

Russian Law Journal

Volume VIII (2020) Issue 2



4

RIDWAN ARIFIN

MUHAMAD ADJI RAHARDIAN UTAMA

Future Impact of the ASEAN-Russia Law Declaration
to the International Terrorism:
Can We Combat Terrorist Without War

28

TATIANA KHRAMOVA

ALEXANDRA TROITSKAYA

Constitutional Defence Against the “Enemies”
of Democracy: Theoretical Considerations
and the Russian Experience

49

OLGA CHESALINA

Social and Labour Rights
of “New” Self-Employed Persons
(and in Particular Self-Employed Platform Workers)
in Russia

79

LORENZO SASSO

The Russian Arbitration Reform:
Between Lights and Shadows

Russian Law Journal

International Editorial Council

Neil ANDREWS
(University of Cambridge, UK)

Loïc CADIET
(University of Paris 1 Pantheon-Sorbonne,
France)

Oscar CHASE
(New York University, USA)

Mirjan DAMAŠKA
(Yale University, USA)

James KLEBBA
(Loyola University, USA)

Elisabetta SILVESTRI
(Pavia University, Italy)

Peter MURRAY
(Harvard University, USA)

Vernon PALMER
(Tulane University, USA)

Janet WALKER
(Osgoode Hall Law School of York University,
Canada)

Teresa WAMBIER
(Pontifical Catholic University of São Paulo, Brazil)

ISSN 2309-8678
e-ISSN 2312-3605

Frequency of Publication: four issues per year

Published by
LLC "Publishing House "Business Style",
119602, Moscow, Troparyovskaya St.,
Bldg. 4, Floor 2, Room 802

Subscription enquiries should be directed
to the Publishing House "Business Style"

Russian Editorial Board

Sergey BELOV
(St. Petersburg State University)

Nataliya BOCHAROVA
(Lomonosov Moscow State University)

Gleb BOGUSH
(Higher School of Economics)

Gennady ESAKOV
(Higher School of Economics)

Vladimir GUREEV
(All-Russian State University of Justice)

Nikita LYUTOV
(Kutafin Moscow State Law University)

Dmitry MALESHIN
(Independent)

Sergey TRETAKOV
(Lomonosov Moscow State University)

Alexander VERESHCHAGIN
(Independent)

Chief Editor Dmitry MALESHIN

Executive Editor Nataliya BOCHAROVA

Contacts:

www.russianlawjournal.org
rlj@russianlawjournal.org
russianlawjournal@gmail.com

All rights reserved. No part of this journal
may be reproduced in any means without the
prior permission of the publisher. The views
expressed in this issue are those of the authors
and do not reflect the views of RLJ Editorial
Council and Editorial Board.

RUSSIAN LAW JOURNAL (RLJ)

An independent, professional peer-reviewed academic legal journal.

Aims and Scope

The *Russian Law Journal* is designed to encourage research especially in Russian law and legal systems of the countries of Eurasia. It covers recent legal developments in this region, but also those on an international and comparative level.

The RLJ is not sponsored or affiliated with any university, it is an independent All-Russian interuniversity platform, initiated privately without any support from government authorities.

The RLJ is published in English and appears four times per year. All articles are subject to professional editing by native English-speaking legal scholars. The RLJ is indexed by Scopus and ESCI Web of Science.

Notes for Contributors

The RLJ encourages comparative research by those who are interested in Russian law, but also seeks to encourage interest in all matters relating to international public and private law, civil and criminal law, constitutional law, civil rights, the theory and history of law, and the relationships between law and culture and other disciplines. A special emphasis is placed on interdisciplinary legal research.

Manuscripts must be the result of original research, not published elsewhere. Articles should be prepared and must be submitted in English. The RLJ does not accept translations of original articles prepared in other languages. The RLJ welcomes qualified scholars, but also accepts serious works by Ph.D. students and practicing lawyers.

Manuscripts should be submitted electronically via the website www.russianlawjournal.org. Articles will be subjected to a process of peer review. Contributors will be notified of the results of the initial review process within a period of two months.

