

Human Rights Violation in The Context of Terrorist Groups' Crimes in Papua

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Abstract

Study This aiming For to study practice deletion right basic human rights (HAM) in Handling crime group terrorists in Papua, as well as to examine the extent to which state policies and actions are in line with principles law national and international . Research This use approach law normative with analysis by regulation legislation , doctrine law , and studies case human rights violations reported by institutions national and international . Findings show that determination group armed Papua as terrorist own impact Serious to protection of human rights, especially in form restrictions freedom express , action repressive apparatus , and limitations access to information and justice . In a number of case , action enforcement law tend beyond limit principle proportionality and legality . Although the state has right For guard stability and security , things the No can made into justification on neglect rights base citizens . Research This recommend strengthening approach humanistic , governance reform security , as well as improvement accountability enforcement law as an alternative strategy in finish conflict in Papua in general fair .

1. Introduction

The Papua region in Indonesia has long been a focal point of national and international attention due to the ongoing issues of human rights violations and the escalation of violence linked to armed separatist groups. These groups have been increasingly classified as terrorist organizations by the Indonesian government, creating a complex intersection between counterterrorism efforts and the protection of basic human rights (Barker, G. E, 2021). The tension between these two areas ensuring national security while respecting human rights has led to significant challenges in addressing the Papua conflict in a just and ethical manner.

Since the 1960s, Papua has witnessed repeated episodes of violence, with the local population caught between military operations and insurgent activities. While the Indonesian government has asserted its right to defend national sovereignty and security, the state's actions often raise questions regarding the balance between maintaining order and respecting fundamental human rights. In particular, the state's treatment of Papuan activists, journalists, and civilians during military operations has sparked concerns over possible infringements on freedom of speech, arbitrary detentions, and even extrajudicial killings (Amnesty International, 2020).

This paper aims to explore the practices and implications of human rights violations within the context of the Indonesian government's handling of terrorist groups in Papua (International Federation for Human Rights, 2020). It critically examines the extent to which state actions align with both national and international legal standards, focusing on whether such practices constitute an elimination or severe restriction of basic human rights. Additionally, it seeks to evaluate the effectiveness of Indonesia's counterterrorism strategies in relation to the preservation of the rights of Papua's indigenous population.

In particular, the study highlights the structural, cultural, and political challenges faced by the Indonesian government in addressing the violence in Papua while upholding human rights. Through a normative legal approach, this paper will analyze relevant national legislation and international instruments to assess whether the measures taken by the Indonesian government comply with both national constitutional guarantees and international human rights obligations. Moreover, it will address the pressing need for a more humane approach to the conflict in Papua, suggesting reforms that could help ensure that national security objectives do not come at the cost of fundamental human freedoms (Gunawan, M, 2020).

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2. Method

This research is a normative legal research (Negara, T. A. S, 2023), namely research that is based on the study of written legal norms that are relevant to the issue of human rights and criminal acts of terrorism in Indonesia, especially in the context of handling terrorist groups in Papua. Normative legal research is used to analyze the applicable positive legal norms, as well as the principles and legal doctrines that develop as a basis for assessing the legality and legitimacy of state actions in handling armed conflicts related to human rights violations. Study This use a number of approach in studies law normative , namely :

1. Approach Statute Approach

This used For to study regulation legislation that becomes base law in Handling crime terrorism and human rights protection , such as the 1945 Constitution, Law Number 5 of 2018 concerning Eradication Action Criminal Terrorism , and the Law Number 39 of 1999 concerning Right Basic Man

2. Approach Conceptual (Conceptual Approach)

Used For to study concepts like right basic human rights , elimination of human rights, terrorism , and principles law related international , including the principle of non- derogable rights and due process of law.

3. Approach Case (Case Approach)

Review a number of case concrete human rights violations and violence armed in Papua that is relevant with actions of states and non-state actors , e.g case Nduga , Intan Jaya, and the determination group armed Papua as terrorists (Gunawan, M, 2020).

