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Analysis of the Human Rights Situation in Papua, April – July 2009
Papua in a Cycle of Conflict: Violence is still occurring
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Introduction

There seems to be no end to conflict and violence in Papua. Discussions about the situation always focus on the problem of conflict, which only goes to show that something is amiss in the most easterly part of Indonesia.

The many conflicts that occurred in the four months from April to July 2009 show that Papua never seems able to rid itself of the language of conflict. The violence has been an integral part of central government policy, particularly before and after the recent parliamentary and presidential elections.

Why did violence escalate at the time of the recent elections when it spread from region to region? Civilian lives were lost and members of the security forces also lost their lives. No one has been apprehended or identified but it is always inferred that armed groups such as the TPN-OPM (Tentara Papua Nasional – Organisasi Papua Merdeka) were involved.

As Amiruddin of Elsam-Jakarta says, it is essential to uphold the rule of law and steer clear of making insinuations and allegations².

In this report, we will try to analyse the problem:

A.. The Stigma of Separatism and ‘NKRI at all costs’

Ever since Papua’s incorporation into Indonesia, the label of separatism has been used with frightening consequences. Many people labelled as such have ended up in jail as political prisoners or been confronted by other problems. Many were forced to flee their homeland or have lost their lives.

The government apparently believes that labelling people as separatists will destroy the spirit of resistance. In former days, the label was only used against armed groups such as the TPN-OPM but now it is being used against religious organisations, NGOs and even against people working in the local administrations.³ Whenever Papuans raise issues on behalf of their people, they are always regarded with suspicion by the government.

The stigma of separatism lies at the root of all the conflicts and results in yet more acts of violence. Of course, the government and others dealing with Papua know only too well what the source of the conflict is but nevertheless, this stigma is embedded in the minds of the central government and even among Papuan people.

¹ Member of staff of Foker, the Forum of Papuan NGOs.

² *Kompas*, 3 July 2009 and press release of the Coalition of Civil Society Organisations in Papua, 17 July 2009.

³ When the Papua Road Map was launched at the LIPI office, Deputy Governor Alex Hesegem said: ‘We in government are often suspected of being separatists.’

The decision to change the name of the province to Papua and grant Special Autonomy was taken by President Abdurrahman Wahid (Gus Dur), in an attempt to remove the stigma and lift Papuans out of the 'open prison' created by the authoritarian New Order regime.

But these efforts have got nowhere⁴ and the stigma remains. 'NKRI harga mati'⁵ is the second element in the project to crush the fight for democracy and human rights.

The integrity of NKRI must be preserved at all costs and the idea of separation from NKRI is deemed to be a violation of the law. The state is represented by the military whose interests it is to preserve NKRI. The deployment of troops in Papua is proof that the 'NKRI harga mati' project is non-negotiable and will last for ever. The excesses caused by the presence of troops strike fear among the people. The local culture is ignored by the troops who are rotated every year. The experience of living under the military jackboot is very bitter, an unforgettable experience for Papuans. Instead of being treated like human beings, they are treated as objects of military operations.

The military or security forces in Papua refuse to recognise that the things they do are crimes because their operations - arrests, torture and killings - are part of their duty to protect NKRI from actions to undermine it from the OPM. The paradigm of conflict and separatism in Papua is part of the policy of injustice towards the Papuan people.

B. Makar: Criminalising Pro-Democracy Activists in Papua.

In a democracy, freedom of expression must be upheld, allowing people to make their opinions known to the public. After the reforms in 1998, Indonesia enacted Law 9/1998 guaranteeing the right to freedom of expression.

However, the record is bad. In many cases, activists have been treated harshly, arrested, their homes searched and they have frequently been charged with makar (rebellion) under an emergency law that violates Law 9/1998. The police should be protecting people who express their opinions in public.

Papua is unique in Indonesia, the only exception being Aceh. As the state sees it, activists who call for justice are suspected of separatist motives. The most recent examples are the Buchtar Tabuni and Nabire cases, when people's rights were infringed. Then there was the statement by the Department of Foreign Affairs to the effect that in spite of Article 19 of the International Covenant on Civil and Political Rights, views expressed during a demonstration can be deemed to be unlawful if they damage someone's reputation or are a threat to national security. Police regulation Perkap/02/III/2009 regarding freedom of expression of opinion bans demonstrations, marches and speeches which involve a large number of people. This is the regulation that has led to activists facing the charge of *makar*.

⁴ Gus Dur's presidency ended on 23 July 2001, after his impeachment for several minor issues.

⁵ NKRI Harga Mati stands for 'Unitary State of the Republic of Indonesia at all costs'.

The charge of *makar* should no longer be applicable, having been inherited from Dutch times. However, *makar* is being used against people who get involved in political activism and often imposes serious limits on the freedoms of expression and assembly.

C. Is the TPN-OPM responsible for all the violence?

Normally, when an act of violence occurs, those responsible should be identified after the case has been properly investigated.

