SPOTLIGHT ON R2P

Third Indonesian National Dialogue on the UN Framework of Analysis for Risk of Atrocities: A Tool for Prevention - 2018

The Asia Pacific Centre for the Responsibility to Protect (APR2P) and its partner organisation the Centre for Strategic and International Studies (CSIS) organised the third National Dialogue on R2P in Jakarta on 29 August 2018, which focused on the UN Framework of Analysis for Atrocity Crimes: A Tool for Prevention. The Dialogue is basically a continuation of previous dialogues held in Jakarta in August 2016 and August 2017 on the implementation of R2P in Indonesia. The third dialogue specifically aimed to introduce the UN Framework of Analysis, which was launched in the United Nations in 2014 by the UN Office of the Special Adviser on the Prevention of Genocide (OSAPG) and the Special Adviser on the Responsibility to Protect. The meeting also attempted to examine the utility of the Framework of Analysis in the Indonesian context specifically with regard to the relevant risk factors facing the country.

The dialogue was conducted starting with a plenary session in the morning on the UN Framework of Analysis and its relevance in containing incitement or hate speech against vulnerable groups, promoting respect for and tolerance of diversity, and addressing social discrimination. In the afternoon, a closed-door (by invitation only) discussion was held on the UN Framework of Analysis and its relevance to Indonesia's efforts in managing conflict and atrocities prevention, with a view towards generating specific recommendations or action plans for critical stakeholders to consider for implementation at the domestic level.

Some 46 local participants from government ministries, academic and think-tank organisations, civil society groups, and the media attended the dialogue. The public seminar in the morning was also attended by some representatives from the foreign embassies in Jakarta. In the opening session of the public seminar, Dr Philips J. Vermonte from CSIS and Dr Noel Morada from the APR2P both briefly highlighted the achievements and challenges in human rights promotion and protection in the region. Dr Vermonte added that the issue of risk factors for atrocities are very much relevant in Indonesia in light of the presidential election in 2019.

Public Seminar on Hate Speech and Incitement

In his keynote speech, Emeritus Professor Vitit Muntarbhorn from Chulalongkorn University's Faculty of Law, talked about hate speech as one of the critical risk factors leading to atrocities. He specifically elaborated on how the abuse of freedom of expression could potentially lead to committing atrocity crimes. For example, he said that while the expression "I hate them" in and of itself cannot be considered hate speech, the sentence "I hate them and they shall not live because they are maggots" is a dangerous speech act that can constitute a serious risk factor for committing atrocity crime. From an international law perspective, he also explained the limitations of the right to freedom of expression and the future actions that need to be taken to ensure that it is not abused. He argued that limitations on freedom of expression is required against hate speech, as regulated under the Universal Declaration on Human Rights, specifically under article 29(2). He also underscored the importance of education as well as cross-cultural and intra-religious understanding among the people to address the root causes of prejudices and abuse of freedom of speech.

The UN Framework of Analysis and Its Relevance to Indonesia

Dr Noel Morada from the APR2P introduced the UN Framework of Analysis for Atrocity Crimes: A Tool for Prevention in the second session of the public seminar. In his presentation, he underlined the fact that no society is immune from risk factors of atrocities. Therefore, a clear understanding of the conditions (or structural factors) as well as triggering factors that could lead to atrocities are important. He also pointed out that the dialogue on the UN Framework of Analysis is a good opportunity for participants to examine its utility in understanding and addressing the risk factors that are relevant to Indonesia.

A panel of prominent speakers from various sectors were invited to present their views on the UN Framework of Analysis. Moderated by Lina Alexandra from CSIS and research fellow at APR2P, the speakers include Dr Makarim Wibisono who served in the Indonesian Permanent Mission in New York and also former special rapporteur on the situation in the Palestine; Professor Dr Hafid Abbas from the State University of Jakarta and former commissioner of the Indonesian National Commission on Human Rights (2014-2015); and Mr. Rafendi Djamin, who was the the first Indonesian representative to AI-

CHR and is currently the Senior Adviser in the Human Rights Working Group (HRWG) based in Jakarta.

