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### TERRORISM AND LEGAL RESPONSIBILITIES FOR INTERNATIONAL TERRORISM FUNDING

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#### **ABSTRACT:**

Funding activities for terrorism is one of the determining factors for the occurrence and success of a heinous terrorism activity. To find out what actions are included in the crime of financing terrorism as well as how the perpetrators of the financing of terrorism are responsible for. In this study, researchers used a type of normative research using several approaches, namely the statutory and the conceptual approach. In criminal liability, the perpetrators of criminal acts of financing terrorism according to Law number 9 of 2013 concerning Prevention and Eradication of Criminal Acts of Terrorism Funding are divided into 2 (two) legal subjects, namely individuals and corporations. Acts that are included in the criminal act of financing terrorism are acts of intentionally providing, collecting, giving or lending funds to terrorists or terrorist's organizations. In addition to those acts, the inclusion which is also criminalized by the Terrorism Funding Act consists of acts of conspiracy, acts of assistance, acts of planning, organizing, and mobilizing others to commit criminal acts of financing terrorism. Accountability in funding crimes varies in various countries in the form of a maximum fine of up to hundreds of millions and a maximum imprisonment of one year. Acts that are included in the criminal act of financing terrorism are acts of intentionally providing, collecting, giving or lending funds to terrorists or terrorist's organizations.

**Keywords:** Terrorism Funding, Criminal Responsibility, Corporations

## INTRODUCTION

The event of terrorism has now become a threat in itself, it is also bearing in mind that acts of terrorism are now rife. Not only in the international world, but Indonesia is currently also in the midst of a security crisis caused by the many terrorisms that have occurred (Bossong, 2012). Beginning with the event that occurred on September 11, 2001, which was the crash of two aircraft that destroyed two towers of the World Trade Center in New York City, United States (Entman, 2003). From this incident, many countries in the world, especially the United States, have raised the flag of war against all kinds of acts of terrorism. This event has become an international public spotlight and considers the cruelty of terrorism to be eradicated and fought together (Boyte, 2003; Romero, 2003; Waxman, 2009). To this day, there are 69 (sixty nine) largest terrorist organizations in the World, as stated by U.S. Department of State's Patterns of Global Terrorism 2002. Of these organizations, 36 (thirty-six) organizations took the form of Foreign Terrorist Organizations, and 31 (thirty-one) organizations were Islamists (Ehrenfeld, 2005).

In Indonesia, the terrorist event began with a Bali bombing case at a club that occurred on October 12, 2002 (TOH, KHAN and ERAWAN, 2004). Thus, in the following year, precisely on August 5, 2003, bomb explosions took place again at the JW Marriot Hotel, Jakarta (Orlob, 2004). From these two tragedies, the beginning of the development of terror (terrorism) in Indonesia. Both of these tragedies have shocked the Indonesian people, and resulted in a crisis of trust that emerged from the international community towards the Indonesian State. Some timetables for visits from the International were unilaterally canceled. In addition, terrorism becomes a very feared threat and this also affects the mental condition of the Indonesian people (Natsir, 2019; Tan, 2019). Everybody wants to live in a safe country, avoiding complicated problems to the big crimes, including Indonesia. The acts of terrorism are strongly influenced in terms of funding, because if terrorists do not have the funds to develop their groups, as well as training their members and meeting the needs of terrorist equipment, terrorist acts will never occur (Aliu *et al.*, 2017; Levy and Yusuf, 2019).

The definition of financing or financing of terrorism itself is very minimal, According to the World Bank and International Monetary Fund defines terrorism funding as any form of funding for terrorists or people who advocate, plan, or participate in terrorism (Biersteker and Eckert, 2007). In fact, all forms of financial assistance in the form of gifts, loans, or other forms for terrorist organizations, individual terrorists, or terrorist agreements are a criminal act of financing terrorism. Moreover, Indonesian regulations provide a definition of terrorism financing. Based on the Law of the Republic of Indonesia Number 9 of 2013 concerning Prevention and Eradication of Criminal Acts on Terrorism Funding, Article 1 number 1 states that financing of terrorism is any act in the context of providing, collecting, giving, or lending funds, both directly and indirectly, by intent to be used and or known to be used to carry out terrorist activities, terrorist organizations or terrorists.

Consequently, this study aims to examine what actions are included in the crime of financing terrorism and to find out how the perpetrators of the financing of terrorism are responsible for this.

## **METHOD**

In this study, researchers used a type of normative research that is to study and explain in detail the norms of law and legislation relating to terrorism financing, including with legislation relating to the topic, as well as the discussion of explanations and areas of conduct related to terrorism financing (Marzuki, 2005). This study used several approaches, namely the statutory approach which includes laws that discuss the financing of terrorism (Law No. 9/2013) eradication of terrorism (Law No. 15/2003), and Law on money laundering (Law No. 8 Tahun 2010) both from Indonesia and from several other countries, as well as the conceptual approach which refers to the concepts of financing terrorism.

