

## CHAPTER I

### INTRODUCTION

#### A. Background

Today, the situation in Papua is getting scary for everyone living there, especially for the outsiders who reside and work in Papua. In the period of last eight years the shootings often occurred in the areas which are rich in natural resources, especially in the mountainous areas such as at the district of Lanny Jaya and Puncak Jaya.

The actions of armed separatist group have occurred since August 2008. As we know that those cases included flag rising, armed attack on the police post and ambushed a police patrol. Since the beginning of January 2009, there have been seven cases of attacks allegedly committed by the papua separatist group known as *Organisasi Papua Merdeka* (OPM)<sup>1</sup> in Tinggimambut region, Puncak Jaya, against the police station, as well as the military post. The last incident is a blocking action against the head of *Brimob*<sup>2</sup> corps group when they were supervises that area. In that incident, two officers of *Brimob* corps were dead. Then, in July 2009, for example, the media reported that there were activities that allegedly as OPM attacked the area of PT. Freeport in Tembagapura, Mimika.<sup>3</sup>

The Police failed to stop armed action that occurred more than three weeks, so that the incident attracted national attention. In the action, three

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<sup>1</sup> *OPM* is the name of separatist group in Papua.

<sup>2</sup> *Brimob* is the name of special corps in Indonesian Police.

<sup>3</sup> Fathoni Hakim, "Perjanjian keamanan", <http://lib.ui.ac.id>, accessed on August 1<sup>st</sup>, 2015 at 10 pm.

people were killed consisting of two employees of PT. Freeport and a Police officer. Indonesian National Army (TNI) Commander and the Head of Indonesian Police (POLRI) strongly suspected that there was OPM involvement in that action. Furthermore, the incident in Kampung Wembi, Keerom, on July 25, 2009. Lamberth Meukiki who was claimed as a Commander of OPM in Keerom region raising *Bintang Kejora* flag, and escorted by their armed groups. They questioned the legality of Papua becoming the part of Indonesia. Lambert action was successful, until he was pulling down the flag and runaway into the forest.<sup>4</sup>

The movement of armed groups that was suspected as OPM also extended to Serui areas, and also Yapen Waropen, the areas which were considered as the basis of NKRI supporters. Today it is estimated that there are armed groups that take action in Serui region with enough weapons. They have mortars and grenades. OPM in Serui area has power equal to Serui Police Patrol. In a moment, the police confiscate several evidences from this group, like four long barreled weapons, one pistol, eight rounds of SS1 weapon ammunition, three rounds of LE ammunition, three rounds of moser ammunition, and two rounds of revolver ammunition.<sup>5</sup>

Also the shooting on January 28<sup>th</sup>, 2011, that killed Sukarno, an officer of *Brimob* corps of Papua Local Police (*Kepolisian Daerah Papua*), and the offender robbed the arsenal weapon from the victim. And then, the shooting on October 24<sup>th</sup>, 2011 which killed two *Brimob* corps officers of POLRI and a

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<sup>4</sup> *Ibid*

<sup>5</sup> *Ibid*

*Brimob* corps officer of Papua Local Police, and then an attack to the Police Station in Pirime District on January 28<sup>th</sup> 2012 which killed three officers of Pirime Police Sector, also confiscation of guns on March 8<sup>th</sup> 2012 which killed Laode Alwi as a personnel of *TNI 753/Avt Pos Ilu*.<sup>6</sup>

In 2014, several attacks occurred including an attack against patrol police in Nugume Village at Pirime District on July 28<sup>th</sup> 2014 which caused eight police officers were shot and two of them died and also eight guns seized. Then on August 1<sup>st</sup> 2014, there was an attack to an officer of Battalion 756, Rois, at the corner of airport in Pirime district, and also other cases such as an attack against the group of Lanny Jaya Regency Secretary, Christian Sohilait, in Wuringgame village, Jiwili district, which resulted an officer *Brimob* Corps who are doing escort, Sukardi got a bullet splinters.<sup>7</sup>

Almost every month, there are shooting cases which are committed by this Papua separatist group, or Indonesian Police called as Armed Criminal Group (*Kelompok Kriminal Bersenjata*), and often people die because of them.

The latest case which hit the security forces occurred on January 1<sup>st</sup> 2015 at Utikini village at Mimika District, Papua Province. Armed Criminal Group (*KKB*) led by Ayub Waker killed two *Brimob* Corps officers, namely Riyan Hariansyah (22) and M Adpriadi (22). They were killed and died after

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<sup>6</sup> Liputan6, "Duo Rambo Penembak Polisi di Papua ditangkap", <http://news.liputan6.com/read/2124824/duo-rambo-penembak-polisi-di-papua-ditangkap>, accessed on 4<sup>th</sup> April, 2015 at 8.25 pm.

