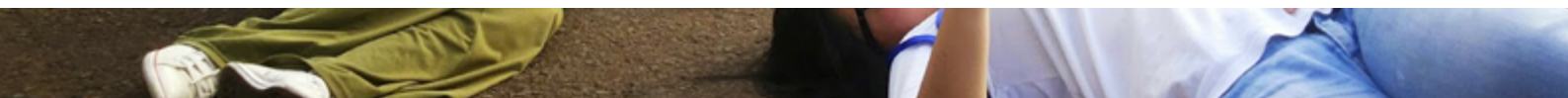




West Papua in 2021: the renewal of special autonomy and a new ‘terrorism’ designation indicate a further decline of democracy

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In July 2021, the Indonesian government unilaterally extended the „Special Autonomy Law“ for West Papua, which has been in force since 2001, for another 20 years. Shortly before, the Indonesian government classified the largest armed West Papuan resistance movement, the National Liberation Army of West Papua, as a „terrorist organisation“. In addition to the escalation of the conflict and the deterioration of the human rights situation of the civilian population, these developments and the manner in which they arose and their motives point to a further deterioration of democratic governance in West Papua and Indonesia.

In West Papua in July 2021, the Government reviewed and unilaterally re-imposed ‘special autonomy’ legislation, extending the previous law passed in 2001 for a further 20 years. When it was first passed, for some West Papuans, the law was initially viewed as holding possibilities for genuine autonomy. Many West Papuans, however, were opposed to the legislation, pointing to it as a convenient fix that Jakarta could impose without addressing West Papuans’ unrealised aspirations for self-determination and avoiding the travesty of the 1969 referendum. On the other hand, 2021 saw a deteriorating conflict in the central highlands between the West Papuan armed resistance and the security forces. A key development in this worsening situation, which has severely impacted the human rights of civilians, has been the authorities’ declaration of the main West Papuan armed resistance movement, the West Papua National Liberation Army (TPNPB - Tentara Pembebasan Nasional Papua Barat), as a ‘terrorist’ organisation. Each development, part of longer-term trends, indicates in different ways that both the Central Government in Jakarta and the security forces – military, police and intelligence agencies – are wielding more power, indicates a further decline in democracy in West Papua and Indonesia.

Special autonomy

In hindsight, those that doubted that special autonomy would bring about political change for West Papuans in 2001 were right: the following years saw no decrease in human rights abuses and an expansion of the role of the security forces. Fundamentally, the arrangements were

ultimately seen by the authorities as an alternative to a future democratic referendum on the territory’s future, which had been denied to West Papuans in 1969. Opposition to special autonomy, (otonomi khusus, or otsus), furthermore, has more immediate reasons, namely, unfairness and inequality in two areas. First, persistent economic inequalities between West Papuans and Indonesian settlers; and second, compounding this, a dissatisfaction stemming from human rights abuses and a lack of democracy. A generation of West Papuans have now grown up under special autonomy arrangements, witnessing an expanding security force presence which has profited from extractive industries such as logging, mining and palm oil plantations.

Furthermore, the institutions established under special autonomy to represent indigenous West Papuans such as the Papuan People’s Assembly, (MRP, Majelis Rakyat Papua), have been interfered with or overlooked.¹ Even West Papua’s two provincial legislatures - neither of which are known as hotbeds of anti-Jakarta rhetoric – were ignored despite the legal obligation to consult both on any revision to special autonomy.

Special autonomy also promised to legalise West Papuan political parties, as had happened under special autonomy in Aceh. The failure to do so can be explained by the exceptionalism Indonesia applies in its rule over West Papua (in Aceh local parties have been legalised). The question of political parties illustrates how tight the

¹ TAPOL ‘Briefing: Special autonomy – big on funds, short on human rights and democracy’ 25 May 2021, www.tapol.org

central government's grip is on political debate in West Papua. It also shows that it is only the tip of the iceberg: street demonstrations organised by political activists and civil society are dispersed with those participating often being criminalised and manhandled by the police and authorities. Political activists have been charged with treason, especially when commemorating sensitive political occasions such as West Papua's 1st December National Day, or displaying West Papuan symbols, especially the Morning Star flag.²

The terrorist designation of West Papua's armed resistance

The main beneficiary of the renewed Otsus arrangements has been the national government in Jakarta, rather than the local authorities in West Papua. For example, under Article 76 of the revised law, the central government has the power to create new regencies and districts. The new law allows Jakarta powers to decide on the creation of new districts without requiring consultation. New provinces could be created only after villages and settlements had lobbied district, then provincial governments, for their creation.³ This practice, known as pemekaran, has become a hallmark of decentralisation first implemented twenty years ago. It has allowed the security forces to mirror the creation of newly created districts and provinces to become often the most powerful state institution in remote areas, overseeing lucrative natural resource concessions held by foreign and national corporations. Thus, pemekaran and the stationing of permanent combat troops in existing and newly-created provinces and districts, are where the two issues of otsus and armed conflict converge most obviously.

