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Rudiah Primariantari

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WOMEN, VIOLENCE, AND GANG RAPE IN INDONESIA

Rudiah Primariantari

I. INTRODUCTION

This paper focuses on the riot in the city of Jakarta in mid-May 1998 which involved the gang rape and sexual assault of Chinese women. It was the largest riot in Jakarta since the "Malari" affair in January 1974.[1] The riot in mid-May 1998 caused many countries to communicate protests to the Indonesian government through its embassies and consulates in Hong Kong, Beijing, Taiwan and New York. The riot spread quickly through Jakarta and surrounding areas. Shortly after the riot broke out, the Tim Relawan[2] [Team of Volunteers for Humanitarian Aid] began providing aid to victims of the riot and discovered that Chinese women had been raped during the riot. The government quickly blamed the poor and their socio-economic problems as the driving force of the riot. When the riot was over, the government officials said that the rioters were

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[1] Malari stands for the event of January 15, 1974. The students involved in this demonstration were protesting against Japanese aid to and investment in Indonesia. When the Japanese Prime Minister, Mr. Kakui Tanaka, was visiting Jakarta, a riot broke out and many buildings, cars and public facilities were burned. Later, strong evidence suggested that General Sumitro was behind this incident and supported the students involvement in the protest.

[2] The Tim Relawan is an independent, non-sectarian, non-partisan, pro-democracy humanity movement, based on love, truth and love of an open constitution, the nation and the fatherland. This team is comprised of several non-governmental organizations, including: Forum Demokrasi; Kalyanamitra; Suara Ibu Peduli; TPHKI; ELSAM; Solidaritas Perempuan; Pusat Pengembangan Pesantren dan Masyarakat; LBH-APIK; LBH Jakarta; PBHI; Representative of the Victims Family, Peace and Justice Commission of the Indonesian Bishop Conference (the Conference is also known as the "KWI"); Aliansi Jurnalis Independen; Forum Solidaritas Tim-Tim; Sanggar Anak Akar; Jaringan Kerja Budaya; and the Institute Social Jakarta. This team was formed as the result of the political violence which has occurred since July 27, 1996, followed by the riot in Situbondo (East Java), Tasikmalaya, Rengasdengklok (West Java), Banjarmasin (South Kalimantan), Sanggau Ledo (West Kalimantan) and Madura Island. The student movements which culminated on May 12, 1998 resulted in the deaths of four students who were shot by the military. Following these movements, there were incidents of sporadic mass violence in Jakarta on May 13-14, 1998. The Tim Relawan established a crisis-center for the victims which provided medical aid, logistic support, information, alternative actions for reformation and litigation services. It also provided a network and offices for complaints in several places in Jakarta and searched for, took care of, protected and helped the victims and eyewitness. Additionally, Tim Relawan gathered data, analyzed and publicized the events.

"perusuh," provocateurs, irresponsible people, Indonesian Communist Party descendants enacting revenge, and so on. Those accused of rioting were never exposed to the public; rather, the government randomly accused innocent people as the main actors in the riots.

Terrorizing society is not a new phenomenon in Indonesia; it began in the first quarter of the twentieth century under the Dutch East Indies colonial government. According to Takashi Shiraishi, Indonesian politics is characterized both by the *politik pergerakan* (politics of popular movement) and *politik pengawasan* (politics of control).[3] They are like two sides of the same coin.

The first part of this paper argues that the gang rapes that occurred during the riot of mid-May 1998 were not the result of racism or the economic gap between the Indonesian poor and the wealthy Chinese. Rather, the Chinese women were chosen as the target of gang rape to terrorize and create a climate of fear throughout Indonesian society. Rape is a strategy of political control. That strategy of political control is used in riots intended to undermine and decentralize the movements that resist the government. To understand this argument, it is necessary to look at the contemporary history of rioting in Indonesia in relation to the politics of popular movements and the politics of governmental control.

The second part of this paper examines the government's challenge to the Tim Relawan and other human rights activists. The government's aim was to turn public opinion against the validity and credibility of Tim Relawan's findings. The government denied and covered up what occurred during the riot, and also refused to investigate the alleged rapes and bring the perpetrators to justice. The Indonesian government does not consider raped women to be credible, and consequently, these women are not treated fairly.

II. GANG RAPE: POLITICAL CONTROL OF SOCIAL RESENTMENT

A. *General Historical Background*

1. *Popular Movements Against Colonial Rule*

The rise of popular movements against colonial rule in the Dutch East Indies began in 1911 when Sarekat (Dagang) Islam

[3] Telephone interview with Professor Takashi Shiraishi, Professor of History and Asian Studies at Cornell University and Professor of Southeast Asian Studies at Kyoto University, May 25, 1998.

("SI") was founded in Surakarta. The movement not only expressed itself through collective local protests, but also through modern political tools including newspapers and journals, rallies and meetings, trade unions and strikes, association parties, novels, songs, theaters and revolts.[4] The resistors expressed native solidarity, refusal to perform corvee labor (forced unpaid labor) and critical writing. These expressions were the hallmark of a new kind of movement that emerged in the Dutch East Indies. In less than a year the SI expanded; it established branches through out the entire islands of Java and Madura.[5] The emergence of Sarekat Islam and its political activities became a threat to the Dutch colonial regime; thus, in 1919, the Dutch colonial regime started establishing the Political Intelligence Service ("PID") whose main purpose was to control native political organizations.[6]

The tasks of the PID were to spy on and to control native activities, to intimidate people, to instill fear in the whole society, and to maintain *rust en orde* (tranquility and order). To accomplish its task, the government also hired private spies, known as preman, or thugs, to spy on political leaders' activities, provoke riots, and spread slander.[7] Takashi Siraishi points out that the PID was responsible for a riot that occurred during the Sekaten[8] feast in Surakarta in 1923. The PID and its proxies looted the belongings of the night market traders, threw Molotov cocktails, disseminated flyers, and set fire to homes and mosques. The PID's aim was not only to slander and provoke people involved in the riot, but also to blame people for these activities. The slander led to the capturing of local political activists.[9]

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4 TAKHASHI SHIRAIHSI, AN AGE IN MOTION: POPULAR RADICALISM IN JAVA, 1912-1926, 48-50 (1990).

5 *Id.* at 48.

6 Interview with Professor Takashi Shiraishi, *supra* note 3.

7 *Id.* The PID hired "paramilitary," "hitmen," and "land crocodiles" (paramilitary) such as "Sarekat Hijau" (the Green Association) in West Java. The PID cooperated with elite local staffs to mobilize paramilitary personnel. They hired "Sarekat Hijau" (the Green Association) to attack the office of "Sarekat Islam" (Islamic Association) in West Java.

8 Sekaten is a court festival celebrating the Prophet Muhammad's birthday. In this tradition, people come to the court to give respect for the celebration. After the Sekaten festivities are over, people remain for entertainment, to sell crafts and to prepare and purchase foods in the court's plaza for a month.

9 Interview with Professor Takashi Shiraishi, *supra* note 3. *See also* SHIRAISHI, *supra* note 4, at 275-276.

To instill fear throughout the society, the Kasunanan princess and high-ranking officials informed the people that Mr. Misbach (a leader of the movement) was a troublemaker and accused him of being the driving force behind the incident. The government's private spies also spread rumors that Mr. Misbach trained soldiers to commit acts of violence and sabotage.[10] In early October 1923, pamphlets bearing the symbol of the hammer and sickle were disseminated by unknown people. The pamphlets warned the people not to go to Sekaten festivities.[11] The pergerakan movement was, therefore, tainted and made into an illegitimate, criminal movement. This incident created a climate of fear in the entire society.

2. *Popular Movements Against Suharto's Regime*

Unlike Sukarno's Old Order, which was characterized by weak and unstable state administrations, Suharto's New Order, according to Benedict Anderson,

> is best understood as the resurrection of the state and its triumph vis-a-vis society and nation. The basis for this triumph was laid in the physical annihilation of the PKI and its allies, the suppression of popular movements, sweeping purges of the state apparatus, and the removal of President Sukarno as an effective political force-all achieved between October 1965 and April 1966.[12]

Under Suharto's New Order, the politics of control were expanded and developed in more sophisticated ways by establishing several intelligence services, such as: KOMKAPTIB [Operational Command for Restoration of Security and Order]; BAKIN [Board of Intelligence Coordination]; BIA [Armed Forces Intelligence Agency]; Police Detectives; and Sandiyudha-KOPASSUS [the Army of Special Forces]. These agencies, together with the army territorial organization, cover every region of the nation and control people's lives on both the national and community levels.[13] These institutions were designed to obtain secret information, to

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10 SHIRAISHI, *supra* note 4, at 275.

11 *Id.* at 275-276.

12 BENEDICT ANDERSON, LANGUAGE AND POWER: EXPLORING POLITICAL CULTURES IN INDONESIA, 109 (1990).

13 The Army territorial organizations are the Indonesian Armed Forces Headquarters ("MABES") at the national level, the Army Regional Command ("KODAM") at the provincal level, the Army Resort Command ("KOREM"), at the Karesidenan level, the Army District Command ("KODIM"), at the district level and the Army Subdistrict Command ("KORAMIL") at the subdistrict level.

support internal security and to counter any revolutionary movements.

