

## ASEAN COOPERATION IN ERADICATING CRIMINAL ACTS OF TERRORISM IN SOUTHEAST ASIAN AREA

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### **Abstract**

Dewasa ini terorisme telah menjadi ancaman paling serius bagi kemanusiaan dan peradaban serta membawa dampak sangat besar di segala aspek kehidupan berbangsa dan bernegara. Pada tingkat regional, Asia Tenggara merupakan kawasan yang menghadapi tantangan cukup berat dalam bidang keamanan. Masalah terorisme merupakan masalah yang banyak dihadapi oleh negara-negara Asia Tenggara. Banyaknya peristiwa terorisme yang terjadi di Asia Tenggara telah mengakibatkan ASEAN dituntut untuk berperan lebih besar dalam menyelesaikan masalah ini. *ASEAN Convention on Counter Terrorism (ACCT)* ditandatangani pada KTT ke12 ASEAN di Cebu, Filipina, Januari 2007. Konvensi ini memberikan dasar hukum yang kuat guna peningkatan kerjasama ASEAN di bidang pemberantasan terorisme. Selain memiliki karakter regional, ACCT bersifat komprehensif (meliputi aspek pencegahan, penindakan, dan program rehabilitasi) sehingga memiliki nilai tambah bila dibandingkan dengan konvensi sejenis. Harmonisasi kerjasama pada ACCT ini terlihat dari kekompakan negara-negara anggota ASEAN dalam menyetujui netralitas pengdefinisan terorisme sebagai musuh bersama dan juga upaya kontra terorisme dengan tetap menyesuaikan pada prinsip penegakkan HAM, Hukum Internasional dan resolusi PBB serta tanpa melabeli komunitas tertentu sebagai kelompok teroris. Hambatan yang dihadapi ASEAN dalam memberantas tindak pidana terorisme di Kawasan Asia Tenggara adalah prinsip ASEAN yang non intervensi, ASEAN masih fokus pada isu sosial dan budaya, konflik politik domestik negara Anggota ASEAN seperti Thailand dan Myanmar serta konflik yang terjadi diantara negara-negara anggota ASEAN seperti Indonesia dan Malaysia dalam kasus perbatasan dan kebudayaan.

Kata kunci : ASEAN, Terorisme, *ASEAN Convention on Counter Terrorism*.

### **Abstract**

*Today terrorism has become the most serious threat to humanity and civilization and has had a huge impact on all aspects of the life of the nation and state. At the regional level, Southeast Asia is a region facing serious challenges in the security sector. The problem of terrorism is a problem faced by many Southeast Asian countries. The number of terrorism incidents occurring in Southeast Asia has resulted in ASEAN being demanded to play a bigger role in solving this problem. The ASEAN Convention on Counter Terrorism (ACCT)*

*was signed at the 12th ASEAN Summit in Cebu, Philippines, January 2007. This convention provides a strong legal basis for increasing ASEAN cooperation in the field of combating terrorism. Apart from having a regional character, ACCT is comprehensive (covering aspects of prevention, enforcement and rehabilitation programs) so that it has added value when compared to similar conventions. The harmonization of cooperation in the ACCT can be seen from the cohesiveness of ASEAN member countries in agreeing to the neutrality of defining terrorism as a common enemy and also counter-terrorism efforts by still adjusting to the principles of upholding human rights, international law and UN resolutions and without labeling certain communities as terrorist groups. The obstacles faced by ASEAN in eradicating criminal acts of terrorism in the Southeast Asia region are the ASEAN principle of non-intervention, ASEAN still focuses on social and cultural issues, domestic political conflicts in ASEAN Member countries such as Thailand and Myanmar and conflicts that occur among ASEAN member countries such as Indonesia and Malaysia in the case of borders and culture.*

*Keywords: ASEAN, Terrorism, ASEAN Convention on Counter Terrorism*

## **Introduction**

Today terrorism has become the most serious threat to humanity and civilization and has had a huge impact on all aspects of the life of the nation and state. At the regional level, Southeast Asia is a region facing serious challenges in the security sector. The problem of terrorism is a problem faced by many Southeast Asian countries. The number of terrorism incidents occurring in Southeast Asia has resulted in ASEAN being demanded to play a bigger role in solving this problem.

