

Impunity

Accomplice to atrocity?

Inside Indonesia, 03-04-2016 by Marlene Millott¹

When the Indonesian army massacred an estimated half a million alleged communists in 1965, it did so with the backing of western powers. The role of the United States as an accomplice through its provision of intelligence, training, weaponry and communications equipment has been well documented. Although Australia's role was subordinate to that of the US, it still has a case to answer.

In the lead-up to 1965, much of the world was caught up in the Cold War that pitted western-style capitalism and democracy against the communist Soviet Union and China. In Indonesia, President Sukarno grew closer to the Indonesian Communist Party (PKI), while becoming increasingly hostile towards the west and foreign corporations. This worried the PKI's fierce rivals, the Indonesian army, whose power waned as the PKI's grew. It was also watched closely by the US and its allies, who feared the country would fall to communism, which would then spread through Asia and onto Australia's doorstep. In response, the army and the US formed a secret relationship. As told in John Roosa's Pretext to Mass Murder, between 1958 and 1965 the US trained, funded and advised the Indonesian army, and helped turn it into a 'state within a state' that would be ready to take over government if the opportunity arose. Further heightening tension, Sukarno strongly opposed the formation of the state of Malaysia out of Malaya, North Borneo and Singapore in 1963. He committed troops to Borneo to fight British, Australian and New Zealand forces as part of Konfrontasi. Even closer to home, Sukarno had earlier combined diplomacy and the threat of force to successfully bring West Papua into Indonesia.

After an alleged attempted PKI coup on 1 October 1965, the Indonesian army seized the opportunity to gain control of the country and eliminate the PKI and its affiliates. Led by

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General Suharto, the army embarked on a nation-wide killing spree, enlisting local militia groups to help them identify, arrest, and kill members and sympathisers. This campaign was supported by the US, the UK and Australia, which hoped for an end to the threat of a communist-dominated Indonesia, and for the installation of a leader friendlier to the west.

In the months following the attempted coup, the Australian embassy and the Department of External Affairs supported the Indonesian army's anti-communist campaign to bring about a change of government. Documents from the National Archives of Australia reveal three main points about embassy officials and the massacres: that the Australian embassy knew they were happening, but did not condemn them; that Australia gave assurance and support to the Indonesian army who they knew were responsible for these massacres; and that Australia actively contributed to the mass anti-communist hysteria through propaganda broadcasts via Radio Australia.

Read the full story: <http://www.insideindonesia.org/accomplice-to-atrocity>

A remarkable quote: By mid-1966, Australian Prime Minister Harold Holt made clear his satisfaction with the pro-western shift in Indonesian foreign and economic policy brought about by the massacres. At the Australian-American Association in New York, he callously joked 'With 500,000 to one million Communist sympathisers knocked off, I think it is safe to assume a reorientation has taken place'.

Freedom of Religion

Authorities must repeal Joint Ministerial Decree discriminating against minority belief

Amnesty International Public Statement, 07-04-2016

Amnesty International is extremely concerned about a joint ministerial decree that will stop the right of a religious minority in Indonesia to freely practise their religion and beliefs in utter disregard of Indonesia's international human rights obligations and protections in the Constitution.

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On 29 February 2016, a Joint Ministerial Decree (No. 93/2016) was issued by the Minister of Religious Affairs, the Attorney General and the Minister of Home Affairs forbidding the 'Millah Abraham' religious belief, adhered to by former members of a religious organisation known as Gafatar (the Fajar Nusantara Movement). The authorities consider the belief 'heretic' because it intermixes the religious teachings of Islam, Christianity and Judaism.

The Joint Ministerial Decree is a deeply flawed piece of legislation that unlawfully interferes with the right to freedom of religion and belief and must therefore be repealed immediately. The decree would further marginalise this minority group and, further, risks inflaming the current atmosphere of intolerance and fear that has led to harassment, intimidation and attacks against members of the community.

Former members of the Gafatar community have previously faced attacks and imprisonment that stemmed solely from their religious beliefs. In January 2016, a mob attacked and set alight nine houses belonging to members of the community in Menpawah District, West Kalimantan. After the attacks, at least 2,000 people were forcibly moved by the local security forces to temporary shelters in Kubu Raya District and Pontianak City, West Kalimantan, and then transferred to several locations on Java Island without prior consultation.

In June 2015, six members of the Gafatar community in Aceh Province were convicted for "insulting religion" under Article 156 of the Criminal Code and sentenced to four years' imprisonment by the Banda Aceh District Court.

The right to freedom of religion and belief is guaranteed in Articles 28E and 28I of the Indonesian Constitution. Moreover, Article 18 of the International Convention on Civil and Political Rights (ICCPR), to which Indonesia is a state party, states that "this right shall include freedom to have or to adopt a religion or belief of his [or her] choice" and that "no one shall be subject to coercion

which would impair his [or her] freedom to have or to adopt a religion or belief of his [or her] choice".

