

Optimizing the Role of BNPT in Preventing Terrorism Financing Using Cryptocurrency in Indonesia

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Abstract

The development of cryptocurrency technology is the latest innovation in the financial sector. The purpose of this study is to determine the efforts made by BNPT and to assess the ideal regulations in addressing this issue in the future. Through the use of blockchain technology, users can transact anonymously. This research is considered as a normative juridical research equipped with interviews using a statutory approach. Sources of data obtained from secondary data which includes primary, secondary, and tertiary legal materials. The novelty of the study shows that the BNPT establish the CTF Task Force which aims to combat terrorism financing through cryptocurrency and based on several previous studies and after looking at the above-mentioned examples of the phenomenon of terrorism financing, it is undeniable that many terrorists are trying to utilise cryptocurrencies to fund criminal acts. This has resulted in the issue of a legal or regulatory vacuum regarding the use of cryptocurrencies, in this case, the Commodity Futures Trading Supervisory Agency Regulation No. 6/2019 on Implementation of Anti-Money Laundering and Terrorism Financing Prevention In its future endeavors, there is a need for specific regulations to ensure that the implementation process of the CTF Task Force with other agencies can be carried out more optimally.

Keywords: BNPT; Cryptocurrency; CTF Task Force; Terrorism Financing

1. INTRODUCTION

Digitalization, facilitated by blockchain technology, has revolutionized daily life, enabling the creation of virtual money and cryptocurrency through a decentralized system.¹ According to Merriam-Webster Dictionary, cryptocurrency is a digital currency that refers to any type of currency that exists only in electronic form, with no central authority overseeing its issuance or regulation.² Furthermore, based on data managed by the Commodity Futures Trading Supervisory Body (*Badan Pengawas Perdagangan Berjangka Komoditi - Bappebti*), the percentage of internet users in Indonesia who own crypto assets is quite large, namely 16.4% to 18.4%. The total registered customers of crypto assets rose from 11.2 million in 2021 to 16.55 million in 2022.³

The capacity of cryptocurrencies to preserve owner anonymity allows each user to engage within the blockchain using an *address*⁴ that conceals their true identity. This is one of the well-known features of cryptocurrencies. *Public key cryptography*⁵ is used in

¹Agung Mulyono, "Menuju Era Uang Rupiah Digital," accessed March 18, 2023, <https://djp.kemenkeu.go.id/portal/id/berita/lainnya/opini/3950-menuju-era-uang-rupiah-digital.html>.

² Merriam-Webster Dictionary, "Cryptocurrency," accessed March 19, 2023, <https://www.merriam-webster.com/dictionary/cryptocurrency>.

³ Riani Sanusi Putri, "Bappebti: Jumlah Pemilik Aset Kripto Di Indonesia Naik Tapi Transaksinya Merosot," News, *Tempo.Co* (blog), accessed March 18, 2023, <https://bisnis.tempo.co/read/1675666/bappebti-jumlah-pemilik-aset-kripto-di-indonesia-naik-tapi-transaksinya-merosot>.

⁴ Address is an alphanumeric address similar to a bank account, each crypto wallet has a unique and different address containing 26-35 unique characters.

⁵ Public key cryptography is a cryptographic system that uses a pair of keys, a public key can be shared and a private key known only to the owner.

cryptocurrencies as a transactional address that may be given to anybody. It cannot be used to establish who actually owns *Bitcoin*⁶ or *private key*⁷. Blockchain transactions are documented, but identifying individuals responsible is challenging due to cryptocurrency's anonymity. Authorities struggle to prove ownership, leading to misuse and criminal acts using cryptocurrency as a means of payment, one of which is the Crime of Financing Terrorism (*Tindak Pidana Pendanaan Terorisme - TPPT*).⁸

Based on the Global Terrorism Database, there were 638 incidents of terrorism in Indonesia from 2000 to 2020. From the report recorded in the Global Terrorism Index (GTI) in 2022, Indonesia ranks 24th in the list of countries most affected by terrorism. According to the global terrorism index score in 2022, Indonesia recorded a score of 5.5 points.⁹ Indonesia is also vulnerable to terrorism funding, and the Indonesian National Counter-Terrorism Agency (*Badan Nasional Penanggulangan Terorisme - BNPT*) is anticipating new funding modes used by terrorist groups. To work toward this goal, the establishment of the BNPT on July 16, 2010, was authorized under Presidential Regulation No. 46/2010.¹⁰ While the BNPT holds a vital position in the battle against terrorism, it can be argued that it obtains support from various other government agencies and ministries.¹¹ According to these issues, the terrorist groups have the potential to use various new methods, such as utilizing corporations, selling drugs, and utilizing virtual assets or cryptocurrencies as their source of funding.¹² In 2019, Hamas' Al-Qassam Brigades utilized social media to raise funds through Bitcoin, raising \$900 on its first day and over \$2,500 the following week.¹³

Previous research indicates that Indonesia's procurement of payment activities is regulated by Bank Indonesia Regulation No. 18/40/PBI/2016, but there are no regulations regarding the use of cryptocurrency as a payment method. Crypto-coins can lead to transaction cancellations or invalidity, as they are only accepted as assets. The government aims to protect e-commerce activities by revocation of Payment Service Provider (*Penyedia Jasa Pembayaran - PJP*) licenses. The research focuses on the regulation of crypto-based

⁶ Bitcoin is a digital asset included in crypto assets traded on futures exchanges.