The types of legal materials used include:

1. Primary Legal Materials

Consist of national legislation and international legal instruments, such as:

- a. 1945 Constitution
- b. Law No. 5 of 2018 concerning Terrorism
- c. Law No. 39 of 1999 concerning Human Rights
- d. Law No. 26 of 2000 concerning the Human Rights Court
- e. Universal Declaration of Human Rights (UDHR) 1948
- f. International Covenant on Civil and Political Rights (ICCPR) 1966

2. Secondary Legal Materials

Consist of legal literature, scientific journals, research results, reports from human rights institutions such as Komnas HAM and Amnesty International, as well as scientific articles from international organizations (Pusat Studi Hukum dan Hak Asasi Manusia Universitas Kristen Satya Wacana, 2021).

3. Tertiary Legal Materials

Include legal dictionaries, legal encyclopedias, and legal directories to clarify conceptual understanding.

The technique for collecting legal materials is carried out through library research, by accessing databases of laws and regulations, legal journals, annual reports of human rights institutions, as well as official sources from the government and international organizations.

3. Results and Discussion

Right Basic Man is right the basis inherent in each man since born , without differentiate race , religion, gender gender , ethnicity , views political , or other status . According to Article 28A-28J of the 1945 Constitution, every Indonesian citizens have right For life , rights on the sense of security , and rights For free from torture or degrading treatment dignity human . In realm international , human rights are guaranteed through various instrument such as the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), and International Covenant on Economic, Social and Cultural Rights (ICESCR). Indonesia has ratify a number of agreement and have obligation For uphold it in a way consistent .

3.1. Theory and Provisions The law

According to Law Number 5 of 2018 concerning Eradication Action Criminal Terrorism , terrorism defined as actions that use violence or threat violence that causes atmosphere terror or fear in a way wide , which can causing mass casualties or damage to vital objects , environment life , facilities public , or facility international with ideological , political , or other motives disturbance security (Global Witness, 2019).

In Papua context , group armed with systematic attack state apparatus and inhabitant civil has categorized as group terrorists . However , the determination the invite debate Because its far- reaching implications to state approach in handle conflict armed.

3.2. Development Group Armed in Papua

Group criminal armed conflict (KKB) in Papua has long been a part from dynamics complex conflict between countries and groups separatists . Since the time of Papua's integration into within the territory of Indonesia through Determination People's Opinion (Pepera) in 1969 , a number of factions and individuals to voice dissatisfaction they to results said , which is considered No reflect will Papuan people in general comprehensive . This is Then give birth to movement separatist armed with demands Papuan independence from Indonesia (Suryanegara, F. R, 2019).

Along time , groups This develop become more network organized and frequent do action violence armed targeting apparatus military , police , even inhabitant civil . Some a striking incident including hostage-taking of teachers and staff health , shooting to worker development infrastructure , up to burning schools and places of worship.

3.3. Indications Elimination of Human Rights in Papua

Based on report annual Komnas HAM and Amnesty International, there are indication that in Handling conflict armed in Papua, has happen serious human rights violations , even in a number of case leading to the elimination of human rights. Among them :

1. Restrictions access journalist and observer international to Papua, which gave rise to concern to transparency and accountability of the state.
2. Sweeping and operations military that caused inhabitant civil lost place stay and evacuate in amount big , as occurred in Nduga , Intan Jaya, and Puncak .
3. Extrajudicial killings by authorities to suspected individual as sympathizer separatist .
4. Criminalization activist peace , including arrest to students and figures Papuan people who voiced their opinions aspiration political in a way peace .

Impact from situation This No only causing collective trauma for Papuan society , but also strengthens cycle hard violence stopped .

In addition to direct violence, forms of human rights elimination can also be seen from the structural discrimination experienced by Papuan people. Inequality in development, low access to decent education

and health services, and racist treatment still experienced by Papuans in various regions of Indonesia have also worsened their social conditions.

3.4. State Obligations Under International Law

As a state party in the ICCPR and various international human rights conventions In addition , Indonesia has not quite enough answer For ensure respect against human rights, including moment handle threat terrorism . The principle of “non- derogable rights” (rights that are not can reduced in condition whatever) must still held .

