

LAW ENFORCEMENT AGAINST ARMED CRIMINAL GROUPS IN CREATING SECURITY AND TRANQUILITY IN PAPUA

By

Figih Dwi Arganata¹, Danialsyah², Indra Gunawan Purba³

^{1,2,3} Universitas Islam Sumatera Utara

Email: figihdwi@icloud.com¹, danialsyah@fh.uisu.ac.id², indragunawan.p@fh.uisu.ac.id³

ABSTRACT

Law enforcement against Armed Criminal Groups (KKB) in Papua involves various efforts to crack down on criminals and maintain security and order. Law enforcement in dealing with armed criminal groups in Papua involves a complex approach, combining decisive action by the police and the TNI, as well as persuasive and dialogue approaches, with a focus on the protection of human rights. The government designated the KKB as a terrorist organization, but the handling of the law must also pay attention to human rights aspects and local socio-cultural approaches. Firm and legal actions are in the form of determining terrorist status, joint TNI-Polri operations, criminal law enforcement, investigation and prosecution, persuasive approaches and dialogue, conflict resolution and conducting dialogue. The role of the police against armed criminal groups in creating security and order in Papua has an important role in creating security and order in Papua, especially in dealing with Armed Criminal Groups (KKB).

Keywords: Law Enforcement of Armed Criminal Groups, Papua.

PENEGAKAN HUKUM TERHADAP KELOMPOK KRIMINAL BERSENJATA DALAM MENCIPTAKAN KEAMANAN DAN KETERTIBAN DI PAPUA

ABSTRAK

Penegakan hukum terhadap Kelompok Kriminal Bersenjata (KKB) di Papua melibatkan berbagai upaya untuk menindak pelaku dan menjaga keamanan serta ketertiban. Penegakan hukum terhadap kelompok kriminal bersenjata di Papua memerlukan pendekatan yang kompleks, menggabungkan tindakan tegas oleh polisi dan Tentara Nasional Indonesia (TNI), pendekatan persuasif dan dialogis, dengan fokus pada perlindungan hak asasi manusia. Pemerintah telah menetapkan Kelompok Kriminal Bersenjata (KKB) sebagai organisasi teroris, namun tindakan hukum juga harus mempertimbangkan aspek hak asasi manusia dan pendekatan sosial-budaya lokal. Tindakan tegas dan hukum meliputi penetapan status teroris, operasi gabungan TNI-Polri, penegakan hukum pidana, penyelidikan dan penuntutan,

pendekatan persuasif dan dialog, penyelesaian konflik, dan dialog. Peran polisi dalam menjaga keamanan dan ketertiban di Papua sangat krusial, terutama dalam menghadapi Kelompok Kriminal Bersenjata (KKB).

Kata kunci: *Penegakan Hukum terhadap Kelompok Kriminal Bersenjata, Papua*

INTRODUCTION

Indonesia is a legal country that has several types of laws to regulate the actions of its citizens, namely criminal law and criminal procedure law. These two laws have a very close relationship, because in essence criminal procedure law is included in the sense of criminal law. Law enforcement against criminals is an important thing for the establishment of order in society. Crime in people's lives is a social phenomenon that will always be faced by every human being, society and even the state. Reality has proven that crime and offense can only be prevented and reduced, but it is difficult to eradicate completely. Anticipation of these crimes and violations includes the effective and appropriate functioning of criminal law instruments through law *enforcement*.

The separatist movement is a movement that aims to gain sovereignty and separate a territory or group of people (usually groups with a sharp national consciousness) from each other. Furthermore, the emergence of the idea of separatism triggered the disintegration of the nation. The issue of separatism or national disintegration has become an important discussion in several countries around the world. In order to understand the separatist movement, there are three elements that must be considered, namely the cause, the process, and the result. The causes of separatism often depend on history, injustice or diversity of identities. The prevention and countering of separatism is an important part of the government's agenda in realizing a safe and peaceful Indonesia. The implementation of development in all regions of the country within the framework of the Unitary State of the Republic of Indonesia is always accompanied by comprehensive efforts to prevent and counter separatism. One of the efforts taken is for example the tightening of land and security at the boundaries of the territory. The territorial boundaries of a country occupy an important position from geographical, legal and political aspects.

The authority of the police in the implementation of police duties is to carry out actions

according to the law that are responsible and carried out on the following conditions, namely: not contrary to a rule of law; in line with the legal obligations that require such actions to be carried out; must be appropriate, reasonable, and included within the scope of their position; appropriate consideration based on circumstances that compel and respect human rights (Article 16 of Law Number 2 of 2002 concerning the Police).