⁷ Private key is the term for the password contained in the user's crypto wallet and is kept secret by the user without anyone else knowing.

⁸ Aria Pratama, "Upaya Pencegahan Penggunaan Cryptocurrency Dalam Pendanaan Tindak Terorisme Ditinjau Dari Hukum Internasional Dan Hukum Indonesia" (Thesis (Diploma), Universitas Andalas, 2023), <http://scholar.unand.ac.id/id/eprint/200575>.

⁹ Cindy Mutia Annur, "Ratusan Aksi Terorisme Terjadi Di Indonesia Dalam 2 Dekade Terakhir, Bagaimana Trennya?," *Databoks.Katadata.Co.Id* (blog), accessed March 18, 2023, <https://databoks.katadata.co.id/datapublish/2022/12/08/ratusan-aksi-terorisme-terjadi-di-indonesia-dalam-2-dekade-terakhir-bagaimana-trennya#:~:text=Menurut%20data%20dari%20Global%20Terrorism,2007%2C%20yaitu%20sebanyak%20%20kali>.

¹⁰ Nuriyeni Kartika Bintasari, "Countering Terrorism in Indonesia: A Study of Policy in Counter-Terrorism Measures of the Indonesia National Counter-Terrorism Agency (Badan Nasional Penanggulangan Terorisme/BNPT)" (Dissertation, The State University of New Jersey, 2022), <https://doi.org/doi:10.7282/t3-9742-dc89>.

¹¹ Nuriyeni Kartika Bintasari.

¹² Merdeka.com, "Mengenal Cryptocurrency, Modus Baru Danai Terorisme," accessed March 18, 2023, <https://www.merdeka.com/peristiwa/mengenal-cryptocurrency-modus-baru-danai-terorisme.html>.

¹³ Megan McBride and Zack Gold, "Cryptocurrency: Implications for Special Operations Forces" (VA: Center for Naval Analyses, 2019).

payment methods, excluding terrorism funding, and focuses on the potential for criminal acts.¹⁴

Other research examines the legality of cryptocurrencies in Indonesia and the laws related to terrorism funding under Law No. 9/2013. It is technically conducted but lack field experiences and interviews with related agencies, in this case, the BNPT. This article proposes a more detailed study that examines the urgency of terrorism funding policies through cryptocurrency benchmarks based on cases handled by related agencies. This approach will provide a more comprehensive understanding of the legality of cryptocurrencies in Indonesia.¹⁵ The latest research explores the legality of using cryptocurrency in Indonesia, stating that it is not a legal tool if used as payment, but can be traded and owned.

This research aims to address the CTF Task Force's efforts on terrorism financing through cryptocurrency, focusing on BNPT efforts rather than terrorism funding regulation. It assesses ideal regulations for addressing the legal vacuum surrounding cryptocurrencies, specifically the Commodity Futures Trading Supervisory Agency Regulation No. 6/2019.¹⁶ Research explores BNPT's efforts to prevent terrorism financing through cryptocurrency and future arrangements to combat this emerging currency, highlighting potential risks to criminal activities.

2. METHOD

The type of this research used is normative legal research. This research is also supplemented by interview methods with resource persons according to their fields, namely the Directorate of International Legal Devices of BNPT. The approach used in this research statutory approach (library research), namely all laws and regulations relevant to the research topic will be studied in depth¹⁷, in this case related to the existence of cryptocurrency that have potential to become a resource of financing criminal acts of terrorism. Then, using a conceptual approach, refers to the conceptual analysis used in legal science to understand relevant issues¹⁸, in this case is what kind of ideal regulation that can tackle terrorism funding through cryptocurrency in Indonesia. The source of data used is secondary data obtained by searching for regulations and literature related to the problem under study.¹⁹ The method of data collection used is through library research and documentation study. Then, semi-structured interviews are used, which means this research

¹⁴ Damar Gondo Arwono, Hardian Iskandar, and Dodi Jaya Wardana, "Tinjauan Yuridis Regulasi Cryptocurrency Terhadap Tindak Pidana Kejahatan Di Indonesia," *Amnesti: Jurnal Hukum* 5, no. 1 (2023): 123, <https://doi.org/10.37729/amnesti.v5i1.2759>.

¹⁵ M Alief Thoifurqoni Assyamiri and Aris Hardianto, "Penggunaan Bitcoin Dalam Cryptocurrency Terhadap Pendanaan Terorisme," *Journal Inicio Legis* 3, no. 1 (2022): 1, <https://doi.org/10.21107/il.v3i1.14421>.

