



Legal protection of health professionals for the KKB-OPM attack in international humanitarian law perspective

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Abstract

The conflict that occurred in Papua is a long conflict that is so complicated in Indonesia. The conflict in Papua began with the emergence of a separatist movement which every year, there is almost always a gunfight that results in casualties. On September 13, 2021, there was an attack by TPNPB-OPM on health professionals at the Kiwirok District Health Center, Papua. The attack also led to medical personnel causing the loss of the life of a health professional. International humanitarian law has guaranteed protection for non-combatants, which includes health professionals. For health professionals who only carry out humanitarian duties, they must be respected and protected under any circumstances so that the attack by TPNPB-OPM is an act that cannot be justified according to international humanitarian law.

Keywords: Protection; health professionals; International humanitarian law; Geneva convention

Introduction

In fact, in living a social life, it is impossible to be separated from the emergence of a conflict or contradiction. Starting from the smallest level, such as in a family where there are always differences of opinion among family members, to serious conflicts that spark fights and hostility. Continuing to the scope of society, which consists of various families and has a more complex structure. Undoubtedly, conflicts are often more sensitive and massive, starting from sentiments on race, religion, and ethnicity to social inequality. The complexity of this community relationship requires great attention from office holders and authorities to carry out their duties as well as possible, namely administering justice in society so that later a harmonious community structure can be created.

It seems impossible, but the path that must be taken to achieve peaceful harmony is a challenge. As stated by the Directorate General of Population and Civil Registration, in the Semester II of 2021 Population Data, it is known that the total population of Indonesia is 273,879,750 people. This amount is distributed among 34 provinces in Indonesia, with various backgrounds owned by each individual. Based on this reality, it is certain that there will be more frequent differences in vision, mission, idealism, and dissatisfaction, which will allow for the emergence of national disintegration. One of the long conflicts that is so complicated in Indonesia is the conflict that occurred in Papua. The conflict that occurred in Papua began with the emergence of a separatist movement. Even before the province of West Papua integrated into Indonesia in 1969, every year, there were almost always firefights that resulted in casualties.

The conflict in Papua was motivated by two causes originating from internal and external problems. The existence of various ethnic groups in the Papua region inspires the internal problems that exist. There are at least 312 indigenous Papuan ethnic groups, which, because of friction between these tribes, has led to incidents that lead to

violence. Meanwhile, external problems widely heard by the public are conflicts originating from the slow development carried out by the central government in Papua. This brings the view that the government pays little attention to the Papuan people's social, cultural, and economic conditions (Soleman B. Ponto, 2014).

Furthermore, according to Soleman B. Ponto, the separatist movement in Papua (Free Papua Organization/OPM) was formed in 1965. This movement is divided into several movement groups which have no relationship with one another. The areas controlled by these groups are also unclear, and even the attacks carried out are sporadic and not continuous. The existing separatist movements are generally categorized as the Papuan Separatist Group (KSP). However, if the group commits violence using lethal weapons, then the group will be classified as an Armed Criminal Group (KKB) (Ayunita Harianja, 2020).

In order to overcome the chaos caused by the emerging separatist movement, the government has sent Indonesian National Military troops to protect civilians and quell the rebellion that occurred. However, the efforts made by the government have not yielded maximum results. KKB-OPM continues to carry out attacks on both the Indonesian National Military and civilians. On September 13, 2021, there was an attack by the West Papua National Liberation Army of the Free Papua Organization (TPNPB-OPM) on public facilities in the form of health centers and school buildings in the Kiwirok District, Gunung Bintang Regency, Papua. The attack started with beatings, shooting and then continued with burning. Nine of the ten health professionals in the area were evacuated to Jayapura for medical and psychological treatment for their trauma. Meanwhile, one health professional, namely Sister Gabriela Meilani, was found dead in a ravine.

The attack carried out by the TPNPB-OPM received reactions in the form of criticism from various parties. In a state of war or armed conflict, health professionals are usually one of the groups exempt from attack. The presence

of health professionals in conflict areas poses a high risk. However, ensuring health professionals receive protection in conflict situations is challenging. Based on this description, two problems will be described: how to protect medical personnel in conflict areas in the view of international humanitarian law? And what is the view of international humanitarian law on the KKB-OPM attack on health professionals?