ASEAN has a common interest to cooperate in fighting transnational crime, especially terrorism. This is because in reality transnational crimes including terrorism have operated transnationally. In fact, ASEAN has made various agreements and a fairly comprehensive Plan of Action in an effort to combat the dangers of terrorism. The existence of various agreements and commitments that exist in ASEAN shows that efforts to combat terrorism actually depend on the political will of ASEAN countries themselves and are resolved within a regional framework. In this regard, it is necessary to implement real regional mechanisms from ASEAN countries.

ASEAN must be based on a regional framework in implementing various regional mechanisms, even though national identity remains attached (Wijono, Forum Dialogue X). Various agreements and cooperation that have been made by ASEAN reflect that ASEAN wants to try to build a regional mechanism in resolving conflicts and the problem of terrorism regionally. However, the reality in the ASEAN environment has not yet reflected the strong intention of ASEAN countries to comply with agreements and use existing regional mechanisms to resolve the problem of terrorism. The existence of ASC also has not yet been used as a basis for ASEAN members to resolve ASEAN security problems, including the issue of terrorism.

The application of regional mechanisms in ASEAN to solve the problem of terrorism in the Southeast Asian region cannot yet be implemented. Each ASEAN country seems to still rely on the existing pattern, namely through bilateral channels, not through a regional mechanism that is generally accepted for all ASEAN members. In other words, ASEAN's

response to the problem of terrorism tends to be ad hoc (Bandoro, 1997: 54-55). There are still many big cases that should be brought to conflict resolution mechanisms in ASEAN (regional) but instead are discussed at the bilateral level or even at the international level.

In fact, to date, one of the most important principles of friendship and cooperation agreements in Southeast Asia, namely a format for intra-ASEAN dispute resolution, has not been fully utilized (Adam, at al, 1999: 2). The pattern through bilateral channels seems to be used by most ASEAN member countries to solve the problem of terrorism. In line with the foregoing, (Luhulima, 2003: 34) even emphasized, it turns out that the conflict resolution mechanism in ASEAN (regional) has never been activated to manage or resolve tensions between member countries. This has led some groups to question the existence of ASEAN.

## **Discussion**

### **History of the World Trade Center (WTC) attack on September 11, 2011**

The dynamics of international security politics after the cold war (1990s) have shifted from traditional issues (real war), in the form of confrontation, arms races to nuclear proliferation to forms of modern security problems such as clandestine, trafficking to terrorism. Basically, terrorism existed long before World War I, but terrorism became popular in 2001 in connection with the terror acts of the World Trade Center (WTC), New York on September 11, 2011 (Matusizt, 2014: 29). The events of 9/11 were a series of four suicide attacks that were orchestrated against multiple targets in New York City and Washington, D.C. on September 11, 2001.

According to the report of the 9/11 investigation team, 2,977 people plus 19 hijackers were killed in this attack and at least 6,000 people were injured. This incident which is claimed to be the biggest terrorism event in history has certainly made the public aware and worried about the threat of terrorism, especially because of the biggest act of terror throughout history it has occurred in the "heart" of the world which is claimed to be a super power country. The events of 9/11 were also a starting point that made the world aware of the presence of a new enemy (9/11 Commission, 2000).

In the Southeast Asian region, the United States is paying more attention and making this region a second front in the fight against terrorism. There are several reasons why the US made Southeast Asia a second front in the war on terrorism (Sukma, 2002). First, as reported, there is a connection between Southeast Asia and the September 11 attacks. Some of the hijackers, including top officials, namely Mohammad Atta and Zacarias Moussaoui, who have so far claimed that the US was involved in the September 11 attacks, were known to have held a meeting in Kuala Lumpur to discuss their plans.