¹⁶ Yolanda Adelia Bella Lestari Sam, Messy Rachel Mariana Hutapea, and Suyudi Setiawan, "Legalitas Cryptocurrency Dalam Tindak Pidana Kejahatan Pencucian Uang," *DiH: Jurnal Ilmu Hukum* 18, no. 1 (2022): 108, <https://doi.org/10.30996/dih.v0i0.6043>.

¹⁷ Peter Mahmud Marzuki, *Penelitian Hukum*, Revised Edition, 10 (Kencana, 2015).

¹⁸ Peter Mahmud Marzuki.

¹⁹ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, 1st ed., 17 (Rajawali Pers, 2015).

prepares a list of structured questions, but gives the respondent the opportunity to provide more detailed answers or explain the answers.²⁰ Furthermore, the inference method used in this research used inference from general to specific (deduction).

3. RESULTS AND DISCUSSION

3.1 The Attempts of BNPT to Prevent Terrorism Financing Through Cryptocurrency

3.1.1 Cryptocurrency Terrorist Financing Threat Analysis

Terrorism financing is a crucial aspect of terrorist activities, evolving with technological advancements and law enforcement surveillance efforts. Terrorist groups use collected funds for the operational and organizational needs of the group, encompassing expenses for lodgings, materials for constructing explosive devices, transportation, weaponry, and illicit transportation. Organizational expenditures cover costs related to military training, recruitment, propaganda, efforts in radicalization, member salaries, and social services aimed at supporting the existence of terrorist generations and organizations.²¹ Indonesia is caught up in the problem of terrorism financing which is difficult to avoid. This is because there are some active terrorist groups in Indonesia, such as Al-Jamaah Al-Islamiyyah (JI), Jamaah Ansharut Daulah (JAD), Jamaah Ansharut Tauhid (JAT), and Mujahidin Indonesia Timur (MIT). Some of these groups have links to major terror organizations such as Al-Qaeda and the Islamic State of Iraq and Syria (ISIS). Indonesia ranks high in terrorism financing risk, with countries like Australia, Thailand, and the Philippines having moderate risk. Online fund-raising vulnerabilities increase, endangering authorities, despite only a few detected cases.²²

Funds or money can be utilized by terrorist groups to fund five aspects. First, to meet operational needs such as food costs, transportation to and from terror target locations, the purchase of weapons or explosives, and forgery of personal identity documents. Second, for propaganda needs and to recruit new members. Third, to train members or sympathizers. Fourth, to provide salaries or wages to group leaders and members, as well as to make donations to the families of members who died or were arrested. Fifth, to conduct social donations in order to seek public support.²³

Cryptocurrency, an intangible commodity, emerged as a proof of digital technology advancement, providing high security for electronic transactions. It is also known as a Crypto Asset, ensuring a high level of security.²⁴ In Indonesia, the regulation related to cryptocurrency is based on a number of regulations issued by the Bappebti. One of these regulations is Regulation Number 5 of 2019 regarding Technical Provisions for Organizing

²⁰ Sugiyono, *Metode Penelitian Kuantitatif Kualitatif Dan R&D* (Alfabeta, 2019).

²¹ Sylvia Laksmi, "Terrorism Financing in Southeast Asia: Transformations, Continuities and Challenges," *International Centre for Political Violence and Terrorism Research* 14, no. 5 (2022): 43.

²² Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK) and AUSTRAC, "Regional Risk Assessment on Terrorism Financing 2016: South East Asia and Australia," 2016.

²³ Financial Action Task Force, "Emerging Terrorist Financing Risks" (Paris: FATF Report, 2015).

²⁴ Aria Pratama, "Rawannya Cryptocurrency Sebagai Media Pendanaan Terorisme," *Gemajustisia.Com* (blog), n.d., accessed June 1, 2023.

the Physical Market of Crypto Assets on the Futures Exchange.²⁵ Bitcoin, a popular virtual currency, is frequently used to fund terrorism, particularly by transnational groups like Al Qaida and ISIS, as well as Indonesian and foreign terrorist activities.²⁶ Cryptocurrency is gaining popularity as a payment method for terrorism financing due to its flexibility and accessibility, but weak legal supervision hinders its effectiveness in different countries.