RESEARCH METHODS

The type of legal research used is normative juridical which is "a study that places norms as the object of research, both legal norms in laws and regulations, legal norms derived from a law". Also called doctrinal law research, namely "legal research that uses secondary data. Normative legal research is known as qualitative legal research". This research is descriptive analysis, namely "research that describes, examines, explains and analyzes laws and regulations related to the purpose of this research". The purpose of descriptive research is "to accurately describe the characteristics of a particular individual, condition, symptom or group, or to determine the frequency or spread of a symptom or the frequency of a particular relationship between symptoms and other symptoms in society". The main purpose of the analysis of legal materials is "to know the meaning contained by the terms used in the legal rules conceptually, as well as to know their application in practice".

RESULTS AND DISCUSSION

Papua is one of the Indonesian provinces located at the eastern end of the territory of the Unitary State of the Republic of Indonesia since 1969. Dipapua itself is currently being shaken by various acts of violence carried out by armed criminal groups (KKB). Criminal acts committed by the KKB include. There have been shooting incidents by KKB members against civilians and security forces in certain areas including Puncak Jaya Regency, Jayawijaya Regency, Mimika Regency, Paniai Regency, Jayapura City which occurred on the border between the Republic of Indonesia - Papua New Guinea.

Attacks carried out by the KKB at the security posts of the Indonesian National Police and the Indonesian Army Attacks on civilians and TNI-Polri members who are conducting security patrols in the area The seizure of firearms belonging to the Indonesian National Police and the

Indonesian Army. The term KKB is a designation from Indonesian law enforcement for a militant group that considers its group to be the West Papua National Liberation Army-Free Papua Organization (TPNB-OPM). There are two terms used to label militant groups, namely Armed Criminal Group (KKB), a term used by the Police as the crime is considered Criminal. Armed Separatis Group (KSB) is a term used by the TNI, a term that means it must be faced militarily.

The conflict that is currently occurring in Papua does not start from a simple root problem, but stems from a fairly complex problem, which includes the history of colonialism, social and economic inequality, identity conflicts, dissatisfaction with the central government, and unresolved human rights issues. In its history, the Papuan Armed Criminal Group (KKB) began with the differences between the race of the Papuan people (*Austromelanesoid*) and Indonesian society in general (*mongoloid*) which triggered racism, as well as the non-participation of the Papuan people in the New York Agreement to determine the fate of Papua. According to Richard Chauvel, a political historian in Papua, there are four basic sources of conflict, namely; disappointed because the land of Papua belongs to Indonesia, the competition between the elite group of the Land of Papua and the foreign officials of the Papuan land since the Dutch colonial era, the development of the economy and government in Papua which is different from the western region, therefore, many Papuans complain about this problem to the central government, in contrast to the western part of Indonesia, Papua is still far behind the economy, education, infrastructure, and welfare. Then, discrimination of indigenous Papuans is due to the presence of immigrants, this difference often occurs even for Papuans who are outside the territory of Papua. This is what gave rise to the separatist movement in Papua which stated that the land of Papua was not part of the Unitary State of the Republic of Indonesia (NKRI) and some Papuan people were pro-Indonesia.

This difference has divided Papuan society, causing many riots in Papua such as rejection, and demonstrations. Every year, on December 1, this separatist group raises the flag of the Papuan Morning Star, which they consider to be Papua's independence day. Until now, this group continues to carry out attacks and often causes victims of members of the police, the TNI, and the community. There was a shooting in Nduga on December 2, 2018 by the KKB to the workers of PT Istana Karya with the Trans Papua bridge construction project.

Some media argue that this attack occurred because it was a form of resistance of the KKB to the government for infrastructure development that did not solve their problems, so that some media also gave opinions that the action showed that the Papuan people were very different from Indonesian people in general. Another action of the Papuan KKB as a form of protest to secede from Indonesia occurred in 2021 and caused casualties, precisely in January 2021, based on data from the Papua Police, there were recorded 16 times the KKB committed violence that caused unrest in the community. The action took victims totaling 12 people from various circles, ranging from civilians, teachers, students, motorcycle taxi drivers, ordinary citizens, to the TNI-Polri as victims. If you look at the background of the causes of the actions carried out by the KKB that cost many victims of civil society and the TNI-Polri so that it is an act of violation of Human Rights (HAM), with the KKB making various problems and political propaganda so that it causes threats to the territory of the Republic of Indonesia. So in April 2021 the government labeled the KKB as a terrorist group.

The government gave the KKB a terrorist label because from the government's point of view this organization is no longer sufficiently proportional to the Armed Criminal Group alone. The crime of terrorism has been regulated into the Terrorism Law contained in the national criminal law, this law was formed as an emergency response to the Bali I bombing incident, a serious effort to address the increasing security threat as a result of the terror acts that occurred at that time. According to Muladi, the crime of terrorism is a crime called an extraordinary crime that also requires handling efforts that utilize extraordinary means. The labeling of the KKB as terrorists raises pros and cons among the government, the labeling of the KKB as terrorists can be understood, because the actions of the KKB which are separatist movements and continue to carry out rebellions, so that when left unchecked, it will give rise to the possibility of interference by other countries, that is the reason why the government labels armed criminal groups as terrorists, and through this labeling the government emphasizes that the enforcement of terrorist crimes is purely the rule of law without having anything to do with religion.