Citations in footnotes must conform to *The Bluebook: A Uniform System of Citation*. A References section is required: entries must conform to the author-title system, such as that described in the *Oxford Style Manual*.

TABLE OF CONTENTS

Articles:

- Ridwan Arifin** (Semarang, Indonesia)
Muhamad Adji Rahardian Utama (Semarang, Indonesia)
Future Impact of the ASEAN-Russia Law Declaration
to the International Terrorism:
Can We Combat Terrorist Without War4
- Tatiana Khramova** (Moscow, Russia)
Alexandra Troitskaya (Moscow, Russia)
Constitutional Defence Against the “Enemies” of Democracy:
Theoretical Considerations and the Russian Experience 28
- Olga Chesalina** (Munich, Germany)
Social and Labour Rights of “New” Self-Employed Persons
(and in Particular Self-Employed Platform Workers) in Russia 49
- Lorenzo Sasso** (Moscow, Russia)
The Russian Arbitration Reform: Between Lights and Shadows 79

Comments:

- Vladislav Tolstykh** (Moscow, Russia)
Cultural Foundations and Mythological Nature of Human Rights104
- Ekaterina Alekseevskaya** (Moscow, Russia)
Recent Development of the Russian Judiciary System.....120

ARTICLES

FUTURE IMPACT OF THE ASEAN-RUSSIA LAW DECLARATION TO THE INTERNATIONAL TERRORISM: CAN WE COMBAT TERRORIST WITHOUT WAR?

RIDWAN ARIFIN,

Universitas Negeri Semarang (Semarang, Indonesia)

MUHAMAD ADJI RAHARDIAN UTAMA,

Universitas Negeri Semarang (Semarang, Indonesia)

<https://doi.org/10.17589/2309-8678-2020-8-2-4-27>

Terrorism is defined as coordinated attacks aimed at arousing feelings of terror against a group of people. In contrast to war, acts of terrorism are not subject to the rules of war such as the time of execution that is always sudden and the target of casualties that are random and often are civilians. Terrorism is increasingly becoming a scourge for modern civilization. The nature of the actions, actors, strategic goals, motivations, expected and achieved results, Terrorism targets and methods are now increasingly widespread and varied. So it is increasingly clear that terror is not a form of ordinary destructive violence, but it is a crime against human peace and security. In order to prevent and combat Terrorism, since long before the occurrence of events classified as a form of Terrorism occurred in the world, international and regional communities and various countries have attempted criminal policies accompanied by systematic and comprehensive criminalization of categorized acts as Terrorism. Under the provisions of the 12 convention includes the main protocol rules adopted by the United Nations. These international agreements principally regulate norms including the responsibility of the state in addressing the problem of terrorism with all countries including the ASEAN region and the Russian Federation declaring to fight terrorism. Russia itself as one of the two world superpowers which is seen as having a strong military is considered strategic for ASEAN to establish cooperation in the field of security and defense in the fight against terrorism. Through collaboration agreement and ratification of terrorism regulations



in their respective countries, both the ASEAN region and the Russian Federation are expected to prevent further terrorism in their respective regions.

Keywords: terrorism; criminal policies; provisions; arousing; agreement and ratification; vulnerable; regulate norms.

Recommended citation: Ridwan Arifin & Muhamad Adji Rahardian Utama, *Future Impact of the ASEAN-Russia Law Declaration to the International Terrorism: Can We Combat Terrorist Without War?*, 8(2) Russian Law Journal 4–27 (2019).