## **RESULT AND DISCUSSION**

### ***Types of Actions which Covering Criminal Acts on Terrorism Funding***

Based on Law number 9 of 2013, what is meant by terrorism funding is all acts in the framework of providing, collecting, giving, or lending Funds, both directly and indirectly, with the intention to be used and / or which are known to be used to carry out terrorism activities, terrorist's organizations, or terrorists (Putri, Hanura and Windiani, 2015). In this definition, it explains about what actions are classified as acts of terrorism financing. Whereas the regulation regarding the criminal act of financing terrorism as regulated in Articles 4, 5, and 6. Article 4 of Law number 9 of 2013: Anyone who intentionally provides, collects, gives, or lends Funds, directly or indirectly, by intends to be used wholly or in part to commit a Terrorism Act, a terrorist organization or a terrorist convicted of a criminal act of financing terrorism with a maximum imprisonment of 15 (fifteen) years and a maximum fine of Rp1,000,000,000.00 (one billion rupiahs). From the formulation of the above article, what is meant by the act of financing terrorism is intentionally providing, collecting, giving, or lending funds, either directly or indirectly, with the intention of being used wholly or in part to commit Criminal Acts of Terrorism, terrorist organizations, or terrorists. An act can be regarded as a criminal act of financing terrorism if it has fulfilled the elements of the offense formulation as regulated in Article 4 of the Law on the Criminal Funding of Terrorism. The first element is intentional. The purpose of intentionally is intentional to do the act.

Arrangements regarding funding of terrorism began with Law number 15 of 2003 concerning Eradication of Terrorism Criminal Acts. Basically, Articles 13, 14, 15, 16 are articles that explain the assistance or participation in committing a criminal act of financing terrorism. Article 13 explains the granting of assistance or facilities to terrorists, especially in letter a the form of assistance is explained, namely the giving or lending of goods, money or assets. So in Article 13 letter a regulates other things, namely the assistance of

goods and assets not only financial aid. However, what constitutes assistance in funding terrorism is the financial assistance. Furthermore, as regulated in Articles 14 and 15 of the Law on the Eradication of Terrorism, these two articles regulate the inclusion of acts in the form of planning, mobilizing, assisting, conspiracy, and trial.

**Table 1. Acts of Criminal Funding of Terrorism and Money Laundering.**

No.	Laws and regulations	Article	Description of Terrorism Funding Acts
1.	Law No. 9 of 2013 concerning Prevention and Eradication of Criminal Acts on Terrorism Funding	Article 4	Providing, Collecting, Giving, Lending
		Article 5	Evil Agreement, Trial, Co-Administration
		Article 6	Planning, Organizing, Influencing others
2.	Law No. 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes	Article 3	Placing, Transferring, Transferring, Spending, Paying, Gifting, Saving, Bringing Abroad, Changing Forms
		Article 4	Hiding and disguising
		Article 5	Receiving and mastering
		Article 10	Experiments, Assistance, Bad Encounters

***Accountability of Criminal Actors in Terrorism Funding According to Law Number 9 of 2013***

Criminal Act Funding terrorism recognizes two legal subjects, namely individuals (person) and corporations as stipulated in article 1 number 3 which reads that each person is an individual and a corporation. Individuals are person (people) which means humans. While corporations in the Act on Criminal Funding of Terrorism have also been regulated in General Provisions Article 1 number 4, namely: Corporations are organized groups of people and or assets, whether they are legal entities or not legal entities. Therefore, based on the Law in question, every person is every person and corporation in the form of a legal entity or non-legal entity in the jurisdiction of the validity of the Law on Terrorism Funding.

***Criminal Sanctions Actors of Crime Funding Terrorism***

In the perspective of the Criminal Code, a subject that can be subjected to a criminal is a person as a person (Wirdjono Prodjodikoro, 2009). A conditional on criminal conviction is a condition of the ability to be responsible for itself, a person can be said to be guilty and is able to account for his actions if he has fulfilled the following elements; a) Committing criminal acts (against the law). b) Above a certain age so they can be responsible. c) Having a form of error (intentional or negligence). d) Absence of forgiving reasons. Based on the Law of the Republic of Indonesia number 9 of 2013 concerning the Criminal Acts of Funding Terrorism, there are also known principal and additional crimes. However, for different legal subjects, different types of criminal

sanctions are threatened. There are two categories of legal subjects namely individuals and corporations.

Individuals have human meaning. In addition, individuals are also divided into the actors making and the perpetrators of inclusion (Criminal Law Article 59). With this division, each of the actors has different threats, namely the maker of the crime of financing terrorism which is threatened with the main penalties in the form of imprisonment and fines as regulated in Article 4, the perpetrators may be subject to a maximum prison sentence. (fifteen) years and a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah). For other actors, namely planners, organizing, and mobilizing other people, are subject to life imprisonment or a maximum imprisonment of 20 years as stipulated in Article 6. So that in this article also gives the judge the option to impose sanctions for life imprisonment or a maximum of 20 years in prison. Criminal threats in this Article are more severe compared to Articles 4 and 5 because from the point of view of the perpetrators. Actors who plan, organize, and or move others are the masterminds of the creators. Consequently, there is a need for more severe threat from the perpetrators (implementing).

