

Weekly Update Human Rights in Indonesia – 10-10-2016

Impunity

KIP tells govt to reveal Munir report after 12 years in darkness

The Jakarta Post, 10-10-2016

The Public Information Commission (KIP) ended the state's 12-year silence on the murder of prominent human rights defender Munir Said Thalib on Monday by ordering the government to officially reveal the investigative findings of a fact-finding team into the case.



Suciwati, widow of the late human rights campaigner Munir Said Thalib, proudly shows off a street sign honoring her late husband in Jakarta on April 11, 2015. The Hague city administration officially named a street after Munir on April 14 last year. (Antara/Reno Esnir)

The KIP stipulated that all the findings the team had submitted to the government in 2005 were public information. Thus the government is obliged to disclose everything to the public. The government is also obliged to explain why the fact-finding team's report secret has been kept secret for years.

The KIP specifically delivered its ruling to the State Secretariat as it was in charge of the government's administrative paperwork, including any documents sent to the president.

"The State Secretariat must disclose all requested information through any means of communication it utilizes, either electronically or non-electronically," KIP commissioner Evy Trisulo Dianasari said when reading out the ruling.

This ruling was made in response to a public information request jointly filed by Munir's widow Suciwati, the Commission for Missing Persons and Victims of Violence (Kontras) and the Jakarta Legal Aid Institute (LBH Jakarta) in April this year. (evi)

Govt to settle past human rights abuses via non-judicial mechanism

The Jakarta Post, 06-10-2016

The government is planning to set up a special agency that will use non-judicial mechanisms to resolve past human rights abuses, a minister has said.

Despite criticism by human rights groups and the families of victims, Coordinating Political, Legal and Security Affairs Minister Wiranto believes that a non-judicial process will be the best way to settle past rights abuse cases, arguing that such a mechanism could create win-win solutions for all related parties.

The minister said a non-judicial process could solve the hurdles the government was facing in finding evidence to settle the cases through trials at court. A non-judicial process is also preferable because it can ensure a more peaceful settlement, he went on to say.

Wiranto said non-judicial processes delivered by indigenous laws had been a part of Indonesian culture for a long time.

"When a judicial process is no longer an option, we should utilize what we have [in Indonesia's dispute settlement culture]. We can resolve cases through deliberation and understanding," Wiranto told journalists on Wednesday.

He said the special agency would consist of state institutions, law enforcement agencies and representatives from civil societies.

Wiranto refused to give details on what a peaceful settlement would entail.

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Freedom of Religion

THE ANTI-SALAFI CAMPAIGN IN ACEH

IPAC press release, 6 October 2016

A bid by traditionalist clerics in rural Aceh to increase their influence at the expense of urban rivals is drawing the local government into potentially discriminatory definitions of what constitutes “Acehnese” Islam. It is also taking on a dangerous political dimension as deputy governor and former rebel military commander Muzakir Manaf turns to the traditionalists to shore up his political base as he steps up his campaign for governor in elections scheduled for February 2017. In its latest report, [The Anti-Salafi Campaign in Aceh](#), the Institute for Policy Analysis of Conflict (IPAC) examines the background to the latest phase of this ideological struggle and the risk of violence it poses.

“Traditionalists see themselves being swamped by Salafi groups that flocked to Aceh after the 2004 tsunami,” says IPAC analyst Nava Nuraniyah. “They claim to be opposing ‘Wahhabi’ intolerance, but their own campaign risks becoming intolerant as they mobilise supporters to attack modernist mosques and schools.”

While many of the issues between the two groups are over points of doctrine, major resources are also at stake as the traditionalists try to wrest control of mosques, especially the Baiturrahman Mosque in the heart of Banda Aceh; ulama councils; and appointments in the religious affairs bureaucracy.

Tensions have increased since the tsunami as Salafi groups became more visible, but in fact the traditionalists, who call themselves Ahulussunnah wal Jama’ah or Aswaja, make no distinction between Salafis whose orientation is to clerics in Saudi Arabia or Yemen and members of the modernist Muslim organisation Muhammadiyah, whose members in Aceh tend to be more puritanical than their Javanese counterparts.

Both Salafis and modernists accuse the traditionalists, mostly based in rural boarding schools called dayah, of engaging in un-Islamic practices – which for the traditionalists are the lifeblood of their ties to the community: for example, ritual feasts (kenduri) or recitation of prayers for the dead (tahlilan). To the modernists, these are unacceptable

innovations that were not practiced at the time of Prophet and should therefore be shunned.

The traditionalists’ quarrel with the Salafis is not over whether shari’a legislation should be expanded, because both groups believe it should be.