<sup>7</sup> Regional Kompas, "Polda Papua Tangkap 2 Pelaku Penembak Aparat di Lanny Jaya", <http://regional.kompas.com/read/2015/01/28/01533771/Polda.Papua.Tangkap.2.Pelaku.Penembak.Aparat.di.Lanny.Jaya>, accessed on April 8<sup>th</sup>, 2015 at 9.12 pm.

being shot. At that time, a security official of *PT. Freeport Indonesia*, Suko Miartono (34) also died horribly because of gunshot and jab wounds on his body.<sup>8</sup>

Shooting cases until the victim were killed was not disappear yet from the people memories, now more shootings committed by armed criminal groups (KKB) appear. The offender shot two civilians in Popome District, Lanny Jaya regency, Papua Province, Thursday (29/1) at around 07.30 am, until they had to get the intensive treatment at Tiom Hospital, and they were referred to the Hospital in Wamena, Papua. The head of Papua Police Region spokesman, Patrige Renwarin said, besides shooting the two civilians, that armed group also burned the excavator. The second victim of shooting is Gurik Murip (25). He suffered a gunshot in the right arm. Other victim is Markus (26), an employee of *PT. Nirvana*.<sup>9</sup>

It has widely been recognized that OPM is responsible for all attacks. Free Papua Organization was established in 1965 aiming of help and carrying out the overthrow of the current government stands in the provinces of Papua and West Papua, formerly called Irian Jaya, to be free and removed from Indonesia, and rejecting economic development and modernity.<sup>10</sup>

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<sup>8</sup> Antara News, “Oknum TNI Jual Amunisi”, <https://antaranews.com/2015/01/29/oknum-tni-jual-amunisi-nyawa-semakin-mudah-melayang>, accessed on April 10<sup>th</sup>, 2015 10.10 pm.

<sup>9</sup> *Ibid.*

<sup>10</sup> Gunawan, “OPM Sebuah Pemberontakan”, published on July 3<sup>rd</sup>, 2014, <https://cutatangun.wordpress.com/2014/07/03/organisasi-papua-merdeka-opm-sebuah-pemberontakan>, accessed on April 4<sup>th</sup>, 2015 at 8.30 pm.

The Free Papua Organization group often made attacks to the security forces (Indonesian Army and Police) and civil societies who support Indonesia Government.

Regardless of any reasons that underlying their actions, the OPM's actions are openly against the government and also disrupt the government in the regencies/cities in Papua. Therefore, the acts which committed by that group can be categorized as a form of separatism or rebellion that exactly violates the Indonesian Penal Code. But, there are some things that should be questioned about the existence of that group (OPM) who until today always create discomfort situations in the community with the attacks that they were committed to the security forces, government officials, and civil society. The shootings that occurred every month makes us wonder, where they get the weapon and ammunition they use in running their attacks from, and why the availability of their ammunition is abundant during armed conflict with Indonesian Army or Police.

## **B. Problem Statement**

From the explanations above, the problem has been formulated as follows:

1. What is the legal position of ammunition selling act to the separatist group according to Indonesian Criminal Law?
2. Can the punishment be aggravated upon the ammunition selling act committed by Indonesian Army and Police?

### **C. Objective of Research**

The intents and purposes of this research are:

1. To clarify the legal position and legal consequences upon the act of ammunition selling to the separatist group.
2. To be a lesson and special concern for Indonesian State Apparatus including Indonesian Army and Police officer to do not using state's facility arbitrarily.

### **D. Benefit of Research**

1. Theoretically

This research will give at least a clear description and also be a reference to everyone especially for the law students who want to know the legal position and the legal consequences upon the similar cases with the ammunition selling case toward the separatist group.

2. Practically

This research will give an insight/understanding to the officer of Indonesian National Army and Police in order to know clearly about the sentence consequences if they abused the equipment/facility belonging to the state, which of course Indonesian National Army and Police officer may use weapons facilities provided by the state to carry out its duties and functions as well as possible in accordance with what has mandated by the 1945 Indonesian Constitution, and the other benefit of this research is as well as providing education to the society

so that society can also indirectly play a role in overseeing or supervise the works of Indonesian Army and Police officer who served in the field.