

Responsibilities of the Government of Indonesia Regarding Human Rights Enforcement in the Perspective of International Law (Study of Cases of Armed Criminal Groups (KKB) in Papua)

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ABSTRACT

The government's responsibility in handling human rights violations that occurred in Papua is a serious problem that is still ongoing today, even the conflict that occurred in Papua is an issue that is often discussed in the international sphere. The number of incidents that have occurred raises research questions related to what is the responsibility of the Indonesian government in upholding human rights in Papua from an international law perspective? Using qualitative research through a case study approach with literature study techniques by looking at several relevant previous studies as data sources. This research finds the obligations and responsibilities of the government through international law such as the Asean Human Rights Declarations (AHRD), the Universal Declaration of Human Rights (UDHR), and the International Covenant on Civil and Political Rights (ICCPR), but the Indonesian the government still takes a military approach to conflicts that the role of the government should be 80% and the role of the security forces 20%, so that if the government steps down directly by creating intense communication directly and will produce an agreement without violence which continues to take lives.

Keywords: *Government Responsibility, Human Rights Enforcement, International Law Perspectives.*

INTRODUCTION

The responsibility of the Indonesian government regarding the enforcement of human rights that occurred in the land of Papua has yet to be discovered. Human rights violations committed by the Armed Criminal Group (KKB) have been going on for a long time (Widyantara, 2022). Human rights violations that have occurred in Papua are often covered up by new issues that come to the surface which makes issues related to human rights even more neglected. Human Rights Commission based on Law Number 39 of 1999 concerning Human Rights in conjunction with Presidential Regulation of the Republic of Indonesia Number 53 of 2021 concerning the 2021-2025 National Action Plan for Human Rights in Appendix I which emphasizes the implementation aspect regarding the scope of human rights action for the previous generation which is general and not focused, making it difficult to monitor and evaluate. Such as cases of shootings, killings, destruction of facilities, kidnappings, and many other incidents that are repeated again due to the lack of proper handling. Based on this description, problems related to the KKB are closely connected with human rights violations, so the government must prioritize accuracy in the enforcement process.

Yanes S. M (2018) conducted a study regarding the responsibility of the Indonesian government in upholding human rights to examine State Responsibility in Protecting Human Rights According to International Law which resulted that Indonesia as a legal state incorporated in international organizations must ratify international law.

On the other hand, I Gede H.W (2022), research related to law enforcement against human rights violations in realizing justice in Papua, the results of this research are that there are two stages of legal protection for victims of human rights violations, namely the investigation and trial stages.

Issues related to human rights violations in Papua often arise in international discussions, this has been sparked by countries such as Vanuatu, Palau, Tavalu, Marshall Island, Nauru and the Solomon Islands at UN international forums to continue to participate in monitoring the handling of this issue (Indonesia, 2021). The focus of research on government responsibility in upholding human rights in Papua is based on human rights values in the perspective of international law which will produce different outputs compared to the perspective of human rights law on a national scale only.

The conflict that occurred in Papua, which should have been a domestic problem, has now become international attention. By frequently discussing it at UN forums, the name of Indonesia seems to have violated human rights for justice for the Papuan. Based on this description, it raises questions regarding what are the international laws governing the enforcement of human rights? what are the steps of the Indonesian government in upholding human rights, which in this case are focused on the KKB? Which is based on international law refers to the Law of the Republic of Indonesia Number 24 of 2000 concerning International Agreements where the agreement is binding on parties who fulfill the provisions. Therefore, even though Indonesia has a legal basis that regulates its citizens, Indonesia is a member of an international organization must be ratified or used as a reference for upholding human rights in Indonesia.

MATERIALS

Sabita Firgoria Luisa Edon and Nur Azizah Hidayat (2021) conducted a study related to the responsibility of the Indonesian government to examine the Indonesian Government's Obligations Against Human Rights Violations Committed by Armed Criminal Groups (KKB) in Papua with the result that referring to Articles 71 and 72 of Law no. 39 of 1999 concerning Human Rights, the government is responsible for the Enforcement, Protection, Fulfillment, Respect and Promotion of Human Rights. Issues related to human rights enforcement have been investigated by I Gede Hendra Widiyantara (2022), research related to law enforcement against violations of human rights in realizing justice in Papua. as well as the second stage: examination in Pre-trial, Court, Court Decision and Post-Court Decision sessions.