After being marginalised during the Soeharto years, the traditionalists have used a tactical alliance with the former rebels of the Free Aceh Movement (Gerakan Aceh Merdeka, GAM) to reassert their influence. They are trying to get the GAM-led government to define Islamic orthodoxy in a way that would exclude key Salafi tenets and practices and effectively brand all interpretations other than their own as “deviant”.

At the same, as Islamic law expands in Aceh and Qur’anic knowledge and recitation skills become critical to securing jobs, the Salafi/modernist schools are producing more successful students, so their networks are expanding.

“More political power for the traditionalists combined with more social influence for the modernists could be a recipe for more physical clashes between the two, especially when the political element is added in,” says Nuraniyah.

Death penalty

Time to establish a moratorium on executions and review all death penalty cases as first steps towards abolition

Amnesty International Public Statement, 10-10-2016

On 10 October, as people around the world mark the World Day Against the Death Penalty, Amnesty International, ELSAM (Institute for Policy Research and Advocacy), HRWG (Human Rights Working Group), ICJR (Institute for Criminal Justice Reform), Imparsial, LBH Masyarakat (Community Legal Aid Institute) and PKNI (Indonesian Drug User Network) reiterate our position that there is no convincing evidence that the death penalty has a unique deterrent effect on crime, including for drug-related crimes. The death penalty violates the right to life, as recognized in the Universal Declaration of Human Rights and is the ultimate cruel, inhuman and degrading punishment.

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Our organizations are deeply concerned that - despite the fact that research findings made by NGOs and the National Commission on Human Rights (Komnas HAM) have pointed to systemic flaws in the administration of justice in Indonesia and violations of the right to a fair trial and other international safeguards that must be observed in all death penalty cases - the Indonesian government still carried out executions of four men on 29 July 2016 for drug-related offenses. Three of the prisoners had appeals pending when they were executed. On the same day the Indonesian authorities also gave a last minute stay of execution for 10 other prisoners to allow them to review their cases after facing a national and international outcry.

We are also concerned that many others currently facing execution may not have had legal assistance to enable them to file appeals for further judicial reviews. We urge the authorities to extend the review of death penalty cases to all those currently under sentence of death. International law sets out key safeguards guaranteeing protection of the rights of those facing the death penalty that must be observed in all cases. These include the right to a fair trial; the right not to be subjected to torture or to other cruel, inhuman or degrading treatment or punishment; and the right to apply for clemency or pardon of a death sentence. Further, drug-related offences do not meet the threshold of the “most serious crimes” to which the use of the death penalty must be restricted under the International Covenant on Civil and Political Rights, a treaty Indonesia acceded to in 2006.

The continued use of the death penalty in Indonesia may also undermine efforts by the Indonesian government to protect its citizens from being subjected to judicial execution in other countries. Our organizations oppose the death penalty unconditionally, in all cases without exception, regardless of the nature or circumstances of the crime, the guilt, innocence or other characteristics of the individual, or the method used by the state to carry out the execution.

As of today, 140 countries are abolitionist in law or practice. Four more countries – Fiji, Madagascar, Republic of Congo and Suriname- became abolitionist for all crimes in 2015 alone and the Parliament of Mongolia adopted a new Criminal Code at the end of last year, effective from 2017, removing the death penalty as a possible form of punishment under the laws of the country. Nauru became the 103rd abolitionist country this year. The continued use of the death penalty in Indonesia has not only set the country against its

international obligations, but also against the global trend towards abolition of this ultimate cruel, inhuman and degrading punishment.

Our organizations renew our calls on the government of Indonesia to establish a moratorium on executions as a first step towards abolition of the death penalty. We also call on the authorities to ensure that, pending full abolition, they immediately establish an independent and impartial body, or mandate an existing one, to review all death penalty cases, with a view to commuting the death sentences or to offer a retrial that fully complies with international fair trial standards and which does not resort to the death penalty.

The death penalty has been a part of Indonesia's legal system since before the country's independence in 1945, and can be imposed for a broad range of crimes. However it is usually imposed for murder with deliberate intent and premeditation; drug-related crimes (producing, processing, extracting, converting or making available narcotics); and terrorism-related offences.

There have been 18 executions - which all for drug trafficking offences - carried out under the administration of President Joko 'Jokowi' Widodo, who took office in October 2014. Under Susilo Bambang Yudhoyono, who was President of Indonesia from 2004 to 2014, there were 21 executions.

In December 2014, when newly-appointed, President Widodo publicly stated that he would not grant clemency to any individuals who had been sentenced to death for drug-related crimes, undermining their right to seek pardon or commutation of their death sentence. To date, at least 175 people remain under sentence of death in Indonesia for murder, drug-related crimes and terrorism-related crimes.

A new draft Criminal Code was submitted to lawmakers by the government in March 2015. It includes provisions that would allow for a death sentence to be commuted to life imprisonment (set at 20 years) in certain, limited, circumstances. Furthermore, if the request for clemency is denied and the death penalty is not carried out after 10 years, the President can commute the death sentence to life imprisonment. The draft law is currently being deliberated in the House of Representatives.

