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Legal Framework for the Prevention and Eradication of Money Laundering as an Instrument for Countering Terrorism Financing

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ABSTRACT

This study examines the synchronization and effectiveness of the legal framework for the prevention and eradication of money laundering *(Tindak Pidana Pencucian Uang/TPPU)* as an instrument for countering terrorism financing *(Tindak Pidana Pendanaan Terorisme/TPT)* within Indonesia's criminal law system. Employing a normative juridical research method, this study applies Hans Kelsen's Hierarchy of Norms Theory to analyze legal synchronization, and Lawrence M. Friedman's Legal System Theory to evaluate effectiveness across the dimensions of legal substance, legal structure, and legal culture. The findings reveal that the legal framework governing TPPU and TPT suffers from significant inconsistencies both vertically and horizontally. Vertical synchronization discloses misalignments between statutes and their implementing regulations concerning definitions, scope, and implementation mechanisms. Horizontal synchronization exposes inconsistencies in the formulation of criminal elements and evidentiary standards between Law No. 8 of 2010 on Money Laundering and Law No. 5 of 2018 on the Eradication of Terrorism, despite terrorism having been formally recognized as a predicate crime under the former. Furthermore, the effectiveness of the TPPU legal framework as a counter-terrorism financing instrument is constrained across all three dimensions of Friedman's legal system. From the substantive dimension, the money laundering legal construction is insufficiently

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compatible with the forward-looking nature of terrorism financing, which characteristically involves legitimate funds directed toward illegal purposes. From the structural dimension, institutional fragmentation and weak inter-agency coordination undermine the optimal functioning of the Indonesian Financial Intelligence Unit (PPATK). From the cultural dimension, low public awareness, limited enforcement capacity, and underdeveloped private sector compliance culture collectively impede effective early detection and risk-based approach implementation.

Keywords: Legal Framework Synchronization, Money Laundering, Terrorism Financing

1. INTRODUCTION

The intersection of money laundering and terrorism financing represents one of the most formidable challenges in contemporary criminal law. In an era of increasingly sophisticated transnational financial crime, the capacity of a state's criminal law system to disrupt the financial architecture of terrorism is not merely a matter of regulatory policy — it is a fundamental test of the state's obligation to protect its citizens from organized violence (Fauzia & Hamdani, 2021). Indonesia, as the world's largest Muslim-majority democracy and a nation that has endured multiple devastating terrorist attacks, faces this challenge with acute urgency. The country's criminal law framework governing the prevention and eradication of money laundering (*tindak pidana pencucian uang*, hereinafter TPPU) — primarily anchored in Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering Crimes — has been positioned as a key instrument in countering terrorism financing (*tindak pidana pendanaan terorisme*, hereinafter TPT). Yet a rigorous normative analysis exposes a troubling dissonance between the ambition of that framework and its operational reality.

The *das sein* — the law as it actually exists and operates — reveals deep structural and substantive deficiencies. From a criminal law standpoint, the construction of money laundering offences under Articles 3, 4, and 5 of Law No. 8 of 2010 is oriented predominantly towards concealing the proceeds of prior completed crimes (*ex post* orientation). Terrorism financing, however, is characterized by a fundamentally

different logic: it is *forward-looking* and frequently involves the conversion of lawfully obtained funds into instruments of unlawful violence. Article 9 of Law No. 5 of 2018 on the Eradication of Terrorism criminalizes the provision or collection of funds for terrorist purposes, yet critical asymmetries remain — particularly in the evidentiary standards applied under each law. Law No. 8 of 2010, through Articles 77 and 78, permits a system of limited reverse burden of proof (*pembuktian terbalik terbatas*), whereunder the defendant may be required to demonstrate the lawful origin of assets. Law No. 5 of 2018 contains no equivalent provision for terrorism financing, leaving prosecutors to discharge the full burden under the general rules of the *Kitab Undang-Undang Hukum Acara Pidana* (KUHAP). This normative inconsistency is not merely technical — it generates a structurally unequal prosecutorial regime for two offences that are, in practice, deeply intertwined. As Ajie has observed in the context of the new Criminal Code (Law No. 1 of 2023), changes to terrorism financing regulations demand careful alignment with the existing criminal law architecture to avoid precisely these kinds of normative gaps (Ajie, 2024).