But what happens in Papua is that a statement by an official is published in the media alleging that those responsible were from the TPN-OPM. One recent example is the Tingginambut-Puncak Jaya case in 2009 involving a clash between the security forces and the Goliath Tabuni group when several people were injured. Another case was the Kapeso-Mamberamo case which involved a TPN-OPM group led by Decky Imbiri. Another was the Serui police-command post case, allegedly an attack by the TPN-OPM, and most recently, several violent incidents near Freeport, when a foreigner, several Freeport security personnel and three members of the police were killed, while others were wounded.

These cases have been used to justify security operations involving a large number of troops. However, many people doubt that the TPN-OPM was involved. The chairman of the Traditional Society of Mamberamo warned the police ‘not to distort the issue’ by accusing the TPN-OPM⁶. The Indonesianist Sidney Jones pointed out that the TPN-OPM own fewer weapons than GAM in Aceh.⁷ Similar doubts were expressed regarding the violence near Freeport; the security forces claimed that the TPN/OPM under Kelly Kwalik was responsible yet experience suggests that this was highly improbable as these were not the kind of actions usually taken by these groups.

A coalition of civil society organisations in Papua and Jakarta called on all sides to stop discrediting others before cases have been fully investigated.⁸ A member of the National Human Rights Commission in Papua, Matius Murib said that accusing the TPN-OPM was ‘old hat’⁹ while Deputy Governor Alex Hese gam SE said that the incidents were criminal acts and had nothing to do with separatism.¹⁰

Quite apart from whether the TPN-OPM were involved, the police must be as objective as possible when investigating a crime. The role of the police is very important in dealing with such cases. Public statements can violate the presumption of innocence. Governor Bas Sueba said the police should first investigate the case to determine who was responsible before taking anyone to court.¹¹

D. Security Approach Still Dominant

⁶ Media Harian Bintang Papua, Friday, 17 April 2009

⁷ Sidney Jones speaking at a meeting in Bali in June 2009.

⁸ See the press release of the coalition in Jakarta

⁹ See Cenderawasih Pos, 16 July 2009.

¹⁰ Cenderawasih Pos, 14 July 2009.

¹¹ Cepas, 14 July 2009.

Violent incidents have led to security operations in Papua to prevent so-called separatist activities. The security approach is nothing new in Papua which was incorporated into Indonesia by force of arms, as the history of the Cenderawasih Command makes clear. It states that because negotiations failed to solve the problem, Papua was seized by force. The use of troops has all along been the strategy used to undermine so-called separatists in Papua.

Furthermore, violence has been used to maintain a grip on Papua. The very first governmental institution set up in Papua, two days after the New York Agreement was signed in 1963, was *Kodam*, the military command, long before the transfer of the administration to Indonesian hands. The administrative transfer took place on 1 May 1963 although the New York Agreement stipulated that Papua's incorporation should not take place until an Act of Free Choice had been conducted in 1969. However, in the view of the government and particularly the military, the Papuan question can only be handled by the security approach.

At present, there are one hundred army posts along the border manned by four battalions from outside Papua, as well as 10,000 troops manning military commands: the Kodam (the provincial command) down to the korems.¹² [NB: A battalion is normally composed of around 600 men. This means that the number of troops now in Papua is around 2,400 plus 10,000, or 12,400 men. TAPOL]

This is the army's way of cracking down on the TPN-OPM, in the interests of safeguarding the integrity of NKRI. This is clear from a statement by Colonel Burhanuddin Siagian: 'Whoever gets involved in activities in support of separatism will be crushed by the TNI (the army). In order to safeguard NKRI, we are not afraid of human rights. We will be ready to jail anyone or dismiss them from their posts for as long as I can carry on doing this in the interests of NKRI.'¹³

It is no exaggeration to say that such arrogance is the cause of many cases of violence. The violent incidents that occurred from April to July 2009 had no political motivation. The shooting of Agus Ohee in May 2009 by the police in Sentani Timor.¹⁴ The shooting of Isak Psakor from Arso by a member of the army in June 2009.¹⁵ Then, there was the shooting of Melkis Agapa by the military in Nabire in June 2009. The commander of Kodam XVII, Major-General Nasution has himself admitted that members of the public generally recognised that the army has taken the repressive rather than the persuasive approach.¹⁶

E. Civilian Institutions are Powerless

According to Special Autonomy Law of 2001 (OTSUS), governmental affairs should now be handled differently. This involves providing more funding, prioritising the basic needs of the Papuan people and giving a role to the Majelis Rakyat Papua (MRP), the Papuan Peoples Assembly, which is responsible for protecting the basic

¹² This information is from a speech by the commander of the Cenderawasih Military Command/Kodam XVII at a meeting between Kodam XVII and NGOs in Jayapura on 20 April 2009.

¹³ Cenderawasih Pos, 7 July 2007.

¹⁴ Cepas, 6 May 2009. This incident was also reported in several national newspapers.

