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## **THE CONCEPT OF SHAMING AND NAMING TO PREVENT THE FINANCING OF TERRORIST ACTIVITIES**

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### **ABSTRACT**

The terror movement can be measured by how many the supporting funds. Banking has become one of the important pillars for efforts to detect funding of terrorism, especially suspicious transactions. Without the involvement of banking institutions or other financial service providers, transactions will not occur unless they are sent by courier. This research seeks to find a concept so that banks and security forces, both of domestic and foreign, can stop the flow of funds for terrorism activities. The research design applied in this research is a case study with a qualitative approach and primary and secondary data collection methods through in-depth interviews, observation, documentation and literature study. While the analytical method applied to process the data obtained is the interactive analysis method (Huber and miles analysis). The results obtained from this research are when a transaction is used to finance terrorist activities, and then shaming and naming sanctions are an effective enough concept to be the answer to the problems that arise. The effect arising from the concept of Shaming & Naming is public distrusting of banks related to terrorism financing so that the bank becomes bankrupt due to being abandoned by its customers. With the concept of Shaming & Naming, banking institutions will be more disciplined in applying the principle of Know your customer.

### **KEY WORDS**

Terrorism funding, banking, shaming, naming.

Chasing terrorist funds is a strategic step that must be done, because funds are like blood, if the funds are frozen, terrorists cannot move. Various terrorist backgrounds, whether it is ideological, political, economic, socio-cultural or defense and background, without financial support it is difficult for them to realize their action plans. To buy gunpowder, detonators, phosphates, urea, logistics during the run, mutually replace contracting, transportation and other funds are needed. Therefore, freezing funds is a key effort to stop various acts of terror in any part of the world.

The role of banks in detecting suspicious financial transactions has a very strategic position as an effort to prevent banking from being used as a means of financing terrorist activities. Application of the KYC (Know Your Customer) principle and consistency in the use of guidelines for detecting suspicious transactions as stipulated by Indonesian Financial Transaction Reports and Analysis Centre (PPATK), as well as the application of Bank Indonesia Regulations on combating financing of terrorist activities are benchmarks of the success of Banks in detecting suspicious transactions. However, the KYC principle is often ineffective in preventing financial transactions for financing criminal acts because many banking institutions are not disciplined in applying the KYC principle.

Since terrorism crime was a transnational crime and included in the category of extraordinary crime, international cooperation determines the success of efforts to prevent and eradicate terrorism financing as stated in the Financial Action Task Force (FATF) provisions. Therefore, we need a concept that is able to create compliance and discipline from banking institutions in carrying out the KYC principles. The purpose of this research is to find the concept of shaming and naming to prevent and eradicate of terrorist activities. Therefore, this paper can provide insights for banking practitioners, as well as for the government to tighten supervision of financial transactions in an effort to prevent terrorist activities.

## LITERATURE REVIEW

With the enactment of the Money Laundering Law (UUPU), through Law No.15 of 2002 and later amended by Law Number 25 of 2003, it is hoped that it can become an instrument for eradicating money laundering in our country. The UUPU contains a number of policy principles to prevent and eliminate laundering practices which also enable it to be used to finance terrorist activities, starting from the understanding and identification of the category of money laundering to the institutions that handle it and the arrangements for international cooperation. Some important things from UUPU are as follows (Siahaan, 2002).

The UUPU determines that a number of funds obtained from the results of various crimes are classified as a crime (Predicate Crime) in money laundering. There are 25 types of criminal acts according to Law No. 25 of 2003, which previously were only 15 types of Law No. 15 of 2002. The 25 predicate crimes are: Corruption, Bribery, Smuggling of goods, Smuggling of labor, Smuggling of immigrants, In the field of banking, In the field of capital markets, In the field of insurance, Narcotics, Psychotropic, Human trafficking, Trafficking in weapons, Abduction, Terrorism, Smuggling, Immigration, In the capital market Fraud, Counterfeiting of money, Gambling, Prostitution, in the field of taxation, in the field of forestry, in the field of the environment, in the field of maritime affairs, other criminal acts with the threat of imprisonment of 4 (four) years or more.

Such provisions are broad, except for the 25 types mentioned above, so the amount of funds obtained from any crime that is punishable by imprisonment of 4 (four) years or more, can be categorized as predicate crime in money laundering. So every crime, both contained in the Criminal Code and criminal offenses outside the Criminal Code, which then "generates" a sum of money is called the crime of money laundering which allows the occurrence of financing transactions for terrorist activities.