Regardless of Suharto's strong and sophisticated security structure, movements and protests expressing disappointment in the government remained. Movements flourished in the mid-1970s when students protested Indonesian economic dependency on foreign aid and capital investment (by Japan).[14] The student protest of 1978 demanded a fair and democratic government.[15] This required that president Suharto resign along with his corrupt cabinet, and that the abuse of power and other government misconduct be eliminated. In the late 1980s, student movements and protests occurred in almost all major Indonesian cities. These movements focused on specific problems such as the land disputes between government bureaucrats and the people, the arrest or trial of student activists, the demand of minimum labor wages, and the violation of human rights. These movements did not pose a threat to Suharto's regime until mid-1994, when the student movements and opposition to the government broke out to protest the banning of the news magazines *Tempo, Detik* and *Editor*. It was the first time in the history of the press that youth, student activists, journalists and other members of the middle class joined together to rally on the streets against the government.[16] To suppress this government opposition, the military brutally tortured, abused, threatened and prosecuted the protesters.

With the banning of the news magazines, the student protests became an everyday occurrence. They protested the government's wrongdoing throughout the last three decades. Serial labor protests, organized and led by the Sarekat Buruh Sejahtera Indonesia [The Welfare Indonesian Union] and the Pusat Perjuangan Buruh Indonesia [Indonesian Labor Movement], occurred at almost all industrial centers on the islands of Java and Sumatra. The students' involvement in the movements intensified when the government engineered the ousting of Megawati Sukarnoputri, the legitimate leader of the Indonesian Democratic Party ("PDI"), in 1996. The government involvement in the PDI internal conflict culminated

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14 This movement was known as Peristiwa MALARI. Many student leaders were captured and incarcerated, however, many later collaborated with Suharto's regime.

15 A few student leaders were captured and prosecuted. This movement is known as the Gerakan Angkatan 1978 [Class of 1978 Movement].

16 *Tempo's* lawsuit against the government was granted by a lower court but annulled by the high court. This lawsuit was the first against Suharto's regime.

when they replaced Megawati Sukarnoputri with Soeryadi, a government puppet, as PDI leader. The government thought that under the leadership of Megawati Sukarnoputri, the PDI got more favor from the people in the general election than the government party, Golongan Karya [GOLKAR].[17] There was social unrest after the military, which represented Soeryadi's faction, brutally attacked the headquarters of the PDI on July 27, 1996. As the government took over the headquarters of the PDI, it drowned the largest social unrest in the city of Jakarta in the twenty years since the "Malari" affair. It was reported that many people were killed, abducted, disappeared, tortured, prosecuted and injured. Since the tragedy of July 27, 1996, the social and political situation has worsened. Numerous riots and student movements have occurred in various cities.

In 1997, the fall of the Indonesian currency generated a economic crisis that led to social and political crises. The so-called success of Indonesian economic development had become the sole justification of Suharto's repressive authoritarian regime to maintain the state's *rust en orde* for materializing national economic stability in the last thirty years. In other words, it was legitimate to suppress people as long as Indonesian economic development kept growing. Therefore, when the economic crisis occurred, the exercise of authoritarian power was seen as illegitimate; this resulted in various protests.

This momentum was used by students and activists to protest the government. Their protests grew louder when the Indonesian parliament re-elected President Suharto for his seventh term as president of Indonesia in March 1998. He had ruled Indonesia for more than thirty years with a repressive authoritarian power. The student movement grew massive and received more support from the people than ever before. In contrast, the government's power was undermined by the economic crisis. These movements protested not only short-term problems resulting from the crisis (such as the rise of the price of basic necessities, the price of gasoline, the price of electricity, and price of medicines), but also chronic problems (such as corruption, collusion, nepotism, human rights abuses, and abuse of power). They demanded Suharto step down

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[17] GOLKAR is the government ruler's party, with the name Sekretariat Bersama Golongan Karya [Joint Secretariat of Functional Groups], later called Golongan Karya (GOLKAR). This was the main electoral vehicle for the government under Suharto regime.

as well, because they believed that Suharto himself to be the problem.

Unlike the 1970s and 1980s, when the student protesters came primarily from the public (elite) universities, the student protesters on May 12, 1998 were from universities all over Jakarta and other places. The protestors came to the University of Trisaksti in Jakarta, to join in the anti-government demonstration. The regime ultimately recovered its control through military force, thus victimizing the students. The military used ruthless force to stop the protests, and snipers shot randomly into the crowd, killing four students. May 12, 1998 became known as the Tragedy Trisakti.[18]

B. *Some Specific Histories and Examples of Riots*

Until the Tragedy Trisakti, the pergerakan [the movement] was consistently organized against the *status quo* and government wrongdoings. Every movement clearly stated its objectives, who its leaders were, how it organized the protests and protesters, how large their spatial arena was, and what means the government used to stop or crush it.[19] In contrast, riots disadvantage these movements because riots do not have a clearly stated objective. Riots not only taint the political movement but also mark the genuineness of underclass people's protests and suffering. This same strategy was used by the Dutch government when the PID provoked

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[18] The following day thousands of students from various cities came to Jakarta and occupied the Gedung MPR [People Assembly Council] building to continue their protest against the government. This event caused President Suharto to resign from the presidency of Indonesia on May 21, 1998 (after two months of his seventh term as President Indonesia), after he had been in power for thirty-two years.

[19] In every student movement since the mid-1970s, the Indonesian military authority always questioned the pureness and genuineness of the movements from the third parties (referred to as communist elements, irresponsible people, traitors of the nation). Interview with Professor James Siegel, Ithaca, New York (November 27, 1998). According to Ulin, one of the student activists from the Faculty of Agriculture University of Sebelas Maret Surakarta ("UNS"), "in order to make a solid solidarity and to avoid the wrong target, we were always making coordination with our friends (activists) regarding the issue of our protests and what we stood for. To conduct the protest, at first, we voluntarily gave donations ("bantingan"). When the protests that we conducted were fine and we did protests often, we got bigger voluntarily donations from the volunteers. The NGOs and the women's trader in Pasar Gede (a traditional market in Surakarta) voluntarily gave the donations for our protests. The biggest donations we received were food, drinks and snacks. Usually they gave it to us when we were conducting the protests where we marched on the street." *See Untuk Biaya Aksi Selain dari LSM, Juga Bantingan. . .*, SUARA MERDEKA, December 5, 1998, at 1.

the riot to slander people, making it seem as though people did not have a political agenda.

It is difficult to determine whether a certain riot is a part of government political conspiracy or a part of a popular political movement based only on the expressions of the victims. Therefore, it is necessary to examine the time, event, place, issue under controversy, modus operandi, and political context of a riot. Prior to the riot in mid-May, there were several riots which, in the end, produced fear among the "unloyal" local people.[20] Due to the fact that these riots cannot be separated from one another, it is important to know the particular riot and details of the events, to understand how the politics of control are relevant in making the case of gang rape. For instance, discussed below are the riots in Situbondo and Banjarmasin, in which ethnic, racial and religious issues were used by the government as a trigger and justification of the riots. By understanding those riots, it can be seen that the government used gang rape as a strategy of political control to maintain power.

1. *The Situbondo Riot*

Situbondo is a small city located at the northern coast of East Java. It is known as the city of Santri, or the city of Moslem students, because three famous traditional Moslem schools *(Salafiyah As'syafiiyah,*[21] *Mamba'ul Hikam,* and *Walisongo)* are located there. This city is inhabited by mostly the Islamic organization members of Nahdlatul Ulama ("NU") [the Islamic Scholar Party] who usually are also the members of the Partai Persatuan Pembangunan ("PPP") [Unity Development Party]. Besides Moslems, Christians and Catholics also reside in the town. The vote of the Islamic Party, or PPP, traditionally dominated in the last three general elections. In October of 1996, rioters in Situbondo burned churches and priests. It was the first time a riot occurred in the town, and appeared to be a result of religious conflict between Moslems, Christians and ethnic Chinese. This happened only nine

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20 The riots that occurred prior to the riot in Jakarta on May 13-14 1998 were: Purwakarta (October 31-November 2, 1995); Pekalongan (November 24, 1995); Situbondo (October 10, 1996); Tasik Malaya (December 26, 1996) Sanggau Ledo (December 30-January 2, 1997); Rengasdengklok (January 31, 1997); Banjarmasin (May 23, 1997). HAIRUS SALIM AND ANDI ACHDIAN, INDONESIAN LEGAL AID FOUNDATION, AMUK BANJARMASIN, 7 (1997).

21 This school was founded by K.H. As'ad Syamsul Arifin of Nahdlatul Ulama [Revival of the Religious Scholars], a traditionalist Islamic organization founded in 1926.

months after Mr. Abdurrahman Wahid was re-elected as the Nahdlatul Ulama leader, which Suharto strongly opposed.