Talking about the KKB in Papua, it is synonymous with an organization that uses violence to achieve their goals which is against the law, they carry out unlawful activities such as murder is one of the actions often carried out by the KKB, with murder and suppressing the

opposition to achieve their goals, in addition to murder, this group often commits acts of extortion by using threats to citizens to give money or The KKB also often attacks security forces, most often the police and the government, to fight for their separatist causes. KKB actions, such as armed attacks, bombings, and attacks on villages or government facilities, create a climate of unrest for the local community. Citizens become afraid and worried about the security and safety of themselves, their families and the environment, this also affects citizens' mobility, individual emotional well-being, and hinders access to services provided by the government such as education, health and the economy. The KKB's actions also involve human rights violations, which include killings, enforced disappearances, torture, and other inhumane treatment of civilians and security forces. Therefore, the law and society here play a role in facilitating dialogue between the government, security forces, and the Papuan people to find solutions to conflicts with the KKB, through open communication can build trust between all parties involved and create opportunities to achieve mutual understanding, besides that the government must also socialize and increase public awareness about the consequences of being involved with the KKB, So that this education can help the community to play an active role in law enforcement and maintain peace.

The movement carried out by the KKB caused many victims due to physical conflicts. In addition, the KKB, which has been indicated as the Free Papua Organization (OPM), also struggles to disseminate the ideology of an independent Papua. The resistance of the KKB began on July 28, 1965 precisely in West Papua by attacking the Arfak tribe against the Battalion Barracks, the motive for this attack was due to the provocateurs of the Papuan Battalion, people from the Arfak tribe who felt dissatisfied with the leadership in their area because of the high level of unemployment that caused hunger in the Arfak tribe for the past two years. This resistance lasted for four years in West Papua, then on July 1, 1971 there was a second resistance by the KKB with a leader named Seth Jafeth Roemkorem with the rank of Bintara, the resistance carried out by Roemkorem was to read the text of the proclamation of the territory of the Republic of West Papua with Roemkorem as the President of the Republic of West Papua with the rank of Brigadier General.

All of these things are the starting point of the separatist movement of the Free Papua Organization (OPM) which states that if Papua is no longer part of Indonesia, the existence of

the statement caused the Papuan society to be divided, as a result of which there are often resistances, demonstrations and riots in Papua. OPM is an organization that began in 1965 with the main goal of being established to overthrow the Indonesian government in Papua and separate from the Unitary State of Indonesia. In the eyes of the Indonesian government, what OPM did can be said to be an effort to resist by the state. This separatist act carried out by the KKB can pose a threat to the sovereignty of the Republic of Indonesia and damage the spirit of nationalism owned by the Indonesian people. In its efforts to deal with the conflict caused by the OPM/KKB, the Indonesian government has increased the active role of Intelligence by massively gathering Indonesian National Army troops. Furthermore, the government also began to try to take a repressive approach both through its military power and with the approach of economic development carried out in the new order era, at that time Irian Jaya was made a Military Operations Area (DOM).

During the leadership of President BJ Habibie in 1998, the DOM policy was stopped, although the repressive security approach was stopped by the government. In addition, Papua was also given special autonomy rights in the reform era (1998-1999), this is because President Habibie argued that the movement of armed groups in Papua was indicated to be an OPM that tried to separate from Indonesia, which could disrupt Indonesia's economic and political stability, so that it could slow down the implementation of reforms. Therefore, President BJ Habibie proposed that conflict resolution in Papua be carried out with a democratic mechanism, namely providing the right to regional autonomy based on the Constitution, MPR Decrees, and Regional Regulations. Violence in Papua occurred in three periods. First, in 1961-1969 which occurred as a result of military actions with the mission of infiltration and strengthening support closer to Pepera 1969, this action was carried out politically in urban to inland areas using weapons, since then the Free Papua Organization (OPM) was born. Second, in 1970-1977 there was a rebellion aimed at calming the resistance of Pepera and welcoming the presence of PT Freeport in Papua. Third, in 1978-1998 became the period of the Military Operation Area (DOM), this violence occurred for 20 years with an increase in violence to the interior with the reason of cutting the OPM, during this period there were many violations of Human Rights (HAM).