The following are four characteristics of cryptocurrency, which make them attractive to terrorist financing actors: a. Anonymity. Bitcoin's anonymity is based on cryptographic private keys, managed by a *pseudonym*²⁷ owner. Public key publication allows others to send money to the owner.²⁸ Thus, in terms of anonymity, cryptocurrency transactions are often not linked to the user's real identity so it is difficult to trace the source and destination of these funds. This provides the possibility for terrorist groups to fund their activities without being detected; b. Easily accessible. Cryptocurrency use is becoming more challenging for beginners, with e-Wallets being problematic if used suspiciously. Digital wallets, like traditional banks, are subject to anti-money laundering regulations. Anonymous cryptocurrency methods demand higher technical sophistication, with developers improving system ease and security²⁹; c. Not tracked. Blockchain technology, the foundation of cryptocurrency, is transparent but complex, making it difficult to track every transaction, potentially enabling terrorists to conceal their activities; and d. Not centralized. Cryptocurrency is not tied to a central authority like a bank or government. As a result, no entity has the responsibility to ensure that cryptocurrency is not misused for the purpose of terrorism financing.³⁰

Table 1. Assessment of Terrorist Finance Activities with Respect to Cryptocurrency Properties.

	Fundraising	Illegal Drug and Arms Trafficking	Remittance and Transfer	Attack Funding	Operational Funding
Anonymity	Moderate importance	Critical importance	Moderate importance	Critical importance	Lesser importance
Usability	Critical importance	Lesser importance	Lesser importance	Lesser importance	Lesser importance
Security	Moderate importance	Critical importance	Critical importance	Critical importance	Critical importance
Acceptance	Lesser	Lesser importance	Lesser	Moderate	Moderate

²⁵ Dewa Ayu Fera Nitha and I Ketut Westra, "Investasi Cryptocurrency Berdasarkan Peraturan Bappebti No. 5 Tahun 2019," *Jurnal Magister Hukum Udayana* 9, no. 4 (2020): 7, <https://doi.org/10.24843/JMHU.2020.v09.i04.p04>.

²⁶ Puja Sumantri, Staff of the Directorate of International Legal Tools BNPT RI, May 25, 2023.

²⁷ Pseudonym refers to the use of a name that is different from someone's real name.

²⁸ Cynthia Dion-Schwarz, David Manheim, and Patrick B. Johnston, *Terrorist Use of Cryptocurrencies: Technical and Organizational Barriers and Future Threats*, Research Reports (United States: RAND Corporation, 2019), <https://doi.org/10.7249/RR3026>.

²⁹ Cynthia Dion-Schwarz, David Manheim, and Patrick B. Johnston.

³⁰ Puja Sumantri, Staff of the Directorate of International Legal Tools BNPT RI.

	importance		importance	importance	importance
Reliability	Lesser importance	Moderate importance	Critical importance	Critical importance	Moderate importance
Volume	Moderate importance	Lesser importance	Critical importance	Lesser importance	Critical importance

Source: RAND Corporation, 2019.

Table 1 above is an assessment of terrorism financing activities based on cryptocurrency properties. Each box is given a value in a different color, namely in the "critical importance" section is gray, "moderate importance" is light gray, and "lesser importance" is white. First, "critical importance" means that cryptocurrency properties are essential for terrorist activity, and without it, the activity cannot be conducted. Second, "moderate importance" means that this cryptocurrency property is important enough for terrorist activity, because the property only has an impact on part of the activity, or there are still other solutions that still enable terrorist activity to be conducted. The last is "lesser importance", which means that its absence will have a bit impact on terrorist activity.³¹

Cryptocurrency crime is a complex issue due to differences in regulatory classifications across jurisdictions and insufficient cross-border cooperation arrangements. These differences can hinder law enforcement efforts and hinder the ability of countries to adjust their handling and information sharing strategies to the unique status of cryptocurrencies, thereby affecting the effectiveness of cross-border cooperation and information sharing.³²

Digital currencies pose several challenges, including the potential for illegal activities like money laundering and tax evasion due to their anonymity and decentralization. Lack of regulatory oversight and consumer protection can lead to financial losses. The volatility of digital currencies also poses risks for investors and consumers. The integration of digital currencies may require significant technological infrastructure investments, potentially hindering smaller fintech companies. Collaboration between policymakers and industry stakeholders is crucial for addressing these challenges.³³

3.1.2 Collaboration with Related Agencies

As with the BNPT authorities in Law Number 5 of 2018 and Law Number 9 of 2013, the BNPT collaborates with related Ministries/Institutions (M/I), especially the Financial Transaction Reports and Analysis Center (*Pusat Pelaporan dan Analisis Transaksi Keuangan - PPATK*), Indonesian State Intelligence Agency (*Badan Intelijen Nasional - BIN*), and Indonesian National Police (*Polisi Republik Indonesia - Polri*) as well as bilateral

³¹ Cynthia Dion-Schwarz, David Manheim, and Patrick B. Johnston, *Terrorist Use of Cryptocurrencies: Technical and Organizational Barriers and Future Threats*.

³² Ricky Vandre Teguh Jaya and Patricia Rinwigati, "Penanggulangan Tindak Kejahatan Pada Penggunaan Mata Uang Virtual/Aset Kripto," *UNES Law Review* 5, no. 4 (2023): 3394, <https://doi.org/10.31933/unesrev.v5i4.660>.

