Asian Journal of Criminal Justice and Forensic Studies

Vol. 1, No. 1. 2025

Journal homepage: https://asianjustice.kz/

UDC 343.326:340.5

Article's History:
Received: 10.07.2025; Revised: 05.11.2025; Accepted: 16.12.2025

The concept of "Global Terrorism" and its implementation in the criminal legislation of Indonesia, the Philippines, and Malaysia

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Abstract. The aim of the article was to determine the peculiarities and level of adaptation of international counter-terrorism standards in the criminal legislation of Indonesia, the Philippines, and Malaysia. The study was conducted within a qualitative-comparative legal design, employing the special-legal method, comparative legal analysis, and the case study method. The research established that the examined countries implement international counter-terrorism standards through different criminal law models: functional (Indonesia), hybrid (the Philippines), and preventive (Malaysia). It was found that in all three legal systems, criminal liability extends not only to completed terrorist acts but also to financing, recruitment, training, preparation, and participation in terrorist organisations without the need to prove a specific act of violence. Significant differences were identified in sanctioning policies: Indonesia provides for the death penalty, life imprisonment, or imprisonment from 20 years for the most serious terrorist acts, whereas in the Philippines and Malaysia, the maximum penalty is life imprisonment with an emphasis on preventive measures. It was determined that international counter-terrorism standards form not a unified definition but a "minimum core" of terrorism, which includes a violent act or the threat of its use, a special purpose of intimidation or coercion, and heightened public danger. The comparative analysis showed that Indonesia, the Philippines, and Malaysia formally implement this core; however, they utilise different legislative models: functional (Indonesia), hybrid with a link to underlying offences (the Philippines), and preventive with an emphasis on potential threat (Malaysia). It was revealed that the level of legal certainty is highest in the Philippine model and lowest in the Malaysian model, where the expansion of the definition through categories of national security creates tension with the principle of *nullum crimen sine lege certa*. The obtained results can be used by legislators and courts to adjust national anti-terrorism definitions and their application practices, with the aim of clearly delineating the boundaries of criminalisation, selecting adequate standards of proof, and preventing the excessive expansion of preventive powers

Keywords: international obligations; regional security mechanisms; violent act; public danger; preventive measures

Introduction

In the 21st century, terrorism has evolved into a transnational phenomenon that transcends the borders of individual states, acquires a networked character, and utilises global financial, informational, and migratory flows. In scientific and political-legal discourse, this has led to the formation of the concept of "global terrorism", which emphasises the supranational nature of the threats and the unification of approaches to the criminalisation of terrorist activities. At the same time, the implementation of this concept into national criminal law systems remains fragmented and dependent on the historical, religious, and security peculiarities of specific states. The countries of Southeast Asia, particularly Indonesia, the Philippines, and Malaysia, are in a zone of heightened risk of terrorist activity, which combines local separatist conflicts with the influence of global extremist ideologies. Their criminal legislations have undergone significant transformations under the influence of international obligations, regional security mechanisms, and the practice of counter-terrorism operations.

Suggest Citation:
Apakhaev, N. (2025). The concept of "Global Terrorism" and its implementation in the criminal legislation of Indonesia, the Philippines, and Malaysia. *Asian Journal of Criminal Justice and Forensic Studies*, 1(1), 101-112.

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In academic discourse, the issue of the relationship between counter-terrorism legislation and human rights is increasingly being understood through the prism of the structural consequences of preventive approaches. Thus, R.A. Ahmad & S. Dhillon (2022) concluded that in the Malaysian context, the prevention of terrorism is institutionally accompanied by a systematic expansion of the discretionary powers of the state, leading to a lowering of legal certainty standards and a weakening of judicial control. They established that human rights violations are not a side effect of law enforcement but logically follow from the legislative construction of anti-terrorism norms, which are oriented towards risk assessment rather than proving actual violence. However, the study did not conduct a comparative analysis with alternative model approaches, which limits the possibility of generalising the obtained results beyond the Malaysian legal order. Further development of this issue can be traced in the study by N.M. bin Idris & Y.H. Khoo (2025), which shows that Malaysian anti-terrorism legislation creates a persistent imbalance between security objectives and international human rights protection standards. The authors established that preventive detention mechanisms, restrictions on freedom of movement, and the broad interpretation of threats to national security have a cumulative effect that weakens procedural guarantees. However, the research focuses primarily on the human rights dimension and does not analyse how the legislative technique of defining terrorism influences the boundaries of criminalisation as such, leaving the question of the model-based conditionality of the identified violations open.

A different analytical perspective is offered by J. Jupp (2022), who, using the example of the United Kingdom, demonstrated the transformation of anti-terrorism legislation from dynamic response to a state of regulatory "stagnation". The researcher established that the expansion of definitions of terrorism, particularly in the area of countering far-right extremism, has led to a blurring of the boundaries between ideological threat and criminally punishable conduct. At the same time, the author showed that even in a legal order with a developed judicial tradition, such evolution creates tension with the principle of legality. However, the question of whether these tendencies are universal for other legal systems with a different model architecture of anti-terrorism norms remains overlooked. In the Philippine context, R.U. Mendoza *et al.* (2021) established that the effectiveness of counter-terrorism measures largely depends on the clarity of the normative distinction between terrorism and ordinary criminal offences. The authors showed that linking terrorist acts to underlying offences, combined with a special purpose, increases the predictability of law enforcement. At the same time, they noted the limited adaptability of such an approach to new forms of violent activity. The study did not conduct a systematic comparison of this hybrid approach with functional or preventive models, which complicates the assessment of its relative advantages and risks.