Any funds obtained from proceeds of crime are seen as part of a money laundering offense. This principle is important to know because it does not limit certain amounts. Before the revision, in article 2 of Law No.15 of 2002, the category of money laundering was only the proceeds of crime amounting to Rp. 500,000,000 (five hundred million rupiahs) or more, but a number below that limit is classified as proceed. Especially now there are many transactions with small but often nominal amounts, so if the total amount becomes large.

There are several patterns of behavior that are seen as ways (modes) of committing the offense of money laundering. Article 3 of the UUPU determines 7 (seven) ways of intentional acts of funds that are known or deserved to be known as proceeds of crime. Everything is in the form of placing, transferring, paying or spending, donating or donating, entrusting, bringing abroad, exchanging or the like. This is a suspicious transaction report (STR), which is a suspicious financial transaction that is not closed is likely to be used to finance terrorism.

The UUPU determines the currency transaction report (CTR) obligations for financial service managers (banks or non-banks such as securities companies, financial institutions, mutual fund managers, custodians, insurance and others). The CTR obligation is a cumulative money transaction of Rp. 500,000,000 (Five Hundred million Rupiah) and above or equivalent value. The obligation is the same if it is known that the transaction contains suspicious elements. Likewise for each person who brings in or out of the country the amount of Rp. 100,000,000 (One Hundred Million Rupiah) and above, are required to report it to the Directorate General of Customs and Excise. According to researchers, financing of terrorist criminal activities is possible through couriers to avoid detection of security forces.

Every financial services company (FSC) that conducts transactions with individuals or corporations must recognize its customers. For this reason, the FSC is required to recognize the customer by having a complete and correct record of the identity of each customer. This principle is known as Know Your Customer Principle (KYCP), such provisions are regulated in article 17 of the UUPU. This is as an anticipatory step if at any time and is related to the misuse of financial transactions to finance terrorist activities.

The money is widely misused to finance acts of terrorism in various countries. Along with the shared desire that terrorism is a transnational crime, Indonesia has actively carried

out eradication of terrorism, one of which is through the prevention of money laundering practices, and this has contributed a lot to the prevention of its actions, especially in Indonesia (Sutandyo, 2002).

## **METHODS OF RESEARCH**

The research approach used in this study is a qualitative approach. Qualitative research is research used to understand social phenomena from the point of view of the subject where the researcher is the key instrument (Soedjono & Abdurahman, 2005). According to Moleong (2014), qualitative research is aims to understand phenomena about what is experienced by research subjects, for example behavior, perception, motivation, actions, etc., holistically and by means of descriptions in the form of words and language, on a special natural context and by utilizing various natural methods.

The qualitative approach is considered appropriate for researchers to explain the problem in this study because the concept of Shaming & Naming in the context of monitoring and preventing terrorism financing transactions is a social phenomenon that tends to be illustrated by descriptions in the form of words compared to numbers. This type of research is a type of qualitative description by studying existing problems and working procedures that applying. Qualitative descriptive research is an attempt to describe, record, analyze and interpret the conditions that currently occur or exist, in other words qualitative descriptive research aims to obtain information about existing conditions. This descriptive study uses a case study model, in which the researcher tries to find out how the financing of terrorism activities occurs through banking institutions.

Thus, there are at least two studies with the same topic or symptoms, but carried out at different times. However, it does not mean that if there are two studies conducted at different times with the same topic, they are always categorized as longitudinal research, but there is a key that must be held, namely the existence of a comparative effort between research results. In other words, longitudinal research has been planned since the beginning of the study and not coincidentally. The main data sources in qualitative research are words, actions and additional data such as documents and others (Moleong, 2014). In qualitative research, data analysis is carried out since the beginning of the study and during the research process. Data is obtained, and then collected to be processed systematically. Starting from interviews, observations, editing, classifying, reducing, then the activity of presenting data and concluding data. Technical analysis of data in this study uses an interactive analysis model (Sugiyono, 2015).

The reduction is to summarize, choose the main things, focus on important things, look for the theme of the pattern, so that the data is easier to control (Nasution, 2002). Meanwhile, according to Sugiyono the reduction is to summarize, choose the main things, focus on the important things, look for themes and patterns and discard unnecessary (Sugiyono, 2015).

After the data has been reduced, the next step is to present the data. In qualitative research, the presentation of data can be done in a concise form, a relationship chart between categories and with narrative texts (Sugiyono, 2015). Presentation of the data of this study uses a brief description in the form of narrative text.

