OVERCOMING THE CRIME OF TERRORISM FINANCING IN THE PERSPECTIVE OF AN INTEGRAL AND CAUSATIVE CRIMINAL POLITICAL APPROACH

ENDANG SRI LESTARI[1]*, EKO SOPONYONO[2], IRMA CAHYANINGTYAS[2]
[1]Doctoral Law Program Students at Diponegoro University, Semarang, Indonesia.
[2]Lecturer at Diponegoro University, Semarang, Indonesia

Abstract
This paper delves into the critical task facing the Indonesian society: the challenge of addressing terrorism through the establishment of a legal framework that safeguards public interests and human rights, thereby facilitating law enforcement efforts to combat terrorist activities. It situates crime prevention within the context of criminal policy, conceptualizing it as a "science of response" in contrast to the "science of cause" represented by criminal etiology in general criminology. Specifically, the paper examines the legal provisions governing the financing of terrorism in Indonesia, primarily outlined in Law No. 9 of 2013, focusing on the Prevention and Eradication of Criminal Acts related to Terrorism Funding. The research findings underscore the integral and causal role of a criminal political approach in addressing terrorist financing. It outlines two primary avenues: First, punitive measures targeting both individuals and corporate entities engaged in criminal financing of terrorism. Second, non-penal strategies involving preventive measures and international collaboration for the detection and mitigation of terrorist financing, forming a fundamental part of the broader effort to combat terrorism.
Keywords*: Indonesia, Terrorism, Legal Framework, Human Rights, Crime Prevention, Terrorism Financing, Criminal Policy, International Cooperation, Public Interests.*

1. INTRODUCTION

A state is obligated to protect each of its citizens from any form of crime, whether it is of a national or international nature. One of the ways the state protects its citizens from acts of terrorism is through law enforcement. Human victims of terrorist crimes are often randomly targeted, and these acts are indiscriminate, frequently victimizing innocent individuals, including women, children, and the elderly. These acts may also involve the use of weapons of mass destruction. Therefore, terrorism is an extraordinary crime that requires extraordinary measures, distinct from the handling of ordinary criminal acts (Arief, 2013).

Terrorism, as one of the activities of transnational criminal organizations, is a greatly feared crime due to the wide range of threats and consequences it poses. These include threats to sovereignty, society, individuals, national stability, democratic values, public institutions, the national economy, financial institutions, democratization, and development (Vedian, 2016). Additionally, terrorism constitutes a criminal act, and in its execution, financing plays an integral role in realizing these terrorist activities.

The association of terrorism financing is closely related to the efforts to combat terrorism. Money serves as the primary source of terrorism, and a successful anti-terrorism financing/anti-money laundering regime can disrupt and prevent the flow of funds for terrorist activities. Terry M. Kinney notes that investigations and prosecutions related to the financing of terrorist activities can prevent terrorist attacks before they occur. Investigating and prosecuting cases related to the financing of terrorism are essential components of a nation's response to terrorism and a crucial part of a country's anti-money laundering regime. Financing terrorist activities is designed to target individuals who are usually not directly involved in acts of violent terrorism but still play a significant role by funding or supporting terrorist actions.

The efforts made by the international community to combat terrorism not only involve criminalizing the acts of terrorism committed by terrorists but also criminalizing terrorism financing activities or financing provided to terrorists (terrorist financing) (Sjahdeini, 2004). Given the correlation

between terrorist acts and terrorism financing activities, terrorism financing has eventually been categorized as a criminal offense. In several aspects, terrorism financing is regulated by the Law on the Eradication of Criminal Acts of Terrorism and is related to money laundering offenses, in addition to being addressed in Law No. 9 of 2013 on the Prevention and Eradication of Criminal Acts of Terrorism Financing. Based on the description above, the problem formulation to be examined in this paper is as follows: How is the criminal policy in combating the crime of terrorism financing, and what are the forms of criminal policies for the offense of terrorism financing as efforts to prevent terrorist acts?

2. LITERATURE REVIEW

Terrorism is an extraordinary crime and a serious violation of human rights that does not discriminate against its targets and victims. The issue of terrorism has been on the international agenda since 1934. At that time, the United Nations took significant steps to discuss a draft convention on the prevention and punishment of terrorism. Since 1963, the international community has elaborated on international legal instruments developed under the auspices of the United Nations and other specialized bodies. Clear legal instruments are expected to establish key principles for dealing with terrorist acts, emphasizing the importance of criminalizing acts of terrorism and holding perpetrators accountable under the law. It also emphasizes the need for states to cooperate, exchange information, and support each other in conducting investigations, preventing, and prosecuting terrorist acts, including their related financing.