Regarding corporate criminal threats based on Article 8 consists of 2 (two) types of criminal threats. First, the main criminal offense in the form of a maximum fine of Rp. 100,000,000,000.00 (one hundred billion rupiahs), in addition if the corporation and or corporate controlling personnel are unable to pay the main criminal penalties, there are 2 (two) substitute penalties that are complementary in nature, namely deprivation of assets and substitute confinement penalties fine. So if the first surrogate criminal, namely the confiscation of assets, is not sufficient to the threat of fines, the substitute criminal confinement can be applied to the convicted person. Second, additional crimes in the form of freezing some or all of the corporation's activities; revocation of business license and declared as a prohibited corporation; corporate liquidation; confiscation of corporate assets for the state; corporate takeovers by the state; and or announcement of a court decision.

### **Criminal Liability for Terrorism Funding in Other Countries**

Following are some of the implementation of policies on combating terrorism funding in various countries:

Table 2. Implementation of Policies in Various Countries

<b>Countries</b>	<b>Form of Liability</b>
1. Philippines	"Shall bear the temporal reclusion and perpetual reclusion penalties and fines of at least 500,000 pesos and a maximum of 1,000,000 pesos."

2. Singapore	<p>If the accountability is carried out individually, the perpetrators can be subject to 3 types of sanctions, namely:</p> <ul style="list-style-type: none"> <li>a. maximum penalty of 500,000 dollars, or</li> <li>b. maximum imprisonment of 10 years, or</li> <li>c. criminal sanctions for fines together with prison sanctions.</li> </ul> <p>As for other responsibilities, as in done together, the same sanctions given are:</p> <ul style="list-style-type: none"> <li>a. a maximum fine of 1,000,000 dollars, or</li> <li>b. maximum penalty of imprisonment of 10 years, or</li> <li>c. criminal sanctions for fines together with prison sanctions</li> </ul>
3. Malaysia	<ul style="list-style-type: none"> <li>a. Criminal fines of maximum 1 million ringgit</li> <li>b. A maximum prison sentence of 1 year, or</li> <li>c. Criminal fines of maximum 1 million ringgit together with imprisonment</li> <li>d. 1 year maximum</li> </ul>

To break the inappropriate link, cooperation between countries is needed because the current follow-money approach to banking institutions is felt to be not working optimally. This is due to the rise of cases of terrorism financing that do not use financial services (banking) as the only intermediary, but instead use the courier as an intermediary between the perpetrators of funding and terrorists. In addition, the reason for the need for cooperation between States in combating criminal acts of financing terrorism is because this crime is a transnational (international) crime and therefore each State must have agencies and legislation related to handling financing of terrorism.

### CONCLUSION

Acts that are included in the criminal act of financing terrorism are acts of intentionally providing, collecting, giving or lending funds to terrorists or terrorist organizations. In addition to the abovementioned acts, inclusion which is also criminalized by the Terrorism Funding Act consists of acts of trial, acts of conspiracy, acts of assistance, acts of planning, organizing, and mobilizing others to commit criminal acts of financing terrorism. Furthermore, acts that are included in the crime of financing terrorism are acts that deliberately provide, collect, give or lend funds to terrorists or terrorist's organizations.

### LIMITATION AND SUGGESTION

Limitation of this study is Law number 9 of 2013 concerning Prevention and Eradication of Criminal Acts of Terrorism Funding are divided into 2 (two) legal subjects, namely individuals and corporations. Suggestion from this study is that Law number 9 of 2013 concerning Prevention and Eradication of Criminal Acts of Terrorism Funding can give more emphasize and give the equal punishment for the terrorism funding provider because they are no different than the terrorist.

### THE IMPLICATION OF THE STUDY AND FINDINGS

The purpose of the study is to find out what actions are included in the crime of financing terrorism as well as how the perpetrators of the financing of terrorism are responsible for. The findings of the study is in criminal liability, the perpetrators of criminal acts of financing terrorism according to Law number 9 of 2013 concerning Prevention and Eradication of Criminal Acts of Terrorism Funding are divided into 2 (two) legal subjects, namely individuals and corporations. Acts that are included in the criminal act of financing terrorism are acts of intentionally providing, collecting, giving or lending funds to terrorists or terrorist's organizations. In addition to those acts, the inclusion which is also criminalized by the Terrorism Funding Act consists of acts of trial, acts of conspiracy, acts of assistance, acts of planning, organizing, and mobilizing others to commit criminal acts of financing terrorism. Accountability in funding crimes varies in various countries in the form of a maximum fine of up to hundreds of millions and a maximum imprisonment of one year.

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