The *das sollen* — the law as it ought to be — demands a coherent, synchronized, and effective criminal law framework in which the prevention and eradication of money laundering functions as a genuine upstream instrument for disrupting the financial supply chains of terrorism. This normative aspiration is grounded in several fundamental legal principles. The principle of *lex certa* (legal certainty) requires that criminal norms be formulated with sufficient precision to guide both enforcement authorities and subjects of the law. The principle of *legalitas* — enshrined in Article 1(1) of the Indonesian Criminal Code — prohibits the imposition of criminal sanctions absent a clear and prior legal basis. The principle of *ne bis in idem* demands that where TPPU and TPT charges arise from a single course of conduct, jurisdictional clarity must be established to avoid double prosecution. Equally, the principle of proportionality

requires that the gravity of sanctions and the stringency of evidentiary burdens be calibrated to the relative dangerousness of the offending conduct in question.

The steps already taken by Indonesia are not without significance. The enactment of Law No. 8 of 2010 marked a decisive advance over its predecessor, Law No. 15 of 2002, by broadening the list of predicate crimes to include terrorism under Article 2(1)(q), thereby formally establishing the nexus between TPPU and TPT in positive law. Presidential Regulation No. 50 of 2011 established a National Coordination Team for the Prevention and Eradication of Money Laundering Crimes, and the Indonesian Financial Intelligence Unit (*Pusat Pelaporan dan Analisis Transaksi Keuangan*, hereinafter PPATK) has progressively expanded its analytical capacity, processing tens of thousands of suspicious transaction reports annually. At the international level, Indonesia's membership in the *Asia/Pacific Group on Money Laundering* (APG) since 1997 and its ongoing engagement with the *Financial Action Task Force* (FATF) reflect a sustained political commitment to aligning national criminal law with international standards. The FATF's 2023 mutual evaluation of Indonesia acknowledged these advances, noting a strong legal framework and effective use of financial intelligence, while simultaneously identifying persistent weaknesses in risk-based supervision, institutional coordination, and asset recovery (FATF, 2023).

Nevertheless, these efforts remain insufficient. The global Anti-Money Laundering/CFT regulatory architecture — built on the FATF's forty recommendations — is premised on a *risk-based approach* that demands not merely formal compliance but substantive effectiveness (Gaviyau & Sibindi, 2023). Scholars have noted that FATF recommendations, while not internationally binding in the strict legal sense, operate as powerful normative instruments that shape domestic criminal law through a combination of political commitment and reputational pressure (Pavlidis, 2021). Yet the mere transposition of these standards into national legislation does not guarantee effectiveness. As Nuotio has argued, the criminalization of money laundering and

terrorism financing as *preventive criminalizations* within criminal law carries an inherent tension: by expanding the criminal law's reach into preparatory and anticipatory conduct, states risk loosening the limiting principles — such as *culpability*, *harm*, and *proportionality* — that distinguish legitimate criminal law from purely administrative regulation (Nuotio, 2023). Indonesia's criminal law framework reflects precisely this tension, having formally adopted the FATF framework without fully resolving the doctrinal contradictions that arise when two distinct criminal law regimes — one *ex post* and one *ex ante* — are required to operate as a coherent system.

It is against this background that the present study poses two central research questions: first, how well synchronized is Indonesia's TPPU legal framework with the TPT regime within the Indonesian criminal law system, both vertically (between statutes and their implementing regulations) and horizontally (between co-equal statutes); and second, how effective is that framework as an instrument for countering terrorism financing, evaluated through the lens of Lawrence M. Friedman's legal system theory across the dimensions of legal substance, legal structure, and legal culture (Amrullah, 2023). The study employs a normative juridical (*yuridis normatif*) method, using a statutory approach (*pendekatan perundang-undangan*), a conceptual approach (*pendekatan konseptual*), and a comparative approach (*pendekatan komparatif*), with Hans Kelsen's hierarchical norm theory providing the analytical framework for synchronization analysis. The objective is not merely to catalogue deficiencies but to advance a scholarly contribution to the reform of Indonesia's criminal law architecture in a domain where legal precision is, quite literally, a matter of life and death.

2. RESEARCH METHOD

The intellectual rigour of any legal inquiry is inseparable from the methodological foundations upon which it rests. A study that purports to examine the synchronization and effectiveness of Indonesia's criminal law framework governing money laundering

and terrorism financing must be grounded in a method that is not only internally consistent but also genuinely suited to the normative character of its subject matter. This study employs *doctrinal legal research* (*penelitian yuridis normatif*) — the method most appropriate for a problem whose resolution lies not in empirical social observation but in the critical analysis of legal norms, their logical coherence, and their operative fidelity to the principles of criminal law. As Majeed, Hilal, and Khan have argued, normative legal research focuses analytically on existing legal norms contained in legislation, doctrine, and jurisprudence, with the aim of identifying legal rules and principles applicable to the problem at hand (Majeed et al., 2023). Doctrinal research, in this sense, is not merely descriptive — it is inherently prescriptive, yielding arguments, theories, and new legal constructs that contribute to the ongoing refinement of the legal system (Ngwoke et al., 2023).