According to the Fact Finding Investigation Team of the Situbondo incident,[22] the riot was triggered by the trial of Mr. Saleh, a mosque caretaker who was accused of insulting Islam. When the prosecutor sentenced Mr. Saleh to five years in prison, the audience in the court room and the mass of people outside thought that the prosecution was far too lenient. They insisted that Mr. Saleh should be given a death sentence. The masses shouted "kill Saleh, kill Saleh!" Religious sentiment was stressed by rumors that the attorneys in charge were Christian, and therefore prosecuted Mr. Saleh lightly. Unknown people[23] suddenly began throwing stones at the police and the army district troops guarding the trial. Chaos ensued. The angry masses moved toward the court building and burnt several cars, motorcycles and the prosecutor's building. Then, unknown people within the masses shouted that "Saleh is running away to the church of Gereja Bukit Sion," which is about five hundred meters from the court house. The shouting led the masses marching toward to the church, which was actually already smoky when the masses were on their way there.

The masses headed toward the Church of Gereja Bukit Sion, carrying gasoline with which to set fire to the church. Thousands of people who were not satisfied with their actions tried to find another target.[24] They continued to burn the churches, the Catholic schools and the Christian schools. Nearby, angry groups of unknown people provoked and encouraged high school students to burn churches. In this agitated crowd, one of the provocateurs yelled in Javanese[25] that "If you are Moslem students, follow us to burn the churches." The students, however, were not provoked and did not burn churches. Later, student said he did not know

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22 This team was formed by the Ansor of East Java (Nahdlatul Ulama's young men organization of East Java). The team members included the Situbondo Nahdlatul Ulama leaders (Kyai), a public school teacher, Non-Government Organizations, Situbondo Church Council (GPPS), an attorney who represents police officers, a journalist, and several eyewitnesses. *See* Buku Putih Kerusuhan Situbondo [The White Book of Situbondo Riot] (October 1996) (unpublished manuscript, on file with the Pergerakan Mahasiswa Islam Indonesia [Indonesian Islamic Students Movement]) [hereinafter The White Book].

23 Unknown people are unknown to the local society, as identified by their foreign accents.

24 M. Husni Thamrin, Budi Nugroho, dan Gita F. Lingga, *Insiden Pembakaran di Situbondo*, D&R, October 19, 1996, at 11-15.

25 This is also strange, because most Situbondo's residents are Madurese, and therefore they speak Madurese.

where the core masses came from, stating, "none of them I am acquainted with." After the masses set fire to the churches and schools, they boarded three trucks parked near the crowd and were transported east toward Asembagus. Some of the unknown crowd members remained in Situbondo to continue burning other churches and schools.[26] These masses only needed three hours to set fire to the Catholic churches, the Christian schools and the Catholic and the Christian orphanages.[27] Several eyewitnesses indicated that the group of unknown people who provoked the violence did not speak the local accent.[28] This strategy is similar to that employed by the PID to provoke the riots in the Dutch colonial era.

The incident not only puzzled Situbondo residents, but also caused them to grow fearful and anxious. Additionally. they felt controlled by police and guards because several individuals were randomly captured by the army after the incident. The army troops arrived in the town at 4:00 P.M. (or about five and half hours after the riot started), although the drive from their stations to Situbondo only takes about two hours. The majority of the local people who were captured were innocent, ordinary people, or members of the NU. They were brutally tortured by the security staff for admitting that they were involved in the riot.[29] Fifty-four people were prosecuted; however, most of them were spontaneous rioters provoked by the unknown people. Since everything was so spontaneous, none of the local people involved in the riots could identify any one of these unknown outsiders, nor could the well-trained police or military intelligence.[30]

During the investigation, the army district staff (KODIM) tortured the accused. Most of the detainees who had signed their tes-

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26 *See* M. Husni Thamrin, Budi Nugroho, dan Gita F. Lingga, *supra* note 24.

27 *See* The White Book, *supra* note 22, at 29.

28 *See id.* at 41. There were three groups of the outsiders: the first group were muscular men with black pants and shoes, red ribbons tied around their heads, some without shirts and some with black T-shirts, and some had painted blue color on their faces. *Id.* This group initiated the violence. *Id.* The second group were motor cyclists with license plates from the neighboring city (the license plate for Situbondo area is P, the motor cyclists license' plate was N). *Id.* This group provoked people to join the crowd. *Id.* The third group were criminals who made further damage and collected things for themselves. *Id.* This is based on the eyewitnesses and analysis of findings by the Fact Finding Team of Ansor Youth Movement of East Java. *See id.*

29 *See id.*

30 *See* 1996: TAHUN KEKERASAN POTRET PELANGGARAN HAM DI INDONESIA 74-75 (A. Made Tony Supriatma ed., 1997)

timony in front of army district interrogators were found innocent by the police. The detainees told police that they signed their testimony because of unbearable torture by the army district staff. Many of the local people who went on trial received light sentences because of lack of evidence.[31]

Oddly enough, this incident was not reported by the news media the following day. It did, however, appear in *Surabaya Post* on October 12, 1996, with the headline *Situasi Situbondo Kembali Normal* [Situbondo Situation Back to Normal].[32] On that same day, Suharto's press secretary, Mr. Moerdiono, during his press briefing in Jakarta, said that the Situbondo riot involved two to three thousand people and resulted from their anger at the prosecution of Mr. Saleh. The following day, the Governor of East Java, Mr. Basofi Sudirman, held a press conference in which he stated that the driving force of the incident in Situbondo was purely Suku, Agama, dan Ras ("SARA") [an ethnic, religious, and racial conflict].[33] General Major Imam Utomo, the chief of Province District Army Commander, disagreed with the Governor and said the Situbondo incident was only ordinary criminal activity. In contrast to all of the government elite staffs' declarations, Abdurrahman Wahid, known as Gus Dur, the national leader of NU, said the government elite staffs accused him of being dalang [a puppet master], suggesting that he was the real target of the riot because many NU members were involved.[34] The riot and subsequent capture and torture generated fear and the feeling of helplessness. People became passive and destabilized.

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31 *See* The White Book, *supra* note 22, at 37-38.

32 *See Situasi Situbondo Kembali Normal* [*Situbondo Situation Back to Normal*], SURABAYA POST, October 12, 1996, at 1. Surabaya Post is the daily newspaper published in Surabaya, which is about one hundred thirty miles from Situbondo. It began to cover the news on October 12, 1996. *See also* 1996: TAHUN KEKERASAN POTRET PELANGGARAN HAM DI INDONESIA, *supra* note 30, at 66-67.

33 However, according to a spokesperson of the Catholic Church in Malang Henrycus Supriyanto, the relationship between religious groups in Situbondo is quite good; they never have religious conflicts among themselves. He added that "It [religious conflict] has never happened before. We all were surprised when it happened. It can be metaphorically said, there is no wind, neither cloud, but suddenly there is a heavy rain." *See* 1996: TAHUN KEKERASAN POTRET PELANGGARAN HAM DI INDONESIA, *supra* note 30, at 66-67.

34 1996: TAHUN KEKERASAN POTRET PELANGGARAN HAM DI INDONESIA, *supra* note 30, at 67.

2. *The Banjarmasin Riot*

The Banjarmasin[35] riot occurred on May 23 1997.[36] It was started by a security guard of Golongan Karya ("GOLKAR") [the Functional Group], who intentionally disturbed the Moslem's Friday Prayer. The worshipers were mostly members of the PPP. This incident occurred prior to the Golongan Karya final campaign rally. A guard known as a preman controlled the security at "Plaza Mitra" shopping center. He carried weaponry with which to attack the worshipers. In response to this, the worshipers attacked the security guards of GOLKAR, and then the violence broke out.[37] According to several eyewitnesses, the masses destroyed many government buildings, shopping centers, and churches. These masses consisted of three groups: in the first group were young people aged twelve to seventeen who carried stones; in the second group were youth in their twenties; and the third group consisted of older adults who carried firearms. In the middle of the groups one man wore a neat suit and pants like an ustaz [Islamic priest] and gave orders. As characteristic of this pattern, the people suspected that this was an organized incident.[38]

Unlike in Situbondo, this riot could not be controlled by local police or by the military national guard. An eyewitness said that this tragedy occurred almost instantaneously. Many people were injured, burnt, tortured and killed.[39] To prevent political implications, the members of the government ruling party, GOLKAR, the Governor, the chief of Army Regional Commander, and the local leaders, agreed to call all groups of people, including the innocent, "perusuh," or trouble makers. The label "perusuh" manipulated Indonesian society into believing that the riot in Banjarmasin had

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35 Banjarmasin is the capital city of South Kalimantan Province. See Salim and Achdian, *supra* note 20, at 22. Since the political restructurization of the New Order, the residents of Banjarmasin mostly support the Partai Persatuan Pembangunan-PPP [Unity Development Party]. *Id.*

36 It occurred a week prior to the general election held on May 30, 1997. *Id.* The riot in Banjarmasin happened as a part of serial general election riots, which also occurred in Pekalongan, Pasuruan and Jakarta. *Id.* at 2.

37 *See id.* at 42-45.

38 *Id.* at 59-60.