Second, before the September 11 attacks took place, the US had warned about the operations of radical Islamist militant groups in the Southeast Asian region, including some of which were directly linked to the Al-Qaeda network. Among others, Al-Ma'unah (Malaysia), Laskar Jihad (Indonesia), several branches of Moro (Philippines). Third, Southeast Asia is the home of Muslims, where Indonesia and Malaysia are predominantly Muslim. With a large population, vulnerable regional boundaries and weak state institutions, the US has long identified this area as a potential haven for terrorists (Sukma, 2002).

The existence of various agreements and commitments that exist in ASEAN shows that efforts to combat terrorism actually depend on the political will of ASEAN countries themselves and are resolved within a regional framework. In this regard, it is necessary to

implement real regional mechanisms from ASEAN countries. ASEAN must be based on a regional framework in implementing various regional mechanisms, although a national identity remains attached. The various agreements and cooperation that have been made by ASEAN reflect that ASEAN wants to try to build a regional mechanism in resolving conflicts and terrorism problems regionally (Yuniarti: 2010). To strengthen cooperation, ASEAN has drafted and signed the ASEAN Convention on Counter Terrorism (ACCT), during the 12th ASEAN Summit in Cebu, Philippines, on January 13, 2007. This convention is an important instrument for ASEAN cooperation that provides a strong legal basis for enhancing cooperation for the prevention, countermeasures and eradication of terrorism. This Convention will provide a regional cooperation framework to eradicate, prevent and stop terrorism in all its forms and manifestations, and to strengthen cooperation between law enforcement agencies and the relevant authorities of the Parties in combating terrorism (ACCT, 2007).

### ***ASEAN Convention on Counter Terrorism (ACCT) in Handling Terrorism in Southeast Asia***

The issue of terrorism in the Southeast Asian region actually occurred in the 1970s to the 1990s, but during that period terrorism had not yet become a developing issue, first, ASEAN-country governments were still dominated by patrimonial and authoritarian leadership, including the Soeharto regime in Indonesia, Lee Kuan Yew's regime in Singapore, Mahathir Mohammad in Malaysia, Thaksin Sinawatra in Thailand and several other regimes that managed to control the political-security situation and secondly, terrorist groups in the Asian region failed to build networks so that impressive attacks and operationalizations could be defeated by security apparatus of ASEAN countries.

The dynamics of terrorism in Southeast Asia changed when the 2001 World Trade Center incident occurred in New York, United States, which succeeded in opening a new chapter of the development of terrorism in ASEAN countries. There are several important things related to the relationship with the WTC tragedy and the development of terrorism in ASEAN. The WTC tragedy has become a benchmark for the revival of radical Islamic groups in the Southeast Asia region, where in ASEAN around 68-70% of the terrorist organizations in it are fundamental Islamic groups while 30-32% are organizations for liberation and ideological struggle.

In the period 2007 to 2010, terrorism cases increased again. Then in 2011 it decreased in a small amount and then again increased sharply in 2013 to 904 cases per year. This dynamic is not just political and security euphoria, but is influenced by various developing ASEAN regional issues and problems including the absence of a permanent resolution of terrorism, including ACCT, which since 2007 is expected to be a solution to dealing with terrorism in ASEAN. In fact, since it was declared January 13, 2007, it turns out that the ACCT was not immediately ratified simultaneously. Several ASEAN member countries had reasons to study ACCT first so that it could be applied in their respective countries. Some of the responses and implementation of ACCT from each ASEAN country were apparently not uniform and simultaneous as presented in Table 1.1 at the beginning. Singapore was the first country to ratify ACCT on October 31, 2007. Furthermore, Thailand ratified ACCT on October 21, 2008. Then the Philippines ratified ACCT on March 24, 2010. After that Cambodia ratified ACCT on June 14, 2010. The 5th country that ratified ACCT was Vietnam,

namely on January 30, 2011. Furthermore, Brunei Darussalam ratified the ACCT on April 28, 2011. In accordance with the provisions of the ACCT, starting 2011 to coincide with the ratification of the ACCT by Brunei, counting 6 countries that have ratified it, the ACCT comes into effect. Myanmar and Indonesia ratified the ACCT on 18 January 2012 and 14 May 2012. Furthermore, Malaysia and Laos were the last 2 countries as ACCT ratifiers, namely on 1 and 12 November 2012.