The choice of *doctrinal legal research* is not arbitrary. The research problems at the center of this study — namely, the degree of normative synchronization between Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering and Law No. 5 of 2018 on the Eradication of Terrorism, and the effectiveness of that framework as a criminal law instrument — are fundamentally questions of law *as it is written* and *as it ought to operate*. They demand an analysis of statutory provisions, the identification of normative gaps and conflicts, and an evaluation of the internal consistency of the criminal law system. These are tasks that belong squarely within the domain of criminal law dogmatics and that would be distorted, not enriched, by purely empirical methods. Doctrinal research, as Ngwoke, Mbano, and Helynn have observed, is "research in law" rather than merely "research about law" — it works from within the legal system's own normative grammar to evaluate whether its rules meet the standards that the system itself demands (Ngwoke et al., 2023).

This study deploys three complementary approaches, each chosen for its specific analytical contribution to criminal law scholarship. The first is the *statute approach*

(*pendekatan perundang-undangan*), which involves a systematic and hierarchical examination of all relevant legislative instruments. Starting from the *Grundnorm* — the 1945 Constitution of the Republic of Indonesia as the foundational legal order — the analysis proceeds through Law No. 8 of 2010, Law No. 5 of 2018, the *Kitab Undang-Undang Hukum Pidana* (KUHP), the *Kitab Undang-Undang Hukum Acara Pidana* (KUHAP), Presidential Regulation No. 50 of 2011 on the National Coordination Team for Money Laundering, and all relevant implementing regulations. This hierarchical tracing reflects the Kelsenian understanding that every valid legal norm derives its binding force from a superior norm, and that inconsistencies between norms at different levels of the hierarchy must be identified and resolved in accordance with the *lex superior derogat legi inferiori* and *lex specialis derogat legi generali* principles. As Syofyan Hadi and Tomy Michael have argued, the Kelsenian theory of the hierarchy of norms retains its contemporary relevance precisely because the *judicial review* mechanism continues to operate on the assumption that norm validity must be preserved through hierarchical consistency (Hadi & Michael, 2022).

The second approach is the *conceptual approach* (*pendekatan konseptual*), which enables the study to engage with the doctrinal foundations of criminal law that are not always expressly articulated in positive legislation. Criminal law concepts such as *predicate crime*, *forward-looking criminalization*, *mens rea*, *pembuktian terbalik terbatas* (limited reverse burden of proof), and the institutional coordination requirements of an effective Anti-Money Laundering regime are analyzed as legal constructs whose coherence must be evaluated against both classical criminal law theory and the modern normative demands of FATF Recommendation 5. The conceptual approach also brings to bear the theoretical framework of Lawrence M. Friedman's *legal system theory*, whose tripartite structure — *legal substance*, *legal structure*, and *legal culture* — provides the architecture for evaluating the effectiveness dimension of this study. Flora, Thuong, and Erawati have confirmed that in the context

of criminal law reform, Friedman's framework enables a comprehensive assessment of whether statutory criminal norms (substance), the institutions charged with their enforcement (structure), and the values and attitudes that shape legal behavior (culture) operate in the necessary alignment to produce genuine legal effectiveness (Flora et al., 2023).

The third approach is the *comparative approach* (*pendekatan komparatif*), applied narrowly and purposefully within a criminal law frame. Rather than pursuing broad comparative law for its own sake, this study uses comparative analysis to evaluate Indonesia's Anti-Money Laundering/CFT criminal law framework against the standard set by the FATF's Forty Recommendations — particularly Recommendations 5, 6, and 10 — and against the criminal law architectures of comparable jurisdictions that have more successfully integrated money laundering and terrorism financing prosecutions into a coherent legal framework. As Al Abiad and Masadeh have noted, comparative legal research is indispensable in identifying gaps and best practices when the legal framework in question must operate in alignment with internationally recognized standards (Al Abiad & Masadeh, 2024).

The legal materials used in this study are organized into three tiers. Primary legal materials comprise the binding normative sources — statutes, regulations, and court decisions — that directly constitute the object of analysis. Secondary legal materials consist of academic doctrines, commentaries, and peer-reviewed scholarship in criminal law and financial crime that provide interpretive and theoretical frameworks. Tertiary materials include legal dictionaries and encyclopedias used for definitional clarification. The collection of these materials follows the principles of *library research* and systematic cataloguing, ensuring completeness and cross-verification of all sources. The analysis proceeds through a qualitative, descriptive-prescriptive method combining textual analysis (*textual analysis*) of statutory language, systematic analysis of normative coherence, and deductive-inductive reasoning to move between the general

principles of criminal law and their specific application to the TPPU-TPT nexus — ultimately producing normative propositions that contribute to the reform of Indonesia's criminal law framework governing the prevention and eradication of terrorism financing.