39 *Id.* at 4. According to government reports one hundred twenty-three people died, one church was destroyed, ten of them were seriously damaged, one hundred fifty-one houses were burned, as well as: one hundred forty-four stores, three business centers, two groceries, five bank offices, four government offices, one theater, three schools, one nursing home, one drug store, thirty-six cars, and thirty-four motorcycles. This data does not include the people who were missing, shot, tortured and disappeared. *Id.*

nothing to do with the rivalry between the PPP and GOLKAR.[40] The capturing of so called suspects started at 9:00 PM and lasted only until midnight. About one hundred-six people were captured. Most of them were local residents who wanted to see the event up close. They were caught and put onto military trucks then transported to headquarters.[41] According to one of the eyewitnesses who visited the military detention on May 28, 1997, said these so called trouble makers were mostly bruised, wounded, swollen, and severely beaten.[42] What remained the same was the climate of fear produced against civilians in the aftermath of the riot.

The generalization of all people involved in the riot as "perusuh," included people who died or disappeared, and these people were therefore considered tainted in the eyes of the Banjarmasin residents. This mark stigmatized the family members of victims and made them afraid to report the loss of their family or belongings.[43] This is what the Suharto regime called "shock therapy," directed not at the criminal, but used to destabilize the movement, to create self-policing of the individual's mind, to make people obedient, and to "cure" revolution.[44] It is a kind of state domination and repression used to regain social control.

3. *The Jarkata Riots*

Following the constant waves of student movements which culminated with the Trisakti tragedy were bursts of sporadic mass violence in the city of Jakarta on May 13 and 14, beginning with looting, arson, destruction, and other violence. Many buildings, malls, public facilities, homes, cars and other vehicles were burnt. Many people were reported missing, burned, dead or injured. The Tim Relawan conducted an investigation on June 9, 1998, and con-

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40 As a result of their agreement, there was no contradictory opinion about the nature of the riot as there was with the Situbondo riot. *See id.* at 22-23. Since the political restructuring of the New Order, the party affiliation of the Banjarmasin residents is mostly to the Partai Persatuan Pembangunan [Unity Development Party]. In the general election in 1977 and 1982, Partai Persatuan Pembangunan dominated the vote. The residents perception of Partai Persatuan Pembangunan is that it is linked with Islam, which increased the vote for Partai Persatuan Pembangunan. *Id.*

41 One of the victim's mothers testified that her daughter never came back home after the riot. The information she received was that while her daughter was on her way to buy rice, the guards attacked her, abused her and transported her out of town. *See id.* at 73.

42 *See id.*

43 *See id.* at 77.

44 JAMES T. SIEGEL, A NEW CRIMINAL TYPE IN JAKARTA: COUNTER-REVOLUTION TODAY 110 (1998).

cluded that 2,224 people were dead (mostly by burning), ninety-one injured, and thirty-one missing.[45]

This riot developed quickly and covered a very large portion of Jakarta. According to James Siegel, this riot spread throughout most of Jakarta within two hours.[46] One must realize that ordinary people do not have the speed and capability to destroy the entire city of Jakarta in such a short period of time. This riot occurred after constant student protests demanding the resignation of Suharto, who had been re-elected by the People Representative Assembly ("MPR"). The student movements not only challenged the re-election of Suharto for his seventh term, but also challenged the legitimation of the MPR, whose members were elected undemocratically in 1997. Furthermore, the movements also demanded that the Armed Forces of the Republic of Indonesia ("ABRI") withdraw from social and political involvement and stop using brutal measures against government opposition. In addition, the ABRI had been scrutinized by the International Human Rights Commission for its involvement in human rights violations. In sum, the legitimacy of the Suharto regime was weakened both internationally and domestically. The Trisakti tragedy made the government illegitimate in the eyes of the people, and the Indonesian military realized it.

C. *Gang Rape as a Strategy of Political Control*

The *modus operandi* of the riot in Jakarta was similar to the *modus operandi* of the riots in Situbondo and Banjarmasin. The riots begin with a mass gathering. This is followed by trained, unknown provocateurs encouraging the crowd to loot shopping malls and business centers.[47] Besides the Situbondo and the Banjarmasin riots, many other riots[48] can be labeled as SARA ri-

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[45] *See* Tim Relawan, Dokumentasi Awal No, 3. Perkosaan Massal dalam Rentetan Kerusuhan: Puncak Kebiadaban dalam Kehidupan Bangsa 8 (July 13, 1998) (unpublished manuscript, on file with author) [Hereinafter Tim Relewan Manuscript].

[46] Interview with Professor James Siegel, *supra* note 19.

[47] Prior to the riot, rumors that a large demonstration would occur in Banjarmasin had spread throughout the entire city of Banjarmasin. The rumors said that masses from the outside city would head toward Banjarmasin to conduct a big protest and demonstration. The people in Banjarmasin did not really know the mechanism and the network through which the rumors about riot could be spread through the entire city. They also claimed they did not really know who spread the rumors. *See* SALIM AND ACHDIAN, *supra* note 20, at 59-60. Similar riots occurred in several cities, prior to the riot in Jakarta in mid-May. *See id* at 7.

[48] *See id.*

ots. None of these, however, used the strategy of gang rape. According to James Siegel, the gang rape that took place in the midst of the riot in Jakarta was unprecedented in the history of Indonesian rioting.[49]

The riots in Jakarta developed in a chaotic situation. The groups of unknown people started to attack the Chinese residential complexes by looting, ransacking and raping Chinese women. On May 13, 1998, on Daan Mogot street in Western Jakarta, twenty unknown people came into Mr. Yanto's house (the pseudonym of a victim's father) at night. They ransacked Mr. Yanto's mechanic shop, which was attached to his main house. Mr. Yanto and his family were shocked, and in their confusion tried to escape. When Mr. Yanto and his wife ran out of their house, however, they saw that their daughter, Ms. Desy (the pseudonym of the victim), was trapped. The unknown people forced Ms. Desy to undress and then raped her one after another.[50]

When interviewed by *Gatra* in the office of the Tim Relawan after the riot, Ms. Mirna (pseudonym of one of the Yanto's relatives) stated that the unknown people were well organized and had an efficient division of tasks. Some of them destroyed the Yanto's belongings, some of them ransacked, and some of them pulled Ms. Desy down and raped her. After they brutally attacked Mr. Yanto and his family, they left immediately.[51] Another eyewitness whose relatives were raped and killed by a group of unknown people testified to the Tim Relawan as follows:

> a group of unknown people came in the ruko [the house and shop attached], they ransacked her belongings. Some of the unknown people forced R (initial name) to undress. They forced R's two younger sisters to watch them raping their older sister. After they raped her, the rapists dropped the R's two younger sisters onto the lower floor which was burning already. The two sisters died instantly. However, R could escape from them because someone helped her out.[52]

This pattern of provoking, looting and arson, followed by sexual assault, gang rape and other violence allowed the perpetrators to

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49 *See* Interview with Professor James Siegel, *supra* note 19. The same idea is also proposed by Professor Benedict Anderson, Professor of International Studies at Cornell University, taking part in an informal discussion.

50 *Bukan James Bond Dalam Film Holywood*, GATRA, August, 1998, at 68-75.

51 *Id.*

52 The testimony of one of the eyewitnesses in Muara Angke, Jakarta, May 14, 1998. *See* Tim Relewan Manuscript, *supra* note 45.

construct an alibi and to control people. The identities of the provocateurs and rapists are still unknown. According to Tim Relawan, within two days of the riot, women were gang raped throughout the entire regions of West-Jakarta, North-Jakarta, Central-Jakarta, South-Jakarta, East-Jakarta, and surrounding areas. The cases of gang rape were concentrated mostly in West-Jakarta, where Chinese businesses are located.[53]

Mr. Marzuki Darusman, the chief of the Joint Fact Finding Team ("TGPF"), said that the looting was initiated by a group of people (provocateurs) in the midst of the crowd. These provocateurs came from an outside area. At first, they provoked the masses to loot, burn and destroy the traffic signs. In several places, the riot ended with the burning of buildings. The group of provocateurs were not local residents, but were people from outside the city. They were trained; some wore incomplete high school uniforms, while others had beards and wore complete high school uniforms. Their appearance was neat. Some came with walkie talkies, Molotov cocktails, stones and big iron sticks. They themselves did not ransack, but soon after the burning, ransacking, and looting began, they left the location.[54]

The rioters and the rapists attacked Chinese women because the Suharto regime granted economic privilege to Indonesian-Chinese (who control about 70% of the Indonesian economy) and because they were not permitted any political rights. Therefore, the position of Indonesian-Chinese women, both socially and politically, was very vulnerable. As a result of their economic privilege, the eight million[55] Indonesian-Chinese people are able to rely entirely on the government for support and protection, and have a strong connection with the authorities. At the same time, the Indonesian-Chinese are politically inseparable from the political elite. Under these circumstances, the government utilized the Indonesian-Chinese position in two ways: as an economic machine during the normal situation, and as a government seal against any social resentment toward the government. Benedict Anderson points out that under Suharto's leadership, Chinese culture was eliminated, Chinese schools were abolished, Chinese-language publications

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53 *Id.*

54 *Marzuki: Pemerkosaan Itu Ada,* JAWA POS, September 25, 1998 at 1.