A separate strand of literature is devoted to the financial aspects of terrorism, particularly in the work of F. Muslim *et al.* (2025), where it was established that strengthening state control over crowdfunding reduces the risks of financing terrorist activities but simultaneously negatively affects legitimate charitable practices. The authors concluded that preventive regulatory mechanisms can have a disproportionate effect if they are not embedded within a clearly defined legal framework. However, the study analyses financial instruments in isolation from the general definitional logic of terrorism, which does not allow for tracing their relationship with the boundaries of criminal liability. A critical analysis of Indonesian anti-terrorism legislation is presented in the work of I.M. Riduan (2024), which shows that the legitimacy of counter-terrorism norms largely depends on their perception by society and their compliance with the principles of legal certainty. The author established that expanding the object of the offence to abstract categories of social stability creates a risk of overcriminalisation. At the same time, the study focuses on political-legal legitimacy, leaving the comparative dimension and the relationship with the international "minimum core" outside detailed analysis.

The issue of the interaction between science and practice in the field of counter-terrorism is explored by Z.A. Sukabdi (2021), who established that integrating academic approaches into the formulation of state policy contributes to a more balanced equilibrium between security and human rights. The author concluded that it is precisely conceptual clarity in defining terrorism that enhances the effectiveness of law enforcement. However, the study does not detail which specific model constructs of the definition are most compatible with such a balance, leaving room for further comparative research. Finally, I.E. Okoye & P. Adejoh (2025), analysing the experience of Nigeria, found that victims of counter-terrorism operations most frequently encounter human rights violations in the context of preventive measures and the broad discretionary powers of security forces. The authors demonstrated that the absence of clear boundaries for criminalisation exacerbates the vulnerability of the civilian population. At the same time, the African context is examined without comparison with Asian or European models, which precludes the identification of universal patterns. Thus, the literature review attests to the existence of a substantial body of research devoted to the human rights implications of anti-terrorism legislation. However, the problem lies in the absence of a comprehensive comparative analysis of how the concept of "global terrorism" is translated into the criminal law norms of the aforementioned states, which elements of this concept are fully integrated, and which are modified or ignored. Addressing these gaps is necessary to enhance the effectiveness of counter-terrorism policy, ensure legal certainty, and formulate coherent approaches to countering global terrorist threats in regional and international dimensions. The aim of the article was a comparative assessment of the degree and forms of implementation of

international counter-terrorism standards in the criminal legislation of Indonesia, the Philippines, and Malaysia. To achieve this aim, the following tasks were set: to analyse the norms of the criminal legislation of Indonesia, the Philippines, and Malaysia that regulate liability for terrorist crimes; to determine the compliance of national definitions and elements of crimes with international standards.

Materials and Methods

The methodological foundation of the study was a qualitative-comparative legal design, focused on identifying the substantive characteristics of the concept of "global terrorism" and analysing the mechanisms of its implementation in the criminal legislation of Indonesia, the Philippines, and Malaysia. The methodological logic of the research was based on a combination of normative analysis, the study of judicial practice, and the comparative interpretation of law enforcement models. The chronological scope of the study covered the period from 2001 to 2024. The lower boundary was determined by the formation of the modern concept of global terrorism following the events of September 11, 2001, and the subsequent adoption of key UN – United Nations Security Council (n.d.), which established the normative framework for international counter-terrorism. The upper boundary of the study allowed for the consideration of the latest transformations in anti-terrorism legislation and judicial practice, associated with the strengthening of preventive approaches, the expansion of the state's security powers, and the actualisation of the problem of legal certainty. The chosen period ensured the possibility of analysing not the static state of legal regulation, but its evolution in response to changing security challenges.

The selection of Indonesia, the Philippines, and Malaysia as subjects of comparative analysis was determined by a combination of normative and empirical factors. All three states belong to the same region, have experienced real terrorist threats, and have simultaneously implemented international counter-terrorism standards through different models of criminalisation. Indonesia represents a functional model, within which key importance is attached to actual violence and its social effect; the Philippines – a hybrid model, combining formalised offences with the requirement to prove a special purpose; Malaysia – a preventive model, focused on early intervention and the assessment of security risk. This sample allowed for the identification of structural differences in the implementation of the concept of global terrorism under conditions of a shared international normative core.

Within the study, the special-legal method was applied, the purpose of which was to identify the peculiarities of the normative implementation of the concept of "global terrorism" and to analyse the legal technique of criminalising terrorist acts in the national legislation of Indonesia, the Philippines, and Malaysia. The material basis for the special-legal analysis comprised international counter-terrorism instruments that form the normative "minimum core" of the concept of terrorism, including the International Convention… (1999) and Resolution of the United Nations Security Council No. 1373 (2001), and Resolution of the United Nations Security Council No. 1566 (2004). The national dimension of the special-legal method encompassed the analysis of legislative acts of Indonesia, the Philippines, and Malaysia that directly regulate liability for terrorism. Specifically, the provisions of the Law of the Republic of Indonesia No. 5 (2018), which define the functional model for qualifying terrorist acts, were analysed. For the Philippine legal order, the Criminal Code of the Philippines (2014) was examined in order to trace the logic of criminalising terrorism through the combination of predicate offences and a special purpose. In the context of the Malaysian legal system, the special-legal method was applied to the analysis of the Penal Code No. 574 (1997), the Act of Malaysia No. 769 (2015), and the Act of Malaysia No. 747 (2015). Additionally, within the framework of the special-legal method, a structural-dogmatic analysis of the elements of terrorist offences was carried out, aimed at identifying how the key elements of terrorism are normatively constructed and the boundaries of criminal liability are delineated in the legislation of Indonesia, the Philippines, and Malaysia. The analytical procedure involved examining the object of the offence, the actus reus (the violent nature or threat thereof), the specific terrorist purpose (mens rea), and the subject of the crime.

