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## The Thinker: See No Prisoners?

Carmel Budiardjo | December 14, 2011

According to Djoko Suyanto, the coordinating minister for political, legal and security affairs, there are no political prisoners in Papua — only criminals who have broken the law. This is troubling news for Papuans such as Filep Karma, Forkorus Yaboisembut and others who are currently behind bars for expressing their beliefs.

Djoko's statement late week is especially puzzling in light of an internal government document, titled "List of Political Prisoners Across Papua," that was leaked earlier this year to Tapol. The document lists 25 Papuans detained for treason and related offenses. In addition to the government's own records, numerous NGOs based in Jakarta and Papua, as well as Amnesty International, Human Rights Watch and Tapol, all hold extensive data on political prisoners in Papua the put the number even higher.

According to Djoko, if organizations like Amnesty International consider the individuals in question to be political prisoners, this is only their perception, whereas from the point of view of national law they are criminals.

But this is not about perception; it is a question of international laws and standards to which Indonesia is an adherent. In the event that Indonesia's national laws contravene these standards, such as the International Covenant on Civil and Political Rights, then those national laws must be amended lest Indonesia stand in violation of its obligations. This has long been the position of Papuan civil society, whose calls for a judicial review of the treason laws that are used to criminalize freedom of expression (in particular Article 106 of the Criminal Code) have been growing louder over the past year.

What senior Indonesian officials can all agree on is that they will not tolerate treason, and this has been clearly expressed by President Susilo Bambang Yudhoyono, military officials, senior police officials and lawmakers alike. However, an increasing number of elements within the government and judiciary recognize the need to develop a more finely nuanced understanding of treason that does not violate universal rights and international law.

In October 2010, Mahfud MD, the chairman of the Constitutional Court, joined the debate by arguing that demonstrations and treason are not the same thing. Expressing one's aspirations is entirely legal in accordance with Indonesia's human rights laws, he said, adding, "Why should we be scared of things like demonstrations? During reform in 1998, we all struggled so that activities like this could be carried out freely."

The violence and arrests following the Third Papuan People's Congress in October sparked a lively public debate about the issue of freedom of expression in Indonesia, and Frits Ramandey, secretary of the National Human Rights Commission, rejected the view that the

meeting was treasonous. He challenged the police to take a broader view: “If we consider there to be an element of trying to form a new country, or to separate oneself from a legally valid country, then there has to be a military occupation to seize territory. In this case they didn’t seize anything, they just wanted to make a peaceful announcement. ... That is not treason.”

It is not only Indonesians who are concerned for the fate of the country’s political prisoners. During a 2008 review of Indonesia by the United Nations’ Human Rights Council, the Netherlands, Canada and Ireland all expressed concerns about Indonesia’s use of treason laws to suppress freedom of expression. The UN’s judgment on arbitrary detentions went still further, ruling that the detention of Filep Karma, who was detained in 2004 and is serving a 15-year sentence for his connection with a peaceful flag-raising ceremony, is illegal and calling for the release of political prisoners.

In just five months’ time Indonesia is up for review at the Human Rights Council again. International concern about the issue is growing stronger all the time as the number of demonstrations in Papua continues to increase and the list of political prisoners grows longer.

In a democratic Indonesia, it is simply no longer appropriate to lock people up when they say things that the government does not like, and as the Jakarta-Papua dialogue initiative suggests, there are alternative ways to engage with Papua. If Indonesia is to move on from its painful past, it should heed the calls to release political prisoners and repeal anti-democratic laws that criminalize the freedom of expression. Only then will Djoko Suyanto truly be able to say that political prisoners no longer exist in Indonesia.

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