Ulya Maylani and colleagues (2022) studied Law Enforcement Regarding Human Rights in Indonesia with the result that there are still unfulfilled rights of its citizens and there must be a balance in the alignment between one's own human rights and the human rights of others related to the socialization of concern among others. International law has been researched by Medylne Agnes Elias et al. (2021) studying international legal perspectives on the protection of human rights for humanitarian activists. The results of this research are that there are international legal instruments that regulate, but are soft law in nature, but can become hard law if it is in national law.

METHODS

Human rights violations that occurred in Papua are often used as a topic of discussion among students because cases of human rights violations are still ongoing. This is what construct researchers to examine what should be the government's responsibility to uphold human rights justice in Papua who are victims of armed criminal groups, but researchers use a perspective based on international law to see a global perspective in seeing the government's responsibility in implementing enforcement of these human rights.

This study uses a qualitative method Which one aims to investigate, explain, find, and describe social qualities or characteristics regarding all matters relating to the enforcement of human rights by the government in Papua (Saryono, 2010). A case study approach is used in this research which will examine incidents of human rights violations committed by the Armed Crime Group (KKB) against civilians in Papua. Researchers use a type of *library research* technique with secondary data sources from related literature such as the Universal Declaration of Human Rights (UDHR) while within the scope of ASEAN there are Asean Human Rights Declarations (AHRD) and the International Covenant on Civil and Political Rights (ICCPR) as well as relevant previous research. In order to become supporting data to be analyzed and processed to improve the findings of this study (Creswell, 2015).

Through data mining with document studies which in this research uses secondary documents from reports and previous research as well as international law ratified by Indonesia as data which will later be reduced to simplify data to be presented with various media, so that existing data is data that is processed and no longer raw information (Sugiyono, 2019). Relevant data that has been collected is analyzed according to the conditions and facts that occurred in Papua but based on the perspective of international law. Therefore, it can be concluded that the focus of the research aims to find a new understanding regarding human rights violations in Papua so that research results can be found regarding the government's responsibility in upholding human rights that occurred in Papua based on international law.

RESULTS AND DISCUSSIONS

The Armed Criminal Group (KKB) still haunts the Papua region, the rebellion and attacks carried out by the KKB have disrupted national security by carrying out several major violence and have killed innocent civilians. 27 April 2021 Moh. Mahfud MD as the Coordinating Minister for Political, Legal and Security Affairs of the Republic of Indonesia who emphasized that organizations and individuals who commit massive violence can be categorized as terrorists (Effendi & Panjaitan, 2021). Crimes that violate human rights include murder, shooting, kidnapping, rape, destruction of public facilities and residential areas that have claimed so many victims. These human rights violations continue to this day, throughout 2019 there have been 23 shootings (Ramadhan, 2021). 2020 saw many cases of destroying facilities, shooting civilians and even security forces. Throughout 2021, KKB have persecuted health workers by killing 6 victims. Whereas in 2022 there was a shooting with 15 victims dead and one missing (Firmansyah, 2022).

The Indonesian government has attempted to overcome this problem by involving the National Police, the National Army, as well as the National Counterterrorism Agency (BNPT), where the BNPT is the authorized agency in the sector

for preventing and countering terrorism in Indonesia, this is stated in Presidential Regulation Number 46 of 2010 concerning National Agency for Combating Terrorism. However, the right to proceed, investigate, prosecute and examine is not the responsibility of the BNPT, but remains within the realm of the Criminal Procedure Code. So far, the BNPT has synergized with various parties, especially in Papua, by embracing Papuan youth who are moving to take a humanist approach to Papua. Using *a Soft Approach* through development towards welfare and building a national character that loves peace, tolerance, also respects differences, this has been stated in the Terrorism Law which was inaugurated in 2018 .