55 The population of the Indonesian-Chinese in Indonesia in 1981 was estimated at 3% of the total population (175 million). Leo Suryadinata, *Ethnic Chinese in Southeast Asia: Problem and Prospects*, J. INT'L AFF. 41, 1 (1987).

were banned, and the neutral word "Tionghoa" was officially replaced by the derogatory racist word "Cina." This strategy was a part of the central element of Suharto's leadership.[56] At the same time, the riot itself is always used as a fear-producing machine. Interestingly, James Siegel points out that "Suharto claimed that criminals themselves brought this about with the fear they created."[57]

Instead of investigating further, whenever a riot occurs the government immediately concludes that the driving forces of the riots are ethnic, religious, racial conflict (SARA), or economic conflicts. Indeed, president B.J. Habibie explained to the Hong Kong daily newspaper *Sunday Morning* that the riot in mid-May 1998 occurred because of the economic and social situation.[58] Government officials hide the political motive of the riots by declaring that the riot occurred because of SARA, as a response to economic crisis or as a result of criminal behavior. The government, therefore, places the blame on the ordinary and the poor. It does not address the real causes of the riots, and does not prosecute the responsible parties, but rather helps and protects the perpetrators.

In fact, the investigation conducted by the Tim Relawan showed that during the mid-May riots, the victims of the gang rape survived because these poor, ordinary people helped them and took care of middle-class women. In one case, a victim escaped from gang rape because local people protected her when they saw she was in danger. "[W]hile riding their motorcycles, four men yelled to separate the women and bring them to the school building. The victim could escape because kampong [local] people were helping her."[59] Thus, there is no rational connection between economic conditions and gang rape in the city of Jakarta,[60] even

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56 Benedict Anderson, *Old State, New Society: Indonesia's New Order in Comparative Historical Perspective, in* LANGUAGE AND POWER EXPLORING POLITICAL CULTURES IN INDONESIA 115-16 (1990).

57 SIEGEL, *supra* note 44, at 109.

58 *Habibie: Kerusushan Bukan Karena Sentiment Ras,* Suara Merdeka, August 29, 1998, at 1.

59 Tim Relawan Manuscript, *supra* note 45.

60 In 1912, native Indonesians protested against the ethnic Chinese in Surakarta, not because the poor wanted to attack wealthy Chinese, but rather because of the trade competition between the "pribumi" (local) merchants and Chinese merchants. Both the pribumi and Chinese operated the batik business in Surakarta. The progressive organization Sarekat Islam (Islamic Association) organized the masses to boycott against Chinese merchants who engaged in unfair commercial practice in the batik business. *See* SHIRAISHI, *supra* note 4, at 46. A similar incident also occurred in 1918 in Kudus in the kretek [ciga-

though this explanation of economic crisis was used by president B.J. Habibie to justify the incident.[61]

After the riot started, it was difficult to identify who the real rioters were and who were just ikutan saja [wagon jumpers], because the provocateurs used the strategy of provocation to slander people involved in riots. The consequence of this situation was that the millions of Jakartans who normally pack public transportation were suddenly afraid to go out, and were left stranded in their office buildings. The situation horrified many. This was one manner in which the mid-May riot worked to terrorize people.

The victims of gang rape not only suffered physically but also emotionally. They were filled with shame and felt demoralized. The rapists were brutal, and killed many of their victims. Violence was used as a public spectacle and women were considered tainted by society. As Maria Lugones points out, the sexual aspect of this violence is important in making it such a powerful tool of domination, particularly in the case of people resisting military regimes or tyrannical governments.[62] An eyewitness in Muara Angke said she found several dead women displayed on the side of the street. She said:

> I saw several undressed female corpses their faces covered by papers. Those women were just raped, a lot of dried blood stains and flies on their vaginas. After I helped other two women victims who looked for an alternative way to get back to the main street, I went home, on the way back I passed the same way. When I passed "Cengkareng" intersection I did not see the women corpses anymore. The women naked corpses were just gone. Who took care of them?[63]

The rapists displayed the victims as a public spectacle to send a message that physical sanctions can befall anyone. This kind of message is an effective way to terrorize and subjugate the popula-

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rette] industry, between Nitisemito (an Indonesian producer) and Noyorono (an Indonesian-Chinese producer). *See* LANCE CASTLES, RELIGION, POLITICS, AND ECONOMIC BEHAVIOR IN JAVA: THE KUDUS CIGARETTE INDUSTRY 86 (1967).

61 As reported by the Tim Relawan many pribumi [native] people helped the victims. *See* Tim Relawan Manuscript, *supra* note 45.

62 Interview with Professor Maria Lugones, a professor at the State University of New York at Binghamton and Escuela Popular Nortena, Binghamton, New York (June 16, 1998).

63 Tim Relawan Manuscript, *supra* note 45.

tion.[64] Soon after this incident, rumors were spread to increase the fear, distress and anxiety among the population. Just as with previous riots, afterwards people became passive and women felt powerless and afraid they would be subjected to similar violence at any time.

The rapist is not only acting against the woman's will, but also ruins the woman's life.[65] He puts the woman in a losing position, because the society where the woman lives perceives that women who have been raped are not clean anymore.[66] Raped women do not feel free go to the public and decry what has happened to them because they are filled with a sense of shame and worthlessness.[67] The same idea was also proposed by James Siegel.[68] He explains the relationship between gang rape and kinship, in which rape is considered the worst tragedy in a woman's life.[69] The effect of rape is not only felt by the women, but also by their families, especially their children.[70] As a victim testified to Anton Indracaya,[71] "I want to commit to suicide, what I have been suffering makes me want to die."[72]

The gang rape against Chinese women in the midst of the riot in Jakarta was therefore not to fulfill men's pleasure;[73] rather, it

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64 On February 1983, during a mass of massacres called PETRUS (mysterious shootings) the bodies of the victims, called gali [criminal] were abducted and brutally tortured by the army. They intentionally put the dead bodies on the street or in the porch of somebody's house for public display. It was used as shock-therapy. This violence terrified the whole society. People were scared to go outside in the night because the PETRUS randomly took the so-called gali in the night, then they tortured and finally killed them. *See* JOHN PEMBERTON, ON THE SUBJECT OF JAVA 311-18 (1994).

65 Interview with Professor Maria Lugones, *supra* note 62.

66 *Id.*

67 *Id.*

68 Interview with Professor James Siegel, *supra* note 19.

69 *Id.*

70 *Id.*

71 Anton Indracaya is a well-known television talk show host in Indonesia.

72 Tim Investigai (Wahyu Mulyadi, Hermien Y. Kleiden, Karaniyu, Dharmasaputra, Mardiyah Chamim, Iwan Setiawan Andari, Karina Anom. Hardi R. Hermawan, Gatot Sri Widodo, dan Gilang Rahadian), *Investigasi: Jalan Panjang Tragedi Itu*, TEMPO, No. XXVII/ 6-12 October, 1998, at 56-67.

73 Professor Dadang Hawari, convinced that gang rape could be effective in crowd situations, (for example in the condition of war) first suggested the rapist should be "programmed" by giving them hard liquor, then they should be ordered by someone to rape women, and to do this and to do that. In this situation they act as terminators. *See Dilema Kasus Pemerkosaan Mei*, D&R, September 1998, at 10-15.

was created and practiced to terrorize people.[74] Maria Lugones points out that "targeting women is a way of communicating that the military and its collaborators are everywhere."[75] James Siegel argues that "anti-Suharto protest have to be seen as one element of the middle class against another."[76] The Indonesian middle class is split into anti-Suharto and pro-Suharto factions. According to Jeffrey Winters, the middle class close to Suharto thought that this regime had been destabilized and Suharto would not able to "secure" it.[77] Therefore, Suharto's supporters started thinking about their own future and abandoned Suharto. This situation increased the number of anti-Suharto supporters. The middle class thought this regime was no longer able to sustain its power. Many of the elite bureaucrats, who are middle-class individuals, "jumped from the boat which was almost sunk," and helped to turn the "boat" over in the water.[78] The anti-Suharto movement, according to James Siegel, can be seen as a conflict among the middle class.[79] Thus, the fear generated by the gang rape was a form of terror directed toward the anti-Suharto middle class.[80]

The Tim Relawan investigation shows that the tragedy of May 1998 is a part of the power struggle of the elite Indonesian politic. This systematic pattern of terror and violence was repeated and implemented in the riots to destabilize the society, making it easy for the government to maintain power.[81] As James Siegel stated, "the state itself took on the form of a criminal in order to obtain

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74 Interview with Professor Maria Lugones, *supra* note 62. In the interview she says that this sort of gang rape is best understood as political, because it is building a sense of fear, and lack of control over one's own body. It is significant when terror was directed at the activists and their families. To terrorize the activists, the terrorists used harsh words and they threatened the activists and their family with threats of rape and death. See Aktivis Tim Relawan Keluhkan Aksi Teror, REPUBLIKA, Oct. 7, 1998, at 1.

