For the good of the people?

The challenges of governing ‘societal organisations’ pose difficult questions for Indonesian democracy

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Ethnic and religious militia groups now proliferate throughout Indonesia, and present a major challenge to the governing of civil society in the nascent democracy. The most notorious of these militias is the Islamic Defenders Front (FPI). FPI’s latest threats of violence caught the attention of the international media in May 2012 when the singer Lady Gaga’s sell-out Jakarta concert was cancelled after their vehement public protest against her planned performance. FPI leader, Habib Rizieq, threatened that his organisation would bring chaos to the streets of Jakarta should Lady Gaga bring her ‘Satan-worshipping’ antics to the capital city.

The Indonesian police seem little inclined to curb FPI’s violent overtures. However, recently others have taken a stronger stand against them. When four members of the FPI flew to Palangkaraya in Central Kalimantan on 11 February 2012 to open a new branch office, they were met by hundreds of armed Dayaks at Tjilik Riwut airport protesting their arrival in the province. Unable to disembark, they were forced to travel on to South Kalimantan. The protests heralded an upsurge of anti-FPI sentiment, with further demonstrations in Jakarta by the group ‘Indonesia free of the FPI’ and a declaration by the residents of Balikpapan in East Kalimantan that the FPI is not welcome in their city.

FPI may be the most infamous militia group in Indonesia, yet they are far from unique. Rather, they are symptomatic of a broader trend towards militarisation in Indonesian society that has accompanied growing democratisation and decentralisation. In attempting to bring militia groups to heel, the government’s response has been to look at strengthening repressive laws that are a legacy of the New Order. These proposed changes seem to go against the grain of democratic reform and present a broader danger to civil liberties and freedom of speech in Indonesia.

New Order legal legacies

The legal status that the majority of militia groups take in Indonesia is that of ‘societal organisation’, or ormas (organisasi kemasyarakatan). The law governing societal organisations, Law No. 8/1985, was originally passed by the New Order administration as part of its legal apparatus of repressive social control. Under this law all civil organisations had to be registered with the Ministry of Home Affairs. The ministry could summarily dissolve ormas without legal process or right of appeal if they were seen to be a threat to the nation, to promote communism or did not accept the state ideology of Pancasila as their abiding principle. Somewhat ironically, since the fall of the New Order, the legal category ‘ormas’ now serves to legitimise the presence of ethnic and religious militias throughout Indonesia. Once registered with the Ministry of Home Affairs as ‘societal organisations’, militias enjoy the status of a legally recognised entity.

At a parliamentary meeting convened to consider the issue of ormas in August 2010, Djoko Syanto, the former head of the Indonesian armed forces and Coordinating Minister for Political, Legal and Security Affairs, observed that the Ormas Law was out-

http://www.insideindonesia.org/index.php?view=article&catid=14%3Emponent&print=1&layout=default&page=&option=com_content&Itemid=2
dated and in need of revision. Following the brutal killing of members of Ahmadiyah in Cikeusik, in the province of Banten and attacks on churches in Temanggung in Central Java, President Susilo Bambang Yudhoyono has also called for a ban on any mass organisation involved in violence. In 2011 a special parliamentary committee, led by Abdul Malik Haramain of the National Awakening Party, was formed to investigate and recommend changes to the Ormas Law.

On the face of it, this would seem to be a perfectly reasonable course of action in the interest of civil society and the development of a rights-based democracy. Yet the proposed revisions to the Ormas Law are strongly opposed by a broad spectrum of societal groups, including militias, on the grounds that any such reforms present a serious threat to the civil liberties vital for democratic process in Indonesia.

Strange bedfellows

Those that oppose the proposed revisions to the Ormas Law include the Institute for Social and Economic Research, Education and Information (LP3ES) and the Indonesian Centre for Law and Policy Studies (PSHK). In July 2011, these two well-respected civil society organisations found themselves unlikely bedfellows with the FPI and an ethnic militia group, the Betawi Brotherhood Forum (FBR). These very different organisations had all been invited to a hearing at the National Parliament in Jakarta to express their opposition to the proposed revisions to current legislation.

The commentary from both LP3ES and PSHK drew attention to the confused nature of the law and the legal status of ormas. As LP3ES noted, the forms that civil society organisations take are many and varied, yet current legislation does not reflect this diversity. A central issue is that the laws that pertain to community organisations in Indonesia are ambiguous and outdated. Preceding New Order regulation of ormas, the Dutch colonial administration introduced legislation governing membership-based groups. These laws continue to be implemented today by the Ministry of Justice and Human Rights, but do not encompass organisations such as charitable foundations that have little or no membership. More recent legislation governing charitable foundations, in the form of Law No. 28/2004, was introduced specifically to deal with organisations without membership. Yet legislation remains confused in implementation, and many types of organisations that are classed as a ‘foundation’ profess large memberships.

Pointing out the shortfalls of the Ormas Law, both LP3ES and PSHK called for the law to be revoked rather than revised. In the views of both organisations, the legislation is an instrument of repressive social control that has no place in governing societal organisations in a democracy. LP3ES noted the need for a regulatory framework that dealt with the many different types of legal entities that are currently grouped under the rubric of ormas. PSHK stressed the importance of any such law coming under the jurisdiction of the Ministry of Justice, rather than the Ministry of Home Affairs, an arrangement that was a legacy of the New Order State’s security apparatus. They further suggested that the grounds on which the proposed revisions were deemed necessary – to rein in ormas prone to public acts of violence – were spurious. Why are new laws needed, they asked, when existing criminal law is sufficient to deal with violence committed by members of these groups?