³³ Afrasiab Ahmed Rana, Fiza Zulfiqar, and Salman Masuad, "The Legal and Regulatory Framework for Cryptocurrency and Fintech in Pakistan: Challenges and Policy Recommendations," *SSRN 4426294*, 2023, 10.

counterparts from countries that already have MoUs with the Government of Indonesia in identifying risks of cryptocurrency misuse. Collaboration with Financial Institutions is carried out by PPATK, in this case, BNPT coordinates with PPATK through Terrorism Financing Suspected Information System (*Sistem Informasi Terduga Pendanaan Terorisme – SIPENDAR*) to exchange information, as well as through the Task Force. The SIPENDAR as the system of information exchange which is established by PPATK, in practice, it has involved Financial Institutions.³⁴

One that becomes central role holder in the eradication mechanism of criminal acts of terrorism financing in Indonesia is in the hands of an institution called the PPATK. The PPATK is considered to have a role because if the PPATK does not function properly or does not conduct its duties properly, then the effectiveness of implementing the law will not be achieved. In addition, one of the main means in terrorism financing offense is through various types of financial service providers both in domestic and in international.³⁵

Blocking of the flow of terrorism funds can be conducted on funds that are directly or indirectly or known or reasonably suspected to be used or will be used, either in whole or in part, for the Criminal Offense of Terrorism.³⁶ Blocking is conducted by PPATK, investigators, public prosecutors, or judges by asking or commanding Financial Service Providers (*Penyedia Jasa Keuangan - PJK*) or authorized agencies to conduct blocking.³⁷ Blocking is conducted by stipulation of the Central Jakarta District Court to request or command the PJK or authorized agencies to conduct blocking.³⁸

Specifically, PPATK requests to PJK or authorized agencies to conduct blocking is an administrative action. Blocking is conducted within a maximum period of 30 (thirty) days. In terms of the blocking period ends, PJK is obliged to end the blocking for law. Blocked funds must remain with the PJK or the relevant authorities.³⁹ Within a maximum of 1 working day from the date of blocking implementation, the PJK or the authorized agencies must submit the minutes of the blocking implementation to the PPATK, investigators, public prosecutors, or judges, and the blocked party.⁴⁰ Blocking cryptocurrencies remains

³⁴ Puja Sumantri, Staff of the Directorate of International Legal Tools BNPT RI.

³⁵ Brian Septiadi Daud and Nyoman Serikat Putra Jaya, "Kebijakan Hukum Pidana Dalam Tindak Pidana Pencucian Uang Di Pasar Modal," *Journal of Judicial Review* 24, no. 1 (2022): 71, <http://dx.doi.org/10.37253/jjr.v24i1.5953>.

³⁶ Irawan Susanto, "Pemblokiran Terhadap Dana Yang Akan Digunakan Untuk Tindak Pidana Terorisme Menurut Undang-Undang Nomor 9 Tahun 2013 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pendanaan Terorisme," *Lex Crimen* 12, no. 2 (2023): 6.

³⁷ Diva Yohana Margaretha Marbun et al., "Penerapan Sistem Anti Pencucian Uang Dalam Penanganan Perkara Tindak Pidana Pembalakan Liar," *Jurnal Poros Hukum Padjadjaran* 4, no. 2 (2023): 213, <https://doi.org/10.23920/jphp.v4i2.1226>.

³⁸ Irawan Susanto, "Pemblokiran Terhadap Dana Yang Akan Digunakan Untuk Tindak Pidana Terorisme Menurut Undang-Undang Nomor 9 Tahun 2013 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pendanaan Terorisme."

³⁹ Monika Suhayati, "Undang-Undang Pencegahan Dan Pemberantasan Tindak Pidana Pendanaan Terorisme Dari Perspektif Hak Asasi Manusia," *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan* 4, no. 2 (2013): 237, <https://doi.org/10.22212/jnh.v4i2.206>.

valid as long as their identity remains on suspected terrorist lists, requiring PJK funds conversion to trace funds, conduct legal proceedings, and confiscate assets.

The 1999 International Convention for the Suppression of the Financing of Terrorism (ICFT) is a component of the international framework in efforts to eradicate terrorism financing. The ICFT obliges countries around the world that have ratified it to criminalize terrorism financing.⁴¹ The Financial Action Task Force (FATF) and Indonesia's ICFT were established to prevent financial sector crimes. UN resolutions No. 1267 and No. 1373 focus on freezing terrorist funds and assets, initially aimed at preventing funding for the Taliban and Al-Qaeda.⁴² International cooperation is divided into law enforcement, information exchange, and capacity building, with the Ministry of Law and Human Rights implementing MLA and extradition, and BNPT conducting intelligence exchange.⁴³