The National Police as one of the security forces directly involved in the location, whose job is to maintain security and order in paradise, especially from KKB attacks that may occur at any time . One of the efforts made by the Papuan Regional Police is that there are activities in the form of outreach and education to the public. In addition, in terms of security, the Police have also increased patrols and increased security with an adequate number of personnel. In line with the continued increase in security in Papua as an integrated territory of the Unitary State of the Republic of Indonesia which is located in the eastern region of Indonesia, the government continues to build infrastructure for public facilities that will support the lives of Papuans. Apart from that, as another effort to crush the insurgency that occurred in Papua, the security forces deployed a total of four hundred personnel who were members of the satanic army in preparation for the crackdown on the Armed Criminal Group (KKB) which were designated as terrorists. Satan's Army is a TNI soldier who is a member of the The Task Force for Security of Vulnerable Areas (Satgas Pamrahwan) from Infantry Battalion (Yonif) 315/Garuda (Habibie, 2021).

As a country belonging to a global scope, Indonesia refers to rules and policies issued internationally, although Indonesia has its own rules and policies to take care of its citizens. This has been regulated in Law Number 24 of 2000 concerning International Agreements, Indonesia which is a member of the United Nations (UN) and regionally is a member of the Association of Southeast Asian Nations (ASEAN) which has a legal umbrella governing the rights of every human being in every citizen in its membership which is ratified by the membership state. Within the realm of the legal world there is the Universal Declaration of Human Rights (UDHR) while within the scope of ASEAN there are the Asean Human Rights Declarations (AHRD) and the International Covenant on Civil and Political Rights (ICCPR).

A. Asean Human Rights Declaration (AHRD)

The ASEAN HUMAN RIGHT DECLARATION focuses on Civil and Political Rights adopted by all ASEAN members including Indonesia. In AHRD (2013) number 11 " *Every person has an inherent right to life which shall be protected by law. No person shall be deprived of life save in accordance with law* ". The law protects human rights in which no life should be lost unless it is based on law. Events that occurred in Indonesia were carried out by a group of people doing it for the benefit of their group only, without any legal basis or clear legal principles. Meanwhile, according to number 12 it states " *Every person has the right personal liberty and security. No person shall be subject to arbitrary arrest, search, detention, abduction, or any other form of deprivation of liberty* ".

Indonesia as a constitutional state must uphold applicable laws for the security and welfare of its people. The security level of Papuan residents, both those on the island of Papua and their citizens who are migrating, is often harassed by other communities.

B. Universal Declaration of Human Rights

In the Universal Declaration of Human Rights (UDHR) (1948) it is clearly stated in article 3 "*Everyone has the right to life, liberty, and the security of person*". It would be very unethical if the events that occurred in Papua which had claimed many lives were not taken seriously by the Indonesian government. Even in Article 5 it is stated that "*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment*". At this point, even inhumane treatment is clearly condemned, especially when it comes to killings that have clearly taken away the right of humans to live.

The government has full responsibility to be able to deal with this problem properly, Article 7 "*All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination*". In the eyes of the legal umbrella, all must be equal in obtaining justice which is the right of every citizen, and for those who have been affected or have felt the suffering they have experienced, the government must be responsible for recovery as stated in article 8 "*Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law*".

C. International Covenant on Civil and Political Rights

Meanwhile, according to the International Covenant on Civil and Political Rights (ICCPR) (1966) the government has an obligation to recover from all forms of violations committed, which is stated in part II of article 2 paragraph 3 which reads:

- (a) To ensure that any person whose rights or freedoms as herein are recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;*
- (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedies;*
- (c) To ensure that the competent authorities shall enforce such remedies when granted.*

In that article, it is clearly written that the government has an obligation to recover, such as in the aspect of the right to protection, legal equality, health, and the economy of its citizens who have experienced human rights violations by anyone. This further narrows the responsibility of the government's obligation to immediately address this problem as a crucial issue so that it is resolved immediately.

Based on this international law, the active role of the government is needed regarding the contributions that have been made to overcome this problem. Firm, straightforward and thorough actions in eradicating separatist groups by the government and also those in power, this is to restore people's trust in the government

as the highest institution. Based on Article 4 of Law Number 39 of 1999 it is explained that the right to life, the right not to be tortured, the right to personal freedom, thoughts and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person and equality before the law, and the right not to be prosecuted on the basis of a law that applies retroactively is a human right that cannot be reduced under any circumstances and by anyone (Edon & Hidayat, 2021).