Table of Contents

Introduction

1. Emergence and Terrorist Attacks in the World

1.1. Attack Patterns

1.2. Character and Target of Terrorism

1.3. ISIS, The New Face of Global Jihad

2. ASEAN-Russia Joint Declaration for Cooperation to Combat International Terrorism

2.1. Prospect of ASEAN-Russia Cooperation

2.2. ASEAN-Russia Defense Agreement

2.3. ASEAN Convention on Eradication of Terrorism

2.4. ASEAN and Counter-Terrorism

2.5. Russian Counterterrorism Policy

3. Solution to Terrorism

Conclusion

Introduction

Every ASEAN member country has different perceptions of threats regarding the issue of terrorism. There are perceptions related to the 9/11 tragedy, some are not. Indonesia, for example, views movements that undermine independence as an issue of terrorism because the Indonesian government must face attacks by guerrillas who have a neatly organized network of movements. After the 9/11 tragedy, Indonesia experienced a series of bombs which were allegedly directly related to the global terrorist network in Afghanistan.¹ The perception of the threat of theory in Vietnam is

¹ Maryana Torocheshnikova & Farangis Najibullah, *Volleyball, Honor Roll, and Islamic State? The Double Life of an Unlikely Islamist*, Radio Free Europe/Radio Liberty, 10 August 2016 (May 3, 2020), available at <https://www.rferl.org/a/russia-islamic-state-varvara-karaulova-recruitment-double-life/27400453.html>.



more directed at maritime terrorism and separatist movements in Southern Thailand. In Malaysia, the network of pre-9/11 Communist groups and post-9/11 *Islamiyah* congregations was seen as terrorists who undermined Malaysia's national security, especially with the ongoing hijacking of Malaysia Airlines 653 (in 1977) and the involvement of several Malaysian citizens who acted as protesters. Three bombing events that took place in Myanmar (Ranggon, 1983; Yangon, 2005 and 2010) were perceived by the Myanmar government to be the existence of terrorists in its country. North Korean agents, United Liberations Front of Assam and United National Liberation Front are alleged to be networks of terrorist actors in Myanmar. Although classified as safe, the Singapore government remains vigilant about terrorist threats. Moreover, in 1965, Singapore had experienced a bombing at McDonald's and the hijacking of Singapore Airlines aircraft in 1991.²

After the 9/11 tragedy, the Singapore government was active in a series of collaborations in combating terrorism, especially in facing the movement of the Jamaah Islamiyah network and the Moro Islamic Liberation Front. The Philippines suffered a series of terrorist attacks, such as the Moro National Liberation Front (2001) rebellion, the killing of foreign tourists in the Southern Philippines (2001), the Manila attack (2002), the bombing of Philippine military bases in Zamoanga (2002), the bombing of the Airport in Davao City (2003) and the shooting of Ferry ships (2004). These acts of terror are alleged conducted by the new People's Army (NPA), Jamaah Islamiyah, Moro National Liberation Front (2001), Moro Islamic Liberation Front (MILF) and Abu Sayyaf Group (ASG).³ The terrorist threat to the Cambodian government comes from the remnants of sympathizers of the Khmer Rouge and the Cambodian Freedom Fighters (CFF). This movement network has carried out grenade throwing and attacks on Cambodian government installations in the United States in 2000. For the State of Brunei Darussalam, although there have been no terrorist attacks, this country is very active in collaborating on the issue of terrorism, while Laos and Vietnam are classified as countries safe from the issue of terrorism. In order to face a series of terrorism issues, ASEAN member countries have carried out various counterterrorism efforts supported by the existence of a series of formal policies.⁴

Criminal formulations in the ASEAN Declaration are intended to provide guidance to ASEAN countries to harmonize their views and actions from the idea that there are differences in sources and legal structures including legal culture in each country, that transnational crimes contain the main meaning as a crime committed by individuals or organized by crossing territorial borders of a nation

² Shane Preuss, *The Future of ASEAN-Russian Relations*, ASEAN Studies Center, 18 January 2017 (May 3, 2020), available at <http://asc.fisipol.ugm.ac.id/the-future-of-asean-russian-relations/>.

³ Overview: ASEAN-Russia Dialogue Relations (May 3, 2020), available at <https://asean.org/storage/2012/05/Overview-ASEAN-Russia-Dialogue-Relations-as-of-January-2019..pdf>.