Throughout human history, terrorism has repeatedly occurred, even in different forms and motivations. As described by Jack D. Douglas and Frances Chaput Washer, approximately two thousand years ago, a group called the Zealots opposed Roman colonialism in Judea. They demanded religious purity and opposed any form of perceived immorality. They mingled with the crowds in the city markets and, if they witnessed transgressions, would immediately draw knives from their clothing and stab the transgressors. The methods they used were derived from ancient organized killing practices. At the time, the Zealots considered their actions as motivated by religious doctrine and supported by sacred texts (Santoso, 2002).

The history of criminal terrorism trials in Indonesia began with the events that occurred on Legian Street, Kuta, Bali, and Puputan Renon Street, Denpasar, Bali, on the Saturday night of October 12, 2002. This event shook the world as it claimed the lives of 192 people and caused injuries to 161 others, including Indonesian and foreign citizens from various countries, especially Australia. This incident expedited the enactment of the Counterterrorism Bill (RUU Pemberantasan Terorisme) in the form of Government Regulation in Lieu of Law (Perpu) No. 1 of 2002 on October 18, 2002, which retroactively applied Perpu No. 1 of 2002. The trial process of the defendant Amrozi Bin H. Nurhasyim was the first trial related to the Bali Bombings case, which had attracted international attention. He was charged with the crime of terrorism and was sentenced to death (Attorney General's Office, 2013). According to Paul Wilkinson, terrorism is the systematic, organized use of terror by a particular organization, and political terrorism has the following characteristics (Marpaung, 2005):

a. Constitutes coercive intimidation;
b. Using systematic killing and destruction as a means to a specific end;
c. Victims are not the goal, but rather a means to create psychological war, namely "kill one person to scare a thousand people";
d. The targets of terror acts are selected, working in secret but the aim is publicity;
e. The role of the action is quite clear, although the perpetrator does not always reveal himself personally.
f. The perpetrators were mostly motivated by quite harsh idealism, for example "fighting for religion and humanity".

In its development, in line with the ideological motivation of struggling for the national independence of a country, terrorism is used as one of the means to achieve political objectives. Therefore, terrorism is often referred to as a form of political violence or civil violence,

distinguishing it from military violence. Political terrorism can be continuous and evolve into international terrorism as it is formed based on shared beliefs or common political goals, often receiving third-party assistance, whether from an official state or unofficial groups. This assistance can come in the form of equipment or military arms, training, methods for employing violence or threats of violence, propaganda support, financial aid, or even protection for terrorists.

This view has since been abandoned. The trend of terrorism in Indonesia since 2004 has shown continuous acts by terrorist groups. In addition to groups with radical ideologies driven by religious beliefs, there has also been collaboration with separatist groups with the aim of causing chaos. The targets of bombings have become increasingly random, unexpected, and non-discriminatory, affecting both the general public (soft targets) and government authorities (hard targets), as well as targets with religious significance (Attorney General's Office, Indonesia, 2013).

The trend in recruiting members of terrorism networks is not only to recruit adults, but also to recruit those who are considered children. The recruitment method is carried out, among other things, through small group recitation activities. Recruitment is carried out as if holding a recitation activity that teaches Islamic principles, but shifts towards jihad. The recruitment stage begins with the self-identification stage where terrorist perpetrators are made not to be critical and tend to always follow the orders of their ustad, the indoctrination stage where in this stage the target of the terrorist perpetrator is given an intensive understanding or terrorist ideology which makes the target believe and believe completely in the teachings instilled in them. they are absolute truths and do not need to be denied or criticized any more. Then there is the stage of misled understanding of jihad, where in this stage the target has been included in a small group (cell) of a radical or terrorist organization and accepts a personal obligation to participate in jihad (Attorney General of the Republic of Indonesia, 2013).

Terrorism in one country's territory in reality also concerns the jurisdiction of other countries. This encourages the need for legal cooperation between countries to improve investigations, prosecutions and justice processes for terrorism. The holistic strategy offered by Paul Wilkinson includes elements of the ideological dimension, the key role of intelligence law, enforcement and criminal justice, policing and the use of military aid to civil war, use of the military to suppress terrorist-backed insurgencies, dapening and boardening international cooperation, security technology, security research and education (Wilkinson, 2012).