Article 18 of the ICCPR distinguishes the right to freedom of religion or belief from the freedom to manifest religion or belief. The freedom to have or adopt a religion or belief of one's choice is protected unconditionally by the Covenant and should be exercised without interference.

The International Covenant on Civil and Political Rights, however, recognizes that the exercise of the freedom to manifest one's religion or belief might be subjected to limitations only when prescribed by law and necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. The UN Human Rights Committee, the body that monitors compliance to the Covenant, has clarified that such limitations must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.

Failure to comply with the provisions set forth in the Joint Ministerial Decree would result in criminal prosecution for blasphemy under Presidential Decree No. 1/PNPS/1965 on the Prevention of "Religious Abuse and/or Defamation" and the Indonesian Criminal Code (KUHP).

Protection of abstract concepts or religious or other beliefs, or the religious sensibilities of their adherents, is not a permissible ground for restricting freedom of expression. Under Article 19(3) of the ICCPR, certain restrictions on the exercise of the right to freedom of expression may be permissible, including for the protection of public order, but only where such restrictions are provided by a precisely formulated law which complies with human rights, are demonstrably necessary and proportionate to the stipulated purpose, and do not put in jeopardy the right itself.

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Amnesty International has previously called on the Indonesian authorities to repeal all provisions set out in laws and regulations which impose restrictions on the right to freedom of expression and thought, conscience and religion which go beyond those permitted under international human rights law, or amend such provisions to bring them into compliance with Indonesia's international human rights obligations.

Accordingly, rather than punishing people for their peaceful exercise of their freedom to hold a religion or belief, Indonesia should fulfil its obligation to ensure that all people under its jurisdiction can exercise their rights without fear or retaliation. The Indonesian authorities should take effective steps, including by ensuring adequate police protection, to ensure that members of religious minorities are protected and able to practice their faith free from fear, intimidation and attack.

The Fajar Nusantara Movement (Gafatar) was founded in January 2012 with branches in 14 provinces. However, the organization was disbanded by its members in August 2015 after they were not able to get a registration permit from the Ministry of Home Affairs.

The Joint Ministerial Decree No. 93/2016 forbids ex-members or sympathisers of Gafatar to perform activities and to disseminate or interpret any teaching that deviates from the basic teaching of Islam. The Decree explains that Gafatar is the transformation of Al-Qiyadah Al-Islamiyah which was declared as a "heretic" organization by the Attorney General in November 2007 for promoting Millah Abraham religious teachings.

Furthermore, the Decree seeks "to warn and instruct members of the community to maintain and safeguard harmony among believers of different religions as well as unity in public order within a community by not engaging in violation of the law against the ex-members or sympathisers of Gafatar".

In April 2008 Al-Qiyadah leader, Ahmed Moshadeq, was found guilty under Article 156(a) of the Indonesian Criminal Code (KUHP) and sentenced to four years' imprisonment by the South Jakarta District Court for leading a "heretical sect" and claiming to be a prophet. In June 2008 the Makassar District Court in South Sulawesi convicted 21 members of Al-Qiyadah for blasphemy under Article 156(a) of the Criminal Code.

Death Penalty

Indonesia to Resume Executions of Drug Convicts

The Jakarta Globe, 08-04-2016

Attorney General H.M. Prasetyo hinted on Friday (08/04) that executions of drug traffickers would resume, following the completion of his office's inventory of death-row inmates.

"Surely, we have never said the executions would cease. We will continue when the time is right," Prasetyo said in Jakarta. He added that the executions would most probably take place within a few months.

However, Prasetyo declined to mention the names of any death-row inmates who might be considered for execution this year, as the Attorney General's Office was still processing the details. As in previous executions, the AGO will likely prioritize drug convicts.

Indonesia executed 14 convicts last year, including nationals of Australia, Brazil, the Netherlands and Nigeria, by firing squad despite repeated pleas for mercy from foreign governments and international organizations and activists. Amid international outrage, Indonesia postponed other scheduled executions. Officials said it was so the government could focus on reviving the flagging economy.

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Indigenous rights

Development 'should take cultural values into account'

The Jakarta Post, 09-04-2016

The country's national development plan should incorporate efforts to preserve the cultural values of indigenous communities or risk seeing local wisdom and traditions die out, according to the Indonesian Science Institute (LIPI).

"Cultural values should be used to push regional development. We should not look at development solely from a modern perspective," LIPI chairman Iskandar Zulkarnain said on Friday.

Iskandar pointed to the case of the Merauke Integrated Food and Energy Estate (MIFEE) program in Papua, which was initiated in order to reach the country's food self-sufficiency target.