3.1.3 Formation of Expert Teams and Legal Instruments

The BNPT as an institution that coordinates counter-terrorism efforts at the national level in accordance with BNPT Regulation No. 1 of 2017 Article 181 paragraph (1), is given the authority to form a Task Force (*Satgas*) which consists of various related agencies and also involves the community. Article 182 then explains in more detail concerning the tasks that are the responsibility of the Task Force, including efforts to prevent, protect, deradicalize, act, and prepare for national preparedness. The Task Force will focus on prevention and prosecution efforts carried out under the coordination of Deputy III for International Cooperation. The Task Force aims to enhance institutional cooperation, collect intelligence, analyze terrorism financing trends, and evaluate risks to support terrorism prevention efforts and its financing on the List of Suspected Terrorists and Terrorist Organizations (*Daftar Terduga Teroris dan Organisasi Teroris - DTTOT*). In addition, the Task Force is also responsible for conducting preliminary investigations, full investigations, and prosecutions related to terrorism financing cases to support law enforcement.⁴⁴

Criminals assume cryptocurrency as an anonymous form of currency and that is still little known to the general public. This gives them confidence that their criminal activities will not be detected by state surveillance and law enforcement. However, transactions using cryptocurrencies such as Bitcoin which have a pseudonymity character can still be traced for the purpose of identifying and prosecuting criminals. This can be conducted through

⁴⁰ Rizal Firmansyah and Wiend Sakti Myharto, "Penegakan Hukum Terhadap Kriminologi Pendanaan Terorisme Dalam Perspektif Hukum Nasional (Studi Kasus Putusan No.7/Pid.Sus/2021/PN.Jkt.Tim)," *Jurnal Ilmiah Publika* 10, no. 2 (2022): 394.

⁴¹ Adam Fenton and David Price, "Forbidden Funds – Indonesia's New Legislation for Countering the Financing of Terrorism," *Australian Journal of Asian Law* 15, no. 1 (2014): 107, <https://dx.doi.org/10.17304/ijil.vol11.3.503>.

⁴² Adam Fenton and David Price.

⁴³ Puja Sumantri, Staff of the Directorate of International Legal Tools BNPT RI.

⁴⁴ Financial Action Task Force (FATF), "Anti-Money Laundering and Counter-Terrorist Financing Measures Indonesia," Fourth Round Mutual Evaluation Report (Paris: FATF, 2023), <https://www.fatf-gafi.org/content/fatf-gafi/en/publications/Mutualevaluations/MER-Indonesia-2023.html>.

analysis of transaction history by re-tracking their interactions with cryptocurrency exchange platforms.⁴⁵

Indonesia has not yet filed permanent legal cases against individuals using cryptocurrency for terrorism financing, but recent allegations of such financing by the Abu Ahmed Foundation, led by Tasniem, suggest potential misuse of crypto assets. In 2020 the Government of Indonesia through BNPT, PPATK, BIN, and Polri have included entities on behalf of AAF on the DTTOT issued by the National Police (Polri), due to allegations of terror financing conducted by these entities, especially through social media, but were also found an indication of funding through cryptocurrency.⁴⁶ The Central Jakarta District Court freezes assets of entities and affiliates through DTTOT, preventing terrorist networks. Cryptocurrency media's role in terrorism financing is a new threat.⁴⁷

3.2 Evaluation of the Success of BNPT Efforts

3.2.1 Analysis of the Effectiveness of Efforts Made

The government of Indonesia already has a red-flag indicator for Exchanger/Virtual asset Financial Service Providers. The red flags intended include⁴⁸ Red Flags Suspicious Financial Transactions (*Transaksi Keuangan Mencurigakan - TKM*) - Crypto Assets Related to Jihadists and Extremist Groups: a. Crypto assets identified as a place for collecting funds/deriving from wallet addresses published through social media and messaging sites such as Twitter and Telegram; b. Derived from wallet addresses suspected originating from a jihadist or extremist supporter appearing on a fundraising site such as Kickstarter, Patreon, or Hatreon; c. Wallet addresses are published on jihadist/extremism websites to avoid law enforcement (*gakkum*) tracking, fund sponsors also utilize the Tor browser; and d. Funds deposited and withdrawn from wallet addresses from non-regulated and non-compliant exchangers.

Additionally included Red Flags TKM: Crypto Assets for Lone Actors and Small Cells: a. Someone tries to create an account with a fake identity and buy crypto assets with a stolen card. Someone withdraws crypto assets from the exchanger. Then it goes through a few hops to addresses associated with terrorist and extremist content on social media, or general crowdfunding platforms; b. Someone tries to exchange Crypto Assets on the exchanger, then the crypto assets are sent to affiliated parties of terrorist organizations. Then, the funds are eventually traced to addresses linked to terrorist or extremist content; c. Person through its social media posts/shares information about extremist content, such as jihadist or Neo-Nazi material on platforms such as Twitter, Facebook, and others; d. Several individuals jointly open accounts at the same time, and transfer funds between owned wallets. Transfers may be made and transacted in high-risk locations; and c. After

⁴⁵ Perri Reynolds and Angela S.M. Irwin, "Tracking Digital Footprints: Anonymity within the Bitcoin System," *Journal of Money Laundering Control* 20, no. 2 (2017): 13, <https://doi.org/10.1108/JMLC-07-2016-0027>.