3. DISCUSSION

Synchronization of the Anti-Money Laundering Legal Framework with Terrorism Financing in Indonesia's Criminal Law System

The relationship between tindak pidana pencucian uang (TPPU) and tindak pidana pendanaan terorisme (TPPT) within Indonesia's criminal law system is not merely coincidental; it is structurally and juridically intertwined. Understanding this nexus requires a rigorous examination of how both legal regimes are synchronized — vertically within the constitutional hierarchy, horizontally across co-existing legislation, and externally against international standards set by the Financial Action Task Force (FATF). Legal synchronization, in this context, means more than mere formal coherence; it demands that the operative content, the definitional elements, and the enforcement mechanisms of the two regimes align functionally so that neither exists as an isolated island of proscription. Indonesia's experience in building this synchronization over the past two decades offers a compelling — if still imperfect — case study in criminal law adaptation to transnational threats.

Vertical synchronization refers to the hierarchical coherence between a legal norm and the constitutional and statutory framework above it. In Indonesia's criminal law architecture, *Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang* (UU TPPU) and *Undang-Undang Nomor 9 Tahun 2013 tentang Pencegahan dan Pemberantasan Tindak Pidana Pendanaan Terorisme* (UU TPPT) both derive their constitutional legitimacy from Article 28D(1) of the 1945 Constitution of the Republic of Indonesia, which guarantees legal certainty, and from the state's obligation under Article 30 to safeguard national

security. At the statutory level, both laws are consistent with the *Kitab Undang-Undang Hukum Pidana* (KUHP) insofar as they share the fundamental criminal law principles of *actus reus*, *mens rea*, and criminal liability — though each carves out specific modifications, particularly regarding reversal of the burden of proof in money laundering under Articles 77 and 78 of UU TPPU (Amrullah, 2020).

The structural bond between TPPU and TPPT is explicitly acknowledged in UU TPPT itself. Article 1 of that law positions terrorism financing as a predicate crime functionally connected to money laundering, recognizing that funds intended for terrorist purposes may originate either from licit or illicit sources — a distinction that differentiates TPPT from classical money laundering while simultaneously justifying their regulatory proximity (Yossri Mantaw Sihombing et al., 2024). This design is not arbitrary; it reflects the legislature's awareness that the detection and disruption of terrorist financing through financial intelligence tools — primarily administered by *Pusat Pelaporan dan Analisis Transaksi Keuangan* (PPATK) — require a robust TPPU framework as the operational backbone. PPATK's dual mandate — reporting suspicious transactions under both the Anti-Money Laundering and CTF regimes — exemplifies this vertical integration, as the same institutional mechanism simultaneously serves two criminalization objectives (Ayu Putu Mira Fajarini et al., 2022).

What makes vertical synchronization particularly significant from a criminal law standpoint is the principle of *lex specialis derogat legi generali*. UU TPPT, as the more specific statute, governs the *actus* of financing terrorism, while UU TPPU — as the broader framework — governs the laundering of proceeds, which may include funds subsequently used to finance terrorism. The vertical relationship demands that both laws operate without normative contradiction. On this score, Indonesia's framework performs reasonably well: neither law's definitional scope contradicts the other, and both share compatible institutional actors, reporting obligations, and criminal sanctions.

Horizontal synchronization examines the coherence between co-existing laws at the same normative level. Indonesia's Anti-Money Laundering and counter-terrorism financing (Anti-Money Laundering/CFT) architecture comprises not only UU TPPU and UU TPPT but also *Undang-Undang Nomor 5 Tahun 2018 tentang Pemberantasan Tindak Pidana Terorisme*, Bank Indonesia Regulation No. 19/10/PBI/2017, and *Peraturan Otoritas Jasa Keuangan* (POJK) No. 8 of 2023 on Anti-Money Laundering program enforcement (Roosdiono and Partners, 2024). The horizontal synchronization challenge lies in ensuring that these instruments, each issued by a different authority and at different points in time, do not produce normative gaps or conflicting obligations for regulated entities.