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Political developments

Law reform package will accommodate public interests, Wiranto says

The Jakarta Post, 06-10-2016

Coordinating Political, Legal and Security Affairs Minister Wiranto has promised that the law reform package the government will soon introduce will accommodate the public interest and will recover people's trust in Indonesia's legal system.

He said the package would address loopholes in the current law enforcement system covering legal instruments, law enforcers and legal cultures.

"It aims to make our people fully trust and believe that Indonesia's justice system can guarantee public order, security and legal accountability for all of the country's citizens," Wiranto told journalists on Wednesday.

He further said officials, including government officers, police personnel and prosecutors, were currently drafting the package.

Wiranto said the drafting team had prioritized pressing issues within the country's legal system that needed to be immediately addressed, including internal and external reforms in several state institutions.

The minister refused to disclose further details on key points in the package, except to hint that the national law revitalization draft might be completed by next week.

Papua

Activists Criticize Indonesia's Response to Papua Human Rights Abuses at UN General Assembly

The Jakarta Globe, 05-10-2016

Activists have criticized Indonesia's weak diplomacy efforts at the 71st session of the United Nations General Assembly in New York on Sept.13-26, where member states from the Pacific voiced concerns over the country's human rights record in Papua.

At the conference, leaders from Pacific countries - Vanuatu, Solomon Islands, Tonga, Nauru, the Marshall Islands and Tuvalu — urged for a resolution to human rights abuse cases in Papua.

Reiterating its commitment to upholding human rights, Indonesia dismissed the allegations, saying they were based on a lack of understanding on the current developments in Papua.

According to Ray Rangkuti, executive director of the Indonesian Civil Society Circle, or Lima, the government's response was nothing more than mere "rhetoric."

"Explain to what extent the revelations by the countries are true. If there are human rights abuses, explain what has been done to resolve them," he said in Jakarta on Wednesday (05/10).

Responding to calls by the Pacific nations for self-determination in Papua, Indonesia said they were politically motivated and accused the countries of undermining its national sovereignty and territorial integrity.

"The response did not answer the substance of the criticism. It did not explain what has been done over the situation in Papua," Ray said.

Saying Indonesia's response was only based on "arrogance," human rights advocate and Catholic priest Benny Susetyo urged the government to improve its diplomacy efforts.

"We should not undermine such countries. Persuasion should be put forward instead. We should build constructive dialogue with them," he said. "If we could not embrace the countries, Papua could break free."

Activists have long raised concerns over allegations of rampant human rights abuses in the province, where the Free Papua Movement, or OPM, has mounted an insurgency for decades.

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It has complained that the central government has given the resource-rich region an unfair share of state wealth after Papua became part of Indonesia in 1969. The OPM has since pleaded for international support from the Melanesian community in the Pacific.

Calls Reemerge for Govt to Take Cultural Approach to Human Rights Issues in Papua

The Jakarta Globe, 06-10-2016

Calls are reemerging for the Indonesian government to take a cultural approach in settling human rights issues in Papua following a concerted voice on the matter during a recent United Nations meeting.

Seven Pacific countries pushed for a resolution of alleged human rights abuses in Indonesia's eastern province during the 71st session of the UN General Assembly in New York two weeks ago. The allegations were rejected by the Indonesian government representative at the meeting.

The Indonesian government promised earlier this year to settle dozens of human rights abuse cases in Papua, but progress in the long-awaited resolution remains unclear. Indonesian Civil Society Circle director Ray Rangkuti said the move could be going nowhere with authorities having constantly taken a repressive approach in dealing with the issues.

"They would never be settled unless there is an assurance that Papuans would not be suppressed in exercising their freedom of expression," he said in Jakarta on Wednesday (05/10).

Rallies in support of the province's independence, which were held in various parts of Indonesia in recent months, have been repressed by authorities. The Free Papua Organization (OPM) has been mounting an insurgency for decades.

"That approach is unnecessary. Even though the issues raised are high-level, the threats are low-level in the context of security," Ray said. "The cycle of violence must be broken."

The OPM has complained that the central government has given resource-rich Papua an unfair share of state wealth after the province became part of Indonesia in 1969.

The administration of President Joko "Jokowi" Widodo has been developing several infrastructure projects to boost the economy in Papua, a move Indonesia suggested during the recent UN meeting.

Catholic priest and human rights advocate Benny Susetyo said the efforts would mean nothing to ease the situation in Papua if the government does not approach Papuans culturally.

"The approach needs dialogue and the government should have the willingness to do so, instead of seeing them as a threat," he said. "Physical development without a cultural approach would be useless."