⁴⁶ Puja Sumantri, Staff of the Directorate of International Legal Tools BNPT RI.

⁴⁷ Puja Sumantri.

⁴⁸ Puja Sumantri.

exchanging Crypto Assets for fiat, the fiat funds are then transferred to an account located in a high-risk Jurisdiction.

The BNPT lacks authority over cryptocurrency supervision, but the CTF Task Force Team will investigate if cryptocurrency fundraising is used for terrorism purposes.⁴⁹ To combat terrorism financing using cryptocurrency, coordination and education are crucial for all stakeholders, but challenges in crypto asset analysis/investigation include:⁵⁰ a. Analysts and investigators must have the understanding to identify the use of virtual currency as evidence in criminal activity; b. Analysts and investigators must be sensitive to certain features related to virtual currencies that may be relevant to the investigative process; c. Secure private keys, understand wallet types, and understand crypto asset flow limitations, especially for overseas exchangers. Understand counterparties and transaction counterparties; e. Authority to terminate/block Crypto Asset transactions; f. Investigators must have sufficient authority which obtains information and seizes relevant evidence in supporting the investigation process; and g. Virtual asset seizure process requires a replacement wallet under the control of an investigative officer or a third-party repository.

All law enforcement officials and regulatory oversight institutions, as well as related Ministries/Institutions, conduct risk mitigation strategies against the use of visual assets as a potential new threat in terrorism financing. These mitigations include: a. Enhancement of socialization to the general public regarding the criminal threat of terrorism financing; b. Enhancement of education to Reporting Parties regarding the mode of TPPT on a regular basis; and c. Preparation of TPPT mode/typology document and Anti-Money Laundering and Prevention of Terrorism Financing and Financing of proliferation of Weapons of Mass Destruction (*Pendanaan Proliferasi Senjata Pemusnah Massal - PPSPM*) in order to the enhancement of education for reporting parties.

Positive law, a mechanistic approach relying on lawmakers' power, is often criticized for its mathematical approach and lack of consideration for social, political, or moral purposes. This criticism led to the development of postmodernism in law.⁵¹ Critics argue that the postmodern approach in law challenges the stability of traditional legal theory, presenting new perspectives and deconstruction against the stability of traditional legal theories.⁵² Mochtar Kusuma Atmaja argues that the law serves as a tool for societal modernization and development, acting as an instrument to achieve this through the legislature.⁵³ If we apply the postmodernism paradigm in the discussion and development of blockchain-based systems, then blockchain can be considered as part of a development or

⁴⁹ Puja Sumantri.

⁵⁰ Puja Sumantri.

⁵¹ Benediktus Hestu Cipto Handoyo, "Konstruksi Pandangan Critical Legal Theory Tentang the Rule of Law, the Meaning of Law, Dan the Law and Society," *Jurnal Arena Hukum* 11, no. 3 (2018): 440, <https://doi.org/10.21776/ub.arenahukum.2018.01003.1>.

⁵² Ellectrananda Anugerah Ash-shidiqqi, "Rule of Law Dalam Perspektif Critical Legal Studies," *Amnesti: Jurnal Hukum* 3, no. 1 (2021): 29, <https://doi.org/10.37729/amnesti.v3i1.895>.

⁵³ Benediktus Hestu Cipto Handoyo, "Konstruksi Pandangan Critical Legal Theory Tentang the Rule of Law, the Meaning of Law, Dan the Law and Society."

even a revolution in the field of information technology. Blockchain itself is a database that is not owned by a single entity but can be used globally by anyone through cyberspace.⁵⁴

In 2004, Indonesia and Australia's Financial Intelligence Unit (FIU), the Financial Transaction Reports and Analysis Center (PPATK) and the Australian Transaction and Analysis Centre (AUSTRAC), signed a cooperation agreement to combat terrorism financing through the PPATK-AUSTRAC Partnership Program (PAPP). The partnership aims to reduce and eradicate terrorism financing flows. To combat the increasing threat of terrorism, PPATK and AUSTRAC have strengthened their cooperation through special programs, including information exchange, intensive workshops on counter-terrorism financing and anti-money laundering, employee exchange programs, and cyber projects. The cooperation has resulted in increased Suspicious Financial Transaction Reports, the first-ever Regional Risk Assessment on Terrorism Financing, and the annual Counter Terrorism Financing Summit (CTF Summit), where participants exchange ideas and information on terrorism financing.⁵⁵

3.2.2 Appropriate Regulation and Policy

The rules regarding virtual assets until nowadays, which are referred to as crypto assets in Indonesia, are regulated by the Bappebti. With the issuance of Regulation of the Minister of Trade Number 99 of 2018 concerning the General Policy for Organizing Crypto Asset Futures Trading. Indonesia is one of the countries that recognize crypto assets as commodities, although its trading can only be done on futures exchanges as stipulated in Bappebti Regulation Number 5 of 2019 concerning Technical Provisions on Crypto Asset Physical Market in Futures Exchanges.