One of the research methods employed was comparative legal analysis, applied to identify common features and differences in the implementation of the concept of global terrorism across the three legal orders. This method was used not for the formal juxtaposition of norms, but for analysing the model logic of criminalisation and its impact on the boundaries of law enforcement. The study also utilised the case study method, the purpose of which was to identify the peculiarities of the practical application of anti-terrorism legislation and to analyse how the chosen criminal law model influences judicial reasoning in qualification, the structure of evidence, and the limits of criminalisation of terrorist acts. The materials for the case studies were typical court cases representing the functional, hybrid, and preventive models of terrorism criminalisation. To analyse the functional model, court proceedings related to the Bali bombings of October 12, 2002, were used, particularly the decision of the Constitutional Court of the Republic of Indonesia Case No. 013/PUU-I/2003 (2003), which examined the issue of the retroactive application of anti-terrorism legislation. To study the hybrid model of applying anti-terrorism legislation, the decision of the Supreme Court of the Philippines in the consolidated cases Supreme Court of the Philippines G.R. No. 252578 (2021), concerning the constitutionality of the Act of the Republic of the Philippines No. 11479 (2020), was analysed. Within the analysis of the preventive model, materials from Malaysian judicial practice were used, specifically the decision of the Court of Appeal in the case of Court of Criminal Appeal of Malaysia No. W-05-141-05 (2014), which illustrates

the application of anti-terrorism norms in the context of assessing security risk and preparatory acts. This case was used to examine how courts shift the focus of proof from demonstrating a completed violent act to analysing a potential threat to national security while simultaneously attempting to establish normative limits on the application of preventive measures.

Results and Discussion

Criminal law regulation of liability for terrorist crimes in Indonesia, the Philippines, and Malaysia

In international law, the concept of "global terrorism" is formed not through a single universal definition, but by establishing functional minimum standards in United Nations Security Council (n.d.) resolutions and sectoral anti-terrorism conventions, which regard terrorism as a transnational threat to international peace and security. The starting point for the criminalisation of terrorist crimes are the provisions of Resolution of the United Nations Security Council No. 1373 (2001) and Resolution of the United Nations Security Council No. 1566 (2004), in which terrorism is delineated through a combination of a violent act or the threat of its commission, the specific purpose of intimidating a population, compelling a government or an international organisation, and heightened public danger, irrespective of the territorial boundaries of the act's commission. Further normative specification of this model is contained in the International Convention… (1999), which establishes a universal purposive criterion ("by its nature or context intended to intimidate a population or compel a government or an international organisation"), thereby forming a generally accepted international understanding of a terrorist act for the purposes of domestic criminalisation. Collectively, these instruments lay the conceptual foundation for "global terrorism" as a phenomenon characterised by transnationality, ideological or political conditionality, and an aim to undermine public security through psychological and institutional impact. It is within this international legal framework that the structure of the constituent elements of terrorist crimes in the criminal legislation of Indonesia, the Philippines, and Malaysia is constructed, albeit with varying degrees of abstraction and different legislative techniques.

The criminalisation of terrorism in Indonesia, the Philippines, and Malaysia is based on different legislative models; however, in all three states, an aspiration to adapt national criminal law to the contemporary understanding of terrorism as a complex and potentially transnational phenomenon can be observed. An analysis of the structure of the constituent elements of terrorist crimes has revealed how each legal system defines the key elements of terrorism and delineates the boundaries of criminal liability. In Indonesia, the definition of terrorist crimes is enshrined in the Law of the Republic of Indonesia No. 5 (2018). Indonesian legislation employs a broad functional model of criminalisation, whereby terrorism is defined through the purpose and consequences of the act, rather than through an exhaustive list of specific offences. Terrorist crimes are characterised by the use or threat of violence with the aim of creating an atmosphere of mass fear, causing significant loss of life, or inflicting damage on strategically important objects, infrastructure facilities, or international institutions. The Law explicitly considers the political, ideological, and security-related motivation of such acts and acknowledges their potential connection to activities carried out both within and outside the territory of Indonesia, indicating the incorporation of a transnational element.

In the Philippines, the criminalisation of terrorism is effected pursuant to the Act of the Republic of the Philippines No. 11479 (2020). Philippine law applies a hybrid model, which combines a general definition of terrorism with reference to specific offences already provided for in the Criminal Code of the Philippines (2014). Terrorism is qualified as the commission of such acts in the presence of a specific purpose – intimidating the population, spreading fear, destabilising public order, or compelling the government or international organisations. This approach allows for the preservation of the list of basic criminal offences while simultaneously expanding their criminal law assessment by considering the functional criterion of purpose and societal effect. The Act also explicitly covers cross-border aspects, including participation in the activities of foreign terrorist organisations and the commission of acts outside the state, if they produce consequences within the territory of the Philippines.

In Malaysia, the criminalisation of terrorist crimes is carried out primarily on the basis of the Penal Code No. 574 (1997), the Act of Malaysia No. 747 (2015), and the Act of Malaysia No. 769 (2015). The Malaysian model is characterised by a broad preventive approach, whereby terrorist crimes encompass not only direct violent acts but also conduct related to supporting, organising, or facilitating terrorist activity. Criminal legislation establishes liability for actions aimed at achieving political, religious, or ideological goals through violence or threats intended to influence the government or intimidate the population. Particular attention is paid to the criminalisation of preparatory acts, participation in terrorist organisations, and the financing of terrorism, reflecting an orientation towards proactive threat response. Overall, the national definitions of terrorist crimes in Indonesia, the Philippines, and Malaysia encompass the key elements inherent in the concept of "global terrorism", specifically ideological or political motivation, the aim of intimidating the population or exerting pressure on state institutions, and the recognition of the transnational character of such acts. At the same time, differences in legislative technique give rise to varying approaches to defining the boundaries of criminal liability: Indonesia and Malaysia favour broad functional formulations, whereas the Philippines combines functional criteria with reference to specific criminal offences. It is precisely these differences that condition the further expansion of criminalisation through various forms of participation in terrorist activity.