Regarding the financing of terrorism, as developed by various experts during the FATF meeting held on November 19-20, 2001, in Wellington, New Zealand, there are two methods for financing the activities of terrorists. The first method involves obtaining financial support from states and then channeling those funds to terrorist organizations. State-sponsored terrorism has been observed over the past few years. The second method involves direct fundraising through various income-generating activities, some of which may include criminal activities. This approach is similar to that of common criminal organizations. However, unlike typical criminal organizations, terrorist groups often obtain a portion of their funding from legitimate (non-criminal) sources (Sjahdeini, 2004).

The United Nations has issued international conventions related to countering the financing of terrorism. One such convention is the "International Convention for The Suppression of The Financing of Terrorism," adopted on January 10, 2000. Furthermore, during the plenary meeting of the Financial Action Task Force on Money Laundering (FATF) held in Hong Kong on February 1, 2002, countries worldwide united in their belief that terrorists and those who assist them must be prevented from accessing the international financial system. The FATF issued new international standards for countering terrorist financing called the "Special Recommendations on Terrorist Financing." Some of these recommendations include the following.

- Immediately take steps to ratify and implement relevant UN provisions;
- Criminalize the financing of terrorism, terrorist acts and terrorist organizations,
- Freezing and confiscating terrorist assets, reporting suspicious transactions related to terrorism.
- Providing assistance to law enforcers from other countries and other authorities in the context of investigations into terrorist financing.

- Enforcing anti-money laundering provisions on alternative remittance systems (such as the Colombian Black Market Peso Exchange, Indian "Hawala", and Chinese "Flying Money").
- Confirm the actions that must be taken regarding customer identification in the case of customers making wire transfers, both international and domestic transfers.
- Ensure that entities, especially non-profit organizations, are not used to finance terrorism (Sjahdeini, 2004).

When looking at the FATF recommendations, terrorist financing is considered a part of the anti-money laundering regime. FATF has established international standards that serve as measures for every country in the prevention and combat of both money laundering and the financing of terrorism. Within the 40 FATF recommendations, recommendations 17 through 20 pertain to actions for preventing money laundering and terrorist financing. Therefore, the approach to handling cases related to the crime of terrorist financing should also include an anti-money laundering approach. This is in line with the understanding that terrorist financing is a reverse money laundering process, the opposite of money laundering. The process of terrorist financing is similar to money laundering but in reverse. In money laundering, the aim is to conceal criminal proceeds and make them appear as legal funds or assets. In terrorist financing, the goal is to disguise the legitimate source of funds, as these legally obtained funds are used for terrorist activities.

3. RESEARCH METHODS

This article employs the normative legal research method, which aims to explain legal principles, vertical and horizontal synchronization, legal comparisons, and legal history (Amirudin & Asikin, 2004). The purpose of this normative legal research is to determine or understand how positive law addresses a specific issue (Hartono, 1994).

Normative legal research, also known as doctrinal legal research, conceives of the law as what is written in legal regulations (Soemitro, 1984). In other words, the law is designed as rules or norms that serve as the standards for human behavior deemed appropriate. Therefore, doctrinal legal research utilizes secondary data sources obtained through library research (Soemitro, 1983). The secondary data used in this research are primary legal materials that are fundamental and binding, encompassing all legal regulations in Indonesia that address the handling of terrorist financing as part of the preventive and combative measures against terrorism in Indonesia.

4. RESULTS AND DISCUSSION

errorist financing is an act as regulated in Law No. 9 of 2013 on the Prevention and Eradication of Terrorism Financing Criminal Acts. It encompasses all actions aimed at providing, collecting, giving, or lending funds, whether directly or indirectly, with the intention for them to be used and/or knowingly used for terrorist activities, terrorist organizations, or terrorists.

Similar to terrorist acts, the crime of terrorism financing is also exempt from political offenses. This exemption is to ensure that the crime of terrorism is considered a dual criminality. As a transnational crime, it allows for extradition and mutual legal assistance. On the other hand, political offenses do not fall under the category of transnational crimes and, therefore, are not subject to dual criminality. Extradition requests and mutual legal assistance do not apply to political offenses.