### **ASEAN Cooperation in Eradicating Criminal Acts of Terrorism in Southeast Asia**

ASEAN is a regional organization located in the Southeast Asia region. ASEAN, which was born on August 8, 1967, through the First Summit in Bali in 1976 gave birth to a Declaration of ASEAN Concord (known as the Bali Concord I) which agreed to work together in the political, social, cultural, economic and security fields. But in its development, the scope of cooperation that is ASEAN's focus is more on economic and socio-cultural relations, while security issues seem sidelined.

ASEAN's efforts to tackle terrorism and transnational crime began even before the 11 September 2001 attacks in the United States. Adopted the ASEAN Declaration on Transnational Crime in ASEAN 1997 and the Action Plan to Combat Transnational Crime, and in 1999 ASEAN began to implement several Declarations related to the war on terrorism. Some of ASEAN's roles in eradicating terrorism activities in the Southeast Asia Region are as follows:

1. Establishment of the ASEAN Regional Forum (ARF);
2. The 7th ASEAN Summit;
3. ASEAN Chiefs of Police Conference (ASEANAPOL);
4. ASEAN Held a Meeting with the ASEAN Regional Forum (ARF) Focusing on Terrorism Issues in the Southeast Asian Region;
5. ASEAN Cooperates with the United States in Combating Terrorism Activities;
6. ASEAN Organizes the ASEAN Summit;
7. Asean Regional Forum InterSessional Counter Terrorism ± Transnational Crime Counter Terrorism;
8. ASEAN Cooperates with the European Union in Combating Terrorism Activities in the Southeast Asian Region;
9. ASEAN + 3 Cooperation in Combating Terrorism.

The more cooperation that ASEAN has established, it is hoped that it will be able to improve the coordination of all parties in efforts to eradicate criminal acts of terrorism in the Southeast Asian Region. A forum that is quite effective in playing a role in efforts to eradicate criminal acts of terrorism in the Southeast Asian region is the Asean Regional Forum. However, in its development ASEAN within the framework of the Asean Regional Forum faces several obstacles in eradicating criminal acts of terrorism in the Southeast Asian Region, namely as follows :

1. ARF is only considered as a forum that prioritizes consensus, as it is known that the development of contemporary problems and issues is very fast growing and also requires the right time to resolve existing problems.

2. Membership issues, ARF members are limited by geographical circumstances of interest, or other criteria.

3. The issue of leadership in the ARF This issue must be of concern to ASEAN, that to what extent ASEAN is solid enough so that the ARF is not dominated by large countries and there is no superior interest to one member with another so that there will be no such thing as determining its own interests in the ARF.

4. In addition to this, conflicts that occur, both domestic political conflicts and conflicts among ASEAN member countries, also have an impact on the effectiveness of ASEAN's role in eradicating criminal acts of terrorism in the Southeast Asia Region. This is because, for example, domestic political conflicts in Thailand and Myanmar have resulted in these two countries being more focused on resolving domestic political conflicts than on eradicating criminal acts of terrorism in Southeast Asia. And conflicts between ASEAN Member countries, such as diplomatic relations between Indonesia and Malaysia related to borders and culture also hinder ASEAN from eradicating criminal acts of terrorism in the Southeast Asia region.

The meeting of ASEAN leaders has resulted in various agreements, from joint communiqués to declarations, all of which contain the steps needed to crack down on transnational crimes. The crime of terrorism received special attention from ASEAN by holding meetings to discuss terrorism, including agreeing to take action against individuals and groups that provide financial support to terrorists. At the Minister of Home Affairs Meeting, 18-20 December 1997, ASEAN produced a joint declaration on efforts to eradicate all forms of transnational crime. The meeting included an agreement on the exchange of information on the security forces of each country. The meeting also discussed the establishment of a body which will examine the possibility of ASEAN regional cooperation in effective efforts to eradicate these crimes, including the possibility of an extradition treaty between ASEAN member countries.