Consequently, the criminal law regulation of terrorism in Indonesia, the Philippines, and Malaysia is characterised by an expansion of the boundaries of criminal liability by encompassing not only completed terrorist acts but also various forms of participation in terrorist activity. This approach is dictated by the international legal understanding of terrorism as an enduring and networked threat realised through financing, organisational support, and preparatory actions. Accordingly, national legislation aims to criminalise conduct that creates the conditions for the commission of terrorist acts, irrespective of the fact of their direct perpetration. In Indonesia, the Law of the Republic of Indonesia No. 5 (2018) provides for separate offences for the financing of terrorism, as well as for the provision or collection of funds, property, or other resources with the knowledge that they are to be used for terrorist purposes. Criminal liability also extends to preparatory and ancillary actions, including recruiting, training, and preparing individuals for the commission of terrorist crimes. Participation in terrorist organisations is separately criminalised, with proof of a specific terrorist act not being a mandatory condition for liability. This structure is aimed at preventing the formation and functioning of terrorist networks. In the Philippines, the Act of the Republic of the Philippines No. 11479 (2020) establishes criminal liability for a wide range of forms of participation in terrorist activity, supplementing the basic offences provided for in the Criminal Code of the Philippines (2014). The Act directly criminalises the financing of terrorism, planning, preparation, and training for the purpose of committing terrorist acts, as well as the provision of material, technical, or organisational support to terrorist structures. Membership or another form of participation in terrorist organisations, regardless of the individual's involvement in a specific act of violence, is recognised as a separate offence. This allows for the coverage of activity aimed at maintaining the institutional capacity of terrorism. In Malaysia, the expansion of criminal liability is implemented through a combination of norms from the Penal Code No. 574 (1997), the Act of Malaysia No. 747 (2015), and the Act of Malaysia No. 769 (2015). The legislation establishes liability for the financing of terrorist activity, participation in terrorist organisations, and also for preparatory and ancillary actions that create the conditions for the commission of terrorist acts. A characteristic feature is the preventive orientation, whereby conduct associated with a potential threat to national security is deemed criminally punishable, even without proof of a specific act of violence. This approach is aimed at the early detection and neutralisation of terrorist activity.

Thus, within the legal orders of Indonesia, the Philippines, and Malaysia, terrorism is regarded not merely as an isolated violent act, but as a complex of interconnected actions that ensure the functioning of terrorist networks. It is precisely the criminalisation of such forms of participation that allows national legislations to reflect the concept of "global terrorism" as an enduring transnational threat and to justify the application of proactive criminal law mechanisms. At the same time, this model of expanded criminalisation directly influences the formation of sentencing policy, as punishment is directed not only towards a repressive response to a completed terrorist act but also towards neutralising the potential risks associated with the support, organisation, and perpetuation of terrorist activity. In this context, sanctions acquire a systemic and preventive character, which conditions their heightened severity and a departure from traditional notions of proportionality of punishment.

The sanction policy in the field of counter-terrorism in the countries under study is characterised by a high level of repressiveness and a focus on neutralising security risks, rather than merely on retribution for an already committed crime. In the criminal legislation of these states, sanctions for terrorist offences exceed the punishments for general criminal violent acts and are applied both to completed acts of terrorism and to preparatory and ancillary forms of activity. In Indonesia, Law of the Republic of Indonesia No. 5 (2018) provides for a multi-level system of sanctions depending on the nature and consequences of the terrorist crime. For the commission of terrorist acts that result in loss of life or mass destruction, the penalties established are the death penalty, life imprisonment, or imprisonment for a term of 20 years. For the financing of terrorism, participation in terrorist organisations, recruitment, and training, imprisonment terms ranging from 5 to 20 years are provided, along with additional sanctions in the form of confiscation of property. This gradation of sanctions indicates the use of criminal law as a deterrent instrument at all stages of terrorist activity. In the Philippines, the Act of the Republic of the Philippines No. 11479 (2020) establishes the penalty of life imprisonment without the possibility of parole for the commission of terrorist acts, as well as for participation in terrorist organisations. For the financing of terrorism, planning, preparation, and training for terrorist purposes, imprisonment up to life imprisonment is prescribed, along with the mandatory confiscation of funds and assets related to the crime. The death penalty is not applied in the Philippine legal system; however, the severity of sanctions is compensated for by life sentences and an expanded scope of criminally punishable forms of participation, ensuring a preventive effect. In Malaysia, terrorist offences and participation in terrorist organisations are punishable by long terms of imprisonment, including life imprisonment, as well as special preventive measures against individuals who pose a threat to national security. Criminal liability applies regardless of proof of a specific act of violence if an individual's conduct poses a real terrorist threat. In summary, the sanction models of Indonesia, the Philippines, and Malaysia demonstrate a departure from the classical principle of strict proportionality between harm and punishment. Severe prison terms, life sentences, and, in the case of Indonesia, the death penalty are employed as prevention tools aimed at neutralising potential terrorist risks.

Thus, an analysis of the criminalisation of terrorism in Indonesia, the Philippines, and Malaysia indicates that all three states have implemented key international approaches to counter-terrorism; however, they have realised them within different legal models (Table 1). International counter-terrorism standards in these legal orders function as a normative framework that defines minimum requirements for criminalisation but does not form a unified legislative matrix. The presented systematisation demonstrates that the implementation of international counter-terrorism standards in the studied states occurs within different criminal law models, determined by national security priorities and legislative traditions. This necessitates further comparative analysis of the compliance of national definitions and elements of terrorist crimes with international standards. The obtained results regarding the international legal nature of "global terrorism" are consistent with the conclusions of T. Pék (2022), who showed that international criminal law has not developed a single universal definition of terrorism and instead operates with a set of functional features and target criteria. This author's work emphasises that it is precisely the fragmentation of international definitions that leads to different national techniques of criminalisation, where states construct the actus reus and specific intent differently. This coincides with the fact established in this study of the existence of three different legislative models in Southeast Asia: functional (Indonesia), hybrid (Philippines), and preventive (Malaysia). At the same time, the results of this analysis elaborated on T. Pék's thesis using normative material: the minimum standards reflected in Resolution of the United Nations Security Council No. 1373 (2001) and Resolution of the United Nations Security Council No. 1566 (2004) effectively function as a "framework", but not as a unified template; therefore, national definitions retain different levels of abstraction and different constructions of the offence.