In his presentation, Dr Wibisono pointed to Indonesia's experience with past atrocity crimes, particularly under the New Order regime (1966-1998), which accordingly explains why there is a need for the country to embrace the R2P principle in order to prevent future atrocities from happening again. At the same time, he acknowledged that the implementation of R2P in Indonesia is still quite challenging because of the persistence of culture of impunity among the perpetrators of past human rights abuses. Even so, he believes that Indonesia has the national resilience to prevent future atrocities, which should be nurtured through the continuing support of various stakeholders, including the media sector as well as those from civil society groups.

For his part, Professor Abbas pointed out the persistence of economic inequality and good governance issues, which both could cause the rise of tensions between the majority and minority groups in Indonesian society. Accordingly, given Indonesia's strategic role in the region, it is imperative for Indonesia to manage well its internal problems and address the relevant risk factors in order for the country to contribute meaningfully to regional peace and stability.

Meanwhile, Mr Djamin expressed his concern over the lack of Indonesia's commitment to implement R2P despite its embrace of the principle back in 2005. He underscored the important role of the Ministry of Foreign Affairs in implementing principle at home. He also agreed with Dr Wibisono's point about the impunity problem in Indonesia as there are still many of the perpetrators of past atrocities who are still in power and have not been held accountable. Accordingly, he pointed out that the UN Framework of Analysis serves as a useful guide to examine and manage the relevant risk factors for atrocities facing Indonesia. However, he also emphasised the importance of taking into consideration the political, socio-cultural, and historical contexts when using the Framework.

Indonesia Risk Assessment

The closed-door session began with a presentation of the draft of the Indonesian risk assessment report written by Alif Satria, a research assistant in CSIS, and Lina Alexandra. The report, which will be published later by the APR2P identified at least nine risk factors that are relevant in the Indonesian context. This include the following: 1) armed conflict or other forms of instability; 2) serious violations of international human rights and humanitarian law; 3) weakness of state structure; 4) motives or incentives; 5) capacity to commit atrocity crimes; 6) absence of mitigating factors; 7) enabling circumstances or preparatory action; 8) triggering factors; and 9) intergroup tensions. In general, Indonesia is currently not facing any major internal conflicts as in the past; however, there are some issues that need serious attention from the government. Specifically, it should address the growing radicalism, terrorism and religious intolerance; unresolved human rights violations committed in the past; high rate of corruption among government officials and those from the law enforcement and judicial bodies; and hardening of political identities and/or ideological positions during election period.

The closed-door discussion on the relevant risks factors facing Indonesia was facilitated by Mr Djamin from HRWG. In his preliminary comments, he pointed to the need to clarify the difference between atrocities prevention and counter-terrorism as both efforts are underpinned by different doctrines. Specifically, he argued that excessive counter-terrorism measures can also lead to increasing risks for atrocities. He also pointed out that assessments and policy recommendations already proposed by local stakeholders should be utilised vis-à-vis the Framework of Analysis, and see how these can contribute to a better appreciation of the risk factors facing Indonesia. For example, the Indonesian Commission on Human Rights (Komnas HAM) has developed a mechanism to counter religious discrimination. At the regional level, despite all its limitation, ASEAN has issued the Declaration on Culture of Prevention under the ASEAN Socio-Cultural Pillar, which can be useful in preventing or containing violent extremism.

Among the highlights of the closed-door discussions were as follows:

Engaging domestic stakeholders in atrocity prevention dialogue

• The need to involve participants from the Indonesian parliament and also from the judiciary bodies in the dialogue on risk factors facing Indonesia as these are also key actors in implementing atrocities prevention. As well, mainstreaming R2P is an important priority as a large section of Indonesian society still lacks both the knowledge and understanding of the principle.

• Parliamentarians have an important role to play in the fight against extremism, such as undertaking fact-finding investigations into religious violence in the country. It is therefore important to build the capacity of legislators to understand how R2P can be implemented, especially by revitalising the role of parliament in addressing the issue of protecting religious freedom and promoting diversity.

Implementing R2P in Indonesia still faces enormous challenges ahead, including translating the concept into the local language. Indeed, there are no equivalent Indonesian terms for atrocity crimes, violent extremism, and radicalism. Accordingly, the Indonesian government is often reluctant to recognise these problems, partly because there is a lack of understanding of what constitutes atrocity crimes or its relevant risk factors. It is therefore important to continue engaging with the relevant government bodies through national dialogue on R2P and its implmentation. For its part, the Ministry of Foreign Affairs has taken certain initiatives, such as the establishment of inter-faith dialogue forum, which demonstrates the government's commitment to follow through with its support for the Human Rights Council Resolution 1618 in dealing with religious intolerance and discrimination.