The scope of transnational crimes, as regulated in the United Nations Convention against Transnational Organized Crime (UNTOC), includes the following:

- In more than one region of the country;
- In one country, but the preparation, planning, direction or control of the crime is carried out in the territory of another country;
- In one region of the country but involving an organized group of criminals who commit crimes in more than one region of the country;
- In one region of the country, the consequences of the criminal act are felt in other countries.

STAGES of criminal law policy, the implementation of which goes through the formulation stage of making legislation. Meanwhile, the law enforcement or institutionalization process is carried out through application policies and the stages of criminal implementation are carried out through execution policies (Ndraha et al., 2019).

Policy formulation viewed from a criminal law perspective must pay attention to internal harmonization with the criminal law system or general criminal punishment regulations currently in force. Policy formulation is the most strategic stage of penal policy. The scope of application of Law no. 9 of 2013 concerning Prevention and Eradication of Criminal Acts of Terrorism Financing, namely Article 2 shows that the criminal act of financing terrorism is a transnational crime as follows:

(1) This law applies to:

a. Every person who commits or intends to commit a criminal act of financing terrorism in the territory of the Unitary State of the Republic of Indonesia and outside the territory of the Unitary State of the Republic of Indonesia; and/or

b. Funds related to terrorism financing in the territory of the Unitary State of the Republic of Indonesia;

(2) This law also applies to criminal acts of financing terrorism that occur outside the territory of the Unitary State of the Republic of Indonesia if

a. Performed by Indonesian citizens;

b. In relation to criminal acts of terrorism against Indonesian citizens;

c. Related to criminal acts of terrorism against Indonesian government facilities; including Indonesian representatives or the residence of diplomatic or consular officials from Indonesia

d. In relation to criminal acts of terrorism which are carried out as an effort to force the Indonesian government to take or not take an action;

e. e. Related to criminal acts of terrorism against aircraft operated by the Indonesian state;

f. In relation to criminal acts of terrorism on board ships flying the flag of the Unitary State of the Republic of Indonesia or aircraft registered under Indonesian law at the time the criminal act was committed; or

g. Carried out by every person who does not have citizenship and resides in the territory of the Unitary State of the Republic of Indonesia.

Meanwhile, according to Law no. 9 of 2013 concerning Prevention and Eradication of Criminal Acts of Terrorism Financing, those who can be referred to as perpetrators of criminal acts of terrorist financing are:

a. Any person who intentionally provides, collects, gives, or lends funds, either directly or indirectly, with the intention of using them in whole or in part to commit a crime of terrorism, a terrorist organization, or terrorists shall be punished for committing the crime of financing terrorism with a maximum prison sentence. 15 (fifteen) years and a maximum fine of IDR 1,000,000,000.00 (one billion rupiah).

b. Every person who carries out a criminal conspiracy, attempt, or assistance to commit a criminal act of financing terrorism shall be punished for committing a criminal act of financing terrorism with the same punishment as intended in Article 4.

c. Every person who deliberately plans, organizes or mobilizes other people to commit a criminal act as intended in Article 4 shall be punished for committing the crime of financing terrorism with life imprisonment or a maximum imprisonment of 20 (twenty) years.

d. Meanwhile, for the criminal act of financing terrorism committed by a corporation, a fine of up to Rp. 100,000,000,000 (one hundred billion rupiah) and additional criminal sanctions in the form of freezing all or part of the corporation's business activities, revocation of business permits and being declared a prohibited corporation, dissolution of the corporation, confiscation of corporate assets for the state and/or announcement of a court decision.

Before the issuance of the Law on the Prevention and Eradication of Terrorism Financing, several cases used the Law on the Eradication of Criminal Acts of Terrorism to handle matters related to terrorism financing. In the Law on the Eradication of Criminal Acts of Terrorism, several articles

qualified as criminal acts of terrorism financing, even though these qualifications are not identical to those intended by the United Nations Convention, specifically under Article 11, Article 12, and Article 13, letter a, of Law No. 1 of 2002, in conjunction with Law No. 15 of 2013.