Table 1. Implementation of international approaches to the criminalisation of terrorism in Indonesia, the Philippines, and Malaysia

Analysis Criterion	Indonesia	Philippines	Malaysia
Model of Criminalisation of Terrorism	Functional Model	Hybrid Model	Preventive Model
Method of Defining a Terrorist Offence	A violent act or threat of its commission, specific purpose (intimidating the population, creating mass fear, or influencing state institutions), heightened public danger	Commission of crimes already provided for in criminal legislation, in the presence of a specific terrorist purpose (intimidating the population, coercing the government or an international organisation)	Acts involving the use of violence or a threat to national security, committed with a political, religious, or ideological purpose
Criminalisation of Forms of Participation	Financing, recruitment, training, participation in terrorist organisations	Financing, planning, training, membership and other participation	Financing, preparatory acts, participation, facilitation
Maximum Sanctions	Death penalty, life imprisonment	Life imprisonment	Life imprisonment, preventive restrictive measures

Source: compiled by the author based on Penal Code No. 574 (1997), Act of Malaysia No. 747 (2015), Act of Malaysia No. 769 (2015), Law of the Republic of Indonesia No. 5 (2018), Act of the Republic of the Philippines No. 11479 (2020)

The conclusions regarding the trend towards expanding criminal liability by encompassing preparatory and ancillary forms of activity correlate with the arguments of A. Sagara (2024), who, within the framework of international criminal law analysis, emphasised the need to cover not only the completed act of violence but also the infrastructure of terrorist activity. His work underscores that the criminalisation of financing, participation in organisations, and other "network" forms of involvement is critical for countering transnational threats, as these elements ensure the reproduction of terrorism as a phenomenon. This aligns with the results of this study, which show that in all three legal orders, liability arises not only for a terrorist act but also for financing, recruitment, training, preparation, and participation in terrorist organisations without the mandatory proof of a specific act of violence. At the same time, this study recorded that the national systems of Indonesia, the Philippines, and Malaysia have already implemented "pre-emptive" criminalisation through domestic laws, whereas A. Sagara primarily considered the issue in the realm of international criminal jurisdiction and its possible expansion, i.e., at a different level of normative regulation.

The obtained results regarding sanction logic and its preventive nature partially coincide with the conclusions of R.S. Ogbe (2023), who analysed the dynamics of the criminalisation of terrorism in international criminal law and pointed to a trend towards "security-oriented" justification of punishment. The author emphasised that in countering terrorism, criminal justice systems use harsh sanctions not merely as a reaction to consequences but as a mechanism for deterrence and risk neutralisation. This aligns with the fact established in this study of the increased severity of sanctions in the three states, including maximum repressiveness for the most serious forms of terrorism. At the same time, the results of this analysis refined R.S. Ogbe's thesis using the example of specific legal orders: in Indonesia, the sanction model provides for the death penalty and, alternatively, life imprisonment or imprisonment from 20 years for terrorist acts with grave

consequences, whereas in the Philippines and Malaysia, the upper limit focuses on life imprisonment, demonstrating different national trajectories of the "security-oriented" approach under a formally shared preventive goal.

International counter-terrorism standards and their reflection in national definitions of terrorism

In international law, the concept of terrorism is not codified within a single universal definition. However, this does not imply the absence of normative standards for its criminal law definition. On the contrary, the international community has developed a model minimum core, formed through the recurrence of key elements in resolutions such as Resolution of the United Nations Security Council No. 1373 (2001) and Resolution of the United Nations Security Council No. 1566 (2004), as well as in law enforcement practice. Analysis of these sources confirms that this core includes: a violent act or the threat thereof; the presence of a specific purpose in the form of intimidating a population or compelling a government or an international organisation; an enhanced public danger of the act directed against public security; and a transnational context justifying the need for international cooperation and expanded jurisdictional mechanisms. Scholarly research confirms that it is precisely this "framework" model that is definitive for international criminal law. Specifically, A.P. Schmid (2023) argued that international standards in the field of terrorism function as structural constraints that guide the national legislator but leave room for diverse legislative techniques and varying degrees of abstraction in definitions. A similar position was articulated by A.M. Salinas de Frías *et al.* (2012), noting that the key requirement is not the unification of wording, but the preservation of the mandatory elements of violence, specific purpose, and public danger, without which criminalisation loses its connection to international standards. Research by the United Nations Office on Drugs and Crime (2021) also emphasises that transnationality in the contemporary understanding of terrorism is not always an element of the actus reus of the crime but serves as a normative justification for expanding cooperation and the mutual recognition of jurisdiction.