Research Methods

Legal research compiled by the author was normative juridical or doctrinal legal research. The nature of the legal research used in preparing this legal research was prescriptive and applied. The author uses two approaches in the preparation of research, namely the statutory approach and the conceptual approach. The sources of research legal materials used primary legal materials, which are authoritative and legally binding, as well as secondary legal materials, which provide instructions and explanations. Collecting legal material in legal research is carried out utilizing a literature study. The legal material analysis technique used in writing this law is a syllogistic deduction.

Discussion

Protection of Health Professionals in Conflict Areas in the View of International Humanitarian Law

International humanitarian law is a law established to protect parties who are no longer participating in wars and limit the methods and methods of war (Andrey Sujatmoko, 2016). However, international humanitarian law is not the same as the law of war, but only part of the law of war and part of international law. International humanitarian law exists to reduce the suffering of war and to limit destructive or destructive actions that can harm the parties involved in armed conflict.

In line with this aim, according to GPH Haryomataram in the book *Human Rights Law and Humanitarian Law*, humanitarian law aims to protect parties who take an active part in an armed conflict, such as combatants, and provide protection guarantees to those who do not take part in armed conflicts such as health professionals. (Andrey Sujatmiko, 2015). Protecting these health professionals is carried out to avoid unnecessary misery and ensure the fulfillment of everyone's human rights. For this reason, to protect people not involved in the war, the warring parties must respect the existing principles and principles. These principles and principles are the principle of military necessity, the principle of humanity, the principle of chivalry, and the principle of distinction.

The principle of military necessity means the parties can use force to conquer the opponent. The principle of humanity has the intention that there is a prohibition on the excessive and unnecessary use of violence. The principle of chivalry implies no justification for using weapons and dishonorable methods of war. The distinction principle is a principle that provides a distinction between combatants involved in armed conflict and civilians to protect civilians. The parties who may be attacked are combatants, while civilians, as parties who do not participate directly, may not be attacked. In this principle of distinction, there are also differences between objects in conflict areas, namely civilian objects such as hospitals, houses of worship, and schools, while military objects such as military installations, bunkers, and barracks.

The principle of distinction is intended to prevent attacks on people and objects not directly involved in the battle. Furthermore, in the category of non-combatants, some parties have special protection status based on the Geneva Convention, namely health professionals.

Referring to Article 8(c) Additional Protocol I of Geneva Convention 1949, and Relating of the Protection of Victims of International Armed Conflict 8 June 1977, what is meant by health workers and health professionals is: "Medical personnel" means those persons assigned, by a Party to the conflict, exclusively to the medical purposes enumerated under sub-paragraph e) or the administration of medical units or to the operation or administration of medical transports. Such assignments may be either permanent or temporary". Based on these provisions, the term medical personnel includes officers carrying out treatment, prevention, medical administration, etc. One of the parties to the conflict or a third party can assign medical personnel, whether permanently or not.

Furthermore, in Article 8 (e) Additional Protocol I of Geneva Convention 1949, and Relating of the Protection of Victims of International Armed Conflict 8 June 1977, it is stated that health workers and health units are "Medical units means establishments and other units, whether military or civilian, organized for medical purposes, namely the search for, collection, transportation, diagnosis or treatment-including first-aid treatment of the wounded, sick and shipwrecked, or for the prevention of disease." What is meant health workers are health units established both civilians and military for health, such as searching for victims, collecting, transporting, diagnosing, including providing first aid for the wounded, sick, and shipwrecked victims, or also for the prevention epidemic of a disease.

Several provisions that explicitly state protection for medical personnel are as follows: a) Article 24 of the 1949 Geneva Convention I, that members of the health service work specifically to seek or collect, transport or treat the injured and sick, or to prevent disease, and specially employed staff in administration and medical buildings, as well as clergy serving in the armed forces, must be respected and protected under all circumstances. b) Article 12 paragraph (1) Additional Protocol I of 1977, that the health task force should always be respected and protected and not be the target of attacks. c) Article 9 paragraph (1) Additional Protocol II of 1977, that protection for health service and religious service members must be respected and protected and provided with all assistance in carrying out their obligations. They should not be forced to carry out tasks inconsistent with their humanitarian mission. d) Article 8 of Additional Protocol I of 1977, in which it has been stated that what is included in health facilities that must be protected is as follows: "...for example hospitals and other similar units, blood transfusion centers, preventive medicine centers, and institutions, storage places for medical devices and medicines and such units. These health units can be immovable or movable objects, permanent or temporary. e) In Article 48 of Additional Protocol I of 1977, it is explained that to guarantee respect and protection of the civilian population and civilian objects from military objectives, it must direct its operations against military objectives. Based on this, it can be interpreted that medical personnel included in non-combatants should not be the object of attack by combatants.