The third step in analyzing qualitative data according to Miles and Huberman is drawing conclusions / verification. The initial conclusions put forward were only temporary, and would change if no strong evidence was found to support the next stage. But if the conclusions presented at an early stage by the evidence are valid and consistent when researchers go to the field to collect data, the conclusions presented are credible conclusions (Sugiyono, 2015). Thus, the conclusions in qualitative research will be able to answer the problem formulation that was formulated from the beginning, but maybe not, because as explained above that the problem and the formulation of the problem can develop after the research is in the field.

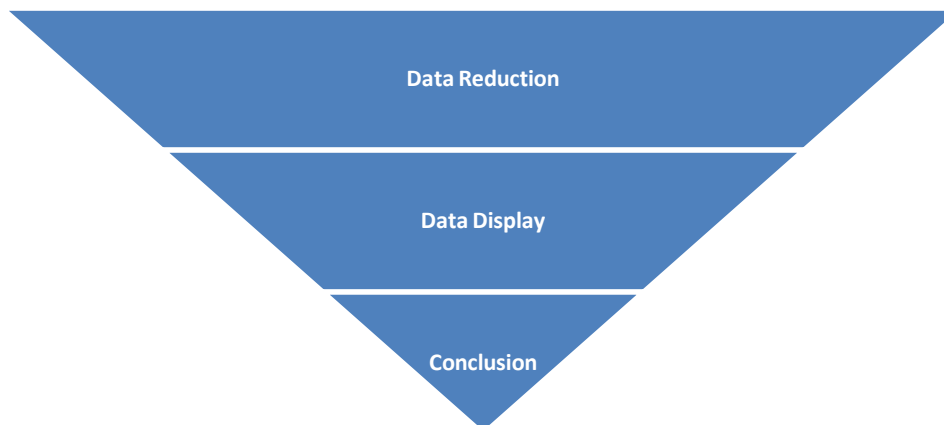


Figure 1 – Interactive Analysis Model

## RESULTS OF STUDY

The concept of Shaming and Naming, can be embarrassing by mentioning the initials of a bank, in an effort to prevent the support of terrorism through banking financial traffic due to the negligence of a bank, where a bank does not report any suspicious transactions, in fact it reduces alertness. When it turns out the transaction is used for financing terrorism activities, then Shaming and naming sanctions will be effective, because people no longer trust the bank so that the bank is bankrupt due to abandoned customers, as happened at Riggs Bank in America.

According to researchers, this concept is effective for efforts to prevent the financing of terrorist activities, especially for a bank that fails to report suspicious transactions that occur in financial traffic. The case of the Riggs bank, where the bank was judged to be negligent in reporting the occurrence of terrorism financing transactions, which was finally announced to the public even though it was still in the initial form, apparently the community's response was so enthusiastic, they were busy withdrawing their savings and eventually the bank went bankrupt.

Riggs National Corps, headquartered at 1503 Pennsylvania Ave, NV Washinton DC 20005, is a large bank with assets of US \$ 6.37 billion. The bank, founded in 1836, with 1,450 employees was fined by the ruling authority in the United States of US \$ 25 million, for not reporting suspicious financial transaction reports as stipulated in the American Secrecy Act Bank.

Riggs National Corps has 49 branch offices that were built slowly over 178 years. After the tragedy above, the bank also experienced a significant share price decline from the highest price in the past 52 weeks of US \$ 17.65 per share, dropping to US \$ 15.31 per share. Furthermore, the chair of President Riggs National Corps which was occupied by Timothy C. Coughlin since 1992 and his 21-year career at Riggs had to be removed.

The above case illustrates how unfortunate a bank or other financial service provider will be if it does not apply the statutory provisions that are part of the precautionary principle to prevent banks or other financial service providers from reputational risk, operational risk, legal risk and concentration risk.

The reputation risk is illustrated quite clearly from what is experienced by the bank that has recorded a market recapitulation of US \$ 468.29 million with the decline in share prices. Reputational risk is the potential for publicity regarding banking activities or other financial service providers that can cause loss of public confidence in banks or other financial service providers. This risk is a major threat to banks or other financial service providers, because the characteristics of bank business in this case greatly require public trust and the market in general. While operational risk is the risk of loss due to failure of internal process, human and system risks or external factors.

On August 17, 2005, the Financial Crimes Enforcement Network and Office (FinCEN) and the Office of the Comptroller of the Currency imposed a fine of US \$ 24 million against

the Arab Bank of the New York Branch for not implementing the provisions as regulated by the Bank Secrecy Act.