A central test of horizontal coherence is whether the definition of "terrorism financing" in UU TPPT maps onto the predicate offence framework established by UU TPPU. The answer is affirmative but nuanced. Article 2 of UU TPPU designates terrorism as one of the twenty-six *tindak pidana asal* (predicate offences) that can give rise to money laundering charges. This integration ensures that funds obtained or used for terrorist purposes can simultaneously attract prosecution under both regimes — a "double-barrelled" prosecutorial strategy that significantly strengthens the deterrent effect of the criminal law (Mursyid & Azam, 2025). Amrullah, writing in the *Pattimura Law Journal*, correctly observed that FATF's Nine Special Recommendations on terrorism financing — now integrated into the Forty Recommendations — have been absorbed into UU TPPU and UU TPPT in a manner that produces a complementary, rather than redundant, dual-track enforcement system (Amrullah, 2020).

However, horizontal synchronization is not without its tensions. POJK No. 8 of 2023, issued by the *Otoritas Jasa Keuangan* (OJK) to replace POJK No. 12/POJK.01/2017, introduced a comprehensive risk-based approach (*pendekatan berbasis risiko*) requiring all financial service providers to annually submit risk assessment reports on ML, TF, and proliferation financing. While this regulation

strengthens the preventive dimension of Anti-Money Laundering/CFT, it creates compliance asymmetry: the reporting obligations under POJK 8/2023 are calibrated primarily for formal financial institutions, leaving designated non-financial businesses and professions (DNFBPs) — including cash-intensive sectors — subject to a less stringent and inconsistently enforced supervisory regime. This gap represents a horizontal desynchronization that weakens the overall system, as terrorist financiers rationally migrate toward the least-regulated channels (Nurcahyo et al., 2024). The modus operandi of terrorism financing in Indonesia confirms this tendency, as legal channels such as charity boxes, zakat institutions, and unregistered non-profit organisations (NPOs) have repeatedly been identified as conduits for moving funds to terrorist networks (Mursyid & Azam, 2025).

The most consequential dimension of legal synchronization for Indonesia's Anti-Money Laundering/CFT framework is its conformity with FATF standards, particularly FATF Recommendation 5 on the criminalisation of terrorist financing. Recommendation 5 requires states not only to criminalise the financing of terrorist acts but also the financing of terrorist organisations and individual terrorists, regardless of any link to a specific attack. Crucially, it mandates that such offences be designated as money laundering predicate offences (Aninat et al., 2002). Indonesia's UU TPPT substantially implements this requirement: it criminalises both direct and indirect provision of funds for terrorist purposes and designates terrorism financing as a predicate crime for money laundering under UU TPPU.

Indonesia's trajectory in FATF compliance is instructive. Having been placed under FATF's increased monitoring — the so-called "grey list" — in February 2010, Indonesia was removed from that list in June 2015, and subsequently achieved full FATF membership in October 2023 (Saputra, 2025). The 2023 FATF Mutual Evaluation Report (*MER*) concluded that Indonesia is fully or largely compliant with thirty-five of the forty FATF recommendations, a significant achievement that validates

the legal synchronization effort (FATF, 2023). By May 2025, following further legislative amendments, Indonesia was re-rated on Recommendation 7 — from Partially Compliant to Largely Compliant — with four recommendations remaining Partially Compliant (ESAAMLG, 2024).

Nevertheless, full conformity remains elusive in critical areas. The primary anti-terrorism law — Law No. 15 of 2003 as amended by Law No. 5 of 2018 — and UU TPPT both lack explicit provisions governing virtual assets and cryptocurrency, falling below FATF Recommendation 15, which extends Anti-Money Laundering/CFT obligations to virtual asset service providers (VASPs) (Akmal, 2025). The absence of a coherent legislative regime for cryptocurrency-based terrorism financing creates a structural vulnerability in the synchronization framework, as terrorist groups in Indonesia — including *Jemaah Islamiyah* and affiliated networks — have increasingly turned to digital payment channels to evade detection (Mursyid & Azam, 2025). While OJK assumed regulatory authority over crypto assets in 2024, the legal architecture for applying UU TPPT and UU TPPU to virtual asset transactions remains inchoate, generating a zone of regulatory ambiguity that undermines the synchronization gains achieved in the conventional financial sector.

From a criminal law theory standpoint, the synchronization deficit in the NPO sector represents a structural challenge of equal significance. FATF Recommendation 8 requires states to assess the risk of NPO abuse for terrorism financing and to apply proportionate — not blanket — regulatory measures. Indonesia's PPATK has acknowledged that the vast presence of unregistered NPOs in Indonesian Muslim civil society creates a persistent supervisory blind spot. A May 2024 PPATK report noted that numerous NPOs had been added to the domestic sanctions list for links to terrorism, yet the challenge of distinguishing legitimate charitable operations from *shell* organisations remains analytically complex and legally under-addressed. The criminal law system, which depends on clear definitional boundaries to ground prosecution,

suffers when the institutional architecture for identifying suspicious NPO activity is structurally weak.