With the existence of 15 Recommendations from the FATF which explain that each country is required to make comprehensive rules regarding the New Payment Method (NPM) including Internet-Based Payment Services, it is necessary to have a risk assessment and consider the policies of other countries, so that appropriate policies can be formulated specifically to minimize money laundering and terrorism financing in virtual assets. The FATF recommends national authorities establish a coordination mechanism to share information on cryptocurrency money laundering risks, and target specific 'nodes' involving regulated fiat currency financial systems.

The BNPT conducted several strategies and policies, including: a. Formation and Implementation of the National Action Plan for Preventing and Overcoming Violent Extremism that Leads to Terrorism (*Rencana Aksi Nasional Pencegahan dan Penanggulangan Ekstremisme Berbasis Kekerasan yang Mengarah pada Terorisme – RAN PE*) in line with the TPPU-TPPT National Strategy through Presidential Regulation Number 7 of 2021 concerning the National Action Plan on Countermeasures of Violent Extremism

⁵⁴ Pramudya Erviansyah, Ike Pertiwi Windasari, and Rinta Kridalukmana, "Perancangan E-Commerce Berbasis Android Dengan Menggunakan Metode Pembayaran Blockchain," *Jurnal Teknik Komputer* 1, no. 2 (2022): 3, <https://doi.org/10.14710/jtk.v1i3.36844>.

⁵⁵ Pramudya Erviansyah, Ike Pertiwi Windasari, and Rinta Kridalukmana.

that Leads to Terrorism. The RAN PE includes 3 Pillars, namely Pillar 1 (82 Actions) Prevention (Preparedness, Counter-Radicalization, and Deradicalization), Pillar 2 (33 Actions) Pillar of Law Enforcement, Protection of Witnesses and Victims, and Strengthening of the National Legislation Framework, and Pillar 3 (15 Action) International Partnership and Cooperation; b. Increasing the effectiveness of information exchange as well as the inclusion and updating of individuals and entities into the Joint DTTOT of related Ministries/Institutions, in order to prevent or attempt to disrupt terror networks by means of freezing assets immediately; c. The BNPT establishes a team of countering terrorism financing of the CTF Task Force, which conducts monitoring, analysis, and handling of terrorism financing based on risk findings to support prevention efforts and TPPT eradication; and d. Implementation of international cooperation with related counterparts.⁵⁶

Prevention efforts of cryptocurrency misuse as a means of terrorism financing include cyberspace so several efforts related to countering cyberterrorism are needed. Indonesia has run various steps to prevent various terrorist activities in cyberspace such as radical-terrorism propaganda and terrorism financing. These steps include: a. The implementation of the RAN PE Presidential Decree has been in line with the Fourth Norm of the 11 Cyber Norms concerning Responsible State Behavior, namely "Cooperate to Stop & Terrorism". The RAN also contains cyber media guidelines that involve elements of preventing extremism; b. Coordination between related Ministries and Institutions to block radical content on social media and websites; and c. Monitoring, analyzing, and countering radicalism spread by terrorist groups on social media by involving youth partners as Ambassadors for the Peaceful Use of Cyberspace. Regarding technology development, the BNPT will establish a Crisis Control Center (*Pusat Pengendalian Krisis - PUSDALSIS*) as a reference for activities to take strategies and policy steps. In addition, the development of PUSDALSIS is also one of a system for sharing data and information with Ministries/Institutions.⁵⁷

4. CONCLUSION

Cryptocurrency has become a popular method for criminal acts of terrorism financing due to its anonymity and privacy features. However, obtaining evidence of transactions is challenging, so efforts to block funds suspected of supporting terrorism can only be done after funds are converted into rupiah through a Financial Services Institution (PJK). This aims to trace the flow of funds and facilitate legal proceedings against the perpetrators and confiscation of their assets by the PPATK. The BNPT has established a CTF Task Force to conduct investigations and prosecutions related to terrorism financing cases. The challenge lies in verifying the use of cryptocurrency proceeds for terrorism purposes. Despite Bitcoin being a tradable commodity, efforts to prevent terrorism financing through cryptocurrency have been developed by various countries and international institutions. The BNPT has

⁵⁶ Puja Sumantri, Staff of the Directorate of International Legal Tools BNPT RI.

⁵⁷ Puja Sumantri.

implemented the Presidential Regulation of RAN PE in line with the fourth norm of the 11 Cyber Norms on Responsible State Behavior, "Cooperate to Stop & Terrorism." Additionally, BNPT will establish a Crisis Control Center (Puldasis) for strategic and policy steps. Therefore, non-legal instruments are also needed to support related efforts to prevent criminal acts of financing terrorism through cryptocurrency.

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