. 100.000.000,00 (one hundred million rupiahs) if the bank does not perform commitment to complete the audit result of Bank Indonesia within 2 (two) times audit or does not perform commitment that has been stated in the plan of data updating activities.

Other sanctions related to Banking Regulations and Syariah Banking Regulations are written warnings; degradation of the bank's health level; freezing of certain business activities; inclusion of administrating members, bank staff, and/or shareholders in the list of parties whose predicated unqualified in the capability evaluation and conveniences or the administration record of Central Bank of Indonesia as regulated in the applied Central Bank of Indonesia regulations; and/or discontinuation of Bank administration. According to Law Number 9 the Year 2013, the supervision of transfer transactions in the financial service provider as related to terrorism funding is:

- a. Obligation to report Financial Transaction Related Terrorism Funding related to terrorism funding is supervised by the Indonesian Financial Transaction Reports and Analysis Center and authorized banking supervision institutions.
- b. Money distribution transactions through a transfer system must give correct identity and information about the sender, the sender's address, the receiver, the receiver's address, the amount of money, the currency of money, the date of money transfer, and other information that based on written regulations must be given to the Financial Service Provider.
- c. Financial Service Users must give clear and correct information by filling out the forms that have been provided by Financial Service Provider with attaching the supporting documents.

- d. In case the Financial Service User does not provide the required information, Financial Service Provider must refuse the money distribution through the transfer system.
- e. Financial Service Provider must keep all information that is required to identify all senders and receivers for at least 5 (five) years since the money transfer is done.
- f. Financial Service Provider who does not verify the data of the Financial Service User would be punished according to the written regulations.

Besides the above, the supervision of the non-transfer transactions in Financial Service Provider related terrorism funding is:

- a. Other money distribution through other systems must obtain a permit from and/or registered in the banking supervision institution
- b. Financial Service Providers must submit a written report about the money distribution activities to the banking supervision institution.
- c. In case Financial Service Provider does not fulfill its obligations, the banking supervision institution is authorized to give administrative sanctions.

3) Couriers

Financing terrorism through the use of couriers is a significant concern in the global fight against terrorism. Couriers play a crucial role in facilitating the movement of illicit funds, allowing terrorist organizations to finance their activities discreetly and evade detection by financial institutions and authorities. By exploiting the anonymity and speed of courier services, terrorists can transfer funds, launder money, and provide financial support to their networks. Understanding the tactics employed by terrorists in utilizing couriers for financing terrorism is vital for implementing effective countermeasures and disrupting their financial networks. Regulations about cash-carrying and other payment instruments are:

- a. Law Number 8 the Year 2010, Article 34 – Article 36 concerning the obligations of reporting cash-carrying;

- b. Implementation Regulation from the Directorate General of Customs and Excise Number: 01/BC/2005;
- c. Regulation of Central Bank of Indonesia Number 4/PBI/2002 concerning the Requirement and Procedure of Carrying Rupiah Money Entering and Exiting Custom Areas of the Republic of Indonesia.

In this case, the Directorate General of Customs and Excise is in the front row of the prevention of terrorism funding through cash courier typology. In doing its job, the Directorate General of Customs and Excise works together with related institutions such as the Indonesian Financial Transaction Reports and Analysis Center, Central Bank of Indonesia, Ports and Crossings Supervision Police, PT Angkasa Pura, Indonesian Ports, and flight/shipping companies whether local or foreign.

The Indonesian Financial Transaction Reports and Analysis Center have worked together with the Directorate General of Customs and Excise, and the Central Bank of Indonesia to socialize about the obligation to report the cash-carrying and other payment instruments to the officers of Customs and Excise, Immigration, Ports and Crossings Supervision Police, Ports, Airports/Sanskrit for Sky City, and other related institutions in the areas of entering-exiting Indonesia' areas such as Jakarta, Batam, Denpasar, Medan, Entikong, etc.²⁴

²⁴ Furthermore, it is emphasized that the Indonesian Financial Transaction Reports and Analysis Center, in collaboration with the Directorate General of Customs and Excise and the Central Bank of Indonesia, has undertaken efforts to raise awareness regarding the obligation to report cash-carrying activities. This joint initiative aims to educate the public and relevant stakeholders about the importance of reporting cash transactions to prevent illicit activities, including the financing of terrorism. By promoting transparency and encouraging the reporting of suspicious cash-carrying incidents, these organizations strive to strengthen Indonesia's anti-money laundering and counterterrorism financing framework. See Muhammad Muqtadir Drajad Lokanasaputra, "The role of Immigration of Indonesia in facing Terrorism." *Journal of Law and Border Protection* 1, No. 1 (2019): 129-139; Andra Maula Aditya, "Money Laundering: How It Works and Legal Instruments, A Review Book" *Hukum Money Laundering dalam Dimensi Kepatuhan*, Dr. Go Lisanawati, SH, M. Hum & Njoto Benarkah, ST, M. Sc., Setara Press Malang, 2018, x+ 84 pages, ISBN: 978-602-6344-54-0." *Journal of Indonesian Legal Studies* 6, No. 1 (2021): 229-236; Indah Sri Utari, and Ridwan Arifin. "Law Enforcement and Legal Reform in Indonesia and Global Context: How the Law Responds to Community Development?." *Journal of Law and Legal Reform* 1, No. 1 (2020): 1-4.