Afriandi Djon's thesis (2015) entitled *The Indonesia COIN strategy: failures and alternative approaches in overcoming the Papuan insurgency* which discusses the effectiveness of the crackdown carried out by the TNI in Papua can be said to have failed, this was due to the violence perpetrated by security forces against local communities which should have been protecting the community from the threat of the KKB has even become a new threat for Papuans. Handling which was dominated by the security forces or the military, which eventually turned into a weapon war. This gave an opportunity for outside actors to criticize the Indonesian government, which gave everything to the military to resolve this conflict.

The conflict that occurred was between the Indonesian government and the Armed Crime Group, the government should have moved more than the role of the military, the government 80% and the military 20% (Gulala, 2006), so that the government's role in this conflict needed a more intense mediation approach, there would be no insurgency that would exacerbate situation of increasing casualties. The tactics carried out by the Armed Crime Group use the general tactics of insurgency groups which attack the weakest point of the state by camouflaging it in the midst of society. The Armed Crimes Group will avoid direct confrontation due to the limitations of their strengths (Ramadhan, 2021).

This phenomenon certainly does not only have an impact on physical damage, but also on the psychology of people who have been haunted by fear for quite a long time. Assistance and supervision to residents affected by mediation tactics to restore a sense of calm with assistance carried out in every element of society to get results that are right on target. So that the strategy that can be carried out to resolve this insurgency is by bringing together all the existing elements, namely the military, paramilitary, political or government components, economics, psychology, and from civil society itself (Defence, 2004). The implementation process certainly cannot be done instantly and will get a different response from each interested figure. However, by utilizing community leaders and concrete evidence of sustainability from the government that can convince them to be able to contribute to the mission of upholding human rights and peace this can be turned into a system that has opportunities.

In the completion of this movement confrontation, according to Audrey Cronin, (2009) it can be done with pressure from the state, political negotiations, policy reforms towards a peaceful settlement rather than military violence, loss of political support for the insurgency movement, and achievement of political goals from the insurgency movement. The government really has to act in this conflict, as the holder of power and in fulfilling the rights of the Papuan people to have a sense of peace in society. The government must strengthen the state's capability to avoid conflicts that occur both nationally and internationally. As happened in Papua, welfare, political, economic and cultural factors which are still the main categories of problems. The security situation or

conditions that are currently happening in Papua have not been announced by the government in a transparent manner (Senjaya, 2022).

The rebellion factor can be triggered by the failure of the state due to dissatisfaction with the government regarding the needs of separatist groups so that they rebel. Fulfillment of their basic needs and security with the government's prudence in growing legitimacy for the government which ultimately gains strong control over society. Prosperity is the key, increasing the economic, infrastructure, health, psychological, political sectors, including eradicating corruption, collusion and nepotism. Top down and bottom up training programs for local government and civilians can be used as an option for communication between the government and its people. Proceed evaluation and monitoring to collect the latest relevant data so that they can determine policies that are right on target for the people of Papua.

CONCLUSION

In fact, the efforts made by the Indonesian government in upholding human rights in Papua are still far from successful. Violations after violations still occur even after the government deployed so many military personnel to guard ut. security on the paradise earth. Security efforts carried out by a combination of the TNI and Polri are still not enough. As a unitary state that adheres to a democratic system with a strong rule of law, Indonesia must act decisively in overcoming the ongoing problems in Papua, with directives and ratification of regulations that already exist within the country as well as international rules to take action for an event that violates, focused in this case the phenomenon of human rights violations that occurred in the Papua region which were carried out by the Armed Crime Group (KKB) to achieve national interests in upholding human rights law and prospering and protecting its people.

The responsibilities and obligations of the Indonesian government in upholding human rights in Papua are also stated in international laws such as the Asean Human Rights Declarations (AHRD), the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR). The government's responsibility regarding law enforcement in Papua by the Armed Criminal Group is not only to eradicate the KKB itself, but also to fulfill the human rights of the impact of the incident, such as the fulfillment of legal, economic, political, psychological, health problems, and other remedies that affected by the conflict.

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