In 2021, the KKB again acted by carrying out several acts of attack both against civilians and

members of the TNI and Polri. Based on the results of research conducted by the PPPK Task Force of Fisipol UGM (Gajah Mada University) from 2010-2020 (10 years), the violence that occurred in Papua was on average carried out by the KKB. With the description of 118 cases carried out by the KKB, 15 cases were carried out by the TNI and 13 cases were carried out by the National Police. In the same study, it was also stated that the victims who died due to violence were 356 people. Ninety-three percent of these are civilians, members of the TNI and the National Police, while seven percent are part of armed criminal groups (KKB).

Often terrorism crimes are a form of crime that has been planned and arranged and usually terrorism crimes have an international dimension. Muladi argued that the crime of terrorism is an *extraordinary crime* and an *extraordinary measure* is needed in handling it. In April 2021, the government officially designated the KKB as a terrorist group. Coordinating Minister for Political, Legal and Security Affairs Prof. Mahfud MD stated that KKB organizations and people in Papua are categorized as terrorists who commit massive violence. In further explanation, it is explained that a terrorist is an individual or group that plans, coordinates, and carries out acts of terrorism. Meanwhile, terrorism refers to any act that uses violence or threats of violence to create an atmosphere of terror or fear at large. These actions may result in mass casualties and/or damage or destruction of strategic vital objects, such as the environment, public facilities, or international facilities.

The categorization as a terrorist is based on the provisions of Law Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning the Eradication of Terrorism Crimes into Law. In addition, this categorization is also based on the government's view that it is not enough to designate this organization as an armed criminal group alone, because if you look at its track record, this group often commits terror that causes many casualties. In addition, the KKB/OPM in carrying out its actions uses weapons with structured tactics like military forces in war. So, in handling it, it is not enough to just use a security approach by law enforcement officials, so the labeling of the KKB as terrorists needs to be done.

Legally, the government has a solid basis for classifying the KKB as terrorists. This is due to a number of facts that show that the KKB has committed acts of terror against Papuan

civilians, with political motives to separate from the Republic of Indonesia. In addition, the actions carried out by the KKB also meet the requirements stipulated in the Terrorism Law. With this number of victims, the mass retreat of victims has been fulfilled. Proof of the atmosphere of terror carried out by the KKB was stated by a pastor who said that the KKB destroyed houses and schools that were public facilities and girls in the village who were raped.

The actions of Armed Criminal Groups (KKB) in Papua in the community are seen as a form of human rights violations. This group is also included in the *non-state actor* group, namely people or groups that commit human rights violations or certain actions and the person or group is not a state actor or state actor or state apparatus. Usually people or groups of people from *non-state actors* have great power and influence and capital. The categorization of the KKB as a *non-state actor* because the administrators and members of the Armed Criminal Group (KKB) are perpetrators who commit human rights violations (HAM). So that what they do ranging from violence, demolition, persecution, kidnapping, murder and other crimes committed against members of the TNI-POLRI and civil society have violated the 1945 Constitution of the Republic of Indonesia, Law Number 39 of 1999 concerning Human Rights was then also aggravated by the categorization of Armed Criminal Groups in Papua as terrorists that cause terror in the community and imposed by Law Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2002 concerning the Eradication of Terrorism Crimes into Law.

Armed Criminal Groups (KKB) have committed many acts that have violated human rights (HAM), by being labeled terrorism by Mahfud MD as the Coordinating Minister for Politics and Legal Affairs at the end of April 2021. In fact, many Papuans are not involved in this group, only a handful of people are involved in the KKB. This group has three important points, such as a national political movement with the aim of supporting members of the TNI/Polri, a political movement in the international realm to declare independence to foreign embassies, and showing the power of arms. The conflict that occurred in Papua occurred due to various unresolved instruments, political, defense, security, ideological, economic, to social and cultural. The presence of human rights courts in Indonesia is proof that Indonesia is

oriented in law enforcement and processing perpetrators who commit gross human rights violations. Violent acts committed by the KKB according to the Human Rights Court Law Article 7 letter B are violations of human rights against humanity, so the government should be responsible, and uphold human rights. When a country violates human rights, the state must make a movement or effort to stop human rights violations with one of the law enforcement efforts.

CONCLUSION

Law enforcement in dealing with armed criminal groups in Papua involves a complex approach, combining decisive action by the police and the TNI, as well as persuasive and dialogue approaches, with a focus on the protection of human rights. The government designated the KKB as a terrorist organization, but the handling of the law must also pay attention to human rights aspects and local socio-cultural approaches. The role of the police against armed criminal groups in creating security and order in Papua has an important role in creating security and order in Papua, especially in dealing with Armed Criminal Groups (KKB). Efforts to overcome obstacles in law enforcement against armed criminal groups in Papua to realize kamtibmas is to take a comprehensive approach that involves firm law enforcement, a welfare approach, and dialogue with the community. With this synergy, it is hoped that obstacles in law enforcement against the KKB can be overcome and a conducive kamtibmas condition can be created in Papua.

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