Fake news, hate speech, and religious intolerance

• Stakeholders in Indonesia should start paying attention

to the dangers of the spread of fake news or hoax, which is relatively a new terminology that has not been incorporated into Indonesian laws. Specifically, social media plays a central role in the spread fake news/information or hoax. Based on the monitoring by a volunteer organisation against hoax, the highest number was recorded in 2017 was fake news/information related to ethnicity, race, and religion. So far, the Ministry of Communication and Information already has the Artificial Intelligence System (AIS) to monitor content related to radicalism and hate speech. However, concerns remain over the lack of curriculum on digital literacy, which is quite useful to help the society, especially the youth, to think critically in responding to false information or fake news.

- With regard to the linkage between social media and the spread of hate speech, one solution is to explore the use of technology to contain the risk related to atrocities. Specifically, developing technologies for fact-checking is one way of dealing with the use of fake news that could lead to incitement or hate speech. In this regard, it is necessary for Indonesia and ASEAN to consider adopting a comprehesive policy in regulating the use of cyberspace through appropriate legislation and enforcement.

Counter-terrorism, law enforcement, and community policing

- There is a need to examine the issue of counterterrorism activities and its implications for preventing atrocity crimes especially by government law enforcement agents. For example, it is important to examine the risks involved when police forces are dealing with terrorist suspects, which could lead to arbitrary arrest or even extrajudicial killings.

- Capacity building training for atrocities prevention is an important area that can help in community policing. For example, with regard to the role of Badan Pembinaan Keaman-

an dan Ketertiban Masyarakat (Babinkamtibmas) in preventing criminal acts, it should also include offenses related to religious intolerance and containing the escalation of such problem.

- For its part, the Indonesian Human Rights Commission (Komnas HAM) has conducted various training programs such as human rights education for all local police in Indonesia to address the problem of human rights violations commited by the national police. While these training programs are still limited to certain ranks of the police officers, the Commission hopes that the Indonesian National Police would be able to provide human rights education to all its units in the long run. Moreover, KOMNAS HAM has also published pocket-sized human rights materials for use by special units within the local police (Sabhara) in charge of maintaining public order, with the aim of providing technical guidance on how to deal with social conflicts, riots, rallies, etc.

The closed-door session concluded by taking into consideration the comments of Dr Makarim Wibisono who underscored that Indonesia actually has a strong commitment to democracy and human rights protection. In relation to R2P, the implementation of this principle in Indonesia certainly needs further discussion. Accordingly, he stressed the importance of creating domestic "alliances" in implementing R2P even as it still perceived by some domestic actors as a sensitive concept because it challenges the traditional understanding

of sovereignty and non-interference in the domestic affairs of states.

Recommendations

Based on the third national dialogue on R2P in Indonesia, there are a number of important steps that should be considered by domestic stakeholders, to wit:

1. Continue to engage relevant stakeholders in the country through dialogue and seminars on the relevant risk factors facing Indonesia. For the next dialogue, it is important to focus on how to prevent the spread of hate speech based on religious or ethnic sentiments before, during, and after the elections in 2019.

2. Engage in a dialogue with pertinent members of parliament (MPs) particularly those who are in the commission dealing with law and human rights affairs. In this regard, the offer from the local coordinator from the ASEAN Parliamentarians for Human Rights (APHR) to collaborate in organizing this dialogue should be considered in the next dialogue.

3. Explore opportunities in engaging with the judiciary, which is a key sector in promoting rule of law and accountability, as well as in preventing the future atrocity crimes.

4. Consider undertaking Indonesian risk assessments on a regular basis by domestic stakeholders. This can be done through collaborative efforts of local institutions in Indonesia

particularly in continually monitoring the relevant risk factors and produce a report with relevant policy recommendations on atrocities prevention.

5. Continue concerted efforts to push for appointing an Indonesian national focal point for R2P in order to further generate domestic support in mainstreaming the principle, which could then help deepen the commitment of local stakeholders in pursuing atrocity prevention actions at home.