Munarman, the media-savvy public voice of the FPI, similarly argued that the legal entity of ormas was a confused category at best. With respect to violence, he stated, organisations should not be held responsible for the actions of their members. Remonstrating theatrically, he suggested that if sanctions against ormas were to be implemented as per Law No. 8/1985, surely other dangerous philosophies such as liberalism should be added to the list of banned ideologies along with communism. The representatives from the FBR for their part emphasised that community-based organisations have a long history in Indonesia. From the inception of the Indonesian state, these groups had worked to preserve the general welfare and intellectual life of the nation, and been involved in promulgating the establishment of world order based on freedom, lasting peace and social justice! If the Ormas Law were to be amended, it should be to improve community empowerment in order to create an Indonesia that is more orderly, safe, prosperous, strong and fair. The FBR contingent gave voice to their particular perspective on community empowerment at the end of their presentation, shouting in unison the group’s slogan, ‘those that do not respect us will be smashed’.

The testimonies from these very different organisations illustrate the difficulties of governing societal groups in Indonesia. The Ormas Law clearly fails to distinguish between citizen militia groups such as the FBR and non-governmental organisations like LP3ES and PSHK. While the proposed changes to the Ormas Law do include the right for an organisation to legally challenge any injunction through the court system, they fail to address the Ormas Law’s status as the product of an authoritarian regime in which legislation served to maintain control. Instead of offering a regulatory framework for the governance of societal organisations, the Ormas Law focuses on the threat posed by violent citizen militias to public order, and strengthening legislation to curb the activities
of those groups prone to violence by banning them.

**Governing (very) civil militias**

Issues with confused and outdated legislation aside, it is extremely difficult to enforce any laws with respect to ormas. Senior police officers frequently complain about the lack of police jurisdiction over them. Indeed, the police have asked for ormas that have frequently committed public order offences, such as FPI, to be disbanded. Some serving officers now even go so far as to suggest these militias are not their responsibility because they do not have the legal authority to deal with them. Amongst the higher echelons of police management, nostalgia for the days in which the force had to be less concerned with individuals’ rights remains strong. As a police Grand Commissioner in Jakarta told us, ‘Ormas used to be opposed to civil society, now they use human rights to protect themselves. They are part of civil society.’ Such a view is not as outlandish at it may seem. Many of these groups claim the right to popular representation in justification of their existence. They have legal aid foundations, and provide some support for members in the absence of any social safety net provided by the state. They also enjoy the patronage of members of local and national government.

One of the larger militia groups in Jakarta, the Betawi Youth Communication Forum (FORKABI) is headed by the mayor of East Jakarta, Drs H. Murdhani, and counts many members of the political and military elite on its advisory board. The role that militias such as FORKABI and the FBR play in mobilising the ethnic vote of the Betawi community in Jakarta is widely recognised. Fauzi Bowo, the incumbent Governor of Jakarta, has openly declared his support of these militia groups in the hope of swaying the Betawi vote at the 2012 gubernatorial elections. At the swearing in of FORKABI’s new governing body in March 2011, Fauzi declared his hopes that FORKABI would become a motor in maintaining order and unity in Jakarta and, in so doing, strengthen the unity and integrity of the nation, the state and religion more widely in Indonesia. He proudly proclaimed that ‘FORKABI are an asset to Jakarta, and I am brave enough to say they are an asset to the nation.’ At FBR’s tenth birthday celebration in Jakarta in July 2011, Fauzi went so far to announce his hopes that FBR would help play a role in securing Jakarta during the forthcoming Southeast Asian Games.

Such obvious appeals to the members of ormas for the purposes of electioneering have helped to establish the legitimacy of citizen militias. At the same time, militia groups themselves are becomingly increasingly adept at establishing themselves in the political arena. FBR now has two sitting members in the House of Representatives and a further two in the regional parliament for Jakarta. However, the organisation has chosen not to align itself with one particular party. This has ensured broader political affiliation amongst the leadership and advisors of the organisation, and is a strategy that has been successfully employed by other militant ormas groups. In Bali, for example, Baladika Bali, currently the most popular of the ever-increasing number of local militia groups, has worked systematically to consolidate its representation in the island’s regional and provincial parliaments. Baladika now have...
three members from three different parties sitting in provincial office and a further eight members from four parties in the lower regional house. These groups have thus embraced the democratic process and continue to consolidate their authority by legitimising themselves through participation in formal politics.

**From oppression to democratic expression?**

Clearly, the challenge of legislating to manage the presence of militant ormas in Indonesia is no easy task. The illegal activities of some militia groups – their involvement in intimidation, violence, extortion and hate crimes – should not be tolerated. Yet curtailing their activities has to be balanced against the democratic right to politically organise and express one’s views in a pluralistic society. Given that current criminal legislation is sufficient to bring the perpetrators of such crimes to justice, the wisdom of pursuing the revision of the Ormas Bill – a confused and potentially unsuitable piece of legislation – is questionable.

The emphasis on law and order as the means of dealing with militia groups runs the risk of focusing on the symptoms of the problem, rather than the root causes of the popularity of citizen militias throughout Indonesia. The New Order made extensive use of civil militias as violent proxies in its attempts to intervene in and control society and it may be that the Indonesian government is missing an opportunity by not engaging with these contemporary militia groups more formally. Rather than insist on revising repressive legislation, it might well make use of militias to reach out to the marginalised members of society they represent. Formal engagement with these groups, for example, as part of community development initiatives could prove to be a more fruitful strategy in turning them from potentially violent sovereign entities into representative social movements. Cultivating democracy requires more than the implementation of rule of law alone. Actively encouraging the politics of the masses may be Indonesia’s best hope of dealing simultaneously with the problem of militias and deepening the roots of democratic process.

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