⁴ Murad Batal al-Shishani, "Obligated to Unite under One Banner": A Profile of Syria's *Jaysh al-Muhajireen wa'l-Ansar*, 11(8) *Terrorism Monitor* 4 (2013).



within the region and globally.⁵ The basic thing to remember about terrorism as part of crimes categorized as transnational crime with other crimes is that the objectives and methods used in terrorism crimes are very specific compared to other crimes in the formulation of transnational crimes.

The strength of ASEAN itself is shown by its “convening power” and its ability to attract interest from the world’s great powers. However, this power also presents a challenge, because ASEAN is not only fixated having to navigate its relationship with these forces, but also debates the various relationships of each of its own members with their respective strengths. Given this, significant comments have been dedicated to the threat of increasing U.S.-China tensions to strengthen ASEAN’s unity and coherence. This tension itself, often centered on Sea disputes occurring in South China, is set to strengthen Donald Trump’s position as Chosen President, the company is even aggressive towards China. There is, however, another great power in the region, whose increasingly eager courtship of ASEAN, combined with its complex and evolving relations with both China and the USA, is set to play a significant role in the region’s geopolitics; Russia.

ASEAN-Russia cooperation started in 1991. Russia officially became ASEAN’s Partnership Speech at the 29th AMM/PMC in Jakarta in July 1996. The basic consideration for forming the partnership is Russia’s status as a permanent member of the U.N. Security Council, which is expected to be utilized for the benefit of ASEAN. Besides that the size of the Russian economic market and its natural resources is also an opportunity for ASEAN to further enhance relations with Russia in the fields of development, Science and Technology, Trade, Human Resources, Investment and Economics, Environment, Tourism, Culture, improvement of people-to-people contact, and security.

ASEAN-Russia strategic cooperation seems to enter a new phase which is quite encouraging. The draft declaration of Russia’s proposal for the Declaration of Framework for Strengthening Security and Developing Cooperation in the Asia-Pacific Region has been readily available and is ready to be studied further by all ASEAN member countries. The proposal initiated by Russia contained guidance as well as a code of ethics related to cooperation at the regional and international level for ASEAN countries. It must be admitted that this is a new breakthrough that is quite strategic and beneficial for Russia’s role and presence in the ASEAN region. Also this marks the intensification of participation by Russia and China, which since 2001 were incorporated into a strategic alliance under the umbrella of the Shanghai Cooperation Organization (SCO), to build security cooperation with its strategic partners from ASEAN, including Indonesia.

⁵ *ASEAN-Russia Relations 4* (G. Chufirin et al. (eds.), Singapore: Project MUSE Books, 2013).



1. Emergence and Terrorist Attacks in the World

The terrorism movement in the world is still a serious threat to efforts to create world security and peace. Until today and in the next few years, no country in the world can provide guarantees free from attacks by extremist groups incorporated in an international terrorist network. Blasting the WTC building in New York on 11 September 2001 was a history of turning points terrorism movement in the world, for Indonesia it is the Bali Bombing I incident dated 12 October 2002. Since the WTC bombings and the Bali bombing, the movement terrorism is a phenomenon of radicalism that is related to religion.⁶

Al-Qaeda is underground resistance organization that has since in 1998 it had the patent of war titled "World Islamic Front for Jihad Against Jews and Crusaders" (*al-Jabhat al-Islamiyah al-Alamiyah li-Qital al-Yahud wal-Salibiyyin*).⁷ Al-Qaeda success in the 11 September 2001 tragedy became clear evidence that the threat of terrorism is real. The U.S. government under President Bush immediately announces "war against world terrorists" (war on terror). Osama soon became the most wanted man in the world, the main target of the operation of the U.S. government.

Osama bin Laden's death on 2 May 2011 in Abbottabad, Pakistan, Islamic-based terrorism movements are not necessarily extinct. A new global face jihad appears on the surface with more sophisticated patterns and modes and turn off, for example, Islamic State of Iraq and Syria (ISIS). ISIS becomes the main axis of Islamic-based radicalism and terrorism in the world or now post-al-Qaeda. ISIS is one step ahead of al-Qaeda. ISIS has declared ad-Dawlah al-Islamiyah "Islamic State" (IS) led by the caliph Abu Bakr al-Baghdadi, things that have not been done by al-Qaeda.