According to the author, administrative sanctions in the form of fines, apparently not a problem that is so troubling for banks with large assets like this. But the problem is reputation risk due to a lack of public trust in the existence of a bank, as experienced by Riggs National Corps. This is what I call the concept of shaming and naming. Where the mention of initials alone has caused shame for the bank in the eyes of the public, let alone the mention of a clear name. This is very influential on the survival of banking which is an institution of trust, especially if the real money is used to finance terrorism.

Law Number 15 of 2002 concerning Criminal Acts of Money Laundering as amended by Act Number 25 of 2003 (TPPU Law) as regulated in Article 2 states that the Proceeds of Criminal Acts are Assets obtained from criminal acts: corruption; bribery; smuggling of goods; labor smuggling, immigrant smuggling, in the banking sector, in the capital market sector; in the insurance field; narcotics; psychotropic substances; human trafficking; illegal arms trade; kidnapping; terrorism; theft; embezzlement; fraud; counterfeiting money; gambling; prostitution in the field of taxation; in the forestry sector, in the environmental field; in the marine sector; or other criminal offenses threatened with imprisonment of 4 (four) years or more.

According to the author, the provisions of the hunt for terrorism funding for Bank Indonesia and the Anti-Terrorism Law can be used by law enforcement officials as a basis to ensnare perpetrators, especially intellectual actors who fund illegal activities including financing terrorist activities. Through this approach, but also the wealth from the proceeds of crime can be detected.

The main thing that is pursued is money or assets obtained from proceeds of crime, for several reasons. First, if chasing the culprit is more difficult or risky. Secondly, when compared with pursuing perpetrators it will be easier to pursue the proceeds of crime. Third, the proceeds of crime are the blood that supports the crime itself (live bloods of the crime). If the proceeds of this crime are pursued, and confiscated for the state, it will automatically reduce the crime itself.

It is not easy to impose bank sanctions, but the community sanctions are so terrible. ATM withdrawals in Seminyak on an ongoing basis even though in small amounts were suspected after the Bali II bombing. Until now, there has been no announcement about which bank should be responsible, because usually the financing is detected after the occurrence, before the incident is very difficult to detect. If you view the concept of shaming and naming, then the bank needs to be further investigated, whether there is negligence or not and then opened even though in the form of initials. According to the authors, banks are so afraid that if their initials are open to the public, likewise if negligence in the case of ATM withdrawals in Seminyak will be opened to the public, this will certainly lead to a negative public judgment that can lead to the withdrawal of customer deposits, even though such withdrawals have never happened. In Indonesia in the case of terrorism, it only happened when a bank lost clearing.

We can examine the above phenomena from the example of the case that happened to Princess Haifa, the royal family of Saudi Arabia who was accused of being a sponsor of terrorism. Saudi Arabia's Interior Minister Prince Nayef bin Abdul Aziz considered the accusation addressed to Saudi Arabia as a funder for terrorists, which was a very slander. Prince Nayef's firm statement was in response to US media reports that were widely cited by the media in the Middle East accusing the US Government of indirectly supplying funds to terrorist groups.

The allegations of funding for terrorists originated from US media reports that one of the families of the Kingdom of Saudi Arabia, Princess Haifa Al-Faisal who is also the wife of the Saudi Ambassador in Washington, gave indirect financial assistance to two Saudi citizens who the CIA accused of being the perpetrators of the September 11, 2001 tragedy.

Princess Haifa herself, in an interview with the New York Times newspaper, denied that she had supplied funds to the terrorist. He stated that he had indeed provided financial assistance of 15.00 US dollars to a Saudi Arabian woman in the US who needed help to

seek treatment at the hospital. In fact, after being discharged from the hospital, according to Princess Haifa, she was still giving financial assistance to the distressed woman, which is every month US \$2,000.

In 1996, a prominent group of Arab women in Washington established an association called the Mosaic Society. They are the wives of ambassadors of Arab countries who intend to raise funds and fund various activities related to women's issues. Princess Haifa al-Faisal, wife of the Saudi Ambassador to America, Prince Bandar bin Sultan, was one of the activists of the association. Two other important names are Lein al-Mash`ar, and Reem Abboud, wife of the Lebanese Ambassador.

An apartment in Washington owned by Princess Haifa bint Faisal, wife of the Saudi Ambassador to the United States, allegedly by the US might have been used by a Saudi citizen who then lived with members of terrorist cells associated with Al Qaeda. This was revealed by lawyers representing the victims of the September 11 attacks. According to Jean Charles Brisard, family lawyer for the victims of September 11, Putri Haifa al-Faisal had a graduation in Washington D.C, and in 1997 Mansour Majid had lived at that address.