Of particular interest is that under Article 48 of Law No. 9 of 2013, only Article 11 and Article 13, letter a, were declared repealed and no longer valid. It is worth noting that the fundamental difference between Article 11 and Article 13, letter a, of the Law on the Eradication of Criminal Acts of Terrorism is based on the nature of the criminal act, with some being pro partus dolus and pro partus culpoos, while in Article 4, Article 5, and Article 6 of the Law on the Prevention and Eradication of Terrorism Financing, the nature of the offense is dolus. Therefore, from an academic perspective, it may be necessary to clarify whether it is appropriate for Article 11 and Article 13, letter a, of the Law on the Eradication of Criminal Acts of Terrorism to be declared no longer valid, given the different forms of criminal acts under Article 4, Article 5, and Article 6 of the Law on the Prevention and Eradication of Terrorism Financing.

As for a more in-depth examination, Article 13, letter a of the Law on the Eradication of Criminal Acts of Terrorism states, "any person who intentionally provides assistance or facilitation to the perpetrators of terrorist acts by providing or lending money or goods or other assets to the perpetrators of terrorist acts." The form of providing assistance is expanded, and it is carried out before and during the commission of the criminal act. Additionally, a new nomenclature was introduced, which is "facilitation," and this actually makes it easier for law enforcement agencies to prove the criminal act of terrorism financing because the formulation of the offense of financing assistance is broadened. However, with the existence of the Law on the Prevention and Eradication of Terrorism Financing, this is no longer applicable.

Furthermore, the recognition of corporate entities as perpetrators of the criminal act of terrorism financing raises a crucial issue. One significant issue is the difficulty in proving criminal liability for corporate entities to meet the elements of the criminal offense violated by the corporation, due to the still applicable principle of no crime without fault inherent in the doctrine of criminal liability in Indonesian criminal law (Hiariej, 2014). These challenges include, but are not limited to: First, the determination of whether a criminal act has been committed by a corporate entity cannot be viewed from a conventional perspective like common criminal offenses, because corporate crime is often a part of white-collar crime (Shofie, 2011).

Second, determining which legal subjects are criminally liable is related to corporate liability. Third, determining corporate guilt (schuld, mens rea) is not straightforward due to the complex relationships in organized criminal activities (organizational crime) among the board of directors, executives, and managers on one side and the parent corporation, corporate divisions, and subsidiary companies on the other side. These opinions are supported by similar views from Wayne R. LaFave, who stated, "...a corporation could not be guilty of a crime; it had no mind, and thus was incapable of the criminal intent then required for all crime; it had no body, and thus could not be imprisoned. This view has changed with the growth and development of the corporate entity in the modern business world, and today it is almost universally conceded that a corporation may be criminally liable for action or omission of its agents on its behalf" (LaFave, 2010).

5. DISCUSSION: CRIMINAL POLICY FOR TERRORISM FINANCING

Prevention and control of crime fall within the scope of criminal policy, which is the "science of response" to criminal etiology, the "science of cause," within the framework of criminology. Criminal policy is part of law enforcement policy, encompassing criminal law, civil law, and administrative law as a whole and is a subset of social policy. Social policy is the endeavor of a society to enhance its social resilience, including the well-being and security of its community (Jaya, 2020). Efforts to combat crime should involve a policy approach in the sense that there is integration (integrity) between criminal policy and social policy and integration (integrity) between crime prevention efforts and "penal" and "non-penal" means (Arief, 2011). Criminal policy is the rational organization of the community's response to crime, representing the science of policy,

which is a part of broader law enforcement policy aimed at non-criminal legal crime prevention without resorting to criminal law enforcement (Jaya, 2020).

Comprehensively, law enforcement practices are not only meant to serve as guardians and protectors of social order but should also be capable of promoting the welfare of the community (Ancel, 2001). In other words, law enforcement policy ideally represents an integral policy that combines both criminal policy and social policy. It integrates repressive and preventive efforts proportionally, maintaining balance, objectivity, and measurability. Furthermore, a Causative Approach is needed, which focuses on addressing crime by eliminating the causes and conditions that lead to criminal activities. Hence, law enforcement agencies should understand the direction and policies of national development, especially in addressing crimes related to terrorism financing (Arief, 2010).

Currently, handling cases related to terrorism financing presents challenges at various levels. Typically, the amount of money required to fund a terrorist attack is substantial, making it difficult to trace and identify funds earmarked for terrorism. This is a particularly challenging issue in countries like Indonesia, where cash-based economic activities predominate. Unlike money laundering cases, which may involve conspicuous criminal activities such as drug trafficking, the funds used to finance terrorism can come from clean sources like legitimate charitable donations. Consequently, tracking and identifying the portion of funds used for terrorism activities becomes more challenging, as these funds may be concealed within other lawful funds for social or political purposes (Ancel, 2001).