75 Interview with Professor Maria Lugones, *supra* note 62.

76 James Siegel, *In Suharto's Shadow*, (visited February 4, 1999) <http://thebookery.com/Bookpress/article.cfm/8.6/33.Siegel7201.html>

77 Jeffrey Winters, speech before the Indonesian Society at Columbia University (Nov. 6, 1998).

78 *Id.*

79 Interview with Professor James Siegel, *supra* note 19.

80 *Id. See also In Suharto's Shadow*, *supra* note 76. According to Professor Siegel, "the day after the shooting of the students, attacks began on Indonesian Chinese quarters. There was extensive burning and looting. Most middle-class people were horrified at these events, especially when later, it became known that there had been numerous rapes of Indonesian Chinese women. Their attitude was divided, however, though they condemned the rioting, they also saw the underclass looters as acting out of need." *Id.*

81 Tim Relawan Manuscript, *supra* note 45.

this power."[82] Hence, the gang rapes are a means of politik pengawasan [the politics of control] rather than a part of the social movement against Indonesian ruling class. The riot was created and used to produce fear at the expense of the people. The more Suharto's regime was challenged, the more intense social shock-therapy he created.

III. GANG RAPE: POLITICAL DOMINATION OF WOMEN AND SOCIETY

The riot of May 13-14, 1998, was the most horrific of the past two decades. During the violent riot, rioters not only set fire to commercial buildings, cars, malls, shopping centers and public facilities, but also committed torture, sexual assault and gang rape. The gang rapes and sexual assault against Chinese women in the midst of the riot in Jakarta was the first time that such a savage act was used for political purposes in Indonesia's New Order. These acts shocked Indonesian society.

Initially, the news about gang rape came as a rumor which spread quickly throughout the populous. The national media did not cover the gang rapes, focusing instead solely on the rioting.[83] The media denounced the mass violence and looting as if the Indonesian poor were the sole driving force, and therefore shameful to the nation. The media decried the collapse of Indonesian moral values and argued that anarchy is worse than the repressive power of the military.

The gang rapes only received intra-family attention until the Tim Relawan found the victims. The victims' families testified, telling the Tim Relawan what happened to their daughters and wives. Shortly after the riots in Jakarta broke out, the Tim Relawan conducted their investigation of the victims. On July 3, 1998, the Tim Relawan reported finding one-hundred fifty-two gang rape victims from Jakarta, sixteen women victims from Surabaya, Medan, Pa-

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82 SIEGEL, *supra* note 44, at 9.

83 According to Professor Maria Lugones, "the news about gang rape did not appear on the media because those who control the news don't want gang rape in the news. In order for gang rape to work effectively to make people panic, fearful, and being terrorized and full of distress it needs to spreads like fire." Interview with Professor Maria Lugones, *supra* note 62. The news about gang rape appeared in the national media, after the Tim Relawan announced and documented their findings. It was about three weeks after the gang rape happened. Following the report, the international media covered it. *See* Seth Mydans, *In Jakarta, Reports of Numerous Rapes of Chinese in Riots*, N.Y. TIMES, June 10, 1998, at A1.

lembang and Solo and twenty women were reported dead.[84] At first, these victims did not come forward. They were discovered only when Tim Relawan went to individual homes and hospitals.[85] Then the victims, their families and their colleagues testified to the Tim Relawan, and reported they had been brutally raped by a group of unknown assailants. The rapists identified by eyewitnesses were men with muscular builds and military haircuts. One of the victims testified to the Tim Relawan that she was raped in a car by men who wore military uniforms.[86]

A housewife who helped one victim testify to Tim Relawan reported that Mona (a pseudonym) was raped during the riot by five men. Four of them held her legs. One held Mona's neck and head, put her on the bed, forced his penis into her mouth, and then the four men raped her one after the other.[87] Another story was reported by a victim to her best friend, claiming that when she was home, more than ten strange young men in nasty clothes came to her house and ransacked her belongings. Eight of them pulled her down, forcibly undressed her and then raped her for two hours.[88]

When the Tim Relawan announced their findings, the government immediately reacted, denying that the gang rapes had happened. The government questioned both the Tim Relawan findings and the validity of their claims. The Indonesian chief of police, General Roesmanhadi, declared the Tim Relawan's claims invalid. The Tim Relawan was also accused of exaggerating its report about gang rape; they could therefore be charged with spreading rumors.[89]

The government called on its lawyers, parochial Islamic groups and intellectuals to challenge the Tim Relewan's claims. One of the government lawyers, Mr. Bambang Hartono, said that non-governmental organizations (NGOs) that spread rumors about gang rape during the riot of May 13-14, 1998, without giving a concrete data to the Penyidik [government prosecutor] would be liable and

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84 Tim Relawan Manuscript, *supra* note 45.

85 The data of Tim Relawan collected is directly from primary sources, the victims or the victims' families reported. The Tim Relawan documented the data of the victims consisting of the victims' name, age, address, when, where the victims being raped, and the *modus operandi* of the violence. They observed, helped, and were involved with the victims and their families and relatives. *See* Tim Investigasi, *supra* note 72, at 56-67.

86 Mydans, *supra* note 83.

87 Tim Investigasi, *supra* note 72.

88 *Id.*

89 *LSM Pelempar Isu Pemerkosaan agar Diusut*, REPUBLIKA, Aug. 18, 1998, at 1.

therefore could be charged.[90] Usep Fathudin, a member of the Islamic organization Liga Penegak Kebenaran dan Keadilan ("LPKK"), said that "if Tim Relawan does not come up with the (verbal and physical) evidence, it means that the activists of Tim Relawan are just spreading rumors. If the Tim Relawan said it was too difficult to ask the victims to come up and report what has been done to them, how can we trust them?"[91]

To counter the Tim Relawan findings, the Jakarta Police Department Unit (Metro Jaya) formed a group of investigators called Tim Merpati [Pigeon Team], led by Colonel Gories Mere. One member of the Tim Merpati said that their investigations were done secretly and that the members of the Tim Merpati who were involved in the investigation disguised themselves as journalists, students, doctors, activists from NGOs, and preman. This technique of going undercover was used to collect concrete data on the victims; however, none of the victims spoke to the Tim Merpati. Gories Mere, a chief of Direktorat Reserse Polda Metro Jaya [Jakarta Police Investigation Unit] commented on television that "[t]he police had investigated one hundred three cases of gang rape; however, we didn't find any evidence."[92] The elite government bureaucrats were not only denied the Tim Relawan findings, but they also created a climate of fear through terror. They constantly terrorized those who had helped the victims, including the Tim Relawan,[93] activists, and doctors.[94] The terror was not only directed against the activists, but also their families. They called the activists' families on the phone and threatened to kill and to rape them.[95]

The testimonies of gang rape circulated quickly and generated negative opinions about Indonesia, because the government was too defensive about this issue. Particular nations could not tolerate

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90 *LSM Pelempar Isu Pemerkosaan agar Diusut*, SUARA MERDEKA, Aug. 19, 1998, at 1.

91 *Id.*

92 Tim Investigasi, *supra* note 72.

93 *Id.* Father Sandyawan S.J., of Tim Relawan, said that the terror was not only through phone threat, but they also threatened Father Sandyawan S.J. by rear-ending is car, and three strange people coming up to Father Sadyawan S.J. on the bus stop near the Cathedral in Jakarta and said, "Father you should know, to kill you is very easy for us."

94 *Id.*

95 *Aktivis Tim Relawan Keluhkan Aksi Teror*, *supra* note 74. Dr. Djaja Surya Atmadja, one of the doctors from the Unit of Forensic University of Indonesia, testified that two of his friends who helped and took care the gang rape victims were being terrorized by phone calls (both home and cellular phone).

the gang rape against Chinese women. Chinese immigrants in the United States protested at the Indonesian consulate in New York, carrying banners saying "Indonesia is the republic of rape," and demanding prosecution of the main actors involved in the savage action.[96]

People in Hong Kong protested at the Indonesian consulate by throwing rotten eggs at the building. Eleven members of NGOs from Taiwan went to Indonesia to collect data on gang rapes against Indonesian-Chinese women.[97] Women and students in Beijing protested at the Indonesian embassy in Beijing, demanding that the Indonesian government conduct an investigation of the accusation that the army was involved in the riot on May 13-14.[98] Indonesia's reputation was tarnished by the international press's coverage of incidences of gang rape. According to one member of the DPR Komisi I [Commission I of People Consultative Assembly], one nation withheld food assistance (rice) to Indonesia because of gang rapes against Chinese women.[99]

Indonesian women's groups, activists and a group of mothers called Koalisi Perempuan Indonesia untuk Demokrasi dan Keadilan [the Coalition of Indonesian Women for Democracy and Justice] conducted protests against the office of the ministry of security and defense in the form of rallies, orations and marches. The protestors demanded that the government capture and prosecute the perpetrators of the gang rape.[100] On August 5, 1998, Father Sandyawan S.J. and Dr. Karlina Leksono of the Tim Relawan attended a public hearing in Geneva, Switzerland. Father Sandyawan presented an article entitled *Social and Political Background of the Violence and the Work of the Volunteer Team for Humanity*

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96 *Mengungkap Pemerkosaan Massal Intelejen Asing Akan Dilibatkan*, SUARA MERDEKA, Aug. 13, 1998, at 1. When Tutty Alawiyah (the ministry of women's roles) visited the United States to confirm the issue of sexual assault and the gang rape that had spread overseas, she visited New York and Washington, D.C. and got photos of Chinese people overseas conducting a protest on the consulate of Indonesian government.