The next step is to make the ASEAN Plan of Action to Combat Transnational Crimes an instrument to build cohesiveness of regional strategies to prevent, monitor and neutralize transnational crimes, increase regional cooperation in investigating, detaining and prosecuting as well as rehabilitating perpetrators of crime. In addition, it was also agreed to increase cooperation among ASEAN security forces related to national crimes, strengthen regional capacities and capabilities in recent transnational crimes, build regional and sub-regional agreements on criminal courts including MLA (Mutual Legal Assistance) and extradition cooperation. The program of activities includes information exchange, cooperation in law and legislation, institutional capacity building, training and other extra-regional cooperation. ASEAN also agreed to build the ASEAN Center for Combating Transnational Crimes (ACTC) which will be the coordinating body for the eradication of transnational crimes.

ASEAN has also taken special steps to combat terrorism crimes, such as the 7th ASEAN Summit on November 5, 2001 in Bandar Seri Begawan, Brunei Darussalam, which resulted in the Declaration of Joint Action to Counter Terrorism and the ASEAN Minister Meeting on Transnational Crime (AMMTC). Terrorism is seen as a major threat to international peace and security and "a direct challenge to the achievement of ASEAN peace, progress and prosperity in realizing the ASEAN Vision 2020". This ASEAN Joint Declaration of Action describes its steps in combating acts of terrorism by reviewing and strengthening national mechanisms in combating increasingly widespread acts of terrorism, signing agreed anti-terrorist conventions, including international conventions to tackle the

Financing of Terrorism, deepening cooperation with law enforcement, enhance information exchange and regional capacity building, strengthen organized cooperation at the Transnational Crime Ministerial Meeting (AMMTC) and other agencies involved in ASEAN efforts to prevent and combat all forms of terrorism.

In addition, ASEAN also develops capacity in enhancing the ability of ASEAN member countries to investigate, detect, monitor and report terrorist acts. ASEAN also discusses and seeks practical ideas and initiatives to increase its role in ASEAN and engagement with the international community including outside regional partners that exist within frameworks such as ASEAN + 3 (China, Japan and Korea), ASEAN Dialogue Partners and the ASEAN Regional Forum ( ARF) to combat terrorist acts based on six thrust strategies: exchange of information, cooperation in legal matters; cooperation in law enforcement, institutional capacity building; training, and extra-regional cooperation.

These are the steps ASEAN took at the Transnational Crime Ministers Meeting in Kuala Lumpur in May 2002. The ASEAN Chiefs of Police Conference (ASEANAPOL), held in May 2002 in Phnom Penh was also committed to combating acts of terrorism. All ASEANAPOL members have the ability to effectively monitor information sharing and combat all forms of terrorist activity. They agreed to enhance cooperation among law enforcement agencies through sharing experiences on counterterrorism and exchanging information about suspected terrorists, their organizations and their modes of operation. Three ASEAN member countries, namely Indonesia, the Philippines, and Malaysia on 7 May 2002 in Manila signed a three-party anti-terrorism agreement (Agreement on Information Exchange and Establishment of Communication Procedures).

Thailand and Cambodia later also acceded to this Agreement. This cooperation framework will include all domestic institutions of each country related to defense and security. The linkage between terrorism and ASEAN was included in the Special ASEAN Ministerial Meeting on Terrorism which was issued in Kuala Lumpur on 21 May 2002, which was followed by the assignment of senior officials from each country in the Southeast Asia region to implement the Work Program on Terrorism to Implement the ASEAN Plan of Action to Combat Transnational Crime. The ASEAN Regional Forum Meeting (ARF) in Bandar Seri Begawan on July 30, 2002 agreed on concrete steps which include: freezing terrorist assets, implementing international standards, cooperation on information exchange and other activities, and agreeing to establish counter-meeting terrorism and transnational crime (ISMCT / TC), which will be co-chaired in 2002-2003 by Malaysia and the United States. At the 8th ASEAN Summit on 4 November 2002 in Phnom Penh, ASEAN issued a Declaration on Terrorism.