From a comparative criminal law perspective, the Indonesian synchronization model reflects a broader global tension identified by Korauš and others: the inherent difficulty of harmonising Anti-Money Laundering and CTF frameworks within a single national legal system, where money laundering and terrorism financing — while sharing financial detection mechanisms — diverge fundamentally in their underlying logic. As the bibliometric literature on ML/TF has confirmed, money laundering is characteristically *backward-looking* (concealing the illicit origin of funds already generated), while terrorism financing is characteristically *forward-looking* (mobilising funds — whether licit or illicit — toward a future criminal purpose) (Thakkar et al., 2024). This conceptual asymmetry demands that the synchronization between UU TPPU and UU TPPT be not merely formal but substantive, ensuring that the investigative tools, the evidentiary standards, and the prosecutorial strategies under each regime are calibrated to their distinct operational realities. Indonesia's framework, while formally achieving synchronization at the normative level, continues to face implementation challenges that prevent that formal coherence from translating into consistent operational effectiveness.

Effectiveness of the Anti-Money Laundering Legal Framework as an Instrument for Combating Terrorism Financing

Measuring the effectiveness of a legal framework demands more than a catalogue of enacted statutes; it requires a rigorous evaluation of whether those norms, when operationalised through institutional structures and enforcement practices, actually produce the outcomes they are designed to achieve. In the context of Indonesia's tindak pidana pencucian uang (TPPU) regime as an instrument against tindak pidana pendanaan terorisme (TPPT), this evaluation must be conducted across three

analytically distinct yet interdependent dimensions: the substantive content of the law, the structural capacity of enforcement institutions, and the legal culture of compliance among regulated entities and the broader criminal justice system. Lawrence Friedman's tripartite model of legal system analysis — substance, structure, and culture — offers a particularly apt framework for this assessment, as it captures precisely the gap that frequently exists between law in the books and law in action (Sugianto & Irawan, 2024). The following analysis proceeds across these three dimensions in an integrated manner, demonstrating that Indonesia's Anti-Money Laundering framework is, at present, instrumentally effective in specific respects but structurally constrained in others — and that closing the remaining gaps is an imperative, not merely an aspiration, of sound criminal law policy.

The substantive dimension of legal effectiveness examines whether the norms contained in *Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang* (UU TPPU) are sufficiently precise, comprehensive, and internally coherent to serve as an operative instrument against terrorism financing. On this score, the Indonesian legislature has made significant strides. UU TPPU designates terrorism as one of twenty-six predicate offences (*tindak pidana asal*) whose proceeds are susceptible to money laundering prosecution, thereby creating a dual-track enforcement mechanism: the same financial conduct can attract prosecution under both UU TPPU and *Undang-Undang Nomor 9 Tahun 2013 tentang Pencegahan dan Pemberantasan Tindak Pidana Pendanaan Terorisme* (UU TPPT), substantially expanding the prosecutorial arsenal available to law enforcement (Amrullah, 2020). This is complemented by the provisions on reversal of the burden of proof in Articles 77 and 78 of UU TPPU, which represent a critical departure from the classical *presumptio innocentiae* principle and strategically place the evidentiary burden on defendants to explain the lawful origin of their assets — a mechanism that directly

serves the *follow the money* investigative strategy central to disrupting terrorism financing (Sugianto & Irawan, 2024).

Substantive effectiveness is further reinforced by the criminalisation of both active and passive conduct under UU TPPT. Article 4 of that law penalises any person who provides, collects, or delivers funds with the knowledge or reasonable cause to believe that the funds will be used for terrorism, irrespective of whether a specific terrorist act has been committed or whether the fund provider is directly connected to a terrorist organisation. This formulation aligns closely with FATF Recommendation 5, which mandates criminalisation of terrorism financing independently of any actual terrorist act. In criminal law terms, this design effectively transforms the offence from a result-based crime into a conduct-based crime, maximising the deterrent scope of the statute by allowing prosecution at the earliest stage of financial facilitation. However, a substantive gap persists in the treatment of virtual assets: neither UU TPPU nor UU TPPT contains explicit provisions governing cryptocurrency transactions, *hawala* networks facilitated through digital platforms, or other emerging financial instruments increasingly exploited by terrorist financiers. While *Peraturan Otoritas Jasa Keuangan* (POJK) No. 8 of 2023 has extended Anti-Money Laundering/CFT obligations to certain digital financial service providers, its regulatory footprint does not comprehensively cover the criminal law dimensions of terrorism financing through virtual asset channels, leaving a normative gap that undermines the completeness of the substantive framework (Rusli & Fermay, 2024).