UN Human Rights Committee has emphasize that the state must guard balance between security national and human rights protection . Use of power by the authorities must proportional , accountable , and compliant principle of due process of law.

Indeed , in international human rights law known term restrictions rights (derogation) in the situation emergency . However , the restrictions This must :

1. Done in accordance law .
2. Own objective valid , such as protect security national .
3. Proportional to threat .
4. No nature discriminatory .

If the restrictions This done without criteria said , then can categorized as human rights violations , even elimination of human rights.

3.5. State Efforts and Challenges Enforcement of Human Rights in Papua

The Republic of Indonesia has to go through various method For handle crime group terrorists in Papua, one of them with intensify operation military through the TNI and Polri . Approach security This viewed important For guard state sovereignty and regional stability . However Thus , the approach This often criticized Because too emphasize aspect militaristic , and less consider approach humanistic .

Many observers recommend that Papua conflict does not can completed only with strength weapons . Required approach multidimensional that integrates dialogue, development inclusive , reconciliation social , and protection rights public Papuan customs . Government has to initiate policy Autonomy Special (Otsus) as form recognition to Papua's uniqueness , but its implementation Still reap criticism Because Not yet optimally touch aspect justice social and welfare Papuan people .

In frame repair situation , some policy law has attempted , such as revision of the Autonomy Law Especially for Papua, the increase role National Human Rights Commission in investigation gross human rights violations , and strengthening mechanism monitoring by state institutions such as the Indonesian Ombudsman.

However , the challenge main still lies in the aspect implementation . Reports independent show Still existence immunity law (impunity) against the alleged officer do violence or human rights violations . Legal process to case violation weight is also often not walk transparent , even No until to stage court .

enforcement in Papua faces obstacle structural , cultural and political :

1. Obstacle structural covers weakness system laws and mechanisms supervision in the area conflict
2. Obstacle cultural covering distrust Papuan society towards the state, especially apparatus security
3. Obstacle political appear from sensitivity Papua issue in the eyes international , which makes government be careful in open wide dialogue space .

Most of the state actors still see Papua issue through lens security , not humanity . This is cause Handling conflict often ignore human rights principles .

4. Conclusion

Elimination of human rights in context crime group terrorists in Papua are consequence Serious from approach security that is not balanced . Even though the country has rights and obligations For eradicate terrorism in order to maintain sovereignty , action the must still is at in corridor law national and international which guarantees respect against human rights.

The labeling of “ terrorists ” against group Papuan separatists need accompanied by with caution in its implementation , so that it does not become justification on action repressive to public civil . Facts show that human rights violations still occur occurs , including restrictions information , violence physical , as well as action discriminatory to public native Papuan.

Author Contributions

Riski Febria Nurita : Designing structure research and determine focus article scientific based on results research. Directing and coordinating all over stages writing journal , start from determination Topic until final draft preparation. Do supervision to quality content written by members team , including data consistency , style academic , and compliance to rules scientific . Doing finalization script , including editing end , check conformity with journal template purpose , and citation in accordance format . Do correspondence with journal editors , including the submission process, revisions based on reviewers, and communication administrative others .. Guarantee originality and integrity academic from submitted manuscript . **Sunarjo** : Do review library , collection references , and preparation of bibliography in the appropriate format . Arrange the sections certain in articles , such as study literature , methodology , results and discussion , according to with distribution internal tasks . Doing analysis of the data obtained from study field or studies literature . Editing and revising script in accordance with directions chairman researchers and reviewers. Helping in checking plagiarism , manuscript formatting , and preparation of supporting files . **Rahmad Rafid** : Do review library , collection references , and preparation of bibliography in the appropriate format . Arrange the sections certain in articles , such as study literature , methodology , results and discussion , according to with distribution internal tasks . Doing analysis of the data obtained from study field or studies literature . Editing and revising script in accordance with directions chairman researchers and reviewers. Helping in checking plagiarism , manuscript formatting , and preparation of supporting files

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