The transition from the international "minimum core" to the assessment of national definitions necessitates the application of qualitative criteria that go beyond the mere formal reproduction of individual terms. In the international legal doctrine of counter-terrorism, it is emphasised that compliance with international standards, shaped notably by Resolution of the United Nations Security Council No. 1373 (2001) and Resolution of the United Nations Security Council No. 1566 (2004), is primarily manifested in legislative technique: the ability to clearly delineate terrorism from related ordinary criminal or political offences; the prevention of substituting the violent element with vague categories such as "threat to national security"; sufficient specificity of the special purpose; and the presence of safeguards against the criminalisation of legitimate political activity (Walker, 2021). Particular attention in research is devoted to adherence to the principle of *nullum crimen sine lege certa*, which, in the context of counter-terrorism legislation, acts as an indicator of the balance between the state's security interests and the requirements of legal certainty (Bantekas & Oette, 2013). Thus, international counter-terrorism standards for the definition of terrorism should be understood not as a rigid, unified formula, but as a set of mandatory elements and methodological requirements that constrain the national legislator. It is precisely through the lens of these criteria that national definitions of terrorism in Indonesia, the Philippines, and Malaysia should be assessed, focusing not only on their content but also on the consequences for the scope of criminal liability and legal certainty.

In Indonesian legislation, the definition of terrorism (Law of the Republic of Indonesia No. 5, 2018) is constructed according to a functional logic that broadly corresponds to international standards (European Convention on Human Rights, 1950). At the core of the definition lies a violent act or a credible threat thereof, aimed at creating an atmosphere of fear among the population or compelling state authorities, which directly reproduces the key elements of the international minimum core. At the same time, Indonesia's normative regulation expands the object of the offence, including not only public security but also the stability of state institutions and the public order in general. The legal consequence of this is an increased flexibility of criminalisation, which, however, requires enhanced oversight by judicial practice to prevent the blurring of boundaries between terrorism and related violent crimes.

A different logic is observable in the definition of terrorism enshrined in the legislation of the Philippines, which represents a hybrid model of implementing the international core. Here, the international elements – violence or the threat thereof, the specific purpose of intimidating the population or compelling the state – are combined with a technique of "anchoring" terrorism to a list of predicate criminal offences (Act of the Republic of the Philippines No. 11479, 2020). This approach allows for a clearer distinction of terrorism from ordinary crime, since an act acquires a terrorist character only when accompanied by an additional specific purpose. However, the hybridity of the definition leads to a certain fragmentation: the boundaries of terrorism depend on a pre-determined list of offences, which may limit the law's ability to respond to new forms of violent activity. From the perspective of the international minimum core, this model generally meets the requirements of certainty and foreseeability but shifts the emphasis from public danger as an independent characteristic to the formal classification of acts.

A structural deviation from the "classic" international minimum core is evident in the preventive definition of terrorism enshrined in the legislation of Malaysia. Although the violent component and specific purpose are formally retained, the legislative technique emphasises not so much actual harm as the creation or likelihood of

creating a serious security risk. Consequently, the object of the offence is expanded to "national security" in a broad sense, and a terrorist character may be attributed to acts at early, preparatory stages. This approach enhances the preventive potential of criminal law and aligns with the logic of international cooperation in counter-terrorism, yet it weakens the requirement of legal certainty. Comparison with the international minimum core reveals that it is precisely at the definitional level that tension arises between security expediency and the principle of *nullum crimen sine lege certa*, as the boundaries of criminal liability become less foreseeable (Table 2).

Table 2. Compliance of national definitions of terrorism with the international minimum core: A comparative legal analysis

Element of the International Minimum Core	International Standard (General Framework)	Indonesia (Functional Model)	Philippines (Hybrid Model)	Malaysia (Preventive Model)
Violent Act or Threat	Mandatory presence of actual violence or a credible threat of its use as a key characteristic of terrorism	Directly enshrined as a central element; encompasses both completed violence and the threat thereof	Derived through a list of predicate serious offences (murder, kidnapping, bombing, etc.), which acquire a terrorist character	Formally retained but may be "diffused" within the broader category of acts creating a security risk
Specific Purpose	Intimidating a population or compelling a government/international organisation	Clearly formulated; functions as a key criterion for distinguishing from ordinary criminal violence	A mandatory additional characteristic "superimposed" upon the predicate offence	Broadly formulated; combined with goals of protecting national security and social stability
Object of the Offence / Public Danger	Public safety, public order, international peace and security	Public safety specified through the harm caused by the predicate offence	Public safety specified through the harm caused by the predicate offence	Public safety in a broad sense, including potential threats
Delineation from Related Offences	Terrorism must be clearly distinguishable from ordinary criminal and political offences	Delineation achieved through the combination of violence and specific purpose	Delineation formalised through the list of predicate offences and the additional purpose	Boundaries blurred due to the inclusion of a wide range of preventive actions
Transnational Context	Not necessarily an element of the corpus delicti, but a basis for cooperation and jurisdiction	Present as a justification for enhanced powers and international cooperation	Indirectly enshrined through mechanisms of mutual legal assistance and extradition	Actively used to justify preventive measures
Level of Legal Certainty	Requirement of adherence to the principle of *nullum crimen sine lege certa*	High, provided that the courts interpret it narrowly	High, conditional upon narrow interpretation by judicial practice	Reduced due to the breadth of wording and emphasis on potential danger

Source: compiled by the author based on European Convention on Human Rights (1950), Penal Code No. 574 (1997), Resolution of the United Nations Security Council No. 1373 (2001), Resolution of the United Nations Security Council No. 1566 (2004), Act of Malaysia No. 747 (2015), Act of Malaysia No. 769 (2015), Law of the Republic of Indonesia No. 5 (2018), Act of the Republic of the Philippines No. 11479 (2020)

The comparative table demonstrates that the national definitions of terrorism in Indonesia, the Philippines, and Malaysia are formally based on the international minimum core established in Resolution of the United Nations Security Council No. 1373 (2001) and Resolution of the United Nations Security Council No. 1566 (2004), as well as related law enforcement practices. However, they differ significantly in legislative technique and regulatory logic. All three legal systems reproduce the basic elements of violent action or threat and special intent, indicating a maintained connection with international standards at the conceptual level. At the same time, the method of integrating these elements directly impacts the scope of criminalisation and the level of legal certainty. The functional model, implemented in Indonesian legislation, provides relatively flexible coverage of terrorist activities but requires a heightened role for judicial interpretation to prevent expansive application. The Philippines' hybrid model, which combines international features of terrorism with a list of predicate offences, is characterised by a higher level of predictability and clearer boundaries of criminal liability, yet it potentially limits the law's adaptability to new forms of terrorist activity. Malaysia's preventive model, while maximising the state's security potential, simultaneously deviates most significantly from the requirement of legal certainty, as it expands the definition of terrorism through the categories of potential threat and national security.