97 Tim Investigasi, *supra* note 72.

98 *Mulya Lubis Analisis TGPF Tepat*, Suara Pembaruan, Nov. 6, 1998, at 1.

99 *Marzuki: Pemerkosaan Itu Ada*, JAWA POS, Sept. 25, 1998, at 1.

100 At their protest of gang rape they also disseminated colorful pamphlets saying "You degraded one of the women, means you degraded all Indonesian women, Indonesian women proposed the demilitarization, the gang rape is a form of state terrorism, and state violence should not be practiced." *See Koalisi Perempuan Tuntut ABRI Jelaskan Kasus Pemerkosaan*, Republika, July 18, 1998, at 1.

During the Riots in May, 1998. His two hour presentation concluded with testimony from two victims of gang rape.[101]

Pressure from inside and outside of the country prompted the government to take action on behalf of the women who had been raped. Several teams were split into pro-and contra- government positions. President B.J. Habibie ordered his ministries[102] to form an "independent" group to investigate the facts of the riot and the violence, which included the gang rape on May 13th-14th. The independent group was referred to as Tim Gabungan Pencari Fakta ("TGPF") [The Joint Fact-Finding Team]. The TGPF may represent a compromise between the Tim Relawan, the government's team and the Armed Forces, rather than an independent team. The establishment of the TGPF can be interpreted as the government admitting to the occurrence of gang rape; however, based on the composition of its members, it is evident that the TGPF was formed to control the Tim Relawan. Members of the TGPF include lawyers, religious ministers, doctors, human rights activists, intellectuals, social activists, police officers, members of the elite army staffs, Catholic priests, and several women members of the Tim Relawan.[103] The Tim Relawan, a principal investigator trusted by some victims, their families, and international mass media, became a minority voice in the TGPF. The establishment of the TGPF suppressed the Tim Relawan by controlling its findings[104] and eliminating government opposition on this issue.

The TGPF found that the gang rape occurred in the midst of riots. The chief of the TGPF, Mr. Marzuki Darusman, announced

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101 Tim Investigasi, *supra* note 72.

102 The representatives of the ministries that worked to create the letter of decision (surat keputusan) of the TGPF were General Wiranto (the ministry of security and defense); Ali Alatas (the foreign ministry); Muladi (the ministry of justice); Tutty Alawiyah (the ministry of women roles); Andi M. Ghalib (the attorney general); and General Syarwan Hamid (the ministry of interior). *See Enam Menteri Diberi Waktu Satu Bulan Untuk Pelajari Temuan Kontroversial TGPF*, JAWA POS, Nov. 10, 1998, at 1.

103 *TGPF: Penyerangan Seksual Terjadi Pada Kerusuhan Mei,* SUARA PEMBARUAN, September 22, 1998, at 1.

104 Tim Relawan reported the findings of the victims of gang rape found one hundred fifty-two women victims in Jakarta and sixteen women victims from Surabaya, Medan, Palembang and Solo, twenty women were reported dead. *See* Tim Relawan Manuscript, *supra* note 45. The TGPF's final report, however, found fifty-two victims (three women who were directly reported to the TGPF, nine women who were under medical care in the hospitals, three women whose parents testified to the TGPF, ten women identified by eyewitnesses, and twenty-seven women who gave testimony to the priests). *See Syafri Harus Ikut Bertanggung Jawab: TGPF Akhirnya Umumkan Kerusuhan Mei*, Jawa Pos, Nov. 4, 1998, at 1.

findings from the preliminary reports of the TGPF in front of the member of anggota Komisi I DPR RI [the Commission I of People Council Assembly of the Republic of Indonesia]. He stated that "based on the testimonies and information from the eyewitnesses and professional eyewitnesses, TGPF was strongly convinced that sexual assault and gang rape in the riots on May 13-14 happened. The number of the victims, we have to verify it."[105] He also stated that the final report of the TGPF investigations would be handed to the government by the end of October, 1998. Furthermore, he stated that "we are hoping the government will follow up the reports and the recommendations of the TGPF investigation."[106]

Prior to the formation of the TGPF, the members of the Tim Relawan had been constantly terrorized and intimidated. Members of the Tim Relawan who did not become join the TGPF were intimidated by the killing of Ita Martadinata, a murder which terrified the whole society. The Tim Relawan's opponents not only threatened individual members, but campaigned openly to intimidate the Tim Relawan and the victims. Forms of intimidation included obscene phone calls, vandalism, and threats of rape and murder.

Acts of terrorism created a climate of fear in the society and the fear escalated when one of the members of the Tim Relawan was killed. People were shocked and saddened by the mysterious murder on October 9, 1998, of Ita Martadinata, an eighteen year old Indonesian-Chinese woman and member of the Tim Relawan. Ita and her mother were members of the Tim Relawan who helped the victims of the gang rapes. According to Father Sandyawan, Ita actively reported to the Indonesian Human Rights Commission about the victims of gang rape. Ita and her mother planned to travel to the United States to testify in front of the United States Congress about gang rape.[107]

Ita was one of the members of the Tim Relawan who was knowledgeable about gang rape.[108] Several Non-Governmental Organization (NGO) activists and the Tim Relawan members do

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105 *Marzuki: Pemerkosaan Itu Ada, supra* note 99.

106 *Sjafri Harus Ikut Bertanggung Jawab: TGPF Akhirnya Umumkan Kerusuhan Mei,* Jawa Pos, supra note 104.

107 *See Ita Marthadinat: Misteri Kematian dan Derita Keluarga Rumah Dilelang, Sang Ibu Keliling Dunia*, Jawa Pos, Oct. 16, 1998, at 1.

108 *Id.*

not believe Ita's murder was an act of random violence.[109] Shortly after Ita was killed, the police found Sur, a twenty year-old suspect and the neighbor of the victim, guilty of Ita's murder. The police arrested Sur in his house the night after Ita's murder. The Jakarta chief of police, Nugroho Djajoesman, told journalists that "Sur forced himself to steal money in Ita's house, because he wants to help his parents who need money."[110]

The following day, a contradictory and controversial report emerged. The police announced that the murder was clearly criminal because Sur came from a poor family and needed money to pay his parents' debt. A short-lived forensic investigation revealed the possibility of sexual violence. Ita's father told a journalist that the murder of his daughter was related to her activities as a member of the Tim Relawan.[111] The Jakarta Police Detective Chief denied allegations that the evidence pointing to Sur as the murderer was a fabrication. The Chief of Police announced that the police would prosecute any NGO that questioned the police's investigation of Ms. Martadinata's murder.[112]

The case of Ita's murder was odd. The police quickly found their suspect and the murder weapon, whereas other similar cases of murder (the murder of Ditje, Marsinah, Udin, and Tjetje Tadjudin) are still unsolved.[113] During the investigation of Ita's murder the police consulted with a famous psychologist. After forensics performed the autopsy on Ita's corpse, the forensic specialist reported that Ita had engaged in anal sex and that her urine

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109 *Polisi Tantang Wawancarai Langsung Sang Pembunuh Ita*, REPUBLIKA, Oct. 14, 1998, at 1.

110 *Kasus Tewasnya Aktivis Marthadinata Tersangka Pembunuh Tetangga Korban*, SUARA MERDEKA, Oct. 12, 1998, at 1.

111 *Id.*

112 *See Polisi Tantang Wawancarai Langsung Sang Pembunuh Ita, supra* note 109, at 1.

113 Those are examples of murder cases. Marsinah was an employee in an assembly watch company in Surabaya. She and her friends became labor activists who protested against their employer demanding an increase in the standard minimum wages. In order to control the protest, the employers hired paramilitary to kill her. Udin was a critical journalist who worked at the BERNAS Yogyakarta daily newspaper and was killed by unknown people. His murder strongly related to his report about Mega Project in Yogyakarta area. BOAVENTURA HERU HENTRATMOKO, TERBUNUHNYA UDIN 28-32 (1997). Ditje was a fashion model killed by unknown people. Rumors about her murder suggested that one of the elite bureaucrat's family had a love affair with her. *See also* Saraswati Sunindyo, *Murder, Gender, and the Media: Sexualizing Politics and Violence, in* FANTASIZING THE FEMININE IN INDONESIA 131-33 (Laurie J. Sears ed., 1996). Tjetje Tadjudin was a scapegoat for the highway robbery involving the army staff. 1996: TAHUN KEKERASAN POTRET PELANGGARAN HAM DI INDONESIA, *supra* note 30, at 70-71.

contained heroin. Thereafter, the psychologist circulated the forensic findings and told journalists that Ita was a prostitute, that she needed money to buy heroin and that she was a drug addict.[114] According to Maria Lugones, in a patriarchal society, a female prostitute cannot be raped. The belief that prostitutes cannot be raped is based on the fact that they sell sex for money. It is therefore impossible for prostitutes to say "no" to sex. To accuse Ita of being a prostitute is another attempt by the government to deny that she was ever raped during the riots and to weaken her voice as an activist for victims of gang rape. This egregious accusation should be rejected by anyone who understands and rejects the logic of rape in patriarchal societies.[115]

The government asserted that Ita and her mother were not members of Tim Relawan. On the Saturday after Ita had been murdered, the police visited her school and tried to convince students that Ita was not a victim of gang rape. The government constantly publicized the negative side of Ita's life, robbing her parents of the opportunity to defend her. Ita's mother did not want to live in the house where Ita was found murdered. Her mother felt terrified because the people knew that Ita's mother was a member of the Tim Relawan. As a member of the Tim Relawan, it was risky and unsafe; people fear being controlled by strangers, and worried they could be attacked at anytime. Ita's mother (known as Mrs. Wiwin) wanted to sell her house and travel around the world.

