

UNIVERSITI TEKNOLOGI MARA

**THE CONFISCATION OF
TERRORIST FUNDS AND THE
IMPEDIMENTS UNDER THE ANTI-
TERRORISM FINANCING LEGAL
FRAMEWORKS IN MALAYSIA AND
ENGLAND AND WALES**

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Thesis submitted in fulfillment
of the requirements for the degree of
Doctor of Philosophy
(Law)

Faculty of Law

February 2021

AUTHOR'S DECLARATION

I declare that the work in this thesis was carried out in accordance with the regulations of Universiti Teknologi MARA. It is original and is the results of my own work, unless otherwise indicated or acknowledged as referenced work. This thesis has not been submitted to any other academic institution or non-academic institution for any degree or qualification.

I, hereby, acknowledge that I have been supplied with the Academic Rules and Regulations for Post Graduate, Universiti Teknologi MARA, regulating the conduct of my study and research.

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ABSTRACT

The peril of terrorism financing is imminent around the world, threatening global security in our jurisdictions. Hence, the international bodies such as the Financial Action Task Force have developed the two central components of the Counter-Terrorism Financing (CTF) regime: criminalisation, financing, and confiscation of terrorist funds. However, the two components have not been adequately addressed by the current laws under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 and the Penal Code. Previous research has not addressed the importance of the confiscation of the terrorist fund and the adequacy of the laws and its modalities. Given the deficiency of the laws and modalities, two central components of the thesis have been developed. Firstly, the deficiency under the confiscation of terrorist fund legal regime and modalities has led to various obstacles in Anti-Terrorism Financing approaches to disrupt, dismantle and sanction the terrorist act. Secondly, such weakness in the confiscation of terrorist fund regime is due to the various issues and impediments, including legal, operational and technical concerns in confiscating property in terrorism or terrorism financing matters. Guided by this thesis, this study aims at examining the confiscation of terrorist fund and impediments faced by the law enforcement agencies in their effort to counter-terrorism financing and confiscation of the terrorist fund in Malaysia and the England and Wales, with a view in producing lessons to be learned. Further, this research seeks to propose strengthening the existing law and guideline in assisting law enforcement agencies. Finally, at the theoretical level, this research criticised how the Intelligence-led Policing theory and the Situational Crime Prevention theory could benefit the law enforcement agencies in their Counter-Terrorism Financing (CTF) action. The research employs a qualitative methodology in which the primary data from various stakeholders, including law enforcement agencies, policymaker, bankers, witness, religious authority, SUHAKAM and the Financial Intelligent and Enforcement Department will be collected using semi-structured interviews. A total of 25 respondents will be involved. Such data is triangulated with the policymakers and the Bank Negara. The secondary data is obtained from the library-based approach and doctrinal legal research. The evidence of this research is reported in Chapter Five. The legal analysis of the confiscation of the terrorist fund in both jurisdictions is presented in Chapters Three and Four, respectively. This research reveals that Malaysia's ATF legal frameworks do not give greater priority to the use of the terrorism financing offence to disrupt, dismantle and sanction terrorist acts and terrorist organisations rather than terrorism offence per se. The research also found that the impediments in the confiscation of the terrorist fund need to be addressed to enhance the robust counter-terrorism financing regime. Future research on such crime can involve a quantitative study or the analysis of asset tracing in a foreign country for foreign fighter and comparative legal analysis between Malaysia and other jurisdictions such as the United States and Australia. This study hopes to contribute in setting forward the recommendations to improve the ATF legal framework in empowering the law enforcement agencies apart from contributing to the literature and enhance the legal knowledge of the confiscation of the terrorist fund.

ACKNOWLEDGEMENT

All praises are to Allah, the Almighty, for it is for His compassion and mercifulness that I can complete this thesis. I am indebted to the following parties, who have been with me in the thick and thin throughout the journey. I would admit that it is the toughest journey that I ever face.

First and foremost, I am thankful to my sponsors, the Ministry of Higher Education of Malaysia for granting me the scholarship under MyBrain15 to undertake this research. Above all, I am greatly indebted to both my supervisors, Prof. Dr Irwin Ooi Ui Joo and Associate Professor Dr Sheela a/p Jayabala Krishnan @ Jayabalan for their continuous guidance, inspiring supervision and generous encouragement throughout my research journey, without whom, I would not have come to this stage of my research. Also, I would like to extend my gratitude to my respondents who have kindly participated in providing information for this research.

I am eternally grateful for the prayers and support from my beloved parents, Selamat Bin Abdullah and Jamilah Binti Yusoff and my in-laws Mohd Roslan Bin Abdul Jalil and Sabariah Binti Ibrahim. I am internally indebted to my loving husband, Mohd Khairul Ikhwan Bin Mohd Roslan for his continuous support, and our children Alya Qistina, Muhammad Adam, Muhammad Akram, Muhammad Aydeen and Muhammad Ayden Rejab for their understanding and inspiration. The sacrifices are beyond time and understanding. To my siblings, Suziela, Shukri and Nana, I tender special thanks to each of them for their unconditional love and support and taking care of my cancer survivor mom when I am away. Lastly, I am also thankful to the other faculty members at the Faculty of Law UiTM Shah Alam for their continuous support and company.

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