The declaration of an Islamic state by al-Baghdadi provides incentives for groups that have been fighting for the Islamic State around the world. ISIS network cells have spread throughout the world and declared allegiance to Imam Islam State Abu Bakr al-Baghdadi. Meanwhile, in the African region, especially in Nigeria and Cameroon appears to be an Islamic extremist group that also has established an Islamic state, Boko Haram. Boko Haram was founded in 2002 by Mohammed Yusuf with the aim of establishing a "purely" based Islamic state Sharia law and stop things that are considered as "Westernization." Boko Haram became the world's attention after its action kidnapping

⁶ Ali Asghar, *Gerakan Terorisme Tahun 2015: Pola Serangan, Jumlah Korban dan Wajah Baru Global Jihad* [Terrorism Movement in 2015: Pattern of Attacks, Number of Victims and the New Face of Global Jihad], 2(1) Jurnal Keamanan Nasional [National Security Journal] 2 (2016).

⁷ This Jihad Declaration was signed by Osama bin Laden, Ayman al-Zawahiri and three other al-Qaeda leaders. Rohan Gunaratna, *Inside Al Qaeda: Global Network of Terror* 45 (New York: Berkley Publishing Group, 2003). See also Peter Mandaville, *Global Political Islam* 248 (London; New York: Routledge, 2007). This appeal is broader from the previous appeal dated 23 August 1996 which contained the declaration of Jihad against American occupation of land and two holy places as contained in the newspaper speak Arabic in London, al-Quds al-Arabi. See Ronald Crelinsten, *Counterterrorism* 73–74 (Cambridge: Polity Press, 2009).



200 Nigerian female students and making women as a sex slaves. On 13 November 2013, the U.S. government classifies this group as a terrorist organization.

Al-Qaeda, ISIS and Boko Haram are prime examples of phenomena religious terrorism movement that has become the international concern. Even though Islamic-based terrorism organizations still dominate the action terror attacks in 2015, but in some cases too found terror attacks carried out by secular groups or nationalist.⁸

Some secular or national groups that actively do terror attacks in 2015 include: Turkish Left Group or the Revolutionary People's Liberation Party-Front or Devrimci Halk Kurtuluş Partisi-Cephesi (DHKP-C), Donetsk People's Republic-Ukraine, Korean Nationalist, National Liberation Army-Macedonia, the Nationalist Socialist Council of Nagaland-India, Kosovo Liberation Army-Macedonia, Baloch Separatist-Pakistan and New People's Army Philippines. Beyond the attacks carried out by terrorism organizations is an act of terror which is done individually (lone wolf).

Al-Qaeda's fading charm in the terrorist attacks in the world is attributed to the death of Osama bin Laden. Osama bin Laden is not only become al-Qaeda leader, but also an al-Qaeda funding source. Al-Qaeda attacks in the world depend a lot on funds owned by Osama bin Laden, in addition to other funding sources from Osama bin Laden's business network.⁹

Therefore, the death of Osama bin Laden has an influence on al-Qaeda's terrorist acts because there no longer exist funds that can be used to carry out large actions, for example Bali Bombing I and 11 September 2001 in the U.S. On the contrary, ISIS as an al-Qaeda splinter organization actually became frightening specter as a world terrorism organization. The amount ranks first from the list of terrorist organization attacks. Moreover, the pattern of ISIS attacks is also more deadly than al-Qaeda. ISIS does not only target direct attacks on symbols – western symbols, but also Islamic groups that do not agree with ISIS, for example, Shiite Islam.¹⁰ More than that, ISIS dares to take action by genocide against minority groups considered enemies, like Iraqi and Syrian Christians and ethnicity Yazidi.¹¹

1.1. Attack Patterns


Action terrorism attacks throughout the year 2015 pattern dominated the attack with the mode of firing as many as 111 times, followed the pattern of suicide

⁸ Use the term "secular or nationalist group" to make it easier in distinguishing Islamic-based terrorism movements or Islamic ideologies with non-Islamic based terrorism organization group.