MIFEE, which is expected to cover a 1.6 million-hectare area, has proven to be a tough project to implement, particularly because of land issues, as the multi-billion project threatens conservation areas such as virgin forests and water catchment areas, as well as the habitat of indigenous peoples in Papua.

"Rice is being developed in Papua, even though the locals consume sago [as their main food staple]," Iskandar said.

Iskandar urged the government to conduct social studies before executing development projects. "Without understanding the culture of local communities, we could steer the development the wrong way," he said.

In a bid to boost economic growth, Indonesia is looking for a total of Rp 5.5 quadrillion in investment for infrastructure projects over the next five years,

according to the 2015-2019 National Mid-Term Development Plan (RPJMN) released by the National Development Planning Board (Bappenas).

However, development projects have often led to disputes between companies and local communities, especially over communal land inhabited by locals for generations.

Last August, President Joko "Jokowi" Widodo officiated the groundbreaking ceremony for the Batang power plant, which is being built on 226 ha of land in Central Java and is considered crucial to ensuring the electricity supply in Java.

However, local people, supported by environmental activists, have refused to give up their land, despite the government last year authorizing PLN to step in and enforce Law No. 2/2012 on land acquisition, which lets the government seize people's land for the sake of the public interest.

Papua

Papua bans alcohol consumption

The Jakarta Post, 31-03-2016

Alcohol distribution and production are officially prohibited in Papua province starting Thursday to save Papuans from the disastrous effects of alcohol consumption, the Papua governor has said.

The prohibition came into effect with the signing of an integrity pact on Thursday. The document was signed by Governor Lukas Enembe, regents and mayors in Papua, the Papua Provincial Council (DPRD), Papua Police, military command and district court chiefs during a coordinating meeting.

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The integrity pact would support the existing 2013 Provincial Regulations on alcohol prohibition to prevent alcohol distribution in Indonesia's easternmost province, Enembe said.

Several regional leaders expressed their support of the integrity pact, saying that alcohol had only brought issues such as domestic violence to Papua.

"Alcohol destroys Papuans. It could be the cause of their extinction," Enembe said on Thursday.

The integrity pact consists of several points, including prohibition of the production, distribution and sale of alcohol, cooperation with relevant offices in monitoring alcohol prohibition and implementation the 2013 Provincial Regulations.

Fien Yarangga, an activist from group Papuan Women (Perempuan Papua), applauded the provincial administration's move, saying that it showed that local officials cared about the issues.

"Women are most often the victims of alcohol consumption. They fall victim to domestic violence triggered by alcohol," Fien said.

The group is currently assisting three victims of alcohol-related violence. One of them is the wife of a Jayapura public official who was tortured by her drunk husband. The two other women were raped by drunk men.

The group urged the provincial administration to promote the regulation and integrity pact among the public to raise awareness.

According to Papua Police data, 86 people have died, 264 have been heavily injured and 839 suffered light injuries since 2013 in alcohol-related cases.

Two Papuan men charged for their activism

Amnesty International Urgent Action, 07-04-2016

A Papuan political activist has been detained as a result of his peaceful political activities. The activist has been charged with the "rebellion (makar)" and could face up to life imprisonment. Another Papuan political activist has also been charged with committing maltreatment and could face up to 32 months' imprisonment.

Fifteen political activists from the West Papuan National Committee (KNPB) and the Mimika People's Parliament (PRDM) were arrested on 5 April at a joint peaceful praying activity in the backyard of the GKII Jemaat Gologota Church in Utikini village, Kuala Kencana district, Papua province. After two days, the Mimika Resort Police released without any charges 13 of the 15 political activists. However, the head of KNPB Mimika branch, Steven Itlay, has been charged with "rebellion" under Article 106 of the Indonesian Criminal Code (KUHP), and could face up to life imprisonment. Another activist and member of KNPB, Jus Wenda, has been charged with maltreatment against the Head of Mimika Resort Police Force under Article 351(1) of the Criminal Code. Jus Wenda, who denies committing this violent act, could face up to 32 months' imprisonment. Both of them are being detained at the Mimika Resort Police Headquarters in Mimika district, Papua province.

The joint praying activity was a gathering in support of a peaceful Papuan pro-independence umbrella group, the United Liberation Movement for West Papua (ULMWP) to be accepted as a member of Melanesian Spearhead Group (MSG), a sub-Pacific intergovernmental organization. The police argued they allowed the praying activity, but that they had to disband the gathering by opening a warning fire because someone delivered political speech on the stage. The police forces also destroyed many banners and flags belonging to the KNPB group.

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Political developments

The Panama Papers on Indonesia

Tempo, 06-04-2016

The Panama Papers named 899 individuals and companies in Indonesia who have set up shell companies in a number of tax havens, consisting of 803 shareholders, 10 companies, 28 set up companies and 58 relevant parties.