However, perhaps less obviously, another question that arose in 2021 has wider implications for human rights and the role of the security forces across Indonesia: the designation by the Government of TPNPB as a terrorist organisation in April of this year. Superficially, the designation can be seen as a knee-jerk response to the killing by the TPNPB of the head of the National Intelligence Agency's on 25 April (BIN, Badan Intelijen Nasional) the most senior official in West Papua. This is indeed a very important element of explaining the designation, but also overlooks the strategic and material advantages that calling West Papua's armed resistance 'terrorist' gives to the security forces.

Through the introduction of this designation, the military in particular are now officially permitted to have a central role in counter-insurgency operations in West Papua. There are two origins of the military role in anti-terror operations, one from 2018, and another from the reformasi period between 1998-2004. In 2018, anti-terror laws were changed so that the military is now officially allowed a primary role in anti-terror operations. This change in the law had already been under debate in the national parliament but was expedited as a result of the

2018 Surabaya Islamist suicide bombings, which saw President Widodo threaten to pass a presidential decree mandating the change without legislative agreement (without much opposition, parliament agreed to change the law).

Again, attention should be given to a longer-term pattern since the military's role in anti-terror operations did not happen overnight. Two decades ago, the military started to become involved in operations to stop communal violence in Poso in Central Sulawesi. Between 2000-2007, both the military and police expanded their presences, forming new district commands (KODIM, Komando Distrik Militer) and police resorts (Polres, Polisi Resor). Officers who had been stationed in South Sulawesi's regional command (KODAM VII, Wirabuana) received promotions, and military businesses profited from illegal activities: extortion, cockfighting, sex work businesses, security guards businesses, smuggling, illegal logging, and the sale of weapons, the latter directly contributing to the conflict itself (Sangaji, 2007).

Initially the reason for the Sulawesi expansion was the outbreak of inter-communal violence in the region after 1998; later, it was alleged that the area had become a base for Islamist terrorists, including those allied with Al-Qaeda and ISIS. But while communal violence had largely subsided by 2009 as a result of dialogue and other peacebuilding efforts, a poorly-resourced jihadi group and self-declared affiliate of ISIS, Eastern Indonesia Mujahideen (MIT, Mujahidin Indonesia Timur), numbering fewer than 50 individuals was able to regroup by 2012. MIT was subject first to joint police and military operations in October 2015 (Operasi Maleo IV); and later in January 2016, a much larger operation (Operasi Tinombala I) involving 3000 police and military troops. After Operasi Tinombala I, the Government approved the re-establishment of KODAM XIII Merdeka in North Sulawesi, ostensibly to stop traffic in foreign fighters and smuggled weapons from the Southern Philippines. By March 2018, the operation had been renewed in a number of three-month extensions despite its leader having been killed in 2016, and MIT members numbering just seven people in late-2017, with extensions continuing into 2019.⁴

As the Sulawesi case demonstrates, the use of the terrorist designation has allowed the military a freer hand to lead counterinsurgency campaigns and consolidate its economic interests.

Avoiding the laws of war

Another strategic advantage of the terrorism designation is the circumvention of the Government's obligations under the laws of war. Under these laws, TPNPB fighters could be classified as fighters, not terrorists, because they are engaged in an armed conflict, recognisably operate under an organised command structure in a defined territory, and have political objectives, namely the establishment of an independent state. If observed, the laws of war could also oblige the authorities and the TPNPB to observe the Geneva Conventions in respect of, for example,

2 The Morning Star flag is a symbol of West Papuan nationalism and has been banned by the Indonesian Government. The National Day commemorates the 1st December 1961 when the Netherlands granted West Papua independence.

3 Undang-undang 78, 2007 tentang tata cara pembentukan, penghapusan dan penggabungan daerah, 16.

4 R. Diprose and M.N. Azca, 'Past Communal Conflict and Contemporary Security Debates in Indonesia' *Journal of Contemporary Asia*, 2019 vol. 49, no 5, pp. 780-793

the treatment of POWs.