⁹ Yossef Bodansky, *Bin Laden: The Man Who Declared War on America* (Rocklin: Prima, 1999); Gunaratna 2003, at 17.

¹⁰ The Islamic State of Iraq and Greater Syria: Two Arab Countries Fall Apart, *The Economist*, 14 June 2014 (May 3, 2020), available at <https://www.economist.com/middle-east-and-africa/2014/06/12/two-arab-countries-fall-apart>; As'ad Said Ali, *Al-Qaeda: Tinjauan Sosial-Politik, Ideologi dan Sepak Terjangnya [Al-Qaeda: Socio-Political Review, Ideology and its Occurrence]* 335–336 (Jakarta: LP3ES, 2014).

¹¹ Minority Killings by IS "Should Be Recognised as Genocide," BBC, 21 December 2015 (May 3, 2020), available at <https://www.bbc.com/news/uk-35147645>.



bombings as much as 88 times, as many as 45, bomb attacks and car bombs as much as 24 times. Organization of Islamic-based terrorism groups uses the pattern combination of shooting, bombs, suicide bomb attacks and car bombs. The pattern of terror attacks a group of secular nationalists tend to use the pattern of the attacks and attacks using artillery firing as happening in Ukraine by the Russian pro rebel group. Nevertheless, the pattern of the attack suicide bomb (suicide bombings) are likely to be dominant and is performed by a group of Islamic-based terrorism organizations, such as ISIS, al-Qaeda, the Taliban, al-Shabab and Boko Haram.¹²

Robert A. Pape reveals factors behind the violent actions in the form of suicide terrorism is not motivated by sheer factored religious fundamentalism, otherwise even more secular motifs that is driven by nationalism in the form of political the opposition oust the American occupation in the Islamic countries. Parallel with what is revealed Pape, Faisal Devji in "The Terrorist in Search of Humanity: Militant Islam and Global Politics" try to discuss and question the representation of Islam as a motive of terrorism. Terrorism according to Devji is not sourced from religious factors but more of a form of protest against the global world order which is unfair under the control of the United States.¹³

Pape research is not enough to be a thesis that the action of suicide bombings carried out by more nationalist than the Group of Islamism. This is due to the turning point of the history of terrorism in the world is the WTC terror action in the U.S. in 2001 by al-Qaeda. Action-based Islamic terror groups before the year 2001 is not enough massif and phenomenal. So that the movement of terrorism before the year 2000 are more dominated by secular nationalist groups. Therefore, do not cover the possibility if the data is continued to the present Pape opened the possibility that the action of suicide bombings carried out by the more Islamic-based terrorism compared to the organization-based secular nationalists.

1.2. Character and Target of Terrorism

Terrorist character based on the results of studies and empirical experience in handling acts of terrorism carried out by the United Nations, among others, as follows, terrorists generally have a solid organization, high discipline, militant with an organizational structure in the form of small groups, and orders carried out through indoctrination and terrorists in training for years before carrying out their actions. Terrorists consider that the peaceful process of obtaining change is difficult to obtain. Terrorists choose actions that are related to political objectives by criminal means and do not heed applicable norms and laws.¹⁴

¹² Robert A. Pape, *Dying to Win: The Strategic Logic of Suicide Terrorism* 15 (New York: Random House, 2005).

¹³ Faisal Devji, *The Terrorist in Search of Humanity: Militant Islam and Global Politics* (New York: Columbia University Press, 2008).

¹⁴ Anna Politkovskaya, *Putin's Russia: Life in a Failing Democracy* 1–18 (London: Harvill Press, 2004).