The question of corporate criminal liability under the TPPT regime also warrants attention from the substantive perspective. Law No. 9 of 2013 explicitly recognises the criminal responsibility of legal persons (*korporasi*) for terrorism financing offences, consistent with the direction of Indonesia's broader criminal law reform under the new *Kitab Undang-Undang Hukum Pidana* (KUHP) enacted as Law No. 1 of 2023 (Yossri Mantaw Sihombing et al., 2024). This is a normatively significant development, as

terrorist financing operations frequently exploit corporate structures — including foundations, charitable organisations, and shell companies — to conceal the movement of funds. The extension of criminal liability to legal persons closes a classical doctrinal gap in which natural persons behind corporate structures might otherwise escape individual prosecution, thereby strengthening the deterrent architecture of the TPPT regime at the substantive level.

The structural dimension of legal effectiveness concerns the institutional capacity of the agencies responsible for implementing and enforcing the Anti-Money Laundering/CFT framework. In Indonesia, the primary institutional actors are *Pusat Pelaporan dan Analisis Transaksi Keuangan* (PPATK) as the financial intelligence unit (*FIU*), the *Otoritas Jasa Keuangan* (OJK) and Bank Indonesia as supervisory authorities, and law enforcement agencies — principally the National Police (*Polri*), the Attorney General's Office, and the *Komisi Pemberantasan Korupsi* (KPK) — as prosecution authorities. The structural effectiveness of Indonesia's Anti-Money Laundering framework as an instrument against terrorism financing depends critically on whether these institutions can translate PPATK's financial intelligence into successful prosecution and asset deprivation.

PPATK's operational contribution is formally significant: it receives, analyses, and disseminates *Laporan Transaksi Keuangan Mencurigakan* (suspicious transaction reports — STRs) and *Laporan Transaksi Keuangan Tunai* (cash transaction reports — CTRs) from thousands of regulated entities, and provides *Hasil Analisis* (analysis results) and *Hasil Pemeriksaan* (examination results) to law enforcement. The 2023 FATF Mutual Evaluation Report praised PPATK for providing high-quality, timely, and targeted financial intelligence to investigators. However, a critical structural constraint limits PPATK's operational contribution: under current Indonesian law, PPATK's financial intelligence reports — both *Hasil Analisis* and *Hasil Pemeriksaan* — do not qualify as *alat bukti* (evidence) admissible in criminal proceedings under *Kitab*

Undang-Undang Hukum Acara Pidana (KUHAP). Sugianto and Irawan have persuasively argued that this evidentiary exclusion represents a structural deficiency of the first order, as it forces law enforcement to independently reconstruct the evidentiary foundation of cases that PPATK has already analytically established, producing redundancy, prosecutorial delay, and — in complex terrorism financing cases — the risk that intelligence-based insights are lost in the translation to formal evidence (Sugianto & Irawan, 2024). Elevating PPATK's reports to the status of admissible evidence, or at minimum recognising them as a valid form of expert documentary evidence under Article 187 of KUHAP, is a structural reform with direct consequences for the framework's effectiveness as an anti-terrorism instrument.

A second structural constraint concerns asset recovery — the mechanism through which UU TPPU deprive terrorist networks of their financial resources. The FATF MER 2023 expressly identified asset recovery as an area requiring urgent improvement, noting that Indonesia needed to ensure the permanent deprivation of criminal proceeds, particularly assets held abroad or derived from forestry and environmental crimes. In the specific context of terrorism financing, the structural challenge is compounded by the fact that terrorist funds may originate from licit sources — charitable donations, small businesses, or personal savings — making them harder to identify and trace through conventional transaction monitoring systems calibrated primarily for laundered proceeds from predicate crimes. The PPATK's *follow the money* approach must therefore be supplemented by a robust international mutual legal assistance (*bantuan hukum timbal balik*) framework, given the transnational character of many Indonesian terrorist financing networks, particularly those with links to regional organisations such as *Jemaah Islamiyah* (JI) and their international affiliates. Structurally, Indonesia has enacted *Undang-Undang Nomor 1 Tahun 2006 tentang Bantuan Timbal Balik dalam Masalah Pidana* to facilitate such cooperation, but its practical utilisation in terrorism

financing cases remains limited, reflecting an implementation gap between legal capacity and operational deployment.