Under the rhetorical cloak of wanting to protect civilians from the TPNPB, the Indonesian Government has used the terrorism classification to deliberately overlook these facts and obligations. It is well documented that the military and police are often implicated in human rights abuses of civilians in West Papua. This is not surprising since military officers have previously commented that in West Papua, it is difficult for the military to distinguish between civilians and guerrillas.⁵ As a result, local populations have been punished for their presumed support for the TPNPB during security force operations.⁶ A key difference between the TPNPB and Islamists, some military officers believe, is that Islamists usually do not enjoy the support of local populations, whereas the TPNPB do. In other words, the resistance movement in West Papua's armed conflict are subject to Indonesian criminal law, and now anti-terror laws, which goes further than the criminal code, for example, by extending the length of detention of suspects.

Another way in which the authorities have sought to evade obligations and frame fighters in West Papua's armed conflict as criminals and terrorists is through use of the police's anti-terror unit, Densus 88, or D-88. D-88 was created with the help of Indonesia's Western allies, especially the United States and Australia, in the wake of the October 2002 Bali bomb. However, despite the decline of terror-related threats in Indonesia, Densus-88 has not been disbanded. Densus-88 operations in Poso in Central Sulawesi against alleged Al-Qaeda-inspired cells won public support in Indonesia and acclaim among Western supporters and anti-terror experts. However, in its operations in general, including in Java, Densus 88 has used force disproportionately, failed to obtain arrest warrants prior to operations, has stood accused of assassinating suspects, and in video footage apparently taken in Poso in 2007, is alleged to have tortured suspects. Despite its 'anti-terror' role, moreover, D-88 has long operated in West Papua, assassinating leaders of the peaceful pro-independence organisation KNPB (Komite Nasional Papua Barat, West Papua Nasional Committee), as well as the TPNPB.

Concluding thoughts

The use of D-88 in West Papua and further security force entrenchment and enrichment follows a pattern of the kind seen in Sulawesi. We have identified the main reasons behind it – an increase in security force power seen through its stationing of personnel and bases on the ground, leading to more business opportunities and local and national influence. In the context of increasing mili-

tarization, Jakarta's unilateral review and reimposition of the Special Autonomy Law this year is largely irrelevant, except to note that the original law contained some possibilities for improving political representation for West Papuans which were never honoured. Instead, it is quite clear that the objectives of the authorities are to repress any possibility of dissent from West Papuan people themselves.

Increasing militarization for most Indonesians appears to be territorially limited to West Papua and Poso. However, D-88 has already abused its mandate in Java in pursuit of alleged terrorists without having been properly held to account by Government Institutions (including the National Commission for Human Rights, Komnas HAM) or other civil society organisations that fear the consequences of questioning the legality of its operations. Likewise, the military operates in plain sight in Java with a visible public role, pronouncing on political affairs and with former army officers assuming roles in Government and the civil service. In other words, security force operations against 'terrorists' in West Papua are not as distant as is assumed. But this also means that with coordinated effort, the public in Indonesia and beyond may yet hold their power to account and end impunity.

Recommendations

The international community must urgently request access of independent organisations (intergovernmental and non-governmental) to areas affected by conflict in West Papua. We are sure that an independent assessment of the situation would draw the conclusion that TPNPB members should be properly regarded as fighters rather than 'terrorists' under international law.

In this connection, the international community should advocate for a 'humanitarian pause' to stem an increasing flow of internally-displaced people in several districts of the central highlands which have been beset by conflict since the designation of the TPNPB as a 'terrorist organisation' and which is hardly covered by international media.

We also call on the Indonesian Government to revoke the designation of the TPNPB as a terrorist organisation and the Indonesian military's involvement in 'anti-terror' operations. As this report highlights, this is providing the military with opportunities to expand and consolidate its territorial structure and business interests. There should also be a moratorium on the creation of new districts which have not improved the economic marginalisation of West Papuans but rather have led to the militarisation of West Papua.

TAPOL campaigns for human rights, peace and democracy in Indonesia. It is based in the UK and works to raise awareness of human rights issues in Indonesia, including in the contested territory of West Papua. Founded on grassroots campaigning, TAPOL works closely with local organisations in Indonesia to advocate for truth and justice and encourage the international community to take action.

5 BBC Indonesia. 'Penembakan Nduga: Beda dengan teroris, gerilyawan Papua punya 'hubungan dengan warga' 9th December 2018. <https://www.bbc.com/indonesia/indonesia-46498239>

6 See for example, TAPOL '243 deaths in West Papua: the international community must call for an impartial investigation and an end to the security forces' operations.' 12th February 2020, www.tapol.org