Panama Papers is different to Offshore Leaks. The Offshore Leaks, released in 2013, named 2961 Indonesians who were registered in 23 companies. Panama documents leak is from Panama-based legal firm Mossack Fonseca.

Whereas Offshore Leaks data came from Singapore-based Portcullis TrustNet and British Virgin Island-based Commonwealth Trust Ltd. However, both Offshore Leaks and Panama Papers were released by the International Consortium of Investigative Journalists (ICIJ), a global network of investigative journalists.

The Panama Papers named, among others, oil tycoon Riza Chalid and the Attorney General's Office fugitive, Joko S. Tjandra. Listed below are other names referred to in Panama Papers:

Garibaldi "Boy" Thohir (Adaro): Harold Heights Group Ltd: "It's normal. I have a football club, I use an offshore SPV [self-load prepaid venture], hence my name is automatically being published."

Sandiaga Uno (Saratoga, Recapital): Aldia Enterprises, Attica Finance Ltd, and Ocean Blue Global Holdings Ltd (through Saratoga Equity Partners): "I do have a plan to disclose everything, as I am currently running for public office."

Fransiscus Welirang (Indofood): Azzorine Ltd (through BOS Trust Company Ltd): "Yes, it's true, it's my company. One dollar company."

Airlangga Hartanto (Functional Group Party/Golkar Politician): Buckley Development Corporation: "Buckley? I have yet to know about Buckley. I'll check it first."

Johnny Gerard Plate (NasDem Party Politician): Serenity Pacific Ltd: "Please stop the rumor mill or the tendentious and libelous information."

Hilmi Panigoro (Medco Group): Barton Capital Ltd: "I have many offshore companies for investment and risk management purposes. However, having checked [the report], Barton was not found in either Medco Group or my list."

Comments on the Panama Papers

Tempo, 08-04-2016

Deputy Chief of the Corruption Eradication Commission (KPK) Laode Muhammad Syarief has claimed that the KPK has similar data to those contained in Panama Papers. "It's similar," Laode told Tempo, Thursday, April 7, 2016.

Laode made the statement in response to Panama Papers leak early this week. The document names, among others, 899 individuals and companies in Indonesia who have shell companies in a number of safe haven countries. Of the number, 803 are shareholders, 10 companies, 28 set up companies, and 58 associates.

The KPK Deputy Chief Saut Situmorang said that the data owned by the anti-graft commission are photographs and recordings. "We will coordinate with both foreign and local agencies," he said.

At present, the anti-graft commission is studying the data. Should the names listed in the Panama Papers are indeed proven to have been involved in legal cases and scandals, Laode said, the KPK will take the information into account to develop the case.

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“Should [the names listed in Panama Papers] are connected to the cases handled by the KPK, it will be used as additional info if relevant,” Laode said.

According to Saut, tax avoidance is an apparent reason on why people have set up companies in Panama. However, the KPK could not simply make any connection to the matter without due care. Though, Saut said the in studying the data, the KPK will only work on corruption cases. “We have to be objective in figuring out if the people [named in Panama Papers] is harming the country,” he said.

The PPATK on the Panama Papers

Tempo, 07-04-2016

The Financial and Transaction Reports and Analysis Center (PPATK) will track Indonesians named in Panama Papers, who allegedly avoid paying tax by keeping their cash in tax haven countries. The PPATK will team up with Directorate General of Tax (DJP) to investigate the case.

“The PPATK will discuss it in the meeting of PPATK-DJP task force,” said the PPATK Deputy Chief Agus Santoso, Wednesday, April 6, 2016.

According to Agus, the PPATK has already started investigating a number of names, particularly in connection with findings of Suspicious Transaction Report (LTKM) and Analysis Result Report of the PPATK.

The leaked documents of a Panamanian legal firm, Mossack Fonseca, shows that roughly 800 Indonesians have set up offshore companies in tax haven countries. Offshore companies are often used to avoid domestic taxes payment.

Finance Minister Bambang Brodjonegoro has asked Director General of Tax Ken Dwijugasteady to match the data of Panama Papers with tax data from tax authorities of G-20 member states. Ken said that Panama Papers data will not be

made as a main reference. The more official data from tax authorities of G-20 member states will be used instead.

Ken is prepared to investigate any indication of tax fraud conducted by the names listed in Panama Papers. In wake of the publication, his office has obtained alternative reference to improve tax compliance. “In accordance with the law, we are also waiting for report from Indonesian people,” he said.

Coordinating Minister of Political, Legal and Security Affairs Luhut Binsar Pandjaitan admitted that he has only begun to study the data. “The government will investigate it,” Luhut said. Separately, Attorney General M. Prasetyo said he will communicate with Directorate General of Tax. “If any case arises, it will come to the attorney general’s office,” he said.