C. ASEAN Cooperation Among Members and Other Countries to Combat Financing Terrorism

ASEAN member states and other countries have recognized the importance of international cooperation in combating the financing of terrorism. Through various mechanisms and initiatives, they strive to enhance collaboration and information sharing to effectively disrupt terrorist financing networks within the region. Some of collaborations and initiatives made by ASEAN member states, as follow.

1) The Trilateral Cooperation Arrangement

Asymmetrical threats occurring Sulu Sea have put Indonesia, Malaysia, and Philippines to enter a trilateral corporation called the Trilateral Cooperation Arrangement. The Sulu Sea is important to water for the three countries as it is related to the coal export-import pathway among the three countries.²⁵ However, there is quite an issue happening in 2017 which is a war between the Philippine government and a radical group in Marawi, Philippines. Therefore, the Trilateral Cooperation Arrangement as a foreign terrorist fighting tool is needed to counter terrorism in the Sulu Sea.

The Trilateral Cooperation Arrangement consists of Coordinated Sea Patrol, Air Patrol, Sharing of Information and Intelligence Service, and Land Exercise. The Trilateral Cooperation Arrangement shares information and Intelligence services that support reading terrorism funding flows. This system is compatible with Indonesia as Indonesia has made a defense strategy to obtain the country's defense goals according to the Law of the Republic of Indonesia Number 3 the Year 2002 concerning Country Defence that also according to Indonesia's purpose as enlisted in the preamble of The Constitution of the Republic of Indonesia of 1945.

²⁵ M. Chandra W. Yudha, "Trilateral Maritime Security Cooperation Indonesia-Malaysia-The Philippines" *ASEAN Regional Forum*, (2019), accessed from <https://aseanregionalforum.asean.org/wp-content/uploads/2019/01/ANNEX-6-10th-ISM-on-MS.pdf>

2) The Egmont Group

One of the corporations formed between ASEAN countries and Non-ASEAN Countries to combat terrorism funding is the Egmont Group. The Egmont Group is a forum for the Financial Intelligence units from many countries to collabs related to improving each Financial Intelligence Unit's function in handling the crimes of money laundering and terrorism funding. This forum also provides international corporations among the member's Financial Intelligence Unit, accommodates regular communication and information exchange, and gives training to the members.

The ASEAN countries that join The Egmont Group are Brunei Darussalam, Cambodia, Indonesia, Malaysia, Philippines, Singapore, and Thailand. Indonesian Financial Transaction Reports and Analysis Center has been a member of The Egmont Group since June 2004 and is an active member of each of The Egmont Group's agendas.

The Financial Intelligence Unit of each country gives support and corporation for the Egmont Group in the form of expanding and system-managing the international corporation of information exchange and also building better and safer communication among the Financial Intelligence Units through technology implementation such as Egmont Secure Web (ESW). Then, the Egmont Group also contributes to improving the effectiveness of Financial Intelligence Units by offering training and personnel exchange to improve the expertise and capability of each country's Financial Intelligence Unit so they can operate better.

4. Conclusion

In general, terrorist fund-raising as a Phenomenon has been the means to get the fund for sustainable terrorism activity. Global funding for terrorists is part of global problems has been existing with illegal funds from one country to another country. To make the fund-raising a criminal act is not only for funds coming from illegal resources but also for the legal funds used for terrorist organizations and activities. All property how

known will use and/or used directly or indirectly for terrorist activities, the terrorist organization, or personal terrorist (individual terrorist) is similar to predicate crime in money laundering crimes. All ASEAN countries that have statutory provisions that have been dissected one by one from the ten countries will confiscate all assets, both individuals and legal entities, suspected of being terrorist funders and may be subject to sanctions in the form of criminal sanctions and imprisonment. In the methods used in terrorism financing, several methods are straightforward to find in everyday life such as in legal entities, either in the form of foundations or corporations or even now they have penetrated the banking world where these individuals use false identities in carrying them out. Out of funds. Carrying cash can also be a concern in the terrorism financing process, Indonesia in realizing the statutory provisions on anti-terrorism financing and/or money laundering has also issued provisions deemed sufficient to prevent terrorism financing or money laundering for funding. Acts of terrorism. In ASEAN, several methods have been created so that all ASEAN member countries cooperate in countering terrorism financings, such as the ASEAN Convention on Counter-Terrorism, The Trilateral Cooperation Arrangement, and The Egmont Group.

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The author state that there is no conflict of interest in the publication of this article.

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