This declaration states that it will give full support to all actions that will be taken in eradicating terrorist networks. At the same time they also identify areas of terrorism with specific religions or ethnic groups. In January 2003, ASEAN agreed in Jakarta that the police and law enforcement officers in each ASEAN Member State would create an anti-terrorism task force to strengthen cooperation in counter-terrorism and cooperate with ASEAN member countries.

ASEAN countries can request assistance in various forms not limited to identifying and pursuing suspects, examining witnesses (es), seeking and seeking evidence, evacuating and treating victims, and forensic and crime laboratories. Combating terrorism is a form of cooperation under the AMMTC mechanism. To strengthen cooperation, ASEAN has drafted

and signed the ASEAN Convention on Counter Terrorism (ACCT), during the 12th ASEAN Summit in Cebu, Philippines, on January 13, 2007. This convention is an important instrument for ASEAN cooperation that provides a strong legal basis for enhancing cooperation for the prevention, countermeasures and eradication of terrorism. ACCT is not yet effective because it has only been ratified by Singapore and Thailand.

In general, the implementation of ASEAN regional mechanisms in dealing with terrorism problems is still weak. Many articles of the agreement have not been fully utilized by ASEAN countries. The cooperation framework that has been carried out is also still limited in scope. The nature of cooperation is not at the regional level but is ad hoc and bilateralism, where this cooperation is mostly carried out at the level of bilateral relations and that too takes into account the level of importance of cooperation according to the perceptions of each country. Basically, the weak implementation of the ASEAN regional mechanism is due to the upholding of the norms / principles that underlie cooperation and relations between ASEAN countries, which is called the ASEAN Way. In addition, implementation obstacles are also caused by the absence of a strong will from ASEAN member countries to implement the ASEAN agreement. This is due to differences in legal systems and national interests of ASEAN member countries.

### **Conclusion**

The role of ASEAN in eradicating criminal acts of terrorism in the Southeast Asian Region based on the Convention on Counter Terrorism is by conducting collaborations with ASEAN Member countries and ASEAN partner countries. Some of these collaborations are the formation of the Asean Regional Forum, the 7th ASEAN Summit, the ASEAN Chiefs of Police Conference (ASEANAPOL), ASEAN Collaborating with the United States in Combating Terrorism Activities, ASEAN and the European Union and ASEAN + 3 Whereas after the September 11, 2001 WTC tragedy, terrorism was able to develop as a serious threat to the global security constellation to replace traditional security problems (real war). The WTC case turned out to have a multiplier effect for terror organizations in various regions of the world, which then had the confidence to continue fighting in realizing their interests in various regions of the world. One of them is the Southeast Asia (ASEAN) region. In the Southeast Asian region, terrorism has indeed become a latent threat / danger because in the 1970-1990s several regional terror organizations existed, including Jamaah Islamiyah (JI), Abu Sayyaf, Pattani United Liberation Front (PULO), Runda Kumpulan Kecil ( RKK), Moro Islamic Liberation Front (MILF), New People Army (NPA) and several other terrorist organizations domiciled and operating in the Southeast Asia region. This condition then underlies the 2007 Convention on Counter Terrorism (ACCT). In fact, since it was launched in 2007, until 2011 to 2013 it turns out that ACCT has not been able to run effectively as a regional counter terrorism regime. The obstacles faced by ASEAN in eradicating criminal acts of terrorism in the Southeast Asia region are ASEAN's principles of non-intervention, ASEAN still focuses on social and cultural issues, domestic political conflicts in ASEAN Member countries such as Thailand and Myanmar and conflicts that occur among ASEAN member countries such as Indonesia and Malaysia in the case of borders and culture.

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