The United States Federal Bureau of Investigation (FBI) has investigated allegations of channeling funds from the Saudi royal family to the perpetrators of the September 11, 2001 attacks in New York and Washington. The investigation focused on finding evidence of the flow of funds to two people who took part in hijacking American Airlines aircraft.

The FBI said it was continuing to hunt down all clues in efforts to fight terrorism in a careful and confidential manner. The United States has asked Riyadh to oversee charitable foundations to ensure that no funds fall into the hands of terrorist groups. The BBC's Justin Webb in Washington says that normally warm US-Saudi relations are now under pressure. The FBI is also investigating a new piece of news that says that donations from Princess Haifa al-Faisal from Saudi Arabia indirectly helped the two men who carried out the September 11 attacks in New York and Washington. Fifteen of the 19 aircraft hijackers involved in the September 11 attacks came from Saudi Arabia.

Saturday, November 19, 2005, the Bank of New York Co., one of the oldest financial institutions in the United States, pleaded guilty to money laundering and had to pay a fine of US \$ 38 million (equivalent to Rp380 billion at an exchange rate of Rp10,000 per US dollars). The fine was set by the public prosecutor as one of the agreements. Another agreement agreed to by the bank, which was founded in 1784, was to carry out reforms within its body, to be monitored by an independent institution for three years, and to be ready to cooperate in government investigations.

Previously, Commerzbank Management, Germany's third largest public bank, confirmed that Klaus-Peter Mueller, Commerzbank's top brass, was investigated for alleged involvement in the largest money laundering case in Russia along with some of his staff. The statement was officially issued by Commerzbank in response to the Der Spiegel weekly magazine report. This condition immediately made the bank's shares plummet due to a decline in public confidence in banks that previously had a fairly good reputation. Previously, on August 17, 2005, the Financial Crimes Enforcement Network and the Office of the Comptroller of the Currency had imposed a fine of US \$ 24 million against the Arab Bank's New York Branch for not implementing the anti-money laundering provisions as regulated by the Bank Secrecy Act. Administrative sanctions in the form of fines do not seem to be such a troubling problem for large-asset banks like this, as expressed by Thomas Renyi, chairman and Chief Executive of the Bank of New York Co., in a statement. The amount of the fine will not affect current and future income.

This concerns reputation risk due to lack of public trust in the existence of a bank. As is known, the bank business is a business of trust. When a bank defames a trust given by its customers, the bank will sooner or later experience the distortion of trust experienced by Riggs National Corp. Riggs National Corp. Fined by the ruling authority in America for US \$ 25 million for not reporting suspicious financial transactions as stipulated by the American Bank Secrecy Act. Concluding from this bank problem, although it cannot yet be said to be finished, it must be willing to be taken over by another party by changing its name. The cases above illustrate the weight of risks that must be borne by financial service providers (PJK) if

they do not apply the provisions of the legislation related to combating financing of terrorist activities. And so vulnerable if he does not apply the principle of getting to know customers (know your customer), which is part of the precautionary principle to be able to avoid CHD from reputation risk, operational risk, legal risk, and concentration risk. The reputation risk is illustrated quite clearly from what is experienced by Riggs National Corp. Reputational risk is the potential for negative publicity regarding PJK's business activities which can cause a loss of public trust in the relevant PJK. This risk is a major threat to the bank, because the characteristics of the bank's business really require public confidence and the market in general. While operational risk is the risk of loss due to failure of internal, human, and system risks or external factors.

## CONCLUSION

Prevention and eradication of financing terrorism activities through banking can effectively be done through the concept of shaming and naming, namely announcing the names and initials of banks that do not report suspicious transactions that lead to financing of terrorist activities. Although only in the form of initials, banks can be affected by reputation risk, thereby losing the trust of the public. In addition, the bank may be subject to sanctions ranging from fines to bank closures.

A program to strengthen banking human resources, especially in anticipation of a new mode that will be used by terrorists to fund their activities by utilizing transactions through banks. Training in strengthening human resources can be done regularly to refresh old employees and to equip new employees so that they keep up with the times. Training was provided both in terms of information technology and new regulations issued by international regulations, Government Regulations and Bank Indonesia Regulations relating to the prevention and eradication of financing terrorist activities.

In addition, the socialization of the concept of shaming and naming is needed so that both banks and the public actively participate in assessing and realizing the need for vigilance in detecting financing of terrorist activities. For banks, the Know Your Cost Principle applies, where as for the public the Know Your Bank principle applies. For banks that are not disciplined in following the rules, the public will judge and will avoid financial transactions through the bank. On the other hand, banks will also be more careful and exercise maximum internal and external control, so that the public's assessment of the bank's performance will remain good.

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