Ita's murder could not be separated from the terrorist acts against the members of the Tim Relawan, the victims, activists and their families. The mystery surrounding Ita's murder was a message of terror directed at the Tim Relawan, activists, and the victims of the gang rape. The murder created a fear of being controlled, which discouraged members of Tim Relawan from discovering the facts, motivations and findings of the May 13-14 gang rape.

During the aftermath of Ita's murder, people were shocked by another form of terrorism in Banyuwangi, known as the mass murder of the dukun santet [the men witches] (known as the black

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114 *Kontras Akan Adukan Dr. Sarlito*, DETIK, Oct. 15, 1998, at 86. The forensic examination revealed facts consistent with those advanced by Ita's father, which was that he found his daughter's dead body naked with dried sperm nearby. *See also Ita Marthadinata: Misteri Kematian dan Derita Keluarga Rumah Dilelang, Sang Ibu Keliling Dunia, supra* note 107.

115 Interview with Professor Maria Lugones, *supra* note 62.

magical practitioners). The dukun santet are socially important people in Indonesian societies. The killing of the dukun santet was done to distract the public from the issue of gang rape and Ita's murder.

Three weeks after Ita's murder the TGPF reported their findings to one hundred fifty Indonesian and overseas journalists in the Department of Justice. The TGPF stated that the rioters were categorized into three groups: the provocateurs; the active masses; and the passive masses. The provocateurs mobilized people and initiated a riot. They looted, committed arson and forced other people to loot. This group consisted of not-local residents. They were a small group of well-trained and highly mobilized people, with access to transportation and communications technology such as hand phones and walkie talkies. They also were armed with destructive weapons such as stones, Molotov cocktails, gasoline, kerosene, and big iron sticks.[116] The TGPF admitted that there were difficulties in counting the number of victims of gang rape, but were able to find the victims of the gang rape in Jakarta. They found fifty-two victims, of which three women directly reported to the TGPF, nine women were under medical care in the hospitals, three women whose parents testified to the TGPF, ten women were identified by eyewitnesses and twenty-seven women who gave testimony to the priests.[117]

Marzuki Darusman, known as the chief of the TGPF, asserted that the riot on May 13-14 stemmed from the elite conflict concerning the succession of the national leader and that it related to the economic crisis.[118] The TGPF concluded that the meeting on May 14 in the Makostrad (the headquarters of the Army Strategic Reserve Command) was linked to the riot and gang rape. At this time, the elite bureaucrats were discussing the consequence of the dispute between the elite military group and non-military group. This is when the controversy emerged. People who supported and opposed the findings had different opinions. For example, Mayor General Da'i Bachtiar (Dankoserse from the police headquarters office) argued that the TGPF did not perceive and fully understand the facts of the gang rape. Some of the findings were supposed to be included in the thesis or analysis, but instead were placed in the

116 *Syafri Harus Ikut Bertanggung Jawab: TGPF Akhirnya Umumkan Kerusuhan Mei*, *supra* note 104.

117 *Id.*

118 *Id.*

conclusion. The Mayor also stated that the number of victims they found was not credible.[119] Ahmad Sumargono, the chief of Komite Indonesia untuk Solidaritas Dunia Islam ("KISDI") [Indonesian Committee for the Solidarity of Islamic Nation] commented that the TGPF was deeply involved in politics. The TGPF did not focus on the investigation of the riot on May 13-14, but rather, shifted their focus to the meeting on May 14 in Makostrad.[120] One lawyer, Mulya Lubis stated, "the tasks of the TGPF to get data was not exactly the science job, two plus two equal four." Therefore, the TGPF effort to investigate was found appropriate, even though the members were people from the government.[121] The chief of the TGPF stated that the task of the TGPF was complete and the government had the responsibility to follow it up.[122] The investigation into the gang rape in the riot on May 13-14 should not end with the TGPF findings. Mulya Lubis argued that the government should follow up the TGPF findings immediately, focusing on the involvement of the first and third parties, and that the government should process the members of those groups in the legal system or turn them over to the military attorney for prosecution.[123]

Two months after the TGPF submitted its final report, the government continued to oppose the TGPF findings, claiming there was no systematic gang rape during the mid-May riot. Instead, the rapes were seen as unorganized and separate from the riot. Akbar Tanjung, the press secretary, expressed this belief at a press meeting.[124] The government acted to undermine the findings of the TGPF to rid themselves of the burden of dealing with the issue of gang rape. The government aimed to silence the women and to deprive them of their rights to justice. The government practices the rule by law instead of the rule of law. The rule of legality in cases of rape requires that all statements be supported by physical and verbal evidence, making it impossible for women to bring their cases to court. "In patriarchal societies in cases of

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119 *Enam Menteri Diberi Waktu Satu Bulan Untuk Pelajari Temuan Kontroversi TGPF, supra* note 103.

120 *KISDI: Ada Indikasi Konspirasi TGPF Dengan Kelompok Moerdani*, REPUBLIKA, November 9, 1998, at 1.

121 *Mulya Lubis Analisis TGPF Tepat, supra* note 98.

122 *Marzuki Darusman Soal Temuan TGPF*, JAWA POS, Nov. 5, 1998, at 1.

123 *Mulya Lubis Analisis TGPF Tepat, supra* note 98.

124 *Korban Perkosaan 52 Orang*, SUARA MERDEKA, December 22, 1998, at 1.

rape, women's credibility and legality in court or in public is always suspect."[125]

Doctor Merdias Almatsier, the chief of the Indonesian Doctor's Association, explained the complicated nature of rape cases. The complexity of these cases arise in the collection of evidence, because rape cases are difficult to prove. First, medical ethics and the law prevents physicians who care for victims of rape from releasing a patient's medical history, even if the patient has already died. Second, if a victim's death resulted from rape or sexual violence, the doctor must report it to the police. Under these circumstances, the doctor should conduct an autopsy, which requires a long and complicated procedure and a permit from the victim's family.[126]

Doctor Abdul Mu'nim Idris, a forensic specialist, says that rape is difficult to prove because victims are prevented from making public evidence of intercourse. Evidence of intercourse can be proven by examining the sperm and should be conducted immediately (no longer than three days afterward). Another way to obtain evidence of intercourse is to examine the victim's hymen or wounds in their vaginal area. Doctor Idris says that a wound in the vagina areas sometimes does not heal for years. The most credible and important evidence in a rape case is testimony from an expert and the victims. Doctor Idris added that to prove rape, at least two kinds of evidence are required to raise such a claim in court. According to Maria Lugones, the society must view women as credible sources before the government can legitimately challenge women to speak in public.[127] The government's demand that women prove and show evidence of rape demonstrates how the government challenges women's credibility. According to Maria Lugones, "if women's voices have not been credible in the society in cases of rape, then to challenge women to speak is ludicrous. It is not real, is not in good faith."[128]

In the case of gang rapes, the government has done little to make fair hearings possible and has done much to intimidate anyone who speaks out about it. Furthermore, the climate of fear created by the government makes it impossible for women to speak

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125 Interview with Professor Maria Lugones, Professor at the State University of New York at Binghamton and Escuela Popular Nortena, Vestal, New York (August 20, 1998).

126 *Investigasi: Jalan Panjang Tragedi Itu*, *supra* note 72.

127 Interview with Professor Maria Lugones, *supra* note 125.

128 *Id.*

out. The evidence needed to prove gang rape, sperm and physical wounds, had not been systematically recorded for that purpose, and victims of rape were viewed by society as tainted women. This environment discourages victimized women from speaking publicly about their experiences. Victims of rape never receive fair treatment. The environment demonstrates the government's response to human violations in Indonesia in the past and future. Habibie's government, especially the military commanders, the police chiefs and the press secretary, repudiates the gang rapes and protects the power by maintaining the New Order and refusing to institute democracy.

The government created laws to serve, protect and defend the power and interests of the dominating elite. Consequently, the law functions in Indonesia not to achieve just treatment, but rather to suppress those who oppose the dominating elite. Those who are willing to oppose the dominating elite often end up the victims of violence. Through brutal gang rapes, women have been used as tools to terrorize the society. Until democracy is instituted in Indonesia, allowing those who oppose the dominating elite to freely express their views without fearing they will become the victims of violence, Indonesia will have rule by law, not rule of law.