The use of criminal law to combat specific criminal offenses begins with the process of criminalization, which is the act of classifying an act as punishable or constituting a criminal offense (Jaya, 2020). In criminal law, there is the principle of legality, as formulated in Article 1(1) of the Indonesian Criminal Code (KUHP), which means that an act can only be subject to criminal punishment if it has been defined and penalized by law. In connection with the principle of legality, Herbert L. Parker argues that the application of this principle is mainly about legal protection for individuals in the criminal justice system (Hiariej, 2014). The process of criminalization cannot be separated from three fundamental issues in criminal law: 1) the criminal act; 2) criminal responsibility; and 3) criminal sanctions, which can be in the form of punitive penalties and/or actions (treatment).

In the context of the crime of terrorism financing, the law functions as a means to protect society from threats and actions that endanger life and property. In this context, according to Roscoe Pound, the role of law serves as a tool of social engineering. The law should guide all activities and behaviors in society toward desired goals and collectively agreed-upon political intentions (Waluyo, 2016). Referring to the legal development theory of Mochtar Kusumatmadja, legal policy in Indonesia must be based on the concept that the applicable law is founded on order and justice, and its ultimate goal is justice. To achieve all of this, certainty is essential (Kusumaatmadja, 2006).

As an initial effort to prevent the crime of terrorism financing, Indonesia ratified international conventions by enacting Law No. 6 of 2006 concerning the Ratification of the International Convention for the Suppression of the Financing of Terrorism 1999. With the enactment of Law No. 9 of 2013 on the Prevention and Eradication of Terrorism Financing, terrorism financing became a cross-border issue, and its prevention and eradication efforts involve financial service providers, law enforcement agencies, and international cooperation to detect the flow of funds used or suspected to be used for terrorism financing. The subjects liable to be punished were not only the terrorists themselves, but this was expanded by Law No. 9 of 2013.

Criminalizing the act of terrorism financing expands the scope of anti-money laundering laws, thereby broadening the potential threat to the financial networks of terrorism. To prove the existence of assets or funding for terrorism, considerations should be made regarding legal provisions that allow investigators, prosecutors, or judges to access financial documents and block funds held in financial or banking institutions in foreign countries. Providing such access may require the removal of or relaxation in place to breach bank secrecy.

Criminal policy as an effort to prevent criminal acts of terrorist financing, namely by implementing the principle of recognizing financial service users, reporting and monitoring money transfer activities through transfer systems or through other systems carried out by Financial Service Providers, monitoring the carrying of cash and/or other payment instruments to inside or outside the Indonesian customs area. The blocking mechanism, inclusion in the list of suspected terrorists and terrorist organizations is also regulated and is a criminal policy effort for the crime of financing terrorism related to investigation, prosecution and examination in court. Collaborative activities, both national and international, which include actions carried out directly or indirectly in the context of providing, collecting, giving or lending funds to other parties that are known or will be used to commit criminal acts of terrorism (Wenda, 2016).

Handling terrorism financing itself, legislatively, will be related to several laws, namely

- Law on the Eradication of Criminal Acts of Terrorism
- Law on the Prevention and Eradication of Money Laundering
- Law on the Prevention and Eradication of Terrorism Financing Crimes

Apart from legislative provisions, handling terrorism financing is also related to the obligation to implement UN Security Council Resolutions, especially UN Security Council Resolution 1267.

If a country's criminal funding or money laundering regime is effective, but another country's anti-money laundering and terrorism financing regime is not effective, leaks will occur which will make prevention and eradication of money laundering as a whole ineffective or what is commonly known as counter-measures. . Considering that terrorism is an international crime that crosses countries, the law contains a separate article regarding international cooperation (Rahmat, 2017). The forms of international cooperation that can be carried out in the context of preventing and eradicating criminal acts of terrorist financing include:

- Cooperation in the form of exchange of information (exchange of information or information sharing);
- In the form of Mutual Legal Assistance (Mutual Legal Assistance) to search for evidence of the crime of Money Laundering.
- In the form of an extradition agreement to hand over criminals caught in other countries.