The various provisions above show that international humanitarian law protects medical personnel in conflict situations. Therefore, if an attack occurs, which is also directed at medical personnel and health facilities, it is a serious violation according to international humanitarian law. Medical personnel who only carry out medical duties must be respected and protected under any circumstances. Meanwhile, attacking them is a form of war crime. Because it is not in accordance with the objectives and basic principles or principles of International Humanitarian Law.

Views of International Humanitarian Law on the KKB-OPM Attack on Health Professionals

Looking back at the attack case by TPNPB-OPM on September 13, 2021, which resulted in the death of one medical worker and injuries to nine other medical staff. In the end, the incident not only left physical injuries and destroyed the Public Health Center building but also traumatized the surrounding civilians, disrupting health service activities.

TPNPB-OPM spokesperson, Seby Sambom, stated that OPM was responsible for the attack on medical personnel at the Public Health Center and school buildings in the Kiwirok District, Gunung Bintang Regency, Papua. Furthermore, his party claimed that the actions taken followed the provisions of international humanitarian law because they had announced warnings in the area, including to civilians and existing medical personnel, to leave the area. Seby Sambom said that civilians and medical personnel who remained in the area were legitimately subject to attack because they were considered part of the TNI. And the shooting that was directed at the medical staff was carried out because the medical staff at the Puskesmas had shot the KKB first.

So, are the unilateral claims made by TPNPB-OPM in accordance with the provisions of international humanitarian law? If we look closely again, Article 24 of the 1949 Geneva Convention I, it has been stated that medical personnel must be respected and protected in all circumstances. Furthermore, Article 48 of Additional Protocol I of 1977 explained that to guarantee respect for and protection of civilians and objects from military targets, combatants must direct their operations against military targets. Therefore, it can be seen that the existing provisions strongly support respect and protection for health professionals.

However, the protection of non-combatants, which includes health professionals, is not without limits. There are times when health professionals will lose this protection. This occurs when health professionals act outside their humanitarian obligations or even participate in attacks against combatants. If such things happen, even after being given a warning, health professionals still do this, then these health professionals can be attacked. In addition, if there are important military objects in the conflict area where there are many non-combatants, such as civilians and/or medical personnel, then if the attack accidentally hits civilians and health professionals, it cannot be blamed.

It responded to the statement from Seby Sambom as the spokesperson for TPNPB-OPM, which stated that medical personnel had shot the KKB, dr. Restu Pamanggi, a doctor who survived the attack, said that all the medical personnel there did not have firearms, let alone shot the existing KKB. The presence of medical personnel at the Puskesmas was

only to serve and carry out humanitarian tasks and did not participate in the conflict at all. The KKB's arrival immediately caused the situation to become chaotic; health professionals who were taking shelter in the Public Health Center were suddenly mobbed and attacked, after which the Public Health Center was set on fire. Thus, based on this testimony, it can be understood that the one-sided claim of TPNPB-OPM stating that there was a prior attack by health professionals is untrue. For this reason, it cannot be justified if the right to protection and respect for health professionals in conflict situations is lost because it turns out that no resistance or action was outside the obligations of the health professionals.

Regarding the reason that combatants cannot be blamed for the attack on medical personnel if there is an important military object in the conflict area, in fact, based on the testimony, it turns out that there was no evidence of a military object or combatant being in the area to be used as an object of attack. Therefore, the right to protection and respect for health professionals still exists and must be upheld.

Thus, the attack incident by TPNPB-OPM on September 13, 2021, against medical personnel in the Kiwirok District, Gunung Bintang Regency, Papua, is an act that cannot be justified according to international humanitarian law. The claims submitted by TPNPB-OPM were also baseless and were only submitted to justify the barbaric acts committed against existing health professionals. Health professionals should always receive the protection and respect they are entitled to, as guaranteed according to the Geneva Convention.

Conclusions

International humanitarian law guarantees the protection of non-combatants, including health professionals who only carry out humanitarian duties, so they must be respected and protected under any circumstances. If an attack is carried out, it is a serious violation of international humanitarian law because it is not in accordance with the objectives and basic principles or principles of international humanitarian law.

The attack by TPNPB-OPM on September 13, 2021, against medical personnel in the Kiwirok District, Gunung Bintang Regency, Papua, is an act that cannot be justified according to international humanitarian law. Health Professionals should always receive the protection and respect they are entitled to, as guaranteed according to the Geneva Convention.

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