Choosing targets that have a high psychological effect to generate fear and get broad publication strategic objectives of terrorists include, demonstrates the weaknesses of power tools (Government Apparatus), causes conflict and radicalism in the community or certain segments of society humiliating government officials and provoking them to act repressively and then discrediting the government and generating public sympathy for terrorist goals, using mass media as a tool for disseminating propaganda and terrorist political goals, building physical targets include, military installations, building vital objects such as energy generation, communication installations, industrial estates, tourism and transportation facilities, government officials, diplomats, business actors and political personnel.¹⁵ So, the target of terrorist actions that are generally against humans and other objects must be able to be maintained with a better system of terrorist systems which aims to highlight the weaknesses of the government system designed to produce positive or sympathetic public reactions for terrorists.

1.3. ISIS, The New Face of Global Jihad

The term "jihad" in Islam to be recognized nomenclature is not a foreign word. The term "jihad" many found in the Qur'an or Hadith of the Prophet.¹⁶ Etymologically, the term "jihad" means to strive in earnest or exerting all ability. Therefore, when mentioned "jihad fisabilillah" that means earnest by exerting all ability to always be in the way of God. But today, the term "jihad" more translated with the meaning of violence committed by radical Islamist groups in the effort against the parties who are considered threats to Muslims.

Jihad has had the meaning of mobilizing all abilities to always be on the road of God. But now, the term "jihad" is more connoted with the meaning of violence perpetrated by radical Islamic groups within efforts against those who are considered to be tyrannizing Muslims. The new development of the term "jihad" connotes this violence increasingly find its relevance when a terror attack occurs in WTC bomb in the United States on 11 September 2001, likewise with the first Bali bombing in Indonesia on 12 October 2002. Two of the event of terror increasingly justifies the meaning of jihad fiber with a culture of violence. Historically, the emergence and development of the global movement of jihad cannot be separated from important events in the history of world politics of Islam. There are three important events in the Islamic political arena behind the global awakening of jihad, namely first, the Islamic Revolution in Iran, secondly, the invasion of the Soviet Union in Afghanistan and third, the agreement peace between Egypt and Israel which is seen by radical

¹⁵ *In Search of Another "Small Victorious War,"* Institute for War and Peace Reporting, 8 October 2012 (May 3, 2020), available at <https://iwpr.net/global-voices/search-another-small-victorious-war>.

¹⁶ The Qur'an mentions the word "jihad" in a number of verses, more or less there is around the 41 verses in some letters in the Qur'an.



Muslim activities as a form of pro-Western regime policy.¹⁷ The three events have given birth to extremist Islamic groups that made the West as enemies and fights, including al-Qaeda. These three events have become momentum for the resurrection global jihad by groups of Islamic extremism that are fast spread in the Middle East, Asia, Africa, the Caucasus, the Balkan Gulf to Eastern Europe. This global awakening of jihad is increasingly finding its relevance when Western countries are under American command tend to intervene in a number of Islamic countries, such as Iraq, Iran, Pakistan and a number of Middle Eastern countries.¹⁸

In its development, the occupation of the American army in several Islamic state raises resistance even in the form of jihad fighting the people of kafir (read: America and its allies) and spread to all Islamic countries, including Indonesia. Mahmood Mamdani in "Good Muslim, Bad Muslim: America, the Cold War, and the Roots of Terror," questioning

How do right-wing Islamist activities, an ideological tendency that only a few people support who were scattered before the Afghan war, able to move and continues to expand and color the global political arena especially after September 11.¹⁹

Al-Qaeda led by Osama bin Laden began the global jihadist movement since 1998. Orientation of the jihadist movement is violence. Jihadist groups know no compromises and negotiations:

Jihad and the rifle alone; no negotiations, no conferences, and no dialogues.²⁰

While the genealogy of radicalism in the modern century was formulated by Sayyid Qutb. Qutb provides a basic formula for reasons for use violence when dealing with tyrants that obstruct its upright Islamic sharia.²¹ After al-Qaeda, the global jihad movement emerged with a new face and a new strategy, ISIS. ISIS is present as a global movement of jihad continuing Osama bin Laden's struggle. ISIS goals have something in common with al-Qaeda namely the establishment of Islamic Shari'a in an Islamic state. However, the presence of ISIS was a step ahead of al-Qaeda, ISIS has declared an "Islamic State" while al-Qaeda has not been able to and/or not declare

¹⁷ <http://www.globaljihad.net>

¹⁸ Thomas Hegghammer, *Global Jihadism After the Iraq War*, 60(1) Middle East Journal 11 (2006).