¹⁵ Cepas, 22 June 2009

¹⁶ This statement was made at a gathering between Kodam XVII and NGOs on 20 April 2009.

rights of the Papuan people. Its role includes being consulted about the appointment of the chief of police and the military commander and a number of other things. OTSUS also stresses the need for improving governance in the region and improving the relationship between the central government and the regional administration, as well as the need to resolve human rights violations.

Governor Solossa said: ‘As a result of the excessive use of security and military forces and past violations of human rights, the majority of Papuan people are living in fear. All this must end in the era of Special Autonomy.’¹⁷

So what has been happening in the past four months? Civil society coalitions have frequently sought information about the powers of the three civilian institutions, the Governor, the DPRD (Regional Legislative Assembly of Papua) and the MRP. These institutions are responsible for protecting the civil rights of the Papuan people. Moreover, the Governor has an important role in approving the appointment of the chief of police.¹⁸ However, because of all the confusion, most initiatives to solve these problems are taken by activists or by the churches.

Why is it that the civilian authorities in Papua are so powerless? First of all, many Papuan elite are afraid of getting involved in human rights problems because they don’t want to be accused of being separatists. It is a public secret that the stigma of separatism is greatly feared by bureaucrats in Papua. The second problem is the lack of understanding about the laws and mechanisms for handling human rights matters within the various government departments, or even the fear that government could cease to function altogether. In the third place, no support is forthcoming from these three civilian institutions, giving the impression of a lack of direction. Fourthly, the primary focus regarding Special Autonomy is on financial resources, community development and economic and social affairs although OTSUS also places a strong emphasis on basic human rights.

The powerlessness of the civilian institutions has led to pessimism and frustration among the people who make their feelings known by taking part in demonstrations and flag-flying. These activities are a response to the performance of the authorities in Jakarta and Papua who are seen as being incapable of doing anything meaningful to create peace in Papua. Public services are inadequate and nothing has been done to resolve the human rights abuses.

Defence Minister Juwono Sudarsono recognised recently that actions by Papuans are a form of protest; he mentioned the flying of the kejora flag in this context. He also spoke about the need to pay attention to the potential of the region for strengthening national defence.¹⁹

Conclusions:

- Our review of the situation in Papua as a region of conflict during the past four months leads to the conclusion that the old patterns are still being used by Jakarta: systematic stigmatisation of indigenous Papuans. This construct is

¹⁷ Quoted by Dr Jacobus Pervidya Solossa, *Otonomi Khusus Papua: Mengangkat Martabat Rakyat Papua Didalam NKRI*, Jakarta 2005, pp 82-83

¹⁸ See Article 48, para 5 of Autonomy Law 21/2001.

¹⁹ *Kompas*: ‘Ending the stigma of Papua as a region of conflict’.

used to legitimise acts of violence against Papuans by the security forces, including threatening pro-democracy Papuan activists with the charge of *makar*.

- The government's handling of Papuan focuses primarily on the security approach and use of the law.
- The new national leadership cannot be expected to bring about any change in Papua unless there is a common understanding regarding the basic problems which are among other things, meeting the need for justice in civil and political affairs and in economic, cultural and social affairs.
- The civilian authorities which should be protecting the basic rights of the indigenous Papuan people are not performing their functions or exercising their powers. The result is that pessimism and frustration is rife among the Papuan people about the future of democracy and human rights in Papua. This leads to demonstrations and flag-flying. On the other hand, because the functions and authority of the civilian authorities are not being performed, they do not enjoy the respect of the Papuan people.
- The recent accusations against the TPN-OPM for a number of violent incidents have resulted in the TPN-OPM being seen as identical with violence.

Recommendations

- Dialogue should be held to end the cycle of violence in Papua. Unless this happens, violence and stigmatisation will continue, worsening relations between Jakarta and Papua.
- The government should stop treating Papua as a region of conflict. As long as it continues to do so, the political crisis will persist because of the persistence of the security approach. Past experience shows that this can only reinforce Papuan resistance and lead to the emergence of new resistance movements.
- The three civilian institutions should not only prioritise welfare issues but should protect the basic rights of the Papuan people so as to create a sense of safety for everyone. This is mandated by the Special Autonomy Law which grants these three institutions the powers to implement the provisions of the law. This should be done not only by the enforcement of economic, social and cultural rights (education, health and the economy) but also by fulfilling the civil and political rights of the people.
- The security forces should perform their tasks and responsibilities as servants of the state to protect the people. The police should thoroughly investigate cases occurring in civil society, not only to identify the nature of the case but also to consider the possibility of there being a grand design behind the series of violent acts that have occurred during the past four months.
- Protecting and resolving human rights issues is the key to creating peace in Papua. The government and all those involved in Papua should show their goodwill in everything they do regarding the social, political and economic life of the people, while drawing up an agenda to ensure the fulfilment of the human rights of the people.

Attached to the document is a list of thirty-three incidents which occurred in Papua from April – July this year: thirteen in Jayapura, one in Keerom, two in Mamberamo, one in Manokwari, three in Nabire, one in Paniai, three in Jayawijaya, two Puncak Jaya, five in Timika, and two in Serui.