These findings align with the conclusions of F. Ní Aoláin (2024), whose research demonstrated that contemporary counter-terrorism regimes shift the balance in favour of security expediency to the detriment of legal certainty and human rights protection. The conducted analysis confirmed this thesis at the level of terrorism definitions, particularly in Malaysia's preventive model, where the expansion of the concept through national security and potential threat categories weakens the

requirement of *nullum crimen sine lege certa*. At the same time, the obtained results refine F. Ní Aoláin's approach, demonstrating that the source of risk to human rights is not only the practice of applying anti-terrorism measures but the very architecture of the legislative definition itself.

The study's conclusions also correlate with the analytical propositions of I. Sobol *et al.* (2023), who emphasised the absence of a direct link between the expansion of counter-terrorism powers and increased effectiveness in combating terrorism. The comparative analysis of national definitions confirmed that the preventive expansion of the corpus delicti is not accompanied by an automatic increase in the quality of law enforcement; instead, it reduces the level of predictability of criminal liability. However, the research findings refine the approach of I. Sobol *et al.*, demonstrating that effectiveness and the human rights balance depend significantly on the definitional model logic (functional, hybrid, or preventive), not merely on the intensity of state intervention. This allows the hybrid model to be viewed as a compromise between security and legal certainty.

The obtained results partially coincide with the conclusions of L. Ginsborg (2021) regarding the trend towards criminalising so-called "pre-crime" as a result of the UN Security Council's normative activities. The analysis confirmed that international standards create preconditions for the preventive expansion of criminal liability, particularly through an emphasis on risk and preparatory stages. However, the study revealed a certain divergence from L. Ginsborg's generalised approach, as it showed that not all national implementations of the international "minimum core" equally gravitate towards the "pre-crime" logic. The functional and hybrid models (Indonesia, the Philippines) maintain a closer connection with actual violence and special intent, which limits the encroachment of preventive criminalisation and confirms the significance of national legislative technique as a constraining factor.

Overall, the research findings are consistent with the contemporary doctrine of international counter-terrorism law, but they also expand it by demonstrating that the key variable is not the mere absence of a universal definition of terrorism, but rather the method of normative construction of national definitions within the international minimum core. This allows for a reassessment of the role of international standards – not as a source of unification, but as a framework space within which national legal systems shape different balances between security and the principle of legality.

The practice of applying anti-terrorism legislation through the prism of functional, hybrid, and preventive models

The practice of applying anti-terrorism legislation confirms that it is the chosen model – functional, hybrid, or preventive – that determines the logic of judicial analysis, the structure of evidence, and the actual boundaries of criminalisation. Typical court cases in Indonesia, the Philippines, and Malaysia demonstrate that, despite the formal commonality of the international minimum core, different models allocate emphasis differently among actual violence, special intent, and the assessment of security risk.

Within the functional model, characteristic of the Indonesian approach, judicial practice focuses primarily on the factual role of violence and its social effect. The adjudication of cases related to the Bali bombings of October 12, 2002, which resulted in the deaths of over 200 people, illustrates the specific judicial approach to qualifying terrorist acts (Hassan, 2007). The courts proceeded from the necessity to prove not only the fact of extreme violence itself but also its purposiveness. Decisive importance was attached to establishing that the violent acts were aimed at creating an atmosphere of mass fear and undermining public safety. It was the combination of actual violence, large-scale consequences, and the established special intent to intimidate the civilian population that served as the basis for qualifying the acts as terrorist and for upholding this qualification at the stages of appellate and cassation review.

At the same time, Indonesian judicial practice demonstrates that the flexibility of the functional model is not unlimited and is subject to constitutional constraints. Illustrative in this context is the case of Masykur Abdul Kadir v. State (Constitutional Court of the Republic of Indonesia Case No. 013/PUU-I/2003, 2003), in which the Constitutional Court examined the issue of the retroactive application of anti-terrorism legislation to the events of October 12, 2002. Despite the obvious terrorist nature of the acts in view of the scale of violence, the number of victims, and the established special intent to intimidate the population, the Court concluded that the imposition of criminal liability could not exceed the bounds of the principle nullum crimen sine lege. Thus, the Constitutional Court's decision confirmed that within the functional model, judicial interpretation itself plays a dual role: on the one hand, it ensures the adaptive qualification of terrorist acts, and on the other, it acts as a guarantee against preventing the excessive expansion of criminalisation even in situations of extreme public danger.

The hybrid model, characteristic of Philippine practice, forms a different logic of law enforcement, clearly manifested in the Supreme Court's decisions regarding the application of the Anti-Terrorism Act. Judicial reasoning follows a two-tiered scheme: first, the commission of a predicate criminal offence must be established, and only then – the presence of a special terrorist intent in the form of intimidating the population or coercing the state. The Supreme Court's decision of December 7, 2021, in the consolidated cases concerning the constitutionality of the anti-terrorism legislation explicitly emphasises that without proving such special intent, even serious violence cannot automatically be qualified as terrorism (Supreme Court of the Philippines G.R. No. 252578, 2021). The practical effect of the hybrid model lies in narrowing the discretion of prosecution authorities and increasing

the predictability of the boundaries of criminal liability. However, it simultaneously limits the ability to respond to atypical or new forms of terrorist activity that do not fall within the pre-defined list of predicate offences.