¹⁹ Mahmood Mamdani, *Good Muslim, Bad Muslim: America, the Cold War, and the Roots of Terror* 129–130 (New York: Three Leaves Press, 2004).

²⁰ *Id.* at 127.

²¹ Stephen Vertigans, *Militant Islam: A Sociology of Characteristics, Causes, and Consequences* 11 (London: Routledge, 2008).



an “Islamic State.” Because that, the difference in jihad between al-Qaeda and ISIS is ISIS jihad for “Islamic State” while al-Qaeda is “Jihad Fisabilillah.”

Beyond the above, the emergence and development of ISIS cannot be released from the Arab Spring phenomenon which has knocked out a number of authoritarian regimes in the Middle East region such as Tunisia, Libya, Egypt, and Yemen. The demonstration revolution and protests taking place in the world Arabic since 18 December 2010, not only destroying the building of an authoritarian state but also gave birth to Islamic groups purists who take the momentum to overthrow Shiite leaders, including Syrian President Bashar al-Assad. ISIS and al-Qaeda Sunni-leaning took the opportunity in the politics by trying to overthrow dictator Bashar al-Assad as Syrian-style Syrian President. Overthrow effort it was unsuccessful because Bashar al-Assad received support from Syi’ah Hizbullah militant group.²² Failure to overthrow Bashar al-Assad shifts ISIS attention to Iraq controlled by al-Qaeda. At this point there was a tension between ISIS and al-Qaeda decided that ISIS was no longer part of al-Qaeda.

2. ASEAN-Russia Joint Declaration for Cooperation to Combat International Terrorism

ASEAN and Russia member countries expressed their condolences to Indonesia for the recent acts of terrorism in several cities in Indonesia. The act of terror is a sign that the threat of terrorism in the region is still very real, serious, and its response requires intensive cooperation between countries including ASEAN-Russia. In addition to highlighting cooperation in combating terrorism and other transnational crimes, the meeting also discussed various issues related to the ASEAN-Russia partnership such as trade and investment, energy, transportation, agriculture, disaster management, education and cultural exchanges and discussed the development of ASEAN-political and security cooperation. Russia in the region includes the development of the Indo-Pacific concept. The position of Southeast Asia in the Indo-Pacific axis will be a bridge between the initiatives of major countries so that the Indo-Pacific region does not become an arena of adverse competition. For this reason, ASEAN and Russia need to increase synergy in Indo-Pacific cooperation that is inclusive, open, transparent and respects international law to maintain peace and increase prosperity through a mechanism led by ASEAN (ASEAN led-mechanisms).

In its response, Russia as one of the ASEAN Talk Partners expressed its full support for ASEAN’s centrality in the region and hoped that the development of the Indo-Pacific cooperation concept could also accommodate its input.²³ In the economic

²² Masdar Hilmy, *Genealogi dan Pengaruh Ideologi Jihadisme Negara Islam Iraq dan Suriah (NIIS) di Indonesia [Genealogy and Influence of the Ideology of Jihadism of the Islamic State of Iraq and Syria (ISIS) in Indonesia]*, 4(2) Jurnal Tasawuf dan Pemikiran Islam [Journal of Sufism and Islamic Thought] 404, 406 (2014).

²³ *ASEAN-Russia Relations*, supra note 5, at 8.

Russian Law Journal

Volume VIII (2020) Issue 2

Оформление и компьютерная верстка:
ИП Резниченко А.С.

Подписано в печать 16.06.2020. Формат 70x100¹/₁₆. Объем 9 п. л.
Цена свободная.
Заказ №

Наш адрес: ООО «Издательство «Деловой стиль»
119602, г. Москва, ул. Тропарёвская, владение 4, этаж 2, комн. 802.
www.ds-publishing.ru

ISSN 2309-8678



9 772309 867004