Michael Levi and William Gilmore stated that there needs to be a concerted effort worldwide to track and freeze the assets of suspected terrorists and financial institutions faced with these challenges over the past year to contribute their expertise especially through techniques to combat money laundering (Levi & Gilmore, 2002). The legal difficulty faced is that the bold statement in international Conventions that terrorist activities are not political crimes does not properly resolve the fundamental dilemma that a distinction needs to be made between freedom fighters and terrorists if the fighters only aim to restore democracy. On a more practical level, international organizations (namely the UN and the Financial Action Task Force on Money Laundering) have created a system of mechanisms to freeze suspected terrorist funds (Pieth, 2006).

Criminal policies in the context of preventing terrorism financing are closely related to anti-money laundering programs. The Anti-Money Laundering and Terrorism Financing Prevention Program is a program that must be implemented by every Bank in relation to Bank customers. One important part of the Anti-Money Laundering and Terrorism Financing Prevention Program is implementing the Know Your Customer Principle. In 2009, the Know Your Customer Principle was replaced by the term Customer Due Diligence (CDD). Customer Due Diligence (CDD) is part of the precautionary principle that must be implemented by the Bank to avoid the Bank being used as a forum for committing criminal acts, including in this case the criminal act of financing terrorism, as well as in the context of implementing the principle of prudential banking towards its customers (Vediani, 2016).

The application of criminal sanctions requires legal instruments to ensure the effectiveness of their implementation. Efforts to eradicate criminal acts of terrorism do not end with the creation of anti-terrorism laws or laws for preventing and eradicating criminal acts of terrorism, but require institutional means to enforce them. The BNPT (National Agency for the Prevention of Terrorism) is an institution built to help prevent criminal acts of terrorism and terrorist financing (Zaidan, 2016).

Apart from using penal means, it is also necessary to use non-penal means to prevent terrorism through national vigilance, counter-radicalism and de-radicalism. There is a Central Institute for Financial Transaction Reports and Analysis (PPATK) to eradicate the crime of money laundering through an institution that reverses the burden of proof (Jaya, 2020).

Law enforcement has the right to take action against funds suspected of being directly or indirectly related to criminal acts of terrorist financing. Of course, in blocking efforts, a court order must be requested so that the account can be blocked. For those who have funds in the bank, and feel that there is something strange about the amount of funds they have, whether it is increasing or decreasing in a suspicious and unknown way, they must report it in case the funds may be mixed or used as terrorism funds. For third parties who feel that their funds have been blocked and have objections, they can submit objections to the PPATK, investigators, public prosecutors or judges. Submission of objections must be accompanied by strong evidence that proves the assets or funds are legitimate and legal (Pradityo, 2016).

UU no. 9 of 2013 also provides a mechanism for implementing the UN Security Council Anti-Taliban Resolution, namely in CHAPTER VII which regulates the List of Suspected Terrorists and Terrorist Organizations issued by the Government. The logical flow of Chapter VII shows that Indonesia adheres to dualism, not monism, in implementing UN Security Council Resolutions. Apart from that, the provisions of Chapter VII in several aspects show that Indonesia has begun to embrace civil asset forfeiture, although in a blocking format, not in a confiscation format.

6. CONCLUSION

Efforts to prevent and eradicate criminal acts of terrorism are necessary steps to stop or close the development of terrorist groups. The crime of financing terrorism is closely related to the eradication of criminal acts of terrorism, where money is the main source of terrorism. A successful anti-terrorist financing activity/anti-money laundering regime will cut off and block the flow of funds for terrorist activities so that an integral approach to the criminal law policy on terrorist financing is needed in its regulation. The crime of financing terrorism is specifically regulated in Law no. 9 of 2013 concerning Prevention and Eradication of Terrorism Financing Crimes. Considering that terrorism is an international crime that crosses countries, international cooperation is also regulated regarding the disclosure of criminal acts of terrorist financing.

An integral and causative approach to criminal politics in overcoming the criminal act of financing terrorism, namely first through penal means by processing the perpetrators, both individuals and corporations who commit criminal acts of financing terrorism. Second, through non-penal means with a preventive approach, carry out international cooperation regarding the disclosure of criminal acts of terrorist financing as part of efforts to prevent and control criminal acts of terrorism. Criminal policy as an effort to prevent criminal acts of terrorist financing, namely by implementing the principle of recognizing financial service users, reporting and monitoring money transfer activities through transfer systems or through other systems carried out by Financial Service Providers, monitoring the carrying of cash and/or other payment instruments to inside or outside the Indonesian customs area.

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