The preventive model discernible in Malaysian practice shifts the focus of judicial analysis from proving a completed act of violence to assessing risk and potential threats to national security. The Court of Appeal's decision in Court of Criminal Appeal of Malaysia No. W-05-141-05 (2014) illustrates that courts operate within a sphere of preventive rationality, relying on security assessments and preparatory acts. Concurrently, even within this model, the judiciary endeavours to establish normative boundaries for the application of anti-terrorism measures, particularly by limiting their territorial scope. This indicates a structural tension between the pursuit of the earliest possible intervention and the requirement of legal certainty, a tension that constitutes a systemic feature of the preventive approach.

The findings of this study concerning the preventive model correlate with the conclusions of E. Janfada *et al.* (2024), who analysed the impact of counter-terrorism measures on the rights of the accused. The authors concluded that the expansion of the state's preventive powers systematically shifts the focus of criminal procedure from proving actual violence to assessing risk and potential threat, thereby complicating the safeguarding of procedural guarantees. Their research demonstrated that courts often attempt to compensate for this shift by strengthening oversight of the proportionality and legality of measures; however, this mechanism is not always sufficient. The results obtained in this article confirmed these observations, as Malaysian practice exhibited structural tension between early intervention and the demand for legal certainty, even in the presence of judicial attempts to delineate the normative limits of preventive measures.

The analysis of the hybrid model also partially aligns with approaches documented in works dedicated to the judicial review of anti-terrorism legislation, yet it also revealed certain discrepancies. Unlike the preventive logic, the hybrid model, as the research findings indicated, has institutionalised a specific terrorist purpose as the key filter for criminalisation, thereby narrowing the discretion of prosecuting authorities and enhancing the predictability of law enforcement. In this aspect, the results are consistent with the conclusions of S. Melander (2023), who established that modern criminal law has undergone a so-called "preventive turn"; however, the intensity of this turn varies significantly depending on the model's construction. S. Melander demonstrated that where a specific purpose remained a central element of the actus reus, courts retained greater scope for upholding the principle of legality. The conducted research confirmed this finding using the example of Philippine practice, while simultaneously revealing the hybrid model's limited capacity to respond to new or atypical forms of terrorist activity. The comparative analysis of application practice confirmed that the actual limits of the criminalisation of terrorism are shaped not only at the level of the legislative text but also at the intersection of the chosen model and judicial interpretation. The functional model places upon the courts the decisive role in determining the social meaning of violence; the hybrid model institutionalises a specific purpose as a filter for criminalisation; whereas the preventive model reorients the burden of proof towards the categories of risk and threat. It is precisely this difference in law enforcement practices that explains why, despite a shared international minimum core, anti-terrorism law in different jurisdictions produces different standards of proof, different intensities of intervention, and a different balance between the effectiveness of security and the principle of legality.

Conclusions

As a result of the study, it has been established that the concept of "global terrorism" in international law is implemented not through a unified definition, but through a system of minimum functional standards enshrined in United Nations Security Council resolutions and sectoral anti-terrorism conventions. These encompass the violent nature of the act, the specific purpose of intimidation or coercion, and the transnational dimension of the threat. A comparative analysis of the criminal legislation of Indonesia, the Philippines, and Malaysia demonstrated the implementation of these standards within different criminal law models: the functional-preventive model (Indonesia, Malaysia) and the combined functional-listing model (the Philippines). International standards serve as a normative framework that directs national criminalisation but does not form a unified legislative matrix.

The study established that the criminal legislation of Indonesia, the Philippines, and Malaysia is aimed at covering not only completed terrorist acts but also behaviour that precedes or accompanies their commission. Such behaviour includes the financing of terrorist activities, the recruitment and training of individuals, preparation for the commission of terrorist offences, and participation in terrorist organisations regardless of proof of a specific act of violence. This implies that criminal liability arises already at the stage of forming or supporting terrorist activity. Consequently, the criminal law response shifts from reacting to the consequences of a terrorist act to preventing its potential commission.

Based on the results of analysing the application practice of anti-terrorism legislation, it has been established that the functional, hybrid, and preventive models shape qualitatively different standards of judicial analysis, proof, and the actual limits of the criminalisation of terrorism, even in the presence of a shared international minimum core. The examination of judicial cases from Indonesia, the Philippines, and Malaysia showed that in the functional model, proving actual violence, its social effect, and the specific purpose of intimidation is of decisive importance. This is confirmed by the practice of qualifying the 2002

Bali bombings, which resulted in over 200 fatalities, while simultaneously being constrained by the constitutional prohibition of retroactive criminalisation.

Within the hybrid model, the specific terrorist purpose is institutionalised as a key filter for criminal liability, ensuring a higher level of legal certainty but limiting the adaptability of law enforcement. In contrast, the preventive model shifts judicial analysis from proving violence to assessing risk and preparatory acts, enhancing early state intervention while simultaneously exacerbating tension with the principle of *nullum crimen sine lege certa* and necessitating heightened scrutiny of proportionality. Prospects for further research lie in an in-depth empirical analysis of the judicial practice of other regional legal systems, with the aim of identifying the long-term impact of functional, hybrid, and preventive models on standards of proof, procedural guarantees, and the transformation of the principle of legality in the context of increasing security-driven prevention.

Acknowledgements
None.

Funding
None.

Author Contributions
Nurlan Apakhaev carried out a full research cycle, ranging from the development of a comparative legal methodology to an analysis of the counter-terrorism legislation of Indonesia, the Philippines and Malaysia. The author independently systematised the functional, hybrid and preventive models of implementing international standards and conducted a critical analysis of key court cases in the region. The entire article is the result of individual work at every stage of its preparation.

Conflict of Interest
None.

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