The structural effectiveness of the Anti-Money Laundering framework also depends on the quality and consistency of supervision applied to the sectors most vulnerable to terrorism financing exploitation. The 2023 FATF MER identified risk-based supervision of money changers, money or value transfer services (MVTS), and designated non-financial businesses and professions (DNFBPs) as significantly below the standard achieved in the banking sector. This supervisory asymmetry is structurally consequential: if formal financial institutions are tightly supervised but informal value transfer operators remain effectively unmonitored, rational actors within terrorist financing networks will route funds through the path of least regulatory resistance. The structural framework, however well designed at the legislative level, loses its deterrent force precisely where terrorist financiers operate with greatest frequency.

The third and perhaps most challenging dimension of effectiveness is legal culture — the disposition of regulated entities, legal professionals, and law enforcement actors toward genuine internalisation of Anti-Money Laundering/CFT norms, rather than mere formal compliance. Legal culture, as Friedman's model recognises, determines whether legal norms translate into actual behavioural change, or merely produce a *paper compliance* architecture that satisfies external evaluation criteria without altering the underlying risk environment.

In Indonesia, legal culture challenges manifest at multiple levels. At the level of reporting entities, the FATF MER 2023 found that banks and larger financial institutions demonstrated a competent understanding of ML/TF risks, but that this understanding was significantly weaker in smaller financial institutions, non-bank financial sectors, and DNFBPs. This understanding gap is not merely technical; it reflects a cultural deficit in which Anti-Money Laundering/CFT compliance is perceived as a cost-centre obligation rather than as an integral component of a firm's

risk governance identity. Rusli and Fermay have noted that open banking optimisation and regulatory technology (*RegTech*) solutions offer promising tools for bridging this gap, but their adoption in Indonesia's financial sector remains uneven, and their application specifically to terrorism financing detection — as distinct from general Anti-Money Laundering transaction monitoring — requires further institutional investment.

At the level of the criminal justice system, Indonesia's legal culture presents a more nuanced picture. The criminalisation of terrorism financing has been prosecuted with notable vigour by *Detasemen Khusus 88 Anti Teror* (Densus 88), which continues to arrest individuals linked to terrorist networks, demonstrating a credible threat of prosecution that is indispensable to effective deterrence. However, within the formal legal culture of the courts and the prosecution service, awareness of the technical dimensions of terrorism financing law — particularly the *follow the money* evidentiary strategy and the legal basis for parallel prosecution under UU TPPU and UU TPPT — remains uneven. Afriansyah, Ghozi, and Wargadalem's analysis of Indonesia's Anti-Money Laundering/CFT laws and policies identified the incomplete implementation of UN Security Council Resolutions and the limited use of targeted financial sanctions as evidence of a legal culture that has not yet fully internalised the operational logic of the international counter-financing regime.

The legal culture of public compliance is equally significant. The prevalence of cash-based transactions, the persistence of informal *hawala* networks, and the extensive use of charity channels for community financial transactions create an environment in which terrorism financing can occur at the margins of the formal financial system with minimal detection risk. Gisymar et al.'s study of PPATK's dormant account blocking regulatory framework illustrates this challenge at the institutional level: even well-designed regulatory interventions by PPATK can produce normative friction when they interact with a financial system in which legal culture has not yet achieved the level of

transparency and reporting obligation internalisation that an effective Anti-Money Laundering/CFT regime requires. Addressing this cultural dimension demands not merely regulatory enforcement, but sustained legal education, public awareness campaigns, and the cultivation of a broader societal commitment to the integrity of the financial system as a public good.

4. CONCLUSION

The synchronization of Indonesia's Anti-Money Laundering legal framework with the crime of terrorism financing has been substantially achieved at the vertical and horizontal normative levels, and meaningful progress has been made toward FATF conformity — evidenced by Indonesia's attainment of full FATF membership and largely compliant ratings across most recommendations. Nevertheless, persistent gaps in virtual asset regulation, NPO supervision, and the operational translation of formal legal coherence into effective enforcement continue to limit the system's capacity to function as a genuinely integrated instrument of criminal law. Addressing these gaps requires not merely further legislative amendments but a sustained commitment to structural reform of the supervision and prosecution architecture that gives the synchronization framework its practical force.

The Anti-Money Laundering legal framework established under UU TPPU constitutes a substantively sound and formally adequate instrument for combating terrorism financing in Indonesia — one that has earned international validation through full FATF membership and largely compliant ratings across most technical recommendations. However, its ultimate effectiveness as a criminal law instrument remains constrained by persistent structural deficiencies in asset recovery, the inadmissibility of PPATK's financial intelligence as direct evidence, inadequate supervision of informal financial sectors, and a legal culture of compliance that has not yet achieved uniform depth across all regulated entities and enforcement actors. Transforming this framework from adequate to genuinely effective requires not merely

further statutory refinement, but a committed investment in the institutional capacity and cultural infrastructure upon which the rule of law in financial crime ultimately depends.

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